



BRIEFING PAPER

Number CDP-2017-0228, 14 November 2017

The Paradise Papers

By Antony Seely, Federico Mor

1. Introduction

On Tuesday 14 November the House [is scheduled to debate the 'Paradise Papers'](#), a large tranche of material gathered by the [International Consortium of Investigative Journalists](#), leaked from two offshore service providers and 19 tax havens' company registries.

Details of the financial holdings of both wealthy individuals and multinational enterprises from this leak have been reported by [the BBC](#), [the Guardian](#), and other media organisations that are part of the consortium, reiterating public concerns as to the scale of tax avoidance and evasion, and the ability of offshore jurisdictions to facilitate these activities. This follows the publication last year of the 'Panama Papers' – a leak of financial records from Mossack Fonseca, a law firm that had provided advice on establishing offshore companies to a wide variety of politicians, celebrities, and other wealthy individuals.

On 13 November Dame Margaret Hodge applied to the Speaker for an emergency debate on the issue:

Dame Margaret Hodge : I seek leave to propose that the House should debate a specific and important matter that should have urgent consideration, namely the systemic issues that facilitated the tax avoidance and evasion uncovered by the Paradise papers. I am supported in this request by many Members on both sides of the House.

The Paradise papers are the most important and shocking data we have seen so far to lift the lid on behaviour that hard-working people in Britain who pay their taxes find deplorable, but which we now know is scarily normal and acceptable among the very wealthy and powerful global corporations. The leaked documents comprise 31.4 million files. These have been analysed over a year by 381 journalists from 67 countries. In the UK, we have The Guardian and "Panorama" to thank for their brilliant investigative work and for placing the data relevant to us under public scrutiny.

The papers come from one of the so-called magic circle of international lawyers: Appleby. More than half of Appleby's offices are based in UK tax havens. Tax havens are central to most of the tax avoidance schemes uncovered and are where people hide their money. Conservative estimates put the wealth held in tax havens at \$7.6 trillion. The UK tax havens are at the heart of this abuse. By stubbornly upholding secrecy, our Crown dependencies and overseas territories enable widespread tax avoidance to take place. The UK Government are not just complicit in but central to their success, and it is our financial institutions—lawyers, bankers and accountancy firms—that are mostly responsible for finding the devices employed to avoid tax.

At the very moment when Simon Stevens was pleading for money for the NHS, we were learning about the enormous range of artificial structures used by the rich, famous and powerful to avoid making their proper contribution, through taxation, to our NHS. The Paradise papers raise hugely significant issues for the House and the Government. We urgently need the opportunity to debate the systemic implications of the revelations. This is not a minor but a mega issue of public concern. A debate now would enable Members to express their views before the Chancellor puts his finishing touches to the Budget.

Mr Speaker : ... I have listened carefully to the application from the right hon. Lady, and I am satisfied that the matter raised is proper to be discussed under Standing Order No. 24. Does she have the leave of the House?

Application agreed to.

Mr Speaker : The right hon. Lady has secured the leave of the House. The debate will be held tomorrow, Tuesday 14 November, as the first item of public business. The debate will last for up to two hours and will arise, I advise colleagues, on a motion that the House has considered the specified matter set out in the right hon. Lady's application. I hope that that helps her and, more particularly, the House as a whole.¹

In evidence to the Public Accounts Committee on 6 November, Jon Thompson, chief executive and permanent secretary at HMRC, noted that the 'Paradise Papers' cache "is different from the Panama papers in 2016, which were published on a website in an unstructured way and you could inquire through those papers. In this particular situation, the papers have not been made publicly available; they are only available to those within the International Consortium of Investigative Journalists."² Apparently HMRC has requested information on the material held by the ICIJ but without receiving a response as yet. On this occasion Mr Thompson said a little as to how HMRC is responding to respond to this discovery:

Q17 Chair: In terms of your legal powers, how quickly could you secure any of that data? Give us a range if you cannot give an exact timetable.

Jon Thompson: The tax treaties and exchange of information agreements that we have with all Crown dependencies—the overseas treaties—allow us to inquire about specific taxpayers. At this point, we are trying to work off what is in the public domain and then work from that in terms of making specific inquiries. That is not the same as saying that there is a bulk set of data that is apparently available. Obviously we would like that, but we have to do it by individual allegation, taxpayer by taxpayer, in order to get that information.

Q18 Chair: And you are prepared to look at every allegation in full.

Jon Thompson: We certainly are. In the same way we did with Panama, we will look at every case of tax evasion very seriously. We have secured significant revenues from those trying to hide overseas—more than £2.8 billion over the last few years ...

Q19 Chair: With the Panama papers, we were frustrated—I suspect you were, too—about how long it took to dig through that information. How quickly could we see results if you had all that information on the Paradise papers?

Jon Thompson: I think it depends on whether we conclude early on that the acts are civil or criminal. With criminal acts, it takes quite a bit longer to prepare a case. The Panama papers were published on 4 April 2016. There are currently 66 criminal or civil investigations; four people have been arrested and a further six have been interviewed under caution. Those cases continue to be live. We would expect an additional tax yield of £100 million from the Panama papers. That gives you some sense of how long quite complicated tax cases take to bring to some sort of fruition.

¹ [HC Deb 13 November 2017 cc55-6](#). This procedure is established under the rules of Standing Order No.24; details are [on the Parliament site](#).

