

Employment Status Roadmap for the UK

A comprehensive analysis of employment status and the
labour supply chain in the UK

Rebecca Seeley Harris



October 2025

Foreword



For more than twenty-five years, I have worked across the labour supply chain advising contractors, recruitment businesses, end clients, and government on the challenges of employment status. Throughout that time, one fact has remained constant: the UK's framework for determining status is fragmented, uncertain and too often unfair.

Why is that a problem? The fragmented framework does more than create legal uncertainty: it shapes how services are supplied through the modern labour supply chain. Status decisions determine who carries PAYE, who holds employment obligations and where liability sits if things go wrong.

As supply chains have become more layered – MSPs, agencies, umbrellas, platforms, intermediaries and workers – the misalignment of tax and rights has multiplied the points of friction. The result is an expanding bureaucracy of compliance for business, a breeding ground for labour supply fraud, prolonged and costly litigation for HMRC and under-resourced responsibilities for DBT. Workers often fall into a void: taxed as employees but with zero rights, while compliant agencies and umbrellas shoulder disproportionate administrative burdens. A coherent framework is therefore not only a matter of fairness, but also fundamental to how the UK supplies and regulates contingent labour in an increasingly complex economy.

The Employment Status Roadmap has been developed by me, Rebecca Seeley Harris, to provide a practical way forward. It is intended as a resource for ministers, officials and stakeholders as they consider how to reform employment status in a way that is coherent, enforceable and trusted. The proposals draw on domestic experience, international models and the lessons of recent case law, as well as my extensive experience in practice.

The guiding principle is simple: where PAYE is applied, a floor of day-one rights should follow; where genuine entrepreneurship exists, it should be recognised and supported. Around this principle, the Roadmap proposes twelve measures across four pillars – legislation, supply-chain integrity, rights and recognition, and simpler processes for business.

The proposals build on, and make operational, the direction set by the Taylor Review of Modern Working Practices. Taylor called for clearer tests in law, better alignment of tax and rights, and a modernised middle tier (often described as the dependent contractor) so that flexibility does not mean insecurity. The Roadmap takes that analysis and turns it into an implementable programme for the labour market and supply chains, for today and, crucially, the future.

The Roadmap also aligns directly with the Government's Growth Plan. The Department for Business and Trade has identified supply chain efficiency and regulatory simplification as essential levers for productivity. A coherent employment status

framework delivers precisely that: it removes friction from hiring, gives firms confidence to engage skilled specialists and releases capital currently tied up in compliance risk.

The Roadmap also gives government and departments the means to tackle the persistent weaknesses in the labour supply chain that drive non-compliance and fraud. By mapping every actor and the legislation that governs them, it exposes where accountability currently falls between the cracks between the end client, the agency and the umbrella. Through measures such as joint and several liability, digital *Chain IDs*, *SDS+* and standardised due diligence codes, departments can see and control risk in real time rather than chasing it after the event. This joined-up approach transforms enforcement from reactive investigation to proactive prevention, protecting both workers and the Exchequer while restoring trust in how contingent labour is supplied and taxed.

The next decade will redefine what “work” means. Artificial intelligence, automation and digital platforms are reshaping how tasks are performed and by whom. Younger generations, Gen Z and the emerging Generation Alpha, already favour portfolio careers, flexible engagements and side hustles over traditional employment. The economy of the future will depend on project-based, expert-led collaboration rather than fixed hierarchies. The Employment Status Roadmap is designed with that reality in mind: to build a system that anchors fairness, rights and compliance in a workforce that is fluid, decentralised and AI-enabled.

Reform will not be easy, but it is necessary. Employment status affects every worker, every business and the health of the Exchequer. By addressing it now, we have the chance to create a framework that is clear, fair, and sustainable for the future world of work.

Context note — October 2025: This third edition covers the Government’s upcoming consultation on the Employment Status Framework and the consultation on the Umbrella Regulations.



[Rebecca Seeley Harris](#)



Author: Rebecca Seeley Harris

Edition: 3rd Edition

3rd Edition: 20 October 2025

Copyright © Re Legal Consulting Ltd 2025

Contents

Foreword	2
1. Executive Summary.....	7
2. List of Recommendations.....	9
2.1 Targeted fixes for the consultation	9
2.2 Pillar A – Legislation: align, simplify, rationalise	9
2.3 Pillar B – Supply-chain integrity and easier compliance	10
2.4 Pillar C – Rights for the falsely self-employed	10
2.5 Pillar D – Simpler processes and tools for business	10
3. Introduction.....	11
3.1 The employment status problem in the UK	11
3.2 Why reform now – Purpose and end-state	12
3.3 Core principles to steer policy choices.....	12
4. The Future Labour Market:.....	13
4.1 Fluid, Decentralised and AI-enabled	13
4.2 Why the Employment Status Roadmap Could Be Future-Proof.....	13
4.3 What Might Still Need Evolution	14
4.4 The Growth Opportunity	15
5. Diagnostic – Current Framework.....	16
5.1 Fragmented frameworks	16
5.2 Deeming provisions for tax	16
5.3 Compliance burden	17
5.4 Recommendations.....	17
6. Legislation Map - Labour Supply Chain.....	18
6.1 End Client / Hirer.....	18
6.2 Recruitment Agency / Employment Business.....	19
6.3 Umbrella Company (as employer).....	20
6.4 Worker (Contractor)	20
6.5 Interaction with the new Chapter 11 and using the SDS.....	21
6.6 How the SDS proves end-client “on-payroll” intent.....	22
6.7 Operationalising the proposed “SDS+” compliance pack.....	22
6.8 Why this cannot be gamed in practice	23
7. Legislation Map - Tax	24
7.1 Deeming Provisions for tax	24

7.2	Joint and Several Liability.....	24
7.3	Miscellaneous categories.....	25
8.	Categorisation of worker	26
8.1	The Issue	26
8.2	Employment-rights status (ERA 1996, s230)	26
8.3	Tax status	27
8.4	Main Categories	27
8.5	Terminology	28
8.6	Key Legislation	28
8.7	The Problem	28
8.8	Implications for reform.....	28
9.	Decision Tree: End-Client Process to Engage a Contingent Worker	29
	End client needs a contingent worker	29
9.1	Step 1: Employee or Non-Employee?	29
9.2	Step 2: Non-Employee Routes of Engagement	29
9.3	Overall Risk Themes for End Clients	31
10.	Engagement models	32
10.1	Direct Engagement model – public sector	32
10.2	Elective Deduction Model (EDM)	32
10.3	New models	32
10.4	Platform-based work.....	33
11.	Direct Engagement Model – case study	34
	Loftus v University Hospitals Sussex NHS Foundation	34
	Trust [2025] ET.....	34
11.1	Case Overview	34
11.2	Key Issues	34
11.3	Systemic Risks.....	34
11.4	Policy Recommendations.....	35
11.5	Conclusion	35
Part 1	36
12.	Employment Status Framework – a consultation	36
12.1	Purpose and scope	36
12.2	What the Government is proposing	36
12.3	Position: a dependent-contractor tier and ‘tax-triggers-rights’	36
12.4	Model-by-model solutions (labour supply chain)	37

12.5	Substitution-clause reform.....	38
12.6	Protecting freelancing while fixing misclassification	38
12.7	Implementation and transition	38
12.8	Test-case autonomy and FWA powers	38
12.9	Risks and how we mitigate them	39
12.10	How this aligns with the Taylor Review and the wider reform arc	39
Part 2	40
13.	Alternative Roadmap - Twelve measures across four pillars	40
13.1	Pillar A – Legislation: align, simplify, and rationalise.....	40
13.2	Pillar B – Supply-chain integrity and easier compliance.....	41
13.3	Pillar C – Rights for falsely self-employed; recognition for genuine self-employed	43
13.4	Pillar D – Simpler processes and tools for business	44
14.	What this means for key stakeholders	45
14.1	End-clients and agencies	45
14.2	Umbrella companies.....	45
14.3	Workers and the genuinely self-employed	45
14.4	HMRC.....	45
14.5	Department of Business	45
15.	Lessons for the UK from Abroad.....	46
15.1	Adopt Clearer Statutory Tests or Presumptions	46
15.2	Leverage an Intermediate Category.....	46
15.3	Ensure Tax and Rights Coherence	46
15.4	Strengthen Enforcement with Data and Inter-Agency Cooperation	46
15.5	Address Algorithmic Accountability	47
15.6	Provide Basic Protections Regardless of Status	47
16.	Summary of major reviews (2006 – 2025).....	48
17.	Biography	51

1. Executive Summary

The chapters that follow set out a comprehensive plan for reform, tracing how the UK's fragmented approach to employment status has evolved, where it now fails and how it can be rebuilt to meet the needs of a modern, digital economy.

This third edition is now split into Part 1, which incorporates recommendations on the upcoming consultation on the Employment Status Framework; and Part 2 which is the Alternative Roadmap looking at both employment and tax status.

Each chapter moves deliberately from diagnosis to solution exposing weaknesses in the current system and proposing practical, implementable solutions. Collectively, they provide a clear route for government to align tax and employment law, close the gaps that enable labour supply chain abuse and build a framework capable of supporting growth, innovation and fair work in the decade ahead.

3. [Introduction](#)

Why reform is unavoidable: mismatched tax/rights tests, overlapping deeming rules (Ch 7–11), uncertainty for businesses and workers. Sets core principles: align tests, preserve genuine self-employment, rationalise deeming provisions, digitise compliance.

4. [The Future Labour Market](#)

Describes the shift to fluid, project-based, AI-mediated work and why the framework must be portable and digital. Shows how tax-with-rights, Chain IDs and *StatusHub* make the regime future-proof.

5. [Diagnostic – Current Framework](#)

Maps fragmentation across tax/rights; explains Ch 7–11 overlaps and compliance burden; recommends a joined-up, technology-enabled policy approach.

6. [6-7. Legislation Maps \(Labour Supply Chain and Tax\)](#)

Who is responsible for what, and when: end-clients, agencies, umbrellas, PSCs; off-payroll rules; draft Ch 11 JSL with “purported umbrella” anti-avoidance; and how SDS, KID and Chain ID anchor intent and recovery.

8. [Categorisation of Worker](#)

Clarifies legal categories (employee, limb-b worker, self-employed) versus market labels (freelancer, PSC, umbrella worker) and the reform implications.

9. [Decision Tree \(End-Client Process\)](#)

Step-by-step route to engage contingent workers safely (employee vs non-employee routes: sole trader, PSC under Ch 8/10, agency under Ch 7, umbrella under Ch 11), with pinch-points and liabilities.

-
10. [**Engagement Models**](#)
Critiques the NHS direct engagement model and EDM/“deemed employer” constructs that apply PAYE without rights; explains inside-IR35 PSC feepayer variants; sets fixes via tax-with-rights plus chain transparency.
 11. [**NHS Direct Engagement - Case Study \(Loftus\)**](#)
Demonstrates the tax/rights mismatch in practice; proposes mandatory written terms, SDS-style obligations and dependent-contractor protections.
 12. [**Part 1 — Employment Status Framework: Consultation Roadmap**](#)
11. What the Government is proposing;
Confirms HMG consultation by year-end on status simplification, substitution misuse and self-employed protections; sets the Roadmap position: keep a modernised middle tier and adopt a tax-triggers-rights rule. Notes the House of Lords’ debate (Clause 113 test-cases) and recommends FWA litigate in its own name with anonymity/cost shields.
 13. [**Part 2 — Alternative Roadmap \(Twelve Measures; Delivery Plan\)**](#)
12. The Twelve Measures (Pillars A–D)
The actionable programme is listed in the Recommendations section (A1–A6; B1–B6; C1–C5; D1–D3).
 14. [**Stakeholder Impacts**](#)
What changes mean for end-clients and agencies, umbrellas, workers and genuine entrepreneurs, and HMG.
 15. [**Lessons from Abroad**](#)
Draws on EU/Canada/Germany/US experience: statutory presumptions, platform rules, and aligning tax and rights.
 16. [**Summary of Major Reviews \(2006–2025\)**](#)
Shows reform trajectory from OTS through Taylor Review and current umbrella market plans; underpins the Roadmap’s direction of travel.

