

Minutes of the Employment Consultation Forum

Date: 8 January 2014
Location: Bush House, Strand, London

Co-chair Maggie Anderson Head of Employer Engagement & Strategy
Co-Chair Karen Thomson Chartered Institute of Payroll Professionals
Secretary Carole Carter Employer Engagement

Attendees:

Peter Bickley	PB	Institute of Chartered Accountants England and Wales
Glenn Collins	GC	Association of Chartered and Certified Accountants
Colin Ben Nathan	CBN	Chartered Institute of Taxation
Norman Green	NG	British Computer Society
Helen Harvey	HH	Payroll Bureau – Nanny Tax
Jon Henderson	JH	Confederation of British Industry
Simon Parsons	SP	Payroll Bureaux
Jackie Petherbridge	JP	Federation of Small business and Private Sector Payroll
Linda Pullan	LP	Payroll Alliance
Alex Rowson	AR	Business Application Software Developers Association
Iain Scott-Shore	IS	Confederation of British Industry
Brian Stenhouse	BS	Armstrong Watson
Jane Turley	JT	International Association of Book-keepers
Ken Voller	KV	Institute of Chartered Accountants England and Wales
Ian Whyteside	IW	Association of Accounting Technicians

HMRC

Andy Gordon	AG	Deputy Director Stakeholder Management
Suzanne West	SW	Personal Tax
Bill Smith	BSm	Personal Tax
Lesley Twitchen	LT	Digital Services
Stephen Edwards	SE	Digital (Cabinet Office)
Jaimes Nell	JN	Digital (Cabinet Office)
Joanne Collings	JC	Personal Tax
Kathryn Streatfield	KS	DWP
Sarah Callow	SC	BIS
Hasan Mustafa	HM	Personal Tax
Sarah Radford	SR	Personal Tax
Rob Burton	RB	Personal Tax

Apologies:

Justine Riccomini	The Institute of Chartered Accountants of Scotland
Jason Piper	Association of Chartered and Certified Accountants
Trevor Blackmur	Association of Taxation Technicians

1. Welcome and Introductions

KT welcomed everybody to the meeting. AG was attending ECF for the first time. MA has now taken over from Wayne Sumner as Head of Employment Engagement and Strategy and was chairing her first meeting with KT. KT advised the group that since the meeting in September Clive Johnson has now retired. This was also the last meeting Iain Scott-Shore would attend as he is also retiring - KT thanked Iain for his contribution to the forum over the years.

2. HMRC Update

MA discussed the latest performance statistics which can be found at <https://www.gov.uk/government/publications/how-are-we-doing-hmrCs-2013-to-2014-half-yearly-performance>

Action - Members asked for breakdowns showing the number of taxes calls and separate figures for Tax Credits.

Post meeting the following link was issued which gives the figures requested above.

<https://www.gov.uk/government/publications/business-plan-indicators>

Action: JP also queried the cost of phoning the 03 numbers HMRC now use.

Post meeting the following information was issued:

Ofcom states that calls to 03 numbers 'cost no more than calls to geographic numbers (01 or 02) and must be included in inclusive minutes and discount schemes in the same way'.

<http://consumers.ofcom.org.uk/files/2010/01/numbering.pdf>

MA also discussed the Contact Centre Customer Experience figures which have decreased slightly. The Tax Credit peak had a detrimental affect on these figures.

Action - AG asked the members to let him have any contact centre customer experience feedback via CC.

Action - IS said he had particular problems with CIS repayments and will provide CC with details.

On a positive note HH has taken part in a BACS Advance Payments Out Trial. This involved clients testing payments out by BACS direct to the employer bank account. The trial was successful and the aim is to introduce this facility in the near future. HMRC is also in discussions with other business areas to identify how bank details can be collected securely to make other payments out to employers by BACS.

3. Digital Strategy

BS gave an update on the HMRC digital strategy. HMRC is working on four key exemplar services:

- Digital Self Assessment
- PAYE Online for employees
- Tax for My Business
- Agents online Self Serve

The forum was particularly in interested in PAYE Online pilot which initially allows employees to advise HMRC when they have changed their company car or van. This is being introduced in February to around 1,000 employees and by April will operate a full service.

Communication about this service is key - KV raised the point that messages need to be clear and go to the right people.

JP felt that medical benefits should be included in the pilot. This would be a good test of individuals' understanding as it would include a different customer base to those using company cars and vans. It is also essential that the views of small employers are included.

Bsm discussed ECF involvement in the digital pilots. Bsm agreed to attend the next ECF meeting on 1 April 2014 for a longer session and future meetings going forward.

4. GOV.UK

SE delivered a presentation showing what is currently being developed on the GOV.UK website. It was launched in October 2012 and initially replaced the Business Link and Directgov websites. It's planned that by summer 2014 it will be the single place for customers to access online information and services from government.

