



## **Loan Charge All-Party Parliamentary Group**

### **Exposing HMRC interference in the supposedly ‘independent’ Loan Charge Review:**

### **The Truth as revealed by Freedom of Information**

**June 2020**

This Report was researched and written by the Loan Charge APPG. The Loan Charge APPG Secretariat is staffed and funded by the Loan Charge Action Group.

This is not an official publication of the House of Commons or the House of Lords. It has not been approved by either House or its committees. All-Party Parliamentary Groups are informal groups of Members of both Houses with a common interest in particular issues. The views expressed in this report are those of the group.

## Contents

1. Introduction .....	3
2. Background .....	4
2.1 Review Terms of Reference .....	4
2.2 The Morse Review Secretariat Team – HMRC employees .....	4
3. Internal Correspondence Exposed by the FOIs .....	5
4. HMRC and Treasury attempts to influence the review prior to Sir Amyas’s appointment.....	5
5. First Morse Review meeting – with HMRC and the Treasury.....	6
6. Relationship between the Review secretariat team and HMRC/Treasury.....	7
7. Treasury press office handling press matters on behalf of the review .....	7
7.1 Collusion between the Chancellor’s Press Secretary and the Review team over a press enquiry to the Review Team Evidence of general collaboration between the HMRC and the Review Team .....	8
7.2 Assistance with ‘lines’ for HMRC to use before Select Committee appearance .....	9
7.3 Assistance with ‘lines’ for Sir Amyas Morse to use with the press .....	9
8. Pre-approval of members of the expert panel .....	10
9. HMRC and Treasury input into the report conclusions .....	12
10. Conclusion .....	14
Appendix – FOI requests and responses .....	16

# Exposing HMRC interference in the supposedly ‘independent’ Loan Charge Review: The Truth as revealed by Freedom of Information

## 1. Introduction

The Government commissioned review of the Loan Charge, led by Sir Amyas Morse, known as the **Morse Review** was commissioned by the government in September 2019 following strong criticism of the Loan Charge both inside and outside Parliament and following confirmed suicides of people who have used loan schemes and were facing the controversial 2019 Loan Charge. The Morse Review reported in December 2019. The Government accepted most of its recommendations which removed some people from the remit of the Loan Charge, but not others.

The Morse Review has been presented by the Government as independent. It was titled as the “Independent Loan Charge Review” and has now been used by the Government to justify making no further changes to the Loan Charge despite there being thousands of people still facing huge bills for tax that has never been legally proven to be due and despite the ongoing risk of suicide, as well as bankruptcies.

**However, internal documentation revealed in a Freedom of Information (FOI) clearly shows both direct interference in the review by HMRC and the Treasury, and also clearly shows that the review fails basic tests of what would constitute an independent review into a Government policy. The information exposes a clear attempt by HMRC to direct the review from the outset, dictate which supposedly ‘independent experts’ were selected to advise the review and that HMRC then sought to change the report before publication.**

It is notable that HMRC attempted to stall and initially refused to comply with the FOI requests. This suggests they did not want the content of the emails revealed and now that they have been it is clear why. Even once published, some documents appear to have been withheld suggesting that they may contain even more revealing material. HMRC have a history of being reluctant to respond and to respond fully to FOI requests related to the loan charge and wider ‘disguised remuneration’.

We make no criticism of Sir Amyas Morse, who did his best to deliver a report in what was an unreasonable timescale (imposed by the Treasury) and with a team made up entirely of HMRC and Treasury staff. We make clear that we believe he acted with integrity. The issue is the clear direction set by, and interference with, the Morse Review throughout by HMRC, including senior HMRC management.

The Morse Review came to an odd conclusion, that experts and Parliamentarians describe as a compromise, rather than actually coming up with a logical response to the issue. The APPG examined the Morse Review report in depth and exposed the clear flaws in the justification for the central conclusion of the Review that the “law was clear” from 2010 when experts themselves cannot agree on that point. The evidence based APPG report on the Morse Review was published on 19<sup>th</sup> March 2020<sup>1</sup>.

It seems likely that this flawed conclusion is a direct result of the interference now exposed and a predetermined desire for a ‘compromise’ outcome. This further undermines what many experts and Parliamentarians had already said was a flawed conclusion.

---

<sup>1</sup> Loan Charge APPG, [Report on the Morse Review into the Loan Charge – March 2020](#)

## 2. Background

### 2.1 Review Terms of Reference

The scope and objectives of the review, as set out in the published Terms of Reference<sup>2</sup>, were deliberately limited and narrowly defined to thwart the potential for any more extensive recommendations which might possibly emerge. The APPG raised concerns in our letter to the former Chancellor dated 18<sup>th</sup> September 2019<sup>3</sup> regarding the scope of the review and the manner in which the Terms of Reference were announced. This includes the use of biased language and the use of emotive terms.

