Response from ICAS

Consultation: HMRC Charter

18 June 2020

About ICAS

1. The following submission has been prepared by the ICAS Tax Board. The Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community, which consists of Chartered Accountants working across the UK and beyond. It does this with the active input and support of over 60 committee members. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants; we represent over 22,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.

2. 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 financial system design, and to point out operational practicalities.

General comments

3. ICAS welcomes the opportunity to respond to the consultation, HMRC Charter, issued by HMRC on 24 February 2020.

4. If the new Charter is to assist taxpayers, it is essential that it sets out clear commitments to the standards of service HMRC will provide and how it will be measured against these commitments. Taxpayers will also need to be aware that the Charter exists and that they can complain if service levels under any of the standards are not met. Consideration needs to be given to how the new Charter should be publicised, when it is launched. On an ongoing basis effective signposting to the Charter needs to be put in place from other HMRC pages on GOV.UK.

5. In order to keep the Charter short and direct, the headline standards need to be kept to approximately the length in the draft. However, we believe additional detail will be essential to explain precisely the levels of service HMRC commits to provide and to set out how HMRC's performance will be measured. This additional material would form part of the Charter but should sit behind the headline standards, to be referred to as necessary.

6. Whilst the draft Charter covers several important areas, there are two key omissions which should be rectified, relating to agents and taxpayer costs; we discuss these further below.

7. The Charter Report should play a significant role in demonstrating and publicising how HMRC has performed against the standards set out in the Charter. We set out below how we believe this could be achieved. We also make some suggestions for data that HMRC may already have, or could collect, which would assist in performance measurement.

Specific questions

Question 1 – Do you think the draft charter sets the right standards for HMRC's services to customers?

Commitments not aspirations

8. It is important that the Charter should set out clear standards for HMRC's services, but the draft version falls short of achieving this. Of the seven 'standards' set out under the heading 'What we want our service to be all about' the first three are not standards at all. They are largely expressed as aims, rather than standards of service which taxpayers can expect HMRC to provide.

9. In summary they say that HMRC aims to make services accessible; to provide accurate, consistent and clear information; and to answer questions and resolve things first time. The heading itself 'What we want our service to be all about' is also aspirational rather than making clear that these are standards of service which HMRC should deliver. Of the remaining standards 'keeping your data secure' is a legal requirement so we would expect HMRC to comply with this, regardless of the Charter.

10. The first three service 'standards' ('Making things easy', 'Getting things right' and 'Being responsive') relate to core aspects of HMRC's service which are critical for taxpayers. We agree that they should be included in the Charter, but it is essential that they should set out HMRC commitments to the standards of service it will provide, rather than being vague aspirations. Where things go wrong

taxpayers should be able to hold HMRC to account, so it must be clear what HMRC should be delivering and how this will be measured. For example, the standard for 'getting things right' should begin "We will give you accurate, consistent and clear information."

11. HMRC has received feedback that the Charter should be short and direct, so the headline standards cannot be significantly longer than those in the draft. However, all of them should be presented as standards, rather than aspirations (as is already the case with some parts of the 'Getting things right' standard'). We believe that additional detail will be needed to explain precisely the levels of service HMRC commits to provide and to set out how HMRC's performance will be measured. It must be clear that this additional material forms part of the Charter, but it should sit behind the headline standards – accessible via links and potentially also available as a downloadable and printable document.

What to do when things go wrong

12. The standard on 'Getting things right' includes a reference to making a complaint and a link to HMRC's complaint process. It is not clear why this only appears in this standard – or whether it is only intended to be relevant to this standard. It should be possible for taxpayers to make a complaint under any of the standards. We suggest that there should be a separate section at the end of the Charter, with the heading 'What to do when things go wrong?', which makes this clear and includes a link to the 'Complain about HMRC' page.

13. The 'Complain about HMRC' page should explain that the Charter exists and provide a link to access it. Similar signposting and links to the Charter should also be put in place from other HMRC pages on GOV.UK. to raise awareness of the Charter.

Agents

14. The current version of the Charter includes a specific commitment (section 1.5) that HMRC will 'accept that someone else can represent you' and will deal with someone appropriately authorised to act for a taxpayer. The draft new Charter has relegated this important commitment to part of a line ('and work with anyone you've asked to act for you') in the introductory section 'Working with you to get tax right'. We are concerned that various recent developments in HMRC's systems and its approach to agents have undermined, or breached, the existing commitment; this trend needs to be reversed.

