

**Compliance Reform Forum – Minutes of meeting held on 2 March 2017, 100
Parliament Street, Westminster, SW1A 2BQ.**

External attendees

Brian Palmer	Association of Accounting Technicians
Chas Roy-Chowdhury	Association of Chartered and Certified Accountants
Margaret Curran	Chartered Institute of Taxation
Andrew McKenna	Chartered Institute of Taxation
Samantha Mann	Chartered Institute of Payroll Professionals
Sue Cave	Federation of Small Businesses
Andrew Tall	Institute of Chartered Accountants in England & Wales
Susan Cattell	Institute of Chartered Accountants of Scotland
Anne Davis	Institute of Financial Accountants
Meredith McCommand	Low Incomes Tax Reform Group
Ian Browne	TaxAid
Gary Rowson	Tax Investigation practitioners Group

HMRC attendees

Jennie Granger (chair)	Director General Customer Compliance
Melissa Tatton (Co-Chair)	Director, Individuals and Small Business Compliance
Vicky Homsy (Co-chair)	Director, Risk and Intelligence Services
Damian Lazenby (sec.)	Customer Compliance Strategy Unit
Alison Brown (sec.)	Customer Compliance Strategy Unit
Anna Brown (obs.)	Customer Compliance Strategy Unit

Speakers

Margaret Curran	Chartered Institute of Taxation
Andrew McKenna	Chartered Institute of Taxation
Caroline Addison	HMRC Campaigns (RIS)
David Alexander	WMBC Campaign team
Anthony Usher	HMRC Connect Team
Daniel Featherstone	HMRC Connect Team
David Bunting	HMRC Solicitors Office and General Counsel
Nick Mosley	HMRC Central Policy

Apologies

Will Silsby	Association of Taxation Technicians
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Agenda Items

HMRC Nudge Letters – an agent's perspective (member's presentation)
Connect and Bulk Data Analytics
Tribunals and litigation – how decisions influence policy and operational practice

Welcome and Introductions

1. Jennie Granger (JG) welcomed everyone to the meeting, including the Institute of Financial Accountants who are new members, outlined the agenda and introduced the HMRC representatives.

HMRC Nudge Letters – an agent's perspective (member's presentation)

2. Margaret Curran (MC) and Andy McKenna (AMc) gave an agents perspective presentation on HMRC's campaign activity.
3. The presenters noted the positive engagement with agents in recent years over the design of campaign activity, noting the role of the CRF sub-group. However they were concerned that two recent campaigns did not appear to have followed recent best practice and wanted to know if HMRC had shifted its position.
4. They also raised the wording of the current guidance where HMRC states that it reserves the right not to include agents in campaign material if it felt there was good reason not to do so. MC and AMc were keen to know what those circumstances might look like as it had never been properly explored.
5. On behalf of all agents the presenters asked to be more closely involved in the development of campaigns to help HMRC land them to best effect, and worried that the campaigns in question (Untaxed interest and USA earnings) represented a potential retrograde step in engagement which they felt was reflected in the timing and execution of both shortly before Christmas.
6. AMc raised a specific concern regarding the campaign on US earnings and the inclusion of a declaration certificate and the request to sign and return it. AMc stated that HMRC guidance states that we will not ask for a certificate unless the situation may result in a penalty being applied and that clients were not legally obliged to sign and return it, and that by doing so they may leave themselves open to prosecution. The approach had been used before with some HSBC customers but in both instances he felt completing the certificates had possible consequences which should have been better explained.
7. MC raised a question about how such campaigns would work in the future under Making Tax Digital (MTD), and the opportunities it might present for HMRC, but also as noted by AMc the "digitally excluded" needed to be considered as well.
8. Caroline Addison (CA) and David Alexander (DA) led the response for HMRC. Vicky Homsy (VH) director of HMRC Risk and Intelligence Service acknowledged on behalf of the department that the two campaigns that had led to the item being presented fell short of HMRC practice to date in terms of prior engagement with professional bodies and apologised for this, noting they were very much the exception. VH also noted that a separate meeting had been offered to discuss the US earnings campaign as the facts of the campaign were different from those of the untaxed interest campaign, and there wasn't time on the day to get into the detail.
9. The members acknowledged the apology and confirmed they had received the offer of a separate meeting to discuss the campaign in detail.

