Public Accounts Committee

Oral evidence: Increasing the effectiveness of tax collection: a stocktake of progress since 2010, HC 974

Wednesday 11 February 2015

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Members present: Margaret Hodge (Chair); Mr Richard Bacon, Guto Bebb, Mr David Burrowes, Stephen Hammond, Chris Heaton-Harris, Meg Hillier, Mr Stewart Jackson, Dame Anne McGuire, Austin Mitchell, Stephen Phillips, John Pugh and Nick Smith.

Sir Amyas Morse, Comptroller and Auditor General, Richard Brown, Treasury Officer of Accounts, Rob Prideaux, Director, National Audit Office, John Thorpe, Executive Leader, National Audit Office, were in attendance.

Examination of Witnesses

Witnesses: Jennie Granger, Director General Enforcement and Compliance, HMRC, Jim Harra, Director General Business Tax, HMRC, Lin Homer, Chief Executive and Permanent Secretary, HMRC, and Indra Morris, Director General Tax and Welfare, HMT, gave evidence.

Q1 Chair: Thank you very much. May I start by saying congratulations to Jim Harra, who was honoured in the new year's honours list? Well done. We did not know the last time you were before us, but congratulations on behalf of the Committee.

Jim Harra: Thank you, Chair.

Chair: Have you been to the Palace yet?

Jim Harra: On 6 March.

Q2 Chair: Enjoy.

Can I say to you, Ms Homer, that it is not for you to decide who appears in front of this Committee? It is for us to decide who we want to see. We will expect Edward Troup to be here when we have our session on 4 March, and we hope that it will not be necessary for us to take further action.

Can I move to talk in the first instance about HSBC? Because we have so much to cover, it would be really helpful if you kept your answers short. If there is a bank that actively supports a client in giving them a credit card to withdraw money from an account that it knows is an undeclared bank account, is the bank—I accept that we are taking about the Swiss private banking arm of HSBC—knowingly facilitating tax evasion or avoidance?

> ***Lin Homer:*** Thank you for that question. In relation to the information we have received in respect of HSBC Suisse, we believe that there is a lot of information about behaviours of individuals that is worthy of investigation. It is quite difficult for me to pass an absolute comment on an abbreviated version of something, but we would certainly consider individuals to be capable of committing offences when they act on behalf of their organisation and, in certain circumstances, potentially organisations.

Q3 Chair: So, can I ask the question again? In the situation where a bank actively supports a client in giving them a credit card, for them to use that credit card to withdraw money from an account that the bank knows is undeclared in the UK, is the bank knowingly facilitating tax evasion or avoidance?

> ***Lin Homer:*** It may depend on the circumstances of where the bank is and the rules which apply. We would consider all those cases and—

Chair: It is the bank. I am not talking about the individual—you have very done very little on the individual, and we'll come to the individuals in a minute.

> ***Lin Homer:*** And it may depend. So—

Q4 Chair: Would you consider taking action against the bank?

> ***Lin Homer:*** We would always consider the full range of possibilities of the evidence that is in front of us—

Q5 Chair: Are you considering?

> ***Lin Homer:*** Well, if you would like me to, I would like to tell you a little bit about what we have been doing about—

Q6 Chair: Let me ask you about the other instances that came out. We are talking about the bank, not the individuals.

> ***Lin Homer:*** I understand.

Chair: And it is the Swiss private banking arm that we are talking about. If a banker sits down with a client in a coffee shop in London and tells the client how he can withdraw $2 million in cash from an account that the bank knows is undeclared, is the bank knowingly facilitating tax evasion or tax avoidance?

> ***Lin Homer:*** Well, again, it is not territory where I am prepared to say, on a simple one or two-line description, would that person be guilty of an offence or not. If I put

this into context, when we take a case through to the CPS it takes on average 44 months for us to get to a point where the CPS considers charging. That illustrates the complexity within which we have to consider criminal proceedings, and I think it suggests a degree of superficiality about me trying to do yes or no answers to that kind of question. What I can assure you—

Q7 Chair: You have had five years to think about it, Ms Homer. You have been in the job how long?

Lin Homer: I have been in the job for three years.

Chair: You personally have had three years.

Lin Homer: If you would like me to, I would very much like to tell you what we have been doing in relation—

Q8 Chair: Let me ask you further questions. If a bank writes to a client, or many of its clients, inviting them to enter into an arrangement that is deliberately constructed to avoid a European directive that has been specifically introduced to tackle deliberate tax avoidance, is that bank knowingly facilitating tax evasion or avoidance?

Lin Homer: The answer to that is the same as the answer I gave to you before: I am not going to give a yes or no answer to a complicated question about criminal law on the back of a summary like that.

Q9 Chair: Have you been thinking about it for the past three years?

Lin Homer: Yes, and I will say again: if you would like me to, I will give you an account of what we have been doing.

Q10 Chair: Go on, tell me what you have been doing in the past three years that you don't see these very clear specifics that have been in the press.

Lin Homer: I would also quite like to remind the Committee of how often we have discussed prosecution with you, because it has been the subject of conversation on a regular basis.

Q11 Chair: If I may, Lin, I will let you say what you want to say, but I would be grateful if you actually addressed the pertinent question, not the wider issues—not the framework thing that you always tell us about, but something new.

Lin Homer: Solace is the operational name of the project that has been running to look at the information that we received through what is commonly known as the Lagarde list. We have talked about that with you on occasion—I think the last time was in autumn last year. From the moment when we received the data, which was at the end of April, our risk and intelligence group has been looking at it.

Q12 Stephen Phillips: April when?

Lin Homer: April 2010. We received the data and it was handed to our risk and intelligence unit. We have had a project team working on that, with three directors from across Jennie's business, our criminal intelligence, our special investigations and RIS, as well as deputy directors from the rest of the department . More than 300 staff were working on the project. We looked at—we have given you these figures before—6,800 entities at first pass. We believed that we had identified 3,600 individuals. We traced 3,200 of those individuals. We triaged them into three sections: those who we thought were the most serious, where we considered criminal investigation; and those who we thought were more serious but not likely to meet the criminal threshold. From the beginning, in discussion with the CPS, we were clear that we were dealing with incomplete and dirty data and an organisation that was unlikely to proffer us any more information, whereas often we will be working in a circumstance where we are able to collect more. Also, in most cases, we had no third-party corroboration. Our expectation was always that the numbers—

Q13 Stephen Phillips: You said that you triaged them into three groups; you have given us two. You have not given us the third.

Lin Homer: Yes, I am about to tell you about the third, but I am just trying to make the point that we had that in our mind from the beginning. We looked at the first number—about 150—to consider seriously whether we could mount a criminal investigation. For 500, we used our powers under our special investigation to consider whether we could pursue them for serious fraud[1]. The remainder we pursued for what would more generally be called disclosing and settling.

Q14 Mr Bacon: Which was how many?

Lin Homer: The remainder was about another 400 or 500[2].

Q15 Mr Bacon: Sorry; 150, followed by 500, followed by what?

Lin Homer: About 500. So that is about a third[3], and I think you have seen from what we have said publicly in recent days that, from that first look, we believed that about a third needed and suggested some lack of compliance. For the other two thirds, we entered into discussion and required disclosures so that we could satisfy ourselves that there was nothing more to disclose. We then proceeded to fast-track the ones in the

[1] Note from witness: in addition almost 500 entered the Leichenstein Disclosure Facility (LDF)
[2] Note from witness: Ms Homer later clarified that the numbers are rounded and of the 3 groups HMRC used their special investigation powers on 500; 500 went into LDF, leaving 200 (totalling 1100-1200)
[3] Note from witness: "of those we traced"

first section. I think that, on previous occasions, we have told you that we thought that there were possibly about 15 or so that we hoped to get through to criminal prosecution. As I have told you on a previous occasion, a number of those moved into the disclosure facility and took themselves out of prosecution that way. A number were discussed with the CPS, and, in the end, of the three that we and they felt most likely to be able to prosecute, they felt that only one had reached the test. That is the top tier.

Of the remainder, we then used—I think we may have been among the first to use—our section 62 powers under the Serious Organised Crime and Police Act. Those were new powers that were brought in—

Q16 Chair: When did those powers come in?

Lin Homer: I will remember—

Chair: When?

Lin Homer: I think it will have been towards the end of the last Government.

Chair: Pardon?

Lin Homer: Towards the end of the last Government, when the Serious Organised Crime Agency was in place. They were new powers, particularly for us, which require the provision of more information, even if it is incriminating. As a result of that work on those first two tiers we have reached settlements on all except 130 of those cases[4].

Q17 Chair: One hundred and thirty of which cases? Of the 1,100?

Lin Homer: Of the 1,100, yes, and 130 of those are still open. That has all been done under what we term Project Solace and Jennie can give you more information, if you would like. Just to be clear, we have always told you that we use the full range of our toolkits. I think on the last occasion I was here, Mr Smith accused me of looking defensive and I said it was because I was expecting the next question from the Chair to be, "Why don't you do more prosecutions?" We had a bit of a discussion about the fact that I was going to say that prosecution is only one part of what we do. That is still what we believe. It is a very important part of the toolkit, but we are after the tax, a change of behaviour and a deterrent. We believe all those things are required.

Q18 Austin Mitchell: How much did you recover?

Lin Homer: It was £135 million.

Q19 Austin Mitchell: That is less than was recovered by the French and Belgians.

[4] Note from witness: The Act came into force in 2005

Lin Homer: No, I'm sorry. The other thing that has been asserted is that we are significantly behind others. We have one successful conviction. Other than Ireland, I am not sure that anywhere else does. We have been talking to our colleagues to see and we will learn from others if we can, but we believe others are thinking about prosecutions. If you look at the relative amount of money, we think, on the numbers of names that we had, that we are in good company with all our colleagues.

Q20 Chair: No, you are not.

Lin Homer: We are.

Chair: It would be nice to have a straight and open discussion. According to the information I have got, the French have got £200 million in and they had only 3,000 names. The Spanish have got £185 million in and they had 2,900 names. So, between them, they had fewer names, accounts or whatever it is referred to them than you have, and they have managed to get in nearly £400 million and you have got in £135 million. We will come back to why you have not taken more litigation or actions against people, but if your main objective was to get in the money, you have not done as well as either the French or the Spanish.

Lin Homer: This is another discussion we have regularly: I can only collect the tax that is due. I have made the point that we believe with around two thirds of these accounts there was no money due. There are different laws in different parts of Europe about what income is taxable.

Q21 Chair: Is this the non-dom status?

Lin Homer: To a degree, yes. Therefore, that will alter the numbers. I also do not know whether the numbers you are referring to—I'm afraid I haven't had an absolute chance to check these with colleagues—cross-compare with our 1,000 or with our 3,000. Relative to those figures, again, I do not think there is a significant difference in these approaches when you take that into account.

Q22 Chair: My understanding, Lin, is that the amounts involved and the accounts for UK-based citizens, whether they are non-dom status or wholly resident here, were worth more than either the French or Spanish. Can I ask you what discussions—

Lin Homer: The account may be, but the tax due may not have been.

Chair: Pardon.

Lin Homer: The accounts may have had different or greater sums—

Chair: More.

Lin Homer: But what I am allowed to pursue is the tax due, not the amount of money in the bank account.

Q23 Chair: I have to say that when you read some of these stories, bluntly, and the ones that avoided the European savings directive in particular, it is pretty outrageous what was going on. If you could not have got them under that, I don't know. This is the first time in many of these leaks that we have seen in front of this Committee where there are really strong allegations not of egregious tax avoidance, but of tax evasion, and that is incredibly serious. For you to sit there and say, as you are doing, "Well, actually we couldn't get in the money in the same way as the French and Spanish could, and actually we did not litigate because we wanted to get the money in," although you did worse on the money, leaves me believing that you are not serving the British taxpayer—our interest here—properly.

> ***Lin Homer:*** Perhaps I could bring in Jennie, because that is absolutely not the case. I have not said that we are in any way lacking appetite. One thing that has happened in the past couple of days is that much more of this information has appeared in other places. Therefore, we have been talking again with the French. We have also asked the media. If there is more information to hand, Jennie will pursue it, and she has already put steps in place to do so.

Q24 Chair: Before we get Jennie in, let me ask you something. I understood that you were finally talking to the French authorities. Why did you not talk to the French authorities in 2010?

> ***Lin Homer:*** We did.

> ***Jennie Granger:*** If I may, Chair, we had been talking to the French throughout that period, both informally and formally, but we have only just had permission to widen the scope of this.

Q25 Chair: Who did you get that permission from?

> ***Lin Homer:*** From the French.

Q26 Nick Smith: When did you ask for permission?

Lin Homer: When did we first ask permission for the data? That was back in February 2010.

Q27 Nick Smith: So it has taken them four years to allow you permission?

> ***Jennie Granger:*** No. Excuse me, but we asked for the data in February 2010 and we received it at the end of April 2010. Immediately—

Q28 Mr Burrowes: Is that the same time as the sharing with other Governments?

Lin Homer: Earlier than some—

Jennie Granger: Yes.

Q29 Chair: Let's just get the data dates right. You were offered the data in 2008, weren't you?

Lin Homer: No. Well, that is not—

Q30 Chair: You were offered the data by Falciani in 2008.

Lin Homer: That is not what my records show—

Q31 Chair: You were offered the data. It is pretty well clear on the record. That has been around for a long time. I was going to ask you why you did not take it in 2008.

Lin Homer: As far as my records show, and I am happy to pursue if you have—

Q32 Chair: This is why I would have liked Mr Troup here—he was around at the time.

Lin Homer: No, Mr Troup was not involved in this.

Q33 Chair: Yes he was. In 2008, you were offered the data.

Lin Homer: In 2009, the French began discussions with us about the data—towards the end of 2009. In February, we formally asked for it—that was their requirement of us, because this is a treaty-to-treaty arrangement—and in April 2010 they gave it to us.

Q34 Chair: Were you offered the data in 2008?

Lin Homer: Not to my knowledge.

Chair: Mr Harra, were you? Does anyone at the table today know whether you were offered the data?

Mr Burrowes: We are distinguishing between the sharing of the French authorities and the offering from Falciani.

Q35 Chair: Yes. Falciani himself offered you the data in 2008. That is my understanding.

Lin Homer: Well, I would like you to share with us the information that makes you think that, and I will check.

Q36 Chair: It is in the public domain. You should have it.

> ***Lin Homer:*** It is not—to my knowledge, it is not in the public domain.

Q37 Austin Mitchell: You said in 2010 that you were given the data under strict conditions and that the strict conditions precluded some of the recovery and the prosecutions.

> ***Lin Homer:*** Yes, that's right.

Q38 Austin Mitchell: Now Falciani himself says that neither he nor the French authorities were approached, and that had they been approached they would have co-operated with you, as they co-operated with the tax authorities in the other countries involved.

> ***Lin Homer:*** I think that's just wrong, Mr Mitchell.

Q39 Austin Mitchell: Well that's in *The Guardian*. It must be true.

> ***Lin Homer:*** Well, there we go—who am I to say?
>
> We got the data from the French. I am in the realms of public domain knowledge here, but my belief is that when the gentleman escaped from Switzerland, there was a period of discussion and negotiation with the French, during which they themselves had to decide whether they were going to prosecute and extradite, or take and use. That, I believe, is what takes up the majority of end of 2008 through to 2009. Then discussions started between the French Government and the French tax administration and other tax administrations. At that point, I can confirm, HMRC was involved in those discussions, and after a few months of those discussions—you will know that these intergovernmental things are not instant—we formally asked—

Q40 Nick Smith: Just remind us when that was, please?

> ***Lin Homer:*** Towards the end of 2009-February 2010, we formally asked—Government to Government, it has to be turned into a formal request—and in April the information was physically handed over to us, with restrictions.

Q41 Chair: Can I just quote to you from what Mr Falciani himself said?

> ***Lin Homer:*** Please do.

Q42 Chair: Okay. This is in September 2013. "Did they"—HMRC—"ever get in touch with you?" was the question asked on one of the *Panorama* programmes. "No, never. I never heard about them and you are the first. Welcome." "Did you expect them to call you?" "Of course. I’m there to help them the best, and starting by being in contact.” “What do you think about the fact they didn’t contact you?” “I think they missed an opportunity.” Why didn’t you contact Mr Falciani?

