

Forum to Oversee Implementation of New Powers

Unrepresented Taxpayers' sub-group

Minutes of meeting 12 August 2009 2.30 pm - 4.30 pm
Room GE/01,100 Parliament Street

Attendees:

John Andrews (JA) (LITRG)
Annie Bush (AB) (HMRC)
Frances Corrie (FC) (TaxAid)
Nicholas Dee (ND) (Citizens Advice)
Ivor Graham (IG) (HMRC)
Catherine Gregory (CG) (HMRC)
Simon Norris (SN) (HMRC)
Simon P Norris (SPN) (HMRC Chair)
Angela Roach (AR) (Secretary)
Kelly Sizer (KS) (TOP)
Simon Sweetman (SS) (FSB)
Robin Williamson (RW) (LITRG)

Apologies:

David Brodie (TaxAid)

Introduction

1. SPN welcomed members of the sub-group to this meeting.

Shifting HMRC 'culture'

2. SPN referred to the HMRC paper about shifting HMRC 'culture' to understand and empathise more with taxpayers. Sub-group members were asked for their comments. SS had attended a training session and felt that the group divided between those who supported the new approach and others who would clearly need convincing. IG emphasised that this was a starting point and was a continuing process to share ideas with front line staff. CG added that she was continuing to go out and listen to staff experiences. The message was that their actions should be reasonable in relation to the risk involved and the burden on the taxpayer.
3. JA stressed that any change in approach needed to be embedded so that behaviours did not revert. SPN emphasised that messages needed to be continually reinforced. SN pointed out that from past experience it needed to be done through line managers. RW said although the legislation says 'reasonable and proportionate' it remained to be seen whether the 'old school' attitudes would change. JA asked if line managers were also authorised officers, which is part of the new culture, and how were their teams' performance going to be measured. He saw this as the only way to ensure the success of these changes. SN said the departmental strategic objectives (DSOs) were broad. Mike Brown's paper highlighted that increased customer focus should drive HMRC performance. New measures were being developed. SN would share with sub-group members when finalised. SS asked how the work was going to be organised in local compliance offices and would it be similar to the past, for example, teams focussed on section

9A enquiry work. SN confirmed that it would be similar although some teams would focus on individual taxes, but there would be increased activity across taxes and many checks were likely to embrace a mixture of education and compliance work.

AP1: SN to share customer focus performance measures when finalised.

Compliance checks fact-sheets and standard letters

4. JA updated sub-group members about full replies he had received from both CG and Mike Brown and also his residual concerns with the fact sheets and standard letters. He had received detailed replies about generic improvements and there was willingness to work together on the suggestions made. JA said the broader issues which flowed from this were problems with customer journeys where links on the website lead into blind alleys and fact sheets did not correlate with standard letters. CG stressed that the standard letter project acknowledged these and fact sheets were not final. There had been feedback from HMRC staff and externals and her intention was to have a meeting to make improvements. CG emphasised that this was an ongoing process.
5. JA asked when a compliance check started with a telephone call, how would an unrepresented taxpayer know what their rights were. SN reassured that there would not be any cold calling. A taxpayer would receive a letter in advance of an approach. CG pointed out that a script was under consultation which was aimed at being non-confrontational. She would share this with JA once available.
6. JA wanted to cover some general principles. Many unrepresented taxpayers do not have access to the Internet and therefore where do they go to get help? He added that when information was available it was not always easy to understand and could be voluminous. So HMRC need to consider providing hard copies of factsheets. HMRC have an obligation to let unrepresented taxpayers know their rights. RW pointed out that the Tribunal Reform team provided printed copies on request and gave a telephone number where taxpayers could get hard copies. CG said she would arrange to meet RW to discuss this work.
7. JA had requested that the first fact sheet should mention the complaints process but HMRC had replied that it was not appropriate at this stage. However it was noted that at the last Compliance Forum this same issue had come up again and it appeared as if a covering letter may have a reference to the process; JA wanted clarification. SN said there was a central complaints team in local compliance who tracked complaints and their contact details were to be made available on the next versions of the new fact sheets that will go out in each case.
8. JA also raised the point about the interaction between tax credits and income tax. They were not always linked which resulted in tax credits being withdrawn from some people in error. In the worst cases this could lead to bankruptcy proceedings being enacted. So it was vital that tax credit and income tax teams liaised. An unrepresented taxpayer should know what their tax credit position is after a settlement. RW said that a particular problem with tax credits was the dichotomy between individual assessment for income tax

