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Loan Charge Action Group exposes unreliable HMRC evidence over the stitch-up of advisers appointed to the supposedly 'independent' Morse Review

The Loan Charge Action Group has written to the House of Lords Economic Affairs Committee, exposing the way HMRC have sought to mislead the Committee over the appointment of advisers to the supposedly independent Morse Review into the Loan Charge.

The [letter](#) lays out how, yet again, HMRC are not being honest regarding the Loan Charge. It follows Mary Aiston, Head of Counter Avoidance at HMRC, [giving evidence to the EAC Finance Bill Sub-Committee on 16 December 2020](#). She claimed that external advisers were appointed to the review only if they had not taken a public position in relation to the loan charge. **However, this is not the case, as one of the advisers chosen, Heather Self, was quoted in an article a year before the Morse Review where she gives her clear view of the schemes involved as being "aggressive avoidance".**

Mary Aiston said, in response to a question from Lord Forysth of Drumlean:

"As an independent reviewer, Sir Amyas Morse said that he wanted advisers who were knowledgeable about tax, but it was his (Sir Amyas') ask that they were people who had not had a public position in relation to the loan charge...The issue here was that Sir Amyas Morse was looking for people who had not had an opinion about the loan charge in the past."

Yet in reality, two of the advisers appointed had made public statements relating to the Loan Charge and one of them, Heather Self, a former HMRC employee, had written an article a year before the Morse Review, giving a clear, public position on schemes now subject to the Loan Charge. In [the article in the Tax Journal, published 18th November 2018](#), she states

"I was asked whether the scheme was illegal. No, I said, but it was probably ineffective. Applying the duck test (if it looks like a duck, walks like a duck and quacks like a duck, it is probably a duck), I thought the amounts received as 'loans' were highly likely to be regarded as earnings".

This next statement can leave no doubt that Ms Self had made her public position on loan schemes crystal clear:

“Bluntly, disguised remuneration loans were about dressing up part of an individual’s remuneration as a free gift on which tax would never be paid; in my view, this was aggressive avoidance”.

The same quote is included in [an article on the Blick Rothenberg website in Heather Self’s name](#) (the article is undated, but is pre 5th April 2019 and well prior to the Morse Review). Heather is a Corporate Tax partner of Blick Rothenberg)

Another adviser who was appointed, David Goldberg QC [co-authored a Tax Journal article published 13th July 2017 on the Rangers FC ruling by the Supreme Court](#). In the penultimate paragraph the article asks “Can we really expect such blatant, unattractive devices to succeed in avoiding tax?”.

Again, that is a public statement and one that suggests an already formed view regarding arrangements linked to the introduction of the Loan Charge (if not the Loan Charge itself).

So the reality is that advisers were *not* appointed only if they had not made public statements on or related to the Loan Charge. Two were appointed despite having publicly made statements, including in the case of former HMRC employee Heather Self, of expressing strong criticism of the schemes subject to the Loan Charge, very similar to the views expressed by her former HMRC colleagues. Heather Self is a former member of the team in HMRC which is very much in scope of the review and whose behaviour was part of (or should have been part of the Morse Review). She [worked for HMRC as an Anti-Avoidance Adviser from November 2008 - April 2011](#), at a time when loan schemes were commonly used in many sectors and when HMRC claim that it was clear that they did not work. No doubt, this is a view held by all the Anti-Avoidance team at the time.

So, not only was Ms Self a former HMRC employee whose own department had a clear interest in defending HMRC and who, in turn, at the time were widely believed neither to be dealing properly nor effectively with the promotion and usage of loan schemes (and should have been subject to scrutiny themselves) but she had also published a clear and forthright view on schemes prior to appointment. It therefore seems clearly and wholly inappropriate for Heather Self to have been appointed as an adviser to what was being presented as an independent review and also exposes the fact that HMRC are not being honest over the reasons some advisers were not selected.

Mary Aiston’s evidence also denied that advisers would have been rejected due to having appeared before a Parliamentary Select Committee. However, Freedom of Information requests have revealed an email from a Treasury official to the Morse Review secretariat suggesting that people should be rejected on this basis.

