

Compliance Reform Forum – Minutes of meeting held on 13 July 2016

External attendees

Joanne Walker	Low Incomes Tax Reform Group
Andrew Tall	Institute of Chartered Accountants in England & Wales
Chas Roy-Chowdhury	Association of Chartered and Certified Accountants
Con Kelly	Association of Accounting Technicians
Will Silsby	Association of Taxation Technicians
Andrew Watt	Tax Investigation Practitioners Group
Susan Cattell	Institute of Chartered Accountants of Scotland
Gary Ashford	Chartered Institute of Taxation

HMRC attendees

Melissa Tatton (Chair)	Director, Individuals and Small Business Compliance
Mary Aiston (Co- Chair)	Director, Wealthy and Mid-sized Business Compliance
Damian Lazenby (sec.)	Enforcement and Compliance Strategy Unit
Alison Brown (sec.)	Enforcement and Compliance Strategy Unit
Lynn Gallacher (obs.)	Enforcement and Compliance Communications

HMRC Speakers

Mary Aiston (Dep. Chair)	Director, Wealthy and Mid-sized Business Compliance
Simon York	Director, Fraud Investigation Service
David Richardson	Director, Counter Avoidance
Narmada de Silva	Deputy Director, Fraud Investigation Service

Apologies

Jennie Granger	Director General, Enforcement & Compliance
Samantha Mann	Chartered Institute of Payroll Professionals
Sue Cave	FSB

Agenda Items

Lifting the Lid on the Wealthy and Complex
Counter Avoidance
Offshore Evasion and the Panama Papers Task Force

Welcome and Introductions

1. Melissa Tatton (MT) welcomed everyone to the meeting and outlined the agenda. MT extended Jennie Granger's apologies for being unable to chair this meeting of the CRF.

Lifting the Lid on the Wealthy and Complex

2. MA outlined the rationale for bringing together the high net worth unit (from Specialist PT), Affluent and Mid-sized Business (from what was Local Compliance) to create Wealthy & Mid-sized Business Compliance focusing on the tax compliance of wealthy and affluent Individuals with complex tax affairs and midsized businesses.
3. Focusing on wealthy individual customers MA set out the challenge from this customer group which generally has more complex financial affairs, has greater choice about how to arrange their tax affairs than the majority of customers, and has higher amounts of tax at risk.
4. In line with international best practice HMRC responds to the greater risk presented by the wealthy with a tailored approach. The Wealthy population is currently split into two groups: High Net-Worth Individuals with wealth over £20m (soon to be extended to those with over £10m) and the Affluent (a much broader group) with wealth over £1m or

earnings over £150,000. The High Net Worth Unit adopts a CRM “one to one marking” approach to the very wealthiest customers ensuring HMRC has deep insight of their tax affairs. The Affluent groups is larger, and the teams use risking techniques to target activity.

5. WMBC’s vision is for deep customer insight to drive all its compliance activity, to assess tax risk across legal structures and entities and to deploy people and their expertise flexibly.
6. WMBC work closely with other areas of HMRC to ensure a joined up approach to wealthy customers’ tax affairs. The directorate also fed its insights into ongoing development and design of tax policy.
7. Going forward MA was keen to develop further HMRC’s understanding of the lifecycle of wealth creation and how wealth flowed generationally amongst the wealthy population.
8. MA was challenged by members on their experience of dealing with HMRC on complex tax matters of wealthy clients, in particular the depth and breadth of staff technical knowledge. MA acknowledged the challenge of ensuring members of staff had the knowledge they needed and emphasised the work that goes into this, including bringing on new recruits.
9. Simon York (SY) provided a short history and rationale to the creation of the Fraud Investigation Service (FIS) which brings together HMRC’s Criminal and Civil Investigation functions to focus on the most serious and organised frauds.
10. As with WMBC, SY was clear that FIS was using “customer” insight to drive its approach to tackling serious tax evasion and organised criminality. And that FIS was able to draw upon a breadth of professional skills and capabilities to target those attempting to attack the tax system and de-fraud the UK.
11. HMRC is exploring how greater insight can provide the opportunity to bring the full range of HMRC interventions and powers to bear in a way that makes it both difficult and un-profitable to engage in fraudulent activity, thereby changing behaviour of perpetrators.
12. HMRC has always undertaken work in this area and will be increasing further its activity going forward, demonstrating that nobody is out of reach regardless of their wealth.
13. SY was challenged on the stubborn nature of the estimated tax gap relating to organised criminality and evasion. SY noted that it was a very fluid and fast moving population that presented continually refreshed challenge to the department, and that it was testimony to the work of HMRC that our tax gap in respect of this was not increasing and was one of the lowest in the world.
14. Members additionally pressed HMRC to be bolder in publicising its success in this area to the wider public to help shape public perception.

