

OTS evaluation: Update on its 'Guidance for taxpayers' review

Contents

Chapter 1	Introduction	2
Chapter 2	Actions to date and ongoing work	6
Annex A	The 2018 Guidance report recommendations	14

Chapter 1

Introduction

- 1.1 The Office of Tax Simplification (OTS) is the independent adviser to government on simplifying the UK tax system. The work of the OTS is rooted in improving the experience of all who interact with tax. The OTS aims to improve the administrative process – which is what people encounter in practice – as well as simplifying the rules. They are often of equal importance to taxpayers and HM Revenue and Customs (HMRC).
- 1.2 This paper provides an evaluation update on the OTS’s October 2018 report on *Guidance for taxpayers: a vision for the future*¹.
- 1.3 This is the third such evaluation update that the OTS has published, following on from those published in October 2019² on its work on VAT and in July 2020³ on its work on corporation tax, personal services companies and self-employed people’s taxation.
- 1.4 In summary, the OTS considers that considerable progress has been made following the publication of the OTS’s Guidance report in October 2018, and trusts this will continue.
- 1.5 In particular HMRC:
- have committed significant resource to the Guidance Team
 - have made clear progress in implementing the new guidance model envisaged in the OTS’s Guidance report
 - are making extensive use of external feedback to improve guidance
 - are consulting with a Guidance Strategy Forum which has a wide membership
 - should consider committing additional resources to its guidance work

The Guidance review and its recommendations

Overview

- 1.6 The OTS’s Guidance review involved extensive discussions with HMRC and a wide variety of taxpayers and their advisers, many of whom act for individuals and small businesses, and members of the legal and academic community.

¹ <https://www.gov.uk/government/publications/guidance-for-taxpayers>

² <https://www.gov.uk/government/publications/ots-publishes-an-evaluation-update-on-its-vat-report>

³ <https://www.gov.uk/government/publications/ots-evaluation-and-stock-take-note>

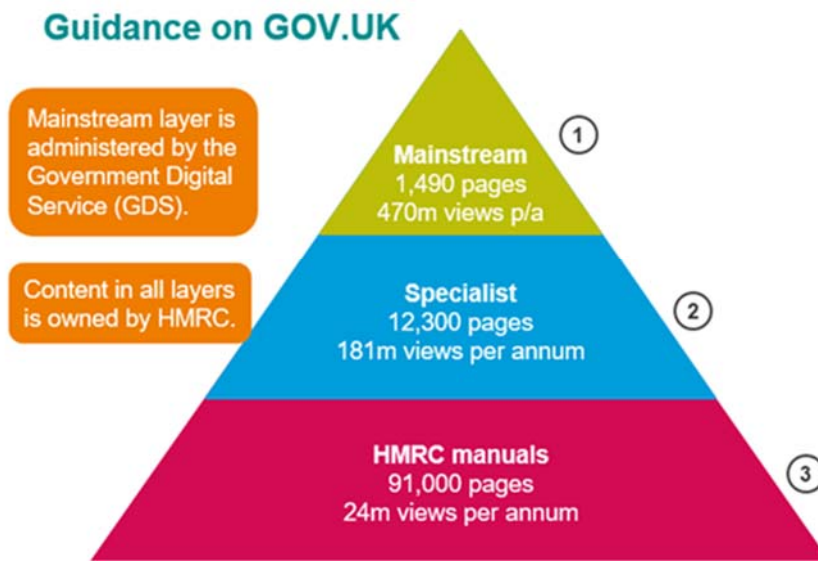
- 1.7 For the great majority of individuals and businesses, HMRC guidance is the main way that taxpayers find out about and navigate the tax system. So, good guidance is pivotal in simplifying the experience of the tax system for millions of taxpayers.
- 1.8 The review provided a strategic vision for the future of guidance for taxpayers while considering the challenge HMRC faces of serving a large and varied audience with many different and conflicting needs.
- 1.9 The review focused on the purpose of guidance and the ways it might be best delivered in the future, considering changes in the technology available (or expected to become available shortly), as opposed to the existing guidance formats which are still essentially derived from a paper-based system.
- 1.10 The gradual, relatively unstructured, evolution of longstanding guidance has led to a situation in which both HMRC internal and external users have often had difficulty finding what they need quickly, due to challenges in navigating through the guidance. In addition, it is often unclear who guidance on a particular page is aimed at and the extent to which it can be relied on.

