

# Compliance Reform Forum

## 24 February 2011

### Agent representatives

Con Kelly	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
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

### HMRC

Brian Redford (Chair)	Business Customer Unit
Leroy Wilson	Central Compliance (CC)
Mark Leech	Central Compliance (CC)
Madeline O'Brien	Central Policy Powers Review (CPPR)
Tony Zagara	Central Policy Powers Review (CPPR)
Geoff Allen	Business Customer Unit
Steve Dobbin	Business Customer Unit
Caroline Meechan (observer)	Business Customer Unit
Rob Allum	Risk & Intelligence Service (RIS)
Jo Hegarty (secretariat)	Business Customer Unit
Ralf Cook	Local Compliance (LC)
David Howell	Scanning Project
Ben Aldred	Tax Administration Policy

### Apologies

Francesca Lagerberg (ICAEW)  
Jacqui Brennan (AAT)  
Gary Ashford (CIOT)  
Bob Davies (IIT)  
Jane Moore (ICAEW)  
Brian Palmer (AAT)  
Brian Keegan of Chartered Accountants in Ireland  
Nicky Prys-Jones (HMRC RIS)  
Simon Habesch (HMRC CPPR)  
Jayne Banner (HMRC CC)  
David Stephens (HMRC CC)

### Welcome and introductions

1. BR welcomed everybody to the meeting and asked them to introduce themselves. He thanked Simon Sweetman, who has left CRF, for his many years of contributions and wished him well for the future.

## Last minutes and action points

2. There were amendments to paragraph 20 of the minutes of the last meeting. There was a typographical error where the words 'many' and 'few' were together and 'Professional Indemnity Insurance' was recorded rather than 'Fee Protection Insurance'.

## New actions

### February action point 1: amend November 2010 CRF minutes on HM Revenue & Customs (HMRC) website as per paragraph 2 above.

3. An update on the November CRF action points was sent out with the minutes. The position was summarised as follows:

4. **November - action point 1:** There had been some difficulty with this action point as the business areas concerned had problems finding necessary resource. Since the minutes went out there has been confirmation that resource has been found. There will be a presentation on late filing and payment penalties at the next CRF. The flyer that will accompany the issue of Self Assessment returns was circulated. The penalties will apply to Self Assessment returns being issued this coming April so a new penalty cannot be incurred until after the October 2011 paper return deadline. HMRC took an action point to send out a link to the Powers summary on the HMRC website. HMRC also agreed to make it clear on the website when the start for new Self Assessment penalties was. CRF wanted to know if it was it after 6 April 2011 or for returns that were issued on or after 6 April 2011 (**February AP2 and AP3 and AP4**)

**November - action point 2:** Completed.

**November - action point 3:** HMRC compiled a list of all CRF agent involvement with HMRC sub-groups and there are some minor amendments needed. Further amendments should be sent to HMRC secretariat. (**February - action point 5**)

**November - action point 4:** Closed.

**November - action point 5:** Closed.

**November - action point 6:** Completed.

**November - action point 7:** Treat as closed.

**November - action point 8:** Completed.

**November - action point 9:** It was originally said that the update would be through the sub group but as the joint learning report is now available, HMRC will circulate it to CRF before the next CRF. (**February AP6**)

**November - action point 10:** The specialist agent authority was circulated in advance of the meeting and minor amendments were suggested for consideration. It was agreed that if more than one business area of HMRC needed to know about the specialist authority HMRC would copy it on but agents

should specify requirements when the specialist authority was submitted.  
**(February - action point P7 and action point 8)**

**November - action point 11:** A mock up letter was circulated with the agenda for this meeting and drafting suggestions were offered. **(February action point 9)**

**November - action point 12:** On agenda for an update.

**November - action point 13:** Completed.

## **New actions**

**February - action point 1:** amend previous CRF minutes on HMRC website as per paragraph 2 above.

**February - action point 2:** HMRC to arrange to have communications on new penalties as an agenda item at June CRF.

**February - action point 3:** HMRC also agreed to make it clear on the website when the start date for the new penalties was – was it after 6 April 2011 or on returns that were issued on or after 6 April 2011?

**February - action point 4:** HMRC to send out a link to the Powers summary about the new penalties on the HMRC website to CRF members before next meeting.

**February - action point 5:** CRF members to send details of revisions to list of CRF members in subgroups and working groups and for list to be updated.

