



## **FCSA Code of Compliance**

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### **Fixed Term Employment Questions**

FCSA is dedicated to raising standards and promoting supply chain compliance for the temporary labour market. A key way we do that is to publish our Charter and Codes. We do this so that all industry stakeholders and, importantly, all the workers who use our Members' services can be assured that FCSA Members are fully compliant with the laws and regulations surrounding employment rights, personal taxation and corporate compliance with the off-payroll rules. All FCSA Members undertake to abide by our Charter and Codes as a condition of their membership and are contractually obliged to maintain these high standards throughout their membership.

Our Codes, which sometimes go above and beyond what is lawfully required, are formulated by FCSA working closely with independent experts in these areas and changes are reviewed prior to publication by a wide variety of industry stakeholders and official bodies. The Codes cover complex issues and that is why they are constantly under review and are updated as often as is required to keep them relevant and reflective of not only the regulations but also industry best practice. We believe our Codes set the highest standards of compliance and are industry-leading in their comprehensive scope. Members are assessed against FCSA's Codes not by in-house staff or inexperienced evaluators but by a panel of fully independent and nationally renowned professional services firms, lawyers and accountants, with an authoritative level of expertise in these specialist areas. This assessment for FCSA accreditation is rigorous and stringent and, as a result, it is recognised as the industry's compliance gold standard.

I'd like to thank you for taking the time to read our Charter and Codes.



**Chris Bryce**

**Chief Executive  
Freelancer and Contractor Services Association Ltd**

## **POINTS TO CONSIDER BEFORE ADOPTING THIS MODEL**

It is important that applicants and existing members consider the following points before adopting this model and before offering a fixed term employment contract to an individual. Not all circumstances or assignments will be suitable for fixed term employment. It may be that an overarching umbrella contract of employment will be more appropriate in some cases.

### **Continuous service and permanent contracts**

A gap between two fixed term contracts does not necessarily break continuity of employment, meaning that the employee's start date of continuous service may not reset with each new contract and their rights (including to accrue annual leave) may continue in-between contracts.

Generally (subject to the exceptions noted below), a gap of one week or more between two contracts of employment will break continuity, so the employee's continuous service will restart from the date of the new contract and they will not be treated as being employed during the period in-between. However, a week for these purposes is a week starting on a Sunday and ending on a Saturday. So, for example, if an employee's fixed term contract terminates on a Monday and they start a new fixed term contract on Tuesday the following week, there has not been a gap of a full week ending with a Saturday. Accordingly, it is necessary to consider whether there has been a clear period of Sunday to Saturday before the new contract starts and if not, continuity will not be broken. Note that the government proposes to extend this provision so that an individual's continuity of employment will not be broken unless there is a gap of four weeks or more between contracts (rather than one week), but there has been no indication yet of whether/when that change will take effect.

Even if there is a complete week's gap between contracts, there are a number of situations in which continuity of employment will still not be broken. The main situations are as follows:

1. if the reason for the gap between contracts is because the employee is incapable of work due to sickness or injury (as long as the sickness or injury does not last more than 26 weeks)
2. any week during which there is no employment contract but an employee is "absent from work on account of a temporary cessation of work" will contribute towards continuity
3. any week when there is no employment contract but an employee is "absent from work in circumstances such that, by arrangement or custom, they are regarded as continuing in employment" will contribute towards continuity
4. time spent on maternity, paternity, adoption or parental leave contributes towards continuous employment

### **Contracts of one month or less**

Where an employee has a contract for a fixed-term of one month or less, but in fact they are continuously employed for three months or more (for example because their one-month fixed term contract is extended or they are offered a successive contract which does not break continuity of employment (see above)) then their employment is treated as if it were for an indefinite period. This means that the contract would effectively be converted into an overarching/permanent contract and the statutory minimum period of notice would need to be given in order to lawfully terminate the contract (either by the employer or the employee).

