



House of Commons
Committee of Public Accounts

Collecting tax from high net worth individuals

Thirty-sixth Report of Session 2016–17

Report, together with formal minutes relating to the report

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The Committee of Public Accounts

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Summary

HM Revenue & Customs (HMRC) needs to be tough, and be seen to be tough, on tax avoidance and evasion, to ensure that everyone, particularly the very wealthy, pays their fair share of tax. In 2009, HMRC set up a unit to focus on the tax affairs of 'high net worth individuals', who are the wealthiest people in the UK. These individuals employ professional tax advisers to calculate the tax they will pay. It is alarming that HMRC has around one third of these individuals under enquiry at any one time, and in 2015–16 was investigating cases with a value of around £1.9 billion extra tax revenue that might be due. The amount of tax paid by this very wealthy group of individuals has actually fallen by £1 billion since the unit was set up. HMRC provides a customer relationship manager to each high net worth individual (which is help that other taxpayers do not get) but there is not enough clarity about what they can and cannot do, and meetings and phone calls with these taxpayers are not recorded. HMRC is hampered by not having the power to demand more information about what assets high net worth individuals hold, and by the way certain tax rules have been set and interpreted, such as the complex rules on image rights. By being more transparent about its work, seeking new powers where necessary, and delivering on its plans to get tougher with those who break the rules, HMRC could collect more cash and must do more to give the public greater confidence that there is not one set of rules for the rich and another for everyone else.

Introduction

In 2009, HM Revenue & Customs (HMRC) set up a specialist unit dedicated to collecting tax from ‘high net worth individuals’. HMRC considered there to be around 6,500 such individuals in 2015–16, about one in every 5,000 taxpayers. These are people who have wealth of more than £20 million. They paid more than £4.3 billion in tax in 2014–15. HMRC assigns a “customer relationship manager” to each high net worth individual, who is a named contact in the department responsible for administering their tax affairs. Tax authorities focus on high net worth individuals because: they pay significant amounts of tax; they often have complex tax affairs; and they have more opportunity to engage in tax planning than the average taxpayer. In addition to the tax that is voluntarily declared by high net worth individuals, HMRC estimates that, in 2015–16, its specialist unit raised a further £416 million from them, compared with £200 million in 2011–12. In 2016, HMRC reduced to £10 million the threshold above which it will consider someone to be a high net worth individual and therefore subject to the attentions of its specialist unit. In addition to collecting tax, HMRC has a role in identifying tax rules that are not working as Parliament intended and bringing these to the attention of HM Treasury.

Conclusions and recommendations

1. **HM Revenue & Customs (HMRC) lack of transparency has eroded public trust in a fair tax system and makes it more difficult for the department to explain what it does well.** HMRC told us that its compliance work with high net worth individuals has been a success. Its approach to high net worth individuals has changed over time and it now appears to be taking a tougher line with those who break the rules. However, HMRC publishes little information about the approaches it takes or the number of criminal investigations and prosecutions in progress. The lack of transparency leaves the Department open to the perception that, in its dealings with taxpayers, there is one rule for the rich and another for everyone else. This is reinforced by the income tax paid by high net worth individuals having fallen from £4.4 billion in 2009–10 to £3.5 billion in 2014–15. We welcome the new Accounting Officer’s commitment to greater transparency and his intention to expand the range of information HMRC publishes. However we are concerned that HMRC could not explain why income tax receipts from high net worth individuals has fallen by £1 billion (20%) since 2009–10, while income tax from all taxpayers has increased by £23 billion (9%) over the same period.

Recommendations:

HMRC should publish more information about its work generally alongside its next annual report and at regular intervals thereafter. We would expect the information to include: descriptions of key areas of its work, such as its approaches to tackling non-compliance and prosecutions; annual data on its operations, such as the number of criminal investigations in progress; and, progress updates on areas of public interest, such as its actions to investigate the data leaked in the Panama Papers. HMRC should include the information in its next annual report.

In its response to this report HMRC should explain how income tax receipts have fallen by £1 billion for high net worth individuals while income tax paid overall has increased by £23 billion.

2. **HMRC’s approach to dealing with the very wealthy suggests that they get help with their tax affairs that is not available to other taxpayers.** HMRC provides each high net worth individual with a personal “customer relationship manager” to make sure they pay the right amount of tax. The term customer relationship manager gives a misleading impression of what these staff do, and risks sending out the wrong message to other taxpayers about extra help being available to the wealthy. HMRC repeatedly told us that it does not give advice to taxpayers. However, we were not convinced by its assertion that there is a clear line between giving its view on potential transactions and giving tax advice, and we do not think there is enough clarity about what customer relationship managers can and cannot do. In addition, while calls from most taxpayers to HMRC call centres are recorded routinely, meetings and phone calls with high net worth individuals are not recorded.

Recommendation: *HMRC should revise and publish guidance to remove any scope for ambiguity about what staff in its high net worth unit can do. It should change the name of its customer relationship managers to something that better describes what they do, and does not suggest an overly close and inappropriate service to the wealthy.*

3. **HMRC has not been tough enough in dealing with tax evasion and avoidance by the very wealthy, and it does not know whether its activities are enough to deter non-compliant behaviour.** HMRC told us that almost all of the very wealthy have professional advisers to deal with their tax affairs. But this sees many of them paying the wrong amount of tax. HMRC has enquiries open into about a third of all high net worth individuals at any one time, and is investigating cases with a potential value of £1.9 billion. Since 2012, HMRC has issued 850 penalties totalling £9 million to high net worth individuals; an average penalty of £10,500. That seems too small an amount to change the behaviour of multi-millionaires, particularly as avoidance is moving from off the peg marketed tax avoidance schemes to complex bespoke schemes, in effect from a high street equivalent of off the rail Primark or Next to made to measure Savile Row. In the five years to 31 March 2016 HMRC completed investigations into just 72 of these people for potential tax fraud. In 70 of these cases it used its civil powers: two were criminally investigated, of which just one was successfully prosecuted. This is a dismal record. We have previously recommended that HMRC should increase the number of investigations and prosecutions, and the Department tells us that it has opened ten more criminal investigations since March 2016. HMRC has also committed to increasing the number of prosecutions of serious and complex tax crime, with a particular focus on wealthy taxpayers and corporates, by 2020. This matters because high net worth individuals' avoidance through marketed schemes is the thin end of the wedge; £1.4 billion compared to a total of £14 billion from marketed schemes as a total.

Recommendation: *HMRC should assess what more it could do to deter very wealthy taxpayers from bending or breaking the law, particularly in the light of changing behaviour. This should include what new powers might increase its impact. HMRC should report back to this Committee by July 2017.*

4. **Collecting the right amount of tax from high net worth individuals is made harder because they do not have to declare details of their wealth.** Unlike some other countries, such as Australia and Japan, high net worth individuals do not need to provide information about their assets in their tax returns. HMRC has access to other sources of data to help it understand the risks associated with an individual high net worth taxpayer, but it is difficult for it to know if it has a full picture. HMRC has been looking at what further information high net worth individuals could be required to report to help improve its understanding of their wealth. The Department told us the issue is currently being considered by ministers.

Recommendation: *HMRC should consider what further powers could help it improve its understanding of high net worth individuals, including requiring these taxpayers to provide HMRC information about their assets, and report back to this Committee by July 2017.*

5. **The rules on ‘image rights’ as they are applied in football and some other industries are being exploited.** HMRC told us that it has a specialist team looking at the potential abuse of the rules relating to image rights, which it described as the most significant tax risk amongst footballers. The same risks apply to the entertainment industry and anywhere else where a taxpayer’s image has a market value. The rules allow income for image rights to be treated as a separate revenue stream. Particularly when combined with ‘non-dom’ status, this creates an incentive for the individual to maximise the proportion of income that is deemed to be for image rights in order to reduce their tax liability. HMRC told us that it has open enquiries about image rights on 43 footballers, 8 agents and 12 clubs. We were appalled to hear that not all football clubs are providing HMRC with data under a voluntary agreement struck with the English Premier League. We welcome the refreshing evidence of the HMRC Accounting Officer and his willingness to go back to ministers with a view to reforming the current law on image rights.

Recommendation: *Government should take urgent action to address image rights taxation. This must be included in the next Finance Bill to ensure this tax revenue is no longer lost.*

6. **HMRC has not yet assessed the strengths and weaknesses of its approach to collecting tax from high net worth individuals or considered the different approaches it could take.** HMRC’s high net worth unit has increased the amount of compliance yield it has collected each year since it was set up in 2009. However, HMRC has yet to work out exactly what works and why in its current approach, or where and how it might be improved. For example, despite compliance yield and the number of high net worth individuals increasing since 2009, HMRC could not explain why income tax collected from high net worth individuals had fallen by nearly £1 billion (20%), while income tax from all taxpayers had increased by £23 billion (9%). HMRC accepts that it should reflect on its approach to see how it could be improved.

Recommendation: *HMRC should conduct a formal evaluation of the high net worth unit and routinely monitor, analyse and report on the tax receipts from this group of taxpayers. It should set out a timeframe for reporting back to this Committee on the results of its evaluation.*

1 HMRC's approach to high net worth individuals

1. On the basis of a report by the Comptroller and Auditor General, we took evidence from HM Revenue & Customs (HMRC) on its approach to collecting tax from high net worth individuals.¹ HMRC focuses on the people and businesses it considers pose the greatest risk of not paying the correct amount of tax. High net worth individuals are one such group. These are the very wealthiest people in the UK, who have a net worth of more than £20 million. Net worth refers to the assets owned by the taxpayer less any debts. HMRC considered there to be around 6,500 such individuals in 2015–16, about one in every 5,000 taxpayers.²

2. In 2009, HMRC set up a specialist unit dedicated to collecting tax from high net worth taxpayers. Each high net worth individual has a named contact within the unit, known as a 'customer relationship manager', who deals with their tax affairs. There are good reasons a tax authority would focus attention on these taxpayers. As a group, they pay a large amount of tax: in 2014–15, the latest tax year for which data is available, they paid around £4.3 billion in tax. Other reasons are: the complexity of their tax affairs; the opportunities they have to avoid tax; and to demonstrate that the tax system is fair and that compliance activity applies equally to the very wealthy as it does to other taxpayers.³

3. Since HMRC created the unit, the amount of additional tax collected as a result of checking high net worth individuals' tax affairs has increased every year. HMRC estimates that, in 2015–16, its specialist unit raised £416 million, compared with £200 million in 2011–12. This is on top of the amounts declared voluntarily by these taxpayers.⁴

Transparency

4. There was relatively little published information on HMRC's approach to high net worth individuals before the Committee began its examination of this topic. We asked if HMRC felt that its work has been a success. HMRC pointed to the £2 billion of compliance yield collected since 2009, and the contribution its specialist unit has made to combatting marketed tax avoidance.⁵ HMRC explained that it assesses the relative risks of each high net worth individual and that 280 taxpayers have moved from a 'red' rating (high risk) to 'amber' (medium risk) in the last two years. At the time we took evidence HMRC had classified 32% of high net worth individuals as 'red', compared to 37% as 'amber' and 31% as green.⁶ The Accounting Officer suggested it might improve transparency if HMRC published these data so that people outside of HMRC could track how its assessment changes over time.⁷

1 C&AG's Report, *HMRC's approach to collecting tax from high net worth individuals*, Session 2016–17, HC 790, 1 November 2016

2 C&AG's Report, summary paras 2–3

3 C&AG's Report, paras 1.5, 1.7, 2.4, Figure 6

4 C&AG's Report, para 4.3, Figure 15

5 Q 110

6 Q 72

7 Q 80

5. HMRC has changed its approach to high net worth individuals since it set up the unit in 2009. HMRC has developed a more risk-based approach to its work with high net worth individuals, focusing on those with the riskiest tax affairs.⁸ HMRC also appears to be taking a tougher line with those involved in tax evasion and avoidance. HMRC told us it has put ten high net worth individuals under criminal investigation since 1 April 2016.⁹ Before then HMRC had criminally investigated only two people since 2009.¹⁰ HMRC told us that in the six months since a taskforce was set up to examine the Panama papers it has started several criminal investigations related to that data and made two arrests.¹¹ It also told us that it can now apply bigger penalties to those who consistently use marketed avoidance schemes, and has more powers to name them in public.¹² HMRC has recently consulted on new measures to force businesses, who design and promote complex ways to invest money offshore, to disclose the nature and owner of the investments to HMRC.¹³

6. HMRC accepted that it is not clear enough about its overall compliance strategy, or how prosecutions fit into it.¹⁴ We have previously recommended that HMRC should assess what is the optimum level of prosecutions, and should evaluate and quantify the impact of prosecutions and other measures in deterring evasion. It should work with others to model the impact of different approaches, and then review its prosecutions strategy.¹⁵ HMRC agreed that it needs to be clearer about its strategic thinking and the reporting of its performance.¹⁶ This includes providing greater clarity on HMRC's compliance strategy and its prosecutions policy. HMRC told us that it would address this in its public reporting in 2017.¹⁷

Customer relationship managers

7. Customer relationship managers aim to work with taxpayers to resolve issues before they submit their tax return. The relationships they develop allow more opportunities to influence taxpayers and encourage them to comply with the tax rules. The National Audit Office has observed that high net worth individuals are subject to a high level of scrutiny from HMRC, but in return receive an increased level of customer service.¹⁸ We asked HMRC whether it recognised the risk that by having staff called customer relationship managers it gave the impression that high net worth individuals are treated better than other taxpayers.¹⁹ HMRC acknowledged that the term customer relationship manager sounded much friendlier than the role was in practice. It added that, while it could call them something else, it was not sure all taxpayers would wish for the level of compliance attention received by high net worth individuals. Its arrangements for collecting tax from high net worth individuals mean they get much closer scrutiny than most other groups, except for organised crime and large businesses.²⁰

8 [C&AG's Report](#), paras 2.12–2.13, Q 139

9 [Q 102](#)

10 [C&AG's Report](#), para 3.11

11 [Q 12](#)

12 [Q 106](#)

13 [Q 56](#)

14 [Q 144](#)

15 Committee of Public Accounts, [Tackling tax fraud](#), Session 2015–16, HC 674, April 2016

16 [Q 80](#)

17 [Q 144](#)

18 [C&AG's Report](#) para 2.5–2.6

19 [Qq 59–62, 163](#)

20 [Q 154](#)

8. HMRC told us that customer relationship managers do not give advice to taxpayers.²¹ They can discuss HMRC’s likely position on a specific issue or approach before a taxpayer enters into a particular activity, in order to avoid the cost of a potential future enquiry once a tax return is submitted. They are not however allowed to propose the treatment that a taxpayer should adopt.²² We asked HMRC about this grey area between not giving advice and at the same time discussing specific issues and working cooperatively in real time. HMRC told us that giving its view on how it would treat a proposed transaction is not the same as giving advice, but it understood that “you might think that the line is fairly close, but it is not advice”. HMRC also stressed the level of checking that took place over the work of customer relationship managers, and their teams.²³

