



# IR35 Protect

# The Basics

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## End client

Your responsibility is to review the IR35 position, make the relevant determination and pass that determination to the correct parties.

You could be challenged if you fail to:

1. Take reasonable care when making an IR35 status decision on each engagement
2. Create a Status Determination Statement (SDS) that clearly explains your decision
3. Pass on the SDS to the relevant parties
4. Respond to any challenges to the SDS within strict time limits

If you fail to comply with the above:

HMRC could make you the fee payer (even if tax and NIC has been deducted correctly by the actual fee payer below you). Please be aware that if you contract directly with the PSC, you always have the fee payer liability.

## Fee payer

Your responsibility is to ensure that the personal service company (PSC) is subject to the correct Tax and NICs treatment.

Typically, this responsibility sits with recruitment agencies, but the end client will be the fee payer where they contract directly with the PSC.

# Services



## Compliance

Supply chain due diligence  
Modern slavery  
Key information document  
Outsourced payroll  
Criminal finance act  
Right to work  
SDC



## Contractor engagement

Employed  
Self employed



## IR35 & Employment Status

Innovative, risk free, insurance-  
backed service



## Outsourced payroll

Pensions  
Deductions  
HMRC reporting duties



# IR35

## Here comes IR35

Designed to combat tax avoidance through the misuse of personal service companies (PSCs).

2000

## Update 1.0

Initial changes were made to the legislation that focused on the public sector

2017

## Covid-19 delay

Further changes were postponed from April 2020 due to the pandemic

2020

## Update 2.0

Postponed reform of the legislation for the private sector to be launched in April 2021

2021

Medium and large private sector business in the UK will be responsible for setting the tax status of any contract worker

# New Responsibilities

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Determine

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Communicate

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Process

...the employment status of workers you engage via their intermediary or agency

New contractors engaged from 6th April 2021 must be engaged following the new rules.

...a status determination statement to the incumbent workers (and agency/fee payer) including your conclusion and the reasons for coming to this!

...tax and NI deductions will remain the responsibility of the end client until SDS's have been communicated to the contractor or agency - failure to take 'reasonable care' will result in Tax and NI remaining the client's responsibility (for both inside and outside workers).

# SDS Options

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HM Revenue  
& Customs

## Pros

- Free

## Cons

- Not based on case law and widely discredited,
- Algorithm based (not full picture),
- Knowledge and training
- Not easily reported on whole supply (PDF's only)
- No contractor input
- No financial risk calculation
- Inaccurate (returns different outcome to tribunal rulings)
- Ignores mutuality of obligation
- Laboriously Manual process



## Pros

- Project team
- Reasonable care achieved
- Contractor query & dispute management
- Reporting and dashboards, financial risk reports based on case law
- Insurance backed determinations
- Doesn't ignore mutuality of obligation

## Cons

- There is a cost to it
- Many inadequate products on the market both in terms of the platform and the insurance product

# IR35 Solution

Engage a 3<sup>rd</sup>  
party

Stage 1

## Identify

This stage is all about gathering all the hard data necessary for you to begin the process. The four steps for this stage are: Collate, Explore, Segment and Assess.

Complete  
determination  
(contracts &  
roles )

Stage 2

## Analyse

Once you have gathered your data, you can begin to gauge the impact on your business and your workforce by applying two key steps: Risk profiling and Modelling.

Confirm SDS  
for each  
contractor

Stage 3

## Plan

By now you will have a clear understanding of the task in hand and will be in a position to build your plan moving forward. This looks at 3 key steps: Engagement, policies and finance

Insurance  
backed  
decision

Stage 4

## Implement

You now know what you need to do and how to do it. Now it's a case of putting your plan into action. The three key steps for this stage are: Communicate, Alignment and Monitoring

# Our solution

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## Dashboard

Assessment status, invites, progress, approval and completion tracked and monitored

## Re-assessment

Should a contractor mis-understand questions in their own assessment, they can quickly be sent a reassessment invite once they understand their contract and working conditions better

## SDS issued

Once the workers status is agreed, the client branded SDS is issued via the software

## Calculators

We have the ability to calculate the contractors pay rate vs different scenarios such as if the engagement needs to remain cost neutral to either the client or contractors

## Bulk invitations

After collaborative components are completed, contractors can be sent their assessment on mass (role specific)

## Branded

SDS email and content will be branded with the client logo



# Our solution

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## Status explorer

Our software can analyse the status of your overall workforce to show financial and contractual risks depending on the status outcome

## Reporting

Reporting abilities such as financial risk reports (tax), status distribution reports (outside, borderline, inside), breakdowns of control factors and mutuality of obligation etc.

## Strategy / modelling

Analyse reports and determinations to assess business risks, costs and potential compliance requirements that might need changing.