**February - action point 6:** HMRC to circulate the Joint Learning report to CRF before June meeting.

**February - action point 7:** HMRC to make amendments to the temporary authority before it is put on the HMRC website.

**February - action point 8:** HMRC to provide guidance to staff to include that they should forward on specialist temporary authority to other interested offices.

**February - action point 9:** HMRC to alter the wording of the mock up letter as suggested by CRF and re-circulate to CRF members.

## **Updates**

### **Campaigns**

5. The campaigns sub-group met before the main CRF meeting. The Plumbers Tax Safe campaign will start on 1 March 2011. The draft of the helpbooklet has been shared with CRF agents and some technical points will be corrected before launch. The strongest criticism had been about the length of the document - 33 pages was considered too long for the target audience and it may have been a good deal more effective if it had been shorter – say 10 pages long. There is a flow diagram to summarise much of the guidance and to help tradesmen to come to a decision about whether they need to make a declaration. There are also

- phone helplines that plumbers etc can ring if they don't understand what they need to do.
6. The flow diagram itself was complex and not easy to follow. HMRC said the guidance is longer than intended because it has been added to in order to make it comprehensive as there may be more than one type of tax to pay, for example VAT as well as potentially being in receipt of tax credits. Agents suggested that if HMRC had flagged areas of risk it may have avoided some of the difficulties.
  7. As suggested by CRF agents, resource will be made available to deal with PTSP disclosures around the time of the tax credits deadline in July. HMRC asked that agents tell HMRC of any early trends they identify ie whether accountants suddenly become aware of a take-up in their services because of this campaign. **(Action point 10)**
  8. HMRC recognises this is new territory for campaign activity and lessons will be learned to inform future campaigns. CRF agents suggested that education should be built into all campaign timelines, as word of mouth can prove very effective in encouraging desired behaviour. They also suggested that there needs to be a longer lead in time in future campaigns.
  9. There will be radio advertising and billboards to reach the target population. HMRC took an action point to send CRF members the media pack showing the adverts **(action point11)**. Agent representatives asked whether all trades can make a disclosure as the adverts seemed to be targeting plumbers. HMRC confirmed that tax legislation rewards voluntary disclosure, which can lead to a broadly similar outcome so other trades are welcome to disclose and they can use page 9 of the trade's campaign help booklet to do that.
  10. Offshore campaigns: after the last CRF figures were circulated. Those figures have changed as more enquiries have been settled. In about two weeks there will be another summary of the current position and that will be circulated to CRF. **(Action point 12)**

## **Actions**

**February - action point 10:** CRF agent representatives to let HMRC know of any trends they spot re the trades campaign altering behaviours.

**February - action point 11:** HMRC to send out the RIS campaigns media pack to CRF members.

**February - action point 12:** HMRC to send CRF members the updated figures for results from the enquiries from the Offshore campaign.

## **Managing Deliberate Defaulters (MDD) programme**

11. MDD had a successful launch on 22 February 2011. CRF members were told of the launch by an email from the CRF chairman. This is a targeted measure about ensuring that the compliance of deliberate defaulters is monitored by HMRC for a period of up to five years. These defaulters can only be identified once the

- investigation is complete and it applies to deliberate evasion after 6 April 2009. The aim is to see a sustained change in behaviour by the defaulter and there will be additional reporting requirements where Potential Loss of Revenue (PLR) exceeds £5,000.
12. The MDD Working Group has been invaluable in helping HMRC get details of the programme right and the HMRC MDD lead thanked members of the group for this. The measure is about HMRC getting tough on evaders and it should also reassure those who are compliant that the non compliant will be subject to much closer scrutiny. The Additional Reporting Requirement was announced in Budget 2009 and the measure is supported by existing legislation. HMRC reassured the CRF that despite concerns expressed by one of the accounting bodies, HMRC is sufficiently resourced to carry out monitoring and a Deliberate Defaulter's Management Unit has been set up specifically for this purpose.
  13. Since the launch, 900 letters have started going out to defaulters and these will be issued in tranches over the next few weeks. Agent representatives requested sight of the template letters (**action point 13**). The number going into the programme is estimated at around 2,000 per year. There is an extensive Q&A on the MDD programme on the HMRC website and the link will be circulated after the meeting. (**Action point 14**)
  14. Those who have received the maximum reduction in penalties for unprompted disclosures will not be included in the programme. Agent representatives asked whether those who might have cooperated but were not fully aware of the consequences, would be going into the MDD scheme. Yes - on the basis that they simply did not cooperate and deliberate behaviour has been established.
  15. There had been issues about incorrect external communications about the target population. Agent representatives said it would have been useful to have briefing in advance to ensure messages were right. HMRC apologised for the short notice but explained that details had been released as soon as ministerial approval had been granted.
  16. On a separate note, it was brought to the attention of the CRF that not all HMRC members of the MDD working group had been shown on the list circulated by the secretariat, only the MDD lead was shown. HMRC to make amendments. (**Action point 15**)

