

## **RESPONSE TO HMRC CONSULTATION DOCUMENT: ESTABLISHING THE FUTURE RELATIONSHIP BETWEEN THE TAX AGENT COMMUNITY AND HMRC**

---

### **1. INTRODUCTION**

- 1.1 The AAT is pleased to comment on the issues raised in the HMRC consultation document “Establishing the future relationship between the Tax Agent community and HMRC”.
- 1.2 We have over 49,500 full and fellow members and 65,000 student and affiliate members worldwide. Of the full and fellow members, there are approximately 3,400 Members in Practice who provide accountancy and taxation services to individuals, not-for-profit organisations and the full range of business types.
- 1.3 The AAT is a registered charity whose objects are to advance public education and promote the study of the practice, theory and techniques of accountancy and the prevention of crime and promotion of the sound administration of the law.
- 1.4 In pursuance of those objects the AAT provides a membership body. We are participating in this consultation as part of our contribution towards the public benefit of achieving sound and effective administration of taxes. We also feel that the issues raised in this consultation paper will affect our members in practice.

### **2. OBJECTIVES OF THE LEGISLATION**

- 2.1 We note that the consultation outlines HMRC’s longer term vision for how it works with tax agents, specifically through:
  - secure enrolment and segmentation of tax agents to differentiate between those who are in business and those in the voluntary sector or acting on behalf of friends and family
  - reducing time and cost for all parties by making it easier for all agents to access the services they need and by increasing their ability to self serve on behalf of clients where appropriate
  - tailoring HMRC’s support services to paid, professional agents to reflect the compliance risks inherent in their client portfolio
  - providing additional support for agents whose own standards are below those expected in the professional community
  - tackling more effectively those few agents who are found to be acting dishonestly.

### **3. GENERAL**

- 3.1 We always endeavour to cast the net as widely as possible in gathering feedback from AAT members on the variety of public consultations we

consider to be relevant for us to comment on. Recognising the significant impact that the proposals contained within this Tax Agent Strategy (TAS) consultation document will have, we have therefore engaged with our members through a wide variety of channels ranging from workshops, sessions at relevant Members in Practice events and an online questionnaire. The questionnaire was sent to all of our Members in Practice, with a little under a one third taking the time to respond.

- 3.2 The broad view from our members, with whom we engaged, towards the proposals contained within the TAS is one of cautious support. This fact can be evidenced by the responses to our online questionnaire whereby over 92% of respondents indicated their agreement with the TAS proposals regarding HMRC's plans for future engagement with tax agents. Furthermore, just over 90% of respondents either agreed, or strongly agreed with the statement that *"If implemented as outlined in the consultation document, the proposals will have a positive impact for my business and my clients"*.
- 3.3 However, this broad support is tempered by a significant number of notes of caution expressed by members drawing to attention to the fact there are gaps in some areas of the supporting details contained within the consultation document which gave them cause for concern over possible outcomes that may arise as a result of this strategy if it were to be taken forward.
- 3.4 The specific areas where members expressed their notes of caution include, but aren't restricted to:
  - The penalty regime in relation to the policing of a new approach; *there being a need for proportionality*
  - The related need for an independent dimension to the deployment of sanctions, particularly the ultimate sanction whereby HMRC chooses to disengage with a tax agent altogether
  - Any changes introduced are appropriately driven by a will to deliver real improvements rather than being driven by a need to cut costs
  - The resultant investment for agents in terms of new software and/or IT security systems to meet minimum requirements
  - The need for HMRC's own IT and security measures to be sufficiently robust
  - Concerns over current level of service provided to our members by HMRC
  - Concerns regarding the level of skills and knowledge retained by some HMRC staff.
- 3.5 Taking the above into account and recognising the issues raised in the recent Treasury Select Committee report "Administration and effectiveness of HM Revenue and Customs" this further underlines the opportunity that exists for HMRC to work in collaboration with the professional membership bodies to establish a way forward that builds on the positives that exist and to address the concerns that our members have raised, and that are likely to be similarly held by members of the other professional membership bodies.

## 4. CONSULTATION QUESTIONS - ENROLMENT

### 4.1 ***To which types of agent should the new enrolment process apply and why?***

This question could be interpreted in a couple of different ways, but for the purposes of this response we have taken it to mean the distinction between those agents who are paid in relation to the tax advisory services they provide and those in the voluntary sector or who are acting on behalf of their friends and/or family.

