

Minutes of the 87th JVCC meeting held on Thursday 18 April 2013

13:30-15:45 in Room 2/39,

100 Parliament Street, London SW1A 2BQ

1	Agenda Item 1 - introductions and apologies	Ian Stewart
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1.1 IS welcomed attendees, among them Helene Dinsdale attending her first JVCC meeting as representative of the One Hundred Group.

A list of attendees and apologies is at appendix A.

2	Agenda item 2 - minutes of the last meeting; review of action points; matters arising	Ian Stewart Jon Riley
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2.1 Minutes of the meeting of Monday 14 January had been agreed via correspondence and the final version would soon be published on the HMRC website.

2.2 There were no outstanding action points from the last meeting but, following on from the discussion on 14 January, IS encouraged members to continue to send in suggestions for ways in which HMRC could reduce tax administration costs to business. Action points from this meeting are in Appendix B.

3	Agenda item 3 - Implications of the Supreme Court judgment in Aimia Coalition Loyalty UK Ltd (formerly LMUK)	Jack Fletcher, Colin Scott Morton
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3.1 CSM explained that LMUK operated a loyalty points scheme. When customers purchased goods from retailers they were awarded points which could be redeemed on purchases from the same retailer or from other nominated suppliers of goods and services. Retailers paid LMUK for the points awarded to customers and LMUK in turn paid the nominated suppliers for the price of the goods or services redeemed by customers for their points. The matter in dispute before the courts was how to categorise, for VAT purposes, the payments made by LMUK to the nominated suppliers. LMUK's view was that these payments were for a supply of business services and as a result they were entitled to recover the VAT charged. HMRC's view

was that no VAT was recoverable, as this payment was a third party consideration by LMUK for a supply of goods or services to the final customer.

3.2 The case had progressed through the courts to the House of Lords from where it was referred to the ECJ. The ECJ found for HMRC in 2010 and the case was returned to the Supreme Court, which had now assumed the judicial functions of the House of Lords. On 13 March 2013 the Supreme Court handed down its judgment which found against HMRC by a 3-2 majority. Both parties were, however, invited to make written submissions on the form of the order to be made.

3.3 Although a final decision was awaited, IS said that HMRC were keen to bring this case to the attention of JVCC members and would issue further guidance once the Court's deliberations on both parties' submissions had been delivered.

4	Agenda item 4 - VAT Default Surcharge issue raised by the ICAEW	Lorn Morrison
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4.1 RC asked why, when Parliament had agreed in 2010 that the current VAT default surcharge system should be replaced, it was necessary for HMRC to carry out another cost/benefit analysis. If HMRC had taken the decision not to go ahead with the changes then a clear statement to this effect should be made and the legislation withdrawn.

4.2 LM said that the new rules legislated in Finance Act 2009 remained fit for purpose. The rules have already been applied across a number of regimes and a phased approach to their introduction had been acknowledged by HMRC Commissioners and Ministers. However, HMRC was looking at ways to minimise the impact and cost of the changes to existing IT systems and full implementation was unlikely before 2017/18.

4.3 RC replied that an indicative date of 2013/14 had been given for changes to the VAT default surcharge system. LM explained that when the original cost/benefit analysis had been undertaken the cost of making the changes had not been fully appreciated. Further evaluation was therefore necessary.

5	Agenda item 5 - Stakeholder Engagement: is the current level of engagement meeting your needs?	Lorn Morrison, Sally Robinson, Jill Hawkins
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5.1 IS explained that LM was leading a review for VAT on external engagement with key stakeholders. Feedback from stakeholders on aspects of the VAT regime, such as VAT law, guidance and processes, was important in helping HMRC identify where changes and improvements might be made.

5.2 The aim of this session was to establish what JVCC members wanted to get out of their engagement with HMRC; if the current level of engagement met their needs; what could HMRC be doing differently or better; and whether the frequency of the meetings needed to be looked at again. Attendees were split into 3 smaller groups - facilitated by LM, SR and JH - to discuss these themes and feedback from each group was captured and reported back when the meeting was reconvened in plenary.

5.3 A number of common themes emerged from the three discussion groups. On the question of whether the current level of engagement met the needs of members, JVCC was seen as a valuable vehicle for 2-way communication. It gave representative bodies the opportunity to express their views on various issues, to hear HMRC's view, and for both sides to work together to find solutions to policy or process issues that were causing difficulties for customers. JVCC was also a platform for early consultation on planned policy changes and provided members with an opportunity to input and to help HMRC better understand the impact on customers of the decisions they take.