## **Actions**

**February - action point 13:** HMRC will send out the MDD template letters to CRF members.

**February - action point 14:** There is an extensive Q&A on the MDD programme on the HMRC website and the link will be circulated after the meeting.

**February - action point 15:** All HMRC members of the MDD working group to be included on the list.

## **Publishing Details of Deliberate Defaulters**

17. PDDD began from April 2010 so there has been no publication of names to date. It is expected that there will be no details published before the second half of this year.
18. The PDDD guidance is changing. CRF members had asked for a change to the method of aggregation of penalties.

### **Pre return support (toolkits)**

19. 15 toolkits have been published to date and another 5 will be published over the next few months. The most popular toolkits are 1) property, 2) Capital Allowances, and 3) private/personal expenses. There have been discussions about how they fit with reasonable care and the fact that their use is not mandatory has been emphasised.
20. Each toolkit has a generic summary at the start and that is a big part of the download. Now that 20 are live or almost live there is likely to be a change and one summary download will be produced to cover the 20 toolkits. Feedback from HMRC staff is positive and the evaluation of the toolkits has been published on the Internet. Another subgroup meeting will be arranged shortly.

### **Powers**

21. New offshore penalties: the commencement Statutory Instrument has been published and penalties are due to come into effect for the 2011-12 tax year.
22. Excise compliance checks are due to come in on 1 April 2011.
23. The consultation on security for PAYE & NICs and data gathering finished on 9 February 2011. Legislation was published at autumn 2010 as part of new policy making process and is expected to be in Finance Bill 2011.
24. There is a discussion paper on Regulatory penalties out at the moment and the closing date for comments is 11 March. Because it is subject to the new process there will be a further consultation on it in the autumn.
25. The work on agents is progressing. There will be a further consultation with legislation as part of the new process in the autumn, if Ministers decide to include it in FB 2012.
26. The Powers Review team are responsible for taking forward four recommendations from the CIOT report on its review of the first year of operation of HMRC's new Powers regime (HM Revenue & Customs Modernising powers, deterrents, and safeguards: The first year), mainly around discovery and the enquiry window. Work has started on these and will include consulting CRF.

### **31 January enquiry embargo**

27. A paper had been circulated before the meeting. HMRC said it was no longer conducive to the way it operates to have an embargo on enquiries in the last two weeks of January. An alternative would be to allow more time for agent responses where action would otherwise be required during the last two weeks in

January.

28. Agent representatives asked that HMRC give this more thought. Whilst the idea of more time to respond was very appealing January is still critical for agents. Any change also had the potential to damage the agent/client relationship at that already busy time where action would otherwise be required during the last two weeks in January.
29. This is a significant issue because HMRC letters are taking 10 days to arrive and this cuts into agents' response time considerably. HMRC said postal delays are an issue that is being looked at urgently. Agents clarified that an enquiry letter that arrived on the 29 January was not such a major concern to them as one that was sent on 24 December expecting a reply in January.
30. It was suggested that it should be discussed in more detail at the next CRF. Agent representatives said that if it was a worthwhile change they would be happy to represent it to their members. **(Action point 16)**

### **Actions**

**February - action point16:** HMRC to reconsider proposal to remove 31 January enquiry embargo and include it for discussion at the next CRF.

