



Loan Charge All-Party Parliamentary Group

Report on HMRC's misleading press releases and the HMRC campaign of disinformation over their failure to take action against promoters of loan schemes

March 2020

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Introduction

There has been a consistent and concerted campaign of disinformation by HMRC and the Treasury to give the false impression that HMRC have taken action against those who promoted the schemes which are now subject to the controversial Loan Charge, when this is not the case.

The reality, as exposed by Freedom of Information requests, is that there have been no arrests or prosecutions, never mind convictions, of anyone for promoting or selling the schemes that are now subject to the Loan Charge. Yet HMRC have managed to fool MPs and journalists into believing that there has been such action through, what are, clear and deliberate attempts to give this false impression.

HMRC have on two occasions issued press releases that are misleading. They do not make clear – and in some places clearly conflate – the distinctions between alleged promotion of fraudulent schemes to criminally evade the Loan Charge and the historical promotion of loan arrangements which HMRC regard as tax avoidance and which they are seeking to tax retrospectively.

The Loan Charge APPG wrote to the Chief Executive and Permanent Secretary of HMRC expressing their concerns: <http://www.loanchargeappg.co.uk/wp-content/uploads/2020/03/2020-02-28-Letter-from-Loan-Charge-APPG-to-Jim-Harra-about-misleading-HMRC-Press-Releases.pdf>

The APPG welcomed HMRC's action – and it is false to suggest otherwise

The APPG has welcomed any and all justifiable action being taken against unacceptable as well as fraudulent schemes. **The APPG has made clear on social media and in our letter that this action, against allegedly fraudulently schemes designed to get around the Loan Charge, is welcomed by the APPG.** The APPG have called for action against anyone selling schemes purporting to get around the Loan Charge.

The APPG's letter to Jim Harra about the recent press release makes this clear in the first statement:

"The APPG welcomes any and all action against any illegal activity related to tax issues, including tax evasion and attempts to defraud people by persuading them to hand over money to help them get around tax law when they can do no such thing, or any attempts to fraudulently con people into handing over payroll loans they claim that people owe them, when they do not. We support justified HMRC action in any and all such cases, including in this one".

In the APPG's Loan Charge Inquiry Update report published in November 2019, the APPG described how HMRC's pursuit of promoters was proving ineffective both in dealing with ongoing promotion of loan arrangements and also emerging schemes. In Appendix F of this report, the APPG provided examples of the promotion of schemes that claimed to remove an individual's exposure to the Loan Charge. We cannot say if these individual schemes amount to fraud, or indeed that they do not work as marketed, but nevertheless we stated in the report that any aggressive tax avoidance should be strongly challenged and any loopholes should be closed swiftly on a prospective basis. We would hope that HMRC took note of the evidence that was supplied in this report at the time we published it and immediately started to investigate these schemes and any other similar ones.

We will continue to welcome justifiable HMRC action against any and all illegal activity. **At the same time we also believe that it is grossly unfair that those who promoted, sold and recommended loan schemes now subject to the Loan Charge have faced no demands to pay anything, never mind criminal or civil court action, whilst those to whom they promoted, sold and recommended the schemes are facing huge and, in many cases, life-ruining bills.**

February 2020 Press Release – deliberately misleading headline and conflation

On the 27th February 2020, HMRC issued a Press Release¹ which stated that five people had been arrested “on suspicion of fraud in connection with promoting arrangements designed to get around paying the Loan Charge”. Such schemes are being sold to people who are already facing the Loan Charge and who are, in many cases, vulnerable and desperate to find any way out of paying the ruinous sums demanded (for tax that has never been legally proven to be due and with no right of appeal).

The APPG welcomed the arrests, but criticised the release as it once again conflated activity to give the false impression of action against promoters of loan schemes. The release was clearly misleading for the following reasons:

- The headline of the February 2020 press release states, “Five promoters arrested on suspicion of Loan Charge fraud”. This headline immediately creates a misleading impression by using the term “promoters”. With the huge amount of criticism HMRC have received over their failure to pursue the promoters of loan schemes (which is how they are always described), the immediate impression given is that, at last, HMRC have taken action *against promoters of loan schemes, for promoting such schemes*, when this is not the case. This is exactly the impression that HMRC’s press office wished to give with this headline and, inevitably, the result is that the release was then misunderstood and misreported. Keith Gordon, a respected tax barrister, said of the release in a tweet on 5th March, “*The small print IS clear. But many people’s opinions are formed merely from the headline. In my view, the headline is deliberately misleading*”. **So overall, to most people who follow this issue, the headline would or certainly could be taken to mean that, finally, HMRC had taken some action against promoters of schemes now subject to the Loan Charge. However, this is not what the arrests were for and the headline, and the quotes in the press release, failed to avoid this confusion. The press release could easily have avoided the confusion with a clearer and more honest headline and without references to the original loan schemes.**
- This press release included the following quotes from an unnamed HMRC spokesperson: On the first point, it is the use of the phrase “do not work”. This is the key phrase, used consistently by HMRC, to criticise those who were recommended/sold the original loan schemes now subject to the Loan Charge,

