

**Office of Tax Simplification
Third Party Data Reporting Review – Call for Evidence
Response from the Low Incomes Tax Reform Group (LITRG)**

1 Executive Summary

- 1.1 We welcome the opportunity to provide input into this call for evidence. We think that smarter use of third party data has the potential to improve the taxpayer experience with HMRC and we support the principle of using third party data to this end.
- 1.2 However, in this submission we highlight some important issues which we think need to be resolved before HMRC seek to increase their use of third party data more generally.
- 1.3 In particular, we consider that increased use of third party data raises important questions for how HMRC might shape their plans for “building a trusted, modern tax administration system”. One of the most important of these questions is whether the balance of responsibility which comes from the existing statutory framework continues to be appropriate as HMRC moves to a model of collecting information ‘on behalf of’ the taxpayer.
- 1.4 Linked to this point is the fact that greater use of third party data has a psychological and behavioural impact on the taxpayer which should be understood as much as possible. For example, broadly speaking, the greater the extent to which HMRC gathers third party data to calculate a taxpayer’s liability on their behalf, the less likely it is (in our experience) that the taxpayer will engage with and understand their tax calculation to ensure it is complete and correct. This does not sit well with the taxpayer having ultimate responsibility to ensure they pay the right amount of tax. However, we do accept that some taxpayers will welcome having third party data presented to them, which they then only need to check.
- 1.5 Another important consideration is what happens when the data is incorrect. Taxpayers need clear mechanisms to challenge incorrect data. A particular problem is when employers

provide incorrect information to HMRC, but the taxpayer is powerless to force them to correct it.

- 1.6 The use of estimated data from third parties comes with its own set of problems. We have seen particular issues with HMRC using figures for estimated bank interest, leading to incorrect payment demands. As HMRC do not routinely provide a breakdown for the figures, it can be very difficult for taxpayers to reconcile them.
- 1.7 As a general point, we think that third parties and HMRC should be transparent about the data that they hold to assist the taxpayer in getting their tax right. For example, third parties should provide taxpayers with the information they are providing to HMRC. There are also several instances in which we feel that if HMRC were to be more transparent about the data they hold, it would improve the taxpayer experience. For example, we consider that there is scope for HMRC to be more transparent in the data they receive from overseas jurisdictions for a taxpayer, with a view to helping them get their tax right.
- 1.8 HMRC should also be using existing data they hold to the full advantage – both in terms of supporting taxpayers as well as preventing tax loss and supporting HMRC’s compliance work. There is plenty of scope for HMRC, DWP and other government departments to be more joined-up and thus improve the taxpayer experience. The fact that they are not has a direct impact on the taxpayer. Examples here include better use of information from child benefit claims for assessments to the high income child benefit charge, or cross-checking data from the Construction Industry Scheme against Self Assessment records to ensure that income is being reported appropriately.
- 1.9 As well as exploring the above principles, we also look at some specific examples of how HMRC might better use data, including:
- the verification of powers of attorney;
 - better use of data to fix the anomaly of low-income individuals who contribute to net pay pension schemes missing out on tax relief because of the type of pension scheme chosen by their employer (as well as more generally ensuring relief at source pension savers get any tax relief they are due over and above the UK basic rate);
 - better use of information on Gift Aid contributions, potentially to assist those on low-incomes who might not have paid enough tax;
 - the use of information from investment portfolios.
- 1.10 Finally, we consider the issue of how to uniquely identify a taxpayer so that third party data can be accurately matched to the individual. We consider that National Insurance numbers appear to be the obvious solution to this, though we note that these are not universal.

2 About Us

- 2.1 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. 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 HM Revenue & Customs (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.

3 Balance of responsibility between HMRC, taxpayer and third parties

- 3.1 We recognise that there are likely to be significant benefits from HMRC gathering data about people's affairs relevant to their tax liability. However, we do have some concerns – for example, that HMRC gathers data currently which they do not put to best use and perhaps the starting point is not therefore to consider what **more** data HMRC should gather, but how they might concentrate on making best use of the data they already collect. We return to this point in the context of Construction Industry Scheme data and pension contributions data below.
- 3.2 Generally, HMRC replaying data to taxpayers (for example, via the individual's personal tax account or by pre-populating tax returns or claim forms) is helpful – for example, it could ensure that all transactions/activities are picked up where the taxpayers themselves may have otherwise forgotten to declare them.
- 3.3 That said, it is crucial that (based upon the current tax administration framework) people understand they must check pre-populated data against their own records because if the information is incorrect or incomplete, the individual remains culpable. Because it is presented to the taxpayer from an official government department (never mind the source being a third party), we think that people are likely to assume that the pre-populated data is accurate.
- 3.4 This impression is strengthened by the fact that, historically, the information which HMRC received from a third party was limited to the taxpayer's employer, who has a clear legal obligation to provide accurate information. As a result, taxpayers generally trust their

employer to get the payroll right. Such is the strength of that trust, for example, taxpayers might see their P60 as *defining* the correct figure for taxable income. Other third parties might not have the same established statutory framework which aims to ensure the information provided on behalf of the taxpayer is correct. What is the penalty for that third party if the data is wrong? Even if there is a penalty, is it enforced? In the absence of a realistic prospect of a sanction, what is the incentive for the third party to get the data correct?