### **Compliance Centre checks**

31. Minutes of the compliance centre checks meeting have not yet been circulated. A useful meeting had taken place with agent representatives which had clarified the way Compliance Centres are structured, the nature of the work they do and the circumstances in which they will open enquiry checks outside the normal enquiry window. HMRC and two CRF agents will produce an article that all professional bodies can use to brief their members. The aim is to have it completed by end of March.
32. More generally there is a serious issue regarding discovery provisions. Agent representatives said HMRC needed to provide clarity around S29. HMRC confirmed discovery would be looked at shortly but not in isolation - it would also link with self assessment and the enquiry window. Matters had been discussed at the Powers consultative committee and it was agreed that it was a worthwhile piece of work.
33. There was a perception that HMRC had said that S29 wasn't going to be changed but agents felt strongly that it should be as it contradicted the principles set out in Langham v Veltema. The agent representatives said that the HMRC website said that a discovery enquiry could be opened after four years, and extra time could be given to find the necessary paperwork but agents said that didn't help. Papers are more likely to be lost or misplaced after four years and staff who filed the returns or did the work may well have moved on. The agent's professional bodies had given advice to their members based on HMRC's view and because HMRC now take a different position, that guidance is now considered to be wrong. HMRC recognised that agents were giving them a very strong message on S29. The CRF Chairman took an action point to talk to the Powers Team about agents' concerns with discovery and the next steps to

address these issues. **(Action point 17)**

34. The subgroup called the 'discovery subgroup' on the paper circulated before the meeting will not be working on this. Their interest was primarily in the Compliance Centre work and in particular production of an article. As the Powers team is taking forward recommendations 14 and 15, amongst others, from the CIOT report 'HM Revenue & Customs Modernising powers, deterrents and safeguards: The first year' it will be considering taxpayer's need for certainty too. It will shortly be inviting interested groups to a meeting to air their concerns and discuss the issues fully. **(Action point 18)**

### **Actions**

**February - action point 17:** The CRF Chairman will talk to the Powers Team about agents' concerns with discovery and the next steps to address these issues.

**February - action point 18:** HMRC to arrange a meeting for groups interested in the discovery provisions to air their concerns and discuss issues.

### **Single Compliance Intervention Process**

35. The emphasis of the last Comprehensive Spending Review was that HMRC will need to deliver more with less resource. So HMRC is looking at new ways of working to increase productivity. One approach is to simplify and standardise the ways enquiries are handled across all heads of duty. This should speed up the enquiry process, improving the customer experience and reducing costs. The aim was to have the first designs of the process prepared by 31 January 2011, with a view to have them finalised by 31 May 2011. They will then be tested until 30 June 2012. The CRF have not been briefed on potential designs and wanted to know what would be involved. Agent representatives welcomed the idea that enquiries would be completed more quickly but wanted clarification on some points. For example - how many people would visit during a cross tax enquiry? Hopefully not one for each head of duty as that would be very intrusive. It was suggested that as CRF members wanted to know more about this a set of principles be drawn up for CRF to agree and then a subgroup be set up prior to trialling the new designs. **(Action point 19)**

### **Actions**

**February - action point 19:** HMRC to draw up a set of principles regarding the redesign of the enquiry process for CRF to agree and a sub-group to be set up prior to trialling the new designs.

### **Business record checks**

36. There was a summary of the latest position regarding Business Record Checks (BRC). The written consultation on how BRC should be implemented ends on 28 February, and there are workshops on 28 February in London and 3 March in Glasgow. If there is sufficient demand one may be arranged in the Midlands.
37. There have been some incorrect news headlines suggesting that the initiative is to bring in £600 million in fines. That is not the case. The intention is that better

record keeping leads to an increase in tax paid.

38. Agent representatives felt the timing of this consultation document was very poor - it ran over Christmas and through January when small agents would not have been in a position to comment. Some of the smaller agents who would be most affected by BRC would only now be in a position to review the consultation and there is very little time to comment. Agent representatives felt the issue of what is an acceptable set of records needed to be clearly set out.
39. It was suggested HMRC explore the possibility of extending the deadline for comment by two weeks. CRF members to work on the assumption that a short extension has been agreed. **(Action point 20)**

### **Actions**

**February - action point 20:** HMRC to consider extending the deadline for responses to the BRC consultation document by two weeks.

### **Agents strategy**

40. HMRC has been developing a framework for agents linking together the work on powers, expectations, efficiency, and customer understanding of agents. There will be a new group set up - the Joint Tax Agent Strategy Steering group (JTASS) by the end of March 2011 to oversee this work. Chief Executive Lesley Strathie and Director General for Business Tax Melanie Dawes will attend that group. The expectation is that consultation will be reflective of joint views of both HMRC and agents. It will invite the widest contributions and all the agent professional bodies will have representation. HMRC will circulate a document explaining the position for members to see. **(Action point 21)**

### **Actions**

**February - action point 21:** HMRC to circulate a document to CRF members explaining the work of the Joint Tax Agent Strategy Steering Group.

