

4 July 2025



The Tax Administration Framework Review – Improving HMRC’s approach to dispute resolution

Response from ICAS

The Tax Administration Framework Review –

Improving HMRC's approach to dispute resolution

1. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants. We represent over 24,000 members working across the UK and internationally. Our members work in the public and not for profit sectors, business and private practice. Approximately 11,500 of our members are based in Scotland and 10,000 in England and Wales.
2. The following submission has been prepared by the ICAS Tax Board. The Tax Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community; it does this with the active input and support of over 60 committee members.
3. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members into the many complex issues and decisions involved in tax and regulatory system design, and to point out operational practicalities.

General comments

4. We welcome the opportunity to respond to the HMRC consultation "[The Tax Administration Framework Review – Improving HMRC's approach to dispute resolution](#)". We appreciated the opportunity to discuss the proposals with HMRC at the stakeholder workshop on 4 June.
5. ICAS supports the simplification and alignment of the indirect and direct taxes appeals processes. This should make it easier for taxpayers to understand the process and to make the right applications at the right time. However, the model proposed in the consultation is not the best option. We would like to see something closer to the direct taxes model that allows more time and opportunities for trying to resolve issues and to access ADR and statutory review.
6. We are also supportive of attempts to increase awareness and use of statutory review and ADR. However, this must be backed by provision of sufficient properly trained ADR mediators to meet increased demand. We already receive feedback that it is difficult to schedule ADR, apparently because HMRC does not have enough trained mediators. We also understand that ADR can be very slow and difficult to use where a significant technical issue is in dispute because of problems getting the right HMRC specialists to participate. These issues can deter taxpayers from using ADR and need to be resolved if wider use is to be made of ADR.
7. Similarly, the statutory review process also needs to be adequately resourced, particularly if more taxpayers are encouraged to use it. We already receive feedback that HMRC is increasingly asking for extensions to the time limit for statutory reviews, which may indicate that there are insufficient reviewers.
8. We are disappointed that the consultation does not include any proposal to remove the requirement to pay the tax upfront in indirect tax appeals unless hardship is proven. Hardship applications take up time and resources, for HMRC and taxpayers and delay resolution of disputes. In some cases, being required to pay the disputed tax in full could make it difficult, or even impossible, for taxpayers to pursue an appeal. As the right to appeal is a key safeguard, this undermines trust in the fairness of the tax system.

Specific Questions

Question 1: How should digital appeal routes for taxpayers looking to pursue dispute resolution with HMRC be designed?

9. Any digital appeal routes need to work effectively for both taxpayers and agents. It is also essential that there is a suitable alternative route for digitally excluded taxpayers.

10. Ideally, the online process should incorporate sufficient guidance to make it easy for taxpayers (including unrepresented ones) to use.
11. We have not received any feedback to suggest that the existing digital form for applying for ADR causes significant issues.

Question 2: How could the dispute resolution process best be streamlined and integrated with digital services?

12. We are not convinced that it is essential for the process to be integrated with digital systems such as customer tax accounts, so that progress can be tracked. If the application is digitally acknowledged, with a reference number, taxpayers will know that it has been received. It should then be relatively simple to put in place a tracking process, if necessary. If applications are dealt with properly, tracking might not be required, but a mailbox could be put in place for taxpayers to email if they have not heard from HMRC within a specified time.
13. In most cases taxpayers will not need to apply for ADR or statutory review, so building the process into the customer tax account may not be the best use of resources. In the short term there are certainly other improvements to customer tax accounts that are more important and should be given higher priority.

Question 3: Does the model proposed provide a simpler process to resolve disagreements?

14. We support the simplification and alignment of the indirect and direct taxes appeals processes. Adopting the same process for both should make it easier for taxpayers to understand the process and to make the right applications at the right time.
15. However, the proposed aligned model set out in the consultation is not the best option. We would like to see something closer to the direct taxes model that allows more time and opportunities for trying to resolve issues and to access ADR and statutory review. It also includes the ability for the taxpayer to request a statutory review, which should be retained.
16. The concept of pre-decision letters sounds good, and in theory there could be advantages to using them. However, (as noted in the consultation) they will not be available in all cases. We have also received feedback that those currently received in practice are not generally helpful in helping to clarify details or provide an opportunity to reach a settlement.
17. If the option involving pre-decision letters is taken forward, the letters would need to be improved. However, it would be preferable to use the direct taxes model as the starting point, so that the advantages of that model are retained - but potentially the option of a pre-decision stage could be added, where relevant.

Question 4: Would the model potentially improve access to statutory review and ADR where disagreements cannot be resolved in other ways?

