



THE FREELANCER & CONTRACTOR SERVICES ASSOCIATION

BEST PRACTICE CODE OF COMPLIANCE

FCSA Best Practice Code of Compliance
GENERAL INFORMATION FOR ALL APPLICANTS

Introduction

The Freelancer & Contractor Services Association (FCSA) operates a best practice code of compliance (“the Code”) designed to ensure that its Accredited Members are providing compliant advice and/or employment supported by the highest level of professional and ethical standards. New applicants for Accredited membership are required to comply with the following Best Practice Code of Compliance questionnaire (‘the FCSA Code of Compliance’) and to provide the necessary supporting evidence as well as providing certain additional general information. The declaration and information provided will be subject to testing in certain cases by our assessors as part of our review process, as outlined below. Appointed assessors will undertake their review and present their findings to the FCSA CEO. The FCSA will consider this, together with other publicly available data, before deciding on the merits of any application. All applicants and renewing members are required to complete a Fit & Proper Person Form to assist in determining the reputation of individuals that control the applicant/member business. FCSA reserves the right to reject an application or a member on the basis of potential reputational damage to FCSA, perceived or otherwise, due to the background or behaviour of an applicant business, an individual associated with that business or a current member.

For more information on the different operating models covered by this code and the types of services offered by FCSA Accredited Members, please refer to the FCSA website.

Appointed Assessors

FCSA has a selection of appointed assessors who are authorised to review compliance with the FCSA Code of Compliance. The assessors are partnerships between firms with proven ability to provide the necessary financial and legal expertise to review the code. Appointed assessors are:

Financial

- BDO
- EY
- Saffery Champness

Legal (for umbrella and CIS applicants)

- Brabners
- EY Legal
- JMW Solicitors

You can select your preferred assessors from the above list. If you are applying to have your umbrella or CIS operation accredited, then you will need to choose a legal assessor in addition to the financial assessor. EY has in-house SRA regulated lawyers, so if you choose EY for the financial elements of your application, their legal team will assess the legal aspects. If you choose either BDO or Saffery Champness for the financial elements, then you can choose Brabners or JMW Solicitors to assess the legal elements. The cost of the review is the same whichever assessor team you select.

Important information

The Code of Compliance review (“the Review”) is a sample review of certain transactions of an Accredited Member’s or prospective member’s business within a defined period, based upon the signed declaration of the Code and the information/documentation and explanations (together, “the Information”) supplied by the business in question. In conducting the review, FCSA’s assessors will rely on the information supplied by the business in question and will not conduct any independent verification as regards the accuracy or completeness of this. Accordingly, the FCSA and its assessors accept no responsibility whatsoever for any error or inaccuracy contained in the information, or for any loss or damage suffered by any person who relies on such information. For the avoidance of doubt, the FCSA (and its assessors) review does not constitute any form of independent audit of the business in question and should not be held out to be, or be taken, as such. The review cannot, in itself, guarantee current, past or future compliance with relevant legislation, regulations and appropriate industry practices and neither should it be taken to mean that HMRC or any other professional or regulatory body will not enquire into any matter that is subject to the requirements of the FCSA Code of Compliance. Any prospective or current member is at all times responsible for ensuring its compliance with relevant legislation, regulations and related industry practices and the FCSA (and its assessors) accept no responsibility to them or any third parties whatsoever in this regard.

The Code of Compliance

Our Code of Compliance sets out the minimum standard required of members who operate and offer employment and self-employed solutions to workers and provide advice to limited companies.

You will be asked to sign a declaration at the end of the Code to confirm that you act and adhere to the Code. If there are any areas within the Code that you are unable to comply with, please provide the appropriate information in detail to explain why you are unable to comply. Information/documentation received from you will be used to ascertain whether you are adhering to the Code.

For new applicants, this information should be supplied as part of your application. Existing members should provide this information before each renewal date in accordance with the review timetable. If changes occur which may mean that they no longer operate in accordance with the code, this should be raised with the FCSA as soon as they become aware of any concerns and, in any event, before any renewal application.

References to “you” and “your” relate to all businesses which provide employment, self-employed and/or advice covered by this code.