> ***Lin Homer:*** Because we believed—we are now checking this—that we had received from our colleagues the information pertaining to UK residents, and therefore we had all of the data that he had provided. We had received that under arrangements. We have, as I have just described, been working through it, and I will say again that we remain open to receiving more information. We have never been shy about asking other sources; we do regularly take information from a range of sources and indeed, as you know because we have talked to you, we sometimes pay for that information. We have been working through the information. In the past couple of days, there have been a couple of things that have suggested there might be more. One is—I think the illustrious *Guardian* has quoted a figure which is bigger than the 6,800, so we want to see whether they have something more in terms of entities. There has also been reference—quite significant reference—to narratives and e-mails, and we want to check whether other sources are giving us more information.

Q43 Chair: A final question on this. The *Panorama* people who interviewed me for their second programme this week offered to give you all the information they had when they made the first programme, in September 2013. They offered to give it to you; they have made a number of attempts to give it to you, and up to today nobody has taken it. There was one point at which somebody rang them and said, “Of course we want it.” They didn’t hear again. They rang back that somebody, who said, “I’ve changed my job,” and they have never heard from HMRC again. You may sit there Lin, but I think you should talk to Falciani. Did he ask for money for this stuff? Did you pay him for this?

> ***Lin Homer:*** I am not aware of that conversation.

Chair: Okay. So he was a genuine whistleblower, not after money.

Mr Burrowes: Well, we’re not sure about that.

Q44 Chair: Okay, but looking at the material he revealed, it is important material. Whether or not it proves to be correct is another thing. You should have talked to him. He offered you the material. "Panorama" have offered to give their information to you. One of the reasons for my feeling of anger with you is that you sit there waiting for people to come; you do not go out and police in the way that other authorities are doing, therefore they are getting more money in, they are doing more litigation and they are defending their taxpayers.

> ***Lin Homer:*** I can feel your anger, Chair, but I think your assertions are not true. We do take—we are very proactive—

Q45 Chair: Why didn’t you take the stuff from *Panorama*?

Lin Homer: We are very proactive. I am not personally aware of any formal offer from *Panorama*. We have spoken to the BBC in the last couple of days to say that we will happily take any information from them; we have definitely worked with media sources—

Q46 Chair: Ask them for it. I don't believe they are lying to me.

Lin Homer: We have asked them for it.

Q47 Chair: You are sitting there and saying to me that when they said to me, "We offered it all," they didn't.

Lin Homer: They did not say to me—

Q48 Chair: They did, Lin.

Lin Homer: They did not say to me—

Q49 Chair: Not to you. They wouldn't have talked to you. They talked to your people.

Lin Homer: I will check if they talked to someone. The concern I would have is that I have no proof of that at the moment. If you can show that my organisation missed an opportunity, I will apologise.

Q50 Chair: You should go and seek it out.

Lin Homer: We have.

Chair: You should go and seek it out. That's your job.

Q51 Chris Heaton-Harris: We have done the marriage brokering bit now, because you want the information and you, Chair, say *Panorama* want to give it. Maybe after this, you could have a nice conversation with them.

Lin Homer: We have already been in touch with the BBC.

Q52 Nick Smith: Why didn't you get in touch in 2013, after the first programme?

Lin Homer: I would just go back. All of the anger is based on an assumption that we have not received and activated, and we think we have. All of that work I have described has looked, we think, at least at the bulk if not the entirety of information available.

Q53 Nick Smith: Specifically, why didn't you contact *Panorama* after the first programme in 2013?

> ***Lin Homer:*** We have said on a number of occasions that when we see things in the media, what we do is look to see whether there is new information, over and above what we have. If there is, we will go and ask for it; if there isn't, there is very little point in us doing so. I have just explained to you that, out of the numbers of entities that we have, we believe we have not only reviewed every single piece of information we got, but we have identified those people who owe us money and pursued them, and we have identified those we believe don't and have certified that they don't, although we will continue to monitor them. From our perspective, although we are now checking and will be diligent in pursuing extra information, there is nothing to suggest we have missed significant amounts of information. Jim and I have sat here on a number of occasions and said similar things to you: we have heard what somebody has said; it does not tell us anything we did not know. That is because we are diligent, we do look, and of course we should do that.

Q54 Stephen Phillips: The documents to which that third party has access may tell you something that you don't know. If one looks at this from the perspective—forgive me—of a lawyer, which is my training, if someone offers you a series of documents, it is absolutely true that they may contain no information whatsoever relevant to the issues which you have to do with one way or the other, but they may. What you're saying to the Committee is—not just in relation to these documents, but more generally—when information is out there, if we take the view that it is not likely to or it may not contain anything that we don't already know, we will just ignore it, and we won't ask for it. That is what you've just said.

> ***Lin Homer:*** No, I did not use those words.

Q55 Stephen Phillips: Well, forgive me, that's the effect of what you've just said.

> ***Lin Homer:*** It might help if Jennie just describes more generally what we do with all receipts of information. We get hundreds and thousands of pieces a year, and we do actively consider what to do with that. So there is no sense that we ignore information, but what we do try to do is focus on the information—

Q56 Stephen Phillips: Forgive me, Ms Homer, I am going to interrupt you. This was a big chunk of information. It was a massive document dump, to which you had access, if you'd asked for it—

> ***Lin Homer:*** No, we had access.

Q57 Stephen Phillips: And perhaps even if it was offered to you in 2013, what I can't understand is why, either if it was offered to you, you didn't take it, or if it wasn't—and we can't get to the bottom of which it was—you didn't ask for it.

Chair: Can I just add one thing?

Stephen Phillips: No, no; I want an answer to that.

> ***Jennie Granger:*** Can I please come in there, more specifically?

Stephen Phillips: Yes, Ms Grainger.

> ***Jennie Granger:*** We believe that the French authorities have all the information—completely the same information—and what they then had to do was cut it up relevant to each country to pass it to.

Q58 Stephen Phillips: I am going to stop you again, because you're saying, "We believe that". Without going back and looking at the original materials, you don't know whether the French have done a good job, a bad job, an indifferent job, a perfect job, an excellent job. You have no idea. There is no substitute for HMRC, when that cache of material became available to you in 2013, actually looking at it.

> ***Jennie Granger:*** Yes, we did look at it very thoroughly, and if you would just allow me to complete the answer: when we received that information, there was a very sophisticated analysis—

Q59 Stephen Phillips: So with the information from the French?

> ***Jennie Granger:*** Yes, that's right.

Q60 Stephen Phillips: That you had in 2010?

> ***Jennie Granger:*** Correct.

Q61 Stephen Phillips: I am talking about the information that you could have asked for or which was offered to you in 2013.

> ***Jennie Granger:*** If I could just finish my answer: we believe that what the French have is exactly the same information. I think if you were making—

Chair: "We believe".

> ***Jennie Granger:*** If I could finish: I think that you are making a good point about how it has been analysed, and that is one of the reasons why we want to talk to the BBC and to ICIJ to see if there is different analysis, and it is also why we are going back to ask the French whether there is something in the way this was analysed. So, with all three sources, we will be doing that.

Stephen Phillips: Okay. I understand your answer.

Jennie Granger: If I could—

Q62 Stephen Phillips: No. I am going to ask Ms Homer. You heard both those answers. "We believed" that the information that we could have had access to in 2013 from "Panorama" was the same as the information that the French gave us in 2010. That's what the belief of the organisation, which you head, was. You have no idea one way or the other whether that belief was correct, whether that information had been dealt with properly by the French, whether they had passed you everything, whether they had passed some of it. You had no way of knowing that.

Lin Homer: Actually, we do, and this is, again, a discussion we have had with you on numerous occasions. There is much media commentary about tax. When that happens, we review everything that is put into the public domain, and if there is any suggestion—

Q63 Stephen Phillips: What if the illustrious *Guardian* has missed something? Go and look at the original documents yourself. You are the taxpayer-funded part of the state responsible for ensuring that people pay their taxes.

Lin Homer: We do, and we do exactly what you say when we believe there is any source of information that is different or available to us. It would not be value for money for us to go and to collect another tranche of the same information and put it through the same analysis. Now, again, this is quite difficult for us, because, as the Chair knows, we protect confidentiality, so we will not comment on individuals, but I can assure you, in all the cases we have discussed over the years, if we see any media commentary or any whistleblowing where there is evidence that there is a wider, deeper or different database than we have, we will take it. I would say again—

Chair: Right. I am going to move on. Chris wants to come in. I just want to say two things. First of all, I gather that Falciani did e-mail you offering the data in 2008, and that *Le Monde*, ironically, has seen those e-mails and published a report to that effect. I think it is really important that we put that on record, because you have told us today that you had no knowledge. Now, if that's been in the press, you should have had knowledge.

Mr Bacon: Perhaps you should subscribe to *Le Monde.*

Q64 Chair: But they have seen the e-mails, Ms Homer, and in preparing for today's session you should have known that. I want to know why your organisation did not respond to that.

Lin Homer: This hearing was about a Report that the NAO wrote about us—

Q65 Chair: No. We had a conversation. You knew perfectly well that this hearing would end up being about HSBC.

Lin Homer: We had a conversation this morning that this hearing would be about HSBC.

Q66 Chair: Ms Homer, don’t let’s go over this, because we had a lot of discussion about who should be our witnesses today because of the changing circumstances that made this a topical issue. So I would have expected you to have checked your files and known that in 2008, there was an offer from Falciani to—

> ***Lin Homer:*** I am happy to give you a note on that.

Q67 Chair: I would like that note very quickly and I will publish it.

Secondly, we are not asking about information on individuals on the list; we are asking about the role of the private Swiss arm of the bank. My understanding is that in looking at their role, in which I believe you ought to be seriously considering whether to take action in that they encouraged or colluded with tax evasion and avoidance, the first time you asked the French for permission to do that was yesterday. Is that true?

> ***Lin Homer:*** No.

Q68 Chair: When did you ask the French for permission?

> ***Lin Homer:*** We initially asked permission to use it for wider purposes.

Chair: When?

> ***Lin Homer:*** When we received the data.

Q69 Chair: What did you recently do in your negotiations with the French?

> ***Lin Homer:*** Because a lot of the data is now being placed in the public domain, and therefore the French restrictions, in a sense, have lost their power, we went back and asked them again—

Q70 Chair: When?

> ***Lin Homer:*** When we saw the publication—

Q71 Chair: So in the last day or two?

> ***Lin Homer:*** Yes.

Q72 Chair: Are you telling this Committee that in 2010 the French did not give you permission to look at the wider implications of the data that you received from Falciani and what it meant for the probity of and potential action against the bank? Are you telling us to believe that today?

Lin Homer: Yes.

Q73 Chair: The French refused to give you permission to do that?

Lin Homer: The French gave us the information on a restricted basis which meant that we—

Q74 Chair: That is a different question. Did you ask them whether you could use it more widely to consider whether it was appropriate for HMRC to take action against the Swiss arm of the bank for colluding with or actively promoting evasion and avoidance?

Lin Homer: Yes. We discussed our—

Q75 Chair: Did you ask them for that?

Lin Homer: We did not ask them for what you have just said because we have seen no evidence necessarily to support that. This is the problem. I am sorry, but the things that get written in newspapers do not stand up to the criminal test of evidence. Therefore, your question suggests that we knew or had already decided we could do that, but we were restricted in any event from sharing with other law enforcement agencies—

Q76 Chair: But what has changed for the French to give permission? It is the same evidence.

Lin Homer: I believe what has changed is that it is now in the public domain and therefore we will get it from other sources anyway.

Q77 Chair: What I do not understand is why all these other countries are taking action against HSBC.

Lin Homer: They are not, and this is one of the things that I would like to say to you. There is a suggestion that everybody else has been much more prolific than us. As far as I can see—and again you may have better evidence—there is consideration of action against the bank in a small number of countries. There is no decision to proceed and there is no conviction. There have been early moves potentially to charge one or two individuals, but again no completion. I believe that only we and the Irish have convicted anybody.

Q78 Chair: Who is taking action against HSBC? Is the information that we have that the French are, the Belgians are—

Lin Homer: They are considering.

Chair: —and the Americans and Argentinians—

Jennie Granger: If I could just clarify, on the French and the Belgian activities, the police are looking at—

Q79 Chair: Well, maybe you have talked to the police. Have you?

Jennie Granger: It is an important distinction, Mrs Hodge, in terms of who can actually investigate what. What I would fully expect we will need to do is also collaborate through law enforcement—

Chair: It has taken you five years to get there.

Q80 Stephen Phillips: Are you the investigatory agency as far as the bank is concerned, particularly bearing in mind that we are not dealing necessarily with the HSBC that everybody has a cheque book from, but with some subsidiary sitting in Switzerland, which is in no way related to the high street bank in this country, other than it is wholly owned by it?

Lin Homer: We have a code of conduct for banks, which Jim is responsible for.

Jim Harra: First, in terms of the regulatory powers, if it is about cheating the Revenue then, yes, we are the authority for that. If it is about the wider regulation of the banks' conduct—for example, money laundering—then, no, we are not the regulatory authority. We have, however, a code of conduct in relation to tax for banks, which has been in place since 2009—so it came in shortly after this. We expect a standard of behaviour of the banks that is higher than simply not breaking the criminal law. In the circumstances you described, whether they are criminal offences or not, we would expect the banks not to be doing those kinds of things. If they do those things, then, since 2009, they would be in breach of that code of conduct.

Q81 Stephen Phillips: Let's try to get to the bottom of it for the taxpayer. Now that this material is in the public domain, who is going to be investigating HSBC? Is it going to be HMRC? Is it going to be you? Is it going to be the Serious Fraud Office? Is it going to be the City of London police? Who is it going to be?

Lin Homer: Jennie has just mentioned—

Jennie Granger: If I could just mention something. We will now broaden the scope of Solace and look at those offences. If there is the potential, we will call together the relevant authorities—in fact, we will be meeting them later this week—and share with them what we already have once we have formally confirmed with the French exactly how we are going to widen the scope. As I pointed out, our information came from the revenue authority, which has a more restricted ability to pass that to us.

Q82 Stephen Phillips: You will understand that this is obviously very important to the taxpayer. I was slightly horrified by the statistic that shows that when you prosecute an individual for evading tax, the average charge time from the date of the beginning of your investigation—when you hand the papers to the CPS—is 44 months. We can’t wait 44 months for this to be sorted out.

> ***Lin Homer:*** That is why we strongly believe that we need a toolkit that also allows us to use civil powers. In a similar case, we might reach a settlement on tax and a penalty in a matter of weeks or months. A range of new powers has been granted to us, in relation both to when money is due and to the level of the penalty. We can now charge a penalty of up to 200% on tax.

Q83 Stephen Phillips: Can I stop you, Ms Homer? This Committee well understands the importance of collecting the tax that is due to the Exchequer, particularly in the times in which we live, because it funds public services. As a relatively new member of the Committee, I am concerned that out of the data that have been forthcoming in relation to tax evasion, which is a crime, you have brought only one prosecution. Why is that?

> ***Lin Homer:*** Because, as I said when we met the Committee last July, prosecution is one end of the toolkit, and it is an expensive end.

Q84 Stephen Phillips: You said that already. You also said—

> ***Lin Homer:*** Well, it’s the answer to your question. Therefore, we do not use it against everybody.

Q85 Stephen Phillips: Forgive me, you said that you also want to offer a deterrent.

> ***Lin Homer:*** Yes.

Q86 Stephen Phillips: Now, not prosecuting people for tax evasion does not deter other people who might be tempted to engage in it. The evidence from these files—

Lin Homer: Making someone pay their tax and charging a penalty of 200% does, we believe.

Q87 Stephen Phillips: Don’t interrupt; I am going to ask you a question. The evidence from these files is that you prosecuted one person. Now, the message that that sends to people who might be inclined to evade tax by having Swiss bank accounts and other things is, “Don’t worry about it. If you get caught, there won’t be a prosecution; there will be a settlement.” If, as you said earlier, you want to deter people from evading taxes, do you accept that having only one prosecution has precisely the opposite effect?

> ***Lin Homer:*** No, I don’t accept that. Would you like me to answer that question?

Q88 Stephen Phillips: Yes.

