

Evaluation of HMRC's implementation of powers, obligations and safeguards introduced since 2012

Management of taxes

31 March 2021

A look at HMRC's report evaluating the implementation of powers, obligations and safeguards introduced since 2012 and the CIOT, ATT and LITRG's engagement with the project and HMRC's Powers and Safeguards Evaluation Forum, which was established to provide expert input into this project.

On 4 February 2021, HMRC published their report (see tinyurl.com/42h3dm6v) which evaluated how they have implemented powers, obligations and safeguards introduced since 2012. The report sets out 21 commitments which include:

- updating HMRC's guidance to clarify taxpayers' rights and obligations in relation to several powers, including Follower Notices and the Requirement to Correct;
- exploring ways to improve awareness of HMRC's internal governance processes to promote public trust in decisions on the General Anti-Abuse Rule, Accelerated Payment Notices, Follower Notices and the Diverted Profits Tax; and
- reviewing and updating guidance to clarify the range of factors that may contribute to reasonable excuse, including taking account of an individual's personal circumstances.

This evaluation of the implementation of post-2012 powers was a key part of the Powers and Safeguards work programme established by Jesse Norman, the Financial Secretary to the Treasury (FST) in his written ministerial statement published in July 2019 (see tinyurl.com/5c3vexeb).

The CIOT, ATT and LITRG were all represented on the Powers and Safeguards Evaluation Forum, which was established to provide expert input into the project. As part of this work, we provided written and verbal evidence drawn from the experiences of our members, and we would like to thank those volunteers and members who helped us provide this input. More than half of the examples quoted in HMRC's final report were provided by the CIOT and LITRG, and the text of the report draws on further evidence and examples we supplied.

The FST has written to thank our organisations and our members for their input. He also joined the most recent meeting of the Forum which took place at the end of February, where he thanked stakeholders for their contribution to the Forum's work which he said had provided a careful and detailed list of recommendations.

It has recently been confirmed that the Forum will continue to meet quarterly. This should provide the opportunity for external stakeholders to hold HMRC to account on the report's 21 commitments, work on which has already begun.

The CIOT, ATT and LITRG are looking forward to continuing their engagement with HMRC on many of the themes coming out of the report, in particular the continuing work to strengthen and improve HMRC's guidance, including through the Guidance Forum (Commitment 6), the Charter awareness work (Commitment 10), the review of statutory review (Commitment 15), the work being planned around 'reasonable excuse' (Commitment 16) and the roundtable meeting to discuss the Worldwide Disclosure Facility (Commitment 21).

The CIOT is particularly pleased that HMRC are committing to consider what further work on powers and safeguards should be taken forward as part of the forthcoming review of the tax administration framework (Commitment 1). The Forum's work was limited to evaluating the implementation of post-2012 powers only, and this will provide the opportunity to look at powers introduced before 2012, as well as those proposed to be introduced in the future.

LITRG also highlights that many of HMRC's commitments will be relevant to low income and unrepresented taxpayers, such as those aimed at digitally excluded taxpayers, improving online guidance, improving taxpayer communications and supporting those in financial hardship. A key example of where such taxpayers can be faced with a web of complexity, as well as severe penalties, is where offshore income has not been disclosed to HMRC in the genuine but mistaken belief that the income was not taxable in the UK. LITRG therefore welcomes HMRC's commitments connected to this issue, especially regarding the concept of 'reasonable excuse'.

The ATT sees HMRC's commitments to improve awareness and uptake of the statutory review process, update HMRC's guidance on what constitutes reasonable excuse for failing to meet a tax obligation, identify ways to inform harder to reach taxpayer groups about tax obligations and support those who need extra help as having the potential to make a real difference in the relationship between ordinary taxpayers and HMRC. ATT is already in discussion with HMRC on aspects of the statutory review process.