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CLEARER ACCOUNTABILITY

Summary and recommendations

This Chapter sets out new accountability arrangements for the new department and for the Treasury. The accountability framework of the revenue departments has served them well, in particular the legal separation of the departments from Ministers, which underpins customer confidentiality. However, some elements of the framework are unclear and can be improved upon.

As set out in Chapter 5, the roles of the new department and the Treasury in providing policy advice to Ministers should be more clearly defined. The review also proposes that the new department should have greater discretion for administering its affairs and for implementing policy. The experience of the Government's public sector reform programme is that this greater discretion for the department's managers will help to improve performance. The corollary of this greater discretion will be clearer accountability for decisions taken.

The new and clarified roles and responsibilities should be set out in a new Framework Document. This document will be an opportunity for Ministers to set out long-term principles to govern the new department's approach to implementation and its corporate affairs. The Chancellor should also issue an annual Remit to the new department as part of the budget process. This should describe in outline the main tasks of the new department for the year.

The review recommends that:

- the new department should have lead responsibility and accountability for implementation, with clearer and greater discretion to manage the department.

Flowing from this recommendation and the policy recommendations:

- the new department should, like its predecessors, be a non-ministerial department, as an underpinning of customer confidentiality;
- each year the Chancellor should issue a Remit to the Executive Chairman outlining the new department's main new and ongoing tasks. This should be focussed on what should be achieved, and why, rather than how, which should be a matter for the new department;
- a Framework Document setting out who is accountable to whom, for what, in the new department, should be published. The Framework will be an opportunity for Ministers to set out long-term principles to govern the work of the department; and
- structures should be established to ensure that the Treasury and the new department have a close dialogue, developing a shared view of key issues, and agreeing advice to the Chancellor on the form of the annual Remit.

INTRODUCTION

6.1 The Chancellor tasked the review with developing a new framework for accountability for those working on tax, to set out more clearly the roles and responsibilities of all those involved.

6.2 Chapter 3 has made the case for the creation of a single new department that integrates Customs and the Revenue. The creation of a new department presents an opportunity to modernise the accountability arrangements, and to improve clarity about who is responsible to whom, for what. Clarity helps to promote effectiveness, and will help the new department to provide better services to taxpayers. For example, if a new small business service were created in the new department, having a clear target to promote enterprise, accountability for achieving this target, and the discretion and resources to meet it, would all help the service to achieve its objectives and enhance enterprise.

6.3 The Chancellor has overall accountability to Parliament for the taxation system. Nothing in this review can change this. Within this context, the review proposes strengthening accountability to Parliament by clarifying who is responsible for what. Chapter 3 has explained why the new department will need strong leadership, led by a full-time Executive Chairman. The Executive Chairman of the new department should remain accountable to the Chancellor (and to other Ministers, as designated by the Chancellor), to customers, to Parliament, and to the courts for the proper application of legislation.

6.4 This Chapter sets out:

- the principles of the Government’s approach to accountability;
- the current accountability arrangements;
- the case for changing these arrangements;
- how clearer accountability to taxpayers and to Parliament will be demonstrated through the Chancellor’s annual public Remit to the new department;
- how clearer roles and responsibilities will be established in a formal Framework Document for the new department;
- how governance of the relationship between the Treasury and the new department will ensure that there is proper integration of policy and administration; and
- in general terms the legislation that will be necessary to introduce the changes proposed in this review.

PRINCIPLES OF THE GOVERNMENT’S APPROACH

6.5 The reforms proposed in this review should be seen in the context of the Government’s wider agenda for the reform of public services. The principles that guide these reforms are:

- clear long-term goals set by the Government (i.e. ‘what’ should be achieved and ‘why’);
- a clear division of responsibility and accountability for achieving those goals with proper coordination at the centre;
- maximum flexibility and discretion to develop and implement innovative approaches that take account of conditions at the delivery front line (i.e. in relation to the ‘how’); and

- alongside this devolution or decentralisation of power, maximum transparency about goals and progress in achieving them, with proper scrutiny and accountability.

6.6 Much of the Government's reform agenda for public services is about introducing choice and tailoring services for citizens. Choice is restricted in relation to the administration of tax, as taxpayers on the whole do not have a choice about their 'tax service provider', in the way that they have some choice about health or education. However, tailoring services by better focussing on customers is very much a theme of the review. The theme of providing discretion for managers to decide how best to meet standards set by the Government is also relevant (see Box 6.1). The Gershon review is also relevant in this context.

