



**The Quoted
Companies Alliance**

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HMRC Charter Team
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12 May 2009

Dear Sirs,

HM REVENUE & CUSTOMS CHARTER CONSULTATION

INTRODUCTION

The Quoted Companies Alliance (QCA) is a not-for-profit membership organisation dedicated to promoting the cause of smaller quoted companies (SQC), which we define as those 2,000+ quoted companies outside the FTSE 350 (including those on AIM and PLUS) representing 85% of the UK quoted companies by number. Their individual market capitalisations tend to be below £500m.

RESPONSE

Thank you for this opportunity to provide comments on the contents of a UK Charter. Creating a beneficial and effective Charter is important for our members, smaller quoted companies, as they often do not have the resources to have a team dedicated to tax issues and liaising with HMRC such as many larger companies.

As per Paragraph 1.8 of the Consultation Document dated 3 February 2009 ("Condoc"), we have provided comments (at Section 2 below) on the specific questions set out at Appendix A of the Condoc as well as more general comments (in Section 1 below). We have also attached a suggested draft Charter building on the Condoc and comments herein, for consideration. We trust that the comments and suggested draft Charter attached are useful in helping to develop a Charter that **truly** improves the relationship, and mutual trust and confidence, between HMRC and Taxpayers/Customers as per the objectives outlined at Paragraph 3.1 of the Condoc. To this end, we would be pleased to clarify any aspect of this response and indeed to meet with HMRC representatives to discuss the contents of the draft Charter before it is reissued.

SECTION 1 - GENERAL COMMENTS

1.1 Charter to increase trust/confidence and reduce conflict

We welcome the fact that HMRC is now agreed that a new Charter would help to improve the relationship between Taxpayers/Customers and HMRC, by setting out rights and responsibilities. Respect for such rights and responsibilities should increase confidence in our tax system and reduce areas of conflict.

1.2 Overall view on current draft Charter

Regrettably, our overall view is that the Charter as currently drafted does not meet the objectives of setting out mutual rights and responsibilities in a way that will help increase confidence in HMRC. The tone of the draft Charter is confrontational and one that suggests suspicion and mistrust on the part of HMRC; for example, in the section on what Taxpayers/Customers can expect **from** HMRC, the tables are turned by the statement that Taxpayers should claim “only what [they] are entitled to”. Later in the same section it is stated that HMRC will “pursue relentlessly those that break or bend the rules”. Whilst both these statements might be fine as standalone statements, HMRC already has extensive powers to undertake these activities and, in a Charter, we think that the emphasis should be on Taxpayers’ rights and service expectations from HMRC (alongside, of course, their responsibilities). At present, parts of the draft Charter look like an enforcement document rather than a framework of rights and responsibilities which is what the material should comprise as per the question at Paragraph 2.3 of the Condoc.

1.3 Charter content

In fact, we consider that Appendix B of the Condoc (Draft Charter Components), which we understand is HMRC’s summary of comments from earlier consultation, is much closer to the contents than the draft Charter contained in Table 1. We have therefore attached it to this letter, with suggested amendments, to show what we consider a draft Charter might comprise. We trust that this approach will be seen as constructive, as it is based directly on the draft Charter components supplied by HMRC.

1.4 International comparisons and standards

We would also like to point out that the current draft Charter is, in tone and content, at odds with both the Australian and Irish Charters referred to at Paragraph 2.2 of the Condoc. Also, it does not contain much of what the OECD’s Model Taxpayers Charter suggests should be contained in a Charter (eg the right to pay no more than the **correct** amount of tax – probably in itself a fundamental human right – something that the Irish Charter quoted by HMRC does contain). In order to ensure that the UK has a reputation for fairness and efficiency in its tax system, we hope HMRC will agree that our Charter should (especially in today’s competitive economic circumstances) be seen as at least meeting, if not exceeding, international standards.

1.5 Length of Charter

We agree that the Charter should ideally be a short document setting out Taxpayers'/Customers' Rights/Responsibilities, HMRC Service Standards at a high level and signposts as to what to do if Taxpayers/Customers want more information or are dissatisfied with HMRC's approach. Referring to Paragraph 3.4 of the Consultation, the Charter does not however have to be just one page of A4 – it could extend to up to two pages like the Irish Charter or the Australian overall summary Charter without sacrificing the objectives of brevity and setting out principles at a high level. To ensure that we have a Charter that really is useful and increases mutual trust/respect, it seems to us to be more important for it to have the right tone and balance rather being of a strict length.

1.6 Responsibility for preparing and reviewing the Charter

As will be clear, we are concerned to have a Charter that engenders mutual confidence between HMRC and Taxpayers/Customers. In this respect, we would suggest:

- That the **responsibility** for the final contents of the Charter should not rest with HMRC, but rather with an independent body which takes representations from both HMRC staff and Taxpayers/Customers. As a general principle, in a democracy, there needs to be a clear separation between those responsible for setting policy (eg the content of the Charter) and those tasked with implementing policy (ie HMRC).
- Secondly, it seems likely that circumstances and the needs from a Charter will change over time. Therefore, it is suggested that, from the outset, a commitment to review its contents and operation is built into the Charter. This would demonstrate a real commitment, by both HMRC and Taxpayers/Customers alike, to ensuring that we have a dynamic and relevant Charter that meets current needs and expectation. We note that the Australian Charter, often held out to be an example of good practice, has such a commitment.