15. Tax agents are vital to the effective operation of the UK tax system; this should be properly recognised in the Charter and reflected in HMRC practice. Agents support tax compliance by helping taxpayers to get their tax affairs right; they make complex tax systems workable for businesses and individuals. Many taxpayers do not want to engage with HMRC and rely on an agent.

16. It is essential that the new Charter contains a specific commitment, similar to the one in the current Charter, which recognises a taxpayer's right to appoint an agent and to have HMRC deal with that agent (once the agent is appropriately authorised). This should mean that HMRC ensures that agents are able to see and do what their clients can see and do, so that they can act effectively on their behalf.

17. Agent access needs to be properly designed and built into all new HMRC online forms and systems from the beginning, not added as an afterthought. The ongoing failure of HMRC to do this appears to have been behind the refusal to give agents access to the COVID-19 SEISS system, which was justified on the basis that it would have taken too long to build a system with agent access. This would not have been an issue if the default position was to give agents access, in line with the Charter – rather than treating agent access as an optional extra, which inevitably means it requires extra work (and does not always function properly at the outset).

18. Taxpayers' ability to use agents is also being undermined by the increasingly onerous processes being put in pace for obtaining the taxpayer's authorisation of an agent. Separate 'digital handshakes', which require the taxpayer to set up Government Gateway accounts, are needed to give agents access to any new HMRC systems.

19. The authorisation process needs to be simplified and there should be well publicised, effective alternatives to 'digital handshakes' for those who cannot (or do not wish to) engage digitally with HMRC. Security is important but making it unduly difficult and onerous to authorise an agent undermines taxpayers' ability to exercise their rights under the Charter and leads to the adoption of insecure 'workarounds'.

Keeping costs to a minimum

20. The current Charter includes (section 1.2) a commitment 'to keep any costs to you at a minimum'. This commitment has been omitted from the draft Charter, but we believe that it should be reinstated. Taxpayers should be able to comply with their basic tax obligations without incurring significant costs. If this is impossible voluntary compliance will be undermined.

21. In the past HMRC provided free online systems suitable for dealing with most of the basic tax obligations of individuals and small businesses. However, this is rapidly changing as HMRC increasingly requires taxpayers to use third party software. We do not believe it is acceptable for HMRC to leave taxpayers obliged to incur significant costs purchasing third party software, without which they cannot meet their tax obligations.

22. Competition between third party suppliers may mean that those with mainstream requirements can obtain software at a reasonable cost but this will not necessarily be the case for those with more complex affairs or operating in small or specialist sectors where there is no mass market. Those who use assistive technologies may also find that third party software is more expensive.

23. We have also received feedback from members about problems with HMRC service levels in the last few years, which are increasing costs for taxpayers. Examples include inadequately trained caseworkers and frequent changes of caseworkers – causing errors, delays and generating unnecessary correspondence.

24. In view of these challenges, a Charter commitment that HMRC will keep taxpayers' costs to a minimum is essential.

Question 2 – To what extent do you feel the draft charter sets out the areas which are most important to customers when interacting with HMRC?

25. The draft Charter does cover some important areas but there are omissions and several standards need further clarification. We have covered two key omissions (agents and taxpayer costs) in our response to Question 1. As noted above, we do not believe that all the detail needs to be included in the headline standards themselves, as long as the additional information can be accessed from the standards and it is clear that it forms part of the Charter.

Making things easy

26. This standard covers an area which is very important to taxpayers. However, in addition to being presented as an aspiration rather than a standard – 'We aim to ensure our services are accessible' - it also fails to address some vital issues. There are legal requirements around accessibility of services, so there are minimum standards which HMRC must meet. This is particularly important now that HMRC is increasingly not providing software for taxpayers to use, so that they are forced to use third party software. HMRC should ensure that software from third party providers is accessible, where taxpayers have no choice about using it. We are aware of problems with the availability of MTD for VAT software which would work with assistive technologies – HMRC eventually tried to address this but should have ensured that accessible software was widely available, at a reasonable cost, from the outset.

27. Exemption from requirements (such as those imposed by MTD for VAT) may help some taxpayers but is not an acceptable substitute for HMRC ensuring that its systems (including those provided through third party providers) are accessible and affordable to everyone who wants to use them. MTD for VAT had been promoted by HMRC as beneficial to businesses, so some taxpayers who might have qualified for exemption (for example, because there was no suitable software for use with their assistive technology) did not want to be excluded.

28. This standard also needs to address specifically those who are digitally excluded, or who do not feel comfortable engaging with HMRC digitally. As services increasingly move online HMRC should ensure that workable alternatives are available for those who cannot use digital options, so that they can successfully interact with HMRC, without needing to seek support from family or friends (an option increasingly promoted by HMRC, but which may not be acceptable to all taxpayers).