### **Multiple assignments**

Where an individual carries out more than one assignment at the same time via the same umbrella company (for example they work Mondays and Tuesdays on one assignment and Thursdays on another assignment), you should consider carefully whether fixed term employment contracts are appropriate. Whilst it is possible for a person to have more than one employment contract with the same employer, this will need to be carefully managed by the umbrella company to ensure that the two employments remain separate and distinct, otherwise the employee may be deemed to be employed under one overarching (umbrella) contract.

## Workplace

Please note that the employee's main workplace will be regarded as their permanent place of work. Travel and subsistence expense claims to/from this permanent workplace should not be accepted. This is the case regardless of whether the employee is subject to (or the right of) supervision, direction or control (SDC) in the manner they perform their duties.

# SECTION A

The first code section for the Fixed Term Employment model sets out FCSA's expectations surrounding the onboarding process, when this model could be used and the transparency required.



**Deborah Murphy**  
**Head of Operations, FCSA**

## **SECTION A: TAKE ON PROCEDURES**

### **A1.**

Do you supply potential new employees with an introduction letter or email which contains the following?

- a.** An explanation as to the basis on which your business operates, i.e., as an employer providing its employees with work.
- b.** That the worker is an employee of the employer and is aware of their statutory rights;
- c.** That the worker will be subject to a proof of identity check;
- d.** The worker will be required to enter into a fixed term employment contract;
- e.** The basis upon which the employee can claim expenses is explained.

FCSA require a copy of introduction letter or email. FCSA also require cross referencing to where the above are included within the introduction letter or email.

### **A2.**

Confirm a financial illustration is provided, or made available, to all prospective employees. All illustrations must comply with A3 a-j.

### **A3.**

Confirm that your financial illustration provided to every potential employee:

- a.** Clearly states that it is only an estimate;
- b.** Is based upon the length of the contract term;
- c.** If it includes expenses in the calculation they are representative of the usual level of expenses claimed and reflect the individual's actual circumstances;
- d.** Clearly shows an explanation of how the gross pay is calculated;
- e.** Clearly states deductions including but not limited to: Employer's NI, Apprenticeship Levy, Employee's NI, Income Tax (If there is reference to Company deductions or Employment costs, the illustration must clearly state what these are);
- f.** Clearly states the default holiday position as either advanced or accrued;
- g.** Clearly lists the assumptions used including if pension contributions have been excluded from the illustration;
- h.** Clearly shows your company margin;
- i.** Does not use unquantifiable savings (such as potential P87 claims, employee discount schemes or similar) to increase the worker's pay; (Any unquantifiable savings should not be included on the illustration)

- j. Clearly shows the tax code used, with a specific explanation when:
- A Week 1/Month 1 tax code is used - this should only be used where YTD figures are unavailable
  - A personal allowance is reduced for high rate earners

FCSA require a copy of a template financial illustration based on the following assignment rate examples: £562.50 a week (£15ph x37.5hours), £961.54 a week (£50,000pa), £1442.31 a week (£75,000pa), £10,000 a month (£120,000pa).

Please also provide cross referencing to where the above are included within the financial illustration.

FCSA note, please be aware that if financial illustrations are inaccurate, misleading or are deemed to be used for competitive advantage, it may jeopardise future FCSA membership.

#### A4.

Do you supply/have a process to supply the agency with a Key Information Document (KID)?

FCSA require your policy or an overview of the process you follow to support with the above including a sample KID document.

#### A5.

Optional Remuneration Arrangements rules:

- a. Do you operate any salary sacrifice arrangements?
- b. Do you offer salary sacrifice for benefits other than pension contributions to a registered pension scheme, cycle to work schemes, childcare vouchers and low emission cars (CO2 emissions below 75g/km)?
- c. If so, have these been considered in line with the Optional Remuneration Arrangements rules introduced post 6 April 2017?
- d. For all salary sacrifice arrangements, how do you ensure NMW regulations are complied with?
- e. Are pension salary sacrifice arrangements compliant under auto-enrolment?

