

**HM Revenue & Customs (HMRC)  
Draft Northern Ireland Equality Scheme for HMRC  
Low Incomes Tax Reform Group (LITRG) response**

**1 Executive Summary**

- 1.1 We welcome the opportunity to input into HMRC's draft equality scheme, which shows how HMRC propose to fulfil their duties under Section 75 of the Northern Ireland Act 1998 (s75). We do this as a member of HMRC's disabled customer consultation group.
- 1.2 HMRC's commitment to the s75 duties is well demonstrated throughout the draft document, and in particular we are pleased to note that HMRC are prepared 'to commit the appropriate resources in terms of people, time and money where reasonable and proportionate, to make sure that the equality scheme is implemented effectively'.
- 1.3 However, from what we see in our work, it seems that in some cases certain tax rules and HMRC practices continue to make things more difficult for people with disabilities and we think there is scope for HMRC to improve their standards. From that perspective, we would like to see the following commitments incorporated in the equality scheme:
- Consultation should have integrity and transparency for it to yield its true benefits. It is not enough to simply make it accessible and visible to disabled people.
  - HMRC should work with HM Treasury to produce more detailed equality statements for Tax Information and Impact notices and where they own the work, should produce meaningful Equality Impact Assessments (EQIA) *before* a decision is made and while it is still possible to influence the outcome.

- HMRC should consider developing a formal vulnerable customer policy as this could help achieve a better customer service experience for disabled people.
- While individuals have the option, in theory, to choose the method of communication, HMRC should make it quicker and easier to contact the Visually Impaired Media Unit – currently access is via HMRC’s normal helplines. We think a direct access option would be more suitable.

1.4 To the extent that the Northern Ireland requirements result in stronger or more extensive provisions for HMRC customers, for consistency and best practice we would strongly urge HMRC to implement them across the whole of the UK.

1.5 We would request that we are added to the list of consultees in Appendix 3.

## **2 About Us**

2.1 The 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. Everything we do is aimed at improving the tax and benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.

2.2 LITRG works extensively with HMRC and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.

2.3 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.

2.4 We are happy to discuss any of the points raised in this paper in more detail.

## **3 Comments**

3.1 While we welcome the opportunity to comment on this draft equality plan, it is unclear to us if, or how, this equality plan differs from previously submitted plans, and we have also been unable to trace any s75 annual progress reports on GOV.UK, which makes it hard to comment coherently.

3.2 However, as a member of HMRC’s disabled customer consultation group<sup>1</sup> we offer some general comments as regards the equality scheme, in each of these areas:

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<sup>1</sup> <https://www.gov.uk/government/groups/disability-customers-consultation-group>

- HMRC's arrangements for consulting
- HMRC's arrangements for accessing, monitoring, and publishing the impact of policies
- HMRC's arrangements for training and raising awareness amongst staff to promote the schemes
- HMRC's arrangements to ensure their information and services are accessible to everyone.

#### **4 HMRC's arrangements for consulting**

- 4.1 Consultation is a key part of the s75 duties and we welcome HMRC's commitments with regard to the visibility and accessibility of consultations. We agree that all those who have a justifiable right to participate in a consultation should be made reasonably aware of the exercise and that consultees must be able to have reasonable access to the exercise.
- 4.2 It is of course important that the methods chosen are appropriate for the intended audience and that effective means are used to cater for the additional needs of 'seldom heard' groups and others with special requirements. To this end, we suggest HMRC consider producing an easy-to-read version of certain consultation documents – some consultations can be very long and in places, complex; and we wonder if 'easy-read' might aid comprehension and encourage more meaningful comment from certain groups of stakeholders, including disabled people.
- 4.3 Furthermore, although traditionally Government consultations are driven by written consultation documents and written submissions by interested parties, when seeking views of disabled and other vulnerable customers, HMRC should consider a more flexible approach when undertaking consultations. This could, perhaps, mean more emphasis on face-to-face meetings where the consultation is explained by a presentation and feedback is given verbally and captured at that point by HMRC, without the need for a follow-up written consultation response.
- 4.4 There are other key attributes of 'good' consultation in addition to visibility and accessibility.<sup>1</sup> In particular, we think HMRC could do more to ensure the integrity and transparency of consultation:

Integrity: The process must have an honest intention. HMRC must be willing to listen to the views advanced by consultees, and be prepared to be influenced when making subsequent decisions. It must be a genuine consultation; there is no point in undertaking a consultation exercise if the general principles subject to consultation have already

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<sup>1</sup> <https://www.consultationinstitute.org/consultation-charter-7-best-practice-principles/>

been decided in reality as it is a waste of consultees' time and misleads participants into undertaking a purposeless exercise.

