

Treasury Sub-Committee

Oral evidence: Tax avoidance and evasion, HC 934

Tuesday 17 April 2018

Ordered by the House of Commons to be published on 17 April 2018.

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Members present: John Mann (Chair); Rushanara Ali; Stewart Hosie; Mr Alister Jack; Alison McGovern; Nicky Morgan.

Questions 1 - 90

Witnesses

I: David Richardson, Interim Director-General, Customer Strategy and Tax Design, HM Revenue and Customs; Esther Wallington, Chief People Officer, HM Revenue and Customs.

Examination of Witnesses

Witnesses: David Richardson and Esther Wallington.

Chair: Welcome, and thank you very much for coming to this Treasury Sub-Committee. For the record, would you like to introduce yourselves, please?

Esther Wallington: I am Esther Wallington, chief people officer, HMRC.

David Richardson: I am David Richardson, interim director-general for customer strategy and tax design.

Q1 **Chair:** We have questions of both of you. If I could start with you, Mr Richardson, you will have been very pleased to see the front page of the *Sun* newspaper a week or so ago, when it was splashing on how HMRC was going to be clamping down and getting lots of money in from footballers in relation to tax avoidance. I am sure that story did not come from you but from some third party.

Before we go into the main bulk of questions, it struck me that quite a bit of your work is chasing decisions made on schemes that Parliament, in the not too distant past, has voted in. I wonder how many times Parliament has created opportunities for people to minimise tax that have led to you having to look at exploitation of those schemes, and created work for you in things you deem as tax avoidance. That one, which I read as being to do with the film industry, was one I seem to recall going through Parliament some 10, 12 or so years ago. Therefore, one of the things we might want to look at over the next few months is what we have done, and you could assist us in that. How much have we made specific decisions that have then led to you having to clamp down on ingenious ways that people have exploited them in ways that were not, clearly, meant to be done?

David Richardson: There is some element of that. If Government introduce special tax reliefs for good reasons, in line with their manifestos, you will find that some promoters of tax avoidance schemes will look at those reliefs to see if they can get people to claim the relief when they are not really meeting all the conditions as intended. There are certainly some examples of that around, but the picture is much more complicated than that. Often, film schemes and other schemes are not abusing the reliefs that have been introduced by Parliament, but are putting really complicated arrangements on top of quite basic bits of the tax legislation.

For instance, if you get people paying themselves in loans, claiming that they are not being paid normal remuneration, that is nothing to do with some relief that the Government introduced; that is trying to present what is going on in a different way. If you look at the schemes that are often described as “film schemes”, some of those have sought to exploit



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the film reliefs that were introduced in the last Labour Government, and we have defeated some of those in court—cases like Samarkand and so on.

But quite a lot of the schemes that describe themselves as film schemes are not using the film scheme relief at all. If you look at two that have been prominently in the press and in the courts, which I could talk about, the Eclipse schemes, they are not about film relief at all. They are about tax relief on borrowing, where people invest in a scheme and then borrow considerable amounts more and seek to claim interest deductions on that, which the courts have found do not apply. If you look at the Ingenious film scheme, which is one that is prominently in the press, that does not use the film scheme relief at all. That is about creating a trading loss and using the very basic provision that if you make a trading loss, you can set it sideways against other income.

Tax reliefs are always a potential honeypot for promoters, and our job in HMRC is to try to help the Government design those schemes in ways that are not subject to abuse. Most of those reliefs have anti-avoidance clauses in them and we now have the general anti-abuse provision as well. As I say, it goes much wider than that, because a lot of avoidance schemes are not using those particular reliefs at all, but are trying to put an extraordinarily complicated arrangement on top of the basic provisions of the tax system.

Q2 Chair: One thing that is sometimes said about you is that you love to go after the sole trader, the white van man, the person running a childcare business from home, as opposed to the wealthiest, those with the most money and those doing the biggest amounts of avoidance. The figures that you have made public would suggest that, to some extent—that you are aiming at people primarily with less money and not looking at getting large amounts of money from richer individuals.

David Richardson: That is said sometimes; it is not true. Our compliance policy is the same right across the different sectors of the population, which is to try to prevent non-compliance happening before it would otherwise happen, and then to pursue people where there is non-compliance to get the correct amount of tax in. If you make the contrast between large business and small business, which is the one that is often suggested in the papers—that we go after small businesses and let large businesses off—that is completely untrue.

If you look at our investigation rate, you will find that over one in two of every large business is under investigation by us at any one time and, last year, we collected £8 billion in compliance yield from large business. If you look at small businesses, the number of businesses under investigation at any time is about one in 10. It is important that we investigate small businesses, because they make up 46% of the tax gap, so we need to have a presence with small business. But large business represents a particular risk to us, and we investigate large businesses



much more frequently and with much greater technical expertise than at the small end.

Q3 Chair: If we take people you define as wealthy individuals, how certain can we be that your estimate of the tax that is being avoided by them is an accurate one, and that you are not understating the amount of money?

David Richardson: We publish a tax gap. We are one of the few countries that publish a tax gap. That has been looked at by the IMF, by Government statisticians, so we have reasonable confidence in the tax gap and stand by that. We publish it so that people can see what is going on. What is important with the tax gap is the trend. By applying it in the same way every year, you can see a downward trend over the last 10 years. We are now at 6%, which is the lowest it has ever been and certainly one of the lowest of the countries that produce a tax gap. It is a good indicator of the extent of evasion and avoidance. Like all statistics, it is unlikely to be 100% accurate, but it is a consistent measure that shows a clear trend and a reliable, broad view of the make-up of the gap.

Q4 Chair: What are the main types and categories of avoidance schemes that are challenging you today?

David Richardson: In terms of new schemes, the marketed avoidance picture has changed quite considerably. We set up a new directorate four years ago to deal with marketed avoidance, both to clamp down and shut down, if possible, any future avoidance, and to deal with the legacy of cases that had built up. There are very few new schemes around. If you go back to 2005-06, we were notified of something like 600 schemes. Last year we were notified of 15, so there has been a huge fall in the number of marketed schemes. As for the big schemes, like film schemes, which are the ones that are commonly reported on, because they are the ones that we have been tackling and litigating from the past, there are no equivalents of those schemes around now.

The sort of avoidance that we see still going on, in quite limited amounts compared with the past, is, generally speaking, the employment sector, where people are being paid with what are described as "contractor loans", so people are being paid in loans rather than directly in remuneration. Those schemes do not work and we have been busily trying to educate people not to get involved in them. But the whole market has really changed quite considerably, I would like to think, to a large extent, as a result of work that we have been doing to demonstrate that schemes that were tried in the past do not work.

Q5 Chair: What is the biggest single victory you would like to have in terms of systems to reach your tax yield optimum? What is the biggest change that could come through?

David Richardson: In the avoidance space, we have pretty well got the full hand that we have been looking for as a result of measures that have been introduced over the last five or six years. Probably the biggest game



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changer that the Government have introduced is accelerated payment notices, which mean that if you enter into an avoidance scheme you have to pay upfront and you will only get the benefit if, after we have investigated it, we conclude that the scheme works, and our experience is that very few schemes do work.

The problem in the past was that people would enter into schemes, they would get the benefit of the relief while we investigated it—and by the nature of these things investigations take a considerable amount of time to get the information, form a position and then litigate it—and people would sit on the money all that time, so even if they lost at the end they would have had several years of benefits from taking part in the schemes. Introducing accelerated payments has fundamentally changed the economics, because if you now have to pay upfront and then lose, you have had no benefit during that period of time. That is the most fundamental thing that has been introduced, and has had a seriously large dampening effect on new avoidance.

