

## **IR35 IN THE PRIVATE SECTOR**

Summary of IPSE's research into the attitudes of freelancers towards the changes to the off-payroll rules in the private sector

**February 2020**

***ipse***

## EXECUTIVE SUMMARY

- **97 per cent of freelancers are either fairly concerned or very concerned about the changes to IR35.**
- **92 per cent of freelancers think working inside IR35, paying employee National Insurance without any employment rights, is unfair.**
- **32 per cent of freelancers said they will stop contracting in the UK (50% said they would only continue if they could find contracts outside IR35) after April.**
- **Two out of five (39%) freelancers say their clients will not continue to use outside-IR35 contractors in the same way, instead making blanket assessments, using umbrella companies, moving contractors onto PAYE or ceasing to use contractors altogether.**
- **Over a third of freelancers (35%) say their clients are either uncertain what to do about IR35 or have not yet made a decision.**
- **Less than a third of freelancers (30%) say their clients will assess individual engagements – with the CEST tool, external advice or any other way.**

IPSE's research into the changes to IR35 in the private sector shows not only serious concern among freelancers, but also deep worries and a lack of preparation among clients.

More than a third (35%) of freelancers say their clients are uncertain or have not said what they will do about the upcoming changes – a deeply concerning state of affairs at this late stage. A fifth (20%) even state that they will blanket-assess their contractors as “inside IR35” – in contravention of the legislation itself.

Two out of five (39%) of freelancers said their clients will stop using outside-IR35 contractors. Instead they will either make blanket-assessments and only use “inside IR35” contractors, move their contractors onto PAYE (13%), engage them through umbrella companies (14%) or stop engaging contractors altogether (11%).

This leaves only 30 per cent of contractors saying their clients plan to keep engaging outside-IR35 contractors, assessing them through the CEST tool, with external advice or simply making determinations themselves.

Faced with these far-reaching changes, four out of five (79%) of freelancers say they are “very concerned” and 18 per cent say they are “fairly concerned”.

The freelance community is so concerned that 32 per cent plan to stop freelancing in the UK. One in seven (13%) plan to find contracts abroad, one in ten (11%) plan to stop working or retire early and almost one in ten (8%) plan to move into employment.

Half of respondents also said they would only continue freelancing if they could find contracts to which the off-payroll working rules do not apply. Since it is unlikely this will be possible for all of them, the proportion who stop freelancing can be expected to rise.

Three out of five (63%) freelancers said that if they were found to be “inside IR35”, they would either terminate their contract or challenge the determination. One in five (18%) said they would only continue working for their client if they raised their day rate to compensate for the additional tax.

Overall, more than nine out of ten (92%) freelancers said they thought working inside IR35 – paying employee National Insurance contributions without any employee rights – was unfair.

## DATA AND METHODOLOGY

The following pages contain a summary of research conducted by IPSE in relation to the changes in the way the off-payroll rules – commonly referred to as IR35 – work in the private sector.

The changes, due to come in April 2020, will bring the private sector into line with the public sector rules, which were implemented in 2017. The research sought to understand how the proposed changes to IR35 might affect freelancers' businesses.

The analysis is based on the responses of an online survey which was open from 16<sup>th</sup> until 23<sup>rd</sup> January 2020. The survey was completed by 3,481 freelancers, 11 per cent of whom were female and 86 per cent male, with an average age of 49 and average daily rate of £554.

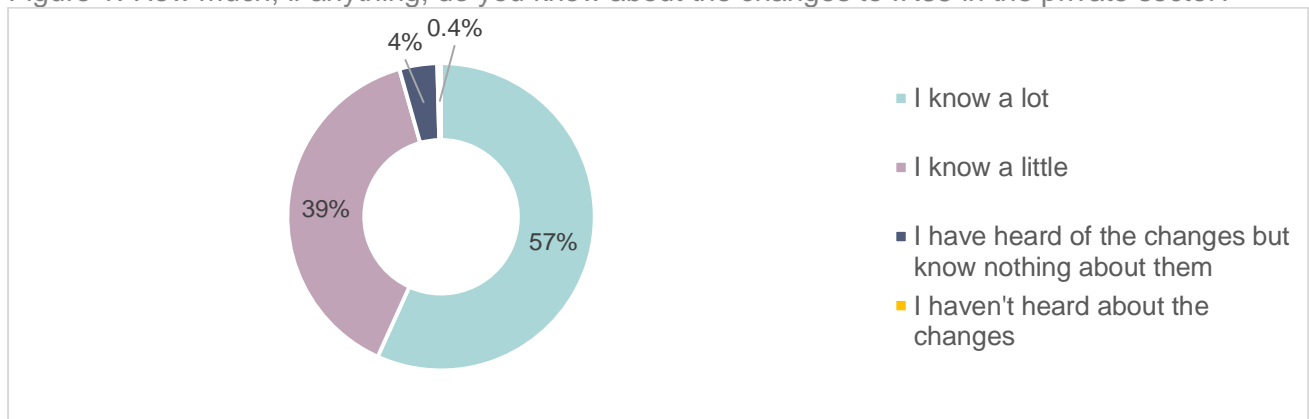
## KNOWLEDGE OF THE CHANGES AND CONCERN ABOUT THEM

