

Response by the Information Commissioner to the HM Revenue and Customs consultation document:

'Modernising Powers, Deterrents and Safeguards: Bringing HMRC's information powers into line with international standards for tax information exchange'.

The Information Commissioner has responsibility for promoting and enforcing the Data Protection Act 1998 and the Freedom of Information Act 2000. He is independent from government and promotes access to official information and the protection of personal information. 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 Information Commissioner welcomes the opportunity to respond to this HMRC consultation document. In this response we shall focus on issues that have data protection and privacy implications.

The Information Commissioner recognises HMRC's need to bring its information powers into line with international standards for tax information exchange. Consequent from that is that the relevant provisions of the Finance Bill 2012 which will address this requirement will also apply domestically.

We have noted HMRC's preferred solution to this issue of including a new power into Schedule 36 allowing HMRC to serve a notice limited to obtaining some or all of the name, address and date of birth details in order to identify the taxpayer. It appears therefore that there may be variation in the amount of additional personal data collected by HMRC in individual circumstances. If this is to be the case, we would advise that it is particularly important to comply, in each case, with the requirements of the Data Protection Act in ensuring the collection is proportionate and justifiable.

We welcome the identified safeguards proposed by HMRC to control the use of this new power including:

- a requirement to ensure identity details are required in relation to a tax check and not for any other purpose
- verification that the information is not readily available from another source
- notices issued only to people who have obtained identity details in the course of business
- the power to be exercised only by an HMRC authorised officer



Information Commissioner's Office

Use of the new Section 36 power should always be a proportionate response to meet international standards for tax information exchange. With the introduction and use of any new powers which allow for the collection and processing of large amounts of personal data it is important to be able to satisfy the requirements of the first data protection principle that the data is processed fairly and lawfully; additionally that as far as it is practical to do so, that taxpayers are aware of how their data will be used.

Additionally, we would wish to emphasise that the additional data to be collected under the new power should be appropriate and proportionate to the purposes for which it is collected.

Overall our view is that it is in the public interest for HMRC to be compliant with international standards which in doing so will impact on domestic taxpayers. The DPA would not prevent these powers from being introduced provided HMRC can demonstrate the benefits and provide adequate safeguards.

We have noted that a Privacy Impact Assessment will be undertaken on this initiative in due course and we would be pleased to hear the outcome of that exercise. We would of course also welcome the opportunity to engage in any further discussions on this matter.