



HM Revenue  
& Customs

# Code of Practice 9

This Code of Practice explains how the Fraud Investigation Service (FIS) at HM Revenue and Customs (HMRC) carries out civil investigations in cases where we suspect fraud.

You must read this Code of Practice carefully. Discuss it with your tax advisor if you have one.

## HM Revenue & Customs (HMRC) investigation of fraud statement

The Commissioners for HMRC reserve complete discretion to pursue a criminal investigation with a view to prosecution where they consider it necessary and appropriate. You can read [HMRC's criminal investigation policy](#).

In cases where a criminal investigation is not commenced, the Commissioners may decide to investigate suspected cases of fraud using the Code of Practice 9 (COP9) civil investigation of fraud procedure.

Under the civil investigation of fraud procedure, the recipient of COP9 is given the opportunity to make a complete, accurate, open and honest disclosure of:

- all their deliberate behaviour bringing about a loss of tax or duty, or payment administered by HMRC, (hereafter "deliberate behaviour") and
- all other irregularities in their tax affairs (including those arising from non-deliberate behaviour, such as careless errors and errors made despite taking reasonable care)

By the term 'deliberate behaviour' we mean that a person submitted documents to HMRC containing information that they knew was incorrect, and/or they did not tell HMRC at the right time about information that they knew was relevant to a liability to tax or duty, and/or they made a claim for a payment from HMRC to which they knew they were not entitled.

Under COP9 the individual under investigation and HMRC will enter a contract whereby the individual commits to make a complete, accurate, open and honest disclosure of all deliberate behaviour and all other irregularities in their tax affairs. In return HMRC commits not to open a criminal investigation. This is called the Contractual Disclosure Facility (CDF), it is explained further at section 2.

Where the individual enters a CDF contract with HMRC and then fails to make a complete, accurate, open and honest disclosure of all the frauds bringing about a loss of tax, duty or payment administered by HMRC, the Commissioners reserve the right to commence a criminal investigation with a view to prosecution.

If the individual under investigation makes materially false or misleading statements or provides materially false documents during the investigation, the Commissioners reserve the right to commence a criminal investigation into whether such behaviour involved the commission of separate criminal offences.

## What is Tax Fraud

Tax fraud is any dishonest deliberate behaviour in respect of an individual's liability to pay tax, duties or levies. This behaviour exposes HMRC to a risk of loss of revenue. It includes behaviour that might be prosecuted as cheating the public revenue, a statutory offence of fraudulent evasion of tax, or an offence of fraud. At its heart, it will involve the telling of lies or engaging in other dishonest behaviour that led to or was intended to lead to a risk of loss of tax. This includes lying to HMRC about facts relevant to the assessment and collection of tax (including concealing or withholding relevant facts or failing to disclose a liability), dishonestly and deliberately claiming repayments or reliefs to which one is not eligible, or dishonestly and deliberately paying less tax than is properly owed.

A tax fraud requires dishonest deliberate behaviour, one cannot commit a tax fraud by accident. It is possible for an individual to commit a tax fraud in respect of tax owed by another and without personally making any gain.

## Fraud in respect of HMRC's functions not involving tax

HMRC has functions that do not relate to tax. For example, HMRC is responsible for paying some types of targeted financial support. HMRC may also use COP9 for the civil investigation of fraud where fraudulent claims have been made for these types of payments.

## Introduction

### Code of Practice 9

We issue this Code of Practice in selected cases where we suspect tax fraud. In many cases where we suspect fraud, we carry out criminal investigations with a view to prosecution. But under this Code we offer you instead the chance to make a full disclosure under a contractual arrangement called the CDF. You have 60 days from the date you receive the offer of the CDF to accept or reject it.

If you accept the offer of the CDF and make a full disclosure of your deliberate behaviour, we will not pursue a criminal investigation. However, you may be liable to pay civil penalties. Your level of cooperation will be taken into account in assessing any civil penalties due. As a rule, the more you cooperate, the lower the penalty will be.