An overwhelming majority of freelancers (96%) say they know at least a little about the changes to IR35 in the private sector, with over half (57%) saying that they know a lot about them (Figure 1).

Only four per cent of them say they have heard of the changes but know nothing about them, while less than one per cent say they haven't heard about them.

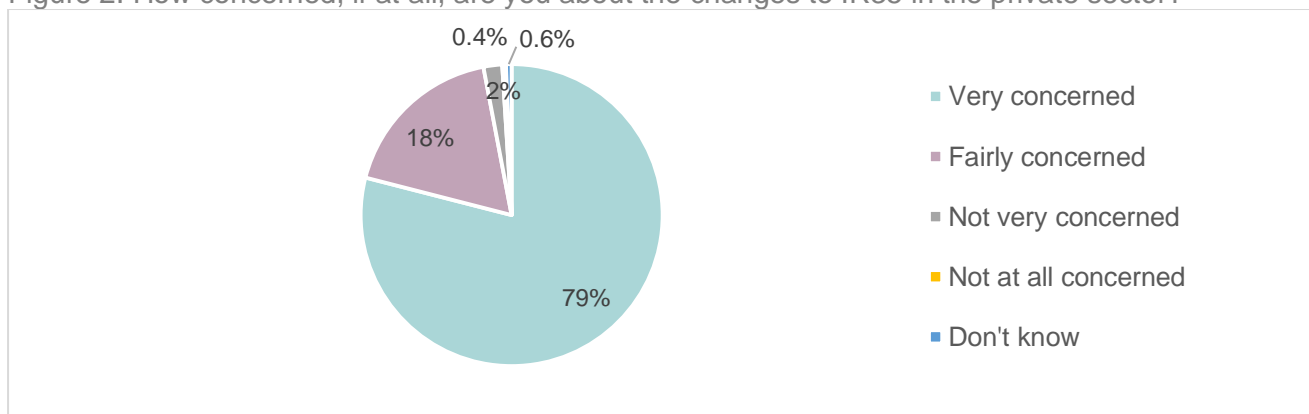
Level of concern was also high, with an overwhelming majority (97%) of freelancers saying that they feel at least fairly concerned about the changes and 79 per cent feeling very concerned (Figure 2).

Figure 1. How much, if anything, do you know about the changes to IR35 in the private sector?



Base: 3,481

Figure 2. How concerned, if at all, are you about the changes to IR35 in the private sector?