## Full delivery

Our expert project team will track timeframes, communicate and educate contractors, collaborate with relevant client/agency parties and fully deliver your IR35 project

## Reduced resource cost

Outsourcing to Bar2 means you can allocate just one project lead to work with us instead of a whole team and let us do the hard work (with your sign off of course)

## Insurance backed

Professional expenses insurance for end clients and tax losses insurance available

# Collaborative assessments

Collaborative assessments are created by combining a sub-set of 100 questions spread across 3 components involving all parties in the supply chain.

The relevant party will each complete a component such as the end client, agency/umbrella company and the hiring manager. Collaboration of the below 3 components ensures 'reasonable care' was taken and enhanced accuracy when assessing and determining a contractors employment status.

After completion we then invite the contractor to get involved and provide their information.

Upper-level contracts

This is the contract between the end client and the next entity in the supply chain directly below the client e.g end client and umbrella company or end client and agency

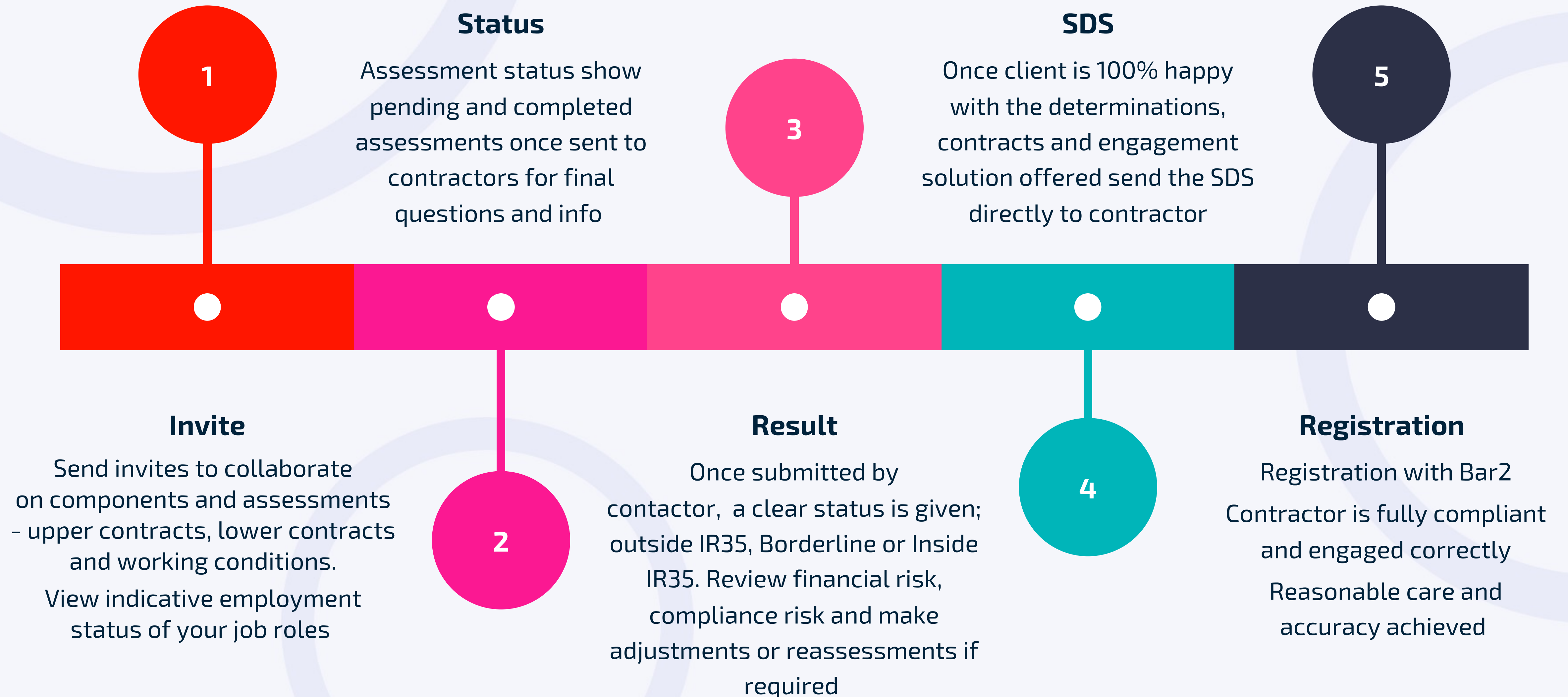
Lower-level contracts

This is the contract between the PSC and the agency or between the PSC and umbrella company

Working conditions

These questions regard the actual working practices in the day-to-day engagement of a role the worker will be doing. Typically, the client and more specifically the hiring manager or project manager would answer these questions

# Client journey



# Contractor journey





# Contractor Engagement Options

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We recommend your contingent workforce engagement policies and processes are now established and confirmed for all incumbent and future engagements.

