

First draft

Contributed by Allison Plager
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Twenty-three years after the first taxpayers charter was introduced (then reborn in 1991, and consigned to the bin in 2000), HMRC have published their proposals for a new charter.

The department has published a consultation document, 'HMRC Charter', which contains a draft charter for comment. The public's views on the draft are now requested, along with comments on how it meets taxpayers' needs.

HMRC consider the matter so important that they have dedicated an entire website to the charter.

Comments on the draft should be sent by 12 May 2009 by post to HMRC Charter Team, Room 3E/02, 100 Parliament Street, London SW1A 2BQ, or by email. Legal footing

One of the key points made in the first consultation by respondents was that a charter should have explicit legislative authority. HMRC recognise this in the document, and say that a short clause in the Finance Bill 2009 will provide this.

This has been welcomed all round as helpful and vital to the success of a charter. Ian Young, technical manager, Tax Faculty, was glad that the Government has agreed to underpin the charter with some statutory backing, acknowledging that 'there was quite a lot of internal resistance to that idea'.

Likewise, John Whiting, chairman of the Chartered Institute of Taxation's management of taxes subcommittee, said this is particularly important: 'it has to have a basis in legislation in order to give it proper standing'. He added that it 'took a bit of pressure', but was very pleased that HMRC accepted the need for this in the charter.

Similarly, Paul Aplin, chairman of the ICAEW's Tax Faculty, welcomed the draft charter.

He said: 'The Pre-Budget Report commitment to statutory underpinning was the result of a good deal of lobbying and without it the charter - whatever its final form - would be little more than a mission statement that could be dropped (as the last charter was) overnight'.

He was happy to see that the draft, while stating what can be expected of HMRC and what HMRC expects from the public, does not make the former conditional on the latter. Wish list

Other suggestions for the charter arising from the initial consultation included the following:

- a single charter would be preferable to different charters for different customer groups;
- it should be short, simple to understand and easily accessible;
- it should be a high-level document;
- it must cover customer rights and obligations but they must not be mutually dependent;
- the complaints process must be clearly signposted.

HMRC then set out their thoughts about a charter. They refer to customers, rather than taxpayers, on the basis that a charter will be for taxpayers and claimants alike.

The word 'customer' still grates and is inappropriate, but it seems that HMRC have dug in their heels about this and we may therefore be stuck with it. In essence they want the charter to:

- be an overarching statement to explain the role of HMRC;
- explain what customers can expect from HMRC;
- explain what the role of customers should be;
- set out the standards to which HMRC works and what customers can do if things go wrong. Draft charter

Based on the respondents' comments, HMRC's draft charter is certainly short and to the point. As Grant Thornton's Francesca Lagerberg said, 'it certainly ticked the box on brevity!'

Given that there was some division among respondents to the first consultation over the amount of detail a charter should contain, HMRC have cited, in the latest consultation document, the Republic of Ireland Revenue Customer Charter as an example of a simple one page charter and the Australian charter as an example of a more detailed charter which hyperlinks to deeper levels and is set out in more than 20 pages.

HMRC then ask if the draft contains the right material to stand alone as a single accessible document setting out the rights and responsibilities of individuals and businesses.

They also wonder if it has placed the right emphasis on HMRC being 'relentless in dealing with those who try to cheat the system'.

When it comes to further information, HMRC ask if there is an advantage in supporting the charter with additional, more detailed information. If so, what kind of information would respondents like to see?

HMRC go on to explain how they have made up the draft charter, mentioning that everyone is agreed that a charter 'could be used as a tool to improve the nature of the relationship' between HMRC and the public.

In the consultation, HMRC said that respondents were keen for the charter to make a clear link between what HMRC does and provision of public services, as people do not necessarily connect tax collection to public services.

Greater understanding of this link could encourage compliance. Thus the proposal is that there should be a clear context-setting statement about the role of HMRC and how this is linked to public services.

