

# The Freelancer and Contractor Services Association (FCSA)

## Who are FCSA?

Initially formed in 2008 as the Service Providers Association (SPA), the Freelancer and Contractor Services Association (FCSA) has evolved to become the eminent trade association for service providers in the professional freelance workforce market. The association represents service providers who provide employment, payroll, tax, accountancy, administrative support and advice to professional freelancers and contractors across a wide range of sectors.

FCSA has worked closely with member organisations and key stakeholders (HMRC, HMT, BIS, REC, APSCo, PCG and more) to create a dedicated code of practice to encompass the range of businesses that operate in the service provider sector. These include professional employment businesses (sometimes referred to as umbrella companies) and businesses providing support and accountancy services to small limited companies. Adhering to the code of practice (independently reviewed and tested and with the results disclosed to HMRC) demonstrates that members are acting both professionally and ethically within the UK tax, employment and regulatory laws. Coupled with financial stability tests the FCSA Code of Conduct is a model of self-regulation and proof that professional businesses can take the lead in delivering the highest levels of industry standards.

## Why use a FCSA member?

First and foremost, to be a member of the FCSA the provider must have undergone a comprehensive and rigorous review process, by a Top 4 accountancy firm, (see below) which involves submission of results to HMRC.

Recruitment businesses (and as a result their end-clients), Freelancers, Contractors, Temporary Workers and UK Business as a whole will benefit from using an FCSA member as a result of the independent review and open book approach of results. This translates to a clear set of benefits:

- That the FCSA Code of Conduct clearly indicates how FCSA members operate and that the “big 4” independent review proves that is the case.
- Having peace of mind that the member has an adequate financial strength to provide the services offered.
- Being in the best position to remain compliant with all UK tax and employment legislation.
- Receiving a level of professionalism and service that translates to more efficient processing and fewer complaints.
- Receiving clear and concise sales and marketing material that explains simply and fully the service being offered or provided.

## How does the FCSA ensure the required professional standards?

In order to join the FCSA, members undergo a comprehensive review of their business services, operations, policies and processes by means of an extensive questionnaire and onsite assessment reviewed by a “Big 4” accountancy firm. Once this process has been successfully completed the file goes to HMRC along with the report from the accountants. This review process is completed annually to ensure the standards are maintained and any changes to legislation are applied - this is an unrivalled act of open book compliance.

## What does the FCSA comprehensive review entail?

### For all members

The comprehensive review consists of 2 parts, the questionnaire, and the onsite assessment.

The questionnaire, which must be supported by documentary evidence, looks at many aspects of how the company operates and its financial standing including:

- Company/Group structure.
- Evidence that the company exceeds a minimum financial strength requirement.
- Confirmation that 95% of their income comes from FCSA regulated business.
- Confirmation that the organisation is a UK limited company, UK tax resident (i.e. not offshore) and has UK shareholders and directors.
- Confirmation that none of the company’s directors or management has been or is disqualified from acting as a director.
- Ensuring the company is up to date with all its Companies House and HMRC filings.
- Ensuring the company received a clean audit report on their last statutory accounts.
- Ensuring the business completes identity and right to work checks on all workers.
- Ensuring the organisation has procedures in place to handle all complaints/employment tribunals in a professional manner.

- Ensuring the service provider keeps all funds onshore and does not utilise loan structures, employee benefit trusts or any other tax avoidance schemes.
- Ensuring all net pay estimates provided to workers are realistic and calculated correctly in line with current UK tax rates.
- Ensuring that any commercial arrangements entered into with Recruitment businesses are legitimate, above board and are covered by a taxed award scheme.

The onsite assessment includes:

- Meeting key personnel.
- A review of systems to ascertain that actual business practice reflects the responses given in the questionnaire.
- Ensuring that all quotations offered to potential workers are calculated using the FCSA approved calculator.

### **For Umbrella Company providers only**

Umbrella Company providers continuously and fully employ workers who work on multiple assignments for various end clients. The Umbrella Company enters into contracts with Employment Businesses for the provision of their employees at their end user clients.

Umbrella Company FCSA members ensure:

- The worker is provided with a clear introductory letter explaining the services prior to signing up with the Umbrella Company.
- The worker becomes an employee of the Umbrella Company under an overarching guaranteed hours employment contract.
- The employee is always paid at least National Minimum Wage and holiday pay as salary.
- The employee is provided with the required statutory employment rights such as holiday pay, sick pay and sick leave, maternity pay and maternity leave, paternity pay and paternity leave and the right to join a pension scheme.
- The employee is provided with data protection, working time directive and EAA regulation documentation when they join the Umbrella Company.
- The provider takes responsibility in Employment Tribunal situations.
- The provider has an appropriate expenses policy in line with HMRC guidelines.
- All expenses claimed by the employee are in line with the provider's expenses policy and there is a process and validation system to ensure compliance.
- The Umbrella Company has appropriate levels of Professional Indemnity, Public Liability and Employer's Liability insurance.

The onsite assessment includes random audits to confirm:

- The actual business practises reflect the reviewed questionnaire and paperwork.
- The required identity and right to work checks are carried out by the provider.
- All payments are to and from UK bank accounts.
- No loans or dividends are paid to workers.
- The expenses procedures and compliance around the above are appropriate.

### **For Limited Company providers only**

Limited Company providers provide their services to workers who have chosen to have their own, individual, limited company often known as a Personal Service Company (PSC). Limited Company provider FCSA members ensure:

- The accountancy and support services they provide to customers do not "involve" them in the running or decision making of the business of the customer and consequently do not result in the customer limited company becoming a Managed Service Company.
- The customer is properly advised about the different ways of working available to them given their individual circumstances.
- The customer is provided with clear and comprehensive information enabling them to genuinely understand the responsibilities and obligations which owning and running a limited company brings.
- The customer is sold the way of working which is right for them and not shoehorned into inappropriate services.
- The customer is provided with accurate and appropriate advice in relation to legitimate business expenses / costs incurred.
- The customers are aware of IR35 legislation and the provider offers a robust and comprehensive employment status review and advice service (either in house or externally).
- Customers are aware of their responsibilities as a director of their PSC.
- Every PSC is correctly registered for Corporation Tax, PAYE and VAT as appropriate.

The onsite assessment includes random audits to confirm:

- The actual business practises reflect the reviewed questionnaire and paperwork.
- All new PSC owners were made aware of their responsibilities prior to setting up their company.
- The provider is not involved with the decision making and running of the PSC.
- Appropriate guidance has been given to the company about what business expenses may be claimed.

### **What the FCSA won't accept!**

- Hidden or unclear charges such as expenses processing fees not made clear at the outset.
- Funds being channelled through offshore companies, loan structures or foreign currencies solely to avoid UK taxes.
- Inappropriate use of the VAT flat rate scheme – this is an HMRC administrative easement for small businesses, not a way for service providers to generate undisclosed fees.
- A clear connection of Recruitment businesses and providers in the Limited Company arena influencing sales by providing financial incentives linked to time and billing. A clear indication of MSC risk via involvement.
- Umbrella Companies that don't undertake ID and right to work checks on their employees.
- Umbrella Companies that artificially inflate expenses or encourage workers to claim for expenses they haven't incurred.
- Umbrella companies that do not pay National Minimum Wage and holiday pay as salary.
- Limited Company providers or other structures who market themselves as an Umbrella Company.
- Providers who have inadequate financial security– this puts everyone at risk.