

Modernising Tax Debt Collection from Non-Paying Businesses – HMRC Call for Evidence¹

Response by the Chartered Institute of Taxation

1 Executive Summary

- 1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.
- 1.2 It is welcome that this is a call for evidence, so an early-stage consultation. It appears that the government is gathering evidence on changes in business practices with a view to ‘future proofing’ its debt recovery powers. We would therefore expect to see further consultation, based on the evidence gathered, before any specific measures are announced.
- 1.3 Our impression from reading the call for evidence is that there is little actual evidence of abuse and that, in the small minority of cases where intentional non-payment is evident, the answer is for HMRC to use their existing powers more fully. So, for example, for a business that chooses not to pay, use Direct Recovery of Debt (DRD), take control of goods, or use security deposits.
- 1.4 While it is not clear to us that any extension of HMRC’s powers to target this small minority of businesses is necessary, if any extension were to be considered in the future it must be subject to appropriate safeguards and oversight. In the Appendix we set out the CIOT’s 10 principles against which we consider HMRC’s use of its powers, sanctions and safeguards and any proposed powers, sanctions and safeguards should be compared.
- 1.5 In order to help establish the level of tax debt that is outstanding and from which businesses, HMRC should improve their IT systems so they are updated across the board as soon as the taxpayer has made their tax payment or agreed a Time to Pay arrangement. There are too many examples of people having paid, or agreed

¹ Modernising Tax Debt Collection from Non-Paying Businesses Call for Evidence

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037283/HMRC_call_for_evidence_modernising_tax_debt_collection_from_non-paying_businesses.pdf

time to pay, etc. but still being chased for the money, because HMRC's systems do not appear to be joined up, or not updated in real time.

- 1.6 The new VAT penalty regime that is being introduced in January 2023, and extended to income tax in 2024 and 2025, may help deal with non-payment of taxes. We recommend that the impact of the new regime is appraised before making any further changes to HMRC's debt recovery powers.
- 1.7 The call for evidence refers to the government's discussion document published in March 2021 'Preventing and collecting international tax debt'². In our response³ to the discussion document at para 1.3 we made several observations and suggestions which we thought would help in the prevention and collection of international tax debt, including copying letters pursuing international tax debts to a person's authorised UK tax agent, exploring solutions to making it easier to register, contact and pay HMRC from overseas, and improving guidance. Some of the other suggestions made in response to that discussion document may be helpful in informing HMRC's work in the current call for evidence.

2 About us

- 2.1 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. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.
- 2.2 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.
- 2.3 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.
- 2.4 Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

3 Introduction

- 3.1 The government is considering how HMRC can modernise its collection of tax debts to reflect the changing nature of the economy and new business practices, including those who conduct their business in the UK without having a presence or physical assets here. The call for evidence also seeks views on HMRC's approach to what appears to be the small minority of taxpayers who can afford to pay but do not engage with HMRC

² Preventing and collecting international tax debt – HMRC discussion document

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972310/Preventing_and_collecting_international_tax_debt_-_discussion_document.pdf

³ Preventing and collecting international tax debt – HMRC discussion document Response by the Chartered Institute of Taxation <https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/185d76dc-4b16-4aed-b814-d28ec097a220/210615%20Preventing%20and%20collecting%20international%20tax%20debt%20-%20CIOT%20response.pdf>

and hold off paying for as long as they can, forcing HMRC to resort to costly and time-consuming enforcement action.

3.2 The CIOT's stated objectives for the tax system which are relevant to this call for evidence include:

- A legislative process that 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.

4 Question 1: To what extent do businesses not hold any UK assets at their principal place of business, and do you think this will increase?

4.1 We note that internet based businesses appear to be a growing proportion of UK businesses. 'Traditional' businesses are also increasingly trading via the internet. Such businesses sometimes hold their stock at locations other than their head office, particularly where they chose to use their accountant's or solicitors' office as their head office. For the vast majority of businesses this will be for commercial rather than tax reasons. Also, the pandemic led to businesses realising that remote working can be an efficient way to operate, so they no longer need an office. If the Government implements the proposal on which it recently consulted⁴ to introduce a process for companies to re-domicile to the UK, then companies may not transfer many, if any, assets here, although they will need a UK sited head office. Consequently, we anticipate the number of businesses which hold no assets at their principal place of business will increase.