*“We are keen to protect the public from those who devise and market fraudulent schemes which at best **do not work** and at worse mean that people could end up being involved in fraud.”*

It does not make any sense to say a fraudulent scheme “does not work”: if it is fraud, then the purpose of any such scheme is to benefit the fraudster, not to assist the person to whom it is being promoted or sold. The use of the phrase “does not work” is a clear, if subtle, attempt to conflate (allegedly) fraudulent schemes with the original loan schemes.

- The quotes also use the phrase “too good to be true”. This is the contrived phrase *that HMRC have used, consistently, to describe the original loan arrangements now subject to the Loan Charge*. The phrase is legally meaningless. However, this phrase is presented by HMRC as the reason why people who bought into loan schemes should be held culpable; HMRC claim they did so in a deliberate attempt to avoid tax (a conclusion that has been refuted in the Loan Charge APPG’s Loan Charge Inquiry). *Yet here HMRC use it to refer to something completely different and something which is criminal.*

¹ <http://www.mynewsdesk.com/uk/hm-revenue-customs-hmrc/pressreleases/five-promoters-arrested-on-suspicion-of-loan-charge-fraud-2976967>

*“If something looks **too good to be true**, then it almost certainly is. HMRC’s advice is firmly to steer clear.”*

The deliberate (and unnecessary) inclusion of a phrase which HMRC have previously admitted (in March 2019) they use consistently with regard to loan schemes shows clear intent to conflate and to mislead.

- The most clear and obvious phrase which is misleading is, “lowering a person’s tax bill”. **This has no bearing at all on these arrests, as the alleged offence is for selling fraudulent schemes to the public which claim to avoid the Loan Charge, NOT to lower anyone’s tax bill.**

*“People need to think extremely carefully before they enter into any scheme that claims to significantly **lower your tax bill**”.*

The inclusion of this phrase is a giveaway that the HMRC press office intended to conflate the arrests for promoting allegedly fraudulent schemes with tax avoidance. If they were not seeking to conflate the selling of any (illegal) fraudulent schemes with the original loan schemes then they would not have used this phrase, but instead would (and should) have issued a warning to people facing the Loan Charge to be aware of such schemes that might be *detrimental to them*.

- Overall, these phrases – “do not work”, “too good to be true” and “lower your tax bill” – are exactly the same ones that HMRC have used consistently to refer to loan schemes, now subject to the Loan Charge. It was not necessary to include these phrases (and in the case of “lower your tax bill”, it is not even applicable in the case of allegedly fraudulent schemes – as people are facing the Loan Charge, not a tax bill). **The only conclusion, therefore, is that the inclusion of these phrases represents yet another example of HMRC seeking to mislead and conflate historical loan schemes with these new scams that are designed to con people into paying money in the hope of avoiding the Loan Charge.**
- The press release as a whole also gives the impression of equivalence between people entering loan schemes (who were recommended to do so by professional advisers with the backing of tax/legal experts, including QCs) with people being sold potentially fraudulent schemes. Both are described with the same language and suggesting the same motivation: the same sense of culpability in deliberate tax avoidance is the message being portrayed by HMRC. In the case of any actually fraudulent scheme, the people facing the Loan Charge are actually the victims of the fraud. Many vulnerable people, facing huge and unpayable Loan Charge related demands, are desperate and present an easy target for scammers and fraudsters who would seek to exploit them and demand large fees for solutions that will not get rid of the Loan Charge. Such people are potential victims – and, if sold a fraudulent scheme, would be actual victims of crime. Yet the entire HMRC press release puts the onus on such vulnerable individuals to not get involved in fraud whilst at the same time giving the overall impression: you went into a dodgy loan scheme before (which is your fault) and now we are warning you not to make the same mistake again (which would also be your fault). This deliberate conflation not only misrepresents the nature of the alleged crimes that people have been arrested for, but is also grossly unfair to people who are victims. It further reinforces the sense of criminalisation of these people that many individuals facing the Loan Charge have reported.