You must stop any deliberate behaviour that has led, or which may lead to a future tax or duty loss immediately.

You must keep all existing records including any computer records, during the investigation whether or not you are required by law to do so. We may ask to see your business and private financial records.

A specially trained officer will handle the COP9 investigation into your tax affairs.

## 1 The Investigation

### 1.1 The Suspicion of fraud

We have information that gives us reason to suspect that you have committed tax fraud. We will not normally tell you what our suspicions are. It is for you to decide whether to tell us about your deliberate behaviour and any other tax or duty irregularities, by making a disclosure.

We will keep an open mind to the possibility that there may be an innocent explanation for the suspected fraud, and we will treat you fairly and politely, and in accordance with the law.

We will investigate our suspicions, with or without your cooperation. If you do not cooperate, we may:

- commence an investigation which may ultimately be a criminal one
- use HMRC powers to obtain information about your financial and business affairs, including from appropriate third parties, these include, but are not limited to banks, customers and suppliers
- take formal action, including raising assessments for any tax, duty and interest we consider is due
- charge significantly higher penalties
- commence legal proceedings to secure some, or all your assets
- require a financial security from you against certain unpaid tax and duty

### 1.2 Appointing an advisor

We strongly advise that you seek independent professional advice before you respond to HMRC's offer of the CDF. If you already have an advisor, you should contact them immediately. Many people find it helpful to appoint an advisor who specialises in COP9, as well as their regular advisor.

If you want HMRC to deal directly with your advisor on all matters covered by COP9, you must give us full authority to do so. You can use either [form 64-8, Authorising your agent](#) or [form Comp 1, Compliance checks: temporary authorisation to allow HMRC to deal with your tax advisor](#). Make sure your authority covers all tax and duties. Both forms are available on gov.uk.

You must give your advisor all the facts and relevant documents. You are personally responsible for your tax affairs and the accuracy of any information supplied to HMRC on your behalf.

We expect high standards from your advisor. Whilst we will normally deal with them directly, if there are any delays or problems preventing progression of the CDF procedure, we will inform you.

Any costs that you incur in respect of our investigation cannot normally be claimed as an expense against tax.

## 2 The investigation, your options

### 2.1 The Contractual Disclosure Facility (CDF)

We offer the CDF where we suspect an individual of fraud, and we think the case is suitable for the CDF.

Under the terms of the CDF, we invite you to disclose all your deliberate behaviour that has brought about a loss of tax or duty, or payment administered by HMRC. Where deliberate behaviour is disclosed, HMRC undertakes not to commence a criminal investigation into the suspected fraud connected with this disclosed behaviour.

The CDF is a contract offered by HMRC and accepted by the individual under investigation where both parties agree to be bound by its terms. HMRC will not offer the CDF on any other terms. The CDF offers you the chance to disclose:

- your deliberate behaviour that brought about a loss of tax, duty or payment administered by HMRC and
- any other irregularities in your tax affairs

The CDF is only suitable for you if your deliberate behaviour has brought about a loss of tax, duty, or payment administered by HMRC. It is not suitable if you only have careless errors or mistakes to disclose. If that is the case, read section 7 about rejecting the CDF offer.

### 2.2 The terms of the CDF

In return for you:

1 Making an initial Outline Disclosure within 60 days covering both:

- a. an admission of your deliberate behaviour and a full description of that behaviour, whether committed by you alone or with others and in whatever capacity, that has led to a loss of tax, duty, or payment administered by HMRC
- b. all your non-deliberate behaviour (acting in any capacity), that has led to irregularities in your tax affairs or the tax affairs of another

Read section 4 on how to complete an Outline Disclosure.