Counter Avoidance

15. David Richardson (DR) director of Counter-Avoidance (C-A) presented on the approach that C-A has adopted to tackling marketed tax avoidance. The directorate was set up in 2013/14 to tackle a stock of legacy cases, and to stop new growth. The approach adopted covers the full spectrum of promote, prevent and respond activity, and encompasses both policy and operational reform.
16. Policy changes have been focussed on changing the economics of avoidance, removing opportunities for avoidance, and increasing sanctions for avoidance. More than 40 new anti-avoidance measures were introduced in the last parliament, including Accelerated Payments and Follower Notices. And the government has announced around 20 measures to date in this parliament, including measures in Budget 16 on disguised remuneration.

17. Operationally, C-A has increased focus and effectiveness by bringing together work on schemes and users, organising the work in teams specialising in particular types of avoidance. C-A has also set up a serial avoiders team to increase HMRC's focus on high risk users of multiple schemes, and to help anyone in multiple schemes settle all their liabilities through a single HMRC point. They have set up a specialist team to intervene where people try to use insolvency as a way of not paying tax in respect of failed avoidance schemes. And they have set up a specialist taskforce to police the Disclosure of Tax Avoidance Scheme (DOTAS) regime.
18. C-A has been working to deter potential users through new communications (such as the 10 Things series, and refreshed Spotlights), and by working in partnership with professional and trade bodies.
19. C-A has been encouraging settlements through the use of specific settlement opportunities and through campaigns such as the campaign against Stamp Duty Land Tax avoidance, "Stamp it Out".
20. C-A has also been litigating cases, maintaining a win rate of around 80%.
21. The approach has been very successful. By March 2016, £2.6bn had been collected in Accelerated Payments. In addition, settlements net of Accelerated Payments had increased from £500m in 2013/14 to £1.4bn in 2015/16. DR noted that there had been a large spike at the end of last year in the number of people making representations against AP notices. HMRC had rapidly put additional resource into dealing with these, to ensure that representations didn't become a way of delaying payment, and the spike in representations has fallen away. And HMRC has won all 5 JRs against APs heard by the High Court.
22. The number of new DOTAS schemes disclosed fell to just 7 in 2015/16 from a peak of 600 in 2005/06, and the number of new users of declared schemes fell to 410 in 2014/15 from a peak of 4443 in 2010/11. DR said that while these falls reflected a real drop in the amount of new marketed avoidance, HMRC is very alert to the risk that some promoters will deliberately not declare schemes when they should, and that some promoters will try to get round the DOTAS rules. The DOTAS taskforce is bearing down on this.
23. DR said that the priorities going forward were to complete the bulk programme of issuing Accelerated Payment notices by around the end of the year; continuing to encourage settlements; and significantly increasing and accelerating the flow of cases going into litigation. DR also referred to the announcement in Budget 16 of the intention to consult on measures around enablers.
24. Members queried the content of some recent letters to agents about the promotion of avoidance schemes, as they felt the letters were not clear on the "call to action". DR informed the group that professional bodies such as themselves had been involved in the drafting of various such letters, and that responses to the letters had produced some very useful intelligence. But he said he would take the feedback back to the team in question, and asked if he could be sent a copy of the particular letter in question.
25. Members felt that people contemplating JRs against AP notices were not necessarily aware that, in cases where the courts had agreed to interim relief, late payment penalties would apply if the JRs failed.

Members were concerned at the continued operation of less reputable agents who promote avoidance schemes which HMRC and the courts are unlikely to agree work. This they felt was having a negative impact on responsible tax agents who did not offer such schemes to clients. Members asked that HMRC do more to warn potential users of high risk promoters and schemes. DR noted the point and said that this was an area that HMRC continued to look at. He also noted that the professional bodies and their

members had an influential role to play, as research suggests that people are most likely to take notice of warnings from their professional adviser.