Primarily the AAT is of the view that the enrolment process should be applicable to paid agents and not be extended to those who are operating on behalf of family/friends or those who are providing their services on a voluntary basis. There is an argument however to extend the enrolment to include certain voluntary organisations who may act/transact on behalf of a significant portfolio of clients. We also envisage there being other circumstances where a suitable case for access could be made. In highly specialised and skilled areas, for example, such as life assurance, membership of a professional body might not be normal practice.

### 4.2 ***How should enrolment apply to multi-office/location agent firms?***

It appears, from the consultation document, that the proposals are more closely drawn from the point of view of the applicability to sole-practitioner or smaller practices. As a result we have a concern that the difficulty in, and potential cost implications of, establishing a way to make the proposals work for the larger multi-office/location firms explains why this is insufficiently addressed within the consultation document.

We recognise that insisting on the registration of a tax partner, senior responsible officer or a named agent at each location (in the case of multi-office/location firms) would result in a massively inflated number of registered tax agents. In our view, this (albeit challenging dimension to the consultation) has not been sufficiently explored to allow for a more considered response to this question.

The AAT is of the view that the consultation document has a disproportionate level of awareness around the workings of smaller, sole trader tax agent businesses, which needs to be balanced by both a clear understanding of multi-office practices and by putting in place guidelines in terms of HMRC's expectations as to how it engages with larger businesses. This should include establishing a named agent at each office location who has an appointed responsibility for all agents at that location.

It should be noted most of our members working as tax agents will fall outside of the multi-office/location firms, we are therefore keen to ensure that the interests of agents working for larger firms are represented fairly (although, it must be recognised we are not best qualified to make recommendations on this aspect). However, based on members' observations, we have a strong sense that this aspect of the TAS proposals is weak, and falls short of making appropriate provisions for this cohort of the tax agent community.

4.3 ***Is the proposed 'data set' reasonable to provide? & Are there any other elements of data that you believe would further substantiate the identity of a tax agent business?***

The data set in our view is reasonable, however HMRC might wish to consider extending the proposed inclusion of which membership body the agent belongs, to include more specific identifiers such as the agent's membership number for example. This would help should HMRC require confirmation of the membership status of an individual agent from the respective membership body.

Returning to the previous question (4.2) in terms of the multi-office/location firms, AAT would recommend that the details for the nominated officer will be required, along with details of agents with delegated authority to access parts of HMRC's systems (specific to their duties) together with the number of tax agents at that location.

4.4 ***The enrolment process could be introduced in several ways. How should it be rolled out, and over what timescale/at what point in the year?***

Ultimately, for the proposals to deliver the impact we assume HMRC is intending, we consider the enrolment process will need to be mandatory. However, we recognise that to require immediate compliance with mandated enrolment would result in the need to significantly frontload resources to process the initial weight of enrolment applications. To address this, we recommend HMRC consider rolling out the enrolment process over a relatively short timeframe of, say, two to three years maximum, making it a voluntary process initially, incentivised through accrediting registered tax agents, for example: with a form of kite mark so that they can be distinguished from those tax agents yet to register. The market pressures that this will create in terms of potential competitive advantage are likely to result in a significant enough take up to allow the focus towards the latter stages of the enrolment timeframe on a vastly reduced tax agent population yet to enrol.

4.5 ***Should re-enrolment be an annual requirement for all? If not, how should HMRC ensure that agents provide updates to the information when there are significant changes?***

The administrative burden of a full-scale re-enrolment process on an annual basis is likely to significantly outweigh the benefit of such an approach. As an alternative, HMRC might wish to consider a light-touch re-enrolment process whereby agents are annually required to confirm that there is no change to their registration details, or alternatively to update their own details held on HMRC's database via self serve.

The light touch approach could be augmented by a risk based, sample monitoring with HMRC working with the professional membership bodies, in order to ensure that the tax agents are meeting their obligations under this policy.

Again, this area highlights specific issues for the multi-office/location businesses, where there is a greater likelihood that enrolment details will be

in regular need of updating. We can see the need for clearly specified guidance for the reporting officer/named agent at these firms to include HMRC's expectations around the annual updating process.