Transparency: Consultees rightly expect full transparency of the governance arrangements applicable to a consultation and the decision-making process which follows. They will also expect explanations for the decisions taken following a consultation.

## **5 HMRC's arrangements for accessing, monitoring, and publishing the impact of policies**

- 5.1 We welcome HMRC's commitment to publishing any EQIA's they produce. However this relies on EQIA's being produced in the first place. Too often in our work, we see HMRC failing to carry out meaningful EQIAs, or if they do, it is at the very end of the process, which can give the impression that the EQIA is just a paper exercise.
- 5.2 For example, HMRC initially concluded that there were no equality impacts from their Making Tax Digital (MTD) programme.<sup>1</sup> MTD is a huge project, capable of delivering benefits over the years to come, but our feeling is that there is a risk that many disabled people in business will suffer a real burden if they find they are mandated not only to transact with HMRC digitally, but also to keep records in a prescribed digital format.
- 5.3 While the plan is to offer an exemption from MTD to individuals for whom it is not reasonably practicable to interact with HMRC online for reasons which include disability, this does not offer a complete solution. For example, it does not cater for those whose disability does not prevent the use of computers and the internet but who are likely to incur additional costs of compliance not encountered by their non-disabled counterparts.
- 5.4 The MTD timetable has since been revised and more substantive comment has been made regarding the impact on disabled people,<sup>2</sup> but HMRC have still not published a full EQIA as far as we are aware. Such omissions open HMRC up to criticism that they are not taking account of the needs of taxpayers with disabilities.
- 5.5 In our view, equality audits should be carried out by HMRC at the development stage of any measure owned by HMRC, to examine the potential differential impacts and then design in any mitigating measures necessary. We are therefore pleased to see a commitment to carry out initial equality analysis which will lead to a more detailed EQIA if appropriate.
- 5.6 In addition, we would urge HMRC to ensure:

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/587433/Making\\_Tax\\_Digital\\_-\\_Bringing\\_business\\_tax\\_into\\_the\\_digital\\_age\\_-\\_Summary\\_of\\_responses.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/587433/Making_Tax_Digital_-_Bringing_business_tax_into_the_digital_age_-_Summary_of_responses.pdf)

<sup>2</sup> <https://www.gov.uk/government/publications/making-tax-digital-changing-the-scope-and-pace-technical-note/making-tax-digital-for-business#contents>

- that while the focus of the EQIA process is assessing and recording the likely equality impact, this is not the end of the story. The consideration of mitigating measures and alternative policies should also be at the heart of the process.
- that the process of undertaking an EQIA, should not be looked on as an end in itself. Assessing and monitoring compliance with equality law should be on-going, and should be regularly revisited at various stages. If the monitoring and analysis of results over a certain period show that there is a greater adverse impact than predicted (or, indeed, if opportunities arise which would allow for greater equality of opportunity to be promoted), HMRC must ensure that their plans are revised to achieve better outcomes for the relevant equality groups.
- that the commitment to equality demonstrated at the top level is reflected in how services are managed and delivered at the front line.
- that all their decision-making around the EQIA is documented to make sure the Equality Act duties are met. In *R (Kaur and Shah) v London Borough of Ealing*<sup>1</sup> it was held that that: ‘The process of assessments should be recorded ... records contribute to transparency. They serve to demonstrate that a genuine assessment has been carried out at a formative stage.’

5.7 While we appreciate that HMRC do not own all tax policy and do not have the remit to carry out EQIA’s in some areas, we would like to see a general improvement in the level of detail in the information provided in Tax Information and Impact Notes (TIINS) – which we understand they input into. Many TIINs include a sentence or two on ‘Equalities impacts’. These are very cursory and do not set out what criteria have been adopted and how the level of impact has been judged. Some simply deny that there is any impact on those with protected characteristics.

## **6 HMRC’s arrangements for training and raising awareness amongst staff to promote the schemes**

6.1 HMRC clearly have high aspirations with regard to ensuring their staff are aware of the issues experienced by disabled customers.

6.2 But the recent Adjudicator’s report, which sets out that 26% of individuals with complaints are disabled,<sup>2</sup> suggests that disabled people’s needs are not always being catered for. Of course, there may be specific factors which help explain these figures, and indeed the substance of the complaint may not have been related to the person’s disability, but generally speaking, we know from people who contact us via our website that features such as telephone voice recognition software, the lack of understandable

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<sup>1</sup> [2008] EWHC 2026 (Admin)

<sup>2</sup> See page 9 – <https://www.adjudicatorsoffice.gov.uk/pdf/report2017.pdf>

communications/information and being met with ‘computer says no’ responses are still making life difficult for some disabled customers.

