

Briefing Paper PAYE and the PCC



Who does this Briefing Paper apply to?

All Parochial Church Councils.

All PCCs are involved at some point in paying people, whether that is a regular salary, an honorarium, casual/infrequent or one-off payments, or as an agent.

Why is this Paper needed?

Changes in HMRC's *Local Religious Centre*¹ (LRC) guidelines and *Pay As You Earn* (PAYE) rules, caused partly by the introduction of the new *Universal Credit*² system by UK Government.

Recommendations

1. Each PCC should clearly identify which of the people they pay are their employees.
2. Where an individual's employment status is unclear, it is generally considered to be safer to presume that they are an employee for tax purposes.
3. If any PCC employee falls outside of the narrow LRC guidelines exemption, then the PCC should register as an employer and create a PAYE scheme.
4. Exclude all clergy from your PAYE scheme along with those who can clearly demonstrate that they are self-employed, or a contractor.

Please note that some of the guidance in this document is still under discussion at a national church level and may be subject to future amendment.

When implementing recommendation 1, particular roles for the PCC to watch out for are: Cleaners, Organists, Vergers and Groundsmen. If a Reader is accepting the allowable portion of the statutory fee for a funeral or wedding, then they too may be an employee.

There is no doubt that the question of an individual's employment status and its impact the local church can be a difficult and complex one. Within the churches of the Liverpool Diocese there are many variations and shades of employment, self-employment and volunteer support. While clear to some it can be unclear to others whether an individual is employed or not and thus whether a PAYE scheme is needed or not. The information and references supplied in this document have been provided to help our churches make an informed employment status determination.

¹ HMRC Guide to PAYE/NIC for Local Religious Centres (LRC)

http://www.hmrc.gov.uk/manuals/pommanual/attachments/lrc_guide_130501.doc

² <https://www.gov.uk/universal-credit>

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The Core Problem:

Is the person an employee?

The principle problem for each PCC is, 'Who are our employees and who is a contractor/self-employed or a volunteer?' A supplementary question is, 'Can the individual's income be classed/seen as Miscellaneous Income for self-assessment tax purposes, rather than a wage?'

While there is HMRC guidance in regard to voluntary workers who receive a remuneration that goes slightly beyond the simple reimbursement of their expenses not necessarily being liable for tax³, it must be noted that this guidance only applies if the volunteer is **not** an employee. And, as it is the church (the PCC) who arranges for 'volunteers' to clean the building, play the organ or act as a vergers, etc., it is the PCC's responsibility to also decide on the correct employment status for each of these people.

If a PCC assesses employment status incorrectly, that is they decide not to deduct income tax when they should have; it is the PCC who are ultimately liable for any unpaid income tax and National Insurance (NI) contributions, as well as HMRC's lost bank interest and any penalty's HMRC chooses to enforce. However, HMRC may, at their own discretion, collect an individual's unpaid tax directly instead of collecting it from the PCC.

If the PCC is directed to pay the missing income tax and NI, then they may recover it from the relevant individual. But, it should also be noted that there are clear time limits beyond which the PCC will have no claim on the individual and must bear the loss themselves.

Weddings, Funerals and Burials:

There are those who argue that because wedding and funeral service vergers and organists undertake these roles voluntarily, they are never employees of the PCC. Unfortunately this argument is weakened by the payments they receive going well beyond justifiable travel costs or subsistence.

PCCs should also note that asking a Funeral Director to bring a number of 'plain brown envelopes' (containing cash or a cheque) for each 'volunteer' is not relevant to the employment question, as Funeral Directors usually have no control over who will open up the church and act as the vergers, nor who will be playing the organ.

Self-employed:

Whether a person is employed by the PCC, or considered to be self-employed and thus running their own business, is not a matter of choice⁴; it is a matter of

³ EIM71100 – Voluntary organisations: unpaid office holders
<http://www.hmrc.gov.uk/manuals/eimanual/EIM71100.htm>

⁴ <http://www.hmrc.gov.uk/employment-status/index.htm>

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facts in reality. A series of factors which go beyond a simple written contract would need to be considered. One such factor would be if the individual has registered themselves for self-assessment tax and been assigned a UTR (Unique Taxation Reference number) by HMRC.