May 2019 Press Release

The February press release was the second time that HMRC have issued a deliberately misleading press release on arrests giving the false impression that they were related to the promotion of schemes now subject to the Loan Charge.

On the 10th May 2019, two people were arrested “on suspicion of promoting a scheme designed to get around the Loan Charge”. On 14th May 2019, and under a separate investigation, a further four

people were arrested “on suspicion of using fraudulent methods to circumvent the Loan Charge and the taxes due”. The press release says that the four people are suspected of enabling others to do the same.

- The headline of the May 2019 release stated, “*Six promoters arrested on suspicion of Loan Charge tax fraud*”. To most people who follow this issue, this would or certainly could be taken to mean that finally HMRC had taken some action against promoters of loan schemes now subject to the Loan Charge. However, this is not what the arrests were for and the press release failed to avoid this confusion, as it could have done.
- The Press Release also deliberately uses the phrase “too good to be true” which HMRC has used consistently to describe the historical loan arrangements.

*“As we always say – if it looks **too good to be true**, then it undoubtedly is.”*

The HMRC press office give themselves away again: by also including “as we always say”. They admit that “too good to be true” is their stock phrase used to describe loan arrangements now subject to the Loan Charge. To include this here, when it does not make sense in the context of these allegedly fraudulent schemes, is clear and deliberate conflation between the original loan schemes and the allegedly fraudulent activity of the people arrested.

- The quotes in the release also use the phrase “don’t work” with regard to the allegedly fraudulent schemes.

*“We strongly encourage people not to use loan-busting schemes and methods. **They clearly don’t work** and people run the risk of losing more money and being involved in fraud.*

As above, this is the HMRC line on the historic loan arrangements now subject to the Loan Charge. As explained earlier, it is actually absurd to be describing schemes being sold to people (who are potentially victims of crime) in this way if the schemes are in fact fraudulent: they are designed to benefit the alleged fraudster, not to “work” for those they are sold to. Again, the unnecessary use of the phrase exposes the attempt by HMRC to conflate the arrests for fraudulent mis-selling with the historical use of loan schemes.

- The contemporaneous news articles regarding these events, in 2019, consistently uses the terms “Loan Charge tax fraud” and “fraudulent Loan Charge arrangements”. These phrases appear to stem from the HMRC press release dated 16th May 2019 (Ref: SE 04 19). An online search for this press release shows no results, and *it would appear that the original may have been deleted*, however the APPG has a copy which is reproduced in the Appendix.
- The HMRC press release says, “These interventions are the latest in a series in which HMRC is investigating fraud offences related to Disguised Remuneration schemes”, thus giving the impression, which HMRC are keen to present, that they are pursuing promoters of loan schemes, when this is not the case.

No further information is available on whether any of these six individuals has subsequently been charged. It has been suggested on social media and to the APPG that some of these individuals are the same people who were arrested in February 2020, but this has not been confirmed.

Subsequent press articles that gave the impression the arrests represented action against promoters of loan schemes for promoting such schemes

The HMRC press releases contain misleading headlines, wording and phraseology which does not clearly distinguish between the historical loan arrangements and the latter alleged frauds. This has led to many press articles which also conflate the two separate issues.

FT adviser published an article on 20th May 2019 with the headline “HMRC arrests six over loan charge”² and which begins with the sentence “Six people have been arrested by HM Revenue & Customs in connection with the loan charge.”.

On 23rd May, the Comet, a local Stevenage newspaper, published an article titled “Stevenage man arrested on suspicion of tax fraud after HM Revenue and Customs search”³. This article does not make clear at all that the arrest is in relation to any “loan-busting” arrangements and, in fact, can easily be misunderstood as saying that the arrest was for the promotion of historical loan arrangements – “Officers seized computers and business and personal records, and six people were arrested on suspicion of promoting fraudulent loan charge arrangements.” It goes on to say, “Loan charges are the government's way of getting people who have avoided paying income tax and national insurance to pay up”. This article gives a clear impression (wrongly) that the arrests are related to those facing the Loan Charge and conflates allegedly fraudulent (criminal) mis-selling with the use of the (legal) historical loan arrangements.

On 28th Feb 2020, the website Accountancy Daily published an article with the headline “HMRC arrests five over loan charge fraud”⁴. There is only one passage in this article which would give any indication to the reader that these arrests are in relation to “suspicion of fraud in connection with promoting arrangements designed to avoid paying the loan charge.” However, the article says:

“The interventions are the latest in a series where HMRC is investigating fraud offences related to disguised remuneration tax avoidance schemes.