Recommendations

New guidance model

- 1.11 The OTS recommendations (see Annex A), worked on the basis that a new model for guidance was needed, in which guidance would in future start from the perspective of taxpayers and their advisers.
- 1.12 Specifically, the OTS recommended there should be three levels of guidance, which should be clearly identifiable within the suite of guidance available on GOV.UK:
- first, mainstream guidance aimed at most taxpayers
 - a second level, going deeper, aimed at more sophisticated taxpayers and businesses
 - thirdly, detailed tax manuals for internal HMRC use and by specialist tax advisers
- 1.13 These three levels of guidance are shown in Chart 1.A, together with the number of views received annually:

Chart 1.A: The three levels of guidance on GOV.UK



Source: HMRC

- 1.14 The information in this Chart comes from a new HMRC Guidance dashboard, which draws its data directly from GOV.UK. This data is not directly comparable with the product-based approach used in arriving at the (lower) figures provided in the OTS's October 2018 report.
- 1.15 In relation to mainstream content, the Government Digital Service is responsible for the actual words and users' experience, with HMRC having responsibility for its factual accuracy. This appears to be generally managed collaboratively, which is important given the inherent tension between ensuring that guidance is easy to understand by users whilst being technically accurate.
- 1.16 Within HMRC, this work falls within the Digital and Information function (known as CDIO) separate from the Guidance Team. The CDIO specialist content designers ensure that HMRC standards relating to user needs, service standards and related policy issues are complied with in all HMRC guidance, consulting with HMRC's policy, technical and operational specialists.
- 1.17 Specialist material is written by the specialist web-content authors in CDIO, collaborating with HMRC's subject specialists. HMRC's manuals are written directly by the specialists responsible for the legislation.

New leadership

- 1.18 A key recommendation was the appointment of a new senior Strategic Head of Guidance who would focus on implementing these changes, and that HMRC create an external Guidance Strategy Forum to discuss high-level issues about HMRC guidance.

Supporting recommendations

- 1.19 The review also made administrative recommendations, such as

- that HMRC discuss and agree protocols with professional and industry bodies willing to contribute to guidance
- ensuring that examples used are the most appropriate for the areas in which taxpayers consider improved guidance could be more helpful
- amending manuals swiftly when there have been changes to the law or the results of a significant tax case become known
- ensuring there is a current HMRC contact for relevant policy areas

1.20 The review also recommended that HMRC should consult about the circumstances in which a taxpayer should be able to rely on published guidance. This should include considering the extent to which a taxpayer can be subject to interest, penalties, and the tax in dispute where the guidance is subsequently changed or found to be incorrect.

1.21 Similarly, it was recommended that HMRC should be more explicit when its guidance is knowingly giving a statement of opinion rather than something which it considers to be generally accepted.

Chapter 2

Actions to date and ongoing work

Leadership and external engagement

- 2.1 Following the publication of the review, it was agreed that HMRC's Guidance Team within its Tax Administration Directorate would take strategic oversight of all externally focused guidance and the existing HMRC internally focused tax manuals. This team is led by a Deputy Director, Kevin Newton, who is the first person to be appointed to this role.
- 2.2 The OTS welcomes this and has held regular discussions with the Guidance Team about their work to transform HMRC guidance. HMRC has been open about the challenges it faces, including in relation to resourcing guidance. Their work has primarily focused on the new model envisaged by the OTS consisting of three levels of guidance which has at its heart the needs and wants of taxpayers rather than those of HMRC officers.
- 2.3 The OTS considers that there has been a more collaborative approach to administering and developing guidance within HMRC since this team was formed.
- 2.4 HMRC has also created an external Guidance Strategy Forum to discuss high-level issues about HMRC guidance, with OTS involvement, which has now held two meetings.
- 2.5 There appears to be a good level of engagement between HMRC and the members of the Guidance Strategy Forum, who primarily come from professional bodies and academia, some of whom have been suggested to HMRC by the OTS.
- 2.6 While still in its infancy, the OTS hopes that the role of this body is expanded to incorporate a cross section of views relating to guidance specifically by involving more trade bodies which are well placed to provide detailed sector knowledge and comment on the examples provided in the different levels of guidance to reflect current industry practice.
- 2.7 HMRC published on 4 February 2021 an evaluation of how HMRC powers, taxpayer obligations and safeguards introduced since 2012 have been implemented. This contained two particular commitments relating to Guidance:¹

