



Chartered
Institute of
Taxation

30 Monck Street
London SW1P 2AP
T: +44 (0)20 7340 0550
E: post@ciot.org.uk

Data and Transparency: HMRC call for evidence

Response by the Chartered Institute of Taxation (CIOT)

1 Introduction

- 1.1 We set out in this paper our views on the data and information that HMRC currently publishes, and suggest where improvements could be made to what is currently published and what other data and information could be published with the aim of helping to improve trust and transparency and public understanding of HMRC's role as the UK's tax administrator and collector.
- 1.2 HMRC has recently expanded the range of performance measures and management information they publish, including debt management, customs and customer experience metric and the number of closed civil and criminal compliance checks, total prosecutions and criminal sentences and the outcomes of court decisions¹.
- 1.3 HMRC is now undertaking some work to consider what, if any, further datasets could potentially be published in a way that helps the public understand HMRC's approach to compliance.
- 1.4 The CIOT and other stakeholders represented on HMRC's Powers and Safeguards Evaluation Forum have been asked to identify:
 - how understanding of HMRC's use of its powers and the operation of taxpayer safeguards might be improved by the publication of data which is currently not in the public domain, and
 - what information it would be most important for HMRC to publish to improve trust and transparency in relation to powers and safeguards.
- 1.5 In order to gather input, HMRC has asked four questions which we address in turn on the following pages:
 1. Do you know where HMRC publishes information and how to access it?
 2. Do you think if HMRC published further data it would improve your understanding of how HMRC

¹ HMRC's quarterly reporting updates since 2016-17 are at <https://www.gov.uk/government/collections/hmrc-quarterly-performance-updates>

uses its powers and the operation of taxpayer safeguards?

3. What information do you think it most important for HMRC to publish to improve trust and transparency?
4. Why do you think this would help improve trust and transparency?

1.6 As an educational charity, our primary purpose is to promote education in taxation. One of the key aims of the CIOT is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

1.7 *Our stated objectives for the tax system include:*

- *A legislative process which translates policy intentions into statute accurately and effectively, without unintended consequences.*
- *Greater simplicity and clarity, so people can understand how much tax they should be paying and why.*
- *Greater certainty, so businesses and individuals can plan ahead with confidence.*
- *A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).*
- *Responsive and competent tax administration, with a minimum of bureaucracy.*

2 Q1: Do you know where HMRC publishes information and how to access it?

2.1 As a professional body representing tax advisers, we are interested in seeing data relevant to all aspects of HMRC's work, including both how the department's performance is measuring up to its targets as well as data specific to particular areas of the tax system or particular taxes. We are aware that this type of information is published by HMRC in a variety of places online, such as on GOV.UK and in its annual report. We generally know where to look for it because we are familiar with it, although not always. We expect however that much of this information will not be very visible to non-tax specialists, or even to most tax specialists.

2.2 We would imagine that an ordinary member of the public who is interested in seeing information about HMRC will not know how to search for it and will find it very difficult to locate. In our experience, it is easier to find this data if you know what you are looking for, and where to look, in the first place. The challenge therefore for HMRC is how to most effectively raise the visibility of the data that is published and for which audiences.

2.3 HMRC's performance targets are set out in their single departmental plan², updated on 1 October 2019. These include a number of customer-orientated measures such as call handling times and post turnaround. These measures are reported by HMRC on a monthly and quarterly basis. We are pleased to see that HMRC is collating additional data on an 'experimental' basis and we encourage that to continue so that further trends and performance factors can be identified.

² <https://www.gov.uk/government/publications/hm-revenue-and-customs-single-departmental-plan/hm-revenue-and-customs-single-departmental-plan--2#design-and-deliver-a-professional-efficient-and-engaged-organisation>