18. See our response to Question 3. As set out in our general comments it is also essential (whichever model is chosen) that both ADR and statutory review are adequately resourced and can cope with additional demand. We discuss ADR further in our response to Question 12.
19. For statutory reviews we already receive feedback that HMRC increasingly asks for extensions to the time limit, which may indicate that there are insufficient reviewers. We appreciate that a complex case might require more than 45 days to deal with but repeated requests for extensions are unhelpful.
20. There is also a perception amongst many agents that reviewers are not impartial and simply 'rubber stamp' HMRC's original decision. In complex technical areas, unless the reviewer has the relevant knowledge and experience, they are viewed as unlikely to diverge from the HMRC internal specialist advice behind the original decision. If experience suggests that the statutory review will also take a long time, some agents/taxpayers may decide it is preferable to go straight to the tribunal.

Question 5: Is there anything further this model could incorporate to provide a simpler process?

21. See our response to Question 3.

Question 6: Are there aspects of the current ‘view of the matter’ stage that provide benefits and should be retained?

22. Yes – see our response to Question 3. Taxpayers should continue to be able to request a statutory review.

Question 7: Would it be preferable to retain the initial appeal to HMRC while incorporating the rest of the proposed model where possible?

23. See our response to Question 3.

Question 8: What could be the unintended consequences of this suggested model?

24. For the reasons noted in our response to Question 3, we do not believe the suggested model should be adopted.

Question 9: Are there any other aligned appeal processes, which improve access to dispute resolution, you think HMRC should consider?

25. See our response to Question 3.

Question 10: Should HMRC consider an initial review/alternative stage to the process where a decision has been automated?

26. In view of the statistics for the outcomes of statutory reviews, it would make sense to introduce an informal stage for automated penalty decisions. For 2023-24, HMRC's annual report shows that only 26% of reviews of automated penalties/default surcharge upheld HMRC's original decision, and in 70% of cases, HMRC's decisions were cancelled. This contrasts with the outcomes of other statutory reviews – where 71% of HMRC decisions were upheld.

27. It seems that in many cases, when the taxpayer has the opportunity to provide information, the penalty is likely to be cancelled. Currently, this happens at the statutory review stage – adding an informal stage where this could happen earlier (and without the need for the formal review process) would be sensible.

Question 11: Are there particular taxpayer groups for who this reform would be best or ill suited, and why?

28. We have no comments on this question.

Question 12: Should it be a requirement for HMRC and taxpayers to demonstrate they have considered other means of dispute resolution prior to appealing to tribunal?

29. Before introducing a requirement to demonstrate that ADR has been considered, it is essential that ADR is properly resourced by HMRC and that its staff are fully engaged, to avoid delays and prevent problems getting the right HMRC specialists involved. The benefits of using ADR (as set out in the consultation) should also be publicised to taxpayers (and advisers) and should be visible in practice. We anticipate that taxpayers (and advisers) would then be keen to use it. There should be no need for any compulsion or a requirement to demonstrate that it has been considered.

30. The First Tier Tribunal recently issued an updated [Practice Statement on ADR](#). This includes a statement on costs and ADR: “An unreasonable failure to consider or enter into ADR may, in an appropriate case, result in costs being awarded against a party or in a party recovering a lower proportion of their costs (for example, *Halsey v Milton Keynes General NHS Trust* [2004] EWCA

Civ 576). Such conduct may also, in an appropriate case, constitute unreasonable conduct (for the purposes of rule 10(1)(b) of the FTT Rules). Where the appeal has been allocated to the Complex category and is within the costs regime the costs of ADR may be recoverable.”

31. This would obviously provide a further incentive to consider using ADR when it would be reasonable to do so, as long as taxpayers and advisers are aware of the FTT statement (which could be mentioned in other information provided about ADR).
32. As set out in our general comments we have received feedback indicating that taxpayers and advisers want to use dispute resolution processes to avoid protracted disputes (and tribunal cases). However, we also receive feedback that it is difficult to schedule ADR, apparently because HMRC does not have enough trained mediators. We also understand that ADR can be very slow and difficult to use where a significant technical issue is in dispute because of difficulties getting the right HMRC specialists to participate.
33. We do not believe that there should be a requirement to consider ADR or to demonstrate that it has been considered unless ADR is properly resourced, HMRC is fully engaged at all levels, and it is working effectively. We agree with the statement in the consultation that it would be necessary for HMRC to have the appropriate resource, adequate training and consolidation period for staff and departmental systems – this should all be in place before considering the introduction of any requirement to consider ADR.
34. There will also always be a small number of cases where it is obvious that the case will have to go to the tribunal, for example, where a significant technical issue is at stake and the point has never been considered by the courts before. Even if a general requirement were to be put in place, there should be an exception for cases where both HMRC and the taxpayer agree that ADR would serve no useful purpose.