- 3.5 Finally, the more HMRC replay data to taxpayers, the more people get the impression that HMRC already know everything. While some may diligently review the information presented, this impression might increase the probably of taxpayers not bothering to check that the data held by HMRC is correct or complete. For example, taxpayers might confuse the pre-population of certain figures with some kind of assessment, which they simply trust to be correct because it comes from an authority. Or otherwise, taxpayers might just accept the figures because of status quo bias.¹ A taxpayer might even be more tempted to not bother declaring amounts which haven't already been reported by third parties.
- 3.6 These considerations give rise to a question of whether the current balance of responsibility between HMRC, third parties and the taxpayer fits a future world where HMRC gather data direct from third parties and pre-populate their systems. Is the whole idea of 'Self Assessment' – with the primary responsibility on the taxpayer to notify HMRC of liability – still appropriate? The greater the use of third party data, the more this seems to jar with the whole principle of Self Assessment. Some have commented that the direction of travel appears to be more akin to 'Self Check' rather than 'Self Assessment'.
- 3.7 We understand that HMRC may well be reviewing this point themselves in the context of their plans for 'Building a trusted, modern tax administration system',² but we make the point here as we think it is crucial that the OTS set recommendations flowing from its Third Party Data Reporting Review in the context of such wider considerations.

4 Processes being supported by legislation

- 4.1 Following on from the above, we make a further point underlining the importance of HMRC's administrative systems being underpinned by legislation.

¹ These issues, as well as others arising from the use of third party data, are explored in the following blog post from the Tax Administration Research Centre:

<http://blogs.exeter.ac.uk/tarc/2020/08/19/digital-tax-administrations-in-the-21st-century-opportunities-and-challenges/>

² See HMRC, HM Treasury publication 21 July 2020:

<https://www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system>

- 4.2 In the past, we have seen HMRC introduce processes that aim to improve the taxpayer/tax credit claimant experience but which are not supported by legislation. For example, HMRC and DWP introduced a notification system between the two departments so that HMRC Tax Credits Office are notified when a qualifying disability benefit is awarded or stopped by DWP for a tax credit claimant. HMRC partially use this information to add or remove appropriate disability elements in the individual's current tax credit award.
- 4.3 However, when it fails, the claimant has no avenue for redress because the requirement to notify these changes rests with them under the legislation. HMRC need to ensure that any processes like this – and the checking and correcting of pre-populated information more generally – are supported by legislation which accurately reflects the balance of responsibility.
- 4.4 Indeed, where such data transfer is possible, and it would benefit claimants to ensure they are receiving their full entitlements without relying on them making a separate notification, it should be used to its full potential.

5 Data errors

- 5.1 In our December 2020 publication, *A better deal for the low-income taxpayer*,¹ we recommended that there must be a clear mechanism for taxpayers to challenge inaccurate information held by HMRC which is provided by employers and pension providers, as there is none such at present.
- 5.2 One problem area is the use of PAYE RTI data from employers. If the taxpayer disagrees with pay and tax data held by HMRC, the employee is told to take up any apparent mistakes with their employer. The employee is then placed in the difficult position of having to approach the employer to suggest they may have sent incorrect data to HMRC. In many circumstances this does not resolve the problem, particularly where the employee has left the employment, the employer has closed down, or the employee is in dispute with the employer.
- 5.3 This problem is compounded further when the HMRC data is then used for other purposes. For example, HMRC might use tax data to finalise a tax credits award, or pass it to DWP for universal credit to be calculated. It is therefore vital that queries can be resolved without delay.

Example of a PAYE data problem from an enquirer to the LITRG website

“I was made redundant and left work in the 2017/18 tax year. My redundancy payment was made in the 2018/19 tax year. I have spoken to HMRC regarding

¹ <https://www.litrg.org.uk/latest-news/reports/201204-better-deal-low-income-taxpayer>

getting a refund on the tax I paid on my redundancy payment. They said they had no record of the payment – I have a wage slip and bank statement with the payment.

“Eventually they found the details but it is not reporting in the 2018-2019 tax year. They maintain that it is my ex-employer’s issue as they have sent the wrong data through. I have spoken to my ex-employer and they said that everything is correct and that the tax office is wrong and I should speak to someone else as would probably get a different answer. I have done this and got the same answer, i.e. the data sent through by the employer is wrong...”