Box 6.1: the Devolving Decision-Making review

The Devolving Decision-Making review,¹ takes forward the Government's agenda of devolving and delegating power within a framework of national standards.

A key part of this review, led jointly by the Treasury and the Prime Minister's Delivery Unit, has explored how target setting and performance management can be further improved to enable continuous improvement in delivery. By examining best practice in the UK and internationally, this work finds that high performing organisations have five characteristics:

- robust and reliable internal data reporting;
- strong leadership;
- clear accountabilities;
- performance review combining challenge and support; and
- transparent rewards and sanctions.

These characteristics underpin the Government's public sector reforms, and are relevant to the relationship between Ministers and the new department, as well as to the internal management of the new department.

THE CURRENT ARRANGEMENTS

6.7 The legislative framework and accountability arrangements for the revenue departments largely date back to the nineteenth century. Their relationship with the Treasury (i.e. the Chancellor or the Minister to whom he delegates oversight) is governed by statute, rather than by the conventions and case law governing relations between ordinary departments and their Ministers. The rationale for maintaining this arrangement in the 21st Century is that it distances the day-to-day administration from direct Ministerial control, while retaining some Government input to the wider policy context (see Box 6.2). At the same time, the creation of a new department presents a real opportunity to modernise accountability arrangements, consistent with the core purposes of the new department.

¹ *Devolving decision making: 1- Delivering better public services: refining targets and performance management*, 17th March 2004, available at www.hm-treasury.gov.uk

Box 6.2: Non-ministerial departments

The revenue departments are ‘non-ministerial departments’ (NMDs). These are distinct from normal or ministerial departments, in that the officials running them are office-holders with functions and powers established by statute. The statutory office-holders are accountable to Parliament, and to the courts, for decisions taken under legislation. In some cases Ministers also have some power of direction or control of the NMD – in which case the NMD is also to a greater or lesser extent accountable to Ministers, and Ministers to Parliament for the exercise, or otherwise, of the directing power. In the case of Customs, legislation provides that the Chancellor has “general control”, and in the case of the Revenue, “authority, direction and control” of the departments’ Commissioners. Neither of these phrases is defined by case law.

Many ministerial departments have statutory functions but they do not have statutory boards or directors that have the power and responsibility to carry out those statutory functions. In ordinary departments, officials are subject to Ministerial direction without intermediary statutory boards or commissioners, and officials can exercise the Ministers’ powers and functions.

NMDs can also be contrasted with executive agencies (established following the Next Steps report in 1988), which are legally part of a department.² Agencies consolidate their accounts into their ‘parent’ department’s accounts. The Chief Executive (often appointed for a fixed term) is usually answerable to a Minister in the department and to the Permanent Secretary. These agencies have some managerial or administrative independence from the parent department, but they are not legally separate.

As NMDs, the revenue departments are firmly part of Government, but as bodies that are legally separate from the Treasury (a ministerial department), they are able to protect taxpayers’ confidentiality and maintain strong accountability to Parliament for tax administration.

6.8 While the legal separation between Ministers (and ministerial departments) and the revenue departments has worked well, and continues to be relevant as an underpinning of customer confidentiality, the arrangements do not establish clearly who is accountable to whom, for what. There is a particular lack of clarity in areas relating to the administration of the collection of taxation and operational tax policy, and the departments’ corporate affairs.

6.9 Revenue collection and the other tasks of the departments have been effective despite this lack of clarity. But greater clarity brings the expectation that responsibility given will be exercised, whereas ambiguity brings the natural tendency to avoid risk, encouraging inaction. By encouraging people to take responsibility, clarity therefore promotes effectiveness. The review represents an opportunity to establish a clearer framework for accountability and responsibility, thereby enhancing effectiveness.

International comparisons

6.10 Recent reforms to accountability arrangements in the tax administrations of other countries have not shown a clear trend (in the way, for example, that reforms to monetary policymaking have led to greater independence for central banks in many countries). International comparisons do however support the analysis and recommendations of the review.

6.11 One recent change has been the introduction of supervisory boards in Canada and the US (see Annex A). These boards have aimed to strengthen accountability (and in the case of Canada, to give the Provinces a stronger role in the governance of tax

² Confusingly, some NMDs are run as agencies, and some use the word ‘agency’ in their name e.g. the Food Standards Agency.

administration). However, the review’s research suggests that the creation of these boards has led to some uncertainty about the respective roles of Ministers, the boards, and the management of the administrations. It also informs the review’s assessment that strategic alignment between the departments (which has a strategic board as a key component) is not the best organisational solution.