One very notable absence from the Morse Report is a full and proper examination of the conduct of HMRC, their treatment of taxpayers and their communications around the Loan Charge. This is very odd considering the huge amount of evidence sent to the Review Secretariat Team of many hundreds of cases where HMRC's behaviour had been complained about by individuals, tax advisers, the APPG and others. It is also a glaring omission that the Morse Review doesn't deal at all with the clear disinformation issued by HMRC. This has been exposed in numerous reports and communications, such as the APPG's Loan Charge Inquiry<sup>4</sup>, a letter to the then Permanent Secretary and Chief Executive Sir Jonathan Thomson<sup>5</sup> (to which we never received proper answers), and the APPG's report into HMRC's misleading Press Releases<sup>6</sup>.

We made clear that this disinformation must be the subject of a proper investigation, as part of any meaningful inquiry, yet the terms of reference were drafted in way that allowed the Review (and the Review Secretariat team of HMRC staff) to ignore it.

### 2.2 The Morse Review Secretariat Team – HMRC employees

The Morse Review secretariat team included two HMRC employees, seconded briefly to work on the review whilst remaining HMRC employees and knowing they would soon be back working for HMRC and answerable to HMRC senior officers, whose work was – or was supposed to be – being scrutinised by the Morse Review. The APPG made clear at the time that it believed it was wholly inappropriate for a supposedly independent review to be staffed by HMRC employees<sup>7</sup>.

The Review secretariat team was comprised entirely of HMRC and Treasury staff who were “loaned” to the Loan Charge Review Secretariat and appear to have been appointed prior even to Sir Amyas's own appointment. It is hard to understand how this could be regarded as proper independence from the HMRC and the Treasury. How could such staff members entirely divorce themselves from the culture and policies of their department, which they would then return to after only a few weeks?

Considering that the conduct and misinformation of HMRC has been a huge issue of concern, to have HMRC staff (who would return to HMRC and be answerable to HMRC senior officers) working on this review was always wholly inappropriate for an independent review. However, it is what the FOIs reveals that proves beyond reasonable doubt that the Morse Review cannot be regarded as having

---

<sup>2</sup> Gov.uk, [Independent Loan Charge Review: terms of reference](#)

<sup>3</sup> Loan Charge APPG, [2019-09-18 Letter from Loan Charge APPG to the Chancellor regarding the Loan Charge Review](#)

<sup>4</sup> Loan Charge APPG, [Loan Charge Inquiry Report – April 2019](#)

<sup>5</sup> Loan Charge APPG, [2019-04-02 Letter from LC APPG letter to Sir Jon Thompson \(re campaign of misinformation\)](#)

<sup>6</sup> Loan Charge APPG, [HMRC's misleading press releases and the HMRC campaign of disinformation over their failure to take action against promoters of loan schemes – March 2020](#)

<sup>7</sup> Loan Charge APPG, [2019-09-18 Letter from Loan Charge APPG to the Chancellor regarding the Loan Charge Review](#)

been properly independent and that it fails basic tests of what would be considered essential for any review to be regarded as such.

### 3. Internal Correspondence Exposed by the FOIs

The two Freedom of Information Requests revealed emails exchanged by the Morse Review secretariat team with both HMRC and the Treasury <sup>8 9</sup>.

The content, tone and direct requests made by HMRC to the Morse Review secretariat expose the interference with the Morse Review by HMRC and the Treasury before it began, during its operation and after the report was finished but prior to its publication.

**The key points revealed are as follows:**

- HMRC and the Treasury **sought to influence the review** from before the start of the review until the date that the final report was issued.
- The Review secretariat team had an **improperly close working relationship** with HMRC and Treasury staff.
- There was collaboration between the Treasury and the Review over dealing with the press, **in at least one case lines were provided for the review team/Sir Amyas to use** and extraordinarily, **the Review secretariat discussed responses to press approaches with the chancellor's press secretary**, received and used suggestions from the Treasury as to how to respond to the press.
- The independent **experts advising the reviewer were subject to pre-approval by the Treasury and HMRC told the review not to appoint experts who were known to have expressed any negative views on the loan charge, including to Parliamentary committees.**
- The Review secretariat team afforded HMRC and the Treasury privileged early access to the report's conclusions. This early access was not extended to other interested parties who were not given any opportunity to raise concerns on its factual accuracy.

Each of these points is based on the evidence contained in the emails disclosed through the FOI requests. These are evidenced in this report.

