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HMRC Report 396: Qualitative research with people convicted of tax evasion

Research report

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Executive summary

Background

Tax evasion is defined as a deliberate attempt to evade paying tax. In the tax year 2012 to 2013, HM Revenue and Customs (HMRC) lost around £4.1 billion of what they anticipated receiving due to tax evasion (HMRC et al., 2014). In efforts to avoid future loss of revenue and send a clear message that engaging in tax evasion can result in serious consequences, the Volume Crime initiative was introduced to increase criminal prosecutions.

In 2014 HMRC commissioned NatCen Social Research to undertake a small-scale qualitative research study to better understand motivations for tax evasion as well as how and why HMRC initiatives may help deter people from committing tax evasion. Twelve in-depth interviews were carried out with people who had received custodial sentences for tax offences.

Motivations for tax evasion

Participants' motivations for committing tax evasion were complicated, they could change over time or be multiple and contradictory. They included personal financial gain, supporting their business or keeping it afloat when it was struggling (to prioritise paying suppliers for example), altruism, or following the advice of accountants or co-defendants. It transpired that some participants had been implicated in carousel fraud by organised criminals and so claimed to be unaware they had committed an offence. Whilst not cited as a reason for committing tax evasion, it was clear that negative views of tax and perceptions of an unfair tax system sometimes underpinned offending.

Experiences of prosecution

- Experiences of being arrested by HMRC ranged from appropriate and proportionate to aggressive, intimidating and disproportionate.
- Similarly there were mixed experiences of being interviewed by HMRC/the police. Where experiences were negative a suggestion was made for greater transparency around the interview process.
- The investigation was invariably described as stressful and lengthy. The possibility of going to prison was of particular concern at this time. There were also concerns about the '*personal*' and therefore unprofessional nature of the evidence gathering process.
- HMRC was criticised in relation to the accuracy of evidence given and the integrity of their witnesses during the trial. Perceived bargaining techniques led by the Crown Prosecution Service seemed to further reinforce negative perceptions of HMRC among some.
- Participants received custodial sentences of between 15 months and six and a half years. Views on the sentence received generally depended on whether the participant

accepted culpability. Some felt that the length of their sentence was disproportionate, 'harsh' and that mitigating factors had not been taken into account. Participants who opposed their custodial sentences viewed Confiscation Orders or Community Orders as sufficiently punitive, particularly if they had also lost their livelihood as a result of the prosecution.

Perceived impacts of prosecution

Participants' views of HMRC and the tax system more generally were impacted by their experiences of the prosecution. Negative views of HMRC held before prosecution were retained and others described that they would begrudge paying tax in the future as a result of their experiences.

Those who claimed to be unaware of their offending and those who evaded tax to support their business said they would not reoffend. They stressed this was not because the prosecution acted as a deterrent, but because they were not a 'criminal'. They also reported a limited impact on their personal network's tax behaviours because they did not perceive any wrongdoing. On the other hand, those who had committed tax evasion for personal financial gain made inferences to possible reoffending in the future, especially if the amount of money made through evasion was felt to be 'worth' the length of a custodial sentence. This suggests that experiences of prosecution have been ineffective as a deterrent for some in this group.

A key reason why custodial sentences (particularly alongside Confiscation Orders) were seen to be unfair was due to the impact on future employment and financial stability. The perceived irony of having to claim benefits at a cost to the taxpayer as an indirect result of tax evasion was also raised. Whilst some participants felt that the prosecution would negatively impact relationships with business networks and thus their chances of future employment and financial stability, others did not think relationships would be impaired. This was partly because they felt tax evasion was not a crime to be ashamed of, unlike forms of interpersonal violence for example.

There were reports that the prosecution had impacted negatively on the physical and mental health of participants, their families and their co-defendants. Where cases featured in the media, participants were angry if details were reported inaccurately and there were concerns about returning to their local community following release from prison due to their notoriety. Others were more dismissive of these impacts and stressed their own resilience.

Finally, a striking impact of the prosecution was on participants' personal relationships, especially with loved ones. For example, prosecutions had led to separation or divorce and participants also spoke of their sadness about being away from their families, especially their children. Others talked about the strain their experiences had on other family members and the communities where they lived.

1 Introduction

1.1 Background and policy context

1.1.1 Background

As defined by HM Revenue and Customs (HMRC), tax evasion is a deliberate attempt not to pay tax due, and is illegal. While the vast majority of UK taxpayers declare all income and pay the tax they owe, the rules are broken by a small minority. The tax gap, which is the difference between what HMRC collect and the tax that is theoretically owed, was £34 billion in the tax year 2012 to 2013, or 6.8% of total tax liabilities. Tax evasion accounted for £4.1 billion of the tax gap (HMRC et al., 2014).

In the current economic climate, reducing tax evasion and the subsequent revenue loss to HM Treasury is crucial. As the then Director of Public Prosecutions (DPP) Keir Starmer stated in January 2013, *'It is, of course, always important to prosecute tax evasion but never more so than in the sort of hardship we find ourselves in now'*¹. It is also vital that the general public retain confidence in the tax system and believe that those who seek to avoid tax face the threat of prosecution. In the words of the former DPP:

'There are people really suffering who are paying their taxes. I think it is important for a prosecution service to respond to public concern, to be seen to be in tune with what ordinary people think ought to happen and to gain the confidence of people that we are prosecuting good cases properly.' (HMRC et al., 2014)

In this broader context, an additional £197 million was invested in HMRC's compliance operations over the Spending Review 2010 (SR10) period. Of these operations, the Volume Crime initiative represents a significant re-investment of departmental resource in increasing prosecutions for tax evasion.