4.6 ***In addition to administrative burden savings, what other performance indicators should be used to assess the effectiveness of the proposed enrolment process?***

The AAT believes there is a need for HMRC to link the tax agent helpline to the registered tax agent database. Access to the self serve options must result in a reduction in the enquiries/chase up calls received by HMRC from tax agents. We have already commented in 3.4 about the concerns expressed by our members regarding the levels of service they receive from HMRC. A significant number of the examples of less than satisfactory service experienced by our members relate to unnecessary delays, lost forms and more general frustrations regarding 64-8 applications. If self-authorisation were to be one of the options within the suite of self serve facilities, there should be a resultant reduction in the number of inbound calls to the helpline. This would allow HMRC to deploy their resources elsewhere to ensure improvements in those areas where our members have experienced issues.

Further to the above, any performance indicators that are introduced must allow for HMRC to distinguish between enquiries it receives from registered firms and unregistered firms to further establish the value of the enrolment process in terms of the impact on HMRC resources.

An issue that was raised during one of the joint AAT/HMRC workshop sessions we held under the enrolment heading that isn't covered by any of the questions above was how the process would cater for those instances where a taxpayer opts to employ the services of more than one tax adviser to cover different tax headings. In today's world of greater specialism, this needs to be carefully managed in order to avoid the situation where a legitimately appointed tax agent is overwritten by the self-authorisation of another legitimately appointed tax agent who is looking after a separate area of the client's affairs. Safeguards need to be put in place to further ensure that an agent's access is restricted to those areas for which they are specifically authorised to act on behalf of their client.

## 5. CONSULTATION QUESTIONS – ONLINE OPTIONS

5.1 ***Are the self service options identified those that agents would find most relevant or are there other transactions that should be included?***

In gathering feedback from our members in respect of the suitability of the self serve options identified in the consultation document, perhaps unsurprisingly, they reacted positively to the suggestions made.

Through our online questionnaire we invited respondents to rank their preferences using a five-point Lickert-type Scale where 1 represents a 'must have' and 5 represents a 'nice to have'.

Grouping responses together where a score of 1 or 2 were recorded, the ranking was as follows:

Option	% response
Track and trace paper repayment claims/all correspondence	77%
Facility to see payments and liabilities for a single client	72%
Ability to lodge correspondence and returns/forms via an electronic work area	71%
Self-authorisation to notify that an agent is acting for a client	67%
Online education modules	65%
Ability to generate and amend notices of coding	48%

Feedback received from our members identified the following “other” transactions for consideration:

- Online CIS tools to view clients’ monthly CIS returns and details of entries made by contractors for whom their clients have provided services
- The ability to amend previously submitted VAT returns, especially if still within the filing deadline
- Online tracking facility for VAT, PAYE and CIS registrations.

## 5.2 ***What safeguards should HMRC apply if agents are able to self-authorise to act on behalf of a client?***

In order to prevent wilful and/or unscrupulous behaviour, HMRC should send confirmation details to the taxpayer concerned.

A significant number of our members recommended an automated email should also be sent to the existing/outgoing agent as further confirmation of the change, as an additional safeguard.

## 5.3 ***Would tax agents welcome the degree of control indicated and does this alter the potential relationship between agents and their clients should errors be made?***

The AAT’s view is that tax agents will welcome additional levels of appropriate control, for ‘good’ agents on the basis that this should further enhance the service they provide to their clients. However, very careful consideration by HMRC through engagement with the professional bodies will be required to design mutually agreeable controls.

Where errors are made, or perceived to be made from HMRC’s perspective, careful consideration must be given to the way in which agent performance is managed so as not to jeopardise the relationship between the agent and their clients. As a result, there will need to be a robust appeals process.

## 5.4 ***At what industry level should security requirements be set for office and IT processes?***

The AAT believe clear security requirement specifications will be needed. Great care should be taken to ensure any resultant changes do not result in HMRC imposing requirements on systems and processes that are

disproportionate, or even unnecessary for sections of the registered tax agent community.

It would be appropriate for HMRC to provide best practice guidance, or even to work with professional membership associations to first devise best practice and then jointly publicise it to agents. The AAT in turn would then be able to extend this guidance as part of the support we provide in ensuring that our members receive the right information so that they can put relevant safeguards in place.

