Report for: **Staffing & Remuneration Committee, 2nd October 2017**

Item number: **8**

Title: **Off-Payroll Intermediaries Legislation**

Report authorised by: **Richard Grice,**
Interim Director for Transformation & Resources

Lead Officer: **Carole Engwell, HR Quality Assurance Manager**

Ward(s) affected:

Report for Key/ Non Key Decision:

1 Describe the issue under consideration

The report looks at changes to the Off-Payroll Intermediaries legislation known as IR35, that were introduced on 6th April 2017 and the impact that these changes have had on the Council's off-payroll workers. The report is an update to the report considered by the Committee on 18th April 2017 which outlined the changes that had been made made and the Council's initial response to them.

2 Cabinet Member Introduction

Not applicable.

3 Recommendations

The report is for information and for the Committee to note.

4 Reason for Decision

Not applicable.

5 Alternative options considered

Not applicable.

6 Background information

6.1 Changes to the intermediaries legislation were introduced to ensure that off-payroll workers in the public sector who were working via an intermediary such as a personal services company (PSC) or as a sole trader, and who if they had been employed directly would have been subject to PAYE and National Insurance had these deductions made from the income they received. The changes to the legislaton shifted the responsibility for determining the tax status of the individual from the intermediary to the end client. As a result, each off-payroll worker working in the Council on 6th April was assessed to determine their status.

6.2 At the beginning of April, there were 374 off-payroll workers in the authority and 167 (44%) of these were working though a PSC. By August, the number of workers had reduced to 371 with only 75 (20%) working via a PSC. The majority of agency workers who had a PSC in April have either opted to be paid by an umbrella body or have left.

01.04.17	PSC Workers	In Scope PAYE	In Scope Umbrella	Out of Scope	Leavers / Changes
Agency	127	96		12	19
Consultants/ Interims	39	16		10	11 leavers 2 changed contracts
01.08.17	PSC Workers	In Scope PAYE	In Scope Umbrella	Out of Scope	
Agency	44	18	26	1	
Consultants/ Interims	31	0	22	9	

All the Consultants or Interim workers who have been assessed as In Scope have continued to be paid into their PSC but have opted to use an umbrella body which acts as a payroll agency making deductions at source.

6.3 As the changes affected workers in the public sector, only those with transferable skills were realistically in a position to move. Many of the Council's agency off-payroll workers were in roles found only in the public sector such as Social Workers or Housing Benefits Officers and they would have had little to gain by leaving. 9 of the agency workers who left were working in Adults or Children's Services, a relatively high number as most of them would probably have moved elsewhere within the public sector. Workers in Finance were those most likely to be able to move sectors, and 37% of them chose to leave (2 agency workers and 4 consultants) as a result of the changes. Five of them were replaced immediately as they were working on preparation of the final accounts.

6.4 By the end of April, 18% of all those assessed as in-scope had opted to leave. As anticipated, proportionally more consultants (28%) than agency workers (15%) decided to leave largely due to the portable nature of their experience and skills.

6.4 The effect of being assessed as in scope substantially reduced the monthly income for some off-payroll workers. Prior to the legislation being introduced, there was concern that some of those involved in key transformation projects would opt for a move into the private sector. Information that had been received from the HMRC indicated that on average, organisations should have expected to lose around 20% of their off-payroll workers as a result of IR35 changes.

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But overall, the changes were far less disruptive than were originally anticipated and replacement contracts set up from May onwards have either been to those with Umbrella status or to agency workers who were direct employees of their agency and were therefore not affected by the IR35 changes.

6.5 There has been an impact on monthly spend as overall this has increased by £317,000 since April, partly due to rate increases offered to key staff and partly as a result of the additional costs incureed for agency workers who have moved to PAYE, these include holiday pay, a element for NI, pension contribution and the apprenticeship levy.

6.6 The rate increases were agreed as an exception for nine key workers in Regeneration and averaged £29 per day. All rate increases that were requested had to be agreed by the Director and relevant Priority Sub Group with assurances from the line manager that they could be contained within the existing budget. Three of those who had increases agreed were agreed for a three month period to enable the project to be completed and have since left.

7 Contribution to strategic outcomes

Not applicable .

8 Statutory Officers' comments

8.1 Chief Finance Officer

No finance comments.

8.2 Assistant Director of Corporate Governance

The legislative changes mentioned in the report were brought in by the Finance Act 2017 as regards income tax. As regards National Insurance contributions, they will be brought in by amendments to the Social Security Contributions (Intermediaries) Regulations 2000.

9 Use of Appendices

None

10 Local government (Access to Information) Act 1985

Not applicable.