2. List of Recommendations

2.1 Targeted fixes for the consultation

- Convene a cross-government working group on employment status and labour supply chain compliance.
- Appoint an independent commissioner or special adviser for employment status across government. A position that was backed by the House of Lords in the recent debate on the Employment Rights Bill.¹
- Keep and modernise the middle tier (worker/dependent contractor) rather than a single binary.
- Curb “sham substitution”: codify that paper substitution cannot defeat personal service; define genuine, controlled substitution (pre-vetting, liability retained, prior notice).
- Use Fair Work Agency test case powers with autonomy safeguards; or enable the Agency to bring public interest cases in its own name with cost shields and anonymity.
- Align timing/content with the government’s status consultation by year's end and the Lords' debates (status simplification, substitution misuse, protections for the self-employed).
- Publish KPI set and review clock
- Issue SME safe-harbour pack and model clauses
- Mandate SDS+ and strengthened Key Information Document (KID)

2.2 Pillar A – Legislation: align, simplify, rationalise

- A1. Codify a common “status for tax and rights” test in primary law (personal service/substitution, control, mutuality of obligation, financial risk, integration, equipment, business-on-own-account), with sector agnostic examples and presumptions.
- A2. “Tax-triggers-rights”: whenever tax is collected as employment (PAYE) under deeming rules or via umbrella/DE constructs, confer a day-one floor of worker/dependent-contractor rights for the period taxed.
- A3. Consolidate Chapters 7–11 ITEPA into a single Deemed Employment Code with a clear priority order and unified definitions.
- A4. Finalise umbrella reforms (joint & several liability) and introduce registration/licensing for scale operators tied to PAYE/holiday-pay compliance and transparent KIDs.
- A5. Update size-threshold cross-references and transitions for off-payroll (Chapter 10).
- A6. Clarify CIS interplay with status/off-payroll to avoid misread as a status decision.

¹ [The Earl of Clancarty - Hansard 23 July 2025](#)

2.3 Pillar B – Supply-chain integrity and easier compliance

- B1. Advanced Status Agreements (pre-approval) for large projects/hirers, with binding HMRC Status Notices and a safe harbour where facts are followed.
- B2. Publish a DBT/HMRC due diligence Code for labour chains; recognise adherence in penalty decisions.
- B3. Strengthen and digitise the KID (standard schema; model payslip with umbrella margin/holiday method).
- B4. Mandate a simple Chain ID across invoices/RTI/payslips linked to the SDS to support recovery and defeat “purported umbrella” gaming.
- B5. Formalise HMRC–FWA (EAS/GLAA) tasking, data-sharing, and annual reporting on ITEPA Ch 10/Ch 11 outcomes and KID compliance.
- B6. Re-constitute a cross-government employment status working group to coordinate tax/rights reforms.

2.4 Pillar C – Rights for the falsely self-employed

- C1. Implement the tax-with-rights trigger (worker level baseline; pensions auto-enrol assessment; backpay/pension correction route on audit).
- C2. Holiday pay integrity in umbrella/agency supply (rolled-up option with explicit opt-in and payslip itemisation; ban “use-it-or-lose-it” masking).
- C3. Statutory safe harbour for genuine B2B engagements (objective hallmarks such as exercised substitution, multi-client portfolio, deliverables-based pricing, own kit/insurance).
- C4. Mirror core Platform Work Directive concepts: rebuttable presumption for platform-controlled work, algorithmic transparency, and human review of deactivation.
- C5. Algorithmic accountability standards for platform allocation, pricing and rating systems.

2.5 Pillar D – Simpler processes and tools for business

- D1. Replace/overhaul CEST with “*StatusHub*”: an AI-assisted, case-law-tracked engine that generates SDS, stores evidence, integrates with RTI and grants a reasonable-care safe harbour.
- D2. A real status dispute route: 45-day client SLA, escalation to independent review before litigation; fix the current dead-end for contractors.
- D3. Make off-payroll set-off automatic in Chapter 10 settlements with a standard computation template (no offset of employer NIC).

3. Introduction

3.1 The employment status problem in the UK

The question of employment status - whether someone is an employee, a worker, or self-employed - determines rights, obligations and tax treatment across the UK economy. Yet the current framework is neither consistent nor predictable.

For employment rights, individuals may be classified as employees, limb (b) workers, or self-employed. For tax, there are only two categories: employed or self-employed. This mismatch means that someone may be taxed as an employee but denied the rights that normally follow, such as sick pay, holiday pay, or access to pensions. Conversely, others may be treated as self-employed for rights but as employees for tax, creating uncertainty and friction.

For workers, the consequences can be severe:

- Individuals in false self-employment can lose out on protections while still paying full employment taxes.
- Those in the gig economy may not know their rights until a tribunal decides, often many years later.
- Complex engagement models such as umbrella arrangements or personal service companies (PSC) leave many unsure who their true employer is, or who is responsible for their pay, rights, and deductions.

For businesses, the system imposes a heavy compliance burden. End clients must navigate overlapping legislation in ITEPA 2003 (Chapters 7 to 11) alongside employment law and case law tests. They face uncertainty when drafting contracts, the risk of liability transfers up the supply chain and the prospect of disputes with contractors or HMRC. Many organisations now require dedicated teams simply to manage status decisions, adding cost and complexity.

High-profile decisions such as *PGMOL v HMRC*, *Autoclenz v Belcher*, *Uber BV v Aslam*, and *Pimlico Plumbers v Smith* have shown how difficult it is for both businesses and individuals to predict outcomes with confidence. The litigation² also takes years to go through the court system, creating uncertainty and huge financial cost for both business and the Revenue.

For the Revenue, the fractured system creates enforcement challenges. HMRC must pursue liabilities through lengthy investigations, often litigated in tribunal, while non-compliant operators exploit gaps between tax law and employment law. Fraudulent

² *PGMOL v HMRC* started in 2018 and is currently waiting to go back to the FTT having gone up to the Supreme Court. The Supreme Court judgment took 14 months to be published. *Smith v. Pimlico Plumbers* started in 2011 and ended in the Supreme Court in 2022.

models can flourish where accountability is unclear, leading to lost revenues and unfair competition against compliant businesses.

The result is a framework that works for no one: workers are left vulnerable, businesses face uncertainty and risk and the Exchequer loses revenue. It is, therefore, essential to reform. This is not only to protect individuals and support legitimate enterprise, but also to secure the integrity of the tax system and restore trust in the way employment status is determined.

Recent parliamentary debates underline that reform must also respect proportionality for smaller firms. Peers across parties have cautioned that complex compliance duties could suppress entrepreneurship and job creation if introduced without small business guidance and safe harbours. Accordingly, all measures in this Roadmap assume a proportionate, risk-based implementation model for SMEs.

3.2 Why reform now – Purpose and end-state

The purpose and end state is one coherent, predictable framework that aligns employment status for tax with status for employment rights, minimises incentives for false self-employment and fraud and is easy for businesses to operate and comply with across the labour supply chain.

A “tax-with-rights” principle: wherever PAYE is charged via deeming rules, minimum day-one rights follow (at least at worker level), with clear allocation of responsibilities in the chain.

These reforms are also a response to the changing nature of work itself. The rise of AI-mediated platforms, hybrid consulting and portfolio careers in the younger generations means that any future framework must be agile enough to support contingent expertise and fluid working patterns while maintaining fairness and fiscal integrity.

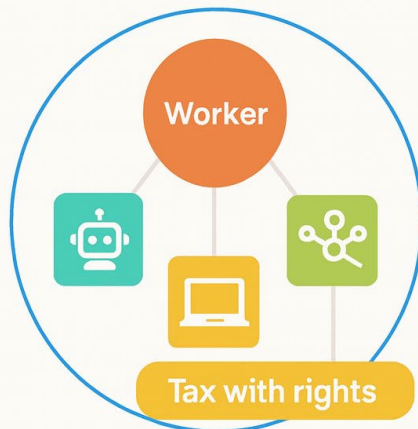
3.3 Core principles to steer policy choices

1. Align tests and language across tax and rights as far as practicable; put the case law factors on a statutory footing for clarity.
2. Preserve and champion genuine self-employment (entrepreneurial risk, multiple clients, ability to substitute, control over work).
3. Reduce overlap/duplication by rationalising deeming provisions and setting a clear order of application.
4. Make supply chain responsibility explicit and operable, with proportionate safe harbours for businesses that can evidence due diligence and reasonable care.
5. Digitise determinations, documentation and information sharing to cut friction and disputes.
6. Enforce mandatory transparency across the entire chain utilising the Status Determination Statement (Ch 10 ITEPA) and KID documents already in use.

4. The Future Labour Market:

Overview

The Future Labour Market



The tech-enabled compliance opportunity

1. Work becomes fluid
2. Tax with rights
3. Transparent chains
4. Tech-enabled compliance

4.1 Fluid, Decentralised and AI-enabled

The next decade will almost certainly bring a structural shift away from permanent, hierarchical employment toward fluid, project-based collaboration.

- **AI and automation** will take over routine administrative, analytical and middle-management roles, compressing the traditional career ladder.
- **Younger workers** (Gen Z and Alpha) are already demonstrating a preference for autonomy, flexible work, multiple income streams and portfolio careers.
- **Firms** will increasingly rely on short-term, expert-led teams that can assemble quickly around projects and disband just as fast the “Netflix model” of workforce design.

This points toward a labour market built on *contingent expertise* rather than long-term employment relationships. The question for policy is how to anchor rights, tax and compliance in a way that supports this agility while maintaining fairness and fiscal integrity.

4.2 Why the Employment Status Roadmap Could Be Future-Proof

The Roadmap, if implemented as drafted, contains several design principles that make it inherently adaptable to that future:

a. Alignment, not rigidity

By unifying the tests for tax and rights, it sets a stable legal framework that can flex with

technology and new work models. Instead of constantly creating new categories, it relies on clear criteria, personal service, control, and financial risk that can apply to AI-mediated work just as easily as to traditional labour.

b. The “tax-with-rights” trigger

This principle ensures that whenever income is taxed as employment, a minimum floor of worker-level rights follows. That’s critical in a world of AI platforms, digital marketplaces and algorithmic management where the line between employment and contracting blurs.

c. Supply-chain transparency

The use of *chain IDs*, *digital KIDs* and *pre-approval systems* would make the labour market traceable and auditable, even when work is mediated by AI or cross-border platforms. That is vital for maintaining compliance as the workforce becomes more virtual.

d. Safe-harbour for genuine entrepreneurship

By embedding objective hallmarks for independent business (multi-client, substitution, deliverables-based work), the Roadmap protects the space for creative freelancers, consultants and AI-enabled micro-enterprises the growth engine of the new economy.

e. Technology-ready enforcement

The proposal for *StatusHub*, an AI-driven status assessment and compliance engine, points the system toward continuous updating as case law evolves and new models appear. This dynamic element is what makes the framework capable of staying current.

4.3 What Might Still Need Evolution

To truly be future-proof, the following refinements would be needed over time:

- **AI attribution and accountability:** When AI acts as an intermediary (matching, pricing, allocating work), legislation will need to determine who bears “control” for tax and rights purposes, the platform, the algorithm’s owner or the client.
- **Portable, individualised rights accounts:** As workers shift rapidly between projects, rights such as holiday pay, sick pay, and pensions could be accrued into a *digital personal rights wallet* rather than tied to an employer.
- **Continuous skills recognition:** Government and employers may need mechanisms to accredit micro-credentials and AI-assisted work experience so the labour market values expertise over tenure.
- **Cross-border harmonisation:** As remote work dissolves geographic boundaries, alignment with EU and OECD standards on platform work, tax residency and social protection will matter for competitiveness.

4.4 The Growth Opportunity

If implemented well, the Roadmap becomes more than a compliance reform it becomes the regulatory backbone of a 21st-century expert economy. It would:

- Give firms confidence to engage specialists on demand without fearing status disputes.
- Ensure workers' protections follow them seamlessly, regardless of platform or client.
- Enable HMRC to capture correct tax in real time through digital supply-chain data.
- Encourage innovation by freeing both sides from outdated bureaucracy.

In short, the Roadmap is capable of being *future-proof*, provided it evolves into a modular, digital, principle-based system rather than a fixed statute. The guiding idea is that *flexibility with fairness* becomes the economic infrastructure for an AI-augmented, expert-led workforce.

5. Diagnostic – Current Framework

5.1 Fragmented frameworks

The case for reforming employment status has never been more compelling. The UK currently operates a fragmented framework, with different definitions and tests depending on whether the issue concerns employment rights or tax compliance.

For rights, the UK still runs a three-tier classification (employee / limb b worker / self-employed) under s.230 Employment Rights Act 1996. For tax, we apply multiple deeming regimes (Ch 7-10 ITEPA) and now joint and several liability for umbrella companies under the incoming Ch 11. These tax regimes use different tests and priorities, creating inconsistent outcomes and high compliance cost.