1.1.2 The Volume Crime initiative

In 2010, under the Volume Crime initiative, HMRC announced its ambition to increase five-fold criminal prosecutions for tax fraud by 2015. This was based on the assumption that increasing prosecutions would eventually result in a greater deterrent effect to committing tax evasion. HMRC expected that additional prosecutions would lead people to perceive there to be a greater chance of being caught, or receiving a harsher penalty for evading taxes, and therefore facilitate an increase in voluntary compliance. This would ultimately help to close the tax gap. Volume crime is not organised crime that is pursued by 'career criminals'. Volume crime tax evasion offences include, but are not limited to:

- **VAT fraud:** Not notifying VAT liability or withholding VAT on goods, and consequently cheating the public revenue.

¹ <http://www.telegraph.co.uk/finance/personalfinance/consumertips/tax/9817606/Public-prosecutors-to-target-dishonest-tax-avoidance.html>

- **Undeclared income:** Not declaring income at an individual or company level, and therefore cheating the public revenue.
- **Falsifying documents/returns to obtain a pecuniary advantage.**

The aim of deterring volume crime tax evasion underpins other aspects of HMRC's work; for example their recent Evasion Publicity campaign designed to increase the perception that people will be caught if they evade their taxes. This involved advertising over the radio and on billboards that HMRC are 'closing in' on undeclared income (Ibid.).

It is important that the impact of the Volume Crime initiative is evaluated and to this end, HMRC commissioned small-scale, exploratory qualitative research with people prosecuted for tax offences in order to understand the drivers motivating people to evade taxes and how and why HMRC initiatives may have an effect on deterring tax evasion. In-depth interviews were considered the most effective method for eliciting the depth and detail required in order to help HMRC make informed decisions about effective compliance interventions in the future.

1.2 Research aims and objectives

This qualitative research addressed three overarching aims, to:

- Improve understanding of offenders' personal and business networks and consider the ripple effect on these networks, caused by an individual being prosecuted for tax evasion;
- Provide case studies² to demonstrate the effectiveness, or otherwise, of prosecution for tax evasion; and
- Identify links between taxpayer behaviour and attitudes to compliance after being prosecuted for tax evasion.

In addition, the research had the following specific aims:

- Identify offenders' motivations for evading tax;
- Understand what would have deterred offenders from evading tax;
- Describe who within the offenders' personal and business networks became aware of the prosecution, at what point and how;
- Explain the impact of the prosecution for tax evasion on the offender and those around them;
- Identify what parts of the prosecution process had the most impact on the offender, and whether any parts of the process had a deterrent impact; and
- Explore whether there has been any change in offenders' behaviour and attitudes towards tax since the prosecution, and why this change has taken place.

² These have been produced with participants' consent and provided to HMRC for internal use. They are not in the public domain for anonymity reasons and participants did not consent to them being shared in this way.

The methodology used to address the research questions is set out below, with additional detail in Appendix A.

1.3 Methodology

Qualitative, face-to-face in-depth interviews were conducted with 12 people convicted of tax offences. The research was approved by NatCen’s internal Research Ethics Committee and the National Offender Management Service (NOMS) National Research Committee, so that the NatCen research team could approach Probation Trusts and individual prisons about identifying and approaching offenders to take part in the research.

1.3.1 Research sample

To minimise burden on NOMS staff, NOMS data were used to identify prisons with the highest proportion of convicted tax offenders. Of the seven prisons identified, five agreed to assist with the research. Three of the larger Probation Trusts were selected on the assumption that a higher concentration of prosecuted tax offenders would be under their supervision compared to smaller Trusts. Two agreed to assist.

The rationale in selecting offenders to be included in the research was to ensure diversity of coverage across certain key variables rather than to select a sample that was statistically representative of the wider population of tax offenders. Sampling criterion included: age; gender; ethnicity; type of tax evasion; and sentence length. A breakdown of participants’ sample characteristics is provided in Table 1.1 below. Eight participants were serving custodial sentences at the time of the interview and four had been released on license.

Table 1.1: Achieved sample of participants

Achieved sample of participants	
Age	
18 – 33	2
34 – 49	6
50+	4
Gender	
Male	11
Female	1
Ethnicity	
White	6
Black, Asian or minority ethnic	6
Type of tax evasion	
VAT	5
Income	5
Tobacco	1
Unclear ³	1

³ One participant found it difficult to articulate or categorise the exact nature of their offence.

Achieved sample of participants	
Sentence length	
0.5 – 1.5 years	4
Over 1.5 – 4 years	2
Over 4 years	6

As the nature of participants' offending behaviour did not always become clear until the interview itself, it transpired that two of the participants were not Volume Crime cases, but rather what HMRC consider organised crime, such as carousel fraud. These cases have still been included in the report as they provide a point of comparison with the Volume Crime cases. Evidence from the participants with organised crime cases have been highlighted in the report where appropriate.

1.3.2 Recruitment

Each prison site/Probation Trust was first contacted by the research team to secure initial agreement from the prison Governor/Chief Executive of the Probation Trust that they were willing to support the research. With this in place, a named 'link worker' was then identified at each site/Trust. The research team worked in collaboration with the link workers, who were invaluable in supporting the recruitment of offenders. Sampling and recruitment involved five stages:

1. The link worker identified the number of offenders in their prison/Probation Trust area convicted of tax offences, and where possible, gathered detail about the type of tax offence and the sentence received. The research team used this information to select eligible offenders.
2. In the Probation Trusts, the link worker then approached the offenders' Offender Managers, offering them the opportunity to opt-out of the research. The research team contacted those who did not opt out to explain the research in more detail and seek their assistance.
3. The prison link worker/Offender Manager then approached the eligible offenders about taking part in an interview, using a leaflet and consent form provided by the research team to explain the purpose and nature of the research.
4. Interviews were arranged with those that agreed at step 3. The prison link worker/Offender Manager finalised the date and time of the interview and provided participants with confirmation letters.
5. Participants were asked if they were still willing to take part on the day of the interview, and a further consent process was carried out before the interview began.