> ***Lin Homer:*** We have said on numerous occasions that we believe that prosecutions are a key and important part of what we do. We accepted in one of my very early meetings—I think this may have been prompted by Mr Bacon—that we should increase the proportion of prosecutions across the range, and we have done that fivefold in the past three years, but we do not believe that prosecutions for any law enforcement agency are the single or the only deterrent, or are a cost-effective way to do all your compliance.

Q89 Mr Bacon: If we use the analogy of unlawful gun ownership, one can quickly see that that approach must be correct. Lots of people in this country own guns unlawfully, and from time to time the police have amnesties and people bring in these unlawfully held guns. They could be convicted of having committed a crime—the unlawful possession of a gun—and they are not. As a result, we are familiar with the sight on our television screens every few years of an amnesty, with lots of guns coming in.

You said there are three things: you want to get the tax, you want to change behaviour, and you want a deterrent effect. You want all three.

> ***Lin Homer:*** Yes.

Q90 Mr Bacon: It is also true that occasionally gun runners do get prosecuted. You used the word "balance" and reminded us of our conversation some time ago. The question is not, "Should you be trying to do three things rather than one?" Nor is it, "Should you be trying only to have a deterrent?" because yes, you do want the tax in—we want it too, and so do the public—and yes, you do want to change behaviour. The question is whether you have got the balance right when you say, "We regard prosecution as a key tool," yet there is such a tiny, tiny smidgeon of prosecution going on, relative to the other factors you have talked about. The question is: have you got the balance right and is the deterrent effect that you say you want either there at all, or there sufficiently? That is what we have doubts about.

> ***Lin Homer:*** I will ask Jennie to give you some facts and figures about prosecutions, but first let me put into context whether we have got the deterrent effect right. There is a range of statistics, some of them in the Report—we may not get to them—that show that we have decreased the tax gap, increased compliance as well as revenue collected, and seen significantly fewer people using marketed avoidance. We therefore believe that our use of a range of skills is having a deterrent effect. These discussions with you are etched on my brain—

Q91 Chair: Can we just talk about these issues, Lin? We will come on to the broader issues later.

Lin Homer: Well, one of the things I have suggested is that our poster campaign has a deterrent effect. All these things do work, we believe. We accept we need to do more prosecutions, and Jennie has been doing more.

Jennie Granger: First of all, across the period this Report relates to, more than 2,500 prosecutions have been successful.

Q92 Chair: Jennie, can I just say to you that we are focusing here on 6,800 different accounts? We will come to the general afterwards. If we carry on and get this out of the way, we can then come on to other issues, but we are focusing on this at the moment. To try to pray in aid what you have done elsewhere will not help you in justifying your action in relation to these HSBC files. Can you talk about those, please?

Jennie Granger: I certainly will. I would like to explain the strategy a little bit. Clearly, there are a lot of prosecutions and we try to do them across everything—

Chair: HSBC?

Q93 Mr Bacon: For the avoidance of doubt and to back up what the Chair was saying, you said 2,500 prosecutions—

Jennie Granger: More than 2,500.

Q94 Mr Bacon: Yes, and I bet some of those are corner shops in Leeds who did not pay their VAT. Correct?

Jennie Granger: If you would like to look at our crime map, you can see the range including up to £87 million. There is a range, but I think that will show to you quite easily not just the value of it, but the seriousness of it across the patch. You have raised that issue with us before and I think it is more than fair that we try to give you as much information, while of course keeping that balance—

Q95 Chair: Can you get back to the HSBC list, please?

Jennie Granger: Certainly I can. It is very difficult to prosecute for offshore. One of the challenges, particularly in the situation where you have stolen data, which is what this is, is that you have to be able to prove those facts another way for the CPS to be able to take it forward. That is one of the challenges and one of the reasons why, although we have done our best in all the circumstances, clashing it with other data that we have, hauling people in to question them and using other information we may have from other sources, we will—*[Interruption.]* If I can just finish the explanation. We build a case. That is one of the reasons it takes time—

Chair: Five years since you’ve had it. Five years.

Q96 Mr Bacon: I don't understand this business about not using the material. Mr Phillips is the QC, not me, but some Members of Parliament went to jail because of stolen data that was used in the criminal court. I don't think they had to get it from A. N. Other source in order to be able to mount the prosecution.

> ***Jennie Granger:*** To be clear, I did not say another source. I said we have to have corroborative evidence.

Q97 Stephen Phillips: Why?

Mr Burrowes: That is the value of the evidence; it doesn't stop the admissibility of it.

> ***Jennie Granger:*** I do not make the final decisions on prosecution. I am simply—

Q98 Chair: You're the boss in charge of it, aren't you? That is why you are here.

Mr Bacon: Why do have to have corroboratory evidence?

> ***Jennie Granger:*** The CPS makes the final decision on charging—

Q99 Mr Bacon: And test A applies—the likelihood of a successful prosecution. If the evidence is clear enough, why do you need corroborating evidence before you can go any further?

> ***Jennie Granger:*** I am sorry, but we did investigate that. That is my point. We had to be able to build a case that has more than the stolen data.

Q100 Chair: Why?

> ***Jennie Granger:*** Well, that is the standard to be able to get a charge.

Q101 Chair: You're in charge of this, Ms Granger. You two are in charge of this. Do you want me to read through the stuff that you have got? I cannot for the life of me begin to understand that pathetic response.

> ***Lin Homer:*** Just to put it in context, you are concerned about the 6,800 today. You were when we discussed this with you last July. Overall, the relevant teams in Jennie's area have been dealing with 57,000 disclosures and £1.6 billion, which we have pursued. You cannot suggest to us that we can just forget everything else and put all our activity into this area.

Q102 Chair: What I am suggesting to you, Lin, is that if you manage to have an account in Switzerland, there's a risk worth taking. The worst that can happen to you if HMRC can be bothered to catch up with you is that you may have to pay, you won't have a prosecution, you won't have any shame, you won't be an example to anybody else—you'll get away with it. That is a terrible message to get out to British taxpayers. It is a really rotten message.

Lin Homer: That was a statement, not a question, but it is not correct.

Q103 Chris Heaton-Harris: May I follow up on what Ms Granger was saying? I understood what you were saying. You obviously feel that you have to provide extra evidence for the CPS to take forward a successful prosecution. Does that filtration process take place in HMRC, or do you present the file to the CPS, and they come back to you and say, "We need more information from you"?

Jennie Granger: First, we triage the cases ourselves, together with our experienced civil and criminal investigators, to pull out the top cases that we think have the strongest basis for being successful. Obviously, we have been doing this for many years, and so they have a good sense. It is also after we have filtered everything we can from our own database into those cases. The final decisions are for the CPS. We send them the files and they make those decisions based on the strength of the case and the public interest. Those are essentially their criteria.

Q104 Chris Heaton-Harris: Fair enough. How many files, based on the data that we are talking about now, did you send to the CPS?

Jennie Granger: We sent three, and they accepted one. That was the next part of this that I wanted to answer, so that we understand the strategy here. That particular prosecution involved our discovering from the data that an earlier voluntary disclosure had not been full. They were prosecuted on that basis. I want to make it clear to the Committee that where there has been a settlement either on the basis of the special investigation people investigating this, or by inquiry, we require assurance back, as part of that process, that there has been either full and true disclosure or confirmation that there is nothing owed. That means that, if there is a false statement, it is a much simpler prosecution to do. If you like, there is a double jeopardy here. If people have lied to us during this process, it opens a much simpler route to prosecution. We also keep everybody on databases like this in our database, and they are red flagged if we find anything that does not jibe with their disclosure. It is a tough process. The penalties can be up to 200%. Some where we have prosecuted work out higher than the court fines. We are not taking this lightly. We are not soft. It is quite a serious process.

Q105 Stephen Phillips: That's the point. If you secure a conviction, people go to jail, which acts as a deterrent to other people to evade tax.

Lin Homer: People are going to jail. Some do, but not always.

Chair: It is not for you to decide that.

Q106 Chris Heaton-Harris: My previous question was on the basis of the conversation we were having. I have just a couple of questions on the timeline and especially the year before February 2010, when discussions were obviously going on with the French authorities. I think you said it was a Government to Government request.

> ***Lin Homer:*** Yes.

Q107 Chris Heaton-Harris: Would it not have been a tax authority to tax authority request?

> ***Lin Homer:*** Well, yes.

Q108 Chris Heaton-Harris: So, in that year, what was going on?

> ***Lin Homer:*** I am sorry: I can't remember the date in February '09 when conversations started with the French, so I am not sure whether this was 12 months or three months—

Q109 Chris Heaton-Harris: Okay, but what was going on in that period when there were discussions—

> ***Lin Homer:*** But during that period, conversations were going on. Again, I am in probably the same position as many of you are. What was going on between the French and Falciani was largely told through the newspapers, but I think there was a period of time when the French themselves were deciding what to do and probably working out to what degree they themselves wanted to use the information. There was then, clearly, the beginnings of discussions with a number of other countries, so at the same time as they were talking with us, they were clearly talking with many of the other countries involved. Some have come later; I think Argentina was much later. So my assumption is that that period was largely taken up with the French in a sense deciding what they were going to release, how, whether; and once they had reached that stage, there was an indication to us, "Now is the time to ask formally," and then—

Q110 Chris Heaton-Harris: And that's quite a significant request, is it, when you get to that stage?

> ***Lin Homer:*** Yes.

Q111 Chris Heaton-Harris: Do you communicate it to Ministers when you do that?

> ***Lin Homer:*** We are confident we will have told Ministers that we were about to receive a big cache of operational information, yes. We don't ask them.

Chris Heaton-Harris: Because your independence is—

> ***Lin Homer:*** It is our decision to receive it, but we would tell them.

Q112 Chair: Can I just get confirmation? That is an important point. When you got that cache in 2010—there are two questions—did you inform people outside HMRC?

> ***Lin Homer:*** It was generally—this was talked about a lot in the public domain. I believe Dave was in a hearing here in September '11, when he said something like, "As everybody knows, we have got a document with 6,000 names on." There was definitely public coverage of this. We put a statement out ourselves towards the end of '11 basically saying to people, "You had better start coming in or else." So between '10—

Q113 Chair: Right. I just want to clarify things. In February '10, you had the offer. In April, I understand, Dave Hartnett went and collected the disc himself.

> ***Lin Homer:*** No, Dave did not collect the disc.

Q114 Chair: Okay. Well, the disc was—

> ***Lin Homer:*** Collected in accordance—

Q115 Chair: Put into the hands of HMRC. At what point did you tell people outside HMRC that you had that disc of evidence from Falciani in relation to HSBC's private bank in Switzerland accounts? When did you tell them?

> ***Lin Homer:*** We will have told people, including Ministers, I suspect sometime in the next few months. I have no doubt—

Q116 Chair: Have you got a date? So you would have told them pretty immediately?

> ***Lin Homer:*** Yes.

Q117 Chair: Okay. Can I just ask one more question? Then I'll go to Amyas. Who was responsible for deciding how you dealt with that disc of information? Who took those decisions?

Lin Homer: This was the governance within E and C, which I described at the beginning.

Q118 Chair: Well, Jennie wasn't there. Who was responsible?

Lin Homer: This was Mike Eland, as Jennie's predecessor.

Q119 Chair: Working on his own?

Lin Homer: No. I described the governance, but Jennie can repeat it.

Jennie Granger: The directors of civil and criminal investigation and the director of risk and intelligence, who are all directors that reported to Mike, were all part of the governance committee over the project. They were the steering group. Underneath that were their relevant assistant directors, who were more operational lead—

Q120 Chair: And was anybody outside HMRC involved in deciding how you would deal with that disc and the information on the disc?

Lin Homer: The CPS.

Jennie Granger: The CPS when it was—

Q121 Chair: Nobody from the Treasury and no Ministers.

Lin Homer: No.

Sir Amyas Morse: I just want to clarify what Jennie was telling us about the interaction with the CPS when you had prepared your file, because I think the Committee is interested in understanding the interaction between an appetite for exemplary criminal proceedings and what you have explained are the very substantial penalties that can arise in a settlement. When you go to the CPS and they say yes or no as to whether they are going to prosecute, are they informed by your attitude? In other words, if you said to them, "Look, we appreciate that it may be difficult to pursue this case. But whether or not we think it will be successful, we really want to bring criminal charges here if there's a basis for them," would their decision be influenced by that? In other words, do you actually have some control over that or is it completely that you put the file to the oracle and they tell you what they are going to do or not do?

Jennie Granger: Of course we talk about priorities. But at the end of the day, we do not have control over that process at all. It is up to the CPS. We talk to them about our priorities for the year. They also ask us what level of activity we are going to do. For example, over this period, as you will know, we have strengthened our resources in our criminal investigation area. We have increased the number of prosecutions—not just the more straightforward ones, but some of the very complex ones, including tackling organised crime. They are well aware that it is important for us to do a range and that we need to strengthen some of that. At the end of the day, it has to be the strength of the case—they are the ones who decide that—and it has to be in the public interest.

Lin Homer: When we talked in July 2014, we had one prosecution under our belt. At the time, we were still looking at around 15 that we were hopeful would go on. To try to reassure the Committee, we would have liked to see more prosecutions in this space if we could have met the threshold.

Sir Amyas Morse: Just to make sure that we have that clear—the CPS does pay attention to what you are telling them about your appetite, but at the end of the day, they make an independent judgment?

Jennie Granger: Yes.

Q122 Chair: Can I ask you how many you settled under the Liechtenstein disclosure agreement?

Lin Homer: You can.

Q123 Chair: How many of the 1,100 that you have settled were settled under the Liechtenstein disclosure agreement?

Lin Homer: When we talk about the numbers that went on to settle under this, they will be under Liechtenstein. Of the 1,100, some will already have been in. That is the difficulty I have. Some will already have taken themselves into the disclosure, and we think about another 500 went in as a result of us encouraging them to do so.

Q124 Chair: Sorry, I need some clarity on that.

Lin Homer: If you go back to the 1,100 that we identified as owing us tax, the majority of those—we have 100-odd outstanding—will have settled within the Liechtenstein facility.

Q125 Chair: So about 1,000?

Lin Homer: A few disclosed and settled in a different way, but almost 500 will have been through that facility. That is alongside, as I say, the 57,000 disclosures we have dealt with from various sources.

Q126 Chair: And of course the Liechtenstein—just to get it clear—means that you are immune from further action. That goes back to Stephen's point.

Lin Homer: Only if you meet the criteria. If people go into a disclosure facility and we discover that they have been in a disclosure facility and lied to us before, they have to meet the criteria to stay within the disclosure facility. It is not immunity come what may.

Q127 Austin Mitchell: I am interested to know how kindly you are in these settlements. You seem to me a very kindly person.

> ***Lin Homer:*** I am so pleased you think so.

Q128 Austin Mitchell: When I watched "Panorama" on Monday night—I did not see it all because I was eating fish and chips at the same time—it showed people who were accused of having these accounts saying, as they rushed behind doors, "I've paid my taxes." Do they pay the full amount that you consider to be owed?

> ***Lin Homer:*** Yes, as well as penalties and interest. We are not very kindly at all. That is why I was challenging Mr Phillips as to there being no deterrent effect. Let us be clear: if you pay your tax when it is due, that is all you pay. If you talk to us about being in difficulty and you are a small business, we might enter into an arrangement to let you pay your tax in instalments. If you do not tell us you owe tax and you come in late, we will let you pay your tax but we will charge you a penalty as well. If you make us find you, we will charge you a bigger penalty or we will prosecute you. That position is clear across the board.

Q129 Chair: But let us be clear, Lin; if this lot settled under Liechtenstein, the first thing is that the penalty is limited to 10%. Correct me if I am wrong.

> ***Lin Homer:*** Not all of them settled under Liechtenstein.

Q130 Chair: Yes, but you said that about 1,000 did. Immunity is the norm. I accept that there might be exceptions to it, but under Liechtenstein it is only a 10% penalty and that is the norm.

> ***Lin Homer:*** No, there are a variety of penalties depending on behaviour.

Q131 Chair: How high can it go?

> ***Jennie Granger:*** 30%, and the 10% is limited to tax years before April 2009. After that it is 20% and it can go up to 30%, which is very much in line with international practices.

Q132 Chair: Let's be clear—most of these cases were pre-2008.

> ***Jennie Granger:*** For example, Australia's most recent was 10%.

Chair: I will go to Austin. Then I have three more areas to cover, after which we will move on.