9. HMRC told us that meetings between customer relationship managers and high net worth individuals or their agents are not routinely recorded. In some instances, for example when there is a criminal investigation or where there is agreement to do so, meetings will be recorded, but this is not usual practice.²⁴ Phone calls to or from customer relationship managers are also not recorded. HMRC does record calls to its main customer services lines, for training purposes. HMRC explained that the difference is because calls with customer relationship managers often only involve routine discussions about case management, for example arranging meetings or chasing paperwork. It also told us that it does not have the relevant facilities to record calls on its telephones outside of its call centres.²⁵

21 [Qq 18, 20, 22](#)

22 [C&AG’s Report](#), Figure 9

23 [Qq 90, 93, 64](#)

24 [Q 98](#)

25 [Qq 151–153](#)

2 The scope to improve HMRC's ability and powers to deal with high net worth individuals

Dealing with non-compliance

10. HMRC told us that 98% of high net worth individuals pay professional advisers to deal with their tax affairs and the majority of these advisers are accountants and lawyers. We asked HMRC what it said about this group of taxpayers, given that they take professional advice, that one third of them are under investigation. HMRC told us that a significant proportion of them push at the boundaries of tax law.²⁶ At the start of 2015–16, HMRC estimated that its open investigations had the potential to raise an extra £1.9 billion in tax revenue.²⁷ HMRC estimates that, in 2014, there was around £1.4 billion tax at stake from the use of avoidance schemes by high net worth individuals. Around 1,000 high net worth individuals were responsible for 4,000 uses of avoidance schemes. HMRC estimates that in total there was around £14 billion of tax at risk from all marketed avoidance schemes, which had been used by around 105,000 separate people.²⁸

11. Since 2012, HMRC has issued 850 penalties totalling £9 million to high net worth individuals; an average penalty of around £10,500. HMRC told us that 380 of these penalties were suspended, with a value totalling £4.5 million.²⁹ Penalties are suspended on the condition that the taxpayer complies with their future tax obligations. Twenty-one of the suspended penalties, worth £44,129, were reinstated due to individuals not meeting the conditions.³⁰ HMRC told us that suspending penalties is fairly common practice for all taxpayers and not specific to high net worth individuals.³¹ HMRC told us it considers a reduction in the number of taxpayers in this group filing late each year and the results of its internal risk assessment, as well as the general reduction in the use of marketed avoidance schemes, provide evidence of improved behaviour amongst these taxpayers.³²

12. HMRC has investigated 72 high net worth individuals for potential tax fraud since 2011. In 70 of these cases, it used its civil powers. Two cases were subject to criminal investigation and one of these resulted in a successful prosecution.³³ We have previously recommended that HMRC should increase the number of investigations and prosecutions it undertakes, including of wealthy tax evaders, and publicise this work better to deter others from evading tax.³⁴ HMRC has also committed to increase the number of prosecutions of serious and complex tax crime, with a particular focus on wealthy taxpayers and corporates, by 2020.³⁵

26 [Qq 67, 69, 70](#)

27 [C&AG's Report](#), paras 1.10, 3.6

28 [Qq 118–124; C&AG's Report](#), Appendix One

29 [C&AG's Report](#), para 3.9

30 [HMRC \(HNW0001\)](#)

31 [Q 73](#)

32 [Qq 72, 80](#)

33 [C&AG's Report](#), para 3.11, Figure 14

34 Committee of Public Accounts, [Tackling tax fraud](#), Session 2015–16, HC 674, April 2016

35 [C&AG's Report](#), para 3.12

Understanding the wealth of individuals

13. Taxpayers have an obligation to disclose their income to HMRC in their annual tax returns, but they are not required to provide information about their property.³⁶ It is the diverse range of property that a high net worth individual might hold that makes their tax affairs more complex and potentially more risky.³⁷ HMRC told us that it has the ability to connect high net worth individuals with property they own personally. However, a particular challenge “is making the connection between a different structure [such as a trust or company] and a wealthy individual”, particularly when these structures are offshore.³⁸

14. Other countries request additional information from the wealthiest taxpayers. For example, in Australia high net worth individuals can be asked to submit an extended tax return and in Japan must submit a statement of their assets and liabilities.³⁹ HMRC confirmed that it had been looking at what further information high net worth individuals could be required to report to help improve its understanding of their wealth. HMRC told us that the results are currently being considered by ministers.⁴⁰

Image rights

15. HMRC described how the most significant tax risk among footballers was the misuse of tax laws relating to image rights. HMRC told us that case law “established the principle that if you are involved in a sport, you can receive essentially two income streams: one for the playing of sports, and another for the use of image rights”. We heard that most people who believe their image rights have a market value have created companies that receive the payments for those rights. HMRC also confirmed that a significant number of footballers in the UK are not domiciled here. This means they can incorporate their image rights outside the United Kingdom and that payments will be made to companies outside the United Kingdom.⁴¹

16. HMRC told us that it has a project team that focuses on the risks associated with image rights. HMRC collects information from football clubs to assess whether the balance between pay and image rights is reasonable. It confirmed that the vast majority, but not all, of the clubs in the Premier League supply HMRC with this information under a voluntary agreement. HMRC told us that 43 footballers, 8 agents and 12 football clubs are currently under inquiry around the issue of image rights.⁴² HMRC explained that this is not a risk specific to football but also applies to the entertainment industry where somebody’s ‘brand’ can be a valuable asset, and that the project team also examines these people.⁴³ We asked what HMRC thought about the impression given to ordinary taxpayers by the treatment of income from image rights, and whether it had ever talked to Ministers about a potential change in the law.⁴⁴ The Accounting Officer told us that personally he could see why some would consider the situation on image rights to be odd

36 [Qq 49, 54](#)

37 [C&AG’s Report](#), paras 1.8, 1.9

38 [Q 47, 56, 58](#)

39 [C&AG’s Report](#), para 3.5

40 [Q 46](#)

41 [Q 21](#)

42 [Qq 26–28](#)

43 [Qq 28, 36, 39](#)

44 [Qq 24, 40](#)

and merit review. He stressed that the principle of allowing two revenue streams that could be treated in different ways had been settled in law. However, he was sympathetic to the view that HMRC should go back to Ministers to see whether Ministers wanted to continue with the current situation. He said it would certainly be on his list of policy issues to talk to Ministers about.⁴⁵

Measuring the impact of the unit

17. HMRC's high net worth unit has increased the compliance yield from its work each year since it was set up in 2009. HMRC told us that in this time it has collected more than £2 billion of additional tax. However, the income tax paid by high net worth individuals has decreased from £4.4 billion in 2009–10 to £3.5 billion in 2014–15, a 20% fall. During this same period, total income tax receipts from all taxpayers increased from £250.1 billion to £272.9 billion, an increase of 9%.⁴⁶ HMRC was unable to satisfactorily explain why, as a whole, tax revenue from high net worth individuals had fallen, despite the yield from its compliance work with them having increased. The number of high net worth individuals increased from 5,900 to 6,500 between 2009 and 2015. HMRC described how it agrees an annual target for compliance yield, but not for tax revenues.⁴⁷

18. HMRC has not yet evaluated the effectiveness of its approach to high net worth individuals. It has taken the yields from its work, feedback from tax agents, and changes in behaviour such as fewer late self-assessment returns, as indicators of success. But it has not yet looked at what works and why in its current approach.⁴⁸ HMRC told us that it thought the NAO's implicit recommendation that it ought to do a formal evaluation of its high net worth unit to see how it could be improved is a good one. It said that all of the areas highlighted by the NAO, as issues for it to consider when developing its approach, were reasonable. It highlighted in particular the issue of bringing together a wider range of taxes for the individuals concerned, an area in which it already knows it needs to make some changes.⁴⁹

45 [Qq 24, 25, 40, 41](#)

46 [C&AG's Report](#), Figures 4 and 8, para 4.3

47 [Qq 111–114](#)

48 [C&AG's Report](#), para 18

49 [Q 110](#); [C&AG's Report](#), Figure 2

Formal Minutes

Monday 23 January 2017

Members present:

Meg Hillier, in the Chair

Charlie Elphicke	Nigel Mills
Caroline Flint	Anne Marie Morris
Kwasi Kwarteng	Karin Smyth

Draft Report (*Collecting tax from high net worth individuals*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 18 read and agreed to.

Introduction agreed to.

Conclusions and recommendations agreed to.

Summary agreed to.

Resolved, That the Report be the Thirty-sixth of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 25 January 2017 at 2.00pm]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 7 December 2016

Question number

Jon Thompson, Chief Executive and Permanent Secretary, and **Jennie Granger**, Director General, Enforcement and Compliance, HM Revenue & Customs

[Q1-164](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

HNW numbers are generated by the evidence processing system and so may not be complete.

- 1 HM Revenue & Customs ([HNW0001](#))

List of Reports from the Committee during the current session

All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2016–17

First Report	Efficiency in the criminal justice system	HC 72 (Cm 9351)
Second Report	Personal budgets in social care	HC 74 (Cm 9351)
Third Report	Training new teachers	HC 73 (Cm 9351)
Fourth Report	Entitlement to free early education and childcare	HC 224 (Cm 9351)
Fifth Report	Capital investment in science projects	HC 126 (Cm 9351)
Sixth Report	Cities and local growth	HC 296 (Cm 9351)
Seventh Report	Confiscations orders: progress review	HC 124 (Cm 9351)
Eighth Report	BBC critical projects	HC 75 (Cm 9351)
Ninth Report	Service Family Accommodation	HC 77 (Cm 9351)
Tenth Report	NHS specialised services	HC 387 (Cm 9351)
Eleventh Report	Household energy efficiency measures	HC 125 (Cm 9351)
Twelfth Report	Discharging older people from acute hospitals	HC 76 (Cm 9351)
Thirteenth Report	Quality of service to personal taxpayers and replacing the Aspire contract	HC 78 (Cm 9351)
Fourteenth Report	Progress with preparations for High Speed 2	HC 486 (Cm 9389)
Fifteenth Report	BBC World Service	HC 298 (Cm 9389)
Sixteenth Report	Improving access to mental health services	HC 80 (Cm 9389)
Seventeenth Report	Transforming rehabilitation	HC 484 (Cm 9389)
Eighteenth Report	Better Regulation	HC 487 (Cm 9389)

Nineteenth Report	The Government Balance Sheet	HC 485 (Cm 9389)
Twentieth Report	Shared service centres	HC 297 (Cm 9389)
Twenty-first Report	Departments' oversight of arm's-length bodies	HC 488 (Cm 9389)
Twenty-second Report	Progress with the disposal of public land for new homes	HC 634
Twenty-third Report	Universal Credit and fraud and error: progress review	HC 489
Twenty-fourth Report	The sale of former Northern Rock assets	HC 632
Twenty-fifth Report	UnitingCare Partnership contract	HC 633
Twenty-sixth Report	Financial sustainability of local authorities	HC 708
Twenty-seventh Report	Managing government spending and performance	HC 710
Twenty-eighth Report	The apprenticeships programme	HC 709
Twenty-ninth Report	HM Revenue & Customs performance in 2015–16	HC 712
Thirtieth Report	St Helena Airport	HC 767
Thirty-first Report	Child protection	HC 713
Thirty-second Report	Devolution in England: governance, financial accountability and following the taxpayer pound	HC 866
Thirty-third Report	Troubled families: progress review	HC 711
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Public Accounts Committee

Oral evidence: High Net Worth Individuals & HMRC, HC 773

Wednesday 7 Dec 2016

Ordered by the House of Commons to be published on 7 Dec 2016.

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Members present: Meg Hillier (Chair); Mr Richard Bacon; Charlie Elphicke; Chris Evans; Rt hon. Caroline Flint; Kevin Foster; Nigel Mills; Bridget Phillipson; John Pugh.

In attendance: Sir Amyas Morse, Comptroller and Auditor General; Adrian Jenner, Director of Parliamentary Relations, National Audit Office; Rob Prideaux, Director, NAO; and Richard Brown, Treasury Officer of Accounts, HM Treasury.

Questions 1-164

Witnesses

I: Jon Thompson, Chief Executive and Permanent Secretary, HMRC; Jennie Granger, Director General, Enforcement and Compliance, HMRC.

Report by the Comptroller and Auditor General

HMRC's approach to collecting tax from high net worth individuals

(HC 790)

Examination of witnesses

Witnesses: Jon Thompson and Jennie Granger gave evidence.

Q1 Chair: Good afternoon and welcome to the Public Accounts Committee on Wednesday 7 December 2016. Today we are looking at high net worth individuals and how HMRC deals with those issues and individuals. We have some other questions, which we have given you notice of, Mr Thompson. Our witnesses today are regular repeat visitors to the Committee: Mr Jon Thompson, who is the chief executive and permanent secretary at HMRC, and Jennie Granger, who is the director general of enforcement and compliance at HMRC. It is a small panel compared with usual. Our hashtag today, imaginatively, is #hmrc.

Before we go into the main issue today, I want to ask Mr Thompson whether you can give us a bit of an update on the "Panama Papers". Just to remind people, a £10 million Government taskforce was set up in April. The Chancellor updated us all in early November and said the taskforce has "seen individuals coming forward to settle their affairs in advance of Taskforce partners taking action." What transparency is there going to be on this? Are they going to be cosy deals? Have you had any deals done on issues from the "Panama Papers"?

Jon Thompson: I don't think we do cosy deals at all.

Q2 Chair: You would say that, but they are coming forward ahead of the taskforce partners taking action. The fact of the taskforce is making them cough up—is that the case?

Jon Thompson: There are some who are coming forward in advance, although we are still using the civil and criminal powers that the Chancellor of the Exchequer referred to. The written ministerial statement set out where we were. There are 22 individuals where we have opened a civil or criminal investigation. We have made two arrests. There are 43 individuals in the NAO Report who are mentioned in the "Panama Papers", and we are further reviewing those.

Q3 Chair: Sorry—can you just repeat that second bit again? Is it 43 high net worth individuals?

Jon Thompson: The NAO Report before you on high net worth individuals—some 43 of those individuals are mentioned somewhere in the "Panama Papers", and that requires us to review the situation. We are not assuming anything, but it requires us to review the situation. In relation to



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those who have come forward, I believe we have settled a relatively small number. We have settled £500,000 so far. I do not think I have given you much further information than the Chancellor gave you on 8 November, but it has only been a month.

Q4 Chair: We appreciate that. When are you expecting to see outcomes that we can see in the public domain? When we heard from Ms Grainger a couple of weeks after they had been released, we were told that there was a lot of work to be done and a lot of papers to be gone through. Where are we at now, roughly? If you were to come in front of us in six months' time, for example, would you hope to be able to give us more information about prosecutions and money coming in as a result?

Jon Thompson: It depends on the nature of the criminal investigations. Criminal investigations can take up to four years¹, and some of that data is available and has been made available to the NAO. I would expect, if the two arrests follow through with relevant prosecutions, that they would probably be the first things that you would know on this.

Q5 Chair: So those two arrests could mean that prosecutions are imminent, or are you not prepared to go that far?

Jon Thompson: I don't think I can go that far.

Q6 Chair: Have any settlements been concluded at all? The Chancellor hinted that people are coming to settle their affairs. You rattled off some figures at the beginning, and I may have missed that one.

Jon Thompson: We have recovered £500,000 from inquiries so far².

Q7 Chair: That is settlements. With how many people or organisations?

Jon Thompson: I am afraid I do not have that information.

