

# Minutes of the Employment Consultation Forum

Date: 22 September 2011

Location: Parliament Street, Room 251

Time: 11.00 to 15.00

Co-chair: Karen Thomson (KT) - CIPP  
Co-chair: David Ellis (DE) - HMRC  
Acting Secretary: Carole Carter (CC) - HMRC

## Members

Simon Parsons (SP) - Payroll Bureau  
Alex Rowson (AR) - BASDA  
Glenn Collins (GC) - ACCA  
Fiona Bell (FB) - CIOT  
Trevor Blackmur (TB) - ATT  
Norman Green (NG) - BCS  
Peter Bickley (PB) - ICAEW  
Anne Redston (AR) - ICAEW  
Iain Scott-Shore (IS) - CBI  
John Hampton (JH) - CBI  
Jane Turley (JT) - IAB  
Clive Johnson (CJ) - AIA  
Ian Whyteside (IW) - AAT  
Glen Collins (GC) - ACCA  
Helen Harvey (HH) - Payroll Bureau  
Linda Pullan (LP) - Payroll Alliance  
Jackie Petherbridge (JP) - FSB

## HMRC attendees

Gordon Smith (GS) Debt Management & Banking (DMB) Director  
Nick Chaplin (NC) Business Customer and Strategy  
Alison Wells (AW) Business Customer and Strategy  
Matt Ray (MR) HM Treasury  
Samantha Tennakoon (ST) HMRC  
Sue Ellis (SE) DMB  
Pam Barber (PBa) Software Developers Support Team  
Celia Tomkins (CT) Real Time Information  
Michael Blackburn (MB) PAYE SA & NIC (PSN)

## Apologies

Donald Drysdale - ICAS  
Katharine Arthur - ICAS  
Colin Ben-Nathan - CIOT

Richard Baron - IOD  
John Clough - HMRC - NICEO  
Sue Lely - HMRC - DMB

## 1. Welcome and introductions

DE welcomed everyone to the meeting, especially:

- Clive Johnson representing the Association of International Accountants (AIA). Clive previously attended ECF for IAB.
- Carole Carter, new secretariat for ECF.

DE also advised that in the future he would no longer act as Chair for these meetings. His replacement is Jenny Cowles who has joined BC&S as the Head of Agent and Employer Engagement. David said Jenny's profile would be sent to ECF members and he knows Jenny is looking forward to getting to know them and working closely with ECF as the umbrella employer forum. David also said he looked forward to continuing to work very closely with members of the forum as the lead for the Employer Strategy that HM Revenue & Customs (HMRC) is working on and engaging with key stakeholders about.

## 2. Minutes and action points from 21 July meeting

The July minutes were agreed as a true record.

DE then asked NC to provide an update on the first set of action points in his name:

- **Bookmarking PDFs** - issues around dating of material and removal of colour.

Dating of material - Nick handed out an example of how PDFs could be dated if they incorporated substantive corrections. The example handed out showed the following wording on the front cover 'We have updated some of the guidance in the Employer Helpbook ..... Updated on dd/mm/yy. Members agreed this would certainly help.

The wider issue of dating content is not something HMRC will currently take forward. Changes to content can cover a wide range of things such as typos, inconsequential errors or textual improvement. As we are migrating this over to the Government Digital Service it would not be cost effective to make big changes now.'

CJ asked if it would be possible for the search engine to use key words from the document.

**AP** - KT and NC agreed to arrange a small meeting with some of the members and the web team to discuss this further.

- **Form P46** - The information required on the P46 is included in the regs and cannot be changed. This means we cannot change the layout of the P46 as it is still required for those who choose not to, or are exempt, from filing online. HMRC does not prescribe how employers collect the information just what information needs to be collected and submitted online.

IW said they preferred a P46 to be in place to use rather than using their own.

JP made the point that not all employers need to complete the two sided P46. Printing two sides unnecessarily is a burden and costly for employers and significantly so for some.

RTI may solve this but members suggested this is a simple problem that impacts many and should be straight forward to resolve now without waiting for RTI.

PB said that P45 and P46 data will continue to be needed by employers who take on new employees. RTI will not change this but it is understood that the P45 and P46 will be abolished. A brief is needed to answer key questions.

SP commented that the current form P46 drives the employer to submit them manually as it asks for employer information as opposed to system handling. Following the meeting he provided an example of a one page P46.

**AP** - NC to pursue this and return to ECF with a response.

- **Orderline Strategy and customers purchasing HMRC stationery**

Orderline Strategy - HMRC are currently holding extensive meetings about our strategy and an article outlining the current position will be published in the Employer Bulletin in February. NC advised that with regret a revision of the P11 so that it would be more user friendly when printed locally will not be taken forward not just because of the impact on the migration from paper to e self service but also that RTI will preclude the need for the P11. We will continue to reduce the amount of paper products available.

