

STAFF NOTICE 68
PROVISION OF MOBILE TELEPHONES/ COMMUNICATION
EQUIPMENT FOR BUSINESS USE AND REIMBURSEMENT FOR
PRIVATE USE

AIMED AT	ALL FC STAFF
DATED	9 November 2007
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1. Purpose

This notice outlines new requirements and guidance for:

- Ensuring that business phones and other communications equipment are provided only where they are needed to perform the job;
- Reimbursement for private use of business provided phones/equipment (applicable from **1 December 2007**);
- Ensuring that a tax benefit does not apply when providing business mobile phones and communications equipment;
- Approval for 'non standard' models of phones and other equipment.

2. Action

This guidance is **FC policy** and if it is applied correctly no tax charge will apply when equipment is provided to employees.

- Managers are required to apply the new guidance from 1 December 2007 onwards.
- Staff with business supplied equipment have a responsibility to monitor their own private use and reimburse for private use as per this **new guidance**.

Kim P. Lardge
Director of Human Resources
9 November
2007

Keith Gliddon
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STAFF NOTICE 68: PROVISION OF MOBILE TELEPHONES/ COMMUNICATION EQUIPMENT FOR BUSINESS USE AND REIMBURSEMENT FOR PRIVATE USE

1. INTRODUCTION

The revisions to this notice are introduced with effect from 1 December 2007 and result from:

- A review of current HM Revenue and Customs (HMRC) tax guidance;
- A contract review by Radio and Electronics in support of FC operational costs.

Guidance on conduct issues relating to the use of mobiles and related equipment for communication is contained in Staff Notice 74, which has been re-issued recently and is available on the HR Intranet.

2. PROVISION OF BUSINESS EQUIPMENT

Radio and Electronics provide a range of equipment for business use, including mobile phones, 'Blackberries', Data Cards, Personal Digital Assistants' etc.

It is the Commission's policy that the **primary purpose of any equipment provided to employees must be for business use and be necessary for the successful performance of the person's job**. As a civil service department, the FC has no policy of providing any equipment as a personal benefit.

It is FC policy that the use and provision of all equipment must reflect this '**primary purpose test**' and the tax guidance set out in **section 3**, which will avoid a tax charge arising.

HMRC's definition of a mobile phone covers anything that may be used to gain access to, or the use of, a public electronic communications service. This includes a connection, such as SIM card, provided independently of a mobile phone. The term 'mobile phone' refers to both free standing mobile telephones and to those fitted in cars, as well as the other equipment covered by the Revenue's categorisation.

Newer PDAs and Blackberries are no longer considered primarily as a mobile phone by HMRC because of the range of functions they provide. However, the tax guidance in 3. on business/private use applies to this type of equipment also, as well as to laptops with a datacard.

3. HMRC GUIDANCE: TAX POSITION WHEN PROVIDING BUSINESS EQUIPMENT

In general, **the tax position** when providing a mobile phone or other equipment to employees is that a tax charge (taxable benefit) will **not** arise where:

- The equipment is provided for the sole purpose of enabling the employee to perform the duties of their employment; **and**
- The employee does actually use the equipment to perform their job; **and**
- Any use by the employee for private purposes is **not significant**.

HMRC defines '**use for private purposes**' as any use that is not related to performing the duties of the employment.

HMRC does **not** define what amounts to 'not significant' in relation to private use. It is not decided purely on the time spent on the different uses of the equipment for work and private purposes. It is considered in the context of the employee's duties and the necessity for the employee to have the equipment provided to carry out their job.

If the employee is provided with more than one item, and provided the provision and use of each item meets the criteria above, the equipment will be exempted from a tax charge.

Key Point

- **FC equipment will only be provided where it is essential to carry out the duties of the person's employment. Applied correctly by managers, and provided private use is insignificant, tax will not be due.**

4. COST CENTRE MANAGER (CCM) RESPONSIBILITIES

CCMs are responsible for deciding when equipment needs to be provided to an employee because it is essential to perform the job.

The range of equipment provided by REB is chosen because it is compatible with FC systems. From **1 December 2007**, CCMs should refuse any request by an employee for 'non-standard' equipment unless it can be clearly shown that it is essential for performance of the job. REB will scrutinise any request for non-standard equipment and ensure that the CCM has provided clear justification for it. Information on the standard range of equipment is available by clicking [here](#).

