

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

'Legislative changes relating to the introduction of 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 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 also responded to the previous consultation on this issue, in February 2011. In that response we welcomed the introduction of a new system which proposed to reduce some of the errors that have occurred under the current PAYE arrangements, however we were cautious about the introduction of a system with significant reliance on technology which could have serious data protection ramifications, particularly with relation to information security.

The Information Commissioner welcomes however one of the key benefits of introducing the collection of Real Time Information (RTI) is that the personal data collected about individuals will be more accurate in that it will be current and up to date. The fourth principle of the DPA requires that 'personal data shall be accurate and, where necessary kept up to date'. The Act states that data will be considered inaccurate if it is incorrect or misleading as to any matter of fact.

The increased frequency of data flow between employers and HMRC does raise issues around data quality and security. In our previous response we advised that HMRC undertook 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 note that the attached Taxes Impact Assessment summarising the impacts of RTI does not currently include a PIA. We should be interested to hear whether such an assessment is proposed.

We are pleased that HMRC has specifically stated in the Taxes Impact Assessment section dealing with impact on business that employers will need to check and amend data about existing employees, and most importantly to train and familiarise their staff with the new processes. We should be interested to hear whether HMRC intends to provide any guidance to employers on these matters which takes account of data accuracy and security considerations. IF HMRC wishes, we would be pleased to assist in any drafting.

We note the intention of a phased introduction of RTI with a small group of employers who have agreed to take part in an initial pilot. We should be interested to hear the results of the pilot, particularly with regard to data protection, privacy and security matters.

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