FCSA will notify HMRC once your application is successful. By virtue of applying for FCSA accreditation, you agree to this information being shared with HMRC, should your application be successful.

There are four elements to the Code:

- Mandatory questions for all applicants (this document)
- Umbrella Employers questions
- Limited Company Advisors questions
- Self-employed / CIS questions

Any member/applicant will be expected to comply with all areas of the Code in which their business operates irrespective of the number of workers operating under that model.

You must send supporting documents (outlined in red font within the code) as part of your application and samples as required by FCSA assessors. All information provided during the application/renewal will be presumed to have a 3 month “shelf life” such that, if an application is delayed or suspended, it will be necessary to provide new sample data and a renewed application pack if a period of 3 months has expired. This will carry an additional cost to the member/proposed member’s application.

Your application will be reviewed on our behalf by our assessors, who will check whether the declaration has been signed and that the supporting information is provided, and will request any additional data, etc. Once all data has been received, assessors will then review the information and undertake an onsite assessment to review your processes and check whether, based on a sample of documents to be made available upon request, that your actual business practices appear to be in accordance with our Code. Once this external review process has been completed, the completed signed declaration, supporting data, etc., is provided to the FCSA.

All applicants and renewing members are required to complete a Fit & Proper Person Form to assist in determining the reputation of individuals that control the applicant/member business. FCSA reserves the right to reject an application on the basis of potential reputational damage to FCSA, perceived or otherwise, due to the background of an applicant business or individual associated with that business. If the FCSA considers that the individuals controlling the business are “fit and proper”, that the business is reputable and appears to meet the requirements of the FCSA Code, the membership application will be processed and a copy of your completed FCSA Code will be submitted to HMRC.

If you do not appear to have met the requirements of the FCSA Code, the FCSA will advise you of this as soon as possible and you will be invited to discuss with the FCSA any changes required in order for the application to proceed. No information will be passed to HMRC until the FCSA is satisfied that you appear to meet the requirements of the FCSA Code. If you need any professional advice regarding compliance with the FCSA Code, you may consult an appropriate advisor. You are not required to share any such separate advice with the FCSA, although the FCSA will need to be satisfied that you are operating in accordance with the FCSA Code before the application can proceed. If as a result of subsequent action, advice, etc., you consider that you should meet the requirements of the FCSA Code (for example, if you have made changes to your systems or provided additional staff training), you can request that we re-test any relevant areas before your application proceeds. You will be responsible for meeting any additional FCSA costs incurred, e.g., in the event of a follow up on-site assessment and/or review of documentation.

This review process will be completed annually for all FCSA Accredited Members with changes being made to working practices between reviews as the Code is updated.

All existing Accredited members will be required to abide by the annual review process. Failure to adhere to this process will result in the matter being referred to the CEO with the expectation being that your membership will be rescinded and your details removed from the FCSA website.

You consent to the above process as part of the membership application process.



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MANDATORY QUESTIONS FOR ALL APPLICANTS

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 'Information for applicants' before submitting this document to your chosen reviewer.

Applicant fields for completion					
A	General	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
A1.	Confirm the application or membership renewal is to cover all relevant operations within the group. All relevant operations must be seeking or renewing FCSA accreditation, even if they are separate companies and/or branded separately.	No			
A2.	a. Have any of your directors ever been disqualified from acting as a director?	No			
	b. Is anyone involved in the management of the company currently disqualified from acting as a director?	No			
	c. Directors of the business are required to complete FCSA's Fit & Proper Person form, which is available from the FCSA Chief Executive.	No			
	Documentation required: Confirmation that all directors, shareholders and companies/businesses listed in question 1 above domiciled/registered in the UK. If not, please attach details of their domicile/registration. Everyone applicable should complete FCSA's Fit & Proper Persons form and submit it to FCSA's Chief Executive.	Not Provided			
A3.	Have your latest accounts been filed at Companies House within 9 months of the year end?	No			
	Documentation required: Please provide your latest statutory accounts.	Not Provided			
A4.	a. Have your accounts been prepared on a 'going concern' basis?	No			
	b. At the time of application is this statement still true?	No			
	Documentation required: Please provide your latest statutory accounts and provide cross referencing to where 'going concern' stated.	Not Provided			
A5.	a. Do your most recent accounts have an unqualified audit opinion (if a statutory audit is required and/or undertaken anyway)?	No			
	b. Are there any matters of emphasis/references to any areas for consideration (this is required at the trading company level and at all group company levels)?	No			