6.12 Another issue is the degree of separation between the finance ministry/treasury and the tax administration. Table 6.1 estimates the degree of separation for several countries. On the basis of a limited sample, it appears to be the case that English-speaking countries have a higher degree of separation from the finance ministry/treasury than those in Continental Europe. One possible explanation of this is that taxpayer confidentiality is a higher priority in English-speaking countries, and the separation between the tax administration and the finance ministry/treasury helps to protect taxpayer confidentiality.

Table 6.1: separation of tax administration from finance ministry/treasury

High degree of separation	Medium degree of separation	Low degree of separation
Australian Taxation Office	Canada Revenue Agency	Belastingdienst (NL)
Internal Revenue Service (USA)	HM Customs and Excise (UK)	Direction Generale des Impots (Fr)
Inland Revenue Department (NZ)	Inland Revenue (UK)	

Source: Review team

Customer confidentiality

6.13 One of the principles of this review is that Ministers – and therefore the Treasury, as a ministerial department – should in general not have access to information on an individual’s tax affairs without consent.³ This principle protects the taxation system against accusations of political intervention in taxpayers’ affairs and helps to remove the occasion for powerful taxpayers to lobby Ministers concerning their individual tax situation.

6.14 While there is significant scope for clarifying the relationship between Ministers and the new department, nothing in this review proposes that the basic separation between a statutory revenue department and the Treasury (as a ministerial department) should be changed. This statutory separation is essential to protect customer confidentiality.

Recommendation: the new department should, like its predecessors, be a non-ministerial department, as an underpinning of customer confidentiality.

³ With some exceptions such as those provided in the Social Security Administration (Fraud) Act 1997.

THE CASE FOR CHANGE

6.15 A key driver of this review and of the Government's approach to public sector reform more generally is that where possible, authority should be provided to those with the capacity to achieve the outcomes that matter to citizens (in this case, those responsible for administering the tax system), within a framework of long-term goals set by the Government. There is a particular case for devolving authority where the state is acting as a regulator (see Box 6.3).

Box 6.3: autonomy for regulators

There is a particular case for devolving authority where the state is acting as a regulator. This is because the regulator can take 'technical' decisions within a framework of high-level rules (which incorporate basic political choices). This means that:

- uncertainty in the operation of the rules is reduced, allowing those that are regulated to plan;
- gaming (e.g. lobbying for concessions) by those being regulated is reduced; and
- a perception of fair application of rules is created, encouraging compliance with the rules.

The overall impact of these considerations is that the economic cost of regulation is reduced. The Government has recognised the benefits of providing autonomy to regulators in several areas. In the case of competition, the goals of competition policy decision-making have been set out in legislation, and day-to-day decisions devolved to the Office of Fair Trading and the Competition Commission. Another example of where the Government has devolved power to an autonomous regulator is the Financial Services Authority.⁴

6.16 In as far as the revenue departments' tasks involve interpreting and implementing legislation as it relates to individual taxpayers' affairs, they could be described as regulators. However, the regulation that the revenue departments conduct is of a particular sort. It involves a large number of detailed decisions, the results of which are often not publicly available, in contrast for example to the Competition Commission or the Financial Services Authority (FSA). This makes monitoring the 'output' of the revenue departments difficult.

6.17 In addition, much of what the revenue departments do involves the general administration of the taxation system, rather than decisions about individual taxpayers' affairs. Raising taxes is also an inherently political matter, involving direct interaction with many citizens. It would be difficult, therefore, to make the case for providing the degree of autonomy that exists for the Competition Commission or the FSA for the new department, but there is a case for providing some autonomy for the new department, particularly when it is acting as a regulator.

Autonomy for managers

6.18 While there are elements of the work of the revenue departments that could be described as regulatory, they are above all, huge service delivery organisations, responsible for providing services directly to millions of citizens and businesses, and for implementing legislation. One of the principles of the Government's public sector

⁴ The Government's approach to monetary policy, and also to competition and financial services regulation has involved applying the principle of 'constrained discretion.' Constrained discretion is an alternative to a policy framework based only on rules, under which policy would respond to events only through the application of publicly announced rules, or a framework based only on discretion, under which policy is guided only by policy-makers' discretion. As the name suggests, constrained discretion involves establishing an overall framework to provide long-term stability, constraining policy to achieve clear long-term and sustainable goals, which allows discretion to respond flexibly to events.

reforms is that organisations are better run if they have discretion to decide how to implement policy, rather than having implementation centrally directed in detail.