¹ See paragraphs 5.14 to 5.21

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/958474/Evaluation_of_HMRC_s_implementation_of_powers_obligations_and_safeguards_introduced_since_2012.pdf

Commitment 5: HMRC will continue to improve users' experience of guidance, including by providing decision-based guidance to help people find the answers they need; and by publishing guidance in alternative formats, including online videos.

Commitment 6: In order to make guidance as useful as possible, HMRC will work with its new Guidance Forum: to inform strategic priorities for guidance, including further opportunities to use interactive guidance; to consolidate collaboration with experts on guidance; and to explore opportunities to strengthen awareness of the guidance feedback process.

2.8 In addition, the document stated that HMRC are carrying out a consultation on the circumstances in which a taxpayer can rely on published guidance and the extent to which a taxpayer will be subject to interest, penalties and the tax in dispute where guidance is found to be unclear or incorrect, in response to the OTS's recommendation about this in the Guidance report.²

Actions on changing guidance to date

2.9 In March 2019, HMRC introduced a new continuous improvement process with a particular focus on its over 290 tax manuals, under which internal and external users are encouraged to provide feedback on the content of the manuals.

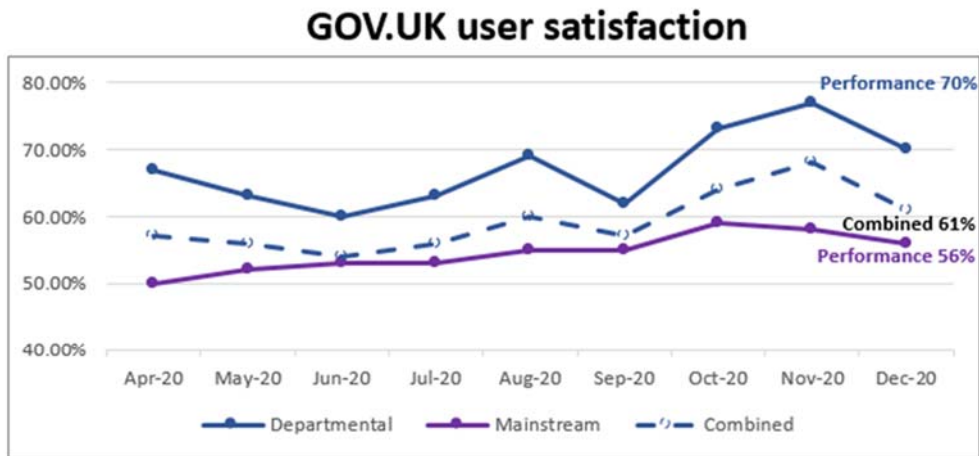
2.10 Internal HMRC data provided to the OTS shows that over 2041 items of feedback have already been received (827 external/1214 internal). This has resulted in over 1,180 changes being made to the manuals which has led to the user satisfaction rating doubling since the changes were made. In addition to these new feedback channels, the team has developed and rolled out a new support package to the manual owners to help ensure that common standards are consistently applied to guidance writing and any relevant updating.

2.11 Another advantage of the changes to the guidance model is that HMRC was able to develop dashboards which have a high level of functionality. For example, the guidance owners, authors and designers now have access to such information such as usage and satisfaction data on individual pages on GOV.UK and in the tax manuals. This helps in identifying and prioritising areas to be targeted for improvement.