**5.5 *Would you anticipate that your professional body can monitor/check the IT security and other requirements for HMRC to allow self service as part of the professional body assurance processes for members?***

As observed in this document, there is a role for professional membership bodies to play in this regard.

AAT undertakes practice review visits that could be easily extended to include reference to security arrangements that should be in place to ensure best practice is adopted by our members. This would be on top of the guidance and support extended to all AAT members in practice through our online toolkit which could easily incorporate support and instruction in this area.

Perhaps unsurprisingly, the issue of agents being required to adopt minimum levels of security generated a significant number of comments, the principal message being that *“HMRC must also improve its own provisions in this area”*.

Comments received from our members indicated a widely held view that the current identification process requiring standard authentication and password is in need of improvement. Adopting the approach to security taken by banks i.e. the use of card and card readers, was widely suggested as an appropriate development.

**5.6 *If you think it necessary or appropriate to restrict self serve access, what criteria, safeguards, and transitional arrangements should be applied?***

Given the role professional membership bodies can play in supporting HMRC in respect of the issues of security measures and safeguards, there is clearly an argument for restricting self serve access to those tax agents who hold an appropriate professional membership designation. However, it is recognised that greater access to the self serve options would reduce the current resource demands placed upon HMRC. A suggested way forward, to provide additional safeguards, would be to have different levels of access for tax agents belonging to a relevant professional membership organisation.

From discussions with our membership it was clear that this was not something that could be introduced overnight. It was felt that consideration would need to be given to “grandfathering” existing agents into the self serve process, linked with a three to five year transitional period for newly joining

agents to ensure they were able to practice, whilst ensuring they are able to meet new enrolment requirements.

**5.7 *Are there any other aspects of the proposed self serve pilot that you think should be monitored or evaluated?***

As observed at one of the AAT/HMRC workshops held at our headquarters, the views of the clients ought to be considered within any pilot activity. Establishing whether the taxpayers' experience has improved is a fundamental measure of the success of these proposals.

**6. CONSULTATION QUESTIONS – UNDERSTANDING AN AGENT'S ENGAGEMENT WITH HMRC**

**6.1 *What client and agent performance indicators would you suggest are used to inform HMRC's 'agent view' and what should an acceptable level of performance be in each case?***

We welcome the view expressed in the consultation that HMRC consider that the vast majority of tax agents are “..well qualified, technically able and competent in the role they undertake for their clients”.

The consultation goes on to identify HMRC expects that the 'agent view' will identify those agents whose levels of engagement are below the average for agents with a smaller client portfolio. A smaller client portfolio will in itself mean the need for proportionality in applying performance indicators, for example applying a percentage parameter to the acceptable level of errors would result in the situation where there is a level at which the sample will become less meaningful. It might however be possible to develop a sliding scale for these parameters driven by the varying size of client base.

Similarly, repetition of similar errors would be a useful measure in identifying areas for concern, moreover it would also identify where any reparative measures had been implemented but not delivered improvement.

An additional measure HMRC might wish to consider using is submission and payment dates compared to actual, wanting to see agents filing on a more even basis ahead of the relevant deadlines. This will address those agents manipulating return submissions as well as late and short payment practices. We believe that this will help agents to educate their clients as to the importance of best practice.

**6.2 *What would be appropriate safeguards, and how should an agent be able to challenge HMRC's views?***

We strongly believe there should be a clear/visible process that includes a staged approach. In the first instance HMRC should share its observations/concerns with the agent involved, detailing what actions it believes would be appropriate for the agent to bring their performance up to a required standard.

If this fails to result in suitable improvement, we would recommend that the matter is followed up with the agent concerned, and that their relevant

professional body is notified in order to assist in helping the agent address their performance shortfall, which we would anticipate would normally be the result of a training need.

Up to this stage in the process the line adopted must be one of collaborative attempts to facilitate the improvement in agent performance. If these steps fail to result in the matter being resolved and sanctions were to be applied, the agent should be able to challenge the view of HMRC, we recommend that these challenges/appeals be dealt with by an independent tribunal process.