The DWP approach **6.19** DWP has been used as a comparator in other parts of the review, as a very large department, and which provides services to millions of citizens. While there are significant differences between DWP's governance and that of the revenue departments, there are also similarities that make DWP a relevant model (see Box 6.4).

6.20 The suggestion here is not that the new department should necessarily replicate DWP's model, by, for example, formally establishing customer-facing agencies. It is rather that there are advantages in providing substantial discretion to managers to meet clear targets, within a framework of performance management, and that there are advantages in setting out clearly who is accountable to whom, for what.

Box 6.4: DWP accountability arrangements⁵

As discussed in Chapter 3, DWP was formed in 2001, bringing together policy and operations on employment (from the former Department for Education and Employment) pensions, and benefits. There are important differences between the governance of DWP and that of the revenue departments. In particular the revenue departments are non-ministerial departments (see Box 6.2) while DWP is a ministerial department. In contrast to the revenue departments, there is no statutory board or office-holders responsible for managing DWP, but rather a Departmental Board, which is established on an administrative basis. The Permanent Secretary is accountable to the Secretary of State for the overall performance of the department, and is accountable to Parliament as accounting officer for the proper use of public money. Below the Permanent Secretary are:

- Client Directors, who are responsible for setting the overall direction in relation to particular customer groups;
- Chief Executives for each of the agencies (e.g. Jobcentre Plus, the Child Support Agency), who are accountable for providing specific services to defined customer groups; and
- Group Functional Directors (Finance, Human Resources, and Information Officer, as well as other Heads of Profession).

DWP therefore has a mixed customer/functional structure (see Chapter 3), with organisation around customers where possible, and organisation around function where there are significant economies of scale (e.g. in information sharing across the department).

The Chief Executives have significant discretion for the management of customer-focussed agencies to implement policy. At the same time the department is structured to ensure that there is a proper dialogue between those responsible for policy, those responsible for the functions of the department, and those responsible for implementation. The Chief Executives have responsibility for delivering specified outcomes, and meeting operational and performance targets, which are agreed with Client Directors and with Ministers.

(continued overleaf)

⁵ For more information on DWP and a copy of the department's Framework Document, see www.dwp.gov.uk

Box 6.4: DWP accountability arrangements (continued)

In the case of Jobcentre Plus, projects (such as the introduction of a new benefit) are initiated in the 'policy core' (which is led by the Client Directors), and then passed to Jobcentre Plus to work up operational plans and implement. At each stage it is clear who is responsible for doing what.

A Framework Document describes who in the department is accountable to whom, for what, and in the case of Jobcentre Plus, there is a memorandum of understanding between the policy core and the agency, which describes roles and responsibilities in more detail.

Selective autonomy for the new department

6.21 Overall, there is a case for modernising where possible the accountability arrangements of the new revenue department and giving greater discretion in certain areas of its work, within an effective framework of performance management. Where it is possible to define a clear role for the new department, defining the scope of discretion, and establishing procedures to monitor performance, there is potential for providing greater discretion – for example in the management of the department, and in implementation of policy. In other areas, such as supporting policy making, the revenue department's role is intertwined with that of the Treasury, and greater discretion would not be appropriate.

6.22 This selective autonomy will need new mechanisms to make it operational, and to make sure that the allocation of responsibility and accountability is clear. The rest of this Chapter makes proposals about these mechanisms.

ACHIEVING GREATER CLARITY: A PUBLIC REMIT

6.23 Within the basic legislative and constitutional framework, the review recommends that roles and responsibilities should be clarified, and that as part of this clarification, the new department should be provided with greater discretion in certain areas. In line with this and with Chapter 5 on policy, the review proposes that:

- the Treasury should have responsibility and corresponding accountability for the direction of tax policy. This would be discharged through the setting of general objectives that would help define the Remit and principles in the Framework Document for the new department (see below), or by leading and managing a project based process on particular issues itself;
- the new department should have responsibility and corresponding accountability for tax policy work to meet the Remit (see below) and the principles set out in the Framework Document;
- both departments would support the other in their activities. Where the Treasury leads on an issue, the new department would provide input on technical and operational aspects of work and help to work up policy in detail. Where the new department leads on an issue, Treasury would provide input on individual measures or packages to ensure they take account of the broader picture;
- the new department should have responsibility and accountability for implementing tax policy, in accordance with legislation, PSA objectives, and the Remit;

- the management of the new department should have responsibility and accountability for running the department, within the Framework set by Ministers; and
- the new department should continue to have lead responsibility and accountability for its non-revenue tasks, for advising Ministers, including non-Treasury Ministers, and for implementing relevant PSA objectives and targets agreed with those Ministers.