and joint assessment for tax credits. This could lead to (say) one partner's business being investigated and profits increased, of which the other partner would know nothing until faced with an overpayment of the child tax credit payable to her for the children. This appeared to be the problem with the bankruptcy case cited by JA. SN said once a taxpayer is known to be receiving tax credits there is liaison with the local compliance team. But he recognised that this was sometimes an imperfect part of the system. FC said one of the issues was the need for early and clear communication as taxpayers cannot foresee a problem coming because they do not know how the system works. IG stressed that HMRC need to make sure there is a balance and not to come across as aggressive. Exchange of information needs trust between HMRC and the taxpayer. SN advised that a tax credit colleague would be best to answer these questions and would arrange to have a colleague attend the next sub-group meeting.

9. ND said another problem was where an unrepresented taxpayer did not open letters or has a low reading ability. SN emphasised that the standard letters project was seeking to take account of taxpayers with reading problems. JA added that tax credits should be mentioned in the fact sheets in the same way as benefits are.

AP2: AR to ask Mike Brown to arrange a meeting with JA to look at detailed points remaining with Factsheets and letters.

AP3: CG to send sub-group the VAT telephone script.

AP4: CG to arrange a meeting with RW to discuss availability of hard copies of information.

AP5: AR to arrange for a tax credit colleague to attend next sub-group meeting.

Compliance checks – getting the right amount of tax

10. JA said that the main Implementation Forum meeting on 30 June 2009 made reference to standard letters and fact sheets which stated that HMRC's aim was to get to the right amount of tax due. To do so HMRC needed to let unrepresented taxpayers know what reliefs they were entitled to as well as checking whether their return was correct. JA asked if staff were encouraged to tell taxpayers what they could claim – what was the culture? IG and SN both stressed that staff were encouraged to make adjustments in taxpayers' favour taking into account issues like capital allowances/reliefs. SN pointed out that what is new is pre-return compliance checking. HMRC would now send out officers earlier in the business life-cycle to advise on record keeping and how to claim business expenses. Much more resource was being given to educating taxpayers. SS confirmed that in his experience HMRC had not gone out of their way to offer advice. It seemed that officers were not trained to suggest what else a taxpayer could claim. RW said therefore it looked like ignorance on behalf of the officer rather than a conscious thing not to do. SN said that HMRC deal with a wide range of issues but officers should spot things that were missing. SS asked how much work was being done on pre-return checks as he was not aware of any such checks. SN said this work would not start in Local Compliance until October/November 2009. SPN pointed out that some work had already started in Large Business and Special Investigations. JA said he would wait and see what the training and guidance said about encouraging advice on what to claim etc and he looked forward to being provided with that evidence.

11. KS stressed that it was not just about getting the right amount of tax but also it should be from the right person who was accountable. For example, where an employer operated the wrong tax code for an employee, resulting in an underpayment of tax, it was not the employee's fault. JA thought prima-facie it was the employer's fault unless they could prove innocent error and RW referred to Regulation 72 of the 2003 PAYE Regulations in this context. JA added that this was a situation which should trigger HMRC to look into the employer.
12. JA suggested that going forward there would be merit in unrepresented taxpayers, particularly those who were or should be receiving Working Tax Credit (WTC), including the self-employed, being made aware by compliance staff of their entitlements if their earnings were (say) £15,000 and below. This should be part of the customer service. IG said he would be talking to his team about training issues and would look into issues around 'getting the right amount of tax from unrepresented taxpayers'. He would also look into JA's suggestion of an entry on the HMRC intranet site on WTC.

