



All-Party Parliamentary Loan Charge & Taxpayer Fairness Group

www.loanchargeappg.co.uk

Jim Harra
Chief Executive and Permanent Secretary
HM Revenue and Customs
100 Parliament Street
London
SW1A 2BQ

24th January 2022

Dear Mr Harra,

We are writing following correspondence we have had with the Freelancer and Contractor Services Association (FCSA) and also information regarding HMRC's use of service contractors. This relates to the fact, as exposed through FOI responses (as addressed by us in previous correspondence), that HMRC have used contractors who used 'disguised remuneration schemes' whilst working for HMRC.

HMRC contradictory statements regarding HMRC use of FCSA accredited contractors

There is confusion on the part of HMRC as to whether or not it is the case that contractors who work for HMRC (or subsidiary RCDTSP) via umbrella companies are required to use an FCSA accredited umbrella company, or not. This is as a result of contradictory statements made by HMRC officials, something that is worrying and should not happen.

HMRC have stated, in a [Freedom of Information request](#) (bold added):

"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**".

The extraordinary error in the HMRC member of staff referring to the 'Financial Conduct Authority' was picked up and it was confirmed that this was meant to say, 'Freelancers and Contractors Services Association'. This statement (other than the extraordinary error, one that we have raised previously) uses the word 'required', clearly meaning that there is (or was) a requirement for contractors working for HMRC or RCTDS via an umbrella company to use an FCSA accredited one.

Yet in response to an [article in Contractor UK](#) (published 15th November 2021) an unnamed HMRC spokesperson' stated:

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

Office of Sammy Wilson MP, House of Commons, London, SW1A 0AA
contact@loanchargeappg.co.uk

“The choice to engage only umbrella companies that are FCSA-accredited is a choice made by our supplier. Therefore, HMRC is not endorsing the use of any particular association or body - or their viewpoint, or breaking any rules.”

These two statements, both made by HMRC members of staff and speaking on behalf of HMRC, are contradictory and cannot both be true.

Can you please clarify the position, so it is clear? You will I’m sure, want to do so, considering the inevitable confusion that now exists (please see the list of questions at the end of this letter).

If HMRC do not specify that they themselves require contractors supplied to them to use an FCSA accredited umbrella company (as was suggested in the FOI response) then do supplier or suppliers insist on this? (See the list of questions at the end of the letter).

Moving on to the reason why we raised this issue, this relates to the fact that HMRC and RCDTS, as you know, were found to have used contractors using disguised remuneration schemes, extraordinarily even after the Loan Charge was introduced and right up to July 2020. The FCSA are adamant that none of their accredited member companies operates disguised schemes, so we asked them how this could have happened, if HMRC only use FCSA accredited suppliers.

It is therefore vital, including from the FCSA’s point of view, to establish which of the two statements made by HMRC are officials are correct and if HMRC do only use contractors supplied by FCSA accredited companies.

HMRC policies and checks regarding contractors/service contractors

One wider point that still has not been satisfactorily answered, is how contractors have worked for HMRC/RCDTS using DR schemes, when HMRC claim to have a robust system of checks in place to prevent this.

In your reply, dated 29th April 2021, to the APPG’s original letter of 16th February 2021 on HMRC’s use of contractors using DR schemes you stated the following, in terms of checks (we have added the bold):

Contingent Workers

HMRC contracts with an agency that supplies individual contingent workers needed to fill specific roles in the Department on a temporary basis. While the contingent workers are engaged by the agency, their work is directed by the Department. **Our contractual relationship with the agency includes conditions regarding workers’ tax compliance.** HMRC conducts tax checks on both the agency (as it does with all of its suppliers and in line with Government Procurement regulations) and the individual contingent workers.

If, as you state, you impose strict conditions on suppliers regarding workers tax compliance, then how is it that one or more suppliers has supplied you with contractors who have been using

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

Office of Sammy Wilson MP, House of Commons, London, SW1A 0AA
contact@loanchargeappg.co.uk

arrangements you do not regard as compliant? There has clearly been a failure in the system and it is surely important for HMRC to identify this. If suppliers of contractors have been at fault, what action have you taken with regard to this? Or is the fault, the failure of HMRC's own checks?

When it comes to what HMRC calls 'service contractors' (workers engaged by a third-party provider) the checks are as follows, according to your letter of 29th April 2021:

Service Contractors

HMRC also contracts with organisations that supply a service to the Department. These suppliers are responsible for delivery and performance, and may use a combination of payroll and off-payroll workers to deliver their services. They are responsible for the lawful engagement of their own workers. These individuals are referred to as service contractors.