JP asked if we have a way to challenge people who order large amounts of paper products using the online order form.

The online order form has a limiter which only allows a request for so many to go through. However customers realise this and can get round it by duplicating the order. We are investigating ways to more robustly monitor these orders as they come through.

NG asked if we have considered supplying parts of guidance, eg SMP tables. Customers may only require a couple of pages from a helpbook. NC agreed this was a good idea and would be looked into.

Customers purchasing HMRC stationery - this is not a route we can take. Again it would impact on our strategy of migration to online. We would also have to look at the whole range of HMRC paper products not just PAYE. A quick survey recently conducted highlighted employers would be unwilling to pay and would be more likely to self serve online.

- **Form P11D(b)** - we have recently received a lot of queries about the submission of this form. One of the main concerns is HMRC's consistent adherence to the rules about 'wet' signatures following centralisation of the processing of these in one place and the lack of consultation about this beforehand. In discussion ECF members made the point that warning about this sort of thing is vital because the regime for penalties is so strict. Timing constraints mean cases are unnecessarily going to tribunal wasting taxpayers' money. Incorrect signatures causing problems particularly when dealing with overseas workers.

**AP** - NC will continue to pursue these concerns and aim to get a subject expert to attend the December meeting:

- **AP1** - DE had contacted Gordon Smith and he attended the meeting.
- **AP2** - End of Year returns - JP had provided client details to Anthony Shirley (AS) and this had been resolved.
- **AP3** - Inability to submit amended End of Year Returns without P14s - instructions on website to be amended.
- **AP4** - Solicitors and Compromise Agreements DE and KT have agreed the letter should be issued from CIPP.
- **AP5** - Employer Strategy update - work on this is ongoing and DE will update later in the year.
- **AP6** - Louise Boyle to attend in December.
- **AP7** - New ECF member joined forum.
- **AP8** - Under/overpayment of tax due - KT issued email.
- **AP9** - RTI stakeholder group - was CBI approached - DE is working with John Hampton on CBI matters.

### 3. Tax/NICs integration

MR and ST gave an update following the call for evidence which closed on Monday 19 September. They had received over 70 responses and some representatives had also surveyed their members. Due to the volume received they had not had time to fully analyse this.

Responses indicated that burdens are felt by employers through:

- differences in the earnings definition (BIKs, expenses termination payments)
- differences in the earnings period
- existence of different rates and thresholds

There were concerns about the transitional costs of any change and changes to the contributory nature of the system.

The members were asked for their ideas:

- A quick win was considered to be aligning thresholds.
- Align tax and NIC charging rules so only cash payments which are charged to income tax via the payroll are subject to Class 1 NICs, and benefits-in-kind and expenses which are reported via P11D are subject to Class 1A NIC.
- Align the self employed, IR35, could also tackle CIS (possible considerable savings).
- There would be differences between limited cos and self employed views.
- NICs on cumulative and annual basis.
- Take away evasion by directors - annual check at end of year and on leaving.
- Termination payments.
- Deferment of NICs.
- Percentage of reductions not whole numbers.
- Changes to the way NICs operate, for example a move to an annual and cumulative basis may see some employers and employees pay more or less than they currently pay. In particular, the Government needs to make sure it understands the impact of any changes on low paid employees before committing to reform.
- The 'quick wins' should be implemented as soon as practicable after consultation on detail, with other more radical potential charges subjected to detailed thought and consultation.

There is the scope to make the system easier as currently it is difficult to change something when an earnings period is closed.

The formal consultation is due in the autumn.

**AP** - MR is happy to come back in December to give a further update.

## **4. DMB**

Gordon Smith DMB Director (GS) joined the meeting and together with Sue Ellis (SE) they discussed DMB work.

Members raised a number of issues about the work of DMB and more evidence is needed so that these can be investigated.

Some of the issues raised included:

- problems with payments
- accuracy of penalties
- content and timing of letters

### **Allocation of payments/provision of payment summaries**

GS summarised how payments are allocated and emphasised the importance of using the correct suffix when sending in payments to ensure the payment is allocated correctly. Members said some of the issues are down to banks removing the suffix and payee having to be removed when reference changes - this is an ongoing issue and we are working with banks to change their processes as well as educate employers.

SE said employers and agents are providing their list of payments made for DMB to validate or highlight any differences and this was working well, with no complaints.