Some content will move over 'as is' including manuals and other library material. Up-to-date information about the transition will be published on a blog and SE recommended that everyone subscribe and comment.

<https://hmrctransition.blog.gov.uk/>
<https://hmrctransition.blog.gov.uk/2013/08/20/hmrctransition/>
<https://hmrctransition.blog.gov.uk/category/manuals/>

Low level discussion followed - there were reservations from a member about how digital will reduce the need for paper - how this will affect business records to be kept. Moving forward there will need to be a change in behaviours. Quick answer guides are being designed to help with content that the majority need. More detailed content will also be available for the professional audience and niche cases.

Development plans include a facility to opt for email alerts for minor or major changes to manuals and a retention history to view the manual at a given date. Members agreed this was extremely helpful. There will be a breadcrumb trail and the facility to expand/print relevant sections. Links will also be included to other manuals and legislation (manuals for this purpose are the internal staff guidance that HMRC makes available under FOI).

A further meeting with ECF members will take place on 6 February 2014 which will focus on GOV.UK and PAYE for employers.

5. Employment Allowance

At Budget 2013 the Chancellor announced the creation of a new Employment Allowance of £2,000 per year to come into effect from April 2014.

JC attended the meeting to give the latest update on the guidance for the Employment Allowance. ECF members have given feedback on this.

The legislation was prepared in October 2013 and the second reading was on 7 January 2014. This is making good progress.

The timing of the communication strategy has been discussed previously. The communications will start in February/March and the guidance will be released in early February. An article is in the February Employer Bulletin.

KT raised the point that the definition for an eligible business does not include domestic employers so they will lose out (these employers will also be hit when they lose the ability to recover SSP through the Percentage Threshold Scheme from April 2014). JS agreed to raise this point with policy colleagues.

NG also raised the point that the claiming process is 'too easy'. It is not good in some circumstances that businesses only need to claim the allowance once. Where is this recorded especially for those businesses who won't be able to claim the whole allowance in one payment? He suggested we should advise businesses to claim once but look at every year to check they are still eligible.

Action: AR asked for confirmation that although the guidance states that the EA may be claimed from 6 April 2014, the process of doing so will allow an EPS containing that claim to be submitted beforehand if it fits with the payroll cycle for 2014-15.

Post Meeting - this is confirmed

6. Health and Work Service

KS attended and gave a presentation on the new Health and Work Service. A Sickness Absence Review was commissioned by Government in February 2011. Government Response published in January 2013 introduced measures to support employees with health conditions to stay in and return to work. More information can be found on the DWP website. <https://www.gov.uk/government/policies/helping-people-to-find-and-stay-in-work/supporting-pages/co-ordinating-the-health-work-and-wellbeing-initiative>

The Health and Work Service is aimed at Small and Medium Enterprises (SMEs) and is not intended to replace existing provision of Occupational Health Services by employers. Changes will include:

- Introduction of Health and Work Service (HWS) will help employees who have been on sickness absence for four weeks to return to work, support employers to better manage sickness absence among their workforce and give GPs access to work related health support for their patients.
- The SSP Percentage Threshold Scheme will be abolished from 6 April 2014 and funding recycled into HWS. Claims for reimbursement of SSP (paid for sickness periods up to 5 April 2014) can be made until the close of the 2015-16 tax year.

Members expressed concern that large employers are in a position to mandate employees to use the service. This doesn't work in the same way for SMEs. It was suggested that employers could include this in the employee's contract of work.

Action - KS agreed to take these concerns away and respond once she had spoken with policy colleagues.

Also members were concerned about the need to clear guidance on keeping sickness records. Employers will still have an obligation to produce SSP records to show they are meeting their legal SSP obligations should HMRC require them. However they will have the freedom to keep records in a more flexible manner which best suits their organisation.

7. Shared Parental Leave and Pay

In May 2011 BIS issued a consultation document 'Consultation on Modern Workplaces'. This included proposals for the reform of paternity pay and leave. The aim of the proposals was to give new parents more freedom to make choices which best suit their family circumstances and encourage both parents to be involved in their child's upbringing. The Government response to the consultation is available at:

<https://www.gov.uk/government/consultations/consultation-on-the-administration-of-shared-parental-leave-and-pay>

Members held a discussion about how the shared parental leave would work. They concluded that there is a lack of clarity and it is important the forms used include all the information needed. They have requested advance sight of the forms so they can give feedback before they are signed off.