² [Oral evidence: 2016-17 HMRC Standard Report, HC 456, 6 November 2017](#) Q6

Q20 Chair: That is quite encouraging news, because when we have asked about the Panama papers before, we have got very little information. Are you better prepared now for dealing with these papers than HMRC was when the Panama papers were leaked?

Jon Thompson: I would say that we are, in one significant respect: over the last 18 months or so we have significantly improved the way in which we can ingest data from other sources. There is now a director-led speciality function within our customer compliance group: the director of risk and intelligence services. We have created a dedicated function that can ingest data from as many sources as we can get them and put that data together around individual taxpayers, so that our interventions are risk-based.³

The remainder of this note gives some background to the issue of tax avoidance and evasion, and to the Government's response to the Panama Papers last year.

2. Tax avoidance and evasion

The tax gap

In recent years tax avoidance has been the subject of considerable public concern, although there is no statutory definition of what tax avoidance consists of. **Tax avoidance is to be distinguished from tax evasion, where someone acts against the law**, where registered individuals or businesses deliberately omit, conceal or misrepresent information in order to reduce their tax liabilities. **By contrast tax avoidance is compliant with the law, though aggressive or abusive avoidance, as opposed to simple tax planning, will seek to comply with the letter of the law, but to subvert its purpose.** As Treasury Minister David Gauke has observed, there is a distinction between tax planning and tax avoidance, "although there will be occasions when the line is a little blurred."⁴

In recent years HM Revenue & Customs has produced estimates of the tax gap - the difference between tax that is actually collected and that which is 'theoretically due':

The theoretical tax liability represents the tax that would be paid if all individuals and companies complied with both the letter of the law and HMRC's interpretation of the intention of Parliament in setting law (referred to as the spirit of the law) ... An equivalent way of defining the tax gap is the tax that is lost through non-payment, use of avoidance schemes, interpretation of tax effect of complex transactions, error, failure to take reasonable care, evasion, the hidden economy and organised criminal attack.⁵

Further to tax avoidance and evasion, HMRC identify several other causes of the tax gap: for example, non-payment arising from insolvency, say; simple taxpayer error; and, the hidden economy. This last category refers to undeclared economic activity that involves 'ghosts' – whose entire income is unknown to HMRC, and 'moonlighters' – known to the tax authorities in relation to part of their income, but have other sources of income that they do not know about. HMRC see a difference between this and evasion, as the first is where a declared net source of income is deliberately understated, while the hidden economy is where an entire source of income is not declared.

In October 2017 HMRC published revised estimates, which put the total tax gap at £34 billion for 2015/16, representing 6% of total tax liabilities.⁶ HMRC's tax gap analysis also provides a breakdown of the gap by reference to the different types of

³ *op.cit.*, Qs 17-20

⁴ HC Deb 12 July 2010 c706

⁵ [Measuring Tax Gaps 2013](#), October 2013 p6. The department's work on the tax gap is [collated on Gov.uk](#)

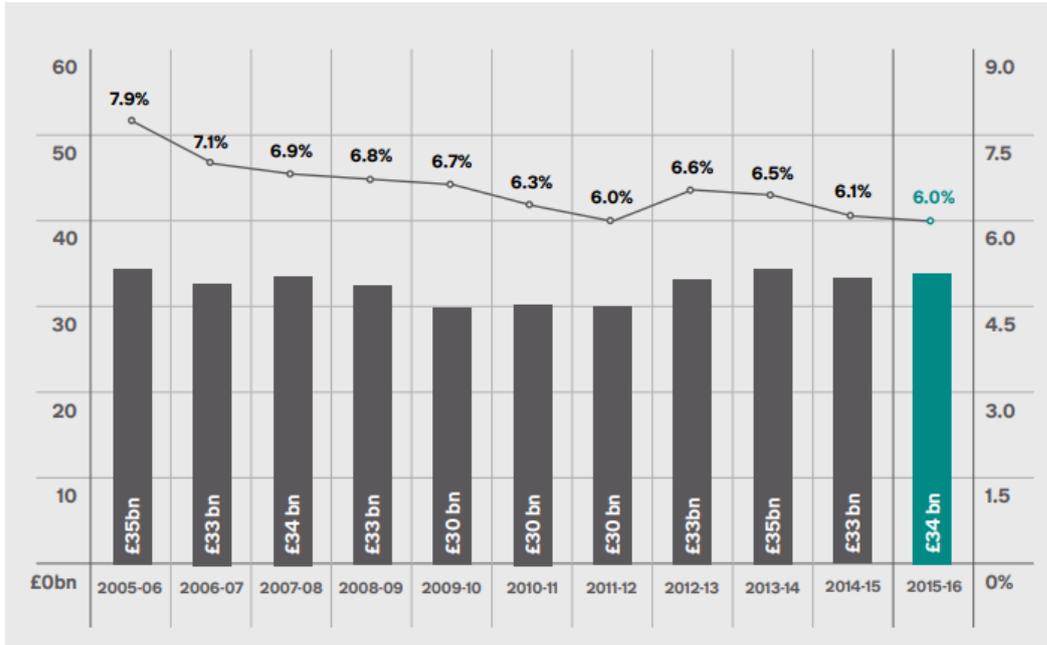
⁶ HMRC press notice, [Unpaid tax at a record low](#), 26 October 2017