Employment status generally is established by applying case law. The case law over the decades has created a set of complex rules and factors that it is almost impossible for businesses to keep up with.

The Labour Party for a long time has pursued the Single Worker Status because of the mismatch between the status for tax and the status for employment rights, but is that the right course of action today? With the gig economy and increasing usage of the ‘dependent contractor’, is it time to look at a third category for tax?

The new Ch 11 in ITEPA seeks to address the fraud in the labour supply chain but these frauds are created partly by the abuse of the off-payroll provisions. Ch 11 is also going to create a friction with the agency tax legislation in Ch 7 and the interaction with the provisions for ‘purported umbrella’.

The economy needs a flexible workforce, but determining employment status for tax and rights, has grown too unwieldy and complicated for businesses to navigate.

5.2 Deeming provisions for tax

Overlaying this judicial framework are numerous statutory deeming provisions³ designed to counter avoidance in the labour supply chain. These include Chapters 7 – 11 ITEPA which deal with Ch 7 the agency tax rules, Ch 8 IR35, Ch 9 Managed Service Companies, Ch 10 Off-payroll Working and the new Ch 11 joint and several liability for umbrella companies.

These provisions often overlap, and it is not always clear which regime takes priority. For example, an engagement could conceivably fall within the scope of the agency rules, the off-payroll rules, and the new umbrella provisions. Each regime uses slightly different definitions of “client,” “intermediary,” or “control,” making it difficult for businesses to be certain which obligations apply.

³ Para 6.1 – [Deeming provisions](#)

Businesses and some advisers also conflate employment rights legislation with tax legislation. The result being a misinterpretation of the legislation and it being applied incorrectly.

5.3 Compliance burden

This complexity feeds directly into the compliance burden in the labour supply chain. Deciding how to engage a contingent worker⁴ on or off-payroll is now so complex that businesses often need to create a specific role internally to do this. Agencies, umbrellas, end-clients and contractors often struggle to understand who is responsible for operating PAYE, producing a status determination or providing holiday pay. The result is a landscape where compliant businesses face high administrative costs and risk, while non-compliant operators exploit the gaps. Workers can be left in limbo, taxed as employees but denied the rights that normally go with that status.

The problem, in short, is one of fragmentation: status is decided differently in rights and tax law, enforced by a patchwork of case law and statutory deeming rules, with overlapping supply-chain liabilities which creates opportunities for tax fraud. This makes compliance costly, encourages arbitrage, and leaves both businesses and workers without the certainty they need.

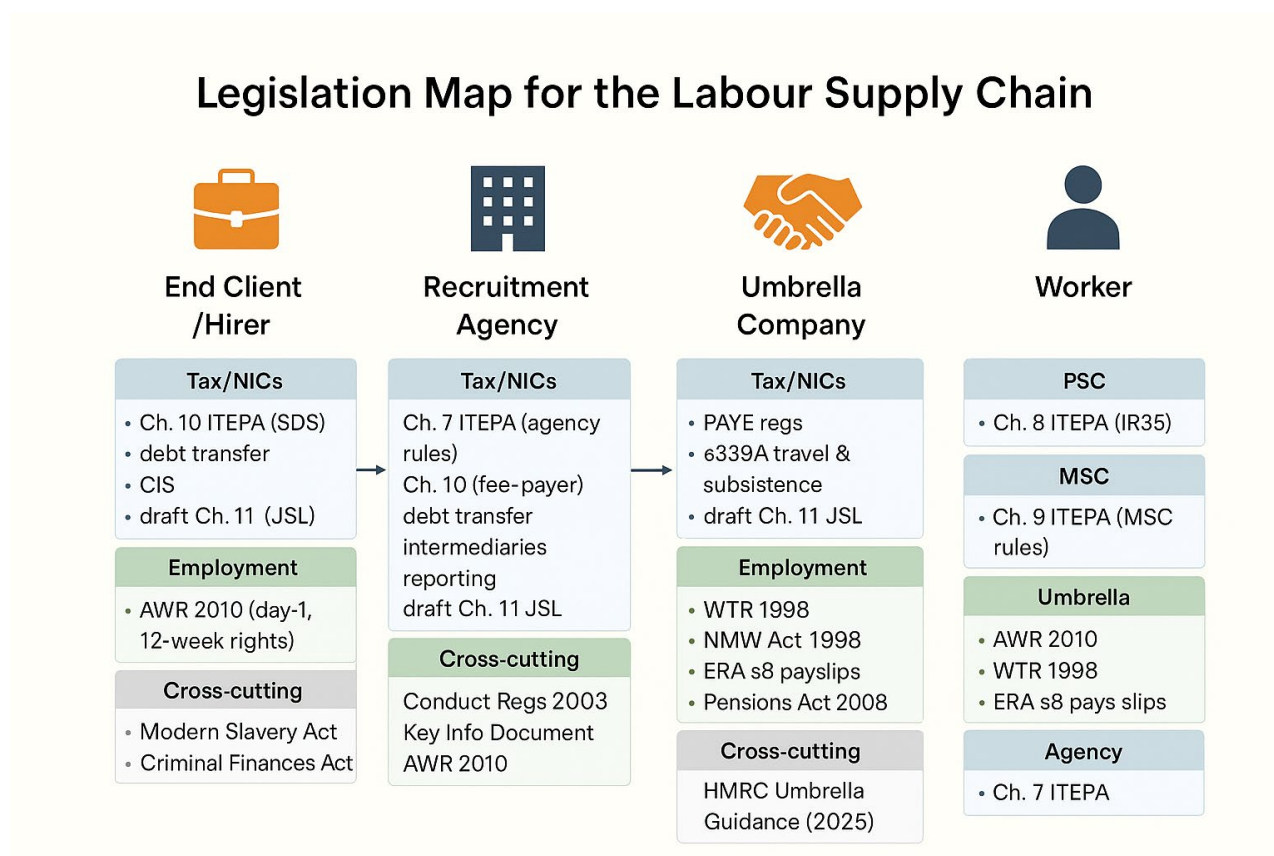
5.4 Recommendations

- Consider making the current consultation on the Employment Status Framework a cross-government consultation to incorporate both employment rights and tax.
- What would be better than the first recommendation is a wholesale review of the labour supply chain, mapping how labour is supplied now and in the future.
- Once the labour supply legislation is mapped, see [Section 6](#) for an illustration, it would be appropriate to look at how best to manage it from a tax and rights perspective.
- Use advanced technology and AI to map the chain and provide transparency.
- Convene a cross-government working group on employment status and labour supply chain compliance.
- Appoint an independent commissioner or special adviser for employment status across government. A position that was backed by the Lords in the recent debate on the Employment Rights Bill.⁵
- Taking some insights from the international comparisons in [Section 15](#) below, the UK could lead the way to establishing a better framework that works for businesses, workers and government alike.

⁴ See the [Decision Tree – End Client Processes to Engage a Contingent Worker](#)

⁵ [The Earl of Clancarty - Hansard 23 July 2025](#)

6. Legislation Map - Labour Supply Chain



6.1 End Client / Hirer

Tax & NICs

- ITEPA 2003 Chapter 10 (Off-Payroll Working): determine status, issue a valid Status Determination Statement (SDS), run a client-led disagreement process (public sector since 6 April 2017; medium/large non-public since 6 April 2021). ([GOV.UK - Off-payroll Working for Clients](#))
- Off-Payroll “recovery from other persons” (debt transfer): HMRC can transfer unpaid Chapter 10 PAYE from the fee-payer up the chain (agency 1, then the client) where conditions are met (s688AA ITEPA and PAYE Regs 97LA-LK). ([GOV.UK - ESM10031 - off-payroll working legislation: Chapter 10](#))
- Construction only: CIS interaction - if Chapter 10 applies, you do not apply CIS to that payment; if Chapter 10 doesn’t apply, consider CIS withholding. ([GOV.UK - ESM10004A - Basic principles: off-payroll working](#))
- Coming in April 2026 (draft): new Chapter 11 ITEPA (Joint & Several Liability, “JSL”) so agencies (or the hirer if contracting direct) can be jointly and severally liable for unpaid umbrella PAYE/NICs. ([GOV.UK - Umbrella companies — tackling non-compliance in the umbrella company market](#))
- SDS is a Chapter 10 requirement (the client must make and communicate it to the worker and the next party in the chain or risk the tax liability defaulting back to them). ([GOV.UK - ESM10011 - off-payroll working legislation: Chapter 10](#))

Employment / Agency regulation

- Agency Workers Regulations 2010 (AWR): day-1 rights (e.g., access to facilities) sit with the hirer; equal treatment after 12 weeks applies (liability can be shared with the TWA). ([GOV.UK - Agency Workers Regulations 2010](#))

Cross-cutting

- Modern Slavery Act 2015 s54 (TISC statement for £36m+ turnover groups). ([Modern Slavery Act 2015](#))
- Criminal Finances Act 2017 (corporate criminal offence - failure to prevent facilitation of tax evasion). ([Criminal Finances Act 2017](#))
- Economic Crime and Corporate Transparency Act 2024 - Failure to prevent fraud ([ECCT](#))

6.2 Recruitment Agency / Employment Business

Tax & NICs

- ITEPA 2003 Chapter 7 (agency legislation, s44): where the conditions are met (typically supervision, direction or control), the worker is treated as employed by the agency for income tax and the agency must operate PAYE. There is often, however, facilitates the Elective Deduction Model (EDM) ([s.44 ITEPA 2003](#))
- Chapter 10 (Off-Payroll Working): if the agency is the “fee-payer/deemed employer” it must operate PAYE per the client’s SDS. ([ESM10000 - Off-payroll working legislation: Chapter 10, ITEPA 2003](#))
- Off-Payroll debt transfer (s688AA/Reg. 97LA-LK): liability can transfer to the top UK agency and ultimately the client. ([ESM10031 - off-payroll working legislation: Chapter 10, ITEPA 2003](#))
- Employment Intermediaries Quarterly Reporting (PAYE Regs 84E–84G): where PAYE isn’t operated, submit worker/payment data to HMRC. ([Returns by Specified Employment Intermediaries](#))
- Coming in April 2026 (draft): Chapter 11 ITEPA (JSL) making agencies jointly and severally liable for unpaid umbrella PAYE/NICs.

Employment / Agency regulation

- Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the “Conduct Regs”), under the Employment Agencies Act 1973. ([Conduct of Employment Agencies and Employment Businesses Regulations 2003](#))
- Key Information Document (KID): mandatory pre-contract KID for agency workers (Regulation 13A, from 6 April 2020). ([Providing a 'Key information document' for agency workers: guidance for employment businesses](#))
- Agency Workers Regulations 2010: shared responsibilities with the hirer (day-1 vs. 12-week equal treatment); Swedish derogation removed from 6 April 2020. ([Agency Workers Regulations - Guidance](#))

Cross-cutting

- Criminal Finances Act 2017 (CCO).

6.3 Umbrella Company (as employer)

Tax & NICs

- PAYE operation (Income Tax (PAYE) Regulations 2003): deduct/pay Income Tax and NICs via RTI.
- Travel & subsistence restriction for intermediaries (s339A ITEPA from 6 April 2016): no home-to-work T&S relief where there is supervision, direction or control. ([Travel for necessary attendance: employment intermediaries](#))
- Coming in April 2026 (draft): Chapter 11 ITEPA (JSL) places joint liability for umbrella payroll debts on the contracting agency/hirer if the umbrella fails to account.

Employment / Agency regulation

- Working Time Regulations 1998 (hours, rest, holiday). ([Working Time Regulations 1998](#))
- National Minimum Wage Act 1998 (must pay at least NMW on all hours; structure of umbrella payslips often shows NMW “basic” plus taxable top-up). ([Working through an umbrella company](#))
- Employment Rights Act 1996 s8 (itemised payslips) extended to “workers” and hour-breakdown since April 2019. ([Explanatory Memorandum](#))
- Pensions Act 2008 (automatic enrolment duties) (general employer duty; see The Pensions Regulator guidance).
- AWR applies to umbrella employees supplied via a TWA. ([Examples of good practice for umbrella companies in the temporary labour market](#))

Cross-cutting

- HMRC's “good practice for umbrella companies” guidance (published April 2025) sets out compliance expectations. ([Examples of good practice for umbrella companies in the temporary labour market](#))

6.4 Worker (Contractor)

If engaged via a PSC (intermediary)

- ITEPA 2003 Chapter 8 (original IR35): PSC calculates and pays the “deemed employment” charge when client is small/out of Chapter 10 scope.