Q6 Chair: Tell us something about the people who are assisting people in evading tax. What sort of firms are designing and promoting schemes? Are they UK? Are they offshore? How do they link up with the taxpayers who are willing to use their schemes?

David Richardson: Again, this has changed over the years. If you go back to the mid-2000s, you will find large parts of the accountancy sector putting clients in touch with schemes. That has changed. You will now not find the large accountancy firms promoting to clients the sorts of schemes that were around in the past. You still get some small firms of promoters, onshore, that will push schemes. They will tend to push them at the small high street accountant, who will then sell them on to clients. The market has changed, but there are still promoters around. We have had success in effectively closing down a number of promoters as they have seen the market dry up.

Last year, the Government introduced one of the other fundamental bits of legislation to tackle avoidance, which is a penalty for enablers of avoidance schemes. In the past, there has always been the criticism that we, rightly, chase after the people who engage in avoidance to get the tax that is collected, and the person who advised them or promoted the scheme to them walks away scot free. Now, anybody at any point in the chain of an enabling and avoidance scheme—from the lawyer who designs it and advises on it in the first place, to the promoter who promotes it, to the high street accountant who sells it—will be liable to an automatic penalty if the scheme fails and that penalty will be 100% of their fees.

Q7 Chair: Ms Wallington, can you give us a picture of where resources are deployed and sited within the organisation to deal with this issue?

Esther Wallington: We have numbers of people in our customer compliance group. We also have teams of data specialists, intelligence



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analysts and a strong legal function. We have a broad team of people working on compliance across the organisation. The largest numbers of our people are in our customer compliance and customer services groups, and then we have the corporate services supporting them.

Q8 Chair: Where are they? Are they spread across the country? Are the key people all in London?

Esther Wallington: I will ask David to talk about where our counter-avoidance people are, but they are spread quite widely around the country at the moment, working on schemes. We are looking to consolidate those numbers into a smaller number of our regional centres.

David Richardson: Our compliance staff are all round the country, in all our offices. That, in a sense, is one of the inefficiencies that we have, which we are working through with our regional centre programme of concentrating our staff into 13 regional centres. At the moment, if you take counter-avoidance, where there are about 1,300 people, they are currently in around 60 different offices, which is a historical factor of when we had a geographical network. That means they are not in particularly efficiently large teams, so one of the benefits we will get from the regional centre programme is having teams that are much more coherent in size and provide better careers.

Q9 Chair: Did you say 1,300 people on counter-avoidance?

David Richardson: In our counter-avoidance directorate there are about 1,300 people.

Q10 Chair: How many vacancies are there?

David Richardson: There is no particular vacancy problem that I am aware of.

Esther Wallington: We have quite large-scale recruitment campaigns, which is how we fill roles. We tend to go out to the market for quite large numbers and then hold people on reserve lists, so that we can draw down specialist expertise or new joiners throughout the year, which is how we manage our vacancy rates.

Q11 Chair: In terms of these 1,300 staff, what is the governance system for dealing with them? Are they set precise figures of what they need to get in? Are they held to account on that? How are they managed? How are they governed? Are they incentivised for managing to clamp down on tax avoidance and evasion? Give us a clear picture of the systems. How do you set those goals individually for them and how is that then governed within the organisation?

David Richardson: The department is set by the Treasury an annual target in terms of compliance yield. Last year, we brought in £28 billion, slightly ahead of our target. Individuals will not normally have a personal target. It will normally be distributed at a team level rather than at an individual level.



Q12 **Chair:** How many are in a team?

David Richardson: It will vary, depending on the work that they are doing, but in the counter-avoidance area you typically have teams of 20 people. There will be targets at that level, but the important thing is to make sure that cases are investigated thoroughly and settled in accordance with our published litigation and settlement strategy, which makes clear that we will only ever settle cases for what we would regard as being the correct amount. We have significant governance in place to ensure that cases are only settled on that basis, the biggest cases going all the way to the Commissioners to agree and smaller cases being endorsed at lower levels in the organisation.

We have a very strict governance procedure in place to ensure that people are taxed neither too much nor too little. Any team with individual targets may not meet the targets every year. The targets are the indicator of what we are expecting, but we will always flex those to take into account circumstances. If you have a big scheme and you lose it in the courts, people will not meet their target. That is not necessarily an indication of a performance issue with the team, so targets are not the be-all and end-all of assessing people's performance. We are looking for the quality of the work that they are doing and ensuring that they are operating within our governance and quality control systems.

In terms of avoidance schemes, we have an extra layer of governance on it, because obviously you have schemes with lots of users. We have an anti-avoidance board, which is chaired by our director of counter-avoidance, and has lawyers and people from other parts of the department, policy and operational colleagues, on it. They will look at every scheme we are investigating and collectively agree the terms on which we would be prepared to settle, to ensure consistency across all users of the same scheme.

Q13 **Alison McGovern:** Can I just turn to another aspect of your staff? You were mentioning before about your approach to the market. Obviously, the market for tax specialists is one where there are lots of opportunities in the private sector, especially large accounting firms, so how do you work out that you are able to compete?

Esther Wallington: We have done a lot of work in the last couple of years on how we attract people into the organisation. We do quite large-scale recruitment: in the year just gone, we recruited around 4,600 people; in the year before that, we brought over 7,500 people into the organisation. Over the last year, we have done a huge amount for the most recent campaign, which you may have seen, which was advertising for compliance specialists and customer services advisers. We have just closed the advertising campaign, which was live for just over three weeks, and we have had 37,000 applications for that in a few weeks, so we have very strong interest in our roles.



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We take people through a recruitment process and if they are successful they will be held on a waiting list, which we then draw down from. Some people will be offered straightaway; others we will keep in contact with so that we can bring them in when we need them. We have good rates of people staying on our reserve lists for a while and being draw down later.

- Q14 **Alison McGovern:** Can I ask for some specifics? How many staff engaged in counter-avoidance and evasion have left in the past four years?

Esther Wallington: I have the overall attrition rate for the organisation. I do not have it specifically in counter-avoidance, but overall our attrition rate was 8.5% last year and that has been reasonably stable. It is around 7% across the customer compliance group, which is where our tax specialists are, and slightly higher in the customer services group, which we think is typical for customer service, particularly call centre type work.

- Q15 **Alison McGovern:** Can you provide us with their numbers specifically?

Esther Wallington: I can certainly provide you with the specific numbers for counter-avoidance.

- Q16 **Alison McGovern:** For those who do leave, why do they go?

Esther Wallington: We have quite low resignation rates across the organisation. Around 30% of those who leave are leaving because they have resigned to go somewhere else. Others will be transferring into other Government Departments.

- Q17 **Alison McGovern:** Forgive me. I do not mean their destination. Do you do an exit survey to find out their reasons for leaving? Are you with me?

Esther Wallington: Yes. We do an exit analysis for our most senior people when they leave. We do not ask everybody why they are leaving and we do not record it centrally. Managers will understand reasons locally, but we do not hold that centrally. As I say, the proportion of people who are resigning to go into other employment is relatively low.

- Q18 **Alison McGovern:** Can you talk me through the safeguards that exist to make sure that ex-HMRC staff do not take up positions where they are involved with taxpayers they have previously investigated?

Esther Wallington: Everybody is subject to the Official Secrets Act, which prevents them inappropriately sharing information that they have gained during the course of their employment. We also have the business appointments rules, under which people are required to tell us where they are going, and we make a decision at the most senior levels. The business appointments committee makes the decision for director level, and below that we make the decision within the department about any restrictions that we put on people.

