



Harriet Baldwin MP
Chair
Treasury Select Committee
House of Commons
Westminster
London
SW1A 0AA

21st July 2023

Dear Harriet,

The need for a Treasury Select Committee Inquiry into the Loan Charge

We are writing to you and the Treasury Select Committee on behalf of the thousands of families affected by the retrospective Loan Charge and associated HMRC action urging you to raise with the Committee the clear need for a full Select Committee inquiry into the Loan Charge Scandal. This is a national scandal that needs proper scrutiny and investigation.

It is odd that the Committee has not looked into this hugely contentious issue, when ten people facing this Treasury commissioned legislation, have killed themselves facing demands and pressure from HMRC, as well as there being several people who have attempted suicide. The Loan Charge has been mentioned in suicide notes and families of those who have been pushed to take their own lives are clear that this cruel, retrospective policy was the cause of their loved one's death.

Whilst it was easy to understand why the Committee didn't scrutinise the Loan Charge whilst Mel Stride was Chair, with him being the Treasury Minister who saw the Loan Charge put onto the statute books, there should now be no barrier to the Committee now taking up this issue and we urge you to help make that happen.

As well as being legislation that has led to suicides, the Loan Charge is also a wholesale failure as a policy. Four years since the Loan Charge came into effect, promoters still mis-sell schemes, tens of thousands of people are still impacted and HMRC is in administrative chaos unable to deal with the paperwork or get their calculations correct.

This is also a scandal of both policy making and maladministration. [As proven by FOI](#) HMRC themselves came up with the idea of a retrospective law because they knew they were out of time to pursue people lawfully. They failed to raise any concerns and didn't open enquiries into tens of thousands of tax returns, so came up with a law that allowed them to issue retrospective tax bills. They admitted in internal emails that they did this so as not to bother having to take cases to court.

HMRC also should have collected PAYE from employers at the time, under the agency rules. They failed to do so, hence wanting to go after the workers/contractors to cover up their own dereliction of duty. If HMRC had fulfilled their duty to collect PAYE at the time, there would have been no need for the Loan Charge.

The Government claims there was an “independent review” and that this therefore is (or should be) the end of the matter. However, the Morse Review has also been exposed as not being genuinely independent. Freedom of information responses revealed many emails that show a wholly inappropriate relationship between the review team and HMRC and HM Treasury staff. The APPG published [a damning report](#) exposing this. The key conclusion of the Morse Review, that “the law was clear” from December 2010, is fundamentally flawed. The 2011 legislation only applied to ‘employees’ who received third party loans, not to self-employed loans, which is what these workers were advised to use from 2011. The APPG published [a powerful report](#) on this. It also emerged that HMRC have not been able to find legal precedent for pursuing individuals, as opposed to employers. The latest development is that the Treasury is refusing a Freedom of Information request to publish the original draft of the Morse Review and are being taken to court as a result ([under case EA/2022/0358](#)). It seems clear that this is because the original report of this supposedly ‘independent’ review went further than the Government and HMRC wanted, so they changed it!

Despite the tough talk, HMRC are not asking for a penny of the disputed tax from those who recommended, promoted and operated the schemes, even knowing that they profited significantly from doing so. What is worse is that senior HMRC officials rejected the idea of doing a review into promoters, because they wanted to continue to blame those who were recommended and mis-sold the arrangements. This extraordinary decision only came to light due to FOI requests, which have exposed so much of the whole Loan Charge Scandal. The APPG [wrote to First Permanent Secretary and CEO of HMRC Jim Harra](#) and asked five questions. Mr. Harra failed to answer any of those questions, which is alas typical of the way they and the Treasury have conducted themselves through this whole scandal.

The way HMRC have misled MPs is a scandal in itself. The Loan Charge and Taxpayer Fairness APPG have several times pointed out that senior HMRC officials have very clearly breached the principles of the Civil Service Code. Here all the times they have written exposing the serial disinformation <http://www.loanchargeappg.co.uk/wp-content/uploads/2023/02/2023-02-15-Loan-Charge-APPG-documents-relating-to-misinformation-.pdf>

The Select Committee should also look at the reality of HMRC's abysmal lack of duty of care towards its own "customers". Despite the talk of ‘support’ from Ministers, HMRC have been ruthless and unreasonable in the way they have treated people, including people they know to be suicidal. The APPG did a report on this in 2019, see <https://www.loanchargeappg.co.uk/wp-content/uploads/2019/06/Loan-Charge-APPG-document-on-HMRC-conduct-june-2019.pdf> and things have actually got worse since then. The APPG have warned the Government again and again about the suicide risk, see <http://www.loanchargeappg.co.uk/wp-content/uploads/2023/02/2023-01-19-Loan-Charge-APPG-documents-about-suicides-and-suicide-risk.pdf>.