“I feel stuck in the middle and going around in circles. I do not have the knowledge to speak to my employer and they keep fobbing me off. I feel very overwhelmed with this and get upset just thinking about it. I just do not feel able to cope with it.”

Example of incorrect pensions data (from a Tax Help for Older People volunteer helping a taxpayer)

“The lady in question had two pensions from the same employer – a defined benefit pension and a smaller addition from an AVC. She had a P60 from the pension administrator showing the two sums separately and a combined total of “pay” and tax deducted which she put on her tax return. For some reason HMRC put the total pension as per the P60 on her P800 and then added the AVC to it, overstating her income and resulting in an underpayment. The HMRC helpline I spoke to understood the issue straight away once it was pointed out, but said they couldn’t change the P800 without a specific letter from the pensions administrator as it turned out the administrator had sent in two P14s, one showing the total pension and another the AVC. It took considerable time and effort to get the pension provider to issue the necessary paperwork.”

- 5.4 Even data exchanged between government departments can result in errors, as illustrated by this real-life example:

“The individual had deferred their state pension and had received a letter from DWP confirming the deferral. However, HMRC had nevertheless pre-populated the state pension on the person’s Self Assessment tax return. This was corrected to £0 and a copy of the DWP letter confirming the deferral was attached to the return. Despite this, the return was subsequently amended by HMRC to contain the incorrect state pension income. An appeal was lodged with HMRC, but they would still not accept the zero figure for state pension. The taxpayer called DWP who said they had resent the information to HMRC and that there was nothing else they could do. HMRC stated that they hadn’t received it and would not accept a copy of the DWP letter from the client – it had to be from DWP. In the end, HMRC advised that the only way to get the matter resolved was to raise a complaint. This was done by letter and the problem was then resolved promptly and efficiently and the taxpayer received compensation.”

- 5.5 The fundamental question here is why the taxpayer – who has no power to force action by an employer, an ex-employer, a pension provider or a government department (or any other third party) – should have the onus put on them to resolve such problems? This issue must be resolved before HMRC take steps to gather and use even more data.
- 5.6 HMRC’s Charter¹ says that HMRC will assume the taxpayer is telling the truth unless there is a good reason to think otherwise. It also says that HMRC will work with the taxpayer to get their tax right. Yet in the above examples where the taxpayer has queried the accuracy of data submitted by third parties, HMRC’s responses have clearly given the impression that the third party is to be believed above the taxpayer – even where the taxpayer has produced evidence demonstrating there is an error.
- 5.7 As a general principle, we think a taxpayer should have a right of veto over information provided by a third party where it affects their individual income tax liability. For a taxpayer not in Self Assessment, however, it seems the only statutory² mechanism they have to do this is to register for Self Assessment purely for the purpose of asserting what they believe to be the correct figure. If HMRC ‘correct’ the assessment under s9ZB TMA 1970, the taxpayer can appeal (as in the example given at 5.4) and the taxpayer potentially has recourse to the courts. It can be seen that there is some legislative tension between the Taxes Management Act and the PAYE regulations as to where the responsibility for this kind of data lies. There are no obvious solutions to this issue, but we do not think that should prevent a debate from taking place.
- 5.8 We assume that HMRC would argue they would not have the resources to resolve all taxpayer data problems themselves and that the primary responsibility for resolving data queries would therefore need to remain with the taxpayer. If this is the case, they must be empowered to do so. Accordingly, there must be:
- an HMRC-supported escalation route where the taxpayer encounters difficulty; and
 - a safeguard for the taxpayer under which HMRC can be asked to suspend collection of a tax liability or put a change of PAYE code on hold pending resolution of the problem.

6 Estimates

- 6.1 Following on from data errors discussed above, similar issues arise where HMRC use estimates. These issues have been seen particularly in relation to bank and building society interest, with estimated figures being used in P800 tax calculations and PAYE codes.

¹ See <https://www.gov.uk/government/publications/hmrc-charter/the-hmrc-charter>

² A non-statutory remedy would be to pursue the matter via HMRC’s complaints channels and then onwards to the Adjudicator etc.

