

Compliance Reform Forum 14 November 2012

Agent members

Chas Roy-Chowdhury	Association of Chartered and Certified Accountants
Con Kelly	Association of Accounting Technicians
Gary Ashford	Chartered Institute of Taxation
Tina Riches	Chartered Institute of Taxation
Bob Davies	Chartered Institute of Taxation
John Kimmer	Association of Taxation Technicians
Paul Hill	Association of Taxation Technicians
Jane Moore	Institute of Chartered Accountants in England & Wales
Andy Tall	Institute of Chartered Accountants in England & Wales
Samantha Mann	Chartered Institute of Payroll Professionals
Sue Cave	Federation of Small Businesses

HMRC members

Louise Boyle (Chair)	Enforcement & Compliance Change
Mark Leech	Enforcement & Compliance Change
Dave Stephens	Compliance Operational Policy & Guidance Unit
Guy Hooper	Tax Administration Policy
Michael O'Callaghan	Large Business Service
Jayne Banner	Local Compliance Change
Jenny Cowles	Agent Strategy & Engagement Team
Ralf Cook	Local Compliance
Jane Howard (Secretariat)	Local Compliance

Guests

Jennie Granger	Director General, Enforcement & Compliance
Graham Brammer	Director, Debt Management & Banking
Ian Young	Local Compliance, Business Records Checks
Jeremy Stretton	Enforcement & Compliance, Taskforces

Apologies

Jacqui Brennan (AAT)
Glenn Collins (ACCA)
Robert Maas (ICAEW)
Derek Allen (ICAS)
Pete Robson, HMRC Criminal Investigations
Michael McGourty, HMRC Specialist Investigations
Angela Asif, HMRC Risk & Intelligence

Welcome and introductions

1. Louise Boyle opened the meeting and introduced Samantha Mann as the new representative for the Chartered Institute of Payroll Professionals.

Last minutes and action points

2. The minutes of the meeting held on 5 July 2012 had been agreed and were now available on the HMRC internet.

3. The following issues arose:

AP1: A blank version of the temporary authorisation form for compliance checks can now be printed off. Agent members thanked HMRC for this but were concerned that HMRC is developing electronic forms which are not easy to use and overlook the need for agents to be able to partially complete forms on behalf of their clients. It is not possible to move from one page to another online without completing all the mandatory requirements of

the form. Agent members said they have raised this in several forums. HMRC will check how this issue is being dealt with. **(AP1)**

AP2: Agent members clarified the issue they had raised was about fee protection insurance rather than professional indemnity insurance and whether standard policies would cover business records checks. The CRF business records check sub-group will follow this up. **(AP2)**

4. Agent members asked for an update on the proposed new repayment risk system outlined at the previous meeting and whether the HMRC document 'A History of Powers' had been published yet. **(APs 3 and 4)**

Single compliance process (SCP)

5. The CRF SCP sub-group had provided a written update on the progress being made to introduce an improved compliance enquiry process for small and medium-sized businesses. The process is still being tested. Trial results continue to indicate that the process could reduce the customer burden of compliance checks.

6. Agent members flagged up a fundamental issue which has arisen over contact at the beginning of a check. Following the initial letter to the customer and their agent HMRC will telephone the customer to make an appointment. Agent representative bodies firmly believe that if HMRC hold a form 64-8 authorising an agent to act then the telephone call should be made to the agent not to the customer and have raised this within the SCP sub-group.

7. HMRC reassured agent members that this issue is being looked into by the project team. Agent members said they have objected all along to this approach and are very concerned that it is still part of the process. HMRC said the process is still being tested and more work will be done to evaluate the advantages and disadvantages of the current design taking into account the views of all stakeholders.

8. The single compliance process will not be fully rolled out until there is sufficient conclusive data in place to support its implementation. Agent members said it would be interesting to know in due course whether there is an increase in full and early disclosures at the beginning of a check as a result of the process. HMRC will find out whether this data is being collected. **(AP5)** HMRC invited any CRF agent members not directly involved with the CRF SCP sub-group to feed in comments to the sub-group.

Penalty information

9. HMRC provided updated information on the number of careless and deliberate behaviour cases which had incurred a penalty and the percentage of cases where penalties had been suspended.

