



All-Party Parliamentary Loan Charge Group

www.loanchargeappg.co.uk

Sir Mark Sedwill
Head of the Civil Service
Cabinet Office
70 Whitehall
London
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26th June 2020

Dear Sir Mark,

HMRC Press Office's misleading tweeting about the case of a suicidal individual - call for an investigation

We are writing to make a formal complaint about the tweets issued by the HMRC Press Office, about a case where a vulnerable individual (known by HMRC to be suicidal) has been made bankrupt and had her home repossessed (and the locks changed) as a result.

When examined in light of the facts and the information known to the HMRC about this case, the tweets issued by the HMRC Press Office Twitter account constitute a clear breach of the Civil Service Code as well as potentially also misconduct on the part of all individuals involved in writing, authorising and sending the tweets.

There needs to be an urgent independent investigation into both this and also into the culture of such deliberate misrepresentation of facts and misinformation, which the APPG has identified within the HMRC Press Office and which, alas, also extends to and appears to be authorised by some senior HMRC officers. Any misconduct identified should be addressed with appropriate disciplinary action.

We have the evidence to prove that HMRC Press Office have issued statements deliberately designed to give a false impression of the facts, which clearly breaches the Civil Service Code section on "honesty".

The Case in Question

The APPG has recently been sent the evidence of two cases in which HMRC has pursued bankruptcy of people who used loan schemes.

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The case referred to in the tweets is a very harrowing case, shared with us by the individual's tax adviser, in which HMRC petitioned for bankruptcy, which led to the individual losing their main home. HMRC were informed and were therefore aware that the individual was suicidal.

As is standard practice where someone has their home repossessed, the locks on the house were changed and a handwritten note was affixed to their front door, to be visible to the individual and any of her family, should they try to enter her home. The note stated (verbatim):

THE PROPERTY HAS BEEN REPOSSESSED ANY ATTEMPT TO RE GAIN ENTRY WILL BE REPORTED TO THE COURT AND POLICE.

Clearly this is a very harrowing case for the individual involved (reported to HMRC as being suicidal), but it also contradicts the impression continually given by HMRC, that those who have used schemes now subject to the controversial 2019 Loan Charge, will not be made bankrupt nor have to sell their main home.

Background

HMRC senior civil servants and Ministers have made many statements to MPs and to the press that HMRC only pursue bankruptcy as a last resort and that people's homes are not at risk. It is now clear that this is not correct. In January 2019, Mary Aiston (Director, Counter Avoidance) [told the Treasury Select Committee](#), *"we will not make people sell their homes to pay their disguised remuneration tax bills."* The chair immediately asked, *"Is that a confirmed policy?"*. To which the answer was simply *"Yes."*

In March 2019, Ruth Stanier (Director General, Customer Strategy & Tax Design) [wrote to the APPG](#) stating that *"HMRC has committed not to make anyone sell their main home to pay their DR tax bills."* In June 2019, HMRC [published a policy paper](#) which states, *"HMRC will not force anyone to sell their main home to pay their disguised remuneration debts or the loan charge."* In September 2019, a letter from Mary Aiston [was published in City AM newspaper](#) which stated, *"HMRC has been clear that we will not force anyone to sell their main home to pay their disguised remuneration debts or the loan charge."*

Ministers have also stated in both oral and written answers to MPs that homes are not at risk. We have identified over ten occasions, but we will only list a few examples here. On 18th February, Mel Stride (then Financial Secretary to the Treasury) issued written answers to questions from three MPs ([1](#), [2](#), [3](#)) which all stated, *"HMRC will never force somebody to sell their main home to pay for their DR debt, or the loan charge."* On 19th March 2020, Jesse Norman (current Financial Secretary to the Treasury) [stated](#), *"HMRC have also announced previously that no taxpayer will be forced to sell their main home to fund a disguised remuneration or Loan Charge tax bill."*

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Not only have MPs been told this, but these statements have also been made to the press. On 31st March 2019, [the Financial Times quoted Mel Stride](#), “HMRC are not out to bankrupt people; they’ve made it very clear that [they] will not see somebody lose their primary residence,”. On the BBC Politics Live show on 15th May 2019 Mel Stride [said](#), “HMRC has gone very publicly, and I have stated at the despatch box in the House of Commons, that no they will not be required to sell their primary residence as a consequence of settling their loan charge arrangements... It is very, very rare that anybody is bankrupted. It is not the intention of HMRC to bankrupt anybody as a consequence of this situation.”. And, the Yorkshire Post on 23rd August 2019 [quoted Mel Stride](#) as saying, “HMRC very, very rarely has a situation where somebody is placed in bankruptcy. HMRC has publicly stated that nobody will lose their primary residence as a consequence of settling their loan charge liability.”

