



All-Party Parliamentary Loan Charge & Taxpayer Fairness Group

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1st November 2021

Dear Phil,

Thanks for your comprehensive reply to our letter dated 21st October about the change to the FCSA's Charter, regarding accredited members use of offshore arrangements.

Your letter is very helpful in explaining this and we commend you on having the courage to admit that the previous wording was unfortunate. It isn't often that organisations accept mistakes, in this case a poor choice of wording that inevitably led to the concern expressed by us and others, so your willingness to admit to this flawed wording is to your credit. The revised wording is indeed now clear and explicitly rules out any involvement in unacceptable offshore tax arrangements, so this is very welcome.

The one part of your letter that we must take issue with and challenge you over is where you state, in reference to our letter:

You refer to HMRC engaging umbrella companies that went onto offer 'disguised remuneration' schemes and suggest that HMRC only use FCSA companies. That is not the case. It is a matter for the HMRC to say whether they only use FCSA companies. I do not have that information and am not aware of that arrangement. But I can state that no FCSA company has worked with HMRC and offered any form of 'disguised remuneration' or indeed any form of non-compliant or unlawful arrangement. I regret that you have made that damaging statement before checking whether it has any basis in fact and having done so I would ask you to correct, publicly the inference you make within that paragraph of your letter or provide evidence to the contrary.

This is simply not accurate, factual or fair. We have not made any "damaging statement" or "inference". We have stated a fact (and an important one) and one that the FCSA need to respond to and assist with explaining.

Co-Chairs: Sammy Wilson MP, Greg Smith MP, Mohammad Yasin MP
Vice-Chairs: Baroness Kramer, Dr Lisa Cameron MP, Gerald Jones MP, Sarah Olney MP, Rushanara Ali MP

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Our letter to you stated:

HMRC, who themselves engage contractors, actually insist on any umbrella companies who are providers of such flexible workers being FCSA accredited, so the need for both explanation and reassurance is even more clear, especially in light of the fact that HMRC have suffered the embarrassment at it having been revealed that they have engaged and used contractors using 'disguised remuneration' schemes.

We stated that "HMRC, who themselves engage contractors, actually insist on any umbrella companies who are providers of such flexible workers being FCSA accredited". That is not the same as what you have said, where you say that we "suggest that HMRC only use FCSA companies". That is a different and wider point and one we did not make, so we ask you to correct that (as well as your incorrect suggestion, that we have said something inaccurate).

The point we made in our letter is based on what HMRC themselves have stated, in a [Freedom of Information request](#) (and one you will be familiar with due to HMRC's extraordinary error in referring to the statutory Financial Conduct Authority, when they meant the Freelance and Contractor services Association). These FOI requests and responses were covered in [our report on HMRC's use of contractors using DR schemes](#), published in February 2021.

In the FOI response they state:

"You have requested the number of contractors which have been paid through an umbrella company. I can advise that umbrella companies are known to be used by off payroll workers engaged by RCDTS via an intermediary and records show this to be the case for 110 engagements. In this scenario the contractors are required to use umbrella providers approved by the Financial Conduct Authority".

Aside from the fact that this HMRC officer wrongly stated that umbrella companies have to be approved by the Financial Conduct Authority (who have no such role), this was later explained to have been an error and that what was meant was that contractors who work for HMRC via an umbrella company are required to use umbrella providers approved by the FCSA. This therefore corroborates what we said in our letter.

The issue that remains, therefore, is how HMRC engaged and used contractors using DR schemes despite HMRC stipulating that contractors must only use FCSA umbrella companies (and you making clear that FCSA accredited companies do not operate or recommend any such schemes).

This is an important question and surely an opportunity for the FCSA to help explain why some HMRC contractors were using DR schemes, when HMRC are adamant that their contractors must only use FCSA accredited umbrella companies.

If no FCSA accredited member has been involved with DR schemes, then the reasons for the discovery of HMRC contractors using DR schemes must instead surely be that the contractor was using a non-FCSA accredited supplier (and HMRC did not properly check or the contractor gave false information to HMRC). It is important therefore for the FCSA – and for demonstrating that this was not a failure of FCSA accreditation – to seek to ascertain the reasons behind this situation and then help explain it.

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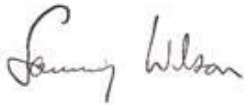
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We hope that you will assist in doing this, as far as it is possible to do so. We are also taking this issue up with HMRC, to see if they can reveal how this situation arose, when they clearly state that they insist on contractors who use umbrella companies using FCSA accredited umbrella companies and claim that this is properly checked, when contractors are engaged by HMRC. This should have avoided the embarrassing situation HMRC found themselves in, with contractors working for them using DR schemes, but it did not – so this does need looking into.

We look forward to hearing from you and, we hope, to assisting with this matter.

Yours sincerely,



Sammy Wilson MP
Co-Chair



Greg Smith MP
Co-Chair



Mohammad Yasin MP
Co-Chair

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