Q8 Chair: If you can let us know, that would be great, so long as it is not statistically impossible. We understand that even in this situation there is privacy until criminal activity takes place. Has HMRC brought in any outside expertise to help with the taskforce? Jennie Granger, you're nodding. Do you want to explain who and what they are doing?

Jennie Granger: The key expertise is cross-agency expertise. We have set out—

Q9 Chair: Cross-agency—you mean within Government?

Jennie Granger: Within Government. One of the real strengths here is that we have developed a joint analytical capability that includes ourselves, the NCA and the other agencies, with our top experts literally analysing this together.

¹ Clarification from witness: *This is an average figure of the time it takes to resolve our most complex criminal cases, including, where applicable, the time spent in court.*

² Clarification from witness: *To date, HMRC has received £500,000 from four individuals. These are all payments on account made in ongoing enquiries where the customer has come forward to make a disclosure*



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Q10 **Chair:** You said “the other agencies”. So it is the FCA, you—

Jennie Granger: The Serious Fraud Office, the National Crime Agency and other agencies as needed. For the first time, we are able to analyse not only from the point of view of tax evasion; we can also look at economic crime. That is why when the Chancellor updated on this, you were also getting information about money laundering and fraud investigations involving the Serious Fraud Office. We think that is quite a step change in how we are able to exploit data from offshore.

Q11 **Chair:** That is great. That is the Government agencies. Are there any other third-party organisations that have been involved in supporting or advising the taskforce?

Jennie Granger: I will just have to check from the other agencies’ point of view. We have not needed to do that in HMRC at this stage.

Q12 **Chair:** So there is nothing like the Institute of Chartered Accountants or any of those overarching bodies working with you to analyse?

Jennie Granger: Not at this point. Where we are is that within six months we have already opened several criminal investigations—serious ones—which is quite fast. The fact that we have made arrests, which is new news that was not available at the time that the ministerial statement was published, is quite fast progress in this. We have been tracking ourselves internationally, because you like to compare that. We think we are on track. If I can just give you a yardstick for this, the ICIJ took a year—

Q13 **Chair:** Could you just explain the ICIJ?

Jon Thompson: It is the International Consortium of Investigative Journalists.

Jennie Granger: They had the data for a year and were analysing it before they published their story. So in six months, we have stood up a taskforce and we have criminal investigations already under way. We are also making an impact with others coming in to settle. Bearing in mind that it was essentially a data soup, with photos, emails and vague references, I think we have cracked through these quite quickly.

Q14 **Chair:** You have been able to progress compared with when we spoke to you last.

Jennie Granger: Yes. We have already made the first arrests. Obviously I cannot go into a lot of detail, but the Committee will be interested to know that the case involves the beneficial ownership of UK property being disguised through offshore structures, which is something you have previously raised with us and been interested in. We think that is quite good.

Q15 **Chair:** To be clear, HMRC is doing its own work with other Government agencies, but you have not brought in experts from the private sector.

Jennie Granger: We certainly would not rule it out. If the taskforce needs that, we will do it.



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Q16 **Chair:** How will you vet them to make sure they are not also working for some of the people you are investigating?

Jennie Granger: Indeed.

Q17 **Chair:** You say indeed; can you expand?

Jennie Granger: I am in a good position to do that, because of what we know from inside HMRC.

Chair: Mr Bacon, you look like you want to contribute.

Mr Bacon: No.

Q18 **Chair:** Just being pensive. You are very lucky: Mr Bacon is staying silent for the moment.

Moving on, there were revelations in last week's *Sunday Times*, and, of course, across the world in *Der Spiegel* and other publications, about some of the interesting—putting it mildly—tax arrangements in football. Has HMRC had any involvement in advising players and managers about their tax affairs, Mr Thompson?

Jon Thompson: We do not provide anyone with advice on how they should arrange their tax affairs, but we have been working very actively with the Professional Footballers' Association in a partnership—we have produced a video and done various workshops—so that those individuals in football who are very well paid understand what some of the rules are. A number of them have been involved in marketed avoidance schemes—you will have seen some of that in the press, too—so we have been working very actively with the PFA on education, but we do not cross the line over into advice.

Q19 **Chair:** Of the 6,500 high net worth individuals covered by the Report, how many are working in or related to the football industry?

Jon Thompson: It is quite a small number, actually. The vast majority of people in the Report are in business, investments or property—that accounts for two thirds of the people involved. The number involved in sport or entertainment is relatively small.

I guess the question you are really interested in is that of image rights.

Q20 **Chair:** That is certainly one of the questions. Okay, while we are on image rights, have you given any particular advice about how they should be managed in tax terms?

Jon Thompson: No, we do not give advice. I repeat: we do not give advice. We cannot give you advice; it is for you to decide on your tax affairs.

Q21 **Chair:** Well, according to figure 9 you have a special review process and special relationship managers, or customer relationship managers. We also have the "special one" featured across the newspaper pages. Do you provide special relationship managers to special people?



Jon Thompson: Just so we are really clear about the rules: we can never, ever cross over the line of section 18 of the Commissioners for Revenue and Customs Act 2005, and you know that. We are dancing around it, but let me be clear—let me systematise your question. The risk here is in relation to image rights. A case from 2000 involving an anonymous sports club against HMRC established the principle that if you are involved in a sport, you can receive essentially two income streams: one for the playing of sports, and another for the use of image rights, which is essentially a rental payment for the use of an intangible asset such as your face, your name, or whatever. Under those arrangements, for playing sport—football, for example—the normal UK tax rules apply. You play football for a Premier League company, you will pay tax on playing football.

However, in relation to image rights, the vast majority of individuals will have incorporated themselves and their image rights, and therefore they receive a payment, as it were, gross, for those image rights, because it involves the payment for the rental of that asset.

In the majority of these cases, if you take the English Premier League, for example, a significant number of the players will also of course not be domiciled in the United Kingdom under those rules. They may have transferred here from, say—let us use a theoretical case. They have transferred from Spain for a very large amount of money. They may well already have pre-existing business interests beyond the United Kingdom. They can incorporate their image rights outside the United Kingdom and that payment will be made to that company outside the United Kingdom. That is the most significant risk in football as we see it.

Q22 **Chair:** It seems extraordinary to most ordinary people—indeed, to a lot of us around this table—that if you are in a job your image, your picture, your name attaches to the job that you are doing, but there is an arrangement with HMRC and presumably, from what you are saying, with tax authorities around the world and not just HMRC, that images can be separated from the person and used as a separate money-earning vehicle. Your organisation has given advice that that is okay—well, not given advice, but you have endorsed this arrangement.

Jon Thompson: No. You have asked me three times now whether we give advice. Just to be really clear—

Q23 **Chair:** Forgive me, but HMRC has endorsed the arrangements of separation of image rights from actually playing the beautiful game.

Jon Thompson: It was settled in a court case in 2000, so my understanding is that is the law. Perhaps we could use a different theoretical case. Let us say you were a very high-paid footballer currently playing in Italy and you transferred to the English Premier League for £50 million. Then you would have probably already established the fact that you are well-known in Italy, you have some business rights in Italy and you have probably incorporated your image rights in Italy. You come here for three years. You register yourself as a non-dom. You pay the tax arising on the income in the United Kingdom and then you transfer the



income for the asset rental for your image to the company that controls your image rights. That is normal practice here, but you are absolutely right that that is a risk, but that is the law at present.

- Q24 **Charlie Elphicke:** Mr Thompson, do you accept that most of the people in this country listening to that answer about the convoluted nature of image rights will think it is not just offside but downright crooked, and it is incredible that the law has allowed, or could have allowed, this situation to continue? How do the staff at HMRC feel about millions going offshore legally like this? Isn't it time for more action to be taken and a review of the law in this area? No one should have special deals or special treatment that is not available to everyone else.

Jon Thompson: I will give you my reaction as a football fan. I think it is very odd to think that you essentially ply your trade here but somehow this is the situation. So, you know, if it was for me, yeah, I would want to review this. But I need to reiterate: under the case settled in 2000, that is the current law. But yes, it is quite difficult to explain for the normal football fan, but that is the current situation.

- Q25 **Charlie Elphicke:** Was that case settled or was it actually a decision of the court?

Jon Thompson: My understanding is that it was a case taken against us in 2000, in order to establish the principle that there could be two revenue streams and that they could be treated in different ways, in the way that I described in the earlier answers to the Chair.

- Q26 **Chair:** And is there a threshold above which you cannot—how much of a player's income can be attached to their image rights?

Jon Thompson: We do collect information from a significant number of clubs—56 clubs³—particularly focusing on the English Premier League, in order to establish some sort of reasonableness test about, "Is this some sort of reasonable threshold?" And we do have all of that data. The vast majority of clubs in the English Premier League supply us with that information under a voluntary agreement struck between HMRC and the English Premier League to provide that information—

- Q27 **Chair:** The "vast majority" is how much?

Jon Thompson: I am carefully—very, very carefully—not saying all, aren't I? I very carefully said, the vast majority—not all—provide us with that information under this agreement, so that we can assess what we think is reasonable. There have been some cases where we have questions, such as whether it is possible for a theoretical reserve player who almost nobody will have ever heard of to have received such enormous payments for image rights—that seemed highly unlikely to us—

³ Clarification from witness: *HMRC collects information from a significant number of clubs currently. The 56 clubs relates to the total number of clubs we will be enquiring into under our football compliance project. Data for this project will be collected between 2014-2017.*



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so we have the ability to step into this space and question the balance between those two.

Q28 **Chair:** And you do that on an individual basis?

Jon Thompson: Yes. We think about 56 clubs—that is the 20 in the English Premier League, the 24 in the Championship and the 12 in the Scottish Premier League—and we review the top 500 players and the top 25 agents.

Jennie Granger: Could I add briefly to Mr Thompson's answer to your question about how we do this? We actually have a project team. We have been looking at image rights and wider issues around football and other sportsmen and entertainers for a long time.

On football in the last two years, that team and wider work across HMRC has brought in £158 million in yield. We have 43 players, eight agents and 12 football clubs currently under inquiry around the issue of image rights. It is the question about whether they are getting it right in the division. This is one of the areas of risk that we look very closely at and there is a specialist team that looks at these issues.

In addition, the other issue that you will be well aware of around football is marketed avoidance. Mr Thompson has already referred to work we are doing with the associations there as well as the work we are doing in general to wrap up all those legacy cases. About 100 footballers have been involved in marketed schemes so we have been tackling that as well. We are looking forward as well as looking back. The work with the associations is also to try and educate footballers not to get into these kinds of arrangements right from the start. So that is some of the work we are doing.

Q29 **Charlie Elphicke:** Do you accept that people looking at this will feel that there is a special arrangement for people to game the system and to avoid or dodge—whatever word you want to use—millions of pounds of tax without penalty? People will say and most people on this Committee will think that that is just wholly unacceptable. Even more unacceptable is that there is a whole special arrangement governing how it can be done. Why has this been carried on for the last 15 years? Why has nothing been done about it?

Jon Thompson: I am sorry that we need to continue to have a conversation about the use of the language in this room, but I did not say that there was a special arrangement. I said it was settled in a court case.

Q30 **Chair:** Mr Elphicke was referring to what Ms Granger's comments about a special set-up.

Jon Thompson: You use that word—

Q31 **Chair:** But Mr Thompson, Ms Granger did just use that word. Do you want to repeat the phrase you used, Ms Granger, to be clear? You talked about a special unit or a separate unit?



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Jennie Granger: I am not sure.

Q32 **Mr Bacon:** That actually was the burden of my question. You said that there was a project team. My question was going to be, is it part of the transfer pricing staff?

Jennie Granger: No.

Q33 **Mr Bacon:** Because this seems to be rather akin to that in some way. Is it separate?

Jennie Granger: It is a different team. It is in our wealthy and mid-size area, but it does call upon expertise from across HMRC as needed, depending on what the issues are.

I want to separate—I understand that people will have different views on the policy set in here. Our focus obviously has to be on whether that is being played out properly in the legal arrangements. As I have indicated, we have concerns about how that is played out. That is why there has been £158 million in yield brought in by that team and wider over the last few years—the last two actually, looking at these variations.

Q34 **Mr Bacon:** But it is not only the position of HMRC but also that of the law, as far as you concerned, that this happens. The issue for you is not whether it does or should happen, but rather that if and when it happens, it is done in a way that accurately reflects the balance of the value. For example, I can quite imagine that a Spanish footballer who I have never heard of is very big in South America. By putting his name on billboards and magazines across Latin America, some manufacturer could sell millions of pounds of cologne or shampoo or something. That plainly has a commercial value. You are saying you recognise that and it is merely, for these purposes, a case of working out accurately what that is, so that there is no element of what in other circumstances we would call transfer pricing.

Jon Thompson: Yes. But I do agree with Mr Elphicke's point, which, to the ordinary football fan, probably sounds rather convoluted.

Q35 **Charlie Elphicke:** To be fair, my point is not about any wrongdoing. It is about why this practice has been allowed to go on for 15 years. It is a well understood practice that is not available to everyone else. People will feel this is not a level pitch that is available to everyone. They will feel, understandably, that the rule of law is being bent in favour of people who are able to have particular privileges.

Jon Thompson: Accepting that I am sympathetic to your point of view, but, for the sake of stretching the argument so that you see it from a different direction—

Chair: I will indulge you.

Jon Thompson: Thank you for that indulgence. If you were a Spanish football player who had transferred to England for a three-year contract and you had significant commercial interests, a brand and an image, and you came here to play football for three years and then planned to go and



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do something else, you would think this was a perfectly normal thing to do. You have no particular tie to the United Kingdom. I said this was for the purposes of argument and that I was sympathetic to Mr Elphicke's question, so perhaps I ought to withdraw my comments. The argument from their perspective is that they might see this as just a transitory point of their life among a range of other things.

- Q36 **Mr Bacon:** Would they argue that it is a level playing field, in that anybody who succeeds in selling their image for a fee in international markets is treated, or at least should be, in the same way? Is that the point? For example, if I, as a fat middle-aged white man and a representative of a large number of people, were able to monetise that and sell my image in South America for millions of dollars—which, by the way, if anyone is listening, I would be very happy to do—then the only issue is how much of that should be outside the United Kingdom, which, in my case, would be zero.

Jennie Granger: At risk of—

Chair: At risk of giving advice to Mr Bacon, but let us remember you are here to give advice.

Jennie Granger: Indeed. Can I move this away from football for a minute? That is always a risky place for Australians to have a conversation, as you know, particularly with the recent rugby results. If, for example, we think of the world of entertainers and the estates of Elvis Presley and Marilyn Monroe, there is an asset that is your brand, which people inherit and will want to exploit—not only exploit, but they will want to protect that brand. Those are valuable assets. Not everybody has one, but, legitimately, like any other asset, you can choose to sell it or to rent it, even if it is intangible, so you are right, Mr Bacon, to think about transfer pricing. The concerns we need to focus on are, first of all, has that been done in a way that is appropriate under our laws? Is it for an appropriate value? Particularly if it is being sold to an associated entity, it is very similar to transfer pricing.

- Q37 **Chair:** Can we be clear? Following up on Mr Bacon's point, the same arrangements apply in the entertainment sector.

Jennie Granger: In a wide range of areas.

- Q38 **Chair:** So a ruling in court will have ramifications in the entertainment industry.