### **Penalties**

GS advised that new penalties came in from the start of 2010-11 to encourage employers to pay on time and shift employer payment behaviour towards the due date. This benefits HMRC's Debt Management resources. GS reiterated we need to change this behaviour - raising penalties is a last resort. The behavioural change so far is encouraging and more employers are paying on time certainly in the last two months.

If businesses have difficulties they should contact the Business Support Service as soon as possible.

Members advised there are inconsistencies with Time to Pay emerging and more requests being refused.

GS advised that we don't want this perception. Help is very much still there. Refusals have increased due to the requests being for the second, third and fourth time from the same business which indicates it's not a short term cash flow problem.

JP asked if rules on refusals are published.

GS advised there are no rules as such but two important principles:

1. the business must be viable
2. is the business able to pay

TB advised it was perceived there would be a soft landing when the penalties were introduced.

GS stated this had never been said. We first and foremost want a change of behaviour.

JP asked if we could possibly set a workshop to discuss this further.

**AP (members)** - It was agreed that members would send details of the particular examples raised direct to Carole Carter so that these could be looked into by Sue Ellis and colleagues.

**AP (HMRC)** - A separate workshop will be set-up to further discuss the issues.

## 5. Real Time Information (RTI)

Celia Tomkins (CT) attended the meeting to give an update on RTI:

- 320 pilot volunteers have now been selected. Consideration is being given to the expansion of the pilot and an announcement will be made soon.
- The pilot will be extensively supported to ensure any issues are escalated and dealt with.
- We are ramping up our internal communications within HMRC about RTI to make sure that we are ready to support the employers through the pilot - eg we have run training days for 200 Relationship Managers.
- We have commenced a series of Employer Events to meet and discuss issues with those taking part - one is taking place in Euston Tower today.
- Tony Locock was asked at the last meeting if OGC Gateway reviews could be published - we're waiting for a Cabinet Office decision on this as it isn't our call to make. We will need to follow the centrally agreed guidance when it's ready.

A question was raised about the timetable for the final regulations.

Regulations need to be in place for the commencement of the pilot but they will need to be reviewed as the pilot progresses and so may change before April 2013.

PB asked if the pilot timetable would be deferred if problems arise.

Review points are built into the pilot where decisions will be made.

The message is that RTI will happen in 2013.

DE advised the pilot is very robust and we have learnt valuable lessons from NPS. Steven Banyard is overseeing.

FB asked about educating the wider public.

There is a communications strategy in place. It is important to get the timing right.

SP raised concerns about general public education - the affects on credits and benefits.

This prompted a discussion about the onus on employers to ensure employee pay is right.

SP stated customer journeys came from software developers. Need employers to know what their journeys are.

CT explained that customer journeys for employers have been mapped but they need validation and are not yet ready for publication.

The employer view will be covered at pilot events but we need more than the initial 320 which does include smaller employers.

## **6. P14/ESC A19**

Michael Blackburn (MB) attended to answer questions on this subject.

- It has always been Policy to discount P14s as information that HMRC fails to deal with under ESC A19.
- This is because the process does not allow in year coding upon receipt of a P14.
- If it did, then taxpayers and employers would receive many tax notices; collection of underpayments would not in any case be guaranteed; the unnecessary customer contact would impact on HMRC.
- Customers can of course ask HMRC to amend codes for new employments which HMRC does not know about.
- Most ESC A19 claims are for the year the P14 relates to - as HMRC only find out after the event when HMRC has not failed to act on information.
- NPS does use P14 information to create codes for CY+1 which is an advantage over COP, where we relied on Open lists which didn't always get worked
- NPD coding for 2011-12 has improved accuracy of codes issued.

## **7. Any other business**

P2 - still considering proposals analysing data and consulting with internal and external stakeholders. Scheduled to have some one at the December meeting but if updates available before we will send out before.

NICs holiday - members had been sent a NICs holiday factsheet - any queries about this to be sent to CC.

FB asked about the take-up figures for this scheme - in the last 12 months over 6,000 companies have signed up for the NICs holiday scheme.

**JP** - said she had a problem with a 64-8 form recently submitted - it had been returned twice stating wrong signature. How do they know it is a wrong signature?

Signatures on these documents must be an original, ie we don't accept photocopies or faxes. In order to investigate this further an example would be needed.

CJ had a query about coding-out rental income. However it was agreed this subject is not for this forum.

TB raised a query about the use of correspondence addresses - he had instances where an agent was listed but correspondence was sent to the employer. To look into this further an example would be needed.

### **Date of next meeting**

The next meeting is on Thursday 8 December, 11.00 - 15.00 in room G23, SW Wing, Bush House, The Strand, London.

### **Dates for ECF 2012**

22 March 2012

21 June 2012

20 September 2012

13 December 2012