4.2 On 1 April 2019, HMRC introduced the Fulfilment House Due Diligence Scheme, a scheme targeted at non-established businesses storing stock (assets) in the UK for domestic sale, which is a sector at higher risk of non-payment of UK tax. The scheme requires the UK fulfilment house to carry out due diligence on the non-established business and it can have joint and several liability for the UK tax. It is also a criminal offence for the non-established business to trade in the UK prior to HMRC approval. We suggest that the effectiveness of these measures on levels of tax debt and its collection (pre and post 1 April 2019) are analysed so that HMRC can consider if it would be appropriate to expand the scheme to high-risk domestic traders holding assets in third party storage. But this expansion should only take place if the evidence concludes such businesses represent a particular risk to the collection of tax debt. The CIOT would not want to see such stringent conditions and additional administration in place for the general taxpayer population, who are mainly compliant.

⁴ Corporate Redomiciliation

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1028386/Corporate_Re-domiciliation_-_Consultation_on_the_Government_s_proposals_25102021.pdf

5 Question 2: What are your views on whether and how HMRC should modernise to adapt to the increase in businesses who do not hold any UK assets, in order to minimise non-payment of tax debts?

- 5.1 We are cautiously in favour of HMRC modernising their approach in this area, subject to appropriate procedures, controls and safeguards.
- 5.2 HMRC currently have an ongoing VAT 'split payment' project with the future aim that sales by non-UK businesses to UK customers will have the VAT remitted directly to HMRC at the time of transaction, rather than the supplier collecting the VAT and paying it to HMRC when the VAT return is due. Although this project is long term, this would appear to be an effective measure in avoiding the accrual of VAT debt in the first place for these types of businesses.
- 5.3 It is more difficult to feedback on possible measures for other taxes, as there appears to be no information available clarifying which taxes are creating the debts this call for evidence is targeting.
- 5.4 We note that the UK government is currently seeking to amend⁵ the Trade and Cooperation Agreement VAT and Debt Protocol (equivalent to the EU's Mutual Assistance Recovery Directive) so that the assistance request threshold is reduced from £5,000 to £1,500, in order that GB businesses will not require a fiscal representative in EU countries when using the One Stop Shop scheme for VAT. It is not clear if this will have an impact on the debt recovery position for HMRC. We do note that HMRC do not normally impose fiscal representation conditions for EU businesses when registering for UK VAT, though it is not clear if these EU businesses are accounting for a significant percentage of the tax debts being targeted in this consultation. If they are, HMRC may want to consider using their existing powers to appoint a tax fiscal representative on more occasions.

6 Question 3: To what extent do businesses make use of in-house leasing, is it more popular in certain industries/sectors than others and do you think this model will increase?

- 6.1 We do not have any insight into the extent to which businesses make use of in-house leasing.

7 Question 4: What are your views on whether and how HMRC should modernise to adapt to the use of in-house leasing, in order to minimise non-payment of tax debts?

- 7.1 If there is evidence that the use of in-house leasing is a model that is popular in certain industries and / or that it will increase, and that it is used by some businesses to prevent HMRC taking civil recovery action on the assets, then we agree that HMRC should consult on how it might modernise to adapt to this in terms of minimising non-payment of tax debts. However, in our view it is essential that evidence gathering should take place in the first instance to investigate the extent of the problem and whether this risk is real or perceived. We also note that large businesses are already subject to scrutiny via having a Customer Compliance Manager, the Senior Accounting Officer (SAO) regime, the stated approach to tax which is publicised in the Tax Strategies of large groups etc, which would mean that these behaviours should be unlikely.