4 The Paradise Papers

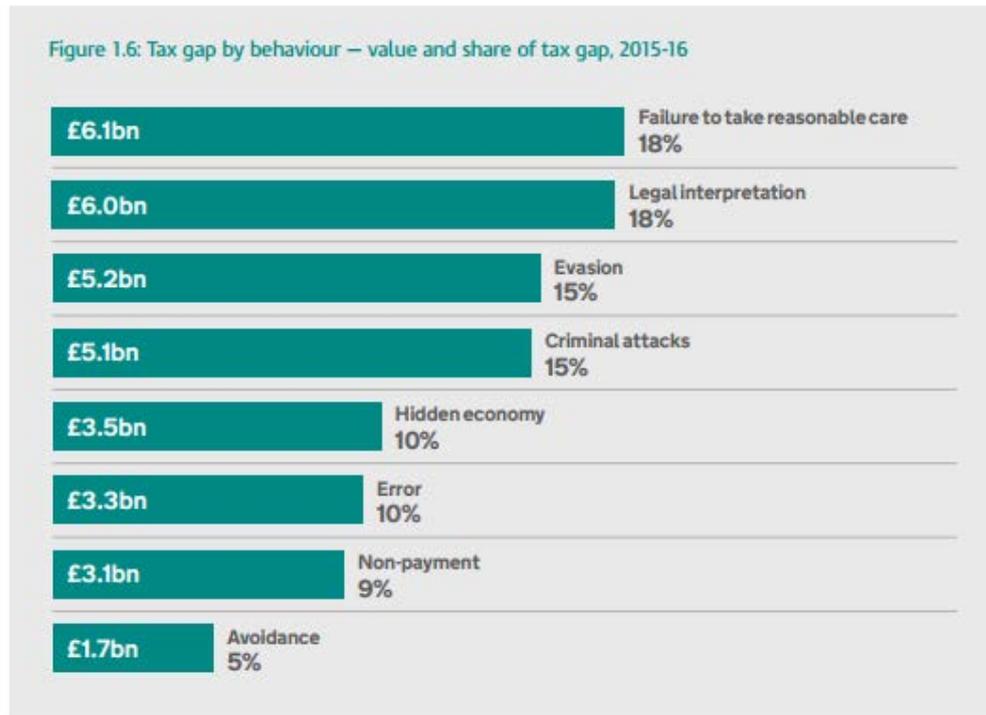
taxpayer behaviour that lead to a shortfall in receipts, though as HMRC note, the “estimates give a broad indication of behaviours and are calculated using assumptions and judgment.” **This analysis suggests that in 2015/16 the annual cost of tax avoidance was £1.7 billion, while the cost of tax evasion was £5.2 billion.**⁷

The report illustrates the trend in the tax gap in recent years...

Tax gap and percentage of liabilities: 2005-06 to 2015-16



... and the composition of the total tax gap by taxpayer behaviour:



⁷ [Measuring Tax Gaps 2017](#), October 2017 p5

Initiatives to tackle tax avoidance

UK tax law is specifically targeted rather than purposive: in tackling the exploitation of loopholes in the law, governments have legislated against individual avoidance schemes as and when these have come to light. Often the response to this legislation has been the creation of new schemes to circumvent the law, which in turn has seen further legislation – an ‘arms race’ between the revenue authorities and Parliamentary counsel on one side, and on the other, taxpayers aided and abetted by the legal profession.

In recent years concerns as to the scale of mass marketed tax avoidance schemes have led to three major initiatives to undermine this market, and encourage a sea change in attitudes, both in the accountancy industry and its customers: **the Disclosure of Tax Avoidance Schemes regime (DOTAS); the General Anti-Abuse Rule (GAAR);** and the system of **follower notices & accelerated payments.**

Over the past twenty years many commentators have suggested having legislation to counter tax avoidance in general: by providing certainty for both sides as to the tax consequences of any transaction, a ‘general anti-avoidance rule’ might dissuade the most egregious efforts to avoid tax, encourage taxpayers and legal counsel to redirect their energies to more productive activities and allow the authorities to simplify the law without fear of it being systematically undermined. In the late 1990s the Labour Government consulted on an anti-avoidance rule before deciding against it. Concerns over the scale of tax avoidance rekindled interest in the idea, though **in its 2004 Budget the Labour Government announced a new ‘disclosure regime’ as an alternative, whereby tax avoidance schemes would be required to be disclosed to the revenue departments.**⁸ Under ‘DOTAS’ accountants, financial advisers and other ‘promoters’ selling tax avoidance schemes are required to notify the tax authorities of any new scheme they are to offer to taxpayers. Each scheme is given a reference number which, in turn, taxpayers have to use in their tax return, if they have used it. HMRC have used this information to track the take-up of avoidance schemes, challenge individual schemes in the courts if HMRC have assessed that they do not work in the way the promoter claims, or to address unintended loopholes in the law that some schemes seek to exploit.