1.3.3 Data collection

Interviews took place between June and December 2014. They were conducted by researchers in private rooms and lasted between 35⁴ and 85 minutes. A topic guide (see Appendix A) was used to aid the discussion and ensure consistent coverage of relevant

⁴ One participant chose to finish their interview early.

issues. However the guides were also used in a way that was responsive and tailored to participants' individual characteristics and experiences. This meant that the topics covered and the order in which they were discussed varied across the interviews. Researchers used open, non-leading questions and answers were fully probed and mined for detail so that accounts were not taken at face value. Interviews were audio recorded, with participants' permission⁵, using an encrypted recording device.

1.3.4 Analysis

The qualitative data were managed and analysed using the Framework approach developed by NatCen (Spencer et al., 2013). Following each interview the researcher completed a 'cover sheet', allowing the interview data to be organised under headings that related to the key research questions. The researcher then listened again to the audio recording, adding further detail into the cover sheet as well as quotations. The data was then reviewed in detail, with researchers drawing out the range of experiences or views, identifying similarities and differences, developing and testing hypotheses, and interrogating data to seek to explain emergent patterns and findings. This method allowed researchers to identify and explain differences between individual participants and therefore how different tax compliance interventions may be more or less effective with 'types' of tax evader.

As this is qualitative research, the prevalence of particular views and experiences cannot and should not be estimated. Rather, the value of qualitative research is in revealing the breadth and nature of the phenomena under study (Lewis et al., 2013). Verbatim interview quotations are used throughout this report to illustrate themes and findings where appropriate.

1.3.5 Methodological challenges and limitations

The research team encountered a number of challenges during recruitment:

- The research was conducted during a period of extensive change in the Probation Service. Therefore, the extent to which Probation Trusts and individual Offender Managers were able to assist with the research was, in some cases, understandably limited.
- Due to the way tax offences are categorised in prisons and Probation Trusts it was sometimes challenging for prison link workers/Offender Managers to identify eligible participants to take part in the research.
- If prison link workers/Offender Managers were able to identify eligible participants it was sometimes felt inappropriate to approach them about the research due to their personal circumstances at the time.
- A higher than usual number of eligible participants opted out of taking part in the research, citing diverse reasons such as experiencing a particularly challenging period in their life and wanting to forget that the offence and prosecution had occurred.
- Due to the issues above, it was not possible to engage those who had received non-custodial sentences in the research. While participants were able to explore the impact of receiving a non-custodial sentence in theory, it was not possible to make direct comparisons between the impact of the two sentence types.

⁵ One participant did not give consent to be recorded, so the researcher took notes instead.

While every effort was made to achieve a rich and diverse sample, certain perspectives will be missing from this research due to the number of interviews carried out. Therefore findings cannot be generalised to the wider population of people convicted of tax offences.

Another challenge relates to reporting findings while protecting participants' anonymity. The nature and details of their cases would make some participants easily identifiable. As such, case specific details are used sparingly throughout the report, which has limited the extent of discussion and examples given at various points. Also, as only one woman took part in the research (and eleven men), this participant is sometimes referred to as 'he' in the report in order to protect her anonymity.

1.4 Report structure

The research findings are set out in the remaining chapters:

- Motivations for tax evasion;
- Experiences of prosecution;
- Impact of prosecution; and
- Conclusions and implications.

2 Motivations for tax evasion

One of the key aims of this research was to identify offenders' motivations for evading tax. Before exploring participants' reasons for committing tax evasion in more detail, it is important to note that to do so is a complex task, for four reasons:

- Sometimes more than one reason was given for participants' offending, and some of these were contradictory;
- Reasons for tax evasion could change during the course of committing the offence;
- Participants were sometimes evasive when discussing their motivations; and
- A lack of awareness that an offence had been committed, which made discussing motivations challenging.

These issues are discussed further below.

2.1 Financial gain

2.1.1 Personal financial gain

Personal financial gain was a clear motivator for tax evasion among one group of participants. Some identified themselves as a career criminal and described how committing crime – which included tax evasion among other offences – was the only way they could achieve a basic standard of living for themselves and/or their family. Others had supplemented their seemingly legitimate income through tax evasion. Participants in this group had at least one pre-conviction, generally for a dishonesty offence such as tax evasion, benefit fraud, credit card fraud or theft⁶. Whether acquired legitimately, through crime and deception, or other activities such as gambling, some participants seemed to get a 'buzz' or adrenalin rush from making money and from the extravagant lifestyle it enabled.

'We sell a lot of stocks and shares so I'm used to a fast pace of life... Life was fabulous... and I lived it fabulously.'

34-49 years old, serving custodial sentence, pre-conviction

The potential consequences of offending were not taken particularly seriously by this group. For example, one participant had a pre-conviction for tax evasion and another, on being asked why he and his co-defendant continued to evade tax, replied incredulously:

'You can't say 'Let's stop!' [laughs] Like it's so easy... Anyone who tells you 'No, let's just stop...' Listen, the truth is I could have told [co-defendant] 'Stop' you know, but I just - I wouldn't say turned a blind eye, but I just let it run... I didn't care... [Getting caught] crosses your mind, yeah, but I wasn't bothered.'

34-49 years old, serving custodial sentence, pre-conviction

⁶ One participant denied any pre-convictions in the interview, but his Offender Manager mentioned that he had committed a violent offence in the past.

2.1.2 Supporting their business

Other participants described how they committed tax evasion in order to support their business or keep it afloat when it was struggling, to prioritise paying suppliers and employees for example. They were keen to stress that they did not personally benefit from the tax evasion and that beyond a modest income, any money saved was put back into the business. These participants had no pre-convictions and did not identify themselves as a 'criminal', despite their conviction.

2.2 Altruism

Helping others was reported as a driver for evading tax. For example, one participant described how the tax he evaded was used to support and fund charitable work. He knew that what he was doing was wrong, but described being '*addicted*' to what he was doing. Another, who was convicted of evading customs duty (tobacco), assumed people on low incomes would buy the cigarettes he had bought, and as such he would be helping them to save money. To this end he described himself as a '*Robin Hood*' figure.

However, it is important to note that these participants had also profited from tax evasion, so citing altruism as a driver might be a way of rationalising or justifying their behaviour⁷ – something one participant conceded.

