



The Powers of HMRC: Treating Taxpayers Fairly (House of Lords Paper 242)

Government Response

Contents

1. The Evolution of HMRC's Powers	2
2. Proposed New Powers	3
3. The 2019 Loan Charge	4
4. Taxpayer Safeguards and Access to Justice	8
5. Tax Policy Process.....	11
6. HMRC's Changing Culture	13
7. Powers Review Principles Revisited	16
8. Reviewing HMRC Powers and Accountability	18

1. The Evolution of HMRC's Powers

Recommendation 1.1: The Government's approach does not appear to discriminate effectively between the full range of behaviours and circumstances it describes as tax avoidance. There is a clear difference in culpability, for example, between deliberate and contrived tax avoidance by sophisticated, high-income individuals, and uninformed or naive decisions by unrepresented taxpayers. Clearer distinctions are needed in the Government's approach and rhetoric towards tax avoidance. (Paragraph 26)

The Government does not accept this recommendation.

Tax arrangements used are either effective or not under legislation passed by Parliament. The motives of those engaging in them does not affect that. Customers should always be cautious about claims that arrangements will reduce their tax liability. HMRC supports all customers who want to get their tax affairs right or want to get out of tax avoidance.

Taxpayer behaviour is considered by HMRC when determining the size of penalties applied for failing to meet an obligation such as submitting an accurate return. Taxpayer behaviour is also relevant in determining the time limit for assessments, with HMRC able to assess for earlier periods of non-compliance if behaviour was deliberate.

When HMRC finds that a taxpayer has filed an inaccurate return or claim, the amount of the penalty is determined by the amount of tax understated, the behaviour that led to the inaccuracy, and the nature and quality of any disclosure made by the taxpayer to HMRC.

A penalty is not payable if a person had a reasonable excuse for failing to meet an obligation or took reasonable care to avoid submitting an inaccurate return.

2. Proposed New Powers

Offshore Time Limits

Recommendation 2.1: The Government should start a fresh dialogue with representatives of tax professionals to consider how offshore tax matters can be managed more effectively. Any revised measure should be more proportionate and targeted. (Paragraph 45)

The Government does not accept this recommendation.

The longer assessing time limit for offshore matters is required as it can take longer to establish the facts in these cases. Following consultation appropriate safeguards for taxpayers have been included. An example of this is information received from other tax authorities. An assessment cannot be made using the extended time limits if HMRC received the information necessary to identify the lost tax from another tax authority (for example Common Reporting Standard information) before the normal (4 or 6 year) limit expired and HMRC could reasonably have made the assessment within that time limit.

The Government agrees that dialogue with representatives of tax professionals is important. HMRC already has regular dialogue with such representatives and other stakeholders about how offshore tax matters can be managed more effectively and looks forward to continuing that dialogue.

Civil Information Powers

Recommendation 2.2: Oversight by the tax tribunal of HMRC attempts to obtain information from third parties is an important taxpayer safeguard, which should not be removed without good reason. HMRC has not offered a convincing rationale. (Paragraph 50) We recommend that this proposal is withdrawn until a full consultation can take place on how new legislation could be better targeted. (Paragraph 51)

The Government does not accept this recommendation.

A public consultation titled "Amending HMRC's Civil Information Powers" sought responses on a number of issues involving HMRC civil information powers. The consultation ran from 10 July 2018 to 2 October 2018. The Government is still considering the responses it received and will publish a summary of those responses in due course.

HMRC will consider very carefully the recommendations of the Committee alongside the consultation responses.

3. The 2019 Loan Charge

***Recommendation 3.1:** We encourage HMRC to do more to publicise any actions it is taking against promoters of disguised remuneration schemes. "Spotlight" publications are neither well-known nor well-read, and are therefore insufficient for this purpose".*
(Paragraph 68)

The Government accepts this recommendation.

HMRC has agreed that it will do more to publicise activity against promoters of tax avoidance schemes. It will also seek to increase awareness of its Spotlight publications, which are already distributed across and read widely by tax agents. Around 70% of taxpayers engaged in Disguised Remuneration (DR) avoidance schemes have an agent. HMRC will do more work to publicise actions against avoidance to taxpayers who do not have an agent.