AP6: SN to provide JA with information on training and guidance about advice on claims re pre-return checks.

AP7: IG to explore with Compliance colleagues ways of increasing awareness of tax credits amongst frontline compliance staff.

Issues around the disabled and other equality matters

13. JA asked about what was being done on disability issues in compliance work areas. He stressed disability issues should be embedded in all parts of HMRC in accordance with the law. He did not see that this area was being taken forward. AB reassured him that the new staff awareness training pack was being finalised prior to its launch within HMRC. This pack gave staff training on how to best support our customers and information about their responsibilities under DDA. As disability champion Melanie Dawes had been keen to ensure that compliance staff benefited from this training and discussions have been held with compliance colleagues about including the pack in induction training. There was an acknowledgement that the focus of the training needed should be tailored to compliance activities and therefore a managers' discussion pack was being drafted which could be included in compliance team meetings. This would give staff an opportunity to discuss how these matters related to their work. AB stressed all parties understood how important it was that Local Compliance officers considered disability situations when they dealt with a taxpayer. RW asked how this was fed into policy guidance for example those who did not open the 'brown envelopes' because of mental health issues. AB said HMRC used the social rather than medical model for disability training which was based on customer needs rather than on making assumptions according to physical or mental conditions.
14. SPN added that this tied in with the new penalty regime, for example, what was 'reasonable care': it should depend on what was reasonable for each individual. AB said she had contributed to the Review of Powers team work as taxpayers and staff needed to understand what was a reasonable excuse. She said when HMRC were considering compliance reviews or reasons for lack of compliance, disability was not a reason not to proceed, to do otherwise was itself a form of labelling. Research on how customers with mental health problems dealt with HMRC had been done with MIND and Debt

Management and Local Compliance and sub-group members would be given access to the conclusions. SN reassured that Local Compliance strategy was seeking to have a better understanding of customers and disability was an important part of the package.

15. JA asked if standard letter and fact sheets were DDA compliant. CG confirmed this. JA also pointed out that the reference on the standard letter about help on the HMRC Internet site provided a link that did not work. AB agreed but this was being rectified. JA was uncertain that the fact sheets and letters were DDA compliant but that this could be dealt with at the forthcoming meeting. JA asked how equality issues were managed re race/language. AB said HMRC had just set up an Ethics and Responsibility Committee and it was envisaged they would look at the high level management of these issues. There was also the 'Needs Help' team in ICD which is responsible for these strategies. SN confirmed that HMRC provided interpreters where there were language problems.

AP8: AB to provide sub-group members with research about how mental health problems were dealt with by HMRC.

HMRC understanding of the impact of changes in compliance checks on the voluntary sector

16. JA said the new Charter stated people could have access to representation, but the group of taxpayers they dealt with could not afford paid professional support. JA pointed out that those affected by tax credits should probably be referred to Citizens Advice or welfare rights advisers at local authorities, whereas those who were uncertain about tax reliefs should go to TaxAid. ND highlighted that Citizens' Advice typically act as a referral agency to TaxAid etc and they experience capacity problems when another unexpected stream of work arises for them to cope with. In the present climate the big issues were debt and employment. They of course want to provide adequate advice but some colleagues are not equipped to advise on the new powers etc which are complex areas. FC agreed, emphasising that this had an impact on the helplines for TaxAid and that it created problems for organisations like Citizens Advice. She also highlighted that there were other initiatives which impacted on them like the Offshore Disclosure Scheme which brought a lot of contact from pensioners and migrant workers. FC added there were also problems due to the design of forms for example, the SA form. FC suggested on the front of this form there should be a line saying 'if you do not have foreign income you do not have to complete the non-resident pages'. These little things would help the voluntary sector enormously and would save a lot of time. TaxAid wanted to help and resolve issues earlier but this also required resource.
17. JA felt that HMRC compliance activity should include telling unrepresented taxpayers where they could get independent advice. To help the voluntary sector there should be a mechanism in place to try to predict the knock on effect of new compliance activity. KS agreed that to be forewarned was to be forearmed. For example, unrepresented taxpayers should be told that they could get advice on a pension letter from TOP; but that organisations like TOP need to be provided with campaign information in advance so they can be prepared to expect calls. IG said that it was straight forward for pensions but it would be useful to get feedback from KS and others about the demand on them.