2.3 Advice from others

Trusting the advice and guidance of accountants or co-defendants had led to some participants being unaware that they were evading tax. On discovering their activities were illegal, one participant described how they did not inform HMRC because they were afraid of the consequences (in terms of what their accountant and HMRC might do) and instead planned to pay back the tax owed once business picked up. They described being almost relieved when they were arrested, as it had felt inevitable and the prospect of it had left them feeling fearful and anxious.

'[The accountant] was putting on pressure saying... 'You've started it now, what are you going to do - hand yourself into the police station? Are you going to grass me up as well? Do you know the implications of grassing me up? There will be a lot of people not happy that you are sending [me] to prison'. So we were like, what do we do?'

18-33 years old, serving custodial sentence, no pre-convictions

Another participant was not aware that he was committing an offence until he was arrested. He described how he had followed his co-defendant's instructions in relation to tax, which he believed were supported by the company's accountant.

⁷ Also known as offence supportive beliefs - the maladaptive beliefs and distorted thinking that play an important role in facilitating or justifying offending (Maruna and Mann, 2006).

'I don't know how the [tax] system works... it's too difficult for me, and there was [an accountant] working with [co-defendant] so I thought everything was ok. And I trusted people, and I was a person who when asked to do something, I'd deliver... I'd finish the job I'd been given to do.'

Over 50 years old, serving custodial sentence, no pre-convictions

2.4 Implicated in carousel fraud

Finally, participants convicted of carousel fraud described how they had been implicated in the crime by organised criminals and so claimed to be unaware that they had committed an offence. It was felt that HMRC could be more communicative with and supportive of people that are unknowingly implicated in such offences prior to their arrest.

It is important to note that these participants were not prosecuted under the Volume Crime initiative, but had instead been involved in organised criminal activity.

2.5 Views of tax

While not a reason for tax evasion as such, a negative view of tax appeared to facilitate some participants' offending behaviour. A recurrent theme among those interviewed⁸ was that the tax system in the UK is inherently unfair, with large companies and wealthy celebrities allowed to avoid tax with no repercussions – *'the more money you have, the more influence you have'*, while people on lower incomes are targeted and punished for lesser offences. To this end it was felt that to succeed in a *'crooked'* system, people need to be similarly crooked and break the rules.

'[A similar organisation] works on the same premise as us. But obviously they are a large organisation with... millions of turnover, so [HMRC] don't touch them.'

34-49 years old, released on license, no pre-convictions

Participants who described committing tax evasion in order to support their business felt that tax evasion was common place in their respective industries. It was unclear whether this perception underpinned their offending or whether this was a way of rationalising their behaviour after the event.

'Every construction company... was doing the same that we were doing. It's rife. I don't actually know of any businesses that legitimately pay all their tax. I don't - especially in the construction industry I don't... So yeah, it is rife.'

18-33 years old, serving custodial sentence, no pre-convictions

Tax systems in other countries were seen as preferable, for example the low rate of tax in the Middle East. Some participants and their families wanted to move abroad because of this and their experiences of HMRC and the prosecution.

Participants who claimed to be unaware of their offending (either because they had followed advice or they described being implicated in a carousel fraud) viewed tax as a necessity and

⁸ From across the different groups, apart from those who claimed to be unaware of their offending.

felt people ought to pay tax in order to support public services such as schools and hospitals. These participants were keen to stress that they (and their families) had a long history of paying tax to HMRC and described themselves as honest and hardworking.

'You need tax, because that's the way economies work. That's the way the country raises its money to fulfil its obligations and that kind of stuff... Tax is a necessity.'

34-49 years old, serving custodial sentence, no pre-convictions

3 Experience of prosecution

This chapter explores participants' views and experiences of the different stages of the prosecution process including the arrest, interview(s), investigation, trial and sentence. It also provides important context for the next chapter, which explains the impact of the prosecution on the offender and those around them.

In interpreting these findings, it is important to acknowledge that participants did not always readily distinguish between HMRC officers and the police/other criminal justice agencies when recounting their experiences of prosecution.

Perceptions of the prosecution did not appear to be influenced by the participants' motivations for evading tax, discussed in the previous chapter.

3.1 The arrest

Participants were generally able to recall the arrest in detail. This was particularly where the actions of HMRC (and the police, where present) were perceived negatively. The impact of the arrest on participants' and their families' wellbeing is discussed in Chapter 4.

Participants with negative perceptions of the arrest described their homes being raided early in the morning, officers wearing bulletproof vests, use of dogs and what was described as an inappropriate use of handcuffs⁹. There were also perceptions of an excessive number of officers. One participant described feeling frightened when their house was '*raided*' by HMRC early in the morning while they were alone in bed. Participants considered such actions '*aggressive*', '*intimidating*' and ultimately disproportionate in terms of the offence committed and the likelihood of them evading arrest.

Some participants objected to being arrested in front of family members because of the stress and upset it had caused them, especially if the arrest was witnessed by children or parents. One participant alleged HMRC officers threatened their mother with arrest when she asked what was happening.

Other participants described how in their view HMRC and the police had behaved appropriately, proportionately and had treated them with respect throughout the arrest, and so had little more to say about the process.

3.2 Being interviewed

Experiences of being interviewed following arrest varied. On the more positive end of the spectrum, HMRC (and the police, where present) were described as respectful, and it was felt that this manner had encouraged cooperation in interviews. Other participants had little to say about the interview, even where they were very critical about other aspects of the

⁹ Association of Chief Police Officers' (ACPO) guidelines state that the person's age, gender, physical condition, risk of escape and risk of violence should all be considered when deciding whether to use handcuffs (ACPO, 2010).

prosecution. Others had more negative experiences and described excessively long interviews and inappropriate and intimidating interview techniques.

