

**Compliance Reform Forum
7 June 2011**

Agent Representatives

Con Kelly	Association of Accounting Technicians
Jacqui Brennan	Association of Accounting Technicians
Glenn Collins	Association of Chartered and Certified Accountants
Chas Roy-Chowdhury	Association of Chartered and Certified Accountants
Paul Hill	Association of Taxation Technicians
John Kimmer	Association of Taxation Technicians
Gary Ashford	Chartered Institute of Taxation
Tina Riches	Chartered Institute of Taxation
Derek Allen	Institute of Chartered Accountants of Scotland
Robert Maas	Institute of Indirect Taxation
Andy Tall	Institute of Chartered Accountants in England & Wales
Jane Moore	Institute of Chartered Accountants in England & Wales
Helen Hargreaves	Chartered Institute of Payroll Professionals
Holly Tasker	Observer

HMRC

Brian Redford (Chairman)	Business Customer & Strategy
Geoff Allen	Business Customer & Strategy
Jayne Banner	Enforcement & Compliance
Fraser Fairlie	Enforcement & Compliance
Simon Habesch	Central Policy Powers Review
Rob Allum	Risk & Intelligence Service
Sally Mills	PAYE, SA and NICs
Ralf Cook	Local Compliance
Ian Young	Local Compliance
Julian Petrarca	Local Compliance
Simon Norris	Local Compliance
Chris Lamond	Local Compliance
Jo Hegarty (Secretariat)	Business Customer & Strategy

Apologies

Francesca Lagerberg (ICAEW), Bob Davies (IIT), Brian Palmer (AAT), Brian Keegan of Institute of Chartered Accountants in Ireland, Nicky Prys-Jones (HMRC RIS)

Welcome and Introductions

1. BR welcomed everybody to the meeting and asked them to introduce themselves. He warmly welcomed first time attendees.

Last minutes and action points

2. Because of time constraints BR asked that the minutes and action points be agreed outside of the meeting with any questions or follow up to the action points emailed to the Secretariat in the next week.

Updates

Campaigns

3. The Campaigns subgroup had not been able to meet before the main CRF meeting as usual. The next subgroup meeting is planned for 8 June 2011.

4. CRF Campaigns subgroup members will be in a position to provide advice on a confidential basis of upcoming campaigns to include risks, plan communications to the target groups and provide education to their members which will support the overall aims of the campaign. Where needed to provide specific advice on a sector or specialism the sub group will be augmented with extra attendees.
5. The next campaign will be the VAT Initiative (focussed on individuals and businesses operating at or above the VAT threshold who have not registered).
6. Agent representatives said that a disclosure for those nearing or around the VAT threshold has implications for income tax too so isn't that straightforward. HMRC emphasised that to qualify for the campaign opportunity a full disclosure must be made and at the forthcoming subgroup discussions will include how that happens. Planning assumptions are that the VAT campaign will be launched at the end of June and will feature 3 months for notification and a further 3 months for disclosure.
7. The figures for the plumber's Tax Safe campaign have not been circulated yet as they have not been finalised. Notifications are lower than projected. Next steps will be decided after talking to the CRF subgroup. It is important that HMRC takes robust action - part of the reason some don't disclose is they don't believe HMRC will do anything. Agent representatives said it is very important to those who pay their tax to see that those who don't have sanctions taken against them.
8. Agent representatives asked whether there were figures published that showed the outcome of the campaigns and HMRC confirmed that the figures relating to the campaigns are on the Internet and the link was given in the written response to AP 27 from the last CRF. HMRC took an action to re-send the link to CRF members. **(AP1)**
9. At the last CRF Agent representatives were asked to let HMRC know of any trends they identified from the plumbers Tax Safe campaign. Agent representatives didn't see any and felt it didn't really target the intended audience in the right way. There weren't many plumbers on the books of accountants present and there were questions about the way the campaign was advertised. HMRC confirmed the campaign had been thoroughly advertised so it would be difficult for those in the industry to say they weren't aware of it. This included a direct marketing campaign which involved phoning plumbers. One Agent said that with the offshore disclosure campaign about 20 people walked in to his practice off the street but no doctors or plumbers had done that. Agent representatives reiterated that it was important for HMRC to take action against those it knew about who had not disclosed information so that those who pay their taxes see action is being taken against those who don't.