FCSA require a list and describe how the above have been considered and also list any other arrangements you have in place and provide details

- f. Do you sacrifice salary to reimburse expenses to employees?
- g. If yes to f) are these limited only to authorised mileage claims?
- h. Does your contract split income into NMW + discretionary bonus / additional pay or equivalent?

If yes to h) above, FCSA require evidence how you communicate a discretionary bonus/ additional pay element to employees. Please provide supporting narrative of your process and evidence.

AMAPS: <https://www.gov.uk/guidance/how-to-tax-mileage-payments-for-employees-480-chapter-16>

- i. Do you offer different employment packages that vary the margin you retain?

If yes to i.) above, FCSA require confirmation how you communicate this to employees. Please provide an explanation for how and why you do this for each employment package this applies to.



## A6.

Confirm your marketing literature, web pages, scripts and training material all support the employment model and make no references to the employee being a client, to fixed expenses being acceptable, to them being able to earn 'free weeks', 'margin free weeks' or reduced charges to them. Where you offer different models which require a different margin, these are properly explained to potential employees and do not make reference of different levels of service or charges for products unless those charges are deducted from net pay and VAT accounted for as required. Where variable margins are allowed, please confirm that this is properly explained to the individual, the individual is clear as to what is included with the higher margin and that they have a choice as to which offering and the associated margin they wish to go with.

FCSA require copies of ALL current promotional and/or marketing material and provide your website URL.

If you provide an illustration with your marketing material it needs to state:

- a. the take home pay should be separate for both fixed term employment without expenses and with expenses.
- b. clearly states the amount of expenses used in the illustration.

## A7.

Before issuing a fixed term employment contract to an individual (or before extending their existing fixed term contract):

- a. do you check/obtain the anticipated end date of the assignment (which will also be the end date of the fixed term employment)?
- b. if the end date of the assignment is not known in advance, do you ensure that you have sufficient information about the assignment in order to define the fixed term of the employment contract by reference to completion of the assignment?
- c. do you check whether issuing a new fixed term contract (or extending the existing contract) will result in the employee's contract being converted into a permanent contract of employment, and if so, do you issue the employee with an overarching contract of employment instead?
- d. do you check what the employee's start date of continuous service will be (bearing in mind that a break between contracts of less than a clear week from Sunday to Saturday will not break continuity) and do you record that date in the contract of employment?

FCSA require evidence including processes. Please also provide cross referencing to where the above is included within the respective employment documentation.



**A8.**

Does your employment documentation (Contract of Employment together with any Assignment Schedules) contain all information required in a Statement of Employment Particulars as set out in the Employment Rights Act, including (but not necessarily limited to):

- a.** The employer's name;
- b.** The employee's name;
- c.** A job title or brief job description;
- d.** The start date of the employee's employment and the start date of their continuous service;
- e.** The duration of the contract including the specific date or event upon which the contract will end (such as the completion of the assignment);
- f.** The mechanism for extending the contract past the initial duration;
- g.** The employee's rate of pay/minimum statutory wage/salary payments and when/how often the employee will be paid;
- h.** Bonus or similar mechanism (where applicable)
- i.** The hours and days of work including whether these hours and days are variable;
- j.** Holiday entitlement (and if that includes public holidays)
- k.** Where the employee will be working;
- l.** If an employee works in different places, where these will be and what the employer's address is;
- m.** How long any probation period is and what its conditions are (or if there is no probationary period, a statement to that effect);
- n.** Any training the employee is required to undertake and whether or not this is paid for by the employer;
- o.** Sick pay arrangements and procedures;
- p.** Other paid leave (for example, maternity leave and paternity leave);
- q.** Notice periods in order to terminate the contract early before the end of the fixed term;
- r.** Information about disciplinary and grievance procedures;
- s.** Any collective agreements that affect the employment terms and conditions or if there are no collective agreements that affect the employment terms and conditions, a statement to that effect;
- t.** Pension and pension schemes;
- u.** Any additional benefits (including non-contractual benefits) the employee may be entitled to;
- v.** Expenses can only be claimed for the assignment in accordance with the company's expenses policy.