In its first Budget in June 2010 the Coalition Government announced it would consult on a general anti-avoidance rule, and commissioned a study group, led by Graham Aaronson QC, to consider the case. In his report, published in 2011, Mr Aaronson recommended a narrowly focused rule targeted at ‘abusive arrangements’ only, and **following a consultation exercise, in December 2012 the Government announced the introduction of a General Anti-Abuse Rule (GAAR) in 2013.**⁹

Finally, in 2014 the Coalition Government announced the introduction of a system of follower notices & accelerated payments.¹⁰ Broadly speaking, in cases where someone is in dispute over their assessment, HMRC may issue a ‘follower notice’ if this arises from the use of an avoidance scheme that is either the same or has similar arrangements to one that HMRC has successfully challenged in court. Taxpayers must settle their affairs, or pay a penalty. HMRC may also issue a notice for an accelerated payment, where the taxpayer is required to pay the disputed sum ‘up front’, before their assessment had been definitively decided – either by the taxpayer agreeing HMRC’s assessment, or the courts making a final judgement in their case. Taxpayers do not have the right to appeal HMRC’s decision to the Tribunal.

⁸ [Budget 2004, HC 301, March 2004, p202](#). Guidance on DOTAS [is on Gov.uk](#)

⁹ [Autumn Statement, Cm 8480 December 2012](#) para 1.178. Guidance on the GAAR [is on Gov.uk](#)

¹⁰ [Budget 2014, HC 1104, March 2014 para 1.198-201](#)

Controversially, the Government announced these arrangements would apply to outstanding disputes for *past* tax years, *and* that HMRC would also issue demands for accelerated payments in relation to avoidance schemes notified under 'DOTAS'. Despite concerns as the 'retrospective' nature of the new regime, the new rules were debated and agreed, with only minor amendments, in July 2014.¹¹

Initiatives to tackle tax evasion

In March 2013 HMRC published [a new strategy – No Safe Havens - to tackle offshore tax evasion](#); the document explained what this type of evasion consisted in, and how serious a problem it posed to the UK Exchequer:

What is offshore evasion?

Offshore evasion is using a non-UK jurisdiction with the objective of evading UK tax. This includes moving UK gains, income or assets offshore to conceal them from HMRC; not declaring taxable income or gains that arise overseas, or taxable assets kept overseas; and using complex offshore structures to hide the beneficial ownership of assets, income or gains.

How big is the problem?

The hidden nature of the problem and the way that information is currently recorded mean that there is no clear view of the cost of offshore evasion. However, HMRC's recent progress in tackling offshore evasion through exchange of information agreements and disclosure facilities indicates that it has a significant cost to the UK. That is why we are undertaking innovative new work to use a wide range of data sources and engage experts and academics to develop a comprehensive evidence base on the scale and nature of offshore evasion.

HMRC set out a number of objectives of its new strategy ...

- there are no jurisdictions where UK taxpayers feel safe to hide their income and assets from HMRC
- would-be offshore evaders realise that the balance of risk is against them
- offshore evaders voluntarily pay the tax due
- those who do not come forward are detected and face vigorously enforced sanctions
- there will be no place for facilitators of offshore evasion.

... and a series of actions to achieve these objectives:

- reducing the opportunities to evade offshore through initiatives to ensure compliance, international agreements, and multilateral action
- increasing the likelihood of evaders, and those who make offshore evasion possible, being caught, by investing in the skills of specialist staff, using the data generated by international agreements, and investing in improved tools, technology and customer understanding to identify, understand and profile high risk customers
- strengthening the severity of the punishments for those who are caught, with tough penalties, the possibility of criminal investigation and publishing the names of the most serious evaders.¹²

A follow-up report was published in 2014, giving details of developments in the 'automatic exchange' of information between the UK and the tax authorities of other

¹¹ The legislation now forms part 4 (ss199-233) of the [Finance Act 2014](#). Guidance on follower notices & accelerated payments [is on Gov.uk](#).

¹² [No safe havens: Our offshore evasion strategy 2013 and beyond](#) March 2013 pp2-3

countries, and HMRC's approach to using this data on individuals' financial accounts held offshore to encourage compliance and impose sanctions.¹³

In March 2015 the Government proposed four new measures to tackle offshore evasion:

- A new criminal offence for corporations that fail to take adequate steps to prevent the facilitation of tax evasion by their agents;
- Tougher financial penalties for offshore evaders, including the possibility of a penalty based on the value of the asset on which tax was evaded as well as wider public naming of offshore evaders;
- A new penalty regime for those who enable tax evasion, based on the tax they have helped taxpayers to evade and naming of enablers;
- A new simpler criminal offence to make prosecution of offshore evaders easier.¹⁴

Consultation documents on each of these measures [were published in July](#), and in December 2015 the Government confirmed it would bring forward legislation for three of these in 2016:

- a new criminal offence for tax evasion,
- new civil penalties for offshore tax evaders, and
- new civil penalties for those enabling offshore evasion.¹⁵

In turn provision was included in the *Finance Bill 2016* presented after the Budget, well as for an additional penalty for serious cases of deliberate offshore evasion, equivalent to up to 10% of the underlying asset value.¹⁶

The Government has continued to introduce provisions to tackle both tax avoidance and tax evasion, including measures in the *Spring Budget 2017*.¹⁷ These developments are examined at much greater length in a Library note,¹⁸ while two other notes look at the Labour Government's assessment of a general anti-avoidance rule and the establishment of DOTAS,¹⁹ and the Coalition Government's decision to introduce a GAAR.²⁰

3. The Panama Papers

Following the publication of the 'Panama papers', the then Prime Minister, David Cameron, gave a statement to the House on 11 April.²¹ In his statement Mr Cameron confirmed that a joint taskforce would be established to investigate potential cases of

¹³ [No safe havens 2014](#), April 2014

¹⁴ [Tackling tax evasion & avoidance](#), Cm9047, March 2015 p16

¹⁵ [Autumn Statement Cm 9162, November 2015 para 3.77-80](#). Tax information notes on each measure were published at the time: [Tax administration: criminal offence for offshore tax evaders](#); [Increased civil sanctions for offshore tax evaders](#); and, [Tax administration: civil sanctions for enablers of offshore tax evasion](#)

¹⁶ HM Treasury, [Overview of Tax Legislation & Rates, March 2016 para 1.77](#). These provisions now form ss162-6 of [Finance Act 2016](#).