6.24 All of these roles are subject to joint Treasury and revenue department responsibility and accountability to work together to deliver the Government’s overall policy objectives. Whether leading or supporting, both of the departments are likely to be involved in the various stages of project work and meetings with Ministers.

6.25 The rationale for this allocation of responsibility is partly about comparative advantages (see Chapter 5) and also that lead responsibility for the direction of policy should primarily be a matter for a ministerial department – with support from those responsible for administering the taxation system. In the case of implementation, there is a logic in as far as the new department will be engaged in regulatory activity, and because greater autonomy for managers promotes better performance, for there to be some separation between Ministers and the implementing body.

6.26 This division is summarised in Table 6.2. The remainder of this section sets out the implications of this for delivery in more detail.

Table 6.2: proposed allocation of responsibility

	Treasury	New department
Tax policy	Lead, with input from new department	Support, work up in detail, feed in advice
Policy maintenance	Set objectives, support and monitor	Lead in accordance with objectives
Implementation	Advise on Remit, support and monitor	Lead in accordance with Remit
Administration of revenue department	Support and monitor	Lead in accordance with Framework

Revenue department responsibility

6.27 The new department should have clearer and greater discretion than at present, within the framework set by Government, to decide how to achieve the objectives set by Ministers. This greater discretion relates to the management and organisation of the department, and to the implementation of policy, rather than to the new department’s revised role in policy making.

6.28 The new department remains part of Government, and should remain subject to the rules of Government accounting, Treasury spending control (although see below), and wider Government rules and initiatives. Ministers should also, in the Framework Document – see below – set out the governance arrangements of the department, and principles to govern its responsibilities. Examples of areas in which the new department could have greater discretion are set out in Box 6.5.

Recommendation: the new department should have lead responsibility and accountability for implementation, with clearer and greater discretion to manage the department.

Box 6.5: examples of greater operational freedom for the new department

As set out above, the new department's discretion within the parameters of the Chancellor's Remit, the Framework Document, legislation and PSAs should be clarified and enhanced. This discretion could include the freedoms to:

- decide how the department is organised and structured;
- deliver projects once requirements have been set;
- release straightforward operational developments and, if necessary, performance details to the media and the new department's staff, once lead responsibility for a project is handed over;
- decide on practicalities, following agreement of departmental delivery plans, subject to general guidance about criteria to be applied, such as the location of delivery outlets including enquiry and contact centres, and the transfer of work/jobs within the organisation;
- make decisions on contracts, subject to Parliamentary authority for the spending in question and the controls exercised by Treasury and OGC;
- commission or carry out research including customer surveys that will enhance running of the business (e.g. by improving the new department's understanding of customers or compliance issues); and
- finalise the design and drafting of forms and leaflets within general parameters laid down by Ministers.

This should clarify responsibilities by setting out that Ministers' roles are in setting the strategic direction, and that they are not responsible or accountable for day-to-day tax administration.

A public strategic remit

6.29 As set out above, Ministers should continue to set policy and decide on primary legislation to propose to Parliament. For other areas, the Chancellor should, once a year, produce a strategic Remit. Within this remit, the new department should have greater scope for determining the best way of meeting the Remit set by the Chancellor, in the context of legislation, their Framework Document, and PSA objectives.

Accountability for ends

6.30 The Chancellor should issue an annual Remit to the new department, setting out the main ends or outcomes that the Government expects. This should take the form of a letter from the Chancellor to the Executive Chairman of the new department. The letter should be published alongside the Budget documents, and should be reproduced in the new department's departmental reports (which are published around the time of Parliamentary Estimates).

6.31 The Remit should consist of the following elements:

- a restatement of the PSA objectives and targets (with a presumption that these will not be changed except as part of the Spending Review process); and
- outline descriptions (for example, the Remit might set out the rationale for Child Trust Funds, and might provide a date by which the Funds should be available to a given number of children) for the department's priority tasks. These should be focussed on what should be achieved and why rather than how.

6.32 The presumption should be that the new department would agree the Remit before it was issued, although the Remit is in the final instance a matter for the Chancellor. The Executive Chairman should have the opportunity to discuss the Remit in advance of its publication with the Chancellor, and, once it has been published, should have the opportunity to raise any matters concerning the Remit with the Chancellor.

