

Annex B: Impact Assessment: Summary: Intervention & Options

Department /Agency: HMRC	Title: Impact Assessment of possible changes to the handling of appeals in the context of tribunal reform	
Stage: Consultation	Version: 1	Date: October 2007
Related Publications:		

Available to view or download at:

<http://www.hmrc.gov.uk/consultations/index.htm>

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What is the problem under consideration? Why is government intervention necessary?

The Tribunals, Courts and Enforcement Act 2007 will bring tribunals across Government within a common framework and will affect tax appeals presently heard by the General and Special Commissioners and the VAT and Duties Tribunals.

Different appeal rules and procedures apply across different taxes administered by what is now one Department. Intervention is necessary to bring these together, in particular to provide a process for resolving disputes which meets customer needs in the context of the reformed tribunal system.

What are the policy objectives and the intended effects?

These are to:

- ensure a smooth transition to minimise disruption;
- introduce explicit pre-tribunal reviews of all HMRC appealable decisions, to give assurance to customers and improve HMRC consistency, limiting the need for recourse to tribunals
- align as far as possible the rules governing the handling of appeals across the range of HMRC business to make the review and appeals process clear and accessible for all our customers.

What policy options have been considered? Please justify any preferred option.

In the context of creating a manifestly independent tribunal, maintain a system which allows customers the opportunity to settle disputes by negotiation without recourse to the tribunal service.

A more consistent approach using a review which is statutory, or non-statutory (but governed by a code of practice) which could, in either case, be made a pre-condition of an appeal to tribunal.

Alignment of other matters concerned with the administration of appeals, for example time limits or the award of interest, set out in the Condoc, will bring greater consistency across HMRC business.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Expected 2 years after the launch of the new tax tribunal.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Jane Kennedy

.....Date: 30 September 2007

Summary: Analysis & Evidence

Policy Option: 1

Description: Settlement by negotiation

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' At present, annual/ongoing costs of allowing informal dispute resolution are expected to be nil or negligible for both agents and taxpayers. This is a continuation of business as usual and is intended to allow the vast majority of disputes to be settled without recourse to a tribunal.
	One-off (Transition)	Yrs	
	£ TBC		
	Average Annual Cost (excluding one-off)		
	£ TBC		Total Cost (PV) £
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' This proposal means disputes can still be settled outside the tribunal system. This avoids the potential direct costs involved if more cases were heard formally, plus the indirect costs of those concerned becoming familiar with the tribunals system.
	One-off	Yrs	
	£ TBC		
	Average Annual Benefit (excluding one-off)		
	£ TBC		Total Benefit (PV) £
Other key non-monetised benefits by 'main affected groups'			

Key Assumptions/Sensitivities/Risks

Risk: Little information with which to quantify costs and benefits at this stage.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		United Kingdom	
On what date will the policy be implemented?		April 2009	
Which organisation(s) will enforce the policy?		HMRC	
What is the total annual cost of enforcement for these organisations?		£	
Does enforcement comply with Hampton principles?		Yes/No	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£ n/a	
What is the value of changes in greenhouse gas emissions?		£ 0	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	No	No	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ negligible	Decrease of	£ negligible
Net Impact		£ negligible	

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: 2

Description: Pre-tribunal review

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Minimal for customers, as any action by them will be no more than that normally associated with negotiation with HMRC. The reviews would be carried out by HMRC. It is not yet possible to estimate HMRC's net additional costs, but at this stage these are not considered to be significant.
	One-off (Transition)	Yrs	
	£ TBC		
	Average Annual Cost (excluding one-off)		
	£ TBC		Total Cost (PV) £
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' There should be some savings both for HMRC and its customers, in cases where the enhanced review process resolves cases which would otherwise have progressed to progress to a tribunal hearing. But it is not possible to quantify these at this stage.
	One-off	Yrs	
	£ TBC		
	Average Annual Benefit (excluding one-off)		
	£ TBC		Total Benefit (PV) £
Other key non-monetised benefits by 'main affected groups' Increased resolution of cases at a review stage rather than forcing involvement with the tribunal should help avoid stress for customers.			