Actions

June AP1: HMRC to send out the link to the figures from the offshore campaign on the HMRC website to CRF members.

Powers

10. There has been a great deal of work on and around proposed legislation to

address 'dishonest' tax agents. All the agent representative bodies and many of the individuals on CRF had been involved in some part of the work. Budget 2011 announced further consultation over the summer and that is expected to go live mid-July. There will be a further workshop on 16 June.

11. The biggest changes are:
 - 1) who it affects. It is now restricted to agents assisting clients in the course of business which is a much narrower definition than in S99 TMA.
 - 2) this is very focussed on dishonesty regarding loss of tax. This legislation hits the intended target
 - 3) there are changes in safeguards around tribunals. The Law Society has been working on this aspect.
 - 4) S99 charged a penalty first to force submission of papers. The new legislation seeks to establish the facts first and apply a penalty at the end.
12. HMRC expects this draft legislation to be more favourably received than before. Subject to Ministers it will be published again with the Autumn draft Finance Bill with a view to being included in Finance Bill 2012, and brought into effect some time after.
13. Agent representatives said that after fixing a known defect with possession or power and extending it to indirect tax, apart from the changes mentioned it looked very like S99. HMRC advised that the legislation was longer. Work will be done by HMRC to make the differences in the new legislation clear.
14. At the February CRF meeting there was a lot of discussion about discovery and certainty. The Powers team met with some representatives on 4 April to air concerns about current position on S29 in the light of the Langham v Veltima case. HMRC expressed thanks to everyone who attended and particularly to Robert Maas for supplying information from his archives. Since then HMRC has sent an email asking for examples of cases where things are not working the way they should, and has asked for consideration of how s29(5) TMA would look in a perfect world. If changes are to be made the earliest opportunity would be in Finance Bill 2013.
15. The joint article on compliance centres has now been completed and was intended to be published on the HMRC website on 7 June under what's new but at the time of CRF had not been published. HMRC expressed its thanks to Robert Maas, Derek Allen and Chris Lamond (CL) (of HMRC) for their help. CL said it was a summary of where compliance centres are right now. As things change in the future there are likely to be further articles. HMRC to send out the link to CRF members to enable them to publicise it. **(AP2)**

Actions

June AP2: HMRC to send out the link to the compliance centres article on the HMRC website to CRF members.

Single Compliance Process (SCP)

16. The new Project Lead took over in March and the aim of his presentation was to deepen CRF's understanding and provide the opportunity for feedback from the main CRF group. The SCP builds on work already carried out in HMRC to

improve the compliance process, including the development of cross-tax working. SCP is seen as an over-arching process for all types of intervention.

17. The new process is being trialled for businesses in Small and Medium Enterprises (SME). If successful, HMRC expect to adopt and adapt the overarching process across other customer segments at a later date. Civil investigation of fraud and checks on VAT repayments are currently excluded from trials.
18. The HMRC challenge is to become more efficient while improving the customer experience. SCP is expected to help the customer by reducing the compliance burden. Being open and upfront about the risks, engaging in a collaborative dialogue and focusing on risk means the enquiry will be proportionate to the risk, and is expected to help shorten the length of time taken to complete enquiries.
19. The trial phase runs for six months from 1 June. Contact with the trader and agent has been deferred until 20 June after the CRF subgroup raised concerns in their May meetings. Amendments have been made to the process to take these concerns into account. A detailed briefing has been worked up as requested by the subgroup and will be shared with them in the next few days. The briefing will be provided in time for CRF agents to brief their members. HMRC will maintain the involvement of the CRF sub group as the trials are running. Suggestions for improvement to the process will be considered through dialogue and feedback
20. The HMRC Project Board will analyse the data from the trials before deciding to implement but subgroup input at that stage will be useful too. If the trials go well and the decision to roll it out more widely is taken, implementation is likely to be from January to June 2012.
21. There are 2 groups of sites involved in the trials. One group was involved in the cross tax working trials and the other was not. This is to ensure there are no preconceptions influencing outcomes. The geographical sites do not mean only customers living in that area are being targeted. Generally if a visit to premises is needed the intervention will be worked within a reasonable travelling distance from the trader. HMRC will do the travelling. But if the intervention is expected to be by written correspondence that could be from anywhere in the country.
22. Enquiries have not been specially selected for inclusion in SCP. These are cases which HMRC would have opened for enquiry under the existing process. Once the risks have been established they will be communicated to the agent using the principles of the Openness and Early Dialogue work. Although the intervention is intended to be closed more quickly, it will be worked at a pace appropriate to the circumstances. If risks change in the course of the enquiry then the level at which the enquiry is worked can change.
23. Case workers will discuss and agree a plan, focus on what evidence may be required to progress the enquiry and each stage of the enquiry the trader and his representative should be in no doubt about what the next step is. Using the emerging thinking from Dispute Resolution there should be 'no surprises' and decisions will be based on evidence. Agent representatives expressed reservations about SCP - they thought more time should be taken to win the