If engaged via a Managed Service Company (MSC)

-
- ITEPA 2003 Chapter 9 (MSC rules) with potential debt transfer to MSC provider/others (s688A). ([Chapter 9 ITEPA](#))

If engaged via an umbrella

- Agency Workers Regulations 2010 - day 1 and 12-week equal treatment.
- Working Time Regulations / NMW / ERA payslips as above.

If supplied by or through an agency

- ITEPA 2003 Chapter 7 (agency legislation s44) can deem employment with the agency for tax purposes (agency operates PAYE).

Optional / Situational items (when relevant)

- Construction Industry Scheme (CIS): contractors must withhold under CIS unless Chapter 10 applies to the same payment.
- Off-Payroll size thresholds: “small client” exemption uses Companies Act tests; thresholds increase for financial years beginning on/after 6 April 2025 (turnover > £15m; balance sheet > £7.5m), affecting when organisations fall in/out of Chapter 10. ([Size-threshold changes from 6 April 2025](#))

Quick visual of who’s on the hook (simplified)

- PSC route (small client): Worker’s PSC → Chapter 8 applies (PSC calculates deemed payment).
- PSC route (public sector or medium/large private): Client decides; SDS issued; Fee-payer (often Agency) runs PAYE; debt can transfer to Agency 1, then Client if unpaid (s688AA).
- Umbrella route (from April 2026, draft): Umbrella runs PAYE in the first instance; if it fails, Agency (or Client if no agency) may be jointly and severally liable under Chapter 11.

6.5 Interaction with the new Chapter 11 and using the SDS

What Chapter 11 does (umbrella joint & several liability). HMRC’s new (draft) Chapter 11 of Part 2 ITEPA 2003 introduces joint and several liability (JSL) for PAYE/NICs where a worker is supplied through an umbrella in a labour supply chain with effect from 6 April 2026 (to be legislated in the next Finance Bill). The rules set out who in the chain (client and/or agency) is jointly liable, how liability is allocated and crucially contains a “purported umbrella” clause so labels cannot be used to shuffle liability if no real employment exists. Where a worker is instead a deemed employee under Chapters 7/8/9/10 (agency, IR35/OPW, MSC), Chapter 11 will usually not apply. ([ESM2405 - Umbrella companies](#))

Why this matters for the consultation. Labour’s consultation on reforming status is taking place alongside live debates about preserving a robust middle tier

(worker/dependent-contractor) and tackling substitution clause abuse. Ministers have committed to consult on status by year-end and to include misuse of substitution; peers across parties pressed to keep and modernise the middle tier. This aligns with the approach of tax-triggers-rights as a dependent contractor, not “single status” for all.

There is also due to be a consultation on the umbrella regulations and updating the Conduct Regulations by the end of the year.

6.6 How the SDS proves end-client “on-payroll” intent

Under the Off-Payroll Working rules (Ch 10), the client makes a status decision and documents it in a Status Determination Statement (SDS). A valid SDS states employed/self-employed for tax, the reasons and shows reasonable care; until it is passed down to a qualifying party, the client remains the deemed employer and must operate PAYE. This creates a clear, auditable signal of intent at the top of the chain. ([PART 9 - Status Determination Statement](#))

6.7 Operationalising the proposed “SDS+” compliance pack

Issue the SDS at role design (before engagement). Name the intended fee-payer (client or agency under DE/Ch 10), attach the CEST output ID (where used) and include a Payment Route Declaration: “PAYE via [client/agency]; umbrella not permitted unless there is due-diligence per Ch 11 JSL policy.” Pass the SDS down before any payment to discharge liability. ([PART 9 - Status Determination Statement](#))

Lock the payroll footprint. Require the fee-payer to set the Off-Payroll RTI indicator for inside-IR35 payments so the RTI stream evidence PAYE has been operated on the SDS. This ties the SDS to actual PAYE operation and supports HMRC compliance checks. ([Operating PAYE](#))

If an umbrella is used (exception route), apply Chapter 11 due-diligence gates. Obtain written confirmations that the umbrella is the actual employer operating PAYE, is UK resident where relevant and does not involve “mini-umbrella” or similar models. Have the client/agency sign a JSL awareness acknowledgement so they understand they can be jointly and severally liable if PAYE/NICs are underpaid. Keep the SDS and confirmations together this is the evidential bundle that deters gaming. ([ESM2420 - Umbrella companies](#))

Neutralise “purported umbrella” gaming. Where parties claim an umbrella exists but it does not actually employ the worker, Chapter 11’s “purported umbrella” rule applies joint and several liability on those who assumed employment existed. The SDS + RTI record becomes contemporaneous evidence of the client’s intent to put the worker on payroll and not to outsource compliance to a sham structure. ([Ch 11 s.61Z1](#))

Tie tax to rights (the dependent contractor model). Where an SDS concludes employed for tax (inside IR35), that triggers day-one “dependent contractor” rights (predictable work request, holiday pay clarity, family leave baseline, anti-

retaliation), with limb-(b) preserved for rights purposes, rather than collapsing to single status. This approach reflects parliamentary signals to retain a middle tier and to curb substitution clause abuses without harming genuine flexibility.

6.8 Why this cannot be gamed in practice

(a) Liability follows the paper: without a passed down SDS, the client is the deemed employer and must run PAYE; if a non-compliant umbrella is interposed, Chapter 11 JSL moves liability up the chain anyway.

(b) Labels don't save you: the “purported umbrella” clause defeats “umbrella-by-paper” designs.

(c) Data corroboration: the RTI indicator evidence PAYE operation matching the SDS.

(d) Consultation direction of travel: Government and peers are focused on eliminating substitution theatre and preserving targeted protections this model squarely supports that.

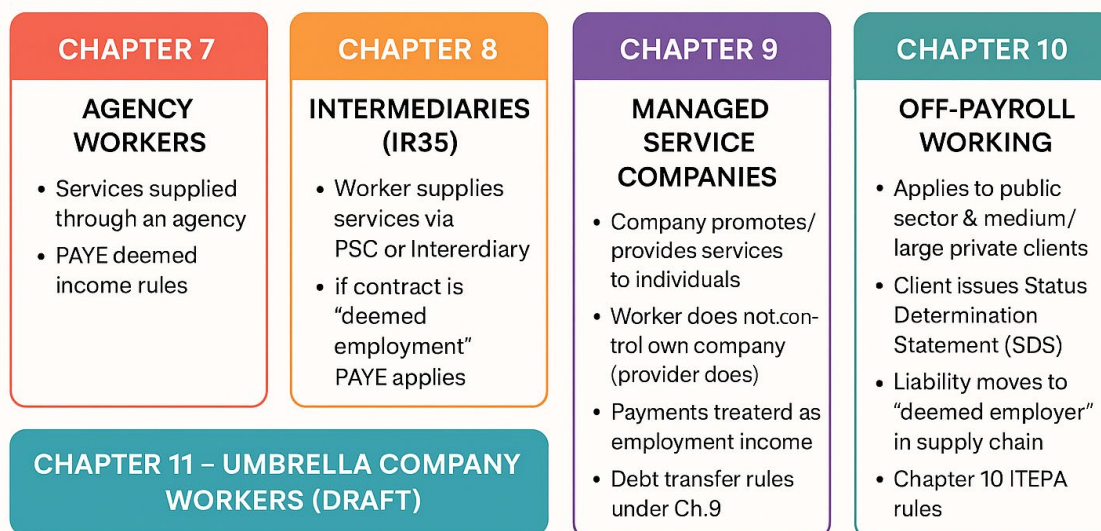
e) Digitise the SDS: along with the other recommendations for Chain ID.

Ask for in the consultation: recognise an SDS+ safe harbour where clients/agents follow the SDS+ steps (including RTI, pass-down, and Ch 11 checks), they should benefit from reduced enforcement exposure and clear guidance on EDM/DE vs. umbrella routing, with the dependent contractor rights “kicker” attached to inside-IR35 determinations for rights coherence.

Link to Government Consultation: The model described above directly informs Labour's 2025 consultation on status and substitution clause reform. By embedding a digital SDS and Chain ID approach, the system can satisfy forthcoming Fair Work Agency audit requirements while supporting the consultation's aim of clarifying genuine personal service.

7. Legislation Map - Tax

DEEMING PROVISIONS IN ITEPA CHAPTERS 7-11



7.1 Deeming Provisions for tax

Chapter 7 ITEPA (agency rules) deems PAYE where self-employed individuals are supplied and subject to supervision, direction or control; modernised in 2014 to counter false self-employment. ([Chapter 7 ITEPA 2003](#), [ESM2039 - Agency workers](#))

Chapter 8 (IR35 original) applies where workers provide services via an intermediary and, but for the intermediary, would be employed; still applies where Chapter 10 does not (e.g., small clients). ([Chapter 8 ITEPA 2003](#), [ESM8000 - Intermediaries legislation Ch 8](#))

Chapter 9 (Managed Service Companies) targets MSC arrangements; includes four statutory conditions at s61B. ([Chapter 9 ITEPA 2003](#), [ESM3510 - Managed Service Company \(MSC\)](#))

Chapter 10 (off-payroll) makes client/fee-payer responsible in the public sector and for medium/large non-public clients (definitions updated from 6 April 2025). From 6 April 2024 HMRC can set off tax/NIC already paid by workers/PSCs to avoid double taxation. ([Chapter 10 ITEPA 2003](#) [ESM10006A - Off-payroll Working](#))

7.2 Joint and Several Liability

Chapter 11 (draft, 21 July 2025) introduces an umbrella companies regime with joint and several PAYE liability along the chain, and anti-avoidance for "purported"

umbrellas. The Government intends to move PAYE accountability up-chain where non-compliant umbrellas are used. ([Draft Finance Bill Chapter 11 ITEPA 2003](#))

7.3 Miscellaneous categories

Pay As You Earn (PAYE) machinery and enforcement sit in Part 11 ITEPA (and regulations), which Chapter 11 will integrate with for recovery. ([Part 11 ITEPA 2003 - PAYE](#))

Construction Industry Scheme (CIS) is a separate withholding regime but interacts with status and supply-chain risk. ([Construction Industry Scheme \(CIS\)](#))

Employment status for rights remains a three-tier model (employee, limb b worker, self-employed). Government has issued non-statutory guidance rather than codifying tests.

Check Employment Status for Tax (CEST) gives HMRC's view only (not mandatory). HMRC has refreshed guidance and scenarios in 2025, but stakeholders still report limitations. ([Check Employment Status for Tax \(CEST\)](#))

Holiday pay reforms allow rolled-up holiday pay for irregular-hours/part-year workers for leave years from 1 April 2024—directly relevant to umbrella/agency models. ([Holiday Pay and Entitlement reforms](#))







Key Information Documents (KID) are mandatory for new agency workers since 6 April 2020; use and content can be strengthened for umbrella routes. ([Key Information Document \(KID\)](#))

EAS (in DBT) and GLAA enforce agency and labour-exploitation rules; coordination with HMRC is essential for supply-chain integrity. ([Employment Agency Standards Inspectorate](#), [GLAA](#))

Fair Work Agency (FWA) from April 2026, the FWA will act as a single enforcement body to combine the EAS, GLAA and HMRC relevant functions. ([Fair Work Agency](#)). Matthew Taylor from the Taylor Review has been appointed as the first Chair of the FWA.

8. Categorisation of worker

Worker Categories in the UK Employment Status Framework

 Employee (Contract of Service)	 Worker (Limb b)	 Agency Worker	 Self Employed Sole Trader	 Umbrelia Company Worker	 PSC
<ul style="list-style-type: none">• Protection against unfair dismissal, redundancy, sick pay• Tax: PAYE under ITEPA• Contract of service	<ul style="list-style-type: none">• Rights incl. holiday pay, NMW, whistleblowing protection• No distinct tax category• Contract for services but dependent	<ul style="list-style-type: none">• Rights under AWR 2010 and ITEPA• Usually PAYE via the agency (ITEPA Chapter 7)• Contract through agency	<ul style="list-style-type: none">• Few employment rights• IR35 (ITEPA Chapters 8 and 101 donot apply• No rights against client	<ul style="list-style-type: none">• Employee of umbrella company• PAYE operated by the umbrella• Compliance per umbrella and agency rules (e.g. KID, AWR)	<ul style="list-style-type: none">• Limited company contractor• Off-payroll rules (ITEPA Chapters 8 a 10)• If inside IR35, deemed PAYE via fee-payer (Chapter 10)

Notes: AWR 2010 = Agency Workers Regulations 2010. ITEPA = Income Tax (Earnings and Pensions) Act 2003. IR35 refers to Chapters 8 (intermediaries) and 10 (off-payroll) of ITEPA.