Disguised remuneration schemes are contrived arrangements that pay loans in place of an ordinary remuneration, usually through an offshore trust, with the purpose of avoiding income tax and NICs. The loans are provided on terms that mean they are not repaid in practice, HMRC said.”

Due to the conflation in the HMRC press release, the article itself conflates the historical promotion of loan arrangements and this recent, allegedly, fraudulent mis-selling (which then can give the false impression that the arrests are of those who promoted the original loan arrangements, for offences connected to selling those arrangements).

Many other articles (indeed most) reported the press release in a way that continued the conflation and misleading impression given in the HMRC press release, which was clearly HMRC’s intention. The articles also failed to pick up on the reality that the potential victims of the kind of alleged activity linked to the arrests are vulnerable people already facing huge Loan Charge bills. This is because the HMRC press release gave no sense of this and indeed inferred that such people, presented as tax avoiders, would be the ones who are culpable of if they were sold such schemes which were then shown to be frauds.

HMRC and HMT campaign of disinformation regarding action against promoters of loan schemes

The press releases and the subtle but clear attempts to conflate and mislead are part of an ongoing and consistent campaign of disinformation by HMRC and the Treasury. This includes giving the false impression that HMRC have, and are, taking meaningful (including criminal) action against the promoters of schemes subject to the Loan Charge, for promoting such schemes, when this is not the case. There are many such examples.

² <https://www.ftadviser.com/investments/2019/05/20/hmrc-arrests-six-over-loan-charge/>

³ <https://www.thecomet.net/news/hmrc-arrest-stevenage-man-over-loan-charge-tax-fraud-suspicious-1-6062750>

⁴ <https://www.accountancydaily.co/hmrc-arrests-five-over-loan-charge-fraud>

- In a letter to the Loan Charge APPG dated 6th March 2019, Ruth Stanier, Director General of Customer Strategy and Tax Design in HMRC, told the APPG that HMRC have investigated over 100 promoters and others involved in tax avoidance, leading to more than 20 convictions since April 2016.⁵ It was unclear from the letter how many, if any, of these investigations or convictions were specifically in relation to the promotion of loan-based arrangements.
- In a response to a written question from Andrea Jenkyns MP, the then Financial Secretary to the Treasury, Mel Stride MP, failed to answer the question as to how many promoters had been prosecuted. The question asked “...how many people have been convicted of offences relating to arrangements which have been promoted and marketed as tax avoidance schemes and sentenced to over 95 years custodial in relation to the promotion of loan schemes.”. Yet the answer did not address the question, instead it replied that:⁶

“HMRC has used its powers under the Promoters of Tax Avoidance Schemes (POTAS) legislation to challenge promoters and made three successful complaints to the Advertising Standards Authority about misleading advertising; two of which relate to disguised remuneration schemes.

HMRC considers criminal investigation and referrals to prosecuting authorities where appropriate. Since the formation of HMRC’s Fraud Investigation Service on 1 April 2016, more than 20 individuals have been convicted for offences relating to arrangements which have been promoted and marketed as tax avoidance schemes, resulting in over 100 years custodial and more than 7 years suspended sentences being ordered overall. Additional matters are the subject of ongoing enquiries.”

It is extremely disappointing that Treasury officials are crafting answers that entirely fail to answer a question asked by an MP and that also seeks to give a misleading impression, as this answer clearly does. The lack of an answer was undoubtedly because the true answer is that no promoters have been prosecuted for promoting schemes now subject to the Loan Charge.

- Mel Stride MP was challenged on the BBC Radio 4 Money Box show on 2nd March 2019 on the subject of the promoters of the loan arrangements:

PAUL LEWIS - And you've gone after the firms that set the schemes up?

MEL STRIDE - And I was coming to that Paul. So on the promoters, really important Paul, we are acting, so in fact the government has brought in very big penalties, up to a million pounds for promoters engaged in tax avoidance.

PAUL LEWIS - Sure

MEL STRIDE - Since 2016 there have been a number of criminal convictions in this respect that have already led...

PAUL LEWIS - Around the Loan Charge?

MEL STRIDE - More, around tax avoidance.

PAUL LEWIS - Around the Loan Charge?

MEL STRIDE - Around tax avoidance.

PAUL LEWIS - But not around the Loan Charge?

⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/784196/Letter_from_Ruth_Stanier_to_the_Loan_Charge_All_Party_Parliamentary_Group.pdf

⁶ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-03-05/228755/>

MEL STRIDE - Which includes the Loan Charge activity and that had led to over 100 years cumulatively of imprisonment for those individuals involved, so this is not a case of just sitting back and allowing promoters to get away with it.

