**The Information Commissioner’s response to HM Revenue and Customs consultation on raising standards in tax advice: protecting customers claiming tax repayments**

 **Introduction**

1. The Information Commissioner’s Office (ICO) has responsibility for promoting and enforcing data protection and information rights. This includes responsibilities under the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018 (DPA), the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIR) and the Privacy and Electronic Communications Regulations 2003 (PECR). The ICO is independent from government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The ICO provides guidance and support to individuals and organisations, aimed at helping organisations to comply, and it takes appropriate action when needed.
2. The ICO welcomes the opportunity to respond to the HMRC consultation *Raising standards in tax advice: protecting customers claiming tax repayments* (the consultation). This response focuses on the areas of the consultation that fall within the ICO’s remit.

**Summary**

1. The ICO welcomes this consultation and HMRC’s efforts to address consumer protection issues for taxpayers using repayment agents. This includes taxpayers being misled by unclear terms and conditions about repayment agents’ services. We support measures which are likely to help ensure organisations use personal data transparently and fairly, and provide more protection to individuals from questionable practices by some repayment agents.
2. The ICO welcomes HMRC’s focus on supporting individuals as one of our key aims in our ICO25 strategic plan is to safeguard and empower people, with a specific focus on the most vulnerable.

**Transparency and individual rights**

1. Transparency and fairness are vital aspects of UK GDPR, which engender public trust. We welcome measures aimed to increase transparency around repayment agents’ services and recognise the importance of individuals having protections to ensure that organisations use their personal data responsibly. All organisations should ensure their practices are clear, open and honest so that individuals can make informed choices about how the organisations can use their personal data. Organisations also need to ensure that individuals can exercise their rights, including their right of access[[1]](#footnote-1) and their right to erasure.[[2]](#footnote-2)
2. In the course of the ICO’s own complaints handling, we recognise many of the concerns that HMRC has raised in this consultation. We will continue to respond to complaints and take action when it is appropriate to do so. In some cases, we have directed individuals to more appropriate services such as Action Fraud. Examples of complaints include:
	1. Taxpayers misled into entering a contractual agreement with repayment agents, caused by lack of transparency about services and unclear terms and conditions.
	2. Taxpayers misled by repayment agents, believing they were dealing directly with HMRC, rather than a third-party repayment agent.
	3. Unscrupulous practices by repayment agents harvesting individual’s personal data and using it to automatically fill in a claim or authorisation form, when the individual clicked on an advert for repayment agent services.[[3]](#footnote-3)
	4. Taxpayers misled into transferring the benefit of their tax repayment directly to the agent through the use of assignments that the taxpayer was unaware of.
	5. Lack of compliance with SAR and erasure requests by repayment agents.
3. We welcome measures that are likely to improve transparency for individuals, by focusing on giving taxpayers greater clarity over repayment agents’ services and the use of assignments. In addition, higher standards for repayment agents will encourage better practices, which are likely to support individuals’ rights.

**Consultation**

1. We welcome the opportunity for further engagement on these proposals if this might be useful, in addition to the requirement for formal consultation under Article 36(4) UK GDPR on any legislative measures.
1. https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-of-access/ [↑](#footnote-ref-1)
2. https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-to-erasure/ [↑](#footnote-ref-2)
3. As part of our guidance in our *Personal information online code of practice,* we recommend that organisations should notify users if their website offers auto-completion facilities. [↑](#footnote-ref-3)