ICAEW
REPRESENTATION 50/25

THE TAX ADMINISRATION FRAMEWORK REVIEW - IMPROVING HMRC'S APPROACH TO DISPUTE RESOLUTION

Issued 2 July 2025

ICAEW welcomes the opportunity to comment on The Tax Administration Framework Review - Improving HMRC's approach to dispute resolution published by HMRC on 28 April 2025, a copy of which is available from this link.

ICAEW is a world-leading professional body established under a Royal Charter to serve the public interest. In pursuit of its vision of a world of strong economies, ICAEW works with governments, regulators and businesses and it leads, connects, supports and regulates more than 172,000 chartered accountant members in over 150 countries. ICAEW members work in all types of private and public organisations, including public practice firms, and are trained to provide clarity and rigour and apply the highest professional, technical and ethical standards.

This response of 2 July 2025 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the ICAEW Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

ICAEW
Chartered Accountants' Hall Moorgate Place London EC2R 6EA UK
icaew.com

The Institute of Chartered Accountants in England and Wales (ICAEW) incorporated by Royal Charter (RC000246)
Registered office: Chartered Accountants' Hall Moorgate Place London EC2R 6EA UK

KEY POINTS

1. The questions set out in the consultation document are very detailed. We have answered some of the specific questions in our response, but our comments are mostly set out in the form of general comments on each of the main proposals.
2. We support improved functionality for digital routes to appeal and HMRC should learn the lessons from similar earlier exercises to ensure that such routes are as user-friendly as possible for agents and taxpayers.
3. We also support alignment of appeal routes to statutory review across all heads of taxes. However, we do not agree with the proposed format set out by HMRC (as summarised in diagram 3 of the consultation document) and suggest instead that the existing direct taxes methodology (diagram 1) is used instead as the starting point.
4. We set out our reasons for preferring the diagram 1 approach in the relevant section below. In summary, we believe that this would be a more agile approach and would offer greater flexibility for HMRC, taxpayers and agents.
5. We agree that alternative dispute resolution (ADR) should be used much more frequently than it is at present. One of the most impactful ways of achieving this would be to instil in HMRC case workers a greater willingness to suggest ADR as way to resolve impasses and agree fact patterns.
6. We believe that power should be moved within HMRC from individual caseworkers to a central team in determining whether a case is suitable for ADR. This could have the benefits of reducing the amount of time spent at tribunal agreeing fact patterns or prevent such cases going to tribunal at all.
7. We believe that there is insufficient justification for charging taxpayers to enter into ADR except in very limited circumstances. In particular, we do not believe that there should be a charge where a case has gone to ADR because the HMRC caseworker has not run the compliance check properly.

ANSWERS TO SPECIFIC QUESTIONS

STREAMLINING ONLINE APPLICATIONS AND FURTHER DIGITAL APPEAL ROUTES

Question 1: How should digital appeal routes for taxpayers looking to pursue dispute resolution with HMRC be designed?

Question 2: How could the dispute resolution process best be streamlined and integrated with digital services?

8. Unrepresented taxpayers may benefit from progress in statutory reviews and ADR being shown on their personal tax account. If such a facility is introduced, then we consider that agents should be able to see equivalent information for the clients that they represent.
9. We advise that HMRC learns from past experiences of introducing digital appeal routes to provide the best-working service possible. For example, while the online portal for appealing VAT MTD penalties does allow documents to be uploaded (unlike the digital disclosure service) it is not user friendly e.g. it
    - provides an incomplete list of reasonable excuse criteria
    - does not allow users to save forms in draft and return later
    - does not allow printing of draft or actual submissions
    - does not provide submission reference numbers to confirm receipt.