Offshore Evasion and the Panama Papers Taskforce

26. SY informed members that FIS is currently investigating upward of 1100 cases in this area, 90 of which are criminal, and addressing over 40 professional enablers. HMRC was quick to respond to the leak, but this shouldn't be a surprise as the Panama papers were the latest in a series of similar leaks and HMRC was already strongly engaged on issues relating to the jurisdiction of Panama. HMRC is jointly leading a cross-agency response to Panama with the National Crime Agency.
27. One of the key challenges was the very low quality of the published data. Once assimilated material of this sort can show a very broad range of activity from compliant activity through avoidance and evasion to outright criminal activity and corruption.
28. HMRC continues to work in partnership with other tax authorities and law enforcement agencies e.g. the NCA to follow up the additional leads provided by the Panama papers. SY reminded the group that this publicised material was being analysed in addition to "business as usual" activity and targets e.g. the 86,000 contacts from third parties in the last year ranging from local concerns to intelligence that helps us take down criminal gangs.
29. Narmada de Silva (NDS) gave an overview of the drivers traditionally behind the use of Offshore jurisdictions - secrecy - and how this had been exploited by those wishing to ignore on their tax responsibilities.
30. HMRC's approach continues to be one where we wish to help people put their tax affairs in order as the default position and focus our investigative capabilities on bringing to account those that do not take that opportunity. Previous disclosure facilities in this area have had significant success and recent initiatives using data to prompt customers to check their tax position on complex and offshore matters had received a broadly positive response.
31. Offshore evasion is an international one and we are working with tax authorities across the globe to increase transparency in tax.
32. Going forward, this increase in tax transparency and the availability to HMRC of ever more data means that HMRC would be taking a tougher approach to those who remain non-compliant. Data would also help us to continue to increase our understanding of the underlying behaviours and drivers of non-compliance, including those relating to offshore evasion and criminality. This customer understanding was driving the approach of FIS and HMRC to addressing risk and the targeting of activity.
33. NDS noted that the work of FIS in this area was taking forward the 2013 *No Safe Havens* strategy. She outlined recent policy developments against evaders and enablers of evasion

Action Points

34. The Action Point Register, updates on action, and updates from the various CRF sub-groups had been circulated prior to the meeting and were accepted without exception. The AP on the closure report for the business records check pilot is to remain open until the closure report is delivered later in the summer.
35. A brief update was also given on the review of the CRF which is expected to report at the next meeting.
36. The secretariat invited reflections from any members present who had attended either of the two new sub-groups: (i) Direct Recovery of Debts and Vulnerable Customers (ii) Making Tax Digital aka Upstream Compliance. No member present had been at the latter however members who had attended the former commented positively on both the

meeting and the sensitive and cautious approach HMRC had adopted in rolling out the approach.

AOB

37. Members were keen to hear about the delayed release of a number of previously trailed consultation documents. MT was clear that present political circumstances were rather fluid (*Sec Note: the meeting occurred following the EU referendum and resignation of the Prime Minister*) and that until new ministers were in place it was not possible to agree the release of the consultation documents, similarly it was not possible to comment on the possibility of a 2017 voluntary disclosure facility.
38. Questions were raised to be taken away by the secretariat on: (i) Referral numbers to the NMW hot line following transfer to ACAS (ii) HMRC practice on the charging of 15% penalties for error (iii) Access to CT filing following the withdrawal of CATO the HMRC free software facility.

Summing Up

39. Susan Cattell (SC) of the Institute of Chartered Accountants Scotland was asked to provide her reflections on the meeting. These were broadly positive and were echoed and supported by other members. Key points were:
- Acknowledgement of HMRC's refreshed commitment to the forum, its administration and interaction with members between meetings. In particular the co-design approach to the agenda.
 - That the agenda and frequency of meetings be considered with a view to allowing plenty of time to discuss what are substantive items.
 - A desire that the membership be consulted earlier on HMRC issues in order that they have the opportunity to partner us in co-design of solutions.
 - That HMRC should not be shy of sending members "pre-work" in order that more time could be freed up in the meeting for discussion.

SC undertook to collate some anonymised feedback for the secretariat which would be available in a few weeks.

40. MT thanked SC for the summing up and the other members in attendance for what had been a positive and engaged meeting.

Next Meeting

41. The next meeting will be 13:00 on Friday 11 November 2016 100 Parliament Street.

Action Points	Detail
AP 07.16/1	Gary Ashford to provide to David Richardson copy of avoidance letter and his comments regarding content
AP 07.16/2	Members to feedback to David Richardson on the drop off in DOTAS notifications.
AP 07.16/3	Secretariat to look into concern regarding reported fall in referrals to NMW hotline
AP 07.16/4	Secretariat to investigate concerns regarding the reported automatic application of 15% penalties to returns with errors
AP 07.16/5	Secretariat to establish the position regarding the withdrawal of HMRC free software for the submission of CT returns