A suggestion was made for greater transparency in relation to the interview process. One participant described how he had met with HMRC to assist them with their enquiries before he was arrested. When he was subsequently interviewed following arrest, the officers referred to the earlier discussion as an interview. The participant described being unaware that HMRC had been interviewing him at this time, and felt aggrieved that the interview was not under caution, had not been recorded, and he could not remember being offered legal representation or informed about the severity of the case. For this participant, these actions painted HMRC as being underhand and untrustworthy.

Some participants were advised to give a 'no comment' interview by their solicitor and felt that this had been used against them during the trial, particularly where they had claimed to be unaware of their offending (either because they had followed the advice of others or they described being implicated in a carousel fraud). With hindsight, these participants wished they had explained their lack of awareness during the interview and felt this would have helped their case.

3.3 The investigation and evidence gathering

The investigation process was seen as lengthy by participants, and they described how life was *'on pause'* during this time. The longest investigation among those interviewed was approximately three years. Lengthy investigations were felt to be for one of four reasons: HMRC being thorough and *'doing their job'*; the complexity of the case; a lack of evidence about the participant's guilt; or HMRC's incompetence.

'I have no criticism [against] the police or Inland Revenue. They did their job and they did [it] very well.'

Over 50 years old, released on license, no pre-convictions

The investigation was invariably described as a stressful time for participants, and for one participant this was exacerbated by what felt like the very personal and unreasonable nature of the prosecution. The possibility of going to prison was a particular worry for participants at this time, as was what would happen to family members where they had been implicated in the offence. Some participants described cooperating fully with the investigation so that HMRC would be more lenient on family members. Difficulties caused by their assets being frozen during the investigation were also raised (see Chapter 4 for further discussion).

3.4 The trial

Trials were generally felt to be lengthy; the longest among those interviewed lasting approximately six months.

HMRC's behaviour and demeanour during the trial was subject to criticism. Objections were made about the accuracy of the evidence given by HMRC and their choice of prosecution witnesses, some of whom were described as unreliable. An example was given of a defence witness having a substantial criminal record, which was not declared during the trial.

Some participants also described instances where the Crown Prosecution Service (CPS) reportedly suggested that they plead guilty in order to avoid their partners being charged in relation to the offence. It is noteworthy that even though the CPS led these conversations with participants and the decision to prosecute lies with the CPS, HMRC were ultimately felt to be behind them, which reinforced participants' lack of trust in HMRC and perceptions of them being underhand.

Disappointment in participants' defence lawyers was also raised, either because they were felt not to have sufficient experience and understanding of tax matters or, in the case of one participant, because the defence lawyer had not organised any defence witnesses. This participant believed this was because their lawyer was so sure of their innocence.

3.5 Sentencing

All participants received custodial sentences, ranging from 15 months to six and a half years¹⁰. Participants' views on the type and length of sentence received varied. They were seen as fair and proportionate by some participants who accepted culpability¹¹, while others felt that their sentence length was *'harsh'* and that the judge had not taken mitigating factors into account, such as age, health issues or lack of pre-convictions. Custodial sentences were considered unfair by participants who claimed to be unaware of their offending (either because they had followed their accountant's advice or were implicated in a carousel fraud). Some of these participants were in the process of appealing their conviction at the time of the interview, and one had appealed the length of their sentence and had it reduced as a result. Participants were also dissatisfied with custodial or suspended sentences given to family members who they had implicated in their offence and who had been found guilty at trial.

'This is the one thing I regret... this was my crime, it was not their crime, and so I'm not satisfied with [sentences given to family members].'

Over 50 years old, released on license, no pre-convictions

Participants felt that there was inconsistency in terms of the length of sentences given for tax evasion and that some went against sentencing guidelines. Participants gave various examples of other prisoners who had committed a more serious fraud or tax offence but had received *'a slap on the wrist'* in comparison to the participant's sentence. Custodial sentences given for tax evasion were also felt to be too long when compared to other offences, such as burglary and assault. Offence supportive beliefs were again evident here, with views that tax evasion is *'victimless'* and does not cause individuals any harm. While HMRC is not responsible for the sentence given by the judge, some participants blamed HMRC as they did not always distinguish between different parts of the criminal justice system. For participants who were particularly hostile towards HMRC, there was also a sense that they wanted to blame HMRC even though they knew they were not responsible for sentencing, and that this fitted with their wider narrative about the organisation being unfair and untrustworthy.

¹⁰ For some this included other, related charges.

¹¹ These participants described being motivated by personal financial gain and altruism.

The irony of giving custodial sentences to those convicted of tax evasion, given the cost to the taxpayer, was also raised.

Participants who opposed their custodial sentence viewed Confiscation Orders¹² or Community Orders as sufficiently punitive, particularly when they had also lost their livelihoods as a result of the prosecution (see Chapter 4 for further discussion). Some participants described how they were not asked to pay back the money, but they would have done to avoid a custodial sentence. A preference for these other forms of punishment suggests that custodial sentences are a greater deterrent. However, there were mixed views among those that had received Confiscation Orders. At opposite ends of the spectrum, participants had complied with their Confiscation Orders and paid back the money owed (sometimes by selling property), whereas another described how he was refusing to pay on principle, as he had already served a custodial sentence for the offence which he perceived to be disproportionate.

¹² A Confiscation Order is where an offender is required to pay a specified sum of money, representing the offender's benefits from crime, to the Crown. It does not require the surrender of a particular asset or assets.

4 Perceived impacts of prosecution

This chapter explores the impact of the prosecution on the offender and the subsequent ripple effect on their personal and business networks. It focuses on four key areas: attitudes towards tax and participants' tax behaviours; finances and future employment (including the impact of the prosecution on relationships with business networks); health and wellbeing; and relationships with their personal networks. Parts of the prosecution process which had the most impact are identified where participants were able to articulate this.

4.1 Tax and tax behaviours

As discussed in the previous chapters, the experience of prosecution affected some participants' views of the tax system and HMRC as an organisation. Given the experiences discussed in Chapter 3, it is perhaps unsurprising that those who had a negative view of the tax system prior to the prosecution retained this view afterwards. Some participants who claimed to be unaware of their offending (either because they had followed advice or described being implicated in a carousel fraud) and considered tax to be a necessity, described how they would continue to pay tax but would resent doing so because of their experience of the prosecution.