Not only did the, then, Financial Secretary the Treasury refuse three times to answer whether criminal convictions were linked to the loan charge (they are not), he also then gave the impression in the final response that the 100 years of imprisonment was related to the Loan Charge, when this is not the case. In addition, the use of the phrase at the end, “not just a case of sitting back and allowing promoters to get away with it” is a clear attempt to infer that promoters of schemes subject to the Loan Charge are facing (criminal) action for promoting these schemes, when this is not the case.

- On 9th April 2019⁷, Dr Rupa Huq MP asked if the government would now “go after the providers with the same vigour” that they are pursuing the “Loan Charge victims”. The Financial Secretary to the Treasury answered:

*“The hon. Lady mentioned promoters. My right hon. Friend the Chancellor has already mentioned that more than 100 investigations of companies that promote tax avoidance are currently taking place. **Other litigations in respect of offences relating to the disclosure of tax avoidance schemes have resulted in wins for HMRC.** In the Hyrax case, which was concluded recently, it was found that the promoter was not behaving appropriately, and about £40 million worth of tax is likely to be recouped as a consequence.”*

The answer conveys the impression that the wins were in relation to the same promoters/providers who sold the arrangements to the Loan Charge victims. Which is not the case.

- When responding to questions on the Loan Charge at Oral Treasury Questions on 2nd July 2019, the current Financial Secretary to the Treasury, Jesse Norman MP, failed to answer a question from Sir Oliver Heald which asked:⁸

What more can be done to tackle the promoters of loan schemes who gave workers and businesses assurances, even though the Treasury had made it clear that the schemes were unacceptable? Should not they be brought to book? Have any of them been convicted yet?

When answering, Jesse Norman MP gave a clearly misleading impression that HMRC were taking action against promoters of loan schemes:

“HMRC will continue to take firm action against those who promote tax avoidance schemes. As he will know, and I think has been made public, it currently has more than 100 promoters under civil inquiry. It is important to be clear that although there are no criminal offences of promoting or marketing tax avoidance schemes specifically, HMRC may conduct criminal investigations and make referrals to prosecuting authorities where, for example, there is evidence that promoters have deliberately misrepresented the facts to It.”

Yet there is no evidence to suggest that any of the 100 “promoters” mentioned in Jesse Norman MP’s answer are promoters of the schemes now subject to the Loan Charge and it seems likely that this is the same 100 (civil) investigations referred to by his predecessor, none of which have ever been shown to be for promoting loan schemes now subject to the Loan Charge, but are only presented by HMRC as being for ‘tax avoidance’ activity.

⁷ Hansard <http://bit.ly/2X4b8Og>

⁸ Hansard <http://bit.ly/2TQkBJd>

- On 2nd April 2019, the APPG wrote to Sir John Thompson, the then Chief Executive and Permanent Secretary of HMRC. The first section of the letter asked two questions:⁹
 1. *Please explain to us why Ruth Stanier would seek to give the impression that the convictions relate to tax avoidance in connection with the Loan Charge when in fact this is not the case?*
 2. *Can you provide details of any convictions of promoters of payroll loan arrangements for promoting/selling such arrangements? Please provide relevant details for each and every case referenced in your answers, but only where convictions were against promoters of payroll loan arrangements for promoting/selling such arrangements.*

It took until July 2019 for a response to be provided. **This confirmed that none of the convictions were for offences in connection with the promotion of disguised remuneration (DR) [loan] arrangements.** Mr Thompson also claimed that Ruth Stanier had not sought to give the impression that there had been any convictions in relation to the promotion of loan schemes, yet it is clear from the fact that she wrote this to the Loan Charge APPG that this was her intention and was part of the concerted and coordinated strategy to keep responding to challenges about action against loan scheme promoters by referring to HMRC action that was not related to this at all.

A number of other questions asked of Mr Thompson, in the same letter and regarding on HMRC misinformation, were simply ignored by him, which was revealing.

Misleading parliamentary answers specifically regarding arrests

There have been clearly misleading answers given by Treasury Ministers in the House of Commons which give the clear and unavoidable impression that the May 2019 arrests represent action against promoters of loan schemes, for selling or promoting schemes now subject to the Loan Charge when they are not. Questions have been asked about what action has been taken, yet the response has been to talk about the May 2019 arrests, even going so far as to use phrases which can only be taken to suggest that the arrests represent action against promoters for selling loan schemes.