Q133 Austin Mitchell: What it is, as well, is the timing. You had this stuff that said there was something funny going on at HSBC in 2010, but you were subsequently asked, as HMRC is asked, about the reputational damage of appointing somebody—Lord Green—to a peerage. The answer seems to be, a Commons Committee is told, that this man's tax affairs are okay. However, they are not told that he is running a dodgy bank. Why is that?

> ***Lin Homer:*** Two things. One is that we give information on the tax affairs of people to a range of Committees; we don't make the decisions. The second is—

Q134 Austin Mitchell: But what information do you give?

> ***Lin Homer:*** We give information on their tax affairs.

Q135 Austin Mitchell: Their personal tax affairs?

> ***Lin Homer:*** Yes.

Q136 Austin Mitchell: So I could be running a brothel, as long as my tax affairs are okay?

> ***Lin Homer:*** I have seen you in an entirely different light, Mr Mitchell.
>
> What I would also say is that it is very important that people understand that, although people might be making assumptions, what was going on in the Swiss bank cannot necessarily be translated into assumptions about what was going on elsewhere. Some people may do that, but that is not a standard of proof that we would recognise.
>
> As for the speed with which we acted, we updated you in 2013, at which point we had £120 million of this money in. We were fast out of the blocks. It is often quite difficult to chase the last amount down. I expect the last 130 cases in that sense to be the most difficult. But we were speedy and on the case, and acted with real effectiveness to use the data that was made available to us and to get the money in the bank for the British public. That is important, and we have talked to you about that on numerous occasions, as well as about the fact that our policy, which was clear through all of those discussions, was that prosecutions were a part of the whole. That has not changed in any of the at least seven discussions I have had with you.

Q137 Austin Mitchell: A final question: I was just writing an article—for *Tribune*, actually, as *The Guardian* won't take any articles from me—about the tax avoidance industry. It is a big industry: there are banks, law firms and the big four all advising people on how to avoid paying taxes. It is a big industry. It is well financed and well paid, with large numbers. I see from the Report that your tax avoidance directorate, when it is fully up and running at the end of this year, will be 1,200 people. I put it to you that the tax avoidance industry in this country is bigger, richer and more powerful than the tax collection industry when it comes to big tax bills such as this.

Lin Homer: We think marketed tax avoidance is reducing. The Report suggests that we have been very effective in this space. Between Jennie and Jim we can give you a long list of things we have done. I do not know whether there are more people out there; I do not believe that there are better people. We have extremely good tax experts. They ensure that schemes are spotted and dealt with, and that people pay their tax. I think it is now less prevalent than it was a few years ago.

Q138 Austin Mitchell: They are probably better paid.

Lin Homer: I have no doubt that they are better paid. Fortunately for us, some people think it is better to collect tax than to avoid it. There are many people who have worked for us for a long time doing just that.

Q139 Mr Bacon: A couple of quick questions. First, to follow up from Mr Mitchell, in the light of what you were just saying, how many transfer pricing specialists does HMRC now employ? The last time I asked that question the answer was 65.

Jim Harra: We now have 80 posts in our transfer pricing team, because we were funded in autumn statement 2012—

Q140 Mr Bacon: Hang on, that is establishment. Are they all filled?

Jim Harra: They have all been filled, but there is obviously churn all the time, because—

Q141 Mr Bacon: Because they all go off to the big four?

Jim Harra: Some do, I'm sorry to say. We are currently recruiting to get back up to that number of 80 posts.

Q142 Mr Bacon: So what is the number you have at the moment?

Jim Harra: It is almost 80.

Q143 Mr Bacon: Almost 80, okay. Perhaps you would send us a note, or add to your note, the exact number. That would be helpful.

On the question of prosecutions, I am surprised by your earlier answers. Given that the evidence would seem to be the chief criterion, you ought to be able to judge for yourselves whether there is a serious chance of bringing a successful prosecution, but you say that it is completely out of your hands; it turns out that it is in the hands of the CPS alone. But you used to be a prosecuting authority and you still have HM Revenue and Customs Prosecutions Office, which was hived off only a few years ago—in fact, this Committee took evidence from it when its accounts were qualified by the National Audit Office for having a variety of things wrong with them, including the fact that the chief operating officer's first act on appointment had been to hire his wife to do £100,000-worth of HR consultancy. That was a prosecuting authority, as far as I understood. Are you saying that it takes the file from you, looks at it and then hands it on to the CPS? Is that how it works?

Jennie Granger: No, it goes straight from our criminal investigation area to the Crown Prosecution Service and—

Q144 Mr Bacon: So what does HM Revenue and Customs Prosecutions Office do?

Lin Homer: I think we told you when we saw you previously—far be it for me to suggest that you are forgetting one of our exciting hearings—

Mr Bacon: It's entirely possible.

Lin Homer: I am sorry, I cannot quite find the date of that one—

Q145 Mr Bacon: Did you bring it back in-house?

Lin Homer: We talked to you about your belief that we have a prosecutions division, I think when Edward came on our second annual accounts—

Mr Bacon: It was not a belief, it was a fact—the director was David Green QC and we did a report on it.

Lin Homer: No, it had changed. You said, "Has it now merged? It was a separate body with its own accounting officer."

Q146 Mr Bacon: I am obviously starting to believe my own—no, I won't use that word. What is the answer?

Lin Homer: It has now merged.

Q147 Mr Bacon: Again—remerged?

Lin Homer: It has been merged with CPS I think all the time I have been with HMRC.

Q148 Mr Bacon: It was hived off, then it was put back again.

Lin Homer: It was separate for a while.

Q149 Mr Bacon: But it is the same folk who are now handling things, and they are the interlocutors with the CPS. Is that right?

> ***Lin Homer:*** May I be clear? We are not saying that they just stand at the door, open it and grab the file. There is a lot of discussion, the teams work together. As we said to Amyas, they and we like to prosecute cases. We are prosecuting more, we get big fines, we get custodial sentences and it is a good, healthy partnership, but they are the experts on whether we should take cases.

Q150 Mr Bacon: Sorry, who are? Your prosecutions team or the CPS?

> ***Lin Homer:*** The CPS, but Jennie has a criminal team. CI is headed up—

Q151 Stephen Phillips: But they are the experts. Are you happy with them, Ms Granger, or would you prefer to make charging decisions in-house, within HMRC?

> ***Jennie Granger:*** I think the separation is quite important. Obviously, the CPS is thinking not only in the public interest across the priorities that the revenue authority might have, but right across UK Government. From my personal point of view, it is a very good system for the country. I want to emphasise—I think you were headed in this direction, Mr Bacon—that we do have in-house criminal investigators who are very good, and they are of course the first filter on these cases. In this case, we have them looking at this right from the very beginning to spot what they thought were the very best cases to give us the best chance of being within the territory of the CPS—

Q152 Mr Bacon: I have one more question. Lots of Government Departments spend money on research, market research and advertising. Do you spend money on finding out how effective the deterrent effect of prosecution is, as opposed to other kinds of action? Or is it just a guess?

> ***Lin Homer:*** We do a lot of research. I am very happy to tell you when we last looked, but we have done research on compliance over recent years—

Q153 Mr Bacon: I am talking specifically about the deterrent effect of prosecution.

> ***Lin Homer:*** And I don't want to guess, but I will give you a full list—

Q154 Mr Bacon: You spend money on adverts on the radio saying that you will get into trouble and end up before the beak if you—

> ***Lin Homer:*** And we have research to prove that works, yes.

Q155 Mr Bacon: That is really what I am talking about. But at every level, to what extent do your metrics inform you in a way that you then act upon in terms of how hard you press?

> ***Jennie Granger:*** I am hesitating to give you an answer. We will need to do a note, but let me explain why. We tend to research more around the question: is the strategy working for a particular reason? For example, is the range of things we are trying in the hidden economy working? I am not sure—we will have to give you a note on whether we have isolated prosecution in particular, but there is absolutely no doubt that a range of things are important. One of the consistent findings of research is that broad-based strategies work only if they are backed up by more serious outcomes, but not for everybody—you can get to a point where that is very unfair.

Q156 Chair: Okay. I want to ask you three more questions on HSBC. First, I understand that, in late 2012, you received a list about HSBC's clients in Jersey who it was also alleged were evading tax. That was a list of 4,388 Brits. What have you done with that?

> ***Lin Homer:*** That similarly is being worked through.

Q157 Chair: Not one prosecution?

> ***Lin Homer:*** That's later data, and, as I have said to you, we are one of the few that has prosecuted on the Lagarde data.

Q158 Chair: You have prosecuted one on the Lagarde data, none on this data.

> ***Lin Homer:*** As I have said several times, we have challenges about meeting the threshold for prosecution, and we would always expect to use a range of approaches.

Q159 Chair: How much money have you got in on that one?

> ***Jennie Granger:*** I will have to look that up.

Q160 Chair: You might have thought we might ask about HSBC in Jersey as well.

> ***Jennie Granger:*** We do think there's only about £20 million—that's our early estimate of those cases.

Q161 Chair: My understanding is that the accounts totalled, give or take, £700 million. You're only hoping to get £20 million for the British taxpayer?

> ***Jennie Granger:*** We have risk-assessed the data, and we are inquiring into a little over 200 at the moment—

Q162 Chair: How many?

> ***Jennie Granger:*** Around—just under 200. I think it's about 170. We think it is only going to be about £20 million, from our early risk assessment that this is not on the same scale.

Q163 Chair: Doesn't the mere fact of this second list give you some evidence of the endemic nature of HSBC's practices on avoidance and evasion?

> ***Lin Homer:*** This goes back to the governance point Jim talked about. If we see a bank acting in a way where we think there are issues on governance, we will, under the code of conduct, talk to them about that.

Q164 Stephen Phillips: And involve the regulator as well?

> ***Jim Harra:*** It depends on what we find. In the case of banks, as I have said, they are subject to a code of conduct, which means that they should not do some of the things that you have described, whether it is avoidance or whether it is knowledge of evasion.

Q165 Stephen Phillips: Let's not put it in terms of HSBC, Mr Harra. Let's just assume that there is a British bank with a Swiss subsidiary, and the British bankers are helping their British clients to evade tax by using the Swiss subsidiary. They will be in breach of the code of conduct. Are you not going to pick up the phone to the Bank of England and say, "You've got a problem with the regulation of one of your banks."?

> ***Jim Harra:*** Yes. If we gather evidence of a criminal offence, we have ways to transfer that information to the relevant body. Where we do not have evidence of criminal complicity, but we have evidence of failures in a bank's governance, that may not be a criminal matter, but it is nevertheless a breach of the code of practice, and we would expect to see what they were going to do to strengthen their governance.

Q166 Chair: I have three more questions, and I will go through them—I know people are getting a little jumpy. According to *The Guardian*, Dave Hartnett had a meeting with HSBC in February, presumably when there was knowledge of this. When he was asked what he talked about there—

Chris Heaton-Harris: Which year? 2010?

Chair: It was 11 February 2010. He had a lunch. He told us all about his lunch; he has not told us about his conversation. He said—I am only quoting *The Guardian*—"You will have to ask HMRC for details of what was discussed." What was discussed?

Lin Homer: I will have to tell you that we do not discuss individual—

Q167 Chair: No, this is not their tax affairs; this is about HSBC's role in actively promoting avoidance and, possibly, evasion.

Lin Homer: That's what you're telling me. I'm telling you that I will not discuss what happened within meetings with individual businesses with the Committee, because it falls under—

Q168 Chair: It's not about their own tax affairs, Lin. I am not asking about HSBC's tax affairs. I am asking about a bank's role in relation to its clients, which is what this is all about, so it is not a confidentiality of taxpayers' interest; it is a much broader public interest issue, and I cannot accept that you cannot talk to us about it.

Lin Homer: I am happy to look at the note of the meeting and to consider whether there are elements of the contents that I can share with you.

Q169 Nick Smith: If they refer to tax evasion by HSBC, will you release them to us?

Lin Homer: I have said I am happy to consider the letter and consider what I can share with you.

Q170 Chair: Have you looked at it?

Lin Homer: I have.

Q171 Chair: Then why can't you talk to us about it today?

Lin Homer: Because my view is that I will not be able to share all of it.

Q172 Chair: Then why do you tell us that you are happy to look at it if you have actually decided that you are not going to share it with us?

Lin Homer: Because you are asking me to go back and consider whether there are any wider circumstances in which I can share. One of the conversations that we have had with you in my three years has been about whether we are unduly defensive about confidentiality. We have, on a number of occasions, tried to take that advice from you and move further into transparency. I am just sitting here thinking that I will do that once again—go back and consider whether I am being more cautious than I need to be.

Q173 Mr Bacon: First, that is very helpful. Secondly, it is extremely important that the principle of taxpayer confidentiality is upheld in terms of the paying of tax. Thirdly, I hope you will recognise also that there is a separate issue, which is entirely aside from the taxpayer relationship with HMRC, which is a regulatory issue rather than a confidentiality issue, which is to do with a much broader set of circumstances, where there is a legitimate public interest that does not impinge on taxpayer confidentiality at all.

> ***Lin Homer:*** Hence I made my comment. I ask you to understand that we are, only in a very limited way, regulators of the bank in relation to its tax activity. That is the area where I may need to take some advice, but I am not the regulator of the banks.

Q174 Chair: Why you did not tell the Prime Minister about the allegations around HSBC's behaviour when he asked you for information in relation to Lord Green's appointment? Why did you not tell him that? Surely, if you had, he would have been influenced by it.

> ***Lin Homer:*** What I am prepared to repeat is that our general role in appointments and honours is to give information about the tax affairs of an individual. We do not—

Q175 Chair: I understand that. Didn't you think it was relevant to tell him about this, just so he had the information, which might have influenced whether or not he made the appointment?

> ***Lin Homer:*** The question is, in a sense, what "this" is. It was in the public domain that there was data available to many organisations, including us, about HSBC Suisse. That was not something that—

Q176 Chair: Didn't you think it was just sensible to tell? Putting myself back in the frame of being a Minister, if I am being asked to take a decision about something, I like to have the full information to enable me to take an informed decision. Would it not have been sensible to draw his attention to it? You had access, you had all those files, you looked at them, and you knew about the allegations of evasion—that is what I keep coming back to: this is about allegations of evasion, not of avoidance—and you didn't think to tell the Prime Minister about it?

> ***Lin Homer:*** What I am telling you is that we undertake a role of putting information into a number of procedures and I just do not think that what you are asking HMRC to do would be possible in all circumstances. We have one of the biggest databases in the world. Your assumption is based, first of all, on an assertion that there is something wrong going on in HSBC UK. I am not making any comment on that assertion.

Chair: I hope that you are worried as I am about what is contained in those files.

Q177 Mr Burrowes: Are you saying that, as a matter of principle, you wouldn't see that in your remit on any appointment?

Chair: I think that's nonsense.

> ***Lin Homer:*** We provide a certain limited role to a range of appointment committees.

Q178 Chair: Lin, I did a whole load of appointments when I was a Minister. I am sure that Anne and Meg did too. When you get them, you want to have the full—you need to know about the person before you confirm it.

> ***Lin Homer:*** The appointments committee does that due diligence.

Q179 Mr Burrowes: Your remit is to the appointment committees. Do you have any responsibility to Ministers or Prime Ministers in relation to appointments?

> ***Lin Homer:*** No. We have a very limited responsibility for giving limited information about individuals.

Q180 Chair: Very finally, I am disturbed about the thought that there are restrictions from the French authorities on how you could act. The French authorities are helping other tax authorities to pursue action against HSBC.

> ***Lin Homer:*** HSBC Suisse.

Q181 Chair: Describe for the Committee the restrictions that you had. Why did they prevent your having an investigation of HSBC itself, and why, if they did, did you agree to those conditions?

> ***Lin Homer:*** Let me just be clear on the last one. I would rather have limited data than no data at all. There is £135 million in the bank that would not have been there if we had not taken the data.

Q182 Chair: But there might have been more if you had had better conditions.

> ***Lin Homer:*** No, I do not believe that. I do not believe there is any lost tax in this. I have said that repeatedly. We have been effective in getting the tax that we should. This was good for the country and it was done extremely well. Why did we accept the data with limitations? Because we wanted to collect the tax that was due. This was against a backdrop where offshore money was effectively something that we had no information about, and limited information is better than none. Since that time, there has been significant movement towards getting 90 countries—

Q183 Chair: What were the restrictions? Describe the restrictions.