The APPG would like to thank Mr Simon Owen for submitting these Freedom of Information applications which have provided this very valuable insight.

### 4. HMRC and Treasury attempts to influence the review prior to Sir Amyas's appointment

It is clear from the correspondence that both the Treasury and HMRC sought to dictate and prejudice the approach and outcome of this review.

Even prior to Sir Amyas's appointment, the narrative was being established by the Treasury. An email sent to Tom Scholar, the Treasury Permanent Secretary, by Beth Russell, Tax and Welfare Director

---

<sup>8</sup> WhatDoTheyKnow.com, [All correspondence between Sir Amyas Morse and HM Treasury on the Loan Charge Independent review](#)

<sup>9</sup> WhatDoTheyKnow.com, [All correspondence between Sir Amyas Morse and HMRC on the Loan Charge Independent review](#)

General, on 6<sup>th</sup> September outlined a “script” to be used during the approach to Sir Amyas to ask him to lead the review<sup>10</sup>. The script includes the following:

- There has been a great deal of campaigning on this issue, both in Parliament but in particular on social media; those lobbying against the charge feel very strongly about the issue and will do their best to persuade that the charge is unfair, unreasonable and punitive

- It is only fair to warn you that whoever leads the review will attract a great deal of attention on social media, including scrutiny of their private lives and previous commentary on any related matter by both them and their family, and that depending on the findings of the review, campaigners can be very critical of those who don't agree with their view

Most shockingly, the script says that **the reviewer must ‘understand the wider politics’**, which implies that the reviewer should make a political decision in their recommendations rather than exercising true independent judgment.

- We are looking for someone who can get to grips with the complexity of the issue but also understands the wider politics and the wider HMRC/avoidance landscape.

It appears that the Treasury were looking for someone who would reach the “right” conclusions.

The APPG is aware of concerns raised by the former MP for Eastbourne at the time that Sir Amyas was appointed about his previous comments on the issue of tax avoidance and possible close links to HMRC staff<sup>11</sup>. This was the subject of an article in the Daily Telegraph on 21<sup>st</sup> September 2019<sup>12</sup>. Sir Amyas declined to comment on this when approached by the Daily Telegraph<sup>13</sup>.

## 5. First Morse Review meeting – with HMRC and the Treasury

Correspondence shows that HMRC and the Treasury proposed and directed that on the first day that Sir Amyas worked on the review, he should be given the government's views, which is what happened on 12<sup>th</sup> September 2019.

An agenda for the meeting<sup>14</sup> shows that following a short introduction to the “Review secretariat team” (who appear to have been appointed prior to Sir Amyas's arrival) Sir Amyas went straight into a meeting lasting nearly three hours with Treasury and HMRC officials. This provided the opportunity for them to put the government's view of the history of the tax issues and the way in which the Loan Charge works. Our own experience in dealing with Treasury and HMRC misinformation regarding this subject gives us cause for significant concern as to the content of this briefing, at a time when Sir Amyas Morse should have been looking at the issues as a whole and deciding for himself how to proceed.

<sup>10</sup> [FOI2020 00559 Attachment 1 of 2](#), 2.

<sup>11</sup> [2019-09-19 - Letter from Stephen Lloyd MP to Sajid Javid re Public concerns around Sir Amyas Morse as Chair of the Loan Charge Review](#)

<sup>12</sup> Daily Telegraph, [Leader of loan charge inquiry 'may have secret channels with HMRC'](#), 21 September 2019

<sup>13</sup> [FOI2020 00559 Attachment 1 of 2](#), 36.

<sup>14</sup> [FOI2020 00559 Attachment 2 of 2](#), 198.

Emails sent by the Treasury to the Review secretariat team on 24<sup>th</sup> September confirm that the final version of the 'Review Framework' document included an addition to 'reflect the Treasury/HMRC's right to provide evidence to the review that has **not** been requested'<sup>15</sup>. This provides further proof that the Treasury and HMRC intended to further reinforce their own view and influence the outcome to their advantage.

## 6. Relationship between the Review secretariat team and HMRC/Treasury

The FOI documents show that the Review secretariat team were very keen to ensure that the review was 'seen' to be independent, yet exchanges between the 11<sup>th</sup> and 12<sup>th</sup> September seek to establish '*ground rules for interaction between the Review secretariat team and the Treasury/HMRC*'.

However, these 'ground rules' actually allow for a very close working relationship, clearly inappropriate for an independent review even if Treasury and HMRC staff were not staffing the Loan Charge Review secretariat.

