



The Freelancer & Contractor Services Association Best Practice Code of Compliance

SELF-EMPLOYED / CIS CONTRACTORS QUESTIONS

Please ensure that you answer all questions fully and accurately and provide supporting information where requested. Failure to do so will result in your application being rejected.

For existing members, who are then not assessed as operating in accordance with the Code on or before their renewal date, this will mean automatic suspension from the FCSA.

Please ensure that you read and understand 'General Information for applicants' before submitting this document to your chosen reviewer.

Assessment against Code standard					
A	Take on procedures	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/ Non-compliant (Assessor use only)
A1.	In your introduction letter do you state that the worker:				
	a. Should consider paying an estimated amount towards their likely income tax and national insurance on a monthly basis, or at least be putting aside sufficient cash to meet their tax liabilities when they fall due (the financial illustration);	No			
	b. Is a Self Employed worker with responsibilities to pay taxes as a self-employed worker and that they have no Employee/Worker statutory rights;	No			
	c. Will be subject to a proof of eligibility to work in the UK check;	No			
	d. Will be required to enter into a Self Employed contract; and	No			
	e. Has a responsibility to notify the service provider immediately of any changes in their status.	No			
	Documentation required: The introduction letter given to the worker cross referencing the above.	Not Provided			
	Documentation required: Provide a copy of your standard worker contract.	Not Provided			
A2.	As part of the registration process you provide an indication of what the potential tax liability will be in writing if requested.	No			
A3.	A financial illustration is optional but must be provided when requested and must comply with the following requirements. Your financial illustration:				
	a. Clearly states that it is only an estimate;	No			

Assessment against Code standard					
A	Take on procedures	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/ Non-compliant (Assessor use only)
	b. Clearly sets out the assumptions used in calculating the financial illustration and that these assumptions are reasonable and, wherever possible based on information provided by the worker;	No			
	c. Clearly shows your company margin.	No			
	Documentation required: A copy of a financial illustration that you provide to a potential Self Employed subcontractor.	Not Provided			
A4.	When considering the worker's suitability to a particular way of working, do you consider and discuss with them the following relevant factors:				
	a. Whether the worker is new to self-employment or has been self-employed for some time;	No			
	b. What self-employed future the worker anticipates;	No			
	c. The worker's previous employment status;	No			
	d. The worker's attitude to the risks and responsibilities of being self-employed and running their own business;	No			
	e. The responsibilities of being self-employed;	No			
	f. The other options available to the worker – PAYE working, umbrella company working, limited company ownership;	No			
	g. The financial implications of the different ways of working, e.g., as a minimum this must include a comparison to PAYE/Umbrella;	No			
	h. The worker's commercial situation (e.g., one client or many, level of income being generated, placements via recruitment agencies or direct, existing limited company owner)	No			

Assessment against Code standard					
A	Take on procedures	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/ Non-compliant (Assessor use only)
A5.	Was the worker offered a choice between the employment and self-employed models at the take on stage (subject to status)?	No			
A6.	Confirm that the basis on which the business operates (i.e., as the contractor) is adequately explained to the worker at the take on stage;	No			
A7.	Confirm that you review the employment status of all prospective self-employed workers prior to making a second payment to them after initial engagement;	No			
	Documentation required: A copy of your policies and standard documents concurring how you review the employment status of all prospective self-employed workers prior to making a second payment to them after initial engagement;	Not Provided			
	Documentation required: Details of where the results of these checks are documented	Not Provided			
	Documentation required: Details of how you evidence cases where workers chose the umbrella/PAYE option over self-employment	Not Provided			
	Documentation required: Details of how you record failures of the self-employment review	Not Provided			
A8.	In terms of your assessment of whether a worker is subject to (or to the right of) supervision, direction or control, confirm that your checklist evidences the findings of discussions with any parties in the contractual chain and/or any other information provided by them, specifically covering the following areas:				
	▶ Can the worker decide how the work is done?	No			
	▶ Can the worker be told what to do (as to the manner)?	No			
	▶ Can the worker be moved depending on priorities?	No			