- 6.2 While we understand that HMRC should overwrite estimated figures on their systems with actual figures (once received from banks and building societies) it appears that this does not always happen. Indeed, it seems that in some cases, estimated interest figures have been added to the actual figures, making it appear that the taxpayer has far more savings income than they actually have. However, we do recognise that HMRC have identified this issue and put measures in place to minimise the risk of it happening in future. If HMRC are to increase use of third party data, it would of course be better to ensure that processes are in place in advance to prevent similar errors occurring.
- 6.3 We also understand that in the case of joint accounts, the joint owners are assumed to have equal beneficial entitlement to the interest arising on that account. However, this might not always be the case. Therefore, even “actual” figures might be inaccurate in the case of a joint account which is not in 50:50 ownership.
- 6.4 Furthermore, it is not always clear to taxpayers which figures are estimated and where those figures have come from. It may also be inappropriate to base estimated interest figures for the purposes of a current year PAYE code on figures for a previous year if, for example, interest rates have decreased in the meantime or if the taxpayer had funds temporarily on deposit which is no longer the case (perhaps, for example, while moving house).
- 6.5 Below we give some example queries we have received which illustrate the above problems:

“HMRC consistently greatly overestimate my bank and building society interest and despite several letters and on-line requests do not respond. Thus I am paying too much tax each month on my occupational pension. I have former colleagues with the same problem! No easy way on their system to challenge their coding notice. Surely they should wait for my returns at year end? I feel pensioners are being exploited in having to pay up front on fantasy figures.”

“I am over 60years of age and my income... comprises of my pay (PAYE) and bank interest. The interest income was more this year [2018/19] because 5 years ago, I invested in savings on cumulative interest so I earned the interest on maturity which after 5 years which pushed up my income. However, I have now invested in annual interest. I received a Tax Code Notice from HMRC changing my tax code for 2019/20 from 1250L to 427L and stating that tax will be deducted from PAYE based on HMRC estimating I will be earning the same amount of interest in the year, which I will not.”

“After my client’s husband died, she received a Simple Assessment saying her husband owed £1,600 tax for 2017/18. She was keen to pay it as soon as possible due to ‘not wanting to owe anything to the taxman’ and she thought it must be correct because it had come from HMRC. It was clearly incorrect, so I called HMRC. At first I was told that the interest figure of £4.5k was correct as HMRC had received all the figures from banks and building societies. I queried this again, asking for a list, and pointed out that total interest was only £2.5k in the previous tax year. It turned out that the £4.5k included last year’s figure of £2.5k as an initial estimate and then

the correct figures had been received but the £2.5k figure had not been removed. This was then corrected and a new P800 issued to the wife. If she hadn't had an agent, she may well have paid the £1,600 and assumed it was correct."

"I have just complained online to HMRC with the following:- Have just received a P800. It says I owe £676. I say this is £16.33. This is because you cannot calculate the tax on my savings interest accurately. I have spent over an hour on the phone correcting HMRC's figures, then they send me this with even more errors using 3 year old data, adding it to my figures, compounding the errors. HMRC have been told about this, doing it year-on-year for the last 3 years at least and it is still getting it wrong. 2 years ago I complained, last year I had 4 different calculations. Every year I spend many hours working things out and then checking HMRC's mistakes, trying to correct them by the Web & phone. This year I told you the correct figures BEFORE I got the P800. The difference between the amounts above beggar belief. You are not treating this customer fairly. The P800 return is a joke and gives no indication how some of the figures are arrived at."

6.6 Estimated figures must therefore always be:

- made clear to the taxpayer, with a breakdown of where they are from;
- overwritten with actual data when HMRC receive it;
- capable of being changed easily – for example by contacting HMRC through the personal tax account or by telephone – where they are incorrect.

6.7 In terms of providing a breakdown of the interest figures used for the basis of P800 assessments, we acknowledge HMRC's stated difficulties in terms of limitations of space to provide that information on the P800 itself. However, we see no reason why a supporting schedule could not be provided.

7 Transparency

7.1 The above leads us on to make a more general point about transparency. For taxpayers to be able to fully understand and check information that HMRC hold about them, they need to be able to view complete details. Digitally excluded taxpayers should be able to do the same, so for example the information should be accessible by means other than online through their Personal Tax Account (though for many this might be a convenient solution). A single figure of bank interest or other sum which is a combination of various data is inadequate. The taxpayer needs full details of the account provider, account number (or last X number of digits), whether it is a joint account and how much interest has been attributed to them for the relevant tax year. The query below sent to the LITRG website illustrates that people expect to be able to view this information:

"I understand that I am entitled to receive up to £1000.00 of interest on Bank and Bldg Society Accounts before tax. My problem is that I cannot see on the Gov.Gateway site how much gross interest has been declared to HMRC by the

different organisations that I save with. The only information available is the total of my Pensionable income. Based on that information I have been notified of my tax code, and the tax due. Is there any way that the information I seek regarding "Interest" is readily available?"

