

**Minutes of meeting 30 June 2009****1 Horse Guards Road**

**Attendees:** John Andrews (JA) (LITRG)  
Paul Aplin (PA) (ICAEW Tax Faculty)  
Bob Davies (BD) (IIT)  
Mike Eland (HMRC)  
Naomi Ferguson (NF) (HMRC)  
Dave Hartnett *Chair* (DH) (HMRC)  
Andrew Hubbard (AH) (CloT)  
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)  
Neil Smiley (NS) (HMRC)  
Simon Sweetman (SS) (FSB)  
Angela Roach (AR) (HMRC) (Secretary to the Forum)

**Apologies:** Derek Allen (DA) (ICAS)  
David Cruickshank (DC) (ICAS)  
Robert Maas (RM) (IIT)  
Robin Williamson (RW) (LITRG)

**Introduction**

1. DH welcomed members of the Forum to the meeting.

**Terms of Reference (draft)**

2. DH drew Forum members' attention to the draft Terms of Reference which had added words to cover any sub-groups set up by the Forum. As members had no further comments the ToR were unanimously agreed.

**AP1: AR to update the internet.**

**1 April Implementation**

3. SN emphasised that it was early days for the implementation of Finance Act 2008 new compliance checks, penalties for incorrect returns and debt legislation. HMRC was taking an incremental approach building on early experiences.

4. SN handed over to NS who had gathered views from front line Local Compliance teams about what was going well and what was not going so well. NS reiterated what SN had said that it was still early days.
5. Staff had concerns about:

#### **Internal processes**

- Standard letters and forms could be improved and staff were encountering some difficulty in completing the Penalty Information and Authorisation Form (PIAF) used to calculate and obtain authorisation for new penalties. AH asked if the forms were more complicated than the old forms. NS said they were longer as they asked for more detail and covered all taxes and each error. JA asked if the information on the forms was disclosable. NS confirmed this was right. BD added that he found one of the biggest problems with standard letters was the lack of editing to fit individual cases.

#### **Information and Guidance**

- There were too many HMRC sites providing information or updates. Staff felt there was a need for more consistency in using HMRC's new terms e.g. failure to take reasonable care is also described in places as careless. This includes continuing references to terms such as investigation, enquiry, audit, visit or intervention.

#### **Training and support**

- Staff with little experience in considering penalties had found the change difficult and sometimes confrontational with taxpayers. Some taxpayers misunderstood the reason for telling them that they might be liable to a penalty and feared that they might end up in prison. HMRC staff were seeking to ensure taxpayers were clear about their rights and understood the safeguards.
- NS said at least 90 per cent of staff had been trained. In some areas everyone had been trained. However, it could be a while before some of these staff used the new powers, having had the training recently. So knowledge would need to be consolidated at a later date. NS stressed that having good guidance to refer to was essential.
- DH asked NS whether, if staff were frustrated, was there a risk that this could have an effect on relations with customers? Could NS give any reassurances to Forum members that this would not be so? NS emphasised that staff were not angry at customers, it was more a concern about internal processes and how HMRC were

implementing these changes. NS reassured that it was the staff with least experience of this sort of work who had encountered it first. It would be different when staff more accustomed to using penalties became involved with cases under the new rules.

6. ME stressed that it might seem to staff that HMRC was extending bureaucracy in order to increase safeguards. It would be important to ensure that we were not 'over egging the pudding' which could complicate matters for customers, agents and our own staff.
7. NS said that, on a high note, staff thought the internal help cards were very useful and taxpayers and agents were responding more quickly to the new information notices, introduced by Finance Act 2008, than they had to the old system. Staff were pleased that some changes were being made to standard letters in response to their feedback and that managers were recognising problems and offering support and help to their teams.
8. NS provided Forum members with available data. On training for **compliance checks** 12500 staff had successfully completed the High Level Awareness (HLA) training. Over 10,000 had completed the seven and a half hour Self Learning module (SLM), a figure which is close to the estimated need. For **new penalties** the figures were similarly close to estimated need with over 11,000 having undertaken the HLA and over 8000 the SLM training to date.
9. Looking at wider cumulative figures there were 255 authorisation requests to date of which approximately two thirds were granted (170) and one third (80) were rejected. 82 per cent of all the authorisations related to VAT work.
10. SN conveyed some compliance checks figures for Special Investigations. For April 2009, of 103 authorisations applied for, 50 were granted and 53 were rejected. For May 2009 102 authorisations applied for of which 82 were granted and 20 were rejected suggesting that officers were gaining a better understanding of the criteria authorising officers were using.
11. NS then turned to **compliance checks** which required authorisation for front line Local Compliance staff. Of the 49 authorisations applied for 45 were granted and 4 rejected. Of the 45 granted, 36 were unannounced visits, 3 sensitive cases, 1 private residence visit, 1 application to the Tribunal for a third party information notice and 4 applications to the Tribunal for approval to issue information notices.