Base: 3,479

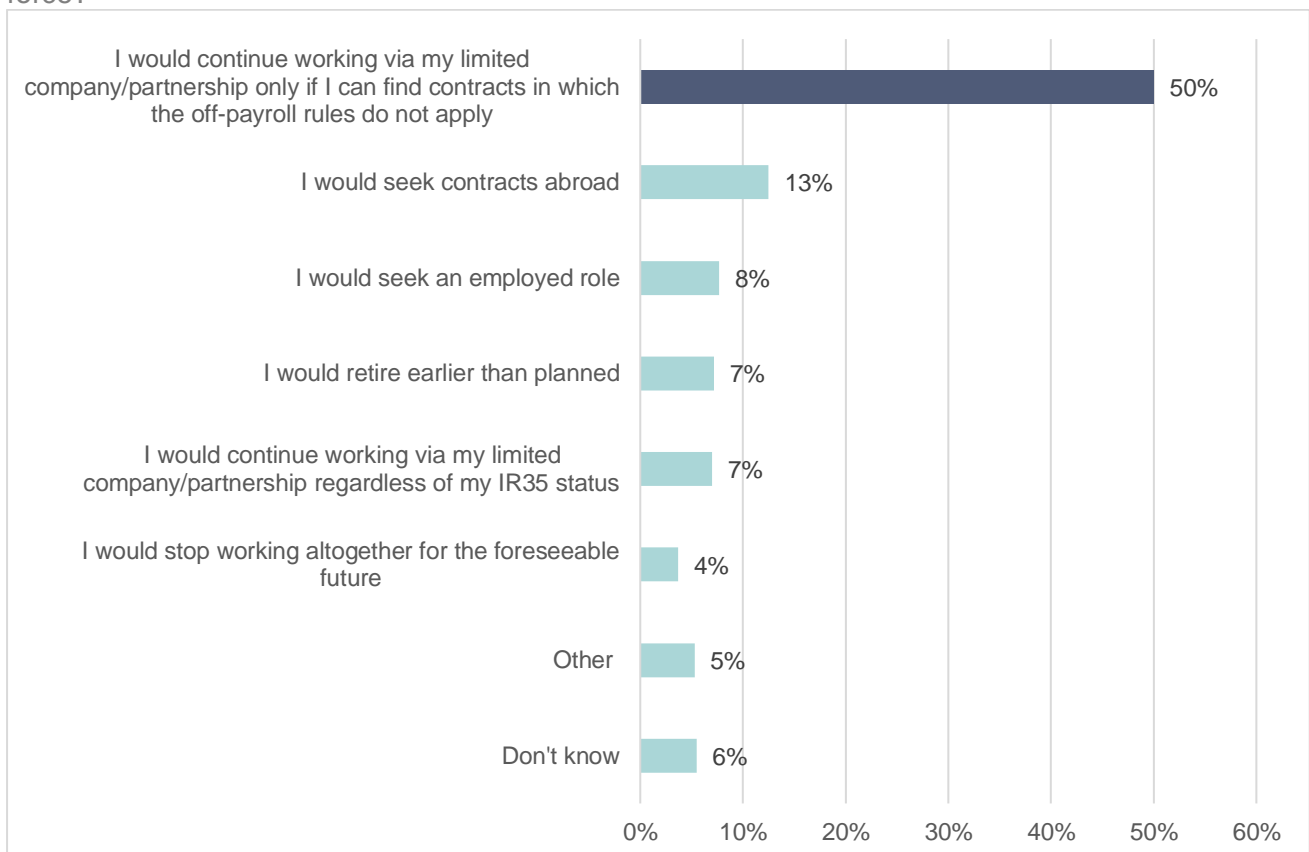
Base: 3,450

## IMPACT OF CHANGES TO IR35 ON FREELANCERS' BUSINESSES

When asked what they would do if the changes to IR35 came into force, half (50%) of freelancers say they would continue working via their limited company/partnership only if they can find contracts in which the off-payroll rules don't apply while only seven per cent say they would continue working this way regardless of their IR35 status (Figure 3).

One in seven (13%) say they would seek contracts abroad, and one in ten (11%) would either retire earlier than planned or stop working altogether.

Figure 3. Which of the following best describes what you would do if the changes to IR35 came into force?



## CLIENT INTENTIONS

Almost a quarter (23%) of freelancers say that their client has made no indication of what actions they will take after the IR35 legislation comes into force (Figure 4).

A fifth (20%) say their client indicated they will make a blank assessment and determine all their engagements are inside IR35, while one in seven (14%) outlined that their client will only work with contractors engaged via an umbrella company.

