

The Loan Charge Scandal – the retro tax that has caused 10 suicides

Introduction – summary and current situation

The Loan Charge is a deeply controversial policy that now allows HMRC to issue retrospective tax demands going as far back as December 2010, overriding the normal tax system and basic taxpayer protections. HMRC are pursuing contractors and small company directors for huge sums, for tax that in many cases HMRC should have collected at the time but failed to do so. Those affected are facing bills they simply cannot pay. There have already been [10 suicides of individuals facing the Loan Charge](#) (p.3) and [13 attempted suicides](#). Many of those affected are amongst groups excluded from any support during the Covid pandemic. Many have also lost work due to the flawed IR35 off-payroll rules. [A debate in Parliament](#) in January 2024 showed the huge cross-party support for a fresh independent review and a resolution. Alas, current Treasury Ministers broke their promise to commission a genuinely independent review into the Loan Charge and the wider scandal.

Key points about the Loan Charge Scandal:

- ***Those impacted are victims of mis-selling***

Chartered Accountants, recruitment companies and accredited tax advisers were all involved in industrial scale promotion of these schemes and confirmed to their clients that they were legal and tax law compliant. It was also in the interests of client companies, who were able to avoid paying employers' taxation and providing workers' rights (holiday pay, pension etc) for those using these arrangements. People were told the schemes were tax law compliant and most were not told of any risk. Those that were, were reassured that if HMRC did challenge them, the operator would deal with it. In a May 2021 [Loan Charge APPG survey](#), only a tiny minority said they'd had the risks of using such arrangements explained partially (6%) or fully (1%) whereas a vast majority (93%) did not have the risks explained to them at all. Current Treasury Ministers, including the Chancellor, have acknowledged that [people are victims of mis-selling](#) and yet announced a biased and restricted review that excludes the parties that recommended and operated schemes.

- ***Those impacted used the arrangements to be compliant and avoid HMRC action***

Most people impacted by the Loan Charge legislation used these arrangements not to avoid tax, but to be compliant under 'IR35' legislation. Some were told that the use of a particular umbrella company was a condition of employment. Others were told that they would no longer be employed and had to become self-employed even though there was no change to the work that they actually performed. Large fees of around 18 to 20% were charged by the promoters/operators, who made huge profits, yet HMRC is demanding this from those affected, despite knowing they never received this money (and don't have this now).

- ***The tax being demanded has never legally been proven to be due from individuals***

The reason HMRC pushed for the Loan Charge is that it avoids the usual need for tax disputes to be settled in court, in a tax tribunal. [As admitted in correspondence with MPs](#), the Loan Charge means that they don't need to litigate cases on an individual basis. They can merely calculate the tax they think should have been paid and then demand this, denying the basic right to challenge this in court. This is outrageous as HMRC's 'view' is not the law. [HMRC themselves privately concede](#) that this demanded tax has never legally been proven to be due

- ***HMRC's approach takes away the basic fundamental right to challenge them in court***

The Loan Charge takes away the basic right of citizens to defend themselves in court, undermining fundamental tax (and human) rights and the Rule of Law. This is almost unprecedented in the UK and deeply sinister, as well as being very dangerous from a mental health perspective as not only can people not challenge HMRC's view in the normal tax tribunal process, but they cannot meaningfully negotiate with HMRC. This leaves people in a frightening and undefendable position.

- ***HMRC failed to police the sector and collect tax from agencies/employers***

The Income Tax (Earnings and Pensions) Act 2003 clearly states that most agency workers must be treated as employees for Income Tax and National Insurance contributions purposes. **If HMRC had policed the agency sector and enforced the legislation, there would never have been any need for the Loan Charge.** As well as the Loan Charge, HMRC are also now misusing powers of their discretion, issuing what are called section 684 demands. They have limited powers to transfer tax liability from employer to employees but are using a hitherto unused [‘discretion’ to do so in many circumstances and](#) are using these in a blanket way, to retrospectively demand tax that should have been collected from employers/agencies, from the worker. In other words, they are finding ways to cover up on their own lack of action on the right party at the right time.

- ***HMRC, supported by the Treasury, has engaged in a cynical campaign of propaganda***

HMRC, often supported by the Treasury, has been engaged in a cynical campaign of propaganda, to try to justify the Loan Charge and cover up its harsh reality. HMRC officers have consistently issued misleading statements and answers to parliamentary questions, as exposed consistently by the APPG.

- HMRC has deliberately sought to portray all those who engaged in these schemes as serial tax avoiders, which is hugely unfair and has been a factor in some of the suicides.
- HMRC claim that the Loan Charge is collecting tax ‘that has always been’ due, yet this has never [been legally proven](#) (and the Loan Charge was designed to not have to bother doing so!). . **On 31 January 2019, Jim Harra, First Permanent Secretary and [Chief Executive of HMRC wrote to senior colleagues and stated](#) - “In recent months I have repeatedly tried to obtain legal analysis to understand the strength of our claim with very little success. For yesterday’s hearing we were initially given a summary of avoidance wins, some of which seemed to have nothing to do with DR”.**
- HMRC give the impression that those affected can afford to pay the Loan Charge (regardless of if they actually should) and that they will be helpful/reasonable. The reality is quite different.

- ***HMRC and the Government have not sought ANY of the disputed tax from promoters***

Whilst ruthlessly pursuing ordinary workers, **HMRC has failed to seek ANY of the disputed tax from those who promoted and operated the schemes**, and from those who made huge amounts of money selling these arrangements to the public on an industrial scale. HMRC give the misleading impression that it has taken action against those who recommended and promoted the schemes now subject to the Loan Charge, but the reality is that they have taken no action in this regard. **There have been no arrests, prosecutions or convictions of anyone that promoted loan schemes now subject to the Loan Charge.**

- ***The Labour Government broke its promise to hold a fresh genuinely independent review***

Chancellor Rachel Reeves made [a clear promise in January 2024](#) to conduct a fresh, independent review of the Loan Charge, but the current Government instead announced a highly restricted review into Loan Charge settlements which “*will recommend ways in which they can be encouraged to settle with HMRC*”. It is not an the “truly independent review” James Murray said was needed whilst in opposition. The Terms of Reference were set by the Treasury and it is being conducted by a former HMRC Assistant Director! It also unfairly excludes people who have settled with HMRC, who were coerced into doing so having been told that they would otherwise be hit with even greater demands. They now face the prospect of having much more punitive terms than many who did not settle, which is disgraceful. This is the second biased review, with the [2019 Morse Review being exposed as not being properly independent](#) (as well as coming to [flawed conclusions](#))

What is needed to resolve the Loan Charge Scandal:

There needs to be a **proper independent inquiry into the whole Loan Charge Scandal** – looking at the Loan Charge itself, scrutinising the actions and conduct of HMRC and the Treasury and looking at the role of promoters, recruitment agencies, accountants, umbrella companies and employers.

There also needs to be a fair and final resolution for everyone affected, including those who have settled, those who face HMRC action for pre-2010 years and post 2019 years. The current proposed ‘review’ will not solve these issues.