

LOW INCOMES TAX REFORM GROUP

HM Revenue & Customs and the Taxpayer A new Charter for HMRC and its Customers RESPONSE TO CONSULTATIVE DOCUMENT

1. Introduction

1.1. *About us*

- 1.1.1. The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes.
- 1.1.2. The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

2. Our response: A Charter as a new 'safeguard'

2.1. *Statutory basis for the Charter*

- 2.1.1. Firstly, we welcome the acknowledgement that a new Charter is needed. The consultation document states that it is not intended to set the Charter in legislation, but asks for an exploration of what other options there are 'for enacting the Charter to ensure it is an effective and enduring document' (para 1.13).
- 2.1.2. Like our CIOT colleagues, we are firmly of the view that the proposed Charter should have a statutory base in the sense that there is clear Parliamentary authority for its existence and for its retention. Our reasons are twofold. Firstly, to strengthen it as a safeguard, so that its terms bind the revenue authority in the way they treat their customers, rather than be merely representative of the authority's aspirations. Secondly, to ensure that it cannot simply be removed, or sidelined, following a change of policy (as happened to the Taxpayer's Charter in the 1990s). It is particularly needful for unrepresented individuals to be able to rely upon the terms of a Charter and to hold the revenue authority to its terms, because it is firmly anchored in statute. We do not, however, think it is necessary or appropriate for the full Charter to be in statute.
- 2.1.3. Our intention is to identify how low-income unrepresented taxpayers can be best served by a Charter, suggesting what changes this could bring about for them to

make their 'HMRC experience' a better one.

2.2. **Protection for the 'taxpayer'**

2.2.1. We have contributed extensively to HMRC's *Modernising Powers, Deterrents and Safeguards* review¹. The last written consultation on the latter took place last summer, to which we submitted a detailed response². Since that time, HMRC has obtained new powers in Finance Act 2008 but we have continued to express concern over the lack of accompanying safeguards (such as adequate appeal rights). In our view, a Taxpayers' Charter – under whatever name – presents an opportunity to provide an over-arching safeguard to ensure fairness of treatment for all. We therefore welcome the opportunity to contribute to the debate over its formation.

2.2.2. As noted earlier, we support the general CIOT view that the Charter should have its basis in statute in order to provide a real safety net for taxpayers. But the Charter should not be viewed as a substitute for a full and effective set of safeguards in legislation with the powers to which they relate; we will therefore continue to press for appropriate specific safeguards as the Powers review continues.

2.3. **Rights versus obligations / responsibilities**

2.3.1. The Charter should primarily be an additional safeguard for those who must deal with HMRC. Whilst it should acknowledge that taxpayers and others have certain responsibilities in dealing with HMRC, the Charter should concentrate on the rights and expectations of the user of HMRC services. But it is appropriate for it to help HMRC by summarising taxpayers' responsibilities.

2.3.2. In all our representative work we constantly have to remind HMRC management and staff that not all of those who deal with HMRC are on the same footing with them. This is particularly so for those who do not have the means to purchase the support of professional agents. The Charter specifically needs to recognise that the low-income, unrepresented taxpayer/claimant needs HMRC support and cannot be reasonably expected to have an equivalent knowledge of the systems similar to an officer of HMRC. Moreover, it is to HMRC's longer term advantage to educate and support taxpayers and claimants before the event, to enable them to get things right, rather than impose penalties for error afterwards.

2.4. **Awareness**

2.4.1. As with any other safeguard, such as the ability to make a Subject Access Request under the Data Protection Act, the individual has to be aware of its existence before they can make use of it. HMRC therefore have a duty to promote all safeguards (including the Charter once it comes into being), keeping people informed of their rights, particularly in the event of a disagreement. For example, HMRC could send out a copy of – or draw attention to – the Charter with documents such as self assessment returns and PAYE coding notices.

2.5. **Simplicity, accessibility and equality – inclusion not exclusion**

2.5.1. The Charter has to be accessible across the full spectrum of taxpayers/claimants. It therefore must be written in easily-understood language and available in a variety of formats. As with all initiatives undertaken by HMRC, the Charter should take account

¹ See <http://www.litrq.org.uk/reports/submissions.cfm>

² See http://www.litrq.org.uk/uploadedfiles/document/1_456_LITRGresponse_safeguards_final.pdf

of responsibilities under equality laws, for example under the Disability Discrimination Acts. The introduction of a Charter presents an ideal opportunity to truly embed the HMRC Disability Equality Scheme into HMRC culture and to ensure that no taxpayer/claimant is disadvantaged in his or her dealings with HMRC.