Jon Thompson: Correct.

- Q39 **Chair:** So what we have seen, which is extraordinary to most of us, in the revelations and the information coming out in the press is actually common practice not just in football but in entertainment and anywhere that an image has a value.

Jon Thompson: In the spirit of full transparency, this issue did not arise in sport. The first known case that I can trace is from the early 1960s. It involved a well-known UK film star who tried to incorporate herself in



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Jersey and then failed to do that. So it originally arose in the entertainment area.

Q40 **Chair:** Is it something that HMRC has ever talked to Ministers about in relation to changing the law?

Jon Thompson: I am sympathetic to the view that we ought to go back to Ministers and see whether they wish to continue with this. As I said, at the minute, the matter is settled in law.

Q41 **Chair:** I appreciate that you are currently bound by what is in the law, but, if you were giving advice to Ministers, would you consider that this is something that should be revisited?

Jon Thompson: It would certainly be on my list of policy issues to talk to Ministers about.

Q42 **Nigel Mills:** I can kind of see the logic that if I have sold my signature and whatever else to an entity, that entity receives the income. What I cannot get my head around, though, is why there is not a continuing relationship between the individual and that entity. Presumably if I sell my image while I am playing for Tranmere Rovers, it is worthless, but if I then go on to sign for Real Madrid for £43 gazillion, that asset has gone shooting up in value. Commercially, I would never give it away. I would want to have some ongoing interest in a return, probably with a commission on most of the income that that entity is generating from the fact that my signature and topless photo or something is now worth a fortune. So even if we cannot tax the entity that they are routing money to, is there not actually a relationship between the entity and the individual who is now in the UK, which imputes an income, and we can tax that and effectively get most of our income?

Jon Thompson: There could be, but you have to go back to one of the earlier questions. If you are said Spanish player, you may be registered as a non-dom, in which case you do not remit any income back to the UK for it to fall within the orbit of the UK tax authorities; you leave it in the corporate entity that is now registered in some other place—pick wherever you like—and you pay the appropriate bit of tax on that entity wherever that entity is registered. What mixes together here is two risks: the image rights risk, and being registered as a non-dom. How those two rules combine together is actually the heart of the issue that I think you are debating.

Q43 **Charlie Elphicke:** Ms Granger, you said a few moments ago—I wrote it down—43 players and 12 clubs have—

Jennie Granger: Forty-three players, eight agents and 12 football clubs are currently subject to inquiries in relation to image rights issues.

Q44 **Charlie Elphicke:** When you say “inquiries”, you mean investigations.

Jennie Granger: Yes, I do. “Inquiries” is the general term that HMRC uses when it opens an investigation to understand whether or not there has been an underpayment of tax.



Q45 **Charlie Elphicke:** What does that mean, really?

Jennie Granger: It is the general term that we use for that process, which means that it could be anything including that we are requiring information from them to fully understand something, or we may visit, interview or whatever is needed to satisfy ourselves about the genuineness of the claims. It can be any of the issues that you have raised—has it been properly transferred? Has it been transferred for fair value? Should there be income coming back to the UK, depending on residency status? All those issues can be part of this. That is why I mentioned that this is not a new issue for us. Some of this gets gamed, clearly, because otherwise there would not be—this is not all image rights—£158 million in yield in the last two years, which is not a small amount. Clearly, this is the classic place where we have high incomes earned, mobile people and international issues, and where we pay very close attention with specialist experts.

Q46 **Chair:** Which is interesting. In preparation for this hearing, we looked at what happens internationally, because as you know we like to see that. In Australia and Japan, high net worth individuals are required to do a secondary tax return to explain where their wealth is—which countries—to the tax authority only. It is not like the corporations that we have been talking about. Is that something you would welcome? Looking at revelations recently, who can tell, but if you know where wealth is you could better understand whether the right amount of tax is being paid to the British Exchequer.

Jon Thompson: You are right that we currently do not require people to report their wealth or their income in overseas territories. The previous Chancellor of the Exchequer announced in Budget 2015 that we would undertake some informal consultation on whether there are any options on this. We have done that work and it has gone back to Ministers for their consideration.

Q47 **Chair:** So now the time is perhaps right for us to push for action, as a Committee.

Jon Thompson: We will return the ball to you, in that case.

Chair: Fair point. We are talking about balls, pictures and special people rather a lot here.

Jennie Granger: One of the reasons we are bringing these attempts together into the new customer compliance group is that we also believe that we need to risk this more co-ordinatedly. We use a range of other external data, as well as our Connect system, and we have made a good start with this group, but there is a lot more we can do.

Q48 **Chair:** But there is a very big difference, because if people have to declare their wealth up front, they have no excuse if there is an investigation that—



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Jennie Granger: I certainly do not disagree with that. I am saying there are other things we are doing to boost our sophistication and deepen our understanding.

Q49 **Chair:** It should not be “hunt the thimble” by HMRC as to what is available. Can you be clear what the law says? If I had high net wealth in other countries, would I be required to tell HMRC anything about that at all?

Jon Thompson: No. We do not require you to report wealth. We require you to report income, which is the primary driver of this Report.

Q50 **Chair:** To be clear, if I were to report income to you, would I have to prove that I was paying tax on that income in another jurisdiction? Let’s say I had a company in a tax haven somewhere or, say, somewhere in France. Would I have to prove to you that I was paying tax in France?

Jon Thompson: No.

Q51 **Chair:** So you would liaise with the tax authorities in France to check that that was the case.

Jon Thompson: There are people who have multiple business interests, clearly, who can—

Q52 **Chair:** It makes the Australian-Japanese policy look quite appealing.

Jon Thompson: Indeed. Ministers wanted us to do some informal consultation. We have done that and given it back to Ministers. There are some countries in the world that do require wealth reporting and foreign income. There is some question about foreign income in relation to self-assessment, which you may want to get to in relation to this Report. But we do not currently require wealth reporting on this.

Q53 **Chair:** My final question, before I hand over to Caroline Flint, is this. Do you have any of these individuals or agents working in the football industry under special review at the moment? You talked about inquiries.

Jennie Granger: On Panama?

Chair: No, on football.

Jennie Granger: I would have to check.⁴

Chair: If you could write, that would be helpful. I appreciate that you may be dealing with small numbers.

Q54 **Caroline Flint:** Could I pursue the issue of the disclosure and documentation that is expected from these wealthy individuals? I think you just said, Mr Thompson, that at the moment they do not have to disclose assets overseas or wealth held overseas. Could you confirm what they do have to declare? It is not just their income; they would have to

⁴ Clarification from witness: *There are no individuals or agents working in the football industry who are part of the 43 individuals under special review that are mentioned in the ‘Panama Papers’.*



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talk about what properties and other things they hold here in the UK.

Jon Thompson: In the UK? What is required is for you to fill in a self-assessment return, which sets out a range of your income. You may have income from employment, dividends, investments, property and so on. Depending on whether you are a non-dom or not, you would include that, as you believe to be appropriate, on your return. But that does not necessarily mean you are going to then give us information about the actual properties concerned and where they are. In the UK, of course, we have the ability to identify them, but beyond the UK, that requires us to do significantly more work. The question of foreign income is the third risk. In the £1.9 billion that is referred to in the Report, the dominant risk is avoidance, followed by capital gains, and then the next one is foreign income and whether you are declaring all the foreign income you have, because you are a UK resident.

Q55 **Caroline Flint:** I suppose my question really is whether, in establishing someone's wealth, it is about their income but also other assets they hold. That can give you a picture to then ask questions about how they paid for all those assets if they only have this income coming in. The classic thing is organised crime, where people on paper don't look like they're earning anything but have a Ferrari in the drive. In terms of the people you are looking at—I am not suggesting, by the way, that they are necessarily organised criminals—who are the most wealthy in this country, how much pressure is put on them to be up front in their disclosures and the documentation they provide, rather than your customer relationship managers having to forage for that information?

Jon Thompson: The onus is on you to complete a full and accurate self-assessment for the purposes of tax. One of the points of the customer relationship managers is to understand you, the customer, to understand your activities that lead to that income, to understand your behaviour and risk, and to then extrapolate your wealth in the absence of having the wealth reporting requirement. The onus is entirely on you, and because you're doing the self-assessment, and therefore the declaration—you sign various aspects to say you are fully declaring—the onus is then on us to say, "Do we have any questions about that?" Clearly, in this group, as you have seen, we have a range of questions. We also risk-assess the people, although I don't think they are particularly from that group; I am happy to give you some breakdown of that population if you want to get that far.

Q56 **Caroline Flint:** I think the disclosure and what has to be provided, and the onus on the individual or their tax agent—I presume a lot of your staff are actually dealing with a tax agent, rather than the individual concerned—is important, if there is a question mark down the road over how up front they've been, and therefore whether inquiries or penalties should be applied.

Jon Thompson: Correct, and that is exactly the system. For those areas in the past, such as Liechtenstein or HSBC Switzerland or so on and so forth, where we've said, "Full disclosure, settle and move on", we have the ability to say, "Well, you actually didn't fully disclose there, did you?", so



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we just reopen and we just go back around it again. That will be the situation if any of those Panama cases turn out. We will have the ability to go back and say, "Actually, you did not give us full disclosure", which enables us to reopen that inquiry and that investigation.

Chair: Can I just bring in the Comptroller and Auditor General?

Sir Amyas Morse: Not to contradict but just to check something: there are categories of assets for which HMRC would in fact have a lot of detail—for example, investments or any assets held in the pursuit of a business. In the light of that, when dealing with a high net worth individual, are you telling me, if I had the privilege of looking into your files, that they doesn't contain a category setting out what assets you know they have? That's just out of curiosity, Jennie?

Jennie Granger: I am trying to visualise it.

Sir Amyas Morse: I hope that's not too difficult.

Jennie Granger: On the first part of your question, we absolutely have the ability to profile high net worth individuals, as you know, and to connect, for example, where they hold property personally. We do that with any taxpayer—that's literally some of the things we connect—so it's not a question of whether it's all on file. We have the ability to do that. The area that has always been a challenge is making the connection between a different structure and a wealthy individual. I want to emphasise that most of the wealthy are willing to provide information. They completely understand that requirement to get this right and the consequences.

The areas that have been challenging in the past have been offshore structures, in particular, which we have gone around in this Committee. I just want to mention in relation to that, in case you haven't heard, that a consultation was put out on 6 December around a new measure that is proposing that organisations that produce offshore structures—off-the-shelf structures—be required to disclose those to us. That is intermediaries, or enablers, if you like, and who is the beneficial owner. That is being consulted on right now, and I think that goes to one of your points.

On something directly held, it is actually a lot easier for us to have the means to know that.

Sir Amyas Morse: I was just trying to make sure that it was clear that, actually, nobody knows a lot about assets, although I understand the obligation is on the taxpayer to give full disclosure.

Jennie Granger: And to make a correct return. As you've pointed out, I was in Australia and have experience of schedules. The balance with any customer group here is the cost of the information that you are asking for versus the utility for the organisation.

Q57 **Chair:** But Ms Granger, if some of those people may well have information in Australia or Japan anyway, I am sure somebody in their



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highly funded tax arrangements will be collecting it. Presumably that is not very difficult.

Jennie Granger: If there is information in Australia that is relevant to the UK, there is very good co-operation, and they would share that with us and we would share ours with them.

Q58 **Chair:** My point is, if you earn this amount of money and you have got a tax adviser, they, or somebody, in each country—I suppose you could have a tax adviser in each country—will know what you have got and it is a question of aggregating that. That is not an onerous, burdensome task. Frankly, if someone is earning that much money, I should think they could afford to pay someone to do that for them.

Jennie Granger: I was not making the case that they did not have the means to do it. I was saying there is always a balancing act for the Revenue, particularly in circumstances where the requirement is on you to get it right about how much information we are asking for unless we feel there is a risk to check.

Jon Thompson: Can we be really clear? If you as an individual are in this unit and we can get information about you from an overseas tax administration, we will get that information. That is a really straightforward answer.

The really straightforward answer to Sir Amyas's question is yes, if we can identify assets about you, that will go on to the file. We can connect your corporate to your business to your personal to your family. We can do all of that. It would be the fact that you do not declare it to us, but that does not mean that we cannot build up that picture.

Q59 **Caroline Flint:** It is interesting. You obviously have the ability and the powers to get certain information whether that is from tax authorities overseas or from individuals. Part of our discussion today, particularly in relation to the unit that has been established, is whether more onus on the individual to provide that at the outset should be part of the relationship between HMRC and those individuals. But let's move on because I think we might come back to that.

The unit has been established since 2009. Mr Thompson, are you comfortable that you have someone called a customer relationship manager to work with these very wealthy individuals? Is that the right term to use?

Jon Thompson: We have debated this.

Caroline Flint: Lovely. Share it, then!

Jon Thompson: So this is our considered view, I suppose. It sounds much friendlier than it is. I can assure you that I do not think anyone—

Chair: Figure 9 on page 21, colleagues.

Q60 **Caroline Flint:** It is a serious point, because nobody else, whether you are a business or a less well-off taxpayer, has a personal customer



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relationship manager to work with you to make sure you pay the right tax.

Jon Thompson: Sure, but this is about risk and about proportionality, isn't it? So these people are the wealthiest individuals in our society. They generally have very complex affairs. They generally are well represented—98% of them are represented. Many of them employ their own people in order to manage their affairs. It is a proportionate response to the risk. Now, your point is still about the label—

Q61 **Caroline Flint:** I suppose what I am saying is it is not the actions of the individual that I am worried about; it is just the title that you have given to it. It seems to me it is sending out the wrong message. Is there a coffee machine in the office where they have the discussions and nice leather-backed sofas to sit down on and have a little chinwag about their tax affairs, and "Would you like an americano or a latte? I can get that organised"? I think it gives an interesting sense of what is being provided here—don't you think? You are in the Department now—would you change the name for us?

Jon Thompson: We could probably call it something else that sounds more aggressive, if you want. But we—

Q62 **Caroline Flint:** If you were given a blank sheet on this, what would you use instead?

Jon Thompson: I don't know. To be frank with you, I have not really focused on it because I don't think it is a matter of tremendous substance. I think what is really important here is the fantastic people who do this work, who have delivered £2 billion worth of additional benefit to the taxpayer. They understand the customer, understand the risk, understand the wealth and understand the behaviour. They adopt a risk-based approach and they deliver additional yield that may change the behaviour of individuals. That seems to me to be the task. We could call them something else. And, frankly, we can happily go and have a think about that, but it does not change the substance of the fact that they do a fantastically good job, in line with best practice, which is not played out elsewhere in the world, in order to deliver yield to the taxpayer.

Q63 **Caroline Flint:** If you look at page 22, figure 10, it does outline some of the areas, and steps that HMRC have taken to minimise the risk of a relationship with a wealthy taxpayer becoming too close. Have there been any customer relationship managers reassigned owing to concerns about too-close relationships?

Jon Thompson: Not that I am aware, but Jennie may—

Jennie Granger: Not that I am aware of, either.

Q64 **Caroline Flint:** Have there been any cases that have resulted in inquiry? Have they been randomly reviewed to see whether there should have been an inquiry where it was recommended that there should not be an inquiry?