FCSA require appropriate employment documentation. Please also provide cross referencing to where the above are included within the respective employment documentation (referencing to the appropriate clauses).

**A9.**

Confirm that your contract clearly states that any accrued entitlement for holiday must be taken within the holiday year, as stated within the employment contract, or at termination of the contract, whichever occurs first.

FCSA require evidence. Please also provide cross referencing to where the above is included within the respective employment documentation.

**A10.**

- a. Workers and employees in the UK are entitled to a statutory minimum of 5.6 weeks' paid holiday per year (28 days for someone who works 5 days a week). This is primarily driven by a concern for a worker's health & safety/wellbeing and as such FCSA requires members, as responsible employers, to regularly encourage all employees to take holidays to which they are entitled, e.g. reminders on payslips and/or reconciliation statements, please confirm you operate this way.
- b. Confirm that you have a clear and prominent explanation of holiday entitlement and holiday year on pre-contract documentation and within the employment contract.
- c. Confirm that regularly throughout the holiday year and when an employee is approaching the holiday year end (at least eight weeks prior), you remind your employees to use any remaining holiday entitlement by means of clear and prominent communication such as email, SMS, reminder notes on payslips and/or reconciliation statements or other prominent means which do not require proactivity on the part of the employee.

These reminders should include informing the employee that any unused annual leave and any holiday pay balance may be lost.

- d. Confirm that you make reasonable effort to ensure that employees receive their full holiday entitlement each holiday year, including any entitlement accrued whilst on statutory leave.

If an employee's employment terminates part-way through a holiday year and they have not taken their full accrued holiday entitlement, they must be paid in lieu of their outstanding entitlement on termination of their employment.

FCSA permit the carry-over of unused holiday entitlement under regulation 13A(7) WTR (or a more generous carry over if specified in the contract of employment with your employee).

- e. Confirm that where a carry-over of holiday entitlement into the following year has occurred, that on termination, any accrued entitlement (including all carry-over from a previous year) will be paid in lieu.
- f. Any exceptions to these requirements must be logged internally with a clear explanation of why the exception arose, and this log kept available for FCSA to inspect. Exceptional reasons can include but are not limited to death, unable to trace the worker by reasonable effort, the worker's refusal to accept.

Documentation required: Please provide process details and evidence of pre-contract communication, employment contract, payslip, email, letter, portal, reconciliation statement etc.

For clarity FCSA understands the difficulties in this area caused by the Working Time Regulations, however FCSA does not hold the view that the “use it or lose it” principle is a desirable outcome of the legislation.

### A11.

Please provide copies of the following documentation:

- a.** Sample assignment schedule;
- b.** Employee handbook;
- c.** Policy on Working time directive (unless included in the employment contract);

Documentation required: Please provide copies of the above as required. Such documentation should be readily available/accessible to employees.

### A12.

Do you have a process or any standard documents to deal with the following:

- a.** When an employee is taking annual leave;
- b.** When an employee is unavailable to work through sickness, maternity, paternity, adoption or shared parental leave;
- c.** Separately to issuing of a P45, you confirm in writing the last date of employment in accordance with either:  
the fixed term as set out in the employment contract; or  
the contractual notice period or any agreed waiver of the same if a shorter notice is agreed.
- d.** You confirm you pay any outstanding financial holiday entitlement where the employment ends, as part of the final payment.
- e.** Where holiday pay is accrued, you confirm that you supply the employee with access and visibility to their accrued holiday pay summary.
- f.** Where holiday pay is accrued, you confirm that you supply the employee with a summary detailing the accrued entitlement before paying the balance at termination of their employment.
- g.** If employment has already been terminated, you confirm that you provide a separate payment for all outstanding financial holiday entitlement

FCSA require supporting evidence in respect of the above and cross reference where appropriate.