Participants who claimed to be unaware of their offending and those who described evading tax in order to support their business stated they would not reoffend. They were keen to stress that this was not because the prosecution acted as a deterrent in any way, but that they would not have reoffended anyway. They did not see themselves as a 'criminal' despite their conviction and highlighted their lack of pre-convictions during the interview. They also described how the prosecution had had a limited impact on the tax behaviours of their family and friends, as they generally did not believe the participant had done anything wrong.

'I owe [HMRC] money so I've got a Confiscation Order on me. How the hell am I going to pay it back by putting me in [prison]?... I'm not going to learn anything from being in here... I am not a criminal. I'm never going to do it again. So just being in here is just frustrating.'

18-33 years old, serving custodial sentence, no pre-convictions

Participants who were motivated to evade tax for personal financial gain also said they would not evade tax anymore. However, some made inferences to possible reoffending in future, examples included:

- Winking or smiling at the researcher after saying they would not evade tax again;
- Jokingly saying they would not evade tax, but would consider committing other types of acquisitive crime; and
- Being vague and/or evasive about their intentions.

Less regret or remorse about the offence was evident among this group. However, examples were given of bad experiences in prison having deterred their co-defendants from evading tax again – *'they've more than learned their lessons'*.

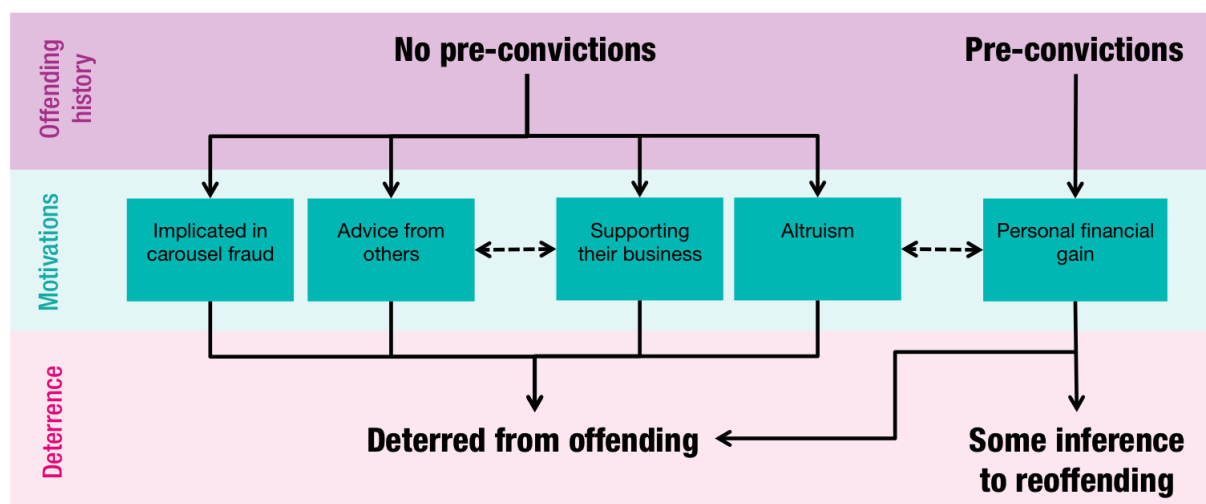
The extent to which a custodial sentence acted as a deterrent could be impacted by the amount of money that was made from evading tax. For example, one participant described how the £50,000 he made was not worth the length of their custodial sentence, whereas others reflected that a custodial sentence might be considered worthwhile if a large amount of money was made.

'If you're talking big money, then prison isn't a deterrent.'

34-49 years old, serving custodial sentence, no pre-convictions

Figure 4.1 below summarises the relationship between participants' offending history, their reasons for evading tax, and the impact of the prosecution on their future tax behaviour. The dotted lines indicate where participants gave more than one reason for their offending.

Figure 4.1: Model of participant tax behaviour and attitudes to compliance



Participants found it difficult to describe the impact of the prosecution on their business network's tax behaviours with any certainty, stating that such matters were *'personal'* and so generally not discussed with others. Where they felt able to be more definitive, views ranged from believing people in their business network would be deterred from tax evasion, to the prosecution having no impact because of how common tax evasion was in their respective industries (as discussed in Chapter 2). This latter view was expressed by participants who had trusted the advice of others and committed tax evasion in order to support their business when it was struggling.

4.2 Finances and future employment

As discussed in Chapter 3, custodial sentences were considered disproportionate and unfair by some participants. One reason for this was the impact custodial sentences were felt to have on future finances and employment. Participants who had been released on license described difficulty finding work as a result of their criminal record and felt embarrassed claiming Jobseeker's Allowance and other low income benefits when they were used to working and earning a higher income. Some participants serving custodial sentences predicted facing a similar situation on release and spoke of co-defendants (including family

members who had been implicated in the offence) being in the same position. The perceived irony of having to claim benefits at cost to the taxpayer as an indirect result of their tax evasion was also raised.

'I'll have to get support from the government. I'll have to start again [in industry], look for a job – maybe be self-employed... I don't want to be on benefits.'

Over 50 years old, serving custodial sentence, no pre-convictions

Confiscation Orders were also felt to have had an impact on some participants and were seen as a disincentive to work hard or be entrepreneurial, as any money earned would be confiscated to the value of what was evaded. This was coupled with a reluctance to earn money and pay tax to HMRC more generally, as a way of retaliating against the prosecution.

'I'll just be a boring person rather than a creative person for the rest of my life... Shame, but that's the way [HMRC] want it...'