Question 13: At what point in the taxpayer journey would it be best to make this consideration? For example, when a taxpayer is first informed about their statutory time limit to appeal to the tribunal.

35. See our response to Question 12. We do not believe this requirement should be necessary if ADR is widely publicised and working effectively.

Question 14: What would be the benefits and risks of such an approach?

36. See our response to Question 12. We do not believe this requirement should be necessary if ADR is widely publicised and working effectively.

Question 15: Including current provisions on ADR exclusions, what criteria would be most appropriate to refer taxpayers to ADR without overwhelming resource and capability?

37. As noted in our responses to previous questions, it is important that ADR is properly resourced and works effectively. There is clearly a risk that if ADR is expanded and taxpayers are given more information and encouraged to use it, the system will be overwhelmed.
38. The consultation makes clear that HMRC has reviewed the exclusion list to make it less restrictive. Other proposals in the consultation are also aimed at encouraging ADR. If it becomes clear that HMRC cannot deal with the demand this generates, either resources would need to be increased, or (if that is not feasible) restrictions would need to be re-imposed or new ones put in place.

Question 16: How can we best identify taxpayers who are most likely to be unaware of ADR as an effective dispute resolution tool?

39. We agree with the suggestions in the consultation for HMRC to highlight ADR to all relevant taxpayers at an early stage, and to offer and signpost ADR more actively throughout.
40. Unrepresented taxpayers are most likely to be unaware of ADR, so HMRC could ensure that it is specifically mentioned to them (and explained) in appropriate cases.

41. Some agents, particularly those who do not have extensive experience of dealing with disputes, may also have limited awareness. There may also be some scepticism about ADR because it involves HMRC mediators. An explanation of the positive impact of ADR, as outlined in the consultation could be useful in these cases.

Question 17: What types of impasses or queries best suit a referral to ADR?

42. Feedback we have received indicates that ADR can work well in cases where positions have become entrenched and/or HMRC has not handled the dispute well; in these cases, ADR provides an opportunity to put all the facts on the table, achieve understanding of the issues on both sides and have a focused discussion. This approach also works well if the dispute relates to an area with a range of possible answers – the focused discussion can be very helpful in clarifying the key issues and reaching agreement.
43. As set out in our general comments and our response to Question 12, we have also received feedback that ADR is not as effective in cases where there is a significant technical issue in dispute, because of difficulties getting the right HMRC specialists to participate. ADR is much slower and more difficult to use in these cases.

Question 18: What points within the taxpayer journey are best to refer a taxpayer to ADR?

44. See our response to Question 17.

Question 19: Are there other approaches for an ADR consideration requirement that HMRC could consider?

45. See our response to Question 12.

Question 20: Is it feasible for HMRC to charge the taxpayer for using the ADR service?

46. We do not support HMRC charging taxpayers for using the ADR service. It would introduce a two-tier system, where some taxpayers would be excluded from accessing ADR to resolve their disputes because they could not afford to pay. Most taxpayers do not choose to end up in dispute with HMRC - as a matter of principle they should not be charged for using the most effective dispute resolution mechanism for their case. There is also a risk that charging for ADR could be perceived as affecting HMRC's impartiality, ie wealthier taxpayers being able to pay for a more favourable outcome, which would undermine trust in the HMRC and the tax system.
47. In some cases, the taxpayer only needs to use ADR because there have been difficulties in the way the dispute has been handled by HMRC. We agree with the comment in the consultation that both parties entering ADR should agree to work collaboratively and have a resolution mindset but sometimes the need for ADR has arisen because of a failure by HMRC to engage constructively with the taxpayer at an earlier stage. The involvement of the mediator gives the opportunity for a re-set, a review of all the facts and a focused discussion – taxpayers should not have to pay to obtain this engagement from HMRC.
48. Charging would also be at odds with other suggestions in the consultation for encouraging the use of ADR. As set out in our response to Question 12, we do not believe that a requirement to demonstrate that ADR has been considered should be necessary: if ADR works and awareness is raised, most taxpayers and advisers will want to use it in appropriate cases. However, it would certainly be unacceptable to introduce such a requirement if taxpayers had to pay to use ADR.



CA House, 21 Haymarket Yards, Edinburgh, UK, EH12 5BH
+44 (0) 131 347 0100
connect@icas.com
icas.com

 @ICASaccounting

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