**A13.**

- a.** Do your employees receive a statutory payslip?
- b.** Do your employee payslips meet the regulatory requirements introduced from April 2019 for them to include “where the amount of wages or salary varies by reference to time worked, the total number of hours workers in respect of the variable amount of wages or salary either as:
  - i) a single aggregate figure, or
  - ii) separate figures for different types of work or different rates of pay.”
- c.** Confirm that your reconciliation statement clearly shows:
  - Company receipts;
  - Company costs (including but not limited to; margin, employment costs with separate line for employers NI/ apprenticeship levy & employers pension, and any employer savings retained by the member on ErNIC or AL due to salary sacrifice/private pension);
  - Holiday Pay (amount accrued/retained);
  - PAYE ref (if on a separate sheet/page from general section).
- d.** Confirm that your payslip clearly shows:
  - Gross payment;
  - Hours/days worked (for each different type of work or rate of pay);
  - Holiday pay (applicable when paid out);
  - Taxable pay;
  - Niable pay;
  - Employee deductions (including any variable and/or fixed deductions from the gross amount stating the description of the deduction);
  - Net Pay;
  - Expenses;
  - Year to date figures (including Taxable pay, Niable pay, Tax & NI deductions).
- e.** Confirm that this General (shown on the payslip and/or reconciliation statement if separate pages) information is shown:
  - Company name & PAYE reference;
  - Employee details (name, address, NINO, employee number);
  - Pay date & pay period/s;
  - Holiday pay (Amount brought forward & Amount taken).

FCSA require a copy of a template statutory payslip.

**A14.**

Confirm the pay reconciliation you provide to the employee transparently show an itemised breakdown of all employer costs, including but not limited to Apprenticeship Levy?

**A15.**

Confirm the payslip or portal provided to employees displays the accrued holiday entitlement balance or if 'advanced' the amount is clearly visible on the payslip.

FCSA require a copy of a template payslip or other document made available. If the accrued holiday balance is not provided on the payslip, provide template document issued to employee to advise them of the accrued balance.

**A16.**

In advance of the anticipated termination date of the fixed term employment contract, do you have a process to:

- a.** check with the agency whether the assignment will end on the date envisaged; and
- b.** if necessary, obtain the employee's agreement to an extension of the fixed term employment contract?

# SECTION B

In the following section, FCSA outline their requirements for Members when making PAYE payments to Contractors.



**Chris Bryce**

**Chief Executive, FCSA**



## **SECTION B: PAYMENTS**

### **B1.**

Do you offer payments to or for the benefit of employees other than as employment income?

### **B2.**

Are all payments made to employees working in the UK subject to PAYE/NIC as required, e.g., under the Offshore Intermediary legislation?

### **B3.**

Are any transactions, funds or payments, or any part thereof, made or held outside the UK?

### **B4.**

Do you have a policy that all payments to employees are made into UK based bank accounts except in exceptional circumstances?

### **B5.**

Are dividends paid to the employees?

### **B6.**

Are any payments (save for authorised expenses and HMRC approved salary sacrifice payments such as childcare vouchers) made to employees free of tax and NIC?

### **B7.**

Is the statutory minimum wage always paid per hour to employees against signed timesheets irrespective of any other factors?

### **B8.**

Where the payments to employees are a mixture of expenses and wages and the wages would in themselves be below National Minimum Wage (NMW)/National Living Wage (NLW) levels, is the payment of expenses limited in any way?

**B9.**

Do you exclude the following payments made by workers from National Minimum Wage (NMW)/National Living Wage (NLW) calculations where required contractually or set out within an Employee Handbook:

- a.** Payments that shouldn't be included for the employer's own use or benefit, i.e., if the employer has paid for travel to work;
- b.** Items the worker has bought for the assignment and is not refunded for, i.e., tools, uniform, safety equipment;
- c.** tips, service charges and cover charges;
- d.** extra pay for working unsocial hours on a shift.

**B10.**

Is holiday pay at or above the minimum statutory level of days and calculated on the full taxable gross pay each pay period?

FCSA require evidence you have an appropriate process for the calculation and payment of holiday pay.

**B11.**

Is your holiday pay calculation set out within the employee's employment contract?