2 Making a subsequent Formal Disclosure within a period of time agreed with HMRC, including the completion of the required accompanying certificates in which you both:

- a. make a complete, accurate, open and honest disclosure of all your deliberate behaviour, whether committed by you alone or with others and in whatever capacity, that has led to a loss of tax, duty, or payment administered by HMRC
- b. make a complete, accurate, open and honest disclosure of all your non-deliberate behaviour, (acting in any capacity), that has led to irregularities in your tax affairs or the tax affairs of another

Read section 5 on how to complete a Formal Disclosure.

3 Fully cooperating with us to put your tax affairs in order, including:

- a. retaining and providing any records, documents and information that we may request during the COP9 process
- b. personally attending any meetings that HMRC may request you to attend in order to discuss your tax affairs (you may be accompanied by an advisor at any such meetings)

4 Repaying any tax, duty or payment, interest and penalties that you owe within the period agreed with HMRC.

If you comply with these terms, the Commissioner's for HMRC undertake not to commence a criminal investigation into the suspected frauds related to the deliberate behaviour you disclose.

HMRC's undertaking not to criminally investigate the frauds against HMRC that you disclose cannot bind other law enforcement agencies, such as the police. Nor can it bind regulatory bodies. It also does not extend

to other frauds or criminal offences not committed against HMRC. Any information you supply to HMRC may be passed on to a relevant authority or regulatory body in appropriate circumstances.

The undertaking not to pursue a criminal investigation applies only to you. We are not bound to give the same protection from criminal investigation to any other individual or entity named or implicated as part of your disclosure.

### **3 The CDF: what you have to do**

You have 60 days from the date you receive the offer of the CDF to tell us whether you:

- accept the offer, or
- reject the offer

You can only choose one of these options, if you fail to choose one, or fail to complete the CDF acceptance process properly and fully, we will treat this as your conscious decision to reject the offer and we will not be bound by the CDF terms. If you reject the CDF offer, we will start an investigation which may be a criminal one.

We will not enter into any discussion about your tax affairs until you have either notified us of how you wish to proceed, or the 60-day response period has expired.

#### **3.1 The effect of entering a CDF contract**

If you choose to enter a CDF contract, you will be admitting that there is a loss of tax, duty, or payment administered by HMRC because of your deliberate behaviour. This means that HMRC can seek to recover any tax, duty and interest evaded and any associated penalties for a period of up to twenty years, or for a longer period where legislation exceptionally permits.

### **4 Accepting the offer of the CDF**

The CDF terms are not binding on either party unless we receive your acceptance. The standard Acceptance Letter and the Outline Disclosure form are enclosed with the offer of the CDF.

#### **4.1 Completing your valid Outline Disclosure**

You have 60 days from the date you receive the offer of the CDF to return the Acceptance Letter and a valid Outline Disclosure.

Your Outline Disclosure is not expected to contain precise details of your deliberate behaviour if you cannot reasonably get them within the 60 days response period, there will be time for precision later. However, it must be an honest description of the deliberate behaviour you are disclosing, made to the best of your recollection with the help of any documents and information which is readily available.

Your Outline Disclosure should also provide information on losses that were brought about by your non-deliberate behaviour or any other irregularities in your tax affairs or the tax affairs of another. There is a separate section on the form for this.

Your Outline Disclosure will be invalid if you only give details of non-deliberate behaviour and you do not include your deliberate behaviour that brought about a loss of tax, duty, or payment administered by HMRC.

#### **4.2 Description of your deliberate behaviour and other non-deliberate behaviour**

Merely stating that your deliberate behaviour has brought about a loss of tax, duty or payment will not be acceptable. You must disclose all your deliberate behaviour and explain how this brought about a loss of tax, duty, or payment administered by HMRC.

Your description needs to set out sufficient information for each separate tax or duty loss brought about by your deliberate behaviour including, but not limited to:

- what you did
- how you did it
- the extent of any involvement of other people and entities

- how you benefited from the deliberate behaviour

### **4.3 Individuals and entities involved**

You must include names, addresses and tax references of any other individuals or entities involved, where known. Tax references can include Unique Taxpayer References or VAT registration numbers.

