

## **Compliance Reform Forum**

Minutes of meeting held on 16 August 2018,  
100 Parliament Street, Westminster, SW1A 2BQ

### **External Attendees:**

Association of Accounting Technicians: Brian Palmer  
Association of Chartered and Certified Accountants: Glenn Collins  
Association of Taxation Technicians: Will Silsby  
Chartered Institute of Taxation: Gary Ashford  
Chartered Institute of Payroll Professionals: Samantha Mann  
Institute of Chartered Accountants in England and Wales: Andrew Tall  
Institute of Chartered Accountants of Scotland: Susan Cattell  
Low Incomes Tax Reform Group: Joanne Walker  
Federation of Small Businesses: Sue Cave  
TaxAid: Ian Browne  
Tax Investigation Practitioners Group: Gary Rowson

### **HMRC Attendees:**

Penny Ciniewicz (Chair): Director, General Customer Compliance  
Janet Alexander (Co-Chair): Director, Individual and Small Business Compliance  
Lauren Court: Interim Deputy Director, Customer Compliance Strategy Unit  
Jo Osborne: Secretariat  
Katy Gallagher: Secretariat

### **Speakers:**

Stu Murtha: Customer Compliance Finance and Planning  
Allen Crawford: Counter Avoidance  
Stewart McKie: Counter Avoidance  
Ellen Roberts: Counter Avoidance  
Craig Ogilvie: Compliance for the Future

### **Apologies:**

Mary Aiston: Director, Wealthy and Mid-size Business Compliance  
Richard Garth: Customer Strategies and Tax Design: Customer Engagement

### **Welcome and introductions**

1. Penny Ciniewicz (PC) welcomed everyone and gave apologies on behalf of Mary Aiston and Richard Garth.
2. PC reiterated the terms of confidentiality under which the Compliance Reform Forum meets and the expectation that information shared with members would not be shared more publicly.

**AP Secretariat to share instance so that it can be picked up by the organisation concerned.**

3. PC outlined the agenda and introduced the HMRC representatives noting that the item on the Review of the Agent Forum would not now be covered due to the presenter being unable to attend. She asked members to forward any questions on this item to the Secretariat.

#### **General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA)**

4. PC introduced Stu Murtha (SM) the security and business information partner for Customer Compliance. SM gave a high level summary of HMRC's implementation of GDPR and DPA.
5. He outlined how HMRC had identified and categorised our information assets and put in place a Data Protection Officer.
6. SM summarised by saying GDPR requires greater transparency by an organisation to its customers. From the perspective of understanding compliance activity he noted there is not a requirement for a large change in the way compliance activity is worked.
7. He acknowledged members' concerns regarding secure storage of customer information noting that HMRC takes customer confidentiality seriously.
8. Members raised concerns around what the correct procedure was if they saw income details which they were not authorised to see.

**AP SM to look at the issues raised and will provide members with the correct process to follow.**

9. Members asked how HMRC would deal with countries that are not covered by GDPR. SM acknowledged this is a complex issue and one HMRC are currently working on.
10. Members welcomed the opportunity to discuss GDPR and asked for it to be a standing item at future meetings.

**AP SM to provide members with a link to the ICO (Information Commissioners Office)**

#### **Disguised Remuneration (DR)**

11. PC welcomed Allan Crawford (AC) and Stewart McKie (SMcK) from Counter Avoidance who introduced their item on Disguised Remuneration (DR). They highlighted that the loan charge was a current year liability (18/19), emphasising HMRCs desire to work in partnership with CRF members and their clients to reach settlement.
12. AC and SMcK raised awareness of the support HMRC offers around flexible payment arrangements, 'time to pay' arrangements and Extended Payment Arrangements. Members were asked to encourage those caught up by DR to register by 30 September and agree to settle to prevent the loan charge arising. Users need to register their interest to settle and provide all required information by 30 September. Presenters highlighted the excellent response received to date with a high level of registrations from customers coming forward to settle.