For everybody going, we have very clear restrictions on the type of work people can do. They are not able to do any work with individuals on



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individual cases that they may have been dealing with when they were working for us. They have restrictions on lobbying from within their new employer and we can put extra restrictions on people for up to two years on the type of work they do when they move. For example, if somebody were moving into a big accountancy firm, we would likely want to put restrictions on the type of work they would do.

Q19 Alison McGovern: Have you looked internally into which roles are most vulnerable to losing staff to outside employers?

Esther Wallington: The largest attrition numbers are in our customer service roles, so where there is typically similar work in the same area. In compliance, in particular, the numbers are relatively low. For example, seven of our SCSs since 2011 have left to go to one of the big accountancy firms.

Q20 Alison McGovern: That is seven out of how many?

Esther Wallington: Sorry. We have about 320 SCSs at the moment, and over quite a long period only seven have gone.

Q21 Alison McGovern: Fine, but you think people in customer service roles are probably going on to what?

Esther Wallington: It would be a similar type of work. People who are handling calls in our call centres transfer quite a bit to other employers doing like work in the same city, so that is where our attrition rate is the highest. To put it in context, the typical standard industry attrition in the UK is around 15%, and that is typically much higher for call centres. Our attrition rate is 12% from our customer services group, so, although we are seeing people resigning, a large number of our people do stay with us.

Q22 Alison McGovern: To turn to the transformation programme—I hate that word—and the regional centres, any change like this brings with it risks as well as potential benefits. I just wondered what assessment you have made of the potential to lose experienced staff.

Esther Wallington: We have done a lot of analysis on where we will lose people. Overall, we estimated that we would take with us 90% of people; we would likely lose around 10% of our workforce as a result of the transfers to regional centres. We have started that programme, so we are getting a better sense of that.

We have done a lot of work around customer compliance, making sure that we are moving work in time to train up people who are going to be based in regional centre locations to carry out that work, so that we can minimise our risk. Counter-avoidance, in particular, has done a lot of work to make sure that the work people are doing in offices that will be closing is arranged to coincide with office closures. We have spent a lot of time doing very detailed planning for all our offices.

Q23 Mr Jack: I hear that. Are you losing experienced staff, though, through



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the transformation programme?

Esther Wallington: The vast majority of our staff have been with HMRC for a long time, and those whom we are losing will be experienced staff.

Q24 **Mr Jack:** The question was asked earlier and I think Alison was looking for clarification on it, but of the 8.5% attrition rate how many are counter-avoidance specialists?

Esther Wallington: Sorry, I do not have the specific number. Across the whole of compliance our attrition rate is 7%. I do not have the specific leaver rate for counter-avoidance, but I will send that to you. I should just be clear: the 8.5% attrition rate does not include the redundancies that we have done as part of the programme. Those are natural leavers: resignations and transfers across departments.

Q25 **Mr Jack:** Is the redundancy rate linked to popping down? I note that the counter-avoidance directorate is referred to by staff as a “pop-up” directorate. First, does that create uncertainty about the future of that department and does it adversely affect their morale?

David Richardson: I was director of counter-avoidance before my current role, and I set the directorate up. The reason people refer to it as being a pop-up directorate goes back to my point that we had a twofold aim: to crack down on future avoidance and make sure that there were minimal levels in the future, and we have been very successful at that; and then to deal with the past. It means, therefore, that the majority of the work of the directorate has been dealing with a stock of avoidance cases that had built up over the last 10 years. Hence, once one has worked one’s way through that, there is no need for a specialist directorate of the form that we have at the moment. The continuing lower amounts of work could be done in a different format in the organisation.

The timescale to work one’s way through all those cases from the past covers several years, so there is not a sword of Damocles hanging over the heads of people working in a counter-avoidance directorate that is about to be closed. That has not been the case at all over the last four years and there is a significant stock of work still to be worked through.

Q26 **Mr Jack:** When will it wind up as a department?

David Richardson: I do not think one can predict that exactly, because, to some extent, you are in the hands of the users of schemes, as to whether they are prepared to settle when we have finished investigating and set out our view of the scheme. If they do not settle, then you are into how long it takes to get through litigation in the courts. There is a significant amount of time going forward, but I could not tell you how much, because it depends on the behaviour of the users of schemes.

Q27 **Mr Jack:** Regarding things like staff deployment, identifying staff needs, training programmes and workloads, to what extent are the unions



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involved?

Esther Wallington: We have very regular engagement with the trade unions. We meet with both ARC and PCS very regularly to talk about staffing numbers and training. ARC, in particular, has been very involved in the Tax Academy and the work that we are doing through the academy to train people. They are very involved.

Q28 **Mr Jack:** Your overall assessment is that deployment to regional offices and the fact that it is a pop-up directorate that will pop down at some point, or gradually pop down, do not, in any way, affect staff morale.

Esther Wallington: These are experienced professionals and we will always have experienced professional work for people who can work on tax, so we will be moving people into other compliance roles over time.

Q29 **Chair:** Just to clarify the figures, you say it is 8.5% plus redundancies, so what are we talking about in numbers?

Esther Wallington: In the last year, 497 people left us as a result of redundancy on top of the overall leaver rate; 5,850 people, in the last year to March, left the department for other reasons.

Q30 **Chair:** Is there an ongoing redundancy programme?

Esther Wallington: Yes. As we work through the regional centre work, we are starting now with our next phase of one-to-ones with people who are in offices that are closing.

Q31 **Chair:** How many more could we expect in the next year, then?

Esther Wallington: I am not certain. Overall, we are still expecting 90% over the course of the whole programme, but that will depend on exactly when the offices are closing and the result of those one-to-ones. With all our people who are in an office that is closing, we have a one-to-one 12 months in advance of the office closing, where we sit down with them and work out whether they will be able to travel to a regional centre, whether we need to put anything special in place for them to help them travel to a regional centre.

Until we have gone through that process for each of the offices, we do not know how many people exactly will join us. Clearly, we want to do everything we can to encourage people to come with us to a regional centre, so our role is to minimise that number.

Q32 **Chair:** Redundancy schemes have a disproportionate number of very experienced people tending to go. Is that a problem or do you see that as a bonus?

Esther Wallington: Ideally, we would like everybody to come with us to a regional centre. Anybody who can make the journey we want to support to do that. Ideally, we would not be losing people through redundancy, but we know that it is a reality for people who are in locations where they cannot realistically make that journey. It is likely to



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be people with longer service, because in recent years we have been recruiting into our regional centre locations.

Q33 **Chair:** Therefore, they are people with more expertise.

Esther Wallington: We hope they will be small numbers of people, but yes, we will be losing experienced people as a result of this, which is why we are doing everything we can to minimise the number of people who leave the department.

Q34 **Stewart Hosie:** You have just said that you would hope everyone could join you in the regional centres, but, given that in Scotland you are closing 17 of the 18 offices, with another one to open in Edinburgh, that will not be possible. Have you offered everyone from the offices the opportunity to go to the regional centres?

Esther Wallington: Our commitment has always been to our people that if they can make the journey to a regional centre and they can train into the roles that are available in that regional centre, we will support them to make that move, so, in Scotland, into Glasgow and Edinburgh.

Q35 **Stewart Hosie:** On the specific circumstance of Dundee, when the staff were promised a move to the DWP, which has just been withdrawn, will they be made the offer again to move to regional centres if they can make the journey?

Esther Wallington: Absolutely. We have a lot of work to do on the back of the recent announcement and the decision by DWP that it will not be able to take all our people as forecast. We hope that DWP will still be taking some of our people from HMRC. As we get closer to each transition period, we will get closer to knowing what those numbers are, but for all our people our first commitment is that we find them alternative employment in HMRC.