Lin Homer: One of the things we have done is to be a strong part of getting 90 countries to sign up to common reporting. That means we have to rely on whistleblowers—

Q184 Chair: We know about that. We have been promoting this stuff.

Lin Homer: —and bilaterals less. So that is important. The restrictions were common in treaty-to-treaty, and they were for us to use only in tax administration.

Q185 Chair: Why in those other jurisdictions were they able to use it for other purposes to pursue HSBC Suisse bank?

Lin Homer: I will repeat that, to our knowledge, there is consideration going on. We think there is some joint work between France and Belgium, so that is France sharing this information with its own/other Government Departments. We have wide data sharing—

Q186 Chair: I will just share this with you: over the last four years, the French have given help to prosecutors in Belgium, Spain, America, Argentina and India. We in the UK could have got permission to take action many years ago. I find it incredible to understand that you did not pursue that.

Lin Homer: Of those you have made reference to, we are not clear what are money laundering-type initiatives, which is what we now have permission for, and which are like the one that we have already done. So I will say again that, of that list, we believe that only ourselves and Ireland have prosecuted anyone.

Q187 Chair: No. Let me repeat: there has been co-operation between the tax authorities in France with other tax authorities—that does not mean that it has ended up in a prosecution—but you said you only got the permission this week.

Lin Homer: No, no. How do you think we prosecuted the one case that we did prosecute? It was with co-operation from the French. There is now a discussion about money-laundering cases being considered. That is what we did not have permission for, and we have returned. So far—

Q188 Chair: When did you get that permission?

Lin Homer: Yesterday. So far—

Q189 Chair: Why did you not seek it four years ago?

Lin Homer: Because there was no suggestion that the French—we have talked to them about it regularly—were going to move on that. Of the list you have given—

Q190 Chair: When you say there was no suggestion, did you try? Was it a case of your saying to them, “We want to pursue these people for money”, and the French authorities said no?

> ***Lin Homer:*** Yes. The French have held to the terms of the treaty, which was to give it to us for tax. Of the others you have listed, we believe there is discussion under way. It may be very little more than the discussions that they have had with us, and we have signalled that we want to be part of that. So the suggestion that most of the world is doing something that we are not is simply wrong.

Q191 Mr Jackson: May I ask you specifically about the hearing we had at the end of 2012, which focused on the tax implications of transfer pricing across Europe?

> ***Lin Homer:*** I am hoping it was one that Jim was at with me.

Q192 Mr Jackson: It was with Starbucks, Google and Amazon. What specifically, with respect to transfer pricing, has happened since then, bearing in mind that that is now two and a quarter years ago? What have you actually done to change the regime and address some of the significant concerns raised at the Committee at that juncture?

> ***Jim Harra:*** A number of actions have been taken. First, in terms of our operational response, as I mentioned, in the autumn statement 2012 the Chancellor gave us an additional £29 million, some of which was to fund the increase in the transfer pricing team that I have mentioned and some to create a taskforce for risk-assessing large businesses. We have increased the staffing complement of our transfer pricing team by 25%, which enables us to do more transfer pricing work.
>
> In addition, we have been playing a leading part in the base erosion and profit shifting project in the OECD, which is looking at transforming the international rules for transfer pricing, because one issue with transfer pricing is that it is an OECD framework—it is not a UK domestic framework—and it has to be applied internationally. We have been working on reforming that.

Q193 Mr Jackson: On a specific point there, the sweetheart deal that the Dutch tax authorities had with—I am not asking you to discuss Starbucks’ tax affairs—let us say a well-known high street coffee chain. Apparently, having purchased the coffee in Switzerland, it had a sweetheart deal to roast and store it in Holland. Miraculously, after 15 years of trading it had made no profits in its retail outlets in the UK. Just imagine that that organisation existed. What specific efforts have you made on that kind of scenario?

> ***Jim Harra:*** Okay. That doesn’t sound like too hypothetical a case, but I will say that in cases such as that we have been active operationally. We do not have to accept the agreements that taxpayers make with other tax authorities when it comes to transfer pricing, so we have actively pursued a number of those large cases, both by ourselves and with international partners. We have a joint intelligence group where we work

with a number of other tax authorities to ensure that we are jointly gathering and sharing information about transfer pricing. We are able to exchange that under the mechanisms that we have just discussed.

Q194 Mr Jackson: One final thing: has this intellectual property product development write-down, which, in the case of that particular company, was very significant—I understand that it was in the hundreds of millions of pounds—been addressed? If so, would it be addressed by unilateral or multilateral tax agreements between countries, or by legislation?

Jim Harra: I am not sure what you are referring to by intellectual property write-down. If you are talking about royalties that flow, one of the arrangements that multinationals put in place to try to divert profits to low-tax jurisdictions is that they will place the intellectual property there. They are able to do that because the substance involved in managing intellectual property can be fairly light. That is one area that the international BEPS project is looking at.

Q195 Mr Jackson: The issue we were discussing at that time—in 2012—was the idea that it costs hundreds of millions of pounds to develop the concept of a cup of coffee and to improve and enhance that as intellectual property. We were quite incredulous at that concept and challenged that company at the time. It raised an important issue: the fact that the tax authorities were accepting that at face value, across a wide range of business activities.

Jim Harra: We certainly don't accept that at face value. We do challenge, and have got yield from challenging, the royalty payments made in relation to intellectual property. It is very difficult, because often there is no market comparator, so it is very resource-intensive and involves hiring economists and everything to do it, but we do do it.

One other measure that has been taken is that while we are working with our international partners on the BEPS project, the Government have announced a diverted profits tax that will be in the next Finance Bill. That is about tackling some of the transfer pricing arrangements, with which the Committee is very familiar because it has taken evidence on them before, where companies purport not to have a permanent establishment in the UK and sign and seal their contracts in another, lower-tax jurisdiction. That kind of commissionaire arrangement will be tackled by the new diverted profits tax, and they will be deterred from doing that.

Q196 Chris Heaton-Harris: To return to the subject that we have been discussing for a couple of hours, there is a lot of commentary about this situation. On the "World at One" today, someone said that "it beggars belief that HMRC would not have told the Chancellor of this systemic problem". How would you answer that criticism of HMRC?

Lin Homer: What I would say is that the knowledge that people use bank accounts in Switzerland to have a higher level of secrecy about their deposits than in other places is not exactly new. What we got from the Lagarde list was detailed information that would allow us to, if you like, reopen that debate with a whole series of individuals about whether they owed us more tax than they told us they did. I think it was widely known that that was what we were doing.

For us, this is a significant, but none the less regular operational activity, which we would and did ensure that people knew about. Again, what people are making the "it" in this debate is a suggestion of complicity or wider involvement of a wider range of people. It is a big jump of assumption to say that what we were doing around the Lagarde list and what people are now asserting happened did.

If we discovered a major UK corporation doing things that we were going to take action on, the point when we would make that public would be when we charged them or when we litigated. We have talked at length with you about whether we litigate against big firms, and we do. When we reach that point, we tell everyone.

Q197 Chris Heaton-Harris: Okay, but does that not clash with what you just said on the Jersey case, for example?

Lin Homer: The same issue.

Q198 Chris Heaton-Harris: You have briefed us and you are not at litigation at that point, are you?

Lin Homer: We have briefed everybody that we had the data. We talked with you about it, we issued a public notice and we talked with what we call our compliance forum. That goes back to Mr Phillips's point that we utilise the knowledge that we are being active as part of our deterrence. We will generally say that we have got information and we are going after people; that is not the same as saying that we knew or did have more than that. The difficulty for me is that, without revealing what I had, I am denying a negative.

Q199 Chris Heaton-Harris: I understand.

Lin Homer: I don't think there was any doubt that we had received the data in 2010. Lots of people knew that. It was in the *Financial Times* in December 2009.

Q200 Chris Heaton-Harris: Could you remind the Committee? When did you first brief us?

Lin Homer: On this? I'm sorry, I don't know. I know we have briefed you at least two or three times since I have been here. This was not secret; that is an issue. The "this" that was not secret is that a Swiss bank had a number of clients who may not have been paying their tax. To put this into context and to say it again, of the just over 3,000 individuals and entities that we finally identified, two thirds were compliant. That does need to be borne in mind amid some of the hysteria that is going on around this.

Q201 Chris Heaton-Harris: You have definitely made that point. I obviously missed this article in the *FT* in 2009; I was getting excited about the general election.

> ***Lin Homer:*** You were obviously reading *The Guardian.*

Q202 Chris Heaton-Harris: I'd read other comics. What did the *FT* article state?

> ***Lin Homer:*** The Chair is absolutely right. Of course I try to give myself the historical background that I don't have from personal knowledge. I apologise if she feels I have not done well enough on that this time. In looking back on what was in the public domain, there was a fairly thorough piece in the *Times* about the Lagarde list in the context of UK names. I am not sure whether that was when the number began to feature. It was quite widely covered. The Chair has alluded to that. I think it was 2009 when Mr Falciani was first a major news story. If you put his name into a search engine you will find lots.

Q203 Chair: I will quote an e-mail to you if you want.

> ***Lin Homer:*** I am happy to have that. If that e-mail exists and I did not find it, I apologise. It is quite difficult to find five years of history over a couple of days. I do my best but if that one exists, I did not find it.

Q204 Chris Heaton-Harris: While the Chair is looking up that, in February 2010 you made a tax authority to tax authority request. Would any Minister have been informed of that request?

> ***Lin Homer:*** I do not know. If they had read the *Financial Times*, they would have known that conversations were going on.

Q205 Chris Heaton-Harris: No, they read *The Guardian* as well.

> ***Lin Homer:*** There we go. I want to emphasise that we would have told a Minister. This is not a subject of decision. I have said several times that we get millions of data every year. We have 57,000 disclosures running through the system. We will publish lots of briefings. We have definitely talked a lot with you about it. We do not keep these things secret, because it is powerful to us to let people know. What we do not do is share the details or make assumptions beyond the data that we have.

Q206 Chris Heaton-Harris: It has been quite interesting watching ministerial and shadow ministerial collective amnesia on this, because we have definitely been briefed on this. We have been told about this case; I think it was in 2011.

Q207 Chair: I am going to move on. Just for the record, the e-mail that Falciani sent to HMRC was on 18 March 2008. I have got the address he sent it from and the e-mail read, "I have the whole list of clients of one of the world's top five private banks. The bank is based in Switzerland. I am also granted access to the information system."

> ***Lin Homer:*** Look, I would be very happy for a copy of that. Obviously, I would prefer you not to read out an individual member of staff's name in the Committee, but I will do my best to chase and give you an account for whether that was received and what we did with it.

Chair: Well, it must have been received. Stephen, we are moving on to more general tax avoidance, and then we will move to the other Stephen on other issues.

Q208 Stephen Hammond: I have six or seven questions, if I may; we will move on to slightly different things. In 2013, this Committee described your customer performance targets as woefully inadequate and unambitious. Those targets have not really moved. In fact, if I understand the report correctly, you have decreased the target in one area. Can we just tackle that? Why have you not set more ambitious targets?

> ***Lin Homer:*** Initially, I had thought I would bring Ruth Owen with me today; we just took a decision not to. So, apologies if I won't know quite the level of detail she would have known.
>
> I think Ruth and I would accept that our performance on customer service is not where we would want it to be, and we have been trying to make significant improvements. We have substantially improved the underlying performance. So, immediately after the introduction of the national insurance and PAYE service scheme, our call handling was woefully poor, and it has moved up from 40% about four years ago to 75% , 79%.
>
> What we have decided to do this year, and we talked with the Committee about it when we brought our annual report, is that we felt we needed to tackle the inconsistency of our performance. So, dependent on the time of year, or the time of day or week or month that you called, you could either literally get through straight away or you could be waiting a very long time.
>
> We had particular problems around tax credit peak, when we have between 5 million and 6 million people trying to renew tax credits, and the self-assessment peak, when we have around 10 million people trying to file their self-assessment. For us, the challenge is that around half of those people leave it to the last minute.

Q209 Stephen Hammond: But you accept that the forecast this year is that your performance will decline again?

> ***Lin Homer:*** We decided that this year we would do a number of major things to try to get that consistent performance. We have introduced something that we are calling flexible resourcing, using resources from across the business for a few weeks. We have trained more of our staff up to do telephony. As a consequence of that, although

our performance overall has dipped, our performance in both the tax credit peak—one of the difficult hearings, rightly, in front of this Committee was about tax credits the year before last; then, in the last day we served 16% of the people, but this year we served more than 89% in our last few days—and the SA peak—this year, we were answering 99% of the SA calls on the last day—has improved. So, we have flexible resourcing.

The second thing is that we have put in place a new telephony system, which allows us to move calls around the whole of our system. So, under our old-fashioned system, once you are in a queue you were physically in a call centre—

Q210 Stephen Hammond: So, if we were forecasting for 2015-16, you are telling us you are going to meet your target?

Lin Homer: I hope so.

Q211 Stephen Hammond: What do you think the target ought to be for an organisation such as yours?

Lin Homer: I would like to hit and maintain the 80% level consistently first. The Chair has challenged me before to have a time, and we are trying to increase the proportion of calls that we answer within a set time. But we also measure and do well on call-handling quality. We are currently above target on that, at 97%.

Q212 Stephen Hammond: I understand about your postal facility. What sort of target have you set for e-mail response, because you are obviously encouraging more and more people to be digital, and therefore more and more of your response from customers should be digital?

Lin Homer: We are not actually encouraging people on to e-mail. E-mail is not a secure system to manage your tax affairs on. We are seeking to move people into a digital account, which will be much more like your bank account. Once we have created that—we are building it both for business customers and for individuals—there will be a significant amount more self-service available. People won't have to queue or write; they will be able to go into their account. We are looking at how to change our performance indicators, but we don't currently encourage people to send us important information by e-mail, because it is very insecure.

Q213 Stephen Hammond: Okay. I think the performance indicators against other big, professional commercial bodies look woefully low.

Lin Homer: It is not good enough. We accept that.

Q214 Stephen Hammond: Can I just move on? How many unsettled cases over a year have you got at the moment?

Lin Homer: In personal tax?

Q215 Stephen Hammond: Personal tax and, say, business taxes.

Lin Homer: In personal tax, three years ago we had 17 million cases outstanding. We made a commitment to clear those, and we have done that. We are now working on an assumption that we will deal with tax in time, which means that we will only ever be dealing with the tail end of last year, the year we are in and planning for the next year. We are not currently expecting to have any backlogs—

Q216 Stephen Hammond: In personal tax?

Lin Homer: No.

Q217 Stephen Hammond: So in business tax, how many outstanding tax cases do you have?

Lin Homer: It depends on what you mean. If they are in litigation, they can take quite a long time.

Jim Harra: If we are talking about compliance inquiries, in my area, which is large business, they can take some time to settle. We clear about 80% within 18 months, but a smaller proportion takes much longer to settle, particularly if they go to litigation.

Q218 Stephen Hammond: Okay. I did some work before this Committee, and someone told me that you have 65,000 outstanding cases.

Lin Homer: That's Jennie's. They are marketed avoidance cases.

Q219 Stephen Hammond: So you have still got 65,000 outstanding.

Jennie Granger: Or more. We are actually following some recommendations of the NAO. We have put in place a range of measures. First of all, let me explain that it may be more than 65,000, because in the past we counted some by the scheme and some by the number of participants.

Lin Homer: One scheme might have many participants.

Stephen Hammond: I understand.

Jennie Granger: In tackling this, we have changed our strategy and upped our game in terms of how we manage the work. It started with the counter-avoidance unit, which you heard about earlier. We are tackling the backlog with some new powers that allow us to bring money in, which incentivises scheme users to come to court more quickly. Previously, there was not an incentive to settle. That is going to be an interesting marker for you, going forward, if you are more interested in how much more money we are getting in, as opposed to how they are settling. These cases, to the extent that taxpayers want to continue to challenge them, will go through the court system.

Q220 Stephen Hammond: But for some of those marketed tax avoidance cases, you have the power to fine them a penalty of £70 per day if the fault is due to the adviser's not settling. Is it right that that is one of your potential penalties?