- 2.4 There is a dedicated GOV.UK 'landing page' for HMRC's quarterly performance updates with links from that page to all quarterly updates, past and present³. This page sits within the section headed 'Corporate Information'. Because we knew what we were looking for, we searched for 'HMRC quarterly performance update' and 'HMRC performance' using a well-known internet search engine and, helpfully, it was the page that appeared at the top of the list of searches. There is a similar 'landing page' for HMRC's monthly performance measure updates which contain a more limited amount of data than the quarterly updates⁴.
- 2.5 HMRC also publishes each quarterly performance update on its own GOV.UK page as a Corporate Report within the section headed 'Government efficiency, transparency and accountability'. For example, the data for the quarter January to March 2020 is on this page - <https://www.gov.uk/government/publications/hmrc-quarterly-performance-report-january-to-march-2020> - and the equivalent data for the previous quarter October to December 2019 is on this page - <https://www.gov.uk/government/publications/hmrc-quarterly-performance-update-october-to-december-2019>. Quarters before that are also each published on their own individual GOV.UK page. There are similar pages for HMRC's monthly performance updates.
- 2.6 We think that it might not be obvious to someone searching for data for a particular quarter (or month) that the 'landing pages' exist because there is no link to them from the individual pages for each quarter (or month). It might therefore be helpful to provide a link from the individual pages for each quarter (or month) back to the 'landing page'. We found it is much easier to search for quarters (or months) from the 'landing page' than by using an internet search engine to find them.
- 2.7 Data is also published in the document 'Measuring Tax Gaps' published each year by HMRC. The last report published was for the year 2018-19⁵. We note that the annual publication of this document typically already generates a lot of publicity in the press and interest from a variety of sectors both inside and outside the tax profession.
- 2.8 Data is also published in HMRC's Annual Report. The last report published was for the year 2018-2019⁶. Like the quarterly (and monthly) performance updates, it sits within the section headed 'Corporate Information' on GOV.UK. Unlike 'Measuring Tax Gaps', the Annual Report does not usually generate as much public interest. However, from our perspective, there is a lot of useful data in it particularly that which is relevant to tax disputes within the Tax Assurance Commissioner's Report⁷ - if you know where to look for it. Please can HMRC consider how to raise the visibility of this information? Can it be extracted from the report and published separately on GOV.UK? It would also be useful to be able to easily see more than two years' data at a time.
- 2.9 There may be other data published by HMRC which we are currently unaware of.
- 2.10 We would usually access the data online but recognise that it is important that HMRC can also, where practicable, provide the same data for those people who would like to access it but cannot do so online.

³ <https://www.gov.uk/government/collections/hmrc-quarterly-performance-updates>

⁴ <https://www.gov.uk/government/collections/hmrc-monthly-performance-reports>

⁵ <https://www.gov.uk/government/statistics/measuring-tax-gaps>

⁶ <https://www.gov.uk/government/publications/hmrc-annual-report-and-accounts-2018-to-2019>

⁷ See p.100 to p.113 *ibid*.

3 Q2: Do you think if HMRC published further data it would improve your understanding of how HMRC uses its powers and the operation of taxpayer safeguards?

- 3.1 Yes, absolutely. There are several areas in which data is either unavailable or only available following third party Freedom of Information Requests.
- 3.2 Additionally, we think that the presentation of some of the data that is already published could be improved. This could help make it more widely accessible. When data is presented in a way that makes it difficult to read and digest then it makes it less likely that people will look at it, and only those who are most interested in it (like us) will actually take the time to read it and analyse it.
- 3.3 The information in HMRC's quarterly and monthly performance update spreadsheets⁸ is not particularly 'user friendly', for example, and in our experience, it takes some time to compare it to the previously published data and to understand what the figures mean.
- 3.4 The monthly performance figures are accompanied by a Corporate Report which presents some of the data from the spreadsheets in a written format, which is helpful, but we could not find an equivalent written report for the quarterly updates. Would HMRC consider providing a written report to accompany the publication of the quarterly performance figures?
- 3.5 We have noticed that HMRC has recently stopped putting the monthly performance percentage targets in the Corporate Report. These targets used to be alongside the monthly performance updates in paragraph 1.2 of the written report. It looks like this change has been made for 2020-21 because the monthly performance update for June 2019⁹ shows the targets on both the tables and the graphs whereas the update for June 2020¹⁰ does not. Why has HMRC done this? By removing this information from the written report, it makes it hard to interpret the figures and gives the impression that HMRC does not want the reader to be able to compare the performance measures to their targets, even if they have been met.
- 3.6 Because we were finding it difficult to interpret HMRC's performance data, this led us last year to publish a schedule¹¹ on our website and to provide some commentary¹² on the raw figures published by HMRC. In the schedule we identify the customer-orientated performance measures such as call handling times and post turnaround and highlight how HMRC has performed against them on both a monthly and quarterly basis. We use a green and red 'traffic light' system to identify which targets have been met by more or less than 5%, and which have been missed by more or less than 5%. This document is a simple visual aid to see at a glance how HMRC is performing against these measures.
- 3.7 Often further explanations or context are required to help understand what the data is telling us. This tends to come from external specialists, like us, a lot of the time. However, unlike HMRC, we do not have direct knowledge of what is going on behind the data and often we are making 'educated guesses' about what the

⁸ The monthly and quarterly performance data is contained in excel spreadsheets. The monthly figures are accompanied by a Corporate Report which presents some of the data in a written format (for June 2020 see <https://www.gov.uk/government/publications/hmrc-monthly-performance-report-june-2020/hmrc-monthly-performance-update-june-2020>). We could not find an equivalent written report for the quarterly performance data.

