



THE FREELANCER & CONTRACTOR SERVICES ASSOCIATION

CODE OF COMPLIANCE

FCSA 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 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. In its reasonable opinion, 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

- Brabners
- EY Legal
- JMW Solicitors

You can select your preferred assessors from the above list. As all applications require completion of the Mandatory code, 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, EY Legal 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.

By virtue of applying for FCSA accreditation, you agree to information pertaining to your accreditation being shared with HMRC.

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 6 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 6 months has expired. This will carry an additional cost to the applicant's/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 on-site 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 the Code.

Once this external review process has been completed, the completed signed declaration, supporting data, etc., is provided to the FCSA. If the FCSA considers that you appear to meet the requirements of the FCSA Code, your membership will be processed.

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. 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. The application should be completed within one year from commencement of the Due Diligence check. If the assessment process goes beyond this date, there is a requirement to resubmit the Fit & Proper Persons forms, as these are annual checks performed by FCSA. Evidence collected by the Assessors may have expired, resulting in further work and Assessor costs.

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 which is adopted by the FCSA Board. Failure to adhere to this process will result in the matter being referred to the FCSA 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.



The Freelancer & Contractor Services Association Code of Compliance

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 'General Information for Applicants' located at the start of the 'Mandatory Code' 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. Additionally, if you advertise any operations for umbrella employment, self-employed model and/or limited company advisory where you are not seeking or renewing FCSA accreditation, please clarify why FCSA accreditation is not being sought.	No			
A2.	Do all relevant operations for a new membership application have a minimum trading history of 2 years in the areas to be assessed and which are supported by audited accounts with a minimum of 1 year in that area?	No			
A3.	If an established FCSA member seeks to introduce a new business area that is covered within FCSA accreditation and assessment, the new business area must be put forward for assessment as soon as it reaches either a minimum of 75 contractors or a minimum of 2 years establishment. However, if you require this to be set up as new legal entity, an application for a new membership will be required. Please confirm whether any new business within the scope of FCSA accreditation is likely to require assessment within the next 12 months?	No			
A4.	Do your relevant operations currently support a minimum contractor population of 75 per assessment area?	No			
A5.	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 legal entities seeking accreditation or re-accreditation are required to complete FCSA's Fit & Proper Persons form. Have these been completed?	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)
	d. The fit and proper form will be completed annually on accreditation review as well as on initial application, and will include confirmation from the directors that the company is up to date with HMRC in respect of all liabilities, or if in arrears, has reached agreement with HMRC or has taken advantage of specific Covid 19 concessions (which should be identified in the declaration)	No			
	e. Have the Directors of the legal entities seeking accreditation changed in the last 2 years?	No			
	Documentation required: Please provide confirmation that all directors, and legal entities requiring accreditation listed in question A1 above are domiciled/registered in the UK as per companies' house. If not, please attach details of their domicile/registration. If yes to e) please provide reasoning Everyone applicable should complete FCSA's Fit & Proper Persons form and submit it to FCSA.	Not Provided			
A6.	Have your latest audited accounts been filed at Companies House within 9 months of the year end? If not, please explain (Additional narrative can be set out at section F1 if needed).	No			
	Documentation required: Please provide your latest filed audited statutory accounts.	Not Provided			
A7.	a. Have your accounts been prepared on a 'going concern' basis?	No			
	b. At the time of application is this statement still true?	No			
	c. Do your most recent accounts have an unqualified audit opinion? If a qualified opinion raises any concerns, the FCSA acting reasonably reserves the right to refuse Membership.	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)
	d. 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)? FCSA will consider these matters and they may result in refusal of membership.	No			
	Documentation required: Please provide your latest filed audited accounts with full detailed profit and loss account (not abridged) and your latest Corporation Tax return, all as supplied to HMRC, and provide cross referencing to where 'going concern' stated. If 'going concern' is not specifically stated, please provide supporting reasoning.	Not Provided			
A8.	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: a. Companies; b. General partnerships; c. LLPs; d. Trusts; and e. Individuals carrying on business on their own account; f. Persons acting in concert	Not Provided			

