



Loan Charge Action Group

Briefing Document to Loan Charge Review

How Many are Impacted by the Loan Charge

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The truth of the matter is that no-one knows how many people will be impacted by the Loan Charge.

HMRC claim that around 50,000 people may be impacted. A Freedom of Information (FOI) request to HMRC revealed that, as of February 2019¹, HMRC had issued 40,780 letters to inform people about the Loan Charge. That number includes 1,580 letters where HMRC didn't have an address to send them to. HMRC have failed to provide any evidence on who the remaining circa 9,000 people are and/or whether they have been contacted subsequently.

LCAG and the Loan Charge APPG statistics show that the number could be significantly higher than this with many that are completely under the HMRC's radar, having had no notifications and no enquiries opened into their tax returns.

The Loan Charge APPG conducted a survey in March 2019² that showed 31.8% (558 from 1,754 respondents) had not been contacted by HMRC about the Loan Charge. Extrapolating this percentage into HMRC's figures would suggest over 72,000 impacted. This is an inaccurate figure too though as it only accounts for people who are actually aware of the Loan Charge - so the total would be still more than this.

Of course, HMRC have denied this and claimed everyone have been contacted. This statement is simply untrue based on survey results we have received.

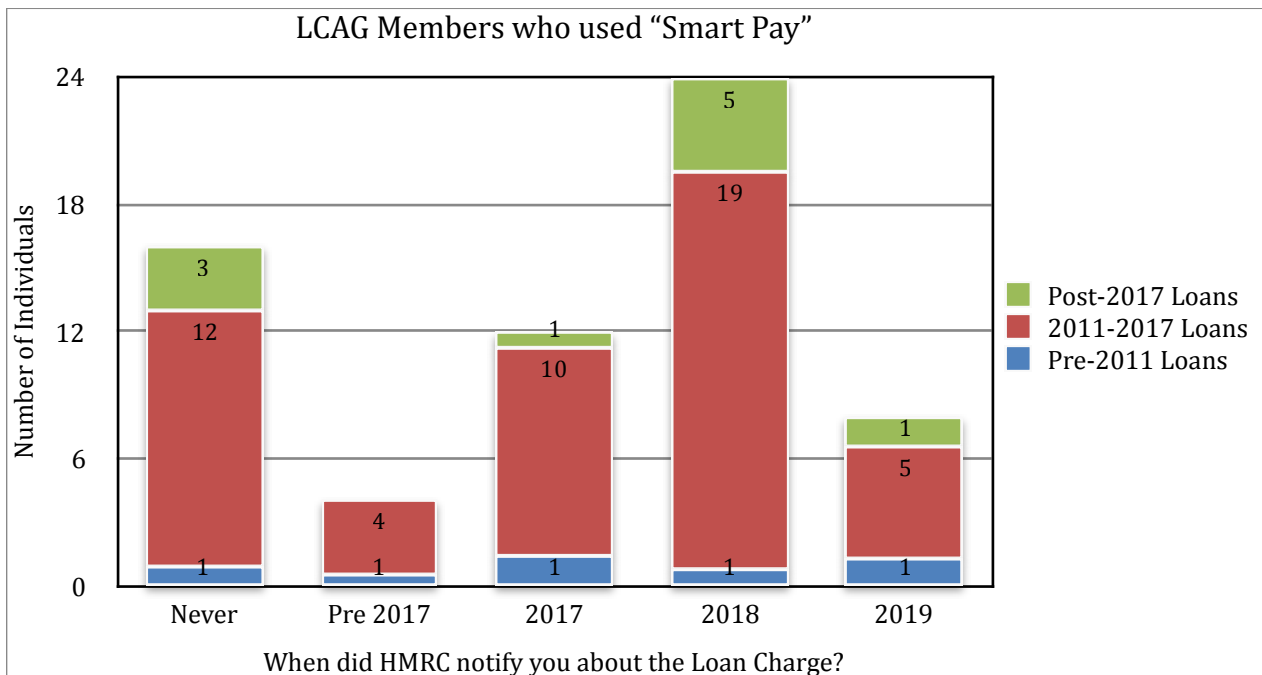
As an example, look at two or more people using the same tax arrangement scheme during the same time period. Some of them have received letters from HMRC while others have not. The chart below shows a sample of LCAG members that used "Smart Pay" tax arrangements, periods in which they were used and when they have been contacted by HMRC regarding Loan Charge. The survey data was collected in September 2019.

Amongst 64 LCAG Members who used "Smart Pay" in the chart below, 16 (25%) have not received any notifications from HMRC regarding the Loan Charge. Out of those 16 that have never been informed, 15 of them were using tax arrangements after 2011³. Even from this small survey sample, we can show that HMRC's assertion that they have contacted everyone impacted by the Loan Charge is simply incorrect.

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777092/Awareness_letters_-_list_of_constituencies_004_.pdf

² <http://www.loanchargeappg.co.uk/wp-content/uploads/2019/04/Loan-Charge-APPG-Loan-Charge-Inquiry-Survey-Report-March-2019.pdf>

³ 2011 was chosen as it aligns with the date when HMRC changed the reporting requirements for such kind of tax arrangements



Regardless of disclosures, HMRC should be aware of at least 80% or more of all tax arrangement schemes in existence and should also be aware that some of those still exist and are still fully operational. Additionally, given many people often used more than one tax arrangement scheme while performing services for various clients, HMRC should have been in a position to identify at least 90% of all those people by using simple information technology tools⁴.

This situation is quite unfair. Due to HMRC's inability to even identify all users of the same loan arrangements, many will today be unaware of the Loan Charge. People who are aware of the Loan Charge will now be treated more harshly than those who have no knowledge or are flying under HMRC's radar. Furthermore, the unfairness is compounded by people being punished depending on whether HMRC have taken action or not.

To summarise, a well-run HMRC should have been able to easily identify everyone that has been impacted by the Loan Charge legislation and have had the ability to inform almost all of them in a timely manner. HMRC and The Treasury have maintained that everyone has had 3 years notice but this is clearly untrue as evidenced - many people still do not know.

So why has the ability of HMRC fallen so short in all aspects of both Loan arrangements and Loan Charge administration? The complexity of the tax code is a significant factor for both sides, although HMRC ought to know it better than any freelancer or small business.

Perhaps the simple answer is that HMRC has suffered from poor administrative oversight, a lack of quantity and quality of skills, and a short-term focus on meeting financial targets. Such an irresponsible or under resourced approach to critical responsibilities that need the utmost care is something that cannot be easily overlooked.

⁴ As an example, HMRC could do this for an employed arrangement by simply running a search on the employer's name as submitted by individuals on their tax returns.