**to any questions** from the Committee.<sup>16</sup>

Discussions between the Review secretariat team and the Treasury on 5<sup>th</sup> November relate to the sensitivities of wording around the approach to communications, with phrasing such as 'Loan Charge remains in force' being replaced by 'Loan Charge remains in operation' due to the 'connotations' of the former<sup>17</sup>. It is very odd that an 'independent' review body should be involved in discussions of this nature, which clearly relate to public relations presentation and for HMRC to seek to dictate this shows a clear attempt to soften the phrasing to avoid a negative connotation of the very policy that the Review was reviewing!

## 7. Treasury press office handling press matters on behalf of the review

An independent review, as the APPG made clear all along, should never have been staffed by people employed by the department responsible for the policies which are in the scope of the review.

As part of maintaining basic independence, the Review should have had an independent press officer who was not an employee of HMRC, or of the Treasury, or the Review should have engaged an PR consultant or consultancy with no links to HMRC or to the Treasury.

Yet not only was this not done but there was collaboration between the Review team and press officers of Treasury, including disgracefully in one documented case, press 'lines' being provided by the Treasury for Sir Amyas to use. This is so clearly inappropriate for a supposedly independent review and on its own, shatters any pretence that the Morse Review as conducted can be seen to be independent.

Even more extraordinarily, the Chancellor's own Press Secretary was involved in dealing with press enquiries made to Sir Amyas Morse as shown above. The Treasury also provided lines for Sir Amyas Morse to use with the press.

This a review of a controversial policy introduced and defended by the Treasury, so to have a senior Treasury press officer working with the Secretariat team is staggering.

---

<sup>15</sup> [FOI2020 00559 Attachment 1 of 2](#), 43.

<sup>16</sup> [FOI2020 00559 Attachment 1 of 2](#), 77.

<sup>17</sup> [FOI2020 00559 Attachment 1 of 2](#), 90.



## 7.1 Collusion between the Chancellor's Press Secretary and the Review team over a press enquiry to the Review Team Evidence of general collaboration between the HMRC and the Review Team

The Review secretariat team consulted with and worked with the Treasury when dealing with press contacts. Olaf Henricson-Bell, the chancellor's press secretary, was copied into a number of emails. Most notably, following an approach from a reporter for the Telegraph on 18<sup>th</sup> September asking Sir Amyas to respond to a number of questions, Olaf Henricson-Bell suggested that he respond rather than Sir Amyas. The Review secretariat team then corresponded with Olaf Henricson Bell and discussed the reply to be issued by the Treasury, not on behalf of Sir Amyas. The Review secretariat team asked for several tweaks to be made before it was sent and an unnamed person in the Treasury made the following suggestion which was not accepted<sup>18</sup>.

Thanks Siobhan – yes, the loan charge policy team at HMT have helped pull this together so are happy with this. I can brief the highlighted bit below on background, so it might appear in print as something like this:

'Sources close to Sir Amyas said he is clear the review is fully independent. He declined to comment on the specific allegations.'

Let me know if any issue. I'll aim to go back at 1pm?

On 26<sup>th</sup> and 27<sup>th</sup> September there were emails exchanged between the Review secretariat team and Olaf Henricson-Bell discussing the use of an internal '*highly experienced PR/media adviser*', with the initial plan being to use a person from the Office of Tax Simplification (this appears to have been rejected as the OTS uses HMRC to handle the press).

This exchange ends with a friendly exchange that betrays the lack of appropriate separation between the chancellor's press secretary and the Review secretariat team and also clearly shows that the Chancellor's press secretary was being asked to deal with the press for the Review team<sup>19</sup>. The email from the Review Secretariat says when asking for help "and very happy to line up the beers and the reply from the Chancellor's press secretary is "You owe us beers". This is manifestly inappropriate, for what is supposed to be a review, independent of the Treasury.

From: Olaf Henricson-Bell [HMT – section 40(2)]  
Sent: 26 September 2019 17:20  
To: Siobhan Jones [LCR – section 40(2)]; [HMT– section 40(2)]  
Cc: [LCR – section 40(2)]  
Subject: RE: Loan charge review: Comms support

Cool. Yes we can help! You owe us beers

<sup>18</sup> [FOI2020 00559 Attachment 1 of 2](#), 34.

<sup>19</sup> [FOI2020 00559 Attachment 1 of 2](#), 54.



From: Siobhan Jones [LCR – section 40(2)]  
Sent: 27 September 2019 10:03  
To: Olaf Henricson-Bell [HMT – section 40(2)]; [HMT– section 40(2)]  
Cc: [LCR – section 40(2)]  
Subject: RE: Loan charge review: Comms support

Great – really appreciate it. And very happy to line up the beers.

