

# AUTHOR APPEARANCES GUIDANCE FOR COLLEGES AND UNIVERSITIES



Guidance for universities and colleges engaging self-employed authors for one-off appearances.

## 1. PAYMENT

As freelancers, whose expertise and wisdom you are seeking to engage, authors are entitled to fairly paid for any commissioned use of their time.

### a) Freelance status, tax and National Insurance

- (i) Most authors are self-employed (even where they invoice as a limited company) and a one-off engagement does not create a contract of employment. To quote the HMRC Employment Status Manual (section 4502): 'a visiting lecturer who gives a one-off talk or short series of talks on a subject about which he or she has specialist knowledge... is likely to be self-employed.'
- (ii) Neither tax nor NI should be deducted from the fee or expenses paid to a self-employed author.
- (iii) Universities and colleges are required to auto-enrol a freelance visiting writer if you meet the definition of a 'worker'. If relevant, the author should be able to opt out of such enrolment (and the engagement should not have any impact on e.g. a Teacher's Pension Scheme).
- (iv) Local authorities sometimes request 'proof' that an author is self-employed, even though our understanding is that no definitive form of proof exists. In any case, as a one-off engagement does not amount to employment, proof should not be necessary. We recommend that it should be deemed sufficient for authors to be asked to warrant that they are self-employed and give their tax reference number and tax office address.

### b) Reasons freelance authors should not be paid via the payroll

- (i) It is incorrect to do so.
- (ii) It will cause problems in terms of the author's tax return, and increase their risk of over-paying NI.
- (iii) Administrative complications can arise if payment is made via the payroll and it distinguishes between fees and expenses, so we advise that the author be paid a single 'total package' sum (even though it means they end up paying tax on their expenses).
- (iv) Payment via the payroll causes problems and confusion if the author is VAT-registered. It has proved very hard to get definitive guidance but our understanding is that if a self-employed author is paid via the payroll, the transaction falls outside the scope of VAT, and VAT should therefore not be added to either the fee or expenses.

### c) VAT

- (i) Check if the author is VAT-registered. If so, be aware that they are legally obliged to charge VAT on top of both their fee and expenses. It is not acceptable that the payment is deemed inclusive of VAT which would mean that, in return for undertaking the same work, VAT-registered authors are paid less than those who are not VAT-registered.
- (ii) A supply of private tuition is exempt from VAT provided it is a subject ordinarily taught in a school or university and is given by an individual teacher. Therefore, in theory, an

author who is a sole trader could qualify under this exemption - so long as HMRC accepts that they are in this context a teacher.

- (iii) If the author is VAT-registered but you are unwilling to add VAT to the cost of expenses the author has incurred, the problem can be solved if you and the author agree, in writing, that the author is incurring those costs on your behalf. They then pass the VAT invoice to you to allow you to deal with the VAT accounting, and you then reimburse the author for the amount which they expended (e.g. in buying a train ticket) on your behalf. For further information see <http://www.hmrc.gov.uk/vat>

## 2. RIGHTS

What rights are you seeking? If you wish to make a recording or podcast of the author's talk, or to publish or disseminate it more widely, that must be conditional on the author's consent from the outset. Authors may be unwilling to agree to such wider use e.g. if the presentation is one they use regularly or could quickly go out of date.

## 3. LEGAL REQUIREMENTS

### a) Public Liability Insurance

Authors visiting local authority-run schools should have professional liability insurance (PLI), and this is increasingly a requirement of other institutions. Authors can be referred to the SoA for further information on PLI. You should ensure that, in accordance with a condition of such insurance, the author will be accompanied at all times and will not be left alone with children under 18 or vulnerable adults.

### b) ID

If the author will be required to produce ID, clarify what is acceptable (especially if it has to be photo ID e.g. their picture on the cover of a book).

### c) Disclosure and Barring Service Clearance

There should be no request that the author has DBS (Disclosure and Barring Service, formerly CRB) clearance. It is needed only when there is 'Teaching, training or instruction of children, carried out by the same person frequently (once a week or more often), or on four or more days in a 30 day period, or Overnight'.

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