

## **Construction Industry Scheme Operational Forum (CISOF)**

### **Minutes of Meeting**

**Wednesday 26<sup>th</sup> February 2014**

**Present (Industry):** Liz Bridge (LB), Stephen Burrell (SB), Howard Royse (HR), Paula Adam (PA), Sue Cave (SC), Eric Rolfe (ER), Mike Sutherland (MS), Jason Piper (JP), Samantha Mann (SM), Jim Etherton (JE), Sudeep Ganguli (SG)

**Present (HMRC):** Adrian Dixon (AD) – Chair, Ken Claydon (KC), Andy Thomas (AT), Ian Battour (IB) – Secretary, Julie Campbell (JC), John Pay (JP), Rita Fajobi (RF), John Bristow (JB)

**Apologies:** Maurice Denyer, Steve Crawte, Gordon Marjoram.

#### **Action Points – Arising from 4<sup>th</sup> September 2014 CISOF minutes**

##### **First Action Point page 2 – Loss of Status letters**

AT reported that from the review of 110 cases, the system showed that 58 cases were not receiving any payments and 47 were being paid under deduction. There was only one case shown as still being paid under Gross deduction. LB said that she receives about 4 cases a year where the change of status letter has not been received and was still concerned that this would be picked up under a compliance review. AT said that this could possibly be picked up and resolved as part of the Business Process Re-engineering project (BPR) where change of status could be shown online.

##### **Second Action Point page 3 – KC to arrange further NIC&EO visit**

HR to update later in meeting.

##### **Third Action Point page 3 – JC to consider VAT implication as part of review**

Updated later in meeting.

##### **Fourth Action Point page 3 - AD to enquire if HMRC are looking into the potential loss of revenue by allowing non-construction companies to have GPS**

AD said that this issue should now be overtaken by the Onshore intermediary legislation.

### **Minutes from last meeting- Agreed**

AD mentioned that he met earlier with HR and representatives from the Treasury to discuss proposals to simplify CIS. He has nothing to report back to the group at present but will call an additional meeting if needed.

### **Possible Enhancement to CIS – JE**

JE said that at his forum's meeting they had discussed the 2009 digital enhancement proposals where the vast majority were still relevant. Filing on line would not be a problem for them as all their members do this already. They agreed that online notification of change of status is still a good idea. KC said that there is no money to progress any enhancements, however, a number of the proposal could be included in the BPR project if this is given the go ahead. JE asked about timescale. AD said if he is able to get agreement to get CIS added to the digital roadmap, it could be April 15. AD said that BPR are issuing a scoping document this week. JE asked for IT providers to be given plenty of notice for any proposed changes.

### **CITB – Liz Bridge**

LB said that most firms in Construction made no deduction from payments out for CITB levy or training and that that was agreed to be good practise. However some firms did make a deduction. This was done –broadly – in one of two ways. Poor contractors just deduct the levy out of payments to subcontractors without prior warning or agreement and describe the deduction as being CITB levy. This is shoddy if not dishonest payment practise and should not be encouraged. Other contractors warn in their tender documents that they will stop a 'training levy' or other terms. Whilst not being desirable from a CITB perspective, this is perfectly legal contractual term. She felt that HMRC's present guidance was a bit confusing. JC agreed that HMRC's present interpretation was causing confusion and that she was looking to issue revised guidance very shortly. Also, she was currently discussing VAT implications with subject experts but was unable to update further at that point. (Revised guidance issued 5/3/14)

### **Obtaining payment information from HMRC – Steve Burrell**

SB said that this was the usual issue where they were generally finding it difficult to obtain information from HMRC. Others agreed that they would often be passed around different parts of HMRC. SC said that it was easier to get information from Corporation Tax contacts than PAYE/CIS areas and that this was a weak area. AD said that this is a RTI issue and that these concerns should be raised with the PAYE Customer Forum. **(AP – AD to pass on concerns to PAYE Customer Forum)**

### **Problem registering for CIS through Contact Centre – Steve Burrell**

SB quoted a case where a client was passed from one Contact Centre to another and then back again when trying to register. KC said that the CIS Helpline cannot register a new employer which may have caused this issue, however, he said that he will look at guidance with the Contact Centres. **(AP – KC to look at guidance with CCs)**

### **Insolvency – Steve Burrell**

SB explained that this was related to the previous issue where they are unable to find the correct people to speak to. AD asked if SB thought that it was an administration problem and said that he would look into it in more detail with the previous issue.

