

BBC Moneybox exposes FCSA umbrella accused of withholding £000's from contractors



An umbrella company holding Freelancer and Contractor Services Association (FCSA) membership has been accused of withholding thousands of pounds of holiday pay from contractors, BBC's Moneybox has revealed.

Broadcast last Saturday afternoon, [the BBC Radio 4 programme](#) spoke to an anonymised contractor who claimed that they had to threaten employment tribunal (ET) action before their umbrella company paid out holiday pay owed to them and multiple colleagues amounting to roughly £6,000 each.

Though dubious practices exhibited by some companies within the umbrella market are a known problem, this instance is noteworthy for the fact that the umbrella in question is accredited by the FCSA, a leading UK membership body dedicated to promoting supply chain compliance.

Speaking on BBC's Moneybox programme, ContractorCalculator CEO Dave Chaplin indicated that stricter enforcement by the FCSA is necessary to prevent further non-compliance: "They [the FCSA] have a lot of codes. You can have as many as you want, but if there's no actual enforcement of those codes then they're rather meaningless."

Contractor recounts umbrella holiday pay saga

Elements of the story shared with Moneybox by the contractor, who was given the pseudonym 'Steve' to protect their identity will, unfortunately, be all too familiar for many contingent workers.

Having previously provided services as a software developer via a limited company, Steve was forced by his client to resume his engagement via an umbrella company ahead of the extension of the Off-Payroll legislation to the private sector. The umbrella company was determined by the client.

Steve and his contracting colleagues were subject to a period of enforced mandatory leave by their client during the 2020 Christmas period and subsequently took their leave before the end of the year. Upon their return to work on 4 January, the contractors requested their holiday pay for the period of leave and were denied. The umbrella company argued that the claims weren't valid as they hadn't been made during the calendar year in which the leave was taken.

It was only when the contractors threatened ET action, having consulted their employee handbook, that the umbrella company agreed the circa £6,000 owed to everyone. Steve noted that the umbrella company issued no reminders encouraging him or his colleagues to claim their holiday pay on time.

FCSA urged to take decisive action

With the April 2021 extension of the Off-Payroll legislation to the private sector likely to result in tens of thousands more contractors being required to work through an umbrella model, the issue is particularly urgent.

Reiterating the points discussed on the programme, Chaplin has called on the FCSA to take swift and decisive action against the umbrella in question:

“Withholding thousands of pounds of what is rightly due to contractors, who had to threaten court action before the umbrella company in question paid out, is an utter disgrace. The FCSA must take the matter seriously, conduct an investigation independently of any of the companies, and expel the umbrella that has perpetrated this wrongdoing from their group.”

What can be done to prevent further abusive engagements?

Addressing the need to prevent similarly exploitative behaviour in future, Government efforts have clearly fallen flat. When asked about the impact of the new legal requirement for agencies to provide workers with Key Information Documents (KIDs), intended to tackle non-compliance through greater transparency, Chaplin told Moneybox:

“This became law in April 2020, and it's something the agency is supposed to give to the worker. But from [a survey of 3,000 contractors](#) that we recently conducted, 86% of respondents said they'd never even seen a Key Information Document. So once again, you can make the rule book and codes as big as you want but if there's no enforcement, it's meaningless.”

The responsibility for greater enforcement doesn't end with the Government, as it's clear that the [FCSA's code of compliance](#) for its members leaves plenty of room for improvement.

In reference to the organisation's 'code of compliance review', which is intended to assess and verify the practices undertaken by prospective or accredited members, the FCSA document notes: *'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.'*

Shortly thereafter, the code of compliance states: *'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.'*

“There is surely scope for this standard to be enhanced,” concludes Chaplin. “The FCSA standard on holiday pay clearly falls short, and it's codes are meaningless if not properly policed. Firms who use an umbrella company should conduct their own due diligence, and we would recommend asking for cast iron proof, not promises, that all payments have been made correctly via real-time transparent auditing.”

Published: 22 March 2021

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