

**Implementation of new HMRC Powers Oversight Forum****30 March 2009****Paper: 3-2009****Purpose:**

To inform the Oversight Forum of:

- The work undertaken to underpin effective implementation
- Procedures to monitor the use of new compliance checking powers from 1<sup>st</sup> April 2009

**Timetable:**

New Compliance Checks Powers will be implemented from 1 April 2009. After this date, the use of the powers will need to be measured and monitored. This information will be shared with key stakeholders.

**Background:**

The new compliance framework aligning and simplifying HMRC's powers across the main taxes comes into effect on 1 April 2009. From that date HMRC will have one set of powers covering PAYE, VAT, IT, CGT, CT and CIS to:

- Visit business premises to inspect the premises, assets and records (Schedule 36 FA08)
- Ask taxpayers and third parties for information and documents (Schedule 36 FA08)

New compliance checks will also provide:

- Greater flexibility in setting record keeping requirements after 01 April 2009 (Schedule 37 FA08) and
- New time limits for assessments and claims. These will not be fully in force until April 2010 but there will be some transitional arrangements from 01 April 2009 (Schedule 39 FA08)

**Key Deliverables**

As a result of these changes in legislation, a project team was set up to oversee and manage the implementation within HMRC. The key products designed, to prepare HMRC staff and external stakeholders for the changes in legislation are as follows:

Technical Guidance

Technical Guidance has been produced which interprets the meaning of the legislation. This was exposed for comment both internally and externally in September 2008. The guidance for Schedules 36 & 37 This will be published on both the intranet, for use by HMRC staff and the internet, for use by agents and the general public in mid March.

Operational Process Guidance

Operational Process Guidance (OPG) gives examples of how the legislation should be implemented and used operationally as part of a compliance check. The OPG has built in key safeguards for taxpayers including the need for authorisation for use of some of the more intrusive powers and emphasises the need for any action taken to be proportionate to the risk involved. The OPG on Schedules 36, 37 & 39 was exposed for comment both internally and externally in November 2008.

In addition to this, a formal workshop was held on 18<sup>th</sup> February 2009, with key external stakeholders. The purpose of the workshop was to ensure professionals continued involvement in the process and provide the main general themes from the feedback received after external exposure.

The main issues which external stakeholders raised in the OPG were as follows:

- Far more emphasis was needed on safeguards and Human Rights Act
- The types of approach used at present, such as meetings, telephone contact and informal requests for documentation appeared to be compromised with the introduction of the new legislation
- The role of agents in the new compliance checks regime needed clarity
- More operational examples were needed on the transitional provisions
- More guidance was needed on the definition of a statutory record
- There were general concerns over taxpayers rights to privacy
- There was a view that there should be no self authorisations
- There was a view that more guidance was needed for the more vulnerable parts of society

The OPG have taken these comments into consideration and have amended the guidance to deal with these concerns. The OPG will be published on the intranet and internet in mid March. Assurances have been given to externals that the OPG is a live product and its effectiveness will be revisited after 1 April.

#### Factsheets

A series of factsheets were exposed for comment in mid January. These complimented the OPG and were aimed predominantly at the unrepresented taxpayer, with the main purpose of outlining taxpayer rights if they became the subject of a compliance check. The feedback received generally suggested that far more emphasis needed to be given to taxpayer rights and the tone and content needed to be addressed in order that a far more "customer focussed" leaflet was produced.

These concerns have been addressed. The external consultants, who were responsible for designing HMRC's departmental guidance on language and tone have been acquired to rewrite the factsheets. Their remit is to consider the products objectively from a customer viewpoint. The consultants have recently been involved in the rewrite of the department's standard letters. Feedback to date on these has been excellent. The factsheets will be exposed to a small number of key stakeholders in mid March.

#### Learning

All front line compliance staff need to be adequately trained before they are allowed to use the powers contained in Finance Act 2008. To educate staff, a number products have been designed and are currently being rolled out. These are:

- High Level Awareness training (HLA)
- E – Learning / Self Learning module
- Face to Face training

- Help Cards

We are monitoring both take up rates and have also introduced a benchmark / indicator guide for managers to use to assess how well their staff understand the new powers, and how to use them. The learning is accompanied by a detailed managers guide, and provides a support network to help both individuals and their managers through the process.

#### High Level Awareness (HLA)

The HLA is a mandatory package and has been designed to raise staff awareness of the new legislation. This learning package should have been completed by 31 January 2009 and completion was a pre requisite, before progression was allowed on to the E –Learning package. Take up to date has been excellent and 16,600 individuals across HMRC have accessed this learning package. The HLA was published on the internet in mid February.

