



Sir Keir Starmer
Leader of the Labour Party
House of Commons
London
SW1A 0AA

31st March 2021

Dear Sir Keir,

Your appearance on the LBC Breakfast Show discussing the Loan Charge

We are writing to you, on behalf of the many thousands of people facing this Government's draconian Loan Charge, following your appearance and discussion on the LBC Breakfast Show with Nick Ferrari.

We are extremely thankful that you agreed, live on air, to look at this issue again and we now urge you to stand by and uphold that commitment.

People facing the Loan Charge - which is a cruel and unjust Conservative policy that has caused seven needless suicides and has already led to bankruptcies of ordinary, hardworking people - felt abandoned and let down last year when the Labour frontbench refused to back the new clause to the Finance Bill (**NC31**) that would have simply restored our basic, fundamental rights as taxpayers.

We found this particularly disappointing considering that, as a lawyer, you failed to back a change that would merely have restored the legal position to the one at the time people entered into these arrangements, but which are now subject to the highly controversial and retrospective Loan Charge. You and your frontbench team, in refusing to support this clause, failed to stand up for the rule of law – something you have previously and publicly claimed to defend.

You were asked about this decision, taken by the Labour frontbench team, live on the radio by Gareth, whose family faces ruin and hardship if HMRC enforce the Loan Charge - something that the Labour Party in the House of Commons on this occasion could have stopped, but instead (and inexplicably) chose not to, *despite* the strength of support voiced across all parties in the House for the inclusion of this new clause.

Gareth asked you:

"I'm one of the thousands of self-employed people who was advised by a chartered accountant in 2010 to use an employer-based trust scheme and my family and I now face ruin from the retrospective Loan Charge, a policy that's already caused seven suicides - as Nick, you've already pointed out many times. So, there's been seven suicides, several bankruptcies and basically the Loan Charge takes away my right to challenge in court what is legally an unproven tax bill.

You're a lawyer Mr Starmer - why did you decide the Labour party would not vote to restore the basic rights of taxpayers - including **me** - to challenge HMRC's demands in court? We *know* from David Davis MP that this is why new clause 31 was not put to the vote. He tabled it, so don't try to deny it. *Why* did you deny me my basic right to defend myself in a court of law?"

You replied to Gareth:

"Gareth - whether something's put to the vote or not in Parliament is not the call of the opposition unfortunately it's the call of the Government".

Yet this is **not** what happened last July and **not** the reason why NC31 was not voted on. The reality of this particular vote, on New Clause 31, as you and your frontbench undoubtedly know, was that the Labour frontbench (Treasury team and presumably the leadership, including you as Leader) decided that the Labour Party would not support it and that you would whip Labour MPs to abstain on any vote should it be called.

We know this to be the case, not only from David Davis MP but also because some of our members were informed by their own Labour MP that this is what happened (and that they themselves were very disappointed by the stance taken by their frontbench on this issue when they, as an MP and a representative of their affected constituents, had wanted to support it).

The actual result of the premeditated decision taken by the Labour frontbench meant that there was no realistic possibility of defeating the Government on this vote. Therefore, there was plainly no point in David Davis (or anyone else) pushing this to a vote, as NC31 had no chance of being voted through. Accordingly, David Davis did not waste Parliament's time in calling a vote (and instead, given Labour's position on NC31, called a vote on another important matter - the roll-out of the IR35 off-payroll working rules).

It was the decision taken by the Labour frontbench and the leadership – and nothing else, not the actions of either David Davis or the Government - which meant there was no chance of NC31 being passed, and no chance of the rule of law being restored for those many thousands of people facing the Loan Charge.

What makes this decision all the more disappointing is that, if Labour had instead decided to vote *for* NC31, there was a very real chance of defeating the Government, with there being so many Conservative MPs who had signed NC31 and avowed support in any vote. The SNP had already confirmed earlier in the day that they would support NC31 if selected for a vote. The Liberal Democrats and the DUP were supportive all along - so, if the Labour frontbench and leadership had decided to whip Labour MPs to vote for NC31, it is highly probable that it would have been passed – a defeat duly inflicted on the Government and basic rights to challenge HMRC in court restored to the thousands denied it through the retrospective Loan Charge.

This is the material reason why NC31 fell on 1st July last year in the House and why thousands of people were denied the chance to have their basic right to challenge legally unproven tax bills in court. Please avoid further disservice by trying to deny this and please do not attempt to spin this by suggesting that it was somehow down to David Davis or the Government that there was no vote on NC31. It was down to the Labour frontbench - as Leader, it was down to you.

So, we would politely request a proper, straightforward and honest answer to the question Gareth asked:

“Why did you decide the Labour party would not vote to restore the basic rights of taxpayers to challenge HMRC's demands in court? Why did you deny me my basic right to defend myself in a court of law?”

Your apparent refusal to stand up both for the rule of law and the basic right to defend oneself in court is all the more unexpected and disappointing when considering your own legal background. During your time as a practicing barrister, you specialised in defending people accused of criminal offences, including *serious* criminal offences – and you also worked to stop convicted murderers from facing the death penalty in other countries. You rightly and justly believed that **all** those people you defended - even those you might have known were guilty – deserved, at the very least, the **right to a fair trial**. Yet the decision taken by the Labour frontbench on NC31 essentially meant that you do not seem to think the same right to trial should exist for those now accused of not paying the correct amount of tax. You seem to conclude that it is acceptable for *this* group of people to be faced with legally unproven retrospective tax bills and for HMRC to be freely granted the power to hound people for these unpayable sums, even to the point of bankruptcy and suicide – without **any** right to challenge this in court. Can you please explain Sir Keir, *why* do you think these particular citizens do not even deserve *this* basic right?