1.7 What the Charter is called

The name of the Charter, whilst appearing to be cosmetic, will be of real significance in terms of setting the tone of the relationship between HMRC and Taxpayers/Customers. We strongly recommend that it is **not** called a "Charter for HMRC" or "HMRC Charter" as this misses the whole point of why Taxpayers have been lobbying for a Charter for so many years since the previous Inland Revenue Charter was effectively withdrawn. The international precedents quoted by HMRC itself at Paragraph 2.2 of the Condoc are either called "The Taxpayers' Charter" (Australia) or the "Customer Charter" (Ireland). The OECD uses the name "Taxpayers' Rights & Obligations". None of them place the Tax Authority at the centre. We should remember that in our democracy HMRC acts on behalf of, and is funded by, Citizens and Taxpayers. It seems appropriate therefore that they should be at the centre of the Charter. We recognise that HMRC prefers the phrase "Customer" instead of "Taxpayer" as it interacts with, for example, tax credit claimants. As a balance, therefore, we would suggest a name such as "Taxpayers' & Customers' Charter".

1.8 Overarching statement

We note that HMRC is keen to include an overarching statement in the Charter. This is fine provided that it is balanced and unbiased. The current draft is arguably misleading and judgemental, eg it says HMRC “makes sure” that money is available to fund UK public services – of course HM Treasury raises funds in many other ways too and those funds are used to fund, for example non UK public services such as foreign aid and overseas armed conflicts. We suggest that some balance ought to be included (as per the Australian and Irish overarching statements) so that the statement is not seen as an introduction to an enforcement document, eg by having some content regarding HMRC’s responsibility also to deliver an efficient and fair administration. In the draft Charter attached, we have made some suggestions which are hopefully helpful.

1.9 Some missing key components

Some key components, that we consider are vital in a Charter and currently appear to be missing from the draft Charter, are listed below and included in the draft Charter attached. These are largely drawn from the OECD guidelines:

- Taxpayers’/Customers’ obligation to pay taxes on time
- Taxpayers’/Customers’ right to only pay the correct amount of tax
- HMRC’s obligation to provide an efficient and accountable administration
- HMRC’s expectation to be informed about anyone not paying or claiming the right amounts

SECTION 2 – SPECIFIC QUESTIONS AT APPENDIX A OF CONDOC

We have provided below comments on the specific questions at Appendix A of the Condoc. These comments should be read in conjunction with the General Comments in Section 1 above and the suggested draft Charter attached.

Q 2.3 Does this draft contain the right material to stand alone as a single accessible document setting out the rights and responsibilities of individuals and businesses?

As set out at 1.2 above, the draft falls significantly short of “setting out the rights and responsibilities” of individuals and businesses. Whilst we agree that a short, stand alone document (of up to 2 A4 pages – please see 1.5 above) is highly desirable, it needs to be more balanced than the current draft. We consider that Appendix B of the Condoc (Draft Charter Components) is actually much closer to what a draft Charter should comprise. It is also much closer to the international examples quoted by HMRC at Paragraph 2.2 of the Condoc, and we would encourage HMRC to seek to follow the tone and content of both those Charters. We also strongly recommend that the Charter is called “Taxpayers’ and Customers’ Charter” rather than “HMRC Charter” as explained at 1.7 above. This would be in accordance with previous UK precedent as well as current international practice. We also consider that any overarching statement needs to be balanced (please see 1.8 above). We have attached a suggested draft Charter building on the points in this paragraph and Section 1 above, for consideration.

Q 2.4 We recognise that you want us to be relentless in dealing with those who try to cheat the system. Does the draft Charter have the right emphasis on that point?

We would suggest that this is not the place to use emotional language such as “cheat”. Cheating the public revenue is a criminal offence and, whilst no-one would condone such actions, using such language in a Charter designed to improve relations between HMRC and Taxpayers, where often there are differences of interpretation of legislation and where the overwhelming majority of taxpayers are honest, sets the wrong tone. HMRC has significant powers, recently extended, to deal with perceived abuse and in the Charter we would suggest that positive statements are made about the honesty of Taxpayers rather than implying widespread dishonesty. We would therefore suggest, as per the attached draft Charter, some content along the lines of the Australian statement that says that HMRC will be “firm with those who try to avoid their obligations and effective in bringing them to account” in terms of expectations on enforcement.

Q 2.5 Do you think that there is an advantage in supporting the Charter with additional, more detailed information? If so, what kind of information would you like to see?

We consider that the current approach of a high level Charter with signposts to further information and procedures is appropriate. The Irish Charter contains good examples of this in its final sections and we would recommend something along those lines.