Applicant fields for completion					
A	General	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
	Documentation required: Please provide your latest statutory accounts.	Not Provided			
A6.	Confirm all group companies operating activities covered by this code are based in the UK and the significant majority (75%) of your services are undertaken in the UK.	No			
	Documentation required: Attach a copy of your group trading structure detailing the name, Companies House number, location(s), principal trading activity, directors and shareholders of each company. If you have any Associate businesses providing advice and/or employment to workers within the recruitment sector outside your group structure please include these businesses in your response. Associate businesses should include: <ul style="list-style-type: none"> a. Companies; b. General partnerships; c. LLPs; d. Trusts; and e. Individuals carrying on business on their own account; f. Persons acting in concert g. Businesses that are owned or managed by your directors or shareholders and provide services covered by this code. Please include overseas businesses.	Not Provided			
A7.	Provide details and shareholders of the company which receives fee income from limited company customers if not included above and provide details of their relationship with the above companies (Limited company advisors only).	No			
	Documentation required: Supporting evidence for the above.	Not Provided			
A8.	Are all your employees (including umbrella employees) who are working in the UK paid in the UK under current PAYE/NIC legislation?	No			

Applicant fields for completion					
A	General	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
A9.	a. Confirm the total capital and reserves figure on the balance sheet of your latest statutory accounts for either your trading company or ultimate parent company has a positive net worth of at least 2.5% of your margin (Umbrella Employers or self-employed models) for the year.	No			
	b. Confirm the total capital and reserves figure on the balance sheet of your latest statutory accounts for either your trading company or ultimate parent company has a positive net worth of at least 2.5% of your fee income (Limited Advisors or self-employed models) for the year.	No			
	Documentation required: Provide a manual reconciliation evidencing the above.	Not Provided			
A10.	Does your company pay incentives/gifts to individuals?	No			
	If so,:	No			
	a. Are these all covered by an HMRC Taxed Awards Scheme for both PAYE and NIC's (if applicable, provide supporting evidence)?				
	b. Are any incentives/gifts paid in cash?	No			
	c. Are any paid on prepaid debit/credit cards?	No			
	d. Are the directors (or similar) of the receiving business aware of the incentives being provided?	No			
	e. Confirm that all expenses for sales staff are receipted.				
Documentation required: Copy of TAS and supporting evidence (anonymised emails, etc.) of directors, or similar, of the receiving business being aware of any incentives being provided.	Not Provided				
A11.	a. Do you offer a self-employed solution?	No			
	b. If so, do you also offer an umbrella model solution to the worker as an alternative at the take on stage (subject to status)?	No			

Applicant fields for completion					
A	General	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
A12.	For umbrella and self-employed solution providers, confirm the following:				
	a. Your employees / self-employed contractors have the option to remain within or opt out of the EAA Regs;	No			
	b. That upon opting out of the EAA Regs your employees / self-employed contractors have the option to opt in to the EAA Regs;	No			
	c. Where the employee / self-employed contractor opts out of the EAA Regs, or was previously opted out and decides to opt in, you inform the agency of the employee's EAA regulation status.	No			
	Documentation required: Provide supporting evidence for each of the above and details of the procedures you have in place if an employee notifies you that they wish to withdraw an opt-out notice.	Not Provided			
A13.	Where the obligations of the UK Modern Slavery Act 2015 apply to you, please confirm you have made a statement as required on your website.	No			
	Documentation required: Provide a copy of your website statement or a link to where it can be found plus a copy of any UK Modern Slavery Act policy you have introduced.	Not Provided			
A14.	Does your company operate in accordance with Gender Pay Gap Reporting obligations?	No			
	Documentation required: Please provide supporting evidence of what actions you have undertaken in respect of Gender Pay Gap Reporting and provide a copy and/or link to where reporting has been made on your website.	Not Provided			