10. Consequently, agents who try to use the system have to input the appeal several times – as they need to show the draft appeal to clients to get their agreement to it and check the wording is complete and correct prior to its submission. The issues also mean that the agent does not have evidence of the appeal. It also prevents agents from retaining the records so does not sit well with obligations in HMRC's Standard for Agents or Professional Conduct in Relation to Taxation (PCRT).
11. HMRC could improve its digital appeal route by:
    - enabling saving before submission
    - providing printing or PDF functionality for draft and final versions
    - issuing submission reference numbers as confirmation/evidence that the appeal got through the electronic gateway to HMRC
    - being equally accessible to agents and taxpayers
    - complying with agent standards and PCRT requirements for agents to retain records
12. It remains important that HMRC preserves postal appeal routes to ensure digitally excluded taxpayers can access statutory review etc

ALIGNMENT OF APPEALS PROCESSES

13. We believe that aligning the appeals process across all heads of tax would help to make the system simpler, more consistent and less confusing for taxpayers, agents and HMRC alike. This was considered as 'reform opportunity Q' in HMRC's call for evidence "TAFR – enquiry and assessment powers, penalties and safeguards'. We also consider that NICs should follow the same process.
14. In the call for evidence, HMRC notes that "adopting the direct tax approach across all regimes would give both the taxpayer and HMRC an opportunity to resolve matters by agreement without necessarily needing a statutory review or an appeal to tribunal". ICAEW supported this approach in our response to the call for evidence. Indeed, HMRC notes in the current consultation document that "respondents preferred the direct taxes payment requirements, which postpone payment of tax owed, as opposed to the indirect approach, which requires upfront payment in order to appeal to the tribunal, unless hardship can be proven." We are disappointed that postponement and hardship requirements are excluded from this consultation as they are a key aspect of simplifying and streamlining appeals processes.
15. We do not agree that the hybrid approach that is being proposed in the current consultation document (diagram 3) is a suitable model for appeals, for the reasons set out below. In paragraph 75 of our response to the call for evidence we noted that the direct tax model "provides an opportunity for HMRC to protect its position whilst also enabling ongoing collaborative working with the taxpayer resulting in an LSS-compliant settlement without the need to go to court." We consider that the direct tax model (diagram 1) is the model which should be adopted for all taxes and that this approach is consistent with HMRC's Litigation & Settlement Strategy.
16. The proposed process in diagram 3 starts with a pre-decision letter "if appropriate". We consider that all cases should follow a similar procedure if the full benefits of a streamlined/harmonised process are to be realised, so the letter should be mandatory. Similarly, the process should be identical regardless of whether HMRC's decision is issued by an officer or automated.
17. Cross-tax compliance checks include all cases handled under Codes of Practice 8 & 9 by HMRC's Fraud Investigation Service (FIS) and via HMRC's High Risk Wealth and High-Risk Corporate programmes. These compliance checks start with fact gathering. Due to the

cases' complexity this can take many months, if not years. HMRC officers are naturally mindful of the need to protect HMRC's position by issuing discovery assessments before assessment time limits expire. If fact finding is ongoing, such assessments are often estimated and based on little data. Too little information may be held by the officer to enable them to issue the 'pre-decision letter' envisaged by the diagram 3 process. If this letter is not issued, diagram 3 envisages that the assessment is issued with an offer of statutory review. This will force the taxpayer to either opt for a statutory review or appeal to the FTT, whilst the compliance check is still in its early stages, otherwise the assessment is finalised in HMRC's figures. This could impede FIS and other compliance teams' ability to continue their investigations as the case will move to solicitors' office. If HMRC officers wish to retain control of the compliance check then they will not be able to issue protective assessments. Time limits would expire with a consequential loss to the Exchequer and an increase in the UK's tax gap, contrary to government policy.

18. We consider that the process must be agile and flexible enough to work for simple cases just as well as complex, multi-tax cases and to work regardless of the time taken for the compliance check. Complex cases such as those mentioned above often take many years to resolve, as noted in the recent NAO report on Wealthy taxpayers which said that some cases take over 40 months to resolve.

19. We consider that the direct tax approach (diagram 1) is sufficiently flexible to work in all circumstances. This preserves the ability to issue estimated assessments, permitting the taxpayer to appeal and continue working collaboratively with the caseworker to establish facts, agree any tax liabilities and conclude the compliance checks (as envisaged under the collaborative working part of the LSS). If the conclusion is not mutually agreed then the direct tax process enables HMRC to issue a view of the matter letter and formal decision which then starts the formal appeal process (to statutory review or tribunal).