**B12.**

Do you provide for the accrual of holiday during periods of maternity, paternity, adoption, shared parental leave (or other family leave) and sickness absence?

Note: Holiday pay should be calculated based on the average of the worker's total remuneration (gross pay) in the previous 52 weeks. Any weeks in which no remuneration is payable by the employer have to be ignored and earlier weeks must be brought into the calculation. The FCSA's view (in line with DBT guidance) is that statutory payments such as SSP do not count as "remuneration", so any weeks in which statutory payments are paid should be ignored and earlier weeks must be brought into the calculation. The fixed term contract employer should fund this holiday pay as the employer.

FCSA require evidence that you have an appropriate process in place to accrue and then pay out the holiday balance. Including the process for advising the employee what they have accrued and their total balance. Please also provide a small sample of payslips/reconciliation statements evidencing that there is holiday accrued, whilst on a period of family leave or sickness absence.

**B13.**

Do you allow for 'advanced' holiday pay? If so, please explain.

**B14.**

If you do 'advance' holiday pay, is this shown as a separate item on the payslip?

FCSA require supporting evidence of request, payment made and also transparency of process and calculation in the contract i.e., weekly payslips alongside cross referenced section of Contract of Employment.

If the default position is accrued and 'advanced' holiday pay is allowed, the employee must give explicit instruction to evidence their request. You should also remind the employee of the need to take time off work in line with the Working Time Regulation.

**B15.**

Do you allow eligible employees who have completed the 12-week qualifying period:

- a.** to take paid time off to attend their own ante natal appointments
- b.** to take time off (which does not have to be paid) to accompany a pregnant woman to an ante natal appointment

Note: this is in accordance with the statutory requirements.

**B16.**

If an agency does not pay you for any reason when you have signed timesheets or completed electronic/timesheet portal equivalent, are your employees entitled to receive at least NMW on their normal pay day?

**B17.**

Do you operate and pay all statutory payments (e.g., SSP, SMP, SPP, PP, etc.) where the employee meets the minimum working requirement for eligibility during assignments?

FCSA require supporting evidence, i.e., small sample of payslips where operated in the last 3 months and associated assignment schedules to show if on assignment.

# SECTIONS C&D

As the employer, the FCSA Member is expected to hold and provide evidence of the relevant insurances they have in place for their employees, the contractors.



**Deborah Murphy**  
**Head of Operations, FCSA**

## **SECTION C: DISCIPLINARY**

### **C1.**

Confirm you are/would be the employer in any disciplinary/grievance situations and are/would be the employer in all Employment Tribunal matters.

If applicable, FCSA require anonymised evidence of such instances in last 12 months, including any ET claims where judgement was made against you.

## **SECTION D: INSURANCE**

### **D1.**

Confirm you hold the following insurances:

- a.** Professional indemnity; and
- b.** Employer's liability; and
- c.** Public liability covering both head office employees and employees on assignments.

FCSA require supporting evidence, certificates and full policies.

# SECTIONS E&F

FCSA expect Members to confirm and evidence the processes and system they have in place for operating workplace pensions and how they adhere to a matching permanent pay model.



**Deborah Murphy**  
**Head of Operations, FCSA**



## **SECTION E: PENSIONS ACT 2012**

### **E1.**

Do you operate a qualifying auto-enrolment pension scheme?

FCSA require copies of your duty start date, evidence of such a qualifying scheme and your most recent redeclaration.

### **E2.**

Confirm that where a pay illustration is provided, it makes it clear that it includes the financial implications of membership of the company's pension scheme or explicitly states that pension contributions have not been included in the pay illustration.

### **E3.**

- a.** Do you automatically enrol your employees into a workplace pension from the date they commenced?
- b.** Do you postpone the enrolment date for new starters and if so for how long?
- c.** Where employees are hired for less than 3 months do you postpone them for the entire period of the assignment?
- d.** If the assignment is extended and anticipated to exceed 3 months, what is your policy in respect of enrolling such workers?

### **E4.**

Confirm you pay at least the minimum pension contribution as required by law.

