![HM Revenue & Customs logo]

**IDG90800**

**Implied consent:**

**A check list for dealing with MPs and other elected representatives**

## Considerations

**First read the question that the MP asks.** You can reasonably assume that the customer has consented to you disclosing information about the specific enquiry but not that they have consented to you disclosing information that does not concern it. Here are some issues you should consider when drafting responses to MPs:

1. **Is the person who contacted the MP the customer or acting with the customer's authority?**

   If the person who has contacted the MP is not the customer and does not have the written authority of the customer to act on their behalf, you will need to contact the MP and request a written authority from the customer.

   **Examples of situations when you should take special care:**

   - The constituent writes about their partner's (including spouse's) affairs with HMRC. However, if, for example, a husband and wife have jointly approached an MP about an issue common to them both, you can reasonably assume that they have both given implied consent for you to disclose information to the MP about their individual tax affairs.

   - The constituent writes about a matter in which they are jointly involved with another person, for example a business partnership or a tax credits claim.

     You can disclose information about a partnership debt to a nominated partner but not any information about another partner's personal tax affairs (see IDG33000 for further information). Seek advice if you are unclear about any issue relating to joint tax affairs.

     In tax credits cases, care must also be taken when deciding what information needs to be disclosed about a joint claim, particularly when there has been a change of circumstances or the claim has ended or been amended.

   - The correspondence is about a limited company. Make sure that the constituent is a director, or has the authority from a Director to write to an MP.

   - In bankruptcy cases, any authority we have that allows us to deal with another party during 'bankruptcy proceedings' (before the person is made bankrupt), does not give us authority to deal with them after the customer has been made bankrupt.

2. **What has the customer asked their MP to pursue on their behalf?**

   **Read the question that the MP is asking.** Some customers want their MP to clarify their tax or benefit position for them, for example, to find out how a tax credit calculation has been made. In this case, we can assume that the customer has given their consent for us to disclose personal financial information to their MP in order to deal with the point raised. However, if for example, the customer asks about how their 2005/06 payment/repayment was calculated, we should not also provide details of other years unless they are relevant to that calculation.

   However, sometimes customers are questioning our process or policy, or are concerned about a delay in processing something, or in responding to them. In all of these cases, the customer has not given their consent for us to disclose personal financial information to their MP and you should therefore not do so in your response. In such cases we can respond in general terms about our process or policy and disclose a minimal amount of information about the customers circumstances e.g. we wrote to your constituents on (give date) or the child benefit was paid on (give date).

   If the MPs question is more specific you should consider writing direct to the customer with detailed information about their situation and write to their MP advising them that you have responded directly to their constituent.

3. **What information do you need to provide in order to answer the query?**

   **Read the letter carefully and work out exactly what the customer is asking.** Some complaint letters can be very long and cover several years of dispute but that does not mean you should automatically write a review of each and every year. In all cases, the information you provide to the MP should be relevant to the query and necessary to answer it. Even if you think you have the customer's implied consent to provide personal financial information to the MP, the personal information you provide should be the minimum necessary to answer the query.

   **Examples**

   - Mrs A writes to her MP seeking clarification on a general point of policy. Her query is very specific and she seems to understand what has happened with her tax affairs. Only send the MP information relating to the policy query, not details of the customer's specific tax affairs. If there is any doubt on this point write to the MP on the policy issue and advise them that you have written to the customer with details of how it applies to their tax situation.

   - Mr B writes to his MP disclosing some information about his tax affairs but does not mention amounts of tax or salary/pension. You must not assume that the customer has given consent for his MP to receive information about all of his personal tax affairs.

   - Mrs C writes to her MP stating that she is at a total loss to understand what has happened with her tax affairs and clearly gives consent for her MP to pursue this issue on her behalf. Although it appears safe to provide information to the MP about any aspect of Mrs C's tax affairs (including amounts of tax, salary or pension), it is still advisable to restrict the information you pass on to the MP according to the question which has been asked

   **Please see additional guidance and further examples below.**

## Additional Guidance

| Do | Do Not |
|---|---|
| Read the letter very carefully to work out exactly what the customer is asking and reply to the specific point they are making. | Provide a detailed review of the year just because it is referred to. |
| **Example**: "Is it fair that HMRC are asking me for money for 2008/09 because they have not processed my post" | **Example:** "Let me explain to you how we have calculated Mr X's liability for the year 2008/09" |
| Provide the minimum amount of personal information required to deal with the query. | Give out unnecessary personal details just because we have then. |
| **Example:** "I note that Mrs Smith is claiming benefit for three children" | **Example:** "I note that Mrs Smith is claiming benefit for Timothy born on 21/05/1998, Justin born on 03/04/2000 and Sally born on 14/07 2002." |
| Restrict your response to details of the claimant and not their partners | Provide details of partners unless you are unable to deal with the query without them. |
| **Example:** "Miss Jones had two separate claims to credits for 2006/07. The first period to 30/06/2006 was a joint claim and the second period was a single claim." | **Example:** "Miss Jones had a joint claim to credits with Mr Big for the first period of 2006/07. On 30/06/07 Mr Big walked out on Miss Jones taking his two children from a previous relationship with him and she claimed as a single person for the rest of the year. |
| Keep your responses factual. | Give your own opinions. |
| **Example:** "After her marriage Mrs Patel chose to pay national insurance contributions at the reduced rate." | **Example:** "After her marriage Mrs Patel chose to pay national insurance contributions at the reduced rate which was probably because as a newly married person money was in short supply and it seemed like a sensible thing to do at the time." |
| Keep any financial details to the minimum required to deal with the query. | Include information that is not necessary. |
| **Example:** "Mr Kelly's underpayment resulted from the wrong tax code being applied to his income for 2006/07 and his tax code for 2007/08 was therefore reduced to collect the additional tax due." | **Example:** "Mr Kelly's employers Blackhorse Ltd used a tax code of 333L which failed to take account of his pension of £1,300 from Sussex Health Ltd and amount of state retirement pension he was receiving. As a result of this Mr Kelly underpaid his tax for 2006/07 by £578.00. We therefore calculated his tax code to set his personal allowances first against his state pension and then reduced the code to be set against his other income to K60 which will recover the underpayment." |