Q 3.10 Do you agree that the draft Charter is in line with your views on what it needs to contain?

As will be clear from our answers to Questions 2.3 and 2.4 and our comments in Section 1 above, we do **not** agree that the draft Charter is in line with what we consider it needs to contain. However, to be constructive, we have attached a suggested draft which is modelled on the draft Charter Components included at Appendix B of the Condoc, which also incorporates best practice from the OECD Model and the Australian and Irish Charters.

Q 3.11 Are any of the statements in Appendix B more appropriate in the draft Charter than those currently included?

As indicated at 1.3 above and in our answer to Question 3.10, we consider that actually Appendix B itself should form the basis of the contents of the Charter, amended for some points as per the attached suggested draft.

Q 3.12 Are there any statements in Appendix B which should be added to the draft Charter because they are not sufficiently covered by the current draft.

Please see our answer to the previous Question 3.11. Language and tone is all important in a Charter and our view is that the language and tone of Appendix B is likely to engender greater confidence and trust in HMRC than the current draft.

Q 4.4 We would like to hear from you if there are further activities you think it would be useful for us to undertake to increase public awareness of the Charter.

As indicated at 1.6, allocating responsibility for the Charter to an independent body would help as that body would then be responsible for increasing awareness of and obtaining feedback on the Charter. Calling it a Taxpayers and Customers Charter (section 1.7) would probably also make it more appealing for the public to engage and thereby raise awareness.

HMRC Charter Team
London SW1A 2BQ
HMRC Charter
12 May 2009
Page 6.

In addition, we would suggest that the next draft of the Charter and future versions are made available to the general public prominently in the various ways that the public has contact with HMRC, for example:

- On HMRC's website home page
- At HMRC offices
- With periodic tax returns issued for completion to individuals and businesses for all taxes
- Making a prominent note on the foot of HMRC correspondence letters
- When the personal tax return filing deadlines are publicised (eg in advance of 31 January), having a reference to the Charter in that publicity
- Business Organisations to bring it to the attention of their members

We hope this is helpful and look forward to having a further dialogue to help develop the Charter. Please do not hesitate to contact the writer for any clarification or information.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Bernard Sweet', with a horizontal line underneath it.

**On behalf of Bernard Sweet
Chairman, QCA Tax Committee**

Enclosure

SUGGESTED DRAFT CHARTER

This suggested draft Charter is based on the Draft Charter Components shown at Appendix B of the 3 February 2009 Condoc. For ease of reference, suggested deletions to the content of Appendix B are shown and suggested additions are underlined.

Taxpayers' and Customers' Charter

Overview

HMRC is responsible, amongst other matters, for collecting taxes to fund public services and for administering certain financial support for families and individuals. In discharging these responsibilities, HMRC seeks to be fair, efficient and accountable. This needs both HMRC and citizens to have mutual trust and respect based on certain fundamental rights and responsibilities. In this context, this Charter summarises those mutual expectations.

You can expect HMRC to:

Fairness

A Treat you even-handedly, reasonably and in accordance with the law.

B Treat you as honest unless we have clear reason to doubt you.

B1 Seek to collect no more than the correct amount of tax or other amounts due.

B2 Be firm with those that avoid their obligations and effective in bringing them to account.

Listen and respect

C Listen to your point of view, to understand your affairs, to be sympathetic to your needs and to explain clearly what you need to do.

D Help you to understand and make decisions about the taxes and benefits that affect you.

~~E You can expect HMRC to be~~ Be transparent and give you access to information unless the law prevents us from doing so, in which case we will clearly and transparently explain the reasons.

E1 Respect your privacy and protect information that you provide us, or that we hold about you, as confidential in accordance with the law.

Making things easy

~~F Aim to keep~~ Keep the costs of paying complying with the regulations for tax and claiming benefits as low as possible, including designing our systems so they meet your expectations for a professional, efficient and fair service.

F1 Be responsive and accountable in the way we discharge our responsibilities.

Mistakes

G Believe you will tell us if you find mistakes in our work, and we will put them right as soon as we can.

H Understand that mistakes are possible and keep an open mind when mistakes are made. In putting things right, we will take into account all relevant circumstances.

HMRC expects you to:

Fairness

A Be honest in your dealings with us.

B Help us and others by telling us if someone is not paying or claiming the right amount.

Listen and respect

C Co-operate with us when we contact you.

C1 Treat our staff with the same level of courtesy as you would expect to receive.

Making things easy

D Give us what you believe to be the correct information we need when we ask for it and respond promptly when we communicate with you.

D1 Keep adequate records such that you can complete your returns and other declarations faithfully.

E Be responsible for completing your returns on time with what you believe to be true and up to date information.

E1 Pay your taxes and other amounts when due.

F Take responsibility for finding out about your tax and benefits.

Information, Review and Appeal

The following provide further information about HMRC services standards and complaints/appeals processes if you are dissatisfied with our service:

[To insert]

The contents of this Charter will be reviewed periodically to ensure it remains relevant to changing circumstances. If you have any feedback or comments on the Charter please send it to[.....].