Jennie Granger: Not specifically, as far as I am aware. There have certainly been cases where we have looked again when we have new information, and that has already been mentioned. Indeed, that is what the Panama scrutiny is about: ensuring that the wealthy taxpayer has been fully frank with us and that is right. We will re-open in those circumstances, but there is a whole governance process around our treatment of the wealthy that means that you do not sign off settlements when you have been engaged with the wealthy—if they are sufficiently large and complex, they come up to the commissioners. It is the same governance we have gone through in explaining what we do with large business. There is quite a lot of check and balance in the system to ensure that that is the best and most appropriate outcome from the Revenue's perspective.

- Q65 **Caroline Flint:** Can I take you to page 25 of the Report and figure 13, which is about information back from the tax agents who represent these high net worth individuals? I thought it was interesting to read some of the comments from that group of people about their attitudes to their relationship with the unit. For example, on the approach taken by HMRC, tax agents said: "High net worth individuals pay a great deal of tax. The vast majority of our clients comply fully with tax law." It is interesting that they should even mention that in a way, because they may pay a lot of tax, but they are obliged to pay a lot of tax, so what they pay is no different in value in one sense from a person who pays the minimum amount of tax if they are on a lower income. Do you agree with that?

Jon Thompson: Yes.

- Q66 **Caroline Flint:** Good. They also say: "Some, but not all, customer relationship managers have an in-depth understanding of how rich people manage their commercial affairs and their tax structures." What do you think about that? They seem to be suggesting that there is not necessarily consistency across all the customer relationship managers in how they approach their job.

Jon Thompson: I think it is vaguely interesting, but everyone has a view about their customer relationship managers. Some people like them and some people don't. In general, they rather like them, don't they? I think it is the right model with the right level of governance. Some of them may need to improve, but we are open to feedback about individuals.

- Q67 **Caroline Flint:** Do you agree, Ms Granger? Of the individuals' tax affairs you are dealing with, what is the proportion where it is a tax agent as an intermediary working with the representative of HMRC, as opposed to the individual who is acquiring the wealth?

Jennie Granger: It is 98%. Most wealthy people, most large businesses and most businesses in general are represented by tax agents. Small businesses tend to decide to use tax agents only for some of the taxes. It tends to be corporation tax or, if they are unincorporated, income tax. Tax agents are the common model for all those.

- Q68 **Caroline Flint:** It was 98%, yes?



Jennie Granger: Yes.

Q69 **Caroline Flint:** Those people presumably are professionals. They should have a good understanding of their clients' affairs and what is and what is not within the law. Is that a fair assumption to make?

Jon Thompson: The vast majority are accountants or lawyers. The top 10 agents are all accounting firms. The big four are not particularly penetrated into that group, but you would not get any great surprises if we gave you a list that said: PwC, Saffery Champness and so on.

Q70 **Caroline Flint:** The Report indicates—I think this is covered on pages 7 to 9 of the NAO Report—that a third of these particular taxpayers are under formal inquiries, with something like £1.9 billion of tax at stake. What does it say about this particular group of customers—given that they are using professionals who should have a good understanding of what is allowed and what is not allowed—that a third of them are under formal inquiry?

Jon Thompson: It says that a significant proportion of them like to enter into marketed avoidance schemes. That is the most popular issue in there. If you took the £1.9 billion and you broke it down—it is worth saying, by the way, that that was at 31 March 2015—£1 billion of that £1.9 billion was marketed avoidance; £282 million was questions about capital gains, and £122 million was foreign income.⁵

If we go back to avoidance, currently, the highest red-rated individual in this group is involved in 68 marketed avoidance schemes, and millions of pounds of tax are at stake in those various avoidance schemes. That is the most popular thing here: it is about pushing the boundaries of the law to understand where they fall. Of course, this £1.9 billion is over a number of years, but the majority this year is about marketed avoidance schemes.

Q71 **Caroline Flint:** Paragraph 3.9 on page 28 of the NAO Report states: "From 2012-13 to 2015-16, the high net worth unit issued nearly 850 penalties...Of these, around 380 penalties with a total value of £4.5 million were suspended, in line with rules that allow HMRC to suspend penalties where" they consider that this will encourage these particular taxpayers "to avoid similar penalties in the future." That seems an awful lot of penalty notices being disregarded or put to one side.

Jon Thompson: It is actually fairly common practice for citizens of the United Kingdom in general.

Q72 **Caroline Flint:** But given that we were saying before that a third of these taxpayers are facing formal inquiries and you mentioned yourself that a lot of this is to do with these marketed tax avoidance schemes, what evidence do you have that by doing this, they repent and put their businesses and finances in order for their clients better for the future? Presumably, it is partly to say, "Okay, we're going to let this lie. We want

⁵ Clarification from witness: *This data is accurate at May 2016. Breakdown of the £1.9 billion at 31 March 2015 is as follows: £1.1 billion marketed avoidance; £240 million was questions about capital gains, and £120 million was foreign income.*



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to see the behaviour rectify itself.” Do you have any evidence to show that it is having a deterrent effect for the future?

Jon Thompson: We have some immediate data, although there is a more substantive question and opinion here. To give you some of the immediate data, there are clearly fewer marketed avoidance schemes out there in the market now. The number registered in the last 12 months was only seven.⁶ The ability to do this is significantly reducing, and if one might be frank, reputable accounting and legal firms have moved away from this kind of behaviour—and secondly, the amount of people who are returning their tax affairs on time has increased. But I guess the real measure is—we actually risk assess this population. This is not in there, but if I might explain, if you took the 6,471 people who were the population here, 32% of those were assessed as red under our risk assessment, 37% amber and 31% green. The real determinant of your question would be: how did that track over time? I haven’t been able to get that data at this point. I don’t know whether Jennie has it, but that would be an indicator.

Jennie Granger: Two follow-up points. First, in addition to fewer schemes being registered, there are not current uses by high wealth individuals, so they are not picking them up as—

Caroline Flint: Could you speak up a bit?

Jennie Granger: Sorry. In addition to fewer schemes being registered by designers of schemes, if you like, and, as Mr Thompson has already mentioned, the advisers moving away from them, we also are not seeing high wealth people using those schemes—even the seven that are there. That is one.

On the red, amber and green rating, that has been in place for two years, so it is still relatively early days, but 280 have moved from red to amber. The other point I would make is that a suspended penalty is a sword of Damocles. If you do not change your behaviour and you are monitored, then that penalty is imposed. It is a trigger point. There will be conditions around it. And it is not used just in this part of the tax system; it can be used for any taxpayer. The idea behind it is to positively influence the behaviour to change, because after all the main game for us is that people pay their tax, pay it on time and pay the right amount. It is a feature of the penalty system, and we can use it as a trigger point to influence you to change your behaviour.

Q73 **Caroline Flint:** I don’t know whether I misheard Mr Thompson earlier. I think you may have said—I will paraphrase—it is custom and practice to apply a penalty and try to get people to behave better. How much is it the case for more ordinary taxpayers that that advantage is open to them? Normally, if you have made a mistake or whatever, you have to pay up, don’t you?

⁶ Clarification from witness: 7 tax avoidance schemes disclosed under Disclosure of Tax Avoidance Scheme (DOTAS) during 2015-16.



Jon Thompson: If we go by the exchange of letters between MPs and me—we have discussed that before—it is relatively common practice that some people make genuine mistakes, they file two or three days late, they tell us why that is and we waive the £100 penalty. That is perfectly normal business. The question here is: are these penalties enough for people who are multi-billionaires? That is a different question.

Q74 **Chair:** But to go back to Ms Flint's point earlier, these are high net worth individuals paying highly professional people to get it right. If an average member of the public or a small business makes a little mistake as they are learning, that is slightly different from someone who really should know what they are doing and who certainly has the money to pay an adviser who should know what they are doing.

Jon Thompson: Sure, and I'm not making up an excuse for them. The figure has reduced from 9% filing late⁷ to 5% filing late, so it is heading in the right direction. That is one of the trends that you would want to monitor over time. I am not in any way excusing this, but some of these people have very complex affairs and some of them don't want to—

Q75 **Caroline Flint:** Maybe some of them like having them very complex.

Jon Thompson: Some of these people don't necessarily want to do this. At the extreme end of this group, you are talking about people who are right on the boundary of the law and are quite prepared to push it in multiple directions in order to maximise their position, and that is what generates in the end the £1.9 billion. We have to understand that some people in this group will behave like that irrespective of what we try to do. A penalty of a few thousand pounds when what you are due to pay is millions is somewhere in the matrix of, "I'm prepared to take a big risk." I think you have to understand that that is the group whose behaviour we are trying to change.

Q76 **Caroline Flint:** Look, I understand that the amount of money for penalties that were not paid—£4.5 million—may not be that big compared with the multimillions you are trying to get back in. I am trying to understand the special relationship that seems to exist for this group of people, who have at their disposal all the resources to employ the most qualified people to ensure that they are paying the right tax. If they are not paying it, the question is whether they are just waiting to see whether you catch them out, rather than being up front.

Jon Thompson: Sure, but may I pick up something you said? What exactly is the right amount of tax is clearly under significant debate, and that is what leads you to the £1.9 billion.

Q77 **Caroline Flint:** Which goes to our earlier question about how much they should disclose at the outset so that you have a better sense of what you are dealing with. The onus should be on them that if they lie or mislead in any way, they will feel the full force of whatever HMRC wants to throw at them down the road.

⁷ At 31 January 2012



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Jon Thompson: Understood.

Chair: I am going to bring in the Comptroller and Auditor General and then we'll go back to Ms Flint.

Sir Amyas Morse: In a particular year, are you suspending a penalty or waiving it?

Jennie Granger: Suspending.

Sir Amyas Morse: In other words, if they do it wrong again in the next year, they will pay the penalty they would have paid otherwise.

Jennie Granger: Yes.

Sir Amyas Morse: I think that is quite important.

Q78 **Caroline Flint:** Could you provide us with some information on how many of the penalties were suspended and, if they put it right, what happened—whether it stayed that way or whether they then reinforced? That would be helpful.

Jon Thompson: In general or for this group?

Q79 **Caroline Flint:** I think for this group it would be interesting.

Jon Thompson: Okay.

Q80 **Bridget Phillipson:** Can you explain again the evidence to suggest how this leads to an improvement in behaviour? Can you set out what that is? I didn't quite follow it. You suspend the penalties to lead to improved behaviour in the future. What is the evidence to support the case that that leads to an improvement?

Jon Thompson: We have half the number of people filing late who were filing late, and a movement of people who were previously rated red risks into amber risks. That is the one that we need to track over a longer period of time in order to be able to give you some data. One of the things that I discussed with the Financial Secretary to the Treasury is that, although we cannot publish individual taxpayer's information, could we publish some segmentation of taxpayers?

If you took this group, would it be of some interest if every year we published the number of red, amber and green? I guess it would be, so that people could track it over time and see whether it made any difference. It would be my intention to expand the range of information that we do publish in these and other kinds of groups.

I think I gave the Committee a commitment that next year round we will try to integrate three things—the Annual Report and Accounts; the tax gap and the risks in the tax gap; and the Tax Assurance Commissioner's report on the health of the tax system—so that you can get a big-picture assessment of that. If you couple with that a drive to be more transparent about data in HMRC that would give you more of an assessment about how it is moving.



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Q81 Bridget Phillipson: On this figure of £4.5 million of suspended penalties, you referred to late payment. Is that solely late payment or are there other factors?

Jon Thompson: No, it could other things.

Q82 Bridget Phillipson: You keep talking about late payment but it is not clear that that is what appears to be driving.

Jennie Granger: Perhaps I could help here. It will depend on what the penalty is for. That could be in relation to not accurately reporting a transaction, for example. There may be conditions about what we would expect to see in such reporting in future. So, the penalties are tailored to what has been the infraction. In cases where it is suspended there are required conditions that are specified about what you need to do right and that is what is monitored.

Q83 Caroline Flint: Paragraph 14 of the NAO Report refers to inquiries on around a third of high net worth taxpayers. It points out that these inquiries can take a long time to resolve: "6,000 issues under enquiry have been open for more than 18 months, 4,000 of which have been open for more than three years". Ms Granger, why do so many cases take such a long time to resolve, given that it is HMRC professionals to tax professionals?

Jennie Granger: First, we think that is longer than it should be, so we are unpicking that ourselves to see what else we can do to make these go through faster. In fact, we have reduced the number this year compared with last year, but that is ongoing work.

Q84 Caroline Flint: What have you done to do that?

Jennie Granger: First, to give you an idea of why it can take longer. It can be the complexity of the inquiries; it may involve, as we have just discussed, getting information from overseas. There could be a range of things.

The other thing is that HMRC does not count an inquiry as closed until the end of litigation. So there are cases in here that are in the courts where there is a challenge from the taxpayer about whether we are right. So they will stay on our books as an open inquiry. As you know, the court process can take a number of years or indeed many years, depending on the complexity of the case and when you can get the court time to deal with it.

Going back to Mr Thompson's point about transparency, one of the things I am keen for us to do is start to separate out and report in a way that you can see where there is litigation in process.

We are looking at the same issue on the prosecution side as well, because we count things as criminal investigations all the way through to conviction when some of them are already before the courts; they are not actually still being investigated. We think we need to unpick this more but



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we are also looking at what we can do for the ones that are still within HMRC about how we move through them faster.

- Q85 **Caroline Flint:** Obviously, 98% of the time you are dealing with tax agents. In terms of your communications, particularly written communications, how much do you just send all correspondence to the tax agents? Or do you send it to the individual alongside that?

Jon Thompson: Both. If you are an individual in this group and we open an inquiry on you, you do get a letter from us, as well as the other people involved in your affairs.

- Q86 **Caroline Flint:** So there is no excuse for one of these individuals suggesting that all the information has gone through their tax agent and that they were not aware of concerns that were being raised.

Jon Thompson: I would say not, but I'm not one of those people—

- Q87 **Caroline Flint:** But the point is—this is what I was trying to get to—that with any information arising out of the work done with these individuals, it wouldn't just be the tax agent that gets the information. It would be the individual as well.

Jon Thompson: Correct.

- Q88 **Caroline Flint:** Even if they ignore it and put it in a bin, they get it as well.

Jon Thompson: Yes. I visited the Portsmouth unit that deals with this the other day, and that is absolutely the case.

- Q89 **Caroline Flint:** Because there has been public concern that when there have been a number of these aggressive tax avoidance schemes, a number of high-profile individuals have almost acted like they did not know anything about what was going on.

Jon Thompson: I can't comment on how they act.

- Q90 **Caroline Flint:** Can we move on to what the customer relationship manager can and cannot do? There is an outline of that in figure 9 on page 21. I was interested in your repeated responses to Ms Hillier earlier, saying, "We don't give advice." The outline in figure 9 states: "A customer relationship manager can...discuss HMRC's likely position on a specific issue or approach before a taxpayer enters into a particular activity, in order to avoid the cost of a potential future enquiry once a tax return is submitted". Just a little bit further down, it says that a customer relationship manager can "work cooperatively with a taxpayer and their agent to understand issues in real-time and encourage tax planning that corresponds with HMRC's interpretation of tax law".

