



Security Industry Authority

Approved Contractor Scheme (ACS) Get Approved Clarifications

September 2019



Contents

| | |
|---|---|
| Contents | 2 |
| Purpose | 3 |
| Eligibility..... | 3 |
| Requirement: 2 licensable operatives | 3 |
| Requirement: supply individuals under contract..... | 5 |
| Requirement: contract in place for 12 months..... | 5 |
| Category of approval | 6 |
| Annual return | 6 |
| Fit and proper conditions | 7 |
| Identity | 7 |
| Financial probity | 7 |
| Integrity | 7 |
| Assessment | 8 |
| Related Documents | 8 |

Purpose

A breach of our ACS conditions may lead to withdrawal of ACS approval. However, we will seek to work with you to obtain conformance whenever this can be achieved without undermining the credibility of our ACS.

This document provides clarification and further information on ACS eligibility, and the fit and proper conditions set out in [Get Approved](#) (PDF, 416kb).

For clarity, some sections from Get Approved are duplicated below in **bold**.

Only those aspects of Get Approved that require further explanation are covered in this document.

Eligibility

Most businesses that provide licensable individuals under a contract to supply security industry services in the United Kingdom will be eligible to join the ACS.

Eligibility is based on the facts of a business, and so a business is either eligible or not, and in the main (see exceptions below) we do not expect to exercise any discretion in relation to this. There is no right of appeal in relation to the eligibility requirements as we are not making an approval decision in relation to eligibility. If we do not believe you are eligible, we will offer advice about what you need to do to become eligible, and/or give you the opportunity to provide further information.

If you applied for approval and/or were not approved prior to 1 April 2019, we will review your application against the new eligibility requirements prior to any approval decision being made. From 1 April 2019, we will only approve an applicant that meets our new eligibility requirements.

Requirement: 2 licensable operatives

Be a business that supplies at least 2 licensable operatives, under a contract for security industry services and in each of the sectors for which you are applying

The eligibility requirements apply at all times - at the time of application, approval decision, and throughout the approval period

Operatives do not need to be your direct employees but could be individuals supplied to you from other businesses e.g. as external labour resource.

There must be 2 licensable operatives for each of the sectors for which you seek approval, except where the same individuals are able to carry out the roles in all approved sectors.

Example 1:

You seek approval for 2 sectors: door supervision and security guarding:

- You could have 2 individuals, each licensed for door supervision, or
- You require 2 individuals licensed for security guarding, and 2 individuals licensed for door supervision

Example 2:

You seek approval for 2 sectors: security guarding and key holding:

- You require 2 individuals, with a front line licence, or
- You could have one individual with a security guarding licence and one individual with a non-front line licence

Example 3:

You seek approval for 2 sectors; door supervision and public space surveillance (CCTV):

- You require 2 individuals licensed for door supervision and 2 licensed individuals licensed for public space surveillance (CCTV)

You must be able to justify the need to supply 2 operatives, as opposed to one, to effectively service a contract.

Examples might include where it is in the interests of business continuity, and/or different customer requirements (e.g. different skill set for different roles).

We will not accept the following examples:

- i. It would not be acceptable for you to contrive the contracted hours/shifts between more than one licensable individual for the sole purpose of meeting the ACS eligibility requirement.
- ii. It would not be acceptable for you to deliberately employ multiple individuals for a minimum number of hours simply to stay below any National Insurance threshold, and/or to enable those individuals to continue to claim benefits.
- iii. A non-front-line licence holder, such as a director or manager, does not count as one of the 2 licensable operatives supplied under a contract for security industry services, except where they undertake keyholding.
- iv. A director or manager, that holds a front line licence, does not count as one of the 2 licensable operatives except where they are contracted to deliver front-line activities of a security operative under a contract for security industry services.

It is acceptable for you to sub-contract the work to another supplier. The eligibility requirements still apply, and you must demonstrate that you, through the sub-contract, are eligible.

It is acceptable for you to engage self-employed operatives where you can demonstrate they are legitimately self-employed (according to HMRC guidelines), or buy in labour from other suppliers, to deliver one or more of your customer contracts. The eligibility requirements still apply, and you must demonstrate, that you, whilst using self-employed operatives or externally supplied labour, are eligible.

Exceptions

- i. For approved contractors: the situation where you were previously eligible, but have since lost operatives or contracts. Please refer to [G024 Absence of designated security service contracts](#) (PDF, 90kb).

Note: this would not be acceptable for a new applicant.

- ii. We may consider a close protection officer or dog handler providing services as a single individual (only supplying themselves) to be eligible providing they can justify their approach, and otherwise meet our other eligibility requirements.

If you were approved prior to the new eligibility criteria coming to effect, but you are no longer eligible, we will take steps to withdraw your approval.

Requirement: supply individuals under contract

Supply licensable individuals under a contract for security industry services.

If you operate for the sole purpose of providing individuals to other businesses, [i.e. supply of one or more individual/s to another company to enable them to deliver their customer contract], you are not eligible to join the ACS. We refer to these types of business as labour providers. Labour provision does not fall within the scope of the ACS. See glossary in the [ACS self-assessment workbook](#) (PDF, 2,269kb) for a definition of labour provision.