10. Agent members noted the figures showed an increase in the number of deliberate behaviour cases and a decrease in the number of suspended cases. HMRC felt this reflected HMRC's increased efforts to tackle evasion and the growing confidence and familiarity of compliance staff in applying behaviour-based penalties as a result of HMRC's penalties training programme. In cases where a penalty applies compliance staff must complete a penalty decisions and actions checklist. This is an interactive tool to support penalty decisions and HMRC will let agent members have a demonstration of it. **(AP6)**

11. Agent members asked about the number of cases where a penalty did not arise. HMRC said this information was not available as cases where no penalty is charged are not entered on the penalty processing system. This is because there is no penalty to process. Agent members said it would be useful to have this information to help show that people who take every reasonable care to get their tax right are being treated fairly. HMRC said the penalty decisions and actions checklist together with a quality review

process will help managers to monitor that compliance staff are using and applying penalties fairly and consistently. Agent members strongly urged HMRC to reconsider recording the number of no penalty cases.

Dishonest tax agents

12. Legislation that will help HMRC tackle the small minority of dishonest tax agents is due to come into effect on 1 April 2013. HMRC provided a written update on the action being taken to prepare technical and operational guidance for HMRC staff to apply the new legislation. Agent representative bodies on the Joint Tax Agents Strategy Steering Group (JTASSG) have been involved in the development of the guidance. Revised versions have now been sent out for a wider second review. Comments from CRF agent bodies who were not already involved in JTASSG were welcome.

Business records checks (BRC)

13. BRC had been relaunched on 1 November 2012. They will be rolled out on a region by region basis by early 2013. HMRC thanked agent members for their input into the re-designed process. Their views and opinions had been invaluable, in particular in helping HMRC to identify what adequate business records should look like, and had helped HMRC to better target its BRC activities and to develop an enhanced process to encourage better record-keeping in the small to medium business sector. There are still some issues around penalty charges where HMRC and agent representative bodies have not reached agreement but, if necessary, these issues will be tested through the normal tribunal process in due course.

14. HMRC will closely monitor the re-designed process and provide CRF with an update once it has bedded in, probably in three-six months time.

15. CRF members agreed that, after a poor start, the BRC consultation process was a good example of HMRC and agent representative bodies working together and hoped it would form the model for future consultation.

Taskforces

16. HMRC provided more information about its Taskforce approach. It is part of the Government's £917 million spending review reinvestment to tackle tax evasion, avoidance and fraud which aims to raise an additional £7 billion per annum by 2014-15. Taskforces are specific projects which use appropriate intelligence and risk information gathered from internal and external sources to target high risk evaders in a clearly defined geographical location and industry sector. They involve teams from across HMRC and, if appropriate, external law enforcement and regulatory bodies, working closely together to carry out the full range of face to face compliance activity.

17. Benefits to date include over £50 million additional revenue expected to be collected from the first 12 projects, 30 cases being worked by criminal investigations teams and increased public awareness of HMRC's counter-evasion approach.

18. A national programme to raise more awareness about Taskforces has been launched across the HMRC/agent representative bodies Working Together network.

19. Agent members felt HMRC could benefit from more engagement with professional bodies and use their knowledge to help identify Taskforce activity. They also suggested that HMRC could enhance its media activity by providing more examples of what Taskforces are looking for and providing agent bodies with more notice about projects so agents can prepare supportive publicity.

20. HMRC agreed to let CRF agent members have more advance notice of planned Taskforces where it is able to do so and will consider the possibilities for engaging more with agent representative bodies about Taskforce activity. **(AP7)**

Evasion publicity

21. A new media campaign has been launched by HMRC to heighten evaders' unease. It is being funded out of the £917 million spending review investment. The campaign is aimed firmly at influencing customer behaviour and encouraging people to either disclose or register their tax affairs. It also seeks to reassure people who are already doing the right thing then there's nothing they need to do.