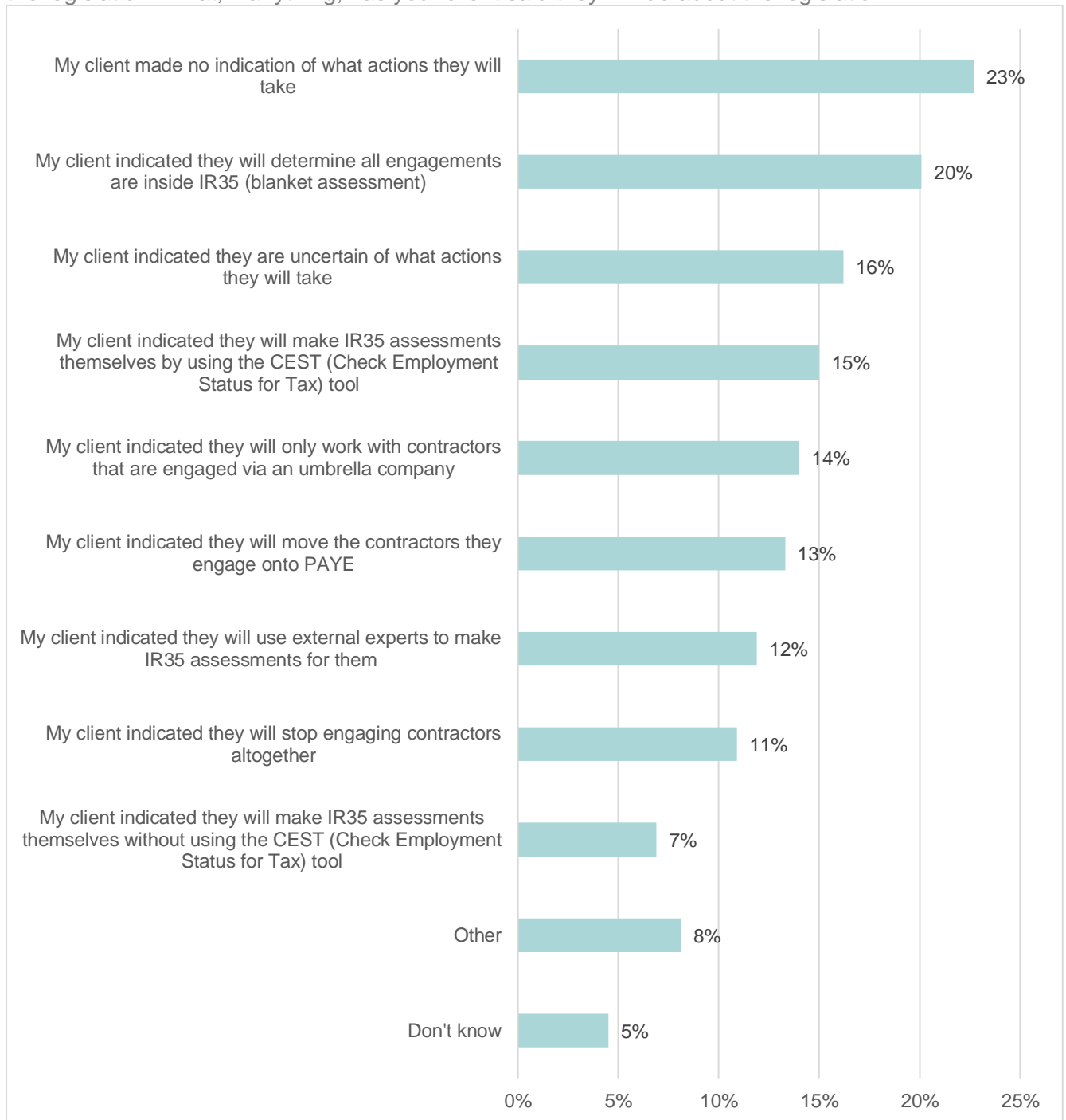
In terms of the different methods clients will use to make the IR35 assessment, one in seven (15%) say that their client will use the CEST tool, 12 per cent say they will use external experts and seven per cent say their clients will make the assessment themselves without using the CEST tool.

Over one in ten (11%) of the freelancers surveyed also outline that their client indicated they will stop engaging contractors altogether after IR35 in the private sector comes into force.

Looking at the combined percentages the research also shows that:

- **Over a third (35%)** of freelancers say their clients are either uncertain or made no indication of what action they will take.
- **Two in five (39%)** freelancers say their clients indicated they are not planning to assess the individual freelancer engagements but will either make a blanket assessment, engage contractors via an umbrella company, move the contractors they engage onto PAYE or stop engaging contractors altogether.
- **Less than a third (30%)** of freelancers say their clients indicated they will assess the individual engagements with or without the CEST tool or via external experts.

Figure 4. Some end-clients/hiring organisations have already announced how they will respond to the legislation. What, if anything, has your client said they will do about the legislation?



