

The Information Commissioner's response to HM Revenue & Customs consultation "Improving the operation of Pay As You Earn (PAYE): Collecting Real Time Information"

The Information Commissioner has responsibility in the UK for promoting and enforcing the Data Protection Act 1998 (DPA) and the Freedom of Information Act 2000 (FOIA). The Information Commissioner's Office (ICO) is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The Commissioner does this by providing guidance to individuals and organisations, solving problems where he can, and taking appropriate action where the law is broken.

The ICO welcomes the opportunity to respond to the above consultation. In this response we shall focus on issues that have data protection and privacy implications.

The consultation document highlights the potential benefits from modernising the Pay As You Earn (PAYE) system and introducing the collection of Real Time Information (RTI). The document indicates HMRC's belief that collecting information more frequently will result in the correct tax being paid in-year in more cases, thus removing much of the administrative burden that comes along with this.

We recognise this is a fundamental change to PAYE operation and there are strong arguments for a review of the current arrangements. We of course welcome the idea of introducing a new system which proposes to reduce some of the errors that have occurred under the current PAYE arrangement however we are cautious about the introduction of a system with a significant reliance on technology which, if not implemented correctly, could have serious data protection ramifications, particularly with regards to information security.

There is a danger that with the relatively short timescales for the implementation of the collection of RTI, the fast pace required to develop the systems to support this process may lead to a lack of clarity in certain areas such as setting access controls to the data and overseeing quality and security of the data. In addition to this the increased frequency of data flow between employers and HMRC is likely to raise some further issues in terms of data quality and security. HMRC appeared to recognise the possibility that as data is combined more often and

more quickly there may be a data quality issues and referenced this in the initial discussion paper. However the current consultation document does not discuss this in any detail and we would again reiterate our advice that HMRC undertakes a Privacy Impact Assessment (PIA) in line with Cabinet Office requirements to identify any potential data risks and put safeguards in place to mitigate these risks.

We appreciate the consultation document is intended to clarify more of the detail around how RTI will be collected and used but it is concerning to note there is no further mention of the data management plan referred to by HMRC in their initial discussion document. It is hoped that this is something HMRC still intends to carry out to ensure data security plans are developed and we would be interested to review any such plan and consult further with HMRC as appropriate.

Whilst we do not have specific points to make in response to the questions listed in the consultation document there are a few issues which raise some concerns which are detailed below.

The consultation document suggests the potential for offering employers a National Insurance Number (NINO) verification service to enable employers to verify if the details employees provide match HMRC's records. HMRC suggest this would help address data quality issues. However, undertaking any sort of data-matching exercise such as this may require a PIA of its own to assess the potential data risks that may arise.

As the introduction of RTI appears to be integral to the Department for Work & Pension's (DWP) plans for the introduction of Universal Credit, it is important to bear in mind that there have been large scale data losses resulting from mass information sharing in the past and there is a need to be cautious, particularly given the timescales for the introduction of the RTI infrastructure, to ensure that data protection and privacy concerns are fully addressed before any data-sharing is introduced.

On the issue of the Centralised Deductions (CD) proposal, we note that any further development of PAYE will not be considered until RTI has been fully implemented and evaluated. We would stress that any proposed increase in the volume of information HMRC would be processing would need to be carefully considered to ensure the information is securely processed and we would welcome the opportunity to discuss this, and the implementation of RTI, in more detail with HMRC as plans progress.

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