Note: As an eligible security business, or an approved contractor, you may as part of your overall service, also operate as a labour provider. In this circumstance, you must be able to demonstrate that you meet our eligibility requirements for those aspects of the business that fall within the scope of the approved contractor scheme. The activity of providing labour falls outside the scope of ACS approval.

Requirement: contract in place for 12 months

Hold at least one current contract for the supply for security industry services;
and

Have been supplying security industry services for at least 12 months at the time of application.

Our eligibility requirements apply at all times - at the time of application, approval decision, and throughout the approval period.

You must be able to demonstrate that you hold a legitimate contract.

You must be able to demonstrate supplying security industry services for at least 12 months i.e. be able to provide evidence of having delivered security industry services under contract to a customer. Evidence might include documented customer confirmation, terms and conditions, timeframes, invoices for 12 months, corresponding payslips.

The services must have been continuous, although not necessarily with the same customer.

Evidence should include contracts covering the whole 12-month period.

Where a contract is terminated or comes to an end, and results in an absence of any service delivery, then the absence must be for no longer than:

- i. one month between contracts, or;
- ii. three months over the course of the year where there are successive contracts.

Regardless of whether (i) or (ii) applies, you must be able to demonstrate that any termination of the contract was not because of poor service.

Exceptions:

If you make an application and you do not meet our eligibility requirements your application will not be accepted other than in exceptional circumstances.

Exceptional circumstances include where you can demonstrate to us that it is in the public interest that your business should be an approved, and include the following scenarios:

- i. If you are an approved contractor, where you previously met this requirement, but have since lost all your contracts: In this circumstance, please refer to [G024 Absence of designated security service contracts](#) (PDF, 90kb). Note: this would not be acceptable for a new applicant
- ii. Mergers, acquisitions and buyouts that result in a new legal entity may be considered as an exception, including where two approved contractors merge to form a new legal entity.
- iii. If you were approved prior to the new eligibility requirements coming to effect, but have not been supplying security industry services for at least 12 months, you will continue to be approved providing you continue to meet all other requirements.
- iv. Where your business is a wholly owned subsidiary, and your approval is transferred to your parent organisation.

Note: these are foreseeable scenarios, the list is not exhaustive, nor does it mean we will accept them.

Category of approval

The head count, or number of licensable individuals you use to calculate the size of your business, should include all those you deploy, including those employed directly or indirectly (e.g. labour provided from other sources) and any legitimate self-employed individuals.

Annual return

This was previously referred to as annual reverification

Fit and proper conditions

Identity

Supporting information to be provided

If you are a subsidiary company, or a parent company with subsidiary companies that provide security industry services, you should provide a clear explanation of the company structure and the relationship between the different legal entities. An organisational chart is usually the simplest and clearest way to do this. We will seek to verify the information you provide, so it is important that the organisational relationships you describe reflect publically available information sources such as at Companies House or Experian.

If you have a different structure, e.g. you operate as a partnership or franchise/franchisee, then a description outlining how this operates and the relationship between relevant entities is required.

Financial probity

The SIA will take into consideration any relevant financial and other circumstances of the business and any of its controlling minds.

In doing this, we will take into account... Whether all licensable individuals supplied by the business are employees other than in exceptional circumstances.

Where you engage individuals as sole traders or self-employed, even if they are paying tax and national insurance (voluntarily, via a payroll or umbrella company), if the outcome of the HMRC Check Employment for Tax Tool (CEST) identifies that they should be employees, then we expect you to treat them as employees (see self-assessment workbook indicator 4.2.1), including ensuring that they benefit from full employment rights of an employee.

Exceptional circumstances: The presence of a contract setting out a sole-trader or any other relationship that is not consistent with actual practice, will not be considered as an exception. We will allow an exception only where the CEST outcome is consistent with actual practice.

Where we accept that there is legitimate use of a sole trader or self-employed individual, then we may require that individual to be an approved contractor, but we would consider this on a case by case basis.

Integrity

The SIA will take into consideration the integrity of the business and its controlling minds: In doing so, we will take into account... Any intelligence held which indicates the business or its controlling minds are not complying with the Private Security Industry Act 2001, any current or recent (within the last 12 months) compliance activity, enforcement action, and/or prosecution of the business or its controlling minds taken by the SIA, under the Private Security Industry Act 2001.

We will consider our current and previous action/s (whether disposed of or where sanctions are in force). Whilst these may not on their own be the basis for a refusal decision, they will give us an indication of the risk your business might pose, and this would inform our decisions.

Assessment

- You will be assessed against all self-assessment workbook indicators regardless of the 'assessment year' between 1 April 2019 and 31 March 2020. Thereafter, you will revert to the correct 'assessment year' from 31 March 2020.
- Mandatory indicators will change from 2019, although won't come into effect until 1 April 2020 as all approved contractors will have a full assessment between 1 April 2019-31 March 2020.
- New eligibility requirements, approval and additional conditions apply.

Related Documents

- The ACS Self-Assessment Workbook and other published guidance
- The ACS Licence Management Agreement