HM Revenue & Customs

Forum to Oversee Implementation of New Powers

Minutes of meeting Monday 30 March 2009

100 Parliament Street, London SW1A

Attendees:
Derek Allen (DA) (ICAS)
John Andrews (JA) (LITRG)
Paul Aplin (PA) (ICAEW Tax Faculty)
John Burey (JB) (HMRC) (Secretary)
Naomi Ferguson (NF) (HMRC)
Dave Hartnett Chair (DH) (HMRC)
Andrew Hubbard (AH) (CIoT)
Anthony Inglese (AI) (HMRC)
Ian Menzies-Conacher (I M-C) (CBI)
Simon Norris (SN) (HMRC)
Nigel Popplewell (NP) (Law Society)
Chas Roy-Chowdhury (C R-C) (ACCA)
Simon Sweetman (SS) (FSB)

Apologies:
David Cruickshank
Mike Eland (HMRC)
Robin Williamson

Introduction

1. DH welcomed attendees to the first Forum meeting and thanked them for agreeing to join. DH described this as the beginning of a co-operative and collaborative venture between HMRC and its principal external stakeholders for tax. The prize was a tax system with much greater trust between taxpayers, advisers and HMRC. All had a role to play. HMRC would set up a site for the Forum within its website as soon as possible. Minutes and papers would be put on that site.

2. DH pointed out the Financial Secretary to the Treasury (FST) remained very engaged with and supportive of the whole project to legislate and implement new powers and safeguards. Ministers see this as a vital piece of work that will make a reality of HMRC as a single organisation and allow it to deliver many of the benefits of merger. DH would invite the FST to a future meeting.

   AP1: HMRC to invite FST to a future meeting.

3. JA asked about the publishing etiquette for minutes and DH confirmed that these would be circulated quickly in draft amongst forum members. PA did not mind the minutes attributing comments and C R-C said nothing should be confidential.

Should anyone else be invited?

4. DH suggested that an experienced litigation lawyer might be a useful addition in future and AH agreed. I M-C suggested someone from the Appeals Tribunal as they develop experience of the new appeals and tribunal system. SS suggested Citizens Advice Bureau. JA said it was appropriate for TaxAid, Tax Help for Older People and Citizens Advice to be consulted. JA volunteered, and it was agreed, for LITRG to co-ordinate the views of those who spoke on behalf of unrepresented taxpayers/claimants and feed those into the Forum perhaps through sub-group activity.

5. AH was concerned about the balance of direct and indirect tax experience on the Forum and suggested that this is either kept in mind for the future or another appointment made now to redress.

6. DH was keen to feed in the views of a manager (who manages others) from HMRC's Local Compliance directorate who deals with practical frontline decisions. Someone based outside London could offer a different perspective.

AP2: JA to collect the views of organisations that speak on behalf of unrepresented taxpayers/claimants and feed into the ongoing forum activity.

AP3: NF to find suitable HMRC compliance manager to become forum member.

AP4: DH to approach an experienced litigation lawyer.

AP5: SN to consider which Indirect Tax organisation to approach and an approach to the new Appeals Tribunal.

Thoughts about how the forum should operate

7. SS wanted to ensure good communication between quarterly meetings and suggested a strong network of email communication between members. JA suggested Shared Workspace but SS was unsure this would be effective.

8. DA said the forum should consider the effectiveness of the application of the new penalties for inaccuracies and the extent they were helping to close the tax gap. He suggested sub-group activity looking at key areas to be identified by the forum and outputs fed into the forum

through sub-group heads. C R-C was concerned that there would be relatively little activity for any sub-group to report on at the outset. DA agreed and emphasised that each member of the forum should be able to participate in any discussion.

9. I M-C pointed to the data lag and the enormous amount of work that would be involved in establishing the extent of behavioural change. It may be necessary to consider different aspects of this work separately.

10. PA said the forum had been set up to ensure the policy outcomes of the Review of Powers, Deterrents and Safeguards were being delivered reasonably and in a proportionate and fair manner that ensured taxpayers had safeguards in line with undertakings given by Ministers to Parliament. Assessing this would require input from professional groups in the light of their members' experience. Aspects such as training and guidance were important but subsidiary to that.

