



Dr Julian Lewis MP  
House of Commons  
Westminster  
SW1A 0AA

26<sup>th</sup> January 2021

Dear Dr Lewis,

**Unacceptable and misleading answer to your Parliamentary Question**

We are writing with regard to your written Parliamentary Questions to the Treasury, tabled on 15th January. We thank you for raising these issues and for continuing to challenge the Treasury regarding the Loan Charge. We are writing to you because the answers, from the Financial Secretary to the Treasury, Jesse Norman, on 20th January, fail to either answer the questions you were asking or worse are disingenuous and an attempt to mislead.

**You asked:**

How many people have been actively pursued for payment of the Loan Charge (a) in each lockdown period and (b) overall since the beginning of the covid-19 outbreak; what estimate he has made of the numbers of (i) bankruptcies and (ii) suicides associated with Loan Charge payment demands; what steps HMRC has taken against companies which advised their clients to use disguised remuneration schemes; and what data has been collected on contractors who worked for HMRC while utilising disguised remuneration schemes.

Taking each point in turn, where Jesse Norman's answer was unacceptable:

1. You asked for the number of people who are (a) being pursued for Loan Charge payments in each lockdown period and (b) since the beginning of the Covid outbreak have been completely ignored.

Mr Norman did not answer these two questions and simply gave a template statement outlining HMRC general processes and practices regarding taxpayers affected by the Loan Charge, which does not answer these questions. So Mr Norman and the Treasury failed to answer this important parliamentary question, which is completely unacceptable.

2. You asked for an estimate of bankruptcies associated with Loan Charge payments.

Mr Norman stated that *"HMRC have not made an estimate of the number of people who may become bankrupt and have a Loan Charge liability"*.

The reality is, as Mr Norman knows full well, that at least one person facing the Loan Charge has been made bankrupt. Yet because the question asked what estimate has been

made of bankruptcies that may have happened, they have decided to avoid admitting that any bankruptcies have happened. There may have been no estimate made, but what Mr Norman clearly should have stated is that there have been people facing the Loan Charge who have gone bankrupt and given the figure of how many. HMRC will hold this information because they will be primary creditors on any bankruptcies.

Therefore, rather than being honest and giving you this information, Mr Norman and the Treasury have chosen to avoid it by referring very literally to the lack of an estimate. This is disingenuous and also misleading as it infers both that they don't know about bankruptcies of people facing the Loan Charge (they do) and also suggests there may not have been any so far (there have).

Mr Norman also repeated the deliberately misleading stock phrase used by HMRC and the Treasury, that *"HMRC do not want to make anyone bankrupt, and insolvency is only ever considered as a last resort"*. It is not relevant what HMRC may or may not "want" (and you didn't ask this), but the reality as Mr Norman and HMRC is that people have already gone bankrupt – and as they admit, there will be more.

3. You asked for an estimate of the number of suicides associated with Loan Charge payments.

This is one area where, for a change, Jesse Norman at least answered the question asked and it is very notable that Mr Norman admits that to-date 6 taxpayers identified as having used loan arrangement schemes have taken their own lives. Previously in the House he claimed there were 'only' three. The Loan Charge Action Group is aware of seven suicides, all of which were reported directly to the Loan Charge APPG who sent the evidence of this to Sir Amyas Morse.

Where Mr Norman's answer is very specifically and very deliberately worded is where he states "Four investigations have been concluded and in all no staff misconduct was identified which might warrant disciplinary action". It may well be that there was no identified staff misconduct on the part of any staff, but that is only one aspect of any investigation. So this doesn't give a full account of any investigations and whether there may have been other things identified, including relating to the conduct and actions of HMRC as an organisation, as opposed to the conduct of any one member of staff. Mr Norman's answer does, of course, ignore the underlying fundamental issue that it is the Loan Charge itself, as a policy, that has pushed people to take their own lives. They may deny this publicly, of course they will, but the evidence, including a suicide note (as quoted from in the Loan Charge APPG Loan Charge Inquiry) clearly shows that the pressure from HMRC, as a result of the Loan Charge, was indeed what drove people involved to take their own lives.

It is also worth noting that there are two outstanding investigations as Mr Norman has said "Four investigations have been concluded and in all no staff misconduct was identified which might warrant disciplinary action".

4. You asked what the steps HMRC has taken against companies which advised their clients to use disguised remuneration schemes.

As usual, Mr Norman has evaded answering the question. You asked what action has been taken, yet in an attempt to mislead and cover up the profound failure to take action, Mr Norman refers to the strategy published of how the Government and HMRC intend to clamp down on promoters going forward. What is even more dishonest is that he claims that HMRC will “*continue* to take robust action against promoters of tax avoidance” when HMRC know full well that they have not taken any robust action whatsoever, either to pursue promoters or to shut down schemes, which continue to be marketed openly.

Mr Norman omits to give any actual evidence in relation to the numbers of promoters of disguised remuneration schemes which have either been or which are currently being challenged and how or if they have been penalised in any way. **This the because the reality is that those who promoted, (mis)sold and recommended loan schemes now subject to the loan charge have not faced any criminal pursuit, have not been fined and have not been asked to pay a penny for doing so; whereas those they promoted, sold and recommended the schemes to are facing huge, and in many cases life-ruining, bills.**

No evidence of prosecutions or imposed penalties connected to DR schemes has ever been officially provided and that the number of people using DR schemes actually showed an increase in 2018/19 compared to 2013/2014. Clearly if more immediate, constructive and punitive action had been taken from the very start the problem would not have evolved and proliferated and much misery would have been avoided. Promises of tougher measures and action going forward may be welcome, but it is of absolutely no help to those who have already been duped by these unscrupulous people (and it is not what you asked!). Furthermore, similar schemes continue to advertise and actively pursue individuals. One company targeting NHS professionals being recruited to help with the Coronavirus pandemic is linked to one of the individuals who is linked to several providers of loan schemes now subject to the Loan Charge. HMRC are well aware of this and these companies and that many people facing the Loan Charge had been mis-sold schemes by them, yet have done nothing at all about this.