- 7.2 Similarly, to be able to check the data HMRC hold, the taxpayer always needs a copy of information submitted by third parties. At present, third parties are not universally compelled to provide such information to the taxpayer. In the case of bank interest, for example, a year end interest certificate may be requested from the bank by the taxpayer at which point the bank is obliged to provide it, but the bank is not obliged to volunteer such a certificate to the individual. While we recognise that the vast majority of taxpayers do not pay tax on their bank interest, and thus it might be argued that this would be a disproportionate burden on banks and building societies, we feel that a simple paperless notification (with a paper option for those who need it) would be of a great help to those taxpayers who have to reconcile calculations provided by HMRC.
- 7.3 Another such omission is the lack of obligation on the DWP to provide a P60 equivalent showing an individual's taxable state pension at the end of each year – for those required to complete Self Assessment tax returns each year, there is much confusion over the amount to include.
- 7.4 One positive example of the transparent use of data can be found in the Irish equivalent to the Construction Industry Scheme. We understand that, under the scheme, subcontractors are able to access online the tax deductions which are reported by contractors. While the purpose of this is to counter contractor fraud, where the contractor makes the deduction but does not pay this amount to HMRC, it is also useful for taxpayers completing their individual returns. We suggest that HMRC realises its intentions to introduce the same feature for the UK scheme via an online digital account.¹
- 7.5 Transparency surrounding what HMRC know about a person is a particular issue in bereavement cases, in our experience. HMRC's past process when a person died (if the individual was not in Self Assessment) was to issue form R27 to the personal representatives for completion. This enabled a check of the deceased's tax position. Some years ago, this was replaced by a system under which HMRC decide whether or not to contact the personal representatives, depending on what their systems show about the deceased's tax position. The record may effectively be shut down without any engagement with the personal representatives, if HMRC believe that there is no tax underpayment or overpayment to be dealt with. While this might achieve the correct result for some people, inevitably the lack of

¹ See paragraph 1.11 of *Improving the operation of the Construction Industry Scheme (CIS) – Summary of Responses*, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/384729/1049 - Improving CIS - responses summary final version v2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/384729/1049_-_Improving_CIS_-_responses_summary_final_version_v2.pdf)

any check means that some cases will not be correctly resolved or may prove harder to resolve.

- 7.6 Indeed, with deceased taxpayers potentially having personal finances dealt with wholly online, it may be helpful for HMRC to have a facility to share with personal representatives what they know about a taxpayer's affairs. Even if there is no tax liability arising, this may help personal representatives to track down the deceased's savings which might otherwise have been invisible to them if the deceased left no paper trail.
- 7.7 The above is not only relevant to bank interest, but to other types of information HMRC hold. For example, HMRC receive information from overseas jurisdictions under mutual exchange agreements and, in our experience, they are particularly uncooperative in providing the taxpayer with information about what they have received. We appreciate that the reason for this is generally fraud prevention – that is, a reluctance on HMRC's part to disclose what they know such that the individual then limits any disclosure to that which they know HMRC have uncovered. However, this approach is not helpful for the majority who have simply omitted to tell HMRC about offshore income because they had not realised it was taxable in the UK, rather than because they were deliberately hiding income or assets offshore.
- 7.8 We are not arguing that HMRC should prepopulate Self Assessment tax returns with information received from overseas jurisdictions – not just because of non-coterminous tax years but also because of the inherent complexity in the taxation of foreign income and gains, with the need to consider matters such as the remittance basis, treaty relief and foreign tax credits. But this data could be used as a prompt – even if it just the source or the country concerned – to ensure the taxpayer does not omit income from that source or country in their disclosure. In terms of ongoing tax compliance, HMRC could provide a taxpayer with a prompt to complete the relevant pages/online sections of the Self Assessment tax return, if nothing else.

It would seem conducive to the goal of building trust between HMRC and the taxpayer if the starting point is that *both sides* should be transparent, not just that the individual should be transparent with HMRC. Such a 'two-way street' approach would also seem to fit with the first tenet of HMRC's Charter – to help the taxpayer get their tax right.

8 Opportunity for HMRC to use existing data to better advantage

- 8.1 We make various points above about issues which need to be resolved before HMRC go further down the path of collecting *more* data – for example, considering whether the balance of responsibility for checking accuracy and completeness of data is correct. Closely related to this point is HMRC's use of data they already collect. It may be that rather than looking at what more data could be collected, the better starting point might be to think about how to make better use of existing data.

