

## Review of Financial Policies and Procedures – Staff Expenses Policy 2020

<b>Purpose of paper</b>	This paper sets out the review of the staff expenses policy for Council approval.
<b>Status</b>	Public
<b>Action</b>	For decision
<b>Corporate Strategy 2016-19</b>	Performance - Objective 2: To improve our management of resources so that we become a more efficient regulator
<b>Business Plan 2018</b>	Not Applicable
<b>Decision Trail</b>	<p>Council last considered the GDCs staff expenses policy in December 2018.</p> <p>SLT discussed the staff expenses policy and the provision of a taxable benefit in relation to travel at its November 2019 meeting.</p> <p>The Finance and Performance Committee considered the staff expenses policy at their meeting in November 2019 and recommend it be submitted to Council for approval.</p>
<b>Next stage</b>	Not applicable
<b>Recommendations</b>	<p>The Council is asked to:</p> <ul style="list-style-type: none"> <li>• Consider the Staff Expenses Policy 2020.</li> <li>• Approve the Staff Expenses Policy 2020.</li> </ul>
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<b>Appendices</b>	<p>Annex 1 – Dual/Multiple Based Staff Flow Chart</p> <p>Annex 2 – Staff expenses policy 2020</p>

## **1. Executive Summary**

- 1.1. The financial policies and procedures are reviewed annually to ensure that all related policy documentation reflect the GDC's latest requirements, arrangements and controls, including correct terminology. They were last considered by Council December 2018. The financial policies are linked with the scheme of delegation.
- 1.2. In 2019, the Staff Expenses Policy was updated to reflect travel arrangements for dual office working. Travel between offices were not considered to be a taxable benefit at that stage as working in the alternative office was considered to be a temporary arrangement during transition of functions from London to Birmingham. There were no long-term plans for employees to have the need to operate regularly from both offices, and investment in remote enabling technology has been made.
- 1.3. This paper sets out information in relation to the taxable expenses as a result of operating dual sites for a small number of our employees and provides examples of where reimbursement of travel costs would be considered by HMRC to be the provision of a benefit to the employee.
- 1.4. This paper also provides information on the result of our benchmarking exercise with other healthcare regulators and recommends no change to our existing rates.
- 1.5. Council is asked to consider and approve the Staff Expenses Policy 2020.

## **2. Contracted place of work and taxable expenses**

- 2.1. A small number of GDC employee's roles require them to work away from their usual place of work in the alternative GDC office. Where this travel meets the following conditions, HMRC will consider that the individual has more than one permanent workplace:
  - Travel is frequent.
  - Travel follows a pattern.
  - Travel will be required for all or almost all of the period for which they hold or are likely to hold their employment.
- 2.2. The proportion of an employee's working time spent at a particular office is a factor in determining whether or not it is treated as a permanent workplace; but is not the only factor. Even if the employee attends the workplace for a small number of days a month, if the travel is regular then the workplace may still be considered a 'permanent workplace' under HMRC rules.
- 2.3. Where the GDC reimburses the costs of travel or overnight accommodation for employees required to work from a second permanent workplace, this will be considered the reimbursement of normal commuting costs and therefore the provision of a taxable benefit.
- 2.4. In 2019, the policy was updated to reflect travel arrangements for dual office working. Travel between offices was not considered to be a taxable benefit at that stage as working in the alternative office was a temporary arrangement during transition of functions from London to Birmingham. There were no long-term plans for employees to have the need to operate regularly from both offices, and investment in remote enabling technology has been made. This is in line with the current HMRC rules that allow for temporary arrangements for up to 2 years. Given the Estates Programme will close in January 2020 this will signify the end of the temporary period.
- 2.5. HMRC's 490 guidance – "Employee travel" provides further details around where travel qualifies for tax relief.

## **3. Where expenses would be considered a taxable benefit for the GDC**

### **Council Members and Associates**

- 3.1. We already apply the HMRC rules around the reimbursement of travel costs for our Council Members and a small group of other Associates that have previously been determined to meet the "employee" test by HRMC.

- 3.2. For these Council Members and Associates, the main duty of their role is to attend frequent meetings at GDC offices for which they travel to directly from home. Almost all the time they spend working for the GDC is operating from one of our offices and therefore the GDC offices are considered a permanent workplace and no tax relief in relation to their expenses is allowable.
- 3.3. By reimbursing their travelling costs we have provided a taxable benefit. We currently cover the cost of the tax and NI liability that is due via an annual PAYE Settlement Agreement return. As such we do not issue annual P11d's.
- 3.4. It is worth noting that HMRC are reducing the use of PAYE Settlement Agreements and encouraging organisations to payroll benefits through their payroll systems. There is no obligation on HMRC to allow us to continue to settle taxable benefits in this way, and we re-agree this arrangement on an annual basis.

### **GDC Employees**

- 3.5. For the majority of GDC's employees their permanent workplace will be the usual place of work, (either London or Birmingham), as set out in their contract of employment. Travel from the employees' home to that permanent workplace is considered to be ordinary commuting which is not reimbursable from the GDC and where tax relief will not apply.
- 3.6. For the small number of GDC employees required to regularly work from their non contracted office the flow chart at appendix 1 (produced by the Government Finance Academy and endorsed by HMRC) shows the assessment process that would be considered in determining whether the employee is considered to have two permanent workplaces.
- 3.7. Within the flow chart, "temporary purpose" is a place where an employee goes there only to perform a task of limited duration (less than 24 months), even where the employee attends it regularly.
- 3.8. Using the flow chart as an assessment tool, 4 examples that might apply for the GDC are set out below:

#### **Example 1: Executive Director (taxable)**

An Executive Director contracted to the Wimpole Street office regularly visits the Colmore Square office 1 to 2 days a week to perform their contracted duties. As this travel is frequent, fits a permanent pattern and travel is in the normal performance of their role the Colmore Square office becomes a permanent workplace. Any expenses reimbursed by the GDC will be considered the provision of a taxable benefit.

