



HM Revenue
& Customs

HMRC Penalties: a Discussion Document

Summary of Responses

17 September 2015

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1. Introduction

- 1.1. HMRC published HMRC Penalties: a Discussion Document on 2 February 2015. It sought views on how to change the way that penalties are applied as HMRC is transformed to deliver more digital services, based around our customers. The consultation closed on 11 May.
- 1.2. The Discussion document proposed five broad principles that HMRC consider should underpin any new penalty regime. These principles are:
 1. The penalty regime should be designed from the customer perspective, primarily to encourage compliance and prevent non-compliance. Penalties are not to be applied with the objective of raising revenues.
 2. Penalties should be proportionate to the offence and may take into account past behaviour.
 3. Penalties must be applied fairly, ensuring that compliant customers are (and are seen to be) in a better position than the non-compliant.
 4. Penalties must provide a credible threat. If there is a penalty, we must have the operational capability and capacity to raise it accurately, and if we raise it, we must be able to collect it in a cost-efficient manner.
 5. Customers should see a consistent and standardised approach. Variations will be those necessary to take into account customer behaviours and particular taxes.
- 1.3. The consultation generated a lot of interest and HMRC is very grateful to the 92 respondents who provided written responses (44 individuals, 15 representative bodies and 33 businesses) and the 10 stakeholders who shared their views at face to face consultation meetings.
- 1.4. Respondents were supportive of the early engagement on this potentially difficult subject, and all were in broad agreement with the five principles.
- 1.5. Many pointed out the potential tensions that exist between having a proportionate and fair system for individual taxpayers, whilst ensuring a consistent and standardised approach. There were differing views about the best overall penalty model with some favouring a greater use of interest in place of penalties, or suggesting adjustments to the current regime. Many were interested in exploring what the penalty model might look like.
- 1.6. Chapter 2 of this document sets out the questions posed in the discussion document and summarises the responses given, which included:
 - views expressed by almost all respondents that an ideal penalty system is one that is simple, flexible, proportionate, appropriate and tailored; a system in which penalties are only issued where they are deserved;
 - encouragement from over a third of respondents that HMRC should review its current approach to reasonable excuse and special reduction as hurdles to qualify are often too high to get over;

- views received from more than a quarter of respondents that decisions about behaviour and reductions for disclosure (both of which have a bearing on the amount of penalty charged) can be subjective, causing inconsistency in the application of penalties;
- concern expressed by a quarter of respondents that the VAT default surcharge produces very substantial penalties for comparatively trivial transgressions and does not differentiate between payments that are one day or several months late;
- general support for tailoring the penalty to take account of the customer's overall compliance position and to reflect the nature or seriousness of the non-compliance rather than applying penalties on a tax-by-tax basis; and
- general agreement that penalties for first-time offences should ordinarily be suspended, subject to conditions and supported by HMRC-provided education, to encourage future compliance.

1.7. Respondents also suggested changes which they considered could improve compliance including:

- issuing a warning letter (rather than a penalty) to first-time offenders;
- setting earlier deadlines for non-compliant individuals;
- staggering the due dates for returns and payments so that the return always falls due before the payment; and
- refunding penalties if compliance improves within a specified timeframe.

1.8. Chapter 3 provides more detail on how HMRC plans to take this work forward.

2. Responses

Overview of the discussion document

- 2.1. Chapter 1 of the discussion document explained that HMRC is reviewing how we serve our customers including exploring the way penalties are currently applied, given that the vast majority of customers meet their obligations in full and on time, and that penalties are only applied to a small minority.
- 2.2. The document set out HMRC's compliance strategy (Chapter 2) and HMRC's view of the role of penalties (Chapter 3). Chapter 4 set out concerns about current penalties and Chapter 5 set out five principles for a penalty system and made some suggestion about how penalties might be changed. Twelve questions were posed for discussion. In many cases respondents made the same points in respect of several questions. For conciseness these have been reflected once only in this document.

Question 1: To what extent are the concerns expressed above [Chapter 4] typical of actual situations?

Question 2: What do you consider to be the major areas of concern with our penalty regimes?