Where you have used other entities such as companies, trusts, nominees, or partnerships, you must:

- provide the names of all the entities concerned and explain how you used these entities
- explain your relationship to the entity, and the control you have (or had) over it
- say in what capacity you acted, for example, as director, shadow director, shareholder, beneficiary or trustee

You must also describe all irregularities brought about by your deliberate behaviour as a representative, for example, as an executor, co-executor or administrator of a deceased person's estate, or as a nominee.

### **4.4 Period during which the deliberate behaviour took place**

You must state, to the best of your recollection, the period during which you brought about a loss of tax or duty, or payment administered by HMRC through your deliberate behaviour. You can either refer to taxable periods or calendar years. Make sure this is clearly identified in your Outline Disclosure.

### **4.5 Other information**

The more information you provide, the better. We see this as a sign of your cooperation with the investigation. We will take a more serious view when considering any penalties, if it later comes to light that there was relevant information available that you could have told us about but chose not to.

Examples of information you should provide include, but are not limited to:

- an indication of the amounts understated, and the tax and duty involved. Where you have used estimates, highlight them and explain how you arrived at your figures
- a description of the records created, adapted, modified or destroyed to disguise what you were doing
- information on the records you hold, or can access, to support your disclosure, including the books and records you kept, and the bank or financial accounts held. You must say if the records belong to another entity and if the records are available, but you do not physically hold them
- details of any non-deliberate tax and duty losses, however you cannot use the Outline Disclosure to only give details of losses brought about by your non-deliberate behaviour.
- any other relevant information

### **4.6 What happens after you make your Outline Disclosure**

Based on the information contained in your Outline Disclosure we will decide how the investigation will proceed.

### **4.7 If we suspect your Outline Disclosure is incomplete**

Where your Outline Disclosure does not disclose all the frauds that we suspect you have been involved in, we may commence a criminal investigation into the suspected frauds that you have not disclosed. Alternatively, we may decide that a civil investigation is the way to proceed. However, if we do commence a civil investigation, it can escalate into a criminal investigation at any point.

### **4.8 A valid Outline Disclosure is made, and no more information is needed**

If your Outline Disclosure confirms what we suspect and we think that no additional information is needed, with your assistance we will seek to agree the additional tax and duty, interest payable and any penalty due.

We will then ask you to make your Formal Disclosure, where you will certify that you have made a complete, accurate, open and honest disclosure of all the tax and duty irregularities that you have been involved in by completing four mandatory documents.

You will be invited to make a financial offer to cover the tax and duty losses, interest and any appropriate penalties to settle the investigation.

Read section 5.4 for information on how to complete the Formal Disclosure.

#### **4.9 A valid Outline Disclosure is made, and more information is needed**

In most cases, much more work will be necessary before you will be in a position to make your Formal Disclosure and you will need to arrange for a Disclosure Report to be prepared. The nature of the report will depend on the individual circumstances of your case.

### **5 When a Disclosure Report is needed**

If you commission your advisor to prepare the report, you are responsible for its content and its submission by the agreed deadline. You are responsible for the cost of preparing the report and this cannot normally be claimed as an expense against tax.

We will agree the scope of the report with you and your advisor prior to you starting the work. We may ask you to attend a meeting for this, in some cases we may decide that it is enough for us to meet your advisor to discuss what needs to be done.

#### **5.1 Contents of the Disclosure Report**

Your Disclosure Report must cover all losses of tax or duty, or payment administered by HMRC, and all the irregularities that you have been involved in. As with the Outline Disclosure, it should distinguish between any losses brought about by your deliberate and by your non-deliberate behaviour.

It must accurately state the correct tax position, quantify the amounts due and explain how they have been calculated.

It must include full details of your deliberate behaviour in whatever capacity you have acted. This means whether you acted as an individual (including as a sole trader, an executor, administrator or trustee), or through other entities such as nominee relationships, trusts, partnerships, companies, Limited Liability Partnerships etc. Entities that exist for tax purposes such as consortia and VAT groups should also be included.

