



HM Treasury

# 2021 Review of the Office of Tax Simplification:

Final Report

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November 2021



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# Ministerial Foreword

As Minister responsible for the UK tax system, I am pleased to publish HM Treasury's first five-year review of the Office of Tax Simplification (OTS). Since its creation in 2010 the OTS has offered independent advice and recommendations to government on making the tax system simpler and easier to interact with for taxpayers.

At the Autumn Budget, the Chancellor stated the government's commitment to simpler, fairer taxes to support businesses and individuals. Tax simplification remains as important as ever as the government seeks to build a UK tax system fit for the challenges and opportunities of the 21st century, as set out in the government's 10-year tax administration strategy *Building a trusted, modern tax administration system*.<sup>1</sup>

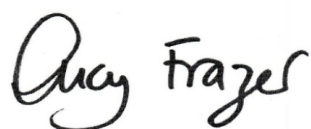
A simpler tax system, which is more intuitive and easier to understand, improves public confidence, boosts compliance, and empowers people to make the right decisions for their own circumstances through better understanding the consequences of their interaction with the tax system.

The opportunities for simplification identified by the OTS play a key role, offering specific changes to improve the experience of taxpayers. For example, at Autumn Budget the government announced the implementation of the OTS recommendation to increase the window to report and pay CGT after selling UK residential property, from 30 days after the completion date to 60 days, and at Tax Administration and Maintenance Day, the government formally responds to OTS reviews into Inheritance Tax and Capital Gains Tax.

The government is committed to supporting the OTS in continuing to play that important role. For this reason, the Review not only examined the effectiveness of the OTS in advising the Chancellor on tax simplification, but also considered what further steps should be taken to enhance the effectiveness of the OTS in future.

This document makes a number of recommendations, which will help embed and improve good practice as the OTS matures as an organisation and continues to build on the excellent work it does providing insights, engaging with a range of stakeholders, and providing a voice for taxpayers.

Financial Secretary to the Treasury



THE RT HON LUCY FRAZER QC MP

<sup>1</sup> <https://www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system>

# Executive Summary

The Office of Tax Simplification was established on 20 July 2010 as an independent adviser to the Chancellor, providing advice on the simplification of the tax system. Finance Act 2016 placed the OTS on a statutory basis and set the requirement for HM Treasury to conduct a review of the effectiveness of the OTS every five years, with the first period ending 28 November 2021.

The review concluded that the need for the OTS's statutory function to advise the Chancellor on simplification of the tax system remains undiminished. The review also sets out a number of recommendations to maximise the impact of the OTS as it continues to mature as an organisation over the next five-year period and beyond, including that the OTS:

- Expose their reasoning behind their recommendations, particularly where there are trade-offs between simplification and other policy objectives that government must consider;
- More clearly prioritise those recommendations which the OTS considers of most value to taxpayers;
- Maintain and expand the breadth and balance of knowledge, experience and expertise within the Secretariat, while also seeking professional expertise in how it consults externally;
- Consider the volume and type of output it produces, and focuses more on activities that build its preliminary evidence base and embed its work; and,
- Clarifies its aims and objectives in light of its articulation of how it interprets 'tax simplification', using this to inform which areas it will prioritise over the next five-year period to maximise its impact.

HM Treasury and HM Revenue and Customs will enable and support the OTS to take forward these recommendations, including by pursuing an amendment to legislation to allow for the appointment of two additional board members.

# Chapter 1

## Background to the Review

- 1.1 The Office of Tax Simplification (OTS) provides advice to the Chancellor on the simplification of the tax system, either at the Chancellor's request or of its own accord.<sup>2</sup>
- 1.2 It was [established on 20 July 2010](#) by the then Chancellor, George Osborne, as part of the government's commitment to make the UK the most competitive country in the G20 and to reduce the complexity of the tax system. The role of the OTS was to identify areas where complexities in the tax system for both business and individuals could be reduced, drawing on external expertise from the tax and legal professions.
- 1.3 The OTS was then made a permanent independent office of HM Treasury on 21 July 2015, before being placed on a statutory basis in Finance Act 2016.
- 1.4 Finance Act 2016 requires HM Treasury to conduct a review of the effectiveness of the OTS in performing its functions every five years. This first five-year review covers the period ending 28 November 2021. Not only did the review examine the effectiveness of the OTS over the past five years, it also considered what further steps should be taken to enhance the effectiveness of the OTS in future. The published terms of reference for the review can be found at Annex A.
- 1.5 The review engaged with a wide variety of interested stakeholders including individuals, businesses, tax professionals and academia. It also drew on the input of an advisory panel containing independent, external members. A list of those consulted is at Annex B.
- 1.6 Members of the public were invited to give written evidence to the review via a response to a published [Call for Evidence](#). A summary of responses received is at Annex C.

<sup>2</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/522874/20160512\\_ots\\_draft\\_revised\\_framework\\_document.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522874/20160512_ots_draft_revised_framework_document.pdf)



# Chapter 2

## Function and Remit

### Overview

- 2.1 The function and remit of the OTS are set out in statute in [Finance Act 2016](#) as follows:
- To provide advice to the Chancellor of the Exchequer, on request or as the OTS considers appropriate, on the simplification of the tax system; and,
  - At the request of the Chancellor of the Exchequer, to conduct a review of an aspect of the tax system for the purpose of identifying whether, and if so how, that aspect of the tax system could be simplified.
- 2.2 The 'tax system' means the law relating to, and the administration of, taxes HMRC is responsible for, including direct and indirect taxes, duties, and national insurance contributions. This includes taxes paid and collected by businesses and individuals, but not tax credits or taxes administered by other bodies.
- 2.3 These statutory responsibilities are expanded in the [OTS Framework Document](#) which states that the simplification of the tax system includes improving the efficiency of its administration. In this context, the OTS is to:
- Identify complex areas with potential to be simplified, and consider options for reform;
  - Carry out its own research, collect and analyse relevant data and evidence from a wide variety of stakeholders and liaise with HMT and HMRC;
  - Engage in public consultation and encourage informed public debate; and,
  - Seek to reduce compliance burdens on businesses and individual taxpayers.
- 2.4 In conducting its work, the OTS may consider the substance of tax law and HMRC's administration of the tax system. It will also have regard to all those affected by the tax system: individual and business taxpayers (all sizes of business), agents, and HMRC.
- 2.5 While the focus of the OTS is on simplifying the tax system, in providing advice it will consider the potential impact of options it puts forward on the government's other objectives for the tax system. In particular, where the OTS's recommendations have revenue implications, it will make an initial assessment of the nature and scale of those impacts.

## **Need for Tax Simplification**

- 2.6 Tax simplification is as important now as when the OTS was first established. Unnecessary complexity within a tax system increases the costs of complying with tax rules for taxpayers and their representatives, creates a lack of understanding among individuals and businesses regarding their tax obligations, and inhibits taxpayers from understanding the choices open to them. This in turn has the potential to erode trust in the tax system, create a bigger tax gap due to accidental non-compliance and limit the UK's ability to effectively compete for greater business investment.
- 2.7 The ten years since the OTS was first established have seen a massive increase in digitalisation and the growth of information and communication technologies. This has been a catalyst for efforts to modernise and increase the resilience, adaptability, and ease of engagement with the UK tax system through Making Tax Digital and the 10-Year Tax Administration Strategy. Those initiatives, however, do not diminish the fundamental importance of tackling underlying complexity within the tax rules which, without change, could potentially limit the scope of what can be achieved.
- 2.8 Feedback gathered during the review also emphasised the importance of the experience of taxpayers and their representatives when interacting with the tax system. Stakeholders highlighted the need for OTS recommendations to consider, first and foremost, the interaction of the taxpayer with the system. Whether through accessing legislation, HMRC guidance to understand tax rules or engaging with processes such as completing a self-assessment return, interactions need to be as simple as possible. In this context the OTS has a significant role to play in improving the experience of UK taxpayers.
- 2.9 As such the Review concluded that the need for the OTS's statutory function to advise the Chancellor on the simplification of the tax system remains undiminished and noted the need for its recommendations to consider the interaction of the taxpayer with the system.

## **Meaning of Tax Simplification**

- 2.10 The remit of the OTS rests on the question of what tax simplification means. The Review found that it was not always clear to stakeholders how the OTS interprets tax simplification and that while tax simplification can be interpreted in a variety of different ways, nearly all are centred around making the taxpayers' experience of the UK tax system as easy, cost-effective and efficient as possible. The examples of the different definitions and approaches given by stakeholders can be summarised within the following three broad categories:
- Legislative complexity, indicated by the number of pages of legislation and how easy the legislation is to read;

- Operational complexity, indicated by the complexity of HMRC guidance, and the complexity of information required to make a return;
  - Policy complexity, indicated by the number of exemptions plus the number of reliefs and the number of finance acts with changes.
- 2.11 Nearly all stakeholders agreed the OTS's remit includes considering and recommending changes to reduce or remove legislative and operational complexity, such as its proposals to abolish over 40 tax reliefs,<sup>3</sup> and change reporting regulations so that the majority of non-taxpaying estates no longer have to complete Inheritance Tax forms.<sup>4</sup> These changes are just two of the ways which highlight the important role of the OTS.
- 2.12 Views varied as to the extent to which the OTS should consider complexity arising from policy choices, such as its consideration of how gains are taxed compared to other types of income and how this can distort decisions in its first report on Capital Gains Taxation.<sup>5</sup> A minority felt the OTS should not engage with wider policy issues. Furthermore, stakeholders reported that the OTS's reasoning behind recommendations that interact with wider policy objectives is, at times, unclear.
- 2.13 The Review concluded, in agreement with the majority of stakeholders, that the design of tax policy cannot be divorced from the question of simplification and also that the OTS can only effectively engage with tax simplification in the context set by the government's tax policy objectives. It is therefore appropriate and necessary for the OTS to consider the impact of policy choices on the complexity of the tax system and make suggestions for the removal of any such complexity it deems unnecessary.
- 2.14 The Review would expect the OTS, in its role as an advisor to the Chancellor, to explain the impact and interaction of its recommendations on and with the government's wider policy objectives, clearly outlining potential trade-offs and the consequences of suggested simplifications on individual households and businesses.
- 2.15 At the same time, the OTS is an advisor not a policy maker. It is for government to consider the OTS's recommendations and their potential impact in the round, determine whether unavoidable trade-offs are acceptable, or if the existing complexity is necessary to achieve other policy objectives. The importance of tax simplification does not alter the fact that it is for the government alone to make decisions on tax policy.

<sup>3</sup> Review of tax reliefs final report, Office of Tax Simplification, March 2011

<sup>4</sup> Inheritance Tax Review – first report: Overview of the tax and dealing with administration, Office of Tax Simplification, November 2018

<sup>5</sup> Capital Gains Tax review – first report: Simplifying by design, Office of Tax Simplification, November 2011

- 2.16 In this context the Review recommends the OTS should always explicitly state the reasoning behind recommendations, particularly those that have potential to impact upon policy choices. In doing so, building upon recent practice, the OTS should make use of conditional statements in framing those choices. For example, suggesting that "...if government is most focused on outcome X, then approach Y should be pursued, however...". This preserves the OTS's ability to elucidate the options and rationale for their recommendations while recognising that government policy choices may depend on wider factors.
- 2.17 Although the Review found that the OTS's interpretation of its remit is sound, there remains confusion among some stakeholders as to how the OTS defines that remit. This issue will be considered further later in this report (see: Output and Impact of the OTS's work).

### **The OTS and government proposals for changes to the tax system**

- 2.18 A particular concern raised by stakeholders was the OTS's focus on the 'stock' of existing legislation and not on the 'flow' of new legislation which potentially adds complexity to the tax system with each new Finance Act. The Review considered suggestions for the OTS to be involved earlier in the tax policy making process but concluded doing so would not be appropriate given its status as an independent office of HM Treasury. Such practice would bring the OTS 'behind the curtain' on confidential government measures, undermining the OTS's ability to have the frank and open conversations with external stakeholders which underpins its work (see: Governance, Resourcing and Funding below).
- 2.19 On the other hand, the Review recognised the potential benefit of the OTS bringing its expertise to bear on the scope for reducing unnecessary complexity in a forward-looking manner. Indeed, the OTS has published their Tax reporting and payment arrangements review<sup>6</sup> as well as their review on making better use of third party data<sup>7</sup>. Additionally, the OTS should consider engaging with proposals for changes to the tax system once the government has launched a public consultation. This is already provided for in its existing remit. Should the OTS decide to make use of this aspect of its remit in future, it would need to be judicious in selecting which consultations to respond to, identifying those where

<sup>6</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/843531/OTS\\_Tax\\_reporting\\_and\\_payment\\_review.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843531/OTS_Tax_reporting_and_payment_review.pdf)

<sup>7</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/997582/Third\\_party\\_data\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/997582/Third_party_data_report.pdf)

it can add greatest value. Of course, as with any OTS output, it will be for government to decide whether to implement any recommendations made.

### **Function and Remit Recommendations**

**Recommendation 1:** The OTS should explicitly state the reasoning behind recommendations, particularly those that have potential to impact upon policy choices. In doing so, building upon recent practice, the OTS should make use of conditional statements in framing those choices.

# Chapter 3

## Governance, Resourcing and Funding

### Governance

- 3.1 The OTS is an independent office of HM Treasury, led by a Board of up to eight members, supported in undertaking their duties by a Secretariat.
- 3.2 The Chair and Tax Director are responsible for the Office's work, including the content of its reports.
- 3.3 The Board meets regularly throughout the year and is responsible for providing leadership and direction to take forward OTS strategic aims and objectives; ensuring the work programme is appropriately focused on the impact to the taxpayer and prioritised to maximise the value of its impact; and ensuring the work of the OTS is aligned with other related bodies, in particular the Administrative Burdens Advisory Board.<sup>8</sup>
- 3.4 The Chair may also, in consultation with the Financial Secretary to HM Treasury, appoint up to two unpaid observers who would be entitled to attend Board meetings. These observers may be appointed for a term of up to two years, subject to reappointment.

### Status as an independent office of HM Treasury

- 3.5 As an independent office of HMT, the OTS conducts its business independently of HMT and HMRC, forming its own judgements when providing advice. HMT and HMRC will provide the OTS with access to the information, analysis and resources required for the OTS to undertake its responsibilities. This includes appropriate support under a Memorandum of Understanding with HMRC's Knowledge, Analysis and Intelligence Directorate (KAI) in relation to impacts and costings. However, this does not include access to policy development, including Ministerial views or government decisions ahead of a public announcement.
- 3.6 The Review found that the status of the OTS as an independent office places the OTS in a unique and advantageous position, allowing its significant access to policy officials and HMRC held data. This access throughout the OTS review

<sup>8</sup> The Administrative Burdens Advisory Board (ABAB) is an independent board comprising members from a range of business backgrounds and professions who represent the small business community. The Board meets regularly with HMRC and report annually to Treasury ministers which is published each spring. The chair of ABAB – Dame Teresa Graham DBE – was a member of the OTS Board (2010-2021) and is currently an OTS Board observer.

process adds valuable insight to the OTS's work, and provides the understanding, tools, and resources to better consider the impact of its recommendations on wider policy considerations, and to provide informed advice and challenge to government.

- 3.7** It was clear throughout the review that the independence of the OTS is paramount to its effectiveness, giving it the ability to have open and frank engagement with external stakeholders and the opportunity to publicly challenge government on tax simplification, acting as a valuable bridge linking government and policy officials to individual taxpayers, businesses and tax professionals.
- 3.8** The Review concluded that the OTS has successfully balanced sustaining the close working relationship with government necessary to its work whilst maintaining its independence. This can be seen from feedback from the majority of stakeholders who see the OTS as sufficiently independent. Additionally, the fact that the OTS continues to make recommendations that are not accepted by government is further proof of the independence of its thinking.
- 3.9** For these reasons, although the OTS may receive commissions for work from the Chancellor, the Review also considers its ability to conduct work on its own initiative to be a vital function of the OTS. Its ability to highlight and challenge government on areas of the tax system the OTS itself sees as unnecessarily complex and in need of improvement is central to its role as the Chancellor's independent adviser on tax simplification. The OTS should continue to see 'own initiative' reports as a core part of their remit.

### **Role of the Board**

- 3.10** As an independent office, with a Chair and Tax Director responsible for the Office's work, including the content of its reports, the Review recognised the importance of the Board taking a significant role in overseeing, guiding, and scrutinising both the work and the good governance of the Secretariat. The Review felt that there is scope for the Board to further develop and document its role in relation to the oversight of the Secretariat, consistent with good governance principles and to aid clarity about Board responsibilities.
- 3.11** The ability to add additional observers to the Board has helped bring in expertise complementary to the membership, and to make connections with the activity of other bodies with activity focused on improving the UK tax system. The Review found that the current link provided by including the Chair of the Administrative Burdens Advisory Board as an observer to the OTS Board is a valuable approach, helping to maintain the OTS's position within the wider framework of efforts to improve the tax system.

- 3.12 Many stakeholders felt the Board of the OTS reflects a wide range of knowledge, experience and expertise, which is key to meeting the challenge of providing independent advice on tax simplification. These stakeholders commended the skills and reputational standing of the current Board members, stressing that it serves to encourage external stakeholders to engage with the OTS's work. Others expressed the importance of independent representation on the Board, both in bringing external insight and diversity of thought to Board discussions, but also in reassuring external stakeholders of the independence of OTS advice to government.
- 3.13 The Review recognised the wide range of knowledge, experience and expertise of the current OTS Board. The Review recommends HM Treasury should build on this and further widen the diversity of the Board's skillset.
- 3.14 As explored above, the Review found that suggestions to simplify the tax system must take into account first and foremost the experience of the everyday person interacting with the tax system to ensure recommendations result in real change for the taxpayer. With this in mind, some stakeholders suggested the Board would benefit from the inclusion of a member who brings customer experience expertise.
- 3.15 Furthermore, given technological advancements in tax administration, the Board may further benefit from adding a member well versed in current developments in the digital sector.
- 3.16 The Review acknowledges the importance and value of independent representation on the OTS Board. HM Treasury should introduce an amendment to the legislation governing the OTS to provide for two additional independent Board members.
- 3.17 In recognition of the way in which the administration of the tax system is being modernised, HM Treasury should consider appointing members with expertise in the digital sector and/or customer experience.

### **Resourcing**

- 3.18 While some stakeholders thought the Secretariat currently contains the right mix of skills and background to serve the OTS's function, others felt it could benefit from the addition of further skill sets including from non-tax disciplines such as economics, technology, and behavioural science.
- 3.19 The Review recognised the necessity and value of having tax professional skills, experience and expertise represented in the Secretariat, and for a number of members to have independent, external experience from the private sector.



- 3.20** As outlined above, tax simplification sits within a wider political and economic framework, which requires recommendations to reduce complexity within the tax system to consider the potential impact on policy objectives beyond tax simplification and on the wider economic and fiscal position.
- 3.21** Suggesting changes to tax law and its operation requires not only an understanding and consideration of its content and administration, but also of the policy rationale which underpins it, its impact on the behaviour and experience of taxpayers and the economic consequences of that, the digital systems supporting its implementation and the data and analysis which led to particular choices during its initial design.
- 3.22** Considering these aspects, the Review concluded the OTS Secretariat would benefit from a greater and more varied skill mix to aid it in considering and communicating the wider policy choices impacted by simplification, understanding and challenging the data and analysis underpinning its work, and ensuring its recommendations result in real change for the taxpayer.
- 3.23** The Review recommends the OTS Secretariat should draw up, and agree with the OTS Board, a skills and knowledge matrix that governs future recruitment to the Secretariat. An increase in the analytical and policy skills mix of the Secretariat would add even greater rigour to OTS work and aid the OTS when engaging with policy officials and analysts.

### **Funding**

- 3.24** As an independent office of HM Treasury, the OTS's Budget is agreed, in consultation with HMRC, through HM Treasury's annual business planning process. The OTS's available budget for the year April 2020 to March 2021 was £1,030,000, of which the pay element was £825,000.
- 3.25** The work of the OTS is supported by a Secretariat of 9.5 full time equivalent employees.

**3.26** The Review found this level of funding and resourcing remains sufficient for the functions and responsibilities of the OTS.

#### **Governance, Resource and Funding Recommendations**

**Recommendation 2:** The Review acknowledges the importance and value of independent representation on the OTS Board. HM Treasury should amend the legislation governing the OTS to provide for two additional independent Board members.

**Recommendation 3:** The Review recognises the wide range of knowledge, experience, and expertise of the current OTS Board. HM Treasury should build on this and further widen the diversity of the Board's skillset. In recognition of the way in which the administration of the tax system is being modernised, HM Treasury should consider appointing members with expertise in the digital sector and/or customer experience.

**Recommendation 4:** The OTS Secretariat should draw up, and agree with the OTS Board, a skills and knowledge matrix that governs recruitment to the Secretariat. An increase in the analytical and policy skills mix of the Secretariat would add even greater rigour to OTS work, aid the OTS when engaging with policy officials and analysts and improve their output.

# Chapter 4

## Output and Impact

### How the OTS conducts its work

4.1 The OTS currently focuses on conducting reviews of aspects of the tax system and publishing reports containing recommendations to government as a means to advise on potential simplifications of the tax system. Since its inception the OTS has produced around 50 reviews, reports and publications, including:

- Chancellor commissioned reviews, requested by the Chancellor to which the government must prepare and publish a response; and,
- Own initiative reviews conducted on topics of the OTS's choosing as they see appropriate and to which the government need not respond.

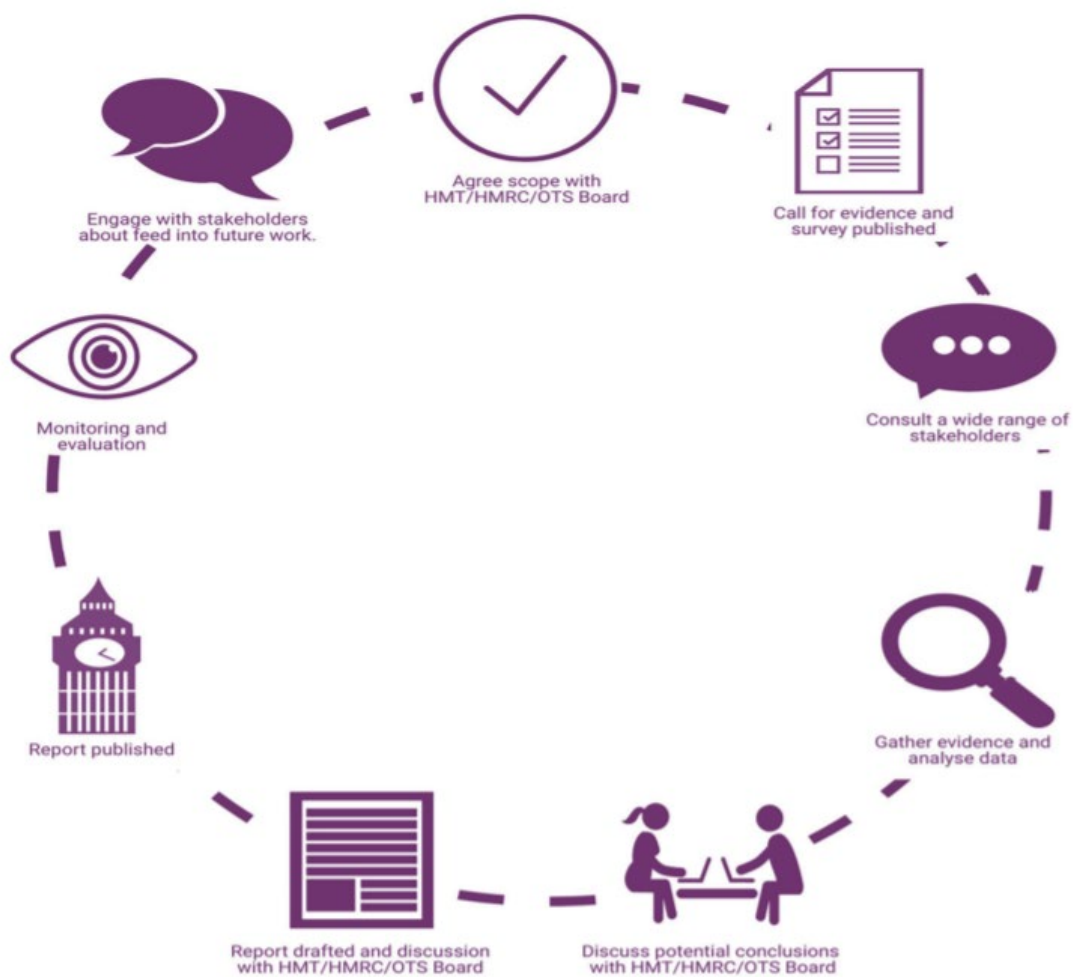
4.2 Although the process for each review may vary, the OTS outlines the following as its usual approach to work:

- 1 **Scoping the work** – the scope of the project is explored, defined and agreed with HMT and HMRC and published in a scoping document.
- 2 **Convene consultative committee** – for Chancellor commissioned reviews the OTS will convene a consultative committee, in consultation with the Board, and hold several meetings with them for the rest of the process.
- 3 **Call for evidence** – a more detailed document is published which invites taxpayers and other interested groups to submit written responses or requests to meet. At this stage the OTS will reach out to groups that it knows have an interest in the subject.
- 4 **Online survey** – alongside this a light touch online survey may be published to get a wider view of some of the issues outlined in the call for evidence. Surveys are typically aimed at taxpayers, rather than advisers or representative bodies.
- 5 **Data analysis** – the OTS will engage with HMRC analysts and other sources of data.
- 6 **External Meetings** – the OTS will meet with a wide range of stakeholders.
- 7 **Internal meetings and debate** – the OTS will meet with a range of teams from across HMT and HMRC.
- 8 **Evaluation** – the OTS will bring together the main challenges identified and consider appropriate solutions.
- 9 **Drafting** – the emerging report will go through a number of iterations as it is shared with HMT, HMRC, the consultative committee and of course the OTS Board.
- 10 **Publication** – once a final draft is available the report can be published (and laid in Parliament if it is a Chancellor-commissioned report).

- 11 **Monitoring and evaluation** – the OTS publishes periodic evaluation update notes on major reports and continues to be available to HMRC and HM Treasury as they consider the recommendations.
- 12 **Scoping further work** – outputs from and responses to previous reports are one influence on the direction and scope of future work

4.3 This process is illustrated in the chart below.

Chart 1: Process for a typical OTS report



Source: OTS

## OTS strategy

4.4 The OTS outline their simplification strategy as three interconnected principles:<sup>9</sup>

- Make recommendations which affect the greatest number of taxpayers on the largest number of occasions;
- Achieve 'quick wins' where possible to maintain momentum and deliver practical benefit for taxpayers; and,
- Tackle the difficult areas where it can make a difference in the longer term.

4.5 The focus on the number of affected taxpayers means OTS recommendations have often focused on simplifications for those who are not professionally represented such as small businesses, employers and employees, and individuals. However, the precise focus of OTS recommendations has inevitably and appropriately varied depending on the area of tax covered by each report. For example, recommendations for larger business were included in the 'Competitiveness of the UK Tax administration'<sup>10</sup> and 'Simplification of the corporation tax computation'<sup>11</sup> reviews.

4.6 The Review concluded it is appropriate for the OTS to focus on recommending improvements for the majority, many of whom are less likely to be able to afford professional help when navigating the tax system, usually small and medium sized businesses and individuals. It also echoes the views of stakeholders that the OTS's work should include how to make the tax system simpler not just for these groups but also for those they rely upon to help with their tax affairs including paid advisers, family and friends, or tax charities. Similarly, the Review recognises the importance of the OTS varying this approach depending on the issues explored in each report and that it may be correct for the OTS to consider implications and suggestions for change for larger businesses.

4.7 One common piece of feedback heard throughout the review was that the OTS does not always make it clear in its reports which recommendations it sees as having the biggest impact for the largest number of taxpayers or as being the most urgent or easiest to implement. Policy officials are sometimes left unsure as to which recommendations the OTS feels government should prioritise to take forward to a quicker timescale and at times, the extent or scale of the problem the OTS has recommended a solution for.

<sup>9</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/985300/Review\\_of\\_the\\_OTS\\_Call\\_for\\_Evidence\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/985300/Review_of_the_OTS_Call_for_Evidence_final.pdf)

<sup>10</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/362302/competitiveness\\_review\\_final\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/362302/competitiveness_review_final_report.pdf)

<sup>11</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/624328/CT\\_Review\\_-\\_final\\_report\\_June\\_17\\_web.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/624328/CT_Review_-_final_report_June_17_web.pdf)

- 4.8 To address this the Review recommends the OTS should take an explicitly codified and hierarchical approach when making recommendations, giving regard to taxpayers impacted, ease and cost of implementation and potential trade-offs. This will add weight and impact to recommendations the OTS view as the most important and highlight those it thinks could be taken forward quickly. The OTS will also be supported by KAI to be able to assess the numbers of taxpayers impacted.

### **External consultation**

- 4.9 A key feature of the OTS's work is the reviews it produces, whether Chancellor commissioned or own initiative. Evidence gathering for these crucially involves public consultation with interested parties. Stakeholders gave very positive feedback regarding the OTS's approach to external consultation. Many reported excellent formal and informal engagement with the OTS in the course of its work. Others applauded the OTS's efforts to engage those, particularly individual taxpayers, and small businesses, who are unlikely to respond to 'normal' tax consultations and noted the important role of the OTS's use of simple online surveys alongside the publication of a call for evidence for each review in doing this.
- 4.10 Others, including the OTS itself, pointed out the challenges in engaging a diverse and wide range of 'everyday' taxpayers in tax simplification despite the OTS's best efforts. These stakeholders stressed the advantage of securing fully representative surveys for the OTS's work from professional third-party survey companies.
- 4.11 Alongside its external consultation processes, a key feature of Chancellor commissioned OTS reviews are its consultative committees, convened of experts. Usually made up of 10 unpaid members from the tax and legal professions, business, economists, and representatives of HMT and HMRC, these allow for closer examination and critical challenge of the OTS's proposals and draft reports by interested parties in the course of each review the OTS undertakes.
- 4.12 Tax simplification does not sit in isolation but within a wider economic and fiscal framework. As such it is important that the OTS ensures its consultative committees not only reflect a wide range of interested parties from the tax and tax law professions and bodies representing taxpayers, but also those with the necessary analytical and policy skills to rigorously engage with the data, analysis and policy rationale behind tax policy design and suggestions for change. Stakeholders mentioned the added value of having those with a relevant analytical and economics background and skillset on the consultative committee for the OTS Capital Gains Tax review, allowing for important challenge of the data analysis which underpinned the review's recommendations.
- 4.13 Given the privileged role members of consultative committees have in the OTS's work, there is a need to ensure a proper and balanced representation at this crucial

stage of the process, and a potential role for the Board role in ensuring good governance. Although the OTS consult the Board when convening a consultative committee, there would also be value in the Board formally having the final say in approving the makeup of these committees.

- 4.14** The Review recommends the OTS should build on its strong approach to consultation by engaging professional survey expertise to further develop its approach where relevant, and by implementing an internal, Board led process, for determining membership of a review's Consultative Committee to ensure representation of a diverse range of skill sets and viewpoints.

### **Engagement with government officials and analysts**

- 4.15** A key part of the OTS's work is engagement with government officials and analysts which enables the OTS to:

- Increase its understanding of the rationale behind policy design choices which the OTS see as adding complexity to the tax system and allow them to better assess whether this complexity is necessary to achieve certain policy aims, or whether a different approach could be taken;
- Access and make use of data and analysis from HMRC KAI which can underpin an evidence base for OTS work and inform its recommendations;
- Identify how areas and aspects within a review align with government priorities, and which have the greatest potential for generating simplification opportunities; and,
- Gain insight to the impact its emerging conclusions might have on HMRC systems and operational processes.

- 4.16** The Review recognised the difficulty for the OTS in timetabling its work to allow for effective engagement with policy officials and government analysts whose time and resource is rightly led by Ministerial demands. However, in order to enable effective engagement, the OTS should make maximum use of the time it has to ensure it is as effectively prepared as possible to engage throughout each review process. Stakeholders felt more robust preliminary research, including a review of the existing academic literature on relevant issues would enable the OTS to better make use of the time and resource offered to them by government analysts and policy officials, as well as with external experts.

- 4.17** The Review also noted the high volume of output in terms of number of reports produced by the OTS in the last few years. The Review concluded that the OTS should consider allowing for more in-depth and sequenced primary research, engagement with experts and testing of emerging conclusions throughout its review process even if it means producing fewer reports in any given year. This would allow the OTS the time to robustly test their recommendations with officials

and work on embedding its reports following publication, communicating the thinking and evidence behind recommendations, ensuring its suggestions for change can receive as much traction as possible with policy makers and with the wider community of interested stakeholders.

- 4.18** The Review recommends the OTS should revisit the volume of its output to allow more time for preliminary research, including literature reviews, for engagement with government officials and analysts throughout the review period, and for embedding its output.

### **Outcome and Impact of OTS work**

- 4.19** OTS work has led to simplifications across the tax system, policy reform, improvements to processes and guidance, and technical and practical changes that have resulted in real improvements for taxpayers. For example, OTS work and recommendations have played a role in:

- Proposing, developing and implementing cash basis reporting on the Self-Assessment return, which has made tax reporting for over 1.1 million small businesses much simpler;
- From 1 January 2022, ensuring that over 90 per cent of non-taxpaying estates each year will no longer have to complete Inheritance Tax forms for deaths when probate or confirmation is required;
- Simplifying employee benefits and expenses, saving employers millions every year;
- Improving governance within HMRC to ensure changes to systems (including PAYE) are delivered, embedded, and evaluated on their effectiveness; and,
- Extending from 30 days to 60 days the time limit for making Capital Gains Tax returns and associated payments on account when disposing of UK land and property, expected to impact 75,000 individuals a year.

- 4.20** The Review noted this success but agreed with numerous stakeholders who felt that the impact of the OTS cannot simply be measured in the number of recommendations taken forward by government. To do so would be at odds with the OTS's role as an adviser to government, providing challenge, and not a policy maker with the authority to implement the changes it recommends. Rather the value of the OTS lies in its ability to draw out the complexities in the tax system which taxpayers find most challenging and consider and suggest possible mitigations or changes, outlining any interaction with or impacts on other policy objectives. It is then for government to consider these in the round and decide whether it believes the complexity to be necessary to achieve other policy aims.



- 4.21** As mentioned, there are many reasons why recommendations may not be accepted by government including time and cost of implementation and conflict with other policy considerations. Despite this, the Review found when recommendations are not accepted, they may still have an impact on government thinking and policy development. For example, government consultations in 2018, on the VAT registration threshold,<sup>12</sup> and in 2021 on simplifying the VAT land exemption,<sup>13</sup> both arose from the OTS's VAT Review.<sup>14</sup>
- 4.22** Even where recommendations are not taken forward in the short term, the OTS's work generates wider public debate on how the tax system should interact day-to-day with people.
- 4.23** Whilst the Review recognises these achievements it concluded there is scope for the OTS to take stock at this point, five years since becoming a statutory body, and consider how it can further its impact.
- 4.24** As stakeholders pointed out, OTS reports are the means to an end. The real purpose of the OTS is to contribute to tax simplification. The OTS may have greater success at effecting change by varying its approach and considering how to further embed the work it has already done. Stakeholders were clear that the OTS should not just see its work as a collection of separate reports already published but as an ongoing body of work on the complexity of the tax system which can be used to influence not just the future work of the OTS but also ongoing work of policy makers in government and that of academics and other commentators. In this vein stakeholders expressed support for the OTS's recent practice of producing 'update papers' on some of its reviews, for example guidance<sup>15</sup> and corporation tax,<sup>16</sup> updating stakeholders on how each aspect of the tax system has changed since it was reviewed by the OTS, whether these changes have taken on board OTS recommendations and where not, if the OTS still considered its original recommendations appropriate and of priority for government.
- 4.25** To help engineer this shift the OTS will need to consider what it sees as its aims as an organisation, how best to assess its impact and what success looks like to it as an organisation beyond recommendations accepted by government.
- 4.26** The Review recommends the OTS should undertake a project to articulate its approach to and interpretation of 'tax simplification', including clarifying its aims as an organisation, and the success measures for assessing its progress. This will aid the OTS in prioritising own-initiative projects and how to utilise its position to have maximum impact over the next five years.

<sup>12</sup> <https://www.gov.uk/government/consultations/vat-registration-threshold-call-for-evidence>

<sup>13</sup> <https://www.gov.uk/government/consultations/call-for-evidence-simplifying-the-vat-land-exemption>

<sup>14</sup> <https://www.gov.uk/government/publications/ots-report-on-routes-to-simplification-for-vat-is-published>

<sup>15</sup> <https://www.gov.uk/government/publications/ots-guidance-review-update-paper>

<sup>16</sup> <https://www.gov.uk/government/publications/ots-evaluation-and-stock-take-note>

## Output and Impact Recommendations

**Recommendation 5:** The OTS should take an explicitly codified and hierarchical approach when making recommendations, giving regard to taxpayers impacted, ease and cost of implementation and potential trade-offs. This will add weight and impact to recommendations the OTS view as the most important and highlight those it thinks could be taken forward quickly.

**Recommendation 6:** The OTS should build on its commendable approach to consultation by engaging professional survey expertise to further develop its approach, and by implementing an internal, Board led process, for determining membership of a review's Consultative Committee to ensure diverse representation.

**Recommendation 7:** The OTS should revisit the volume of its output to allow more time for preliminary research, including literature reviews, for engagement with government officials and analysts throughout the review period, and for embedding its output.

**Recommendation 8:** The OTS should undertake a project to articulate its approach to and interpretation of 'tax simplification', including clarifying its aims as an organisation, and the success measures for assessing its progress. This will aid the OTS in prioritising own-initiative projects and how to utilise its position to have maximum impact over the next five years.

# Summary of Recommendations

**Recommendation 1:** The OTS should explicitly state the reasoning behind recommendations, particularly those that have potential to impact upon policy choices. In doing so, building upon recent practice, the OTS should make use of conditional statements in framing those choices.

**Recommendation 2:** The Review acknowledges the importance and value of independent representation on the OTS Board. HM Treasury should amend the legislation governing the OTS to provide for two additional independent Board members.

**Recommendation 3:** The Review recognises the wide range of knowledge, experience, and expertise of the current OTS Board. HM Treasury should build on this and further widen the diversity of the Board's skillset. In recognition of the way in which the administration of the tax system is being modernised, HM Treasury should consider appointing members with expertise in the digital sector and/or customer experience.

**Recommendation 4:** The OTS Secretariat should draw up, and agree with the OTS Board, a skills and knowledge matrix that governs recruitment to the Secretariat. An increase in the analytical and policy skills mix of the Secretariat would add even greater rigour to OTS work, aid the OTS when engaging with policy officials and analysts and improve their output.

**Recommendation 5:** The OTS should take an explicitly codified and hierarchical approach when making recommendations, giving regard to taxpayers impacted, ease and cost of implementation and potential trade-offs. This will add weight and impact to recommendations the OTS view as the most important and highlight those it thinks could be taken forward quickly.

**Recommendation 6:** The OTS should build on its commendable approach to consultation by engaging professional survey expertise to further develop its approach, and by implementing an internal, Board led process, for determining membership of a review's Consultative Committee to ensure diverse representation.

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# Annex A – Terms of Reference

A.1 Examine the effectiveness of the OTS in performing its functions, giving consideration to:

- The OTS’s objectives and functions in Finance Act 2016 and the OTS Framework Document;
- The resourcing, funding and governance of the OTS;
- The OTS’s relationships with HMRC and HMT;
- The OTS’s work to date including both Chancellor commissioned and own-initiative reports; and,
- The impact of the OTS’s work on both the government’s approach to simplification and on wider public debate.

A.2 In light of this examination, consider what further steps should be taken to enhance the effectiveness of the OTS in performing its functions as the Chancellor’s independent adviser on tax simplification.

## Annex B – Stakeholders Consulted

B.1 The OTS has a wide variety of stakeholders both within and outside government. The Review took a proportionate approach and identified a broad range of stakeholders to provide a sample representation of views. The review team would like to thank the below stakeholders for contributing to the review.

Adrian Rudd, Tax Director PwC	Institute of Chartered Accountants in England and Wales
Andrew Jackson, Head of Tax, Fiander Tovell	Institute of Chartered Accountants Scotland
Andy Foulke	Institute of Financial Accountants
Association of Accounting Technicians	Intergenerational Foundation
Association of British Insurers	Investment and Life Assurance Group
Association of Taxation Technicians	KPMG
Chartered Accountants Ireland	Northern Ireland Assembly
Chartered Institute of Taxation	Professor Co-Pierre Georg
Confederation of British Industry	Professor David Russell
Dr Amy Lawton	Professor Jean-Edouard Colliard
Dr Andy Summers	Professor Lorraine Eden
Dr Dominic de Cogan	Rhiannon Kinghall Were, Head of Tax policy
Federation of Small Businesses	McFarlanes
Grant Thornton UK LLP	Scottish Government
HM Treasury	Tax Justice UK
HMRC	TaxAid and Tax Help for Older People
HMRC's Additional Needs Working Group	The Association of Independent Professionals and the Self Employed
HMRC's Customer Experience Committee	UK Finance
Institute for Government	Welsh Government
Institute of Certified Practising Accountants	

B.2 The review team would like to extend a particular thank you to the following for their involvement and contribution to the review.

Past and current members of the OTS Board and Secretariat

Members of the review's advisory panel:

Bridget Micklem, HMRC	Matthew Henty, HM Treasury
Emma Chamberlain Barrister, CTA TEP OBE Pump Court Tax Chambers Visiting Professor of Law at Oxford University	Rebecca Benneyworth MBE FCA
Helen Miller, Deputy Director, Institute for Fiscal Studies	Victoria Todd
	Chris Sanger, Partner, Tax Policy Leader, Ernst and Young

## Annex C – Call for Evidence Summary Responses

C.1 A Call for Evidence ran from 12 May 2021 to 6 July 2021. Seventeen responses were submitted. This annex summarises those responses. It is not intended to offer a comprehensive list of all points of view expressed.

### General comments

C.2 A majority of respondents felt the OTS has an important role to play in making the tax system less complicated and easier to interact with. They noted that the desire for tax simplification remains as important now as it was when the OTS was first established.

### Question 1: What do you think the functions of the OTS should be? Why should they be a priority for government?

C.3 Many respondents felt the OTS's function is and should be to offer independent advice to government on tax simplification but not to make changes to policy.