The figure also shows that, "A customer relationship manager cannot...give a taxpayer advice on their approach to tax or structures they could use". Reading that as a lay person, I am thinking about the grey area between not giving advice—you emphatically made the point



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three times earlier—and, at the same time, discussing specific issues or approaches and working co-operatively to understand issues in real time. Where is the protection within this from stepping over the line into something that could be seen as advice? How do you differentiate?

Jon Thompson: It has to be broadly along the lines of, “I’m proposing to enter into transaction x. I believe the tax treatment is y. Do you agree with that or not?”, not, “Tell me what you think the tax advice is.” I can give you a parallel. The Comptroller and Auditor General and I have discussed, on several occasions, the question of sale and lease-back. In various different roles, I have tested the boundary of what sale and lease-back is. We discuss a potential transaction. He doesn’t give me advice, but he gives me a view about how he would see it. That is not the same as giving advice. I can understand that you might think that the line is fairly close, but it is not advice.

One really important thing that Jennie said earlier was that the level of check and balance in the system is high. There are six levels of governance. As a customer relationship manager, it is not like you are dealing with the case completely on your own. It is, by the way, a team of people, not a person. We say “You are a customer relationship manager. You are working in a team.” You deal with it in a team. There are about 40 customer relationship managers in this group and 380 people overall. It is not you solely on your own. There is also a level of check and balance. Once you are over £500,000, it is being double-checked by other people.

Q91 **Chair:** Mr Thompson, what if someone had a concern? Let’s say it was the person who has the direct contact. Figure 9 says: “A customer relationship manager can...visit a taxpayer or their agent in person to help build a relationship and understand more about their tax affairs”. Someone could do that and get quite close to somebody. How easy is it for somebody junior to them in the team to say, “I’m a bit concerned that the relationship is getting a bit too close”, or, “They have overstepped the mark from co-operating to giving advice”?

Jon Thompson: I think the culture of the unit is relatively open. Having spent some significant time with them, I think that is perfectly possible for somebody to do. Look, I am not naive. Is it impossible for somebody to create that relationship? Well, I think I have said to you before that I will try to never be definitive with this Committee. It is theoretically possible, but that is very unlikely.

Q92 **Chair:** While we are on this reform, and before I go back to Caroline Flint, do you ever do forensic audits of staff, if you have any concerns, to see what is in their bank accounts? Has that ever happened?

Jon Thompson: We have an internal governance unit, which looks at the behaviour and activities of staff. Indeed, a number of staff are removed from our employ because of their activities every year. I could write and tell you how many; it is in the low tens.

Q93 **Chair:** Any in this unit? There is a large number of people in this group.



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Jon Thompson: Not that I am aware. The regime involves Jennie and me going through the cases that have been dealt with by that team on a frequent basis. There are people who are removed because they step over the line.

Jennie Granger: In terms of the internal culture, the CRM is a member of a wider team that looks at the customer—I think that is explained in the Report. They are not in charge of the team. The dynamics between them and other team members is that they are regarded as highly expert. We put our lead experts into those roles, so in terms of that, they certainly are. In terms of governance, as Jon said, they cannot sign off their own decisions, and nor can the team if they have been deeply involved. There is check and challenge all the way along.

Q94 **Chair:** Before I go back to Ms Flint, Mr Thompson, you said that the number of people who have been sacked is in the low tens. Would it be 30 or 40 individuals who have been sacked or let go by HMRC?

Jon Thompson: I think it would be better if I give you a written answer, but it is going to be in the tens. I know that, overall, the number of people who were removed from our employ because of poor performance and discipline was more than 300 last year.

Q95 **Caroline Flint:** Are we talking about this particular unit?

Jon Thompson: In terms of internal governance, it is not necessarily in relation to—

Chair: It is not in this particular unit.

Jon Thompson: No, absolutely not.

Caroline Flint: Okay. I was going to say that there are 380 people in the unit, so that is quite high.

Jon Thompson: I am grateful to the Chair.

Q96 **Chair:** Mr Thompson said he didn't think anyone had been fired from this particular unit. You are not aware that anyone has been.

Jon Thompson: I am not aware of that, but we will go and check. We will also give you the numbers for people who have been removed.

Q97 **Caroline Flint:** I appreciate that various checks and balances have been put in. Figure 10 on page 22 says that the customer relationship manager is not solely responsible for decisions. Given my point, in terms of figure 9, about what they can and cannot do and the area between what would overstep the mark, in terms of advice, which is obviously not allowed, and discussing these complex arrangements, should these interviews be recorded?

Jon Thompson: I'm sorry. I am not far enough into the operational detail to answer that question.

Q98 **Caroline Flint:** Ms Granger, would that be a safeguard? If a customer



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relationship manager is sitting down with a tax agent, should that conversation be recorded?

Jennie Granger: In general, particularly when interviewing taxpayers or agents, a record will be made of the meeting, and there will be more than one person in it. Recording is usually done under controlled conditions when there is a criminal investigation. There might be an agreement to record in particular cases, but the usual practice, like it would be with any other meeting, is to make a record of the meeting and for that to be agreed to be accurate.

Q99 **Caroline Flint:** Are you satisfied that the records of meetings are to a high enough standard, good enough and consistent?

Jennie Granger: I think that in this area there is a very high standard, in terms of how people operate. These are some of our lead tax professionals. Their development is not just the basic training; it is also the experience they have since then. Yes, I believe they do good-quality work. Certainly, this is not an area in which we have had concerns about their practices in that regard. As I said, I would like us to get resolution of some of the issues a little faster.

Q100 **Caroline Flint:** Is it something you would consider? I think you are bringing compliance under one roof, as we have heard before, but a different service is being provided to these individuals. I suppose it works both ways. It can protect the tax agent, in terms of the conversation that has been had, and it also holds them to account if, down the road, something they have said proves not to be the case. It is also a protection for the individual customer service manager if they are taken to court and a tax agent argues one thing or another about what they were told. Would you consider having these interviews recorded?

Jennie Granger: As a general practice, I think we would need to take that away to consider it. There are legal obligations on us about the circumstances in which it is appropriate to record. I just need to have a look at that. Certainly with taxpayer and agent consent, I see no problem with this Report.

Q101 **Caroline Flint:** More than 9% of the total revenue collected from the very wealthy is a result of intervention by HMRC, compared with 5% of revenue from the wider population. It seems that the very rich are less compliant than large businesses or the average taxpayer. Do you agree?

Jennie Granger: I think the fact that we are inquiring into one third says we do have concerns about compliance. I stress that most of what we see, however, is that they intend to stay within the boundaries of the law and are pushing the boundaries. If I contrast our largest business, I think 70% of our top 800 are under inquiry and, again, it is the same: can you push the boundaries of the law?

Much lower numbers are under inquiry, but because of the scale of the market for small businesses, there are many hundreds of inquiries. That market has 5 million taxpayers. I think they try to stay within the boundaries of the law and I think they push the boundaries of the law,

which is why 30% of them are under inquiry and why the unit has collected more than £2 billion since its inception.

Q102 **Caroline Flint:** Why has only one high net worth individual been successfully prosecuted?

Jennie Granger: It is the same issue. To successfully prosecute, we have to prove beyond reasonable doubt that the intention was to break the law. We don't often see in the high net worth area a deliberate intention to break the law and the kind of structures and arrangements that go with that. Having said that, we clearly tested that boundary. As was mentioned, we referred 72 cases⁸ across to criminal investigation to see whether there was sufficient there. There was clearly a suspicion by our staff that that needed to be looked at.

Since this Report, we have 10 high net worth individuals under criminal investigation, one of whom has been arrested.⁹

Q103 **Meg Hillier:** Since this Report was published, so that is in the last month?

Jennie Granger: Yes; 10 cases have now been adopted for criminal investigation.

Q104 **Chair:** Since 1 November?

Jennie Granger: Since 1 November, or since the Report date, which is the end of March, so since then. One has been arrested. So clearly we think there are some cases. A criminal investigation doesn't mean conviction; it means we have opened a criminal inquiry and are investigating.

Q105 **Caroline Flint:** Of the other nine, how many do you expect to be prosecuted?

Jennie Granger: It is very early days in the process of a criminal investigation. I can't hazard an answer at this point, but clearly we think we have at least a strong reasonable suspicion and that is what informs a criminal investigation.

Q106 **Caroline Flint:** In the autumn statement, the Chancellor mentioned new measures, particularly around tax avoidance and penalties. Will you say a bit more about how you think the Chancellor's statements will be put into practical reality and give some insight into the work going on in that area?

Jennie Granger: You are talking about the enabler legislation. There are a number of things in the market avoidance area where we think it has been important to develop some new compliance tools. One is where we see serial use of avoidance and people not changing. The penalties are

⁸ Clarification from witness: *70 civil cases and two in the criminal court*

⁹ Clarification from witness: *At the time of the NAO report being drafted, HMRC had 10 High net worth individuals under criminal investigation, in addition to the two included in the NAO report. One of the 10 has been charged.*



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being increased for that, and the ability to have people named. Jon mentioned one example in this group where there are 68 users of schemes. Going forward, if you continue to consistently keep going into very aggressive schemes, we will have the ability to do more penalising.

Q107 **Caroline Flint:** What sort of penalties are you talking about?

Jon Thompson: Up to 60% of the tax due. So it is the tax plus 60%.

Jennie Granger: The second reform tranche is around enablers and facilitators. Again, Jon has been mentioning promoters. If you continue to advise people and you design schemes that fail, there are now promoter provisions we are looking at as well to deal with that issue, because we obviously want to discourage that as a practice.

Q108 **Charlie Elphicke:** To go back to image rights, Ms Granger, you talked about £158 million in yield. What does that mean? Is this cash that was missing?

Jennie Granger: I think you are asking me how of much of that is revenue loss prevented. I do not have that breakdown with me—I will need to come back to you. What I do have is a breakdown of how much this relates to clubs and players, as I have already mentioned.

Charlie Elphicke: That would be great.

Chair: If you could write to us about that, that'd be great.

Q109 **Charlie Elphicke:** Mr Thompson, you said you were a football fan. Which club?

Jon Thompson: Norwich—Mr Bacon and myself. And Ed Balls, of course.

Charlie Elphicke: Good result at the weekend.

Jon Thompson: Five-nil. I am still waiting for those tickets from Ed Balls.

Chair: We'd like to see similar results from HMRC.

Charlie Elphicke: As a football fan, would you welcome a change in the rules in this area of taxation?

Jon Thompson: In relation to image rights?

Charlie Elphicke: Yes.

Jon Thompson: I think I said I was sympathetic to your view.

Q110 **Charlie Elphicke:** Thank you; that's very helpful. Let me turn to the unit: in 2009 it was set up as a specialist unit to manage the tax affairs of high net worth individuals. Do you feel it has been a success, and why?

Jon Thompson: I think it has been a success. As Jennie mentioned a couple of times, it has £2 billion of yield. It has been part of the general trend of reducing marketed avoidance, but we are not complacent about that. If you come back to figure 2 on my page 11—and hopefully your

page 11—there is an implicit recommendation in the Report that we ought to conduct a formal evaluation of this unit. Figure 2 sets out a number of areas where the NAO suggests we ought to think through the Unit's work. I think those are all reasonable and we definitely need to think about that. There are at least two in here where we know that we are definitely going to have to make some changes. Those relate to the bringing together of various taxes around the individuals. For example, we do not currently integrate taxes around customers because our IT systems have been done in relation to taxes. The Unit has been very successful, but I am not complacent about that. The implicit recommendation that we ought to do a formal evaluation of that Unit, see how it could be improved and then move on, particularly in light of this hearing and Report, is a good one.

Q111 Charlie Elphicke: Can I take you to figure 4 on page 14? It says that in 2009-10, the amount of income tax paid by high net worth individuals was £4.4 billion. That seems to have reduced in the latest figures to £3.5 billion—about £1 billion less. Why?

Jon Thompson: Some of it is just to do with tax rates, because the tax rate has changed, and some of it is to do with economic circumstances.

Q112 Charlie Elphicke: But if we look at the total income tax paid in 2009-10, it was £250 billion and that has risen to £272.9 billion. How could there be an increase of £23 billion in income tax across the piece, but the super-rich are paying £1 billion less?

Jon Thompson: I could not actually give you an answer to that. I went through figure 3 in some detail and why there was such a dramatic fall from 2009-10 to 2010-11. Clearly, some of that is to do with the fact that in April 2010, the headline rate of income tax for this particular group rose from 40% to 50%. Some of them took the money early and some deferred it for some considerable time. That is also part of the reason why it then jumped back in 2012-13 to 2014-15, when the rate went back down from 50% to 45%. That is not the entire answer to your question, though; I think it would require a bit more research for me to be able to give you a full answer. But some of it is to do with how people behave in relation to the rates.

Q113 Charlie Elphicke: According to figure 3, it looks as though, from 2009-10 to 2014-15, the revenues from the super-rich fell by a third. Is it that the specialist unit was or was not successful, or are you saying that that is a product of the Laffer curve?

Jon Thompson: Forgive me, but I don't remember whether you were here when we had the conversation about compliance yield in the session on the annual report.

Chair: Mr Elphicke was not a member of the Committee at that point.

Jon Thompson: The focus, if you like, of HMRC is more on driving compliance yield, where the specific activity undertaken by HMRC gives a positive tax system result. That is separated from what happens to tax revenues overall, for which we are not given a target per se; we are given



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a target on compliance yield. The Committee made some very helpful recommendations about clarifying how that compliance yield system works and the results of the activity that is undertaken in a year. Caroline Flint asked a series of questions about how we define a compliance yield, which is based on the Standard Report from the NAO. It might sound slightly odd, but I am not given an overall revenue-raising target. I am, though, given a compliance yield target, which is why Jennie rightly focused on the activity of the Unit driving the compliance yield.

Q114 Charlie Elphicke: I am puzzled, because the number of high net worth taxpayers has risen from 5,900 to around 6,500, so there are more rich people, yet over that time the tax take seems to have fallen by £1 billion. My constituents would say to me that it doesn't look like this unit has been very successful. What do I say to them—what is the answer?

Jon Thompson: The answer to that is that if it wasn't for spending £14.5 million on this unit you would not have received £416 million-worth of compliance last year. It is set out in the Report: it is a 29:1 rate of return. Most businesspeople would take that.

Q115 Charlie Elphicke: Okay, let's talk about avoidance, then. I imagine your case would be that avoidance would be worse without this unit. Let's also talk about the whole issue of promoters. The Comptroller and Auditor General made a point earlier about marketed avoidance schemes. You were saying that fewer high net worth people are using marketed avoidance schemes. If fewer of them are using those schemes, where will they or their agents look next to reduce their tax bills?

Jon Thompson: That would be rather giving it away!

Q116 Charlie Elphicke: Let me rephrase it: are you seeing an increase in other types of avoidance activity?

Jon Thompson: It would be better if Jennie answered that question.

Jennie Granger: We absolutely thought about that when setting up the counter-avoidance unit. There are teams that are specifically tasked with thinking through what is next—it is a really good question to be asking. Typically, we see two patterns with this kind of group. First of all, it will push down into legal interpretation issues—that is one behaviour. The other thing for which we have to be ever-vigilant is what we call bespoke avoidance, where it is not a marketed product. I know your background; you will be very well aware of that. With the risking that we do around the wealthy, it becomes even more important to make sure that they are not trading a marketed scheme for a very tailored avoidance outcome for themselves.