[Radio & Electronics eConnect site.](#)

The need for and the actual use of the equipment by the person may need to be reviewed from time to time, particularly where he/she changes jobs or where the duties change. Requests for upgrades to equipment, which ought to be rare, should be assessed in terms of job need and approved by the CCM.

Where the balance of personal use and business use suggests that the equipment is not necessary for the performance of the job or for Health and Safety reasons (such as lone working), the presumption is that the equipment will be withdrawn by the CCM. Otherwise, a tax charge is likely to apply. The FC has no policy for providing any FC equipment as a personal benefit.

The CCM is also responsible for ensuring that the FC's reimbursement policy on private calls is followed (see section 6) and for ensuring that their staff use the equipment in line with FC conduct and security code (Staff Notice 74). Serious breaches of this code must be referred to senior managers for possible disciplinary action.

Key Point

- **CCMs and other managers will decide if equipment is essential for the employee to carry out their role, provide it if that is the case, and from time to time review use, including the relative proportions of business/private usage.**

5. EMPLOYEE RESPONSIBILITY: USE/SECURITY OF EQUIPMENT

Mobile phones and other communications/IT equipment provided by the FC are issued for the essential performance of your job and the efficiency of the business. Requests to upgrade or have new equipment must always be discussed with and approved by your CCM.

Theft, damage to and loss of equipment must be reported to REB and your manager. Failure to properly secure such equipment or to manage or use the equipment recklessly leading to loss, improper use or damage will be treated as potential misconduct (PM4). Other conduct issues relating to the improper use of any equipment for communications or Internet access is covered in Staff Notice 74.

FC equipment provided to you must not be used by anyone else (such as friends or family) for non-business use. If you allow such use, or such use results from your negligence, you will be subject to disciplinary action.

It is expressly forbidden to download ring-tones and other non-FC applications in order to "personalise" a phone.

Generally, it would be exceptional to take FC business phones/equipment on holiday, given the health and safety factors outlined below. Managers may approve such use overseas only where it is essential that the employee will have to be contacted by the business during the time away.

Key Point

- **Individuals are responsible for the security and proper use of equipment provided. Breaches amounting to misconduct will be subject to disciplinary action.**

6. HEALTH AND SAFETY

Cost Centre and Line Managers, on behalf of the FC, have a legal responsibility for the health, safety and welfare of their staff. Managers should not pressurise staff to be 'on call' whilst on leave, via a business phone/equipment, since this may compromise their duty of care to that employee.

Holidays (for rest) are a statutory right and essential for the health and well being of individuals. Individuals who habitually remain in contact with their workplace whilst on holiday should be discouraged from doing so.

Key Point

- **Managers are responsible for the health and safety of their staff in the way that equipment is used.**

7. REIMBURSEMENT FOR PRIVATE USE

The Commission allows reasonable, limited 'free' private use of mobile phones, Blackberries and Data cards for private calls/texts messages and internet access provided the equipment has met the 'primary purpose test' of being essential to carry out the duties of the role (see sections 2-3). This approach is in line with the FC policy for private use of desk based PCs and internet access.

Reimbursement Calculation for Private Use

New rates for reimbursement are being applied for personal use on or after **1 December 2007**. The long-standing 'free allowance' of £5 per month for private use will remain but has been converted into an 'allowance' of free minutes/texts each month.

Reimbursement from individuals for private use will be required as follows:

- Providing the use of mobile phones for private calls is restricted to no more than **100 minutes per month**, then no reimbursement for these calls will be required. If, however, you use more than 100 minutes per month, all the additional minutes must be reimbursed to the FC at the new rate of **20 pence per minute**;
- Providing the use of the short message service (SMS) is restricted to no more than **50 texts per month**, then no reimbursement will be required. If you send more than this each month, all additional texts are to be paid for at a new rate of **10 pence per text**.

A reimbursement handling charge of **£5** must be added to each quarterly reimbursement transaction in order to cover the FC administration/bill handling costs.

- **Guidance on what constitutes a private and business call/message: Annex 1.**
- **An example of a quarterly reimbursement calculation for private use: Annex 2.**

The use of Datacards for personal Internet access must comply with Staff Notice 74 guidance on use of equipment. All access to the Internet is via FC Firewall control and can be monitored for compliance with this. Significant use of the Datacard for Internet access must be investigated by CCMs using the exception reports and, where necessary, by requesting additional information from Radio and Electronics Branch.

Frequency of Reimbursement

Individuals are required to review their bills each quarter and arrange reimbursement if the limits for private use have been exceeded. Reimbursement must always be made in the same financial year that the charges are incurred.

