

draft minutes

Meeting	Police Tax Forum (<i>Direct tax session</i>)	
Date	23 September 2013	
Venue	CIPFA, 3 Robert Street, London WC2N 6RL	
Present	Julie Read (Chair) Ingrid Wright Simon Mulliner Carlos Bando Julie Diamond Ann Dobinson (by phone) Mike Chappell (by phone) Duncan Groves Stuart Hibberd Rajesh Mistry Karl Venum Tim Waterhouse Chris Lam Alison Dewhirst Julian Smith	<i>Nottinghamshire Police</i> <i>Norfolk Police</i> <i>Lancashire Police & County Council</i> <i>Metropolitan Police</i> <i>Durham Constabulary</i> <i>Cumbria Police</i> <i>Humberside Police</i> <i>RSM Tenon</i> <i>Grant Thornton</i> <i>HMRC</i> <i>BDO</i> <i>Deloitte</i> <i>Home Office</i> <i>CIPFA</i> <i>CIPFA</i>

1 **Welcome and introduction**

The Chair welcomed members and reported on a pre-meeting with forces members of the Forum held earlier in the morning. This had discussed ways to enable earlier submissions via the Forum to HMRC by gathering points from practitioners working in the VAT, payroll and other tax specialisms around the police service. In this way the various practitioner groups could partly act as feeders-in of issues and generators of action-tracker information for the Chair and Forum. The Chair apologised for delay in circulating minutes from the previous Forum meeting which had been caused by illness absence.

2 **Review of direct tax matters from the previous meeting**

- 2.1 Allowances and expenses – The Chair and Ingrid Wright would check back on useful information from Thames Valley colleagues and consider submitting points on this subject to HMRC, as part of considering the private use / home to work use of emergency service vehicles.
- 2.2 Real Time Information – this system appeared to be working well to members' knowledge.

3 **Stage 2 transition for PCC to CC and what this means**

- 3.1 Rajesh reported from the morning's VAT meeting session on plans for the Home Office and HMRC to liaise and consider forces' Stage 2 plans so far, to help HMRC understand

the potential tax implications.

- 3.2 Where a force area plans to move employees from the PCC to the CC, a likely question from such area will be whether they need to set up a separate CC PAYE employer scheme. HMRC's initial view at the meeting would be to treat this under the normal rules, so that a new PAYE scheme would be needed in such cases. PAYE references should be set before the transition of staff. The forum suggested that it was likely that in their experience it was likely that the majority of staff would be moved from the PCC to the CC and that this would raise similar issues to the Stage 1 transition where a new PAYE reference was required for the PCC. The forum members expressed the view that it would be desirable for the existing PAYE reference to move over to the CC and a separate PAYE reference be set up for the CC to avoid the issues that would have arisen from Stage 1. Rajesh stated that he would first liaise with the Home Office to establish what the likely Stage 2 transitions would involve but in view of the forum discussion raise this issue within HMRC.
- 3.3 Julie Read also asked if it was possible to have confirmation from the Home Office that the questions around Stage II and the effect on the Local Government Pension Scheme had been resolved and that the CC entity would be viewed as a scheduled body, like the PCC, and that pooled contributions would be allowed. Alison Dewhirst would discuss this subject further with Chris Lam of the Home Office and update the Forum.
- 3.4 Mike Chappell would share a related ACPO paper on LGPS and actuarial matters with the Forum, as the LGPS actuarial situation had not seemed so clear at that point. From the Humberside force area for example, looking at the career average scheme, the East Riding LGPS scheme needs an accruals basis, rather than revenue and payments basis, to be used. Humberside Police uses a 2 weeks in advance and 2 weeks in arrears payment system, meaning that a paring out calculation is needed to identify pay relating to the following financial year. Would this represent good practice from an LGPS perspective?
- 3.5 Alison Dewhirst would check with CIPFA colleagues whether the police-LGPS matter had been considered yet by the Institute's Pensions Panel.
- 3.6 Mike Chappell would share points about the police and LGPS with the Chair, for passing on to Steve Whitefield of the Home Office pensions team and for consideration by the police payroll managers' group.
- 3.7 On CIS, Ingrid Wright would prepare a submission for the Forum, to ask HMRC about whether two CIS schemes will be needed in future, or whether a PCC spending on construction could be viewed as the lead CIS body for his/her force. Another scenario to ask HMRC about in the submission would be whether a force building its own headquarters could be allowed to de-register from CIS?
- 3.8 Duncan Groves highlighted that there were likely to be changes to the CIS system and this may have an impact on any such considerations. Rajesh agreed to look into what changes were being implemented and relate this back to the Forum.

