

## OTS Recommendations: Evaluation and Forward Look

### Introduction

This short report draws together the work of the OTS over the years since its formation in 2010 and reflects on the lessons learned. A separate appendix presents those recommendations where further action is appropriate and, in some cases, ongoing.

In the first 5 years of its life, the OTS carried out 10 major projects, produced over 30 reports and papers and made a total of 402 recommendations. We periodically reviewed progress on implementation of our recommendations and last summarised the state of play in March 2015.<sup>1</sup>

Now that the OTS being put on a statutory footing in Finance Act 2016, and with the passage of time, it seems appropriate to carry out a further review of these recommendations.

This review had a number of purposes:

1. Drawing out any further lessons on the effectiveness of the OTS recommendations, identifying attributes that led to successfully accepted and implemented recommendations.
2. Drawing a line under recommendations by establishing that they have either been sufficiently implemented; or that they have been overtaken by other changes to the tax system; or that the business environment has changed rendering them otiose.
3. Highlighting recommendations that still needed action - where ongoing consideration has not yet delivered.
4. Revisiting some of the rejected recommendations to see if they merited reconsideration in the light of changes in the environment, or simply that they remain valid and so are worth reiterating.

The first aim would help the OTS in planning its own work but would not of course be a complete evaluation as we would be looking mainly at the 'consider' recommendations whereas our main success was with those which were accepted or partly accepted. However, in developing our strategy we have already reflected on our 'successful' recommendations.

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<sup>1</sup> <https://www.gov.uk/government/publications/ots-list-of-recommendations>. That analysis showed that of the 402 recommendations: 216 had been accepted or party accepted, 96 were under review or being considered and 90 had not been responded to or been rejected. Looking at the implementation progress showed 119 had been implemented and 73 had been partly implemented.

## Review work carried out

We initially carried out our own review of the recommendations, effectively to update the 2015 categorisation. That identified around 100 that merited a formal review, in conjunction with HMRC. We also noted a number of recommendations that, for various reasons, required no further action. We are grateful to the HMRC teams that have engaged with us.

## Our findings

The various Annexes, published separately, set out our findings on the 79 recommendations we have followed up, together for completeness with the scores for the 8 recommendations under the Pensioners review. We categorise our findings under eight headings:

- A. Effectively implemented (in some cases by being overtaken by other changes) – no further action needed. Although given the importance of the new Employment Status tool to a number of the Employment Status recommendations, it might be appropriate for the OTS to review the tool's operations before signing these off
- B. Under active review (current consultations) – for OTS to contribute to the consultation. This is particularly important with the current Employee Benefits consultations which may not end up covering all the issues that are potentially within their remit and so deal with all nine of the employee benefits and expenses recommendations
- C. HMRC agreed to pursue (some longer term items) – OTS to monitor
- D. Overtaken by other work by the OTS – no further action on this specific point but the discussions in the reports need to be borne in mind with the work on the OTS VAT and stamp duty projects in particular
- E. No action being taken – OTS to revisit
- F. Rejected or no action being taken – accept that this will not be pursued so leave
- G. Other
- H. Outstanding – no response on this exercise yet<sup>2</sup>

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<sup>2</sup> One of the recommendations could constitute a small OTS project, to be undertaken under our wider remit (as opposed to formally commissioned projects). This is a possible review of Lease Premium reliefs – see item 65 in the Reliefs listing. Recommendations from the Partnership and Reliefs projects also warrant further consideration in the context of the potential wider OTS review into business asset and investment reliefs. In addition, some of the areas that HMRC have undertaken to follow up may lead to further work for the OTS, for example contributing to consultations. There are also some that fall within our Corporation Tax, Value Added Tax and paper Stamp Duty projects.

Project	A. Implemented	B. Under review	C. HMRC to pursue	D. Other OTS review	E. No action being taken	F. Rejected and reasons accepted	G. Other	H. Outstanding
Employee status	11	6	1	2	1	1	-	-
Employee benefits and expenses	3	10	2	-	-	1	-	-
Competitiveness	1	-	1	9	-	1	-	1
Partnerships	6	1	2	-	2	-	-	1
Reliefs	2	-	2	3	1	1	-	-
Penalties	1	1	1	1	-	-	-	-
Unapproved share schemes	-	2	-	-	-	1	-	-
Pensioners	3	-	-	-	-	2	3	-
Total	27	20	9	15	4	7	3	2

We have incorporated some points from a separate exercise that we carried out for the Financial Secretary to the Treasury earlier this year. That focused on the Reliefs project and confirmed, as does this exercise, the systematic approach we evolved for the reliefs work:

- research the policy rationale; test its validity today
- question how or whether the relief achieves the policy rationale
- what is taxpayer take up and awareness
- complexity, compliance costs and admin burdens for all involved
- what would be the impact of repeal

This includes evidence gathering from stakeholders, as with all our work, and trying to get a feel for 'value for money' given the cost.

