

Getting the right result

Mala Kapacee runs the rule over HMRC's efforts to improve dispute resolution

HMRC recently issued a consultation on improvements to the dispute resolution process (closed on 7 July 2025) suggesting ways of streamlining the process. According to the consultation, 12,368 appeals were sent to Tribunal in the year to 31 March 2024. In that year, there were 47,250 appeals in progress and only 1,500 were decided. Looking at these figures it is clear there is a huge backlog of cases in the court system, and it is in everyone's interest to streamline the dispute resolution process.

With more and more taxpayers drawn into filing tax returns, more people are going to come under enquiry. Further, financial crime has increased in complexity over the past 20 years, with more complex financial systems, more international organised crime, cryptocurrency and – dare I say it – AI. Unfortunately, the crime fighting forces have not moved at the same rate as the technology or the criminals.

Over the years, HMRC has developed different approaches to prevent and address tax fraud (e.g. nudge letters, addressing MTIC fraud at its source by tightening up registration rules and working with the insolvency service to disqualify directors). However, any government body working within the law will always be playing catch up to those evading taxes, whether tax evasion is part of a wider criminal network or whether it is the end goal.

In order to move resources towards the more serious and higher value tax evasion, HMRC must find efficient and effective means of resolving the lower value, simpler interventions where taxpayers are looking for closure. At the moment, HMRC appears to focus on the 'smaller fish' and this is likely to be a resourcing issue (more staff are needed for more complex cases) and because the smaller fish do not always have the resources to fight back.

Important safeguard

HMRC is under pressure to collect taxes and, as people are caught in the Tribunal backlog, tax collection is delayed because with most direct tax cases (and in some cases indirect taxes) the taxpayer can request debt collection is postponed pending resolution of the appeal. This is an important safeguard for taxpayers as, in some cases, the value of the dispute means that if the tax is payable upfront, the taxpayer may not be able to afford representation. This safeguard should be retained. With cases heard at a rate of 1,500 per year and where a small minority (usually worth significantly more) may end up in the Court of Appeal or the Supreme court, HMRC may be waiting decade(s) to collect the money.

Some taxpayers are happy with the 'tax deferred is tax saved' approach, but since the late tax payment interest rates have increased to 4% over base rate these taxpayers will likely be in a minority. Most clients want the matters dealt with quickly and correctly.

So, what can be done to move matters along such that there is a mutually agreeable settlement for all parties before having to go through Tribunal?

In the consultation, HMRC is specifically looking at avoiding appeals to the First tier Tribunal by encouraging use of Statutory Reviews (SRs) and Alternative Dispute Resolution

(ADR). The consultation suggests that these options are not as popular as HMRC may like as taxpayers (especially those who are unrepresented) are unaware of these options – and those who are aware of them do not trust they are independent.

An article on the [gov.uk](https://www.gov.uk) website states: “As a result of recommendations by the House of Lords and the Office of Tax Simplification, HMRC has made... improvement to the reviews process. Examples of improvements are better signposting of the process and benefits of statutory reviews to the taxpayer in HMRC letters, guidance and in [GOV.UK](https://www.gov.uk) information. Changes have also been made to the process to improve impartiality by routing requests for review directly to the review officer. Other communication methods to explain the benefits of the review include a series of YouTube videos. This has encouraged the use of statutory reviews as an effective means of resolving disputes and has resulted in an increased take up of the statutory review.”¹

We are not told by how much the take up of SR has increased and whether this is in relation to particular types of enquiries. Nonetheless, the increased take up is positive.

The major issue that comes up time and again is trust in the process. For SRs, once clients are made aware of the option, they are happy to go down this route because it doesn't cost them anything. There is an element of scepticism in the process as around 80% of cases that go to IR are upheld ([see recent HMRC EIP article](#)). The issue of trust is something that has occurred due to the approach of HMRC staff in relation to complex enquiries, as well as how taxpayers' enquiries are dealt with on the phone.

Trust would also be increased if HMRC picked up the phone within a few minutes. People will trust a department that responds, regardless (up to a point) of whether their problem is solved. For example, if a person promises to call you back and then they actually do (it does sometimes happen!), this would go a long way to improving trust in HMRC. Even if the initial call handler was unable to resolve the matter, it shows integrity. This needs human resources HMRC does not have.

Improving trust

With the increased push to digital channels, rather than considering further ways of improving trust in these processes the consultation simply goes on to ask: “How should digital appeal routes for taxpayers looking to pursue dispute resolution with HMRC be designed?” and “How could the dispute resolution process best be streamlined and integrated with digital services?” This is an interesting one. Those of us who specialise in tax investigations and do not provide additional accounting or tax compliance services do not have access to clients' HMRC portals. The digital services we use are mainly the digital disclosure service or online print-and-post forms. We also do not currently need to use our agent portals.

