

HMRC's reviews and appeals – 2012-13

Where a customer disagrees with a decision made by HM Revenue & Customs (HMRC), they can ask for a review, make an appeal to an independent tribunal, or take both actions. Every year HMRC makes millions of decisions. Customers ask for reviews and make appeals in relation to only a small proportion of decisions.

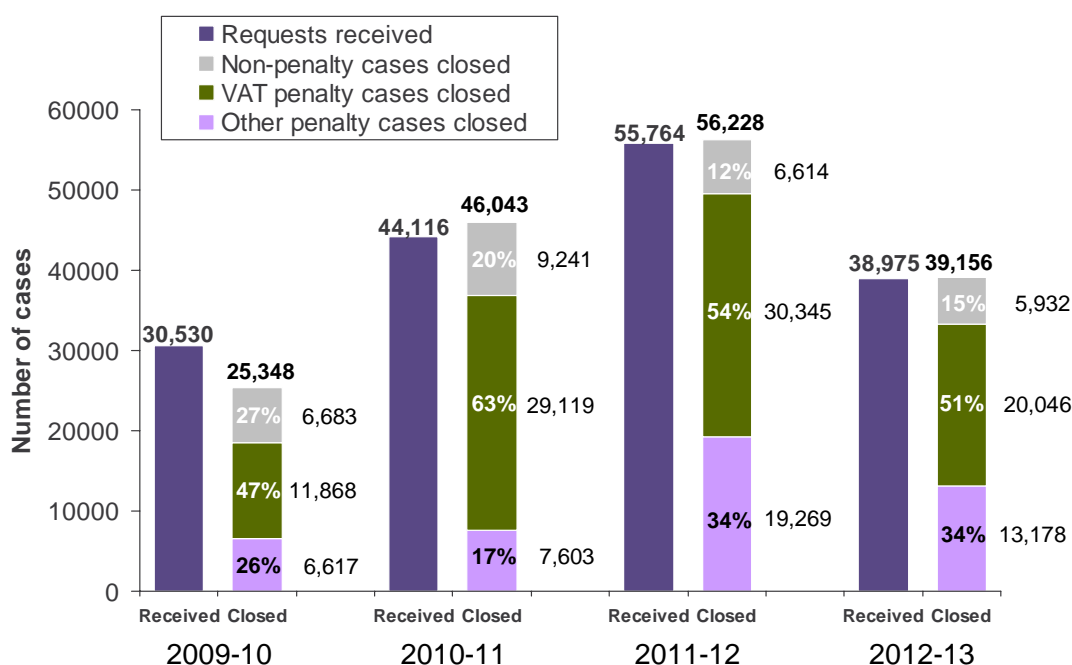
This paper contains information and analysis about reviews of, and appeals against, HMRC's tax decisions for the period 1 April 2012 - 31 March 2013, with comparisons with published figures for previous years where appropriate.

Reviews

The statutory review system gives HMRC's customers a quick and easy way to ask HMRC to look again at their decisions. The process is open to all taxpayers, and is widely used by those who do not have an accountant or agent.

Receipts and closures

Review requests received and closed, 2009-13



Taxpayers asked HMRC for reviews of 38,975 decisions in 2012-13 and HMRC completed 39,156 reviews, which includes the clearance of some cases from previous years. The number of review requests has fallen from 55,764 in 2011-12.