¹⁷ [Spring Budget 2017, HC 1025, March 2017 para 3.42-49](#). For an overview of recent developments see, Chartered Institute of Taxation, [The state of play on tax evasion and avoidance](#), 2 March 2017

¹⁸ [Tax avoidance: recent developments](#), CBP7948, 26 April 2017

¹⁹ [Tax avoidance: a General Anti-Avoidance Rule – background history \(1990-2010\)](#), CBP2956, 13 April 2016

²⁰ [Tax avoidance : a General Anti-Abuse Rule](#), CBP6265, 14 April 2017

²¹ No.10 Downing Street press notice, [PM: Companies to be liable for employees who facilitate tax cheating](#), 11 April 2016

evasion revealed by the leak, led by HMRC and the National Crime Agency.²² The Prime Minister also noted that the UK would be hosting a summit on anti-corruption the next month,²³ and he also gave details of ongoing efforts to improve the provision of financial information by Crown Dependencies and British Overseas Territories to the revenue authorities.

Part of Mr Cameron's statement is reproduced below:

We are taking three additional measures, to make it harder for people to hide the proceeds of corruption offshore, to make sure that those who smooth the way can no longer get away with it and to investigate wrongdoing.

First, let me deal with our Crown dependencies and overseas territories that function as financial centres. They have already agreed to exchange taxpayer financial account information automatically, and will begin doing so from this September ...

Today I can tell the House that we have now agreed that they will provide UK law enforcement and tax agencies with full access to information on the beneficial ownership of companies. We have finalised arrangements with all of them except for Anguilla and Guernsey, both of which we believe will follow in the coming days and months. For the first time, UK police and law enforcement agencies will be able to see exactly who really owns and controls every company incorporated in those territories...

Next month we will seek to go further still, using our anti-corruption summit to encourage consensus not just on exchanging information, but on publishing such information and putting it into the public domain, as we are doing in the UK...

Next, we will take another major step forward in dealing with those who facilitate corruption. Under current legislation it is difficult to prosecute a company that assists with tax evasion, but we are going to change that. We will legislate this year for a new criminal offence to apply to corporations that fail to prevent their representatives from criminally facilitating tax evasion.

Finally, we are providing initial new funding of up to £10 million for a new cross-agency taskforce to swiftly analyse all the information that has been made available from Panama, and to take rapid action. That taskforce will include analysts, compliance specialists, and investigators from across HMRC, the National Crime Agency, the Serious Fraud Office, and the Financial Conduct Authority.²⁴

With regard to the provisions Mr Cameron mentioned about **information exchange**, in July 2014 the OECD published a new global standard on automatic information exchange to tackle offshore tax evasion, an issue strongly promoted by the UK when it held the Presidency of the G8 the year before.²⁵ The UK was one of an initial group of 51 countries that agreed later that year to implement the standard,²⁶ including all EU Member States under an EU-wide Administrative Co-operation Agreement. [Following consultation](#), the Government introduced legislation to give effect to these provisions in March 2015.²⁷ The Crown Dependencies and Overseas Territories all agreed bilateral arrangements with the UK on automatic information exchange in 2013 – details are [collated on Gov.uk](#) – and, in turn, signed up to implement this new global standard in 2014.²⁸

²² HMT press notice, [UK launches cross-government taskforce on the 'Panama Papers'](#), 10 April 2016. See also, HMRC press notice, [HMRC's response to the ICIJ story on offshore tax evasion](#), 4 April 2016

²³ The Prime Minister had first [announced this summit in a speech in Singapore last year \(No.10 Downing Street, 28 July 2015\)](#).

²⁴ [HC Deb 11 April 2016 cc23-26](#)

²⁵ Details are on [the OECD's site here](#).

²⁶ HM Treasury press notice, [Next step taken in stamping out international tax evasion](#), 30 October 2014

²⁷ HMRC, [Tax administration: regulations to implement the UK's automatic exchange of information agreements](#), March 2015

²⁸ [PQ HL4852, 18 February 2015](#). See also, [PQ67167, 17 March 2017](#)

With regard to **the new task-force**, in a debate on tax avoidance just after Mr Cameron's statement to the House, Treasury Minister David Gauke said the following:

The taskforce will report to my right hon. Friends the Chancellor of the Exchequer and the Home Secretary on the strategy for taking action, and we will update Parliament later this year. I stress that the taskforce will have total operational independence. If it finds people to prosecute, it will prosecute them. If it finds information about illegality, it can act on it. In addition, the independent FCA has written to financial firms asking them to declare their links to Mossack Fonseca. If the FCA were to find any evidence that firms have been breaking the rules, it, too, has strong powers to take punitive action.²⁹

On 8 November the Chancellor gave a statement setting out the progress of the taskforce to date; this is reproduced in full below: [HCWS247, 8/11/2016](#)

In his statement to the House on 11 April 2016, the former Prime Minister David Cameron announced the creation of a cross-agency taskforce to analyse all the information that had been made available from the International Consortium of Investigative Journalists (ICIJ)'s Panama papers data leak. My right hon. Friend the Home Secretary and I now wish to update the House on the work of the taskforce.

