

Compliance Reform Forum – Fraud sub-group

Notes of meeting held on 21 January 2015

Non-HMRC attendees:

Con Kelly	Association of Accounting Technicians
Arnold Homer	Association of Taxation Technicians
Fiona Fernie	Institute of Chartered Accountants in England & Wales
Robert Maas	Institute of Chartered Accountants in England & Wales
Gary Rowson	Tax Investigation Practitioners Group
Harry Travers	Tax Investigation Practitioners Group
Ian Browne	TaxAid

HMRC attendees:

Ralf Cook (Chair)	Local Compliance
Graham Ranson	Criminal Investigation Planning & Change
Ged Wilkie	Local Compliance Fraud
Julian Scott	Local Compliance Fraud
Dave Elson	Specialist Investigations
Nick Brain	Compliance Operational Policy & Guidance
Jane Howard (Secretary)	Local Compliance

Guest attendees:

Simon Vincent	Criminal Investigation Planning Strategy & Policy
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Apologies:

Chas Roy-Chowdhury	Association of Chartered and Certified Accountants
Gary Ashford	Chartered Institute of Taxation
Steve Botham	Chartered Institute of Taxation
John Cassidy	Institute of Chartered Accountants in England & Wales
Andrew Watt	Tax Investigation Practitioners Group

Coming clean on past errors

1. Agent representatives sought clarification if it was possible for people who did not want to accept a Contractual Disclosure Facility (CDF) offer because they believed they had not committed fraud to co-operate with HMRC under Code of Practice 8. HMRC said the CDF offer is only made under Code of Practice 9. If someone does not want to admit to fraud, they should not accept the offer but that did not mean that anyone who rejected the offer would no longer be invited to engage with HMRC to resolve matters. However, they would not be able to do so under CDF terms. Code of Practice 8 is only applicable where HMRC has not used Code of Practice 9.
2. Agent representatives said this left them concerned that there was still no scope for customers accused of fraud to deny it but still co-operate with HMRC to put their tax affairs right under the safeguard that HMRC will not pursue a criminal investigation. They suggested this could lead some customers to wrongly admit to fraud to avoid a potential criminal investigation, with damaging consequences for people's reputation and careers. Or, someone who denied fraud could unintentionally end up providing information which could be used against them if HMRC subsequently pursued a criminal investigation.
3. HMRC reiterated that, in their view, people knew if they had deliberately taken action leading to a loss of tax. Agent representatives felt that the terms "deliberate behaviour" and "fraud" were becoming confused and for some clients there was a difference between the two. For example, clients may deliberately omit income from their return because they genuinely believe it should not be included. Such action, in their view, was not fraudulent. HMRC said if a person denied fraud and, if after completing their enquiries HMRC no longer suspected fraud, any inaccuracies would be

referred for further action to recover the tax, interest and appropriate penalties due.

4. Agent representatives still felt this left customers who believed they had not committed fraud but nevertheless wanted to make a voluntary disclosure with no quick and easy way to bring matters to a close. They pointed out that there was no space on the outline disclosure form for customers to provide their own explanation for any loss of tax. HMRC said they would look into this. Anyone who wanted to make use of such a space would need to be aware that they would be doing so outside the terms of the CDF.

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Code of Practice 9 work

5. HMRC advised that all Code of Practice 9 work will be brought together within its Specialist Investigations division from 1 April 2015. They believed bringing the work together will have significant benefits including:

- combining the strengths and skills of all of HMRC's civil fraud investigators to maintain high levels of expertise in this specialist work area
- simplifying the interface for customers and their representatives
- streamlining workflow and ensuring that it makes best use of investigation resources to tackle fraud

6. More detailed planning for the move is underway. HMRC said an extraordinary meeting of the Fraud Forum would be held at the end of February to discuss the move. There would also be an opportunity to discuss Code of Practice 9 issues generally.

Selection of Code of Practice 9 cases

7. Agent representatives outlined a number of scenarios where they believed HMRC should not have launched a COP9 enquiry taking into account the information available to HMRC at the time. A general discussion followed during which HMRC said COP9 enables it to deal with the underlying behaviours of people where they believe fraud might be involved. Cases are only taken up following a stringent process. Agent representatives were concerned that, in some cases, HMRC appears to have adopted a blanket approach rather than look at cases on an individual basis.

8. HMRC said it has an obligation to pursue any cases it suspects of fraud. If people genuinely believe they have not committed fraud, they have the opportunity to reject the offer of a Contractual Disclosure Facility.

Revenue Fraud leaflet

9. HMRC sought views on a draft leaflet it had shared with some accountancy and other professional bodies to raise awareness about fraud activity and help members of professional bodies discourage any clients thinking of taking part in such activity.

10. Agent representatives fed back that they felt the leaflet was too long and should focus more on why businesses should help HMRC to deter fraud rather than what HMRC has done to prevent it. HMRC thanked attendees for their helpful and constructive comments.

Next meeting

11. 20 May 2015.