6.33 Once the Remit has been issued, responsibility for delivering the Remit passes to the new department. This includes a responsibility to keep Ministers informed of any issues affecting the Remit (as well as other issues, details of which may be set out in the Framework Document) – in addition to reporting any matters to the Treasury as provided for under accounting rules (see below). In addition to the Remit, there should be an opportunity to set out longer-term principles in relation to running the department in the Framework Document.

Recommendation: each year the Chancellor should issue a Remit to the Executive Chairman outlining the department's main new and ongoing tasks. This should be focussed on what should be achieved, and why, rather than how, which should be a matter for the new department.

Accountability for means **6.34** The new department's requirement to account for the resources at its disposal will remain as at present. The Executive Chairman will be appointed by the Treasury to be the accounting officer for the new department, although some delegation of accounting officer responsibilities may be possible and desirable. He or she will be accountable for expenditure to Parliament, and to the PAC in particular, as well as subject to Treasury accounting rules.

6.35 In addition to Treasury officials' role in providing advice on tax policy, the Treasury has a role in relation to public expenditure by the new department, in line with its relationship with other Government departments. The Chancellor usually delegates responsibility for spending issues to the Chief Secretary to the Treasury. In addition to the new department's accountability to the Chancellor, and other Ministers that the Chancellor delegates responsibility to, the new department will also therefore be accountable to the Chief Secretary on these issues.

6.36 Consistent with the thrust of this review, the delegated spending limits, below which the new department has discretion to spend money without reference to the Treasury, could be raised, to levels to be set out in an exchange of letters.

Clearer accountability to Parliament **6.37** For Parliament, there would be better clarity about who should be held accountable for which decision. As a result of this clarity, there will be a better opportunity to hold the relevant person to account.

6.38 In addition to appearances before the PAC, the Executive Chairman should be available to appear before the Treasury Select Committee (and other Select Committees as necessary) to account for decisions that his or her department has taken in exercise of their statutory duties, and for progress in achieving the PSA objectives and targets and Remits set for the Executive Chairman by the Chancellor. Ministers and Treasury officials will be primarily accountable for policy.

6.39 The Chancellor should usually ask the Executive Chairman to respond to:

- MPs' letters on matters relating to the administration of the tax system; and
- written Parliamentary Questions relating to matters that are the Executive Chair's responsibility.

6.40 As at present, there will be a Departmental Report presented to Parliament in the spring. The new department will also produce an annual report to Parliament, published in line with Government reporting requirements and timetables. As at present, the Executive Chairman will also be responsible for making a Trust Statement to Parliament, accounting for revenue collected, remitted and written off, and any necessary provisions on an accruals basis, along with a Statement on Internal Control.

Clearer accountability to taxpayers

6.41 The changes proposed in this review should help to bring the new department closer to its customers – taxpayers, tax credit recipients, the travelling public, and others. The new department will be more focussed on its customers because:

- it should be more clearly established who is accountable to whom, for what, so taxpayers will have a better idea about who has taken which decision, strengthening democratic control;
- central control of the new department will be more strategic, providing more autonomy for the front-line to tailor services to meet customer needs. This will reinforce the existing trend towards a greater customer focus, as set out in Chapter 3, and reflecting international best practice (see Annex A); and
- more performance data should be in the public domain, giving citizens more scope to exercise their rights under the Open Government Code of Practice and Freedom of Information.⁶

6.42 Under Freedom of Information, the new department will provide transparency of information about the performance of different parts of the taxation system, allowing citizens to hold it to account, and in particular to judge when service standard commitments are not being met. It is already possible, for example, to see the performance of Inland Revenue Enquiry Centres on the Internet.⁷ The experience of other public sector organisations is that transparency helps to drive performance improvements, to some extent replacing the need for detailed central target setting and monitoring (see below).

6.43 Collecting taxes is inevitably going to be unpopular with many taxpayers even if most accept that they are necessary for financing public services. Complaints will often arise. Having the right complaints procedures is particularly important in tax

⁶ The Freedom of Information Act 2000, along with the Data Protection Act 1998, provides the principal means for access to information held by English, Welsh and Northern Irish public bodies. See www.informationcommissioner.gov.uk

⁷ Information on Revenue and Customs service standards and performance is available in their annual reports and on their websites, www.inlandrevenue.gov.uk and www.hmce.gov.uk. See also Annex B.

administration, because many taxpayers have no choice about who will collect their taxes. Both the Revenue and Customs have in recent years made significant improvements in their handling of complaints. The Adjudicator, Dame Barbara Mills QC, who is responsible for acting as an impartial referee where the department in question has not been able to satisfactorily resolve a complaint, describes the revenue departments' complaints handling arrangements as "cutting edge."⁸ Nonetheless, the new revenue department will need to build on the work of the existing departments in using complaints as a way of learning from customers.