2.5.2. With the development of the Charter, there should be an acceptance that different categories of users of HMRC services will have differing needs and therefore require individual treatment, for instance taking into account:

- the type of taxpayer/claimant (ranging from large business to tax credits claimants surviving on benefits);
- diversity of user groups – age, disability, other barriers;
- taxpayers/claimants for whom English is not their first language; and
- other differentiating factors, such as type of business or occupation.

It may well be that the Charter is best expressed as a single overarching document, with a number of subsidiary guides to specific situations or types of taxpayer.

2.5.3. We hope that the Impact Assessment will in due course consider all of these issues thoroughly, informed by the customer engagement initiatives outlined at para 1.12 of the consultation document.

2.5.4. Recognising that customers should be treated as individuals (and not as NINOs or Unique Reference Numbers) may help to humanise HMRC and break down some of the ingrained ‘them’ and ‘us’ barriers. There must be a commitment in the Charter for HMRC to cater for individual needs, for example by maintaining (and improving) face-to-face services and not completely replacing traditional methods of interaction with electronic ones, thereby excluding those without internet knowledge or access. Also on the theme of individuality, any judgement of what is ‘reasonable’ by any HMRC officer must take into account the individual’s circumstances and abilities.

2.6. ***Customer service***

2.6.1. A key – and arguably growing – concern is a lack of prompt and accurate service from HMRC; a particular issue since the merger of the Inland Revenue and Customs and Excise and its accompanying staff reductions. Across many different heads of service we are aware of unacceptable delays, some of the worst of which are found in tax credits, with correspondence on disputes remaining unanswered after many months. Administrative and processing errors also occur which are left to the inadequately-informed customer to identify and report. Commercial organisations delivering such levels of service or approach would lose their customers, but the user of HMRC has no choice.

2.6.2. The Charter cannot aspire to set standards of customer service, but it could set the parameters under which they were established and monitored. For example, it could formally require the annual publication of meaningful customer service benchmarks, together with formal reporting against those benchmarks to an independent body (such as the Public Accounts Committee). For a public service organisation which has Customer Focus and Support as two of its four published “Values”, HMRC publishes remarkably little data on how it is, in practice, living up to those Values.

2.7. ***Improving the taxpayer/claimant experience***

- 2.7.1. Unrepresented taxpayers/claimants are likely to benefit from a Charter which helps them to understand how to deal with HMRC, i.e. a Charter which aims to cultivate a more approachable face to the organisation. It should offer encouragement to engage in communication, such as reassurance that people will receive a fair hearing if they contact HMRC with a problem. Properly executed, this will also benefit HMRC who will have a template to show to those dealing with them.
- 2.7.2. Although it is useful to consider the Charters of commercial organisations and the way they express their obligations towards their customers, there is the fundamental distinction in that HMRC has “compulsory customers” and the service that they should receive is critically different in terms of support HMRC should deliver. Caveat emptor does not apply. Nonetheless, HMRC should strive to provide the same level of customer service as a business whose very existence depends on having the greatest number of satisfied customers. This is of importance generally, but in particular in the handling of complaints.

2.8. ***The document name***

- 2.8.1. Subject to our comments on the scope of the Charter at 2.10.2 below, we think 'HMRC Charter' is the best compromise. We could accept 'Taxpayers' Charter', though that has the implication that tax credit claimants, for example, are excluded. We are not keen on 'Customers' Charter'.

2.9. ***Developing and maintaining the Charter***

- 2.9.1. The Charter needs to be developed and kept up to date. Following on from our comments at 2.1ff above, the basis for a Charter should be expressed in statute, which needs to specify what form it should take, how it is to be kept updated, reviewed and reported upon. Responsibility for its maintenance should primarily rest with HMRC, but we would recommend that there is a standing consultative group – a Steering Group – involving an appropriate range of interested parties. This group would advise HMRC and act as a sounding board.

2.10. ***Content and scope of the Charter***

- 2.10.1. We have already submitted to the Charter review team a ‘straw man’ document giving an indication of the areas we would like to see dealt with and the type of language to be used. We have also been arranging for HMRC to access various disadvantaged and unrepresented groups so that their knowledge of what it means to be an unrepresented customer is enhanced.
- 2.10.2. Finally, there is an argument that the Charter should apply to all of the individual’s dealings with government on tax matters, whatever the department; for instance it could cover also HM Treasury, the Adjudicator and the Ombudsman. If the Charter were to so extend in application, the name of ‘HMRC Charter’ suggested at 2.8.1 above might need rethinking.
- 2.10.3. We look forward to engaging further with HMRC on the development of the Charter as progress continues.

LITRG
11 September 2008