8.1 The Issue

The worker categories and different definitions apply for tax law, employment rights, and agency regulation, creating uncertainty for businesses and workers. The Lords' debate⁶ highlighted confusion over terms like *freelancer*, *self-employed*, and *sole trader*, which are often used interchangeably but have different implications.

Under the Employment Rights Act 1996, there are only three legal categories: employee, limb b worker and self-employed. The terms PSC (personal service company), agency worker and umbrella worker are not additional legal statuses but rather contractual or structural models that sit within this framework.

8.2 Employment-rights status (ERA 1996, s230)

- **Employee:** contract of employment (“contract of service”). Full employment rights (unfair dismissal, redundancy, notice, SSP, etc.) subject to qualifying periods. ([s.230 - Employment Rights Act 1996](#))
- **Worker (limb (b)):** personally performs work, but the counterparty is not the worker’s client/customer. Core day-one rights (NMW/NLW, holiday pay, working time, whistleblowing, discrimination, etc.), but **not** unfair dismissal or

⁶ [Hansard - Lords debate on Freelancers – 23 July 2025](#)

redundancy. ([Employment status and employment rights: guidance for HR professionals](#))

- **Self-employed** (in law): genuinely in business on their own account (clients/customers, no personal service obligation). Few employment rights beyond discrimination and health/safety; may still be workers on the facts if personal service and control exist. Employment status decided by case law.

8.3 Tax status

- **Employed for tax** (PAYE): employer (or deemed employer) must operate PAYE/NIC. Triggered by off-payroll working rules (OPW) for PSC engagements or by agency legislation (s44 ITEPA) for agency supply under supervision/direction/control (SDC). ([Understanding off-payroll working \(IR35\)](#))
- **Self-employed for tax**: profits taxed via Self Assessment; since 6 April 2024, Class 2 NICs are generally abolished (voluntary for some), with Class 4 NIC payable on profits.

8.4 Main Categories

Employee (contract of service or contract of employment)

Rights under the Employment Rights Act 1996 (e.g. unfair dismissal, redundancy). Taxed as employed under ITEPA 2003 through PAYE.

Limb b Worker

Defined in ERA 1996 s.230(3). Limited rights (holiday pay, NMW, whistleblowing protection). No separate tax category – may be taxed as employed or self-employed which causes both confusion and subsequently is open to abuse.

Self-Employed / Sole Trader (contract for services)

Engaged under a contract for services. No statutory rights except H&S and discrimination. Taxed as self-employed under ITTOIA 2005. *Freelancer* is a commercial term with no legal meaning.

Personal Service Company (PSC)

Individual operates via their own limited company. IR35 (ITEPA Ch 8) OPW (ITEPA Ch 10) deems income as employment income if underlying engagement is one of employment. If 'inside IR35' no employment rights despite paying full employment taxes.

Agency Workers

Covered by ITEPA Ch 7 (agency rules). AWR 2010 provides equal treatment after 12 weeks. Agencies must generally operate PAYE.

Umbrella Company Workers

Employee of the umbrella company, taxed through PAYE. Subject to consultation on new rules in ITEPA Ch 11 to tackle avoidance and fraud. Some businesses engage the

umbrella worker on the Elective Deduction Model – PAYE is paid but the worker is engaged on a contract for services so, no employment rights.

8.5 Terminology

“Freelancer”: Not a legal or tax category. In practice it covers sole traders and PSC directors. It should not be used in legislation; if you must use it in policy papers, define it tightly (e.g., “individuals providing services outside a contract of employment, either as sole traders or through their own company”).

“Self-employed” vs “sole trader”: “Self-employed” is a status; “sole trader” is the unincorporated business form. Many self-employed people are sole traders; some are partners; some are company directors (but those are employees of their company for tax/rights with that company).

“Contractor/consultant”: Market labels only. They can appear in any of the four routes above.

8.6 Key Legislation

- ITEPA 2003: Ch 7 (agencies), Ch 8 (IR35), Ch 9 (MSCs), Ch 10 (off-payroll), Ch 11 (umbrellas – draft).
- Employment Rights Act 1996: Definitions of employee and worker.
- Agency Workers Regulations 2010: Equal treatment.
- Conduct Regs 2003: Agency standards.
- NMW Act 1998, Equality Act 2010.

8.7 The Problem

- Tax and employment law do not align e.g. someone deemed employed for tax inside IR35 has no rights.
- Colloquial terms (*freelancer, sole trader, self-employed*) confuse policy discussions.
- Complex labour supply chains spread compliance across multiple entities.
- No distinct tax category for limb b workers.

8.8 Implications for reform

- Align or unify definitions across tax and employment rights.
- Clarify language in legislation and guidance.
- Simplify deeming provisions to avoid overlap.
- Consider a third category (e.g. dependent contractor) with aligned tax and rights.

9. Decision Tree: End-Client Process to Engage a Contingent Worker

End client needs a contingent worker

9.1 Step 1: Employee or Non-Employee?

Employee → Put on PAYE payroll.

- **Tax:** ITEPA 2003 (normal PAYE rules).
- **Rights:** Full employment rights under the Employment Rights Act 1996.

Risks/Pinch Points:

- Higher cost due to Employer NIC and benefits.
- More onerous employment rights.
- Recruitment resistance where workers prefer self-employed or PSC arrangements.
- No ambiguity on tax but may be commercially unattractive.

Non-employee → Move to Step 2

Pinch Point:

- Lack of certainty.
- Grey area in deciding genuine employment status vs non-employment.
- Errors can trigger HMRC challenge or tribunal claims which can take years to resolve.

9.2 Step 2: Non-Employee Routes of Engagement

Direct Sole Trader

- Assess employment status using case law tests.
- **If employment for tax** → must put on PAYE payroll.
- **If genuinely self-employed** → pay gross.
- **Legislation:** ITEPA 2003 s.4; definition of employment

Risks/Pinch Points:

- Heavy reliance on case law – subjective and uncertain.
- Exposure if HMRC later finds worker is not genuinely self-employed.
- Liability for back taxes, NIC, interest, and penalties sits with end client.

Personal Service Company / Intermediary

-
- **If public authority or medium/large private client** → Chapter 10 applies.
 - **If small private client** → Chapter 8 applies.

➡ **Inside IR35 (Ch 10)**

- Client issues SDS.
- Fee-payer operates PAYE/NIC.

Risks/Pinch Points:

- Poorly drafted SDS or lack of “reasonable care” shifts liability back to client.
- Debt transfer rules mean liability can move up the chain.
- Disputes with contractors over “inside” determinations.
- Potential labour supply fraud (see *Ducas v. HMRC*)

➡ **Outside IR35 (Ch 10)**

- SDS passed, PSC paid gross.

Risks/Pinch Points:

- HMRC challenge later can reclassify engagement → large liabilities with interest/penalties.
- SDS disputes if evidence of working practice differs from contract.

➡ **Chapter 8 (small clients)**

- PSC decides status.
- If inside IR35 → PSC accounts for PAYE.

Risks/Pinch Points:

- HMRC may pursue contractor/PSC for unpaid liabilities → reputational risks for end client.
- Limited visibility or control over compliance in supply chain.

Agency Worker (Chapter 7)

- If SDC applies → top agency is employer for tax.
- Agency operates PAYE.
- **Legislation:** ITEPA 2003, Ch 7 (s.44+), s.689.

Risks/Pinch Points:

- If one agency fails to operate PAYE, liability can transfer up the chain.

-
- Offshore agencies: UK end client can become liable.
 - Multiple intermediaries complicate visibility and compliance.

Umbrella Company Worker (Chapter 11 – draft)

- Umbrella is employer, operates PAYE.
- From April 2026, joint and several liability (JSL) can make agency or client liable for unpaid PAYE.

Risks/Pinch Points:

- Rogue or non-compliant umbrellas create hidden liabilities.
- Client reputation risks if workers are underpaid holiday or NMW.
- Future legislation (Ch 11) increases risk exposure up the chain even when using umbrellas.

9.3 Overall Risk Themes for End Clients

- **Misclassification:** Exposure to back taxes, penalties, and tribunal claims.
- **Liability Transfer:** Chapters 7, 10, and 11 all allow liability to move up the chain.
- **Cost Pressure:** Employer NIC incentivises pushing engagement off-payroll.
- **Complexity:** Case law and multiple deeming provisions make compliance difficult.
- **Reputational Risk:** Worker exploitation or unpaid entitlements can harm brand and contractor relations.

10. Engagement models

10.1 Direct Engagement model – public sector

In cases such as those involving the Direct Engagement model, not even the judiciary or representatives of the parties appear to understand what the status of the worker is and this ends up being to the detriment of the worker.

[Direct Engagement Model - case study](#): Loftus v. University Hospitals Sussex NHS Foundation Trust [2025] ET

The Loftus case highlights the systemic flaws of NHS direct engagement: VAT cost-saving for trusts but rights-stripping for workers. It underscores the urgent need for alignment of tax and employment law, contract clarity and enforcement mechanisms. For advocates of reform, it is a strong test case demonstrating why a roadmap is needed to close the gap between de facto employment relationships and de jure denial of rights.

Recent context: VAT case *Isle of Wight NHS Trust v HMRC* [2025] UKFTT 1114 (TC), decision released 16 September 2025.

The FTT held that supplies of locum doctors, including when provided via agencies, fall within Item 5, Group 7, Schedule 9 VATA 1994 and are VAT-exempt as the provision of a “deputy” for a registered medical practitioner.

10.2 Elective Deduction Model (EDM)

This model is where the worker ‘elects’ to pay PAYE but is engaged on a contract for services. It is, of course, not possible to elect to pay PAYE because PAYE is either owed or it is not. The worker is then engaged on a contract for services so is denied any statutory payments such as holiday pay.

In other cases, PAYE and full statutory payments are paid on behalf of the worker, but they are engaged on a ‘worker’ contract. They have certain day one rights, but are not a full employee. This causes significant confusion in the labour supply chain and the deeming provisions especially now with the interaction between Ch 7 and Ch 11.

The EDM could be legitimised under the ‘dependent contractor’ model – tax-triggers-rights.

10.3 New models

For every action, there is an equal and opposite reaction. As with the introduction of the new Ch 11, joint and several liability in the labour supply chain, the market is seeking to find new models. One such model is the ‘deemed employer’. This is where a third party elects to collect PAYE but the worker again is on a contract for services. This is seeking to legitimise the EDM above.

Another is the ‘inside IR35 Feepayer’ model where the worker is paid through a personal service company but with deductions. So, taxes are paid as a deemed employee but, again, no employment rights. Both models are being offered by firms of accountants and openly marketed on LinkedIn.

10.4 Platform-based work

The UK contingent work market has rapidly expanded from ride-hail and delivery into retail, care, education and back-office shifts, with app-based marketplaces matching thousands of jobs to on-demand workers. [Ministers have warned](#) that some “freelance” shift apps risk operating as unlicensed employment businesses under the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

In this Roadmap, any app that matches people to shifts and handles pay is treated like an *employment business* unless it can clearly show it’s just a true marketplace between two independent businesses. That means these platforms must meet three simple duties: give workers clear information up front (a KID), keep a short status record for each job (SDS+) and tag every payment so it can be traced through the chain (Chain-ID). There’s also a straightforward dispute path with a 45-day response time. Platforms that don’t allocate work, don’t set pay and can show genuine business-to-business signs can sit outside these rules, but should still sample their status decisions using SDS+.

Using Dependent Contractor on platforms

When a “freelance” task actually looks and feels like employment especially when the platform pays PAYE, the worker should be classed as a ‘dependent contractor’. The platform (or its payroll partner) simply runs PAYE for that job, marks the payment with a *Chain-ID* and - tax-triggers-rights - a basic set of rights for the period taxed as employed (holiday pay shown on the payslip, written particulars, whistleblowing protection and pension assessment).

If someone disagrees, the built-in SDS+ process handles the challenge quickly. Dependent Contractor - if the platform allocates and pays as a dependent contractor, the platform needs to meet the duties of an employment business and will put it within the new Ch 11 ITEPA JSL. This cuts fraud risk and gives end-clients clean evidence that each job was either genuine B2B or taxed-as-employed with the right protections.

Umbrella Regulations – consultation

Platforms should be specifically included within the upcoming consultation on the ‘umbrella regulations’. This consultation should recognise whichever entity is acting as an employment business, rather than focusing on umbrellas.