Key Assumptions/Sensitivities/Risks

Risk: Little information with which to quantify costs and benefits at this stage.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		United Kingdom	
On what date will the policy be implemented?		April 2009	
Which organisation(s) will enforce the policy?		HMRC	
What is the total annual cost of enforcement for these organisations?		£	
Does enforcement comply with Hampton principles?		Yes/No	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£ n/a	
What is the value of changes in greenhouse gas emissions?		£ 0	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	No	No	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of	£ negligible	Decrease of	£ negligible Net Impact £ negligible

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: 3

Description: Alignment of rules and procedures

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' The changes proposed would have minimal cost, as they help to ensure that potential disputes are settled without recourse to a tribunal. Ensuring that interest rates applying to underpaid VAT follow a statutory rule, rather than tribunal's discretion could have a small cost to those winning a VAT appeal.
	One-off (Transition)	Yrs	
	£ negligible		
	Average Annual Cost (excluding one-off)		
	£ negligible		Total Cost (PV) £
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' There should be some savings both for HMRC and its customers, in cases where the enhanced review process resolves cases which would otherwise have progressed to a tribunal hearing. But it is not possible to quantify these at this stage
	One-off	Yrs	
	£ TBC		
	Average Annual Benefit (excluding one-off)		
	£ TBC		Total Benefit (PV) £
Other key non-monetised benefits by 'main affected groups' Greater consistency of rules and procedures will make it easier for taxpayers to understand and deal with the tax appeal system.			

Key Assumptions/Sensitivities/Risks

Risk: Little information with which to quantify costs and benefits at this stage.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		United Kingdom	
On what date will the policy be implemented?		April 2009	
Which organisation(s) will enforce the policy?		HMRC	
What is the total annual cost of enforcement for these organisations?		£	
Does enforcement comply with Hampton principles?		Yes/No	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£ n/a	
What is the value of changes in greenhouse gas emissions?		£ 0	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	No	No	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ negligible	Decrease of	£ negligible
Net Impact		£ negligible	

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Background

The tribunal reforms embodied in the Tribunals, Courts and Enforcement Act 2007 envisage that the administration of tax appeals which are to be heard by a tribunal should be wholly in the hands of the tribunal service, rather than HMRC, who are a party to those proceedings.

At the same time, it is important to ensure that the new tribunal is not overwhelmed by large numbers of cases which could quite easily be settled by dialogue between the parties, saving time, money and long periods of uncertainty.

Further explanation of options

Policy option 1:

The vast majority of disputes between taxpayers and HMRC can be resolved amicably between the parties without the need for a tribunal hearing.

In indirect tax cases, decisions can be challenged without the need for a formal appeal. Following reconsideration, or on receipt of new information, the original decision can be varied, with, for example, the assessment being reduced or withdrawn, thus bringing the matter to a conclusion.

The situation with direct tax is different as, in most cases, a decision cannot be challenged or varied unless an appeal has been made. Although, technically, the appeal is made to the General or Special Commissioners, it is sent to HMRC rather than to the Tribunals Service. HMRC then has a key role in arranging appeal hearings before the General Commissioners when these are needed. In keeping with the tribunal reforms, and to bring consistency across the range of HMRC responsibilities, this needs to change.

However, it would be in no-one's interests for every dispute about direct tax to involve the tribunal merely because the mechanism for resolving disputes is presently cast in terms of appeals. We want to give every opportunity, as in other areas of HMRC's business, to enable direct tax disputes to be resolved without the need for the tribunal to be involved.

In administrative burden terms, we have said this is likely to be cost neutral. Continuing the ability to resolve disputes by agreement should not change current information obligations nor require any more correspondence or other activity than at present.

Policy option 2:

Greater and more consistent use of pre-tribunal review procedures has had consistent support from a variety of sources in recent years, as set out in the Consultative document. Most recently, the responses to the 17 May 2007 Powers review consultation "Safeguards for Taxpayers", indicated support for taking this work further.

The current arrangements are as follows:

- VAT – A reconsideration by someone not involved in the original decision is offered. The taxpayer can appeal immediately whether or not the offer is taken up or can wait for the outcome.

- Excise and customs – A taxpayer cannot appeal to tribunal without having first gone through a review process.
- Direct taxes – As explained under option 1, an appeal will have been lodged at a relatively early stage in the dispute. There are no formal arrangements for offering a review or reconsideration but it is most unlikely that any case would get as far as a Commissioners' hearing without it having been subject to some kind of review.