- 2.3. There was general agreement amongst almost 90% of respondents to the concerns raised in Chapter 4.
- 2.4. Respondents expressed similar views on proportionality and fairness in a variety of ways: "We agree that penalties must be seen to be fair and proportionate by taxpayers otherwise there will be serious adverse implications", and in negative terms "tax-geared penalties can be disproportionate for simple errors..."
- 2.5. While some recognised the £100 Self-Assessment (SA) late filing penalty as simple, clear, and effective in encouraging compliance (although daily penalties for further delay could be disproportionate) others questioned the proportionality of an automatic flat rate penalty which does not differentiate between a short, uncharacteristic period of delay, and a deliberate failure to file on time.
- 2.6. A quarter of respondents were concerned that the VAT default surcharge produces very substantial penalties for comparatively trivial transgressions and does not differentiate between payments that are one day or several months late.
- 2.7. One respondent considered penalties for late filing of Inheritance Tax accounts were disproportionate and suggested that the IHT deadlines should be aligned with ITSA.

HMRC's approach to penalties

- 2.8. Two respondents said that HMRC is too rigid in dismissing reasonable excuse claims, those decisions often being later overturned. One of these further commented that there should be greater use of Special Reduction where an error occurs due to ignorance.
- 2.9. There was consensus that, where evidence of previous compliance exists, suspending an initial penalty should be automatic and not conditional on the person admitting carelessness. Many thought that suspending late filing penalties would encourage compliance.
- 2.10. Over a third of respondents felt that HMRC should review its current approach to reasonable excuse and special reduction as hurdles to qualify are often too high to get over.
- 2.11. In dealing with error by otherwise compliant customers, one respondent suggested that inflexible rules allow little or no consideration of ability to pay, the business' position within the supply chain, the degree of risk, or the complexity of the issue. Some respondents considered that HMRC take a far too simplistic view of compliance, regarding an entity as either compliant or non-compliant. There should be lenience where the failure is minor – (e.g. failing to press 'submit' on the online form).
- 2.12. Over a quarter of respondents suggested that decisions on behaviour and reductions for disclosure can be subjective, causing inconsistency when applying penalties and the expenditure of considerable time on negotiations and disputes. Further training and guidance is needed and penalties for deliberate behaviour should be reviewed internally to achieve greater consistency.
- 2.13. Three respondents felt that HMRC does not treat individuals and businesses, or businesses of different sizes, equally. They also believed that HMRC relies on penalties to raise revenue and waits for customers to make a mistake so it can charge a penalty, rather than sending reminders to avoid the situation reaching that stage. HMRC's interpretation of "failure to take reasonable care" and "prompted disclosure" was thought to be weighted in HMRC's favour and it was said to be difficult to speak to HMRC or reverse decisions.

Understanding the customer

- 2.14. Three respondents said HMRC needs to understand why customers may accumulate huge penalties, and help them get things right. Examples included customers:
- relying on timely information being received from third parties over whom they have no influence;
 - lacking confidence;
 - being unaware when they are not complying;
 - feeling stressed by the fear of getting things wrong; and

- feeling frightened if they receive a penalty notice.
- 2.15. Four respondents suggested the penalty system does not drive good customer compliance where the customer does not understand their obligations or does not expect to be investigated.
- 2.16. One respondent commented that penalties rapidly accumulate when a business already has cash flow problems.

Suggestions

- 2.17. Suggestions were:
- an enhanced role for interest as "commercial restitution" for non-compliance. This was seen as providing a proportional response to whether a return was late by a few days or by months. (Three respondents, however, suggested that interest should not be used in place of penalties, as it serves a different purpose);
 - greater use of warnings and suspension before charging penalties; and
 - attendance at educational events or publication of tax returns as non-financial sanctions.
- 2.18. Three responses focussed on appeals implications, expressing views that most tribunal cases relate to penalties, often over small amounts. One suggestion was that the Appeals Dispute Resolution process should be extended to penalties.

Question 3: What do you view as being the priority areas for the initial focus of this work?

Question 4: Do you agree the principles set out at paragraph 5.3 should govern the design of our penalty regimes? If not what other or additional principles should apply?

Question 7: What do you think should trigger a penalty?

Question 8: Are there incentives HMRC could consider to encourage compliance?

- 2.19. There was considerable common ground in the responses to these four questions and accordingly these are grouped together.