In its short existence, the taskforce has added greatly to the UK's understanding of the evermore complex and contrived structures that are being developed to mask offshore tax evasion and economic crime. This intelligence will ensure that the UK remains uniquely placed to contribute to the international effort to uncover, and take action, on wrongdoing, regardless of how deeply hidden the arrangements are, as well as identify those jurisdictions where regulatory oversight requires improvement.

We can today report that the taskforce has:

- opened civil and criminal investigations into 22 individuals for suspected tax evasion
- led the international acquisition of high-quality, significant and credible data on offshore activity in Panama—ensuring the important work of the taskforce was not delayed by the ICIJ's refusal to release all of the information that it holds to any tax authority or law enforcement agency
- identified a number of leads relevant to a major insider-trading operation led by the Financial Conduct Authority and supported by the National Crime Agency
- identified nine potential professional enablers of economic crime—all of whom have links with known criminals
- placed 43 high net worth individuals under special review while their links to Panama are further investigated
- identified two new UK properties and a number of companies relevant to a National Crime Agency financial sanctions enquiry
- established links to eight active Serious Fraud Office investigations
- identified 26 offshore companies whose beneficial ownership of UK property was previously concealed, and whose financial activity has been identified to the National Crime Agency as potentially suspicious
- contacted 64 firms to determine their links with Mossack Fonseca to establish potential further avenues for investigation by the taskforce
- seen individuals coming forward to settle their affairs in advance of taskforce partners taking action.

The taskforce's respective partners will engage the relevant prosecuting authorities to bring any identified wrongdoing before the courts.

²⁹ HC Deb 13 April 2016 c374. See also, [P Q33514, 18 April 2016](#)

The Government have also invested to develop their expertise in data and intelligence exploitation. This has ensured that Departments and agencies are well placed to forensically analyse massive-scale data of this kind, which are becoming ever-more frequently available.

The taskforce has established a Joint Financial Analysis Centre (JFAC). Using the data and intelligence gathered from across the taskforce, the JFAC has developed cutting-edge software tools and techniques, ensuring the taskforce has access to the very best information from which to work.

The proactive acquisition of data, alongside the establishment of the JFAC, has enabled the taskforce to identify a number of areas for further investigation across the full range of tax and economic crime, as well as links to organised crime, which will be the focus of its work over the coming months.

Taskforce members are present in Panama, using established relationships with the Panamanian authorities, and working with diplomatic colleagues, to offer support to analyse all the available data. Taskforce members have also worked with international partners as part of the Joint International Tax Shelter Information Centre to exchange information and intelligence as part of the wider international effort.

More generally, the Government have introduced tough new powers, increased penalties and game-changing measures to tackle offshore and onshore tax evasion. In the summer 2015 Budget, the Government gave HMRC an additional £800 million to invest in compliance and tax evasion work. This is expected to recover £7.2 billion in tax by the end of 2020-21. This includes tripling the number of criminal investigations that it undertakes into serious and complex tax crime, focusing particularly on wealthy individuals and companies. The aim is to increase prosecutions in this area to 100 a year, by the end of this Parliament.

The Government have also been pivotal in increasing global financial transparency in more than 100 countries, including British overseas territories and crown dependencies, by automatically sharing offshore account data. This additional data will help identify and pursue the tiny minority of tax evaders still hiding their money offshore.

The Government aim to make the UK a more hostile place for those seeking to move, hide or use the proceeds of crime or corruption. In October 2015, the Government published the national risk assessment for money laundering and terrorist financing to better understand the risks and vulnerabilities for the UK. The action plan, published in April 2016, and the Criminal Finances Bill, introduced to Parliament in September, will significantly improve our capabilities to tackle money laundering and recover the proceeds of crime, including proceeds of corruption.

The London anti-corruption summit earlier this year brought more than 40 countries together and resulted in a commitment to more than 600 actions. Since then, the UK has made real progress on its own commitments —our public register of beneficial ownership information is now live, the first G20 country to do so; and the National Crime Agency is working to get the new international anti-corruption co-ordination centre operational by next April.

These details were also set out in a press notice [published at the time](#).

The Government provided an update in answer to a PQ last month:

Asked by Kelvin Hopkins : To ask Mr Chancellor of the Exchequer, what progress his Department has made in its inquiry into the Panama Papers.

Answered by: Mel Stride : Since the last update to Parliament in November 2016, HMRC has tripled the number of criminal and civil investigations linked to the Panama papers.

To date, the work of the Panama Papers Taskforce has led to civil and criminal investigations into 66 individuals for suspected tax evasion, including high net worth individuals. As part of this HMRC has made four arrests; and carried out six interviews under caution.

Taskforce partners have made three arrests in relation to an organised crime group suspected of a £125m conspiracy to defraud pension investors, tax evasion and associated money laundering. They have also identified leads relevant to a major insider trading operation, in relation to which a number of individuals have been arrested and are on bail pending further activity.

UK law enforcement continues to interrogate and exploit Panama Papers related data, identifying previously unknown individuals, companies and properties, making links between them and providing intelligence and investigative opportunities.