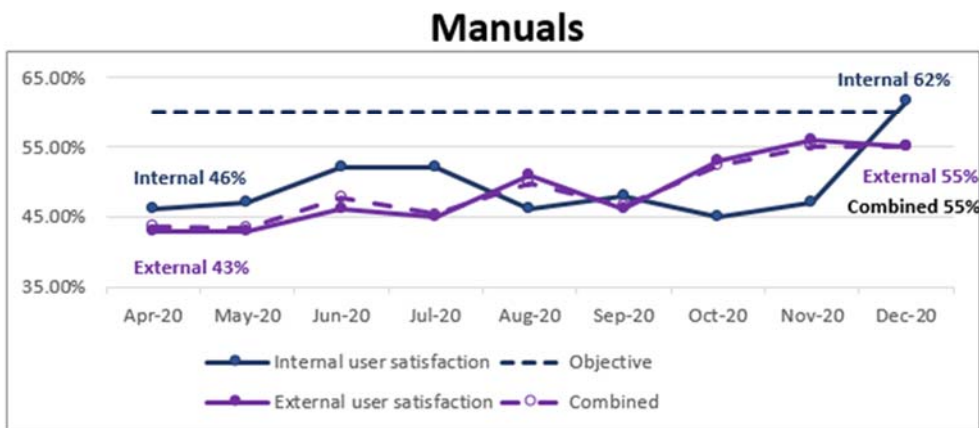
2.12 This user satisfaction data is monitored by HMRC. This is a percentage calculated from users clicking the "Is this useful?" button on the bottom of each GOV.UK page is shown in Chart 2.A:

² Paragraph 5.15

Chart 2.A: User satisfaction data about different sources of Guidance



Departmental – Guidance delivered by HMRC **Mainstream** – Guidance delivered by GDS.



Source: HMRC

2.13 The Guidance Team and CDIO are working together on projects including a series of workshops in which subject matter experts work closely with their Government Digital Service colleagues on issues such as PAYE forms, Tax codes and signing in/registering for HMRC online services.

2.14 As part of an ongoing dialogue with HMRC, the OTS was invited to attend the HMRC Customer Lab in Canary Wharf. This team consists of tax specialists and behavioural scientists who undertake research with specially selected taxpayers. This research focuses on how easy the guidance is to understand, and various proposed changes are commented on by the attendees. The team also undertakes research using members of the public to gather information on their interaction with the tax system.

A continuing progress

2.15 These changes are clearly part of a continuing process or journey and so the OTS continues to highlight in its reports areas where work needs to be done in order to improve the taxpayer experience further.

- 2.16 In its October 2020 report on Claims and Elections³ the OTS highlighted in Chapters 3 and 4 several specific areas where the guidance was unclear.
- 2.17 In particular, it can be difficult, both for taxpayers and their agents, to find out how to make a valid claim and election especially if it is the first time they have made a particular claim or election or they do so infrequently. This often arises where there is no template, specific form or box on a return to show how the claim or election should be made or whether these should or can be included in a taxpayer's Personal Tax Account.
- 2.18 In its October 2019 report on Taxation and Life Events,⁴ the OTS recommended that HMRC work with the Government Digital Service to improve the visibility of guidance for non-commercial employers and maintain the Basic PAYE Tools to meet their needs. Additionally, the OTS recommended that HMRC should improve the explanatory notes provided with tax coding notices issued when people first receive the state pension, or another pension.
- 2.19 In the same report, the OTS recommended that HMRC should improve its various sources of guidance for those helping others, including agents and those with Powers of Attorney, to help make it easier for people (whether paid or not) to take on such roles. Currently, for example, it remains the case that there is no public-facing guidance on how to log a Power of Attorney with HMRC or how things will operate once one has.

The impact of Brexit and Covid-19

- 2.20 These two events, which of course came after the OTS report was published, have had a huge impact on HMRC's provision of internal and external guidance.