Compliance companies and accreditation bodies

Compliance companies and accreditation bodies are currently unregulated. Under the Ch 10 OPW, compliance companies are now commonplace. Some are based on human assessment and some on tech platforms using algorithms. These companies need oversight probably be the FWA.

11. Direct Engagement Model – case study

Loftus v University Hospitals Sussex NHS Foundation Trust [2025] ET⁷

NHS Trusts have promoted “direct engagement” since 2017 as a VAT-saving alternative to agency supply. Intended to cut costs but often leaves staff in employment status limbo.

11.1 Case Overview

- **Worker:** Radiographer/Sonographer, engaged 2020–2024.
- **Engagement Pathway:**
 - Initially via agency + umbrella company (PAYE deductions, no rights).
 - In 2023, transferred to direct engagement: paid directly by Trust, no contract, no Status Determination Statement (SDS), no pension access.
- **Dismissal:** Terminated during paternity leave, no investigation or notice. Trust later admitted PAYE deductions were being made as a tax saving mechanism, not as confirmation of employment.

11.2 Key Issues

1. **Employment Status Limbo**
 - Worker fully controlled and integrated, but tribunal found **no enforceable contract** = no unfair dismissal claim.
2. **Tax vs Rights Mismatch**
 - PAYE deductions made without parallel employment rights.
3. **Pension Failings**
 - Staff not auto-enrolled; later invoiced for “overpayments.”
4. **Access to Justice Blocked**
 - No contract meant tribunal and union support restricted.
5. **Patient Safety Risks**
 - Direct engagement staff excluded from clinical investigations.

11.3 Systemic Risks

- **For Workers:** loss of rights (sick pay, parental leave), mortgage/financial insecurity.
- **For Trusts:** litigation, regulator sanctions, workforce instability.
- **For NHS:** undermines recruitment/retention and patient safety.

⁷ [Loftus v University Hospitals Sussex NHS Trust \[2025\] ET](#)

11.4 Policy Recommendations

- **Mandatory written terms** for all direct engagement staff.
- **Extend SDS-style obligations** under ITEPA Ch 10 to direct engagement.
- **Fair Work Agency oversight** of pensions, rights, and patient safety.
- **Dependent Contractor category** for staff under PAYE but lacking full rights.
- **Align tax and rights** so PAYE deductions always confer minimum statutory protections.

11.5 Conclusion

The Loftus case demonstrates that NHS direct engagement has created a rights vacuum: workers treated as employees in practice but denied protection in law. Reform is needed to ensure savings are not made at the expense of workers and patient safety.

Part 1

12. Employment Status Framework – a consultation

12.1 Purpose and scope

Context: Following the [Lords' debates on 23 July 2025](#), the Government committed to publish the consultation by year end and to cover both status simplification and protections for the self-employed. Peers also pressed for clarity on how test case powers under Clause 113 should operate. This Roadmap takes the position that the Fair Work Agency should litigate in its own name where systemic misclassification is suspected, to protect worker autonomy and limit tribunal risk.

This Chapter sets out (a) what the Government is proposing to consult on in 2025 regarding the employment status framework (including, but not limited to, earlier “single worker status” ideas), and (b) a structured, practical response grounded in how the labour supply chain really works: the Elective Deduction Model (EDM), Deemed Employer (DE) constructs, inside-IR35 PSC/fee-payer models and umbrella engagements.

Consistent with this Roadmap, the Chapter advances a “tax-triggers-rights” principle and retention of a third category for tax (a dependent contractor tier) rather than collapsing everything into a single worker status which, in complex chains, would create new gaps rather than close old ones. See Ch 3.2 (Purpose and end-state), Ch 6 (Labour Supply Chain), Ch 7 (Tax), Ch 8 (Categorisation), Ch10 (Engagement Models), and Ch13 (Pillars A–D).

12.2 What the Government is proposing

Ministers have confirmed a formal consultation on the employment status framework by the end of 2025, explicitly flagging substitution clause abuse and protections for the self-employed as in scope. Parliamentary exchanges also show live discussion of whether to retain/strengthen a middle “worker” or dependent contractor tier versus moving to a binary. Peers have pressed for clarity that preserves genuine freelancing while tackling misclassification; government acknowledges the complexity, hence the consultation approach.

Earlier single status concepts remain part of the policy lineage, but the near-term focus is a worked through, evidence-based framework that deals with the realities of platform work, agency supply, intermediaries and chain liability rather than a headline re-label.

12.3 Position: a dependent-contractor tier and ‘tax-triggers-rights’

Position. Keep a three-tier structure for tax by recognising a dependent contractor tier (coherent with the UK’s existing limb (b) space for rights) and pair it with a tax-triggers-rights rule: wherever tax is collected as employment under a deeming

provision (Ch 7–10 ITEPA) or via an umbrella/DE construct, a statutory floor of worker rights attaches for the period taxed. That avoids the EDM/DE/inside-IR35 paradox, paying like an employee while denying core protections. See Ch 13.3 (Pillar C: C1 Tax-with-rights trigger).

Why not single worker status? In multi-party chains, a blunt collapse to one category pushes different risk and delivery obligations onto entities that are not the actual employer in practice. A targeted dependent contractor for tax plus “tax-triggers-rights” for protections is cleaner, quicker to implement and better matches real chain accountability than an across-the-board redefinition. See Ch 6 (Legislative Map - labour supply chain) and Ch 7 (Legislative Map – Tax Deeming, joint & several liability).

12.4 Model-by-model solutions (labour supply chain)

A. Elective Deduction Model (EDM).

Problem. “Elective” PAYE while contracting on a contract for services to avoid holiday pay, pensions and unfair dismissal creating confusion and litigation risk. See Ch 10.2.

Solution. If PAYE is operated (for any reason), apply the tax-triggers-rights floor automatically for that period; require a Key Information Document (KID) that shows the full pay build-up and any employment costs; mandate an engagement chain ID linking client–agency–feepayer–worker to support recovery. See Ch13.2 (B2–B4).

B. Deemed Employer (DE) constructs.

Problem. Third-party “deemed employer” collecting PAYE on services contracts to legitimise EDM-type outcomes; same practical rights vacuum. See Ch10.3.

Solution. The dependent contractor for tax + tax-triggers-rights closes the gap. With joint/several liability in the chain (Ch 11 ITEPA umbrella regime) recovery can move up-chain where the DE is insolvent or non-compliant. See Ch 7.2 and draft Ch 11 ITEPA approach.

C. Inside-IR35 PSC / fee-payer.

Problem. Worker’s PSC paid as if employed (inside IR35), yet no rights against the party directing the work. See Ch 7 (OPW) and Ch 9 (Decision Tree) for route selection.

Solution. Tax-triggers-rights confers a worker rights floor for the period taxed; combine with automatic OPW set-off to ensure symmetric tax outcomes and fewer disputes. See Ch13.4 (D3 set-off), Ch13.4 (D2 dispute process).

D. Umbrella worker models.

Problem. Holiday pay leakage, opaque margins and fraudulent “mini-umbrellas.” See Ch 6 (supply-chain map); Ch 7.2 (chain JSL); Ch 15.3 (client risks).

Solution. Chain visibility (KID + Chain ID), joint/several liability (draft Ch 11 ITEPA) and an elevated baseline of rights wherever PAYE is run by an umbrella or umbrella workers can only be employed by statute under a contract of service (in accordance with s.4 ITEPA). See Ch 13.2 (B2–B5), Ch 13.3 (C2 holiday pay integrity).

E. Mapping.

Use the SDS+/KID/*Chain ID* to map the intent. This helps prevent fraud and ensures the worker gets the rights they are entitled to.

12.5 Substitution-clause reform

Peers across parties highlighted the misuse of paper substitution to defeat personal service tests and deny basic protections especially in app-based delivery. The Government has said substitution abuse will be addressed in the consultation. Sham substitution should be codified so it cannot defeat personal service; define “genuine, controlled substitution” (pre-vetting, liability retained, prior notice) to preserve legit freelancing.

12.6 Protecting freelancing while fixing misclassification

Portable, baseline rights for dependent contractors while protecting genuine business-to-business work through a statutory safe harbour (objective hallmarks: exercised substitution, multi-client portfolio, deliverables-based pricing, own equipment/insurance). Keep the worker/limb (b) space for rights and modernise it, rather than abolish it. See Ch 12.3 (C3 Protect genuine self-employment).

Coordination with the new DCMS *Freelance Champion* should ensure cross-department support for freelancers until Government reviews whether a statutory Freelance Commissioner is warranted.

12.7 Implementation and transition

- **Immediate (administrative) wins:** strengthen KID content and require Chain ID on invoices/RTI/payslips; publish a Due-Diligence Code for chains; embed the OPW set-off practice in HMRC guidance; and plan a status-tool upgrade (*StatusHub*) to reduce dispute volume. See Ch 13.2 (B2–B5), Ch 13.4 (D1–D3).
- **Legislative steps:** consult on tax-triggers-rights, dependent contractor for tax, substitution reforms and a consolidated Deemed Employment Code (re-ordering Ch 7–11 ITEPA). See Ch 13.1 (A3) and Ch 14 (Phasing).
- **Use FWA strategically:** publish guidance on test case criteria, anonymity orders and worker cost shields when state-led cases are pursued.

12.8 Test-case autonomy and FWA powers

Clause 113 of the Employment Rights Bill would allow the Fair Work Agency to bring status proceedings “as if” in a worker’s name. This Roadmap recommends a cleaner alternative: the Agency should bring public interest cases in its own name and bear costs, with guidance on selection criteria, anonymity orders and reporting duties. FWA strategic cases will follow published selection criteria, permit anonymity orders, and carry a ‘no adverse costs to individual workers’ rule. FWA litigates in its own name

for systemic misclassification and publishes outcomes and learning notes, reducing repeat litigation while preserving worker autonomy.

12.9 Risks and how we mitigate them

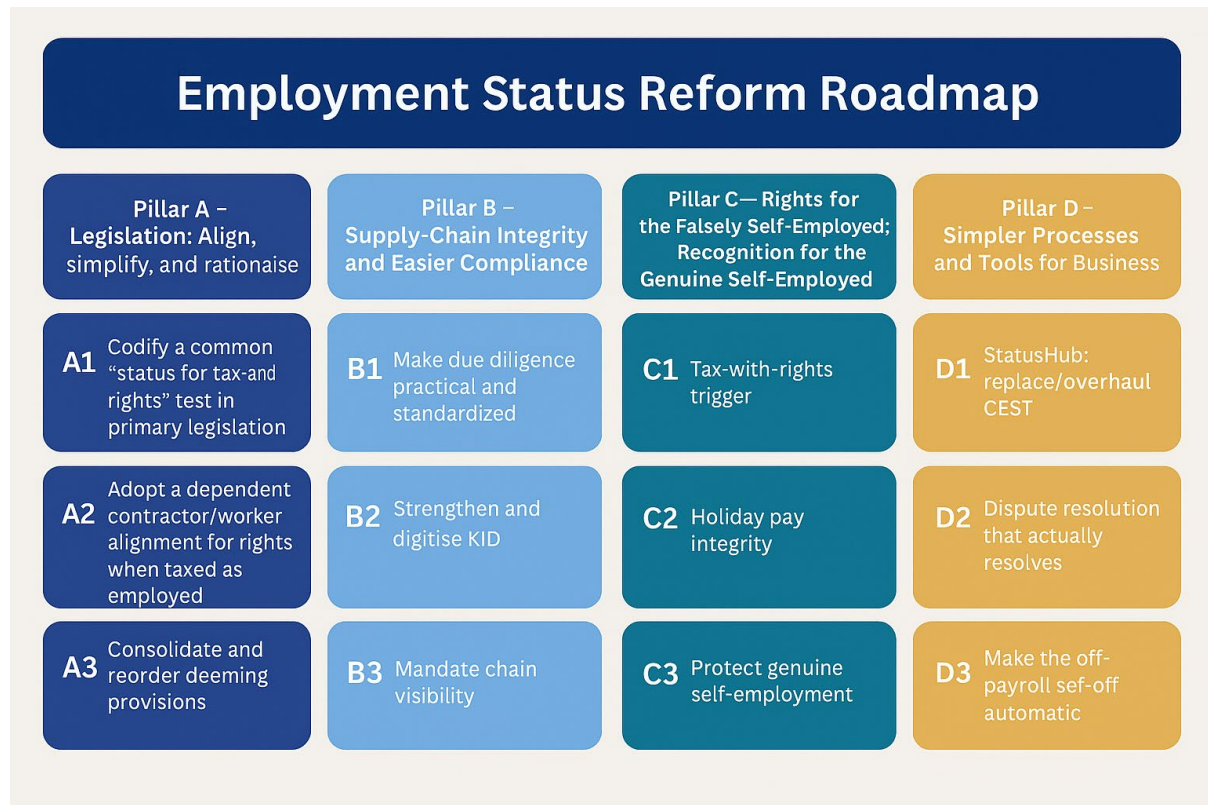
- **Over-reach into genuine B2B** → mitigate with a safe harbour and objective hallmarks (C3).
- **Increased tribunal load** → mitigate through clear rules on substitution, stronger KIDs/Chain ID, and administrative dispute routes (D2).
- **Chain gaming (new models)** → mitigate with joint/several recovery, Chain ID digitisation, and status pre-approval tools for major projects. See B1/B4 and Ch 7.2.