10. Jennie Granger (JG) noted that the presentation raised a good question about the opportunity in MTD to step up what has been a highly successful approach for HMRC and that there was an opportunity for members to help work that through with the department. The CRF already has sub-groups on MTD and on Campaigns which afford a mechanism to do this. JG also shared her experiences of digitised nudges and prompts in Australia, whilst being clear that the UK model may look very different.
11. CA advised the meeting that the guidance on engagement with Professional Bodies had not changed and that as members were aware HMRC had run a large number of campaigns, and these had been brought to the cub-CRF for input. Both the campaigns that were given as an example had been flagged with the sub-group, the omission was in the subsequent engagement that followed. CA repeated VHs apology for this oversight and confirmed that the best practice was being re-socialised in the business. There had also been operational reasons why the timetable for the campaign had slipped leading to the clash with Christmas but agreed that the professional bodies should have been informed of this. CA expressed the hope that the good engagement to date would continue.
12. CA also acknowledged that the “good reason” had never been bottomed out although it had its roots in previous practice. CA offered to have this looked at in the CRF Campaigns Sub-Group.
13. Andrew Tall (AT) observed that he would wish to see agents cc'd even in direct conversations so that agents are fully sighted on a client's interactions with HMRC, and that the best practice of sharing campaigns in design phase with professional bodies should continue.
14. MC asked if the untaxed interest was based on data as there had been rumours that it was a random approach. CA and JG were happy to confirm that it was based on data provided to HMRC, and that whilst there was always the possibility of an incorrect records match, the department was confident that the vast majority of letters were sent to the correct tax payers; HMRC does not do fishing trips.
15. JG noted three things (i) That we needed to be clear on our messages around campaign activity (ii) it is positive that professional bodies wanted to be involved and that we should build on that (iii) there would remain situations where HMRC would deal direct with an agent's clients, as the nature of nudge and behavioural message allowed for times when a prompt worked better directly.
16. JG assured the members that the apology would be in the minutes and that the impact of nudge campaigns would be brought to a future CRF along with the progress of the sub-group on refreshing how we engage professional bodies in the design and execution of campaigns.

Connect and Bulk Data Analytics

17. Anthony Usher (AU) and Daniel Featherstone (DF), supported VH (Director RIS) to introduce HMRC's key analytical tool Connect. HMRC has available to it one of the most diverse bulk data sets in the world, and Connect is the analytical tool that allows us to make sense of that data by network analysis of the connections between the data.
18. Connect has more than 22 billion rows of data available to it, allows very rapid matching by trained analysts and has already secured more than £4bn that might otherwise never have been brought to account, levelling the playing field by helping ensure everyone carries their fair share of the tax burden.
19. One key data set is that from the Merchant Acquirers (i.e. card service providers that you regularly use in shops and restaurants). The data allows us to establish very specific geographical norms for businesses in the split between card and cash transactions. E.g. hotels in London have a much higher proportion of card transactions than those in the North West. Connect identifies these differences allowing the creation of more accurate sector profiles for risking, and then to identify cases that fall outside the expected parameters.
20. This sort of analytical modelling using multiple data sets across trade sectors and geography is part of the day to day work of the Risk and Intelligence Service, and is driving improvements in HMRC's targeting of non-compliant individuals and businesses.
21. A second example was given in relation to the ability to assess import declarations by weight and value against established benchmarks to identify the undervaluation of shipments.
22. An anonymised "sandpit" demonstration was given by DF on how an individual person could be linked to other individuals, addresses, phones, and documentation in order to understand any potential risk they pose. This is the next level of analysis undertaken after the bulk data profile identifies a population of possible interest.
23. VH was very clear that whilst Connect was a very powerful tool it was only part of a well-developed chain of risking activities; it is always conducted by a trained specialist and it is not an automated production line churning out cases, there will always be human judgement involved in its use.
24. Chas Roy-Chowdhury (CRC) asked about the use of international data and the introduction of common reporting standards. VH confirmed that we do obtain data from other tax authorities, and that the move to common reporting standards was a big step forward, as at present HMRC expends considerable resource in cleansing and reformatting the data provided to it.
25. The members queried the quality of data being held citing a particularly corrupt set of data that had previously been supplied to HMRC; how old it was and the safeguards around its use.
26. VH confirmed that data cleanliness was always an issue but that HMRC took great care in examining and cleansing data provided to it to prevent any recurrence of contamination;

that the data is regularly refreshed so it was always relevant, and that the data was stored and used in a manner that conform to the legal framework under which HMRC operates.