4 **HMRC update on loss of PPA issue**

- 4.1 Gradual progress is being made on this issue at HMRC, with assistance having been brought in from HMRC's pensions team.
- 4.2 HMRC will be writing to forces on a case by case basis regarding the option chosen and explaining what further information is required and /or HMRC's next action in relation to that specific customer. The pensions team was also currently considering compromise agreements that had been submitted to them.

- 4.3 Rajesh confirmed that the letter would confirm that unauthorised payments are not treated as income for the purposes of the taxes act and therefore PAYE should not be deducted at source.
- 4.4 Mike Chappell reported that the situation remained confused for forces. ACPO will look to assist matters by hosting a dial-in phone meeting on 1 October 2013 to help share information and get to grips with the situation. This will help forces to gauge where they are up to / how much further they need to go in this field. The dial-in phone meeting follows up on a briefing note from Mike for ACPO.
- 4.5 Regarding people in the unauthorised payment category, a force had submitted a request to HMRC on legal, moral and ethical grounds seeking the waiving of costs. If that force felt able to, it would be helpful if it could take part in the dial-in phone meeting.
- 4.6 RSM Tenon's view was of a stagnating situation for around 20 forces it is working with. Sponsoring employer points had been raised but dismissed. The meeting hosted at Wakefield in October 2012 had explored options for settling PPA situations, such as seeing these as officers' liabilities themselves, or as costs for forces to volunteer a settlement of, or as matters on which forces would accept a legal responsibility in some way and reach a compromise (settlement) agreement.
- 4.7 Of the 20 cases RSM Tenon is working with, around 4 are undecided, around 5-6 have settled voluntarily on a grossed up basis, with around 12 left to pursue a settlement agreement route – on these, the first one's response from the Pensions Office is awaited. (The Grossed Up and proposed Compromise Agreement incorporated the Carving Out of Lump Sums is remitted prior to the taking up of the civilian role, and Offset: netting of PAYE that had already and would be deducted if the Pensions remain as "authorised" payments).
- 4.8 Humberside is an example of a force awaiting an HMRC response regarding the sponsoring employer argument.
- 4.9 For undecided cases, event reports took up their situation – in these cases, forces concerned may prefer not to take a decision at present for fear of making what is later seen as a wrong decision.
- 4.10 HMRC apologised as it had hoped to be further along with cases by now.
- 4.11 Thinking back to clarifications made in 2012, for example about offsets and lump sums payments, compromise (settlement) agreements would take account of these aspects, to avoid double taxation situations.
- 4.12 Settlement agreements need to be full and final.
- 4.13 From forces' perspectives, a practical problem that may arise is – what to do if a finance director is unable to secure a senior officer's sign-off for an agreed resolution of a local PPA case?
- 4.14 Would finance directors feel justified in seeking to reclaim monies paid out over PPA cases from HM Treasury in due course?
- 5 It may be that a force's case going to the Adjudicator could act as a pathfinder for other PPA affected forces.
- 5.1 All forces are encouraged to participate in the ACPO 1 October 2013 dial-in phone meeting to help capture more information on the PPA situation around the country.