HMRC will maximise opportunities to communicate action it takes against tax avoidance, including reviewing and potentially increasing its use of social media, and digital communications more generally, as well as building on the work it has already started with intermediaries.

***Recommendation 3.2:** We recommend that the loan charge legislation is amended to exclude from the charge loans made in years where taxpayers disclosed their participation in these schemes to HMRC or which would otherwise have been "closed".*
(Paragraph 78)

The Government does not accept this recommendation.

In reality, these contrived avoidance schemes disguise income as a loan and, as recognised in the report, that loan is never repaid, so it is no different to normal income. It is, and always has been, taxable. HMRC's view, supported by a number of court successes, is that these schemes have never been effective.

The charge on DR loans is not retrospective. The DR loan charge, announced at Budget 2016, means that DR tax avoidance scheme users will be taxed on loans from these schemes made after 5 April 1999, that remain outstanding on 5 April 2019. It does not change the tax position of any previous year, or the outcome of any open compliance checks. The Government's announcement at the Budget 2016 provided scheme users with a three-year period to repay their DR loans, or to agree a settlement with HMRC before the charge takes effect.

The Supreme Court has decided that the payments that have been routed through these DR schemes have always been taxable and that tax should have been paid at the time. The Government believes it is unfair to the vast majority of taxpayers who have always paid the right amount of tax at the right time and not engaged in tax avoidance to allow anyone to benefit from contrived tax avoidance of this sort. The Government has

legislated, protecting hundreds of millions of pounds in tax revenues, to ensure that all users of these schemes pay their fair share of tax towards our vital public services.

The Government chose to accept the New Clause 26 tabled by Sir Edward Davey at Report Stage of the Finance Bill. It will lay a report no later than 30 March 2019 which will include a comparison of the effect of the changes made by clauses 79 and 80 in relation to offshore matters or transfers with the charge on DR loans. The loan charge legislation is unchanged as a result of the New Clause, and the charge will come into effect on 5 April 2019.

***Recommendation 3.3:** We recommend HMRC urgently reviews all loan charge cases where the only remaining consideration is the individual's ability to pay. We also recommend that HMRC establishes a dedicated helpline to give those affected by the loan the loan charge coming into effect in April 2019. (Paragraph 80)*

The Government accepts this recommendation.

HMRC accepts the need for a dedicated helpline and set up such a helpline in November 2017 for those who wanted to settle their DR cases. We reject the recommendation to review all loan charge cases where the only remaining consideration is the individual's ability to pay.

Bankruptcy is always a last resort. HMRC is working hard to help thousands of people out of avoidance for good and offer manageable and sustainable payment plans wherever possible. It carefully considers each case and there is no maximum limit on how long a customer can be given to pay what they owe. Decisions are based on each individual's personal circumstances. HMRC has published detailed guidance about settlements on GOV.UK.

HMRC considers any customer's ability to pay on a case by case basis as this is raised by the taxpayer. It simplified the process for those who want to settle their use of DR schemes before the loan charge arises so that those who currently earn less than £50,000 can agree a payment plan of up to five years without providing detailed information, as long as they are no longer engaged in avoidance. For those who require longer to pay or with income of £50k or more, HMRC can still help, but will need more details as these arrangements are tailored that individual's personal circumstances.

***Recommendation 3.4:** HMRC failed to make its position on the schemes clear enough. We do not consider a notice in "Spotlight" on a website sufficient when in many cases HMRC knew which taxpayers and employers were using the schemes and could have communicated with them directly. There were unreasonable delays in legislating and in failing to progress those enquiries which were opened into individuals' tax affairs, depriving them of certainty even in situations where they were actively seeking to engage with HMRC to finalise matters. (Paragraph 81)*

HMRC failed to communicate effectively with some users of such schemes on a timely basis as its approach to tackling disguised remuneration schemes evolved from the first

disclosure of the schemes after the disclosure regime was introduced in 2004, to legislation in 2011 and through the judicial process ending in 2017. (Paragraph 82)

The Government does not accept this recommendation.