Q117 Charlie Elphicke: So what we are saying is not off the peg from Primark or Next, but from Savile Row, made to measure. That's your bespoke avoidance scheme, isn't it, rather than these marketed off-the-peg schemes?

Jennie Granger: Yes. Call them what you will, but that is why the role of the CRM is very important. They have to be continually thinking about



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what they are seeing and the structuring they are seeing, to determine whether in fact some new and tailored avoidance arrangements are being developed.

Charlie Elphicke: Okay. Let's turn to marketed avoidance schemes—sorry, Mr Thompson, do you want to come in?

Jon Thompson: Part of the point of reorganising HMRC was to have a single director general who oversaw compliance activity—that is Jennie—but also to provide a single Director General who could oversee the health of the entire tax system, end to end, and then produce an annual public report on that. That person could then engage with you—you saw Jim Harra last time around—so you'll get a more expansive report next time. The report needs to go a bit more into risks and how people are changing around the tax system, because it is not just about the tax gap. It is also about how much we are actually collecting and, because behaviour is clearly changing, where we are collecting the money. We have a much broader view of risk, other than the tax gap.

Chair: We are pleased to hear that because, as you know, we have pushed HMRC a lot on how it analyses and assesses risk.

Q118 **Charlie Elphicke:** Turning to promoters of tax schemes, may I take you to page 37, figure 18? Can you tell the Committee how much tax is at risk from the promoters of tax schemes?

Jon Thompson: For this group of individuals, or overall?

Charlie Elphicke: Overall.

Jon Thompson: I couldn't give it to you off the top of my head, but in relation to this group of 6,471 it currently stands at £1.1 billion. At the time of the Report it was £1 billion.

Q119 **Charlie Elphicke:** Looking at figure 18, it says that tax at risk from schemes for the high net worth population is £1.4 billion.

Jon Thompson: Yes, it is a different date.

Q120 **Charlie Elphicke:** How much is at risk from these schemes in total, according to figure 18?

Jon Thompson: According to this, it is £14 billion.

Q121 **Charlie Elphicke:** That is an astonishing amount of money, isn't it?

Jon Thompson: Yes, it is.

Q122 **Charlie Elphicke:** This is all just from people who promote these disgusting tax schemes to encourage people to game the system?

Jon Thompson: Yes.

Q123 **Charlie Elphicke:** Right. Can I confirm that 105,000 people are using 3,000 schemes and that the total tax at risk is £14 billion?



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Jennie Granger: That is uses of a scheme, so it is important not to translate that into people because, for example, one taxpayer may have multiple schemes. The way we have counted this is the unique uses of schemes. You, for example, may have 10, so it is not necessarily 105,000 people.

Q124 **Charlie Elphicke:** So it might be 60,000 people, but there are basically 105,000 uses of schemes out there and 3,000 different schemes, and the total tax at risk is £14 billion?

Jennie Granger: Yes.

Jon Thompson: Correct.

Q125 **Charlie Elphicke:** Why is it not a criminal offence to market a scheme that has tax avoidance as its sole or main purpose and no other obvious business purposes?

Jennie Granger: You have already started to redefine what a tax avoidance scheme is. Tax avoidance schemes, at their heart, do not intentionally try to be completely devoid of any business reason for having them. They will often be structured, and you will have seen that with the film loss partnerships, where some connection is claimed to a genuine investment. That investment might be very inflated, or indeed it may be a round robin, which is what we unpick. Having said that, there are instances where we think they have strayed over the line into evasion, and we have some under criminal investigation where we believe that is the case—they are going through the process right now.

Jon Thompson: We ought to be really transparent with you that there is a series of marketed avoidance schemes that claim to be to do with films when no films have ever been made. We have to be able to litigate for those schemes, and litigation can take some time.

Q126 **Charlie Elphicke:** Bridget Phillipson will raise a case in a moment. Would it increase the armoury, discourage such behaviour and reduce the £14 billion figure if marketing a scheme with the sole or main purpose of enabling a person to avoid taxation were made a criminal offence, even if it were just a £100 fine? Would that send a clear message and help to discourage this industry, which is clearly having a serious impact on the public finances?

Jon Thompson: If you could define it, it might. My understanding from looking into these schemes is that they largely claim to be something else.

Q127 **Bridget Phillipson:** On that point, I want to ask about the tax relief on enterprise zones and the way it is being used. Back in 2013, the then Chair of this Committee said that a lack of tenants at two data centres on the Cobalt business park in north Tyneside gave the perception that it was aimed at tax avoidance. Again, investors in that scheme appeared to be high net worth individuals. A number of individuals were reported in press coverage at the time. Under those rules at that point, 50% tax



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relief on the full purchase price was allowable, even though they only invested part of that cost, and in total they made a big profit of £52 million. Now, at the time, that was explained by the people leading that investment. It doesn't appear that much progress has been made. I wonder if you could give an update, three years on, as to whether you have any involvement in this or understanding of the rules around this.

Jon Thompson: Unless Jennie is familiar with that case—I am certainly not familiar with it.

Chair: Ms Granger, I think you were in the hearing, actually. Do you recognise the case?

Jennie Granger: To be honest, I don't, but I am happy to take it away and see how much we can tell you and how close it gets to particular taxpayers; we will see what we can do to tell you what's going on.

Q128 **Bridget Phillipson:** How would you check on progress? So, an issue is raised; how do you know if it is legitimate? Would you send people to physically go to the site?

Jennie Granger: Yes. Depending on what we need to be able to establish the facts, that can include visits. Sometimes you don't even need to do that, to be honest. You can look at the documentation. You can talk the advisors; but, yes, we do it where we need to. If you would give me the details I will figure out how much I can tell you about it.

Q129 **Bridget Phillipson:** This cannot be the only scheme of its kind ongoing around the country, when it comes to the use of enterprise zones. Would these kinds of questions be asked across the country? Do you take a lesson from when you identify a particular scheme and ask whether there is applicability and then look to make sure that that is widely understood by staff across the country?

Jennie Granger: If somebody raises with us a concern—writes to me, or writes to Jon—about how long it is taking to resolve an issue, or, indeed, if there are representations through Ministers or parliamentarians, we look at it. We follow it up.

Jon Thompson: I was aware that there had been more than one question about enterprise zones, but I wasn't anticipating that you would get from high net worth individuals to enterprise zones, so that I could answer this level of questions. I am sorry.

Q130 **Bridget Phillipson:** It appears that some of those individuals may have been using such enterprise zones as a means of investment. What strikes me is that if there is no problem with this, it is potentially unfair that it is taking so long to understand what is going on. So it is unfair, potentially, on those people, if it is a legitimate means by which you can and should invest; but it is not fair on the taxpayer if it takes a long time for HMRC to uncover quite what is going on. Do you have the resources to do these kinds of investigations in a timely fashion? This was raised back in 2013, for example. I appreciate that you have commented that you are not aware of the specifics. Are you resolved to respond quickly?



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Jon Thompson: In general, it has clearly been the case that we have been able to demonstrate to successive Chancellors of the Exchequer that for the investment of further funds in further people, we can drive further compliance yield. Do I think that we have reached the end of that at this particular point? No. The number of staff working in HMRC is up 4% year on year. We anticipate that it will continue to rise in the current year.

Q131 **Chair:** That is in compliance, the 4%?

Jon Thompson: No, overall. Overall the number of employees in HMRC has grown by 4% year on year. Between '15 and '16 we anticipate it growing further.

Q132 **Chair:** You have got a 16% cut coming.

Jon Thompson: What I was going to go on to say is that the shape of the organisation is also changing; if you go back five years, 38% of HMRC was involved in compliance. Now it is about 46%. So there is a shift towards this particular part of the work.

In the end, can I demonstrate a value for money case to invest further? I have found two successive Chancellors to be completely open to that. If I thought there was a value for money case to be constructed, we would put those forward, and we are constantly in conversation with the Treasury about them.

Q133 **Bridget Phillipson:** I appreciate that you look at what you can claw back by looking at some schemes, but you may have, say, an enterprise zone, where the whole point is to drive jobs and investment, and that could be exploited to do quite the opposite. Even if you put to one side the amount of money—the yield—that you could arrive at from your investigations, if you have schemes that are designed to support parts of the country with enterprise zones, it is about the principle at stake as well—that you have a system set up to support regeneration and investment, that is then exploited by others with no interest in regeneration or investment, simply to line their own pockets.

Jon Thompson: Sure. I understand the point that you are making, and I think what we have said is that we will try and give you a detailed update if you can just tell us a bit more—

Chair: We look forward to receiving that.

Q134 **John Pugh:** May I follow up Mr Elphicke's point? He was defining before, I think, what is meant to be captured by a general anti-avoidance rule, historically—a scheme that is designed exclusively for the purpose of tax avoidance and has no real commercial intent. The previous Chancellor used to refer to egregious tax avoidance, and I think Mr Elphicke was suggesting that egregious tax avoidance should be subject to some kind of criminal penalty sanction. What is your difficulty with that? Is it not capable of being defined in law? And if it is capable of being defined in law, would you support a greater penalty specifically for fabricating such schemes?



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Jon Thompson: We will take whatever powers Parliament gives us. I think the question is a definitional one—if you can tie down a definition. And Mr Elphicke illustrates some of the difficulties. Some of the schemes that say they are for purpose x are clearly not for purpose x; they are for purpose y, and it is only through litigation that you can get to the bottom of that. Large numbers of people who are making a large amount of money have, to a certain extent, been financially incentivised to keep that litigation going. The introduction of the Accelerated Payment Notice has now removed that financial incentive from them. Could you go further in this space? It is possible to go further, yes.

Q135 **John Pugh:** As I understand it, you can retrospectively undo the egregious scheme and claw all the tax back, but you do not actually penalise the permanence of it.

Jon Thompson: If you could get to a reasonable definition, then we would take those powers.

Q136 **Charlie Elphicke:** That is kind of my point. You don't wait until you have finished litigating; you basically ask, "Was this a tax scheme that was being promoted by a promoter? Did that promotion have as its sole or main purpose the avoidance of taxation—'Invest in this film. It's not going to make any money, like so many others, but it will help create a massive tax break for you, so you won't pay tax any time soon'"? That's the sort of thing I am talking about, so we can take the war to the promoters.

To put this in context, £14 billion is the amount of money, on average earnings, that about half a million people earn a year. It is effectively the earnings of the entire city of Sheffield. It is an eye-watering sum of money. Should we not be throwing the book at these promoters and dealing with them properly?

Jon Thompson: We are not in the slightest complacent about understanding what is going on, and going to Ministers and saying, "You need to change as it is going along." There are some long-running litigations—I think the longest are more than 20 years—where, during the course of those litigations, we have changed the law and changed the system so that there is a lower flow. We don't wait and go all the way to the end and then go to Ministers and ask, "Can we change it?" We change things as they go along.

Q137 **Charlie Elphicke:** HMRC finished the consultation in October on the "Strengthening tax avoidance sanctions and deterrents: discussion document"; 12 October 2016 was the closing date. I do not think we heard anything in the autumn statement. When are we going to hear more?

Jon Thompson: If you are, then I will expect Ministers to do it either in the Budget or early in the new year.

Q138 **Charlie Elphicke:** Just confirm: that consultation was not in relation to criminal sanctions, was it? It was only civil.



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Jon Thompson: I have to be completely honest with you and say I couldn't answer that question.

Jennie Granger: I think we are talking about the enablers.

Charlie Elphicke: Yes. It is just civil, not criminal.

Jennie Granger: Correct.

Q139 **Charlie Elphicke:** So this is, "We'll give you a stiff penalty. We won't throw the book at you—we'll stick you in the dock and, frankly, convict you of gaming the system."

Jennie Granger: The provision is civil, and it does have stiff penalties, which I believe is a penalty on the enabler that is a proportion of the tax that has been avoided.

Sir Amyas Morse: I think they pay interest.

Jennie Granger: Yes, and interest, etc. And naming as well. I think it is also important to put in context here that we are also all looking at historical behaviour here. We are talking about scheme users and a legacy issue. Going forward, as Jon mentioned, there are only seven new schemes now. That is still seven too many; we would like to drive them all out. There is a bit of proportionality here. It is about discouraging that behaviour in the future. However, I want to emphasise one more time that we have promoters under criminal investigation who we believe have strayed over that line.¹⁰

Sir Amyas Morse: As I reflect on your evidence and I listen to your answers to some of the points in the Report and to our questions, it seems to me that, without saying there's anything wrong with what you've been doing before, you're in fact toughening up your position quite a bit and moving towards a more compliance-based approach. That's right, isn't it? That is quite important. You are actually on your way to a more compliance-based, tougher approach; that's where we're going to. I think it is worthwhile making that explicit, if you don't mind.

Jon Thompson: The answer to that question is yes, but we also need to think about compliance as meaning a much broader thing, which is, for example, can we pre-populate your tax return with the interest earned on your bank account so that you couldn't give us the wrong number? That is compliance, but it is what we would call "upstream". Some of the digital changes we are trying to make are to get better information further up the system, so that you don't have to rely on it further down the tax system. One piece of work we are doing at the minute is trying to formulate an

¹⁰ Clarification from witness: *A summary of responses to the consultation "Strengthening tax avoidance sanctions and deterrents: discussion document" was published on 5 December 2016 at www.gov.uk/government/consultations/strengthening-tax-avoidance-sanctions-and-deterrents-discussion-document (Clauses were included in the draft Finance Bill 2017 published on 5 December 2016 and included a provision for a penalty of 100% of the enabler's fee.)*



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HMRC Compliance Strategy in the round, not just for Jennie's business, and we think we should be able to do that in the first quarter of 2017.

Chair: It would be very helpful if that happened, but that is slightly different from high net worth individuals.

Q140 **Charlie Elphicke:** HMRC prosecutes 1,000 people a year, and a quarter of those cases last year, according to the Report, involved less than £10,000. There have only been two prosecutions of the super-rich in the last five years. Why is that? It looks like you're going after the minnows while the big fish swim away. How can you assure us that that is not the case?

Jon Thompson: I think Jennie answered questions about prosecutions earlier, didn't she? For 70 of those individuals, we have tested whether their activities are criminal or not. It is referred to in the Report—there is a table set out on page 30. Two of those were referred to the CPS and one went through to prosecution, and we have a further 10 in the pipeline.

Q141 **Charlie Elphicke:** But 70% of all of your prosecutions are for things like tobacco duty and VAT. That is only 40% of the value of revenue at risk. Do you not think you ought to be prioritising the value of revenue at risk—namely, the £14 billion?

Jon Thompson: Again, let me refer to Jennie's earlier answers. In large part, this is a population that tries to boundary. Not push it to the point where—

Caroline Flint: Cheat.

Jon Thompson: You use what language you want; they try to push it.

Chair: Carry on, Mr Thompson; I will bring in Mrs Flint in a minute.

Jon Thompson: It is totally fine; it is an interesting conversation, by the way. They try to push the boundary, and some of that is about the legal interpretation of what the rules mean and so on and so forth. That is how you get into avoidance schemes, because people are trying to reinterpret the law. I do not think we are complacent about it. You quote that number. For 15% of the people that we prosecute, it is for more than half a million pounds. That includes company directors, barristers and accountants and so on.