**6.3 *Would it be appropriate for HMRC to seek confirmation that a tax agent firm should hold and maintain a formal qualification (through individual members of staff) before allowing them to act in relation to tax matters?***

This represents one of the most complex areas within the consultation. Feedback from members has been mixed, ranging from views expressing that this must be a requirement, to others who identified that there are tax agents with significant experience who may not have gained a suitable formal qualification and/or do not necessarily hold current membership of a professional body. It also raised a question from a legal perspective as to whether restricting capacity to act in relation to tax matters to those who hold and maintain a relevant formal qualification would constitute a restriction to trade.

Throughout our responses we have identified examples where the professional bodies will be able to play a key role in supporting the TAS. Membership of a suitable body will also provide HMRC with additional levels of assurance relating to the monitoring and compliance activities they carry out. From an AAT perspective we firmly believe that the assurance measures we have in place will help to deliver competent professionals, eminently capable of providing a standard of service to their clients that will meet HMRC's acceptable level.

We recognise that there are specialist tax agents dealing in specific areas for whom membership of a professional body may not be relevant. However, in dealing with the general tax agent community as it currently stands, we suggest that by tying in access to the self serve facilities to make them accessible only to those tax agent firms that hold and maintain a formal qualification, without restricting those without from being able to act in relation to tax matters, this will incentivise tax agents to gain a formal qualification where they do not hold one.

Additionally HMRC might want to consider that upon introduction of the TAS, all new tax agents, again potentially exempting those whose work is highly specialised, would need to hold and maintain a relevant professional membership qualification.

**6.4 *Should HMRC recognise a less onerous standard of qualification with a proportionately reduced ability to transact with HMRC e.g. a recognised classification of 'book-keeper' to enable the holder to submit self assessment returns but not access a self serve facility?***

This ties in to the answer provided above (5.6 and 6.3), and we would support this approach.

**6.5 *What would be an appropriate and reasonable period of time for currently unqualified tax agents to obtain a relevant tax qualification and what should the transitional arrangements be?***

As previously observed (5.6) any tax agent currently not holding and maintaining a suitable qualification wishing to do so would be given sufficient time to obtain one. Recognising that there will be a number of variables that will apply taking into account previous experience and qualifications held, along with the different requirements the various bodies will have, we believe that a period of approximately three to five years should suffice.

**6.6 *What advantages or disadvantages would membership of a recognised institute or body provide for HMRC and customers/clients?***

As previously mentioned (4.5 and 5.6.), the standards of competence and professionalism that we expect of our members, and the service/support mechanisms we have in place to enable our members to meet these expectations will deliver a significant advantage in assuring HMRC of the value AAT members will bring under the TAS. Furthermore, the clients of our Members in Practice will additionally benefit from the expertise they will receive.

On top of the service and support referenced above, the compliance measures, supported by a robust investigations and disciplinary process will further ensure that any agents falling below the expected level of performance will be managed appropriately. Clients of agents who do not hold and maintain a professional membership qualification will not have access to the avenues of recourse afforded to clients of holders of a professional membership qualification.

In addition to this aspect, by working with the professional membership bodies, HMRC can rely on additional support and guidance to assist in ensuring that the TAS delivers the improvements it will be expected to deliver.

The deployment of a kite mark for those registered agents will deliver further visibility to the clients as to the value they can expect to get from their tax agent when looking to appoint.

**6.7 *What actions/sanctions could be applied to those who act unprofessionally other than HMRC refusing to deal with them?***

This links in to the points raised in 6.2 above, by involving the professional bodies at the appropriate stage in the process there is an additional role that we can play in addressing agents whose performance is of concern.

The AAT has a variety of sanctions it can, and does, apply in relation to membership disciplinary matters – ultimately being able to expel members where necessary. If HMRC adopts the approach mentioned at 6.3 above in our response regarding restricting access to self serve to those who hold and maintain a professional membership qualification, it will provide further

incentive to the tax agent to improve performance, or face a loss of a potential competitive advantage.

- 6.8 ***In the most serious cases how should HMRC best address their responsibility to take action against an agent by refusing to deal with them? Should that decision be informed by an independent panel?***

We believe that this question is answered by responses provided to the questions at 6.2, 6.6 and 6.7 above.