Do you think you'd be able to get someone from another dept? it would help with the independence point as we discussed before,

S

There is also the curious reference to 'help with the independence point as we discussed before' which suggests that both parties recognised that questions around the independence of the Review secretariat team were continuing to be a concern and were not easily dismissed.

### 7.2 Assistance with 'lines' for HMRC to use before Select Committee appearance

On 16<sup>th</sup> October, HMRC met the Treasury Select Committee. **This was preceded by communications with the Review secretariat team to clear 'lines' to be used in answer.** The Review secretariat team in fact suggested changes to these proposed lines<sup>20</sup>:

From: [LCR – section 40(2)]  
Sent: 15 October 2019 10:55  
To: [HMRC – section 40(2)]  
Cc: [HMT – section 40(2)]; [HMT – section 40(2)] ; Siobhan Jones [LCR – section 40(2)]  
Subject: RE: Lines for TSC hearing  
Hi [HMRC – section 40(2)],

Thanks for sighting us on this. Some changes from us are below (in red) – let us know if these look alright. The first point (independence of the Review) is similar to what the Reviewer has been saying when the point is raised.

[LCR – section 40(2)]

### 7.3 Assistance with 'lines' for Sir Amyas Morse to use with the press

An email on 5<sup>th</sup> November includes a reference to a 'final pack' for the Financial Secretary to the Treasury [FST] to clear – from the context we believe this to be in reference to the 2019 General Election and the need for a delay to the review. A second email on the same day says that Sir Amyas Morse raised a question about whether the 'general line' on tax avoidance risked inflaming things, but *then stated that was a judgment for ministers*. Sir Amyas Morse had also requested pre-prepared lines in the event of any questions, which the Review secretariat team confirmed they would draft and share with the Treasury to ensure that **"...they don't cause you any problems"**<sup>21</sup>:

In addition, Sir Amyas has asked us to draw up some lines to take that he can use if he gets asked questions. We will draft these and share with you to check they don't cause you any problems.

<sup>20</sup> [FOI2020 00559 Attachment 1 of 2](#), 76.

<sup>21</sup> [FOI2020 00559 Attachment 1 of 2](#), 90.

This provides a clear indication that there was collaboration between the Review secretariat team and the Treasury whilst maintaining the entirely false public position that this review was being conducted independently.

Indeed, the lines were subsequently confirmed by the Review secretariat team and shared “in parallel” with the Treasury and Sir Amyas Morse<sup>22</sup>:

From: [LCR – section 40(2)]  
Sent: 05 November 2019 14:54  
To: [HMT – section 40(2)] ; [HMT – section 40(2)] ; [HMT – section 40(2)]; Siobhan Jones [LCR – section 40(2)]; Suzy Kantor [HMT – section 40(2)]  
Cc: [LCR – section 40(2)]  
Subject: RE: Communications Approach  
Hi [HMT – section 40(2)],  
  
Thanks for confirming, and for these lines.  
  
Am sharing the below reactive lines in parallel with Sir Amyas and you for sight –

These responses included an affirmation that regardless of the additional time afforded to the review by the announcement of a General Election, Sir Amyas Morse was advised to state:

2. Are you glad that the review has more time?

- I was originally asked to report to the Chancellor by mid-November, and my team and I have conducted a comprehensive evidence gathering exercise and were ready to meet this deadline. Now that I will be submitting to the new government following the election, I will of course take into account any new evidence that emerges, but I am confident what I have received so far will allow me do justice to the issues in my final report.

This suggests that despite the opportunity to delve further into this complex issue and to review further evidence, the outcome had already been determined. The Treasury clearly discussed provided the final version of these ‘lines’ and requested that the Review secretariat team ensured Sir Amyas Morse was sighted on these should he be asked to comment.

Overall this clear collaboration is completely inappropriate and further demonstrates that the Review secretariat team were not independent of the Treasury.

## 8. Pre-approval of members of the expert panel

On the 12<sup>th</sup> September, Sir Amyas expressed a desire for a committee of independent experts to form a ‘sounding board’ for his review. The Review secretariat team wrote the following day to undisclosed persons in the Treasury seeking their views on a list of potential candidates, mentioning the conversation with Sir Amyas.<sup>23</sup> Most of the names have been redacted, but two who were subsequently appointed, Graeme Nuttall and Heather Self, were on this initial list.

Graeme Nuttall is described as a ‘*Tax advisor [sic] specialising in Equity Incentives and Employee Benefit Trusts*’. We find this surprising as we are unable to find that Mr Nuttall has published any comment on the Loan Charge. He published three articles in Tax Journal in 2014, which is prior to the

<sup>22</sup> [FOI2020 00559 Attachment 1 of 2](#), 92.

<sup>23</sup> [FOI2020 00559 Attachment 1 of 2](#), 22.