Penalty Principles

- 2.20. Almost all respondents described an ideal penalty system as one which is simple, flexible, proportionate, appropriate, and tailored; a system in which penalties are only issued when they are deserved. Respondents said that penalties should:
- be charged when a person fails to meet an obligation, whether that is filing a correct and complete return, or making a payment;
 - distinguish between innocent errors, careless oversights and deliberate evasion; and
 - reflect the speed with which the non-compliance was put right.

Occasional errors should receive warnings only.

- 2.21. Fourteen respondents also suggested that no penalty should be charged where no tax is due, or if the error or omission was an honest mistake. They expressed the view that where a penalty is charged, mitigation should then be considered where the person has a reasonable excuse for that failure.
- 2.22. Respondents were generally in support of incentives such as:
- rewarding past compliance with loyalty points, perhaps for early submission or payment;
 - making greater use of suspended penalties;
 - giving a discount if the penalty is paid within a certain timeframe;
 - graduating penalties (i.e. charging higher penalties for more serious failures or for more persistent non-compliance); and
 - charging no penalties for errors where a voluntary disclosure is promptly made.
- 2.23. Any incentives adopted need to be applied in a consistent manner and be transparent. The promotion of incentives could have an adverse effect on anyone not able to benefit from them. Six felt uncomfortable with any suggestion of incentivising people to do what the law requires them to do.
- 2.24. Most agreed with the principles (paragraph 1.2 above) although it was recognised that there was a tension within them.
- 2.25. Principle 1 (encourage compliance) was agreed but there were some clear differences of opinion in how compliance might best be encouraged amongst diverse customers.
- 2.26. Principle 2 (proportionality) was seen as key. It was thought that penalties should take account of past, present and future behaviour. It was suggested that:
- the first offence could be acknowledged without imposing a penalty; or
 - a smaller penalty for lateness could be charged initially, increasing in size over time to reflect the period of delay.
- 2.27. There was general support for tailoring the penalty in order to take account of the customer's overall position and reflect the nature or seriousness of the non-compliance, rather than applying penalties on a tax-by-tax basis. This was not a view universally held, however, suggesting that errors in one area may not be indicative of the whole of the business' behaviour. Six respondents considered that if past compliance behaviour is going to be used to inform future interactions this must be transparent. Evidence of previous good compliance and non-compliance should both be taken into account.
- 2.28. The amount of tax involved was also regarded as a relevant factor. There was general support for a sliding scale, basing penalties for late filing on the tax outstanding. Some respondents considered tax geared penalties should be capped, as should automatic penalties where there is no loss of tax.

- 2.29. Principle 3 (fairness) was also seen as key. The penalty system should draw a distinction between the persistently and the unintentionally non-compliant. Others thought penalties should not be charged for inadvertent non-compliance. Where there is justification for mitigation HMRC should show a greater willingness to grant it to avoid the perception that penalties are a means of raising revenue.
- 2.30. One respondent was concerned that penalties built solely around a digital platform may disadvantage those with little or no access to stable and fast broadband connections so HMRC needs to ensure it caters for the digitally excluded.
- 2.31. On principle 4 (credibility) there was some doubt about whether it would ever be cost-effective to collect small amounts. There was scope for a “parking ticket style” penalty that is significantly reduced if paid early with little intervention from HMRC. One respondent considered that existing penalties (e.g. daily penalties for SA returns more than 3 months late) do not provide a credible threat because they are rarely charged.
- 2.32. Two respondents thought there was a tension with principle 5: consistency would be welcome but there was also a strong view that flexibility was needed to reflect both the differences between tax regimes and the wide variety of commercial circumstances. It was thought that a digital solution could only go so far and that a fully proportionate and fair system would always need human input, in order to assign appropriate weight to relevant factors.

HMRC’s approach to penalties

- 2.33. Different interest rates could also apply depending on the amount with reductions for voluntary disclosures.
- 2.34. The best way to ensure compliance was thought to be by minimising bureaucracy and administrative burdens and assisting customers to understand and comply with their obligations. HMRC should utilise the knowledge and experience of agents and influence Internet service providers to recognise that their services are critical to enable customers to comply with their obligations online. One respondent expressed concern that agents might regard HMRC’s digital strategy as an attempt to bypass them. One respondent suggested consolidating the existing penalties legislation into one place.

Understanding the customer

- 2.35. One respondent said that any new late filing penalty regime should be developed in tandem with taxpayer obligations associated with digital tax accounts and must be sensitive to the number and types of returns and payments required.