8. PAYE in real time

MS gave an update:

- The roll out continues to go well. Over 47.5 million live individual PAYE records are now reported in real time (over 99 per cent) and virtually all very large, large and SME employers (around 99 per cent) that we expected to start reporting this year are now reporting in real time.
- We have started to contact those schemes who have not yet started to report in real time to determine the reasons for non-filing and encourage submission or closure of schemes that are no longer needed.
- On 9 December 2013 we announced that existing employers with nine or fewer employees (micro employers) will be able to report PAYE information on or before the last payday in the tax month until April 2016. We issued stakeholder emails, a [press release](#) and a [What's New](#) to publicise this new package.
- **Disputed Charges** - we are continuing to work employers and agents to fully understand the issues they are having in respect of charges and what more we can do to help.
- **Duplicate Employments** - we have identified the reasons for duplicate creation and worked with affected employers, strengthened guidance and further enhanced our IT to prevent duplicates occurring.

We have identified that the more recently identified duplicate cases were caused by

employers making payments to employees after notifying us that the employee had left. We are still looking at these and have some cases still to correct. We are working through the analysis and aim to have the appropriate recovery solution implemented in time for 6 February 2014.

Action - Members raised the query as to why when nothing else changes does sending a second FPS straightaway, including leaving dates, create duplicates?

Generic Notification System Messages - we are now sending out messages and accompanying emails where we believe one of the following applies. Employers have:

- sent their PAYE submission late
- not sent their PAYE submission at all
- made a payment late

All these messages are intended to help employers keep their real time filing up to date and help them prepare for next year. The late payment message for December is expected to be sent shortly, once an unrelated payment issue is resolved.

Based on the response to the November non filing messages, we remain confident that in the vast majority of cases these messages are being sent correctly. However, there are a number of exceptions where the messages can be ignored (see the What's New message on this link: <http://www.hmrc.gov.uk/NEWS/news101213.htm>).

Members raised concerns about the new penalty regime due to start in April and asked HMRC to review whether it was appropriate to start issuing automatic penalties, given the issues that some employers are having with disputed charges and the creation of duplicate employments.

Action - It was felt that HMRC was not acting on notifications about scheme or employer cessations and this was leading to specified charges. Members asked for clear communication about this.

9. Single Tier Pension

At the meeting held in September we discussed the mandation of the Scheme Contracted out Number (SCON) on RTI returns from April 2014. Members highlighted the problems this would cause.

HM attended this meeting to advise that since September HMRC has held discussions with pension scheme administrators and they have agreed to provide the SCON(s) on request from employers. He reiterated the importance of obtaining and using the correct SCON RTI validation checks will reject any FPS received with an invalid SCON or without a SCON present where NI category letter D, E, L, N or O are reported.

There is a contingency plan for employers who genuinely cannot ascertain the correct SCON.

10. Offshore and Onshore Intermediaries

Budget 2013 announced that HMRC would consult on a measure to strengthen existing anti-avoidance legislation to prevent the use of offshore intermediaries (also known as payroll companies) being used to avoid tax and National Insurance. Following the Autumn Statement 2013 announcement this has now been extended to strengthening legislation in respect of those engaged through intermediaries in the UK who are treating people as self-employed when in reality they should be employees.

Currently, some companies are avoiding their tax and National Insurance obligation by locating outside the UK and claiming that the worker is not placed under the terms of an agency contract. Alternatively some intermediaries are claiming that they are not within the

agency legislation in the UK because there is no obligation for the personal service of the worker so the worker is engaged on a self-employed basis even though the terms and conditions that they are engaged under are more akin to employment..

To address this, it is intended that the strengthened legislation will place an obligation on Employment Intermediaries who place the worker with the end client, to pay employer NICs and withhold income tax and employee NICs and make a return through RTI unless this has already been applied, ie because the worker is an employee of an umbrella or because the legislation does not apply because the worker is not subject to control, direction or supervision.

In addition, HMRC plan to place a statutory requirement on all Employment Intermediaries placing workers with end clients to submit a quarterly return to HMRC for every worker they place with an end client and for whom they have not withheld income tax and NICs and submitted a return through RTI. The intention is to introduce a record keeping requirement from April 2014 and a quarterly reporting requirement from October 2014. The quarterly return would be made by the intermediary who places the end client (ie the last intermediary in the contractual chain). It is intended that a penalty regime from April 2015 for failure to make returns and for incorrect returns.

Stakeholders emphasised the importance of clarity in the guidance, particularly around definitions of employment, 'control', 'direction' and 'supervision' and were keen to contribute.

The strengthened legislation would apply in the same way as it currently does to those working through their own limited companies sometimes referred to as Personal Service Companies. This means that generally it will not apply and the worker will need to consider the intermediaries legislation (better known as IR35) in the same way they currently do.

Mariners and oil and gas workers would be excluded from the record keeping and return requirement. There is separate legislation that is being introduced in this sector where the employers of workers on the UK Continental Shelf are located outside the UK.

11: AOB

Members expressed concerns that the Employment Consultation Forum sub groups are not always feeding back through ECF and some groups are having teleconferences rather than meetings. It was felt that the Expenses and Benefits sub group particularly needed to raise their profile.

The next ECF meeting will be held on 1 April 2014 in Parliament Street.