HMRC has always warned against engaging in tax avoidance; these schemes are clear examples of contrived tax avoidance that seek a tax advantage that Parliament never intended. The then Paymaster General's Written Ministerial Statement in 2004 gave clear notice that the Government would close down any arrangements that sought to avoid employers and employees paying the proper amount of tax. This was widely covered in the media and tax agents were aware. HMRC has undertaken extensive compliance activity against DR schemes, and scheme users, since they were first used. This has included opening thousands of enquiries into scheme users since the 1990s and agreeing settlements. Since the Budget 2016 announcement of the DR loan charge, over 5,000 taxpayers have agreed settlement, raising over £650 million for the Exchequer.

HMRC has been encouraging DR scheme users to come forward and settle through day to day contact with customers and, since November 2017, has written to over 40,000 individuals so far who may be affected by the loan charge.

It has raised additional awareness through its series of Spotlight publications, tweets and webinars as well as its work with a range of stakeholders and representative bodies to widen its DR messaging.

HMRC continues to seek to increase awareness of its Spotlight publications which are already distributed across and read widely by the tax agent population. HMRC will do more work on how we ensure messages reach taxpayers who do not have an agent. HMRC constantly seeks to develop our communications vehicles with agents and individuals and will continue to do so.

***Recommendation 3.5:** To avoid the delay and uncertainty that has accompanied HMRC's approach to disguised remuneration schemes, we recommend that HMRC makes a declaration, in a clear and accessible public statement, as soon as it begins investigating a potential tax avoidance scheme. Such a declaration should be targeted at those most likely to be affected by the scheme in question. Publishing online guidance, such as through "Spotlight", will not be sufficient. (Paragraph 83) HMRC should also notify a taxpayer that it is investigating an avoidance scheme as soon as possible if that individual declares the scheme on their tax return. (Paragraph 84)*

The Government does not accept these recommendations.

Taxpayers are already notified that their scheme is tax avoidance when they are given a Disclosure of Tax Avoidance Schemes (DOTAS) reference number by the scheme operator. Since 2009, promoters of tax avoidance schemes are legally required to inform their clients that disclosure of a scheme under DOTAS does not in any way signify that the scheme is approved by HMRC, and failure to do so carries penalties of up to £5,000 for each failure. In 2015, a new requirement was placed on employers using disguised remuneration schemes to provide the same information to their employees. The forms

that promoters and employers are required to use make it clear to the recipient that they are “involved in a Disclosed Tax Avoidance Scheme”, that the scheme is “not HMRC approved”, and that the disclosure to HMRC under DOTAS means they will likely be subject to investigation by HMRC.

4. Taxpayer Safeguards and Access to Justice

Recommendation 4.1: *All HMRC determinations and notices should be appealable to the tax tribunal. This is central to the protection of the taxpayer and the balance between taxpayer and tax authority. (Paragraph 93) We recommend the Accelerated Payment Notice/Follower Notice legislation be amended to include a right of appeal to the tax tribunal. (Paragraph 94)*

The Government does not accept this recommendation.

The APN rules prevent avoiders from gaining an economic advantage during protracted litigation by requiring them to pay the disputed tax up front. The Follower Notices regime encourages avoiders, on the back of court decisions in similar cases of tax avoidance, to settle their dispute, so reducing the time taken to bring cases to conclusion.

The APN and FN rules do not affect a taxpayer's right to appeal against an HMRC decision or assessment concerning their tax liability and several legal challenges have been taken by taxpayers. In the event that the taxpayer wins their case, HMRC will, of course, refund any AP (including interest), and no FN penalty will be due.

A right of appeal against APNs/FNs would simply mean running the substantive arguments on whether the avoidance scheme works in advance of, and in addition to, litigation on the scheme itself. That would make the APN/FN regimes ineffective - taxpayers would revert to being able to gain an economic advantage during protracted litigation (into the APN appeal), and avoiders whose argument had already been (substantively) decided in court, in someone else's litigation, could await their own hearing, rather than being encouraged to settle their dispute early.

The APN and FN rules provide a right for the taxpayer to object to a notice and make representations to HMRC. In around 90% of cases where representations are made, notices are upheld as valid, with over 80% confirmed in the original amount. HMRC has won (subject to appeal) all judgements given by the Court of Appeal on Judicial Reviews challenging APNs.

Recommendation 4.2: *Whenever a new power is introduced or an existing power significantly extended it should be accompanied by a right of appeal against the exercise of the power, not just against the underlying tax liability. (Paragraph 95)*

The Government does not accept this recommendation.