13. In response to members' concerns about HMRCs capacity to deal with the high level of interest, AC and SMcK outlined HMRC's commitment to providing sufficient trained resource giving increased confidence in our ability to settle cases where customers provide information before the 30 September deadline.
14. Members referred to the disguised remuneration instalment plans, published in Spotlight 44. (The majority of scheme users will now be able to agree an instalment plan of up to five years, without having to provide the detailed information about their income and assets that HMRC usually need. This approach applies to customers who agree to settle their affairs before April 2019, expect to earn less than £50,000 in 2018-19, and are no longer engaged in tax avoidance). The presenters explained that there was not a cliff edge, and if income exceeded £50k or more time was needed, it was important that users should contact us to discuss their options.
15. Members spoke of the difficulty some of their members had in providing all relevant information by 30 September and asked whether that was a hard deadline. AC and SMcK stressed that HMRC would do everything it could to deal with information submitted after this date, but no guarantee could be given.
16. AC and SMcK covered 'loan busting' schemes. HMRC don't accept that these work. They can leave customers far worse off. AC and SMcK mentioned that some 'loan busting' examples were outlined in Spotlights 36 and 39.
17. CRF members were invited to consider how they could support wider communication messaging to reach those currently affected and discourage their members from entering into these types of arrangements.
18. The presenters outlined HMRCs use of Twitter and letters to all individuals, corporates and company directors/beneficiaries where these are known. Further letters to individuals/employees who did not settle or repay their loans before the loan charge takes effect advising them of their responsibility to make an Additional Information return would be issued early next year.
19. Members thanked HMRC regarding the recent article which was provided by Counter Avoidance for inclusion in the ICAS newsletter and asked for more examples that could be used when publicising details to their members. ICAEW, AAT and CIOT have also been given articles that have or will be published.
20. Members raised concerns about a perceived inconsistent application of 'payment by instalments' citing clients who had registered an interest to settle and who were actively in conversation with HMRC to settle and agree an offer but who were being pursued by APN (accelerated payment notice) teams to pay their APN. DR teams were offering 5 years to pay, the APN teams were not.
21. Members asked for promoter of tax avoidance schemes (POTAS) details to be published as these prove helpful when discussing with customers. This is provided for under the legislation, but only when a monitoring notice is issued.

**AP: AC/SMcK to look at additional clarification regarding Requirement to Correct and DR, specifically the interaction between the Requirement to**

**Correct rule and registering an interest in settling the use of a DR scheme and whether HMRC would be looking at a double penalty.**

**AP: AC/SMcK to look at the perceived inconsistent treatment of payment by instalments between DR and APN.**

**AP: AC/SMcK to look at whether further practical examples of DR loan busting schemes could be provided to members to discourage people from entering the arrangements.**

### **Tax Abuse and Insolvency**

22. Ellen Roberts (ER) from Counter Avoidance led the agenda item on tax abuse and insolvency. She referenced the Insolvency Consultation, which closed 20 June 2018, detailing what HMRC is looking to achieve, acknowledging that it is a cross-compliance insolvency issue.
23. ER explained the aim of the consultation was to explore ways to tackle the small minority of taxpayers who abused the insolvency regime to avoid or evade their tax liabilities, including through the use of phoenixism.
24. A wide ranging discussion followed, with members asking whether additional powers were being sought and to what extent existing powers were being used. Specifically members asked whether existing insolvency powers were under used by HMRC, such as litigation against former Directors and pursuing Directors for fraudulent trading.
25. Members also raised concerns regarding how HMRC would differentiate between insolvency abuse and legitimate use, giving examples where insolvency was a legitimate reaction by Directors to an unexpected tax charge, leading Directors to appoint a liquidator/administrator.
26. ER assured members that HMRC was interacting with other consultations in this space, viewing the issue as cross cutting. She further assured members that HMRC was only targeting corporate bodies who are non-compliant and seeking to escape their tax liability by exploiting the insolvency rules. HMRC was not targeting companies of any particular size or type, or those companies who are compliant and where insolvencies arise from genuine financial difficulty.
27. Members asked when the result of the consultation would be published and ICAS asked for an explanation (in the absence of the published government response to the consultation) why the draft legislation had adopted the approach it had, as two options were originally proposed, but only one of them was selected for the draft legislation.

**AP: ER to speak to ICAS (Susan Cattell) separately regarding the draft legislation.**

### **Compliance For The Future**

28. PC welcomed Craig Ogilvie (CO) who presented on HMRCs plan for a small scale pilot which will use different technology to allow compliance officers to engage with customers.
29. The item generated significant discussion from members. CO offered to return to a future meeting in order to go through the successes and lessons learned.

### **Summing Up**

30. Gary Ashford (GA) CIOT, and Will Silsby (WS) ATT summarised the meeting on behalf of the members, setting out the key issues arising from the meeting, and noting in particular:

- a) the importance that information shared between HMRC and members of the Compliance Reform Forum was subject to the expectation of confidentiality,
- b) the impact that GDPR and DPA would have, not only on HMRC but other organisations too, and
- c) the investment HMRC was making in terms of resource for DR, highlighting the need for a consistent approach to be taken.

**AP Will Silsby (WS) ATT asked members to respond to the Secretariat in respect of the proposals included in the paper circulated in advance of the meeting on Trading and Property Income Allowances (TAPAs).**

31. PC thanked GA and WS for their summary and helpful comments.

32. In closing PC thanked members for their contribution to discussions recognising their appetite for debate and continued interaction.

Next Meeting: 7 November 2018, 100 Parliament Street, Westminster, SW1A 2BQ