Suggestions

- 2.36. Respondents mentioned several other principles that could be adopted:

- There should be recognition that there will always be some cases where a reasonable excuse exists;
- Penalties should be reduced where a belated request for time to pay is made;
- Penalty legislation should be as clear and concise as possible;
- There should always be a right of appeal against penalties;
- Penalties should be simple so they are easy and rational to operate; customers should be given more education about the current regime;
- Penalties should not be too severe, create hardship, or be used as a threat;
- Where possible, decisions to charge penalties should be based on definitive facts such as time available to settle, amount lost, nature of the offence, and how it arose or was disguised;
- Penalties should not be so punitive that they harm future cooperation between a customer and HMRC by creating resentment for perceived unfair treatment.

Question 5: Do you think that an approach which focused more on individual behaviour would help?

HMRC's approach to penalties

- 2.37. There was general agreement that penalties for first-time errors should ordinarily be suspended subject to conditions to encourage future compliance and be supported by education provided by HMRC. This might nudge customers back to compliance. The penalty should then be increased for repeat offenders. One respondent thought the current maximum levels are not high enough and should be 300% of the tax due.
- 2.38. Conversely it was pointed out that if it is known that previously compliant customers are at low risk of being charged penalties this could encourage aggressive interpretation of tax rules for high-value, one-off events with a low chance of being caught.
- 2.39. There were some concerns about how long it would take to develop computer systems to deliver an effective penalty system based around individual behaviour, and the staff resource required for HMRC to provide customers with a personalised approach.

Understanding the customer

- 2.40. Most respondents felt that all penalties should be behaviour-based. Some liked the current regime for inaccuracies in returns but others felt it was too subjective. The focus should be on encouragement, particularly the encouragement to make voluntary disclosures.
- 2.41. Some practical difficulties were identified in focusing on individual behaviour:
- it could be difficult to differentiate whether, for example, a lack of engagement was intentional or an indicator of vulnerability;

- HMRC officers need to be properly trained; and
- there was a risk of subjective judgments that might lead to inconsistencies.

2.42. Five respondents wanted more detail about how individual behaviour might, in practice, be determined for penalty purposes and stressed the importance of customers having a clear understanding of their obligations and the consequences of non-compliance. They suggested more transparency is needed over what behaviour would lead to penalties and aggravating or mitigating factors.

Suggestions

2.43. Generally respondents felt that looking at the customer as a whole, rather than on a tax-by-tax basis would be a powerful indicator of behaviour and the customer's overall compliance. However, HMRC recognise that the complexity of group structures in large businesses may make this more difficult.

2.44. One respondent suggested charging a £100 automatic penalty for failing to file VAT returns on time (rather than the default surcharge). But another felt that the VAT late filing regime works well: it is clear, lenient for first offenders, and provides a deterrent effect.

2.45. Four respondents said HMRC should consider positive “loyalty” points and negative “driving licence” points. This could act as an early warning system in relation to tax compliance. Another respondent thought that a penalty points system could act as a disincentive to admit errors. If a points-based structure was adopted before penalties were charged, respondents suggested that the points should be weighted for different failures and for different taxes.

2.46. Different respondents made various suggestions about factors that should be taken into account in determining the level of a penalty. These included:

- the customer’s age, “mental capacity” and motivation;
- the complexity of the issue and the business;
- the clarity of the relevant HMRC guidance; and
- the amount of tax involved (a de-minimis level would ensure small, ineffective penalties are not generated).

Question 6: (i) What would be the impact if we were to remove penalties for “short” failures (a day or two late) and (ii) how would we incentivise compliance (would a higher interest rate work for example)?

2.47. Around a quarter of respondents felt that providing a few extra days before late filing penalties are charged could have a negative effect on compliance. It could be seen as shifting the deadline and would weaken the current, clear message around the filing deadline. Many respondents felt that it would add additional complexity to the system with no real benefit.

- 2.48. However, two respondents supported this suggestion, but with the proviso that these extra days should be removed if they were abused or persistently relied upon (this was said to be the system used in Germany).
- 2.49. One option suggested by two respondents was to retain a penalty where the filing deadline is missed, but be more lenient about the reasonable excuse put forward or operating the special reduction provisions where a return was filed only a few days late.
- 2.50. Possible incentives suggested include:
- not charging a penalty for a late return or late payment if the obligation was met within one week; issuing a warning on the second occasion of lateness; and only charging a penalty on the third occasion;
 - reducing the penalty for short periods of lateness where there is no reasonable excuse;
 - staggering the due dates for returns and payments so that the due date for the return always comes before the due date for payment;
 - giving discounts for direct debits or payments made early throughout the year; and
 - refunding penalties if compliance improves within a certain timeframe.

