

Minutes of the 101st JVCC meeting held on 11 April 2017

13:00

Auditorium, 1 Horse Guards Road, London SW1A 2HQ

	Agenda Item 1: Welcome and introductions	Ruth Stanier
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Ruth Stanier (RS) welcomed everyone and everyone introduced themselves. Richard Bowyer was introduced as the new secretariat.

A list of attendees is at Appendix A.

	Agenda Item 2: Minutes of Last Meeting	Ruth Stanier
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The minutes of the meeting held on 23 January 2017 were agreed, with one small amendment (suggested by Fiona Heron) to clarify that the colouring books discussed were adult colouring books.

The action point to explore a joint discussion with the Joint Customs Consultative Committee (JCCC) had been pursued and members were asked to notify the secretariat if they would like to be involved in this discussion, and to highlight the issues that they would like to discuss.

Action point: All members to notify the secretariat if they would like to be involved in a JVCC/JCCC Brexit discussion and highlight the issues that they would like to discuss in that forum.

The action point to discuss statutory reviews and alternative dispute resolution is addressed by agenda item 4.

	Agenda Item 3: Brexit Update	Sally Beggs
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Sally Beggs explained that since the last meeting the Prime Minister had issued the Article 50 letter to start the process of the UK leaving the EU. The government is fully aware of the need for certainty for businesses, as is clear from the Prime Minister's foreword to the government White Paper on the Repeal Bill. Sally explained that VAT is one of a host of complex issues in which the Government is working to negotiate the best deal for the UK. In the meantime the UK remains part of the EU and subject to the rules and obligations of membership.

Sally outlined the coordination arrangements across government including the role of the small EU Transition Unit in HMRC. Members should channel any Brexit related

views or comments they have through the JVCC Secretariat (unless responding to a specific consultation with separate contact details).

Sally introduced the Repeal Bill White Paper which was published on 30 March 2017: '*Legislating for the United Kingdom's withdrawal from the European Union*'. The Bill will repeal the European Communities Act. It will convert EU law as it applies in the UK into domestic law on the day we leave. It is not a vehicle for policy changes, but it will prevent holes being left in the statute book. It will enable secondary legislation so that the government can correct or remove the laws that would otherwise not function properly after the UK leaves the EU. Thereafter, Parliament (or the devolved legislatures where appropriate) will decide which provisions of EU law are preserved and which are not.

Martin Shah asked if the plan was to seek to list the CJEU principles (such as *Halifax*) to convert them into UK law. Sally explained that the approach set out in the White Paper was to provide that historic CJEU case law be given the same binding/precedent status in UK courts as decisions of the Supreme Court.

There was discussion about referrals from the UK courts to the CJEU. Graham Elliott proposed that as any court can currently refer matters of EU law directly to the CJEU, any court should be able to refer such matters straight to the Supreme Court. While recognising that there remained issues to work through, RS noted that answers were now clear in relation to a number of the issues raised by JVCC members immediately after the referendum. She invited continued JVCC discussion on this topic.

Ion Fletcher asked about the status of VAT Committee guidelines, many of which were helpful (such as in relation to the place of supply of immovable property). Sally saw that there were opportunities here for the UK to consider if some of the guidelines should be incorporated into HMRC guidance as HMRC's interpretation of the law.

	Agenda Item 4: Statutory Review and Alternative Dispute Resolution (ADR)	Beckie Pocock
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Beckie Pocock from HMRC's Customer Compliance Group gave a presentation on ADR and statutory review. She explained that ADR originated from a pilot in 2010 but had expanded and was treated as business as usual from September 2013. She explained that Large Business and Individuals and Small Business Compliance (ISBC) had separate teams and she was presenting the picture for ISBC only. Beckie advised that although her team was positioned in ISBC, they serviced all customers outside of Large Business.

Beckie explained the process, the scope of ADR and presented data on volumes of cases, outcomes and performance. In 2016/17, of the 1250 cases accepted for ADR 559 were for Indirect Tax (VAT and Customs, International Trade and Excise). In 72% of these the dispute was fully resolved, 14% achieved partial resolution and in 14% there was no resolution.