34-49 years old, serving custodial sentence, no pre-convictions

The impact of the prosecution on relationships with business networks was seen as instrumental to participants' finances and their future employment opportunities. Some participants who claimed to be unaware of their offending (either because they had followed their accountant's advice or were implicated in a carousel fraud) described how 'everyone' in their business network knew about their conviction, and that current and potential suppliers and business partners would be unlikely to work with them again as a result. Others felt the prosecution would have little impact on their relationship with people in their business network, for two reasons:

- First, it was felt that tax evasion is not a crime to be ashamed of, unlike violent crime for example. This view was expressed by participants with different motivations for tax evasion.
- Second, where business networks were based abroad it was felt they had a different attitude towards tax matters and so would be unconcerned about their conviction.

Having the support of their business network meant that these participants were confident they would continue to work, and earn a similar salary to what they earned before the prosecution.

Prior to the conviction, having assets frozen during the investigation was described to have caused financial challenges. One participant described having to live on £250 a week, which he found very difficult due to his usual income being relatively high. Another described not being able to invest in various business opportunities and how he did not want to tell people in his business network this was because he was being investigated by HMRC.

'If it [the investigation] was like six months and the thing was over with [that would be ok]... but that long you can't plan your future. You can't do anything. A lot of business ventures I wanted to do, people were like 'Come on, let's do this. This is a great idea, let's go ahead and do it...' But [I said] 'No, wait, wait...' 'What are we waiting for?...', I just said 'Listen I don't know yet. I'm not sure'. That was the dilemma I had.'

34-49 years old, serving custodial sentence, pre-conviction

4.3 Health and wellbeing

The negative impact the prosecution had on participants' physical and mental health and wellbeing, and that of their co-defendants (including family members who had been implicated in the offence) was discussed. Participants described feeling a range of emotions at different points of the prosecution, such as fear, anger (at HMRC and criminal justice agencies), frustration, embarrassment, sadness and shame. Participants who claimed to be unaware of their offending (either because they had followed their accountant's advice or they described being implicated in a carousel fraud) also described feelings of disbelief and helplessness. Others dismissed the impact of the prosecution on their wellbeing, and stressed how resilient they were and what little impact it had – *'I'm tougher than that'*.

Other research describes how being arrested, interviewed and detained are very stressful experiences for the individual concerned, irrespective of the suspected offence (Gudjonsson, 2003). In this research, the arrest and having to serve a custodial sentence appeared to be the aspects of the prosecution which had the most impact on participants' wellbeing. One participant spoke of how the arrest had left them anxious and frightened. These feelings extended to participants' families too, where they had witnessed the arrest.

'My wife is still afraid of opening the door. It [the arrest] has caused her a lot of stress... She's afraid of a knock on the door.'

Over 50 years old, serving custodial sentence, no pre-convictions

Another participant described how he was struggling since being released from prison and felt *'totally lost'*.

Local and national media had reported some cases. This caused anger where details were felt to be inaccurate or entire stories were felt to have been fabricated. For some participants, extensive media coverage meant that everyone in their personal and business networks and local community knew about the prosecution, and they described feeling anxious and embarrassed about returning to their community following release from prison. There were instances where friends and extended family had found out about the offence through the media.

Participants who were serving a custodial sentence at the time of the interview were worried about the impact their imprisonment was having on their family, particularly their children, partners who were struggling to cope and parents who were elderly, unwell or upset that their child was serving a custodial sentence alongside what they saw as *'serious'* offenders. Some participants became visibly distressed when discussing this and described feeling guilty about the stress they had caused their loved ones.

'Imprisonment, leaving your kids and your wife, it took a toll, it was terrifying. But then I committed a crime, so... [shrugs shoulders] But it was hell [leaving them].'

34-49 years old, serving custodial sentence, pre-conviction

4.4 Relationships with personal networks

One of the most striking impacts, and one that participants found difficult to discuss during the interview, was the impact the prosecution had on relationships with loved ones.

In some instances, the prosecution had led to divorce or separation from their partner. For example one participant described how his wife blamed him for implicating her in the crime for which she served a custodial sentence and they had separated as a result.

Participants also expressed their sadness and regret at missing key milestones in their children's lives due to being in prison, such as school exams. One participant described how his child's behaviour had deteriorated since he had been in prison, which culminated in them being permanently excluded from school. He felt that this would not have happened had he not been in prison and been able to help support and discipline his child. These feelings were exacerbated where participants were imprisoned a long way from home which made family visits difficult.

Beyond imprisonment, other aspects of the prosecution also impacted on participants' relationships. For example, one had his assets frozen following his arrest, and so had to live with his elderly parents during the investigation and leading up to the trial. He described how living together during the investigation had caused relationships to become '*strained*'.

Impacts on relationships with the local community were raised too, particularly where the participant had been known and respected in their local area prior to the prosecution. One participant explained how he had initially avoided going to church following his release from prison, as he was worried about how people would react to him.

5 Conclusions and implications

This qualitative research was designed to further understand the drivers motivating people to evade taxes and how and why HMRC initiatives may have an effect on deterring tax evasion. As such the findings have key implications for HMRC and their decisions about effective compliance interventions in the future, as well as NOMS stakeholders. This final chapter explores the key learning and implications arising from the research.

5.1 Motivations for tax evasion

Participants revealed a number of motivations for tax evasion:

- Personal financial gain;
- To support their business and help keep it afloat at a time of financial difficulty;
- Altruism; and
- Unknowingly committing tax evasion by following the advice of others (accountants or co-defendants).

While not a reason for tax evasion as such, views of tax and tax compliance appeared to facilitate some participants' offending. A key perception was that the tax system in the UK is inherently unfair, with large companies and wealthy celebrities allowed to avoid tax with no repercussions. This also undermined HMRC in the eyes of participants (discussed further in section 5.3). Tax evasion being seen as common place in some participants' industries either facilitated offending or allowed participants to rationalise their offending after the event.