At the time of our Reliefs project, the OTS pointed out that there was no systematic review and felt that there was a need for this but could only say that it should involve some combination of HMRC, HM Treasury, Parliament, National Audit Office (NAO) and possibly ourselves. The NAO and Public Accounts Committee have of course looked at this area and the recent IfG/IFS/CIOT report<sup>3</sup> picks up on the need for review. These overriding principles have been assimilated into our overall strategy.

## Learning points for the OTS

### Learning point 1 | Point to directions for further work

One of the most valuable roles of the OTS is to highlight difficult areas which require further work. The Gig Economy Focus Paper, for example, points to very difficult issues requiring further discussion and debate.

However, more specific observations and recommendations can also point to directions where further work would be useful. It was surprising how many of the recommendations in this stocktake from the Competitiveness report were in areas being considered in current OTS reviews, and in many cases being

<sup>3</sup> <https://www.instituteforgovernment.org.uk/publications/better-budgets-making-tax-policy-better>

looked at in more detail. This approach of setting out ideas or directions and recommending follow up work is something we have done more formally of late.<sup>4</sup> It clearly works but it is something we have evolved over time – in the early days our remit was to hand over fully-framed recommendations; the Competitiveness report left the recommendations to be pursued by HMRC. Our role is to make the case for change, to point to issues and problem areas and to set out a direction for reform.

### Learning point 2 | Identifying and recommending solutions that can tackle multiple complexities

OTS has occasionally been criticised for producing too many recommendations in each review, and not appearing to have consistent themes. This can result in some of the easier recommendations being accepted more readily than others. We do need to tackle issues holistically but if we are looking at an area, we owe it to those who have engaged with us to report all the points that become apparent. However, we should be clear as to the costs and benefits of the recommendations and this analysis will be key to successful prioritisation.

A lesson for the OTS is to be prepared to recommend bolder, cross-cutting solutions that can solve multiple issues at once. An example would be the Check Employment Status for tax that HMRC has developed (following OTS recommendations). It helps if we can brigade recommendations into themes so that the wider picture of what we are seeking to achieve is apparent (see next point). Naturally, these ideas would be particularly welcome if the solutions can play a role in modernising the operation of HMRC and contributing towards its £400m admin burden reduction target. That is a lesson we have already noted but this review reinforces it.

### Learning point 3 | Build a broader vision for the recommendations, rather than just a series of specific recommendations

This leads on from the previous learning point. It is telling that despite only being able to accept three of the Employee Benefits and Expenses project recommendations at the time, HMRC has invested a great deal of effort in following up most of the broader concepts the OTS raised. This appears to be because the OTS demonstrated the broader simplification benefits that emerged during this review.

This was a project that did develop an overall vision or theme which was easy to articulate and compelling: to aim for the near-abolition of P11Ds. That paid dividends in demonstrating *why* the review and the solutions being sought were so important for businesses.

### Learning point 4 | Recognise and balance both horizontal (kind of taxpayer) and vertical (kind of tax) reviews

The OTS often talks of technical and administrative simplifications. Our reviews also split into two types in another way: horizontal<sup>5</sup> and vertical<sup>6</sup> tax simplification reviews.

The horizontal reviews have provided a unique insight into how a multitude of tax complexities across different taxes can impact one user and create a great deal of overall complexity. The recommendations have also highlighted where one tax was causing complexity in multiple sectors.

However, it is the vertical reviews that tend to produce much more specific and actionable recommendations. Perhaps in future the effectiveness of both types of reviews can be increased if OTS

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<sup>4</sup> Examples are the SEPA and Lookthrough work from the Small Companies project and the second stage of the Income tax/NICs work.

<sup>5</sup> A review of a particular sector, looking at how multiple taxes impact on a particular type of tax payer. For example, small businesses.

<sup>6</sup> A review of a particular tax, for example corporation tax, taking into account how it impacts multiple stakeholders.

approaches horizontal reviews with the intention of generating recommendations that will then inform and steer future vertical reviews and is generally clear about what type of review is being worked. Additionally, it is our intention to be more focussed on the “user experience” in our future work.

#### Learning point 5 | Following up recommendations

We traditionally receive a response to our recommendations from Ministers setting out which recommendations are accepted, to be considered or rejected. It is then usually for HMRC (sometimes HMT) to follow up with further detailed work. Where possible, a senior official should be identified to take the recommendation forward. In turn, with the OTS’s wider remit, we should periodically revisit recommendations and generally monitor progress.

#### Learning point 6 | Tax regime changes may present an opportunity to reconsider previously rejected recommendations

New policy initiatives, changes to legislation and wider reforms may mean it is appropriate to reconsider or even take forward previously rejected recommendations. The OTS should carry out an exercise at least annually to assess announcements in areas where we have previously made recommendations.

This also reinforces the need for the OTS to be involved when our recommendations are taken forward.

## The Office of Tax Simplification

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