Graham Elliott raised a specific case where papers in ADR had ended up before a Tribunal. Beckie explained that the confidentiality/without prejudice policy was being reviewed and would be happy to update the committee on the outcome of that review. Charlotte Barbour asked if HMRC wanted to see more cases going into ADR rather than going to Tribunal. Beckie confirmed that that was HMRC's intention and communications were being developed to raise awareness.

Figures were also circulated on statutory review. Beckie emphasised that these were the latest working internal figures, and would be published formally in the Tax Assurance Commissioner's (TAC) report section of HMRC Annual Report and Accounts for 2016-17.

The committee were interested in any analysis of what happens to cases that have been in ADR in terms of progress to tribunal, as well as the complete picture including for Large Business.

David Jordorson asked about the interaction with Making Tax Digital. Beckie confirmed that HMRC are looking at the possibility of a digital platform for ADR applications, similar to the one used by the Ombudsman's office.

Statutory reviews and ADR to be revisited at the next JVCC meeting.

	Agenda Item 5: Guidance Update	Fiona Pavaday
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Fiona Pavaday gave an update on various items of feedback that HMRC had received and how they had been resolved.

- There had been a technical glitch that resulted in pages from manuals disappearing from GOV.UK while they were being updated. This bug has now been fixed.
- Some pages of manuals did not appear in the contents listing, which results in hidden pages. Work is in train to fix this, but members were asked to look out for any missing pages and notify HMRC through the guidance feedback email address.
- Notice 742A - *Opting to tax land and buildings*. The law provides for a 10% and a 2% test and the 2% test was not in the Notice. This has been remedied in the latest update published on 22 March.
- Notice 706/2 - *Capital Goods Scheme Notice*. There was a broken link to a statement of practice, This Notice is under review and there will no longer be a need for a link as the statement of practice will effectively be incorporated into the guidance. Members were invited to suggest any further amendments to this Notice while it is under review.
- Notice 700 – *The VAT Guide*. The draft amendments are out with JVCC for feedback and the closing date for comments is 21 April. Neil Gaskell queried the abbreviation of 'item' to 'it.'
- VAT Notes review – HMRC are grateful for the comments received so far and an update will follow at the next meeting.

- A number of VAT Notices have been renamed so that they appear sensibly in the alphabetical list on GOV.UK rather than all appearing as 'VAT....'.
- The issue of linking manuals from Notices in Gov.UK remains a work in progress

Fiona explained that feedback to the customer experience email address was still very welcome (customerexperience.indirecttaxes@hmrc.gsi.gov.uk). Graham Elliott asked whether feedback had been received on inconsistent definitions of 'hospice' in Notice 708 – Fiona explained that it had not been.

	Agenda Item 6: Issues Raised by JVCC members	
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Grouping and the cost sharing exemption

Graham Elliott explained that he was interested in an update on the timetable. Ruth Stanier (RS) explained that the consultation had now closed. HMRC were now considering the responses carefully with a view to issuing a formal response within the next 2 months.

Late Registration Penalty applied for failure to notify a change of legal entity

Nancy Cruickshanks raised the issue of a late registration penalty being issued when the context of a failure to notify was, for example, simply that a sole proprietor had become a limited company and consistently filed and paid VAT returns. In a specific case this had resulted in a penalty being applied which after much toing and froing and time spent on both sides, was then reduced to nil. RS set out the position provided by the relevant policy team explaining why in legislative terms it was necessary to apply a penalty in these circumstances but then consider reducing it on a case by case basis. The briefing note is to be circulated to members after the meeting and if interest remains then a relevant specialist will attend the next JVCC to discuss this further.

