

Compliance Reform Forum (CRF)

Thursday 4 February 2010

Room 1.15 Euston Tower, London

Agent representatives

Chas Roy-Chowdhury - Association of Chartered and Certified Accountants
Glenn Collins - Association of Chartered and Certified Accountants
Jane Moore - Institute of Chartered Accountants in England & Wales
Andy Tall - Institute of Chartered Accountants in England & Wales
Con Kelly - Association of Accounting Technicians
Jacqui Brennan - Association of Accounting Technicians
Tina Riches - Chartered Institute of Taxation
Gary Ashford - Chartered Institute of Taxation
Derek Allen - Institute of Chartered Accountants of Scotland
Elaine Gibson - Institute of Payroll Professionals
Simon Sweetman - Federation of Small Businesses
Robert Maas - Institute of Indirect Taxation

HMRC

Stephen Banyard - Business Customer Unit
Brian Redford - Business Customer Unit
Jo Penny - Business Customer Unit
Jayne Banner - Pacesetter in Compliance - New Ways of Working
Andy Tims - Pacesetter in Compliance – New Ways of Working
Martin Stribblehill - Central Compliance
Mike Brown - Local Compliance Change & Capability
Mark Leech - C & E Programme – New Ways of Working
Simon P Norris - Central Policy – Powers Review
Helen Latham - Central Compliance – FPI Programme
Christine Woodbyrne - RIS Campaigns
Geoff Allen - Business Customer Unit
Helen Hill - Business Customer Unit

Apologies

Francesca Lagerberg (ICAEW), Mike Arnold (CIOT), Paul Hill (ATT), Simon Norris (HMRC), Steve Hickman (HMRC).

SB opened the meeting by recognising the excellent work being done by the subgroups and thanking them for their ongoing contribution.

Last minutes and action points

1) Minutes of the last meeting as circulated with meeting papers were agreed.

2) Wider considerations of toolkits - the following update was given:

- change of wording to clarify that their use is not mandatory to demonstrate reasonable care
- thanks to agent representatives for help in arriving at new wording which has been used in the two latest toolkits now being piloted
- ending of pilot of first five toolkits on 31 January and commissioned external evaluation leading to release via website to wider agent community
- development of further toolkits in 2010-11
- continuing very positive response from agents in the pilot
- CRF sub group meeting on 9 February

3) Despite the use of toolkits not being mandatory agent representatives still had concerns about the risk of being penalised if they are not used. It was agreed that this would be discussed further in the light of feedback on their use.

4) Inappropriate compliance check letters - based on the one example received it appears that it was part of a discrete project that will not be repeated. As a result of CRF concern Local Compliance staff have been reminded about the correct processes.

5) Joint Learning update - HMRC are keen to develop this work area and have met with representatives of ICAEW, AAT and CIOT to discuss material, venues and joint presenters. Funding considerations are under review.

6) CRF volunteers for:

- Business Assurance pilot - HMRC made a further request for volunteers. Although the pilot starts on 6 April there are still opportunities for agents to play a part.
- Publishing names of deliberate defaulters - HMRC was still seeking involvement from the agent community and any CRF contributions/volunteers would be welcome.

7) Agent representatives asked that future requests for volunteers are emailed separately from the minutes to ensure these are picked up and actioned.

AP1: HH to email the agent reps who expressed interest

8) Other action points included as agenda items.

Updates

Online filing results

9) SB reported that early indications are that 75 per cent of SA returns were received online compared with 68 per cent (PY) and 43 per cent (PY-1).

Working with tax agents consultation

10) HMRC provided information about the next stage of consultation with the agenda and acknowledged that most CRF members are already sighted on this and engaging with the Central Policy Powers team. As yet the date for the new legislation is not certain.

11) Agent representatives were concerned about HMRC's ability to act in relation to non affiliated agents as there was no representative body to report any concerns to. The consultation document makes it clear there is work to be done in this area and HMRC will be engaging with two non affiliated bodies although the issue is fundamentally about standards rather than affiliation.

12) Agent representatives suggested that there should be a common set of terms for all bodies so that all members report under a common framework which echoed the suggestion made by Dave Hartnett at the 2009 Hardman lecture that a joint professional standards body could be established to look at professional standards across tax practice in both the public and private sectors.

Compliance checks, penalties and tribunals

13) HMRC circulated the latest cumulative statistics covering the period April 2009 to 30 November 2009 and gave a commentary highlighting:

- high level awareness training on HMRC website for next phase
- operational and process guidance together with staff training modules to be completed shortly and exposed for review by volunteers to be sought by HMRC

14) Agent representatives requested a more detailed breakdown of the statistics which HMRC can and will provide in the future; this led to discussion of the purpose of the figures.