Q142 **Charlie Elphicke:** Mrs Flint said "cheat". My constituents would use that kind of word, or more politely, they might say, "We feel there is one rule for them and another rule for the rest of us." How can you assure us that the rule of law is applied entirely equally?

Jon Thompson: How do you conclude that from the Report?

Charlie Elphicke: Because, as we have said, the prosecutions are for tobacco duty and VAT and things like that.

Jennie Granger: I am sorry, but that is just not correct.

Chair: Perhaps Mr Elphicke could cite where he is quoting from, just so



we are clear.

Q143 **Charlie Elphicke:** Yes—"Breakdown of prosecutions compared to the value of key risks", which is figure 15 in the 2015 Report that looked at prosecutions.

Jon Thompson: So you want to refer to a Report from last year that I don't have? I am sorry about that. If your accusation held any water, surely the National Audit Office would have pointed out that somehow we are running some sort of two-tiered, unfair system in which the wealthy get away with it and everybody else does not.

Chair: Mr Elphicke has done quite a lot of number crunching.

Q144 **Charlie Elphicke:** I am looking at the Report from last year, and it shows that 70% of prosecutions are for tobacco duty and VAT, but that is only 40% of the risk. Are you saying that has changed, and can you give us updated numbers?

Jon Thompson: If you are asking me about prosecutions policy in the round, as opposed to how it applies to this population—a former member of this Committee asked a series of questions in this regard—I do not think that HMRC is clear enough about its overall compliance strategy and how prosecutions fit within that as both a deterrent for taxpayers and in relation to the specifics, so that we stop systemic behaviour. I would have conceded—if Mr Phillips was still a member of the Committee, but you are asking the same question—that I do not believe we are being clear enough about our strategic thinking and about the prosecutions policy. We need to straighten that out in 2017.

Chair: Thank you. That is what we were driving to get a clear answer on.

Caroline Flint: It is quite odd, as my colleague points out, that these high net worth individuals are paying less income tax today than they were when the unit was set up. That is worth having a look at. When you look at figure 5 on page 15, you see that while there has been a 0.2% increase in capital gains tax paid by high net worth individuals, as a percentage paid by them it has more than halved. There is something quite interesting going on there in terms of what the unit is doing and what else may be happening in the tax system. We heard that there have been 72 investigations and prosecutions—70 civil and two in the criminal courts. I understand that the target is now 100 prosecutions per year by the time we get to 2020. Is that correct?

Jennie Granger: One hundred prosecutions that relate to complex offshore wealth.¹¹ That is the goal for the number of criminal investigations.

Jon Thompson: That is a broader set of people than—

Q145 **Caroline Flint:** That is correct. That does not just cover high net worth

¹¹ Clarification from witness: *The 100 prosecutions relate to "serious and complex tax crime, focusing particularly on wealthy individuals and corporates".*



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individuals. That is looking at corporates as well. Could you give us an idea of whether you have assessed what proportion of that 100 will be high net worth individuals, as opposed to corporates?

Jennie Granger: No. We have deliberately not done that, because it is about which sets of facts justify the prosecution. We will criminally investigate every case we find. I don't want to artificially set a bar here for the complex ones.

I will give you an indication of where we are at. Mr Elphicke asked about prosecutions in general. As I mentioned, there are 10 highly wealthy people under criminal investigation right now and 120 offshore individuals under investigation for offences connected with offshore evasion. That is the area where our goal is to get to 100 per year. Of the 120, 25 are already in the court system. To go back to the point I was making earlier, the four years is not only inside HMRC. There is charging, and then it goes through the court system. It is not until conviction that we count those cases as finished. That gives you an idea. I don't want to set a quota either way, because we will investigate each one that we can establish.

Q146 **Caroline Flint:** Okay. That is fair enough, but it would be interesting to know how you arrived at the figure of 100 prosecutions a year, whoever that may be. Obviously, there is also a capacity issue. It is not just about the high net worth individuals—you have 380 people staffing up the unit for that—but how you will have the capacity to do this work, given what we have already identified about how long these inquiries take.

Jennie Granger: We have been funded by Government to do an additional 100. I am saying we will also shift other resource, if we need to do more, from other prosecution work, but the commitment on the 100 is in relation to funding we received in the summer Budget to build up our expertise and our criminal investigation expertise in this unit. The commitment on that is very similar to what we do on the yield commitments—you deliver a certain number. I say again that if there is more to do, we will do more.

Jon Thompson: Don't automatically slip into thinking that if you gave us more people, you would speed up this process. As I said earlier, these are significant numbers.

Caroline Flint: No. I'm interested in what you have learned from what you have undertaken so far in order to be better. As I say, that is part of the conversation about whether taxpayers should provide more information.

Chair: Mr Stephen Phillips, a former member of this Committee, probed on this. It's something we're keen to watch, and it's been amazing that this 100 prosecution figure came out as he—I won't repeat his evidence; it's on the record.

Q147 **Caroline Flint:** Could you remind us what your target was in terms of recovery from the high net worth individuals unit? Did you have a target there for the amount of money that you expected it to recoup—and you



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doubled that? Isn't that the case?

Jon Thompson: It beat last year's target by some considerable margin. I can't give you the exact number. It's in the Report¹²; I wish I could remember. It starts with a 2, and we delivered £416—

Q148 **Caroline Flint:** So you have doubled what the target was? Is that correct?

Jon Thompson: It has significantly exceeded it.

Q149 **Caroline Flint:** Do you think you're setting your targets too low?

Jon Thompson: Possibly.

Q150 **Caroline Flint:** If you have doubled your target, I think people might think, "Well, actually, you weren't aware enough of how much was going on," or you set it at a conservative estimate—I would not for one moment suggest it was to make it all look good. We always like to see people exceeding their targets. But regarding the target being set, you can apply that to prosecutions as well.

Jon Thompson: Sure. I am not going to win this argument, am I, because I have either set it too high or too low. If you come back to the systemic level, the overall target is £26 billion. Over the next few years, we would expect the £26 billion, which we discussed in the Annual Report conversation, to rise over the lifetime of this Parliament. Although those numbers haven't been published or agreed, I would expect us to see those numbers rise fairly significantly.

Jennie Granger: Just to supplement that, that is one of the things I look at in agreeing within those overall numbers what the targets are each year. I look at performance against target last year. The other thing we need to take account of is what is in the pipeline, because particularly at this end they are not necessarily settled within a year. So you're looking at a pipeline of cases about what you think will land this year. But I absolutely ask that very question, about why. It's great when you exceed targets, but was it because unexpectedly you had a very big case come in, or is it that we haven't been challenging enough to ourselves about what we've been trying to achieve?

Chair: In our final few minutes, I'm going to bring in Bridget Phillipson and then Kevin Foster, briefly.

Q151 **Bridget Phillipson:** On a separate point, do you routinely record telephone calls to your customer services lines? Not this unit, but the general—

Jon Thompson: For training purposes, yes. I think the message says that we do that, too.

Bridget Phillipson: Okay.

¹² Clarification from witness: *The compliance yield target for 2015-16 for the High Net Worth Unit was £260 million.*



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Chair: I think it does.

Q152 **Bridget Phillipson:** But you don't with full operation of this unit? Is that what I understood earlier?

Jon Thompson: I believe that's what Jennie said, yes.

Q153 **Bridget Phillipson:** So what is the reason for that? Why would my constituent have their call recorded and yet an agent operating for a wealthy individual not be subject to a similar process?

Jennie Granger: Anybody calling a compliance officer back, whether it's wealthy or not, would be part of that system. On the telephony platform, we don't have those kinds of facilities. Most of those calls are quite routine. So it might be about setting up a meeting, or whatever. So it's about managing a case. It's a very different environment, and much lower numbers of calls, and much more about organising and getting meetings together, or chasing up paperwork—those sorts of things.

Q154 **Bridget Phillipson:** We'd all want you to do well if it's effective in getting the biggest amount of tax brought in. But going back to the comment around a two-tier system, it does give the perception of there being a two-tier system.

Jennie Granger: First of all, we are really proud of the people in this unit. As you pointed out, we can ask whether they should have stretched them more, but year on year they have delivered more. And we can see evidence of where they have changed the risk here. It doesn't mean that there's not more we can do on that.

This group has much closer scrutiny by compliance officers than any other part of the organisation compliance, except for organised crime and large business. So, much fewer small businesses come under this kind of scrutiny—a much smaller proportion of them and of individuals than are here. So, if you want to see that as two-tier, I'm not sure everybody wishes for compliance attention in that kind of way. But I think they actually get much closer scrutiny than other parts of the compliance activity.

Q155 **Bridget Phillipson:** We want to see results. It is just that, given the long-standing and ongoing issues around the customer service line which flare up from time to time, my constituents who have had dealings on that number would rightly say, "Well, hang on. It's a nightmare to get through. You're on hold forever. It takes a long time to resolve things."

Jon Thompson: *indicated dissent.*

Chair: Mr Thompson's going to want to tell us that it's getting better.

Jon Thompson: I am sorry. I can't possibly let you get away with that.

Q156 **Chair:** I'll let you make a very brief comment, because we're going to prolong the hearing. We know what you're going to say, Mr Thompson, so you might as well say it.



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Jon Thompson: The issues were set out in a report. That was more than a year ago. Last month we were down to four and a half minutes.

Bridget Phillipson: I saw the report.

Jon Thompson: I understand that people continue to push that to me, but it is not currently the situation.

Chair: Our last report raised concerns that we always see this up-and-down wavy line. Every time we take a bit of resource out, calls drop, so we are not yet convinced. When we have seen a bit of sustained customer service, Mr Thompson, we will be convinced.

Jon Thompson: Good.

Chair: I am sure you are committed to delivering that, as you said last time, and we are waiting for it.

Q157 **Kevin Foster:** I just want to clarify something Ms Granger said about the resource to do 100 prosecutions. I am conscious that we would never want to prosecute someone to meet a target, but I just want to clarify that if it were vice versa—the other way round—it would not stop you if, let's say, there were 101 or 102 in one year.

Jon Thompson: No.

Jennie Granger: No. Thank you; you are more eloquently making the point I wanted to make. Obviously we make commitments to Government in relation to the resources they give us, but overall we would expect to do about 1,200 criminal investigations per year, so we have the flexibility. If we see more in this part, we would prioritise them. We do expect the wealthy to get their affairs right; they are well advised. If we needed to do more, we would do more.

Kevin Foster: That is one of the issues, we would tentatively say, in terms of pushing the law.

Jennie Granger: Let me assure you that we will do more if we need to. As I mentioned, this year we already have 120 offshore and 10 wealthy under investigation.

Q158 **Caroline Flint:** I am sure that a number of people working in this unit must have seen it all and heard it all, and must be quite frustrated by what goes on. Could you say what the top idea is that your staff have, that would help them to do their job better and get more back, in a more efficient way, from these individuals? What is the feedback from your staff?

Jennie Granger: That is a really good question. We are asking that question more broadly across customer compliance as we have set it up. I think it would be true for this unit as well. One of the great advantages they see of coming together is the ability to work with each other to tackle the risks more sophisticatedly. For example, for this unit, it brings them closer, even though they work with them, to other specialist experts such



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as the inheritance tax experts—but also large businesses, because quite often there is a connection between what was basically private wealth and public wealth, so that they can see the whole picture. That has been one of the really big positive things from establishing the customer compliance group.

Q159 **Caroline Flint:** You might not be able to answer this, but is there one change that they would like to see, maybe to the law, in terms of the onus on these individuals, what they have to provide or the form they have to provide it in?

Jennie Granger: I haven't had that conversation specifically with this unit, but we have conversations quite often about compliance powers and what else we might do that also involves our staff feeding into that. We have been quite fortunate that over the last few years we have been given pretty much what we have asked for—examples of that are accelerated payments, the work around enablers or some of the offshore powers that we have worked on with the Treasury. I don't have a particular wish list from them for Christmas, but I probably will after they listen to this hearing, so there will be a few emails.

Caroline Flint: Could you write to us? If a letter to Santa Hillier emerges—

Chair: I am not sure I can deliver, but we can always work on the Government.

Jon Thompson: Less PAC hearings would be on our list.

Q160 **Chair:** One benefit is that the Government have to respond to every recommendation we make, so get in quick—you never know.

Let me ask a very quick final question. I think we are the only country in the world that does exactly this arrangement for high net worth individuals with a relationship manager. Is that right, Ms Granger, or is that too bold a statement? But we are one of few, anyway.

Jennie Granger: We do. Australia calls it client engagement.

Chair: Kind engagement?

Jennie Granger: Client engagement.

Chair: Client engagement, sorry. I thought, "Kind", for the tax authorities? That's a bit—

Jennie Granger: Yes. We caught up with them last week about how they have changed their model, and we will be talking to them some more, because they are doing some quite interesting work. They call it client engagement.

Q161 **Chair:** My question is: are people asking you, and are you looking at others to see whether you are getting as much value as you can out of these—not necessarily staff, but the people they are trying to make sure are paying the tax?



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Jennie Granger: Yes, on a whole range of issues, including how they model—there is always something to learn in terms of how they are using analytics—and how they structure the work. They have gone down a similar path to us of bringing together the associated entities and the expertise with the high-wealth experts there. They have also broadened it out into the top 1% and then the next level, in the way that we are going as well. It is no accident: we talk to them quite a bit.

Q162 **Chair:** So you are reviewing this to make sure you are getting the cash in, basically.

Jennie Granger: I encourage all of our directors to engage with other revenue administrations about what new ideas and practices they have. We like to adopt and move quickly if somebody has had the latest good technique.

Chair: The final word to Mr Elphicke.

Q163 **Charlie Elphicke:** The situation I have in my constituency is that people say to me that they feel this country works for the Philip Greens and super-rich footballers of this world but it doesn't work for the working-class kids of Dover, Diss or Darlington, and it needs to. Do you not recognise that when you have "customer relationship managers," that just sends all the wrong messages? These are not customers; they are taxpayers—and they are not relationships; a third of them are under investigation. Do you not accept that we ought to be calling them "taxpayer investigation managers" and making sure that this group pays up the money that they ought to be paying to make sure that the nation's finances are repaired as speedily as possible?

Jon Thompson: I think I answered those questions in relation to Caroline Flint's questions.

Caroline Flint: I am Don Valley, by the way—Doncaster.

Charlie Elphicke: Well, Doncaster and Don Valley as well as Darlington, Dover and Diss.

Q164 **Chair:** I think Mr Elphicke has made his point. He quite rightly channels and reflects the concerns of constituents.

Jon Thompson: Sure.

Chair: As you know, Mr Thompson, we get more letters about HMRC customer service as a Committee than we do about any other issue, given the range of things we cover. I am hoping that you will drop down the league table on that, for the benefit of our constituents.

Jon Thompson: I very much hope so too.

Chair: It would be great if I ended my time as Chair with far fewer letters being written to us about that. Can I thank you very much indeed for your time? We will be producing our Report in the new year, because Christmas is coming. Can I wish you a very happy Christmas and new year? We look



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forward to better customer relations at all levels—getting money in from the high-wealth individuals and giving our constituents who are not wealthy a good service.

Jon Thompson: See you in January.

Chair: Yes, see you very soon.