hearts and minds before going ahead. Agents asked what was so different from other previous initiatives - why would this one work?

24. The aim of SCP is to make the enquiry as efficient as it can be for all of us. There are cultural challenges on both sides and all too often both sides have become entrenched. Some felt that setting out the risks in writing to the agent giving him an opportunity to discuss them with the client would help. It was suggested that the 'dishonesty' test from the VAT perspective is something that has got in the way of collaborative working as there has almost been 'cross-examination' to establish whether mistakes are careless or deliberate. Perhaps if a client agreed to this meeting, doing away with the penalty could be agreed as a carrot? It was agreed that if the risks were addressed sufficiently it may be possible that no visit to the premises is required. The idea of SCP in a nutshell is that the experience replicates the best intervention the customer/agent has had.
25. HMRC confirmed authorities in place at the start of the SCP will be respected. Consideration would need to be given to extension if not in place for taxes which come into a cross-tax enquiry.
26. Agents commented that fee protection policies may be in jeopardy if the new process changes the basis on which cover is triggered. HMRC has had a discussion with one insurance provider. The initial feedback from this provider is that there should not be a problem providing continuation of cover but there may have to be some changes to the wording of the contracts. The project lead undertook to update the representative bodies on this discussion before SCP goes fully live. The Chairman thanked the subgroup for their contributions.

31 January embargo

27. As discussed at the February CRF HMRC has been considering whether the case still exists for the enquiry embargo at the end of January. So, to take matters forward, HMRC requested CRF members to volunteer for a working group to look at the issues to find a common ground going forward. Two agents volunteered. As the existing agreement is not recorded formally the aim is to produce a statement of certainty. Working Group to report back at next CRF **(AP3)**. It was requested that HMRC embargo consultations over this period too. It was felt that HMRC had got better about consultations with only the very rare exception.

Actions

June AP3: 31 January working group to work up proposals around the 31 January embargo and report back to CRF.

Is HMRC getting the best from CRF?

28. Jane Moore had asked for an additional agenda item that went slightly wider than the heading it was described as. There is an issue about how HMRC develops new compliance ideas. She said that for both Business Record checks (BRC) and SCP the CRF forum was not used early enough and therefore had little opportunity to comment before the initiatives went live. This has caused a degree of frustration for two reasons. Firstly, agents could have made a better contribution if they had been involved sooner and secondly, it limits opportunities