5.4 It was agreed, however, that a refresh of the Terms of Reference of the JVCC would be welcome and that members should be co-opted to work with HMRC on a recast. There were a number of suggestions put forward about the composition of the agenda for each meeting. These included the possible addition of a standing item on service standards and a greater focus on the European VAT agenda. Members also said that they would welcome pre-reading material on any technical issues to be discussed, as well as the more timely circulation of draft minutes and regular updates on major litigation decisions and what HMRC plans to do next.

5.5 Among other things that JVCC members suggested HMRC could be doing differently or better were linking more closely with other HMRC VAT liaison groups, such as the Land & Property Liaison Group and the Finance Liaison Group.

Members agreed that it would be useful to see a list of the various liaison groups that exist, as well as the remit of each group and minutes of the meetings. The opportunity to feed into these groups as and when appropriate would also be useful. Consensus was that the JVCC should continue to meet every quarter but that HMRC should issue a yearly schedule of meetings so that members could get dates in diaries.

5.6 HMRC to take away the outputs from the three discussion groups and look in more detail at the suggestions put forward about where improvements in our engagement might be made. In the meantime, JVCC members interested in working with HMRC to re-draft the JVCC Terms of Reference were invited to contact JR.

5.7 IS thanked JVCC members for their valuable input. He said that HMRC found JVCC very useful and were keen to ensure the best use was made of the meetings.

6	Agenda item 6 - Alternative Dispute Resolution (ADR) in HMRC - update	David Croad, Glen Harling
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6.1 GH gave an update on ADR in large and complex. He explained that there had been two pilot phases: phase 1, from 2011-12, had looked at 15 cases, all of which had either now been settled or withdrawn; phase 2, 2012-13, had seen 20 cases resolved through ADR and 5 withdrawn from the process, with a further 43 still in progress. Cases were sourced both externally and internally and all were reviewed upon receipt by HMRC's Dispute Resolution Unit (DRU). Each case accepted for ADR was referred to one of 30 Centre for Effective Dispute Resolution (CEDR) trained facilitators. Cases deemed unsuitable by the DRU were reviewed by a high-level ADR panel. The panel alone was able to decide whether to reject any external requests for ADR.

6.2 Lessons learned from the second phase of the pilot included a recognition of the challenges that the ADR matrix model placed both on resources and the tracking and momentum of cases. In addition, issues were identified around HMRC's governance of VAT disputes.

6.3 In terms of next steps for ADR in large and complex, GH advised that a report on the pilot was expected to be published at the end of June. A business as usual model will also be developed and publicised, in conjunction with an refresh of the

guidance available on the HMRC website and closer working links with the ADR service for SMEs and individuals (SMEi).

6.4 DCr explained that there had also been a two-stage pilot for ADR for SMEi. Stage one, from February to September 2011, considered post appealable decision cases only, with participation in the pilot by invitation from HMRC. Stage two ran from January to November 2012, with customers and agents invited to apply online to use ADR.

6.5 Around 450 cases were put forward for ADR across both stages of the pilot, approximately half of which were VAT. 60% were either fully or partially resolved using ADR, with an average of 15 hours of HMRC time invested in each case. This compared to anything from 100 to 250 hours on cases going to Tribunal. Press coverage of ADR for SMEi had been overwhelmingly positive and the service had also been warmly welcomed by the Administrative Burdens Advisory Board. Most encouraging, however, was the buy-in from external and internal stakeholders alike. Findings from both pilot stages were presented in January 2013 and the decision was taken to move ADR for SMEi into business as usual in 2013-14.

6.6 While the pilot had focussed on fact rich disputes, such as effective date of registration, input tax recovery and VAT liability rulings, DCr said that the ambit of ADR SMEi is likely to be extended to cover the VAT DIY Builders Scheme and some Excise and Environmental Taxes. HMRC's ADR SMEi Team coverage will go nationwide in September. This will see the number of staff dealing with ADR SMEi cases double and an increased visibility at external stakeholder events, such as Working Together meetings.

6.7 ST commented that ADR was a useful tool for defining and agreeing the facts of a case. Even where a case cannot be resolved using ADR the process might help to sharpen the focus of any subsequent Tribunal hearing.