The reassurances were also made to Sir Amyas Morse and referred to four times in his report into the Loan Charge. On pages 10, 41, 49 and 55 [the report says](#) no one will be or should be required to sell their primary residence to pay the Loan Charge. On page 41 it says quite plainly, “HMRC have already been clear that those settling instead of paying the Loan Charge should not be required to sell their primary residence in order to settle their tax liability.”

It is clear that HMRC have sought to provide the impression that homes are not at risk. In some instances, ministers have made even wider reaching statements to say that “nobody will lose” their home. This gives a false and misleading impression of the reality of what actually occurs when someone is facing a dispute with HMRC. What is even more serious though, is that HMRC – including senior officers – [have actually said something that is not true](#), because we have the evidence that HMRC have forced people with loan scheme related liabilities into bankruptcy.

The reality

HMRC knew when the Loan Charge was enacted that insolvencies would occur. This is noted in [the tax information and impact note \(TIIN\)](#) which states, “Some of these individuals will be unable to repay the loans, agree a settlement with HMRC before 5 April 2019, or pay the loan charge arising on 5 April 2019. The government anticipates that some of these individuals will become insolvent as a result.” HMRC and the Treasury have never stated how many insolvencies they anticipated or were assumed when calculating how much revenue would be raised.

In a Tax Journal article in June 2018, this [was commented on by Ray McCann](#), then President of the Chartered Institute of Tax, who said, “I did find it extraordinary that the HMRC impact assessment for this change envisaged insolvency as a consequence. I am not sure that ministers should easily sign off a change in law expected to increase bankruptcies, and all the more so since this issue is the result of multiple points of failure within the tax system over a long period.”

The [TaxAid charity states very clearly](#) in their online “Problems paying your tax?” guide that the HMRC Enforcement and Insolvency Office may seek bankruptcy if a taxpayer is unable to pay HMRC, then bankruptcy proceedings will be taken. They also state that:

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“It is important to understand that the Enforcement Office does not behave like most commercial creditors. In particular, it often petitions for bankruptcy even where it is clear that there are no funds available, because the taxpayer has no significant assets. Indeed, sometimes the bankruptcy costs the government money, because **the bankrupt loses their home and/or job** and is forced to rely upon social housing and/or welfare benefits. Where the debt has arisen due to a tax enquiry or tax evasion, it is likely that HMRC will pursue the debt to bankruptcy.” [emphasis both in original and added]

Part of the underlying tax liability being pursued by HMRC in relation to so-called Disguised Remuneration relates to National Insurance and it is [clear from the government’s own NIDirect website](#) that if a person cannot pay a bill from HMRC that bankruptcy proceedings may follow:

“If you don’t pay or your debts exceed your assets, **you could be bankrupted and lose your home, business, savings and investments.**” [emphasis added]

In fact, it appears that HMRC’s commitment made following the review by Sir Amyas Morse was actually far more limited and caveated than the sweeping statements previously made by HMRC officers and Ministers in an effort to dampen the concerns of the public and MPs. *“HMRC will... Not seek bankruptcy proceedings for individuals who have engaged with HMRC, completed an affordability assessment, and are solely unable to pay the Loan Charge.”*

So there has been a clear history of misinformation over the Loan Charge issue, including relating to the false impression that people would not go bankrupt as a result of their use of loan schemes, nor lose their homes. There are also several other key ways that HMRC have sought to give a knowingly false impression. On the 2nd April 2019, the [APPG wrote to the then head of HMRC, Sir Jonathan Thompson](#), laying out the campaign of misinformation to which HMRC was a party. In the letter, the APPG raised the misrepresentation of HMRC’s record of prosecuting promoters. [Our report published in March 2020](#) further described how two press releases issued by the HMRC Press Office were misleading and gave a false impression of action against those who promoted loan schemes. The reality is that promoters of the schemes, which are now subject to the Loan Charge, have not faced any action from HMRC for promoting these schemes.

In paragraph 288 of our Loan Charge inquiry, we concluded, based on all the evidence we have seen:

“Letters, documents, and answers to written Parliamentary questions by HMRC and the Treasury lay out facts in a deliberately misrepresentative way, so as to mislead and give a false impression. This has become endemic with regard to the Loan Charge and where such misrepresentation is done deliberately, is as dishonest as lying.”

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We stand by that conclusion and this conclusion, as to what is acceptable and unacceptable, is backed up by the Civil Service Code.

Deliberately misleading tweets by HMRC Press Office

The matter of our serious complaint and call for an urgent investigation is, however, the demonstrably false (and, if made knowingly, dishonest) statements tweeted by the HMRC Press Office account, which not only (deliberately and wilfully) sought to cover up the reality (that HMRC have made people bankrupt and people have lost their main homes as a result) but actually includes knowingly false as well as deliberately misleading statements.