You have also claimed to be a fervent advocate of human rights, as both a lawyer and a politician. What about **our** human rights, Sir Keir – are you able to explain this apparent prejudice? Why, in your view are **we** not worthy of this basic and fundamental right? Not worthy of even the right to trial, something you presumably - and certainly previously - would have regarded as being a basic tenet of life for all humans? That means for **all**, including those ‘accused’ by the state of not paying the ‘right’ amount of tax? Does the concept of ‘innocent until proven guilty’ not apply to those people?

This is precisely the position of those facing the Loan Charge – the odious, retrospective law which appoints HMRC as judge and jury and denies those being targeted the long-established right to take this to a tax tribunal. How on earth are you, as a lawyer and someone who professes to champion human rights, comfortable with that? Or do you somehow believe that rights only belong to those the Labour Party exclusively deems ‘worthy’?

It has been suggested that perhaps you and the Labour frontbench failed to support NC31 because you took the thoroughly misleading briefing circulated by the Treasury before the vote at face value. As the Leader of HM Opposition – and indeed as a lawyer – surely, rather than accepting Government briefings without question, particularly when they are attempting to defend what is undeniably a hugely controversial policy, you should instead look at the *evidence*?

The clear, available evidence offers a very different picture from the one the Government would have you believe. NC31 did *nothing* other than simply restore the legal position to that which was in place at the time, whilst restricting the Loan Charge itself to cases where there was deliberate (criminal) tax evasion. As you are hopefully already aware, one of your constituents is a very well-respected tax lawyer - Keith Gordon - a fellow barrister. He has also written to you and he too has been disappointed with the way the reality of the NC31 vote has been sidestepped, with the Labour

frontbench (and you as their leader) seemingly content to 'look the other way' when the basic human and legal rights of a group of people are clearly being denied.

We respectfully ask you to engage with him, to listen and to understand – and trust that this time around, the evidence can actually be *heard*.

The reality of the wider issue is that thousands of people were advised, by professional accountants (including Chartered Accountants), to use these schemes to avoid the risk (ironically) of being pursued by HMRC as a result of the flawed 'IR35' legislation, which Gordon Brown introduced as Labour Chancellor of the Exchequer in April 2000 and which has been fraught with problems ever since. People worked in both the private and public sector using these arrangements (including for many different Government departments), as well as people who even worked for HMRC themselves!

Individuals were informed in writing, by professional advisers and by the promoters of these arrangements, that these schemes were tax law compliant and QC approved. Some people even asked HMRC directly about them and received assurances that these were acceptable arrangements, despite later claiming that they "were always clear" they did not work. People facing the Loan Charge are **actually** victims of mis-selling – and you should be campaigning to help those individuals, not ignoring them and tacitly supporting the Government in enabling HMRC to hound and pursue these people and their families without any right to defend themselves in court.


You seem to consider it is perhaps convenient to ignore us because we have been accused of "tax avoidance". Yet in reality, as the APPG's Loan Charge Inquiry concluded and proved, seeking to avoid tax was neither the motivation nor the incentive for people using these arrangements, and this falsehood has been an integral part of the disgraceful propaganda campaign to paint us all criminals. This has led directly to at least one of the seven suicides, where a grandfather believed, as a result of this baseless propaganda, that he had somehow unwittingly committed a criminal offence and took his life as a result - and in his case, **not** because of the sums involved.

You have taken on cases before, both as a lawyer and a politician, in order to defend people when they desperately needed your advocacy – regardless of any perceived criticism which might follow such a decision. We now ask you and the Labour Party to do this for people facing the Loan Charge. We simply request our basic rights, under the law at the time, to defend ourselves in court and we beseech you, as someone who claims to vehemently defend the rule of law, to stand up and be counted. This Conservative Government's retrospective Loan Charge has wiped away these rights and driven a proverbial coach and horses through taxpayer protections which remain firmly in place for all other citizens of the UK. We implore you to now do the right thing, help fight this injustice, stand up for the rule of law and return our basic right to defend ourselves in a tax tribunal. Then let the courts, **NOT HMRC**, determine the outcome.

You stated live on air, when pressed by Nick Ferrari, "*We will look at it now*". We presume that you will now honour this commitment and this means that you as Leader, with the able assistance of your Treasury team and members of the Labour frontbench, will look at the Loan Charge again with newly opened eyes, properly, and without any unwarranted prejudice or preconceptions. We would be happy to speak with you or to provide you with any evidence you require, as part of this renewed attempt to fully measure and comprehend the impact of this unjust and invidious policy.

Thank you for your commitment to look at the Loan Charge again and we trust that you and your senior colleagues in the Labour Party can be relied upon to stand up for basic rights, demand justice and defend the rule of law for the many thousands of individuals and their families in such dire need of your understanding and support.

Yours sincerely



Steve Packham
Spokesman & Executive Director



Andrew Earnshaw
Executive Director

On behalf of the Loan Charge Action Group

Cc Nick Ferrari, LBC Radio