- 8.2 Under section 9ZB of the Taxes Management Act 1970, HMRC have a time-limited power to correct obvious errors or omissions in personal or trustee tax returns, or anything else in the return which they have reason to believe is incorrect in the light of information available to them. While there is nothing *obliging* HMRC to use this power, one might think it would be reasonable to expect them to attempt to make use of all information available. This might be, for example, by programming HMRC's systems to pick up obvious errors (which we understand does happen in relation to, for example, correcting amounts of state retirement pension which are returned inaccurately).
- 8.3 However, it appears (as illustrated in the example below) that HMRC's systems holding data do not always 'talk' to each other as might be expected. This is an increasing problem, as we understand that HMRC have a tendency to use standalone systems to implement certain policies (such as for the coronavirus support payments) because it is not straightforward to build these systems as part of the existing "mainframe". There is often not direct functionality between these systems, perhaps for data security reasons. However, the result is there is an accumulation of data on standalone systems such that the left and right hands of HMRC are each ignorant of the data held by the other.
- 8.4 Taxpayers believe, reasonably but mistakenly, that they are dealing with one connected organisation. After all, the 'brand' of HMRC is singular. The fact that they are not can ultimately have distressing consequences: the First-tier Tribunal has seen large numbers of cases in which taxpayers facing payment demands for several thousand pounds for backdated assessments to the high income child benefit charge. These taxpayers are often not in a position to pay the amount due, and feel aggrieved that HMRC have not connected child benefit data with salary data sooner. Had they done so, the taxpayers might have better been in a position to afford the amount owing, and they would have been able to stop further debt accruing without their knowledge.
- 8.5 Some useful lessons can be drawn here from the Tell Us Once service, under which it is possible to report a death to most government organisations "in one go".¹ Taxpayers rightly expect a joined-up government, a principle which we draw out in our paper, *A better deal for the low-income taxpayer*. The principle of the Tell Us Once service on a bereavement should be extended more widely, starting with the different parts of HMRC and then between different government departments such as HMRC and DWP. We recognise that there may be some challenges here relating to taxpayer confidentiality, but these do not strike us as insurmountable.

¹ <https://www.gov.uk/after-a-death/organisations-you-need-to-contact-and-tell-us-once>

8.6 **Example - Construction Industry Scheme (CIS)**

- 8.6.1 Under CIS, the contractor deducts a flat rate of tax from payments made to the self-employed subcontractor. The subcontractor should then report their total earnings on the self-employment pages of their tax return each year, together with the total tax deducted.
- 8.6.2 This might sound straightforward enough, however, when it came to the government supporting the self-employed as a result of coronavirus, via the Self-Employment Income Support Scheme (SEISS), we received several reports of CIS workers being told that they are ineligible for SEISS grants. Upon closer inspection, this is because their income and CIS tax deductions had been reported on the Employment pages rather than Self-Employment pages of their tax return. Given that, for the purposes of SEISS, no amendments could be made to returns after 6pm on 26 March 2020, these individuals could not correct their mistake and claim the grants even though they were in fact self-employed and within the category of people who the SEISS grant was intended to help.
- 8.6.3 The question is then: why would CIS workers make such a mistake, and why did HMRC not act before to correct it?
- 8.6.4 In answer to the former, the tax system does not help CIS workers to understand their status. For example, CIS workers must be given a payment and deduction statement ('payslip') each month which – confusingly – includes a box for the “employer’s” tax reference, thus giving the impression that the CIS worker is in fact an employee. As regards the latter part of the question, it seems extremely odd to us that HMRC did not routinely use their powers to correct tax returns where CIS income was reported on the employment pages (or, if not, otherwise enquire into/compliance check these returns). HMRC’s system should have been ‘expecting’ those earnings to be reported as CIS income and would not have been ‘expecting’ any employment income given the absence of PAYE real-time information data. This seems like an ‘obvious error’ which HMRC’s systems should have flagged up, but because the CIS data is held in a system which sits separately to Self Assessment with no automatic links, the inconsistencies were not identified. We would therefore urge HMRC to focus on how these systems could be better linked.

9 **Types of data**

- 9.1 Here we consider some specific types of data that HMRC do or might collect and how they might make use of them.

9.2 **Verification of attorneys**

9.2.1 We note that the OTS's life events review¹ made recommendations around making processes easier where a formal power of attorney is in place. We have also recently been in discussion with HMRC on such issues, noting that there might be scope to use third party data to simplify administrative processes – for example, whether HMRC might be able to verify the existence and content of a power of attorney with the Office of the Public Guardian. As we understand it, HMRC have a means of checking whether a power of attorney is in place digitally – but the check is limited to whether or not one exists. This is unhelpful, as HMRC cannot determine whether there are any limitations to its scope. We understand HMRC are looking at this issue carefully, but as there has been no government response to the *Life Events* review, it would be helpful for the OTS to reiterate these points in relation to the present review.

9.3 **Pension contributions**

9.3.1 People making pension contributions to an employer's scheme under net pay arrangements by and large receive tax relief at their marginal rate at the point of contribution, as the gross contribution is deducted from their gross pay. There is an anomaly, however, in that those contributing to net pay schemes who earn beneath (or just above) the personal allowance receive no (or only partial) tax relief on their contributions, whereas someone in the same position contributing to a relief at source scheme will get 20% tax relief on their contributions. This issue affects an estimated 1.75 million people, some 75% of whom are women. More will be affected if auto-enrolment is extended to 18-year-olds and the impact on affected individuals will increase if the earnings threshold for auto-enrolment is removed such that contributions are made from the first pound of earnings.

