

# SoA GUIDANCE ON THE PAYMENT OF FREELANCERS 2024



This is an extract from the SoA's *Guide to engaging freelancers for speaking events*, available from the SoA on request.

## **a. Timing of payment**

Fees and expenses should be paid within 30 days from the author's invoice. And be aware that authors are legally entitled to interest if payments are late. On both these points, see <https://www.gov.uk/invoicing-and-taking-payment-from-customers/print>

## **b. Invoicing requirements - and avoiding unnecessary paperwork**

Agree your invoicing requirements at the time of engagement: whether the author should submit an invoice, what reference/identifier number they should use, to whom and where the invoice should be sent, and whether the author needs to supply receipts for expenses.

Form-filling and admin can be very time-consuming. Please keep paperwork requirements to a minimum. A one-off event should require no more from the author than an invoice. If an author has to deal with additional correspondence or form-filling in order to receive payment because the original terms were unclear, we would expect them to be paid for that time.

## **c. Freelance status, tax and National Insurance**

Most authors are self-employed (even when 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.' [gov.uk/hmrc-internal-manuals/employment-status-manual/esm4502](https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm4502). Neither tax nor NI should be deducted from the fee or expenses paid to a self-employed author.

Proof of the author's self-employed status should not be necessary (and our understanding is that no definitive form of proof actually exists). However, local authorities sometimes request proof, in which case it should be sufficient for authors to be asked to warrant that they are self-employed and to give their tax reference number.

Especially when it comes to school visits, freelance authors who do a great deal of work for a single local authority could be registered as a supplier with that authority, which can simplify the payment procedure.

#### **d. Why the author should not be paid via the payroll**

It is incorrect to do so. (And we would expect authors to be paid for any time and accountancy fees they incur sorting it out, if they are wrongly paid via the payroll.)

It causes problems with the author's tax return. It also causes problems if the author is VAT-registered because 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; but if the author is VAT-registered they are legally obliged to submit a VAT invoice, and that invoice should be paid. Complications can also arise if payment is made via the payroll and the author is paid a single 'total package' sum for fee plus expenses, as they will then have to pay tax on the expenses.

#### **e. Pension scheme auto-enrolment**

Some organisations are required to auto-enrol a visiting writer onto their pension scheme if the writer meets the definition of a 'worker'. A worker is defined by HMRC as 'any individual who works under a contract of employment (an employee) or has a contract to perform work or services personally and is not undertaking the work as part of their own business'. Self-employed authors, who are carrying out any such work as part of their profession, and not as part of an employment, do not fall within the definition of 'worker'. [gov.uk/employment-status/worker](http://gov.uk/employment-status/worker)

Even if an author meets the definition of 'worker', as a matter of law it is allowable to postpone auto enrolment for three months ([thepensionsregulator.gov.uk/postponement.aspx](http://thepensionsregulator.gov.uk/postponement.aspx)) so most authors should not be enrolled. If an author meets the definition of 'worker', and the period of engagement is over three months (a three-month postponement is written into most auto-enrolment schemes) they are still entitled to opt out of auto-enrolment if they so wish, and the engagement should not have any impact on e.g. the Teachers' Pension Scheme. [teacherspensions.co.uk/members/faqs.aspx](http://teacherspensions.co.uk/members/faqs.aspx)

#### **f. VAT**

If the author is VAT-registered, they are legally obliged to charge VAT on top of both their fee and expenses. Even if you cannot claim back the VAT, it is not acceptable that an author's payment be deemed inclusive of VAT. It would mean that, in return for undertaking the same work, VAT-registered authors are paid less than those who are not VAT-registered.

When it comes to expenses, if the author is VAT-registered but you are unable to reclaim the VAT in your tax return, the problem can be solved if you – rather than the author – make the booking and directly incur the expenses from the outset. (Or, considerably more cumbersome, see [www.hmrc.gov.uk/vat/managing/charging/reimbursements.htm](http://www.hmrc.gov.uk/vat/managing/charging/reimbursements.htm).)

Teaching rather than giving a talk: 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. So, in theory, an author who is a sole trader could in some instances qualify under this exemption - as long as HMRC accepts that they are in this context a teacher.

#### **g. Cancellation policy**

If you cancel the event, the author (who will have set aside the time, prepared their presentation) should be paid in full. If the booking is conditional, that and the size of any cancellation fee should be clarified at the outset e.g. if you cancel more than six weeks before the event, the author will be paid 50% of the agreed fee plus any out-of-pocket expenses already incurred.

If the author cancels, neither fee nor expenses would be payable. But if the author is unavoidably prevented from reaching you because of weather or travel-related incidents outside their control, we would expect them to be reimbursed for all pre-booked costs.