Base: 3,381

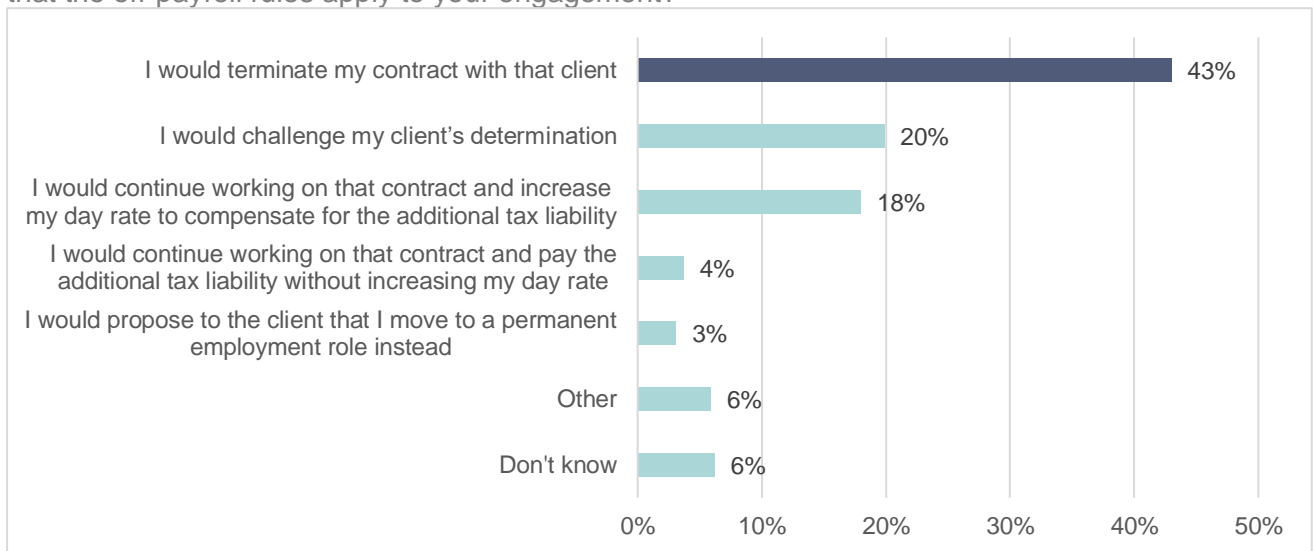
## INTENTIONS IF DETERMINED TO BE INSIDE IR35

When asked what they would do if their current client determined that the off-payroll rules apply to their engagement, a plurality of freelancers (43%) say they would terminate their contract with that client (Figure 5). Close to a fifth (18%) also say they would continue working on that contract and increase their day rate to compensate for the additional tax liability.

Another fifth (20%) would challenge their client's determination. Out of this fifth, half (49%) say they would terminate their contract with the client if their challenge is unsuccessful and a third (32%) would continue working on that contract but increase their day rates (Figure 6).

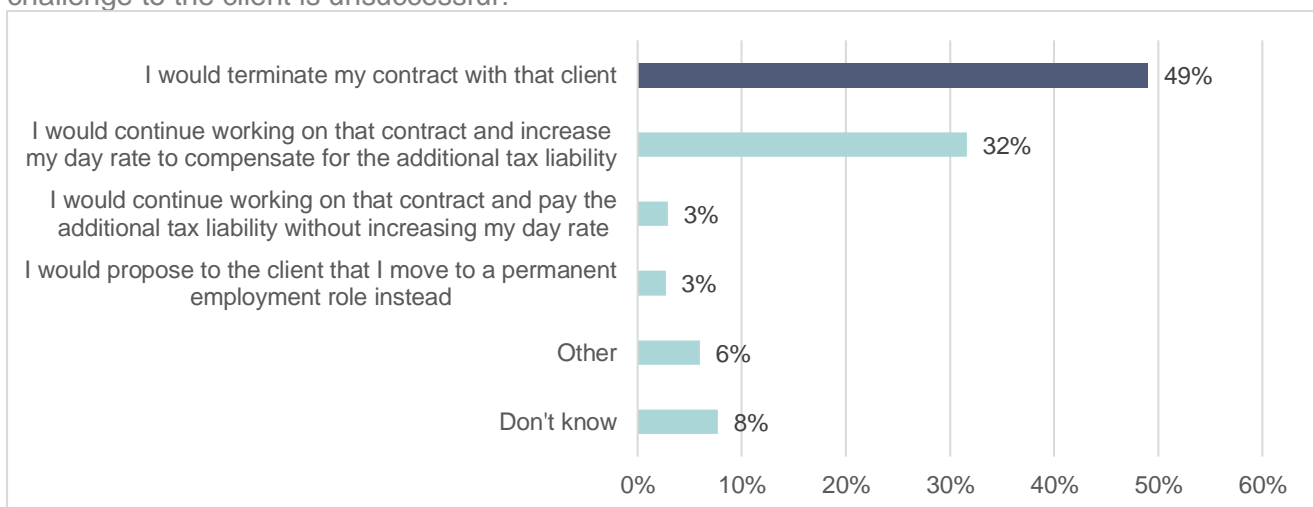
Only four per cent of all freelancers surveyed say they would continue working on a contract without increasing their day rate if their client determined that the off-payroll rules apply to their engagement.