- for communication via the representative bodies. The members don't like things being sprung on them and it places the professional bodies in difficulty if any new initiative comes as a surprise to their members. If CRF agents were able to forewarn their members it would help them to learn, and develop models around standards.
29. HMRC now has a whole array of new compliance initiatives and it can be quite confusing. What is the initiative, what's it aimed at tackling, what powers are being used and so on. Would it be possible to draw up a roadmap showing how they all link up together? **(AP4)** Some initiatives have been communicated well in advance and had full contributions from CRF and others were imminent before CRF even found out about them.
 30. HMRC accepted that some points made were fair. Sometimes it got things right and sometimes it had fallen short of what CRF ought to be able to expect. Partly it was because things had been developing at a pace recently and there had been a failure to get agents involved as soon as HMRC may have wished in an ideal world. For some things it was clear agents needed to be involved, for example, Agents toolkits and for others there have been occasions when agents weren't brought in early enough. SCP started as an internal change but then its scope was broadened to include wider compliance checks and at that point discussions should have included CRF.
 31. It was also suggested that perhaps the CRF compliance view was a little bit too restricted as it tended to focus on Local Compliance initiatives and that was not all the compliance HMRC undertook. For example the offshore disclosures - CRF were well sighted on this work until the really serious cases were moved into Special Investigations and now CRF don't know what is happening there despite earlier thorough involvement.
 32. It was accepted that HMRC should have better engagement with CRF and there will be a new change director starting shortly for Enforcement & Compliance and she may have a different perspective on the totality of change. CRF will request that she brings her views to the next CRF meeting **(AP5)**. The CRF Chairman said that from October onwards there will be a senior Director from Compliance chairing CRF. One agent representative said that too often HMRC had a problem and decided on a solution and then brought that to CRF. HMRC needed to decide what the role of CRF is, what do they want from CRF? It would be better if HMRC talked to CRF about a problem and they worked collaboratively to find a solution. There was general recognition that would be an ideal way of doing it but questioned whether in practise that was a possibility.

Actions

June AP4: HMRC to produce a compliance roadmap showing how all the initiatives link together.

June AP5: HMRC to ask the newly appointed Enforcement & Compliance change director to attend the October CRF.

Agents' strategy

33. The consultation document about working with agents was published on 31 May and the powers work on dishonest agents would be subject to consultation over

- the summer. There is recognition that going forward HMRC needs to trust agents more but that is balanced with a need for HMRC to know more about the agents using its services. HMRC has organised a number of events including one in Scotland on 8 June which the CRF Chairman is attending. The CRF Chairman took the opportunity to thank everyone who had been involved in the work leading up to the condoc and thanked everyone in advance who was going to comment on it, and asked for questions.
34. Would everyone be able to alter their clients' code numbers? Does this include unaffiliated agents? This is something that will be explored during the consultation process. At present to enrol an agent HMRC only asks for a name and trading address. HMRC must know more. There was some debate about what a 'good' agent would look like. Should we only treat members of certain representative bodies as OK to self serve? Do people accept that there maybe 'good' agents who have no qualifications e.g. ex HMRC staff. Should they be excluded from self serve? It was agreed that this is a debate the Department needs to have.
 35. Some other countries regulate the accountancy profession - why doesn't that happen in the UK? HMRC estimate from research that some 12,000 firms are unaffiliated. HMRC could not deny access to established firms as they had no evidence that qualification or affiliation produced more accurate work. Over time that evidence base would be built if the proposals were taken forward.
 36. The consultation process closes on 16 September and members of the Agents strategy team will continue to be available for questions over the next few months or attend agent representative meetings if required.

Taskforces

37. There was a presentation on Taskforces. They are geographically specific and will start by targeting restaurants in particular areas of London. This is about deliberate evasion and the taskforces will be using criminal and civil sanctions and there will be prosecutions. This is not about error or failure to take reasonable care. Taskforce activity targets evasion and is therefore totally different from Campaign activity. Publicity includes radio messaging, newspapers and trade press. There has been engagement with key stakeholders too – HMRC has had positive feedback from the Bangladeshi London Restaurant Association and from Chinatown Restaurant representatives. There will be 12 taskforces in 2011/12: 4 in London, 4 in Scotland and 4 in the Northwest. Risk profiles have identified 20 potential projects.
38. There were questions about how the Taskforce approach differed from campaigns. Task Forces will address those who deliberately choose not to comply and who are unlikely to respond to the disclosure opportunity offered in a campaign. Businesses are chosen through risk profiling and not at random. It is about showing evaders that they will be found. In due course Task Forces will use the Single Compliance Process that was covered earlier on in the meeting. The work will be done mainly by Local Compliance staff but Task Forces will be supported by others from Special Investigations, Criminal Investigations and Debt Management. There will be cases fast tracked for prosecution.