A typical Disclosure Report will normally include, but is not limited to:

- a brief business history
- a description of all tax or duty irregularities (including those brought about by non-deliberate behaviour) and how they occurred
- quantification of all the irregularities
- information to show how you quantified the irregularities, ensuring that nothing is missed
- summaries of all tax, duty, interest and penalties due
- a reconciliation of your irregularities figure with the summary of tax or duty due

You will be required to certify to the best of your knowledge and belief that your Disclosure Report is accurate and complete and we will review the report to satisfy ourselves that this is the case.

#### **5.2 Timetable for preparation and submission of the report**

We will agree a timetable for the preparation of the report with you. The time allowed will depend on the circumstances of the case and will vary according to the complexity of the work needed, the amount of work that needs to be done and how easy it is to access the details needed.

We expect the report to be submitted to the agreed timetable. If at any point you realise that you will not be able to meet this, you must contact the investigating officer and explain why. In some circumstances we may be able to extend the timeframe.

#### **5.3 What happens whilst the report is being prepared**

You are responsible for keeping us informed of the progress of the report at regular intervals. You should attend progress meetings if we ask you to. If we consider that adequate progress is not being made in

preparing the report, we may decide to take over the investigation. If we do that, we may decide to use formal information powers, approaches to third parties and other protective sanctions, as described in section 9.3. However, we will not begin a criminal investigation into the deliberate behaviour that you disclose in your Outline Disclosure.

You and your advisor should give us any documents and information relevant to the report that we ask for so that we can check if it's progressing to the agreed timetable and that all relevant issues are being considered and addressed.

Where assumptions are necessary in drawing up the final report these should be highlighted and discussed with us at the earliest possible time. Where the report is likely to vary from our known view on the treatment of an issue, this should be raised with us for discussion as soon as possible.

If any further offences, failures or errors are identified whilst preparing the report, you must disclose these to the investigator immediately.

## **5.4 Submitting your Formal Disclosure**

To complete the Formal Disclosure process, you must sign four mandatory documents. The templates for these documents are provided by HMRC and must not be amended.

They are:

- a Certified Statement of worldwide assets and liabilities
- a Certificate and Schedule of all financial accounts operated
- a Certificate and Schedule of all financial cards operated
- a Certificate of Full Disclosure – your signature on this document must be witnessed

We will agree the relevant dates or periods that these certificates should be completed for. The first three documents are expected to accompany the Disclosure Report where one is to be made. However, whilst they are required as part of the Formal Disclosure process in some circumstances, we may also ask you to provide any of the three documents sooner.

Where a Disclosure Report is not needed, the three documents will be expected at the same time as your Certificate of Full Disclosure.

Making your Formal Disclosure does not signify the end of our investigation, but it does mean you have complied with the terms of the CDF.

## **5.5 The Certificate of Full Disclosure**

We will ask you to complete and sign a Certificate of Full Disclosure, your signature on this certificate must be dated and witnessed.

By signing the Certificate of Full Disclosure, you acknowledge that you have made a complete, accurate, open and honest disclosure of all the irregularities you have been involved in, to the best of your knowledge and belief.

A false Certificate of Full Disclosure made as part of a CDF disclosure may result in criminal investigation for submitting a false document. We may also consider separate criminal investigation of any deliberate behaviour not disclosed in your certified CDF disclosure.

Your Certificate of Full Disclosure may be used in subsequent criminal proceedings on the false disclosure or submission of false documents.

## **6 Payment**

When you are making your Outline Disclosure, we expect you to make a payment on account of any arrears of tax or duty. You will also be expected to make payments on account throughout the investigation. We see this as a demonstration of your willingness to reach a settlement. The payments you make will reduce the interest accruing on the outstanding amount you owe. The investigating officer will provide the information you need to make a payment.



