



**The Freelancer & Contractor Services Association 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' located at the start of the 'Mandatory Code' 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/email 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 required to enter into a Self-Employed contract; and	No			
	d. Has a responsibility to notify the service provider immediately of any changes in their status.	No			
	<b>Documentation required:</b> The introduction letter/email sent to the worker cross referencing the above.	Not Provided			
	<b>Documentation required:</b> Provide a copy of your standard Self-Employed 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			
	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			

		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)
	c. Clearly shows your company margin.	No			
	<b>Documentation required:</b> A copy of a financial illustration that you provide to a potential Self-Employed subcontractor cross referencing the above.	Not Provided			
A4.	At the take on stage, 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 previously been self-employed;	No			
	b. What self-employed future the worker anticipates;	No			
	c. The worker's previous employment status;	No			
	d. The worker's understanding and 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			

A Take on procedures		Assessment against Code standard			
		Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
	i. Where a CIS contractor had previously operated through their own limited company they are asked if they have received an inside IR35 assessment (via SDS) from their agency or hirer for that role.	No			
A5.	Was the worker offered a choice between the employed 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 <u>prior</u> to making the first payment to them after initial engagement;	No			
	<b>Documentation required:</b> A copy of your policies and standard documents concurring how you review the employment status of all prospective self-employed workers <u>prior</u> to making a first payment to them after initial engagement.	Not Provided			
	<b>Documentation required:</b> Details of where the results of these checks are documented – provide supporting evidence and/or narrative with cross referencing.	Not Provided			
	<b>Documentation required:</b> Details of how you evidence cases where workers chose the umbrella/PAYE option over self-employment – provide supporting evidence and/or narrative with cross referencing.	Not Provided			
	<b>Documentation required:</b> Details of how you record failures of the self-employment review – provide supporting evidence and/or narrative with cross referencing.	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				

		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)
	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			
	▶ Can the worker decide when the work is done?	No			
	<b>Documentation required:</b> Please provide a copy of the checklist and cross reference where each of the above are covered therein	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			
	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, unfair dismissal rights;	No			
	f. Are self-employed and responsible for paying taxes to HMRC.	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)
A	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			
	<b>Documentation required:</b> Please provide supporting evidence of your status review process (onboarding questionnaire or equivalent) with appropriate cross-referencing to the above.	Not Provided			
A11.	a. You review the worker's role by reference to the FCSA's High Risk Profile list (which is appended to this Code) and to ensure that, if the role is on this list, additional checks are carried out to verify employment status.	No			
	b. Where CIS is operated, confirm you ensure the activities constitute as "construction operations" defined by HMRC in the CIS 340 guide.	No			
A12.	Any worker whose assignment rate is below £13/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 5% of your total self-employed work force (being the average number of active workers on assignment) at any one time who are on the FCSA's High Risk Profile list or subject to an assignment rate of below £13/hour. You also have a process to manage this.	No			
A14.	You contact the worker at least monthly (via email, text, letter) to check any change in their employment status, i.e., whether they should no longer be considered self-employed. Note: A statement included on	No			

A Take on procedures		Assessment against Code standard			
	Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)	
	monthly remittance advice issued to the worker for them to confirm to you any change in their status is sufficient.				
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.	Confirm you carry out an updated full employment status re-review at least once every 6 months for all self-employed workers and that this employment status re-review complies with all points listed in section A11 above. Note: you must hereby be confirming you make contact with the worker to undertake the re-review.	No			
A17.	Confirm you have a formal process for communicating to agencies your policy regarding: <ul style="list-style-type: none"> <li>▶ Checklists and SDC;</li> <li>▶ Assignment rate conditions;</li> <li>▶ Prohibited/high risk roles;</li> <li>▶ CIS contractors who have previously operated their own PSC</li> </ul> <b>Documentation required:</b> Please provide copies of relevant documents supporting each of the above.	No			
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.	Confirm the self-employed contract includes:				