	Agenda Item 10 AOB	
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Dean Carey mentioned an issue which he had raised for discussion and on which he had been liaising with the committee secretariat. He was querying the reason and legal basis for what appeared to be an arbitrary 3 month policy rule in relation to VAT registration as an intending trader where the taxable supplies intended relied upon a future transfer of a going concern. HMRC did not allow registration when the TOGC was to take place more than 3 months from the date of registration applied for. Dean explained that there were ways to work around this and the registration application could be submitted later but it seemed a bit of a waste of time when the intention to trade was so strongly evidenced with exchanged contracts for example. HMRC is looking into this and will share their findings and conclusions with the committee.

Action Point: HMRC to share conclusions on the apparent 3 month policy rule for intending trader VAT registration.

Rebecca McKerral questioned whether HMRC's policy was to ask businesses to demonstrate that they had taken reasonable care by evidencing that they had sought professional advice or asked HMRC about a VAT issue. If no such advice had been taken and the wrong VAT treatment applied in one case HMRC had said there had been a failure to take reasonable care.

Action Point: HMRC to clarify its policy on failure to take reasonable care and getting advice.

Rebecca also mentioned a glitch in online VAT group registration. When completing the online VAT 1 and the VAT group box is ticked it then offers the VAT 50 and 51 as attachments to complete and upload. If access is via the agent portal the VAT 53 group agent form is presented as well. The new VAT 51 requires completion for all prospective group members excluding the representative member. If the representative member is not currently VAT registered, HMRC never get an existing VAT number.

This resonated with Graham Elliott who also raised the point about not being able to see the full online registration form when completing it.

Martin Shah also mentioned issues with the VAT 53 form.

Action Point: HMRC to address these online registration issues and report back at the next meeting

Fiona Heron asked if this was the appropriate forum to raise issues about the interaction between VAT and NOVA notifications. Ruth Stanier confirmed that it was.

Neil Gaskell mentioned an issue that he had raised of 2 step verification and the reliance on telephone numbers. Richard Bowyer has replied and will share the response with the committee. Brian Palmer suggested that liaising with HMRC staff working on Making Tax Digital might be helpful in this respect.

Ruth thanked everyone for attending and looked forward to seeing them at the next JVCC meeting.

Next meeting: (rearranged after the meeting to) Monday 10 July 2017, 11:00

Appendix A

JOINT VAT CONSULTATIVE COMMITTEE (JVCC)

(Meeting number 101)

11 April 2017, 13:00

Auditorium, 1 Horse Guards Road, London SW1A 2HQ

Attendees	
Ion Fletcher	British Property Federation
Mark Austin	Finance and Leasing Association
Nancy Cruickshanks	Association of Tax Technicians
Graham Elliot	Charity Tax Group
Leigh Francis	London and International Insurance Brokers
Rebecca McKerral	VAT Practitioners Group
Fiona Heron	Confederation of British Industry
Brian Palmer	Association of Accounting Technicians
Neil Gaskell	Institute of Chartered Accountants in England and Wales
David Jordorson	Association of British Insurers
Dean Carey	Association of Chartered Certified Accountants
Charlotte Barbour	Institute of Chartered Accountants in Scotland
Helene Dinsdale	One Hundred Group
Martin Shah	The Law Society of England and Wales

<i>HMRC</i>	
Ruth Stanier	Customs and Indirect Tax Directorate
Sally Beggs	Customs and Indirect Tax Directorate
Richard Bowyer	Customs and Indirect Tax Directorate
Fiona Pavaday	Customs and Indirect Tax Directorate
Beckie Pocock	Individuals and Small Business Compliance

Apologies from	
Martin Scammell	British Property Federation
Stephen Taylor	Association of Tax Technicians
Ian Cass	Forum of Private Business
Ruth Corkin	VAT Practitioners Group
Nick McChesney	Institute of Chartered Accountants in England and Wales
Andrew Plant	Finance and Leasing Association
Mark Hammond Giles	Confederation of British Industry
Nic Davison	Chartered Institute of Management accountants
Simon Goldie	Finance and Leasing Association
Phillip Ford	Association of International Accountants
Hywel Anthony	VAT In Industry Group
Sarah Bagley	Chartered Institute of Public Finance and Accountancy