15) Agent representatives highlighted the tension between the new behaviour based penalty regime and the fixed 10 per cent that was being offered by the THP and suggested that campaign penalties could potentially be ultra vires.

New PAYE penalties

16) HMRC provided an information paper with the agenda on which agent representatives had some questions:

- the 13 line P35 does not form part of this work
- not collecting the penalties in year on an automated basis
- current situation with CIS returns where the fixed late filing penalties can sometimes greatly exceed the tax due – to be rectified from tax year 2011-12.

17) Agent representatives also confirmed their wish to keep this on the CRF agenda.

Record keeping fact sheet

18) HMRC gave a verbal update indicating that the fact sheets are complete and that CRF feedback was appreciated; agreement from Central Policy (Tax Administration Advice) is still needed on one final point. (Post meeting note – final version has been agreed and will be published towards the end of February).

Pre-return tool kits

19) Evaluation will be starting in the next few weeks and agent representatives were asked to contribute via their institutes.

Cross tax working – lawful disclosure

20) HMRC circulated a paper with the agenda giving updated thinking on its legal disclosure position where an adviser is not authorised to act for all heads of duty. There is a genuine need to ensure HMRC protects customer confidential information and the proposed approach balances this against the practicalities of a customer's expectation that HMRC will deal with their agent. Mocked up adviser and customer letters were also circulated. Agent representatives were content that what was being proposed had addressed their concerns and resulted in a workable solution.

21) The main agent representative concerns were:

- They would prefer to receive notification of a compliance check in advance of the client and also by email. It was agreed that both issues went beyond cross tax working and represented different challenges for HMRC.
- Issues around the 64-8 process which cannot deal with more than one agent authorisation and doesn't work in all circumstances. See 21 below.
- Questions as to construction of the letters and why the customer letter only gives the statutory authority for SA enquiries. (These were responded to outside of the meeting).

22) Agent representatives emphasised that the 64-8 does not recognise the reality that a client will have a lead agent but could engage others when a specialist is needed. It was suggested that a paper copy of any disclosure authorisation given for the duration of a compliance check could be held in the relevant office. HMRC confirmed that written authority other than a 64-8 would continue to be acceptable in these circumstances. Agent representatives asked HMRC for clarity that disclosure arrangements are working properly. Work in this area is ongoing. Current advice is contained in the 64-8 'Frequently asked questions' on the HMRC website.

AP2: HMRC to clarify what can be published about agents acting just for the duration of an enquiry.

VAT penalties

23) The ICAS representative stated that most of the examples of visits being reported by ICAS members are starting with VAT and a request to review the latest return and records, followed up by requests to look at the accounts and returns for the last three years. He advocated that HMRC should produce guidance for practitioners on the types of errors being encountered and publish examples of errors indicating where they would fall on the penalty spectrum. This would provide clarity for HMRC and agents and announcing proposed campaigns in advance to practitioners so that published risk areas could be considered would improve compliance for all.

24) HMRC acknowledged this was a good idea in principle but there are difficulties in coming up with common errors as shown by previous discussions on sharing risks. The proposal does however fit with the concept of openness and early dialogue.

AP3: HMRC to scope the possibilities

RIS campaigns

Role of CRF campaigns subgroup

25) HMRC outlined the key elements of a campaign (slide provided). Current campaigns are the Offshore New Disclosure Opportunity (NDO) and the Professionals campaign (first theme medical professionals).

26) The role of the CRF subgroup and its work with campaigns was discussed. The value of the sub group is that it allows time for in depth discussion.

CRF were asked to agree that they are content for the sub group to continue to work with campaigns in the future.

HMRC proposed that terms of reference (TORs) be drawn up for the sub group and asked CRF to appoint a nominee from sub group to work with campaigns to sign those off.

27) The CIOT representative provided feedback to CRF regarding 21 January 2010 meeting. The wider group contributed their individual observations. Feedback on the 4 February 2010 subgroup meeting was that it had been positive with indications that the subgroup will be able to play an effective role in campaigns going forward. CRF members value:

- Early consultation; builds trust and respect for each other
- Client educational opportunities eg before a disclosure opportunity

28) It was agreed that:

- the campaigns subgroup should continue to work with HMRC
- Sub group nominee will work with HMRC to agree TOR's
- HMRC will put in place campaigns sub group meetings

AP4: HMRC to prepare terms of reference for the campaigns subgroup to agree.

29) HMRC acknowledged that the design of campaigns can be improved with external input and welcomed the opportunity to consult earlier and more widely in future. The CRF subgroup will seek to achieve this.

AP5: Campaigns update on next CRF agenda.

AOB

30) A paper on the General Tax Practitioner project compliance checks was circulated for information. HMRC indicated that a more detailed presentation could be given at the next meeting if requested.

31) The next CRF meeting is scheduled for Thursday 17 June 2010 at 100 Parliament Street.