As to what you can expect from the department, there was a clear sense from the first consultation that some people feel apprehensive whenever HMRC make contact with them.

Many respondents suggested that a charter could be used to present the 'human face' of the organisation. On the basis that the legal rights of individuals and businesses are already covered in legislation, it was felt that it would be more useful to set out what individuals, businesses and representatives can expect from HMRC.

They wanted clear and simply worded high-level statements about the sort of values and principles that people can expect when they deal with HMRC that are not necessarily replicating rights in the law.

Turning to what HMRC can expect from the public, they said that it was clear that a lot of people, particularly those without representation, were unaware of their responsibilities. A charter was therefore a good opportunity to make people aware of these.

Finally, when it comes to access to HMRC information, a number of suggestions were made to the effect that HMRC should do more to tell the public where and how they can get more information, such as how long HMRC will take to respond to correspondence or claims.

While a charter is not intended to introduce new complaints and appeals mechanisms, it should refer to existing ones where appropriate.

Overall, HMRC want to know if the draft charter is in line with respondents' views on what it needs to contain. It is currently very brief and to the point, should it include more from appendix B (draft charter components) of the consultation document.

HMRC will use the responses to design the final charter. They will then:

- apply for the Plain English Crystal Mark on the final charter;
 - test it with staff, stakeholders and customers prior to launch;
 - finalise the plan for the formal launch;
 - publish the charter in appropriate formats;
 - post updates on the charter website when the launch date is announced.
- Good progress

It is very encouraging that HMRC have produced a draft charter which takes into account so much of what respondents to earlier consultation have discussed.

It is, said Francesca Lagerberg, 'very much a working document and it is now in our hands to make sure the end result is something we think provides clarity and protection for taxpayers'.

Commenting on the charter's brevity, John Whiting said 'it would have been good to have had something a bit more solid, but this gives us plenty to work on and is going in the right direction'.

It is important to get a charter right, so that it is 'useful and a real aid to taxpayers, especially those who do not have advisers'.

Questioning whether the balance of the draft charter is right, i.e. what we can expect from HMRC and what they expect from us, Francesca felt that it is very strong on what HMRC expect saying 'many will find the wording stressing HMRC concerns stronger than those protecting taxpayer rights. We also need to see how the statutory underpinning will

operate to give this charter teeth’.

Paul Aplin was interested in the reference to the Irish charter, saying that ‘two points from that charter strike me: one is that the “Revenue will administer the law fairly, reasonably and consistently and will seek to collect no more than the correct amount of tax or duty” [Paul’s emphasis] and the second is that “you can expect to be given the necessary information and all reasonable assistance to enable you to clearly understand and meet your tax and customs obligations and to claim your entitlements and credits”’.

He suggested that ‘these are admirably clear statements that HMRC might consider replicating’. Generally, he also felt that the charter is ‘moving in the right direction, towards a meaningful document’.

Ian Young mentioned two things which the Tax Faculty would have liked to have seen in the draft.

First, ‘it ought also to cover substantive legal rights such as a provision that, in normal circumstances, legislation should not have retrospective effect’. Second, ‘it ought to cover all the government departments that deal with tax, which would mean including HM Treasury’.

He also wondered if putting the complaints and appeals processes at the end of the charter is appropriate.

He suggested that they should probably ‘come under “You can expect HMRC to” and, as part of the normal interface between HMRC and taxpayers and advisers, the latter should always be made aware of their right to complain or appeal’.

The news item which discussed the new taxpayers charter in Taxation 23 years ago ended on a somewhat cynical note:

‘Readers are invited to form their own opinions on the efficacy of the charter in the coming years’.

While no one can guarantee that a charter will mean that the tax system works fairly for all people, HMRC certainly appear to be trying to produce a charter which is what the public wants.

By responding to this latest round of consultation, it is to be hoped that taxpayers, advisers and benefit claimants, as well as HMRC, end up with a document that is meaningful and effective.

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