29. As discussed in our response to Question 1 some of those who are digitally excluded, or reluctant to interact digitally with HMRC, will want to use an agent. Their right to do so should be appropriately

recognised in the Charter and by HMRC in practice – in particular the process for appointing an agent should be made less onerous and should cater for those who cannot complete digital handshakes.

Getting things right

30. See our response to Question 1. HMRC should commit to providing accurate, consistent and clear information and give details of what this means in practice and how it will measure its performance.

31. We have had reports from members of incorrect information and responses being provided by HMRC helplines and webchats. Agents' review processes may pick these up, but unrepresented taxpayers are unlikely to realise that something is wrong unless, or until, a return based on the incorrect response is challenged by HMRC further down the line. We cannot say how widespread any problems might be but we suggest that it would be useful for HMRC to carry out some monitoring and checking of the accuracy of responses provided (if it does not already do so) – we discuss this further in our response to Question 3 below.

Being Responsive

32. The opening section of the draft Charter says that HMRC will 'help you meet your tax responsibilities'. An essential feature of 'helping' taxpayers – and of 'being responsive', as outlined in this standard – is that taxpayers can access HMRC support and (where appropriate) relevant experts within HMRC quickly and easily. The current version of the Charter specifically refers (section 1.3) to ensuring that taxpayers are 'dealt with by people who have the right level of expertise'. This commitment has been dropped from the current draft, but it is an essential component of 'being responsive'. Whilst it may not need to appear in the headline standard, we believe that it should be included in the supplementary supporting detail.

33. In order to be 'responsive' HMRC needs to ensure that its 'Customer' Helplines and online forums are properly resourced and able to deal quickly and efficiently with routine questions and issues. Escalation routes for more complex matters need to work effectively.

34. In practice, feedback from our members indicates that taxpayers who are not large enough or wealthy enough to have a Customer Compliance Manager, experience considerable difficulties accessing the relevant HMRC experts and obtaining the right help and support from HMRC. This causes delays, increases costs and may mean (particularly for unrepresented taxpayers) that they cannot resolve a tax issue. Various tax charities try to fill some of the gaps, but it is important that HMRC should improve access, for all taxpayers, to the right support and expertise within HMRC.

35. This standard needs to set out HMRC's commitment to ensuring that all taxpayers (and their agents, where appropriate) can obtain answers to questions and resolve issues quickly and easily. A rather vague aim 'to answer questions and resolve things first time, or as quickly as we can' is not sufficiently specific. Whilst it would not need to be included in the headline standards, HMRC should also set out (in the related additional information), how long taxpayers should expect to wait to obtain the right support or a referral to the relevant expert – and should produce statistics to demonstrate whether these targets are being achieved.

Treating you fairly

36. We support the inclusion in this standard of the commitment that HMRC will trust that taxpayers are telling the truth, unless it has good reason to think that they are not; it is similar to section 1.1 of the current Charter (Respect you and treat you as honest). We believe it is important for HMRC to ensure that this is always reflected in its treatment of taxpayers. It should be an integral part of treating taxpayers 'in line with our values of respect, professionalism and integrity' (the penultimate standard).

37. Where HMRC does believe that it has good reason to think that a taxpayer is not telling the truth it is important that it explains why, at the beginning of any engagement with the taxpayer. In addition to providing explanations, HMRC communications linked to its campaigns (or other initiatives affecting large numbers of taxpayers) should also be properly targeted – we have had numerous reports of problems caused by poorly targeted HMRC communications such as 'nudge' letters. Some of these imply that the taxpayer's compliance is unsatisfactory but have been sent to compliant taxpayers, causing concern and disrupting the relationship between the taxpayer and their agent.

38. There have been discussions with HMRC at the Compliance Reform Forum about problems with the tone HMRC sometimes adopts in compliance interactions with taxpayers. We are aware that in this area, HMRC is undertaking work on professionalism and the 'customer' experience, including the development of professional standards for HMRC caseworkers. We hope this will result in a more consistently satisfactory approach.

39. We also have reports about issues with the tone of communications coming from elsewhere in HMRC. The starting point appears to be an assumption that the taxpayer is seeking to avoid tax or doing something wrong. These include:

    - VAT policy team initiatives (rolled out via CCMs and VAT officers): the taxpayer is assumed to be doing something wrong and problems are compounded because the policy team will not engage directly the taxpayer or their agent when explanations are provided.
    - Requests for special partial exemption methods are sent to the Tax Avoidance and Partial Exemption group, i.e. the assumption appears to be that avoidance must be behind any request.
    - The valuation office presuming that a large corporate was 'trying it on', in spite of supporting documentation and third party information being supplied.

