



# Francis Clark

TAX CONSULTANCY LTD

## Dragonfly – HMRC Act on IR35

HMRC has won the case of Dragonfly Consulting in the High Court which concerned the application of IR35 in the case of a systems tester in the IT industry. The High Court (and Special Commissioners before them) took a significantly different approach to the recent cases in which HMRC lost, and their focus was on whether the working practices pointed away from employment, rather than whether they pointed towards self employment. The Court took the view that to support self employment, any substitution clause must be seen to be genuine, and a limited right of control over the contractor does not point away from employment.

HMRC is already looking to use this case as a weapon in a new attack on IR35. I have been informed that a local government office in Northern Ireland has been asked by HMRC to provide a list of all contractors used together with copies of their contracts – a full scale enquiry will undoubtedly follow!

So what can you do to protect yourself?

- 1) If you are working without a contract, you need one!
- 2) If you already have one, it should be reviewed.
- 3) Your day to day working relationship with your engager should be reviewed as this ultimately is how HMRC will succeed in applying IR35 to your circumstances. Steps can be taken to ensure that you do not fall foul of IR35, and I have the expertise in this area to help you.

Please contact me urgently if you wish to look into this further – as you can see from the above HMRC is already taking action so you really do need to act now before it is too late!

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Director, HMRC Investigations

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