



# HR Power Hour IR35 – are you ready?

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@geldards

# Welcome - the Midlands Employment Team



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Client quote, Legal 500 – the world’s largest legal referral guide

# Agenda

- What is IR35?
- Employment status
- Practical considerations – action points

# What is IR35?

- **Not new – public sector since 2017**
- **06 April 2021**
- **Flips burden of assessment**
- **Not a new test – new responsibility**
- **End user clients becoming HMRC's enforcers**

# Does it apply to my business?

- **Medium and large businesses only**
- **Two out of the following:**
  - **Employ 50 + employees**
  - **Over £5.1million on balance sheet**
  - **Turnover is £10.2 million or more**

**Will come to small business – matter of time!**

# Does it apply to my business?

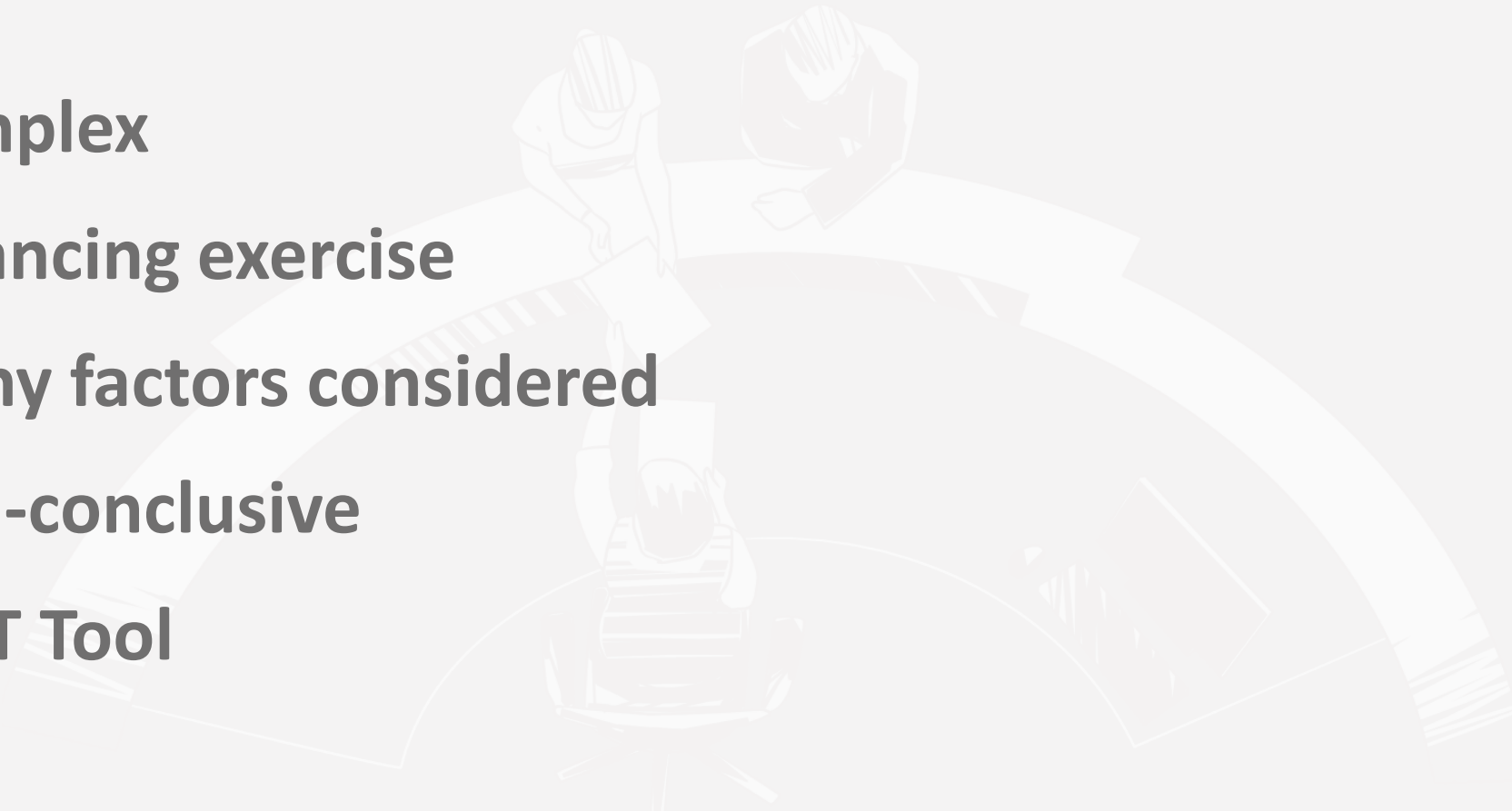
- If you use self-employed contractors
- Engaged via intermediaries – who pay the individual (without deductions of reemployment taxes).
- 3 types:
  - Company
  - Partnership
  - Individual