12.10 How this aligns with the Taylor Review and the wider reform arc

- **Dependent contractor logic.** Taylor proposed a dependent contractor tier, with control weighted more heavily in the status test and “sham substitution” curbed. The Roadmap operationalises this and goes one step further by anchoring rights to PAYE withholding where the system already recognises dependence for tax.
- **Tax/rights alignment.** Taylor urged that “self-employed should mean the same for tax and rights” and that systems should be brought closer together. Your “tax-triggers-rights” rule is the practical route to that alignment in the supply chain.
- **Government impetus.** The Commons Library’s Taylor implementation brief shows the Government has already committed to clarify status tests and strengthen enforcement.

Part 2

13. Alternative Roadmap - Twelve measures across four pillars



13.1 Pillar A – Legislation: align, simplify, and rationalise

A1. Codify a common “status for tax and rights” test in primary legislation.

Put core case law factors (personal service/substitution, control, mutuality of obligation, financial risk, integration, provision of equipment, business on own account) into statute with sector agnostic examples and presumptions. Codifying these tests now will ensure that the framework applies equally to AI-mediated and platform-based engagements, keeping the law technologically neutral and future-proof. Preserve the ability to recognise genuine business-to-business contracting. Build on the guidance structure but make it binding. ([Employment Status and Employment Rights](#))

A2. Adopt a dependent contractor/worker alignment for rights when taxed as employed.

Where an engagement is taxed as employment under Chapters 7–11, confer day-one

“worker”⁸ rights (NMW, paid holiday, rest breaks, whistleblowing protection, and sick pay baseline) and require auto-enrolment eligibility to be assessed by the deemed employer/umbrella. This corrects the current mismatch in ITEPA Ch 10 where tax deeming does not trigger pensions or other rights. ([Chapter 10 - Pensions tax relief](#))

A3. Consolidate and reorder deeming provisions.

Create a single “Deemed Employment Code” within ITEPA Part 2 that: (i) defines a priority order (proposed: Ch 11 umbrellas; then Ch 10 off-payroll; Ch 7 agency; Ch 9 MSC; Ch 8 IR35 fallback); (ii) unifies key definitions (control, material interest, client, intermediary) and fraud/TAAR rules; (iii) removes duplicate tests. Use the Ch11 drafting model for joint/several liability and apply recovery mechanics consistently.

A4. Finalise umbrella reforms and licensing

Progress Ch 11 to Royal Assent on Finance Bill timetable and consult quickly on secondary legislation for recovery, information duties and scope. Consider a registration or licensing duty (via FWA) for umbrella operators above a volume threshold, linked to PAYE compliance, holiday pay handling and KID transparency.

A5. Update references for size thresholds and small-client exemptions.

Reflect HMRC’s 6 April 2025 threshold changes for medium/large clients in Chapter 10 Off-payroll Working (OPW) and cross-referencing to Companies Act; provide a worked transitional schedule to avoid cliff-edges. ([ESM10006A - Size Threshold Change](#))

A6. Clarify CIS interplay.

In statute and guidance, make explicit that CIS deduction status is not a status determination for rights or off-payroll; require a documented status assessment at award of each contract and on material change.

13.2 Pillar B – Supply-chain integrity and easier compliance

B1. Large scale project pre-approval for tax (Advanced Status Agreement)

For large-scale projects (e.g. infrastructure, IT, health services) or large hirers (public bodies, FTSE 350, or other companies above a threshold), the engager would be required to submit a detailed project plan to HMRC before workers are on-boarded. HMRC would then review and issue a binding determination.

The HMRC determination would function as a Status Notice that all parties in the chain must adopt. If the engager implements the project in line with HMRC’s approval, no penalties or debt transfer would apply creating a safe harbour, even if facts later change. Liability would fall only if material facts were misrepresented.

⁸ Whether it is ‘worker’ rights will depend on the outcome of the consultation on the Employment Status Framework.

This would prevent some of the recent large-scale frauds in the labour supply chain. High profile cases such as the HS2 project and those in the NHS labour supply have been cited as examples⁹.

B2. Make due diligence practical and standardised

Publish a DBT/HMRC Code of Practice for labour supply-chain due diligence (checklists for end-clients and agencies), aligned to Chapter 11 information duties and HMRC's [mini-umbrella fraud](#) alerts. Recognise adherence via a safe-harbour in penalty decisions. Publicise HMRC's [Guidelines for Compliance on OPW 'Help to Comply' – GfC4](#) and [Guidelines for Compliance for the labour supply chain – GfC12](#)

B3. Strengthen and digitise the KID

Require a KID before assignment confirmation, with a standardised payslip illustration showing umbrella margins, employer NIC, apprenticeship levy, holiday pay method (including rolled-up, if used) and any employment costs. Provide an open JSON schema for KID data portability between agencies/umbrellas.

B4. Mandate chain visibility

Introduce a simple “engagement chain ID” carried on invoices, RTI submissions and payslips to link client–agency–umbrella–worker and support joint/several liability under Ch 11. This could utilise the existing Status Determination Statement (SDS) from Ch 10 as seen in Ch 6.2 above SDS+. The end client is required by statute to assess the worker's employment status and provide this document to the agency/feepayer and the worker. This document could provide evidence of the intended status of the worker that is required under Chapter 11, especially evidence for intent under the ‘purported umbrella’.

B5. Coordinated enforcement

Formalise MoUs and data-sharing between HMRC, EAS and GLAA (FWA); run joint tasking on sectors with chronic false self-employment risk; report annually on Chapter 10/11 outcomes and KID compliance.

B6. Cross-Government Working Group on Employment Status

Reform the [cross-government working group](#) which was formed under the initiative of the Office of Tax Simplification. There is no central office on employment status across government and departments are working in isolation. The Department for Business and Trade (DBT) should be working with HMRC, for example, on labour supply chain abuses such as the Elective Deduction Model.¹⁰

⁹ *Ducas v. HMRC* [2024] EWHC (£171m) – [AccountingWeb article](#); *PPS Umbrella v. HMRC* [2024] EWHC (£7.2m) – [AccountingWeb article](#)

¹⁰ I have personally brought the EDM to the attention of both DBT and HMRC as each department thought it was the other departments responsibility because it is not a well understood model.

B7. Data governance rails for SDS+/Chain-ID/StatusHub

Adopt a short DPIA template, fixed retention windows (e.g., 6 years + current), role-based access and audit logs. Enable proportionate data-sharing with HMRC/FWA strictly for enforcement of Ch 7–11 and holiday-pay integrity, with public guidance on what is shared and when.

13.3 Pillar C – Rights for falsely self-employed; recognition for genuine self-employed**C1. Tax-with-rights trigger**

If tax is collected as deemed employment via Ch 7–10, confer day-one worker rights for the period taxed (with clear attribution of who must deliver: fee-payer or umbrella for pay/holiday; client/umbrella for safe work/environment). Build an automatic back-pay and pensions-auto-enrol correction route when status is corrected on audit.

C2. Holiday pay integrity

Embed the 2024 rolled-up holiday rules in umbrella/agency operations and require explicit worker opt-in and payslip itemisation; prohibit carry-forward “use it or lose it” practices that mask underpayment.

C3. Protect genuine self-employment

Create a statutory safe-harbour for engagements meeting objective hallmarks of business-to-business work (e.g., genuine and exercised substitution, multi-client portfolio, priced on deliverables not time, own equipment/insurance), with a rebuttal standard for HMRC. (This sits alongside the aligned test in A1.)

This has also recently been championed by the CBI as a [‘Green Card’](#) clearance scheme for IR35.

Freelance representation: To strengthen voice and data visibility for independent workers, the *DCMS Freelance Champion* should participate formally in status policy coordination and report annually to DBT on freelancer market conditions. After implementation of the new framework, Government should review whether a statutory independent Commissioner is needed to provide cross-Whitehall leadership. This was specifically recommended in the Lords’ debate (23 July).

C4. Mirror the European Platform Work Directive

An equivalent to the new European Platform Work Directive could be introduced in the UK for dependent workers. This could create a rebuttable presumption of employment wherever an individual provides services through a digital platform or intermediary that exercises significant control over price, allocation of work, or performance.

Under such a regime, the default legal position would be that the individual is a worker with full statutory rights, unless the engager can prove genuine business-to-business independence. This shift of burden would simplify enforcement, reduce litigation and ensure that platform and agency models cannot be used to disguise employment relationships, while still preserving flexibility for those who are genuinely self-employed.

C5. Algorithmic accountability and AI transparency

Future UK platform rules should mirror the transparency and human review standards of Spain's Rider Law and Australia's Deactivation Code. Workers must be able to see how automated systems allocate work and appeal digital deactivations.

13.4 Pillar D – Simpler processes and tools for business

D1. StatusHub: replace/overhaul CEST

Utilise AI and commission an independent¹¹, case law tracked decision engine with plain-English reasoning, curated scenarios and sector exemplars. Integrate with RTI and SDS+ generation; store the evidence pack. Where inputs are accurate and *StatusHub* produces a determination, grant a "reasonable care" safe-harbour on penalties. (CEST is currently only HMRC's view and not mandatory; this change would make results defensible and consistent.)

D2. Dispute resolution that actually resolves

Put statutory time limits and escalation on the status disagreement process (SDP), including a 45-day client response SLA and access to an independent review panel before litigation.

There is currently no coherent process for the contractor to be able to challenge their status once the SDP has concluded. The contractor has to approach HMRC to apply for an over-payment of tax under self-assessment but, there is no mechanism for this.

There is also no process for the client business to be able to end a lengthy HMRC enquiry other than appealing to the tribunal. A closure notice¹² should be available to the client.

D3. Make the off-payroll set-off automatic

Require HMRC to apply set-off by default in Ch10 settlements and publish a standard computation template; maintain the rule that employer NIC is not offset. The changes in Finance Act 2024 amend ITEPA 2003 and allow HMRC to offset both income tax and NIC paid by the worker on salary or dividends or corporation tax paid by the intermediary against the deemed employer liabilities.

¹¹ Work with [BASDA](#) – Business Application Software Developers Association

¹² [EM1980](#) - Working the Enquiry: Closure Applications: General Approach

14. What this means for key stakeholders

14.1 End-clients and agencies

Fewer overlapping rules; a single decision flow and digital evidence pack; automatic set-off in OPW cases reduces tail risk; safe harbours where due diligence is evidenced much like Gross Payment Status under CIS; clear joint/several exposure where umbrellas are used without due diligence; significantly reduce compliance for off-payroll engagements.

14.2 Umbrella companies

A level playing field through joint/several liability and chain transparency (using SDS); registration for scale players; explicit rules on holiday pay presentation; banned practices (withholding “accrued” holiday); create a licensing authority.

14.3 Workers and the genuinely self-employed

If taxed as employed, a statutory floor of rights follows automatically; clear, portable KIDs and payslips; while genuine business-to-business contractors retain autonomy via a safe-harbour or Green Card.

14.4 HMRC

The Roadmap gives HMRC clearer sight of who was paid for which job and by which route. SDS+ and Chain-ID make reviews faster and help honest firms show they took reasonable care, while Dependent Contractor brings more borderline work into PAYE without long arguments about who should operate it. Thus reducing litigation and lengthy enquiries. The result: better targeting of deliberate abuse (including mini-umbrella setups) labour supply fraud and less noise for compliant businesses.

14.5 Department of Business

DBT’s role is to set simple, workable rules and a light-touch licence for platforms and other labour supply intermediaries. That means clear, plain-English templates (KID and SDS+), basic standards for pay and information and quick action where fees are charged to find work or pay is withheld. Rollout should be phased with support for SMEs, so good actors can comply easily and bad actors are removed quickly.