⁵ <https://committees.parliament.uk/publications/8030/documents/82745/default/>

7.2 In addition to complying with the law, tax advisers who are members of a professional body, such as the CIOT, must comply with Professional Conduct in Relation to Taxation (PCRT)⁶ rules which set out the principles and standards of behaviour that all members and students must follow in their tax work. This includes fundamental principles such as integrity and professional behaviour, and adhering to the standards for tax planning⁷ under which a member must not: 'promote tax planning arrangements or structures that i) set out to achieve results that are contrary to the clear intention of Parliament in enacting relevant legislation and/or ii) are highly artificial or highly contrived and seek to exploit shortcomings within the relevant legislation'. If CIOT members were to advise a taxpayer or their employer about entering into leasing arrangements with the intention of creating irrecoverable tax debts, this would be in breach of PCRT and a disciplinary matter.

8 Question 5: To what extent do businesses make use of intangible assets, and do you think this will increase?

8.1 We do not have any insight into the extent to which businesses make use of intangible assets but we would anticipate that as the digital economy and e-commerce increase the level of intangible assets will also increase.

9 Question 6: What are your views on whether and how HMRC should modernise to adapt to an increased use of intangible assets, in order to minimise non-payment of tax debts?

9.1 If there is evidence that businesses make use of intangible assets to prevent HMRC taking civil recovery action on the assets, then we agree that HMRC should consult on how it might modernise to adapt to this in terms of minimising non-payment of tax debts. However, in our view it is essential that evidence gathering should take place in the first instance to investigate the extent of the problem. We would encourage HMRC to improve their systems so they have more granular data on tax debt in order to know whether this is an issue or not.

9.2 However, we perceive that it may be practically difficult for HMRC to realise money from seizing intangible assets. The recent case publicised in the media⁸ shows that HMRC can, with the assistance of an order from a UK court, seize control of non-fungible tokens (NFTs) (digital artwork in that case). In theory courts might order other assets like domain names, goodwill etc to be placed at HMRC's disposal. However, it is unclear how easy it would be for HMRC to dispose of some of these assets to satisfy the debt. Digital NFT artwork may be able to be sold – there are global examples of such sales/auctions. But other intangible assets like goodwill and domain names are intrinsically linked to the business so may be incapable of being separated from it for a sale at any material value. The other point to consider is whether the location of the server on which the intangible is held could affect HMRC's ability to control and sell the asset to repay the debt to HMRC. If HMRC cannot obtain control of assets on overseas servers then there is a risk that those businesses which do not want to pay HMRC merely ensure that their intangible assets are located outside the UK.

⁶ This is guidance, written by seven professional bodies, including the CIOT, for their members working in tax, which sets out the fundamental principles and standards of behaviour that members are expected to follow - <https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/8cdfd33a-9726-49ce-95a5-46ddf62989d5/PCRT%20Effective%201%20March%202017%20FINAL.pdf>

⁷ PCRT Helpsheet B: Tax Advice

https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/3ef23111-39a8-4c1f-9635-4634368bb9a8/B_REWR_1.PDF

⁸ HMRC seizes NFT for first time in £1.4m fraud case BBC News 14 February 2022 <https://www.bbc.co.uk/news/business-60369879>

10 Question 7: To what extent do businesses use digital wallets, and do you think this will increase?

10.1 We do not have any insight into the extent to which businesses use digital wallets but we would anticipate that the use of digital wallets will increase as the amount of e-commerce increases.

11 Question 8: What are your views on whether and how HMRC should modernise to adapt to an increased use of digital wallets, in order to minimise non-payment of tax debts?

11.1 It is reassuring that direct recovery of debts (DRD) has been used in a restrained way (see para 2.21), considering the concerns about DRD when it was introduced, and interesting that it appears that the threat of using DRD works. We agree that it might well be worth looking into expanding DRD to digital wallets, as suggested, with appropriate oversight. But first we would suggest that HMRC undertake some research to examine if there is any evidence to suggest DRD would currently have been used to take funds from digital wallets (eg because the relevant bank account had insufficient funds but monies were held within digital wallets instead). Also, we are not sure how easy it would be for HMRC to access digital wallets eg if a cryptocurrency blockchain is not on a UK server.

12 Question 9: Do you have any views on how often businesses who can pay their tax debt repeatedly choose not to, and whether HMRC should take steps to tackle this issue?