Lin Homer: We have introduced a range of new approaches. The one that Jennie has spoken about, which we think is a real game changer, is accelerated payments. In a significant number of cases, when the taxpayer says to us, "I don't think I have to pay tax", if the scheme meets certain criteria we will say, "We disagree with you", and make them pay the tax up front. If we are wrong, we will pay it back to them.

Q221 Stephen Hammond: How many cases are you using that in?

Lin Homer: Some 43,000 in the end.

Jennie Granger: Yes, and we have already rolled out about 4,000. We have been doing this only since August last year. The 4,000 is worth in value about £1 billion, and we already have close to £200 million on those. You have 90 days to make a decision about payment or come and talk to us about a time to pay—or, indeed, challenge us about whether the amount is right. It is early days, and we are rolling it out carefully.

Q222 Stephen Hammond: So the 44,000 have raised £1 billion in tax so far?

Jennie Granger: That is the value. The payments in relation to it are about £185 million—just under £200 million so far.

Lin Homer: We haven't reached the 90 days for everybody yet.

Jennie Granger: No, they haven't reached the 90 days in relation to them, but we will be progressively rolling out 43,000 of those over the next two years.

Q223 Stephen Hammond: And the total value of those 44,000 is—

Jennie Granger: Yes, I have got that figure. It is £7 billion, and we expect to have, because some of these cases will be litigated and some will be in time to pay, £5 billion of that in by 2018-19.

Q224 Stephen Hammond: Of the 21,000 outstanding, what is the process there?

Jennie Granger: Of the 21,000[5] outstanding, some of them do not qualify for accelerated payment notices; they are pre-DOTAS register cases. That does not mean that we will not progress them through the normal channels. I think you were referring to this, but should we subsequently win litigation—we are successful in our litigation here—we can put a follower notice on similar cases. If you choose at that point to continue, you are at jeopardy of a penalty in addition to paying the tax if we win the case. There is a number of incentives to encourage those to come forward and settle.

Q225 Stephen Hammond: Of that 21,000, what is the value of that outstanding?

Jennie Granger: I do not have that with me. I will have to give you a note on that.

Q226 Stephen Hammond: Okay. To how many of the 21,000 have you issued that penalty notice?

Jennie Granger: We have not issued a penalty notice. We have issued some follower notices. To issue a follower notice, litigation has to be finalised—it has to have been through every level of litigation—and we have only just had the litigation. So we have issued our first round of follower notices—360 were issued—but the time period is not yet up for taxpayers to make a decision, so this is the first use of the notices.

Q227 Stephen Hammond: So by following up that 44,000, an extra £5 billion is coming into HMRC.

Jennie Granger: Yes.

Lin Homer: Yes—and, we think, a significant change in behaviour. This is something that the Chair has rightly got frustrated and angry about, but in marketed avoidance, delay was of itself a benefit.

Q228 Stephen Hammond: There is a number of that 21,000 where there is some real evidence from practitioners, companies and others that they are struggling to settle because you do not have in place the people or the right papers. I heard about a case only last year when someone came to me who was trying to settle an EBT case with you worth £100 million. They had tried to settle it four times. I know it is anecdotal, but that is £100 million that has been a problem just because papers have not been there or whatever.

Lin Homer: Obviously, particularly with the introduction of accelerated payments, in a sense the benefit now sits with us, not the individual. We owe a duty of care to ensure that we are not doing what we believe others have done and just prevaricating, and we will watch that very carefully. The challenge for us is that sometimes we will

[5] Note from witness: Reference to 21,000 users should in fact be a reference to 22,000 users. This number is calculated by subtracting 43,000 (expected to receive a notice) from 65,000 (the estimated total population of avoidance scheme users)

believe that a case is a follower case; we will be seeking to get a definitive judgment about that type of case, and we will not settle for less than the tax we believe is due. If we are looking at a case—I do not know whether the case mentioned to you is such a case—and saying, "We believe we will win this case. When we win it, you will owe us all of that money," we will not do a deal.

Chair: Except when it is a Swiss bank account.

Q229 Stephen Hammond: Of the 21,000, how many are in that category?

Lin Homer: We would not know offhand. We will sometimes think more than the individuals will.

Q230 Stephen Phillips: I am sorry, but going back to corporate international tax avoidance on an aggressive scale, you will know that we conducted some hearings with one of the big four accountancy firms and one of their clients in relation to some documents that had been leaked by a whistleblower from Luxembourg. To use the example that we had before us on that occasion, the relevant corporation had managed to set up a structure with one of the big four accountancy firms that saw a subsidiary in Luxembourg making £10 billion or $10 billion a year and paying almost no tax. None of the corporate entities where the actual operations were taking place, in the UK, the United States and other places, were paying very much corporation tax at all. The evidence that we received was that they had managed to reduce their corporation tax bill to something below 1%. What is HMRC doing to tackle this form of aggressive tax avoidance and the marketing—in the Chair's words, the mass marketing—of these schemes by the big four?

Jim Harra: First of all, if I can pick up what we do with large businesses, because it is mainly multinationals who do this: over the four years from 2010 to 2014 we recovered £31 billion additional tax from large businesses through our compliance action, and—

Chair: Answer the questions please, Mr Harra. The question was—

Jim Harra: I am describing what we are doing, Chair. About £11.5 billion—

Stephen Phillips: It is my question, so I will interrupt when I feel that I am not being answered. Go on, Mr Harra.

Jim Harra: About £11.5 billion of that comes from those types of international CT risks. We have got a range of legislative measures that we can pursue. In particular, if it is a UK—

Q231 Stephen Phillips: Okay, now I am not being answered. Congratulation on your £31 billion—brilliant news, excellent for the British taxpayer. Now, here is one of the big four—we know who it is; it is PwC, but I am sure that the other three are up to the same—and here are the Luxembourg tax authorities in the Grand Duchy, with their nice, cosy little deal where, no doubt, they all go out to dinner and sort these things out. We had some evidence of the very close relationships between the big four and the Luxembourg tax officials. Now, the British taxpayer is being short-changed by these deals, by companies that are trading in the United Kingdom but not paying corporation tax here. We are not talking about transfer pricing; we are talking about much more complicated arrangements that have been put in place. What are you doing about them and what are you going to do in the future? I have no doubt we will come back to this in the next Parliament.

> ***Jim Harra:*** The main type of arrangement put in place using Luxembourg is group finance companies: groups put their surplus cash into Luxembourg and it gets lent from there, and of course—

Q232 Chair: We know about that—we exposed it, right? What are you doing about it?

> ***Jim Harra:*** We do a number of different things. First of all, if it is a UK-parented group, it is subject to the controlled foreign company rules, which are anti-avoidances rules which mean that there is tax in the UK to the extent that it is UK profits that are being diverted into Luxembourg. Transfer pricing is also relevant, because obviously the temptation in those kinds of arrangements is to pay an excessive rate of interest, so you get a large deduction in the UK for the interest you pay and it is taxed at a very low rate in Luxembourg. We use transfer pricing investigations to ensure that you only get a deduction for a market rate of interest, not an excessive rate. We also have a number of other anti-avoidance rules that we can deploy—

Q233 Stephen Phillips: What are you doing with the Luxembourg tax authorities?

> ***Jim Harra:*** The main thing we are doing there is that the BEPS project that I described earlier that the OECD is working on—

Q234 Chair: When is that coming in? Honestly, I want to put a bomb under you guys. This is happening now. To put it into the BEPS project—

> ***Lin Homer:*** Working with the OECD is challenging—

Chair: I really wish the project well, but you are talking about 2018, 2019, 2020.

> ***Jim Harra:*** We are taking action now to the extent that the existing rules enable us to do so; that is where we get that yield from. We are also—the period for the BEPS project is up to December 2015—working internationally to set benchmark standards that we expect all countries to comply with. You will also be aware that the EU Commission is challenging Luxembourg on some of its tax arrangements.

Q235 Stephen Phillips: Right. In relation to this tranche of leaked documents from yet another whistleblower—thank goodness for all these whistleblowers; otherwise we would not know about any of this—is HMRC looking to see which corporate entities trading in the UK have been unlawfully avoiding their tax through these complex structures?

Jim Harra: Le me describe to you what we have done with that data. Obviously it has been published on a website and it relates to 345 companies. We have reviewed it and identified 122 that are large businesses that are customers of my large business directorate. We have reviewed the documents in relation to 112 of those. The other 10, we have not yet—

Chair: How did you get from 122 to 112?

Jim Harra: We have not completed our review of the other 10 because of the volume of the documents and the need to get translations, but they are under enquiry. But we have completed the review on 112.

Q236 Stephen Phillips: Can you say whether any action is likely to be taken?

Jim Harra: Of the 112, we identified documents on 38 that had implications for UK tax, including avoidance. In 25 of those, we were already aware of all the matters that were in those documents and had already taken action in relation to the companies to the extent that was necessary. In the remaining 13 that had never been disclosed to us, we have concluded that there is no further action that we need to take, because there were no UK tax consequences.

Stephen Phillips: Have you approached the three other than PwC to say, "Which clients have you been advising in Luxembourg? What have they been up to, and can we have the documents, please?"

Jim Harra: Not specifically in relation to that disclosure. We do, as you might expect, deal with the big four and their clients all the time. In the case of multinationals, our prime contact is with the client. Although the big four advise them, they all have tax directors who decide what they are going to file with us, and it is the tax director that we deal with. Following that release of documents, we have not taken any specific action against the big four.

Q237 Stephen Phillips: The big four are all in London. You have the power to compel some of their documents to be produced to HMRC, just to check that people are paying the right amount of tax, don't you?

Jim Harra: We certainly do have powers. As I said, our first—

Q238 Stephen Phillips: When are you going to use those powers, Ms Homer?

Lin Homer: We do, all the time.

Jim Harra: We do use those powers.

Q239 Stephen Phillips: Right, well when are you going to use those powers in relation to those multinational corporations that have been advised by the Luxembourg subsidiaries of three of the big four in London whose documents have not been released?

> ***Lin Homer:*** They all have ongoing discussions with Jim's CRMs.
>
> ***Jim Harra:*** One of the very useful things for us that came out of the publication of these documents was that it enabled us to do a check in this case against what we had already been told through using our powers. I take comfort from the fact that we did not find a single case among the 112 where we have completed the review where there was something material that had not been disclosed to us, either spontaneously or upon us using our powers to require it to be produced. We use those powers against the multinational businesses.

Q240 Chair: Hang on a minute. Are you saying that the tax avoidance from these totally artificial schemes, which had no other purpose than to avoid tax, was totally within the law?

> ***Jim Harra:*** No, I am not. Within that group of cases, there were definitely ones where we had challenged the—

Q241 Chair: Had challenged—and got any money back?

> ***Jim Harra:*** Yes; that is part of the £31 billion.

Q242 Stephen Phillips: Are there cases you are now able to challenge where you could not do so previously?

> ***Jim Harra:*** Not as a result of that disclosed data. When we have looked at that data—as I say, there are still 10 cases where we have not completed the review, but of those that we have, no, none of the data told us anything new that enables us to open enquiries. We cannot challenge these arrangements to the extent that we would like to. That is why the BEPS project is going on. We know that tax authorities around the world, including in the UK, are not getting a big enough slice of the cake from multinationals.

Q243 Nick Smith: Are you able to challenge PwC in Luxembourg?

> ***Jim Harra:*** We are able to challenge the UK multinational, and they have to produce the information to us if we demand it. If they used an adviser in Luxembourg, they still have to produce the information to us. We also have exchange of information treaties with foreign tax authorities, including Luxembourg. Indeed, in one of these cases, we used that to demand the information from Luxembourg.

Q244 Chair: Ms Morris, how much business does PwC do with Government? What is the worth or the value of the business that they undertake with Government?

> ***Indra Morris:*** I do not know off the top of my head.

Q245 Chair: What is it? Does the Treasury have a look at that sort of thing? This is one of the bees in my bonnet: these companies are advising other companies on how to avoid tax legitimately or otherwise, and then expecting to use taxpayers' money to get contracts.

> ***Indra Morris:*** As you know Chair, commercials are led by the Cabinet Office rather than the Treasury now, but you raise an important point. Part of the discussion we had in this Parliament is the importance of reputation. That is one of the really positive developments. I have seen a real shift in this Parliament in people starting to think about tax as a board-level issue and a reputational issue. Alongside the statutory action on transparency and the enforcement activity by HMRC, the challenge and the surfacing of some of this has had a real impact on behaviour.

Mr Bacon: The real shift has come, has it not, because large plcs have suddenly realised that their main board directors could be in front of this Committee? Can I—

Q246 Stephen Phillips: I had not quite finished. I have one final question on international tax avoidance. The new diverted profits tax will obviously have to be administered by HMRC. Who is going to do that? Do you think you have the expertise in-house to do it?

> ***Jim Harra:*** Yes, it is my responsibility to implement that. Indeed, it is my people who have designed the legislation in conjunction with Treasury colleagues. It is a very complex piece of legislation and we have already produced one set of guidance about how we believe it will operate. Time will tell how effective it is. We believe that we will collect £1.35 billion of additional tax through that power up to 2020. That is partly from the tax itself, but because it is set at a rate of 25%, which is higher than the main CT rate, we expect it to act as a deterrent to the kind of behaviours that we have established—

Q247 Dame Anne McGuire: Can I drill this down from the dizzy heights of UK-Swiss relationships? For some of the conversation that we have had with you today and on previous occasions, the backdrop has always been about big business. The impression given is that big business has, if not sweetheart arrangements with HMRC, perhaps greater access to HMRC than small and medium-sized enterprises. I think that is borne out by the paragraph on page 20, which indicates that small businesses feel that they do not get a good deal from or do not have as good a relationship with HMRC, whereas large businesses think that they have a really good relationship. Indeed, the disparity is 24%, which is quite significant. Do you agree with that comment in the NAO Report?

Jim Harra: I do not agree that large businesses get a better deal on their tax, but I do agree—

Q248 Dame Anne McGuire: But the problem is that they think they do.

Jim Harra: I do not agree that they get a better deal on their tax, but I certainly do agree that they get more access to HMRC, because our approach to them is to sit on top of them and be all over them like a cheap suit, so that we know what they are doing, whereas in the case of small businesses, we try to leave them alone and contact them and intervene only when we feel we need to. What I would love to do is to give small businesses the same kind of access as large businesses have, but it is an extremely expensive service, which is justified in the case of large businesses only because of the additional yield that we get, which I have described. For the future, what I want to do is to create digital services for small businesses that are personalised and tailored to them, so that they feel, like a large business, when they contact us, "This organisation knows me, knows what my business needs, and is responding to that." But we are some way short of that, I acknowledge.

Q249 Dame Anne McGuire: Yet that is almost reinventing the wheel, isn't it? Previously, small businesses could speak directly to local—I'll call them tax inspectors; I do not know whether that was the grade, but they could speak locally to individuals who understood them and the local environment and with whom they could have a pretty rational conversation about how they progressed things, and indeed they could come to the point where they could get a settlement. I think some of the frustration that I have picked up from small businesses in my area is from the fact that they just do not know who to speak to; they do not know how to get a settlement of their tax affairs if that is the conversation that has to be had. On more than one occasion, I have had to write to Lin Homer, which is ridiculous, to try to get it to trickle down to the right level to get that conversation started or, in some cases, finished.

Jim Harra: I agree: the service that we give to small businesses is not the service that I want to give them. Where we intervene in their tax affairs, they do have a named person who manages that intervention, but where they wish to contact us and have us intervene in their tax affairs, it is less perfect. We do have, obviously, the helplines that they can contact. We also now have webinars and webchats, which they are using increasingly. But it is not as good a service as I think we can give.

Q250 Dame Anne McGuire: But you still have a 24% differential between how big business perceives you and how small and medium-sized enterprises perceive you.

Lin Homer: We do. Jim is doing a lot of other things around not only digital, but webinars. In the information we have not yet published—we need to check and validate it; it will be part of our annual report—there is some evidence that we have seen another uplift in that SME figure—

Q251 Dame Anne McGuire: 3%.

Lin Homer: No. That is last year—

Jim Harra: But there has been a further uplift in the next year.

Sitting suspended for a Division in the House.

On resuming—

Chair: Are we ready everybody?

