

## **Tribunals Podcast – Transcript**

**Richard**

Welcome everyone. I'm Richard Mannion. I represent the Chartered Institute of Taxation on Working Together. In my day job, I'm National Tax Director with Smith and Williamson. I'm with Brian Redford, Head of the HM Revenue & Customs Agents & Employers Improvement Programme, to discuss how HMRC is taking advantage of the creation of a new Tax Chamber, to improve the way that disputes are handled. And then I'm going to be asking him about other initiatives that HMRC has put in place over recent months to improve the service it provides to agents. Brian, I know a number of agents who are very concerned about the disappearance of the General Commissioners. Why did the Ministry of Justice change that tried and tested method of tribunals, which had been around for such a long time?

**Brian**

Thank you, Richard. I think, really, the answer to that is in the question. There have been a proliferation of Government tribunals over the years. And as you say, the General Commissioners has been around for an awful long time. It's pretty clear to us, and the Ministry of Justice, that each has a different set of rules, making the system fragmented and confusing for the users. In tax, for example, we currently have four tribunals: General Commissioners, Special Commissioners, VAT and Duties Tribunal and the section 704/706 tribunals. And they've all got very different rules, procedures – and rationalisation, to our mind, is long overdue. So, all of the existing tax tribunals will be combined within the Tax Chamber of the new First-tier tribunal. And that tax chamber will have a single set of rules covering hearings, including costs.

**Richard**

So what changes are agents and your other customers going to see?

**Brian**

The main thing, as far as the tribunals themselves are concerned, is that HMRC will no longer list cases for hearings. So, the very long lists that agents and inspectors will have experienced in setting up General Commissioners hearings will no longer happen. But we think the main thing that agents will see is that we are introducing a new internal review process. This is brand new in the direct taxes area, where for the first time agents will, on behalf of their clients, have the right to request an internal review of a decision made by the department.

**Richard**

You say that's brand new for direct taxes – and that suggests that there was an existing system in place for indirect taxes?

**Brian**

That's true. In indirect taxes, the position up until now is that reconsiderations and reviews have been available, but they've been conducted in two main ways. In customs and excise, the main change is that the new system will provide an option. And in VAT, the main difference with the new system is that it is statutory and time-limited. And we wanted to bring together all of these new statutory processes into one, so that it was easier for customers to use.

**Richard**

I want to drill down into how the new system is going to work on the ground – firstly, what areas of HMRC work is it going to cover?

**Brian**

That's a good question, Richard. All HMRC tax decisions are affected. Think of it like this: every appealable tax decision made by HMRC is covered by the changes. So, it affects Income Tax, Corporation Tax, Pay As You Earn, VAT and customs and excise duties. And stamp duty land tax, inheritance tax – indeed, every appealable tax decision. However, some mandatory reviews will remain for appeals against decisions about the restoration of seized goods.

**Richard** So, at what stage in the process will the internal review be carried out?

**Brian** At any point where the customer asks for such a review. And from the time of asking, HMRC will have 45 days to complete the review, unless another time is agreed with the customer. When a review's been completed, or if HMRC hasn't completed the review within the time that has been set, the reviewer will write to the taxpayer/customer telling them that they have 30 days in which to appeal to the Tribunals Service for a hearing. And under the new tribunals framework, HMRC won't be listing the direct tax cases any more. Once a case is with the Tribunals Service, they will decide when and where the case is heard.

**Richard** So, who exactly is going to be doing this review?

**Brian** We think this is absolutely key, Richard. The review will actually be undertaken – in the vast majority of cases – by an individual outside of the line management chain of the person who had been working the case and had made the decision. What we are really looking for here is a safety valve to spot any inconsistencies, or where there has been a misinterpretation of the information. The outcome of the review will be clearly communicated by the reviewers, which will then hopefully help agents and their clients to decide whether they actually wish to take an appeal to a tribunal. And we hope, in doing this, it would save time and cost for both agents and taxpayers, and should result in far fewer unnecessary hearings of appeals at tribunal.

**Richard** You've spoken about direct taxes and indirect taxes – what's going to happen to tax credit appeals?

**Brian** Tax credits, Richard, are actually the first appeals to be transferred to the new chambers. They were transferred to the Social Entitlement Chamber on 3 November 2008. So, they will

not be dealt with in the Tax Chamber and are unaffected by the new internal review arrangements we're setting up. They will maintain their existing processes, though it is Government policy for them to join the Tax Chamber at a later stage.