20. Large cases go through HMRC governance e.g. to the Tax Dispute Resolution Board. This can only happen after the compliance check is completed. It cannot happen whilst facts are still being established and technical interpretations explored. This is another reason why the diagram 3 approach does not work.

21. The direct tax approach can take weeks or months in simple cases, so it is flexible.

22. In addition to rethinking this proposal, the government should ensure that the right to request statutory review is retained in legislation so that taxpayers have a legal right to rely on it. Similarly, the ability to conclude contract settlements in s54 TMA 1970 should be preserved.

23. We suggest that HMRC consults operational colleagues in FIS and Wealthy whose teams conduct cross-tax compliance checks to better understand the operational impact of the proposals in the consultation document.

24. The consultation document does not reconsider the process for undertaking statutory reviews after the taxpayer requests one. We believe that further improvements could be made to the process which may improve perceptions of the process' fairness and effectiveness and which may therefore increase use of statutory review. Such improvements may include amending the letter offering a review to make it clear that taxpayers (or their agents) can submit additional information or explanations to the review officer when requesting the review (if there is anything over and above the information and documents submitted previously or if the compliance check correspondence is so voluminous that summarising its key points may help the review officer). Additionally, processes should be changed to prevent review officers consulting caseworkers once a review is requested, until after the review officer issues their decision. At present this is a key area which undermines perceptions of fairness, effectiveness and that reviews provide a 'fresh pair of eyes'.

25. Another more recent issue is that it appears relatively common for review officers to request an extension to the statutory 45-day period within which reviews must be completed (sometimes more than one extension is requested on a case). Taxpayers have little choice in practice but to accept extensions, as the legislation (s49E (8) TMA 1970) confirms that if a review is not completed in this time, then the original HMRC decision stands so the taxpayer would need to appeal to the FTT to continue contesting HMRC's view. Delays to statutory reviews may damage trust in the process and continue uncertainty for the taxpayer and HMRC alike. Ideally HMRC should provide more resource for its statutory review team but if HMRC considers that it is unlikely to meet the 45-day period in the vast majority of cases in future then it may be better to ask Parliament to amend the legislation to extend the deadline to 90 days, whilst improving internal process rules so that no more than one extension is requested before a statutory review is undertaken and the review officer's decision is notified to the taxpayer.

Question 8: To improve access to ADR, would it be beneficial to remove the requirement to notify the tribunal of an appeal, requiring acknowledgement by the tribunal, which HMRC must then be notified about?

26. Yes, it would be beneficial to remove this requirement. However, we believe it would be more straightforward to have a box to be ticked on the form when a taxpayer applies for ADR which confirms that they have applied to tribunal where this is required to keep an appeal open, rather than HMRC waiting until the Tribunal Service notifies it of an appeal and rejecting ADR applications in the meantime.

REFORMS TO IMPROVE ACCESS TO ALTERNATIVE DISPUTE RESOLUTION (ADR)

27. We support the use of ADR. It can be an effective process to resolve disputes and through which points in dispute are narrowed to shorten tribunal hearings.

28. We agree that HMRC should demonstrate that it has considered ADR before a tribunal hearing, rather than before an appeal is made to tribunal. This is in line with the FTT Practice Statement of 9 May 2025, which also makes it clear that unreasonable failures to consider or undertake ADR may result in costs being awarded against a party or a party recovering a lower proportion of their costs.

29. There needs to be a change in mindset amongst HMRC caseworkers about the use of ADR. Our members' experience in many cases has been a resistance in HMRC agreeing to its use. HMRC processes and training need to better advocate the benefits of ADR for resolving disputes and reaching consensus.

Question 14: At what point in the taxpayer journey would it be best to make this consideration? For example, when a taxpayer is first informed about their statutory time limit to appeal to the tribunal.

30. ADR must be considered as a possible solution at any point where the compliance check or other HMRC intervention has become 'stuck'. This could include:

    a) where HMRC or the taxpayer have failed to respond to the latest round of correspondence within 12 months

    b) where two or more caseworkers from HMRC have been involved in a case over a two-year period

    c) where HMRC and the taxpayer/agent have reached an impasse, with neither wishing to depart from their position.