On several occasions, Parliamentary questions about what action HMRC have taken against promoters of loan schemes were answered misleadingly and, in some cases, factually incorrectly that HMRC had taken action when in fact they had not.

The following are answers to oral questions by the then Financial Secretary to the Treasury, Mel Stride MP:

- On 21st May 2019, Ross Thompson MP asked a question specifically about “those facing the Loan Charge” and saying that “HMRC is persecuting innocent people”¹⁰. The answer was:

*“HMRC is not persecuting people, as my hon. Friend suggests. It is collecting the tax that is due. It is also not pursuing people for criminal activities, as he says. **However, when it comes to criminality, I can tell the House that very recently, on 16 May, HMRC announced that six promoters of these schemes had been arrested on suspicion of Loan Charge tax fraud.**”*

This answer is clearly and seriously misleading as it states the arrests were of “promoters of these schemes” when the arrests were in fact not for the promotion of schemes now subject to the Loan Charge. The answer also contains the contrived phrase “Loan Charge tax fraud”, which is meaningless but conveys a misleading impression that “these schemes” are frauds.

⁹ http://www.loanchargeappg.co.uk/wp-content/uploads/2019/04/2019_04_02-Letter-from-LC-APPG-letter-to-SJT-re-campaign-of-misinformation.pdf

¹⁰ Hansard <http://bit.ly/2INAIuW>

- Peter Dowd MP, in the next question, referred to previous requests for the government to provide information on what they are doing to “clamp down on the enablers of the Loan Charge”¹¹. The answer was:

“I think the hon. Gentleman probably composed his question before he heard my last answer, in which I made it clear that we have just recently had six arrests relating to the suspected fraudulent activity around the Loan Charge. We are also actively pursuing 100 promoters of tax avoidance schemes, including those relating to the Loan Charge, and have brought in up to £1 million fines for promoters engaged in this activity.”

The six arrests are not related to the promotion or enablement of the loan arrangements subject to the Loan Charge, yet once again they have been used in a answer asking about action against promoters/enablers of loan schemes to give the false impression that this is what the arrests were for.

- In a Topical Question in the same session, Anna Turley MP asked “why do they pursue constituents like mine, many of whom were obliged to undertake these tax changes in order to get work”¹². The answer again referred to the arrests:

“We are simply making sure that the tax that was always due is paid, and that is right and proper. As I have set out, we are taking a front-footed approach to clamping down on promoters, and that has included six recent arrests for potential criminal activities.”

In all three cases, the questions were quite clearly related to the Loan Charge and why individuals were being held responsible and/or why HMRC was not pursuing promoters of the arrangements now subject to the Loan Charge. Yet, in each case, the six arrests were mentioned in order to mislead MPs into thinking that they represented the government taking action against the promoters.

Mel Stride MP’s successor as Financial Secretary to the Treasury also gave a similarly misleading impression about the arrests:

- In Treasury Questions on 2nd July 2019, Justine Greening MP stated “that no criminal charges are being pursued against any of the individuals who sold the schemes”¹³. The response to this was:

“I trust that my right hon. Friend will be reassured by the fact that recently six individuals were arrested on suspicion of promoting fraudulent Loan Charge arrangements. That speaks to a wider picture.”

It is quite clear that the implication in this answer, especially the phrase “I trust that my right hon. Friend will be reassured by the fact” when actually ‘the fact’ is that these were not arrests linked to what the MP had asked about!

These answers can be seen to be part of the deliberate attempt to infer that these arrests were connected to the historical promotion of loan arrangements, and this gives a misleading impression that such promoters face arrest or prosecution for promoting schemes now subject to the Loan Charge, when this is not the case.

HMRC and HMT admit promoters of loan schemes cannot be prosecuted

In a television interview for BBC Politics Live, broadcast on 18th July 2019, Jesse Norman MP admitted that promoters could not be prosecuted, saying:

¹¹ Hansard <http://bit.ly/2TuldE0>

¹² Hansard <http://bit.ly/2v6gsbl>

¹³ Hansard <http://bit.ly/2TFAof7>

“Well, the difficulty is that unless they’ve done something that’s actually illegal. It is very hard, and of course we’re not seeking, in any case, to pass retrospective legislation that would allow us to go after those promoters.”

A freedom of information request¹⁴ also exposed that there have been no convictions of promoters of loan schemes, contrary to the false impression repeatedly and deliberately given. In reference to a February 2019 newspaper article¹⁵ in which HMRC were quoted referring to a number of prosecutions for promoting tax avoidance schemes, the FOI response states:

“...there are no criminal offences specific to the promotion of mass marketed tax avoidance schemes”.