Rangers FC court decisions or the Loan Charge legislation being enacted. It is unclear what experience Mr Nuttall has with the issues in scope of the review. Documents attached to the email of the 25<sup>th</sup> September also state that there will be no payment made for this role<sup>24</sup>, so we consider it unlikely that Mr Nuttall will have conducted extensive research for his role outside of his other work.

Heather Self is described as a *'Tax advisor [sic] specialising in corporate tax; ex-HMRC anti-avoidance team'*. This is again odd as the matter being discussed is not a corporate tax issue. We have written elsewhere that our subsequent correspondence with Heather Self revealed that she was not aware of the existence of different variants of loan arrangements, in particular self-employed arrangements. It is also very strange that the Review secretariat team considered a former member of the team in HMRC which is very much in scope of the review, and whose actions we have called into question, as being independent.

David Goldberg QC's name (the third person appointed to assist Sir Amyas) is not visible in the list on the email. It is possible that his name was one of the fifteen which were redacted, or that it was not included. Mr Goldberg co-authored an article in July 2017 on the Rangers FC ruling by the Supreme Court. Despite criticising the logic in the ruling, the authors' views of the loan arrangements are made quite clear in the penultimate paragraph:<sup>25</sup>

Yes. So the decision is circular: it starts with the assumption that there are earnings and then concludes that, because there are earnings, there is tax to pay. Does that matter? After all, money was injected by an employer into a trust with the intention that it should reach the employee and it did. It is like putting water into a hosepipe: it doesn't matter how many hoops or delays you build in, the same water comes out the other end. Can we really expect such blatant, unattractive devices to succeed in avoiding tax?

This is a view that Mr Goldberg is entitled to, but it does call into question whether he already had made up his mind on this issue and whether HMRC and the Treasury would know his already formed views.

On the 25<sup>th</sup> September the Review secretariat team emailed 25 individuals in the Treasury who are described as having been "all involved in helping us to appoint Sir Amyas Morse" asking if they had any issues with the plan to appoint this unofficial board of advisers<sup>26</sup>:

We have had initial discussions with the individuals concerned but before I send draft letters to them I wanted to flag that we were going to do this. Please let me know if this causes any concern and do also let others know if I have missed anybody off the distribution list.

I think I have sent this email too widely so do please feel free to delete if you do not need to be involved but given that there were lots of people who helped to bring Sir Amyas on board I didn't want to miss anybody.

It has also recently come to light that during face to face discussions between Sir Amyas and a barrister, Keith Gordon, who has been highly critical of the Loan Charge and of HMRC, Sir Amyas

<sup>24</sup> FOI2020 00559 Attachment 2 of 2, 215.

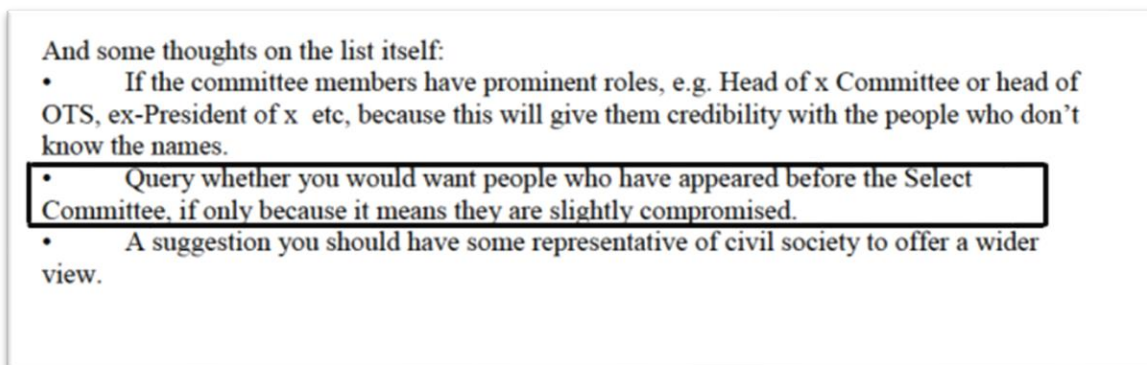
<sup>25</sup> Tax Journal, 13 July 2017, <https://www.taxjournal.com/articles/rangers-fc-case-payments-remuneration-trust-were-themselves-remuneration-13072017>

<sup>26</sup> FOI2020 00559 Attachment 1 of 2, 47.

offered Mr Gordon to be one of the members of this panel. Mr Gordon tweeted that following the initial offer, which he eventually expressed his interest in, the offer was then dropped<sup>27</sup>:



It is telling that the Review secretariat team appears to have been concerned that the Treasury might object to their choice of experts for this panel and that only experts who were either not close to the subject matter or who had expressed views in line with those of the Government were eventually appointed. A reply from a Treasury civil servant on 16<sup>th</sup> September may be relevant to why Keith Gordon was not appointed to this board of advisers<sup>28</sup>:



This appears very strange as the reason for people to appear before a Select Committee on this issue is precisely because they have relevant views which the committee wished to hear. If anything, it should be a factor in favour of their taking part in this board even if only to ensure the correct balance of views.

