



HOUSE OF LORDS

Economic Affairs Committee

Finance Bill Sub-Committee

Corrected oral evidence: Draft Finance Bill 2025–26

Monday 10 November 2025

4.35 pm

Watch the meeting

Members present: Lord Liddle (The Chair); Lord Altrincham; Baroness Bowles of Berkhamsted; Baroness Fairhead; Lord Leigh of Hurley; Lord Pitkeathley of Camden Town.

Evidence Session No. 10

Heard in Public

Questions 91 - 96

Witness

[I](#): Malcolm Gammie KC, Barrister, One Essex Court.

Examination of witness

Malcolm Gammie.

Q91 **The Chair:** Welcome back to this meeting of the Finance Bill Sub-Committee on inheritance tax. We now have as our witness a distinguished barrister, Malcolm Gammie. I would like to go over to him first to introduce himself, then we have some questions we would like to put to him.

Malcolm Gammie: Thank you, my Lord. I am pleased to be here and I hope I can help you in some way. I am a barrister in practice at One Essex Court in the Temple. I am, or was, a member of the Tax Professionals Forum from its inception in 2010 through to its supposed dissolution in June this year. I have also worked over many years with the Institute for Fiscal Studies and other professional bodies, such as the Chartered Institute of Taxation and the Law Society, but I think I am here to speak as myself, not on behalf of any of those bodies.

The Chair: Thank you. I shall start the questioning off. What is your view of the approach that the Government have taken to developing their new *Tax Policy Making Principles*? How does this compare to the exercise that took place in 2011?

Malcolm Gammie: What happened in 2010-11 is well reflected in what David Gauke, then the Exchequer Secretary to the Treasury, said in the foreword to the paper published in June 2010. He summed up his foreword by saying: "I hope that this discussion document will provide a platform for the Government to engage with interested parties over the summer, to help shape a new approach to tax policy making". That paper was quite a substantial one. It was followed by a degree of consultation, from which eventually emerged not just the Tax Professionals Forum but the tax consultation framework that has endured since 2011 until the current Government.

In a sense, it is showing the test of time. Of course, nothing is perfect in the way in which it works, but over the course of its life, the consultation framework provided a basis upon which the Tax Professionals Forum could produce its reports and against which the Government, the Treasury and Revenue consulted and developed the tax policy over those years.

The *Tax Policy Making Principles* paper, published in June this year, is a rather different document. It is obviously a great deal shorter and, as I understand it, was preceded by a certain number of meetings and discussion between James Murray, then the Exchequer Secretary, and a variety of professional bodies and presumably business bodies such as the CBI. The Tax Professionals Forum was asked to comment on a variety of issues about the consultative framework in addition to what we had said in our reports over the course of a number of years, in particular the seventh and eighth of our reports, which were our last two reports.

Tax Policy Making Principles is, as I said, a much thinner document and a much less satisfactory document, if I can put it that way. It is unsatisfactory in one way because it does not really tell you exactly how consultation will be conducted going forward. It is entirely possible that the current Government and the tax principles, rather than framework, will merely continue in the same way as they have in the past. There are obviously some nuances in the way in which it is proposed to work but none of that is terribly clear, to my mind, from the principles.

One might describe some of it as being motherhood and apple pie to an extent. But there are a variety of other aspects to it which are more concerning as to how things may be taken forward in the future. In particular, it is not entirely clear whether and when consultation will be undertaken and whether it will be undertaken in a public forum or by, in effect, selecting the people that the Government wish to speak to, which is not necessarily the best approach, if that is the way it is going to work, because there is always somebody out there who may know something more than you—something you have never really thought about until they can see what you have in mind and can therefore respond to what it is you are planning to do.

The Chair: What was the motivation for this change? Was any explanation offered as to why the change needed to be made?

Malcolm Gammie: I do not think there was as such, other than, of course, when you get a new Government they want to put their own stamp on the way in which they do things, or at least make clear how they are going to deal with things. Of course, the consultative framework had been in place for nearly 15 years, and the Tax Professionals Forum had made various suggestions as to how it might be developed or at least modified to deal with particular situations.

I do not think that these things are written in stone, and ultimately any Government must have control of their own tax policy and the way in which they wish to deal with it. We can all perhaps have our own views as to the best ways in which things are dealt with, but people want to put their own stamp on these arrangements and learn from what has gone on in the past.

As I say, what I personally have found unsatisfactory about the principles as were published is that they really leave quite a lot unspoken and uncertain, whereas previously the Government were operating within a far clearer and firmer framework. They did not necessarily always follow it but it was capable of being reviewed and commented on, whereas at the moment the principles are rather more difficult to do that to.

Q92 **Lord Pitkeathley of Camden Town:** I think you have covered some of this already, Mr Gammie, but the five stages of policy-making identified in the tax consultation framework provided some certainty as to how and when stakeholders would be engaged. How do you think the new principles, such as they are, compare with this? Also, could you comment on the Government saying that they want a “smarter, more agile way” to

develop policy, which means working “flexibly” with stakeholders. What do you think this will mean in practice?

Malcolm Gammie: To deal with the first part of that, I think I have indicated my own view. One can still review and comment on the way in which government tax policy is developed by reference to the consultative framework that has existed, or existed previously, and say why what has been done may be less satisfactory or more satisfactory, but there is not a clear framework in the same way spelt out in the principles. There are principles, but not a clear framework.

As to the issue of agility and flexibility, this may to some extent derive from the experience gained during the pandemic, on which the Tax Professionals Forum commented in its final report. Inevitably, when you get something such as a pandemic—a once-in-a-hundred-years event, we hope—you have to react in ways that are not necessarily the same ways in which you would react to just dealing with the tax system as it develops year by year, taking account of economic changes that may be spread over a much longer period and therefore can be developed far more slowly.

It is not that agility and flexibility are necessarily bad things to have in mind. They mean that you are capable of responding, or want to be able to respond, in a way that meets the needs of the particular policy issue that you are addressing. In that sense, in the pandemic, the Government obviously had to adopt different ways of dealing with things as compared to the past, and we commented on that in our eighth report.

However, if that means that you are going to make it up as you go along, that is not a good idea, because that is generally a way of getting things wrong, or at least not dealing with things in the optimum way. In that sense, the framework provides a base case, if you like, for how things should be dealt with.

Q93 **Lord Altrincham:** Moving from agility to early input, do the new principles adequately address the concerns that were raised by the Tax Professionals Forum about tax policy-making, including, for example, ensuring early input in policy design to avoid issues later down the line?

Malcolm Gammie: I do not think it does—not explicitly. As I said, one of the problems with the *Tax Policy Making Principles* paper is that it does not spell out how it is going to deal with things. In so far as what it does say, it does not seem to recognise the need for early input in the development of tax policy. Certainly, there is no commitment there. Indeed, you could well say that it moves away from that.

For example, in relation to predictability and stability, it says, “Where possible” the idea will be to give “a clear direction of travel for the tax system”, and cites the *Corporate Tax Roadmap*, which, again, was not thought to be of the same developed thinking as the coalition Government’s the *Corporate Tax Road Map*. In other words, it leaves things rather more open than had previously been the case. Again, I do not think there are necessarily any clear indications at the moment that

we are going to have a clear direction of travel, although maybe on 26 November the Chancellor will surprise us with that.

In other respects, and these are some of my concerns, there is an emphasis on being able to deal with things quickly. Actually, in my experience, developing satisfactory tax policy is not something that can necessarily be done quickly. Of course you can react to things by changing rates or the like, but if you want to make some fundamental change in the underlying tax system, whether it be a new tax or some modification to the tax base, generally speaking, speed is not necessarily a virtue in that particular area. That is reflected in, for example, where it says that the Government must be able to “deliver change quickly”. One might question why that is necessarily the case. It might be with some things, but a lot of other things need more time and thought.

Here is another statement that, again, gives cause for concern: “The government will consult on tax policy where it deems it necessary to do so. If a consultation is needed, it will be targeted, precise and only seek information that is genuinely needed”. Those are not necessarily of particular benefit to an approach to developing a good tax policy.

Q94 **Baroness Fairhead:** Given your answers to the last three points and your characterisation of the policies as unspoken motherhood and apple pie, I think I know the answer to how easy it will be, in your view, to assess the Government’s compliance with them. That said, do you have any suggestions for how it could assess its performance against them and any areas you would particularly focus on?

Malcolm Gammie: When you talk about assessment, the assessment is obviously by those outside government. As I have said, one can take the way in which the consultative framework has previously worked and assess whether or not particular tax policy developments are being dealt with in a better way or not.

There are some indications in the principles that one of the changes that they are thinking about or planning for is to spread consultation more evenly over the year. At the moment, you have a Budget—in the past, there have been a huge number of consultation papers published with the Budget—and you have what is known as L-Day, when the tax legislation is published, and it all comes out at one time. The principles recognise that on some occasions this may overburden people who are going to try and respond to it, who cannot therefore deal with it all, and that therefore there is a benefit in spreading it out.

Of course, there are other aspects to it which may not be so good in that sense. If measures are announced in the Budget—certainly if they are measures that are going to be taken immediately or which are definitely indicated for legislation—you might still need more detail to be given about that for consultation at the time of the Budget, and it would not necessarily be a good idea if, for example, to spread it all out, the Revenue said, “We’re going to publish our consultation on this in a month’s time”. On the other hand, if the Chancellor were to say, “This is

the direction I am thinking of, and we will publish a consultation paper in a month's time", that might be absolutely fine, because it would not necessarily be a commitment to legislate in that particular area; it would merely be flagging that the Government were thinking about a particular issue and that they would want input on that particular issue before they took the policy decision. But it is all left rather unspoken as to what their thinking behind these principles is for that sort of activity.

Q95 Baroness Bowles of Berkhamsted: From that, I am left wondering: have we really had any pre-legislative consultation and what obligation is there to have pre-legislative consultation? That is a random inserted question. I would like to continue looking at the Government's approach to consultation on the inheritance tax reforms in the Finance Bill. How would you assess their performance against the principles, in so far as you can glean anything from the principles, for example, around timing, engagement transparency and evidence?

Malcolm Gammie: To deal with your first point, of course a Government have absolute freedom to do what they like. If they have the majority in the Commons and the Chancellor wants to stand up on Budget Day and say, "I'm doing this, that and the other. That's the end of the matter. We'll produce legislation in due course", there is of course nothing to prevent a Government from doing that. Generally speaking, certainly over my practising lifetime, it has generally been recognised that that is not an ideal way of formulating tax policy and that one gets better outcomes in terms of both the legislation that is produced and the economic effects of what you are doing, quite apart from the collection of tax at the end of the day, if you have taken account of a wide range of views from people who may come at a problem from different angles.

If I am allowed one personal anecdote, in the 1980s I chaired a committee called the Capital Taxes Group at the Institute for Fiscal Studies, which looked at a wide range of capital gains tax issues—not inheritance tax—and the taxation of savings. That taught me that you have to have input from all sides from people who are concerned with particular issues. It is not just a matter on which economists or lawyers or accountants can come up with the right answer. You have to have a variety of input into all these things, and the way in which the Government get that is through doing consultation properly. One would hope that any Government would see the merits of consulting widely in formulating their tax policy, because otherwise things will not be ideal in their outcome.

In relation to the current proposals for inheritance tax, I should say as a starting point that I have not been closely involved in the consultation on that. It is not my primary area of activity. I am essentially a corporate tax lawyer rather than a personal tax lawyer, but through my membership of various committees and acquaintance with a variety of people, I hear what is going on. One of the problems, and I think Dr Summers made this point, is that we are dealing with a particular tax—inheritance tax—and, leaving aside whether it is a good or bad tax,

inheritance tax arises at random times in people's lives; essentially, when they die.

A lot of these things, whether you are talking about investment in agricultural property, business property, or even just pension accumulation, are long-term decisions that people take, whether they are wealthy people investing in business property or agricultural property or working farmers or people running a business—all of whom no doubt think that their business will be successful and generate a very substantial asset for them in the future. They take long-term planning decisions. When you are faced with a tax like that, it is very important that you adapt your policy very carefully and with the best information that you can obtain.

Dr Summers made a point that I noted in response to a question from Lord Altrincham, about the data that was available. If you do not have good data—the reason why that might be is quite clear, as he pointed out: if you do not tax something at the moment, then the Revenue will not be a good source of data about it because it is not something that is reported to it or that it knows about—that is an absolutely critical reason why you need to go out and find the data, or at least assess the data before you take policy decisions. How else can you make a good policy decision unless you have the relevant data? Out there, there will be people who know these things—who know what agricultural property there is, who has got what in pension funds. These are not mystery assets that nobody knows about. They are things that people know about, but which the Revenue does not necessarily know about because it does not tax it.

That being the situation, if you are going to make changes in the policy of the tax—in this case, to move from a situation where you have an exempt asset to one where you are going to tax—you need to go and find out who has got that asset, what it is worth and what is going to be the impact of bringing it in with the charge to tax. In addition to that, it is not just a case of, "What is the value and can we tax it?" or whatever. It is: how can you tax it? What are the administrative arrangements that you are going to have to put in place? In particular, what sort of transitional provisions do you need to account for the fact that people have planned their lives based on a certain understanding of what the tax system is and what its tax policy is, and you are now going to change that?

Now, all those things that I have described are not reasons why you do not make a change, but they are all very important aspects of how you make the change and what type of regime you design to deal with what it is you want to bring within the charge to tax. I am not aware that necessarily any of that activity went on; I would be surprised. I am sure that decision work was done within the Treasury and the Revenue on this, but to what extent there was a serious endeavour to formulate answers before the policy was announced, I just do not know. I am not the right person to be able to answer that. I am merely outlining the sorts of things which I would have thought were an essential aspect of

making a good policy decision as to the direction in which you wanted to go, given that previous Governments have taken different policy decisions in relation to all of pensions, agricultural property and business property. These are things on which people's views can differ and government policies can change but, if you are going to change it, you need to make informed decisions, not merely launch into a process which then gives rise to more problems than it perhaps solves and impacts people's lives in a very direct way.

Q96 Lord Leigh of Hurley: I will be brief. Thank you again for coming to us to give your expert views, which are most welcome. In this specific Finance Bill, this, by any definition, was a bit of a disaster for the Government. Literally outside the front door here, we had people marching down the streets and in tractors, and I have not seen anything like that since poll tax. There were not people who have pension pots going up and down the street objecting, but there were the farmers.

Baroness Bowles of Berkhamsted: They have not found out yet.

Lord Leigh of Hurley: No, most of them have not realised it—absolutely. They will be out there later. But in this particular case, what do you think Government could have done? I take all your point that consultation is the answer and so forth. But could the Government realistically have gone around and said, "We are thinking we are going to abolish ABR. Let's see what the impact might be. Tell us what you think"? How could it have been done in practice?

Malcolm Gammie: There are obviously some taxes where that creates a problem because of people taking forestalling action. However, basically speaking, if you are talking about a tax which arises when somebody dies, unless you are talking about somebody who is going to jump in front of a train or something like that, these are not necessarily things which people can react to in quite the same way. One obviously has to assess the scope for forestalling and the like, and obviously one knows from press reports and so on that the pension changes, for example, have supposedly generated a certain amount of activity in terms of how people deal with their pensions and whether they are taking lump sums or whatever that might be.

You have to think about the forestalling and so on. But do you want to go nap on what you are going to do before you really know what you are doing, in a situation where you would not necessarily expect that people, whether they are a working farmer or have an estate with an agricultural property as part of it or are running a business, would suddenly be making modifications. One would assess what the real risk is. Will people react to consultation as to what your change should be?

To take the pension example, the Government have said that they are not going to introduce the change until 2027. So, in a sense, there is a period between now and 2027 when people can take action anyway to anticipate the change that will come in 2027 with pension surpluses, in the same way as with agriculture and business property relief, to the

extent that there is a lag between the announcement in the Budget and the legislation actually taking effect. There is a period during which people can modify their holdings or estates or take whatever other action people advising in that area would suggest to them.

That suggests to me that there is a significant problem in announcing a change and saying, "This is what we are going to do", and then having to try to solve the problem of how you do it, rather than consulting first as to what you should do and then making an announcement that has taken into account all the sorts of issues that are raised about it—whether you really want to apply it across the board to, say, all farms, whether you are dealing with the working farmer or a wealthy owner who has a bit of agricultural property, or whether you want to say, "We're going to modify the terms of the agricultural property relief so that it doesn't apply to working farmers, and we'll define what a working farmer is, because we think that the rest of the people who are invested in agricultural property can afford to pay the tax". Those are the sorts of issues that are better sorted out at the outset before you have made an announcement, rather than just leaping in with an announcement and then trying to solve the problems afterwards.

Lord Leigh of Hurley: Without wishing to put words into your mouth, if we are sitting here in a year's time discussing the effect of the abolition of the seven-year gift rule, you might be saying, "Well, if they'd have consulted about it first, the problems that you are now addressing might have been ameliorated".

Malcolm Gammie: Well, the seven-year gift rule is slightly different. Whereas what we are talking about with pension funds, agricultural property relief and business property relief are assets that people own, which are currently exempt and which you are then going to bring in to charge in one way or another, the seven-year gift rule is, of course, the extent to which your inheritance tax is more akin to a lifetime gifts tax, because you have extended the period that people must live after making a gift for it to fall out of exemption. Of course, inheritance tax was previously capital transfer tax in 1975.

Lord Leigh of Hurley: The reason I wanted to focus on it is because that is where somebody could take action and have a different result. If there was consultation on that now, people would be taking action now. But because there is not consultation now, they are not. That is my suggestion.

Malcolm Gammie: Anecdotally, I would say that was wrong. I would have thought that quite a lot of people have made gifts against the risk that the seven-year period might be extended.

Lord Altrincham: There is a general panic.

The Chair: I think we have had a good session. It all brings home to me the general lack of coherence about tax reform that many commentators have pointed out in the run-up to this year's Budget.

Thank you very much. That was very helpful. We will bring this public session to a close.