A right of appeal is considered as part of the policy process for all new powers introduced, and included where appropriate. However an appeal right may not be appropriate in certain circumstances. In these cases, it would slow the process down, rendering the measure ineffective and resulting in a delays to funds for the public purse.

Recommendation 4.3: *Penalties associated with General Anti-Abuse Rule and Follower Notices are draconian and restrict access to justice. We recognise that they were introduced to inhibit taxpayers from delaying settlement by appealing, but at their*

present level they are disproportionate and cannot be justified. (Paragraph 103 Taxpayers who challenge HMRC's view of the law and pursue litigation after a Follower Notice or General Anti-Abuse Rule ruling should not be penalised if they are ultimately unsuccessful. We recommend that these penalties are abolished. (Paragraph 104)

The Government does not accept this recommendation.

Both these regimes are designed to address protracted delays in finalising avoidance cases and give the taxpayer opportunities to settle their disputes without the application of penalties. Penalties can be appealed to an independent tribunal.

Recommendation 4.4: *Judicial review proceedings in respect of HMRC decisions may only be brought in the High Court, which makes them prohibitively expensive for most taxpayers. We recommend that the Government legislates to give the First-tier Tribunal (Tax) the power to conduct judicial reviews. (Paragraph 109)*

The Government does not accept this recommendation.

Any change to the Judicial Review process would need to be led by the Ministry of Justice in consultation with the judiciary. This would fundamentally alter the nature and purpose of the First-tier Tribunal which is to make findings of fact in a relatively quick and inexpensive way.

Recommendation 4.5: *Statutory review appears an effective mechanism for appealing HMRC decisions. We regret that it is not more widely used. Whilst it is understandable that some taxpayers may be cynical about a system by which HMRC reviews its own decisions, the evidence shows statutory review can play a useful part in overturning poor decisions. (Paragraph 111) We recommend that HMRC ensures that all taxpayers are made aware of the option of statutory review, including a clear explanation of the process and the independence of the reviewer. (Paragraph 112)*

The Government accepts this recommendation.

An offer of a statutory review is already made to all customers when an appealable decision is made, including tax decisions, assessments, amendments, notices and determinations made by HMRC. Following recommendations in the report from the Office of Tax Simplification, HMRC is actively taking steps to publicise the statutory review process more widely.

Recommendation 4.6: *The extension of the naming sanction to taxpayers and promoters whose behaviour is legal, but of which HMRC disapproves, blurs an important boundary between those who break the law and those who do not. (Paragraph 114) We recommend that naming and shaming provisions should be restricted to those who have broken the law. (Paragraph 115)*

The Government does not accept this recommendation.

HMRC places significant importance on taxpayer confidentiality. However, Parliament has legislated to allow taxpayers to be “named” in limited circumstances, prescribed in legislation. No-one can be named simply for disagreeing with HMRC. Before promoters or enablers of avoidance can be named, a series of statutory steps have to be passed.

The Promoters of Tax Avoidance Schemes (POTAS) regime allows HMRC to give a promoter with a ‘conduct notice’ where certain threshold conditions are met (as set out in the legislation). If the promoter fails to comply with the conduct notice, HMRC can apply to the tax tribunal to issue a ‘monitoring notice’. If the tribunal agrees (a decision the promoter can appeal), HMRC gives the promoter a monitoring notice which allows HMRC to name the promoter publicly as a monitored promoter. The Enablers penalty regime provides that each person that enables another person to enter into abusive arrangements (in GAAR terms and subject to GAAR Panel scrutiny) is liable to a penalty when HMRC defeats the use of those arrangements. Enablers include but are not limited to promoters. Enabler penalties can be appealed. HMRC may publish details of an enabler, where they have incurred more than 50 enabler penalties, or they have received an enabler penalty of more than £25k, either a single penalty or aggregated with others.