## 9. HMRC and Treasury input into the report conclusions

The Treasury wrote to the Review secretariat team on 4<sup>th</sup> October, with a reference to Treasury colleagues who "will be able to provide additional advice you may require on the Loan Charge Review's data, **especially with regard to the Review's conclusion**"<sup>29</sup>.

<sup>27</sup> [Twitter, 9<sup>th</sup> June 2020.](#)

<sup>28</sup> [FOI2020 0053 EMAILS REDACTED FINAL](#), 199.

<sup>29</sup> [FOI2020 00559 Attachment 1 of 2](#), 67.



This calls into question the statements that Sir Amyas Morse's conclusions and recommendations would be wholly independent.

According to email exchanges on 30<sup>th</sup> October between the Review secretariat team and the Treasury, Sir Amyas Morse was *"strongly of the view that it is in everyone's interests, government and taxpayers, to publish the review and government response as soon as possible and before Dissolution"* – referring to the 2019 General Election<sup>30</sup>. This clearly implies that the recommendations had **already** been reached by this date and that the review was ready for publication almost two months before it was finally released. Given the complexity and concern around the Loan Charge legislation, this is a staggering revelation and suggests that the review reached its conclusions in an incredibly short period of time for an issue of such complexity.

The Review secretariat team contacted the Treasury and HMRC on 29<sup>th</sup> November to confirm that, following review by external legal and tax advisers, the 'final' version of the Loan Charge Review Report would be ready and available on 9<sup>th</sup> December for review by up to five people each from the Treasury and from HMRC (ten in total)<sup>31</sup>. The Treasury responded by confirming it would be discussed across their policy partnership and emphasised that 'demand was likely to exceed supply' in relation to this invitation. This was apparently being arranged in order to inform briefings for newly incoming ministers, and to raise comments on the report. This gave the Treasury and HMRC sufficient opportunity to provide feedback on any contentious findings and recommendations. It allowed the Treasury and HMRC advance notification prior to publication. It is notable that the Loan Charge Action Group, the Loan Charge APPG and other parties were not provided such right of reply to point out factual errors which exist in the report – errors which were later brought to light through the APPG's own investigations and report published on the Morse Review<sup>32</sup>. This is clearly not reflective of an 'independent' review or outcome, as the primary instigators of this policy were given first sight of this report rather than it being shared with all interested parties on the date of publication.

The Review secretariat team exchanged emails with senior Treasury staff members on 11<sup>th</sup> December to confirm various discussions and comments on the report. These exchanges culminated in an agreement to speak on the phone – no further details of this phone call are available in the emails disclosed via the FOI requests.

Jim Harra (First Permanent Secretary and Chief Executive of HMRC) then wrote to Sir Amyas Morse on 12<sup>th</sup> December to communicate his dissatisfaction at any criticism of HMRC in relation to three key areas of concern; his view that any comments on Tax Avoidance should be phrased according to his preferred message, the evidence base of those submissions which did not emerge from the Treasury or HMRC (which were roundly condemned as selective, inaccurate and lacking balance and proportionality) and challenging all the allegations about HMRC staff and any inappropriate behaviour<sup>33</sup>. All points raised were acknowledged by the Review secretariat team in an email response the following day and we are led to believe that the report remained unchanged. **However, this attempt to influence the content of the report is yet another example of the way in which senior officials within HMRC sought to distort the tone, agenda, direction and outcome of the supposedly independent review.** To our knowledge, no opportunity to comment on factual errors contained in the report was granted to either the Loan Charge All-Party Parliamentary Group, the

---

<sup>30</sup> [FOI2020 00559 Attachment 1 of 2](#), 85.

<sup>31</sup> [FOI2020 00559 Attachment 1 of 2](#), 117.

<sup>32</sup> Loan Charge APPG, [Report on the Morse Review into the Loan Charge – March 2020](#)

<sup>33</sup> [FOI2020 00559 Attachment 1 of 2](#), 124.

Loan Charge Action Group, or any other organisation or individual with an immediate interest in the recommendations contained within the report.