Applicant fields for completion					
B	Identity and right to work in the UK checks	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
B1.	Do you have a policy setting out that the worker cannot become an employee, self-employed worker or limited company customer before you verify/authorise their identity?	No			
	Documentation required: Copy of policy outlined above. Also provide a copy of your take on process in place to establish the identity of potential umbrella employees, self-employed worker or limited company customers. Detail what documents you obtain and checks you carry out.	Not Provided			
	Documentation required: Please set out how you verify/authorise the potential employee's right to work in the UK or provide a copy of your policy/procedures (Umbrella Employers only). Detail of documents you obtain and checks you carry out to do this.	Not Provided			
B2.	Confirm you have processes in place around compliance with UK Data Protection Act (DPA).	No			
	Documentation required: Provide a copy of any Data protection agreement	Not Provided			
B3.	Confirm you have processes in place around compliance with General Data Protection Regulation (GDPR)	No			
	Documentation required: Provide a copy of any GDPR policies and processes	Not Provided			

Applicant fields for completion					
C	Complaints/Grievance	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
C1.	a. Do you have a grievance (umbrella) and/or complaints (limited / self-employed) procedure (whichever is applicable)?	No			
	b. If so, is it included within or referred to in your introduction and/or engagement letter to the worker?	No			
	Documentation required: Provide a copy of your policy/procedures as outlined above and cross reference where it is referred to in either your introduction and/or engagement letter.	Not Provided			

Applicant fields for completion					
D	HMRC	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
D1.	Do the Umbrella employer/Self Employed Contractor/Limited company advisor and its directors have any outstanding tax filings or tax payments including Income Tax, Corporation Tax, National Insurance Contributions, Construction Industry Scheme or VAT?	No			

Applicant fields for completion					
E	Ethics	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
E1.	Will you at all times operate in accordance with the FCSA Code of Compliance (as amended from time to time)?	No			
E2.	Confirm that none of your Group Companies or Associate Companies (whether within the scope of this code of conduct or not) create, encourage or promote tax avoidance schemes that meet the definition of a Disclosable Tax Avoidance Scheme and/or which HMRC have published as 'in the Spotlight' and are not listed on the FCSA's list of disallowed schemes/arrangements, i.e., foreign currency loan structures, as set out in the Charter, section 3.5 found at http://www.fcsa.org.uk/resource/fcsa-charter-2/	No			
E3.	Confirm that all none of your Group Companies or Associate Companies (whether within the scope of this code of conduct or not) breach any Targeted Anti-Avoidance Rules and/or General Anti-Avoidance Rules.	No			
E4.	Do you have policies and procedures in place to ensure that your business is able to demonstrate that it complies with Part 3 of the Criminal Finances Act 2017 (Corporate offences of failure to prevent facilitation of tax evasion)?	No			
	Documentation required: Please attach your policy and any documented procedures.	Not Provided			
E5.	Is the umbrella employment, self-employed model and/or limited company advisory service promoted principally on the basis of it being a tax saving solution?	No			
	Documentation required: Please attach copies of ALL current promotional and/or marketing material and provide your website URL.	Not Provided			
E6.	Does the umbrella employment, self-employed model and/or limited company advisory service promote the after tax margin (umbrella employers and self-employed) and/or fees (limited)?	No			
	Documentation required: Please attach copies of ALL current promotional and/or marketing material and provide your website URL.	Not Provided			

Applicant fields for completion					
E	Ethics	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
E7.	Is the Company margin fully disclosed to potential employees and/or self-employed workers before they are engaged on an assignment and/or fees for limited company advisory services fully disclosed to potential customers before the customer takes up the services?	No			
	Documentation required: Please attach copies of ALL current promotional and/or marketing material and provide your website URL.	Not Provided			
E8.	a. Do you use any offshore tax structures, including but not limited to the use of offshore companies, offshore trusts or payments in foreign currency?	No			
	b. If you become aware of any clients operating offshore tax planning structures, do you consider your position as their advisor and resign when appropriate (limited company only)?	No			

F	Additional/Voluntary Information	Applicant fields for completion
F1.	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 you confirm that you 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	