Lord Forsyth had asked:

“It was specifically said that anyone who had given evidence to a parliamentary committee should not be included...I am slightly concerned at the idea that anybody who has given evidence to a parliamentary inquiry, which of course could now include you, should be discriminated against. Could you please clear up what that was about?”

Mary Aiston replied:

"I would agree that being a witness at a committee hearing should not per exclude people from getting involved in an independent review or indeed anything else".

Yet an email sent on 16th September 2019 from a Treasury official (whose name has been redacted) sent an email to Siobhan Jones, then of the Loan Charge Review secretariat team (who is a Treasury official herself) stated, "Query whether you would want people who have appeared before the Select Committee, if only because it means they are slightly compromised". Mary Aiston failed to mention this to the Committee.

The exchange between Lord Forsyth and Mary Aiston took place two days after [eminent tax barrister Keith Gordon had given evidence, on 14th December](#). Keith, in spite of having been formerly approached by Sir Amyas Morse and having confirmed that he would like to be considered as one of the advisers to the Review had expressed his concern that he had been subsequently rejected for the role on the basis of having previously expressed concern about the Loan Charge. He shared that he had sought to establish the reality of the appointment process to the Review through a Freedom of Information request. It took six months for him to receive a response on this and, even then, much of the information was redacted which suggests a significant and deliberate attempt by HMRC to cover up the interference in the review and that advisers were only selected if they were deemed to be sympathetic.

This is yet another example of bias and interference and more evidence clearly demonstrating that the Morse Review simply cannot be regarded as impartial or independent, as well as exposing an attempt by Mary Aiston to obscure the reality of the decision-making process by covering this up. The LCAG letter to Lord Forsyth concludes, *"Once again, I'm afraid the evidence given by HMRC and by Mary Aiston is neither credible nor reliable and we urge you to continue to expose the disinformation that has been a key part of the Loan Charge Scandal"*.

Spokesperson for the Loan Charge Action Group, Steve Packham, said:

"Yet again, HMRC have been caught out for misleading Parliamentarians over the Loan Charge, this time in trying to cover up the fact that there was a stitch-up over the selection of advisers to the supposedly independent Loan Charge Review.

It's already been exposed that far from being genuinely independent, the Morse Review was subject to direction and interference by the Treasury and HMRC from the beginning to its conclusion and part of this was the way external advisers were chosen despite having expressed a clear public view relating to the Loan Charge. In the case of Heather Self, a former member of HMRC staff, she had clearly stated that she believe schemes were "aggressive avoidance", yet strangely was appointed, despite Mary Aiston now telling us that Sir Amyas Morse had asked for people that had not expressed an opinion!

At the same time, it seems clear that eminent tax barrister Keith Gordon, who has real expertise on the matter, was rejected as an adviser because he had been publicly critical of the Loan Charge. So, in an attempt to cover up this stitch-up,

Mary Aiston has actually let the cat out of the bag in exposing what Keith Gordon and many others have believed, that people were only picked as advisers if they were likely to support the Treasury and HMRC over the Loan Charge, whilst avoiding anyone who might be critical. This further exposes the sham nature of the Morse Review as well as being yet another example of how HMRC can't be trusted when it comes to the Loan Charge. A full independent inquiry of their sinister conduct is long overdue".

ENDS

Notes to Editor

1. **The Loan Charge Action Group (LCAG)** is a volunteer run group of people facing the Loan Charge. LCAG seeks campaign to change the Loan Charge and also provided a community where individuals can find information and support. The Group does not provide any form of chargeable service or professional advice. See www.hmrcloancharge.info
2. The All-Party Parliamentary Loan Charge Group (Loan Charge APPG) was formed in January 2019.
3. The APPG Loan Charge Inquiry report published 2nd April 2019 exposes the dangerous reality of the Loan Charge, with its impact on people's mental health. <http://www.loanchargeappg.co.uk/wp-content/uploads/2019/05/Loan-Charge-Inquiry-Report-April-2019-FINAL.pdf>.