Question 9: What could HMRC do better to explain sanctions and the role penalties play within them?

- 2.51. Education about obligations, and the consequences of not fulfilling those obligations, was seen as key to improving compliance from the very first contact. Although some respondents said that the clarity of guidance is now better, there is still scope for further improvement particularly in terms of locating it. While it was recognised that sophisticated digital systems can be used to prompt users to do the right thing at the right time some concerns were expressed that provision must continue to exist for customers who cannot interact with HMRC digitally, including contact by phone and face-to-face.
- 2.52. Many respondents considered that an approach that is seen to be fairer to the “less blameworthy” will generate wider acceptance of stronger penalties for those cases that deserve them. Where penalties are not charged or collected, it is being perceived as watering down the breach or offence. HMRC needs to engage with agents and professional bodies to ensure strong messages are disseminated consistently. Making greater provision for suspension or mitigation might actually weaken the message or make it even more difficult to explain.
- 2.53. Four respondents suggested aligning and reducing the number of penalties. For example, a warning is issued for the first late filing of a VAT return but in SA a penalty applies immediately.
- 2.54. Further suggestions for improving communications were to:
- dedicate a page on penalties on the Gov.uk website;

- involve agents and professional bodies when writing HMRC guidance to ensure key messages that promote awareness of penalties are included;
- issue both paper and digital reminders closer to deadlines;
- improve channels for the public to contact HMRC, especially face to face and by phone;
- introduce an obligations awareness sign-off form;
- consider a penalty rating score to encourage compliance and focus the taxpayer's attention;
- suspend the penalty with a warning letter clearly explaining the reasons for the suspension, and the conditions that must be met to maintain it;
- include an appeal form with every penalty notice issued and tell the customer about the possibility of having the penalty cancelled on the grounds of reasonable excuse and special reduction; and
- better explain the role of taxation in funding public services in order to encourage greater social perception that tax cheating is as unacceptable as driving under the influence of alcohol.

Question 10: If we were not to charge penalties in all the circumstances that we do currently, how could we still get a strong message across to our customers which they will take notice of?

Question 11: To what extent does the present penalty regime help agents and advisers to influence their clients' compliance, and how might this be different if we were not to charge penalties in all the circumstances that we do currently.

2.55. Half of respondents who answered question 11 said that the present system does help agents influence their customers and a relaxation of those penalties would have a negative impact on the agent's ability to influence clients.

- 2.56. Many liked the ideas of:
- awarding penalty points before any penalty is charged, with the opportunity to discharge those points (by a tax compliance awareness course). The digital tax account could be used to flag to the user when the points reach a level that puts them at risk of being charged penalties;
 - tabulating compliance data;
 - providing for a penalty to be repaid if compliance is improved;
 - giving discounts on a tax liability for prompt filing;
 - not charging a penalty where there has been a full unprompted disclosure within a certain period of the tax becoming due;
 - issuing a warning letter (rather than a penalty) to first time offenders, along with relevant information;
 - fostering good compliance through regular interaction with customers;
 - making it easier for the customer to contact HMRC and resolve their query, as then they are more likely to make the correct decision;
 - dedicating HMRC resources to help growing businesses;
 - setting earlier deadlines for individuals who have not complied with their obligations; and

- requiring financial securities from persistent defaulters to ensure future compliance.

Question 12: Do you have any comments on the likely impact of any changes, or can you contribute to our evidence base?

2.57. In June 2015 The Association of Taxation Technicians and Chartered Institute of Taxation published the results of their joint survey of members on “HMRC Powers: Penalties, Compliance Checks and Appeals” which provides further information relevant to this review. Five other respondents offered to contribute to the evidence base through surveying their members and providing examples. A common theme was that those who only miss a deadline by a few days are probably usually part of the compliant majority, so not penalising them would enable HMRC to focus resources on the non-compliant. In addition, they suggested if fewer penalties were charged, there may be fewer appeals and reviews, further freeing up HMRC resource.