Figure 5. Which of the following best describes what you would do if your current client determined that the off-payroll rules apply to your engagement?



Base: 3,356

Figure 6. You said that you will challenge your client if they determine that the off-payroll rules apply to your engagement. Which of the following best describes what action you would take if your challenge to the client is unsuccessful?



Base: 655 (those who said they will challenge their client's determination on the previous question)



## EMPLOYMENT STATUS

When the off-payroll rules come into force, freelancers, if deemed inside IR35, could be required to pay the same tax and National Insurance as an employee, but would not have the same employment rights such as pension, holiday pay, statutory sick pay and statutory maternity pay.

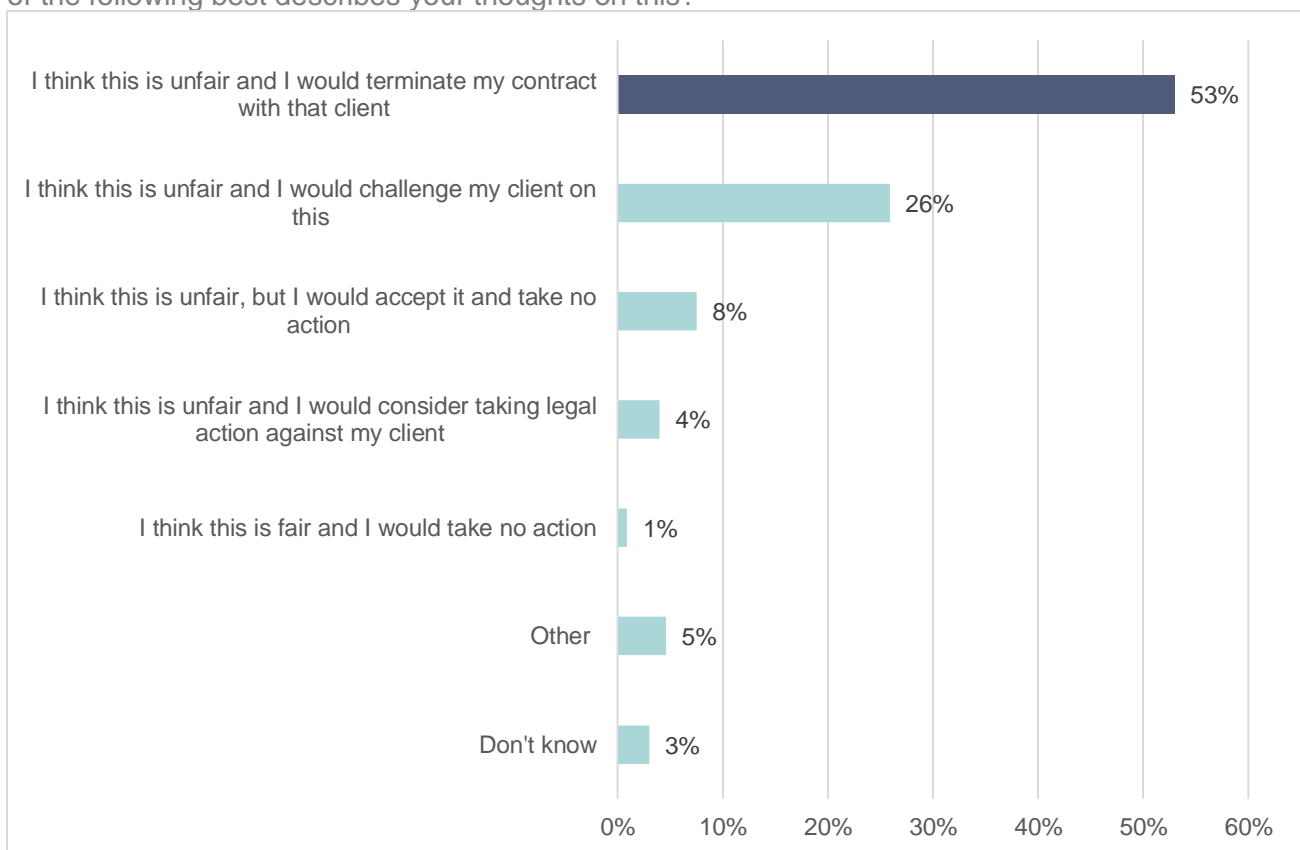
When asked about their thoughts on this, 92 per cent of the freelancers surveyed said they think this is unfair.