Please note that having a UTR does not, in itself, prove self-employment status, nor does its existence have any bearing on the legal determination of an employment relationship between the person and the PCC. However, it can be useful evidence for the PCC if they are required to demonstrate that they 'asked the question'.

Casual Workers/Employees:

If a PCC **only** has casual volunteer workers, receiving infrequent and very low levels of remuneration, then the PCC probably doesn't need a PAYE scheme. In this scenario the liability falls totally on the volunteer workers to declare their additional income to HMRC. Each worker would need to register for self-assessment with HMRC and complete a personal tax return each year.

However, as soon as the PCC has one employee which requires them to create a PAYE scheme, then all the PCC's casual workers/employees must also be included in this same scheme⁵. The one exception to this is retired or non-stipendiary clergy. Retired and non-stipendiary clergy are considered to be *Office Holders* and as such it can be argued that they are never employees of the PCC when officiating at a service. This said, any fee given to such clergy is taxable income and they **must** declare it to HMRC.

NB: If retired or non-stipendiary clergy ask to be part of a PCC's existing PAYE scheme, then they may be included.

In the case of a Reader who officiates at a funeral or burial, the question of 'who is their employer?' is less clear. What is clear is that where they choose to accept a portion of the statutory fee (from a funeral or burial), then this income is taxable and **must** be declared to HMRC.

At the PCC meeting:

Many of the discussions around PAYE at a PCC meeting will often revolve around whether the PCC can excuse themselves from needing to run a PAYE scheme. The reasoning behind this often focuses on hard pressed volunteer church officers, like treasurers, who are limited in their available time and skill sets. In response to this a few of points should be noted.

1. A PCC's PAYE scheme does not have to be administered by the treasurer. It is perfectly reasonable to make use of a third party, either from within the church's membership, or from outside of it, to administer the scheme.

⁵ HMRC Guide to PAYE/NIC for Local Religious Centres (LRC)
http://www.hmrc.gov.uk/manuals/pommanual/attachments/lrc_guide_130501.doc

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The treasurer only needs to know how much and to whom to make a cheque payable.

2. Where the PCC runs a PAYE scheme, then it follows that their 'volunteers' who are paid through this scheme may not need to organise self-assessment tax returns.

In all cases where an individual receives a fee originating from wedding, funeral, or burial services, this fee is taxable income and **must** be declared to HMRC at some point.

But on the Flip-side:

When making their decision, a PCC needs to be aware that an employee enjoys a number of employment rights that are not held by the self-employed, or a contactor (e.g. unfair dismissal, holiday/redundancy pay, etc.).

Also, while membership of a PCC's PAYE scheme does not automatically infer that an individual is an employee for employment legislation purposes, it would aid the argument for employee status if presented at an employment tribunal.

PAYE Options:

If the PCC finds it is required to create a PAYE Scheme, then there are three options available.

1. PAYE software run locally on a stand alone PC or laptop, which can connect to HMRC via the internet.
2. An internet PAYE application. The PAYE software resides on a provider's secure web server and the local church would only need web browser software to access it.
3. Third party PAYE services supplier. Information is sent to the supplier who would make all the required submissions to HMRC. Whether the supplier paid your employees directly, or just supplied information back to the PCC to make the necessary payments would form part of the supplier's contract.

The principle differences between the above three options are financial cost and administration time required.

Note: All HMRC approved PAYE software is free to use for nine or less employees and a list of approved software can be found on HMRC's website⁶ (options 1 & 2, above).

Third party suppliers will normally charge a fee from the first employee. Their exact charges and billing structure is likely to vary from supplier to supplier.

⁶ <http://www.hmrc.gov.uk/payerti/getting-started/payroll-system.htm>

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The Bottom Line:

If you pay anyone above the *Lower Earnings Limit*⁷, or anyone who already receives any type of pension, or anyone who has another job, and they are deemed to be your employee, then you must run a PAYE scheme.

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General Website Links:

HMRC -
<http://www.hmrc.gov.uk/>

Diocese of Liverpool -
<http://www.liverpool.anglican.org/payee/>

National Church of England guidance -
<http://www.parishresources.org.uk/people/payee/>

⁷ <http://www.hmrc.gov.uk/payerti/forms-updates/rates-thresholds.htm>