6 **Special Constables**

- 6.1 Rajesh explained that the Home Office had completed the following consultation (link below) and this was likely to involve devolving responsibility for approval of allowances regime to the PCC. He stated that in response to an identified risk relating to the PCC's offering rewards / or payments with an element of bounty to Special Constables, that this would change the nature of employment from volunteer to being in an office of profit. Guidance would follow.
- 6.2 <https://www.gov.uk/government/consultations/special-constables-revised-expense-and-allowance-rates>
- 6.3 Forces could raise any concerns or questions this matter raises for them with HMRC via the Customer Co-ordinator Team. HMRC would then be able to look into the detail of specific situations and whether any tax liabilities occur – for example, whether a Special Constable whose PCC paid a contribution of their Council Tax would then be seen as an employee. Rajesh explained that different forces had different arrangements in respect of applying council tax discounts and therefore the tax outcome was dependant on the facts specific to the PCC.
- 6.4 Duncan Groves highlighted that because of the current rules as highlighted in the recent guidance from HMRC it would mean that a payment direct to the Special Constable in lieu of a council tax discount would not happen. This would mean that HMRC would not obtain any tax revenues whereas taxing only the amount paid would allow police forces to meet their objectives to incentivise and reward special constables as well as bringing in some money for the Treasury. Duncan explained that he had made contact with the Home Office to see if something could be done to lobby for a change in the rules to allow a one-off exception.
- 6.5 Rajesh explained the guidance was not specific to Special Constables and therefore any such change would have significantly wider implications. Rajesh also stressed that unless the rules change PCC's needed to follow existing legislation / guidance.
- 6.6 The Chair and Mike Chappell would liaise to prepare a Forum submission asking HMRC about the tax treatment of payments to / on behalf of police service volunteers including Special Constables and police cadets, following up the meeting's discussion of aspects such as pass-through payments, PCC remittances, funding by local authorities. Alex Anderson at MOPAC was suggested as a useful contact for the Chair and Mike on the Mayor's policy for a GLA tax reduction for Specials.

7 **Update from Mike Chappell on VAT matters considered by ACPO's Finance and Business Resources Area (FRBA)**

- 7.1 The new FRBA Chair is Chief Constable Nick Gargan from Avon and Somerset Constabulary.
- 7.2 FRBA's new magazine has now been launched. Future planned articles include one on VAT applied to information supplied to insurance companies, and on PAYE and Stage 2 transfers between PCCs and CCs.
- 7.3 Current subjects of interest for FRBA include "drunk tank" fees, Corporation Tax and the two corporations sole of PCC and CC, PAYE and home-to-work mileage.

8 **Next two Police Tax Forum meetings and venues**

- 19 February 2014, to be hosted by Nottinghamshire Police - further details to follow

- Late June / Early July 2014, to be hosted by CIPFA in London - further details to follow

9 **Any other business**

9.1 Members were reminded of the following external meetings that may be of interest for Forum members:

1 October 2013 – ACPO dial-in phone meeting on loss of PPA issues (contact person: Mike Chappell)

9 October 2013 – Police payroll managers group meeting (contact person: Julie Read)

Late October/Early November 2013 – VAT police practitioners meeting (contact person: Julie Read)

9.2 Advisor firms' members of the Forum were encouraged to share details of their own conferences plans.

9.3 Salary sacrifice – how up to date are forces on arrangements for salary sacrifice schemes? A PNB note from 2008 limited these within the police service to childcare and cycling to work. In local government there are many more salary sacrifice schemes allowed. Forces interested in adding police service schemes for salary sacrifice were encouraged to contact PNB with ideas, as it was understood that the 2008 Circular could be updated to include new schemes. A practical concern to work on would be the effects on administrative aspects of final salary pensions – it seems that the LGPS is able to work around such concerns. Forces considering salary sacrifice schemes would need to consider how they would manage an individual's leaving a scheme – for example, if a scheme applied to staff funding a car that they then need to return to the force on leaving a salary sacrifice arrangement.

9.4 Pension sanction charges – Rajesh Mistry would check progress of a Durham Constabulary submission on this subject and whether it was appropriate to reply to Durham only, or to be the subject of a HMRC memo for all forces.

9.5 Section 346 – deduction of employee liability insurance / staff insurance schemes such as the ACPO insurance policy, and whether premiums are a taxable benefit. It was understood that the CPSOA would take this subject up with the Home Office.

9.6 The Chair thanked CIPFA for hosting the day's meeting sessions.