Q36 **Stewart Hosie:** You said there was a 12-month out one-to-one with all the staff. Given that the staff in Dundee and elsewhere who were promised the move to DWP accepted that at face value, and thought their futures were secure, would it not be sensible and good politics to reset the clock to 12 months out now, given that those futures are completely up in the air?

Esther Wallington: A number of those transfers are due not within the next 12 months, but we will certainly be working through with individual staff members what the position is now, and being completely open with people about the engagement we are having with other Government Departments and everything we are doing within HMRC to try to find them alternative work. Therefore, yes, we will be doing lots of work with individuals both in Dundee and in Preston.

Q37 **Stewart Hosie:** Good. Those were additional questions. Mr Richardson, what impact have the bulk data leaks—the HSBC information, the Luxembourg leaks, the Panama papers, the Paradise papers—had on



HMRC and how it goes about its business?

David Richardson: In many ways, data is the lifeblood of the organisation, because we need data in order to calculate how much tax people owe. Offshore evasion has always been, in some ways, the most difficult part of our work to do, because accessing information that is not on UK shores is more difficult and some people deliberately use offshore locations to hide money. That has always been one of the most difficult tasks for the taxman over the years to police.

We have been doing well in that space. We have collected something like £2.8 billion over the last five years from offshore evasion work, but we are on the cusp of that changing quite considerably going forward. Obviously, we have had the leaks from the Panama papers and the Paradise papers, and we have used the information that we got in our investigation work.

But much more fundamental than leaks from journalists and so on is that the OECD, with the UK as a lead member, has developed the common reporting standard, which has now been signed up to by 100 jurisdictions around the world. All the jurisdictions that people commonly term as “tax havens” are signed up to that, to exchange information automatically with us in relation to financial accounts in offshore locations.

We have had the first batch of that data from the first 50 jurisdictions that signed up, but this autumn we are due to get information from the 100 jurisdictions that have signed up. That will provide us with data that we have never had before on a comprehensive basis of people in the UK putting money offshore. Of course, there are reasons to put money offshore that are not necessarily about tax avoidance or evasion, but clearly there are people who put money offshore for evasion and avoidance reasons. Going forward, we will have much more comprehensive data than we have ever had before, which will allow us to tackle what has been a longstanding issue for tax authorities around the world.

Q38 **Stewart Hosie:** Would it be accurate to suggest that the common reporting standard and data sharing have had more of an impact, in terms of HMRC’s understanding of the extent of avoidance and evasion, than the leaks themselves?

David Richardson: Yes, absolutely. Some very useful data has come out of the leaks, but it has, in a sense, been a bit of a ragbag of data, not provided in a clean format and much of it not relevant to tax purposes or not relevant to the UK. It has indicated the scale of some of the amounts of money held offshore, but to operate as a tax system, applying the rules fairly and evenly across the population, you need comprehensive data and that is where the common reporting standard comes in.

Q39 **Stewart Hosie:** You mentioned that £2.8 billion had been brought in by way of compliance, but, as I understand it, the measures launched to



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crack down on offshore evasion, and the agreements with Switzerland, Liechtenstein and other low-tax regimes, were reported in February to have brought in only £349 million out of the £1 billion expected. The disclosure facility with the Crown dependencies, launched in 2013, saw its yield reduce from £1 billion to £270 million. Does that mean people are smarter and wiser at hiding their money, was the amount of avoidance and evasion overstated or has it still been too difficult to identify where the culprits are?

David Richardson: That reflects the journey we have been on to get to what I would describe as the holy grail, which is the common reporting standard of automatic exchange of information. In trying to move the debate forwards over the last 20 years, we have gradually pushed the barrier back to get more information and try different means. The Swiss agreement that you referred to, which gave people an opportunity to settle, was used and we got over £1 billion from that. That is £1 billion the Exchequer would not have had without that, but it is clearly a less than perfect solution to the problem, offering people opportunities to voluntarily step forward and settle, as is the settlement opportunity with the Crown dependencies.

They have been measures on a journey, which have produced varying amounts of money, all money that we would not have got without having been on that journey. But what we need is systematic exchange of data in order to tax people who invest overseas in the same way that we would tax them if they invested in the UK, where we do have comprehensive data.

Q40 **Stewart Hosie:** On that issue of Crown dependencies and overseas territories, how often do they appear in avoidance schemes? Is our view coloured because of the Fonseca papers and the Paradise papers, or are the Crown dependencies and the OTs important, in terms of your work, in avoidance schemes?

David Richardson: It is evasion and avoidance. Where you find offshore evasion, by definition, people are using offshore jurisdictions. Avoidance is quite often entirely domestic, as opposed to using offshore jurisdictions, but you find some arrangements that have an offshore trust or something as part of the mechanism. Yes, the Crown dependencies and overseas territories feature in some of those schemes.

I should say, though, that the Crown dependencies and overseas territories have all now signed up to the common reporting standard going forward, and are committed to and in the process of compiling beneficial ownership registers, so that they can share details of beneficial ownership of companies and so on with the UK.

Q41 **Stewart Hosie:** It is interesting that, on the point of beneficial ownership of companies, everyone is in agreement and it is very sensible, but in a previous sentence you also mentioned offshore trusts. What is the mechanism to publish the beneficiaries of trusts as opposed to



businesses, which seems to be a much more vexed issue?

David Richardson: The common reporting standard applies to all legal entities, so a trust that is holding financial accounts will be disclosable in the same way as a company. We will also be able, in any individual situation, to ask for further information from territories under information agreements. One of the things going forward is that we want to continue to look at the scope of the common reporting standard, to see if people are finding ways around it to put things into entities that were intended to be included but are not, and so on. The OECD has already endorsed more work around further disclosure facilities, to ensure that complicated structures to try to get around the common reporting standard, if they are put in place, will be caught.

All these things are a journey. You always have to expect, with avoidance and evasion work, as you clamp down, that some people will have a behavioural response of trying to do something else. Our task is to try to keep one step ahead of them. In the international community now we are in a good place to do that, but we will also be looking to see if people are doing things for which the common reporting standard and other mechanisms that the OECD is introducing are not adequate. We will be going back to see how we can extend those.

Q42 **Stewart Hosie:** As a final question, going back to what was said at the beginning, did I hear correctly when it was said one in 10 small businesses would be under investigation at any time?

David Richardson: That is correct. It is one in two large businesses, but one in 10 small businesses.

Q43 **Stewart Hosie:** Do you really think it is worth chasing a business under investigation, with all the anxiety that brings, because they are missing an invoice for some flooring for their front shop or a bit of advertising for the local cycle company? Is that a really good use of time and resources?

David Richardson: We have a tax gap in this country, on our figures, of £34 billion; 46% of that is attributable to small businesses. Most small businesses pay the correct amount of tax. Those that do not are unfairly competing with their fellow businesses, so, from a competitive point of view, it is important that we tackle the businesses that are not complying. The taxpaying population as a whole would expect us to ensure that everybody pays the right amount of tax.

If you look at small businesses, a large amount of the tax that is being lost is not through deliberate evasion or avoidance, but through failure to take reasonable care or through error. About 28% of the tax gap is attributable to a failure to take reasonable care and error, and a large amount of that is attributable to small businesses. The way to deal with that, ideally, is to stop it happening in the first place.

Q44 **Stewart Hosie:** Would it not be so much easier if they could go into their local tax office with their accounts and have them checked before they



are submitted? But that was the olden days and I will leave it there.