7	Agenda item 7 - Notifying HMRC and paying VAT on vehicles brought into the UK - update	Sally Beggs
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7.1 SB provided JVCC members with an update on the Notification of Vehicle Arrivals (NOVA) system which went live on 15 April. NOVA was a joint-initiative with the DVLA to prevent the evasion of VAT on road vehicles being brought into the UK, which costs the Exchequer around £110 million a year. Under the new system, all land vehicles brought permanently into the UK must be notified to HMRC within 14

days and VAT due paid or accounted for. Only once the DVLA has received confirmation from HMRC that the vehicle has been notified to them for VAT purposes will a person be able to register their vehicle.

7.2 There were some exceptions to the requirement to notify HMRC, such as vehicles covered by a DVLA secure registration system and holiday makers bringing their vehicle into the UK for no more than 6 months in a 12 month period. SB explained that more information about NOVA, including a full list of exceptions, could be found in VAT Information Sheet 06/13 and other guidance on the HMRC website.

8	Agenda item 8 - Any Other Business	
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8.1 HD asked about the current position on EU Commission proposals for a Quick Reaction Mechanism for VAT fraud. JR to raise this with HMRC and HM Treasury colleagues. [Post meeting note: an update on negotiations was sent to JVCC members on 17 June.]

8.2 RK and DC raised concerns about the user-friendliness of new PDF versions of some VAT registration forms. It was no longer possible to browse in its entirety a blank version of the form before completion and nor could a copy of the form be sent to clients for completion, as was previously the case.

AP1/13: JR to refer these issues to the HMRC Digital Services Team and report back to JVCC

8.3 RC asked about the timing of HMRC's April 2013 Enterprise Release and why more advance notice of the downtime for the VAT online service was not given. IS explained that it was necessary to schedule the April Release in the period after the Budget and before the start of the Income Tax year, to ensure HMRC systems were in line with legislation. A Comms Note was issued to JVCC members on 26 March, ahead of the 4 April start date for the Enterprise Release, but HMRC were looking at how communications could be improved in the future.

8.4 The date of the next meeting was confirmed as Thursday 1 August 2013.

Appendix A

JOINT VAT CONSULTATIVE COMMITTEE (JVCC)

(Meeting no 87)

Thursday 18 April 2013

13:30-15:45, Room 2/39

100 Parliament Street, London SW1A 2BQ

External Attendees

Casey Baird (CB)	Finance and Leasing Association
Dean Carey (DC)	Association of Chartered Certified Accountants
Rhiannon Churchill (RC)	Institute of Chartered Accountants in England and Wales
Helene Dinsdale (HD)	One Hundred Group
Leigh Francis (LF)	London & International Insurance Brokers Association
Robert Killington (RK)	VAT Practitioners Group
Alex Millar (AM)	Association of Accounting Technicians
Philip Peberdy (PP)	Confederation of British Industry
Martin Scammell (MS)	British Property Federation
Trevor Steel (TS)	Chartered Institute of Public Finance & Accountancy
Stephen Taylor (ST)	Association of Taxation Technicians

Apologies

Ruth Corkin	VAT Practitioners Group
Tony Jackson	The Chartered Institute of Taxation
Timothy Lloyd	Association of British Insurers
Alex McDougall	The Institute of Chartered Accountants of Scotland
Richard Sharp	The Chartered Institute of Management Accountants

HMRC/HMT Attendees

Ian Stewart (IS)	Director, Indirect Tax Directorate
Jon Riley (JR)	JVCC Secretary, Indirect Tax Directorate
Jack Fletcher (JF)	Indirect Tax Directorate
Colin Scott-Morton (CSM)	Indirect Tax Directorate
Lorn Morrison (LM)	Indirect Tax Directorate
Sally Robinson (SR)	Business Tax

Jill Hawkins (JH)	Business Customer and Strategy
David Croad (DCr)	Local Compliance
Glen Harling (GH)	Dispute Resolution Unit
Sally Beggs (SB)	Indirect Tax Directorate
Jonathan de Wilton (JdW)	HM Treasury

Appendix B

Current position on JVCC action points

AP ref	Detail	Current position
Action points from the meeting on 18 April 2013		
AP1/13	JR to refer concerns raised about the user-friendliness of some VAT registration forms to HMRC'S Digital Services Team and report back to JVCC	