3. Next steps

- 3.1 HMRC is very grateful to all those who took the time to respond to this consultation. The comments received broadly focused on existing penalties that address failures to comply with two kinds of obligations: the obligation to file or pay on time and the obligation to submit accurate documents. The responses reveal some areas of inherent contradiction which reflect not only the differing perspectives and interests within the body of respondents but also the complexity of the task HMRC has embarked upon.
- 3.2 HMRC published “Making tax easier: The end of the tax return” on 18 March 2015. This explained how customers will be able to view and manage their tax information in an online digital account. It outlines how HMRC will use the information it already holds to populate the digital accounts so that customers can deal with their tax affairs quickly and easily.
- 3.3 This represents a major step in moving to a new, modern, tax system which will make it far easier for all customers — whether they are individuals or businesses — to manage their tax affairs and pay the right tax at the right time. In the longer term HMRC’s aim is to streamline how tax works, automatically targeting help and support to customers when they need it, based on the data in their tax account.
- 3.4 While this will mean customers will find it much easier to meet their obligations it is likely there will always be some customers who – either accidentally, carelessly or determinedly - will not abide by the rules. For that reason an effective penalty regime will continue to be an element in HMRC’s compliance strategy.
- 3.5 We will take account of the responses summarised in Chapter 2 alongside our wider transformational work, and explore opportunities to thoroughly test any changes with customers and their representatives before they are widely introduced. The principles we suggested in the Discussion Document, which attracted widespread support, will underpin the penalty regime.

Emerging conclusions

- 3.6 Having analysed the responses we have drawn some emerging conclusions.

Ensuring penalties are effectively targeted

- 3.7 We recognise the need to distinguish between the vast majority of customers who are generally compliant and those who are not.
- 3.8 At the same time the penalty system needs to work effectively to encourage those who make one off errors back into full compliance, and counter the activities of careless or intentionally non-compliant customers. So the ultimate goal for the future is to charge fewer penalties, and for penalties to be well-

targeted where we do charge them and to take account of the customer's compliance history across all of the taxes they are involved with.

3.9 That, together with automating and simplifying the penalty process as much as possible, should release resource within HMRC to focus its attention on tackling serious non-compliance.

Late filing and payment

3.10 Time based failures to file tax returns or pay by particular dates relate to high frequency, mechanical obligations. They tend to produce large volumes of low-value penalties with a high incidence of successful appeals and they generate significant levels of contact between customers and HMRC. Reform of these penalties will be our first priority.

3.11 In developing a new model for late filing penalties we will explore options for:

- not charging a penalty where no tax is due and where the circumstances for not charging are appropriate;
- not charging a penalty where the period of lateness is very short;
- not charging a penalty for the first default;
- taking account of the customer's compliance history across all of the taxes they are involved with;
- increasing opportunities for and use of mitigation in recognition of the circumstances surrounding the default and HMRC's desire to encourage future good compliance; and
- using notifications to remind the customer that their return is due (before the due date is reached) and draw their attention to the default and its consequences for penalty purposes (after the due date has passed).

While we are currently keeping all of these options in consideration the new penalty model we consult on might not contain all of them.

3.12 Replacing or enhancing penalties for late payment with a penalty interest regime would ensure that HMRC's response to that kind of non-compliance is proportionate to the period of lateness and the amount of tax outstanding and readily understood by the customer. We will therefore work up options for this.

3.13 In keeping with HMRC's wish to simplify the administration of the tax system in order to support greater customer understanding and compliance, the new penalty system will need to be aligned as much as possible across all taxes.

Inaccuracies in returns and other documents

3.14 Inaccuracies in documents may be simple errors or symptomatic of serious non-compliance.

3.15 While we recognise the principled approach of distinguishing between deliberate and careless non-compliance and taking account of the customer's

co-operation in correcting their tax position, in practice it can be difficult to gather evidence to inform HMRC's decisions about what caused the inaccuracy and to quantify the assistance the customer gave. This can be especially challenging where the inaccuracy in the return results from the failure of an arrangement designed to avoid tax. The result is that decisions about inaccuracy penalties can be time-consuming to reach and subjective in nature, and difficult for the customer to understand and accept.