5. You asked what data has been collected on contractors who worked for HMRC while utilising disguised remuneration schemes.

Mr Norman has again quite intentionally given a very literal response relating to basic information held by HMRC on its contingent labour, but extraordinarily he has failed to mention the fact, as now admitted by HMRC, that there have been several contractors who have been identified! Amongst the data collected is that fact have identified 15 contractors who used they admit were using disguised remuneration schemes. So to omit this is less than honest.

Mr Norman’s reply, as well as failing to mention the key data, also fails to give any other useful data and rather is the same well-rehearsed and cynical lines which HMRC wrote to try to deflect attention from the embarrassment of using contractors using the very

schemes they claim they were always clear 'did not work'! The deliberately disingenuous lines are a cynical attempt to absolve HMRC of any direct responsibility for the engagement of contractors proved to have been using the schemes whilst working for them. To keep stating the phrase 'HMRC do not engage in, or enter into, disguised remuneration schemes' is ludicrous. No one is suggesting for one moment that HMRC themselves enter into disguised remuneration schemes, the phrase is meaningless and designed to mislead. In spite of their initial and repeated denials to the Lords Economics Affairs Committee that HMRC had never employed contractors who used DR schemes, they have eventually been forced to admit via FOI requests that this is not the case and contractors using the schemes were in fact employed by HMRC up until at least July 2020.

This reluctance to admit and release what they already must have known not only demonstrates how embarrassing this issue is for HMRC and raises many questions, including HMRC's lack of due diligence re its hiring of contractors. HMRC continues to strongly resist attempts, again via FOI requests, to reveal their true level of responsibility and accountability surrounding the engagement of contractors which again suggests that they have a very strong reason for not wanting to readily publicise this information.

Regarding Mr Norman's final statement "*It is possible for a contractor providing services to HMRC to use a disguised remuneration scheme without HMRC's knowledge or participation*".

**Yet this is, according to the Treasury's own rules, not the case (unless HMRC are guilty of very serious failings when it comes to following rules and protocol).** As revealed in FOI FOI2020 03467 the response to the requester clearly states 'During this period, as now, the engagement and tax obligations of public sector engagements were considered under the Managing Public Money framework (MPM)'. Governmental bodies such as HMRC should adhere to these contractual requirements. Within this FOI request there is also a link to a document entitled 'HMT Review of the tax arrangements of public sector appointees' dated May 2012. On page 15 of this document 4.A Recommendations:

- engagements of more than six months in duration, for more than a daily rate of £220, should include contractual provisions that allow the department to seek assurance regarding the income tax and NICS obligations of the engagee – and to terminate the contract if that assurance is not provided
- these measures should be implemented within three months – and implementation will be monitored after one year, reporting back to the Chief Secretary to the Treasury and the Minister for the Cabinet Office; and
- if it emerges that any departments have not abided by these rules, sanctions will apply – with departmental resource budgets reduced by up to five times the payment in question.

This Treasury document clearly stipulates that any Government department engaging off payroll resource **MUST** abide by these contractual provisions.

**So either HMRC followed the rules and they would have failed to get proper assurance terminated those contractors (they did not) – or they failed to follow these rules.**

What's more, Mr Norman claims HMRC may not have known about scheme usage, but it turns out from the FOI that they did, but that they had failed to realise it, which is a different matter – but one that does not allow Mr Norman to claim that HMRC may not have known, when they did. There's also the fact that the LCAG and the Loan Charge APPG have been sent evidence from contractors who worked for HMRC to show that they declared scheme usage to HMRC. So HMRC, the tax authority did indeed know of scheme usage, but HMRC human resources failed to identify this and the two parts of the organisation were not joined up. So Mr Norman's answer is clearly disingenuous and misleading – and in reality, as HMRC must know, that there are many more contractors who worked for them who used DR schemes.

So we hope that is helpful. Unfortunately, the way Mr Norman has dealt with your parliamentary question is routinely typical of answers to questions on the Loan Charge and typifies the way that both HMRC and the Treasury have consistently misled MPs and peers over the Loan Charge and associated matters, something that the Loan Charge APPG has continuously raised. This campaign of disinformation continues to give a false picture of the Loan Charge, its reality and its impact, and is preventing HMRC being held answerable or accountable for their continued inaction, mismanagement and failures.

We thank you once again for asking these questions and hope that you will continue to challenge HMRC and the Treasury over the Loan Charge, demanding that their answers are honest and complete, providing supporting evidence where necessary, all of which are regrettably conspicuous by their continued absence.

Please do not hesitate to ask or to make contact with the Loan Charge APPG, for any assistance or advice on the issue via [contact@loanchargeappg.co.uk](mailto:contact@loanchargeappg.co.uk).

Thank you again and best wishes,

Yours sincerely



*Steve Packham*  
Spokesman & Executive Director



*Andrew Earnshaw*  
Executive Director

*On behalf of the Loan Charge Action Group*