Brexit

- 2.21 Brexit has required HMRC to issue guidance on new ways of complying with specific tax obligations such as VAT import accounting which impacts on all types of businesses bringing goods into the UK.
- 2.22 The OTS has learnt that HMRC has addressed these changes in a way which both embraces the new model for guidance using the three-level approach and focusing on the actual needs and wants of taxpayers. This has led to a more collaborative approach being evident both internally within HMRC and externally.
- 2.23 HMRC recognised that whether or not there was a deal or a non-negotiated outcome, there would be a significant increase in the level of demand from businesses for guidance about Customs declarations. This became a focus for HMRC and involved reviewing over 170 pages of existing Customs guidance between April and July 2020.
- 2.24 Specific examples of these Customs changes are:

³ <https://www.gov.uk/government/publications/ots-claims-and-elections-review>

⁴ <https://www.gov.uk/government/publications/ots-life-events-review-simplifying-tax-for-individuals>

- the guidance around Notice 3001 (customs special procedures)⁵ - this took a single notice that originally contained almost 83k words and broke it into 19 separate products with clear journeys or pathways reducing the overall wordcount by 66%
- the guidance on customs declarations⁶

2.25 The OTS recognises that these tax obligations have become significantly more complex and difficult for businesses to navigate, not least due to the very late conclusion of the UK-EU agreement. However, on balance, we consider that the adoption of the new approach to guidance has been of benefit in this undoubtedly problematic area.

Covid-19

2.26 The government response to the Coronavirus pandemic involved the introduction of various support packages for taxpayers, involving over 60 new pages of guidance and 250 amended pages.

2.27 As with Brexit, the new guidance model and taxpayer focus were again used in the development of the guidance which accompanied the rollout of the new support measures within a very limited timeframe.

2.28 For example, in relation to the Coronavirus Job Retention Scheme it involved the creation within a three-week timeframe, of all the internal and external guidance together with calculators and virtual assistants ahead of the launch of the scheme the following week. By 4 pm on the day of launch, over 140,000 employers had applied for grants to enable them to pay more than one million people.

2.29 The Covid-19 guidance was updated frequently in response to feedback from users, an expert panel and when the schemes themselves changed and, in response to an identified user need, HMRC designed a solution to support versions of the guidance for overlapping phases of the schemes.

Technology and guidance channels

2.30 These two events have coincided with HMRC being able to apply new Ocelot software to externally facing guidance and to internal tax manual users. The Ocelot functionality, which is software which HMRC developed internally, enables the rapid production of interactive guidance. It allows users, for example HMRC employees manning helplines, to flag up issues within guidance which can then be passed to specialists for them to take the appropriate action. The success of this software has led to its being rolled out internally to the Valuation Office Agency and the Border Force.

2.31 Having seen the benefits of using this software internally within HMRC the Guidance Team developed the software to deliver interactive guidance through GOV.UK. and since Autumn 2020 the software is considered where

⁵ <https://www.gov.uk/government/collections/pay-less-or-no-duty-on-goods-you-store-repair-process-or-temporarily-use>

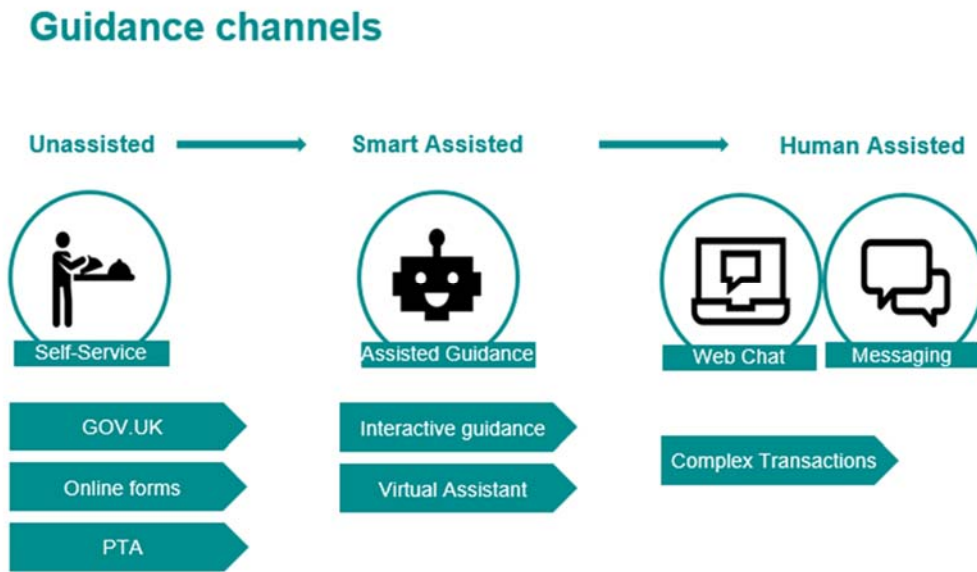
⁶ <https://www.gov.uk/guidance/customs-declarations-for-goods-brought-into-the-eu>