The systems used to launder money and evade tax through offshore structures are complex and highly sophisticated. The Joint Financial Analysis Centre and HMRC's expert analysts are using leading-edge technology to unpick these structures and trace them back to individuals. This work is painstaking and forensic and there are no easy shortcuts.

HMRC is not a prosecuting authority. Its focus is on building the strongest possible cases in order to secure convictions, and it expects to refer cases to the prosecuting authorities from autumn 2017 onwards.³⁰

There have been some developments in the two other areas mentioned by Mr Cameron in his statement: beneficial ownership, and the new corporate offence.

3.1 Beneficial ownership

What is beneficial ownership?

Beneficial ownership tells us who really owns and benefits from an asset (for example, a property or a company). The reason we talk about beneficial ownership is that the direct legal owner of an asset is not necessarily the person ultimately controlling and benefitting from that asset. For instance, the direct legal owner of a property may be a shell company that doesn't itself use the property in any way.³¹

What is a register of beneficial ownership?

When an entity (e.g.: a trust, a company) records who its beneficial owner(s) is (are), it creates a register of beneficial ownership. If this information is then centrally collated by a regulator or an official registrar, for example, then we have a *central* register of beneficial ownership.

Tackling tax evasion with registers of beneficial ownership: the exchange of information

The role of registers in tackling tax evasion consists in preventing people from hiding assets and income on which they owe tax. If HMRC suspects that person X is hiding the income they earn on investments held offshore in some anonymous trust, HMRC can ask the offshore jurisdiction whether the beneficial owner of the anonymous trust is indeed X. That information will be found in the central beneficial ownership register of the offshore jurisdiction.

Which countries collect and exchange information about beneficial ownership?

The UK Government introduced provisions to establish a register of beneficial ownership for companies as part of the [Small Business, Enterprise & Employment Act 2015](#). In April 2014 the Prime Minister had [written to the Crown dependencies and British overseas territories to encourage them](#) to follow the UK's example.

³⁰ [PQ105360, 12 October 2017](#)

³¹ Last year the *Guardian* reported last year on the amount of London property owned by offshore firms: "[Revealed: 9% rise in London properties owned by offshore firms](#)", 26 May 2017.

Subsequently, just before the London Anti-Corruption Summit in May, the Government announced that the UK had completed a series of bilateral agreements with the Crown Dependencies and Overseas Territories on sharing beneficial ownership information.³²

At present, a group of [53 countries support the initiative](#) to systematically share information on beneficial ownership, including [UK Overseas Territories and Crown Dependencies](#) – commonly considered to be tax havens.

All EU member states are setting up central registers of beneficial ownership, as a result of the [Fourth Anti-Money Laundering Directive](#), which entered in force in June 2017.

Who gets access to the registers?

The UK's register for companies (companies registered at Companies House) is accessible to anyone: it is a public register. By contrast, registers produced by the Overseas Territories and Crown Dependencies have so far chosen to restrict access to law enforcement authorities only in order to protect confidentiality and privacy.

[Proposed amendments to the EU's Fourth Anti-Money Laundering Directive](#) might result in registers being publically available in all EU member states.

Registers of beneficial ownership in the UK

For companies

The UK Government introduced provisions to establish a register of beneficial ownership as part of the [Small Business, Enterprise & Employment Act 2015](#). The register [launched](#) in 2016 and is known as the 'People with Significant Control (PSC) register'. Global Witness [said](#) this was the world's first publically available register of the beneficial ownership of companies.

To find out who has significant control over a company (the beneficial owner), one can search the company on the Companies House website, and click on the 'people' tab. For example, the company that used to own BHS, [TAVETA INVESTMENTS LIMITED](#), has one person with significant control: Lady Cristina Stuart Green (the wife of Philip Green). Alternatively [the entire PSC register](#) can be downloaded.

Before the PSC register existed, searches for similar information could only be done by looking at a company's [Annual return with full list of shareholders](#). These shareholders could, indeed often are, other companies, thus hiding the identity of the person in control. For example, the racing driver 'Lewis Carl Davidson Hamilton' appears on the PSC for [PROJECT FORTY FOUR LIMITED](#), however, the Annual Return for the same company only lists one shareholder – the company Inday Rose Ltd, registered in the British Virgin Islands.

However, the PSC register does not seem to be perfect yet. There seems to be a significant number of companies where no PSC is recorded. This could be due to a number of reasons:

- The register being relatively new?
- A potential lack of scrutiny and investigation? Companies House is only a *registrar* – it doesn't verify the accuracy of what it receives. There appears to be no mechanism investigating cases of non-compliance, or cases where it is claimed that it has not been possible to identify a PSC.

³² For more background on the events that led up to the summit see, [Shining a light on beneficial ownership: what's happening in the UK and elsewhere?](#), Commons Briefing paper CBP7616, 17 June 2016.

- Or is the missing PSC information mostly related to those companies whose ownership and control are genuinely spread, and so don't have a person with significant control?

For properties

The situation for properties is the same as it was for companies. The [Land Registry](#) shows the direct legal owner of properties, but not the beneficial owner (when the two differ). Thanks to the Companies House PSC register, when the legal owner of a property is a UK company, we can find out who the beneficial owner of the property is by searching the UK company in question on the PSC register. But when a property is owned by a *foreign* company, then that second step is not available.