3.16 Our aim is for a future penalty regime for dealing with inaccuracies which is more straightforward to operate and understand than the current system. However getting its focus right will not be easy. For example, a system that recognises the compliance history of the customer across all taxes, focusing on the number of inaccuracies in a given time period rather than the circumstances of each separate instance of inaccuracy, may be a more objective test of some kinds of behaviour and more suited to automated penalties but risks treating repeated occasions of careless inaccuracy as being more serious than isolated instances of evasion.

3.17 In order to address the complexities in this area, the development of options for new inaccuracy penalties will be to a longer timetable than options for dealing with late filing and late payment. We expect penalties for inaccuracies to continue to be linked with the size of the inaccuracy but HMRC will also explore:

- increasing reporting requirements or other administrative burdens;
- setting the penalty percentage to reflect the customer's compliance history;
- considering whether de-minimis limits should apply, and whether they should be varied for different taxpayers; and
- increasing penalty levels according to:
 - the degree of inaccuracy,
 - the customer's compliance history, and/or
 - whether the customer co-operated to correct their tax position.

Next steps

Non-financial options

3.18 We will continue to consider whether, and how, non-financial sanctions and behavioural nudges could work effectively. Sanctions might also involve increasing the compliance burdens on non-compliant customers by reducing the time available to meet future obligations.

Improvements to guidance

3.19 We recognise the important role of guidance and will consider to what extent improvements can be made ahead of any legislative changes. It is our intention that the digital tax accounts of the future will provide the customer with relevant guidance online, where and when they need it.

Next phase of consultations and timing

- 3.20 We will develop a series of options in respect of the review of penalties over the next few months, after which further consultation will take place.
- 3.21 Subject to Ministers' agreement, HMRC would propose to issue firstly a further consultation document on proposals for a new penalty scheme for late filing and late payment and then a document on inaccuracy penalties. If Ministers ultimately decide to proceed to legislation the draft legislation would be consulted on; the earliest possible date for legislation would be Finance Bill 2017.
- 3.22 HMRC will also publish the roadmap for "Making tax easier: The end of the tax return" later this year.

Annexe A: List of stakeholders consulted

HMRC is grateful to the following, who provided written responses to the consultation:

1. Advice NI
2. Achilles Accountancy
3. Association of Accounting Technicians
4. Association for Financial Markets in Europe
5. Association of International Accountants
6. Association of Taxation Technicians
7. AVN Venus Tax LLP
8. Baker Tilly (Baker Tilly Tax and Accounting Limited)
9. Business Applications Software Developers Association
10. BDO LLP
11. British Bankers Association
12. Berkeley Associates
13. Bonded Warehousekeepers Association (BWA)
14. Confederation of British Industry (CBI)
15. Chartered Institute of Taxation
16. Centre for Independent Living NI
17. Chartered Institute of Payroll Professionals
18. CWB Editorial Services
19. Deloitte LLP
20. EDF Tax
21. Ernst & Young LLP (EY)
22. Freelancer & Contractor Services Association (FCSA)
23. FSB Economics Finance Tax Committee
24. The Institute of Chartered Accountants of Scotland (ICAS)
25. InTouch Accounting
26. Local Authority National VAT Group
27. Low Incomes Tax Reform Group (LITRG)
28. Liverpool Citizens Advice Partnership
29. The Law Society of England and Wales (LSEW)
30. Mazars LLP
31. Meridian Global Services
32. Michael Blake Tax Consultation
33. Ministry of Defence
34. Moore Stephens LLP
35. Naldrett Accountants
36. The National Farmers Union (NFU)
37. Pauley Business Services
38. Payroll Alliance
39. Piner Payroll Services
40. PricewaterhouseCoopers LLP
41. Prudential

- 42. Scotch Whisky Association
- 43. SKY PLC
- 44. Swansborough Family Partnership Ltd
- 45. TaxAid
- 46. Wine and Spirit Trade Association
- 47. Try Lunn & Co

45 named businesses and private individuals also provided responses.

HMRC is grateful to the following, who provided responses at face to face meetings:

Association of Taxation Technicians
Association of Chartered Certified Accountants
Confederation of British Industry (CBI)
Chartered Institute of Taxation
Chartered Institute of Payroll Professionals
Federation of Small Businesses
Low Incomes Tax Reform Group (LITRG)
Institute of Chartered Accountants in England and Wales (ICAEW)
Institute of Directors (IoD)
Office of Tax Simplification (OTS)