Tax Policy Process

***Recommendation 5.1:** Consulting on policy objectives before a specific solution has been identified is fundamentally important to the policy making process. This step is too frequently omitted with inadequate justification. (Paragraph 121) We recommend that consultation should begin at this stage whenever the introduction or expansion of powers is under consideration. (Paragraph 122)*

Tax legislation should be narrowly targeted at the taxpayer groups it is intended to affect. Broad, badly targeted legislation is unsatisfactory because it can adversely affect compliant taxpayers, leaves too much to the exercise of HMRC discretion or to guidance, and is more difficult to challenge by judicial review. (Paragraph 127) When preparing legislation that is properly targeted and effectively drafted we recommend HMRC should listen more carefully to representations from the expert tax and business representative bodies. (Paragraph 128)

The Government does not accept these recommendations.

At Autumn Statement 2016 the Chancellor announced that in future he would hold a single fiscal event each year: a Budget to be held in the autumn. Autumn Budget 2017 was the first Budget to be held in this new cycle. This new cycle reaffirms the Government's commitment to the principles set out in Tax policy making: a new approach, published in 2010, to create a more predictable, stable and simple tax system. However, the Government recognises that it can do more to improve the way that tax policy is made. The move to a single fiscal event has been welcomed by economists and tax experts, including the International Monetary Fund, Institute for Government, the Confederation of British Industry, Chartered Institute of Taxation and the Institute for Fiscal Studies.

The single fiscal event provides a more stable framework for policy making by keeping fiscal changes only to the Budget, while maintaining the improvements set out in 2010 to the tax policy-making cycle. The majority of changes are subject to both a policy and technical consultation, with draft legislation published in the summer at 'L-day' (on 6 July 2018 for the last cycle). Even where the Government has reserved the right to take action quickly, such as in the case of anti-avoidance legislation, there has been greater consultation before legislation is put in place.

The Government remains committed to the tax policy making approach in the development of policy changes. This has resulted in the majority of tax policy changes being subject to consultation both on the policy and draft legislation, ensuring that the policy and legislation are effective. Furthermore, where consultations are carried out, response documents are subsequently published as a matter of course. The Government continues to seek opportunities to find how our consultation approach can be more effective and how engagement can provide greater insight to the effects of a policy change.

***Recommendation 5.2:** We recommend that all powers granted to HMRC since the conclusion of the Powers Review in 2012 should be evaluated, and those evaluations published. All future powers should be evaluated after five years. (Paragraph 134)*

The Government accepts this recommendation in part.

The Government keeps the tax system under review and notes the recommendations.

5. HMRC's Changing Culture

***Recommendation 6.1:** The Adjudicator has an important role in providing an independent overview of HMRC's treatment of taxpayers. Consideration should be given to widening the role to increase taxpayer access, or increasing HMRC obligations to respond to and act on Adjudicator recommendations. (Paragraph 150)*

The Government accepts this recommendation in part.

HMRC recognises and values the independent Adjudicator role and will consider whether we need to publicise the role earlier in the complaints process.

Access to the Adjudicator is already open to all taxpayers. Customers are advised of their rights to raise their case with the Adjudicator if they are not satisfied with HMRC's handling of their complaint.

The new Service Level Agreement we have with the Adjudicator's Office reflects our drive to modernise and improve complaints handling, and is informed by listening to customers and the Adjudicator's Office and learning from the feedback received.

Some complaints contain issues that can be challenged through other routes and we signpost the customer to the correct escalation route at the earliest opportunity. Customers have recourse to challenge HMRC via several routes depending on the subject matter of the complaint, for example challenges to Government policy can be made via a judicial review. Other routes available to customers to challenge HMRC include Ministerial correspondence; appeals; tribunals; judicial reviews; and if a complaint concerns a member of staff, Internal Governance and/or Independent Office for Police Conduct.

HMRC already has obligations to respond to Adjudicator's Office recommendations. The current Service Level Agreement between HMRC and the Adjudicator states that: "The appropriate HMRC Director will be responsible for ensuring the recommendations made by the Adjudicator are implemented and any compensation paid." There are only very exceptional circumstances where HMRC would not accept Adjudicator recommendations; where we can provide factual evidence that the recommendations are not based on a fair and consistent application of HMRC's published standards, guidance and codes of practice. This has to be agreed by the Second Permanent Secretary & Deputy Chief Executive.

