

KEY FRAMING PRINCIPLE

- applies throughout the document

Transparency tools such as portals, payslip checkers, RTI visibility and live reporting are **extremely valuable** in identifying issues quickly and evidencing oversight.

However, they do not provide any statutory defence where PAYE tax and National Insurance have not been paid to HMRC.

HMRC is explicit on this point: **if tax and NIC are unpaid, HMRC will pursue the relevant party (or parties) in the supply chain for the shortfall**, regardless of how much diligence, monitoring, or checking has taken place.

This principle is reflected below in the revised answers.

JOINT & SEVERAL LIABILITY AND HMRC EXPECTATIONS

WHAT EVIDENCE WILL HMRC EXPECT AGENCIES TO RETAIN?

HMRC expects agencies to be able to demonstrate that they have taken reasonable, proportionate, and ongoing steps to monitor compliance within their supply chain. This includes due diligence checks, verification of payroll reporting, clear audit trails, and evidence that PAYE and statutory obligations have been correctly calculated and reported.

Tools such as the PGS Agency Portal, live RTI visibility, and payslip checking are extremely valuable in providing transparency and in identifying potential issues quickly. However, it is important to be clear that **evidence of monitoring alone does not provide a statutory defence** if PAYE tax or National Insurance is not ultimately paid to HMRC.

If tax and NIC remain unpaid, HMRC will seek recovery from the relevant party or parties in the supply chain, regardless of the volume or quality of checks undertaken.

HOW OFTEN SHOULD COMPLIANCE CHECKS BE CARRIED OUT?

Compliance checks should not be treated as a one-off exercise. HMRC's focus is firmly on ongoing monitoring, with checks carried out regularly and refreshed whenever there is a material change to the supply chain, worker status, or payroll arrangements.

Regular checks, real-time reporting, and payslip reviews are all effective at highlighting problems early. However, **frequency of checking does not remove liability**. If PAYE tax or National Insurance is not paid, HMRC's position is unchanged: they will pursue recovery of the unpaid sums from the appropriate party in the chain.

IS THERE A 'REASONABLE STEPS' DEFENCE FOR AGENCIES?

There is no blanket statutory "reasonable steps" defence under Joint & Several Liability. While HMRC may take into account whether an agency has taken reasonable and proportionate steps when assessing behaviour and potential penalties, **this does not override the underlying liability for unpaid tax and NIC**.

Documented processes, live validation, payslip checks, and strong audit trails all significantly improve an agency's ability to detect issues early and demonstrate governance. However, **they do not prevent HMRC from seeking recovery of unpaid amounts** where tax or National Insurance has not been paid.

WHAT HAPPENS IF ANOTHER PARTY IN THE SUPPLY CHAIN FAILS TO MEET THE OBLIGATIONS?

Under Joint & Several Liability, HMRC can pursue other parties in the labour supply chain where PAYE tax or National Insurance has not been paid, regardless of contractual arrangements or indemnities.

Visibility tools, including the PGS Agency Portal and live reporting, are designed to surface failures quickly so agencies can act before liabilities escalate. However, **if non-payment has already occurred, HMRC will pursue recovery of the shortfall from the relevant party or parties**, irrespective of how much diligence or monitoring was carried out.

WITH JOINT & SEVERAL LIABILITY, WHO IS RESPONSIBLE FOR STATUTORY PAYMENTS SUCH AS SMP AND SSP?

Statutory payments such as Statutory Maternity Pay (SMP) and Statutory Sick Pay (SSP) sit with the employer. Where an umbrella company employs the worker, that responsibility typically sits with the umbrella. Where there is no umbrella in the supply chain, it generally falls to the recruitment agency.

While agencies are not responsible for administering statutory payments where they are not the employer, **any associated PAYE tax and National Insurance must still be correctly paid to HMRC**. Under Joint & Several Liability, HMRC may pursue recovery of unpaid tax and NIC from other parties in the supply chain if failures occur, regardless of the level of oversight or checking in place.

DOES USING THE PGS AGENCY PORTAL REMOVE ALL JOINT & SEVERAL LIABILITY RISK?

No. No system, portal, or checking process can eliminate Joint & Several Liability risk entirely.