27. Members asked about where Connect goes next, VH confirmed that HMRC was always looking for more useful data sets that allow us to better target our work and remove the burden of unnecessary enquiries from compliant tax payers. In addition a number of manual risking process would look to be automated to free up the analytical resource to focus on the high value activity of reviewing connect products and providing that key human element in the decision making process.
28. Connect is a tool that enables us to make sense of the data available to us and identify areas of interest for us to explore. It does not put a risk value on an individual or business and is not the sole basis for making decisions on case work.

Tribunals and litigation – how decisions influence policy and operational practice

29. Following on from the November discussion of penalties and suspensions. David Bunting (DB) was invited to present to the members on HMRC litigation (not prosecution) and how this fed back into policy and guidance. Additionally Nick Mosley (NM) from HMRC Policy attended to follow up on the specifics of the November meeting.
30. NM informed the members that the guidance on suspension discussed in November was to be the subject of a refresh in the light of a basket of tribunal decisions. Nick extended an invitation to the membership to get involved in this work and asked for details of volunteers to be sent to the secretariat.
31. DB set out the context to the discussion on litigation, advising that HMRC won approximately 80% of all cases. DB observed that this was a very high success rate, reflecting that in the majority of cases we were getting things right.
32. Disputes have a mixture of drivers, in some cases we see people deliberately drawing out a process to see if HMRC would eventually lose interest, but the majority of cases were people who genuinely felt they were right and HMRC wrong.
33. As part of the HMRC organisational re-design it was recognised that the distributed regional approach to disputes led to inconsistencies of approach and was a barrier to HMRC learning from cases. Under the new model there was a more centralised approach and that he personally judged that the flow of information and consistency had improved as a result. However, variance was a natural part of the system design with people exercising judgement at each stage from the original decision upwards. The subsequent review levels involved other trained individuals taking a view as to the correctness of the original and review decision. The tax system is complicated and there will always be a need for individuals to exercise their best judgement in respect of a situation and within the guidance.
34. The new centralised approach involves a legal team of around 1000 Lawyers and tax Professionals reviewing decisions made by officers, but often people choose to go straight to tribunal rather than accept an internal review first. Members of the team also review tribunal decisions, 1st tier tribunals are not binding on HMRC but if we see a number of decisions in a particular area going a certain way they are persuasive and we reflect on that.

35. Any changes considered as a result of a body of decisions needs to be carefully thought through and if appropriate challenged through test cases. A simple change to the application of a tax rule can have far reaching implications in terms of both tax going forward and identifying individuals who now need to pay more tax or be refunded tax paid.
36. Members asked about a specific high profile case. The case in question was however a prosecution case not a litigation over tax law interpretation. JG said that if there was an interest in HMRC's prosecution strategy that could be brought to a future CRF, but the decision to prosecute is one for the CPS not HMRC, which only collects the evidence and presents it to the CPS.
37. Members observed that one area where HMRC could improve is in how it pursued LLPs, bringing pressure to bear on the individual partners rather than the entity itself.
38. Members were concerned about the perceived backlog of cases going through tribunals and the courts and the subsequent delays in reaching an agreed settlement on cases. Also the introduction of fees and the impact it would have.
39. DB stated that the government was looking to increase the efficiency of the tribunal and court services through digitisation and HMRC supported this. HMRC is also careful in selecting test cases that mean a larger number of cases need not be heard. DB believed that the fees may see a shift in the number of low value cases being taken to tribunal towards the free HMRC review process as a first step.
40. Members stated that it would be useful in conversation with clients to be able to confront them with the likely success or otherwise of their cases e.g. HMRC wins 90% of cases about X, my advice would be to think carefully about this challenge etc. this would give them support in difficult conversations with clients and help HMRC unblock the system where there was a more substantial dispute. DB indicated he would give this some thought but that more analysis would be needed. It was an area he was keen to improve in order to extract more value.
41. Members raised issues they were experiencing with tax avoidance schemes and time to pay (TTP) arrangements where clients had been caught by the new regulations. JG asked that any specific cases be notified to David Richardson (Director Counter-Avoidance) via the secretariat. Debt Management was no longer part of Customer Compliance but the two areas work closely together and it is important that TTP was being offered where appropriate and the guidance to Debt Management colleagues being correctly applied. JG offered to have David attend a future CRF if members wanted to explore further the impact of counter avoidance rules.

