

Parish Council and Community Council Clerks PAYE Implementation

Please note that all references to Parish Councils also refer to Community Councils in Wales.

HM Revenue & Customs' previous guidance

Previous HM Revenue & Customs' (HMRC) guidance (EIM67320) on the tax treatment of payments made by Parish Councils to their Clerks indicated that it was acceptable for tax purposes for these payments to be made outside of a PAYE Scheme. This guidance was based on the premise that payments to Clerks fell below the PAYE tax threshold. HMRC is now aware that many Clerks earn in excess of the PAYE and National Insurance contributions thresholds. HMRC has therefore decided to issue new guidance on the tax treatment of parish clerks (see below). Guidance EIM67320 has been removed and should no longer be followed.

The correct Tax and NIC treatment of Parish Clerks

A Parish Clerk is an Office holder. All office holders are subject to PAYE. This means that Parish Clerks:

- can never be considered self employed for tax or NIC purposes
- must not be paid “gross”; and
- must be taxed under PAYE.

In the majority of cases the Parish Council needs to register with HMRC as an employer and operate PAYE on the income the Clerk earns. This is the same position as for any office or employment; there is no other acceptable tax treatment applicable to Parish Clerks. Any previous agreements with HMRC or the former Inland Revenue under which the Clerk was paid gross or was treated as self employed are void, as are any ‘inherited arrangements’ under which a Clerk’s income is not subjected to PAYE.

Where the Clerk has income from other sources (for example a pension or other employment) it is important to inform HMRC of this so that the correct tax code can be issued. For new employees you can do this by ticking the appropriate box on form P46. Further guidance on registering for PAYE is available on the HMRC website: www.hmrc.gov.uk/pay/intro/register.htm or via the New Employer Helpline on 0845 60 70 143.

Please note that HMRC guidance EIM67320 only covered tax, not National Insurance contributions (NIC). NIC must be paid by councils under PAYE where payments to clerks have exceeded the PAYE NIC Lower Earnings Limit.

Responsible Financial Officer

In many councils, the clerk will undertake the duties of the Responsible Financial Officer (RFO). However, in some councils, the RFO is a separate appointment. As an office holder, the RFO will be subject to the same tax and NIC rules as the clerk, so Councils should operate PAYE for tax and NIC purposes.

Moving forward

All Parish Councils must operate PAYE for both tax and NIC purposes on income they pay their Clerks (and RFOs). Checks will be made by HMRC to ascertain whether councils are operating PAYE on clerks (and RFOs) as required. These checks will be undertaken in the tax year commencing 6 April 2011.

What help can HMRC give Parish Councils with operating PAYE?

Information on registering for PAYE, including thresholds, can be found on HMRC's website: www.hmrc.gov.uk/payee/intro/register.htm

You can also call our New Employer Helpline on 0845 60 70 143.

Guidance regarding Clerks' expenses can be found in HMRC's online guidance at EIM67310 and EIM67315.

Details of what records need to be kept for PAYE can be found at www.hmrc.gov.uk/payee/payroll/day-to-day/records.htm