Applicant fields for completion					
A	General	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
	g. Businesses that are owned or managed by your directors or shareholders and provide services covered by this code. Please include overseas businesses.				
A9.	Provide details and shareholders of the company who receive 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			
A10.	Are all your employees (including umbrella employees) who are working in the UK paid in the UK under current PAYE/NIC legislation?	No			
A11.	Confirm the Applicant / Member company or any associated company linked via Directors (who have been required to complete FCSA Fit & Proper Person forms) does not operate any of the following models: Hybrid; Loan Scheme; MSC; Pay day by Pay day; Mini Umbrella (MUC); Elected deduction model (EDM)?	No			
A12.	Does the Applicant / Member company or any associated company linked via Directors (who have been required to complete FCSA Fit & Proper Person forms) operate a joint employment model?	No			
	If so, please provide a detailed explanation of the company and model to FCSA. FCSA do not support the operation of joint employment models where any of the responsibilities of employing the individual are	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)
	shared/divided/allocated to another entity. FCSA reserves the right to ask any member to cease the operation of these models within a reasonable time period.				
A13.	Confirm the legal entity seeking accreditation has evidence that the latest filed accounts are audited and pass the financial test; Net Assets to be at least 2.5% of the Gross Profit. Where the appropriate trading company accounts do not pass this financial standard, FCSA may at its sole discretion take into account any parent company audited accounts where applicable, alongside a written guarantee.	No			
	<p>The Financial test to be clarified as Balance Sheet total requiring to be at least 2.5% of gross profit shown in the latest company accounts filed at Companies House and with HMRC, defined as Turnover less cost of sales (excluding any insurances and bank charges included in cost of sales). For the avoidance of doubt and consistency, this should equate to invoiced sales less 1. payments to workers 2.any related tax, pensions and other statutory payments 3. any bad debts and 4. business to business rebates/timesheet management fees.</p> <p>Documentation required: Provide a manual reconciliation (calculation) evidencing the above with cross referencing to the latest audited accounts filed at Companies House and HMRC as applicable.</p> <p>Please note that the review cannot continue until the reconciliation has been provided.</p>	Not Provided			
A14.	Does your company pay incentives/gifts to individuals?	No			
	If so:	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)
	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/vouchers?	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.	No			
	Documentation required: Provide a copy of your TAS if applicable. Also provide supporting evidence (anonymised emails, etc.) of directors, or similar, of the receiving business being aware of any incentives being provided.	Not Provided			
A15.	Do you offer a self-employed solution?	No			
	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			
A16.	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 Conduct of Employment Agencies and Employment Businesses Regulations 2003;	No			
	b. That upon opting out of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 your employees / self-employed contractors have the option to opt back in to the Regs;	No			
	c. That every effort has been taken to ensure the contractor has agreed to opt-out prior to any opt-out notice being signed and returned to the agency	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)
	d. Where the employee/self-employed contractor opts out of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 or was previously opted out and decides to opt in, you have a process to inform the agency of the employee's Conduct of Employment Agencies and Employment Businesses Regulations 2003 status under the Regs. Note: it is sufficient to have a process whereby the agency can assume that the worker has opted out under a standard contract unless you notify them to the contrary.	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. Please provide cross-referencing to where covered.	Not Provided			
A17.	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. If deemed not applicable, please provide reasoning.	Not Provided			
A18.	Where applicable, 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. If deemed not applicable, please provide reasoning.	Not Provided			
A19.	Confirm that your PAYE reference and HMRC office accounts are both registered to the legal entities seeking accreditation.	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 evidence of the above codes. If they are registered against a different company, please provide reasoning and evidence for the other company.	Not Provided			
A20.	Confirm that your P32 returns are registered to the legal entities seeking accreditation.	No			
	Documentation required: Please provide evidence of your P32 return. If it is registered against a different company, please provide reasoning and evidence for the other company.	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			
	a. Do you confirm you only accept documents evidencing Right to Work in accordance with the Home Office Right to Work Checklist?	No			
	b. Do you confirm you complete a Right To Work check for every Contractor/ Worker/ Employee?	No			
	c. Do you request Umbrella EU nationals to provide the Umbrella with sharing code pursuant to the EUSS from 1 st July 2021?	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 employment/self-employed contractor/limited company advisory companies and their 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 and FCSA Charter (as amended from time to time)?	No			
E2.	Do any 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.	Do any 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 solely promote the before tax margin (umbrella employers and self-employed) and/or fees (limited)? If the impact of the margin on take home pay is shown, it must show separately, be described as such, and not as 'net margin'.	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)
	Documentation required: Please provide cross referencing to any stated margin in your marketing material and on your website.	Not Provided			
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 provide supporting evidence of when and where the margin/fee is disclosed and provide appropriate cross referencing.	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 advisor 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.

List of companies being assessed by this Mandatory code:

Signed:

Name:

Date:

Capacity in which signed (**Board level required**):

For completion by assessor	
Outcome	Commentary
Pass	
Fail	

Assessor Name:

Date of Assessment: