



All-Party Parliamentary Loan Charge & Taxpayer Fairness Group

www.loanchargeappg.co.uk

Rt Hon Rachel Reeves MP
Chancellor of the Exchequer
HM Treasury
1 Horse Guards Road
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19th December 2024

Dear Chancellor,

Loan Charge – need for a proper, comprehensive, transparent and genuinely independent review/inquiry

We are writing with regard to the announcement of a fresh Loan Charge Review.

We commend the Government for announcing a new review, something that the Loan Charge and Taxpayer Fairness APPG has been calling for. However, it is vital that this new review or inquiry, as it really should be, is a proper and fully transparent investigation that looks at the whole issue and scandal and includes looking at the roles of actions all parties that have been involved in it. It also must be fully and properly independent and wholly transparent, including from before its inception.

It has become abundantly clear that the Loan Charge has been a wholesale failure, as well as unfair, with HMRC confirming that yet more people are still now being sucked in by rogue umbrella companies, as well as there being over forty thousand unresolved cases five years after the Loan Charge came in. With ten tragic suicides and thousands of families facing ruin from unaffordable demands, there needs to be a full investigation and proper accountability.

The 2019 review was not a proper review of the whole issue nor was it independent

This Government must not repeat the same mistake as the last one – by deliberately and cynically commissioning a partial and biased review.

As is well documented and evidenced, the 2019 Morse Review was very clearly neither an independent review, nor was it a review of the whole Loan Charge Scandal itself. It was a deliberately restricted and tightly controlled review with biased and prejudiced Terms of Reference.

At the time, we [raised serious concerns](#) about the Terms of Reference and the fact that HMRC and the Treasury would be staffing the review – as well as concern about the choice of reviewer, due to past comments he had made. Yet these concerns were ignored.

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We [published a comprehensive report](#) based on information exposed by Freedom of Information requests, that shows that the Morse Review was very clearly not independent. Since we published our report, more evidence emerged to further expose the way HMRC and Treasury officials had interfered with and steered the review.

As a reminder, the key points revealed from Freedom of Information responses demonstrating the clear lack of independence is follows:

- The review secretariat was made up of HMRC and Treasury staff, the two Government bodies whose actions should be the focus of any genuine review/scrutiny. Having a supposedly Independent review staffed by the very organisations being scrutinised is a farce, like having staff of Post Office Ltd and Fujitsu working on the Post Office Inquiry. One of the HMRC staff was we now know seconded to the Morse Review from the HMRC policy team (that came up with the idea of the Loan Charge) and following the review he become Private Secretary to the Chief Executive of HMRC!
- HMRC (and the Treasury under the previous Government) sought to influence the review both from before the start of the review right until the final report was published.
 - They interfered with and sought to influence the choice of reviewer.
 - They restricted and interfered with the appointment of supposedly ‘independent experts’ advising the reviewer, and prevented the appointment of any experts who were known to have expressed any negative views on the Loan Charge.
 - The Review secretariat team had an improperly close working relationship with HMRC and Treasury staff, including collaboration between the Treasury and the Review over dealing with the press, in at least one case lines were provided for the review team/reviewer to use.
- The remit/Terms of Reference of the review was set by the Treasury and HMRC (despite these being the two Government bodies that a genuine review/inquiry would scrutinise) and [this Freedom of Information response](#) revealed the following:
 - The Terms of Reference was deliberately restricted to look only at individuals. This therefore excluded looking at the role of promoters, umbrella companies and the end clients. Crucially, this also meant that the conduct of HMRC (and their past failures and why they conceived the retrospective Loan Charge to cover these up) was also ignored.
 - The terms of reference were biased, as it started with a presumption of tax avoidance and an inference of guilt. It was restricted to being “*whether the Loan Charge, as it applies to individuals who have directly entered into disguised remuneration schemes, is an appropriate response to the tax avoidance behaviour in question*”.
- HMRC themselves sought to restrict the review, Jim Harra, First Permanent Secretary and Chief Executive of HMRC, was copied into an email from a senior member of HMT [in an internal email](#) exchange where it is clear by their comments that they were seeking to restrict the Morse Review and to stop it being a complete and proper review of the whole issue:

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“No-one likes where we are but we do need to make a fist of restricting the scope of any review. The individuals idea is not without its issues but let's not overstate them. No MP or campaigner cares about the employer bit of this and I don't think it's hugely difficult to justify this approach. If we make it all sound impossible we'll be back to a review of everything which is the worst of all worlds.’

- The then Chancellor actually asked HMRC to work up the basis of the review, with a senior HMRC officer [telling colleagues internally](#):

“Separately, as discussed, the Chancellor has asked us to work up, on a contingency basis, what the minimum form of an independent review would look like, in case the PM wants to proceed with one”.

“Welcome your views on what this should cover, but at the minimum it should set out something that that can reasonably be described as an independent review, but that minimises the spending/legislative/other risks that a review creates.’

- There were also later discussions with the supposedly independent reviewer, after [which a senior HMT official said](#):

“I was relatively reassured...that in reality, he’ll (referring to Amyas Morse) stay focused on individuals and not stray further.”

As with the deliberate restriction of the biased Terms of Reference, this further demonstrates that the review was designed only to look at individuals and not at the whole supply chain, history of the issue and the role and conduct of HMRC (as any genuine review/inquiry would naturally be required to do).

- HMRC and the Treasury were shown early drafts of the Morse review, as well as summaries of its emerging recommendations. A final draft read through was organised at which at least four civil servants were provided with a review draft in a room in Whitehall on December 9th 2019, to allow these officials to “...correct factual errors...”.
- Under the last Government, the Treasury failed to share the first draft of the Morse review report. An FOI request was made in December 2020 requesting the release of the information in this final draft to enable it to be compared to the published review. This would allow anyone to assess the full extent of the “factual errors” that civil servants corrected on the meeting of 9th December. The response to this FOI has been evasive and misleading. The Treasury initially claimed that neither they nor HMRC had this draft, before later having to admit that they did. A document (PDF) provided as purporting to be the initial draft was actually created on 8th February 2023 and the Treasury refused to share a Word document that would show when this was created. These are two excerpts from the decision of the First-tier Tribunal on 23rd October 2023.
 - *“The two documents provided were not the original files, rather newly created PDF files: their metadata showed them to have been created on 8 February 2023 using the application “Acrobat PDFMaker 19 for Word”. [The originator of the FOI] argued that his request had*

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been for the original Word files, and requested that they be disclosed in unaltered form. In its reply on 24 February 2023, HMT refused to do so”.

- *“It is not enough to produce a different electronic version, really amounting to a photocopy in digital form, as providing the PDFs has done”.*

The original word document has still not been shared, meaning there is no public record of what changes HMRC and the Treasury were allowed to make, which inevitably gives rise to suspicions that there may have been material changes made to the draft ‘independent’ report.

The evidence is clear and overwhelming that the 2019 review was neither a full and proper review of the issue/scandal and that it was clearly not an independent review.

We urge this Government not to make the same mistake by allowing this to be another orchestrated, restricted and incomplete review.

This needs to be the proper and final inquiry into the matter, to lead to a resolution

There is a history with UK scandals to have a series of reviews and inquiries, with partial and flawed ones announced merely to appease public opinion, MPs, campaigners and journalists. In several other well known cases, there were initial, partial and flawed reviews commissioned which failed to uncover the truth about the scandal, only to have that exposed later, by genuine and proper inquiries.

It is important to note that the 2019 Morse Review was technically not the first but the second review agreed to by Government, with the Treasury under the previous Government having had to agree to one in response to having to accept a cross party amendment tabled by the former Chair of the APPG, Sir Ed Davey, in January 2019. MPs and peers hoped that this would lead to a proper review of the Loan Charge scandal. However the Loan Charge APPG was later informed that there would be no such review and that the Treasury will merely publish a report, largely written by HMRC, with any changes to the controversial Loan Charge already ruled out. The APPG at the time called this [a “whitewash and a sham” and publicly accused the Treasury of acting in bad faith](#). The Morse Review came about due to a commitment that was made by Boris Johnson, during the Conservative leadership campaign and once again, a genuine review was hoped for, but instead as the evidence above clearly demonstrates, it was partial, restricted and flawed and largely done simply so it could be claimed that the commitment made by Boris Johnson was honoured. The same mistake must not be made this time.

In the case of the Post Office Scandal, when the then Government announced the initial independent review into the Post Office Horizon system, it specifically excluded the Post Office's prosecution function, the Horizon group damages settlement and the conduct of current or future litigation. As a result of this, the Government was facing Judicial Review. This is covered in [this article in Computer Weekly](#) (which played a key role in exposing the Post Office Scandal and an important role in covering the Loan Charge Scandal, with so many IT contractors caught up in it). Thankfully, this was later rectified and there is, at last, a full and proper inquiry into the Post Office Scandal.

It is absolutely vital that this review of the Loan Charge is a full review/proper inquiry, without restrictions or exclusions. This fresh review – or inquiry as it should be – must be the proper and

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final one, that fully and properly looks at the whole issue, leading to recommendations as to a proper resolution for all affected.

Establishing a proper, genuinely independent review/inquiry

There are a number of very important key points we wish to raise, about this review/inquiry and what the Government must do – and not do – for it to be a genuine investigation into the Scandal that can lead to a resolution (including for the Government).

1. HMRC must not be involved in any way in discussions about it and what it may and may not cover.
2. It must genuinely independent and arm's length of Government.
3. It must be a proper review/inquiry of the whole issue and scandal.
4. It must be allowed to take as long as needed without an artificial timescale being imposed.
5. It must take oral evidence, in public, from senior public servants and have full access to all information and evidence.
6. Finally, all cases related to the Loan Charge must be put on hold till the review/inquiry has concluded and any recommendations implemented.

Going through each of these points in turn.

1. HMRC must not be involved in any way in discussions about it and what it may and may not cover

Due to the whole history of this issue and how HMRC (and previously the Treasury) has approached it, we are very concerned that HMRC may already be involved in discussions as how to restrict and manage the review – and steer its conclusions - as happened in 2019 with the Morse Review.

Please can you provide an assurance, ideally on the Parliamentary record, that HMRC are not engaged in discussions in any way about the review with Treasury staff or civil servants and that they will not be allowed to interfere in the establishment of the review in any way, nor its structure, remit, terms of reference, timescale, who the reviewer might be – or anything else.

If it becomes clear that, as in 2019, HMRC are involved in the new review, it will render this one another stitch-up. You must not allow this to happen – and must ensure that there is no interference now by HMRC officials (and Treasury officials who were and have been involved in the development and implementation of the Loan Charge and the associated approach).

2. It must genuinely independent and arm's length of Government.

Unlike the 2019 Morse review, this review/inquiry must be genuinely and fully independent of HMRC and it has been established, there must be no role or involvement of HMRC at any stage. There must also be no involvement of Treasury (or Government as a whole) once the review/inquiry is established.

The following fundamental criteria must be met (and established when the review/inquiry is set up):

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- The remit/Terms of Reference must not be set or influenced by HMRC (or Treasury officials who are or have been involved with the Loan Charge and associated areas of policy/work) - and must be a full review as above, with no restriction or bias.
- The choice of the reviewer/head of the inquiry must not be influenced by HMRC (or Treasury officials who have been or are involved with the Loan Charge and associated areas of policy/work). They must have no input into candidates or candidate selection.
- The review/inquiry must be staffed by independent staff, not seconded from HMRC or the Treasury and with no links to or any past history of working for HMRC or the Treasury.
- The reviewer/head of the inquiry must be allowed to appoint independent experts with HMRC (or Treasury officials as above) having no role in this.
- The head of the review/inquiry must be given full power to interview witnesses, under oath and in public to ensure there is no cover-up or collusion (as there was in 2019).
- There must be no private discussions or communications between HMRC or the Treasury during the review/inquiry. The only communication must be evidence submitted to the review/inquiry, which must be published and public.
- No party should be allowed to see the report or hear of any conclusions or recommendations until it is published.

3. It must be a proper review/inquiry of the *whole* issue and scandal.

Jason Beer QC, a leading authority on Government inquiries, has stated that the main function of inquiries is to address three key questions¹:

1. What happened?
2. Why did it happen and who is to blame?
3. What can be done to prevent this happening again?

This was not the case with the 2019 Morse Review, which had a deliberately restricted and partial remit and failed to address *any* of these three fundamental questions. It assumed guilt – and therefore the motives of those caught up in the scandal – and also deliberately avoided having any focus on HMRC, their role and failures or the role of promoters, umbrella companies, accountants and the whole supply chain.

It is vital that this review/inquiry properly looks at the whole issue – and is framed by the above three questions.

The review/inquiry remit and terms of reference must cover the whole scandal, including looking at the entire supply chain and the history of the issue. This must include all of the following:

- Why people used these schemes, including the role of 'IR35' legislation and concerns around being deemed 'disguised employees' (and being hit with a large tax bill as a result).

¹ See <https://www.instituteforgovernment.org.uk/explainer/public-inquiries>

- The role of accountants and tax advisers who recommended the schemes must be examined, including links with scheme promoters/umbrella companies and commissions/'kickbacks' paid to recommend schemes/umbrella companies.
- The whole supply chain must be looked at, recruitment agencies and umbrella companies. The role of professional service networks, including big consulting firms, must be included in this.
- It is also important to looking at the role and motivation of end clients who used contractors/freelance workers using these schemes, as they avoided having to pay employers' taxation (or provide employee benefits). Some of these end clients were public sector bodies, including local authorities and Government departments.
- The role of scheme promoters and operators and how they advertised, sold and promoted the schemes (something that HMRC pushed should be excluded from the 2019 Morse Review). The level of profit of scheme/promoters should be revealed and a proper assessment of the fees charged. Any mis-selling should be identified, as should any potentially fraudulent behaviour.
- What action HMRC took to address the proliferation of schemes, how appropriate and successful it was. This must include actions and any failures of HMRC in addressing and stopping schemes (and pursuing operators and promoters) and also the adequacy of activity informing/warning taxpayers about them. This must include the fact that HMRC signed off tax returns with the schemes properly declared and failed to open enquiries. In some cases, individuals approached HMRC to ask if the arrangements were acceptable and were either not told not to use them or in some cases were told they appeared acceptable.
- The reality of the legal position at the time of these schemes operating (and being used) and the reality of court decisions. HMRC has continually given the false impression that court decisions back up their view (which is all it is) that individuals are liable to pay income tax on the loans. In fact, the Rangers decision clearly stated that the liability fell on the employer. This must also include examination of how the retrospective/retroactive nature of the Loan Charge legislation eroded the important principle of taxpayer certainty and also caused a situation where HMRC were making demands beyond the normal statutory time limits and beyond the time limit for people being expected/advised to keep records (meaning that people affected were unable to challenge HMRC's assertions and demands, even where they knew they were wrong, as well as not having records of business expenses etc).
- The 'agency rules' and HMRC's duty to collect PAYE from agencies/employers at the time, as is explicit in its [own internal manual](#) and why and how HMRC failed to do this.
- How and why HMRC came up with the Loan Charge and its controversial and highly unusual retrospective nature (rather than seeking to properly stop the use of schemes going forward by asking for stronger legislation to shut them down or make promoters liable) and how this approach affected basic taxpayers' rights and safeguards in existing legislation. FOIs revealed that it was HMRC that came up with the idea of the Loan Charge and why this approach was taken, rather than pursuing those who recommended, promoted and operated schemes.

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- How the Loan Charge was presented to Treasury Ministers and officials by HMRC (and whether this was adequate, complete and honest considering the reality of the implementation, impact and policy failure – see below on the last point).
- The strongly criticised Treasury Impact Assessment which failed to predict the true impact of the Loan Charge (and with information obtained via Freedom of Information responses that showed that HMRC were aware of insolvencies and hardship, see below).
- The approach of HMRC to people caught by the Loan Charge legislation and whether they have been treated appropriately and fairly and whether they have been treated differently from other groups of taxpayers (something that is not lawful).
- The comparison of how HMRC treats individuals they believe to owe tax compared to how they deal with large companies/corporations they believe to owe tax, with the concern being that HMRC are too prepared to go after individuals unable to defend themselves (referred to as the “low-hanging fruit” by the House of Lords Economic Affairs Committee).
- HMRC’s approach to settlements:
 - The terms of settlement provided by HMRC and the reasonableness of settlement figures (which have been described as punitive, unreasonable and unaffordable). HMRC clearly expected many more people to settle than did so and had the terms been different, this may have happened, so this is a key point of scrutiny of HMRC’s whole approach (and the failure of the Loan Charge).
 - The inclusion of clauses such as being forced to make an admission of wrong-doing and signing away the right to having their case revisited/reevaluated in the light of changes to legislation or legal challenge. Considering that HMRC have acknowledged that the Loan Charge was introduced to avoid the need to take cases to court, to include these clauses was unnecessary and unfair (and potentially unlawful) as well as reducing the numbers of people prepared to settle.
 - HMRC’s performance in terms of responding to communications from affected individual and their advisers, the length of time to reply, the accuracy of calculations and evidence provided to support HMRC’s position and errors made. This also had an impact on the numbers who settled.
- The impact on individuals and their families of the Loan Charge and HMRC’s interaction with them including on their careers, physical and mental wellbeing. This will involve testimonies from people affected (both written and private oral testimony from those who are prepared to give this) and also from advisers who deal with HMRC on behalf of individuals. This must examine whether HMRC’s interactions with individuals has been fair, reasonable, timely and accurate. This should also examine the use of behavioural insights by HMRC. It must also look at cases where HMRC failed to abide by contact agreements, including in cases of individuals classified as vulnerable.
- The part played by HMRC’s action related to the Loan Charge in the ten suicides acknowledged by HMRC (the Loan Charge has been mentioned in at least one suicide letter and by at least three

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of the ten families). All these individuals (and families of those who have sadly taken their own lives) should be invited to give evidence, privately.

- The reality of how much the Loan Charge would actually generate in terms of income to the Exchequer, when taking into account people's inability to pay the unreasonable and unaffordable sums being demanded, the likelihood of many bankruptcies (each with a cost) as well as the wider costs of reduction of earnings/future tax experienced by many people affected.
- The information provided (and not provided/withheld) by HMRC in responses to parliamentary questions, letters from MPs and requests from journalists, which we have identified on a regular basis has been partial, misleading and in some cases simply not honest. There are [numerous examples of when the APPG has had to raise misinformation and disinformation](#) on the part of HMRC (and the Treasury under the previous Government).
- The role and oversight of professional bodies and professional regulation any failures to identify problematic behaviour and both advise against it and deal with it.
- The adequacy or not of financial regulation, associated legislation and the work of the Financial Services Authority (2001 to 2013) and the Financial Conduct Authority (2013 onwards).
- The reality of taxpayer protections and rights and whether UK citizens are sufficiently protected against unreasonable changes to legislation and unreasonable and unfair treatment from the tax authority.
- In light of the huge level of concern about HMRC's Loan Charge and both the way they have treated individuals and have responded to scrutiny, to look at the current system of accountability of HMRC, an enormously powerful public/Government body and whether it is appropriate and adequate.
- It must look not only at the Loan Charge itself, but also the other ways HMRC is pursuing individuals, including the deeply contentious use of s.684 notices and the transfer of tax liability from employers to employees (when HMRC had a duty to collect this at the time from agencies/employers); and the associated use of APNs which cannot be appealed.
- An analysis of the success or failure in public administration/policy terms of the Loan Charge and the whole associated approach, compared to the stated aims and predictions of it at the time of its inception and introduction. Even aside from the clear need to examine in detail the full history of this scandal, the fairness of targeting individuals and not those who profited from promoting and mis-selling schemes and the ten suicides, **there must be a full assessment of what has turned out to be a disastrous failure as a policy and approach.**
 - According to HMRC, from a figure given most recently [to the Treasury Select Committee in October 2023](#), there are still around 40,000 unresolved cases. This is 40,000 unresolved cases **over five years after the Loan Charge came into force** and seven years since it received Royal Assent and became law. This is an extraordinary failure, linked directly to the profound unfairness of the approach and the completely unreasonable and punitive settlement terms imposed by HMRC.

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- The key purpose of the Loan Charge was to stop what HMRC refers to as ‘disguised remuneration’ schemes. In [the 2016 Budget speech](#), Chancellor George Osborne declared the introduction of the loan charge would “*shut down disguised remuneration schemes*”. **However the reality is that it has singularly failed to do so** (at the same time as unfairly targeting those who were mis-sold schemes and ruining many lives). In addition, it is now in many cases lower paid workers being targeted.
 - In the Government policy paper, *Tackling non-compliance in the umbrella company market* published on 30th October 2024, it states “*HMRC analysis shows that umbrella companies were used to engage at least 700,000 workers in 2022 to 2023. This analysis also shows that at least 275,000 of these workers, and likely significantly more, were engaged at some point in 2022 to 2023 by umbrella companies that failed to comply with their tax obligations*”.
 - Jim Harra also [admitted to the Treasury Select Committee in April this year](#) that “*The key area where there is persistent promotion of avoidance is in employment taxes—disguised remuneration schemes focused on gig workers and contractors*”.

There must be accountability for such a profoundly failed policy and law (as well as for the impact) and the civil servants and politicians involved must be held to account.

- Finally, the review/inquiry must look at the lessons needing to be learned, as to how to stop such a policy/legislative failure again. The Loan Charge cannot therefore be looked at in isolation, but as a symptom and outcome of wider serious issues that need resolving. Recommendations should therefore include conclusions (from points above):
 - Changes/legislation to ensure citizens/taxpayers have clear rights and protections from unfair and unreasonable treatment by HMRC.
 - Decisive action to stop the ongoing operation and mis-selling of disguised remuneration schemes including a process of mandatory vetting of any schemes by HMRC and with individuals protected.
 - How the FCA can and should play a role in stopping such a scandal happening again.
 - Whether there needs to be new relevant regulation (tax advisers, umbrella companies etc).
 - A new transparent system of independent oversight and accountability of HMRC.

4. It must be allowed to take as long as needed without a timescale being imposed

The 2019 Morse Review was given an unreasonably short timescale in which it had to report, which is yet another reason why it was not a genuine and full review (as well as not being independent). The review was announced in September 2019 and reported in December 2019, just 3 months. This time limit was imposed as the Government insisted that the report be published ahead of the 31 January 2020 deadline for filing 2018 to 2019 tax returns, meaning that HMRC could and would continue to pursue Loan Charge cases. A genuine review cannot take place unless there is the possibility of change, including wholesale change, to the legal position and this means suspending all current cases (see point 7 below).

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According to the figures of the amount paid and his day rate, [as revealed through an FOI request](#), the reviewer only spent just over 23 working days on the review. This is clearly wholly inadequate for an issue of the complexity and breath of the Loan Charge Scandal.

No timescale must be imposed upon the review/inquiry or review/head of inquiry and it must be allowed to take as long as is needed to collect and assess all the evidence.

5. It must take oral evidence, in public, from senior public servants and have full access to all information and evidence

It is vital that public officials are this time obliged to give evidence on the record and under oath. This review or inquiry must investigate the whole Loan Charge Scandal and question all those who have been involved and all testimony of public officials must be in public, on the record.

There must be complete access to information and HMRC (and the Treasury) must be compelled to make everything available to the review/inquiry. All too often, responses (letters, answers to questions at Select committee hearings and information provided for answers to parliamentary questions) has been partial, evasive and misleading. Routinely HMRC staff have peddled propaganda rather than providing full, honest and accurate information.

The review/inquiry must go through all the information revealed by Freedom of Information. This has revealed a number of key things:

- That [HMRC, not the Treasury, came up with the Loan Charge](#). HMRC both developed the policy/law and proposed the Loan Charge to Treasury ministers in September 2015.
- That the [First Permanent Secretary and CEO HMRC admitted that he “repeatedly tried to obtain legal analysis to understand the strength of our claim with very little success”](#) with regards to establishing that individuals are taxable on the schemes. His email also states that there are not tribunal/court decisions to back this up:

“HMRC persistently claims that DR schemes never worked but, despite allegedly challenging DR schemes for the last 20 years, we have not obtained tribunal/court decisions that back up this claim. In particular, we have not obtained decisions establishing that individuals are taxable on DR loans as income. (In recent months I have repeatedly tried to obtain legal analysis to understand the strength of our claim with very little success)”.

This is at odds with public statements repeatedly made by senior HMRC officials, including to Parliamentary Committees, that they “have always been clear” that these arrangements never worked and that court cases show justify the Loan Charge and the approach of targeting individuals. They have also publicly stated repeatedly that loans are taxable as income (whilst privately admitting – as is the reality- that this is not the reality of court decisions, *none* of which have concluded that). This is a clear example where what HMRC say publicly and what they are privately are at odds with each other, which is wholly unacceptable.

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- That HMRC knew that there would be a significant number of insolvencies (something they continually gave the impression to Parliamentary Committees that there would not be). [\[link\]](#) HMRC also admitted that *“Internal data suggests many individuals subject to the Loan Charge will have difficulties paying their liability in full. There is a risk that a high proportion of individuals will not be able to pay their liabilities in full over these timescales, or indeed over any timescale”*. Similarly HMRC also admitted *“many low-income people may still not be able to settle their debt irrespective of the length of time we give them”*. Yet senior HMRC officials continually give the impression they will give very “generous” terms that will enable people to pay the sums being demanded.
- Whilst publicly always giving the impression (including to Parliamentary Select Committees) that people facing the Loan Charge/associated demands will not have to sell their homes, privately in an internal email a senior HMRC officer told colleagues, *“Jim [Harra] feels that anything other than a categoric “we won’t sell your home” isn’t useful but clearly promising never to sell anyone’s home doesn’t make sense”*.
- HMRC privately admitted they didn’t do enough to stop promoters/close down schemes, whilst continually publicly stating they have and did take action to do this. [Mary Aiston admitted in an internal email](#), *“Why we didn’t do more to close down promoters is always going to be a difficult question for us”*.
- That HMRC themselves have engaged and used contractors using ‘disguised remuneration’ schemes. Senior HMRC officials were not open and honest about this when questioned and written to by the House of Lords Economic Affairs Committee. We [published a report about this](#).
- HMRC’s deeply contentious use of section 684 notices, transferring tax liability from agencies/employers, to continue to pursue those put out of scope of the Loan Charge by the Morse Review was an unprecedented use of this discretion (and not something that it had been intended for). HMRC was aware that the transfer of tax liability in these cases would be controversial in cases. As exposed by [a Freedom of Information request](#), they had to apply to their own (HMRC) Contentious Issues Panel (CIP) stating *“To our knowledge, this discretion has not previously been used to remove a PAYE liability which has arguably already arisen”*. They also state *“It is highly likely we will be challenged on our use of the discretion in contractor loans cases”*. Despite these concerns, another [Freedom of Information Request](#) revealed that HMRC decided to override these concerns. Parliament was not consulted on about this controversial decision and MPs simply found out when HMRC started issuing them to affected constituents. HMRC didn’t even consult with the Government, they merely informed the Financial Secretary to the Treasury afterwards (and even then wondered if they needed to bother stating *“David and Penny are wondering if this is something to inform FSTs office?”*). This is another example of the lack of an effective system of oversight and accountability of HMRC, which allows them to change the rules to allow them to sidestep and bend the law to pursue individuals in ways never intended by Parliament. This must be addressed.

All of this – together with the huge amount of information that has been revealed by FOI responses - must be properly and fully scrutinised as part of the inquiry and questions asked of officials both about this and just as importantly about information that has been withheld.

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6. Finally, all cases related to the Loan Charge must be put on hold till the review/inquiry has concluded and any recommendations implemented

As mentioned above, HMRC acknowledged that there are still over 40,000 unresolved cases (a staggering indictment of the failure of the whole approach and the Loan Charge itself).

All cases that have not been settled must be put on hold, allowing the review/inquiry to do its work and report back. Ministers must therefore announce (including in Parliament) that all cases related to the Loan Charge (and section 684 notices) must be put on hold till the review/inquiry has concluded and recommendations implemented. This must include all related Accelerated Payment Notices (APNs), the use of which is highly concerning in this and many other instances (and should be subject to separate and wider review).

To not do this would render the review announcement both not meaningful and highly cynical. It would be like announcing an inquiry into the Post Office while allowing the Post Office to continue to pursue cases against sub-postmasters. HMRC will of course protest at this, but as with all aspects of this review/inquiry, they must not be allowed to interfere. Otherwise, experience shows that they would seek to push cases to conclusion, potentially unreasonably. That cannot be allowed to happen. The fact that the Government has committed to a review means that the whole issue is under important scrutiny and the Loan Charge and related measures must be on hold pending its conclusions and the subsequent implementation of them.

With regard to those who have settled, in many cases effectively under duress as a result of being threatened with the much greater and more punitive Loan Charge, we would also suggest that people who have settled and are still making regular payments should be given the option to pause payments (with advice given on the implications of this, dependent on various outcomes).

Summary and Next Steps

We hope that this review/inquiry, if it is established properly, formally and independently as we have laid out, will at last expose the full story of the Loan Charge Scandal and that this will lead to a resolution, that reflects the reality and the whole history of the issue.

We do respectfully urge you and the current Treasury team not to fall into the same trap as happened in 2019, when a partial, biased and flawed review was announced, having allowed HMRC to interfere and to restrict the terms of reference. We would strongly advise that this current Government should not itself become part of the ongoing Loan Charge Scandal, by allowing further interference and another deliberately restricted and biased review, but instead to be the Government that allows a proper, independent inquiry to take place and then to find a resolution that resolves the issue for the tens of thousands of families affected as well as HMRC and the Government.

Another partial and biased review will do nothing to resolve the whole mess, for the tens of thousands of families affected or for the Government, that rightly wants to seek a resolution. The fresh review/inquiry must be set up properly and then conducted with full transparency and access to all witnesses.

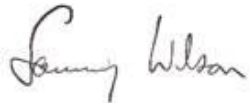
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This time, it must be properly independent, with HMRC and Treasury staff having no role and no involvement, other than to give evidence, which they must do on the record. To have the confidence of MPs and the public, this new review - or more properly inquiry - must be properly structured and transparent, looking at the whole Loan Charge Scandal to get to the truth and also make recommendations to ensure that this cannot happen again.

We hope that the review/inquiry will be established early in 2025 and then allowed to get on with its work, independently and taking as long as is needed to go through all the evidence properly.

Yours sincerely,



Sammy Wilson MP
Co-Chair



Greg Smith MP
Co-Chair



Emily Darlington
Vice-Chair

cc James Murray MP, Exchequer Secretary to the Treasury
Dame Meg Hillier MP, Chair, Treasury Select Committee

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