Q252 Dame Anne McGuire: To develop my theme about small businesses and HMRC, may I take us on to the paragraphs 6.13 and 6.14 in the NAO Report, which are to do with RTI? Of course, this was supposed to be the great panacea of instant information being put into the system. There is still a suggestion, as the NAO has alluded to, that small businesses might not feel that RTI is appropriate for them. I am not just talking about businesses in the traditional sense; some of the individual carers who recruit and employ staff or support workers find RTI just another imposition on them. I wonder whether there has been any reflection on whether RTI is suitable in all circumstances, albeit that if you start to dilute it, that might undermine the whole principle.

Lin Homer: Okay. What I would say is that we are continuing to try and develop RTI in a very iterative way. I think Ruth and her team have made a great success of not going "big bang", and you know that we made a number of easements for smaller businesses to try and get them into a confident position. One of the biggest challenges for micro and the smallest businesses was that they had not necessarily been running their organisation in a way that meant all of the data were easily to hand, so part of that was to give them time to get themselves into shape. We are continuing to try and work with and understand what is going on and we are seeing growing levels of confidence from businesses as they get used to it.

It is really important to say that we have only just finished the first full year, so there are a number of things still going on not only about the business support we give to small businesses, but the reaction. I hope that the Committee may have noticed that we recently published a consultation document on penalties. One of the things—again, this is something that we have talked to you about—is trying to ensure that we are fair and take everything into account. We are reviewing the effectiveness of automatic penalties and looking at the circumstances in which people should be aided to settle versus being penalised for not getting it right. That is the kind of approach that we want to continue trying to take, particularly for small businesses.

Q253 Dame Anne McGuire: So what you are saying is that as RTI becomes more developed as you offer more support to the smallest or even micro businesses, it is still appropriate for them to use RTI.

Lin Homer: We are seeing only a very limited number of businesses where RTI is really not right for them. I think we are seeing a need for them to build up confidence in the system and, bluntly, to get their own systems in working order. But we are not seeing—I do not think the tax agents are in this space any more, either—a sense that there is a sector of a type of business for which RTI is wrong.

Jim Harra: If I could just add that we mentioned earlier the regular quarterly survey that we do of small businesses, and the last quarter's results show that for ease of completing the pay-as-you-earn process the scores have risen for small businesses, which indicates they are getting more familiar with what they need to do.

Q254 Dame Anne McGuire: That is helpful to know.

My final question is to do with the relationship between the RTI process and the benefits system. I wonder if you could update us on where you are with that—about whether or not DWP are in a position to take full advantage of the new process, or whether there is still a disconnect there.

Lin Homer: No. We are working very closely with DWP. Nick Lodge leads the universal credit project from our side, and obviously he and Ruth Owen, who runs personal tax, are heavily involved. We are finding that there is a great deal of opportunity to work closely together. In fact, I think Robert Devereux was up visiting some of our teams and seeing first hand what they are doing. So they are definitely already exploiting data in some areas, in a sort of pre-UC space. Some of that is about washing their data against our data, rather than literally real-time, but we are definitely making sure that the systems are more and more collaborative and connected, and using RTI in real-time now with DWP, to help them both give good service, but to cut out error and fraud.

Q255 Dame Anne McGuire: But they are still dealing with penny numbers in terms of the big picture.

Lin Homer: Well, we are doing some big-number data with them. They have still got relatively small numbers purely in full UC, but what we are discovering increasingly, I think—and this is an area that the Cabinet Office are very interested in—is that where Government has a big platform it makes a lot of sense to share that. I think, because of the scale of HMRC's big platforms, a lot of our platforms are useful to other people.

RTI is useful both in serving the customer and in cutting down error and fraud. Some of Jennie's systems, like Connect, are very useful to our law enforcement colleagues. So we are trying to take a broader approach, so that when we have a good working system we would talk about why it is not used to give better service and more effective value-for-money service.

Q256 Dame Anne McGuire: Your comment on big platforms leads me quite neatly to my final question. The problem about big platforms is that, if they go down, if something happens to them—I would be interested in your resilience planning in terms of RTI, and I am sure other colleagues would be, too. We hope that it does not go down, but having said that, and having been at a cash machine one night when the whole of Royal Bank of Scotland and NatWest cash machines went down, it can often happen in the blink of an eye. I wonder what resilience planning you have there, because if you guys go down we have a benefits system that collapses and all the other manifestations of the roll-on from that.

> ***Lin Homer:*** On RTI particularly, we discussed with you—gosh, probably 18 months ago—that we have not paid for a kind of complete 100% resilience, where you almost have the second machine doing everything the first is, in case the first one blows up. We do not think that is necessary, because the basic systems that we work do not stop running if you lose functionality of part, or for a small period of time. We have tried to build resilience into the system, so that you store and return to. To put that crudely, I suppose what you would see is a deterioration in the pace of service, rather than a failure of service, because we would possibly not be able to send it down the pipe to DWP instantly, but we would be able to return, retrieve and give it to them when we got the systems back up.
>
> We are testing this in real time all of the time. We have moments when bits of our system stop working. So we are building up our resilience capability. I was talking earlier about the improvements we have made in customer service, and one of the changes we have made to our telephony means, for instance, that if one bit of our telephony system went down, we have now much greater resilience to be able to divert calls to other parts of the system—rather than if it broke when there is a big queue behind it, those queues being stuck in that call centre. We believe that that kind of approach means not that we will not face those kinds of challenges, but that we should be able to minimise and mitigate their impact.

Q257 Dame Anne McGuire: Given that hackers can get into the American defence establishment, I hope that they are not being over-confident.

> ***Lin Homer:*** No, I think you are wise to say that. Cyber-security is a whole other ball game. We spend a lot of time watching for signs, training and improving not only our technological systems, but those systems that depend on human beings. You are wise to advise us.

Q258 John Pugh: I have two questions. You must bear with me on the first one, because I was out of the room for part of the session and my question might appear to be naive in context, but it is specific. We are using the word “data” in a very generic way. Obviously, you have had access for some time, in particular on the HSBC thing, so you have been able to regard the data for some appreciable time. The information that the Bureau of Investigative Journalism has got is obviously a much richer seam of data. Am I correct in assuming that?

> ***Lin Homer:*** Not necessarily, no. We have had the debate while you were not here, that we have asked for the data from both the BBC and *The Guardian* and we will check. We have also had Jim telling us that sometimes when we ask for more data we discover that there is not more, but we are attempting to check.

Q259 John Pugh: The question I wanted to ask, which was why I was asking for clarification on that point, was about the information and the Lagarde list. I do not know in what form it might be, whether straightforward ledgers, lists of names or pieces of correspondence handed on to you perhaps, but was there anything in all that data—until we see the disk, we will possibly never know—that would lead a reasonable person to infer, at the stage when you have the data, that a bank had behaved in a way that you would not expect a bank to have behaved given its natural propriety?

> ***Lin Homer:*** Without reprising the whole two hours, there are two things. Jim has said that some of the things being described, both in media circumstances and in what we see, cause us to believe that governance arrangements in relation to codes of conduct would not have been met if the code of conduct had been present. The second thing is that we will consider whether there is any new information, but the point that I was trying to make earlier was that it is really quite a complex decision to decide whether an entity or an individual has breached a criminal law in such a way that you can undertake a successful prosecution. I am afraid—

Q260 John Pugh: That is slightly different. What I really wanted to know is this. The simple question really was: is there anything in the data you had got—not the data that the Bureau of Investigative Journalism has got—that would make a reasonable person infer that this is not just an issue of bank accounts we did not know about, but a more important, or equally important issue, of a bank behaving in a wholly untoward way?

> ***Lin Homer:*** What I have said is that we are not the regulator of banks generally. We have a narrow responsibility and—

John Pugh: I know that.

> ***Lin Homer:*** The data we have received about HSBC Suisse from the perspective that we have been looking at things gave us data on individuals, a third of whom as individuals might, we believe, have owed us tax. We have pursued, to give us £135 million. Two thirds—

John Pugh: We are rehearsing things we have said already.

> ***Lin Homer:*** I am trying to get to the point, so—

Q261 John Pugh: A yes or no answer would be helpful. Is there anything in the data you had that would have led a reasonable person to think that a bank had behaved in an untoward way? The answer is either yes or no.

> ***Lin Homer:*** No, it isn't.

John Pugh: Isn't it?

> ***Lin Homer:*** No, it isn't. What I will say to you—

Q262 Stephen Phillips: If you don't know because you haven't been through the documents, say, "I don't know."

> ***Lin Homer:*** No, I'm sorry, you cannot turn questions into yes or no questions just by wanting to. One of the issues is whether this bank was complying with its own laws, and Swiss bank laws are very different from our own. Another issue is whether there is corroborating evidence to show that either an entity or an individual might have behaved in a way that was criminal. I spent some time trying to explain that that is something we would consider carefully. What I did say is that we did not pursue cases in that way.

Q263 Austin Mitchell: Have you made up your mind now?

> ***Lin Homer:*** No, because it is too broad, too ill-defined and—

Q264 John Pugh: Perhaps hand the data over to us and we will form an opinion.

Chair: I have seen the data actually. You just have to look at the data, but anyway, if you don't want to act, you don't want to act. There's a resistance to acting.

Lin Homer: If I might say so, that is a superficial comment about a very complex area.

Q265 John Pugh: Okay. I don't want to open old wounds. Can I ask a more positive question? Most of the thrust of this session has been us suggesting—or people suggesting—that, in matters of tax avoidance, you haven't done everything you should, and your answer is normally that you have done everything you can. In what areas do you feel you could have done more, right across the piece in tax avoidance? Are there any areas in which resource limitations have prevented you from doing more, or is it just perfection?

> ***Lin Homer:*** No, it is definitely not perfection. I honestly don't think we ever come to this Committee and try to say that. I think the Report indicates that we take your recommendations very seriously. What I would say is that we have developed a good pattern of adding things to our toolkit as we go forwards. We have talked already about a number of things in Jennie's area and in Jim's which we now have as tools that we didn't have three, four, five, six years ago, and it is beholden on us to keep adding to those. If you asked us for our favourites at the moment, Jim has already mentioned the OECD work. We would really like some of the base erosion work to bite. He made the point that we share lots of people's frustrations that people are not paying enough tax. In the avoidance space, we are very keen for our accelerated payments tool to work. In both those cases, I think we share a position with you that we would like people to get that paying tax is a really important thing. I am not going to say that they should like doing it, but they should accept it is indispensable.

Q266 Mr Bacon: The OECD has been banging on about this for 30 years. When our Chair went to Paris, they greeted her with open arms and called her a tax rock star, because nobody had been taking any notice of these issues until she did. Why do you suppose that something as important as this—the concept of base erosion—did not, at any point in the last 30 years, become part of the common currency until this Committee started sticking in its nose in areas where some people should said it shouldn't?

> ***Lin Homer:*** Far be it from me to describe Mrs Hodge as other than a rock star, but Jim will tell you that he has been at least in there playing tunes as well. We have been involved in this work for some time, and we have been quite a leading force in it. Have they ever called you a rock star, Jim?

> ***Jim Harra:*** Unfortunately not, no. In terms of governmental action, I think it was at the June 2012 G20 summit, which was during the UK's presidency, that there was a call to do this work. It was in November in 2012 that the Chancellor, together with his German counterpart, announced the funding and the kick-starting of the BEPS project. In fact, some of the work had already been going on in the OECD, which is one of the reasons why we were able to get that project going as fast as we did. I know you would like to see faster action, but I can tell you that, in terms of international tax negotiations, this is moving faster than many other areas I see. There was a coming-together after the financial crisis—a realisation that this system is not—

Q267 Mr Bacon: It was actually after this Committee started publishing its first reports, and Mr Hartnett resigned. Then it was raised at the G8 in Moscow. That was some time before the G20 that you are referring to.

> ***Jim Harra:*** I am not trying to take your rock star status away from you.

Q268 Austin Mitchell: I am not a rock star, but a lump of rock in space at the moment. Several solutions have been advocated to deal with this kind of problem. One is, why don't you pay whistleblowers? All this has come to light, not through your efforts or our efforts, but through whistleblowers in Luxembourg, who are facing prosecution there, and in the Channel Islands.

> ***Lin Homer:*** We do pay for information.

Q269 Austin Mitchell: Do you pay them enough to make it worthwhile?

> ***Jennie Granger:*** We do. Last year, it was about £400,000 in relation to information, so that is part of our toolkit. Obviously, our bigger preference would be that people did tell us. Our even bigger preference would be that we didn't have to do it at all.

Q270 Austin Mitchell: You don't pay them a portion of the haul of what you make on the disclosure?

Lin Homer: We do not have a basic payment by results—my staff might quite like that as well—but it does bear some relation to the value of the information to us, yes.

Q271 Austin Mitchell: So you do.

Lin Homer: I have to be clear here. We will try and get the information for free if we can. We are not just standing there chucking £5 notes away.

Q272 Austin Mitchell: Why not have compulsory disclosure? DOTAS operates in some other countries where there is compulsory disclosure, and if it is ruled that it is a fiddle for tax purposes, it cannot be used. So why not insist on that before they can be used?

Lin Homer: We have compulsory disclosure.

Jim Harra: The UK has had a disclosure of tax avoidance schemes regime since 2004

Q273 Austin Mitchell: Yes, but it is a weak one.

Jim Harra: I would not agree with that. It was a game changer, and the NAO has said that. It has recently been strengthened and added to, and Jennie can tell you more about that.

Jennie Granger: We are broadening what it applies to, which is one of the points you made, and also looking at penalties for it as well. But that is not the only thing that we are looking at. We have also strengthened the consequences if you are a high-risk promoter, someone who does not co-operate, relies on misdescription and may not register. It could be a range of those things. We can essentially give a conduct notice to promoters. There are not a lot of them, but there are some. If they do not change their behaviour, we can publicise that notice. One of the things we are determined to do, which is back to that question about what you would like to do more of, is to shine a light on this more and warn people away from getting involved in it. So we are actually strengthening those things.

If I can go back to Jim's point about DOTAS, we have seen a dramatic drop in the number of marketed schemes. There were about 600 when DOTAS started, and there had to be an enormous amount of legislation to respond to that. So far this year, there have been five. We are not complacent about that, because one of the things we are worrying about with the strengthening of that regime and accelerated payments is whether promoters will be tempted not to register. So we have a team now whose role is to go and try and detect schemes early, because we did not think we were doing enough to get our people on the front foot to try and cut off schemes being marketed as soon as we found them.

Q274 Austin Mitchell: Okay. You have dodged my questions on how information is exchanged between tax authorities who are robbing each other. Is there no European machinery or anything in the EU that would allow you to challenge tax agreements made by other countries that rob the British taxpayer? If profits have accumulated, they should be taxed in this country.

> ***Jim Harra:*** There are several EU and international forums where we can do that. In the OECD—

Q275 Chair: No, he asked about agreements. Is there any European legislation or agreement that allows you to take action when the Dutch or the Luxembourg people do a deal?

> ***Jim Harra:*** I am aware of three ways that we can do that. There is a forum on harmful tax practices in the OECD and a code of conduct group on harmful tax practices in the EU, and the EU Commission will carry out state aid inquiries if they believe a tax authority is giving—

Q276 Austin Mitchell: Why don't you do it?

Chair: Because, Austin, at the moment we are being criticised for our own harmful tax practices with the patent problem, and we are doing sweet nothing about it.

Austin Mitchell: But that does not matter. I am not bothered about our harmful tax practices. Why do you not challenge the Luxembourg agreements?

> ***Jim Harra:*** I will answer both questions. First, in relation to Luxembourg, the European Commission is formally investigating Luxembourg and its tax agreements. In relation to patent box, that has not been found by either the OECD or the EU to be a harmful tax practice. It is, together with other patent boxes that other countries have, one of the action points in the BEPS programme to make sure that we have got a common international standard for what the substance is on that. The OECD has recently reached agreement on what that substance should be, and the UK has agreed to amend its legislation to come into line with that. We do not believe there is anything wrong with our existing substance rules, but we are happy to move to the new ones.

Q277 Austin Mitchell: Okay. You always answer questions about particular firms like Amazon or whatever with, "We don't disclose commercial information." What is wrong with the principle of having big companies disclose their tax declarations? They do in Sweden; why don't we?

> ***Jim Harra:*** That's entirely a matter for Parliament. At the moment, I operate under legislation where I am required not to disclose that information.

Chair: I think we accept that.