39. Agent representatives said they were 100% behind HMRC when it comes to closing the tax gap. But HMRC could have worked with them to develop a co-ordinated media approach to give a more powerful message. There was agreement that people didn't like seeing others getting away without paying their share but HMRC needed to be careful about blurring the lines between evaders and avoiders.
40. This work is expected to produce a compliance yield and a deterrence effect. It is expected that it will generate local press coverage and at the prosecution stage it should generate national press. Prosecutions should deter others – but an unpublicised 'swoop' should also deter others.
41. There was a question about whether there was disparity between this initiative and the plumber's disclosure opportunity. It was stressed that any restaurant could come forward (if they haven't been visited by the Taskforce) and make a disclosure and be treated in broadly similar terms to the plumbers. But any plumbers who should have made a disclosure but haven't will be treated in a similar way to the restaurants in this initiative. Any patterns found will be fed back into HMRC's risk profiling systems.
42. The CRF chairman thanked members for observing the embargoed nature of the information they had been emailed prior to Taskforce launch.

Business record checks

43. This is an update so does not go into the fine detail of business record checks (BRC). BRC are about the adequacy and appropriateness of records in real time. It deals with records at a very basic level – records of money in and money out. It is very different in concept from other HMRC interventions. HMRC's response to the condoc responses will be issued shortly. The condoc was on implementation of BRC.
44. The penalty provision for inadequate record keeping is not being used in the test and learn phase, which began on 4 April. HMRC didn't get its media strategy right concerning the test and learn phase and agents were concerned that BRC had started straight after the end of the consultation period. The 30 visiting BRC officers have taken well to the work and have not encountered any serious issues. So far there is only a small amount of data from the trial and it suggests that the work on risk profiling, whilst in development, appears to be appropriate at this stage - those visited have a deficiency of records at a higher level than the general population.
45. Next stage will be to address the media campaign – to make clear the benefits around good record keeping and signposting to the HMRC site for information.
46. Agent representatives had a number of questions. A recent article had said all the visits in Liverpool were found to have unsatisfactory records – is that true? Ian Young confirmed he had seen that article but results are only just being compiled and he is not aware of those findings. It may be that a single practice had clients visited all of whom had deficiencies and that has been extrapolated more widely. Early emerging findings will be discussed with the working group at their forthcoming meeting.

47. The same article had also said that recommendations were made for invoices to be numbered sequentially though a business visited was not VAT registered. Are the recommendations generic? No the recommendations are business specific and from an individual officer so there must have been something in the way that the particular business was run that led the officer to suggest it would be useful.
48. After a visit the business was told there may be a repeat visit after 3 months. Agent representatives weren't aware this might happen. HMRC confirmed it may be necessary to make a repeat visit to ensure things are in order. Sample letters were given out to the agent representatives.
49. Agent representatives asked were there any sanctions if the advice given by HMRC on these visits was not followed? There are no sanctions for not following the advice but if the return is wrong or records remain deficient there may be penalties.
50. There was a discussion about the concept of business record checks and how different they are from the usual HMRC work. HMRC is not targeting penalty yield in this initiative – this is about closing the tax gap. Deficiencies are fed back into the risk profile. If deficiencies are sufficient enough to warrant additional compliance activity this may lead to an intervention. CRF agents thought that this was not the best use of HMRC resources and that if historic errors had been found HMRC should always open an investigation rather than to merely feed back risk information which may or may not lead to an investigation in the future.
51. Agent representatives said that in audit terms this is a system test rather than a substantive test. HMRC said that success in this context will be about focussing on the right population to seek behaviour change. Long term, to monitor impact there will be target groups and control groups and there will be comparisons of the relative populations. It will need a large population size to take out individual variation so it will be some time before success can be tested. This initiative is targeted at a very basic level – are sufficient records for the scale and complexity of the business kept to be capable of translation into accounts? Agent representatives felt that this may put them in a difficult position if HMRC said records were adequate and they were telling their clients they thought they weren't. HMRC said that the scope of BRC activity was based on limited sample checks and could only comment on what was seen at the visit. It could not be complete approval or endorsement of a record keeping regime and this is covered in the post visit letter.