Before you can complete your Formal Disclosure, we will agree the financial settlement of the outstanding tax, duties, interest and penalties due with you. You will then be expected to arrange payment of your tax, duty, interest and penalties (or enter a payment plan with HMRC that will see you make such payments within a period agreed with HMRC).

If at any stage during the investigation you become aware that you might not be able to pay all the tax, duty, interest and penalties you owe, you must tell us immediately so that we can consider payment options.

If we think that you might not pay what is due, we can act to charge tax, duty and penalties through formal assessments. We will also raise assessments if statutory time limits are about to expire. Depending on the circumstances we may commence insolvency action. For example, if a corporate entity for which you have control is insolvent, we may seek to make you personally liable for some of the corporate debts.

## **7 Rejecting the CDF offer**

If you do not believe that you have brought about a loss of tax or duty, or payment administered by HMRC through your deliberate behaviour you should sign and return the CDF rejection letter, within the 60-day response period.

We will keep an open mind that there may be an innocent explanation as to your behaviour that led us to suspect fraud and we will consider any explanations or documents that accompany your rejection.

Where we verify and accept the explanation you give, we will issue a confirmation letter stating that we no longer suspect you of tax fraud.

You should only choose to reject the offer of the CDF if you genuinely believe that you have not brought about a loss of tax, duty or payment administered by HMRC through your deliberate behaviour. If you sign the Rejection Letter, we will start our own investigation which may be a criminal one.

If we decide to proceed with a civil investigation in response to your rejection of the CDF, we reserve the right to escalate the case to a criminal investigation if we consider it appropriate. The only way that you can be certain that we will not carry out a criminal investigation is to make a disclosure of all losses of tax, duty or payment administered by HMRC brought about by your deliberate and non-deliberate behaviour, under the terms of the CDF.

Your Rejection Letter, any documents you provide and anything else you tell us can be used as evidence in court or tribunal proceedings.

## **8 Criminal investigation and COP9**

These are the circumstances in which HMRC can commence a criminal investigation, after offering the CDF:

### **You do not respond to the CDF offer**

If we have not heard from you within 60 days after you receive our offer, we will treat this as your decision to reject our offer and we may begin a criminal investigation into the tax fraud we suspect you have committed.

### **You reject the CDF offer**

If you reject the CDF offer and do not satisfactorily allay our suspicions of tax fraud, we may commence a criminal investigation into the tax fraud we suspect you to have committed.

### **You send an Acceptance Letter but no Outline Disclosure**

If you fail to make a valid Outline Disclosure, you will not have complied with terms of the CDF contract. We will not then be bound by the contract, and we may commence a criminal investigation into the tax fraud we suspect you have committed.

### **You make an incomplete Outline Disclosure**

Where your Outline Disclosure does not include all the tax frauds that we suspect you might have been involved in then we may commence a criminal investigation into the tax frauds you have not disclosed. The tax frauds disclosed on your Outline Disclosure will not be subject to criminal investigation by HMRC.

## **You make a false statement or submit false documents**

Where we believe that a false statement is made or a false document is submitted during the investigation, we can commence a criminal investigation into any offences arising from the submission of the false statement or document itself.

## **You submit false Formal Disclosure documents**

Where we believe the Disclosure Report, Certificate of Full Disclosure, Statement of Assets and Liabilities or the Certificates and Schedules of Financial accounts and cards operated are incorrect or incomplete, we can commence a criminal investigation into any offences arising from the submission of these documents themselves.

## **Withdrawing your admission of deliberate behaviour**

Where you accept the CDF offer and make an Outline Disclosure, but later assert that your behaviour relating to the loss of tax or duty is not deliberate, we will consider any explanation you offer as to the reason for this change. But in the absence of a good reason, we will regard this as a repudiation of the agreement on your part and we reserve the right to commence a criminal investigation.

Any material you disclosed prior to the repudiation of the CDF may be used as evidence in the criminal investigation. We also reserve the right to use your Outline Disclosure as evidence of your behaviour to charge tax, duty and penalties through formal assessments. An admission in your Outline Disclosure that your deliberate behaviour led to a loss of tax or duty is likely to lead to your paying higher penalties than if the behaviour was non-deliberate.