### **E5.**

Confirm your payments are paid across to the pension provider in good time.

FCSA require evidence of payments, if late, please provide an explanation.

### **E6.**

Confirm none of your processes or practices, including any financial illustration provided, would be considered as an inducement for employees to opt out of the pension scheme.

## **SECTION F: AWR**

### **F1.**

Please confirm you operate the 'match permanent pay' model on all employees? If not, please explain why.

### **F2.**

In operating 'match permanent pay':

- a.** Do you request/have a process to request comparator data for all assignments which last or are expected to last more than 12 weeks?
- b.** Do you request/have a process to request up to date comparator data at least every 12 months where an assignment lasts for more than 12 months?

FCSA require a sample of all letters/communications requesting comparator data, and your process for requesting data.

### **F3.**

When requesting comparator data, do you ask for the following?

- a.** Comparator salary;
- b.** Standard working hours and days per week;
- c.** Bonuses and any other relevant payments;
- d.** Annual leave entitlement;
- e.** Night work;
- f.** Rest periods; and
- g.** Rest breaks;

FCSA require a sample comparator request as supporting evidence of the above.

### **F4.**

When calculating the assignment rate for pay comparator purposes, do you exclude the employer pension, any non-client reimbursed expenses and the retained company margin (including Employers National Insurance, Health and Social Care Levy (from 06.04.2023) and Apprenticeship Levy where applicable)?

FCSA require your comparator pay calculation supporting the above.

### **F5.**

When comparing the assignment rate to the comparator rate, do you do so on a 'like for like' holiday basis, i.e., both rates either include holiday pay or exclude holiday pay?

FCSA require your comparator pay calculation supporting the above.

**F6.**

Do you advise the agency when the contract rate for the assignment is unacceptable?

Where the assignment rate does not match the pay comparator,, FCSA requires you to outline the procedures you follow with the employee and recruitment agency (or provide your process).

**F7.**

Do you recalculate matching permanent pay rates as per AWR where non-chargeable expenses have been paid to the worker?

# SECTIONS G-J

Expenses and VAT, and how they're handled, are a complex issue and FCSA's requirements in this area are designed to ease both the clarity of process and the roles of both the provider and their employees.



**Chris Bryce**

**Chief Executive, FCSA**

## **SECTION G: GENERAL EXPENSES**

### **G1.**

Confirm that for all allowable expense claims:

- a.** The expense has been incurred wholly, exclusively and necessarily in the course of performing employment duties
- b.** You have a receipt or, where not possible, in exceptional circumstances and in line with HMRC guideline, other sufficient evidence to prove the cost was incurred
- c.** All receipts are manually validated as a genuine receipt;
- d.** You only accept original or scanned receipts, not credit card receipts.
- e.** You only allow expenses to be claimed for periods covered by actual assignments;
- f.** You do not allow expenses to be claimed for future periods (even if covered by an assignment);
- g.** You have a system to ensure expense claims cannot be duplicated, e.g., by the submission of an original receipt and a scanned or credit card receipt for the same expense.
- h.** You confirm to the employee that the receipt should be sent to you for verification and also kept by the employee for audit purposes.
- i.** You adhere to all HMRC rules and guidelines, including but not limited to the 24 month rule and 40% rule.

FCSA require a copy of your expenses policy (include cross referencing).

### **G2.**

Confirm that when an employee claims for business mileage you:

- a.** Reimburse only tax-free mileage if it is at or below current HMRC approved mileage rates;
- b.** Verify the mileage claimed using a postcode checker or equivalent.
- c.** Require employees to submit VAT receipts to you in support of the claim.

### **G3.**

Confirm that you advise employees that if they are found to be falsifying expense claims they will face disciplinary action.

FCSA require supporting evidence, for example where potentially set out within your Expenses Policy, with appropriate cross referencing.

**G4.**

Confirm that with respect to valid claims (where the employee is entitled to make a claim) your systems ensure an employee does not claim for travel expenses on a day he/she did not work (i.e., have a valid timesheet for).