18. JA said there was a broader issue about HMRC/HM Treasury showing a co-operative/supportive approach and to allocate funds, for example, to the Citizens Advice Bureau and other tax-based voluntary agencies. IG referred to the grant in aid funding that was provided by HMRC to support the voluntary sector. ND said the government was clamping down on Legal Aid, so it would be impossible to have something similar in the tax arena given the financial constraints and, therefore, unproductive to ask for it. Both ND and RW thought that an alternative source of funding may be through the Ministry of Justice as some of the issues, in particular the penalties which were now behaviour-related, may be subject to Article 6 of the Human Rights Convention (right to a fair trial) and therefore people charged with a penalty may have the right to public funding if they do not have sufficient means to pay for legal assistance, and the interests of justice so require (Human Rights Act 1998, Schedule 1). JA agreed if issues came under legal aid provisions then it would be desirable for them to be dealt with that way. ND said legal aid is a very emotive subject and there needed to be more research about general public funding issues. SPN said this needed to be given higher profile as he did not know how much awareness needed to be done. ND emphasised that it would be an advantage to HMRC as cases would not need to be re-worked.
19. JA said an extension of this is HMRC publicity and compliance campaigns specifically when they are geared to specific groups for example, retailers, taxi drivers. To know in advance about such campaigns would be very helpful as they could prepare for engagement with these groups. SN said it would be very sensible to talk in advance to do this. SPN added that HMRC were looking to take on the Australian idea of a Compliance Program which would set out HMRC's forthcoming priorities. IG said this was at the high level stage and it would be a year or two before it got to the unrepresented level.

AP9: Further thoughts that sub-group members may want to provide to HMRC about the demands of compliance changes/initiatives to AR.

Toolkits to help unrepresented taxpayers

20. JA highlighted the toolkits which were being provided to agents. He asked why something similar couldn't be provided for unrepresented taxpayers. CG questioned how HMRC reached those who did not have the Internet. JA said hard copies should be provided. SPN said these were technical toolkits which covered a wide range of issues not needed for the unrepresented sector. SN suggested a practical approach starting with PAYE coding and self assessment. JA agreed. IG explained that HMRC currently have customer relationship managers for large business because the amount of tax at stake and the complexity of their affairs merit us devoting resource to them. JA stressed that the unrepresented needed help and empowerment. It would be useful to have something that was simple and useful to work with particularly for the Citizen Advice Bureau. Some self-employed did not know where to go. AB recommended that the Business Start-Up line was very good for advice.
21. JA asked what was seen as 'reasonable care' for unrepresented taxpayers if they took advice from someone they thought was competent. RW said there was a distinction between taking advice from, say, an unqualified adviser with their own office (which an unrepresented taxpayer could reasonably rely on) and taking advice from a man in a pub (which might not be 'reasonable care').

RW added that HMRC could usefully give publicity to common errors found in returns, possibly as an alternative to toolkits. SPN said HMRC did not want to over prescribe what records needed to be kept and if all receipts and invoices were in a box then this may be all that a taxpayer needed to prepare an accurate return. Clearly, however, there were business benefits in doing more than that. IG recognised that it would benefit unrepresented taxpayers if they could be made aware of 'common errors'.

AP10: IG to feedback to appropriate HMRC colleagues the benefits of pointing out 'common errors'.

AOB

22. ND asked which group would be responsible for the Taxpayers' Charter issues, the main Implementation Forum or this sub-group. SPN said he understood that it would be a new grouping as the Charter covered all of HMRC's responsibilities.
23. Overall members agreed that it was a useful meeting and they should continue to meet.