12.1 We do not have any insight on how often businesses who can pay their tax debt repeatedly choose not to. We note that taxpayers who are in temporary financial difficulty are not within scope but we are concerned about how HMRC will tell the difference, particularly as the country emerges from the coronavirus pandemic.

12.2 In para 3.1 of the call for evidence HMRC state that this population is a very small minority of the total business population and in para 3.2 HMRC say that they do not think the problem is widespread. Given the apparent small scale of the problem, our view is that the answer is for HMRC to use their existing powers more fully rather than consider extending existing regimes.

12.3 In para 3.2, HMRC say they lack robust detailed data on the population of businesses which have the ability to pay their tax debts but choose not to do so and that they only record whether tax due is ultimately paid. We would suggest that before embarking on any further consultation, HMRC should look at changing this so they can capture the right data. This should hopefully give a better overall view of the scale of the problem and the sorts of businesses concerned.

12.4 We would support HMRC developing a more data driven approach to target their debt management activity, which they say has helped them assess how businesses have been affected during the coronavirus pandemic (para 3.3). This could perhaps involve setting out a process or series of steps that they go through to enforce debts and consider increasing the need for the taxpayer to engage with HMRC and / or agree a time to pay arrangement, otherwise enforcement action will be accelerated.

12.5 We note that the new late payment penalty regime being introduced in January 2023 incentivises the taxpayer, who is not able to pay what they owe, to enter into a Time to Pay arrangement to minimise their

exposure to late payment penalties. We would like to see what impact the new penalty regime has first before any other changes are made.

12.6 Any extension of HMRC's powers to target the small minority of businesses who will not change their behaviours (para 3.4) must be subject to appropriate safeguards and oversight. In the Appendix we set out the CIOT's 10 principles against which we consider HMRC's use of its powers, sanctions and safeguards and any proposed powers, sanctions and safeguards should be compared.

12.7 Finally, we note that it is not particularly unusual for tax advisers to take on new clients who wish to bring their UK tax affairs up to date after a period of not submitting tax returns. Some time ago, HMRC used to use its power to issue determinations⁹ in the absence of returns much more quickly after the return submission deadline passed, as well as more frequently. Sometimes taxpayers do not receive any such determinations despite not submitting returns for four years. When they then come to bring their affairs up to date the amount owed may be substantial when compared to their income. Whilst we note that the responsibility for submitting returns is with the taxpayer, from the perspective of HMRC's cashflow we consider it may be appropriate for HMRC to resume issuing determinations in the months after a submission deadline is missed. This brings a debt into charge – enabling Debt Management to start collection efforts which may be more successful than several years later (by which time the taxpayer may have spent the money or may struggle to put in place a time to pay arrangement over a period which is acceptable to HMRC).

13 Question 10: To what extent do you think expanding security deposits to include repeated, intentional non-payment would incentivise businesses to pay their future tax liabilities on time?

13.1 It is interesting to read in para 3.10 of the call for evidence that in 2018/19 HMRC considered security interventions in 478 cases but only issued nine notices. It is reassuring that security deposits were used by HMRC in a restrained way in 2018/19. Although it is not clear whether there are similar statistics in other tax years, this snapshot is helpful in providing an insight into how the threat of a security deposit can influence behaviour, ie by prompting the taxpayer into paying what they owe or agreeing to a Time to Pay instalment arrangement. However, the figures also signify that HMRC do not use the power very often, which raises a question about how great the power's deterrent effect is (for example, if businesses do not know about security deposits until threatened with one).

13.2 As noted above, our overriding impression is that HMRC should use its existing powers more fully, including using security deposits and the threat thereof, because the evidence (based on the small numbers of cases) suggests that the threat of enforcing them works.

13.3 It might be worth looking into expanding the regime as suggested in the call for evidence to cases where there is repeated, intentional non-payment. However, the existing security deposit rules appear sufficiently widely worded per HMRC's own fact sheets so as to cover this already. It is unclear how intentional non-payment would be distinguished from non-payment due to other reasons (such as temporary financial difficulty) or who would decide whether non-payment was intentional. Any extension, if introduced, must come with appropriate safeguards and oversight.

⁹ s28C TMA 1970 and Para 36 Sch 18 FA 1998, for example.