Rather than trying to design digital appeal routes, HMRC could focus on dealing with issues in a timely manner. There would be no need to update the online system to tell us

¹ <https://www.gov.uk/government/consultations/the-tax-administration-framework-review-improving-hmrcs-approach-to-dispute-resolution/the-tax-administration-framework-review-improving-hmrcs-approach-to-dispute-resolution?#reforms-to-improve-support-and-guidance-for-customers-going-through-a-compliance-intervention>

where the query is. In a sense, attempting to link the process to online channels is simply creating more work – without solving the problem.

For example, HMRC's website states that applications for ADR will be dealt with within 30 days. We submitted one at the beginning of June and at the time of writing (end of July) have still not received a response. As a result, we have had to waste our and HMRC's time to find out what is happening, because there are other matters that depend on the ADR. Again, the answer to this is resourcing, at least until digital channels work. HMRC's error is that they have tried to move everything digital and taken away the human resources before ensuring that the digital channels are fit for purpose.

Further, where HMRC interventions are in progress, these are currently not logged on an online portal and it is unclear how putting this online would streamline the process. It is also unclear what the benefits to digital channels are when currently, the representative simply has to apply for SR directly to the case officer or solicitor's office or for ADR via an online form sent to the ADR team.

In the consultation, HMRC are looking to streamline processes for resolution of enquiries by removing steps; for example, "remove view of the matter letter and replace with an informal pre-decision letter". The view of the matter letter is formal and the terms of the letter (deadlines for responses) are legislative. Removing this step effectively extends timelines for HMRC to respond, whereas before HMRC would have to provide a view of the matters within a set timeframe.

Removing these processes is unlikely to prevent cases going to tribunal. It may speed up the process to get there though!

ADR is an extremely useful tool and HMRC is correctly looking to promote it. There needs to be some basis for encouraging taxpayers to use the mediation service. Whilst currently it is cost effective (not free, as taxpayers will usually prefer to have some representation with them), many taxpayers prefer not to "waste" time and energy if they believe that the process is biased in HMRC's favour and the taxpayer will in any case end up going to Tribunal.

It is particularly interesting to see that on the one hand HMRC is looking to encourage take up of ADR, but on the other hand the very last question in the consultation is: "Is it feasible for HMRC to charge the taxpayer for using the ADR service?" Yes, if you want them to stop using it.

HMRC should not under any circumstances charge taxpayers to resolve a dispute!

Alternatives

ADR is a great option for resolving HMRC disputes and we fully support simplifying the application process and aligning process between direct and indirect tax routes. In order to increase trust in the process, HMRC can make it independent by simply not having the mediators on HMRC payroll. In any case, where taxpayers wish to appoint a co-mediator, the cost is shared. So why not simply appoint a co-mediator at the outset? If ADR is as successful, as HMRC suggests, then surely the cost of appointing a co-mediator will outweigh the cost of going to Tribunal and the taxes would be paid quicker.

Streamlining enquiry processes should mean addressing the issues (from both sides) within a reasonable timescale (again, for both sides). The way to do that is resourcing, resourcing, resourcing – and well-trained technical staff who can deal with issues without having to constantly refer to a ‘technical team’. In order to resolve matters we (taxpayers and advisers) need to be able to discuss technical matters with the HMRC case officer who can then agree the final settlement.

The time taken to deal with disputes is due to delays in responses far more than the enquiry processes themselves. Taxpayers go to Tribunal where there is a fundamental disagreement in interpretation of legislation (technical cases) or where they believe HMRC has an entrenched position and/or is being unreasonable (e.g. reasonable excuse). And, in some cases, the taxpayer is trying their luck because they believe an independent judge might be more amenable than HMRC.

Dispute resolution would be easier if all parties were on the same side and technically, we are. We are all part of society using public services which we pay for. Therefore it is in our interests to see the correct tax is paid. When HMRC opens investigations, however, there is very much an ‘us-against-them’ attitude, partly because investigations are by their nature intrusive and people do not like being questioned. But another factor is the way the investigations are (perceived to be) carried out – fishing expeditions, lack of empathy for reasonable excuse, etc., and lack of respect for the taxpayer’s right to certainty (having the investigations completed without undue delays).

The government needs to prioritise funding for HMRC, as the only governmental department that brings in revenues. If HMRC functions well, then there will be plenty of money to fund other areas. HMRC needs to use the funding for good quality training and good quality resources. And someone needs to be held accountable for it.

- Mala Kapacee CTA, Director, London Tax Network Ltd