    It is essential that all parts of HMRC consider their approach to taxpayers – and modify it, where necessary, to reflect the standards set out in the Charter.

40. It may be difficult to measure HMRC's performance against this standard (and against the penultimate one relating to respect); measuring behaviour can be difficult. We discuss one possible approach to measurement in our response to Question 3.

Question 3 – How would you like to see HMRC measure and monitor how it is performing against the charter, including how it can best listen to feedback and take action on areas for improvement?

41. The Charter Report should play a significant role in demonstrating and publicising how HMRC has performed against the standards set out in the Charter.

42. As set out in our responses to Questions 1 and 2 we believe it is important that the new Charter sets out HMRC's commitments to the service levels it will provide, how its performance will be measured and makes clear that taxpayers can complain where any of the standards are not met. The Charter standards should be highlighted on the 'Complain about HMRC' page and on other HMRC pages, with links to the Charter. Complaints from taxpayers should be monitored and analysed and a summary of key issues and how HMRC intends to address them should be included in the annual Charter Report.

43. The 2018-19 Report did not include a detailed assessment of HMRC's performance against the Charter due to the switch from the old Charter Committee to the new one. It did however list a number of sources of information, including the annual 'customer' survey and the Adjudicator's Office. We consider that these will remain useful.

44. HMRC should also consider whether it already has, or could collect, other data which would assist in measuring its performance against specific Charter standards. We set out below some suggestions for data which might be useful.

45. Feedback from our members indicates that data on HMRC's performance which is already published needs to be made more accessible and its existence and location should be publicised. There is a lack of awareness of what is currently available and how to find it. The Charter Report might be one way of raising awareness and providing links to important performance data.

46. HMRC's Annual Report already brings together some data but, in our experience, there is limited awareness of the Report; some people who were aware of it felt that it presented an unduly 'rosy' picture, which did not entirely reflect taxpayer experience. Some of the data which currently appears in the Annual Report could be used to support improved reporting of HMRC's performance against the Charter standards in the Charter Report.

47. The standard 'Getting things right' is very important to taxpayers. As noted in our response to Question 2 we have had reports from members of incorrect information and responses being provided by HMRC helplines and webchats. We do not know whether HMRC already monitors or carries out any checks

on the accuracy of responses provided. We suggest that it would be useful if it did – and published an analysis in the annual Charter Report. This would help to demonstrate whether there are widespread issues with accuracy – or perhaps problems with some areas of tax, or specific helplines.

48. HMRC records and makes available statistics for the time taken to answer telephone calls and to deal with post. However, other statistics on how HMRC deals with taxpayers would be useful. Members have raised concerns with us that agents and taxpayers are given tight deadlines to respond to HMRC – in some circumstances with penalties for non-compliance – but HMRC are not accountable for their long delays in dealing with cases.

49. As outlined above we have also had reports from members about problems arising from inadequately trained HMRC staff, frequent changes of HMRC caseworkers and difficulties accessing the right HMRC expertise. These can cause lengthy delays – examples mentioned to us include cases where HMRC has taken months to deal with information provided. This is particularly frustrating where HMRC has set a short deadline for the taxpayer to supply the information in the first place.

50. In measuring its performance against several of the standards in the Charter it would be helpful if HMRC published more data – and an analysis in the Charter Report – showing how long it takes HMRC to deal with technical enquiries and enquiries into returns. As noted in our comments on 'being responsive' above, we also believe HMRC should set out how long taxpayers should expect to wait to obtain the right support or a referral to the relevant expert – and produce statistics (also to be included in the Charter Report) to demonstrate whether these targets are being achieved. As part of monitoring taxpayer complaints, specific attention should be paid to where and why significant delays are occurring; this would assist in identifying solutions.

51. It may be difficult to measure HMRC's performance against the standard 'Treating you fairly' and the penultimate standard relating to respect because it is difficult to measure behaviour. We are aware that as part of its work on professionalism referred to above, HMRC has run a trial of 'customer' exit surveys, issued to taxpayers at the end of compliance checks.

52. Consideration should be given to extending exit surveys to other areas of HMRC's work. The wording of some of the questions in the surveys should be linked to the relevant Charter standards. An analysis of the responses (divided according to the type of work they relate to) should be included in the annual Charter Report. HMRC should also set out how it intends to address any consistent problems identified through analysis of the survey responses.