22. HMRC will share the results of the campaign with CRF in due course.

23. Agent members flagged up there were no links on the website at www.gov.uk/sortmytax to let people know where they can obtain tax and accountancy advice. HMRC will look into this. **(AP8)**

Debt management

24. Graham Brammer (GB), HMRC's head of Debt Management & Banking, outlined HMRC's debt strategy. HMRC expects people to pay their tax in full and on time. HMRC will:

- support payment on time, preventing new tax debt arising
- provide assistance to those in genuine difficulty where appropriate
- take faster and firmer action against those who fail to engage with the department

Around 96 per cent of people pay their tax in full on time. HMRC will continue to seek to make it easy for those people to do so. For those who do not pay on time or in full, HMRC are using more ways to collect outstanding amounts such as:

- specific campaigns targeting particular types of tax or groups of people by their behaviour
- using private sector debt collection agencies
- allowing viable individuals and businesses time to pay
- adopting a range of techniques from tax codes through to telephone negotiation teams through to insolvency action

25. Agent members raised a number of issues:

26. There is a perception that HMRC will only allow one time to pay arrangement. HMRC confirmed customers may be allowed further time to pay arrangements but it must be satisfied that the customer is solvent and able to make future payments. Time to pay is a temporary bridge not a long-term service to help people keep businesses afloat. GB will check whether Debt Management's guidance needs to be clearer on this point.

27. There have been problems involving Tribunal cases where time to pay arrangements have been cancelled but the customer has not been advised. GB said HMRC is entitled to cancel time to pay arrangements if a customer fails to keep to the terms but must advise the customer first in writing. He was not aware of any issues involving Tribunal cases but would check.

28. The treatment of dividends can be a hurdle in some time to pay cases. Requests for time to pay may be turned down if dividends have been paid in preference to leaving funds within the company. GB said each time to pay request will have its own unique set of circumstances but he will look to make sure staff have more guidance on this issue. He will also arrange for staff to be reminded that in husband and wife partnership cases both parties should receive written confirmation of time to pay agreements.

29. The language and tone of some of HMRC's demand letters can be harsh, frightening even, particularly in the case of pensioners or people who have made a

genuine mistake. Agent members were concerned that this could push some people towards taking out other loans to settle tax debts. GB said it was necessary for some letters to be clear about the consequences of continued non-compliance/non-engagement but he would look again at the wording of letters to check that they were fit for purpose.

30. HMRC's debt helplines and debt collection agencies have problems recognising agent authorisations. GB said HMRC is aware this is an issue and the Joint Service Delivery Group which has been set up to improve the end to end experience of dealing with HMRC is looking into this.

31. Guidance on HMRC's website about how to pay was useful but not well publicised.

32. Underpayments of tax as a result of the high income child benefit charge may increase debt recovery work because of the £3,000 limit on coding out underpayments. GB advised that the limits for coding out small debts are under review.

33. How to avoid unannounced doorstep collection activity coinciding with payments being made? GB said that from spring 2013 such instances should be rare because real time information will be available to the debt collector. In addition, HMRC may trial announced visits concerning debts which are outstanding as an alternative to the current model of unannounced visits.

34. Contacting HMRC about a tax demand or letter has improved. However there is still a lack of cohesion between HMRC debt teams and debt collection agencies dealing with different taxes and it is difficult to know who to contact. GB will look into this. The Federation of Small Businesses has carried out a survey and will share the results with GB.

35. HMRC flagged up that the HMRC/Agents Joint Initiative on Service Delivery will be focusing on debt management issues over the next few months starting with visits to agents premises in January 2013 to better understand any problems and consider where improvements can be made.

Record-keeping penalties

36. Following concerns expressed by agent representatives about how HMRC will apply the new record-keeping penalties, HMRC set out its view of the principles that must be applied:

- the test of what constitutes an inadequate record must be the same irrespective of the type of compliance check
- where inadequate records are identified as a result of a compliance check, the potential penalty tariff must be the same
- whatever the type of compliance check, the emphasis will be on sustained behaviour change so that all customers will have the opportunity to reduce penalties to nil by demonstrating a transition to adequate records

37. The principles will first apply to BRC. HMRC will work up a process for ensuring that they are subsequently applied consistently to all compliance checks. They will share their thinking with agent members via the CRF BRC sub-group for agent representative bodies to comment on.

Real time information (RTI)

38. HMRC outlined two potential compliance issues which may impact on the customer as a result of RTI – late filing and late payment penalties and Schedule 24 penalties for in-year inaccuracies. Penalties could arise for late full payment submissions, late payments or incorrect returns made during the course of a year under RTI. The more frequent filing obligations under RTI increase the potential for non-compliance and

penalties which could have an impact on employers. HMRC outlined how this is being taken forward and invited agent members to feedback via the RTI external stakeholder consultation group (the RTI Customer User Group).

