

Compliance Reform Forum – Fraud sub-group Minutes of meeting held on 20 May 2014

Non-HMRC attendees:

Con Kelly	Association of Accounting Technicians
Arnold Homer	Association of Taxation Technicians
Margaret Curran	Chartered Institute of Taxation
Steve Botham	Chartered Institute of Taxation
John Cassidy	Institute of Chartered Accountants in England & Wales
Robert Maas	Institute of Chartered Accountants in England & Wales
Ian Browne	TaxAid
Gary Rowson	Tax Investigation Practitioners Group
Andrew Watt	Tax Investigation Practitioners Group
Harry Travers	Tax Investigation Practitioners Group

HMRC attendees:

Ralf Cook (Chair)	Local Compliance
Anne Aldridge	Local Compliance Fraud
Graham Ranson	Criminal Investigation Planning & Change
Hannah Wickstead	Compliance Operational Policy & Guidance
Jane Howard (Secretary)	Local Compliance

Guest attendees:

Kathryn Ellis	Criminal Investigation (Observer)
Iain Campbell	HMRC Repayment Fraud Strategy Delivery Unit
Jim Ferguson	HMRC Offshore Evasion Strategy Unit
Amit Puri	HMRC Offshore Evasion Strategy Unit

Welcome and apologies

1. Ralf Cook welcomed everyone to the meeting. He offered apologies on behalf of Chas Roy-Chowdhury for the Association of Chartered and Certified Accountants, Gary Ashford on behalf of Chartered Institute of Taxation and Duncan Gleig, HMRC Specialist Investigations.

Previous minutes and action points

2. The minutes of the previous meeting held on 21 January 2014 were available on the www.GOV.UK site.

Action point 1: HMRC confirmed that guidance had been published and learning was available for all compliance caseworkers to help ensure that behavioural penalties are recognised and applied consistently across the department. HMRC said tax agents should discuss any concerns with the caseworker before considering an appeal.

Action point 2: See paragraphs 11 and 12.

Action point 3: HMRC had provided the additional information requested so that agent representatives could consider an alternative form of wording for the CDF admission statement.

Contractual Disclosure Facility

3. CIOT had proposed that the current wording of the admission statement should be retained. The other agent representative bodies were broadly in agreement and HMRC said they would consider this. (Post meeting note: To reflect the Taxes Acts rather than criminal law, HMRC subsequently amended the admission statement from *"I admit that I have brought about a deliberate loss of tax through conduct which HMRC suspect to be fraudulent"* to *"I admit that my deliberate conduct has brought about a loss of tax"*. The removal of the words *"tax fraud"* did not alter HMRC's approach to tax fraud.)

4. HMRC expected a revised CDF process to be launched, with publicity, on 30 June. All the policy, process and ancillary documents would use consistent wording throughout. There would be a delay before an online version of the Outline Disclosure was available. The new guidance will make the terms of CDF clearer and people will have the option to either accept or reject the offer of a contract. There will be no “denial with cooperation route”. Only cases which stick strictly to the CDF contract will be guaranteed exemption from a criminal investigation by HMRC. Cases rejected or not accepted under the scheme will still be considered for criminal investigation. Any questions or queries about the new scheme should be referred through the CDF helpline, details of which will be on the HMRC website.

5. Agent representatives asked if they could see a copy of the revised documentation in draft. HMRC agreed to provide this but indicated there would be no scope for further consultation unless there was something fundamentally wrong. **AP1**

Coming clean on past errors

6. There was a discussion about the process available for people who do not accept they have committed tax fraud but wish to correct any tax errors. Agent representatives said that where CDF was turned down by a client or their disclosure was not acceptable to HMRC (because HMRC thought it was incomplete), it was unfair to leave people with the uncertainty of what might happen next. HMRC said once CDF has been offered, those who don't accept the offer are investigated under Code of Practice 9. This enables those with any sort of irregularities to make a disclosure but outside the CDF terms. HMRC does not ignore those who decline the offer and need to satisfy themselves that there has been no tax fraud. Currently those who deny the offer who are not subsequently criminally investigated receive a letter from the caseworker setting out what happens next and what the caseworker needs to review in order to allay HMRC's concerns. This will not change after June and a similar letter will be sent following a rejection of the offer. However, those outside of CDF are not afforded the protection of those who accept the offer.

Anti money laundering

7. CIOT proposed there should be one national body with responsibility for resolving issues rather than the current cross agency approach. HMRC said different agencies are responsible for different aspects depending on the type of fraud and whether there are other issues involved. HMRC is responsible for all supervisory aspects under the Money Laundering Regulations 2007. CIOT said they may pursue a submission to the Home Office for HMRC to have sole responsibility for cases involving tax fraud. They will formally consult with HMRC before doing so.

Repayment fraud strategy

8. HMRC outlined its approach to repayment fraud.

Offshore evasion strategy

9. HMRC referred to its update on offshore evasion strategy 'No safe havens' published in April. Under multi-lateral tax information sharing agreements, HMRC will have access to much more information in future about offshore accounts and assets and aims to get tougher with people who do not voluntarily disclose offshore income. HMRC will consult with tax agents and other organisations about the level and scope of its proposed new civil and criminal sanctions and what safeguards are required.

10. Agent representatives were particularly concerned about the plans to reverse the burden of proof, and give HMRC the power to only have to demonstrate that income is taxable and undeclared rather than, as now, there was an intention to evade tax. Potentially, they felt this could mean revenue fraud being dealt with differently from other types of fraud under criminal law. They will feed into the consultation process.

Fraud data

11. Agent representatives had asked for various statistics to compare the number of cases dealt with and yield obtained from CDF with the previous CIF (Civil Investigation of Fraud) process. They had also asked for an analysis of the type of criminal investigations.

12. HMRC said it was unable to provide all the information requested, either because it was not available or it would exceed Freedom of Information Act limits to do so. On the CDF/CIF process, it was difficult to draw any meaningful conclusions from the figures which were available, possibly because it was too soon to establish any trends. HMRC were looking at what figures could be made available publicly and would bring further data to a later Fraud Forum meeting.

Any other business

13. There was no other business.

Next meeting

14. 17 September 2014