### **Time to register non-resident Contractors – Steve Burrell**

SB explained that this was an ongoing problem where it takes a long time for non-residents to register due to the Specialist PT requesting copies of contracts. **(AP – KC to confirm procedure with Specialist PT)**

### **CIS Set off against PAYE for non Ltd company employers – Mike Sutherland**

MS asked if there were any plans to allow non Ltd companies to be able to offset their liabilities against their deductions. KC said that there were no plans and that it doesn't come up as an issue that often. AD said that HMRC could consider it but this would come under primary legislation which was difficult to get through. SC agreed that it would be good if this could be progressed.

### **Communication with HMRC – Mike Sutherland**

MS referred to problems communicating with HMRC sites in Newry/Hull/Longbenton due to HMRC's policy not to supply telephone numbers so they have to write in. Often when they do call the CIS Helpline they cannot progress their queries as the system states they do not hold valid 64-8s. KC said that the department has taken the decision that contact will be via the Helplines, but the advisors can pass on technical questions to technical advisors. LB thought that one of the issues is that the actual query could be lost in translation when it is passed on.

### **CIS Repayments – Howard Royse**

HR fed back to the forum on the meeting with NIC&EO in November last year and last week. Last year there was no improvement on performance from the previous year. NIC&EO receive 60,000 claims where 85% go through with no problems but the other 15% cause all the issues. This is due to the claim not

matching HMRC's records. During the visit, the group went through the repayment process with staff and how RTI would impact on this. The process should start earlier this year as long as the last EPS is received by the April due date. During the visit a 15 day review time was mentioned. HR thought that this was ambitious unless a great deal of resource was provided. However, the group was assured that training and procedures were being improved. AD said that before Ruth Owen would sign up to a timetable she would need to be convinced that this was achievable, so more work was going into analysing how long a repayment should take before any firm commitments were given. SC asked how confident HMRC were that the repayment process could begin from 20<sup>th</sup> April, as she has seen cases where clients' records have had their numbers of employees doubled leading to specified charges. SC also said that some employers used the time before the P35 was due to tidy their returns. AD said that they should do this before making their final claim before 19<sup>th</sup> May and that this is a communication issue really. **(AP – AD to make NIC&EO aware of this possible issue)**

HR went on to say that following his visit, he could see why HMRC ask for bank statements as part of their checking process. AD said that he is looking into what information HMRC can send out to help with the process for subcontractors confirming deductions. KC said the Data Guardian said they could decide what can be supplied. **(AP – KC and AD to discuss further)**

#### **64-8 – Steve Burrell**

AT reported his discussion with the Agent Forum Business Unit. An issue they have found is that how authorisation and the level of information supplied is treated inconsistently across HMRC. The HMRC Forum Organiser has suggested that if any CISOF member has any specific case, he would be happy to investigate. AT to look at guidance to see if the guidance is consistent across the CIS Helplines. **(AP – AT to look at guidance on 64-8)**

#### **Flooding, Reg 9 etc - Steve Burrell**

SB asked if there will be any concessions due to the recent floods, AD confirmed that following his earlier meeting with the Treasury, there were no planned concessions.

SB said that he was hearing that HMRC compliance were not granting Reg 9(5) directions. RF was able to provide assurance from her recent experience as a CIS compliance officer/tax specialist that following investigation, if they found evidence for allowing a Reg 9(5) claim they would always grant it. **(AP – RF to provide SB with a link to the Reg 9(5) guidance)**

## **AOB**

HR asked if compliance were enforcing the requirement for Contractors to provide Payment and Deduction Statements (PDS). KC confirmed that compliance have picked this up in their procedures. HR asked if any Contractor has been penalised. **(AP – KC to ask Anthony Browne for an update)**

MS asked how does a Contractor take advantage of Regulation 22. KC answered that if they meet all the qualifying criteria, they can call the CIS helpline.

MS asked for confirmation on how to deregister as a Contractor. KC advised that they should contact the Employer Helpline.

MS asked why does it take up to 2 weeks for the codes to use online filing to be received by a foreign contractor. JP answered he was aware of the matter having previously been raised at another HMRC forum and would investigate to see if a definitive answer had been provided. **(AP – IB to approach Agent Engagement Forum to see if there is a workaround)**

MS thought the guidance on how to estimate material costs were not that clear causing issues during compliance reviews. RF said that the compliance officers guidance was clear on what they would be looking for. LB said that the Contractor would need to use common sense to estimate.

SC asked if penalties could be suspended for a one-off mistake by a contractor in the case of someone who does not contract work out normally and was not aware they should have applied the scheme. KC said that he has been doing work with the Tax Advisory policy team on ways to reduce the amounts of penalties that would be due in these cases. An example of a change is where a penalty is due for the month the deduction/return was due then treating them as not being in the scheme after that so not incurring further penalties.

## **Date of Next Meeting**

**15<sup>th</sup> October 2014  
(100 Parliament Street, Whitehall)**

*Ian Battour (CISOF Secretary)*