Assessment against Code standard					
A	Take on procedures	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/ Non-compliant (Assessor use only)
	► Can the worker decide when the work is done?	No			
	Documentation required: Please provide a copy of the checklist	Not Provided			
A9.	Confirm that if a worker fails one question as set out in the checklist then that worker is deemed a 'fail' and will be an employee under your Umbrella solution.	No			
A10.	Confirm that as part of your review of the status of the worker, the worker understands and accepts (both contractually and in reality) that on all assignments they:				
	a. Have an unfettered right of substitution.	No		Grey these out?	
	b. Have no mutuality of obligation;	No			
	c. Are not controlled, directed or supervised as to how they perform their work by anyone in the contractual chain (or subject to the rights of any such person to control, direct or supervise them);	No			
	d. Are able to take financial risk/are responsible for defects;	No			
	e. Have no statutory employment rights, e.g., holiday pay, AWR entitlement, Statutory Sick Pay;	No			
	f. Are self-employed and responsible for paying taxes to HMRC.	No			
	g. Are or will be registered with HMRC as self-employed and that evidence will be provided to document this within an acceptable time frame	No			
	h. That their last piece of work was not as an employee of the end client carrying out similar work.	No			

Assessment against Code standard					
A	Take on procedures	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/ Non-compliant (Assessor use only)
A11	You review the worker's role by reference to the High Risk Profile list (which is appended to this code) to ensure that, if the role is on this list, additional checks are carried out to verify employment status.	No			
A12	Any worker whose assignment rate is below £12/hour is automatically assumed to be high risk and therefore subject to additional checks to verify their employment status	No			
A13	You are sub-contracting with no more than 10% of your total self-employed work force (but never greater than 30 workers) at any one time who are on the High Risk Profile list or subject to an assignment rate of below £12/hour. You also have a process to manage this.	No			
A14.	You contact the worker at least monthly (via email, text, letter) to check that workers still consider they are genuinely self-employed.	No			
A15	You check that the worker was not previously engaged as an employee in a similar role with the same end client within 3 months of the current assignment.	No			
A16.	You carry out an employment status review at least once every 6 month period for all self-employed workers who have been actively working for you for 6 months continually and that this employment status review complies with all points listed in section 10 above	No			
A17.	You have a formal process for communicating to agencies your policy regarding:				
	▶ Checklists and SDC;	No			
	▶ Assignment rate conditions;	No			
	▶ Prohibited/high risk roles;	No			

Assessment against Code standard					
A	Take on procedures	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/ Non-compliant (Assessor use only)
	Documentation required: Please provide copies of relevant documents	Not Provided			
A18.	Do you make it clear to the agency that if workers fail the SDC tests the worker will only be offered a PAYE option and subject to restrictions on expenses that can be claimed (as set out at employment model)?	No			
A19.	Confirm you do not hold tax payments (beyond statutory deductions such as CIS) on behalf of your workers.	No			
A20.	The self-employed contract includes				
	a. An unfettered right of substitution clause.	No			
	b. States no mutuality of obligation;	No			
	c. States no control or supervision by any party;	No			
	d. Clauses which make Self Employed Contractor responsible for defects;	No			
	e. Clauses which confirm the Self Employed worker has no statutory employment rights, e.g., holiday pay, AWR entitlement, Statutory Sick Pay;	No			
	f. States self-employed worker is self-employed and is responsible for paying taxes.	No			
	g. States that the worker is or will be registered with HMRC as self employed	No			
	h. That their last piece of work was not as an employee of the end client carrying out similar work.	No			

Assessment against Code standard					
A	Take on procedures	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/ Non-compliant (Assessor use only)
	<p>Documentation required: Please attach a copy of your; Self-Employment contract (for any revised in the last 12 months, a copy of the current and past contract and the dates of any revisions); and, unless included within the employment contract;</p> <p>a. Assignment/Project schedule;</p> <p>b. EAA opt out notices;</p> <p>c. Data protection agreement</p>	Not Provided			
A21.	Confirm:				
	a. The self-employed worker receives a remittance advice; and	No			
	b. Your company margin is fully disclosed to the self-employed worker prior to commencement of their work;	No			
A22.	Workers have the option to remain within or opt out of the EAA Regs. Upon opting out of the EAA Regs your workers have the option to opt in to the EAA Regs.	No			
	<p>Documentation required: Please detail how you inform the agency of the worker's EAA regulation status and what procedures you have in place if an employee notifies you that they wish to withdraw an opt out notice.</p>	Not Provided			
A23.	<p>Documentation required: Please provide a copy of your latest policies re:</p> <p>a. Professional indemnity;</p> <p>b. Employers liability (held on a contingent basis); and</p> <p>c. Public liability.</p>				
	a. Professional indemnity;	Not Provided			
	b. Employers liability (held on a contingent basis); and	Not Provided			
	c. Public liability.	Not Provided			