C.4 Minorities argued that the OTS remit should be defined as the simplification of tax administration and simplification of tax legislation, that the OTS should consider wider questions of equity and fairness, or that the OTS remit should be widened to consider the efficacy of the tax system.

### Question 2: How do you understand the OTS to interpret their remit (or in other words define 'tax simplification') and does this match your own interpretation of the OTS's remit and definition of 'tax simplification'? If not, how does this differ?

C.5 Respondents' definitions of tax simplification varied but most centred around making taxpayers' experience of the UK tax system as easy as possible to comply with. This included by expressing rules as clearly as possible and making taxes predictable, proportional and consistent.

C.6 Some respondents thought that the OTS has strayed into tax policy matters in some reviews, while others felt that the design of tax policy cannot be completely divorced from implementation mechanisms and therefore it is appropriate for the OTS to consider policy matters.

### Question 3: Do you think the OTS has the right breadth of expertise on its board? If not, what sectors need additional representation and why?

C.7 Many respondents felt the OTS Board reflects the range of knowledge, experience and expertise needed. A minority noted that the changing state of the tax system may require in future adding to the Board representation of the interests of taxpayers, and of different age groups and generations. Some commented on the OTS Secretariat, some stating it contains the right mix of skills and background, while others felt the Secretariat could benefit from the addition of skills from non-tax disciplines such as economics, technology and behavioural science.

**Question 4: Given its role as the Chancellor's independent adviser of tax simplification, do you think the OTS is sufficiently independent from government?**

C.8 The most common view was that, in order to perform its functions, the OTS requires a close working relationship with HM Treasury and HMRC, while maintaining its independence. Respondents considered the OTS's outputs to be impartial. Many stressed the importance of the OTS maintaining its independence to ensure collaboration with externals, arguing OTS independence is a major enabler for bringing together the spectrum of stakeholder views.

C.9 Some respondents expressed reservations about close integration of the OTS with HM Treasury and Ministers, fearing it could lead to pressure, for example in the recent Capital Gains Tax report where some perceived questions as going beyond simplification. Respondents would like more output from the OTS concerning its role and independence.

**Question 5: Can you give examples of OTS work which you felt was particularly successful, or alternatively, where you would have liked the OTS to have taken a different approach?**

C.10 Several respondents stated OTS work around tax administration, and the use of technology, have been successful. Some judged success on the number of recommendations taken forward or where recommendations had been carried into future reviews. Many respondents felt that the OTS has produced valuable work making the case for change but were disappointed that government had not taken forward more recommendations. Respondents acknowledged that whilst recommendations are not always taken up in full, the work behind them can inform follow up work or alternative proposals.

**Question 6: Does the OTS engage with, and consider the views of, an appropriate number and variety of stakeholders when conducting a review?**

C.11 Most respondents approved of the OTS's approach to consultation and collaborating with those outside of government and felt the OTS are good at engaging with those, who would be unlikely to respond to 'normal' tax consultations, particularly individual taxpayers and small businesses. Many reported excellent formal and informal engagement with the OTS in the course of its work.

**Question 7: Who do you think the OTS reports focus on recommending simplifications for? Who should the OTS focus on offering simplification for?**

C.12 Most respondents felt OTS recommendations often focused on those who are often not professionally represented, such as small businesses, employees and individuals. It was noted that the precise focus has inevitably and appropriately varied depending on the area of tax covered by each report. Respondents were in favour of the OTS focusing on recommending improvements for small and medium sized businesses and individuals. Some added that the OTS's work should include how to make the tax system simpler not just for these groups but also for those they rely upon to help with their tax affairs including paid advisers, family and friends, or tax charities.

**Question 8: To what extent should the OTS take account of wider policy objectives outside of simplification and the impacts of suggested changes on households and businesses, when making recommendations to government?**

C.13 Most respondents felt the OTS should consider wider policy objectives outside simplification when making recommendations to government, and the OTS should comment on the consequences of implementing its recommendations, including analysis of ‘winners’ and ‘losers’. However, it was strongly expressed that the final decision on whether a simplification recommendation should be taken forward should then lie with government, taking all factors into account.

**Question 9: Can you provide examples of where you think the work of the OTS has led to genuine improvements regarding simplification for taxpayers, and if so, for which groups of taxpayers?**

C.14 Many respondents identified positive impacts on tax simplification including in respect of cash basis reporting for unincorporated businesses, Inheritance Tax reporting, further government consultations on aspects of VAT following OTS work, and in developing wider public debate on how the tax system should interact with people day-to-day, noting the various lifecycle reports, the employment status and gig economy reports.

C.15 Respondents felt improvements can be drowned out by new complexities added by each new Finance Act, and that if simplification is not central to policymaking, there is a danger that the OTS will be restricted to making minor mitigations outweighed by the flow of new obligations.

**Question 10: How influential do you think the OTS is, including regarding: (1) political decision-making; (2) policy development; (3) public debate in the media; and (4) academic or tax specialist debate?**

C.16 Many respondents saw the OTS as quite influential regarding political decision-making and policy development, pointing to OTS’s evaluation update notes as evidence for successes. Many respondents described the OTS as influential in developing academic and tax specialist debate. Some warned that this influence could be undermined in future if OTS recommendations and reports do not lead to change.

C.17 A very small minority offered mixed evidence on whether tax simplification has been a success since 2010, noting that by some measures the system appears to have become more complex.

**Question 11: Are there any particular issues or areas of the tax system which the OTS have not considered, which should be examined by the OTS?**

C.18 Responses to this question were varied and wide ranging. There was no majority held view.



**Question 12: What other further steps, if any, could be taken to enhance the effectiveness of the OTS in performing its functions as the Chancellor's independent adviser on tax simplification?**

C.19 Responses to this question were varied and wide-ranging. Many suggested increased engagement in the flow of tax policymaking, that the government should be required to respond to all reviews (including own-initiative) within a set timeframe, and that the government develop a formal roadmap for simplification.

C.20 Some proposed the OTS should produce its own independent analyses of tax reforms, including their complexity, akin to work carried out by the OBR. Some proposed the OTS remit explicitly include considering questions of fairness and equity as well as simplification.

C.21 Small numbers of respondents advocated an increased role for the OTS in building public understanding and communication of tax policy, of considering the role of Parliamentary scrutiny of OTS work, and for the OTS to develop a rolling log of the progress on its recommendations.