



THE OUTSOURCED PAYROLL PEOPLE

**A Guide to Supervision,
Direction and Control (SDC)**



In April 2014 the Government introduced the ***Onshore Employment Intermediaries: False Self-employment consultation***, which was enacted in the ***Agency legislation (s.44 ITEPA)***.

Prior to April 2014, many temporary agency contractors would carry out their services on a self-employed basis. Those individuals operating outside of the construction industry would typically be paid a lump sum gross payment, while those operating within the Construction Industry Scheme (CIS) would be paid in accordance with their verified CIS tax deduction (usually 20%). Both profile of contractors should be declaring all payments within their end of year tax return.

Research within various industries led the Government to believe that there was a shortfall of taxes being collected here and therefore amended the agency legislation, the purpose of which was to ensure that only skilled individuals, who are not subject to supervision, direction and control (SDC) over how they work, can carry out their services on a self-employed basis

What is Supervision, Direction or Control (SDC)?

HMRC's guidance says:

Supervision is someone overseeing a person doing work, to ensure that the individual is doing the work they are required to do, and it is being done correctly to the required standard. Supervision can also involve helping the person, where appropriate, to develop knowledgebase and skills.

Omnia Comment – a client checking, at the end of a job, that it has been carried out to the necessary standard will not, on its own, amount to supervision.

Direction is someone making a person do his/her work in a certain way by providing them with instructions, guidance or advice as to how the work must be done. Someone providing direction will often coordinate how the work is done, as it is being undertaken.

Omnia Comment – if you have a specific skillset that the client does not, it is unlikely that the client will be able to direct you as to how to do your job.

Control is someone dictating the work a person does and how they go about doing that work. Control also includes someone having the power to move the individual from one assignment to another.

Omnia Comment – control procedures in place for Health and Safety will not, solely, amount to control for the purposes of this legislation.



SDC in respect of where the work is to be carried out, what work is to be carried out, and when the work is to be carried out does not mean you will be caught by the legislation. The important factor is whether there is SDC over **HOW** the work is to be carried out.

[HMRC's SDC document](#) provides further guidance on the meaning of SDC and additional information on how the SDC test is met.

As with all new legislation the devil is in the detail. With no test cases to rely upon, compliance activity is paramount until clarity becomes available based on Case Law and fact rather than opinion.

How Omnia assesses self-employment and manages Supervision, Direction and Control (SDC)

- ✓ We will review contracts within the supply chain to check whether there is a right of SDC, contractually, and we can provide specialist advice on this matter.
- ✓ We will ensure that each contractor is registered as a self-employed contractor with HMRC.
- ✓ We will ensure that each contractor has the appropriate skills, qualification and experience to carry out his/her duties without the requirement of SDC.
- ✓ Visits to locations (office/depots/sites), where required, to ensure there is no SDC on a practical level.
- ✓ Guidance on, and assistance with, self-assessments and VAT registration.
- ✓ We work closely with Tax, VAT and Employment Law specialists, [RIFT Legal Services](#) and [Trinity Tax](#) who carry out regular audits of our business to ensure our processes and procedures are robust.



A genuine self-employed contractor should be **experienced, qualified** and have a high level of **skill**.

The below guidance helps assist the decision as to whether an individual can be engaged as a self-employed contractor:

Experience – we would expect our self-employed contractors to have at least 3 years’ experience in their specific role, which would strengthen the argument that they can genuinely carry out their duties without being subject to SDC.

Qualifications – we would expect our self-employed contractors to have the appropriate qualifications and certificates to carry out their duties without being subject to SDC.

Skills – we would expect our self-employed contractors to have a high level of skill to carry out their duties without being subject to SDC.

Although a **rate of pay** should not, solely, determine the decision as to whether an individual can be engaged as self-employed, we do adopt the following guidance to assist our decision:

Day Rate	Hourly Rate	Comments
<£100	<£12	Considered to be subject to SDC and strictly no self-employment permitted.
£100 - £120	£12 - £15	Requirement to demonstrate strong experience, qualifications and skills to be considered not to be subject to SDC.
>£120	>£15	Likely not to be subject to SDC and therefore can most likely be engaged as self-employed.

Key roles that can demonstrate an absence of SDC and therefore can be considered for self-employment:

Key Roles			
Accountant	Developer	Plumber	Engineer
Analyst	Carpenter	Painter/Decorator	Technician
Bricklayer	Electrician	Plasterer	Therapist

Roles where an absence of SDC would be difficult to demonstrate and therefore the contractor must be engaged with PAYE deducted:

Roles	
Labourer	Teacher
Nurse	Driver
Commis Chef	Social Care Worker