***Recommendation 6.2:** The new Customer Experience Committee should have an important role in considering taxpayers' perspectives on how HMRC staff engage with them and in ensuring high standards of customer service. It should include representatives of all types of taxpayer, agents and tax professionals. (Paragraph 154)*

The Government accepts this recommendation in part.

The new Customer Experience Committee has been formed with leaders of customer service companies in the private sector. These Independent Advisers have been appointed

following an open competition and bring a range of expertise and knowledge. The Committee will play a crucial role in supporting and challenging our Executive Committee on customer experience to help HMRC deliver its purpose. Other members of the Committee include non-executive members of HMRC's Board. The Committee will also draw on insight derived from the Department's many customer representative forums to bring the customer perspective directly into their discussions.

Recommendation 6.3: *We recommend that the Government requires that the annual report on the Charter is agreed by the representatives of the tax community (not just individuals on the Committee) and that it is drawn up with the involvement of the Adjudicator. (Paragraph 159)*

The Government accepts this recommendation in part.

HMRC will ensure that the Customer Experience Committee have the opportunity to hear from the Adjudicator when considering the Department's adherence to 'Your Charter'. The Committee will also draw upon the feedback and insight provided by the Department's other customer representative forums during the development of the Charter and the annual report.

Recommendation 6.4: *We recommend that the Charter is amended to clarify HMRC's responsibilities towards unrepresented taxpayers including that issues are clearly set out, legislation is explained and rights to review and appeals are made accessible. (Paragraph 160)*

The Government accepts this recommendation.

HMRC is currently reviewing *Your Charter*. HMRC will work with the Customer Experience Committee to ensure that any revisions to the Charter take into account the feedback already received from customers, as well as the recommendations made in the report.

Recommendation 6.5: *The evidence suggests that, in compliance and enquiry cases, the behaviour of some HMRC staff falls well below the standard set in the Charter. HMRC needs to have better systems in place to identify and address any problem behaviours as a matter of urgency. (Paragraph 157)*

We recommend HMRC undertakes a full inquiry into behavioural trends and cases of aggressive treatment, then publishes a clear statement of what leadership behaviours, training or policy clarification is required to ensure all staff are aware of what is and is not acceptable behaviour towards taxpayers. (Paragraph 161)

The Government accepts these recommendations in part.

HMRC have a range of safeguards in place. This includes comprehensive guidance (including professionalism principles), a quality assurance framework, internal and external checks and assurance of case work standards, governance boards and legislation (appeal rights). We routinely and actively learn from the results of assurance, audit, and

other feedback mechanisms to maximise improvement opportunities. This includes taking remedial action where appropriate.

We have a comprehensive Tax Settlement Assurance Programme (TSAP) in place. This examines a random sample of recently closed cases in detail. The examination includes looking at the engagement with our customers and, if issues are found, the impact on that customer.

Using the evidence from the TSAP and other feedback mechanisms, we do not recognise systemic problem, or aggressive, behaviours across our compliance case work. However, HMRC accepts that in some cases, compliance checks may not be worked to the professional standards that we expect. We will further review our assurance findings to establish the extent of any problem relating to the concerns raised in the House of Lords report.

6. Powers Review Principles Revisited

***Recommendation 7.1:** The Government has a responsibility to ensure HMRC has the funding it requires to treat taxpayers fairly. We recommend that the Treasury, as part of the next Spending Review, assesses whether HMRC is adequately resourced to fulfil its Charter obligations. (Paragraph 171) Concerns that inadequate funding has caused HMRC to neglect its obligations towards taxpayers were also apparent in our Making Tax Digital for VAT Report. The Government should consider an independent review of HMRC resources more widely. (Paragraph 172)*

The Government does not accept these recommendations.

This Government has always provided HMRC with the resources it needs. Overall, since 2010 the Government has committed £2 billion of additional investment and a further £650m has been allocated across the Spending Review period for essential EU Exit preparations.

The Government will undertake the next Spending Review in 2019, to set budgets for 2020-21 onwards (2021-22 onwards for Capital), as ever balancing the provision of a fair and effective service with sustainable public finances. The Spending Review will confirm the Government's priorities for the years ahead, including for HMRC, ensuring the provision of high quality public services while bringing down debt.

***Recommendation 7.2:** As reliance grows on third party providers, any weaknesses in their systems and processes may have implications for data accuracy. Digital developments do not themselves drive a need for new principles of tax administration. However, we recommend that the rights of the digitally excluded and the proportionality of the burdens placed on third party information providers should be adopted as important principles. (Paragraph 175)*

Recent developments have highlighted concerns on retrospective legislation We recommend that the Powers Review principles should be updated to ensure that powers should not be sought that inappropriately apply to income profits or gains for tax years ending before the tax year of the announced change. (Paragraph 178) We recommend that the Government commits to the principles set out in the Powers Review, with the additions we have proposed. They should be formally incorporated into the Government's policy-making process and monitored by the Tax Professionals Forum. (Paragraph 180)

The Government accepts these recommendations in part.

The Government agrees with the Committee that having an appropriate public framework laying out a set of principles is of utmost importance. The Government is committed to striking the correct balance between helping the compliant majority fulfil their obligations, providing appropriate support to customers who need extra assistance to get things right, while taking robust action against those who seek to avoid paying their fair share of taxes.

The Government's policy before introducing a legislative provision having retrospective effect is to balance the conflicting public interests and to consider whether the general public interest in the law not being changed retrospectively may be outweighed by any competing public interest.

Where it is discovered that the tax law does not have the effect that the Government and taxpayers generally thought it had, there are circumstances in which it is right to introduce legislation to restore the position retrospectively to what it was thought to be. This is done only in exceptional circumstances and where the Government consider such action is necessary to protect the interests of the general body of taxpayers.

The Government remains fully committed to the Powers Review principles. The Powers Review was designed to consolidate powers, deterrents and safeguards following the merger of HM Customs and Excise and the Inland Revenue. This seven year project was key to the effective functioning of the new Department. Although since 2012 HMRC's powers have evolved to tackle the changing nature of avoidance and evasion, there has been no fundamental change to the operation of the Department which would justify a further review at this time. However, the Treasury keeps all tax policy under review, and is committed to balancing the need to clamp down on avoidance and evasion with taxpayer protections.

7. Reviewing HMRC Powers and Accountability

Recommendation 8.1: *We recommend that the Government establishes a new Powers Review, both of the cumulative effect of recent developments and what is needed for the future as tax administration moves to digital systems. This should replicate the successful features of its predecessor in order to update the established principles. (Paragraph 187)*

The Government accepts this recommendation in part.

The Government keeps the tax system under review and notes the Committee's recommendation to update the powers review principles for the digital age. HMRC will consider options for reviewing and updating the tax administration framework, to ensure that it is effective in underpinning modern tax administration. HMRC is also considering how the effectiveness of current arrangements such as the Adjudicator's Office could be enhanced, and how we can utilise our forums, such as the Customer Experience Committee and Compliance Reform Forum to help us develop our approach.

Recommendation 8.2: *We recommend an independent review, commissioned by the Treasury, to consider the establishment of an independent body to scrutinise the operations of HMRC. (Paragraph 196) A collaborative body with a focus on powers, within a broad remit, could monitor the balance between HMRC and the taxpayer, consider new proposals for legislation, including taxpayer safeguards, and provide oversight of the issues around HMRC culture and deteriorating customer service which have caused our witnesses concern. (Paragraph 199) We recommend that a Joint Consultative Committee on Powers, modelled on the Joint Consultative Committee on VAT, be established to fulfil this function, with wide representation from tax professionals and business organisations. It should also oversee any new powers review. (Paragraph 200)*

The Government does not accept these recommendations.

The Government agrees that HMRC has to balance the collection of tax with important taxpayer safeguards. As set out above, the Powers Review was a major project designed to support the merger of HM Customs and Excise and the Inland Revenue. There has been no such fundamental change to the Department since.

Additionally, there are already processes in place to scrutinise HMRC operations including the Non-Executive Committee, the Customer Experience Committee, the Adjudicator, and the Chancellor's Annual Remit Letter.

It is right that HMRC's functions and operations are given full scrutiny, but given the complex nature of HMRC's objectives and activities this should not be done in isolation, but rather with reference to the full range of functions HMRC carries out.

The Spending Review this year will evaluate departmental resources, and will also aim to ensure that policy issues are considered across departmental boundaries. HMRC's operations and operational practices will naturally form part of this.