

# ADR in HMRC

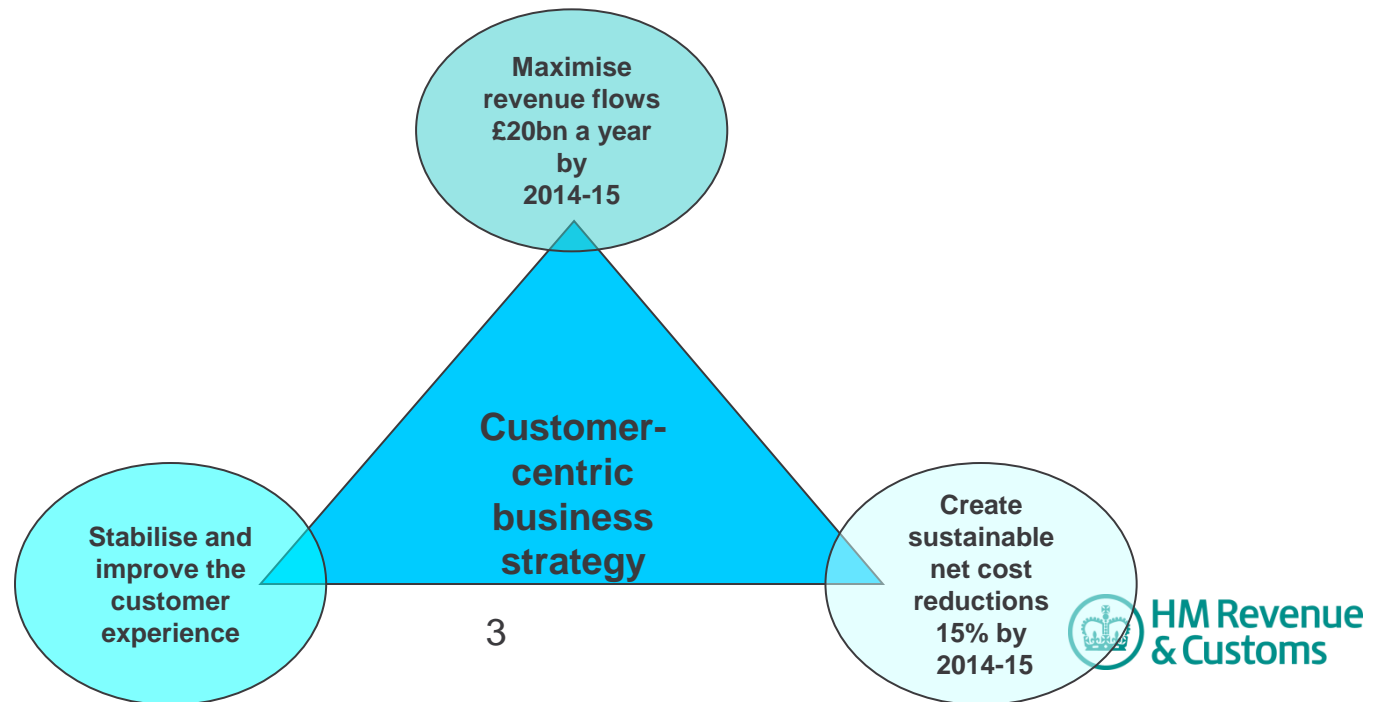
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# Agenda

- The context
- Litigation and Settlement Strategy – refreshed
- Alternative Dispute Resolution – what is it?
- Pilot outcomes and progress
- Questions

# LSS published 2007 so why 2011 refresh?

- HMRC vision , purpose and way launched November 2008
- Changes in Tribunal system April 2009
- Customer segmentation and risk-based approach to compliance
- Customer understanding, changing customer behaviours



## ADR: what is it?

- Use of independent mediators – tax / non-tax specialists
- SMEi pilot uses HMRC mediation facilitators
- Large / complex pilot uses external mediators and /or CEDR trained internal mediators
- Using different ADR approaches:
  - Facilitative mediation
  - Evaluative mediation
  - Non-binding expert determination
- Facilitated structured discussion prior to mediation

# ADR: how it might help you? Types of cases suitable for mediation

- Parties unclear/unable to articulate points in dispute
- No dispute over technical analysis but parties need to agree methodology to quantify liability
- Dispute over facts (particularly in fact-heavy cases)
- “Non-tax” issues with no precedent value or wider impact
- Entrenched views/strained relationships

## ADR: Cases where mediation unlikely to be suitable

- Customer does not work with HMRC collaboratively
- It would be more efficient to have an issue judicially clarified so that the precedent gained can be applied to other cases
- There is doubt over the strength of evidence, and HMRC wants to test it by cross-examination at Tribunal
- Resolution could only be achieved by departure from an established “HMRC view” on a technical issue?
- Case/Issue being worked within another handling strategy

## ADR: what's in it for you?

- Both parties retain ownership of the decision
- It enables parties to begin/resume negotiations when direct negotiations have stalled or are at an impasse
- A third party presence changes the dynamics of a dispute and brings a fresh perspective
- A mediator can change the focus from the past to the present and/or future
- If litigation is unavoidable, it can help both parties prepare
- Savings of time and cost

# ADR: Large pilot results to date – phase 1

2010/11: 2 cases resolved at mediation

2011/12: 6 cases resolved pre-mediation  
1 case resolved at mediation  
(neutral evaluation)

2012/13: 11 cases resolved  
37 cases in progress

Issues: partial exemption methodologies, evidence to support Fleming claims, accounting treatment of leaseback, transfer of intangibles, domicile, contaminated land relief



# SMEi Pilot

- SME and Individuals pilot has involved HMRC third party facilitators working even- handedly with HMRC staff and its customers
- Two stages – Feb – Sep 2011 and Jan-Dec 2012
- Going into normal HMRC business from 2013-14 (mid-summer)

# Evaluation results

- Nearly 400 invitations (Stage 1) or applications (Stage 2)
- 66% of disputes either fully or partially resolved, more recently nearer 80%
- Two months to resolve or (Stage 1) return to Review Team
- Average 15 hours of HMRC time investment to resolve dispute (Compare: Tribunal 100 to 250 hours)
- Reason for dispute resolution:-
  - Educating customer/agent
  - Facilitator obtaining evidence
  - Educating HMRC decision maker
  - Restoring relationships
- Huge buy in from external and internal stakeholders

# Selection criteria

- Local Compliance SME or Individuals & Public Bodies customers
- Fact rich dispute and an impasse has been reached
- No strong policy/ technical line or stood behind other appeals
- Real commitment from you/your client (MOU)
- Fast and simple online application - via HMRC web site

# Going Forward

- More publicity online and outreach events
- Expansion across Local Compliance
- Continue to work very closely with the Large & Complex ADR Pilot

# Questions?