13.4 We recall that in 2018 HMRC consulted¹⁰ on extending the existing security deposit legislation to include Corporation Tax and payments under the subcontractors (CIS) scheme and following that consultation the decision was taken to proceed with the extension and legislation was introduced in Finance Act 2019 section 82. We would be interested to know what impact this most recent extension to the regime has had on compliance and what lessons can be learnt from it which might be useful in considering any further extensions to the regime.

13.5 The CIOT supports steps to protect the revenue where tax is at risk because businesses default on their tax obligations. However, that said, we recommend that prior to any further extension to the security deposit regime, and to ensure that any new powers were adequately safeguarded, HMRC commission independent research into their current approach to imposing security deposits and the effect demands for a deposit have on struggling businesses. Particularly, the use of the regime with smaller businesses which get into difficulties where HMRC, rather than working with the business to allow them to trade out of their problems, may demand a security deposit the business cannot pay. This often leads to otherwise viable businesses ceasing to trade. Such a review is particularly necessary in view of the difficulties that businesses have faced because of the consequences of the coronavirus pandemic.

14 Question 11: To what extent do you think using director's personal guarantees for businesses with a history of repeated, intentional non-payment would incentivise businesses to pay their tax debt?

14.1 In our view director guarantees are unlikely to provide enough assets for some businesses. A business can incur much more in tax debt than a director may have in assets, thus limiting HMRC's ability to recoup what is owed. In addition some directors will put personal assets in their spouse's name etc to avoid the consequences of personal guarantees.

14.2 As with security deposits, it is not clear how repeated, intentional non-payment by a company despite it having an ability to pay will be distinguished from non-payment due to other reasons (such as temporary financial difficulty). Any further use of director guarantees, if introduced, must come with appropriate safeguards and oversight.

14.3 We note that in some areas of tax, in specific circumstances, penalties can be levied on an individual rather than the business, for example, penalties for the new Plastic Packaging Tax and Senior Accounting Officer rules. HMRC could commission research to see if similar rules may be beneficial for tax debts.

15 Question 12: What opportunities are there for agents and intermediaries to play a greater role in helping their clients engage with, and pay tax due, to HMRC?

15.1 We refer to para 3.19 of the call for evidence where HMRC say they would like to hear from agents about how they could assist with tax payments, so that when returns are submitted, agents can also encourage their clients to make payments on time. We would envisage that if a taxpayer has engaged an agent to look after their tax affairs, that adviser would already be informing them about their tax liabilities and the timing of payment of these, including late payment penalties and interest, as part of their compliance services.

¹⁰ Extension of security deposit regime: Summary of Responses

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722459/Extension_of_security_deposit_legislation_summary_of_responses.pdf

Indeed, the CIOT's Professional Rules and Practice Guidelines¹¹ say at 5.9.3 'Where a member undertakes tax compliance work for a client this will normally include responsibility for keeping the client informed of the amount of tax payable, the due date for payment and drawing the client's attention to the fact that interest accrues from that date. However, a member is not responsible for ensuring that the client does actually pay the tax due.'