9.3.2 We believe that HMRC could use data they collect to rectify this difference by making an equalisation payment to those contributing under net pay arrangements who are not getting tax relief. The detail of this proposal is covered in our submission to last year's call for evidence on pensions tax relief administration.²

9.3.3 In that submission, we also flagged that HMRC already have a wealth of data about individuals and their pension contributions – enough, in many cases, to ensure the right tax relief is given without the individual having to take action. This could include ensuring those paying higher rate tax get relief on contributions paid to a relief at source scheme, and factoring in such contributions when working out the adjusted net income of those to whom they have sent discovery assessments for unpaid high income child benefit charge.

¹ <https://www.gov.uk/government/publications/ots-life-events-review-simplifying-tax-for-individuals>

² <https://www.litrg.org.uk/latest-news/submissions/201013-call-evidence-pensions-tax-relief-administration>

9.3.4 Also, at present, a Scottish intermediate rate payer in a relief at source scheme will have to contact HMRC to get the additional 1% relief they are due on their pension contributions (assuming they do not have to complete a Self Assessment return). Given that the amounts involved may not be large and that there has been no publicity or awareness-raising about claiming this relief, it is questionable how many employees do this, thus losing out on tax relief that they are rightly due (however small). In a digital age, and with the data available to HMRC (see Appendix A to this response), contacting HMRC should not be necessary – HMRC are already in a position to make better use of the data they have and ensure consistent outcomes for taxpayers.

9.4 **Gift Aid**

9.4.1 People may well have an expectation that HMRC already know about donations made under Gift Aid, given that they have to sign a tax-related declaration at the time of making the donation. When making such a declaration, the individual gives their full name and address,¹ which might lead them to think that there is some notification by the charity or community amateur sports club of their individual gift. The following query to the LITRG website illustrates this:

“I have signed several Gift Aid declarations which I can't even remember of. How can I find that information out? Can I contact HM Revenue [sic] & Customs regarding this matter?”

9.4.2 Indeed, there might be multiple benefits to having Gift Aid donations matched up to individuals' tax records. The ability to give those paying tax at rates above the main UK basic rate of 20% automatic extra tax relief – via PAYE coding or pre-population of Self Assessment tax returns – is perhaps the most obvious.

9.4.3 However, it might also be possible to explore whether HMRC could use such data to prevent tax charges arising on those who have not paid sufficient tax to cover Gift Aid contributions. If, for example, at the point of the charity making the claim for relief, HMRC were to check the donation against the individual's tax records, they might note that the individual is not a taxpayer and deny the claim for Gift Aid at that point.

9.4.4 There are, however, practical problems with this. For instance, the individual's final tax liability for a year at the point of making the donation cannot be known – though perhaps with PAYE real-time information and the advent of MTD for income tax, it might be possible to estimate the position in-year. In addition, there might be a cashflow delay for the charity if all Gift Aid donations were subject to such up-front checks, unless a swift electronic process were in place.

¹ See Gift Aid declaration forms: <https://www.gov.uk/government/publications/charities-gift-aid-declaration-form-for-a-single-donation> and <https://www.gov.uk/government/publications/charities-and-casc-gift-aid-declaration-forms-for-multiple-donation>

9.4.5 Furthermore, there is a question over how much additional work supplying details of all individual donors would create for charities and Community Amateur Sports Clubs. Larger organisations might be able to put processes in place to gather such information and supply it to HMRC. But smaller organisations, often relying on the goodwill of volunteers to deal with administrative matters, would be unlikely to have the resources to do this.

9.4.6 Overall, we therefore question whether HMRC collecting information about Gift Aid donations would be practicable.

9.5 ***Investment data***

9.5.1 Pre-population of data such as dividends from shareholdings or collective investment funds might have the advantage of ensuring people do not omit to declare them. Where dividend income is 'rolled up', it is easy for taxpayers to overlook it or not appreciate that it is taxable at the time of reinvestment.

9.5.2 However, much depends on what information is collected and how it is used. For example, if details of proceeds are shared with HMRC by a broker when an investment is sold, but the cost history is not held on HMRC's systems, might a taxpayer be erroneously charged capital gains tax on the full amount? Careful consideration of the detail would be required.

10 **Facilitating provision of third party data**

10.1 We note that question 10 of the call for evidence refers to a person's National Insurance number (NINO) in terms of identification information. In general terms, the individual's NINO plus full name and date of birth should provide an accurate means of unique identification. But while it is true that this number should be unique to the individual and should not change throughout one's life once allocated, it should be noted that not everyone in the UK has a NINO – for example, there are people who have moved to the UK from overseas but have not had to apply for a NINO because they have not worked.