David Richardson: The point that I was going to make is that stopping mistakes happening in the first place is clearly the desirable outcome. That is where Making Tax Digital for Business comes in, which is about requiring businesses going forward to keep digital records and then a direct feed from those digital records into their tax returns. That is the modern equivalent of being able to go into the tax office, to try to make sure that things are right going forward. We will have online help, etc.

Stewart Hosie: We will probably have to come back to that another day, given that the VAT reporting does not work through the standard portal and people are as terrified of that as they are of the knock on the door, but that is for another day.

Q45 **Rushanara Ali:** Can you explain what other support there is? The offices are no longer an option for businesses to go to. The 28% are making these errors not out of malice, but because of misinformation and misunderstanding. What are you doing to make sure that that does not happen? The online part will help, but is that adequate? Is it the accountancy profession's responsibility to help them get there, or yours, or is it both? Do you feel confident that you can close that gap through support and information? That is what seems to be lacking. The taxman and woman has a reputation for being very strict and hardline, but do you think there is greater space for enabling, rather than punitive measures, especially on small businesses and ordinary individuals?

David Richardson: I would like to think that we have a reputation for being helpful and hardline, depending on the circumstances. Our strategy on compliance is that the best way of tackling non-compliance is to prevent it happening in the first place and that is about an enabling, helping agenda. We provide guidance, we have helplines and, where appropriate for people with particular needs, we visit them to provide assistance.

We want to make the rules as straightforward as possible for people to deal with, and that is where Making Tax Digital for Business comes in. You will often find that small businesses put off keeping their records until the end of the year, the end of the quarter or whenever. They have a big box of records and not all of them are there, and it is not the thing that they particularly want to do, because they want to get on with running their business. Quite simple errors take place, invoices get missed and so on. Trying to help people to manage their business more systematically by keeping real-time records electronically should help them run their business, but will also facilitate them getting their tax right.

Agents, which you touched on, clearly have a role to play in all of this. We will happily deal with any taxpayer directly and provide the support that we can, but if you are in business it is often a very wise thing to do



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to have an agent, and we work extensively with the agent community to help them in terms of the assistance that they provide.

- Q46 **Rushanara Ali:** Are you doing evaluations and monitoring the impact of Making Tax Digital and how it is helping you to achieve that objective of making it easier for people?

David Richardson: Essentially, we are in the very early stages of the pilot.

- Q47 **Rushanara Ali:** I understand that, but do you have measures in place to monitor the impact of that change?

David Richardson: Yes, absolutely, we will be monitoring that.

- Q48 **Rushanara Ali:** When might we be able to get first sight of evidence that gives us some indication of how much progress has been made—in a year, or two?

David Richardson: Making Tax Digital for Business starts with VAT and that starts in April next year. We will be monitoring in real time the performance of that and the impact that it has, so 12 months on from the start of that we will begin to have information that we could share.

- Q49 **Rushanara Ali:** I have a question about fines. If there are late payments, how are the fines for late payment allocated for small businesses versus larger ones, and for individuals? Do you have the right balance in terms of how quickly those are instituted? I often get constituents coming to see me, whether it is businesses or individuals, where the tax office will slap on the fines very quickly. Do you feel confident that there is space for people to negotiate how those payments are made, especially where they cannot afford it?

There are a lot of people who are vulnerable, do not fully understand the process and get it wrong, but they get quite hardline responses on fines. Sometimes, historically, the amount of energy put in and the punitive actions taken against individuals or small businesses has felt disproportionate, versus what has happened with the Inland Revenue pursuing large tax avoiders or evaders. Do you have the balance right and how do you decide on that?

David Richardson: We have put a lot of work into this over recent years to ensure that we are enforcing the tax system properly, but also fairly and recognising individual circumstances. On time to pay arrangements for people who have difficulty paying, we have an extremely good record of agreeing arrangements to allow people to pay over a period of time if they are in difficulties.

If you go back many years, we had moved to taking bankruptcy proceedings in those situations, and we will only do that in extremis these days. We will try to reach an agreement that allows people to pay over a reasonable time. We have a duty to the rest of the taxpayers to make sure that people are paying up the tax that they owe, but we will



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always try to reach an accommodation that allows people who have fallen into arrears, for whatever reason, to pay it quickly.

Q50 **Rushanara Ali:** Do you charge interest on that?

David Richardson: Yes.

Q51 **Rushanara Ali:** What is the level of interest?

David Richardson: I cannot remember what the rate is. The rate is set in statutory instrument in line with inflation, but I cannot remember the precise amount.

Rushanara Ali: Did you want to add anything, Ms Wallington?

Esther Wallington: No, not to that.

Q52 **Rushanara Ali:** I have a couple more questions. You may have covered this, so apologies if you have. Can you say a bit about how much progress is being made in relation to property and tax avoidance? Transparency International estimates that £4.4 billion of questionable property in Britain is being used to avoid tax. Do you have any information on that and whether progress is being made around the use of property? Persons of interest, for instance, buying property in London has historically been a major issue. Does that continue to be an issue?

David Richardson: Obviously, our role is to police the UK tax provisions.

Rushanara Ali: Property in the UK is my point.

David Richardson: With anybody, but particularly with wealthy people, we will always be interested in looking for accumulations of wealth that are not, on the face of it, explainable. That has always been one of our criteria for selecting cases for investigation. If somebody buys a large property in London and it is unclear where the money has come from, we will always want to understand that. The recent Criminal Finances Act gives us further powers in that area. Of course, the fact that somebody has bought a large house in London does not necessarily mean that they have committed a UK tax offence. We do, though, work very closely with the National Crime Agency, the SFO and the police.

Q53 **Rushanara Ali:** Sure, but I am talking about the Transparency International figure of £4.4 billion of questionable property in the UK.

David Richardson: I do not recognise the particular figure that you are mentioning there.

Rushanara Ali: Maybe you can come back to us on that.

David Richardson: We will take that away and see if we can understand the point.

Q54 **Rushanara Ali:** I have another question about technology. Are you looking at new frontiers through which tax avoidance and evasion could



be happening? You have mentioned a number of pieces of legislation, but do you have staffing to look at how technology could be used to avoid and evade paying tax? On a visit to the US, we heard a lot about how 80% of Bitcoin exchanges are questionable. There are concerns about that and about the right kind of regulation. Are there implications for you in what you do, and do you have a team looking at some of this?

David Richardson: Yes, we do; that is the simple answer. The economy is changing. The ways that people transact are changing. Online marketplaces have been a growing and big issue for us and, as I am sure you will know, the Government have introduced various new pieces of legislation in relation to VAT and online marketplaces, to ensure that tax is collected there. The use of digital methods of selling is an area that we are looking at very closely to ensure that our own processes and legislation keep up with it.

Cryptocurrencies like Bitcoin are obviously another new development. Our assessment at the moment is that there are not huge tax writs that have come to fruition, but it is an area that we are concerned about and watching. We are working with other government agencies that have an interest in cryptocurrencies and the potential for fraud of one sort or another.

Q55 **Rushanara Ali:** I have one final question. Stewart raised the question about HMRC's ability to get tax revenue back. The estimation was £1 billion, and you have managed to recover £270 million. This is in relation to Crown dependencies. Do you feel you have the right powers? Is it about powers or is it about resource? What else do you need to be able to recover taxes that have been avoided or evaded? What other support or powers would be helpful?

David Richardson: We need information. If we have the information, we can happily enforce the tax rules. With offshore situations, it is the information that is the challenge. The previous attempts we have made have given us partial information, which is why they have not always produced as much money as is probably owing. That is why the common reporting standard is such a big step forward, in terms of giving us systematic worldwide data on people trying to evade tax.