Any Other Business

42. Members asked when the closure report from the Business Records Check Pilot would be made available. Melissa Tatton (MT) apologised for the delay which had been caused by the original team disbanding prior to the report being written. The report has now been finalised and HMRC expect to be able to release this shortly.
43. Members raised the issue that Budget day was almost upon us and could HMRC do something to rationalise the volume of material being sent out to agents. JG acknowledged there was a lot of material and recognised it created pressure around the

time of Budget but it was unlikely to change, especially with the volume of legislation likely to flow from decisions such as Brexit. However, if members wished to put forward suggestions to the secretariat after (Budget) about solutions to the issue then HMRC would listen.

44. Members asked about the Direct Recovery of Debts initiative in Debt Management, and how vulnerable individuals can be safeguarded. In particular it was felt the guidance could be improved. Damian Lazenby (DL) informed the new members that there was a DRD sub-group where this could be taken forward if details could be supplied
45. Sue Cave (SC) raised the issue of taskforces in Cornwall in members view being excessive in their approach, MT asked that she be sent specific cases to consider.
46. Samantha Mann (SM) raised an issue she had been corresponding on regarding National Minimum Wage calculations where a written response from HMRC did not seem to match experience on the ground. MT asked for specific examples to look at.
47. JG asked that the minutes note the forum's thanks to Damian Lazenby for his work as secretariat. This will be Damian's last CRF in the role, and that until a replacement is announced members should contact Alison Brown (AB).

Summing Up

48. Chas Roy-Chowdhury (CRC) provided the traditional members reflections on the meeting. CRC noted the improvements in CRF engagement over the past year but asked that HMRC consider lifting the restriction of one representative per body.
49. CRC reflected that the practice of the members bringing one of the substantive items each time was a useful innovation and real partnership working.
50. CRC warmly welcomed the presentation on Connect which had dispelled a number of misunderstandings and was truly impressive in what it allowed HMRC to do, and the staggering volume of data HMRC had available and had to manage.
51. CRC raised how pleased he was to see that items such as the £1000 eBay allowance discussed in CRF sub-groups made it onto the books and was a reminder that the CRF afforded professional body members the opportunity to influence HMRC.
52. CRC expressed a hope that members would be able to work with DB on HMRC's approach to litigation and identify opportunities to improve flow through the system.
53. JG thanked the members for their time and CRC for the summary.

Next Meeting

54. The next meeting will be on the 7th of June at 100 Parliament Street.

Action Points	Detail
AP 03.17/1	Campaigns in MTD to be referred to the Campaigns sub-group for consideration
AP 03.17/2	Campaigns sub-group to consider how the department involves the professional bodies and agents in Campaigns. Is the present guidance still fit for purpose?
AP 03.17/3	Members who would be interested in helping HMRC redesign the guidance on penalty suspensions to let the secretariat know (Alison Brown) in the coming weeks.
AP 03.17/4	HMRC's prosecution strategy (Sols and FIS) to be put on the forward plan for the CRF.
AP 03.17/5	David Richardson to attend a future CRF to discuss the counter avoidance strategy and HMRC's position Time To Pay arrangements if members are interested. Secretariat to note possible item for forward plan subject to members' interest.
AP 03.17/6	Members to consider how better HMRC might communicate with them around Budget time and help them manage the volume of material. Members to come back to the CRF with any collective thoughts.
AP 03.17/7	SM to provide MT with examples of where HMRC practice does not match the response she received on NMW calculations.
AP N/A	AP from November CRF about Cornish Taskforce to remain open. SC to provide MT with specific examples that HMRC can look into.