HMRC - CH871000 - Telling Customers About Poor Agent Behaviour

There are issues of confidentiality and disclosure that you must consider when you are dealing with a customer directly as a result of poor agent behaviour.

It may be appropriate to send a customer copies of correspondence from an agent if we are unhappy with the content, or if we are not receiving timeous replies from their agent.

It can be more difficult to uphold, or prove, our position relating to subjective matters such as an agent’s behaviour. Despite the agent acting on behalf of our customer we are bound by Section 18(1) of the Commissioners for Revenue and Customs Act 2005 (CRCA), which means that we cannot disclose information we hold in connection with one of our functions. This is a wide-reaching clause and is not restricted to customer information. Accordingly information held regarding an agent’s behaviour is caught by S18(1) CRCA.

There are, however, exemptions within S18(2) CRCA that would enable a necessary, relevant and proportionate disclosure to be made to our customer about their agent’s behaviour. A failure to observe this legislation can result in a criminal prosecution under S19 CRCA. An illegal disclosure has the potential to expose HMRC to reputational damage and litigation in relation to the Human Rights Act or Data Protection Act.

Detailed guidance about CRCA in relation to disclosure can be found at IDG60100.

It is important to seek advice from the Central Policy Information Disclosure Team if you are considering a disclosure to a customer about their agent’s behaviour, see IDG80100.

You must always consider disclosing the agent’s behaviour to a customer when it can affect the penalty reduction for quality of disclosure. If the Central Policy Information Disclosure Team agrees you must tell the customer in what way you believe their agent’s behaviour is not helping, and that they must take steps to positively influence the agent’s behaviour.

Telling the customer gives them an opportunity to put right their agent’s behaviour and improve the quality of disclosure by ‘helping’. This might include appointing another agent or undertaking the work themselves.

In any case where the Central Policy Information Disclosure Team agree that you should tell the customer about the agent’s poor behaviour you should also contact the Agent Compliance Team (ACT) so they can record details of the agent’s behaviour. You can contact the ACT via the [There are issues of confidentiality and disclosure that you must consider when you are dealing with a customer directly as a result of poor agent behaviour.

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There is detailed guidance about helping when you are considering penalties for

inaccuracies, see CH82450

failure to notify, see CH73320

VAT or excise wrongdoing, see CH95050

failure to file on time, see CH63280.

Until the Central Policy Information Disclosure Team has been given the opportunity to comment, or if it has been decided that no disclosure to your customer about the behaviour of their agent is required, the recommended line to take with your customer should be as follows:

“I note that you have appointed X as your agent. The legal responsibility for your taxation affairs remains with you and until further notice I will write to you directly. I will send copies of my letters to your agent.”

If your customer asks why you are not dealing with their agent you must explain that as HMRC owes certain duties of confidentiality to the agent you cannot give any further details about your decision.

This course of action must not be taken without first advising the agent of your intentions and allowing time for the agent to demonstrate improvements to their behaviour.