The HMRC Press Office tweets were in response to a Loan Charge APPG tweet on 18th June about one of the cases:



This was tweeted following correspondence received by the APPG from the individual and from a tax adviser who had confirmed the details of the case with HMRC. The tweet is based on evidence. The evidence was shared with us with the permission of the individual who has been bankrupted and has lost their main home.

The next day (June 19th), the HMRC Press Office tweeted the following replies:



In these tweets, HMRC Press Office are deliberately misrepresenting both the APPG's tweet and also the facts of the case (as HMRC know them and as the APPG know them). The first tweet suggests that the APPG had said that "HMRC had changed the locks" and therefore dismissed this as "nonsense". **The APPG did not say that HMRC had changed the locks.** This is clearly not what the tweet said and so the HMRC Press Office tweet was thus a deliberate attempt to both misrepresent what the APPG had tweeted and also to give the false impression that the locks

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had not been changed as a result of HMRC's bankruptcy action taken against the individual, when this is the reality (as proven by the documentation of the case, which we have and will share with an investigation)

As the HMRC know – and in preparing a response HMRC Press Office will have known, the locks on the main home of this vulnerable person were changed and they were changed as a result of their house being repossessed following HMRC pursuing them for bankruptcy. The press office has clearly sought to cover up the fact that the locks were changed by falsely claiming that the APPG had said that HMRC had changed them, when the APPG did not (and nor would any sensible person think that HMRC themselves would change locks, rather than agents). The fact is that HMRC petitioned the courts for bankruptcy and then applied for Orders of Sale which was served by Wilkins Kennedy at the direction of [Louise Brittain, Partner & Head of Contentious Insolvency. Humphrey and Gray](#) then secured the property and changed the locks acting on behalf of Louise Brittain, who was acting in her role at Wilkins Kennedy, who were instructed by HMRC.

By deliberately misquoting the APPG and then claiming that the incorrectly quoted statement = was “unsubstantiated”, the HMRC Press Office tweet sought to do two things, both deliberately seeking to mislead. They were:

- (a) seeking to discredit a factual statement made by the APPG and
- (b) trying to create and giving the false impression that the locks had not been changed in this case, when they have been – and as a direct result of HMRC pursuing the person for bankruptcy. This tweet is deliberate misrepresentation and as such is a clear breach of the Civil Service Code.

The second tweet again states that HMRC will not force the sale of a person's main home. However, we have the evidence to show that this is exactly what has happened in this case. In this case, the HMRC Press Office has actually issued a false statement – and one which they must surely know to be a false statement, which if they do, is a very serious matter.

It was also deeply unwise (and unprofessional) of the HMRC Press Office to suggest that the APPG's claims were “unsubstantiated” when, in fact, we have been provided with the evidence that what was tweeted is true. To demonstrate that we have the evidence to substantiate to substantiate the claims made, is on the 19th June the APPG [tweeted a picture of the note](#) which had been affixed to the front door of the property stating that the locks had been changed whilst the owner and resident was visiting relatives in India. The property has now been listed for sale and the proceeds of the sale will go to HMRC as creditors. We have been informed that a number of potential buyers have visited the property as it is advertised on a property website for sale. HMRC are aware that the property is the individual's primary residence, and as such it is their main home.

The HMRC Press Office replied the next day (Saturday 20th June) with two more tweets, claiming that the APPG's statements are false, when in fact they are all true. This means that the HMRC

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Press Office put out a tweet that was not only false, but must surely have been knowingly false, which, again, is a very serious matter.



Replying to @loanchargeAPPG

We stand by our statement. These claims are false. HMRC does not use bailiffs to collect tax debts, and our officers do not have the power to change the locks on a property.

12:32 PM · Jun 20, 2020 · Twitter Web App



Replying to @HMRCpressoffice and @loanchargeAPPG

In our response to the loan charge review, we said: "no taxpayer will be forced to sell their main home to fund a Loan Charge or DR tax bill". We have honoured that commitment, and will continue to do so.

12:33 PM · Jun 20, 2020 · Twitter Web App

The first tweet again denies the truth of the APPG's factual statements when each one of the points that the APPG made is factual.

1. As the APPG tweeted, on the instruction of HMRC's solicitors this note was stuck on the door of a person whom HMRC know to be suicidal by agents acting for Louise Brittain, Partner & Head of Contentious Insolvency at Wilkins Kennedy.
2. As the APPG tweeted, this person's house has indeed been repossessed and the locks have been changed.
3. As the APPG tweeted, this is indeed their main home.
4. As the APPG tweeted, HMRC made this vulnerable individual bankrupt.

Those four statements above are true and to suggest otherwise is false, and if this was done knowingly, is deliberately dishonest. This would be a very serious matter when this involves the press office of the UK's tax authority.