It might be thought desirable to have a more consistent review procedure be introduced across all regimes administered by HMRC and we seek comments on the importance of consistency. It is possible that there are some areas of dispute where different arrangements will be needed. A widely available, consistent review procedure may reduce the need for formal tribunal appeals saving money for customers.

Here again we are suggesting the option will be cost neutral as the introduction of a review stage within HMRC should not require appellants or their representatives to argue their case to any greater extent than they do now.

Policy option 3:

Bringing greater consistency to the administration of appeals processes more generally fits with the introduction of a single tax tribunal and the merger of the two former departments. Customers are entitled to expect that, if they are in dispute with HMRC over an appealable matter, the procedures involved will, so far as possible, be the same whatever the subject matter.

In some circumstances the VAT and Duties Tribunal is presently empowered to award interest, either to the taxpayer or to HMRC, at rates which lie within its own discretion. This creates unfairness as between different taxpayers in comparable situations and it is unnecessary as interest at statutory rates is already provided for. HMRC proposes to remove the ability of the tribunal to set discretionary interest rates.

To date, few appellants have benefited from this discretionary power so this proposal will have little financial effect against a baseline of current practice. However, it does remove the potential for future awards of interest above statutory rates. This means there is a protective effect on future Exchequer revenues and a negative impact on potential awards of interest to appellants.

Volume of appeals

The following table sets out some indicative data about the annual number of appeals in different HMRC business areas and the ways in which these feed through to tribunal hearings.

Business Area	Number of Appeals (1)	General Commissioners		Special Commissioners	VAT and Duties Tribunal		Section 706 tribunal	Social Security Tribunal	
		Received	Heard	Heard	Received	Heard	Heard	Received	Heard
Income tax (late filing penalties)	140,000			50					
Income tax (other)	43,000	20,000	8,000						
Corporation tax	29,000	750	Not available				5		
VAT	7,300				2,300	500			
Customs and Excise Duties	3,800				270	100			
Tax credits and Child Benefit	23,000							2,400	500

Other	450	200	Not available	70				40	10
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Source: Compiled by HMRC from HMRC and tribunals data sources

(1) Includes cases where reconsideration is requested (VAT) or which are subject to mandatory review (Customs and Excise Duties).

Excludes telephone calls to contact centres where the issue is resolved by HMRC making a superseding decision that gives a fresh right of appeal.

We are working on the assumption that the options outlined above will result in no major change in the number of appeals and we welcome comments on this assumption, both in general and in relation to specific taxes. We will be talking to stakeholders directly about this and the validity of the figures we have already included.

Business costs of appeals

The Standard Cost Model (SCM) provides a useful indication of the costs imposed on businesses by the requirement to provide core information to HMRC in connection with taxpayer appeals. It will be seen from the options above, that we see the greatest impact of reform being on the internal handling of appeals by HMRC. We believe that the cost to taxpayers and agents will be little changed.

We expect a broadly similar pattern of disagreements with customers and for similar proportions of cases to progress to First-tier tribunals and higher courts. We therefore do not expect much change in the volumes and costs within the SCM.

The SCM estimates that the total cost to businesses of complaints and appeals information obligations is around £16 million per annum across all taxes and duties included within it. However, this figure is a very broad illustration only. It includes the cost of complaints (not relevant to this impact assessment), does not include the effects on individuals with appeals, and only deals with costs arising from information obligations (i.e. it omits wider costs such as those arising from legal advice).

The SCM also only focuses on compliant businesses. While it cannot be said that mere involvement in an appeal is any indication of non-compliance, it is possible that the non-compliant have different and higher costs because their choice not to comply leads to a greater number of investigations and subsequent disputes.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes/No	Yes/No
Small Firms Impact Test	Yes/No	Yes/No
Legal Aid	Yes/No	Yes/No
Sustainable Development	Yes/No	Yes/No
Carbon Assessment	Yes/No	Yes/No
Other Environment	Yes/No	Yes/No
Health Impact Assessment	Yes/No	Yes/No
Race Equality	Yes/No	Yes/No
Disability Equality	Yes/No	Yes/No
Gender Equality	Yes/No	Yes/No
Human Rights	Yes/No	Yes/No
Rural Proofing	Yes/No	Yes/No