The PGS Agency Portal, payslip visibility, RTI reporting, and live payment monitoring are designed to provide transparency, early warning of issues, and a clear audit trail demonstrating proactive compliance. These tools are highly effective at identifying problems quickly and reducing the likelihood of prolonged non-compliance.

However, **they do not provide a statutory defence**. If PAYE tax or National Insurance is not paid to HMRC, liability remains, and HMRC will pursue recovery from the relevant party or parties in the supply chain.

MANAGING RISK AND EXCEPTIONS

WHAT ACTIONS SHOULD AGENCIES TAKE IF A RISK IS IDENTIFIED?

Agencies should act promptly by investigating the issue, engaging with the payroll provider, and documenting all actions taken. Corrective steps should be implemented immediately where necessary, including escalation or suspension of arrangements if appropriate.

Early identification through portals, payslip checks, and live reporting is critical, as it may prevent issues from crystallising into unpaid liabilities. However, **once tax or National Insurance has not been paid, monitoring alone cannot prevent HMRC recovery action**. Speed of response is therefore essential.

People Group Services supports agencies throughout this process.

AGENCY PORTAL AND PAYMENTS VISIBILITY

IF WE CAN VIEW YOUR GOVERNMENT GATEWAY INFORMATION, HOW CAN WE BE SURE THE CORRECT AMOUNTS HAVE BEEN PAID FOR OUR WORKERS?

The RTI submissions shown via the Government Gateway reflect the total report for the employing entity. Within the PGS Agency Portal, that RTI data can be broken down to agency and worker level, allowing you to see exactly which portion of the overall submission relates to your placements.

This level of transparency enables agencies to reconcile reported figures to payments made and to identify discrepancies quickly. However, **HMRC's position remains clear**: visibility and reconciliation do not remove liability if PAYE tax or National Insurance is not paid. If a shortfall exists, HMRC will pursue recovery from the appropriate party or parties in the supply chain.



IF A WORKER HAS MULTIPLE AGENCIES, DOES THE PORTAL SHOW THE FULL PAYMENT OR AN APPORTIONED PAYMENT?

The portal shows the full payment made to the worker, while restricting each agency's view to its own data. Information relating to other agencies is redacted to ensure confidentiality.

This transparency supports early detection of issues, but **does not constitute a defence** where tax or National Insurance is unpaid.

IMPLEMENTATION, SUPPORT, AND HMRC ENQUIRIES

HOW DOES PGS SUPPORT AGENCIES DURING HMRC ENQUIRIES OR AUDITS?

PGS supports agencies by providing access to relevant audit trails, RTI reconciliation data, reporting evidence, and payment visibility held within the Agency Portal. This information can assist agencies in responding accurately and promptly to HMRC enquiries.

While PGS cannot prevent HMRC from seeking recovery of unpaid tax or NIC, **the availability of clear, real-time data helps agencies identify issues earlier and demonstrate governance**, which may be relevant to HMRC's assessment of behaviour and penalties.

FINAL CLARIFICATION - MANAGING JOINT & SEVERAL LIABILITY RISK

It is important to be clear and honest about the limits of any compliance, transparency, or monitoring solution.

While platforms such as the PGS Agency Portal, live RTI reporting, payslip visibility, and real-time reconciliation are extremely effective at identifying issues quickly and demonstrating governance, **they do not provide a statutory defence where PAYE tax or National Insurance has not been paid.**

HMRC is explicit on this point.

To achieve a **100% guarantee against Joint & Several Liability exposure**, there are, in practice, **four potential structural solutions** available within the market. Each comes with its own legal, operational, and commercial considerations, and not all are appropriate or proportionate for every recruitment business.

People Group Services is actively engaging with **two of these solutions** as part of our wider strategy to ensure we continue to offer a **level playing field and robust protection** for our recruitment agency partners, both now and as the legislation evolves.

Given the complexity and the importance of getting this right, these options are **not presented as a one-size-fits-all model**. Instead, we approach this as a **one-to-one discussion**, tailored to each agency's structure, supply chain, risk appetite, and commercial objectives.

We welcome the opportunity to discuss these options with you on an individual basis and to explore the most appropriate route forward for your business.

WHY THIS WORKS

- No false guarantees
- No public disclosure of mechanisms
- Invites private commercial conversation
- Positions PGS as strategic partner, not vendor
- Future-proofs against legislative change