HMRC has extensive contractual arrangements in place to ensure the tax compliance of its suppliers. Our contractual relationship is with the supplier organisation, which is the direct focus of our commercial scrutiny rather than individual employees or any service contractors it may engage.

The question that arises, therefore, is what the 'extensive contractual arrangements' are and are they fit for purpose, considering the usage of DR schemes by service contractors working for HMRC/RCDTS (see below).

Service Contractors supplied to HMRC/RCDTS

We also note that in your previous response on the issue of HMRC using contractors using disguised remuneration schemes, you didn't give a direct answer to our question asking how many service contractors (contractors working via a third-party provider) have used a DR scheme whilst working for HMRC.

We asked in our letter of 16th February 2021:

Question 7: How many contractors in total do you estimate HMRC used that were using disguised remuneration schemes from December 2010 to 2020 (including those who worked via a service provider, such as Capgemini)? Overall, it is clearly many more people than the 15 identified so far by HMRC.

In your response of 29th April 2021 you replied by saying

"Our contingent worker checks do not extend to supplier organisations' workforces (Q7)".

You also state:

In addition to these organisation-level checks we have well-established processes that enable us to act on information received from the public and other sources which in turn may reveal

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

Office of Sammy Wilson MP, House of Commons, London, SW1A 0AA
contact@loanchargeappg.co.uk

individual cases of DR usage among our suppliers' contractors. This allowed us to identify scheme use by two contractors working for one of our suppliers concurrent with them doing work for HMRC.

It is possible that there will be more contractors who used DR while working for HMRC than the 15 cases currently identified (Q6, Q8).

It is notable that despite saying that HMRC doesn't do checks on service contractors (which surely, as the UK's tax authority, it should) that two such workers were identified as having used DR schemes. It must surely therefore be the case that HMRC could identify more. From the considerable evidence we have received, we know that there are indeed more than 15 contractors who used DR schemes whilst working HMRC. We have more than two submissions of service contractors working via third party providers.

We believe it is imperative that HMRC provides an updated and more accurate figure (or at least a estimate) of how many contractors, including service contractors, have used DR schemes whilst working for HMRC or RCDTS.

Points and questions to answer

Overall points and questions we are seeking answers to.

1. Please clarify whether or not HMRC do use only contractors supplied via FCSA accredited companies, or not and also explain the contradiction between the information in the FOI response and the recent statement from an HMRC spokesperson.
2. Do any suppliers of contractors/service contractors to HMRC/RCDTS (who supplied contractors/service contractors to HMRC since 2010) have or had policies that say they must only use FCSA accredited umbrella companies? If so, have HMRC insisted they do so?
3. Please provide a list of companies that have supplied contractors (direct and service contractors working through a third-party provider) to HMRC and RCDTS since 2010.
4. Please provide the conditions imposed on suppliers that have supplied HMRC and RCTDS contingent workers regarding workers (contractors) tax compliance since 2010.
5. Please provide details of the 'extensive contractual arrangements' that HMRC has with suppliers of service contractors and explain how despite these, there have been numerous service contractors who worked for HMRC/RCDTS using DR schemes.
6. Have HMRC taken any action against any suppliers of contractors/service contractors for the use of disguised remuneration schemes by those workers working for HMRC/RCDTS?
7. Have any firms lost contracts with HMRC/RCDTS or not been used again as a result of the use of disguised remuneration schemes by those workers working for HMRC/RCDTS?
8. Please provide a figure or a realistic estimate of many service contractors (contractors working via a third-party provider) used DR schemes whilst working for HMRC between 2010 and now?
9. Can you explain how, despite clearly stating that HMRC "conducts tax checks on both the agency (as it does with all of its suppliers and in line with Government Procurement

Co-Chairs: Sammy Wilson MP, Greg Smith MP, Mohammad Yasin MP

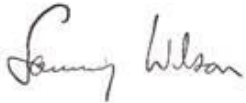
Vice-Chairs: Baroness Kramer, Dr Lisa Cameron MP, Gerald Jones MP, Sarah Olney MP, Rushanara Ali MP

Office of Sammy Wilson MP, House of Commons, London, SW1A 0AA
contact@loanchargeappg.co.uk

regulations) and the individual contingent workers” that there have been both contingent workers and service contractors working for HMRC using disguised remuneration schemes?
10. Have HMRC improved its system of checking to avoid this happening in future and if so, how?

We look forward to hearing from you.

Yours sincerely,



Sammy Wilson MP
Co-Chair



Greg Smith MP
Co-Chair



Mohammad Yasin MP
Co-Chair

Cc House of Lords Economic Affairs Committee/Finance Bill Sub-Committee
Treasury Select Committee

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

Office of Sammy Wilson MP, House of Commons, London, SW1A 0AA
contact@loanchargeappg.co.uk