⁹ <https://www.gov.uk/government/publications/hmrc-monthly-performance-report-june-2019/hmrc-monthly-performance-update-june-2019>

¹⁰ <https://www.gov.uk/government/publications/hmrc-monthly-performance-report-june-2020/hmrc-monthly-performance-update-june-2020>

¹¹ <https://www.tax.org.uk/sites/default/files/HMRC%20KPIs%20-%20April%20and%20May%202020.xlsx>

¹² <https://www.tax.org.uk/policy-technical/technical-news/hmrcs-performance-measures>

data is telling us. HMRC could consider providing more information to explain the figures they publish to help improve our understanding and also provide the information in an accessible way (eg the traffic light system referred to above).

4 Q3: What information do you think it most important for HMRC to publish to improve trust and transparency?

4.1 The information published to date in its annual accounts (particularly the Tax Assurance Commissioner's Report part thereof) and on GOV.UK (eg tax gap statistics and performance measures) should continue.

4.2 The data published in the quarterly performance updates¹³ on the 'Compliance Data – Experimental' and 'Debt – New' sheets and the accelerated payments line of the quarterly performance sheet (within the excel spreadsheet) is useful to the extent that it is not in the Tax Assurance Commissioner's Report in the annual accounts. It is also published on a more timely basis than is in the accounts which is welcome.

4.3 The sort of data that should be published but appears not to be at present is:

- **Information powers:** number of first party information notices issued, number of third party information notices issued, number of penalties for non-compliance with the notices issued to first and third parties (separately) – split between the number of fixed and tax-geared penalties, number of people sanctioned under Part 8 Sch 36 FA 2008. Statistics on the new Financial Institution Notices could be added once that draft legislation has been enacted.
- **Criminal investigations:** number ongoing at the end of a year, number started and closed in the year, number that actually result in someone being charged with an offence, number that result in a successful prosecution. Corporate Criminal Offence and the strict liability offences (s106B-D TMA 1970) should be reported on separately to the other tax offences (eg cheating the public revenue).
- **Code of Practice 8 and 9 investigations:** number ongoing at the end of a year, number started and closed in the year, number started following a voluntary approach to HMRC by the taxpayer/their agent, number closed with no more tax/interest/penalties due, average yield of the other cases.
- **Disclosure facilities** (eg Worldwide Disclosure Facility (WDF), profit diversion compliance facility etc) – number of new disclosures annually, yield thereof, number of cases passed for investigation (ie disclosures not accepted) and whether those investigations then result in more yield.
- **Enquiries/compliance checks:** number ongoing at the end of a year, number started and closed in the year, number closed with no more tax/interest/penalties due, average yield of the other cases. All split between different types of taxpayer (eg individuals, trusts, estates, partnerships, companies and between different taxes).
- **Yield** in other cases: the yield that HMRC gets from cases where the taxpayer's position is rejected or further work is needed following the HMRC Commissioners' or Tax Disputes Resolution Board (or another governance board's) decision in a particular case. In other words, is more yield ultimately

¹³ <https://www.gov.uk/government/collections/hmrc-quarterly-performance-updates>

received than the amount that was rejected or on which more work was considered necessary? In other words, is the governance process improving yield?

- **Penalties:** number of taxpayers penalised for failures to notify, late filing penalties, late payment penalties, inaccuracies in tax returns, failures to correct offshore tax non compliance, failure to pay accelerated payment notices (APNs) and follower notices (FNs), failure to comply with the General Anti-Abuse Rule (GAAR), enablers of tax avoidance etc – split between individuals, companies, trusts, partnerships; split between the behaviour categories (ie careless, deliberate, deliberate and concealed). Number of deliberate penalties transferred to company officers (eg under Para 19, Sch 24, FA 2007), number/proportion of careless error penalties suspended and number/proportion of suspended penalties that become payable because the taxpayer fails to comply with suspension conditions. Number of people placed in the Serial Tax Avoidance regime and statistics on the various measures in the regime.
- **Dealing with deliberate defaulters:** number of people in the Managing Serious Defaulters regime (MSD), number added and removed in the year, number of enquiries ongoing into people in MSD, average yield from those enquiries (tax and penalties); also similar enquiry statistics on people in the 3 and 5 years after leaving the regime (ie do people improve their behaviour whilst in the regime and does that change once they leave the regime)? Number of people whose details are published under s94 FA 2009 and similar provisions.
- **Tax debt:** of the number of people in time to pay arrangements (TTPA), percentage who meet the terms of the TTPAs and percentage who fail to meet TTPA; amounts of money covered by TTPAs during the year. Number of taxpayers subject to Direct Recovery of Debt processes and amount recovered (in absolute terms and as a percentage of the total they owed; statistics on use of bailiffs and demanding security for tax debts. Statistics on the new powers in FA 2020 should be added in due course.

4.4 The above statistics should all be published with comparatives for prior year(s).

4.5 We appreciate that HMRC may not wish to publish certain data and information if they consider it to be sensitive but it is not satisfactory that the only way at present in obtaining data about many of these areas is through third party Freedom of Information requests.