HMRC themselves used contractors who used schemes now subject to the Loan Charge and senior officials were not honest with the House of Lords Economic Affairs Committee when they were questioned about this. See this letter and report by the APPG <https://www.loanchargeappg.co.uk/wp-content/uploads/2021/02/Loan-Charge-APPG-letter-to-jim-harra-regarding-hmrc-use-of-contractors-using-dr-schemes-16th-february-2021-min.pdf>.

There are many troubling aspects of this whole scandal, warranting a full inquiry. Here are some key points that the Committee should look at:

- **The fact that a piece of legislation/approach has caused 10 suicides** (and several cases of attempted suicide). The Committee should look at the clear link between the 10 confirmed suicides and the Loan Charge/HMRC action (this has been mentioned by families and in suicide notes). There has been no public assessment of this (the internal investigations HMRC conducted have focused on whether HMRC staff were at fault, not whether the legislation/imposition of demands was a significant or the major cause in the suicides).
- **Why the Treasury impact statement was so wrong** in not predicting the devastating impact (and why HMRC were not honest, when FOI responses show they knew there would be bankruptcies, something Parliament was not informed about).
- **The way in which MPs were misled about the proposed legislation**, when it was introduced to Parliament (including on the Bill Committee).
- **The way HMRC came up with the idea of the Loan Charge (to cover their own failures)** and sold it to Ministers. This must include why Government accepted/proposed a law that took away people's right to challenge HMRC in court, something that ripped up basic taxpayer protection and undermined the rule of law.
- **The legal precedent for the Loan Charge, which FOI responses showed the CEO of HMRC couldn't find legal justification for.**
- Why HMRC failed to do its statutory duty to collect PAYE from employers/agencies and how this links with their decision to push for legislation to allow them to issue retrospective bills on the workers?
- **The fact that HMRC themselves used contractors using schemes now subject to the Loan Charge** *who were recruited through the Government's own approved recruitment process/agencies – who advised people to use the schemes.*
- **The fact that senior HMRC officials made a deliberate decision not to conduct a review into promoters**, because they wanted to continue to target those who were advised and mis-sold their schemes.
- **The campaign of disinformation** and the dishonesty of communications on this subject by HMRC and the Treasury, including letters to MPs, statements and answers to Parliamentary questions.
- **The way HMRC and the Treasury both directed and interfered with the supposedly independent Morse Report.** The Treasury are currently refusing to publish the original draft, because it was then changed. The Committee should demand to see this.

The role of the Treasury Select Committee is to hold the Treasury and HMRC to account and scrutinises all policy in this area and also the conduct of officials and Ministers. So far on this subject, the Committee has not done this. We hope that it does in the next Parliamentary session.

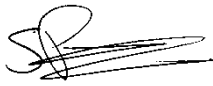
We realise that Committee members have sometimes raised the Loan Charge and related issues in general sessions with HMRC, however this is very different from a proper inquiry, that also calls on the evidence of other witnesses, including those affected by the Loan Charge and others, including tax professionals who strongly oppose both HMRC's and the Government's approach.

In any case, answers to questions have been routinely partial and misleading and officials need further challenge and some proper scrutiny.

Parliament was slow to wake up to the appalling Post Office Scandal. It took the courage of a few good MPs, then Select Committee scrutiny and then a full public inquiry. Initially, Post Office Ltd covered up the reality of the scandal and their own conduct and shut down reviews. They were resolutely defended by the Government. This is frankly what the Treasury is doing regarding HMRC and the Loan Charge.

We do of course realise that there are many important areas of policy for the Committee to look at, however with ten suicides and so much concern in Parliament, surely now is the time to look properly and fully and the Loan Charge Scandal. If the Government won't listen and be more reasonable, there will be more suicides. I hope the Committee will look at this issue and conduct a much-needed inquiry before then.

Yours sincerely,



Steve Packham
Spokesman & Executive Director



Andrew Earnshaw
Executive Director

On behalf of the Loan Charge Action Group