

**Proposed statutory guidance for HM Revenue and Customs 2011  
Response to Independent Police Complaints Commission  
consultative document**

**1. Executive summary**

This response highlights:

- The need for the IPCC to ensure HMRC communicates to complainants their rights and how the IPCC fits with other avenues of complaint, such as the Adjudicator
- That the guidance is unclear as to the IPCC's remit – currently we think paragraphs 12 and 13 are too widely drawn
- Concerns as to the reduced rights of HMRC customers where debt collections are outsourced or sub-contracted, as it appears they do not have the right of complaint to the IPCC
- That the complaints service and guidance need to be accessible by the 'digitally excluded' and those requiring representation by someone else. HMRC's has a poor track record in making services available to those who cannot use computers or the internet, so the guidance must be clear as to the actions IPCC expect from HMRC.

## **2. Introduction**

### **2.1. *About us***

2.1.1. 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.

2.1.2. 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.

### **2.2. *Format of this response***

2.2.1. We have not used the consultation response form in making our submission as we have not answered all the questions, albeit we have made it clear below where we are giving a specific answer to a particular question.

## **3. Our response – general**

### **3.1. *The complaints process and information for complainants***

3.1.1. Our answer to question 1 is 'partially'. The guidance itself appears to be largely acceptable and highlights positive approaches in terms of complaints handling – for example, considering the individual circumstances of the complainant, any disability or particular needs and aiming to deal with complaints efficiently, and communicating progress to the complainant throughout. Below we describe suggested changes to make the system more effective.

3.1.2. One of our concerns is that the IPCC's role in the HMRC complaints process is unclear and, from HMRC communications which cover customers' rights in terms of complaints, currently invisible.

3.1.3. Therefore, we wonder whether to date the IPCC has played any active role in 'enforcing' its guidance in terms of its overall 'guardianship' of HMRC complaints? After all, there is little benefit in having guidance if the IPCC are not going to check it is adhered to.

3.1.4. We also think that much clearer guidance to members of the public is required in terms of HMRC's overall complaints structure. As noted above, the IPCC is currently an invisible part of the process, from HMRC guidance (see, for example, HMRC's complaints factsheet C/FS<sup>1</sup> and the Department's website guidance<sup>2</sup>). We note however, that prior to its re-publication

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<sup>1</sup> See <http://www.hmrc.gov.uk/factsheets/complaints-factsheet.pdf>

<sup>2</sup> See <http://www.hmrc.gov.uk/complaints-appeals/how-to-complain/make-complaint.htm>

in December 2009, HMRC's factsheet C/FS did in fact refer to the IPCC in the context of complaints about staff misconduct<sup>1</sup>. Why has the IPCC reference since been omitted?

3.1.5. Therefore, unless a member of the public, say, searches the internet for further information on complaints about HMRC, how are they ever to discover the IPCC's role in the process? Paragraph 40 of the consultation confirms that 'The IPCC produces leaflets that explain the system in relation to serious complaints' but we do not understand how those leaflets are made available to the complainant as they do not seem to be integrated into HMRC's processes. This therefore seems in contradiction to the guidance's requirement that HMRC should 'positively promote' the complaints system and 'provide quality information on how to use' it (paragraph 1).

3.1.6. We recommend that IPCC review how HMRC comply with this guidance. As well as reviewing HMRC's processes and how information is made available to the public, the IPCC could, for example, mystery shop HMRC's helplines to ensure that (per the objective in paragraph 41) 'frontline staff... [are] able to advise the public about the means by which complaints can be made...'. In our experience, HMRC staff are not always forthcoming with information about customers' rights.