5 Q4: Why do you think this would help improve trust and transparency?

5.1 The public expects HMRC to make good use of its budget allocated by HM Treasury in order to meet its obligations of administering the tax system including conducting enquiries, investigations and debt collection. It has extensive powers to enable it to achieve those aims. It also has its Litigation and Settlement Strategy (LSS) and Code of Governance for Resolving Tax Disputes. The question is whether it is following the aims and processes set out in the LSS and Code of Governance so as to ensure efficient use of HMRC's resources and powers to achieve its aims in a fair way. Page 102 of HMRC 2018/19 Annual Report¹⁴ also says

¹⁴

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/824652/HMRC_Annual_Report_and_Accounts_2018-19_web.pdf

that its strategy is to promote compliance, prevent non-compliance and respond to non-compliance using a range of measures. Publishing detailed data on how HMRC is using its powers, following the LSS and Code of Governance would help improve transparency on how HMRC is doing against its strategy and improve trust that its use of its budget is effective and value for money (for the country as a whole) whilst being fair.

- 5.2 It could also illustrate (a) whether HMRC is using its powers and (b) whether the exercise of those powers actually makes a difference to taxpayers' behaviour in the medium term (eg do customers become more compliant after having their details published/being in Managing Serious Defaulters). This is important because if HMRC's powers are ineffective then research should be conducted on what would make them more effective so that they can be changed. The same applies to the processes (eg the governance process) ie if data shows that it could be improved then HMRC could consider how to achieve that improvement, whilst retaining fairness and improving taxpayer behaviour.
- 5.3 The additional potential benefit of transparency in publishing all these statistics is that they are likely to be publicised further (as for the tax gap statistics) thus raising awareness in the general public of HMRC's work to challenge non-compliance. This may help to persuade some non-compliant taxpayers that HMRC is investigating, seeking information and penalising etc so it is worth improving their own compliance now. In this regard we also note that the latest HMRC Individuals, Small Business and Agents Customer Survey¹⁵ includes perceptions of HMRC detecting tax evasion. Only slightly more than half of individuals (54%)¹⁶, 62% of small businesses¹⁷ and 53% of agents¹⁸ think HMRC is likely to detect it, so perhaps publishing more data and information about HMRC's compliance activity might help change these perceptions.
- 5.4 However, as already mentioned, the data needs to be publicised and published in a way that is accessible and easily comprehensible by users. The quarterly performance updates for example do not meet these criteria so we doubt that many people outside HMRC are aware of them. If people are unaware of them then they will fail to improve trust and transparency.
- 5.5 Issue Briefings such as this one about 'Ensuring the correct tax is paid'¹⁹ do help the public understand how HMRC works but these would be more effective if relevant data was published within them so it is obvious how HMRC is performing.
- 5.6 The CIOT's response²⁰ to the recent Charter consultation²¹ addressed how the publication of additional data can help demonstrate the extent to which HMRC is meeting its Charter obligations. The Charter sets out what taxpayers should expect from HMRC (and vice versa) so it is important for transparency and trust for the data to demonstrate how HMRC is performing against its Charter to be published on a regular basis.
- 5.7 As we have noted already, HMRC undertakes and publishes a number of its performance measures, but these are published disparately, and some are not published at all. We encourage HMRC to focus its

¹⁵

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/817381/HMRC_individuals_small_business_and_agents_customer_survey_2018.pdf

¹⁶ Para 1.1.2 *ibid.*

¹⁷ Para 1.2.2 *ibid.*

¹⁸ Para 1.3.2 *ibid.*

¹⁹ <https://www.gov.uk/government/publications/hmrc-issue-briefing-ensuring-the-correct-tax-is-paid/ensuring-the-correct-tax-is-paid>

²⁰ <https://www.tax.org.uk/sites/default/files/200728%20HMRC%20charter%20consultation%20-%20CIOT%20response%20FINAL.pdf>

²¹ <https://www.gov.uk/government/consultations/hmrc-charter>

performance measures around its Charter obligations, and to make these accessible from a central location on GOV.UK.

- 5.8 Finally, in order to improve trust and transparency, the data must be robust so that its accuracy can be relied upon, particularly if it is being used for other purposes. We note that the National Audit Office recently published a report on HMRC's approach to tackling the tax gap²² and identified as one area for improvement that it is not always clear how far revisions to published estimates are due to changes in the underlying data and the impact on the figures.

6 Acknowledgement of submission

- 6.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the call for evidence is published.

7 The Chartered Institute of Taxation

- 7.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT's 19,000 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

The Chartered Institute of Taxation

17 August 2020

²² <https://www.nao.org.uk/report/tackling-the-tax-gap/>