All contracts of engagement to now go through Bar2 as standard and we have the below engagement options for contractors

## Inside

- **Umbrella**
- **PAYE/PEO**
- **PSC** – Inside IR35 and deemed salary deductions made by fee-payer

## Outside

- **PSC** – Standard no changes
- **PAYE/PEO**
- **Umbrella**
- **CIS** – if eligible

# Insurance

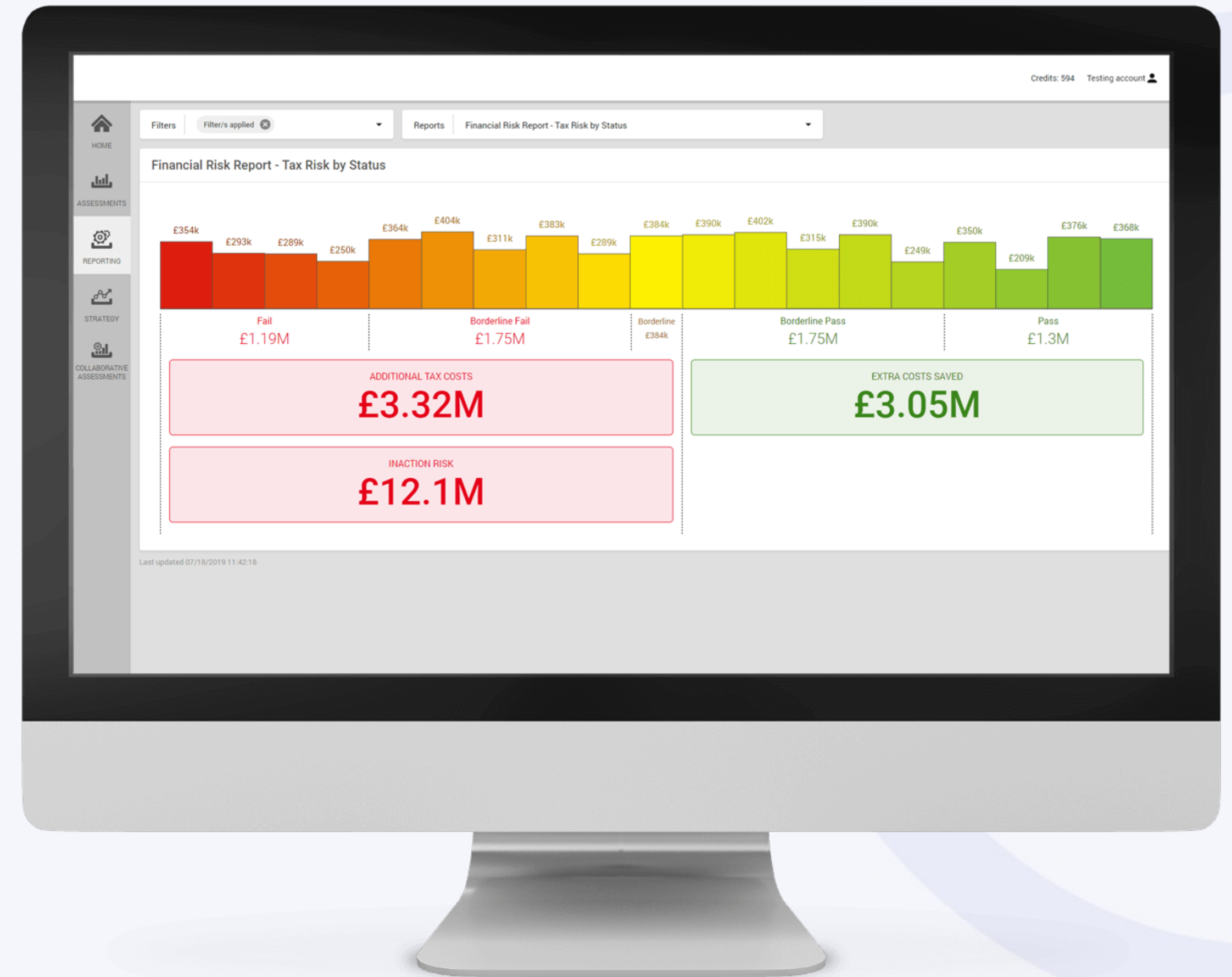
Professional expenses insurance  
End clients

Fees to defend an HMRC allegation that the End Client has failed to take reasonable care in creating the Status Determination Statement