a user need for interactive guidance is identified on GOV.UK. The Guidance team monitor feedback from this interactive guidance on GOV.UK daily.

- 2.32 In relation to the recommendation that HMRC make more use of interactive guidance, the OTS notes that in Spring Budget 2020, it was announced that HMRC would launch new interactive guidance aimed at helping self-employed taxpayers navigate the tax system.
- 2.33 An example of new interactive guidance is to help taxpayers to check if they need to notify HMRC about additional income.⁷ This interactive guidance helps taxpayers with non-PAYE income to understand if they need to register for self-assessment. The data provided by HMRC suggests that customer satisfaction following these changes has increased to 82.7% with over 40% of users reviewing the related self-assessment guidance.
- 2.34 Another example relates to businesses which have specific Customs authorisations and declaration obligations. Early indications on a small sample of feedback shows high levels of customer satisfaction.
- 2.35 HMRC has recently re-allocated funding so that a new dedicated team can be established imminently to produce more interactive guidance for taxpayers. HMRC has plans to launch in the near future interactive tools relating to inheritance tax and residence. Future areas being considered for interactive guidance relate to penalties, rules of origin and support for medium sized businesses.
- 2.36 At present, the interactive guidance team consists of only the equivalent of 6 full time people which seems a rather low level of resources, given the significance of guidance to HMRC in engaging with and supporting taxpayers. If more resources were committed in this area it is reasonable to anticipate that the benefits would exceed the increased costs involved.
- 2.37 HMRC's guidance for taxpayers (or their advisers) comes through a number of channels, shown in Chart 2.B.
- 2.38 The first channel operates on the basis that most needs can be met a self-service (unassisted) basis using GOV.UK, online forms or via a taxpayer's personal tax account. If this is insufficient, the next (smart-assisted) stage is, for example, to use the interactive guidance described above. The final (human-assisted) stage for more complicated situations where human intervention is needed, by way of Web Chat, messaging or speaking with an adviser.

⁷ <https://www.gov.uk/check-additional-income-tax>

Chart 2.B: HMRC Guidance channels



Source: HMRC

2.39 The virtual (or digital) assistant is an automated chat bot which uses natural language to identify customers' intent. Through the use of natural language understanding it can provide static answers, help to complete a transaction, richer media content (such as videos), or connect through to a human adviser.

Summary: Looking to the future

2.40 The OTS considers that considerable progress has been made following the publication of the OTS's Guidance report in October 2018, and trusts this will continue.

2.41 In particular HMRC:

- have committed significant resource to the Guidance Team
- have made clear progress in implementing the new guidance model envisaged in the OTS's Guidance report
- are making extensive use of external feedback to improve guidance
- are consulting with a Guidance Strategy Forum which has a wide membership
- should consider committing additional resources to its guidance work

2.42 The OTS welcomes HMRC's work to consult stakeholders, through the Forum (see paragraph 2.4), about the circumstances in which a taxpayer can rely on published guidance and the extent to which a taxpayer will be subject to interest, penalties and the tax in dispute where guidance is subsequently changed or found to be incorrect.

2.43 The OTS also recommended that HMRC should make its guidance clearer about when it is consciously giving a statement of HMRC's opinion rather than something it considers to be generally accepted. HMRC have confirmed

to the OTS that they will be considering this as part of this consultation about when taxpayers can rely on guidance.