Q56 **Rushanara Ali:** Is that adequate? Is anything else required to get that information? I know it is early days, but this is your chance to tell us what your wishes are.

David Richardson: I would never say it is adequate, not because I am conscious that it is not adequate at the moment, but you can never know what people will do when faced with a new set of arrangements.

Offshore evasion is really an international problem, and it needs tackling internationally. We would have been amazed if I had appeared here 20 years ago and suggested that we were going to get a common reporting standard with the whole of the OECD agreeing it and 100 territories around the world signing up to it.



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One cannot exaggerate it; that is a huge step forward. I doubt it is the end of the road. I am sure there will be more things that we need to do and look at, but we need to give it a chance to see what impact it has.

Q57 **Chair:** Do you have all the Paradise papers?

David Richardson: No, we do not have the Paradise papers. We have asked for them from the people who have published them, but they have not given them to us.

Q58 **Chair:** Have you offered to pay for them?

David Richardson: No, we have not, and nobody has offered to sell them to us either.

Q59 **Chair:** You paid for the Panama papers.

David Richardson: Jon Thompson is on record as saying that we had done. We have been through the information from the Paradise papers that has been published with a fine-toothed comb, as you would expect. Most of it does not relate to the UK. Reassuringly, most of the detail that relates to the UK is information we already had and were acting on. As for the information there that we were not aware of, we have taken the action that you would expect us to take. As I said earlier on, relying on slightly random information leaked by journalists is not the way to run the tax system. The way to run the tax system is a comprehensive, systematic approach that means that everybody is tackled—

Q60 **Chair:** I have a couple of questions on that. As the OBR has pointed out, the tax take from the Crown dependencies is only a quarter of what you had hoped to get. With the overseas territories and Crown dependencies, how much money are we talking about?

David Richardson: I could not give you a figure. These are the known unknowns, if you like. For the Crown dependencies, there was a disclosure arrangement to encourage people to voluntarily come forward and tell us about investments they had. A number of people did, and we have raised money that would not otherwise have come into the Exchequer. We think there would be more money out there that was not disclosed.

Q61 **Chair:** Are you in regular contact with all the Crown dependencies and all the overseas territories?

David Richardson: Yes, we are. We have regular contact with them. We have been part of the reason they have all signed up to the common reporting standard. We have been promoting transparency and signing up to international standards.

Q62 **Chair:** Who are the best or the most co-operative among the Crown dependencies?

David Richardson: I do not think I can go into that. They have all signed up to the common reporting standards.



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Q63 **Chair:** Why not? This is a parliamentary Committee. It is entitled to know which of the Crown dependencies are the most co-operative with you.

David Richardson: It is many years since I personally have dealt with them. In dealing with them, I found them all very similar. I have not had recent personal engagement with them, so I would not have the information anyway.

Q64 **Chair:** You find them all very similar.

David Richardson: I never found a particular difference between the dependencies in terms of their willingness or otherwise to co-operate with the UK. Indeed, they tend to work quite closely together.

Q65 **Chair:** What about the overseas territories? Who is the most co-operative of the overseas territories?

David Richardson: Similarly, my experience with the overseas territories is that they tend to act together and talk to each other. I have never personally experienced any particular differences in levels of co-operation.

Q66 **Chair:** You are interim director-general. You have had a senior role for a long period of time. We are asking in terms of the organisation. From the point of view of the organisation, which is the most co-operative of the overseas territories?

David Richardson: None of the overseas territories have been difficult or not co-operated. They are all independent jurisdictions and they have different people, but it is not part of our gripe or agenda that one is more co-operative than another. They have all signed up to the same standards in terms of what they will exchange with the UK and internationally.

Q67 **Chair:** As the OBR has pointed out, you are only getting about a quarter of what you anticipate as the yield from the Crown dependencies. Are you saying, therefore, that none of them are particularly co-operative?

David Richardson: That is not a reflection on the Crown dependencies; it is a reflection on the individuals who were investing in the Crown dependencies, as to whether they were prepared to use the opportunity to settle with us. One needs to be careful not to regard the authorities in those jurisdictions as the same as the people who are investing there.

Q68 **Chair:** People listening might be puzzled. You are remarkably keen to defend the overseas territories and Crown dependencies in terms of how co-operative they are. It would be useful if we could get a list of the meetings that take place with them, so we can see how often they are meeting with you.

David Richardson: We have been remarkably keen to ensure they all engage with us constructively. I am not promoting or otherwise the situation with the territories. Our concern has been to ensure they are



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transparent with us and with the rest of the world. They are, of course, self-governed territories. One has to respect that.

Q69 **Chair:** Could we get a list, then, of how often there have been meetings with them over the last year?

David Richardson: I can certainly take that request away and see what we can do.

Chair: Thank you.

Q70 **Nicky Morgan:** I want to talk about measuring the success of the counter-avoidance directorate. Before I do, I want to go back to some questions that Rushanara was asking about the way that taxpayers are treated. I was interested that Ms Wallington did not answer the question, or had nothing to add, because I was interested to know about the training of tax inspectors or those who work at HMRC. Members of Parliament are not immune to getting complaints about difficulties getting hold of HMRC, asking questions, getting responses. Not everybody can afford to have an all-singing, all-dancing accountant.

I would be interested to know about how, within HMRC, people are encouraged to treat in appropriate ways those who are clearly naive, do not understand the rules, are new to business or are new to filling in tax returns, and those who clearly have more nefarious intent.

Esther Wallington: I will start and David might want to come in. I will start with our values, which we set within our organisation over the last year. One of those is professional; one is about respect; one is about integrity. Those are really important values to us as an organisation and they are really important to our people. We consulted widely on what our values should be and what mattered to people, and those, along with innovation, came out of that consultation. It is really important to make clear that all our people are committed to being an organisation that is professional and treats our customers appropriately.

We have lots of continuous professional training for people, in both customer services and customer compliance, who are working with our customers. We have a long training programme for when people first join us. If they join in compliance, they will go on to a 26-week training programme. We also have a graduate development scheme, which runs for over three years. People have a lot of training when they first join the organisation. If they join in customer services, we also have a number of technical routeways for people to join, as well as the apprenticeship scheme. We invest heavily in training people, not just in technical areas but in what it means to be a customer-centric department.

There is a range of continuous development for leaders, managers and tax professionals alongside our values, which are incredibly important to us.

Q71 **Nicky Morgan:** Mr Richardson, do you have anything to add?



David Richardson: To be a good and successful tax person, you need good technical skills, but you need to be able to deal with people, and you need to be able to deal with them appropriately. We deal with some very difficult people who do not want to engage with us, and people need to be firm but polite in those situations. But we also deal with some people who are in very vulnerable situations and it is important to us that we deal with people appropriately. I don't think we get it right every time, as you see from constituency correspondence, but we try our level best and we will always try to learn from any mistakes that we make.

Q72 **Nicky Morgan:** How do you deal with complaints? Obviously, there will be complaints about technical tax issues, but if there are complaints about personnel, how are they dealt with? Do you monitor if there is a pattern relating to one particular person or one particular part of the organisation?

Esther Wallington: Yes, we look at complaints. Often they will be dealt with within local management lines, because that is where the complaint is received, but we monitor all our complaints. As an executive committee we look at those every month, and then we look at them annually to establish whether there is a pattern.

Q73 **Nicky Morgan:** Moving on, in 2012 the National Audit Office talked about the success of HMRC counter-avoidance at that point. It said that there were 41,000 avoidance cases that were then currently open, representing about £10.2 billion presumably in unpaid tax. I just wondered what the position is now in terms of open cases.