- 6.3 We also note with disappointment the case of *Sandpiper Car Hire Limited* in which the Tribunal criticised HMRC’s approach to dealing with disabled people.<sup>1</sup> Such problems damage HMRC’s relationship with their customers and may even leave HMRC vulnerable in terms of fulfilling legal obligations. Although regrettable that this case reached the Tribunal stage, it is an opportunity for HMRC to learn and make improvements to processes so that other people do not find themselves in a similar situation.
- 6.4 Although there are pockets of support for disabled customers such as the Charter, the ‘Needs Enhanced Support’ team, and internal guidance for supporting disabled customers, we would advocate the need for an overarching ‘vulnerable customer’ policy to pull all the strands of their work together. While we recognise that not all disabled people are vulnerable, it would help protect those that were, as it would bring a sense of openness, help ensure there is greater organisational ownership of the issues and provide a clear framework for both staff and taxpayers. Importantly it would foster a sense of trust between HMRC and their vulnerable customers and make it more likely that they will ask for the help they need to manage their tax and tax credit affairs.
- 6.5 Ensuring that vulnerable customers are treated not only fairly but flexibly and with empathy, seems to be a growing priority for organisations. Indeed, the FCA’s occasional paper Consumer Vulnerability<sup>2</sup> published in February 2015 emphasised the need for a holistic approach towards consumer vulnerability, saying: *‘To ensure a consistent approach that is embedded across all operations, it is important to have a high-level policy on consumer vulnerability in place.’*
- 6.6 While HMRC are not a financial services firm, they do provide similar essential services to those regulated by the FCA. It therefore seems anomalous that HMRC do not have an overarching vulnerable customer policy. This is summed up perfectly by a contact made to us, from which we quote:

*‘And one last point which I should have brought up before, on another case with a vulnerable customer, I asked HMRC for a copy of their vulnerable customer’s policy. I was told they didn’t have one... Even my little firm has a vulnerable customers policy... Vulnerable customers are not that rare, especially on tax investigations. The main issues are depression and anxiety, some are old and infirm, some are seriously ill, for example with heart failure or cancer. Yet whilst some awareness is being developed internally for their own staff, HMRC does not really seem to have moved on for its vulnerable customers. In this other departments and bodies publish a policy. For example, most local authorities have one, the*

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<sup>1</sup> <http://www.bailii.org/uk/cases/UKFTT/TC/2018/TC06497.html> See particularly paras 75-82 on NES, vulnerable debtors, and HMRC’s treatment of people with disabilities

<sup>2</sup> See page 12 - <https://www.fca.org.uk/publication/occasional-papers/occasional-paper-8-exec-summary.pdf>

*FCA has one, the BBA has one, the Department of Health has one, many commercial organisations have one, Ofsted has one, I believe the Met has one.'*

## **7 HMRC's arrangements to ensure their information and services are accessible to everyone**

- 7.1 It goes without saying that all HMRC communications should be clear, accessible and written in plain English. We also agree that individuals should have the option to choose the method of communication that they are most comfortable with.
- 7.2 However, if you need material in an alternative format you need to contact HMRC via the normal helplines, who will then put in a request on your behalf to HMRC's Visually Impaired Media Unit.<sup>1</sup> This seems like an unnecessary step and can only add costs and delays for disabled people. We think disabled customers should be able to contact the unit directly either by telephone or via email.
- 7.3 With regard to access to services, LITRG would like to point out that disabled people might have more confidence in contacting HMRC if they were made aware of concessions, such as the opportunity for those with hearing or speech impairments to use an online form rather than the telephone to request a face-to-face meeting with the Needs Enhanced Support service.
- 7.4 Finally, there is currently a huge drive to develop digital services and encourage people to use them. The potential benefits of digital can easily be identified, however we remain seriously concerned that the needs of disabled customers may be overlooked. Some people do not have access to the internet.<sup>2</sup> Others lack the skills needed to use digital means. Some people are concerned about security and others about the potentially significant costs they may incur. Also, while many disabled people embrace digital technology in their day-to-day lives this does not automatically mean they will have the digital confidence and skills required to enable them to comply with their tax obligations in this way, as the two requirements of the digital technology are likely to be substantially different.
- 7.5 While we are supportive of HMRC's digital agenda, we think it is crucial that adequate alternatives are made available so that those who cannot interact digitally get an equally good service as those who can and also that no digital service is mandated. Basically, HMRC must ensure that their digital agenda does not disenfranchise their disabled customers.

LITRG  
20 August 2018

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<sup>1</sup> <https://www.gov.uk/hmrc-internal-manuals/payee-manual/payee103115>

<sup>2</sup> See for example this report from Citizens Advice – a third of CAB clients are digitally excluded  
<http://www.cas.org.uk/publications/bridging-digital-divide>