It then states:

“None of the convictions referred to in the statement above [referring to the HMRC newspaper quote] were therefore for offences directly related to arrangements that will be subject to the 2019 (DR) Loan Charge”.

Conclusion

It is clear, from the many letters, press releases and answers to parliamentary questions, that there has been a clear, concerted and deliberate campaign of disinformation by HMRC to give the false impression that they have taken action against promoters of schemes now subject to the Loan Charge, for promoting such schemes, when this is not the case at all.

The Loan Charge APPG welcomes all justifiable HMRC activity against those who sell or promote any frauds or scams to the public. We welcome action to stop already vulnerable people being mis-sold any schemes that will not help them. However, for the second time the HMRC Press Office have issued a misleading press release on arrests which are not related to the original sale of schemes now subject to the Loan Charge whilst using a headline and quotes that give the false impression that they are. This is not acceptable and we believe it is both deliberate and it is part of a concerted attempt to mislead over HMRC’s lack of action against loan scheme promoters.

HMRC and the Treasury have admitted in an FOI response¹⁶ that they cannot go after promoters of loan schemes as such schemes were not illegal and, ironically, the Financial Secretary to the Treasury has admitted that the government would need to change the law retrospectively to be able to do so.

The reality is that promoters of the schemes now subject to the Loan Charge have not and, it seems, will not face any action from HMRC for promoting the schemes. This is in stark contrast to those to whom they sold the schemes, and from whom they took large fees, who are currently expected to pay all the disputed tax that is now being demanded retrospectively under the Loan Charge.

The Loan Charge APPG will welcome any and all justifiable action by HMRC to clamp down on any illegal or unethical schemes and those who sell or promote them. But, we urge HMRC to be clear and honest and to not seek to give a misleading impression or use these stock phrases associated with the historical loan schemes. If HMRC issue clear and honest releases on any such activity, the Loan Charge APPG will be the first to praise them for such action. We hope that HMRC (and, where appropriate, the Treasury) will now be straightforward and honest. They must admit that they cannot and will not pursue those who promoted or sold the schemes subject to the Loan Charge, if this is the reality of the situation. We hope that the continued, wider, attempts to mislead MPs and

¹⁴ https://www.whatdotheyknow.com/request/loan_charge_information_provided#incoming-1336224

¹⁵ <https://www.theguardian.com/money/2019/feb/16/thousands-of-workers-hit-with-massive-tax-avoidance-bills>

¹⁶ https://www.whatdotheyknow.com/request/loan_charge_information_provided#incoming-1336224

journalists, as laid out in our Loan Charge Inquiry and in our letter to Sir Jonathan Thompson dated 2nd April 2019, will also now cease and that we can then have an honest assessment of the Loan Charge and the effect it is having on the many people still facing it.

Appendices

Appendix 1 - HMRC press release – 16 February 2020



Five promoters arrested on suspicion of loan charge fraud

Press release • Feb 27, 2020 15:48 GMT



Four men and one woman have been arrested on suspicion of fraud in connection with promoting arrangements designed to get around paying the loan charge.

More than 100 HM Revenue and Customs (HMRC) officers searched business premises in Birmingham and further addresses in Coventry, Worcestershire, Northumberland, Buckinghamshire and Northern Ireland. Officers seized computers, other digital devices, as well as business and personal records.

A spokesman from HMRC's Fraud Investigation Service said:

"Those that enable, promote or facilitate tax fraud are firmly in our sights and we currently have more than 200 such suspected enablers under criminal investigation.

"We are keen to protect the public from those who devise and market fraudulent schemes which at best do not work and at worse mean that people could end up being involved in fraud.

"People need to think extremely carefully before they enter into any scheme that claims to significantly lower your tax bill. If something looks too good to be true, then it almost certainly is. HMRC's advice is firmly to steer clear."



News Release

For the attention of **News Desks** No of pages: 3

Date: 16 May 2019

Ref: SE 04 19

Six promoters arrested on suspicion of loan charge tax fraud

Five men and a woman have been arrested on suspicion of promoting fraudulent loan charge arrangements.

Two individuals were arrested last week (10 May 2019) on suspicion of promoting a scheme designed to get around the loan charge, allowing individuals to fraudulently evade paying taxes.

On Tuesday (14 May 2019), in a separate criminal investigation a further four individuals were arrested on suspicion of using fraudulent methods to circumvent the loan charge and the taxes due. They are also suspected of enabling others to do the same.