# What next?

- **Assess your off payroll working**
- **Employment status**
- **Complex area**
- **Even HMRC doesn't get it right very often!**

# How to determine employment status?

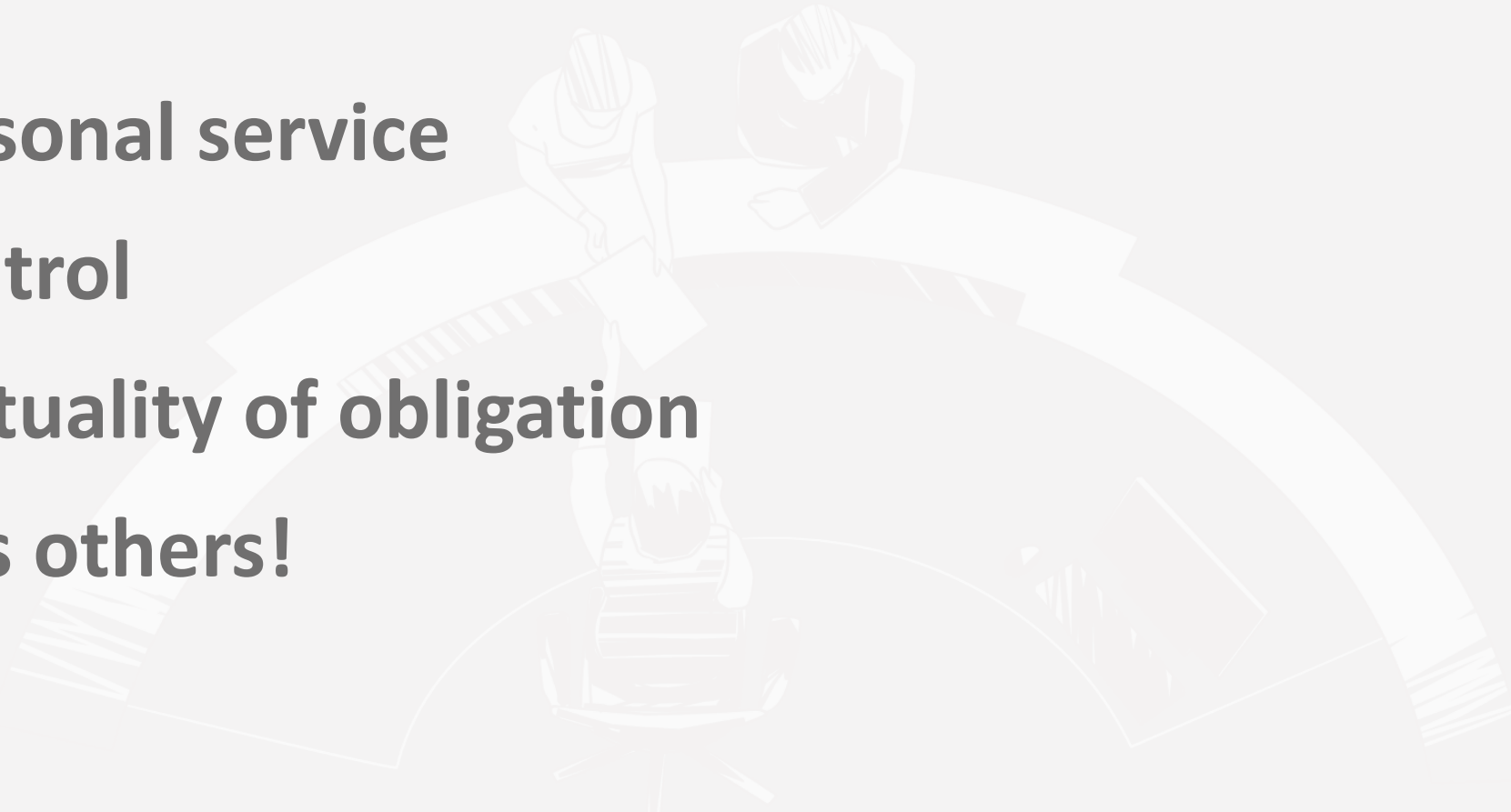
- **Complex**
- **Balancing exercise**
- **Many factors considered**
- **Non-conclusive**
- **CEST Tool**