You have responsibility for ensuring that reimbursement is made quarterly and more importantly, that your personal use remains reasonable and limited. Business equipment is not provided as a personal 'benefit'. In cases of high private use, your manager may review your use of the equipment to ensure that it is being used appropriately and is required for the business. Official phones are not designed to replace landlines or to provide a cheap alternative to personal mobiles.

For this reason, the cost centre may carry out any checks that it considers appropriate.

Exception Reporting

To assist cost centres, Radio and Electronics are developing improved 'exception reporting' to help managers. Cost centres will receive monthly reports that detail for each device:

Report 1: Cost Summary (Invoice detail for all devices registered to the Cost centre)

- Device
- Duration
- Number of calls
- Charges

Report 2: Most Frequent by Handset (Usage information detailed by handset)

- Number dialled
- Number of calls per number dialled
- Call destination (location or mobile)
- Duration of all calls to the number
- Type of call voice or SMS
- Data Volume (for Blackberries and Datacards)
- Charges

This information should enable managers and individuals to easily identify and record the number of voice calls, texts and data throughput and make the correct level of reimbursement where appropriate. Managers can request more detailed analysis from REB if required.

8. MONITORING

Monitoring of private use, such as phone numbers logged, is not routine, but analysis of costs and the use to which FC equipment is put will be carried out to ensure compliance.

Managers are required to ensure that the use of the equipment is legitimate and reasonable and that security is not being compromised. Any individual supplied with equipment must accept that some legitimate scrutiny of costs/usage will be carried out.

More systematic monitoring will be carried out when there is suspicion or evidence of misconduct, including improper use, such as contravention of this Notice or Staff Notice 74.

Data, including personal information, such as phone numbers and phone bills, must be stored securely to ensure compliance with the Data Protection Act. Guidance on the Act can be provided by Allan Dungavel, Corporate and Forestry Support.

Kim P. Lardge
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9 November 2007

Keith Gliddon
Director of Finance

ANNEX 1: WHAT IS 'PRIVATE' AND 'BUSINESS' USE?

All equipment provided by Radio and Electronics Branch is provided for the transaction of FC business. HMRC defines 'use for private purposes' as any use that is not related to performing the duties of the employment. As a simple test of what is 'business use' you should ask yourself the following:

- 'Does the business require me to communicate now? **OR**
- 'Does the communication concern travelling difficulties or delays encountered whilst on an official journey made to carry out Commission business?

If the answer to either question is NO then the call is a private one.

Private use includes:

- accepting or making a private reverse charge call;
- calls to your home to notify travelling difficulties/delays encountered during normal commuting journeys.

If the user makes use of the * symbol as the suffix for private calls, then these will appear as a separate entry on the report.

Emergency Calls

- Calls to emergency motoring services in the event of a breakdown during an official business journey are business calls. Such calls made during a private trip (including home/office travel) are private calls.

Calls to home by lone workers

- Under the terms of Health and Safety Memorandum 8, the use of mobile phones as an aid to lone working safety is permitted. Calls that are made as part of the Unit's Risk Assessments are 'business calls'. These can include situations where your home is designated by management to be the official reporting point, as part of the lone working procedure. (*N.B. the Lone Working procedure is currently under review by SH&E and REB*).
- Brief calls home of this kind will be regarded as a business call if your home is defined as a safety reporting point in a documented health and safety procedure. These calls can be itemised on bills as 'for safety reporting purposes'.
- Mobile phone users can also elect to have their welfare monitored through the Radio & Electronics Branch CRISYS system. Further information is provided on eConnect – Lone worker Safety System or by contacting Lynn Ford in REB.

ANNEX 2: EXAMPLE OF REIMBURSEMENT FOR PRIVATE USAGE

X makes use of his FC business phone for private use amounting to 150 minutes of calls and 75 SMS in the month.

Subtracting the 'allowances' per month for calls and texts, the balance to be reimbursed for private usage is for 50 minutes of calls and 25 texts:

$$(50 \text{ min} \times \text{£}0.20) + (25 \text{ SMS} \times \text{£}0.10) = \text{£}12.50$$

Hypothetically, if X incurred this amount for private use every month then his quarterly reimbursement would be:

$$(\text{£}12.50 \times 3) + \text{£}5.00 \text{ handling charge} = \text{£}42.50$$

Each single reimbursement transaction that the FC processes from you must include the £5 handling charge.

It is YOUR responsibility to calculate and make the correct reimbursement to the FC.