## **9 Interaction with HMRC**

### **9.1 Cooperating with the investigation**

The extent to which you cooperate and provide information is entirely a matter for you. In making this decision you may want to get advice from your professional advisor. You may need to pay a penalty which will be a percentage of the tax and duty lost as a result of your behaviour. The penalty percentage depends on your behaviour and the extent at which you help us arrive at the correct liability of tax and duty.

### **9.2 Meetings with HMRC**

Once you have sent us your Outline Disclosure or Rejection Letter, or you have done nothing and the 60 day period has passed, we may ask you to attend a meeting. We will explain the purpose of any meeting we ask you to attend.

We view your attendance and your cooperation at meetings if we ask you to attend them as a strong indication of your engagement with the investigation. We may use what you say, or any information you give us, to assess your liability to tax, duty, interest or to a penalty. We may also use this information as evidence in any legal proceedings or disclose the information to other organisations where appropriate and lawful.

### **9.3 Protective sanctions we may take**

We can use various sanctions and powers to obtain information, (including documents and computerised records) from you. These are backed by financial penalties, up to an unlimited tax-related penalty. We may also approach third parties for information and documents, either informally or by using statutory powers.

If we discover irregularities we will take formal action, including the issue of assessments and we will pursue early collection of any unpaid tax, and duty, plus interest. If you do not cooperate fully, you will have lost the opportunity to gain the maximum reduction of any penalty that might be due. Therefore, any penalty would be significantly higher.

If you try to avoid paying your liabilities or if you attempt to dissipate your assets, we will consider using other action to make sure we are able to collect the money that we believe you owe. These actions could include:

- personal bankruptcy
- compulsory liquidation
- appointment of interim receivers or provisional liquidators

- getting civil freezing orders over your bank and financial accounts
- getting legal cautions over your property
- requiring you to give an amount of financial security, for any tax regime for which securities legislation exists, for example, if there is a risk of VAT, PAYE or National Insurance going unpaid by you or your business

## 9.4 Impact on benefits and payments

Your deliberate behaviour may have consequences for payments you have received, for example, benefits such as grants, tax credit claims, child benefit claims, student loan repayments and other targeted financial support. If you make a complete, accurate, open and honest disclosure under the terms of the CDF, you will not be subjected to a criminal investigation by HMRC. However, we may pass the information we receive in our investigation to the relevant departments or organisations that deal with these payments. They may decide to conduct their own investigation which may be a criminal one. If this is likely to affect you, you should seek legal advice. Read section 11.6 for more information on HMRC's privacy and confidentiality policy.

## 9.5 Ongoing compliance obligations

Your ongoing compliance activity may be used as an indicator of your willingness to engage with us.

You need to meet all your ongoing tax compliance obligations during the COP9 process, regardless of whether you have accepted our offer of the CDF or not:

- you must stop any deliberate behaviour immediately - we can check to make sure that you have done so, if we discover that your behaviour has continued, this can result in a higher penalty, or we may commence a criminal investigation into your continuing behaviour
- your Formal Disclosure and subsequent returns must reflect your correct tax position
- you should make all your returns by the statutory filing dates and submit any payments on time
- you must submit any outstanding returns as soon as possible, using provisional figures if necessary

We will not stop any other interventions that we feel are necessary. For example, routine compliance checks and visits to VAT traders who have claimed repayments. However, we will look to coordinate compliance activity in the most effective way during the investigation.

You must keep all existing records, including computer records, during the course of our investigation whether or not you need to by law. We may ask to see your business and private financial records.

## 10 Interest and penalties

We charge statutory interest on any tax or duty paid late. We charge and calculate penalties in accordance with provisions in legislation. In some cases, penalties can exceed 200% of the tax or duty lost, subject to reduction, depending on the quality of disclosure that you provide.