12. JA asked how many HMRC authorised staff were there? SN said that HMRC would confirm and get back to Forum members.

**AP2: AR to confirm HMRC authorised staff numbers (see Annex 1).**

13. NS referred to penalties for VAT pre-credibility checks on repayment claims work and stated of 106 relevant cases, only one attracted a penalty. NS reiterated that it was early days and what these statistics showed was either that there appeared to be some confusion between the categorisation of careless mistakes and error or they were reluctant to charge penalties, which suggests that the behaviour may have been wrongly characterised. In either case this would point to a need for further help for this group of staff.
14. NS turned to Tribunal cases and emphasised that there was not much information at this stage. Data covered mainly general cases and transitional cases. Some staff found the new pre-appeal review system difficult to adjust to and felt it could undermine them if an independently reviewed case was rejected before going forward to the Tribunal if the message wasn't handled properly.
15. NS pointed out that the PIAF forms referred to earlier had to be completed by staff for every case and each category of behaviour identified.
16. The Forum members made the following comments:
- BD thought the completion of PIAF forms for every case was a waste of resources. He also asked if there was a de-minimus limit for penalties. NS said there was no de-minimus limit for the form and stressed it was important HMRC had detailed information at this stage. BD suggested that HMRC should have a lower limit under £1000. ME added that processes needed to be streamlined but emphasised that external representatives would not be satisfied unless HMRC had such statistics available. AH concurred that it was important to have this data and welcomed it because it would tell an interesting story.
  - AH asked if the penalties data was where HMRC thought it should be? NS said he had thought these figures would be higher. AH said it was a concern if the process is such that the new penalty system is not getting used properly. SN acknowledged that HMRC needed to keep the developing picture under close review. ME pointed out that this data covered just VAT repayments and credibility issues.

- JA favoured as much data as possible and thought all sources looked good even if they covered £5 errors. He added penalties should be categorised and HMRC should look into the reason why there has been an error and identify the cause. HMRC should learn from the information, review and change forms appropriately and also provide support and education. DH endorsed these comments.
17. DH asked NF if she had any comments. NF reiterated that it was early days. Levels of confidence in using the new powers varied among HMRC staff. She recognised the need to embed cultural change. NF advised that we should not pre-judge the figures but wait until a clearer picture emerged over the coming months.
18. The Forum turned to the examples from the Federation of Small Business and SS confirmed that currently his members did not seem to be having any problems. SS emphasised that he still believed that people did not know what was going on. AH agreed, saying it was hard to engage agents on the changes and there were concerns that all the work which had been done on safeguards would go by the way because agents did not know how they operate. AH stressed agents should challenge extreme cases and was worried for both sides so he wanted to flag up this issue early on. PA agreed that the level of activity was low and some professionals were only just waking up to the new powers.

**AP3: Forum to keep watching brief on engagement of professionals to the new powers.**

**Questions for representative bodies**

19. AH advised that because the aim was to capture a large area, Forum members needed to know what information HMRC held and then representative bodies could fill in the gaps. PA thought it was too early to do this exercise even for October 2009, so advised leaving it until after the first cycle of the new powers in spring 2010. NP added that horror stories were bound to come to light. AH said it was not his experience at present as telephone lines seem to be very quiet. DH agreed with PA that this exercise should be left until after the first cycle and also agreed with NP that the new powers implementation has been a slow burner and felt that unfortunately there were bound to be some horror stories.

**AP4: Forum to review proceeding an exercise to co-inside with first cycle of the new powers.**

### Unrepresented taxpayer's Sub-group

20. JA confirmed that he will produce names for TaxAid, Tax help for older people and Citizen's Advice Bureau. He would also trawl participants for a list of issues. JA will then get back to SN and AR so that a meeting can be set up. It was also confirmed that SN, would be chair, and HMRC's Local Compliance and Individuals' Customer directorates would be represented.

**AP5: JA to get back to SN and AR with names of representatives and agenda items for first meeting.**

### Future Implementation

#### Late Filing/payment penalties

20. SN asked Forum members if they had any comments.
21. AH reminded Forum members that Equitable Liability was still a big issue and should have a place within the remit of a modern sensible tax organisation. HMRC was in danger of getting into the wrong position so both external representatives and HMRC must work together.
22. DH stressed HMRC needed to see real life examples so they could address the problems. DH was open to ideas for a solution. AH was assured at a meeting earlier in the week that HMRC and external representatives were working together.

#### Compliance Checks for other taxes

23. No comments.

#### Publishing details of Deliberate Tax Defaulters

24. SN asked Forum member for any comments.
25. IM-C asked how the implementation of this was going to be done because HMRC needed to be sure that the right person was properly identified. SN assured that workshops would be held with external representatives to ensure these kinds of issues are discussed and added that HMRC would ensure safeguards are put in place. AH was concerned that even though a name would be taken off after twelve months it did not necessarily mean that it would be forgotten. DH also assured Forum members that an HMRC Director would be accountable for this work.

**AOB****Taxpayers' Charter**

26. DH said to Forum members that following consultation on the Taxpayers' Charter a new version of the Charter had been given to members of the Public Bill Committee. DH confirmed that he would be taking ownership and asked Forum members whether it was appropriate for this meeting or a different group to take on responsibility? IM-C said as the Charter was seen as a safeguard against HMRC powers it would be sensible to be part of this Forum. PA thought it was too big an issue and should be undertaken by a separate group. JA advised that other representatives needed to be involved covering Tax Credits, Child Benefit, Child Trust Fund etc and stressed all these groups should have an opportunity to express a view. He agreed it was a powers' issue. AH also emphasised that the Charter group must reflect all groups of taxpayers. CR-C favoured the Charter sitting within this Forum but under the Unrepresented Sub-group. IM-C suggested it came under this Forum but meetings were split into two parts: Implementation/Charter. DH appreciated the comments made by Forum members and would take them away to review.

**Next Meeting:****Wednesday 14 October 2009, 14:00-16:30,****Room: G16, 1 Horse Guards Road**

**HMRC Authorised Officers**

Staff trained on compliance checks and new penalties 2009.

	<b>Local Compliance*</b>	<b>LBS **</b>	<b>SI**</b>	<b>Total</b>
Grade 6 staff	268	50	60	378
Grade 7 staff	239	60	17	316
Senior Officers	529	10	55	594

\*as-at 8 July

\*\*as of 6 July 2009