Over half (53%) of them would also terminate their contract with that client if this happens to them.

Another quarter (26%) think this is unfair and would challenge their client on this.

Only one per cent of the freelancers surveyed say they think this is fair and would take no action if deemed inside IR35.

Figure 7. If you were to continue to work via your limited company/partnership, you could be required to pay the same tax and National Insurance as an employee, but would not have the same employment rights (e.g. pension, holiday pay, statutory sick pay and statutory maternity pay). Which of the following best describes your thoughts on this?



Base: 3,324

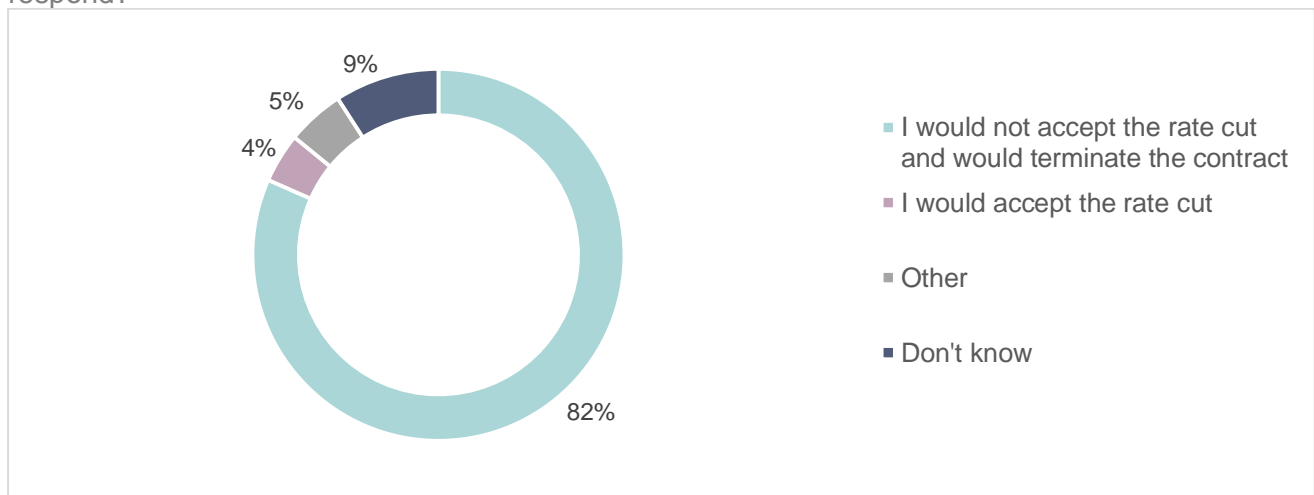
## CLASS 1 NATIONAL INSURANCE CONTRIBUTIONS

Where IR35 is deemed to apply, the party paying the contractor’s limited company (the ‘fee-payer’) is liable for secondary Class 1 National Insurance (NI) contributions – commonly referred to as Employers’ NI. They are also liable to pay the Apprenticeship Levy. In some cases, these have been passed down to the contractor by a cut in rates.

When asked what they would do if their business is asked to accept a cut in rates to facilitate the employers’ NI payment and/or Apprenticeship Levy, the vast majority (82%) of freelancers say they would not accept the rate cut and would terminate that contract.

One in ten (9%) say they don’t know what they would do and only four per cent say they would accept the rate cut.

Figure 7. If your business is asked to accept a cut in rates to facilitate the employers’ NI payment and/or Apprenticeship Levy, which of the following options, if any, comes closest to how you would respond?



Base: 3,303