

## PCG survey shows contractors fear HMRC; call for safeguards

### PCG Asks Contractors about HMRC

- o 43% say biggest concern is complexity of the tax law
- o 41% say HMRC assessed their liability incorrectly
- o 42.3% say HMRC approaches you as 'guilty until proven innocent'
- o 33.5% say they experienced vexatious behaviour from inspectors

In a survey conducted by the London-based [Professional Contractors Group](#) in January and February of this year, contractors showed that they had serious issues with the way HMRC does business. A great many felt that the Revenue was unfair, but even more felt that HMRC was vexatious and unreasonably hostile. When nearly half of the contractors surveyed say that the Revenue tries to extract as much as they can out of you, then something needs to change.

### Why Are Contractors Afraid?

It would be easy to dismiss these reactions by saying that the Revenue is only doing its job. It is of course never easy to administer controls on taxes, and who can blame a tax inspector for not winning the congeniality award?

The problem is that contractors have been singled out by the Treasury and the Revenue over and over again. "The problem," says PCG policy director John Kell, "is that the contracting industry is treated as suspect, as though there is something inherently tax-cheating about a freelancer."

In fact, the Treasury and the Revenue are erecting a blocking barrier to the flexible economy that the Government claims it is trying to create in the UK.

### The Repeated Attacks on Contractors

Nothing shows up the Government's intentions so much as the [Arctic Systems](#) case, in which HMRC were found to have issued a wholly incorrect tax demand for £42,000 and the owners of Arctic Systems, Geoff and Diana Jones, were pursued to the House of Lords after several years and hundreds of thousands of pounds spent in legal fees.

What is truly terrible about Arctic Systems is that it demonstrates a sense, on the part of the tax authorities, that contractors are somehow trying to 'get away' with something; the law had never been applied in this way before. As one lawyer put it, there was a deliberate attempt to stretch the goalposts here, and that seems to be the approach the authorities take to the contracting industry.

“ It is as though there is something inherently tax cheating in being a freelancer ”

John Kell - PCG

### What Protection?

Legally, the Revenue cannot be easily called to account for its actions.

One contractor did try: in September, 2006, a builder, Barrow-in-Furness, Cumbria-based Neil Martin, took the Revenue to court claiming that its mismanagement had driven Martin's construction business into insolvency. But the court ruled that because the Revenue does not have a "duty of care" to taxpayers, Martin is not entitled to sue, although delays at HMRC cost his company close to GBP 500,000.

PCG is calling for that legal duty of care to be placed on HM Revenue and Customs through legislation.

### Need For Duty Of Care

PCG argues that HMRC's risk assessment and other systems should mean that it does not launch rogue investigations, or when it does they are swiftly closed at minimal cost. Where this does not happen, there should be strong safeguards available.

Says Kell: "Freelancers and other small businesses have very little trust in HMRC so it's high time that HMRC was put under a legal obligation not to harm peoples' commercial interests. Many of our members have costly and distressing experiences of dealing with HMRC, even when they owe no tax and it's quite wrong that HMRC can just walk away.

Kell insists: "There's currently no mechanism for compensation for the stress and loss of earnings that a lengthy Revenue investigation can bring. PCG believes that must change."

In the PCG's formal response to an HMRC consultation, the organisation argues that if HMRC is

functioning as well as it claims, there is nothing to fear from such a legal duty of care and in fact it would help improve the relationship between small businesses, freelancers and HMRC.

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