**Richard** So, lots of changes – when are all these going to start off?

**Brian** The new tax tribunals, and the internal reviews, are expected to start from 1 April 2009.

**Richard** Just to put all of this into context, Brian, how many appeals does HMRC currently deal with?

**Brian** At present, Richard, a huge number of appeals are dealt with by the department – something like 250,000 a year; most of these are in the direct taxes field, and are settled long before they reach a tribunal.

**Richard** Are your staff in HMRC fully aware of the new system and how it's going to work?

**Brian** We are putting in a huge effort to training our staff, so that we are ready for 1 April. We've set up a project team, who've been working very hard on communications, both internally and externally, and in making the process and operational changes that we need. You will appreciate, though, that we are a massive organisation and most of our people need to know about this. So, we are planning further awareness training packages for everyone, and additional training for those who are involved more so in the system, such as reviewers.

**Richard** So, as I said before, lots of changes. How is HMRC going to ensure consistency across the board? How will agents be able to report in any teething problems with the new system?

**Brian** We are very concerned with consistency, it's incredibly important to us. Any new system that we introduce we will

monitor, and the tribunal system is no different. We have set up a quality assurance function, which we expect to monitor both quality and consistency. But it's very important that we treat all of our customers fairly, and we would welcome comments specifically from agents who have dealt with either the internal process, or the tribunals, after it's been set up in April, so that we can get the best out of the system. There will be an email address, which is at [internal.review@hmrc.gsi.gov.uk](mailto:internal.review@hmrc.gsi.gov.uk). And we'd very much welcome feedback from agents, like yourself, on how the process is working.

**Richard**

The thing that is going to be really important to agents is: what is this going to cost – will this cost for more agents or their customers or for unrepresented taxpayers?

**Brian**

Agents are not going to need to do anything more than they do now to resolve disputes. Officers within the department will still be able to negotiate with agents and customers to reach settlements, but where we can't agree it will be possible for the customer, or for agents, to ask for a review. That review will be at no cost, again, to either the agent or the customer. And we think, sometimes, that all that's needed in looking at these cases to achieve resolution is a second pair of eyes. So, we don't think that agents, or customers, should be worried about any costs, or really worried about the sending of an appeal to the tribunal, which will also be cost-free.

**Richard**

Will that be the same for VAT?

**Brian**

Under the new system, there won't be the same provisions that currently exist for VAT costs. There is a provision for costs, where either party has acted unreasonably in the new tribunal system, and the matter is complex. But it's important to point out that the taxpayer can actually opt out of that process, ahead of the appeal being heard. So, no costs will actually accrue.

**Richard** Quite clearly, a huge amount of detail to absorb with all of this. Where can agents get more information on the new tribunal system if they need it?

**Brian** The HMRC website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk) has its own tribunals reform web pages, and there are also links from those web pages into the Tribunals Service. In addition, in the New Year, we hope to publish a factsheet, which will be called: "HMRC decisions: what to do if you disagree". This will be all about tribunal reform and the internal review in HMRC. And that will be available on the HMRC site.

**Richard** Brian, a few months ago, you gave us an update on what HMRC had done to improve the service it provides to agents. And I know this is a continuing objective, but I wonder whether you can update me on the achievements since that previous update?

**Brian** We have been working further with representatives from the Working Together steering group, and national representatives of the main agent bodies. And we've now completed – in response to requests from both of those areas – the roll-out of the last of the Agent Dedicated Helplines, which went live in October. And, although it's very early days, we are receiving very large volumes of calls through those lines, and I believe we are getting very good responses from the agents that are using them. We have also been completely looking again at the process of how we connect with agents on a local and a national basis. And we were able to complete, with the assistance of some 300 agents, a series of events across the UK to ask them how they best worked with HMRC. And the report can be found on the Working Together pages of the HMRC internet, and explains how we want to take forward that relationship. Finally, and this has been a long overdue but very welcome addition to our knowledge, we were able to engage over 1,700 agents in a fundamental study of the services they

use that HMRC provide, and their attitudes to the department. And, for the first time, that's given us a really interesting insight into how local agents work with their clients and work with the department.

**Richard**

Thank you very much, Brian. A very interesting insight into the new tribunal system. A lot of work been done, a lot of work to do, but thank you very much for explaining it.

**Brian**

Thank you.