A FRAMEWORK DOCUMENT

6.44 As noted above, DWP, along with several other departments, produce Framework Documents to ensure that there is clarity and certainty about who is accountable to whom, for what. A Framework Document describing the accountability of the new revenue department should be published once legislation has been passed. In advance of legislation to create a new department, an interim framework document could be produced. The Framework Document should:

- implement the changes outlined above, and establish who is accountable to whom, for what;
- set out how the new revenue department relates to outside bodies, including Parliament, taxpayers, other parts of Government and non-Treasury Ministers, and other important stakeholders; and
- provide an opportunity for Treasury Ministers to set out the long term principles to govern the administration of the revenue department.

Recommendation: a Framework Document setting out who is accountable to whom, for what, in the new department, should be published. The Framework will be an opportunity for Ministers to set out long-term principles to govern the work of the department.

MAINTAINING POLICY AND DELIVERY LINKS

6.45 The changes set out above should clarify the accountability of the Treasury for policy, and the new department for delivery of policy and administration of the taxation system, and the other functions of the new department. Clear and separate responsibilities do not mean that the two departments should work in isolation from each other. In practice, the distinction between policy and implementation is not always clear. The Treasury and the new department will remain jointly responsible for the taxation system as a whole. For this joint responsibility to be exercised, it will be necessary to have frequent contact, information flows, and mutual understanding, in order to develop a shared view of priorities. Set out below are several measures that will help to ensure that these are achieved.

Regular Ministerial meetings

6.46 There should continue to be regular stocktake meetings between officials of the new department and Ministers. As set out above the new department should normally discuss and provide advice and submissions on matters that are the lead responsibility of the new department. In a similar way, Treasury officials should provide advice and submissions for Ministers on areas that are a Treasury lead.

⁸ Review team interview.

Adjacent buildings 6.47 Whichever department has the lead in a particular area, it should be normal practice for Treasury and revenue department officials to see Ministers jointly. This will be facilitated by the already scheduled move of some revenue department staff to new accommodation at 2 Parliament Street, adjoining the Treasury accommodation at 1 Horse Guards Road, in autumn 2004. It will be important for revenue department staff who are working on areas that will require close contact with the Treasury, such as those working on new taxes or services, to be among those moving to 2 Parliament Street. The move will facilitate the use of shared resources. It will also create better opportunities for staff to mix informally, including through shared support services. At the same time, measures will be taken to ensure that taxpayer confidential material is protected as part of the move.

New coordination structures 6.48 To ensure that the joint responsibility of the Treasury and the new revenue department for the tax system as a whole is met, new coordination structures should be established. One possibility would be to establish a high-level Tax Coordination Committee. The Treasury could chair this Committee, and provide its secretariat, with membership drawn from the revenue department and the Treasury. When matters relating to the interaction of benefits and pensions with tax are being considered, DWP could also be invited to attend. The establishment of this Committee would not remove or reduce responsibility of the members for their tasks as set out above. The Committee would have no powers independent of those of its members, and would be responsible for coordinating rather than executing. Its tasks could include agreeing advice on matters affecting the Chancellor's Remit to the revenue department. It might also take an overview of the tax policy projects that are underway, ensuring that there is clear ownership of particular projects, and that they are progressing in line with the Chancellor's remit. Other formal and informal structures could be established as necessary.

Managing the relationship 6.49 As a consequence of Treasury officials' greater responsibility and resources for tax policy, the Treasury would need to develop a better understanding of the work of the revenue department – which would go beyond its relationship with other spending departments. The development of a stronger, better coordinated tax policy centre in the Treasury would mean that the Treasury has the resources to do this. By the same token, a greater effort will need to be made by the Treasury to communicate its policy intent to the new revenue department, and to ensure that the Treasury makes fewer but more strategic interventions in its work. This will require active relationship management between the Treasury and the new department, and the relevant staff should have explicit objectives to do this and to work well with their opposite numbers.

Staff interchange 6.50 As set out in Chapter 5, there should be a frequent interchange of staff between the Treasury policy directorate and the revenue department. It will also be important for Treasury tax policy officials and officials from the new department to conduct joint training, so that a shared view of policy and operations is developed.