#### E- Learning / Self Learning Module

There are three modules which need to be completed:

- Information Powers
- Inspection Powers
- Penalties under Schedule 36 FA08

The aim of the e –learning package is :

- To ensure all staff have the knowledge to use the new powers appropriately and consistently
- To ensure that staff recognise when certain courses of action will require authorisation
- To ensure staff are aware of how the new legislation will impact on their day to day work

Each section has a “self test” section at the end. The modules must be successfully completed by 31 March 2009 for all staff involved in compliance work.

Staff are unable to use the powers unless they have completed the relevant modules. In trials, a small number of staff obtained an average score of 80% after completing the self test questions. 80% will be used as a benchmark to ensure that staff have reached a necessary standard of competence and understanding. If a member of staff does not reach the required standard then the responsibility for development and improvement rests with the individual’s manager. Managers are accountable and responsible for ensuring that their staff are adequately trained. Sign off at director level will be sought for this.

Learning history for all members of staff is recorded on line and learning checks are being conducted on a weekly basis to ensure that the relevant staff have completed the training.

The learning package was piloted to two key external stakeholders – Rebecca Benneyworth and Tina Riches. Their comments were incorporated and the product was amended accordingly.

The e –learning package will be published on the internet mid March.

#### Face to Face event

A series of face to fact training events are taking place which are aimed at staff who are

- Authorised Officers

- Change Champions
- Super Users

An Authorised Officer is an HMRC officer who has the authority to give approval for certain types of powers to be used. Some of the information and inspection powers can only be used if approval has been given by an Authorised Officer. The Authorised Officer role acts as a safeguard for taxpayers, HMRC and staff.

Change Champions are individual officers, based in locations spread geographically who will work across all legislation to give assistance generally to staff. They act as “mentors”.

Super Users are based in Local Compliance and will specialise in one specific area of the legislation to give assistance to staff.

Tina Riches from CIOT attended the face to face pilot and gave very positive feedback.

#### Help Cards

Help Cards have been produced and will be issued to staff prior to 1 April 2009. They will contain legal references and refer specifically to relevant sections of the OPG.

#### **Procedures to monitor powers post 1 April 2009**

A Management Information System (MIS) is currently being developed which will allow accurate data capture and a mechanism by which to monitor the new powers going forward.

The following bulleted list outlines the current approach to the delivery of business requirements for the provision of management information arising from the launch of new legislation on 1/04/09

#### **Assumptions (yet to be tested)**

- Reporting Periods will be monthly
- The solution is interim until Caseflow is fully rolled out
- Detailed MIS requirements will be scoped into Caseflow
- Process Maps will be developed to cover the end to end process
- A centralised mail-box for submission of returns has been established
- The core CC project team will deliver MIS reporting initially

#### **Data Capture**

- Business Units will be required to submit returns on a periodic basis which will comprise the completion of a series of MS Excel worksheets in a single which will log activity undertaken under the new legislation e.g. Pre-Return Checks, Information Notices Issued and of what type, Private Dwellings Visited, Unannounced Visits, Authorisations Granted/Rejected, Rejection Category (yet to be determined)
- Business Units will be given operational process guidance on how to complete the return
- Detailed requirements to be ratified and/or extended at a Scoping Workshop scheduled for 11/3

**Data Upload**

- Each excel document will be imported using standard product features to a fully attributed relational database in MS Access format at the close of each period

**Reporting**

- Standard Report requirements will be identified at the 11/03 workshop, depending on volumes a minimum set of, if not all, standard reports will be available for the 1<sup>st</sup> reporting period e.g. 1<sup>st</sup> period is 1/04 to 30/04, returns submitted during week 1 05, data uploaded and reported by the end of week 2 05.
- Ad Hoc reporting will be available providing suitably skilled resource is available to interrogate the MS Access database and the source data has been captured
- Reporting will be via standard MS Access Queries (i.e. SQL) which will be published in MS Excel

**Policy issue on the use of the pre-return checking power**

A key change for direct tax will be the ability to look at records before a tax return has been made and staff training and guidance includes examples of when it might be appropriate to do so. Use of this new power will be proportionate to risk and customer behaviour and business areas are working together to ensure that the rollout of this new power is carried out in a strategic and controlled way.

The key policy issues in considering how we use this power are:

- officers must be appropriately trained in the use of new powers and working practices, supported by clear guidance to give higher level of confidence that sensitive powers are being used appropriately
- application of powers – how we balance our intervention approach against customer burden. We need to be consistent across HMRC with a response that is proportionate to taxpayer risk and behaviour, recognising that HMRC does have discretion to use powers as it sees fit.
- taxpayer safeguards must be protected – HRA compliant and appropriate new authorisation processes applied