The remaining content of the press office tweets provide yet more examples of facts being misrepresented to deliberately give a false impression as has something that has continually been the case with HMRC statements over the Loan Charge, some of which we have shown above. As is clear from reading the tweets, the APPG did not claim that HMRC officers changed the locks so it is impossible not to conclude that the HMRC Press Office did not seek, deliberately, to give a false impression. We are well aware that the process HMRC follows is that they petition the courts and request that the courts instruct the sale of the property. It may be noted that the conduct of the person instructed in this case has been [raised in the House of Commons by Robert Neill MP](#) over the Abbey Forwarding case. On 17th January 2014 Robert Neill MP said, "She was thoroughly criticised by the judge, and rightly so." He also said, "...she should never be appointed as a liquidator again, because that ineptitude led to serious injustice for my constituents."

The second tweet incorrectly states that the HMRC response to the review says that no taxpayer will be forced to sell their main home to fund "a DR tax bill". DR refers to the term "Disguised Remuneration", a name for the legislation brought in in 2011 and also known as ITEPA 2003 Part 7A. In the tweet, HMRC Press Office have again repeated the claim that HMRC they will not bankrupt taxpayers who have been presented with a DR tax bill. This is untrue, as ~~and~~ the APPG

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now has two examples of HMRC pursuing bankruptcy in just such circumstances. In fact, the bankruptcies were aggressively pursued by HMRC. In one case, **we have written confirmation from an HMRC officer** that HMRC repeatedly pushed to ensure that bankruptcy was petitioned. The inevitable outcome in this case was that the person lost their main home. HMRC are aware that this happened and will have realised during the process that this would occur. We also have evidence that HMRC pushed hard to ensure they are listed as preferential creditors in the insolvency of this vulnerable person.

The reality, which the HMRC Press Office cynically and deliberately tried to obscure is:

1. HMRC took the decision to bankrupt a (known) suicidal person over loan scheme liabilities.
2. HMRC repeatedly pushed to ensure bankruptcy was petitioned.

To try to cover this up by sending deliberately misleading and, in some cases, false and, it would appear, knowingly false tweets, is a clear breach of the Civil Service Code and also, we believe, misconduct on the part of those involved in writing and authorising them.

The facts above show that there needs to be a proper, independent investigation into these demonstrably misleading and, we believe, clearly dishonest tweets, considering what information HMRC know about the facts of this case.

The Civil Service Code,

When looking at the section of the Civil Service Code on honesty It is clear that the HMRC Press Office tweets are in breach of the Civil Service Code. It states:

You must:

- set out the facts and relevant issues truthfully, and correct any errors as soon as possible
- use resources only for the authorised public purposes for which they are provided

You must not:

- deceive or knowingly mislead ministers, Parliament or others
- be influenced by improper pressures from others or the prospect of personal gain

It is clear that the HMRC Press Office tweets breach the Civil Service Code as:

- (a) those writing and issuing them have not “set out the facts and relevant issues truthfully” and
- (b) they have been written with the clear intention to deceive. It is clear, when looking at the facts of the case, that HMRC know, that the tweets have deliberately and knowingly misrepresented these facts , so as to give a false impression that HMRC’s actions in it have

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not been as they have been, with the outcome that they also know has occurred: with a vulnerable person bankrupted and with her home repossessed and the locks changed (as an outcome of the bankruptcy)

In addition to clearly and demonstrably being a breach of the Civil Service Code, if these were written and authorised by individual with full knowledge of the facts of the case (as they should have been), then the deceit is deliberate, which is dishonest conduct in public office and would represent clear and serious misconduct and thus be a matter for disciplinary action.

Call for an Investigation

So taking into account all of our evidence, we call for an urgent investigation into both the potentially deliberate misrepresentation and deceit of the HMRC Press Office tweets. Any staff found to have misrepresented facts in a way deliberately designed to give a false impression should face appropriate disciplinary action and HMRC as an institution must also make clear that any such dishonesty and ~~clear~~ breaches of the Civil Service Code are not acceptable and will not be tolerated.

We will of course provide all the evidence that proves the misrepresentation and the deceit. We will provide all the evidence we have in the particular case described in the APPG's tweets and we also have the permission of the individual involved for you to speak directly with her tax adviser who can provide the full details of her case and all of the direct dealings with HMRC (as well, of course, the bankruptcy court case papers).

We must also make clear that due to the history of chronic misinformation over the Loan Charge that has been the norm on the part of HMRC, including HMRC Senior Officers, we would have no confidence in any investigation being carried out internally.

We look forward to hearing from you and to assisting you by providing the evidence pertinent to the investigation as you require.

Yours sincerely,



Sir Ed Davey
Co-Chair



Ruth Cadbury
Co-Chair



Sir Mike Penning
Co-Chair

On behalf of the Loan Charge APPG

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