Sharing information and analysis 6.51 For Treasury officials to provide effective advice to Ministers on policy, the Treasury needs to have access to good information. The Treasury should be provided with sufficient information by the new department to reach a shared view of key issues – while respecting constraints on information relating to individual taxpayers' cases, and avoiding micro-management. The Treasury will have a particular requirement for information relevant to policymaking, but will also need to maintain an overview of capacity in the new revenue department by receiving a certain amount of management information.

6.52 By the same token, Treasury officials need to be open with the new department about their approach, so that the latter is in a better position to understand fully the policy intent behind a particular proposal and to contribute effectively at every stage in policy development.

Recommendation: structures should be established to ensure that the Treasury and the new department have a close dialogue, developing a shared view of key issues, and agreeing advice to the Chancellor on the form of the annual Remit.

Public Service Agreements

6.53 The aim of this review is to provide the new department with more substantial autonomy within a framework and Remit established by Ministers. This will mean fewer but more strategic interventions by Ministers and the Treasury in its work. This places greater weight on ensuring that the targets established are the right ones. In addition, as set out in Chapter 3, closer working between the revenue departments has produced some useful results, but has not achieved the benefits envisaged at its launch in 1994. The review assesses that one of the reasons for this was the absence of governance structures and common targets to drive priorities and allocate resources. This year's spending review, which will lead to the adoption of revised Public Service Agreements (PSAs), represent an opportunity to ensure that targets help to drive the integration of the new department, and focus on priorities across the whole tax system.

Box 6.6: new PSA objectives and targets

The Government's Public Service Agreement (PSA) aims, objectives, and targets form a central part of the Government's approach to planning public spending. First introduced as part of the 1998 Comprehensive Spending Review, and refined in the 2000 Spending Review, PSAs have helped to focus public spending upon the outcomes of Government activity, rather than the inputs or outputs. They have also made the Government's plans and responsibility for them explicit and transparent to Parliament and the public. Each main department and cross-departmental programme has a PSA setting out its aim and objectives over three years. In addition, within the areas covered by the PSA aims and objectives, PSA targets cover particular priority areas.

The Treasury currently has an objective of "promoting a fair and efficient tax and benefit system with incentives to work, save and invest." Given the allocation of responsibility proposed in this review, it would be sensible for this PSA objective to remain the responsibility of the Treasury. However, the creation of new arrangements is an opportunity to consider whether this objective could be amended as part of the 2004 Spending Review, for example to "promoting a fair, efficient and *coherent* tax and benefit system with incentives to work, save and invest."

The outcomes sought from tax administration need to be distinguished from policy outcomes. The administration of the tax system provides the means of achieving policy outcomes, either through its economic impact or through revenue raised to fund the achievement of other outcomes (for example, health spending). The administration of the system should be fair, efficient, provide the incentives stipulated by policy, and minimise the distortion of economic decision-making. These factors should be taken into account by the management of the new department in devising the department's aim, and in producing new PSAs. These PSAs will also need to take account of changes introduced by the creation of the Serious Organised Crime Agency (see Chapter 2).

(continued overleaf)

Box 6.6: new PSA objectives and targets (continued)

As set out in Chapter 3, this review recommends that better focussed PSA targets should be produced for the new department on customer service and compliance costs, and on compliance across the tax system, supported by work on measuring compliance costs, and on understanding the tax gap and other measures of compliance. Producing PSAs that encourage the existing departments to think and act across the tax system should help to support the success of the new department. The new department will need to take account of the Gershon review in relation to efficiency targets.

6.54 The next generation of PSAs for the Treasury and new department (see Chapter 3) should build upon the recommendations of this review. The PSA objectives and the Chancellor's Remit would be management tools for the Executive Chairman in driving improvements in the performance of the new department. The department should be organised as far as possible to allow the targets consistent with the PSAs to be cascaded down the organisations, within the context of the Executive Chairman's overall accountability. Such targets should also aid accountability, by helping the Chancellor, the Government, Parliament and the public judge the revenue department's performance and management.

LEGISLATION

6.55 The review's recommendations on policy and accountability do not require legislation, and can be implemented through administrative changes. However, the integration of the revenue departments into a single department, and the changes on information will require legislation. This should address the following issues:

- organisation and structure of the new department, to provide for its financing, and to define the relationship between the Treasury and the new department;
- information sharing within the revenue department, and between the new department and other bodies, subject to the need to preserve taxpayer confidentiality;
- powers of the new department to audit and investigate and to deal with non-compliance;
- other synergies, such as an integrated debt collection facility.

6.56 Legislation should be brought forward when parliamentary time allows.