		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)
	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			
	<b>Documentation required:</b> Please attach a copy of your Self-Employment contract and include appropriate cross referencing to each of the above. For any revised contract in the last 12 months, provide a copy of the current and past contract and the dates of any revisions. Additionally, unless included within the contract, provide copies of any Assignment/Project schedule.	Not Provided			
A21.	Confirm:				
	a. The self-employed worker receives a remittance advice;	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)
A	b. Your company margin is fully disclosed to the self-employed worker prior to commencement of their work;	No			
	c. You retain your margin, then deduct the appropriate tax before giving the net payment to the worker.	No			
	<b>Documentation required:</b> Please provide a sample copy of your remittance advice.	Not Provided			
A22.	<b>Documentation required:</b> Please provide a copy of your latest policies re:				
	a. Professional indemnity;	Not Provided			
	b. Employers' liability (held on a contingent basis); and	Not Provided			
	c. Public liability.	Not Provided			
A23.	<b>Documentation required:</b> Provide a narrative to explain how you ensure that Self Employed workers have the appropriate insurance cover	Not Provided			
A24.	<b>Documentation required:</b> 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, please confirm that you file monthly CIS returns to HMRC.	No			
B3.	Confirm you have never missed or filed any monthly CIS returns late. If you have, please provide an explanation.	No			
B4.	Confirm you have never paid the withheld CIS deductions late. If you have, please provide an explanation.	No			
B5.	Confirm 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			
B6.	Confirm you have considered the implications on invoicing your clients, whether recruitment businesses or hirers, of the DRC VAT.  <b>Documentation required:</b> Please provide a copy of your consideration process.	No  Not Provided			
B7.	<b>Documentation required:</b> Please provide your UTR and Company Registration Number and status under CIS (e.g., Gross/Net)	Not Provided			
B8.	<b>Documentation required:</b> Please provide documentation to support/evidence your UTR, registration under CIS and your status	Not Provided			
B9.	<b>Documentation required:</b> Please attach your process for verifying self-employed workers with HMRC.	Not Provided			

B Payments		Assessment against Code standard			
		Yes/No/N/A	Supporting Documentation (if required)	Cross referencing (where requested)	Compliant/Non-compliant (Assessor use only)
B10.	<b>Documentation required:</b> Attach your process for dealing with payments to sub-contractors who work both inside and outside of the CIS rules.	Not Provided			
B11.	<b>Documentation required:</b> Describe your process for ascertaining the level of materials to be taken into consideration when determining the amount to be subject to deduction under CIS	Not Provided			
B12.	<b>Documentation required:</b> Attach your process for ensuring that the CIS returns are accurate and submitted on time	Not Provided			
B13.	<b>Documentation required:</b> 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. FCSA CEO should be informed.	Not Provided			
B14.	<b>Documentation required:</b> 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. FCSA CEO should be informed.	Not Provided			
B15.	<b>Documentation required:</b> 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.	<p>Use this section to provide any additional information or clarification in support of your application.</p> <p><b>Please note:</b> Failure to provide any relevant additional information or clarification may result in your application being rejected.</p>	

## 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.

List of companies being assessed by this Self-employed / CIS Code:

Signed:

Name:

Date:

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

For completion by assessor	
Outcome	Commentary
Pass	
Fail	

Assessor Name:

Date of Assessment:

## Appendix

### Self-employment – HIGH RISK categories of workers

Categories/Sectors
Administrative/Clerical
Agricultural
Assembly plant
Assistants
Benefits Assessor/housing/council officer
Call Centre
Data Entry
Document Controllers
Hospitality
Industrial
Juniors
Lab Technicians/Biomedical Scientists
Labourers
Light industrial
Low Skilled/Admin roles
Mail Centres
Nonskilled manual workers
NHS / statutory medical / healthcare (for the avoidance of doubt, privately supplied are not high risk)
Package Handling
Pharmacy Technician
Previous employment (same job and organisation)
Restaurant/Food Service
Retail
Secretaries/Personal Assistants
Social care
Trainees
Warehouse