

Compliance Reform Forum: Fraud sub-group Minutes of meeting held on 17 September 2014

Non-HMRC attendees:

Con Kelly	Association of Accounting Technicians
Arnold Homer	Association of Taxation Technicians
Gary Ashford	Chartered Institute of Taxation
Steve Botham	Chartered Institute of Taxation
Robert Maas	Institute of Chartered Accountants in England & Wales
Gary Rowson	Tax Investigation Practitioners Group
Andrew Watt	Tax Investigation Practitioners Group

HMRC attendees:

Ralf Cook (Chair)	Local Compliance
Ann Smith	Local Compliance Fraud
Graham Ranson	Criminal Investigation Planning & Change
Allyson Adams	Specialist Investigations
Hannah Wickstead	Compliance Operational Policy & Guidance
Jane Howard (Secretary)	Local Compliance

Guest attendees:

Chris Walker	HMRC Offshore Evasion Strategy Unit
Amit Puri	HMRC Offshore Evasion Strategy Unit
Muhammad Riaz	HMRC Debt Management & Banking (Observer)

Welcome and apologies

1. Ralf Cook welcomed everyone to the meeting. He offered apologies on behalf of Chas Roy-Chowdhury (Association of Chartered and Certified Accountants), John Cassidy (Institute of Chartered Accountants in England & Wales) and Ian Browne (TaxAid).

Previous minutes and action points

2. Jane Howard advised that the minutes of the previous meeting held on 20 May 2014 had been published on the GOV.UK site.

3. There was only one action point arising from that meeting which was that HMRC had agreed to let external attendees have a draft copy of the revised Contractual Disclosure Facility documentation before publication. HMRC had provided agent representatives with an advance version.

4. Arnold Homer flagged up a discrepancy in the revised documentation. He pointed out that the guidance notes state "If you accept our offer of the Contractual Disclosure Facility (CDF), you must admit that your deliberate conduct brought about a loss of tax". However, the CDF declaration states "Under the terms of the CDF, I confirm that my deliberate conduct has brought about a loss of tax". He asked HMRC to clarify whether customers were required to "admit" or to "confirm".

5. Post meeting note: HMRC subsequently confirmed that the declaration should say "admit" and will arrange for it to be amended. **AP1**

Coming clean on past errors

6. Agent representatives remain concerned that there is still no viable option to the CDF for customers who do not believe they have committed fraud but who do want to voluntarily co-operate with HMRC to put their tax affairs right. They wondered whether there was scope for such cases to be dealt with under HMRC's Code of Practice 8. HMRC agreed to look into this and provide further guidance about the purpose of Code of Practice 8 and how it links with Code of Practice 9. **AP2**

Code of Practice 9

7. Con Kelly was concerned that HMRC were now using Code of Practice 9 to target smaller businesses. HMRC said the de minimis limit used in Civil Investigation of Fraud cases under Code of Practice 9 had been removed under the new Contractual Disclosure Facility to allow all customers it suspects of fraud the opportunity to admit committing fraud and avoid a criminal investigation.

Offshore evasion

8. Chris Walker explained that HMRC is aiming to make more use of increased data sources to incentivise people with undeclared offshore income to come forward and to tackle those that do not with tougher sanctions. HMRC was currently consulting on two proposals; a new criminal offence and strengthening civil deterrents.

9. Agent representatives were concerned about how the new criminal offence would be applied and who to. They were worried that it would inadvertently capture people who had not deliberately set out to evade tax. HMRC assured attendees that safeguards will be built in to protect people. HMRC recognised the concerns about applying a strict liability criminal offence and that tax agents would need to know as soon as possible if their clients were at risk of prosecution so they could advise them to seek the appropriate legal advice.

10. Chris said HMRC want to make it clear who is in scope of the new offence. He reinforced that it is HMRC's aim to use the offence to tackle deliberate evasion.

11. On strengthening civil deterrents, agent representatives felt that the new sanctions set out in Options 3, 4 and 5 would not deter serial evaders/criminals but might discourage some people from coming forward. They also felt there should be a general disclosure facility for people who want to put their offshore tax affairs in order outside of any specific disclosure opportunities.

12. Agent representatives highlighted a particular need to be careful where inheritance tax was involved due to the practical difficulties often experienced by UK executors in administering an overseas estate.

13. Chris said HMRC was very keen to hear from agent representatives and encouraged people to participate in the consultation process. Separate meetings with several professional bodies had already been set up and he was happy to arrange meetings with any further bodies before the end of the consultation period which was 31 October 2014. HMRC will be looking very carefully at all the comments it receives. Its aim is to dissuade people from evading tax in the first place.

Repayment fraud strategy

14. HMRC said it would shortly be writing to agent representatives about its plan for strengthening its practices to combat repayment fraud. A copy of the strategy will be shared with Fraud Forum members and any concerns or issues can be fed back direct to the contacts given or through the Fraud Forum.

Review of meeting

15. Agent representatives asked HMRC to consider extending the scope of meetings to cover avoidance issues. **AP3**

Next meeting

16. This was to be arranged. As well as a discussion about Code of Practice 8 and more information for customers about how they can voluntarily bring their tax affairs up to date, agent representatives requested the following:

- an update on the Liechtenstein Disclosure Facility
- a report on the impact of the revised Contractual Disclosure Facility

17. Post meeting note: Next meeting 21 January 2015.

Summary of action points

Action points	What
AP1	HMRC to clarify use of "admit" and "confirm" on revised Contractual Disclosure Facility.
AP2	HMRC to clarify purpose of Code of Practice 8 and how it links with Code of Practice 9.
AP3	HMRC to consider whether remit of Fraud Forum should be expanded to include avoidance.