50 HM Revenue and Customs (HMRC) officers searched business premises and residential addresses in London, Guildford, Stevenage, Stratford-upon-Avon, Sevenoaks and Tonbridge. Officers seized computers, as well as business and personal records from the premises.

A HMRC spokesman said:

"We strongly encourage people not to use loan-busting schemes and methods. They clearly don't work and people run the risk of losing more money and being involved in fraud. As we always say – if it looks too good to be true, then it undoubtedly is."

All six people arrested were interviewed by HMRC officers and have been released while investigations are ongoing.

These interventions are the latest in a series in which HMRC is investigating fraud offences related to Disguised Remuneration schemes.

Appendix 3 – Press Articles and Tweets with selected quotes

May 2019 Arrests

<https://twitter.com/MelJStride/status/1130889600795328519?s=19>

- Six promoters have been arrested by HMRC on suspicion of loan charge tax fraud. HMRC will continue to strongly encourage people to steer clear of fraudulent tax schemes. If it looks too good to be true, it probably is.

<https://www.ftadviser.com/investments/2019/05/20/hmrc-arrests-six-over-loan-charge/>

- Six people have been arrested by HM Revenue & Customs in connection with the loan charge.

<https://www.cipp.org.uk/resources/news/arrests-suspected-loan-charge-fraud.html>

- [HEADLINE] Five arrests made in relation to suspected loan charge fraud

<https://exceedoutsourcing.co.uk/2019/05/24/hmrc-loan-charge-arrests/>

- Six people, alleged to have been promoters of deceitful loan charge arrangements have been arrested in recent days.

<https://www.simplybusiness.co.uk/knowledge/articles/2019/06/new-2019-loan-charge-survey/>

- HMRC have arrested six people for either pushing loan charge avoidance schemes, or trying to avoid the loan charge themselves. [Quotes SteveP in response]

<https://www.birminghammail.co.uk/news/midlands-news/five-arrested-after-huge-tax-17842643>

- [HEADLINE] Five arrested after huge tax fraud sting in Birmingham

<https://www.thecomet.net/news/hmrc-arrest-stevenage-man-over-loan-charge-tax-fraud-suspicions-1-6062750>

- Officers seized computers and business and personal records, and six people were arrested on suspicion of promoting fraudulent loan charge arrangements.
- Loan charges are the government's way of getting people who have avoided paying income tax and national insurance to pay up.

February 2020 Arrests

<https://www.accountancydaily.co/hmrc-arrests-five-over-loan-charge-fraud>

- The interventions are the latest in a series where HMRC is investigating fraud offences related to disguised remuneration tax avoidance schemes.
- [Quoting an HMRC Spokesman] 'We are keen to protect the public from those who devise and market fraudulent schemes which at best do not work and at worse mean that people could end up being involved in fraud.'
- [Quoting an HMRC Spokesman] 'People need to think extremely carefully before they enter into any scheme that claims to significantly lower your tax bill. If something looks too good to be true, then it almost certainly is. HMRC's advice is firmly to steer clear.'

<https://www.accountex.co.uk/insight/2020/02/28/loan-charge-fraud-arrests/>

- [HEADLINE] HMRC arrests five on loan charge fraud suspicion
- [Subheading] Here's a slightly different slant on the loan charge. Most media reporting on the subject focuses on how unjust the retrospective enforcement of the charge is.

<https://www.ftadviser.com/regulation/2020/02/28/five-arrested-in-suspected-tax-charge-fraud/>

- Five people have been arrested in connection with promoting schemes designed to help taxpayers avoid paying the taxman's controversial loan charge.
- A sixth person is set to attend a voluntary interview under caution in the latest move by the taxman to crack down on fraud offences linked to so-called disguised remuneration tax avoidance schemes.
- HMRC said it is looking at 200 more people in relation to such offences.
- The loans were never intended to be repaid so HMRC treated them as tax avoidance, but campaigners have argued many employees agreed to the schemes only after seeking expert advice. A spokesman from HMRC's Fraud Investigation Service said: "Those that enable, promote or facilitate tax fraud are firmly in our sights and we currently have more than 200 such suspected enablers under criminal investigation."

<https://www.litrg.org.uk/latest-news/news/200306-press-release-tax-campaigners-welcome-hmrc-arrest-announcement-spectre-new>

This article starts by mentioning the arrests, but oddly then talks solely about a deterrent effect against people continuing to promote loan schemes. Which is not what the arrests were for.

- "We welcome HMRC's action against those who they suspect of promoting arrangements designed to get around the loan charge. We urge HMRC to also use their powers and take a tougher approach with promoters of loan schemes."