5.2 Deterring people from evading tax

Participants who claimed to be unaware of their offending and those who described evading tax in order to support their business said they would not reoffend. They stressed this was not because the prosecution acted as a deterrent in any way, but that they would not have reoffended anyway; they did not see themselves as a 'criminal' and highlighted their lack of pre-convictions as a way of illustrating this. They also described that the prosecution had a limited impact on the tax behaviours of their family and friends, as they generally did not believe the participant had done anything wrong.

Participants who were motivated to evade tax for personal financial gain also said they would not evade tax anymore. However, some inferences were made to possible reoffending in future, as discussed in Chapter 4. The extent to which a custodial sentence acted as a deterrent could be impacted by the amount of money that was made from tax evasion, in that a custodial sentence might be considered worthwhile if a large amount of money was made. These findings suggest that the experience of prosecution had been less effective as a deterrent for some in this group.

In terms of punishment, custodial sentences were generally seen as disproportionate to the offence committed as well as counterproductive, as they were felt to pose a barrier to employment and productivity following release from prison. Confiscation Orders and/or

Community Orders were seen as sufficiently punitive by some participants and favoured over custodial sentences¹³. However, a preference for these other forms of punishment suggests that while not liked, custodial sentences might act as a greater deterrent to evading tax in the future.

Participants found it difficult to describe the impact of the prosecution on their business network's tax behaviours with any certainty, stating that such matters were *'personal'* and so generally not discussed. Where they felt able to be more definitive, views ranged from believing people in their business network would be deterred from tax evasion, to the prosecution having no impact because of how common tax evasion was in their respective industries.

One of the most striking impacts of the prosecution was on participants' relationships with loved ones. There were reports of the prosecution leading to divorce or separation, strained relationships with family members, and missing key milestones in their children's lives. The impact of the prosecution on the health and wellbeing of loved ones was also raised. Participants found it difficult to discuss these issues in the interview, and they clearly had a profound impact on some of them.

5.3 Perceptions of HMRC

Some participants viewed HMRC as professional, competent and fair, but others had a very negative opinion of HMRC and expressed anger, disillusionment and a lack of trust in them during the interviews. As discussed in the previous chapters, the experience of prosecution tainted some participants' views of HMRC. Negative perceptions were also underpinned by a view that HMRC support an unfair tax system. These views are important as they are likely to impact on participants' relationships with HMRC following conviction. For example, one participant described not wanting to meet their earning potential on release from prison so that they would not have to pay tax and *'help'* HMRC.

Furthermore, HMRC's reputation of being *'hard'*, underhand and adopting *'scare tactics'* in relation to tax evasion seemed to have created barriers to contacting HMRC for help, advice and guidance. The participant who had trusted the advice of their accountant did not contact HMRC on finding out their activities were illegal because they were afraid of the consequences. Had they done so, they might have avoided a custodial sentence and the negative impacts of the prosecution.

5.4 Conclusion

A key objective of this research was to identify links between taxpayer behaviour and attitudes to compliance after being prosecuted for tax evasion. While the picture is not clear cut, participants who claimed to be unaware of their offending and those who described evading tax in order to support their business said they would not reoffend. This was not because the prosecution acted as a deterrent as such, but because they would not have reoffended anyway as, in their words, they were not a 'criminal'. However, the findings of this

¹³ It's important to note that none of the participants interviewed received a Community Order.

research suggest that the experience of prosecution was less effective as a deterrent for some participants who had evaded tax for personal financial gain.

As discussed, one of the most striking impacts of the prosecution was on participants' relationships with family and friends, and on the health and wellbeing of their loved ones. Given this and to encourage deterrence, it might be worthwhile for HMRC to highlight these impacts in future communication.

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Appendix A. Methodology

Informed consent

In any research it is important that informed consent to participate is obtained, but especially when the research includes incarcerated and vulnerable populations (Webster et al., 2013). The research team wanted to ensure that participants understood that taking part was voluntary and that they were under no obligation to do so. Prison link workers/Offender Managers were briefed about this and asked to make this clear when the first approach was made. This was also reiterated in the recruitment documents provided to offenders. At the point of interview this was highlighted again and participants were given the option to 'opt out' if they did not wish to take part.

Researchers explained who the research was being conducted for; what the research interview would include; how the information disclosed would be stored, used, reported and destroyed; that the research interview was confidential and anonymous; and crucially, the limits to this confidentiality. It was explained to participants that should they disclose future harm to themselves or others, behaviour that was against prison rules and could be adjudicated against, or previous offences that were identifiable and not known to the authorities, the research team would be obliged to report this. Researchers asked participants to sign a consent form that outlined these points.

Topic guide

An overview of the topics discussed is provided below. The topic guide was used to ensure consistent coverage of relevant issues. However, the guide was used in a way that was responsive and tailored to participants' individual characteristics and experiences. This meant that the topics covered and the order in which they were discussed varied across the interviews.

Introduction

- Introduction to the study
- Details about participation
- Go through consent form in detail
- Check if participant has any questions

Background

- Social history (prior to current sentence)
- Current sentence and conviction
- Any previous contact with the criminal justice system

Experience and impact of prosecution on the participant

- How did HMRC find out about their tax evasion
- Experience of prosecution (through the different stages)
- What did the participant expect to happen during the prosecution process, how did this compare to the reality
- Attitudes towards the prosecution
- Impact of prosecution on participant
- Explore changes in behaviour and attitudes towards tax as a result of being prosecuted
- Reasons for any changes
- Relationship with HMRC after conviction

Impact of prosecution on participant's tax paying networks

- Map taxpayer network
- Awareness of local knowledge of prosecution (media, local community, neighbours, suppliers) and their reaction to prosecution
- Impact of prosecution on participant's taxpayer networks

Motivations for tax evasion

- Attitude to tax generally as a concept
- Any previous interactions with HMRC
- Views of HMRC communication around tax evasion
- Views on tax evasion
- Any tools or systems used to facilitate offending
- Relative importance of motivations for committing tax evasion
- Perception of the risk they were taking (at the time)
- Any less good things or misgivings about committing tax evasion

Concluding comments

- Own future plans (as appropriate)
- Anything else like to add
- Thank and close