11. DA argued the forum could have a role in case reviews and this would provide a powerful safeguard. AI warned against getting involved in case reviews and PA that the forum should be alert to the danger of getting bogged down with specific cases at the expense of monitoring a range of issues. SN warned that if the forum became a further avenue for case review it could undermine the roles of the new informal complaints process and the tribunal.

12. AH wanted the forum to focus on what the Ministers wanted.

13. DH said sub-groups were an interesting idea that might be explored In the future. The forum was about bringing together internal and external views on the use of the new powers. It would be difficult to share real cases without significant effort to anonymise but there may still be individual cases that it might be instructive for the forum to see. The forum would need to develop an overview in the early months before taking a more detailed look.

14. I M-C asked about the report to the FST that HMRC would be preparing at the end of April. NF explained she anticipated that this would be a short overview highlighting what had been achieved and any areas of early concern.

15. JA pointed out that a key feature of the unrepresented is their (relative) ignorance of the new provisions. He said someone in HMRC should be appointed the 'eyes and ears' of the unrepresented and whose role should be to select cases for review and report back on a confidential basis. SN suggested external research might ensure objectivity and JA that a questionnaire to the unrepresented who had been through a review might be useful. NF pointed to work by Ipsos MORI last year that included these groups. Some internal research might also be undertaken for sharing and to explore further work.

16. AH said, although there was good awareness of new powers amongst the professions, most people were unaware of the imminent changes. It was important to achieve a similar level of understanding for all. As for data collection from externals, AH suggested a list of around ten questions. PA and R R-C agreed.

17. I M-C said that all had not yet come to terms with the changes involving both powers and Tribunal, and there was a risk of a growing and often incorrect mythology springing up. The forum needed to cut through this and data would be crucial to do so. Data is also required about taxpayers.

18. SS suggested that agents who where not members of professional bodies were lacking awareness of the new powers.

19. AH said if this review process worked and produced positive outcomes, the forum could be advocates for the changes rather than operating in a vacuum.

20. NF offered case studies as a useful alternative to case reviews.

21. JA raised the concerns that HMRC needed to get the balance right when it said, during compliance checks, that HMRC will also look to ensure that taxpayers' allowances and reliefs were being given. NF said HMRC should keep that in mind but explained that she had recently attended a training event with about 80 middle managers who were already pushing to be in that space.

22. DH reminded the forum of the practical difficulties of HMRC trying to do this on every single compliance check it conducted. DH asked that if forum members had things they wanted measured, they should email details to JB. HMRC would provide a list of the data that was already planned to be collected (see the papers for this meeting).

AP6: Forum members are asked to send their suggestions for any information beyond this data list they would like assessed to JB.

23. DH was keen to share information about internal reviews as soon as possible. He was concerned about the focus on HMRC staff rather than taxpayers.

24. I M-C wanted to know what the forum intended to produce from the start.

25. NP offered to monitor any examples that the Law Society might share. He asked about the scope and reporting procedure. DH said that issues on use of existing powers over the last three years should be sent to his office but issues on the use of new powers should be fed

into the forum. As for issues around legal professional privilege, these could be taken off line.

AP7: NP to monitor use of new powers for any examples that the Law Society might share.

26. SN suggested the forum agree the data sets required to inform its work. DH said HMRC would play back the five or six suggestions that came out of today's meeting for consideration by forum members.

AP8: HMRC to circulate the suggestions for data requirements that came from the forum discussion.

From legislative intention to new ways of working

27. NF and SN gave a presentation on how the policy intention for the new powers, deterrents and safeguards was being developed into practical approaches in the Local Compliance directorate and how these would influence cultural change for taxpayers and HMRC staff. The forum agreed that, subject to a few small changes, the presentation should be published as part of publishing the minutes of the meeting.

AP9: HMRC to publish the amended slides. See also AP12.

28. The amended slides are on the HMRC website.

29. The following comments were made in response to the presentation:

- JA said that tax credits and the knock on effects of a compliance check had not been properly addressed in the information he had seen so far. NF responded that HMRC had processes in place to address this but had not quite got this right yet.

- DH suggested that HMRC ought to take another look at tax gearing.