Question 15: What would be the benefits and risks of such an approach?

31. The benefits should be the raising of the profile of ADR and its increased use to resolve disputes and shorten tribunal hearings. However, we do not believe that there would be such a big increase in the use of ADR to cause resource issues at HMRC.

Question 16: Including current provisions on ADR exclusions, what criteria would be most appropriate to refer taxpayers to ADR without overwhelming resource and capability?

32. We believe that having a set list of exclusions only serves to restrict the availability and flexibility of ADR and discourages its potential use. Instead, HMRC should introduce a new procedure where an internal team reviews each referral for ADR to assess its eligibility (with a view to presuming that ADR will be appropriate, unless there are good reasons why not). We believe that the decisions of the review team should be made available to the taxpayer/agent to ensure full transparency.
33. Ideally individual caseworkers should have less power to determine whether or not a case is referred to ADR, with more power given to a team that has a broader overview of HMRC's use of ADR and the costs/benefits involved.
34. We consider that far more use should be made of ADR to agree facts and narrow points in dispute to reduce tribunal hearing length. This should save money for HMRC and taxpayers.

Question 17: How can we best identify taxpayers who are most likely to be unaware of ADR as an effective dispute resolution tool?

35. In broad terms, these are most likely to be taxpayers who are experiencing their first enquiry/compliance check since ADR was introduced or who are not represented by an agent. In these cases, we believe that HMRC should more closely track the progress of the compliance check and suggest ADR where it appears appropriate.

Question 18: What types of impasses or queries best suit a referral to ADR?

36. We believe that any of the following situations could be suitable for referral to ADR:
    a) Where HMRC believes that a position is 'all or nothing' but the taxpayer can share more about the facts which would allow a more nuanced or negotiated position to be taken.
    b) Where the fact pattern can be better determined by sitting together in a room.
    c) Where there is currently a team approach within HMRC (eg where multiple tax specialists have been brought in and it is better to co-ordinate their input in a room in the presence of the taxpayer and their agent).
    d) Where there are multiple points in contention which need to be clarified in advance of a tribunal hearing.

Question 19: What points within the taxpayer journey are best to refer a taxpayer to ADR?

37. This could be at any point from when progress on a compliance check has stalled or an impasse has been reached, through to just before the point where the parties are submitting their bundles to the tribunal ahead of a hearing (excluding the period during which a statutory review is ongoing).

Question 21: Is it feasible for HMRC to charge the taxpayer for using the ADR service?

38. We believe that this might be appropriate where an external mediator is engaged to conduct the ADR (to cover their costs) but otherwise we do not agree with this proposal for the following reasons:

    a) It could dissuade use of ADR when it's already low.

    b) Some cases go to ADR because HMRC did not conduct the compliance check properly e.g. HMRC refused to attend meetings despite the taxpayer/agent considering that a meeting would be the most efficient way to discuss the issues in dispute. Charging for ADR in these circumstances would be inappropriate.

    c) It could reduce trust in the process.

    d) It becomes closer to the cost of going to tribunal (whereas HMRC should be promoting ADR as a lower-cost alternative).

    e) It creates a two-tier system where only those able to pay can access ADR.

Additional comments on ADR

39. There is a tension between wanting more people to use ADR and not wanting to overburden the system. It therefore seems appropriate to review existing cases first to determine which of these could be progressed more effectively if referred for ADR. Where it appears that it is not possible to use ADR in any of these cases, HMRC should confirm this to prevent inappropriate applications clogging up the system.

40. As with the number of penalties being referred for statutory review, our members observe that many cases end up in ADR because the compliance process has not been run very well by the relevant HMRC caseworker. Improving HMRC's performance in this area could help to reduce impasses and might be more cost-effective in the long run than using ADR or tribunal hearings to decide cases.

41. There are no statistics on the number of cases going to ADR split by nature of the technical issues being discussed. Could HMRC provide these so we can see what areas of compliance activity need to be improved?

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see https://goo.gl/x6UjJ5).