Compliance for the BBC Employment Status Test

In 2013, the BBC worked with HMRC and Deloitte to design a bespoke employment status test for television that provided a more informed and accurate approach to the BBC's assessment of the employment status of its television presenters. Following agreement with HMRC, this was implemented in late 2013. Since then and until April 2017, all TV on air engagements were put through the BBC test and presenters were engaged accordingly.

The roll out of the BBC test sought to ensure there was a consistent approach across the BBC by having an editorial, HR and business affairs lead in each division responsible for; applying the test, conversations around negotiating contract renewals, ensuring compliance with process and framework, administration and record keeping for audit purposes. The BBC’s then Head of Employment Tax and BBC Rights, Legal & Business Affairs were available for advice on results interpretation and the process application.

Extensive training was provided to production teams and the Rights, Legal and Business affairs community across the BBC to explain the new BBC Test, the assessment criteria, what engagements were covered by the BBC Test, how to conduct the test, why it was important and why the BBC were making the changes.

The roll out of the BBC Test involved considerable review of outcomes and conversations. This included a small central team in Rights, Legal and Business Affairs that sampled how the tests were being undertaken on a regular basis. The team conducted regular training and also oversaw the introduction of the automated version of the BBC Test.

In May 2015, the BBC’s Internal Audit team conducted a review of Freelance Artists and Contributors. The objective of the audit was to provide assurance over the operation of the contracting and payments processes for Artists and Contributors. This audit included significant sampling on a broad range of measures as outlined in the included appendix.

The Internal Audit report concludes that ‘the audit has found well developed processes and controls in place for the contracting and payment of Artists and Contributors. Internal Audit’s testing has also found the processes and controls to be operating effectively. This represents a significant improvement since the last Internal Audit review in 2012.’ It continued the BBC was able to demonstrate ‘the steps taken to determine the engagement relationship for each Artist and Contributor, using a framework (Employment Status Assessment - ESA) agreed in September 2013 with HMRC. This framework is also helping to drive consistency in the way BBC engages Artists and Contributors’.

As part of BBC’s rolling programme of internal audits we look at IR35 engagement where it is relevant to the audit. The last relevant audit was a review of BBC productions in late 2018.
The table in Appendix A is taken from the 2015 Internal Audit Review into Freelance Artist and Contributors and details the tests, assessments and reviews undertaken as part of the audit.

Appendix A – Background and Work Done
## Work Done

1) Policy framework and guidance
   a. Confirmed whether Policies and Guidance on A&C bookings are up to date, readily available to staff and clear on the rules for engagement.
   b. Assessed whether the steps to perform the employment tests and confirm eligibility to work are clearly defined and embedded in the process.
   c. Confirmed that policies and processes in place have been subject to specialist technical review to confirm compliance with tax and other legal requirements;
   d. Reviewed whether staff using A&C systems and processes have been trained before using the system, and have had communication of any changes to these.

2) Records and compliance checks
   a. Tested whether employment checks are completed and evidence of this is retained for all relevant A&C engagements.
   b. Assessed whether there is clear evidence of confirming eligibility to work status prior to engagement for in scope contributors
   c. Tested that checks on legal status and existence have been performed as part of the engagement of a Personal Service Company (PSC).
   d. Tested whether required fields are populated within ACON for engagements, or that key missing fields are identified and reported on.
   e. Assessed whether non-compliance with policies and processes is communicated to management and corrective action was taken.

3) Financial controls and reporting
   a. Tested whether A&C engagements are approved in line with BBC budget and policy requirements prior to commitment.
   b. Tested payments for artists and contributors are based on actual work performed or output delivered where this varies from the original contract.
   c. Confirmed management reporting is in place regarding A&C payments and this is regularly reviewed.
   d. Assessed whether reporting requirements to HMRC for A&C payments is monitored.

4) Follow up on previous audit reports - Deloitte & IA – Please see for feedback on Deloitte actions Appendix B

Note: the objective relating to *Payment of Expenses* was de-scoped from this review.