- JA wanted HMRC to develop a better understanding of customer needs. He was concerned that he had not seen some of the guidance material being developed in relation to new powers. He had seen copies of 'fact sheets' but was unhappy with some of what was said. SN commented that the material had been circulated to a very wide readership panel. NF explained that the fact sheets and Standard Letters themselves were not fixed and would be continually developed in the light of feedback from stakeholders particularly in relation to new powers. DH suggested a meeting with JA to discuss his particular concerns.

- NF said she would arrange for JA to be updated on HMRC's project to update Standard Letters.

AP10: HMRC to arrange a meeting for DH and JA to discuss his particular concerns.

A11: NF to arrange that JA is updated on HMRC work on Standard Letters

- AH said that there was still a lack of information around how and how often HMRC would use the new powers. It would be useful for HMRC to get a message out about this in order to alleviate concerns.

- I M-C said that the new pre-return check could seem like an intrusive power and there needed to be a clear message about how it would be used. NF explained that HMRC were developing a number of structured centrally driven projects to deliver new powers and, responding to a question from JA, confirmed that these were risk driven.

- DH invited comments about the balance of powers and safeguards. AH said what was not reflected in the training, which he thought should be, was how HMRC decides what compliance route to choose, when and why.

- NP said cultural change for HMRC was a matter for internal management.

- I M-C remained uncomfortable with the use of the term 'customers'.

- AH said that the vital implementation safeguard was proportionality.

- DA wanted HMRC to say more about what happens when things go wrong.

AP12: HMRC to include more about safeguards in the presentation slides for publication. See also AP9

Work to underpin effective implementation and monitoring of the use of new penalties

30. Papers 2, 3 and 4 -2009 outlined the work of the project teams set up to oversee and manage the implementation of the legislation within HMRC. The forum made the following comments:

- DA suggested publicity was not required for the programme of IT compliance activity as this may simply worry people. The learning looked good but the paper did not assess how effective it had been. SN indicated that a benchmark had been built in to

measure staff understanding. NF added that internal evaluation would also take place.

- AH said the seven and a half hours online learning for staff was a significant investment upfront but asked about the training for new staff. NF confirmed that HMRC were overhauling training, were emphasising the importance of the face-to-face training and encouraging discussion at team meetings and around cases.

- JA felt seven and a half hours of training was a short time if trying to change HMRC's culture and asked about better appreciation of the taxpayer's view. NF pointed to the 'Standing in Customers' Shoes' workshops for staff as part of a broad ongoing programme for her staff.

- The ICAEW is already engaged with HMRC on the issue of joint training. AH and C R-C wanted training for the professions and expressed their desire to engage with HMRC on this. NF said the engagement would continue in April to discuss how joint training could play a part in embedding the new powers.

Local Compliance: improving the customer experience

31. Paper 5-2009 outlined the work in HMRC's Local Compliance directorate to improve customer experience when engaging with the UK tax system. This included staff undertaking much of HMRC's face-to-face contact with customers. The forum made the following comments:

- JA pointed to representations he made two years previously about work on 'Customer Journeys' He was concerned that this may not have been adequately addressed and that taxpayers' rights were not properly reflected. DH said JA could discuss these concerns in the meeting they were due to have.
- SS said his complaint was the tendency for HMRC staff to use standard letters without thought. NF acknowledged there was a balance to strike between the use of standard letters and the role of managers and team leaders sense checking the approach. Also, some hints and tips for dealing with customers were being produced for staff.
- C R-C suggested a post April 1 customer survey to take their views and perhaps annually thereafter.
- I M-C asked about the production of material in different languages; English and Welsh was mainly available with some CIS information in other languages. NF acknowledged there was room for improvement.

- Responding to NP and AH, NF confirmed fact sheets on compliance checks and unannounced visits would be available to taxpayers from 1 April.
- AH wanted good news messages to be part of the forum.

32. DH described the first forum meeting as a good and challenging start. He agreed that HMRC would remind members of the dates of future meetings. He thanked members for their contributions and closed the meeting.

Future Meetings:

30 June 2009 15:00-17:30, Room G/14, 1 Horse Guards Road
14 October 2009 14:00-16:30 (Room to be confirmed)