### 3.2. ***IPCC's role in HMRC complaints***

3.2.1. Our answer to question 2 is 'no', as we find the scope of the IPCC's remit in terms of HMRC complaints confusing from the draft guidance as it stands. The IPCC's existing information for complainants suggests that the IPCC's remit is thus limited:

'The IPCC can only deal with complaints that include one of the following serious allegations about the conduct of HMRC staff:

- staff behaviour resulting in death or serious injury
- serious assault
- serious sexual assault
- serious corruption
- criminal offence or behaviour aggravated by discriminatory behaviour
- serious arrestable offences (such as murder, rape, kidnapping and death by dangerous driving)<sup>2</sup>

3.2.2. Yet the proposed guidance in this consultation (paragraphs 12 and 13, in particular, refer) seem to set the terms of complaints as to conduct much wider, referring to: 'language used and the manner or tone of communications'; 'breach of a published code or policy'; and 'failure to meet defined and expected standards of performance which can include what are

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<sup>1</sup> See for example, the August 2008 version:

<http://tna.europarchive.org/20091102153756/http://www.hmrc.gov.uk/factsheets/complaints-factsheet.pdf>

<sup>2</sup> See [http://www.ipcc.gov.uk/en/Pages/hmrc\\_whatcomplaint.aspx](http://www.ipcc.gov.uk/en/Pages/hmrc_whatcomplaint.aspx)

loosely termed ‘quality’ standards.’ It goes on to say that a complaint could be about failure ‘to meet published standards of service or response to which the complainant was entitled’.

3.2.3. How does this proposed text sit, for example, alongside HMRC’s Charter<sup>1</sup> and its ‘Vision and Way’<sup>2</sup>? Presumably these would be within the terms of a ‘published code or policy’ and therefore capable of being ‘breached’ by HMRC staff in their dealings with customers? Is it intended that the IPCC should investigate such complaints and will they have the resources to do so?

3.2.4. We recommend that the proposed guidance be reviewed so that the IPCC’s remit in terms of HMRC complaints is clearly limited to serious misconduct issues such as those identified in the extract from existing guidance above. After all, there are other routes, such as the Adjudicator, through which to pursue complaints as to poor service.

### 3.3. ***The IPCC’s remit - third party services***

3.3.1. There is a further risk of confusion for members of the public where HMRC outsource or sub-contract services via third parties – for example, debt collection agencies. Referring to paragraph 16 of the draft guidance, it seems somewhat odd that an individual could have their complaint investigated by the IPCC if they question the conduct of an HMRC officer but if collection of their tax debt or tax credits overpayment, say, were outsourced to a third party agency, the Regulations do not apply. Whilst we understand that HMRC, when using such agencies, insist that the same duty of care is exercised as if the debt were being pursued ‘in-house’, this guidance makes it clear that the customer does not have the same rights in that situation. How does the IPCC intend to ensure that HMRC communicate this fact to those potentially affected?

3.3.2. Indeed, many of the most delicate situations are likely to occur when pursuing debts, a particular example of which is tax credits overpayments which can run into many thousands of pounds. Mental health issues can play a significant part in such cases and the proposed guidance refers to these in several places.

3.3.3. A particular area of concern therefore follows from the above comments on outsourcing. If, for example, an individual were to be pursued by HMRC for payment of a debt and this resulted in them causing themselves harm or, worse still, suicide, there would be possible grounds for complaint to the IPCC. By contrast, if the collection had been outsourced, there would not be the same right. How can this be justified?

### 3.4. ***Access***

3.4.1. Our answer to question 4 is ‘partially’ as we think some further information could be provided to ensure a diversity of approach.

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<sup>1</sup> See <http://www.hmrc.gov.uk/charter/>

<sup>2</sup> See <http://www.hmrc.gov.uk/about/hmrc-vision.htm>

*Digital exclusion*

- 3.4.2. We welcome the acknowledgement in various parts of the guidance that information should be available in alternative formats, but the guidance must be reviewed throughout to ensure that in all instances where it refers to the use of technology that HMRC are obliged to offer an alternative for those people who are 'digitally excluded' for whatever reason (age, disability, poverty, location, and so forth). For example, the guidance at paragraph 42 should make it clear that there must be an alternative to the proposed 'online facility' via which to make complaints for those who need it.

*Representation*

- 3.4.3. We are pleased that the guidance acknowledges that some people might have need of a representative. However, there have been various barriers in the past which have prevented representatives from dealing easily with HMRC. We would hope that in IPCC cases similar problems can be prevented, or at least tackled early.

LITRG

20 June 2011