David Richardson: That was the NAO report that came before we set up counter-avoidance and was part of our reasoning for bringing all our operational policy work on counter-avoidance together in one place, in order to be more operationally effective and to have a more holistic view. Where are we now? Over the four years since counter-avoidance was set up, we have collected £8.5 billion. That contrasts with the year before counter-avoidance was set up, where we collected about £500 million from avoidance work, so there has been a huge step increase in the tax that we are bringing in.

One thing we have been doing is, where people will not settle and we need to go to litigation, to speed that process up. We have tripled the flow of cases going into litigation, and we now have 75% of the value in schemes either in litigation or about to go into litigation. We have made very significant inroads in terms of the stock of cases. When they will get to an end is out of our hands, because it depends on the legal process.

Q74 **Nicky Morgan:** In terms of numbers of cases, are you able to give us a number?

David Richardson: In terms of the number of cases, the estimate that the NAO came up with of forty-something—

Nicky Morgan: Forty-one thousand.



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David Richardson: —was not a comprehensive estimate that the NAO made at the time; it was of a certain number of schemes. We subsequently did a complete drains-up exercise when we set up counter-avoidance, to calculate how many open cases we had, using a systematic way of counting them. In the past, some schemes which involved employees counted as one scheme, rather than counting all the employees. So we moved to having a systematic exercise that counted every single user, and we wrote to the PAC to update them on that following the NAO study. Our estimate then was that, after that thorough drains-up exercise, there were 105,000 users. The number of cases we have that are open and not yet closed is now about 80,000. A large number of those have paid up with accelerated payment notices, though. As I say, we now have by value 75% of all those open cases in litigation or about to go into litigation.

Q75 **Nicky Morgan:** It obviously still takes some time. Is there an average age profile of cases? Is it possible to have that sort of information?

David Richardson: I do not have a specific average, but some of the cases go back about 10 years. Some of those big film cases go back to 2005 or so. The Ingenious case we were talking about is in litigation at the moment; it has been through the First-tier Tribunal. That is the longest case. Largely speaking, new cases dried up three years or so ago. We are talking about cases that are between 12 and five years old.

Q76 **Nicky Morgan:** You might have already touched on this, but did they dry up because of changes in the law or things like the disclosure of the avoidance schemes?

David Richardson: There has been a set of things. Public attitude has had an impact. Various people now think twice about entering into avoidance schemes, having seen some of the publicity and the public mood. The mood has changed. The market has changed. The big four accountants are not really in that market any more. Then the legal position and the economics of it have changed as well. Accelerated payments, the general anti-abuse rule and increased penalties all make it a very unattractive place to go, I would suggest.

Q77 **Nicky Morgan:** As for the roughly 25% of cases that are not in litigation, is it expected that they will end up in litigation, or may there not be a case for counter-avoidance after all?

David Richardson: They may end up in litigation, because it depends on individuals and whether they will settle. But one of the other measures introduced alongside accelerated payments is what we describe as follower notices. One of our problems in the past was that you would litigate a lead case, and then you would expect everybody else in a similar scheme to settle, and they would say, "No, we are slightly different," and we would then have to pursue them. Follower notices allow us to issue a notice saying, "In our view you are the same as this



case we have won in the tribunals or the courts. Therefore, in our view, you should settle.”

It is up to the individual not to, but if they choose not to, then litigate and lose, they will get a penalty that follows from that. The attraction of dragging that out has been removed. I expect that we would be able to settle a number of the 25% that are not in litigation with follower notices off the back of cases that we would hope to win in the courts.

Q78 Nicky Morgan: How are new schemes being disclosed under DOTAS in the last three years? Do you want to write to us?

David Richardson: The peak of DOTAS disclosure was 2005-06, when there were 600. If I can just check my own figures, in 2017-18, the last year, we had 15 disclosures. It is a huge fall.

Nicky Morgan: It is a big step change.

David Richardson: If you look at the number of new users of tax-avoidance schemes, which you can see from their self-assessment returns, that fell from a peak in 2010 by 90%. It is a big change. I would not be naive enough to think that there are not some people engaged in avoidance who have not disclosed or some schemes that have not disclosed, but the scale of the fall is a serious indication of the fall away in the market.

As part of our compliance efforts, we are also pursuing people who we feel should have disclosed schemes who have not done, to ensure the DOTAS rules are properly applied. We had a recent win—the first case that we have taken and we won in relation to a promoter not disclosing a scheme to us under DOTAS. We have several others to follow on, again as a warning to people that that is not a place to go.

Q79 Nicky Morgan: Some behavioural change will have occurred, but some people will always see a rule as a challenge to get round.

I want to turn briefly to the tax risk presented by foreign nationals living in the UK, because the Government have estimated that about £90 billion of illegal cash is laundered in Britain every year. One of the changes they brought in was the unexplained wealth orders. The NAO reported in 2016 that the tax risk presented by around 700 high-net-worth individuals who are non-doms was dealt with by HMRC’s High Net Worth Unit. I wondered if you could say a word about the unit and particularly whether it is dealing with some of the Russian oligarchs who are suspected of corruption, that the Security Minister Ben Wallace has recently been talking about.

David Richardson: We set up the High Net Worth Unit a few years ago—probably about four or five years ago now—to look at the most wealthy people. We have extended that to a slightly wider population. That now forms our wealthy customer directorate in our compliance area. They operate a more intensive investigation and compliance regime than



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for other taxpayers. We have compliance managers allocated to every single person covered by that unit. They will of course deal with more than one person, but there is a dedicated person looking at every person that is in the population within the wealthy directorate.

As I was saying earlier on, one of our criteria for opening an investigation would be unexplained wealth. Obviously, what we are interested in from a tax point of view is whether that unexplained wealth comes from a UK-taxable source. As long as I have been in the department, that has been a key criterion for taking up cases, and certainly is in relation to the sort of communities that you are talking about.

As you mentioned, with the Criminal Finances Act, there are new powers for freezing orders and unexplained wealth orders. We have used the freezing powers already. We are looking at the unexplained wealth orders and how we might use those. We are joined up with the NCA, the SFO and so on in terms of how we use those.

Q80 Nicky Morgan: That was my last question. I was just going to ask about the working together. That is on an ongoing basis.

David Richardson: Yes, it is absolutely. Obviously our interest is tax, but through the gateways we have for exchanging information we work with other government enforcement bodies that are interested in fraud more generally.

Q81 Chair: I have a few tidying-up questions to finish. In respect of tribunals and courts, are there any issues we should be aware of with capacity, either your capacity to take cases or the capacity of tribunals and courts to hear cases?

David Richardson: Not that I am aware of. I saw a press release from a firm of lawyers in the last couple of weeks that suggested there were backlogs in the courts as a result of the larger number of avoidance cases that we have been taking through the courts. We absolutely have been taking more avoidance cases to the courts. All the research that I have done has not indicated that we have got a problem there.

Indeed, when we introduced accelerated payments and follower notices and set up the counter-avoidance directorate, the Government provided additional funding to the courts service to accommodate what was expected to be a growth in litigation cases, to recruit more judges and support staff and to fund more hearing rooms. I am not aware at the moment that a particular logjam has built up. The process takes a long time, though, from First-tier Tribunal to Supreme Court.

Q82 Chair: How many new cases get to First-tier Tribunal per year?

David Richardson: I do not know the figure.

Chair: Could we have that? It may be useful and it would certainly be of interest to us.



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David Richardson: We can certainly look into that figure, yes.