10.2 Issues potentially arising from the fact that NINOs are not universal therefore need to be considered – for example, might migrants to the UK be disadvantaged if their data cannot be matched and pre-populated as readily as for others? If there were problems arising here, equality issues might be raised.

10.3 Given the prevalence of scams, guidance would also need to be clear about which organisations might need to ask for NINOs in order to send data to HMRC. It is conceivable that fraudsters could spot an opportunity to obtain personal data under false pretences.

LITRG

31 March 2021

Appendix (reproduced from our response to the call for evidence on pensions tax relief administration)

Table: Pension contribution data – relief at source (RAS) v net pay arrangements (NPA)

Data item received from RAS annual returns ^{Note 1}	Source of the same data item for NPA pension contributors
Member's full name <ul style="list-style-type: none"> • Title • Forename(s) or initials, if full forenames not known • Surname 	RTI data items ^{Note 2} , item 5A RTI data items ^{Note 2} , items 7 and 9 (initials if full forename not known, item 8) RTI data items ^{Note 2} , item 6
Member's full address, including postcode	RTI data items ^{Note 2} , items 13 to 18
Member's National Insurance number (unless the individual does not have one, eg if < 16)	RTI data items ^{Note 2} , item 5
Member's date of birth	RTI data items ^{Note 2} , item 10
Member's gender (if specified)	RTI data items ^{Note 2} , item 11
Member's employment status (employed, pensioner, self-employed, child < 16, other)	RTI submission: It is a 'given' that the individual is an employee as PAYE is being operated and RTI filed.
Rate of relief (based on residency – Scottish, Welsh, rUK)	HMRC determines residence of taxpayers for PAYE purposes and issues the individual code with a prefix 'S' for Scotland ^{Note 3} and 'C' for Wales ^{Note 4} (no such prefix exists for rUK). This is then used by the employer in the PAYE calculation – see RTI data items ^{Note 2} , item 55, 55A and 56
Contribution by: <ul style="list-style-type: none"> • The individual (also reported by employers, where contributions are made via the payroll - RTI data items^{Note 2}, item 65) or • third party 	RTI data items ^{Note 2} , item 61 Third party contributions to NPA schemes are not relevant – NPA is an employer/pension provider arrangement. ^{Note 5}

Life assurance premium contribution	Not applicable to NPA schemes – we understand this relates to old-style pensions term assurance plans which used RAS.
Total amount of transfer payment received	Not applicable – and not relevant to the amount of tax relief due in any case. ^{Note 6}
Value of member's fund	Not applicable – and not relevant to the amount of tax relief due in any case. ^{Note 6}
Date of fund valuation	Not applicable – and not relevant to the amount of tax relief due in any case. ^{Note 6}
Member declaration that their contribution qualifies for tax relief (total contributions are within either 100% of relevant UK earnings or £3,600)	HMRC gathers details of an individual's employment income via PAYE so, when reconciled, the system will 'see' whether contributions are ≤ relevant earnings.

¹ <https://www.gov.uk/government/publications/how-to-complete-your-annual-return-of-information-for-pension-schemes-operating-relief-at-source-2019-version/how-to-complete-your-annual-return-of-information-for-pension-schemes-operating-relief-at-source-2019-version> from 'Annual return of information', reg 15A SI 2005/3448, as inserted by reg 4, SI 2018/150 (<https://www.legislation.gov.uk/ukxi/2018/150/contents/made>)

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/915807/RTI_Data_Item_Guide_21-22_v1-0.pdf

³ <https://www.gov.uk/hmrc-internal-manuals/payee-manual/payee100035#coding>

⁴ <https://www.gov.uk/hmrc-internal-manuals/payee-manual/payee100040#coding>

⁵ A claim for excess relief may be made if individual contributions exceed the individual's employment income with the employer, or if it is not possible for the employer to deduct the whole amount from the individual's employment income [FA 2004, s 193(4)]. The individual must claim this relief and relief is given by deducting the contribution at 'step 2' of the income calculation [FA 2004, s 193(6)]. This is unlikely to be relevant for those earning around or beneath the personal allowance.

⁶ The fund valuation has no bearing on the tax relief due to the individual, except to the extent that for defined benefit schemes, a capitalised increase in value in the 'fund' is relevant for the purposes of determining whether the annual allowance has been exceeded. However, tax relief on the contribution remains due, and a separate annual allowance charge arises in respect of any excess. The individual has a duty under S7 TMA 1970 to notify HMRC of any such liability to tax for the year. This is in any event unlikely to be relevant for those earning around or beneath the personal allowance.