

# The Tax Administration Framework Review: Creating innovative change through new legislative pilots

**Deadline Date:** 20 July 2023

[Condoc Link](#)

**Sent to:** [tafrlegislation@hmrc.gov.uk](mailto:tafrlegislation@hmrc.gov.uk)

UK Finance is the collective voice for the banking and finance industry.

Representing almost 300 firms across the industry, we act to enhance competitiveness, support customers and facilitate innovation. Our members include businesses that are large and small, national and regional, corporate and mutual, retail and wholesale.

## General Comments

We welcome the opportunity to respond to HM Revenue and Customs' ('HMRC') discussion document 'The Tax Administration Framework Review: Creating innovative change through new legislative pilots' ('the Discussion Document'). We are also grateful to have had the opportunity to participate in HMRC's Roundtable Discussion on this Discussion Document, which has also informed our response.

UK Finance and its members agree that a transparent and collaborative approach to developing tax policy and implementing policy change is highly desirable. The UK's cooperative compliance model, based on cooperation, trust and transparency between taxpayers and tax authority, is a keystone of the UK's business tax environment. It is helpful for our industry to be involved, at an early stage, in HMRC's developing thinking so that we might be able to offer insights and feedback on HMRC's policies that may intersect with other governmental or regulatory objectives, such as protecting vulnerable groups, enhancing UK competitiveness or fighting economic crime.

Notwithstanding the above comments, our recent experience of an HMRC 'Proof of Concept' exercise<sup>1</sup> has raised concerns about the broader use of novel approaches to developing or testing HMRC policy. Simply because HMRC is testing a concept or piloting a new approach, the bar should not be lowered for safeguards protecting taxpayers or third-parties. We would certainly urge enhanced oversight and scrutiny to such exercises.

We also believe it is important that HMRC is clear about the difference between a 'sandbox' and a 'pilot'. This proposal seems to be an enhanced pilot in contrast to a sandbox, which is a term for an exercise conducted in a test environment where something may be tested securely without real-world implications. HMRC appears to be proposing an arrangement where initiatives are trialled for a limited set of taxpayers, for a set period in the live environment, allowing for a decision to be made as to whether to roll out wider.

The accompanying slides to HMRC's Roundtable Discussion set out an illustrative, hypothetical example of a possible pilot relating to the pre-population of tax returns. In the example it is stated

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<sup>1</sup> Bulk random sample of CRA data

that:

*“The pilot has the flexibility to temporarily amend HMRC’s information powers to allow the required data to be requested for the live pilot whilst safeguarding against the penalty for failing to comply with an information notice should any issues occur with the data sharing process.*

*Sandboxes scope to flexibly adapt to emergent issues, or participant feedback, in real time provides the ability to optimise the progress of a pilot and to reach a better end process faster. Offering significant potential opportunities to operational effectiveness and positive taxpayer experience.”*

We would have particular concerns with the possible use of an HMRC piloting model in which HMRC could suspend or flex its own statutory information powers, which are ordinarily tightly circumscribed, even if this was on a temporary basis to test new policy and processes. Clearly articulated and consistently applied statutory, civil information powers help financial institutions avoid the legal and reputational risks associated with a breach of statutory data privacy rules and their common law duty of confidentiality. An ambulatory approach to these powers may undermine trust and confidence in both the tax regime and in financial institutions.

If HMRC does plan to use this new model to explore new data types and data sources it would be appropriate for a clear legislative framework to be established which addresses issues around data privacy and data processing done in the pilot. Or alternatively it may be appropriate for HMRC to explore new data types and data sources in a true sandbox, where pseudonymized data is provided for limited research exercises, without individuals being identified or pursued, with outputs consisting of non-individualised insights only.

Should HMRC take forward this pilot model, it would be essential that participation in any exercise remain entirely voluntary. It would also be appropriate for HMRC to provide an annual report to Parliament on its pilot activity, to ensure an appropriate level of scrutiny and oversight where HMRC is disapplying legal obligations.

## Specific Questions

### **1. What benefits and challenges do you think piloting potential policy and process changes in this way would bring?**

UK Finance is hopeful that the piloting project indicates HMRC willingness to progress towards a more collaborative and responsive approach to taxpayer feedback. For example, following the Covid-19 pandemic, UK Finance members repeatedly urged HMRC to continue to accept the submission of CT61 forms electronically. However, they were told that *“for operational and security reasons we can no longer accept completed CT61 returns via email. All future CT61s must be returned via post”*. We would hope that pilots allow HMRC to enhance its technological offering and progress improvements more quickly.

We have articulated our concerns about the potential challenges that HMRC’s proposed use of pilots may bring in our introductory general comments.

### **2. What safeguards would you like to see in the operation of pilots conducted within the proposed approach?**

We believe it would be necessary for the terms of the pilot to be documented and agreed up front, and published for transparency. This would be particularly important where any alternative legal

basis is in place for those participating. We would also expect to see the documentation include a set time frame with an end date. It would also be necessary for HMRC to ensure that it has appropriate systems and resources in place to support the pilot.

Where the pilot touches upon, or even impinges on, other government or regulatory initiatives, it would be helpful to have a clear indication that related parties, such as other government departments or regulators, such as Financial Conduct Authority, agree with the terms of the pilot.

Participation in the pilots for taxpayers and third parties should be on a voluntary basis. HMRC should also ensure fairness between those taxpayers in the pilot and those not.

We consider that there should also be no penalties for participants in an unsuccessful pilot.

**3. In addition to the ‘showcase space’ outlined at paragraph 4.4., are there any other ways you would want to engage in the development of new policy, processes, and legislation?**

UK Finance would encourage ongoing collaboration through existing policy development channels with HMRC and HMT to ensure that the policy design, processes, legislation and implementation are exposed to a broad variety of stakeholders. Such engagement between specialist HMRC technical teams and subject matter experts is invaluable to ensure that policies and processes work for stakeholders of all sizes and varieties, not simply for those that have the resources available to participate in HMRC pilots.

**4. What areas of HMRC activity do you think would benefit from this type of approach?**

UK Finance considers that in the immediate term, it would be advisable for HMRC to prioritise piloting technological developments.

**5. What participant support and oversight would you like to see?**

UK Finance considers that an annual report to Parliament would be an appropriate approach, and would be aligned with the approach taken in relation to the introduction of Financial Institution Notices.

If you have any questions relating to this response, please contact Sarah Wulff-Cochrane ([sarah.wulff-cochrane@ukfinance.org.uk](mailto:sarah.wulff-cochrane@ukfinance.org.uk))

**Sarah Wulff-Cochrane**  
Principal