Any penalty we charge will be a percentage of the tax or duty lost because of your behaviour and we can apply a reduction to take into account how and when you:

- tell us about any offence, failure or error, and
- cooperate with us to put things right and arrive at the correct liability.

You can find more information on penalties in our series of [HMRC compliance check factsheets](#).

### 10.1 Publishing your details

In certain circumstances, we can publish information about a person who deliberately evades tax or duty or where we charge a penalty for deliberate behaviour. You may be able to avoid publication by giving us full cooperation from the start of our investigation, including telling us about all tax irregularities due to your deliberate behaviour. If we are already investigating your tax affairs when we decide to issue an offer under this Code of Practice, your cooperation in the existing investigation is also considered in deciding whether or not to publish information about you. For more information, read [Compliance checks: publishing details of deliberate defaulters](#).

## 10.2 Monitoring Serious Defaulters

To check that you comply with your tax obligations and do not revert to deliberate behaviour, we can inspect your tax affairs under our enhanced monitoring programme called Managing Serious Defaulters. For more information, read about the [HMRC Managing Serious Defaulters programme](#).

## 11 Your rights

### 11.1 Your rights under HMRC's charter

To find out what you can expect from us and what we expect from you, read the [HMRC Charter](#).

### 11.2 Code of Practice 9 and the Human Rights Act

The protection of the Human Rights Act will continue to apply to you, regardless of whether any investigation into your tax affairs under COP9 is a civil one or becomes a criminal one.

### 11.3 If you are unhappy with our service

If you are unhappy with our service, contact the person or office you have been dealing with. They will try to put things right. If you are still unhappy, read [HMRC's complaints procedure](#).

### 11.4 If you think that we should end the investigation

If you think that we should end the investigation, tell us why. If we do not agree with you, we will explain why. In some limited circumstances, you may be able to ask the Tribunal Service that deals with tax matters to decide whether we should stop.

If you feel that there is no more information that you can give us, then at any stage, you have the option of making your Formal Disclosure by completing the mandatory documents. See section 5.4.

We suggest that you get advice before you complete these certificates. Providing certificates that are later shown to be false or misleading can result in a criminal investigation for submitting false documents.

Taking this course will not stop us from making further enquiries if we believe that we do need more information before we can conclude our investigation. These could be enquiries of you or appropriate third parties, which include but are not limited to banks, financial service providers, customers and suppliers.

### 11.5 Right of appeal

If we raise assessments for tax, duty or penalties, you have the right to appeal against these decisions. If you do not agree with our decision, you should write and tell us, within 30 days of the date of the decision letter. You can ask for your case to be:

- reviewed by a different officer from the one who made the decision
- heard by an independent tax tribunal

If you want to have your case reviewed, you will still be able to appeal to the tribunal if you disagree with the outcome of that review.

For more information about reviews and how to appeal, read Fact sheet [HMRC1: HM Revenue and Customs decisions – what to do if you disagree](#)

### 11.6 Privacy and Confidentiality

We will treat your tax affairs with the strictest confidence. HMRC has a strict policy regarding the privacy and confidentiality of our customers' personal information, and we fully comply with GDPR obligations. Any information obtained by HMRC pursuant to one of our functions can be used in respect of any other of our functions. Any information disclosed by you pursuant to the COP9 procedure can be used by HMRC in respect of any civil or criminal investigation. We will, in some circumstances, where the law allows, share information with other government agencies and regulatory bodies. You can read [HMRC's privacy policy](#).

## 11.7 Use of open source material

HMRC may observe, monitor, record and retain Internet data which is available to anyone. This is known as 'open source' material and includes news report internet sites, Companies House and Land Registry records, blogs, and social networking sites where no privacy settings have been applied.

## 12 If you need help

If there is anything about your health or personal circumstances that may make it difficult for you to deal with this investigation, tell the investigating officer. They will help you in the most appropriate way. For more information, ask the investigating officer or [get help from HMRC if you need extra support](#)