Q83 **Chair:** Thank you. The Isle of Man and the VAT on private jets came out in the Panama papers. Were you aware of that scheme before it hit the headlines?

David Richardson: I think that was in the Paradise papers. Obviously, the Isle of Man is independent from us. I actually do not know the answer as to whether or not we had an awareness of that. It is a matter of public record that the Isle of Man—

Q84 **Chair:** Who would know that in HMRC?

David Richardson: Other people in our compliance area might potentially know about it, but it is up to the Isle of Man to apply the VAT rules in the Isle of Man.

Q85 **Chair:** HMRC was not challenging the Isle of Man or taking action of any kind on that scheme, then.

David Richardson: I simply do not have the information to say yes or no to that question.

Q86 **Chair:** Again, it would be useful for us to get a note on that.

David Richardson: Sure. What is a matter of public record is that the Isle of Man, after the Paradise papers and the “Panorama” programmes, requested the Treasury to assist them in looking at their application of the VAT rules, to see whether they were applying them properly. We have joined that work with the Treasury and are looking at how the Isle of Man had been applying the VAT rules, going forward. So we absolutely are engaged in looking at the Isle of Man’s treatment of private jets. I do not know whether we had knowledge of that before.

Q87 **Chair:** A note on that would be useful. Thank you.

The big accountancy companies are targeting NHS trusts at the moment. In the last week, I have seen figures of documents suggesting a 6% saving on the wage bill by outsourcing staff to avoid VAT. What are you doing about hospitals in large numbers currently trying to avoid tax?

David Richardson: We apply the VAT rules in the same way to any organisation to ensure that organisations are claiming and applying the rules correctly. The position with NHS trusts is that most NHS bodies, like any public sector body, cannot reclaim VAT, because they are not carrying out business operations, but there is a provision in section 40 of the VAT Act that allows public bodies to reclaim VAT where they have contracted out services. That provision was put in place in order to ensure a level playing field in relation to contracting out and to ensure it was not discouraged.

We apply those rules, but whether or not those are being used purely for avoidance, as opposed to a straightforward arrangement where people are using the rules as intended, is a matter that we are looking at at the



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moment. We are conscious of the publicity around that and sharing that information with the Treasury, who ultimately are responsible for understanding whether or not public bodies are simply engaging in tax avoidance, which would be contrary to Treasury rules for public bodies, or whether the legislation itself is working appropriately, as it were. That is a matter that we are looking at, and we are sharing that information.

Q88 Chair: It sounds like you are not comfortable with the concept of hospital trusts trying to avoid tax.

David Richardson: We are not comfortable with anybody that is avoiding tax. Whether or not those NHS trusts are avoiding tax, though, is a point that I think needs further understanding. Because obviously, there are perfectly legitimate reasons to set up subsidiaries in any organisation. The issue is whether arrangements are driven purely for tax, or whether they are an appropriate local response in a particular area and then the tax consequences flow from that.

Q89 Chair: One place where you do not appear to be claiming tax back from hospital trusts is in relation to corporation tax. It is my understanding that if a hospital trust is making profits out of non-core business, it is only eligible to make £50,000 before it would be required to be taxed to corporation tax, but none are being so, according to NHS accounts that I have looked at.

The example I am looking at is very precisely where, as a non-core area of business, they have a café, which previously they ran themselves. There is no requirement to have a café in a hospital. But they have then contracted their space out to global brands and they are getting good income out of it. It is more complex, perhaps, when it is car parking, but the example of the café space looks to me a very straightforward one—that a hospital could only make up to £50,000 in total annually before it would be eligible for corporation tax. That is going on at the moment, but I cannot see corporation tax in their accounts.

Are you missing a trick here? This may be a new way of trying to generate money, advised by accountants to hospitals, but it has come in very, very quickly. Is it the case that there could be a liability for corporation tax? Would that also impact on other parts of the public sector: schools, colleges, universities and even the MoD? The MoD has similarly given out space to coffee multinationals, increasing the price in recent months of a cup of coffee for a British soldier by £1, which is therefore obviously very lucrative. Are these areas that could be liable for corporation tax? With the hospitals, where I am certain there is such liability, should you be looking at this?

David Richardson: Can I take that point away? I do not have briefing with me on that particular point. We will take that away and get back to you, if that is okay.

Q90 Chair: I was not wishing to spring it on you. It is a point that I have learned about very recently, with what I would regard as very



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good-quality information. I am just compiling it. Here is an opportunity to put that in the public domain, because it is factually the case that accountancy companies are running around hospital trusts, suggesting ways in which they can avoid paying tax in many ways at this moment in time. It may be that the Committee wants to look at that and talk to some of the potential tax avoiders.

I have a final question. It is a bit of a generalist question to end on. Quite a lot of my constituents, and perhaps others across the public, can see the problem at the moment. I will come back to coffee, because a report has just come out saying that by 2030 it is expected that there will be more coffee shops in the country than pubs. The situation in my constituency is this. If you run a major multinational, branded coffee operation, you can be paying no tax in this country. But if you have set up a family business—perhaps in my area it would be people who have taken their redundancy, having been in the coal-mining industry—and you invest in that, you are paying tax; and you are paying corporation tax. If you are doing well, you will be paying a reasonable amount. Most will be doing okay and paying a small amount of corporation tax.

At what stage—in what year—before 2030 when we move from being a pub-based to a coffee-based country, can we expect to see a fair market whereby that small family-owned business is not losing out to the major multinational, which has a competitive advantage because of the very complex ways in which it is avoiding tax?

David Richardson: With large businesses, our responsibility is to apply the UK tax laws, which we do very rigorously. As I said, we collected £8 billion last year from large business through our compliance work. The issue that has been widely in the public domain over recent years is the adequacy of current legislation, in this country and around the world, in relation to growing globalisation, and the extent to which the international transfer pricing standards, agreed way back in the last century, are valid and pertinent to the new world.

The UK has been absolutely at the forefront in the OECD in pushing the work in that area. This is base erosion and profit shifting, to use its terminology. We have been at the forefront of pushing that agenda. As proposals have come out of the OECD, the UK has been one of the first countries to implement all the changes recommended. Indeed, we have also introduced a diverted profits tax.

The work that has come from the OECD that we have implemented, about curtailing interest reductions, royalty payments and so on, is now yielding about £2 billion extra per year, as a result of changing the rules. The diverted profits tax, which was introduced in April 2015, has so far yielded about £280 million. We think it will raise about £1.3 billion by 2020.

There has been a large change in the legal rules that apply to multinationals operating in the UK. It is important, though, that we move



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broadly in step with other countries, in order to ensure that the UK is a competitive and attractive place to do business.

Chair: I will speak personally, not on behalf of anybody else. When there is a proper level playing field there, it will be a good indicator that we are really on top of the situation. This inquiry will go on throughout the year. The full, main Treasury Committee has its own major inquiry as well. I think it would be reasonable to say that the law of the country says that there should be reporting to Parliament. If HMRC feels at any time that there are resource issues or powers that you do not have, or legislative changes that are needed that would impact on that situation, it would be absolutely appropriate for you to let the Treasury Committee know, and it would be hugely inappropriate for us not to know your thinking.

You are answerable to Government, but you are also answerable to Parliament. Parliament needs to have the ability to say yes, no, more money, less money, more powers, more laws or not, as we rightly or wrongly think. That is the role of these Select Committees and, in our very modest way, this Committee as well. It is vital that you send through to us anything you think we need to know or information we need to have. We would welcome that, not just in hearings like this but in the general run of the mill in writing as well. Thank you very much for your attendance. We look forward to seeing you again.