FCSA require a copy of your expenses policy (include cross referencing).

**G5.**

Confirm you ensure the employee is aware they must hold appropriate insurance to drive the vehicle in respect of business use.

**G6.**

Confirm that you only allow scale rates, where the expenses are separately billable/chargeable to the end client. In each case confirm you receive appropriate receipts to verify the expenditure has been incurred.

## **SECTION H: OTHER EXPENSE CATEGORIES**

**H1.**

- a.** Confirm the employee has accepted/signed their employment contract, expenses policy and expenses claim forms.
- b.** Confirm you only reimburse genuine business mileage claims, from the fixed term employment rate. All other expense claims must be billable/chargeable to the end client.

FCSA require a copy of your expenses policy.

**H2.**

Confirm that where expenses are billable/chargeable to the end client you always:

- a.** Collect the supporting receipt/evidence to prove the expense was incurred
- b.** Do not allow any claim that relates to the employee's commute (home to workplace or workplace to home) unless specifically allowed for under the agreement with the end client. This includes mileage from home to first work site and from last work site to home, any subsistence, any accommodation expenses or any other associated expenditure related to travel
- c.** Where claims are made for the employee's commute confirm that these amounts are subject to PAYE and NIC.
- d.** Confirm that you apply the correct VAT rate to the billable/chargeable expense line on the invoice.

FCSA require a copy of your expenses policy in relation to billable/chargeable.



### H3.

Confirm that where expenses are incurred for travel to one or multiple temporary workplaces you:

- a.** Do not allow any claim that relates to the employee's commute (home to permanent workplace and return to home) - this includes mileage, subsistence, any accommodation expenses or any other associated expenditure
- b.** Only allow mileage for these journeys and you deny any claims for related subsistence and accommodation expenditure, unless billable/chargeable to the end client
- c.** If the Employee is not travelling to multiple locations in any given day, then ensure detailed checks/processes are in place to ensure the workplace does not become permanent, including by monitoring the 40% rule.
- d.** Ensure that the end client is consistent across the temporary workplaces on the claim

FCSA require a copy of your expenses policy in relation to travelling to temporary workplaces/multiple sites.

### H4.

Confirm you only allow expense claims for subscriptions that appear on the HMRC approved list and are additional client billable expenses.

### H5.

Confirm that if you reimburse travel expenses to the UK for overseas employees, you only do so where there is a clear employment relationship established before the individual arrives in the UK and these are separately billable to the end client.

### H6.

Confirm that where you allow capital expenditure claims only where such claims are separately billable to the end client, and where you have a policy and signed agreement with the employee which sets out:

- a.** That permission must be obtained in advance of the capex purchase;
- b.** That any item must be for the purposes of the current assignment;
- c.** That the item is not for private use and any personal benefits gained will be minimal;
- d.** That the employee buys the item on behalf of the Employer and that it will remain the property of the company;
- e.** That the item is expected to be returned at the end of their employment;
- f.** That at the end of employment, a fair market price might be agreed to transfer ownership from the company to the employee.

**H7.**

Any reimbursed driver overnight allowances must be consistent with the amounts agreed between the RHA and HMRC and must only be reimbursed as client billable expenses that are not reimbursed out of the contracting rate.

**SECTION I: AUDITS****I1.**

Do you audit expense claims to ensure they are claimed in line with your expenses policy?

**I2.**

Are all expenses claims checked authorised prior to processing?

**I3.**

If not, is there a proportion of claims checked at the time – please stipulate the basis of the portion. Is this based on value or number of claims?

FCSA require a copy of your expense auditing policy and process.

**SECTION J: VAT****J1.**

Are any chargeable transactions to employees subject to VAT, e.g., same day CHAPS payments?

**J2.**

Do you operate the VAT flat rate scheme?

FCSA require the last 12 months of VAT returns to allow check whether Flat Rate VAT was/was not operated.

**J3.**

Do you include standard rate VAT on all invoices issued to UK agencies or other UK intermediaries or end clients regardless of any other factors?



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