



The voice of freelancing

PCG Policy Briefing: the conduct of HM Revenue and Customs in the Arctic Systems Case

PCG has noted the answers given to several parliamentary questions asked by Mark Prisk MP in relation to the Arctic Systems case (formally known as Jones V. Garnett). The answers reinforce many of PCG's extreme concerns about HMRC's conduct over the case. They strongly suggest that:

- HMRC's decision-making is unaccountable and out of control
- HMRC's activities are not being properly monitored
- HMRC's justifications for taking strong new powers and imposing new tax laws are hollow.

Mr. Prisk: To ask the Chancellor of the Exchequer how many cases being investigated by HM Revenue and Customs under the settlements legislation were stopped as a result of the House of Lords judgment in the Jones v Garnett case.

Angela Eagle: The information requested is not available.

Mr. Prisk: To ask the Chancellor of the Exchequer what the cost of HM Revenue and Customs (HMRC) investigations under the settlements legislation was in each of the last three years, including legal charges and HMRC and departmental staff costs.

Angela Eagle: The information requested is not available.

PCG Comment: these answers undermine HMRC's justifications for its most controversial actions

Since its formation, HMRC has regularly sought to take strong new powers, and also pushed the Treasury to introduce strong new tax laws, often under the banner of "anti-avoidance". It has offered two main justifications for these:

- it has a duty to "protect the Exchequer"
- it is increasingly using "risk-based assessment" so that only those who are not meeting their tax obligations will be targeted.

Yet HMRC does not monitor what investigations it is undertaking, or how much they cost.

How can it seriously claim to be moving to "risk-based" assessment when it is not monitoring the investigations it undertakes?

How can it seriously claim to be "protecting the Exchequer" when it does not monitor how much its activities are costing the Exchequer?

Mr. Prisk: To ask the Chancellor of the Exchequer which Minister was responsible for approving the original decision for HM Revenue and Customs to pursue the Jones v. Garnett case under the settlements legislation.

Angela Eagle: Responsibility for the administration of the tax affairs of individual taxpayers lies with the board of HM Revenue and Customs and not with Ministers.

PCG Comment: HMRC's decision-making is unaccountable

The Exchequer Secretary is, technically, correct to say that ministers are not responsible for decisions taken in relation to the affairs of individual taxpayers.

However, the decision to pursue Jones v Garnett was not simply a decision about the particular case: it was a strategic decision to pursue a particular interpretation of the law through the courts.

It is unacceptable for these decisions to be taken without ministerial oversight: it allows HMRC to attempt to re-interpret the law without any accountability. In this instance, this has cost over half a million pounds of taxpayers' money, to pursue a tax bill of a few thousand pounds, which from the outset most commentators fully expected not to be owed.



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Mr. Prisk: To ask the Chancellor of the Exchequer what estimate his Department has made of the cost to the public purse of the Jones v. Garnett case, including all legal fees and associated charges.

Angela Eagle: Known legal and associated costs of the Jones v. Garnett case, including HMRC counsels' costs and court fees, are £120,207. However, the Treasury has not made any estimate of the costs of the Jones v. Garnett case. The total costs incurred by HM Revenue and Customs cannot be calculated as some of the taxpayers' costs for the Court of Appeal and the House of Lords are either unknown or still to be settled. In addition, no records have been kept to enable costs such as those related to remuneration and associated overheads for the time spent by HMRC employees who have worked on aspects of the case to be calculated.

PCG Comment: it is surprising that the Treasury and HMRC cannot estimate the costs of the case
While PCG will not disclose confidential information relating to its own costs regarding the case, the Exchequer Secretary is, strictly speaking, correct to state that the final costs have not yet been formally determined.

However, PCG is able to estimate that the total legal costs of the case are in excess of £500,000 and we are surprised that the Government are apparently unable to make the same estimate. We have had the necessary information available since before Mr Prisk tabled his questions.