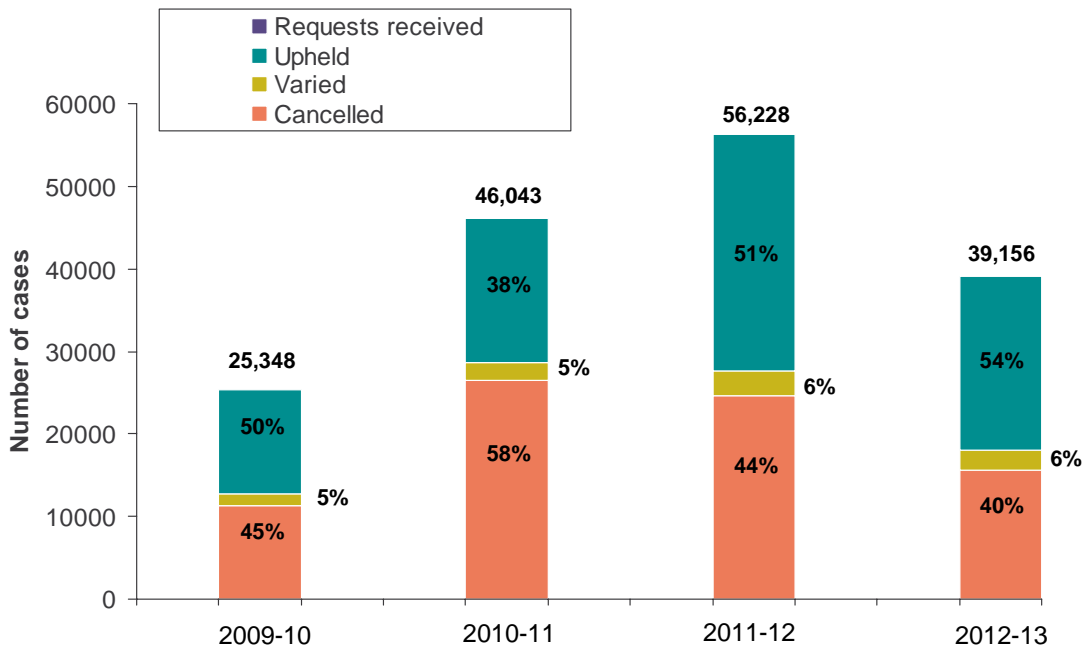
The decrease in reviews requested was mainly caused by fewer customers asking for reviews of VAT Default Surcharges and late filing and late payment penalties for Income Tax Self-Assessment (ITSA) and Pay as You Earn (PAYE). The number of reviews for VAT default surcharges decreased from 30,345 in 2011-12 to 20,046 in 2012-13. There were fewer VAT default surcharges being issued in 2012-13 as compliance improves. When the first late filing and late payment penalties were issued in 2011-12 the number of requests for review of such penalties increased. The number went down in 2012-13, as customers become more familiar with the new system.

Default Surcharge cases make up the majority of cases which HMRC reviews: just over half (51%) of completed reviews relate to Default Surcharges, and a third (34%) to other types of penalties. Reviews of other types of HMRC decisions, such as assessments, make up the remaining 15%. Most of the reviews of penalties cover late filing and late payment. Many of these penalties are issued automatically when a return or payment is not received on time.

A review by HMRC gives unrepresented taxpayers in particular an effective opportunity to challenge these decisions and put forward an explanation for the default.