39. Agent members were concerned that the paper provided by HMRC referred to Schedule 24 penalties being effective from 6 April 2013. This was earlier than agents had suggested, leaving no time for employers joining RTI after 5 April 2013 to get used to the new system. HMRC said the aim of the penalty was to encourage employers to send in accurate returns straight away. They will clarify the position.

40. Post meeting note:

- Under RTI, HMRC will continue to use a risk based approach to identify for compliance visits employers who we think may be submitting incorrect returns.
- Where we discover an error, the penalties that could apply will be based on the behaviour that led to the error, the amount of potential lost revenue for that return and the timing and extent of any disclosure as happens now.
- Errors that arise despite taking reasonable care attract no penalty at all and penalties for errors due to failure to take reasonable care can be reduced to zero with full and unprompted disclosure.
- Further guidance on the existing penalties for inaccurate returns is available at [Briefing on new tax penalties](#).
- There will be no change to the penalties for inaccuracies for the tax year 2012-13.
- Employers operating PAYE in real time in 2012-13 will not be charged a penalty in-year for inaccuracies on returns submitted. But penalties may be charged after the end of the tax year based on the final full payment submission (FPS).
- If an inaccuracy is discovered in FPS returns submitted during the tax year 2012-13, the employer will be asked by HMRC to correct the inaccuracy in the next FPS.
- For tax year 2013-14 an inaccuracy in any FPS submitted could attract a penalty under Schedule 24, Finance Act 2007 based on the amount of potential lost revenue for that return.
- We plan to introduce legislation in Finance Act 2013 to allow multiple penalties to be assessed together and communicated in one notice.

New HMRC Director General

41. Louise Boyle introduced Jennie Granger (JG), HMRC's new Director General for Enforcement & Compliance. Jennie joined HMRC in October 2012 from the Australian Tax Office where she was the Second Commissioner Law.

42. JG gave a short talk on her first impressions on joining HMRC and being in the UK. She is spending as much time as possible meeting staff, internal and external stakeholders to get a greater understanding of issues. She is keen to learn how customer and agent experience can help HMRC improve its services and processes and for HMRC to become even more transparent about what it does.

43. Agent members welcomed JG and looked forward to continuing to develop a more collaborative approach with HMRC.

Guidance on time to respond

44. HMRC will remind staff about the guidance on allowing agents more time to respond to requests for information between 1 December and 31 January.

CRF Fraud sub-group

45. HMRC has invited chartered and non-chartered organisations to nominate representatives for this new group and hopes to arrange the first meeting early in the new year.

Deliberate default guidance

46. Agent members who had volunteered earlier in the year to work with HMRC to help develop this guidance said they had heard nothing further. HMRC will check what is happening with this. **(AP9)**

Engagement with agent members

47. Following her appointment as chair of CRF, Louise Boyle has met with nearly all CRF agent members on a one to one basis. This has given her a better understanding of the members and the bodies they represent. She proposes to look at:

- what other external stakeholders should be represented on CRF
- how CRF interacts with the CRF sub-groups
- how to better share HMRC's strategic thinking on compliance issues

Next meeting

48. The next meeting will be on 27 February 2013. HMRC has invited Edward Troup, HMRC's Tax Assurance Commissioner, to attend. Potential agenda items included:

- an update on HMRC's strategic compliance approach and the compliance roadmap which HMRC shared with agent members in October 2011
- outcome of the first tranche of evasion publicity
- update on process to apply record-keeping penalties
- further opportunity for agent members to raise debt management issues which affect compliance activity

49. Agent members flagged up the following items for the agenda:

- what is happening under the GAAR (General Anti-Abuse Rule) consultation
- what HMRC is doing to improve its administration of the IR35 legislation

Action points	What
AP1	HMRC to check what action is being taken to meet agents' needs with online forms.
AP2	HMRC to speak to Association of British Insurers about fee protection insurance for business records checks.
AP3	HMRC to provide an update on proposed new repayment risk system.
AP4	HMRC to check progress on publication of 'A History of Powers'.
AP5	HMRC to check whether information about full and early disclosures is being collected as part of the single compliance process.
AP6	HMRC to arrange demonstration of penalty decision and action checklist for agent representatives.
AP7	HMRC to consider scope for consulting with agent representative bodies about taskforce activity.
AP8	HMRC to look into improving links to tax and accountancy advice on HMRC evasion website.
AP9	HMRC to check progress on deliberate default guidance.