## 7. CONSULTATION QUESTIONS – TAXES IMPACT ASSESSMENT

- 7.1 ***What changes do you expect to make as a result of the proposals within this consultation document?***

It is difficult to provide a definitive answer to this question given that the consultation document is seeking views on proposals and it would perhaps be inappropriate to pre-empt the outcome of the consultation process.

Taking into account the views that we have expressed in response to the questions, there are a number of opportunities we have identified for AAT to further assist HMRC in the roll out of the TAS, these opportunities, should they come to fruition, are likely to result in the need for us to adapt or develop the services, support and monitoring processes we have in place for our members in practice.

- 7.2 ***Do you have any views on the potential ‘one-off’ costs involved in making the changes?***

Our members have responded with a variety of views on this aspect of the consultation. The prevailing view was that these costs will be perceived as an investment, a form of “pump priming” on the understanding that it will deliver improvement. It is therefore essential that HMRC puts appropriate measures in place to deliver on those expected improvements, both in terms of IT infrastructure (including improving the key communications and engagement channel that is the HMRC website) and in the skills of its workforce.

Furthermore, the performance indicators must enable the tracking of the impact the improvements have delivered, and this needs to be transparent to the tax agent community.

- 7.3 ***What are your views on the anticipated ‘ongoing’ costs of the proposed changes and the impact of this on those you represent?***

We recognise that our members are likely to establish a difference between those ongoing costs that are appropriate for them to bear as part of their responsibilities in running their own businesses, and those costs that they will pass on to their clients.

- 7.4 ***Do you consider that these proposals would have a disproportionate impact on smaller agent businesses, for example, those with less than 20 employees? How could these impacts be addressed?***

A large number of AAT members in practice will fall into the category of businesses with less than 20 employees. There are aspects to the proposals that we encourage HMRC to guard against in having a disproportionate impact on the smaller tax agent (such as the minimum IT and security specifications/requirements and the individual agent performance measures) however broadly we are of the view that the proposals shouldn't, if introduced appropriately, have a disproportionate impact on the smaller agent businesses.

Smaller agents are, based on the feedback we have been given, likely to be affected more severely by current inefficiencies, they do not have the resources at their disposal to resolve issues they encounter, as a consequence it is perceived that the proposed changes to their experience in engaging with HMRC will potentially deliver greater benefit to them.

This is borne out by the responses to the questionnaire referenced under the point 3 'General' heading above.

**7.5 *Do you consider that these proposals would have a disproportionate impact on unqualified or unaffiliated agents? How could these impacts be addressed?***

Given that we have suggested there ought to be a distinction between the levels of access to the self serve facilities between those who hold and maintain a professional membership qualification and those who don't, we would expect that there would be a disproportionate impact on the unqualified or unaffiliated agents. This is essential in encouraging more of this cohort of agents to address this by gaining and maintaining a suitable qualification. This is particularly of benefit for the clients in improving the standard of service they can expect from their tax agent, and potentially reduce the likelihood for tax agents to be operating without appropriate insurance in place.

## **8. CONCLUSIONS**

**8.1** AAT recognises that the relationship between HMRC and the professional membership bodies is now more effective. Change is inevitable, and HMRC has already gone through a significant change programme of which this ought to represent the continuation of.

Developments that affect the way in which HMRC engages with the tax agent community have already been implemented (the tax agent helpline and agent account managers for example) but these have not necessarily been as successful as they could be, yet. We recognise that there is a role we must play in ensuring that our members are fully aware of these changes and that they take appropriate advantage of them. The proposals within the consultation further identify the scope for this collaborative approach, in fact it underlines the fact that it is fundamental to the success of the change programme HMRC has embarked upon.

The high profile that the findings of the Treasury Select Committee report garnered, coupled with the concerns expressed by a large number of our

members regarding their experience of service provided by HMRC can not be overlooked. As referenced in the joint consultation response submitted by CiOT and ATT, successful delivery of the TAS will depend on HMRC taking appropriate steps to build up levels of trust with the tax agent community.

In that respect any changes that are implemented through the TAS will require HMRC to engage and communicate effectively with the tax agent community if they are to embrace these changes. Sharing with tax agents what the ultimate outcome HMRC requires from the TAS in order that there can be clarity around how the changes in approach will deliver it.

We have welcomed the opportunity to have engaged with the development of the consultation, and mirror the cautious support that our members have expressed in relation to the proposals contained within it.