Q278 Austin Mitchell: Finally, PricewaterhouseCoopers poses, and is selling itself, as a big multinational that can do deals everywhere and make arrangements with any nation; but when it comes to obligations such as providing information to America in previous court cases, they are not. They are a series of separate companies, and a British company doesn't disclose information about America to the Americans. Where are these agreements on tax that they said they were not coming to—in fact, there turned out to be more than 1,000 of them with Luxembourg authorities—taxed? Where is the profit made on those tax agreements? Is it taxed in Luxembourg or here?

> ***Jim Harra:*** First of all, in terms of getting at information, as I said earlier, we go to the taxpayer. However, we have an extensive treaty network, and under those treaties, we can ask our treaty partner to obtain information in their jurisdiction and pass it to us. We have a joint intelligence network set up in the UK and Washington, which has a group of countries in it which share that intelligence all the time. We work in collaboration, as tax authorities, to ensure that multinations that try to use those boundaries cannot do that.
>
> On the wider question about where things are taxed, as you might expect, that is what the BEPS project is all about. The countries where the real economic activity is going on are dissatisfied that not all of the tax cake is being shared among them. The arrangements are put in place to ensure that as big a slice as possible of that cake is in a country with zero tax or a very low tax. That is what we try to tackle.

Q279 Austin Mitchell: But the profits made by PricewaterhouseCoopers on sale of the tax schemes that allow them to be taxed in that kind of fashion—where are they taxed?

> ***Jim Harra:*** I will not talk about PricewaterhouseCoopers specifically, but the big four firms are national partnerships. Each partnership would be declaring tax to its own national tax authority.

Q280 Austin Mitchell: So it would be taxed in Luxembourg?

> ***Jim Harra:*** If they are carrying out economic activity in Luxembourg, that is where they would be liable for tax. I am not saying that they have been taxed, but are liable for it.

Q281 Nick Smith: It is that furrow that I want to plough, too. We know that the big four have hundreds of staff, sometimes in Luxembourg. We had PwC and Shire in here a few months ago and I, for one, was surprised at Shire's use of letterboxes to reduce their tax exposure. The tricks they were pulling were very interesting. You talked earlier about having the opportunity to challenge the PwC Luxembourg operations, but it was left hanging and I want to pursue that a bit more. Have you been able to do that, and if so, how and what happened?

> ***Jim Harra:*** If a multinational has a presence in the UK and we believe that that multinational's international tax arrangements involve the avoidance of UK tax or we

suspect that it may, we have information powers where we can go direct to the multinational and require them to provide us with information. We also have information-sharing agreements with foreign tax authorities, where we can go to them and ask them to assist us by obtaining information and passing it to us. Obviously, we check that. That works across a large number of our treaty partners, including some that have very low tax jurisdictions but regard themselves as respectable tax authorities and therefore co-operate. There are, of course, some havens in the world where it is extremely difficult to get that information; but in my experience, if the multinational is operating in the UK, we can generally get at the information that we think we need to manage their compliance. When we have cross-checked that against the data that has been disclosed recently, that has appeared to validate that.

Q282 Nick Smith: I am sure that you read the report of the sitting we had with PwC and Shire a couple of months ago. Did you challenge PwC about that?

Jim Harra: I have described what we have done in relation to analysing that data. We primarily challenge the multinational clients of the big four firms. They may then ask the big four firms to represent them in their dealings with us, but our primary contact is with the tax manager of those companies.

Q283 Nick Smith: If I remember correctly, Shire had gone overseas to Ireland, so presumably you could not chase them.

Jim Harra: I think that the tax director of Shire told you that it is resident in Ireland for tax purposes. That does not mean that there isn't a subsidiary in the UK that is liable for UK tax, but it does mean that the primary responsibility for managing the group's tax affairs is in Ireland. If we had concerns about the tax of a subsidiary, we would go first to the group, but we could also go to the Irish tax authorities, with whom we have an information-sharing agreement.

Q284 Nick Smith: Listen: did you speak to Shire? Did you speak to PwC? What happened?

Jim Harra: I am not going to say who we spoke to. What I will say is that all that data has been thoroughly reviewed. We were content that we had already taken action in relation to the matters that we had concerns about and there we no other matters that came out of that data that we weren't aware of and that we needed to inquire into.

Q285 Nick Smith: You talk about a code of conduct for banks for tax evasion; I assume that PwC would be subject to the same sorts of codes. Do you think that they infringed any codes with what is happening in Luxembourg?

Jim Harra: PwC are clearly not subject to the code of conduct for banks. However, they are a firm of chartered accountants, and therefore, they are members of ICAEW—I'm sorry, the Institute of Chartered Accountants in England and Wales. They have a code of ethics and also a code of professional conduct in relation to taxation that has been endorsed by HMRC. It is their job to ensure that their members comply with those codes.

Q286 Nick Smith: And you don't think that they have infringed those codes in Luxembourg.

Jim Harra: I am not going to talk about a specific firm and it is not my job to regulate tax advisers, but the UK partnership would be subject to the ICAEW's code. It is the ICAEW's job to enforce that.

Q287 Chair: But that doesn't have any statutory underpinning—it is just a voluntary code, isn't it?

Jim Harra: That is a code, but the ICAEW would regard themselves as regulators.

Q288 Chair: But it's not statutory.

Jim Harra: It's not statutory.

Q289 Stephen Phillips: You also said that they were subject to a code of conduct for tax advisers that was agreed with HMRC as well.

Jim Harra: We have agreed a code called the code for professional conduct in relation to taxation. We have agreed that with the Institute of Chartered Accountants in England and Wales.

Q290 Stephen Phillips: So who polices that?

Jim Harra: The Institute of Chartered Accountants in England and Wales. We have endorsed it; it is a level of professional standard that we believe would be satisfactory, if it is complied with.

Q291 Stephen Phillips: In general terms, Mr Harra, what does it say about aggressive tax avoidance and the designing of entirely artificial schemes to deprive the Exchequer here or anywhere else of revenue to which it is entitled?

Jim Harra: I believe it says that firms should not engage in structures that are artificial.

Q292 Stephen Phillips: Very interesting.

Jim Harra: Sorry; that code also applies to members of other professional associations.

Q293 Chair: Can I just ask about whistleblowers? One of my regrets of this Parliament is that Mr Mba felt that he could no longer work for you, Lin, because of the treatment that was meted out by his colleagues in HMRC. Can you assure me that HMRC will never again use RIPA powers against whistleblowers?

> ***Lin Homer:*** Chair, I believe that we have had this conversation before. I share your disappointment that we were not able to persuade Mr Mba to stay with us—we did try. I believe that it was a decision he made after careful thought. I am confident that we have adopted the best practice across Government around whistleblowing and that we have improved the awareness both of people who might use the scheme as whistleblowers and of the people who need to support them. That is a very important lesson for us.
>
> The difficulty with a carte blanche guarantee is that sometimes cases are complex, and it is difficult to tell whether you are dealing with someone who is a whistleblower or someone who is being mischievous or worse in your firm. Sometimes, you have to make very swift decisions about where you are going to go. What we have agreed for the future is that if we reach a point where we have someone who may appear to be breaking the law but also acting as a whistleblower, we will try to separate those two things and ensure that the group looking at whether the law is being broken is separate from and does not stop support going to the whistleblower. That is the position we are in.
>
> We have strict requirements that people who work for us cannot take out personal data. If they feel the need to whistleblow, there is a variety of routes. We hope they would tell us. If not, there is an opportunity to go to civil service commissioners. In one case, somebody came to you. What is important is that people understand that the label whistleblower is not freedom to break the criminal law. In some of those circumstances, we have to make very fine judgments.
>
> I will give you an assurance that if we are talking about a case that is purely about someone trying to whistleblow and there is no concern about the leak of confidential individual data, we will apply the best practice possible to see that person first and foremost as a whistleblower not simply or only as someone in breach.

Q294 Chair: I was letting you have that whole answer. Chris wants to come in. I found that very difficult because what Mr Mba revealed was negotiations around Goldman Sachs. That is confidential information about a particular taxpayer. If he had not done that, we would not have uncovered that there was a sweetheart deal. It was primarily that he was blowing the whistle on unacceptable practices, although in doing so, he inevitably revealed, having tried to do it internally—endlessly internally—information about a particular taxpayer. So I am not satisfied with that. It is not acceptable. If somebody breaks the law in some other way, clearly you need to pursue that. We wish you had pursued it more vigorously than you did. In this case, where he probably did break the law in revealing to us the details of Goldman Sachs, he did it for a purpose. He did it to blow the whistle on a sweetheart deal and you should not have used RIPA.

Lin Homer: The challenge here is that, despite some significant audit on your behalf, there is no evidence that any of those deals was inappropriate. That is the case.

Chair: I think Mr Hartnett eventually agreed himself.

Q295 Mr Bacon: There is no evidence that which deals were inappropriate?

Lin Homer: The deals that were audited on your behalf by NAO.

Q296 Mr Bacon: Hang on. We really should not be revisiting this ground. The internal note from HMRC's general council said that the deal that had been shaken hands on with Goldman Sachs was "unconscionable". That was HMRC's own internal note. Are you now telling us that that was all wrong and that there was no evidence?

Lin Homer: I am telling you that some of the evidence sessions that you are talking about were subject to quite significant controversy about the questions put and the answers.

Mr Bacon: I am just talking about what you said.

Q297 Stephen Phillips: What does that mean? That we are not allowed to ask in Parliament what we want to ask?

Lin Homer: This is a very big issue.

Q298 Mr Bacon: Yes it is, but you have just made the statement that there is no evidence that there was anything wrong with any of those deals.

Lin Homer: Yes.

Q299 Mr Bacon: We know—we don't think—we know it is a matter of record that HMRC itself thought that one of the deals was unconscionable. How can that not be evidence that there was something inappropriate?

Lin Homer: The debate that was undertaken over a number of hearings throughout 2011 was about whether the settlements reached in those cases were appropriate.

Q300 Chair: We are talking about Goldman Sachs. Full stop.

Lin Homer: I am not talking about any individual named cases. You know that. After deep activity on your part, they were all given a clean bill of health.

Q301 Chair: No, they weren't. Not on our part, because we could not have deep activity limits. It is one of the things that I think Select Committees should be able to call for papers and people.

Lin Homer: I agree, and in relation—

Q302 Mr Bacon: They were not given a clean bill of health. HMRC itself did not give them a clean bill of health. That is my point.

Lin Homer: You are talking about one piece of evidence that you believe and place great weight on. There were arguments that that was not appropriate to place weight on. As a substitute for that, a very thorough look was undertaken and in broad terms the settlements were regarded as reasonable or better. It is not a good example to say if something is visibly criminal.

In relation to your more specific point, I accept and agree—and have made changes—that HMRC did not deal sufficiently well with Mr Mba so as to divide up what I believe were his proper concerns from the concerns within the organisation about his release of information. I give you my personal assurance that we are ensuring that that would be better dealt with if it happened again. I share your disappointment that we were not able to persuade Mr Mba that he could fulfil a future with us in those better environments.

If you look at the question of big settlements, one of Mr Mba's major concerns was that the people who were involved with cases all the way through at a more junior level were not in the room when those big decisions were made. We now have a system, with Edward as the tax assurance commissioner, in which the assurance process for our big settlements has much more role separation—one of your recommendations—has much more separate assurance and has the people who have been involved in the room when the debate about those cases happens. I completely accept that we needed to improve our processes.

Chair: I am asking about whistleblowing, actually.

Q303 Chris Heaton-Harris: I am not convinced, looking back on it, that that was the greatest answer. We had lots of internal discussions about this within the Committee and it has changed how we deal with whistleblowing. My question is simply that there is a lot of best practice in the United States tax authorities for how they deal with people on the inside who have been uncomfortable with these things, so would you please, if you have the opportunity, look at some of that best practice and see whether it can be transferred across to what we do here?

Lin Homer: I am happy to, but I am sorry if the second part of what I said was not heard. We believe that we have made some substantial change. We think we have adopted a significant amount of best practice. We wholly accept that there has to be a separate protective channel for whistleblowers.

Q304 Chris Heaton-Harris: I did hear that. It is just that this is a process that evolves, actually. We are evolving how we deal with this.

> ***Lin Homer:*** It wasn't in place at the time—I accept that. I remain open to learning from wherever it comes.

Q305 Stephen Phillips: What steps have you taken to educate your staff in relation to the new procedures that are in place so that they are not frightened of having the same experience?

> ***Lin Homer:*** There are a range of things. First, they need to be repeated, and secondly I am sure that there is more we could do, but, most importantly, we have reviewed and improved all the information about whistleblowing on our intranet, so that it is easy to find and easy to use. We have done additional training within our lines of business so that managers know and are aware of how they would identify the need to treat someone as a whistleblower. We have identified and trained a number of people whose specific role is to support whistleblowers so that they can be taken out of the line. We have much more robust monitoring, which is now shared with our audit and risk committee, so that they can challenge us as a non-exec board to assure themselves that we are taking it more seriously than we did.

Chair: Okay, my very, very final question.

Mr Bacon: May I ask my final question first, so that your final question is final?

Chair: Make it short.

Q306 Mr Bacon: Indra Morris, you were asked earlier about how much the Government pays to PwC and you could not say. This space is one that the Cabinet Office has looked at extensively in relation to large suppliers such as Serco and many others, and there are now Crown representatives. Do the big four have Crown representatives in the same way, and if not, why not?

> ***Indra Morris:*** That is a good question. On Crown representatives I am not sure and am happy to check. Certainly the Cabinet Office has a role, as you know, looking across all Government contracts, and that would include Government contracts with PwC.

Q307 Mr Bacon: It would be very obvious. You could find that one Department in November pays three hundred and something thousand pounds to one of these firms for one month, for one Department. It would be sensible, would it not?

> ***Indra Morris:*** Crown representatives are partly allocated on the basis of the value of the business and the risk and complexity. I am happy to check.

Q308 Mr Bacon: It might not meet it in terms of value compared with some of the really big suppliers, but it would certainly meet it in terms of complexity, risk and influence. When you are appointing people to the Treasury with job titles like head of PFI policy, and they are actually secondees from one of the big four, I would have thought that would meet those other criteria, wouldn't it?

> ***Indra Morris:*** On the point about secondees, it is really important that we draw on expertise.

Q309 Mr Bacon: Yes. I do not disagree that it is a good idea to have people who know what they are doing and that you should learn from them. It would be even better if the expertise was transferred, by the way, but that is another story. I am really asking about whether the management's philosophy of having a Crown representative is applied to the big four in the way that it is now applied to other big suppliers to Government.

> ***Indra Morris:*** I can ask the Cabinet Office. I do not know, but I can check.

Q310 Mr Bacon: Can you write to us?

> ***Indra Morris:*** Yes, I am happy to follow up on that.

Q311 Chair: It would be lovely if the centre of Government worked in a more coherent way. Can I ask you a very final question, and then we will move on? There are proposals for a Google tax, which the Committee is interested in. Am I right in thinking that the sort of loan arrangements that we uncovered from PwC from the Luxembourg leaks would not be covered by this tax? It would still be open for international companies to set up finance companies in tax havens and use them to make loans. Am I right about that?

> ***Indra Morris:*** I think this is the diverted profits tax that Jim was talking about earlier.

Q312 Chair: No, I am asking about your proposal, Ms Morris, for a Google tax. There is a consultation document that says the Google tax does not kill the scheme that PwC and perhaps others are using.

> ***Jim Harra:*** I think that the tax you are referring to as the Google tax is the diverted profits tax that was proposed by the Chancellor in his autumn statement, and we have just completed the consultation on that.

Q313 Chair: Are you doing it, or is Ms Morris doing it?

> ***Jim Harra:*** It is in the policy partnership between the Treasury and HMRC. It is now at the stage where it is really HMRC's responsibility.

Q314 Chair: Can you answer the question on whether it covers the PwC artificial device?

> ***Jim Harra:*** It covers two types of arrangements. The first type is arrangements where a multinational stops just short of putting a permanent establishment in a country and the type of commissionaire arrangements that the Committee has heard about before. It also tackles arrangements between companies in the same group that involve entities or transactions that lack economic substance. It does not apply solely to loan relationships—to finance.

Q315 Chair: So it does not cover intra-company loans?

> ***Jim Harra:*** No, because those arrangements are being pursued as part of the BEPS project, and they will need an international solution.

Chair: Kicked into the long grass. Thank you.