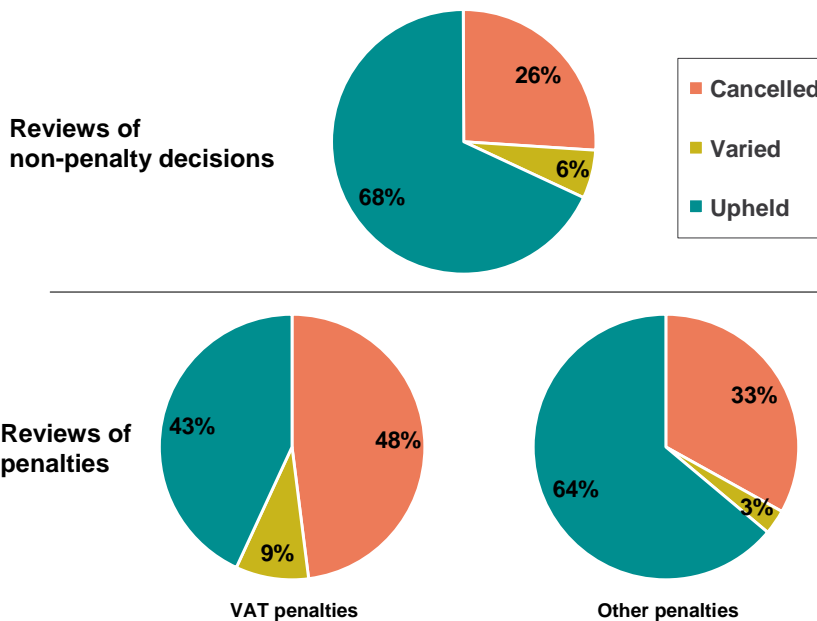
Outcome of reviews

Outcome of reviews, 2009-13



When a customer asks for a review, the review officer examines the decision made by the original decision maker, and considers any new evidence that has been provided. In many cases, a decision is changed or cancelled at review because HMRC has received additional information that was not available to the original case officer.

Outcome of reviews by type of case, 2012-13



The outcome of reviews varies between different types of case. In reviews of non-penalty decisions, and of penalties in regimes other than VAT, HMRC upheld about two thirds of the original decisions (68% and 64% respectively). In 2011-12, the comparable figures were 68% and 74%.

Four out of ten (43%) of VAT penalty decisions were upheld when HMRC reviewed them. In 2012-13 HMRC cancelled around 9,650 Default Surcharges, 48% of the total disputed, after conducting a review. The number of decisions cancelled on review represents a small proportion, less than 2%, of the total number of surcharges issued.

Fewer HMRC VAT penalty decisions are being upheld compared with other penalty decisions. This is because in other penalty decisions, such as self assessment late filing and late payment, before the formal review taxpayers can ask for the decision to be reconsidered. However, for VAT penalty decisions the review is the first stage when taxpayers can ask HMRC to reconsider.

Overall, reviews provide an effective resolution to the large majority of cases, and most customers do not subsequently submit an appeal. This means that HMRC and its customers are able to resolve disputes as early as possible, at minimal cost to the taxpayer.

Appeals

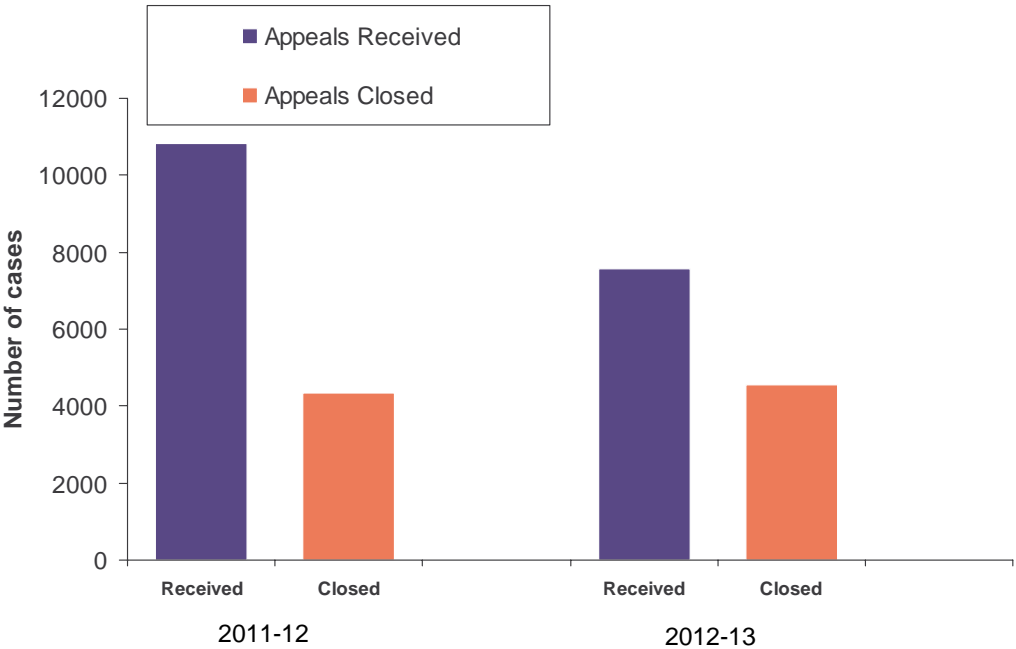
It is to everyone’s advantage if disputes can be resolved satisfactorily without the time and inconvenience of a tribunal hearing. However there will always be cases where the parties cannot agree, and the customer appeals to the tax tribunal to decide the point.

