



All-Party Parliamentary Loan Charge & Taxpayer Fairness Group

www.loanchargeappg.co.uk

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8th March 2022

Dear Chris,

We are writing to you again, about the two very significant issues affecting umbrella companies and workers who use them, namely the Smith versus Pimlico Plumbers ruling regarding holiday pay and the cyber-attacks on umbrella companies.

1. Smith versus Pimlico Plumbers – Holiday Pay

This ruling by the Civil Division of the Court of Appeal clearly has very significant implications for umbrella companies and their workers. We raised the issue of holiday pay being withheld by some umbrella companies in our [‘How Contracting Should Work’ Inquiry report in April 2021](#).

As you are aware, Gary Smith won the right to have holiday pay backdated. The ruling found that he was an employee and had the right to paid leave and that this right could be carried over.

We would be interested to know how this affects FCSA accredited companies and, if under the terms of this ruling, any of them are liable for backdated holiday pay.

It has been suggested in the media that some umbrella companies may be reliant on not paying holiday pay, as part of their business model. We hope this is not and has never been the case with any FCSA accredited firm and that the FCSA will help provide clarity on the implications of this ruling for both umbrella firms and workers who use them.

2. Cyber-attacks

We wish to express our further concern about the cyber-attacks on FCSA firms and the impact this is having on workers who use them. Our understanding is that these have not only caused delays to payments but have also led to leaks of confidential data that is inevitably causing serious worry amongst the many contractors who rely on FCSA firms.

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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We welcomed your previous response to our letter on this, where you said that the FCSA are currently investigating what you can do to ensure members take steps to harden their system security. We would welcome you keeping us informed of the progress of your investigation.

With regard to both of these important issues, we have the following questions, which we would be grateful if you could answer:

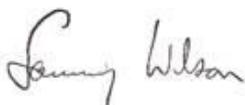
1. Have any FCSA member firms previously/historically withheld holiday pay from workers, when according to the Smith v Pimlico Plumbers ruling, they should have paid it to workers?
2. Will any/all FCSA members, under the terms of the Smith v Pimlico Plumbers ruling, be voluntarily paying holiday pay to workers concerned?
3. In the view of the FCSA, were cybersecurity systems adequate for the firms that have been subject to cyber-attacks? You will have seen some speculation online that in some cases, they may not have been.
4. In terms of data breaches, how many FCSA firms have had customers' data compromised/leaked and which firms?
5. What action is being taken by these firms, to establish the extent and nature of any leaks, to inform customers/workers and to resolve the arising issues?
6. What action is being taken by these firms to prevent any further attacks?
7. We note that one FCSA member firm has made clear publicly that they have not and will not deal with the cyber attackers, saying that they will not be "held to ransom". Do you know if this is a consistent position of all FCSA member firms and if it is, would all of them confirm this to their workers?
8. Can the FCSA give assurances that no FCSA firm has made any payments to the cyber attackers to resolve the issues/stop the attacks?
9. Has the FCSA issued any instructions or guidance to members or how to deal with these types of cyber-attacks?

We look forward to your response. To be clear, letters of this nature that we send are in the public domain and are published on our website, so your comments in your last letter were misplaced. We publish all such letters as they are sent. These issues are hugely important ones, especially to the many workers who work through FCSA member companies, so it is right that all correspondence with the FCSA on these issues is in the public domain and we will continue to ensure it is.

We welcome your offer to work with the APPG and also your comments on the Loan Charge and the need for HMRC to go after those who promote, operate and mis-sell tax avoidance schemes, rather than those who are mis-sold them. We welcome this engagement as well as hoping you can offer the information requested in this letter and some reassurances for the workers affected by the issues mentioned.

We look forward to hearing from you.

Yours sincerely,



Sammy Wilson MP
Co-Chair



Greg Smith MP
Co-Chair



Mohammad Yasin MP
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