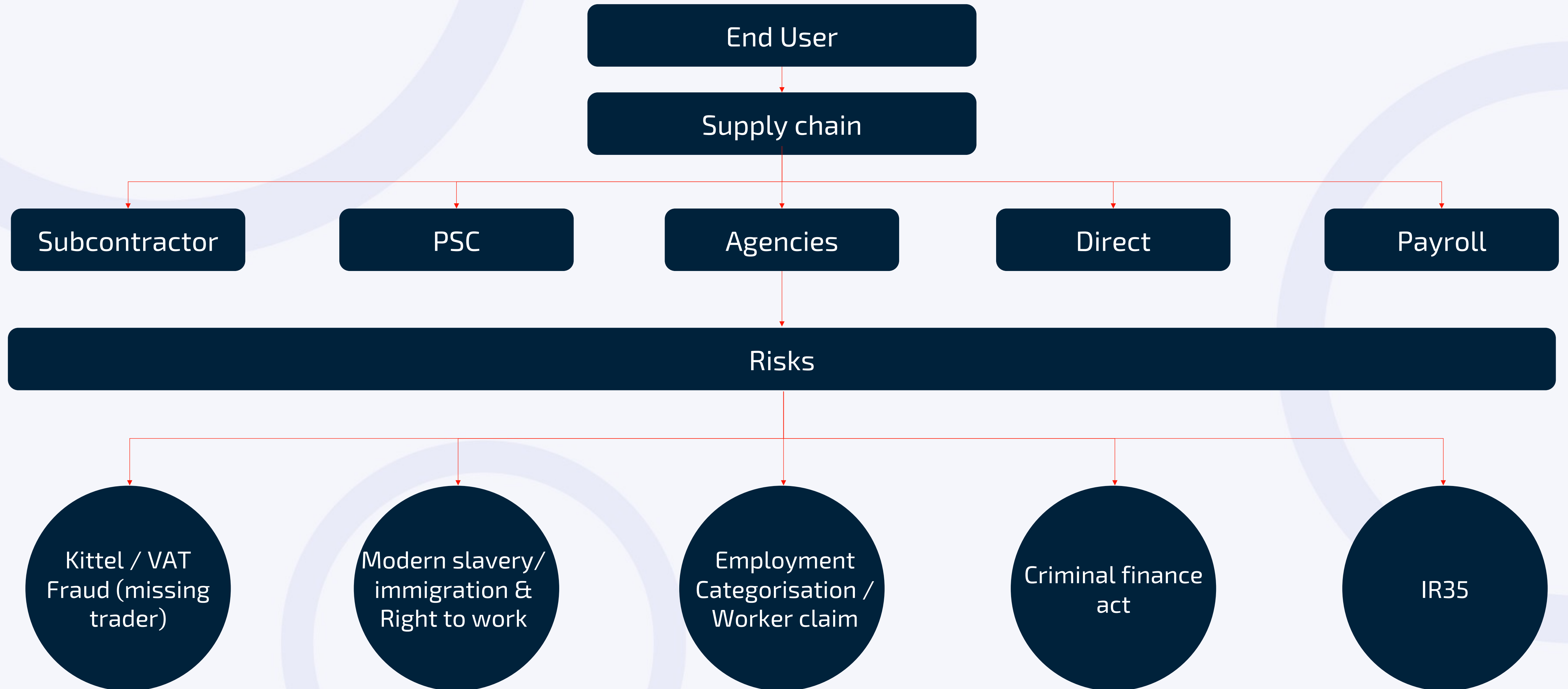
Tax Losses Insurance

The additional tax arising between a not caught decision and the amount due where HMRC successful argue that the engagement is caught by IR35

The interest & penalties arising from HMRC's decision



# Wider Supply Chain Issues



# Client considerations

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1.

## Project timeline agreement and commitment with Bar2

Agree Bar2 to deliver and assist with the clients IR35 compliance delivery (including agreeing commitment timelines for kick-off and completion)

2.

## Send Bar2 breakdown of supply chain

Gather and send Bar2 data of your payment mix and full supply chain

3.

## Assign a project contact at the end client & agree the method to determine status

Bar2 will need to train and work with your project lead to complete the initial contract/job role SDS, final contractor SDS sign off and project completion.

4.

## Project timeline agreement and commitment with Bar2

If an engagement is determined as 'inside IR35' and the 'off-payroll rules apply', PAYE (tax, NI, ENI, pension app levy) must be paid across to HMRC (albeit via Ltd Co 'deemed payment', Umbrella or PAYE).

End clients are offering uplifts on rates of approx. 15% to counteract the new employment costs to the contractor/agency, some are remaining cost neutral (in this case the contractors take home pay will reduce).

Consider budget, flight risks (mass exodus) and future talent attraction risks.

5.

## Insurance

Agree insurance cover and rate and liability (Client or contractor)?  
Specific IR35 cover?





# Bar2