HMRC have analysed appeals made after 1 April 2009 (when the current tax tribunals were established), which were heard by the first tier tribunal and closed in 2012-13. This analysis does not include figures for tribunal decisions heard by the Upper Tribunal or higher courts. There is a relatively small number of such cases and all the decisions are published.

Receipts and closures

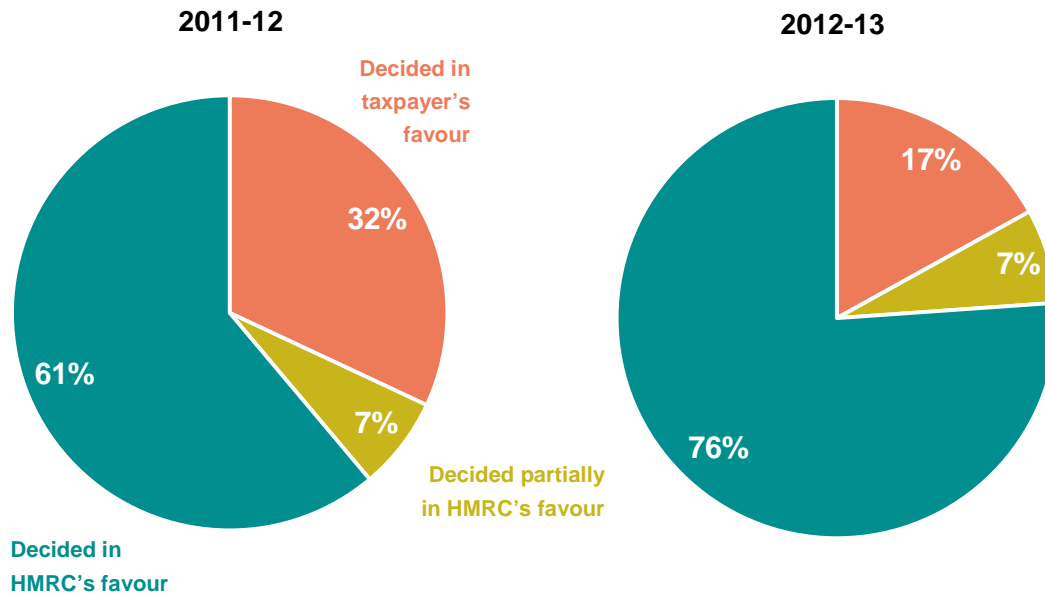
Taxpayers made 7,560 appeals to the tribunal in 2012-13. 4,564 cases were closed, either by a formal hearing by the tribunal, or by settlement before the hearing. The bulk of the cases that were received but not closed are cases stood over while awaiting a decision in a related lead case. These figures cover only appeals made after 1 April 2009, and do not cover non-appeal hearings (applications and interlocutory matters).

Appeals received and closed, 2011-13



Outcome of appeals decided at a hearing

Outcome of appeal hearings at the First-tier Tribunal, 2011-13



Just under a third (31%) of appeals were decided at a tribunal hearing, the rest being settled by agreement beforehand. In 2012-13, three quarters (76%) of decisions made by the tribunal were in HMRC's favour, compared with 61% in 2011-12.

Appeals resolved without a hearing

There are a variety of reasons why cases may be resolved without a hearing. These include:

- appeals stood behind lead cases are closed when the lead case is decided;
- cases where either party decided not to proceed, perhaps because of new information received;
- cases where the parties reached agreement before the hearing date.