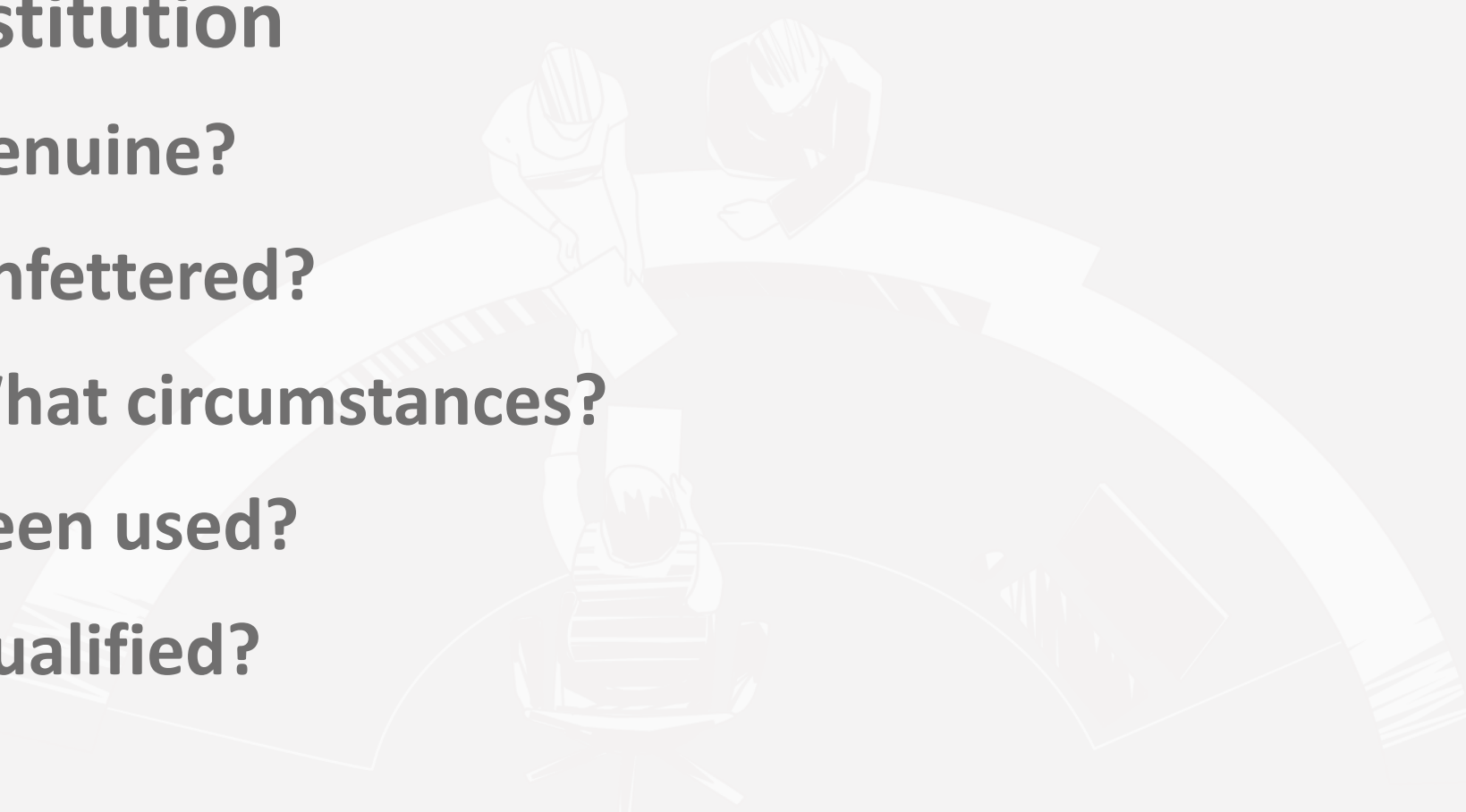
# “The irreducible minimum”

- **Personal service**
  - **Control**
  - **Mutuality of obligation**
- ....plus others!



# Personal service

- **Substitution**
  - **Genuine?**
  - **Unfettered?**
  - **What circumstances?**
  - **Been used?**
  - **Qualified?**



# Right of control

- The right to control
- Master and servant
- The “what” or the “how”?
- Day-to-day or overall?
- Financial risk
- Ownership of assets

# Mutuality of obligation

- **Offer and acceptance**
- **HMRC's position**
- **What about on assignment?**
- **Notice period**

# Other relevant factors:

- **Provision of equipment**
- **Length of engagement**
- **Integration into business**
- **Financial risk and opportunity to profit**
- **Right to terminate**
- **Exclusivity**
- **Mutual intention**

# Any questions



# Breakout rooms – case studies...