- 15.2 Generally it is unlikely that an agent would be involved further once they have advised their client of their tax liability and the due date for payment, or even that they would know if a client had not paid their tax unless the client approached them for specific advice or help, for example regarding setting up a Time to Pay arrangement. It is also not clear to what extent an agent's online HMRC account (including the Agent Services Account) contains up-to-date information about what tax their clients owe at any one point in time. If HMRC want to put more onus on agents, they need to recognise that a) agents' fees will increase, and b) they need to provide them with better, real-time information about what their clients owe.
- 15.3 It is generally uneconomic for agents to get involved in Time to Pay arrangements since if their client has limited funds they may not be able to afford additional advice (which is why the self-service facility¹² via gov.uk is useful). It might be more appropriate for the person to get bankruptcy/IVA/debt advice (but some of this work will fall on charities where the person has limited funds). If HMRC require agents to do more - and the client cannot afford it - the consequence could be that the agents will end up disengaging the client. After all, agents are running businesses too.
- 15.4 We are also of the view that HMRC should review and improve their IT systems. There are too many examples of people having paid, or agreed time to pay, etc. but still being chased for the money, because HMRC's systems are not joined up or have not updated in real time. Also, the information an agent can see might be different to what HMRC and the taxpayer see. We have also heard of recent cases where HMRC have lost the payment and it takes 60 working days to locate it. This may be because the client has used the bank details for a different tax to the one they want to pay or they may have put a 'typo' in the tax reference number. During this time HMRC will seek to enforce the debt, but, as far as the taxpayer is concerned, the debt has been paid. When third party debt collection agencies are appointed, the communication is worse, as it appears that the agencies have no access to HMRC's computer system and so they have no knowledge of what correspondence has been entered into with the taxpayer, or whether recent payments have been made.
- 15.5 We have heard that where taxpayers do wish their agent to intervene with debt management, the process, particularly for VAT debts, is not simple. An agent must ring the VAT helpline (often about an hour wait) and ask to be transferred to the debt management unit, so that the VAT helpline can confirm that there is a 64-8 agent authority in place. It is also more difficult now for agents to help clients with Time to Pay agreements, because HMRC insist that the taxpayer must do it over the telephone (or self-serve online) and we have had reports of HMRC staff dealing with taxpayers in a very unsympathetic way.
- 15.6 Until HMRC invest in sound technology and implement additional training on how to handle cases where the person is struggling to pay for genuine reasons (in order that HMRC meet their Charter obligations, such as treating you fairly and being aware of your personal situation), the average taxpayer will not engage easily

¹¹ [https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/f9ccd0df-8b84-4ca5-8a08-f1f05f07f5b0/PRPG%20\(Update%201.1.2021\)%20-%20Final.pdf](https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/f9ccd0df-8b84-4ca5-8a08-f1f05f07f5b0/PRPG%20(Update%201.1.2021)%20-%20Final.pdf)

¹² <https://www.gov.uk/difficulties-paying-hmrc/pay-in-instalments>

with debt issues. Making it easier for agents to intervene (where their client wants them to) would help the situation.

16 Acknowledgement of submission

- 16.1 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 consultation is published.

The Chartered Institute of Taxation

18 February 2022

APPENDIX

HMRC POWERS & SAFEGUARDS

The CIOT's 10 principles against which HMRC's use of its powers¹³ and safeguards and any proposed powers and safeguards can be compared

1. Consistent – powers and safeguards should be applied consistently across HMRC, taxes and taxpayers.
2. Fair – powers should help build trust in the tax system and achieve a fair balance between the powers of the tax authority and the rights of taxpayers¹⁴, whilst being effective in identifying and dealing with non-compliance.
3. Proportionate – powers should be proportionate to the mischief they are introduced to tackle, used in a fair and even-handed way and are not abused.
4. Evidence based – decisions about when and how to use a power or operate a safeguard must be based on the available facts and evidence.
5. Be targeted appropriately and used for the purpose they were introduced for - the policy rationale for the power or safeguard should be clearly articulated at the outset and later deviations only considered exceptionally and after consultation.
6. Certain – there should be certainty about when and how a power or safeguards will and can be used; it should be set out in statute, with easily accessible and understandable guidance to supplement it.
7. Simple - so the rules can be more easily understood by taxpayers, agents and HMRC officers.
8. Transparent and communicated effectively – so taxpayers, agents and HMRC officers can understand and are aware of what taxpayers need to do to comply with their obligations or to challenge HMRC decisions.
9. Regularly reviewed – powers and safeguards should be reviewed regularly to ensure they are up to date and being used appropriately.
10. Access to justice – powers and safeguards should be subject to appropriate oversight, including the right for taxpayers to challenge HMRC decisions via statutory review, tribunal appeal etc.

¹³ HMRC's powers are wide-ranging and cover the ability to undertake compliance checks, obtain information and documents, make decisions, raise assessments, resolve tax disputes and apply interest and penalties. As well as civil powers, HMRC have powers to prosecute taxpayers where criminal behaviour is suspected but criminal law powers are outside the scope of this document.

¹⁴ Fairness includes being inclusive. Taxpayers' rights include their rights to challenge HMRC decisions (eg via statutory review, tribunal appeal etc).