- 2.44 The OTS welcomes the strong commitments on guidance made by HMRC in its February 2021 evaluation of the implementation of HMRC powers, taxpayer obligations and safeguards introduced since 2012 (see paragraph 2.7).
- 2.45 In that context the OTS trusts that HMRC will continue to progress and sustain its work on improving guidance, which will necessarily be a continuing process, including addressing relevant points identified in OTS reports (see paragraphs 2.15-2.19) and through the extensive feedback HMRC receives directly from taxpayers and their advisors.
- 2.46 Looking further ahead, the government published a document on 21 July 2020 setting out a vision for the future of tax administration in the UK, to improve its resilience, effectiveness and support for taxpayers.⁸ A fundamental part of this vision is that there will be a single digital account for all taxpayers which is easily accessible and secure.
- 2.47 The document said that this account will bring together data from across different taxes and data sources in order to provide personalised services for taxpayers (and their agents or representatives). The intention is that this will help HMRC learn about what taxpayers need and want so that better services can be built, and more targeted guidance can be provided.
- 2.48 The OTS strongly supports this work and looks forward to having a wider and continuing dialogue with HMRC as work progresses in relation to this ten-year plan generally. This commitment can be seen in the OTS's current work on Making tax easier through smarter use of third-party data.⁹

⁸ <https://www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system>

⁹ <https://www.gov.uk/government/consultations/making-tax-easier-through-smarter-use-of-third-party-data>

Annex A

The 2018 Guidance report recommendations

- 1 A New Model for guidance should be adopted, building upon the current innovative programme that uses the new ways of delivery ('decision-based guidance' and the voice-based 'Ask Ruth' service) that modern technology is making available, moving the emphasis to the taxpayer's needs, away from the needs of HMRC officers.
- 2 HMRC should have a Strategic Head of Guidance, with remodelling guidance as a key departmental priority in HMRC's operating plan. That person should have operational oversight over the specialist content designers in HMRC to further strengthen the collaboration that already exists between them and policy specialists.
- 3 HMRC should form an 'advice and guidance panel' to advise and support HMRC in this endeavour, on the proposed interpretation of the law and other issues that emerge in the development of public advice and guidance. The panel could consist of senior HMRC officers, respected tax specialists and academics.
- 4 HMRC should set a strategy of clearly identifying three levels of guidance so that users can immediately see the level of complexity of the material they are about to read. The levels should be broadly defined by HMRC, who should agree with GDS clear working principles as to which level is applied to which guidance. A closer collaboration between HMRC and GDS can then be developed which is visible and understood by HMRC guidance users and all the guidance-writing community.
- 5 More work should be done on using technology to direct people to enter the guidance at a point appropriate to their needs and level of understanding of tax, to improve and create links between specific sections in different HMRC manuals and indeed other HMRC guidance, including video material. Presenting search results in a manual in a manner that still enables the user to see the full index would help reduce errors from taking material out of context.
- 6 HMRC and the GDS should produce a clearer statement of their respective responsibilities, to help HMRC officers, tax advisers and taxpayers understand where simplified guidance is used and where more complete and authoritative guidance should be available. GDS-managed guidance should have more links to HMRC's more comprehensive guidance.
- 7 The GDS team should reassess its approach to publishing HMRC technical manuals, given the very important role they play in helping HMRC, taxpayers and tax advisers.

- 8 Sections in manuals should be annotated swiftly to record that changes will be needed to reflect amended law, or the results of a tax case. This would alert users whilst policy specialists considered what changes were needed.
- 9 HMRC should introduce more feedback links into the technical manuals. These should be accompanied by dating each page (or paragraph number) and ensuring that HMRC contacts for each manual are kept up to date. Technology should be used to improve links between specific parts of manuals and HMRC's other guidance material.
- 10 HMRC should discuss and agree protocols with industry and representative bodies where these bodies are supportive of contributing to guidance. There are several existing models which could be drawn upon.
- 11 HMRC should undertake a consultation on the circumstances in which a taxpayer can rely on published guidance and the extent to which a taxpayer will be subject to interest, penalties and the tax in dispute where guidance is found to be incorrect.
- 12 HMRC should be clearer when its guidance is knowingly giving a statement of HMRC's opinion rather than something it considers to be generally accepted.