### **Scanning of Compliance documents**

41. A short presentation was given. HMRC handles millions of pieces of post manually. A centralised scanning service will be phased in from March 2011. All compliance post will need to be sent to a centralised address in due course. The case reference will be shown clearly in correspondence and that will ensure post gets to the enquiry officer more quickly than it does now.
42. There will also be a centralised fax number and it will still be possible to physically hand in documents to some local offices. Important documents will always be returned, for example, books of records, P60s, birth, death and marriage certificates. Agents are asked to highlight any other type of document that they want to have returned in accompanying correspondence. The scans should normally reach the enquiry officer within 36 hours of document receipt in the centralised scanning office.
43. Responding to a query raised at the last CRF, it was confirmed that pencil

- annotations can be picked up by the scanner. This has been tested satisfactorily. It was also confirmed the scanners can scan 2 sided documents. Also although the scanning software is designed to match correspondence to the correct enquiry, there is an additional manual check to ensure the scanned images are correctly linked.
44. Agent representatives had concerns about the length of the retention period before correspondence is destroyed and whether it was long enough. It was suggested that, during the first phase of the scanning rollout, which is an evaluation phase, HMRC considers extending the 40 day retention period. **(Action point 22)**
  45. Agent representatives were concerned that the unrepresented wouldn't know what was happening with their post/records. HMRC said that the letters to Customers and their Advisers will make it clear when the Netherton address is to be used and there will be supporting arrangements to explain the approach and answer any queries. CRF want to see the specimen letter that explains the position. **(Action point 23)**
  46. There were also concerns about how long before the records were returned where an agent had asked for them to be. For example, if they are shredded after 42 working days and at day 38 the agent hasn't had them back should he be getting concerned? Agents also asked whether it would be possible to send a courier paid for by the agent to collect the documents. HMRC will review and confirm the position. **(Action point 24)**
  47. Agent representatives asked whether already open cases will be using this system. HMRC confirmed new correspondence on existing cases will be scanned but previous correspondence will not so case officers will be operating a dual system for a while. Criminal case records are already scanned under a different system.
  48. The agent representatives' were disappointed that yet another reference was being introduced, and that potentially for each year of an investigation there would be a new suffix on the reference. Small agents quite often use the last letter received for the reference needed. It was agreed that a visit by a small number of CRF members would be useful and they can communicate to the others and address any misconceptions. Agents asked where the office was - could they visit? The office is outside Liverpool and HMRC can arrange for a demonstration. **(Action point 25)**

## **Actions**

**February - action point 22:** As a temporary measure HMRC to push back the deadline for shredding documents to satisfy agent concerns that nothing will be shredded inappropriately.

**February - action point 23:** HMRC to circulate the specimen letter that explains the scanning process to the unrepresented.

**February - action point 24:** 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.

**February - action point 25:** HMRC to arrange for a visit or demonstration of the scanning process to CRF members.

### **Any other business**

49. Agent representatives asked whether 'one click' would be on the agenda for CRF soon. It appears to have been communicated under the Joint VAT Consultative Committee (JVCC) banner and the consultation should have gone much wider. HMRC explained that 'one click' will allow businesses to register for all services via [businesslink.gov.uk](http://businesslink.gov.uk) from 2012. Consultation was done via JVCC as VAT is the only mandated service. HMRC action point to consider whether 'one click' should come to CRF but in the meantime a list of current agent members of that group will be circulated.
50. An agent representative expressed the concern that things are getting overly complicated by HMRC. For example, the plumbers' campaign helpbooklet growing from 10 pages to 31 and asked what happened to HMRC's duty of care and management? The Chairman took an action to find out why the last campaign material had been so complex. **(Action point 27)**
51. Chas Roy-Choudhury has been invited to speak at an event by the HMRC's ARC union.
52. Can the lessons learned from the recent refusal to deal with an agent be placed on the agenda for the next CRF? It was agreed that as the next meeting is in June HMRC may be in a better position to discuss the case but at present it remains subject to strict confidentiality rules. **(Action point 28)**

### **Actions**

**February - action point 26:** 'One click' to be considered as future CRF agenda item.

**February - action point 27:** CRF Chairman to approach the Director of RIS about why the campaign material became so complex.

**February - action point 28:** HMRC to consider having any lessons learned from the recent refusal to deal an agent on the agenda at next CRF.

The next CRF meeting is 7 June 2011.