Communications around new penalties

52. There was a presentation on the new penalties. The legislation is now live. If the filing of an ITSA return is late there is an automatic £100 penalty. There was a question about the daily penalties – when do they run from? If a paper return is filed in February the daily penalties run from October. If the return was submitted online and in February the penalties would run from the end of January. The assumption is that if the paper return is late it will be filed online, until shown otherwise. Agents asked what to do if there is no UTR. They could file on paper immediately but if they have to wait to for a UTR would they be in a penalty position? HMRC confirmed that if there has been no notice to file there is no filing

penalty, though payment is expected to be made on time. After clarification it became clear the question was in relation to a problem in particular with foreign partners in UK partnerships. HMRC to research and report back **(AP6)**.

53. HMRC will be emphasising the paper deadline as this seems to have been lost because of its emphasis on online filing. A flyer has already been issued informing customers of key dates. CIOT have been in touch with HMRC as they said the flyer is misleading as it refers to penalties on payments made late but does not say that it refers to balancing payments. Members were concerned penalties would apply to payments on account. HMRC to ensure that future communications say clearly that the late payment penalties apply only to balancing payments **(AP7)**. There will be a penalty letter going out in August 2011 for those that have still not filed for 2009/10. It gives a warning that the penalty regime is changing and if they file after this point next year for the 2010/11 return, daily penalties will be charged.
54. The PAYE, SA and NICs (PSN) team have plans to have proposed communications reviewed before issue. CRF members requested that communications be shared with them for comment. HMRC will consider and let CRF know. **(AP8)**

Actions

June AP6: HMRC to research how to speed up the problems with getting a UTR particularly in respect of partnerships and report back to CRF.

June AP7: HMRC to review the flyer sent out about the penalties to revise wording and report back to CRF.

June AP8: HMRC to consider CRF review of proposed communications and report back.

AOB

55. No AOB. The Chairman (now JB as the meeting over-ran) thanked everyone for attending.

The next CRF meeting is 13 October 2011.

Outstanding February CRF Action Points

AP	What	Progress
AP8:	HMRC to provide guidance to staff to include that they should forward on specialist temporary authority to other interested offices.	Guidance is being worked on and will go on the Internet and intranet. Carry forward.
AP24:	HMRC to review the position and confirm whether it will be possible for an agent to send a courier to collect the papers from the scanning office paid for by the agent.	If an agent wants to send a courier to the Scanning centre at Netherton to collect papers he or she should phone the caseworker (the letter from HMRC shows the caseworker's direct dial number) to outline what documents are to be returned via the courier. The team

		there will locate the documents and contact the agent to agree arrangements for the courier to collect them. Closed.
AP25:	HMRC to arrange for a visit or demonstration of the scanning process to CRF members.	Visit likely to be in second half of September or early October: details to be finalised. Carry forward.

June Action Points

AP	What	Progress
AP1:	HMRC to send out the link to the figures from the offshore campaign on the HMRC website to CRF members.	Link sent out to CRF members July 2011. Closed.
AP2:	HMRC to send out the link to the compliance centres article on the HMRC website to CRF members.	Link sent out to CRF members July 2011. Closed.
AP3:	31 January working group to work up proposals around the 31 January embargo and report back to CRF.	An email inviting the subgroup members to meet has been sent out. Provisionally on agenda for next CRF. Treat as closed.
AP4:	HMRC to produce a compliance roadmap showing how all the initiatives link together.	Work on production of a roadmap has started and is provisionally on agenda for next CRF. Carry forward till map completed, circulated and discussed.
AP5:	HMRC to ask the newly appointed Compliance change director to bring a fresh perspective to HMRC's way of working with agents through CRF.	New Compliance Change Director will be co-chairing October CRF and is reviewing how this should be taken forward. Treat as closed.
AP6:	HMRC to research problems with getting a UTR to speed up the process particularly in respect of partnerships and report back to CRF.	Meeting arranged with Central Agent Authorisation Team to discuss issues. Carry forward to next CRF for outcome.
AP7:	HMRC to review the flyer sent out about the penalties to revise wording and report back to CRF.	There are no plans to reuse this flyer. However if that changes it will be reviewed as per the action point. Treat as closed.
AP8:	HMRC to consider CRF review of proposed communications and report back.	Under discussion. Carry forward for outcome.
AP9:		