The Government is [planning](#) to introduce a beneficial ownership register for UK properties owned by overseas companies and legal entities. The then Prime Minister, David Cameron, warned foreign companies in his 2016 [anti-corruption summit opening speech](#) that they will be required to disclose the beneficial ownership of around 100,000 properties in England and Wales. In April 2017, the [Government consulted](#) on the design of a beneficial ownership register for UK properties owned by overseas companies and legal entities. In the consultation foreword, the Government said that this register would be the first of its kind in the world:

The UK is a world leader in corporate transparency. In 2016 we became the first country in the G20 to introduce a register of company ownership, allowing the public to access a central record of information about who really owns and controls UK companies.

At the International Anti-Corruption Summit held in London in May 2016, we committed to go further, by creating a new register showing the beneficial owners of overseas companies that own or want to buy property in the UK, and of overseas companies involved in central government contracts. [...]

The UK property market should be seen as fair, transparent and clean in order to attract the right investors and owners. [...] This register will be the first of its kind in the world.

The Government is currently analysing responses to the consultation.

For trusts

As a requirement of the EU's [Fourth Anti-Money Laundering Directive](#), the UK has also introduced a *non-public* register of beneficial ownership for trusts (July 2017). With the [Trusts Registration Service](#), trustees can register their trust online and provide information on the beneficial owners of the trust. The information is only available to law enforcement bodies and the UK Financial Intelligence Unit

3.2 The new corporate offence

The Government introduced legislation, as part of the *Criminal Finances Act 2017*, to establish a new statutory offence to hold corporations and partnerships criminally liable when they fail to prevent their employees, agents, or others who provide services on their behalf from criminally facilitating tax evasion. These new offences took effect from 30 September this year;³³ further details are in two Library papers, the first prepared for the Second Reading of the Criminal Finances Bill in October 2016 ([CBP7739](#)), the second summarising the Committee stage of the Bill ([CBP7825](#)).

³³ [HMRC press notice, 30 September 2017](#)

Treasury Minister Mel Stride mentioned these developments in his response on 6 November to the Urgent Question tabled by the Shadow Chancellor, John McDonnell, regarding the new set of disclosures [published by the ICIJ](#), the so-called 'Paradise Papers':

The Government believe in a fair tax system where everyone plays by the rules. It is this Government who have taken decisive action to tackle tax avoidance and evasion and to improve the standards of international tax transparency. The UK has secured an additional £160 billion in compliance revenue since 2010—far more than was achieved under the last Labour Government. Under this Government, the UK now has one of the lowest tax gaps in the world. We have provided Her Majesty's Revenue and Customs with tough new powers. In 2015, HMRC received £800 million in additional funding to go on tackling tax avoidance and evasion.

Let me turn to recent events. Yesterday evening, several international news organisations, led by the International Consortium of Investigative Journalists, reported on an information leak regarding the financial affairs of a large number of individuals. I should remind the House at this stage that Ministers do not intervene in the tax affairs of individuals or businesses, as to do so would be a breach of taxpayer confidentiality. However, I can inform the House that, on 25 October, HMRC requested that the ICIJ, *The Guardian* and the BBC share the leaked data so that this information can be compared with the vast amounts of data that HMRC already holds due to the initiatives this Government have undertaken. They have yet to respond to this request.

Nevertheless, since these data were retrieved in 2016, the Government have implemented international agreements that have changed the game for those seeking to avoid and evade their taxes. HMRC is already benefiting from the automatic exchange of financial account information through the common reporting standard—an initiative in which the UK has led the world, with over 100 jurisdictions signed up. The Crown dependencies and overseas territories are among those signed up to this initiative, and have been exchanging information with HMRC for over a year. The Crown dependencies and overseas territories have also committed to holding central registers of beneficial ownership information, which the UK authorities are able to access.

It is important to note, and I quote the ICIJ's disclaimer here:

"There are legitimate uses for offshore companies and trusts"

and the ICIJ does

"not intend to suggest or imply that any people, companies or other entities included in the ICIJ Offshore Leaks Database have broken the law or otherwise acted improperly."

So, notwithstanding the generalised aspersions made by the Opposition, the use of offshore accounts or trusts does not automatically mean dishonesty. But this House should be assured that, under this Government, HMRC will continue to bear down with vigour on any tax avoidance or evasion activity, wherever it may be found.³⁴

About the Library

The House of Commons Library research service provides MPs and their staff with the impartial briefing and evidence base they need to do their work in scrutinising Government, proposing legislation, and supporting constituents.

As well as providing MPs with a confidential service we publish open briefing papers, which are available on the Parliament website.

Every effort is made to ensure that the information contained in these publically available research briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

If you have any comments on our briefings please email papers@parliament.uk. Authors are available to discuss the content of this briefing only with Members and their staff.

If you have any general questions about the work of the House of Commons you can email hcinfo@parliament.uk.

Disclaimer

This information is provided to Members of Parliament in support of their parliamentary duties. It is a general briefing only and should not be relied on as a substitute for specific advice. The House of Commons or the author(s) shall not be liable for any errors or omissions, or for any loss or damage of any kind arising from its use, and may remove, vary or amend any information at any time without prior notice.

The House of Commons accepts no responsibility for any references or links to, or the content of, information maintained by third parties. This information is provided subject to the [conditions of the Open Parliament Licence](#).