Assessment against Code standard					
A	Take on procedures	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/ Non-compliant (Assessor use only)
A24.	Documentation required: Provide a copy of your communication to workers that you require them to hold their own insurance	Not Provided			
A25.	Documentation required: Explain how you ensure that Self Employed workers have the appropriate insurance cover	Not Provided			
A26.	Documentation required: Please provide a copy of your standard agencies contract/terms plus a copy of the contractual terms used for your 5 largest agencies if they differ	Not Provided			

Assessment against Code standard					
B	Payments	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
B1.	You verify that the self-employed workers are within CIS using the required HMRC process.	No			
B2.	If you operate within the construction sector, that you file monthly CIS returns to HMRC	No			
B3.	You have never missed or filed any monthly CIS returns late.	No			
B4.	You have never paid the withheld CIS deductions late.	No			
B5.	You do not operate any form of hybrid employment model. If a worker fails the employment status checklist/tests, they will automatically be offered an employment model subject to PAYE/NIC (and may be subject to restriction on reimbursement of travel and subsistence expenses) and with full employment rights.	No			

Assessment against Code standard					
B	Payments	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
B6.	Documentation required: Please provide your UTR and Company Registration Number and status under CIS (e.g., Gross/Net)	Not Provided			
B7.	Documentation required: Please provide documentation to support your registration under CIS and your status	Not Provided			
B8.	Documentation required: Please attach your process for verifying self-employed workers with HMRC.	Not Provided			
B9.	Documentation required: Attach your process for dealing with payments to sub-contractors who work both inside and outside of the CIS rules.	Not Provided			
B10.	Documentation required: Describe your process for ascertaining the level of materials to be taken in to consideration when determining the amount to be subject to deduction under CIS	Not Provided			
B11.	Documentation required: Attach your process for ensuring that the CIS returns are accurate and submitted on time	Not Provided			
B12.	Documentation required: Detail any penalty notices or correspondence issued to you by HMRC within the last 12 months in respect of late/incorrect PAYE/NIC or CIS returns and payments	Not Provided			
B13.	Documentation required: Provide details of any on-going disputes with HMRC or recently settled disputes within last 12 months concerning PAYE/NIC, VAT or CIS issues including, but not limited to, your own gross payment status	Not Provided			
B14.	Documentation required: Please provide a copy of your standard agencies contract/terms	Not Provided			

C	Additional/voluntary information (Please include here any other information in support of your submission)	Applicant fields for completion
C1.	Use this section to provide any additional information or clarification in support of your application. Please note: Failure to provide any relevant additional information or clarification may result in your application being rejected.	

Declaration

By signing the declaration below you confirm that your business accepts and agrees that it operates to the Code as set out above, that your processes, policies and documentation are consistent and reflect the Code and represent a true and full view of the business you operate. Also, by signing we confirm that we have read the Charter (link found [here](#)) and are in compliance with it, in particular, but not limited to planning solutions.

Signed:

Name:

Date:

Capacity in which signed (Board level required):

For completion by assessor	
Outcome	Commentary
Pass	
Fail	

Appendix

Self-employment – HIGH RISK categories of workers

Categories/Sectors
Administrative/Clerical
Agricultural
Assembly plant
Benefits Assessor/housing/council officer
Call Centre
Data Entry
Document Controllers
Hospitality
Industrial
Lab Technicians/Biomedical Scientists
Labourers
Light industrial
Low Skilled/Admin roles
Mail Centres
Non skilled manual workers
Package Handling
Pharmacy Technician
Previous employment (same job and organisation)
Restaurant/Food Service
Retail
Secretaries/Personal Assistants
Social care
Warehouse