We find that even after a review, appellants often submit new evidence that allows resolution before the tribunal hearing. In cases that were concluded before a hearing, 49% were resolved in favour of the taxpayer.

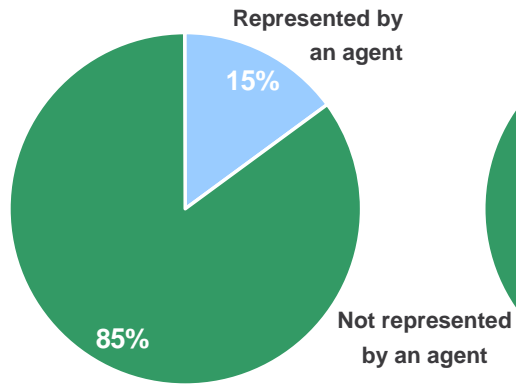
Relatively few cases that are reviewed proceed to appeal. Of the 4,564 appeals closed in 2012-13, only 1,033 (23%) previously had a review. This suggests that reviews are effective in resolving disputes.

Representation of taxpayers

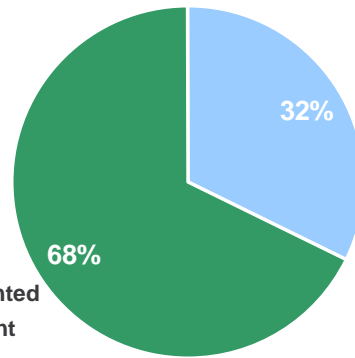
The majority of taxpayers are not represented by a tax agent at either the review stage or on appeal. As in 2011-12, only 15% employ an agent to help with a review, and 32% for an appeal. It is an important feature of the review and appeal system that it is accessible to unrepresented taxpayers. This helps to ensure that resolving a dispute with HMRC, and appealing to the tribunal, need not be an expensive process for taxpayers.

Representation of taxpayers in reviews and appeals, 2012-13

Representation at review



Representation at appeal



Appendix: full data

Reviews

Caseload

	2012-13		2011-12	
New review requests received	38,975		55,764	
Total number of reviews completed	39,156		56,228	
- of which agreed time limit extensions	2,516	6%	3,992	7%
Reviews completed, taxpayer unrepresented	33,096	85%	47,738	85%

Outcomes

Non-penalty cases

	2012-13		2011-12	
Upheld: review complete	4,008	68%	4,487	68%
Deemed upheld: time limit expired	15	0%	12	0%
Varied	343	6%	504	8%
Cancelled	1,566	26%	1,611	24%
TOTAL	5,932		6,614	

VAT penalty cases

	2012-13		2011-12	
Upheld: review complete	8,579	43%	9,785	32%
Deemed upheld: time limit expired	0	0%	1	0%
Varied	1,809	9%	2,242	7%
Cancelled	9,658	48%	18,317	60%
TOTAL	20,046		30,345	

Other penalty cases

	2012-13		2011-12	
Upheld: review complete	8,420	64%	14,020	73%
Deemed upheld: time limit expired	22	0%	237	1%
Varied	366	3%	341	2%
Cancelled	4,370	33%	4,671	24%
TOTAL	13,178		19,269	

Appeals

These figures are not comparable with the figures that HM Courts and Tribunal Service publishes, as HMRC figures exclude appeals made before 1 April 2009, and other hearings such as applications.

Volume

	2012-13		2011-12	
New appeals received	7,560		10,828	
Total number of appeals closed	4,564		4,354	

Hearings

	2012-13		2011-12	
In HMRC's favour	1095	76%	855	61%
Partially in HMRC's favour	101	7%	97	7%
In taxpayer's favour	237	17%	443	32%
TOTAL	1433		1395	

Taxpayer represented by an agent

	2012-13		2011-12	
Unrepresented	3119	68%	2956	68%
Represented	1445	32%	1398	32%
TOTAL	4564		4354	