#### **Example 2: People Partner (not taxable)**

A People Partner contracted to the Colmore Square office is asked to regularly travel to Wimpole Street for 1 to 2 days a week to perform their contracted duties over a period of 4 months due to a temporary increase in London recruitment. Although the travel is frequent and fits a pattern it is not a permanent requirement of their role as is expected to last less than 24 months. Therefore, the Wimpole Street office is a temporary workplace and the reimbursement of travel expenses by the GDC is not a provision of a taxable benefit.

#### **Example 3: SLT member 1 (not taxable)**

An SLT member contracted to the Wimpole Street office regularly visits the Colmore Square office 1 day every other month attend the Senior Leadership Team meeting. Whilst this travel fits a pattern, travel is not frequent and therefore the Colmore Square office would not be considered a permanent workplace and the reimbursement of travel expenses by the GDC is not a provision of a taxable benefit.

#### **Example 4: SLT member 2 (taxable)**

An SLT member contracted to the Colmore Square office regularly visits the Wimpole Street office 2-3 days every month to attend Senior Leadership Team, Council, Council Sub-committee and Programme Board meetings. As this travel is frequent, fits a permanent pattern and travel is

in the normal performance of their role the Wimpole Street office becomes a permanent workplace. Any expenses reimbursed by the GDC will be the provision of a taxable benefit.

#### 4. Accounting for relevant tax and NI liabilities

4.1. There are two options in relation as to how to account for the relevant tax and NI liability:

4.1.0. Reimburse staff as usual for the cost of travel to the alternative office and declare this as a benefit on an annual P11D as liability not settled. It is then the responsibility of the employee to declare the benefit received to HMRC and make the relevant payment.

4.1.1. Meet the cost of the tax and NI liability on behalf of staff by “grossing up” expenses and paying them through the payroll. The cost of doing this would be variable as it would be based on the employee’s salary, tax code and NI code. However, for somebody on 40% tax band, this would be a cost of around an additional 28%; On a 20% tax band this would be additional cost of around 17%. Tax and NI are then deducted at source in line with HMRC’s guide on ‘payrolling benefits’. This would still need to be reported on a P11D for 2019/20 as we have not enrolled with HMRC to payroll benefits, but could be automated through the PAYE system in any new tax year by enrolling before the 5 April 2020

4.2. In line with our treatment for Council Members and Associates we are recommending that the GDC meets the cost of the Tax and National Insurance liability for the small number of staff that will meet the HMRC definition of having more than one permanent workplace.

4.3. Whilst the physical reimbursement of the tax and employee NI liability on behalf of the employee will be considered as taxable pay by HMRC, there will be no impact on net pay paid to the individual; Unless there is a percentage-based deduction for attachment of earnings being made from the monthly salary (e.g. student loan).

#### 5. Updated expenses policy

5.1. We have refreshed the benchmarking data and confirmed that the GDC do not appear to be disadvantaged relative to those of our healthcare sector peers. As such, not change to policy limits are being recommended.

	GDC	GMC	GOC	HCPC	GOsC	NMC	GCC
<b>Accommodation Costs (inc breakfast)</b>							
- In London (some overseas)	£180	£165	£150	£180	£150	£200	£160
- Manchester	-	£100	-		-	£200	£140
- Outside London (& other cities)	£125	£130	£120	£150	£120	£200	£140
<b>Breakfast</b>	£10	£10	-	£10	-	£10	£10
<b>Lunch</b>	£10	£10	£13	£10	£15	£10	£10
<b>Dinner</b>							
- London	£30	£30	£28	£25	£30	£30	£30
- Outside London	£30	£30	£28		£25	£30	£30
- fastfood / supermarket / takeaway		£15					

5.2. The draft staff expenses policy 2020 is included at annex 2 of this paper and has been track changed to incorporate further policy in line with the HRMC framework.

#### 6. Risks and considerations

##### Communications

Copies of the full policy documents will need to be made available to our employees (via the intranet) and associates.

For those employees caught by the ‘more than one permanent workplace’ HMRC rule, we will issue a communications pack to provide them all the necessary information they require around the tax arrangements, including where additional support is available.

<p><b>Equality and Diversity</b></p> <p>All policies have been reviewed to ensure consider equality and issues.</p>
<p><b>Legal</b></p> <p>The GDC is required to fully comply with the Public Procurement Regulations 2015 and HMRC legislation.</p>
<p><b>Policy</b></p> <p>No impact on policy.</p>
<p><b>Resources</b></p> <p>No cost implications from this decision.</p>
<p><b>National</b></p> <p>No national effect of this decision.</p>
<p><b>Risks on registers</b></p> <p>No links to risks on either the strategic or an operational risk register.</p>

## 7. Recommendations

- 7.1. Council is asked to consider and approve the Staff Expenses Policy 2020.

## 8. Appendices

- Annex 1 – Dual/Multiple Based Staff Flow Chart
- Annex 2 – Staff expenses policy 2020