15. Lessons for the UK from Abroad

The EU adopted the *Platform Work Directive (2024/2831)* which introduces a rebuttable presumption of employment and data-reporting obligations for digital labour platforms. The UK should evaluate alignment with these principles in its 2026 Employment Status consultation response.

15.1 Adopt Clearer Statutory Tests or Presumptions

Many international jurisdictions grew frustrated with purely case-by-case approaches and moved to bright-line tests or presumptions to protect gig workers. The UK could consider a presumption of worker or employee status for platform workers, similar to the EU's [Platform Work Directive \(2024/2831\)](#) or the US's ABC-style criteria for defining contractors. This would reduce legal ambiguity and the burden on individuals to litigate their status.

15.2 Leverage an Intermediate Category

The UK's existing "worker" category is actually a competitive advantage, as it covers gig workers for key rights like minimum wage and holiday pay. Strengthening this category (for example, ensuring more rights like sick pay or collective bargaining for workers) could emulate the benefits of Germany's and Canada's dependent contractor approaches without introducing a completely new classification. However, the UK should clarify the boundary between "worker" and "employee" to reduce litigation, lessons from Italy show that clear legislative criteria ([like Italy's Art. 2 for organised work](#)) can guide courts and businesses in applying the correct status.

15.3 Ensure Tax and Rights Coherence

The IR35 experience has shown the confusion that arises when tax law diverges from employment law. Aligning HMRC's approach with labour protections, perhaps by having a unified assessment that determines both tax and employment status. This would follow the model of BC and Germany where an "employee is an employee" across the board. If the UK continues with separate regimes, at least any new presumption of worker/employee status for labour law should trigger a review of tax status to avoid one system recognising a person as a de facto employee while the other does not.

15.4 Strengthen Enforcement with Data and Inter-Agency Cooperation

The gig economy runs on data; regulators should too. The UK could mandate that platforms regularly report anonymised data on gig workers' hours and pay to HMRC or a labour inspectorate, as a way to monitor compliance (similar to EU proposals and Ontario's record-keeping rules). Enhancing the Employment Agency Standards Inspectorate or creating a dedicated "Gig Work Inspectorate" under the Fair Work Agency (FWA) with power to investigate and sanction misclassification. The FWA should work jointly with HMRC and HSE on issues like health and safety for gig couriers.

This would mirror the robust enforcement seen Spain’s Riders Law and the task-force approach in parts of the US.

Technology like online status tools (an improved CEST that utilises AI to also advise on worker rights) and perhaps even blockchain records for work time (to ensure transparency in hours and pay) could be explored.

15.5 Address Algorithmic Accountability

International reforms highlight that employment status and rights in the gig economy can’t be separated from the algorithms that dispatch work and evaluate workers. The UK’s pending Employment Rights Bill might incorporate rights akin to algorithm transparency and human review, learning from Spain’s Rider Law and Australia’s deactivation code. By ensuring gig workers know how their performance is assessed and have recourse against automated penalties, the UK would support fairer conditions even absent a formal reclassification.

The UK can also look ahead by integrating algorithmic accountability into its own enforcement model, aligning with the principles set out in the Roadmap’s “Future Labour Market” chapter to ensure technology-driven work remains transparent and fair.

15.6 Provide Basic Protections Regardless of Status

As an immediate measure, the UK could implement baseline protections for all platform workers (similar to what Ontario and BC did) for instance, guaranteeing at least the National Minimum Wage for time on a job, requiring contribution to workplace injury insurance, and mandating notice or severance for termination of gigs. These would mitigate the most exploitive aspects of gig work while longer-term status questions are resolved.

In conclusion, international models range from evolutionary tweaks (extending existing concepts like dependent contractor) to revolutionary steps (presuming all gig workers are employees). A combined approach may serve best: the UK can clarify and broaden its employment status tests (learning from ABC and EU presumptions) *and* bolster enforcement through data-driven oversight and guaranteed minima for gig workers.

By observing what has worked abroad, for example, Spain’s assertive stance on rider rights, Germany’s deterrence of sham contracts, the adaptive legislating in Australia and Canada – the UK can craft a regime that protects workers from misclassification while still allowing genuine entrepreneurship and flexibility.

The overarching lesson is that clarity, proactivity, and a willingness to innovate legal categories are key to addressing the gig economy’s challenges. With measured reforms, the UK can avoid being “left behind” and instead position itself at the forefront of fair work standards in the platform era.

16. Summary of major reviews (2006 – 2025)

Year	Title (Commissioning Body)	Scope	Key Focus/Outcomes
2006	“Tackling Managed Service Companies” (HMRC/HMT Consultation)	Crackdown on MSC loan schemes	Defined MSCs; proposed PAYE/NIC enforcement to curb tax avoidance
2011	OTS Small Business Tax Review (IR35) (Office of Tax Simplification)	Taxation of small businesses (incl. IR35)	Proposed options: suspend or better administer IR35; long-term align tax/NIC to obsolete IR35 assets.publishing.service.gov.uk
2013	Offshore Employment Intermediaries (HMRC Consultation)	Offshore payrolls avoiding tax/NIC	Introduced liability for UK agencies/clients if offshore employers evade PAYE assets.publishing.service.gov.uk
2013	Onshore Intermediaries: False Self-Employment (HMRC Consultation)	Agencies & “bogus” self-employment	New agency rules: treat controlled workers as employees for tax (shift PAYE to agency) assets.publishing.service.gov.uk
2014	House of Lords Personal Service Companies Committee (Parliament)	Use of PSCs and IR35 effectiveness	Criticised IR35’s complexity; urged HMRC to justify or reform IR35; noted lack of rights for “disguised employees” publications.parliament.UK
2015	OTS Employment Status Review (Office of Tax Simplification)	Employment status tests (tax vs. rights)	Exposed misaligned tests across tax and employment law; recommended clearer guidance, HMRC helpline, explore statutory status test assets.publishing.service.gov.uk
2015	Employment Intermediaries: Travel & Subsistence (HMRC Consultation)	Umbrella companies’ expense schemes	Proposed ending tax relief on travel/subsistence for umbrella workers under supervision (to stop expense abuse). assets.publishing.service.gov.uk
2016	Off-Payroll Working in the Public Sector (HMRC Consultation)	IR35 reform for public sector contracts	Shifted responsibility for IR35 status and tax to public-sector engagers (enacted 2017). Gov.uk
2017	“Good Work: Taylor Review of Modern	Modern employment	Called for clearer employment status categories (e.g. “dependent contractor”), aligning tax status with

Year	Title (Commissioning Body)	Scope	Key Focus/Outcomes
	Working Practices” (BEIS, Independent)	(gig economy, etc.)	rights, stronger enforcement of worker rights assets.publishing.service.gov.uk
2017	Work & Pensions Committee – Self-Employment and the Gig Economy (HoC Committee)	Gig economy & “bogus” self-employment	Urged protections for gig workers and action on false self-employment; recommended clarifying employment status in law committees.parliament.uk
2018	Good Work Plan (BEIS Policy Paper)	Government plan (response to Taylor)	Committed to legislate on employment status clarity, ending exploitative practices (e.g. agency “Swedish Derogation”), and create a single enforcement body for workers’ rights. Gov.UK
2018	Off-Payroll Working in the Private Sector (HMRC Consultation)	Extending IR35 reform to private sector	Led to 2021 rules making medium/large businesses determine contractor tax status; highlighted compliance gap (only ~10% IR35 compliance prior) assets.publishing.service.gov.uk .
2019	Single Enforcement Body Consultation (BEIS)	Labour market enforcement (umbrella cos.)	Sought views on merging agencies to better police labour abuses; proposed regulating umbrella companies under a new body. Gov.UK
2019	Independent Loan Charge Review (Sir Amyas Morse, HM Treasury)	Disguised remuneration loan schemes	Found loan charge policy partly excessive; recommended limiting scope to loans after 2010 and exempting cases disclosed to HMRC commonslibrary.parliament.uk Most recommendations adopted, easing retrospective impact commonslibrary.parliament.uk .
2020	House of Lords Finance Bill Sub-Committee – “Off-Payroll Working: Treating People Fairly” (Parliament)	IR35 reforms impact & fairness	Warned IR35 changes unfairly tax “deemed employees” without rights; urged delay and a holistic solution aligning tax and employment law. committees.parliament.uk .
2021	Umbrella Company Market Call for Evidence (HMT/HMRC & BEIS)	Role of umbrella firms & non-compliance	Exposed £[500]m tax loss to non-compliant umbrellas ; strong support for regulating umbrella companies to protect workers. Led to

Year	Title (Commissioning Body)	Scope	Key Focus/Outcomes
			plans for statutory regulation and liability transfer in labour supply chains. gov.uk
2025	Tackling non-compliance in the umbrella company market: Government response	Option 3 - Deemed employment model	The Labour Government proposed Option 3 Deemed Employment – moving the deemed employer from the umbrella company to the agency. Gov.UK
2025	The Umbrella Reforms - Umbrella Company Market Tackling non-compliance policy and regulation - Interim Review [2025] 2nd Ed	Rebecca Seeley Harris	An independent review commissioned by the FCSA and others to review option 3 and consider potential solutions. The Umbrella Reforms

17. Biography

Rebecca Seeley Harris LLB (Hons) LLM MSc

Rebecca is one of a few people in the country who specialises solely in employment status, off-payroll working and labour supply chain compliance. She has worked across the entire labour supply chain starting out working with contractors (IR35), then recruitment companies, the end clients (OPW) and as an observer in the umbrella company industry.

She has been specialising in this area since the inception of the tax initiative IR35, over 25 years ago. She deals with employment status such as IR35, off-payroll working, self-employment, s.44 ITEPA - agency tax legislation, PSCs, Office-holders, umbrella company workers etc. This is from both the employment rights perspective and the tax perspective.

Office of Tax Simplification

Rebecca was seconded to the Office of Tax Simplification (an independent body of HM Treasury) as a Senior Policy Adviser to advise the government on employment and tax status. She was part of a small team of experts who drafted the Employment Status Review 2015, then continued for several years to advise on the review of Small Company Taxation leading on the taxation of nano companies and the self-employed. She was also a representative on the Cross-Government Working Group on Employment Status and published the review into the taxation of the Gig Economy with John Whiting CBE in 2023.

Independent Policy

Since leaving the OTS, Rebecca has continued to work closely with the government departments namely, HMRC, DBT and the DLME. She is a respected stakeholder and regularly produces policy papers on areas of her expertise. Her first policy paper was written during Covid in conjunction with the FSB, ACCA and Forgotten Limited called the Directors Income Support Scheme (DISS). She then drafted the Targeted Income Grant Scheme (TIGS) and worked with the Gaps in Support APPG.

More recently, she has drafted the whitepaper on the [Umbrella Reforms](#). She was commissioned to carry out an independent review into the policy paper Tackling Non-Compliance in the Umbrella Company Industry. Alongside the review she was tasked with finding solutions, joint and several liability being one of them.

Fair Umbrella campaign

The temporary labour supply chain is of particular interest to Rebecca. She started the Fair Umbrella Campaign in 2021 to campaign for the regulation of the Umbrella company industry and for the protection of the worker. She drafted a white paper highlighting the abuses within the umbrella industry and the need for regulation.

Rebecca was then asked to Chair the Independent Arbitration panel for the FCSA of which she is still a member along with Neil Carberry (REC), James Collings and Carl Reader. She chaired the first IAP sitting in the Orange Genie case. Rebecca is an independent observer in the umbrella company market as she has no clients in the industry.

Awards

Rebecca won the Contracting Industry Influencer of the Year and before that the FSB Self-employed Sole Trader of the Year, The British Universities Finance Directors Group (BUFDG) Nigel Clothier Award for Special Contribution to University Tax and a finalist for Tolley's Taxation Award for Outstanding Contribution to Taxation 2021.

She is also a member of the Employment Status Consultative Committee (ESCC) and a judge for the Contracting Awards.

Contact details

LinkedIn profile: www.linkedin.com/in/rebeccaseeleyharris-employmentstatus-ir35expert

Re Legal Consulting Ltd

Website: <https://relegalconsulting.co.uk>

Email: info@relegalconsulting.co.uk

Copyright

Re Legal Consulting Ltd owns the copyright in this publication. Copyright © Re Legal Consulting Ltd 2025.

Crown Copyright

This publication contains public sector information which is reproduced under licence under the Open Government Licence v3.0. (see: <https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>)