The Director General of Tax and Welfare at the Treasury sent their thanks to the Review secretariat team on 12<sup>th</sup> December for *“relaying our comments/concerns over the last few days”* and offered their hearty congratulations in *“getting this to the finish line”*.<sup>34</sup>

This is not an exchange we would expect to take place in the face of a supposed independent review, where the Review secretariat team was duty-bound to provide only administrative support and assistance to the appointed Reviewer. Unless, of course, the outcome was exactly as the Treasury had wished.

Upon confirmation from the Review secretariat team that the report was ready for review by the Chancellor on 17<sup>th</sup> December, the same Director General of Tax and Welfare from the Treasury returned their congratulations and thanks to the wider Review secretariat team for a **“really comprehensive piece of work”**, suggesting that the outcome which had been delivered met with their welcome agreement and approval.<sup>35</sup>

## 10. Conclusion

Taken altogether, it is clear that the Morse Review fails the basic tests of what would constitute an independent review and that HMRC and the Treasury had inappropriate influence, direction and in some cases direct involvement.

The APPG previously raised concerns that the Review secretariat team being drawn solely from HMRC and the Treasury undermines the independence of the review; these concerns were well founded. The evidence unequivocally points to a close, clear, and undeniable relationship between the Loan Charge Review secretariat team and both the Treasury and HMRC.

These facts should be understood and acknowledged by all persons with an interest in the claim that this was an entirely independent review by an impartial lead reviewer. The APPG itself has been attacked by the Financial Secretary to the Treasury as not being independent<sup>36</sup>:

The hon. Member for Ilford North raised the all-party parliamentary loan charge group and the Loan Charge Action Group, which has been very vigorous on social media and elsewhere. Colleagues' input is always valuable, but we should take this one with a little pinch of salt, because it is the product of an enormous amount of concerted political lobbying of an extremely intense kind on Members who are members of that group. In that sense, it does not exercise what I would consider the kind of independent judgment that we would want an all-party parliamentary group to exercise.

This is a clear attempt to side-line the APPG's reports in favour of the Morse Review, but it is clear from the evidence that the Morse Review secretariat team themselves were **not independent**.

As a final closing point to add to the numerous prior entries, which clearly negate the claim that this review was independent, we note that Tom Scholar (Permanent Secretary to the Treasury) wrote to Sir Amyas Morse on 6<sup>th</sup> January 2020<sup>37</sup>. He offered his *“very warm thanks”* to Sir Amyas for taking on the task and *“steering it to a conclusion”*, referencing the considerable personal cost he felt Sir

<sup>34</sup> [FOI2020 00559 Attachment 1 of 2](#), 123.

<sup>35</sup> [FOI2020 00559 Attachment 1 of 2](#), 129.

<sup>36</sup> Finance Bill (Second sitting), 4<sup>th</sup> June 2020, Col. 38 – [Jesse Norman](#)

<sup>37</sup> [FOI2020 00559 Attachment 1 of 2](#), 133.

Amyas Morse had suffered after having to speak to some “*very distressed*” individuals. He confirmed that the Review secretariat team had all enjoyed working with Sir Amyas Morse and found him to be “*an excellent and collaborative colleague*”. This was followed by a statement that the review:

And, in my first day back at work since your review (and our response) was published, please allow me to thank you very warmly for taking it on, and steering it to a conclusion (no doubt at some considerable personal cost to you, given the number of people you needed to speak to, some of them very distressed). The review team all enjoyed working with you, and found you to be an excellent and collaborative colleague; and you clearly conducted the review with your customary rigour and precision, which should be of considerable benefit to the government, and should help us in the tricky task of getting the various changes through in the next Finance Bill. We’ve now embarked on a ‘lessons learned’ exercise, and your work has given us some important insights to help with that. So thank you .

Sir Amyas Morse responded by confirming the team were ‘very impressive, very nice and such fun to work with’. Hardly comments which one would expect from someone who had supposedly suffered considerable personal cost due to the task set before him and the distressed individuals who might have left their mark as a result of the experience. They concluded by agreeing to meet up when the opportunity next arose.

The clear conclusion to be drawn is that the Morse Review is compromised and its conclusions discredited. It came to a fundamentally flawed conclusion to remove part of the retrospection of the Loan Charge, but to leave it in place going back to 2010, leaving many people facing huge bills for tax that has never been legally proven to be due from them.

The APPG has previously led calls by members for a proper independent inquiry led by an experienced tax judge with knowledge of the relevant law. It is now clear that the Morse Review cannot be regarded as independent so we reiterate this call. This must also look at the areas that were excluded from or not examined by the Morse Review, including (1) an examination of how the Loan Charge was introduced in the first place (which is still not clear), (2) a full and proper investigation into HMRC’s treatment of individuals, including each case where someone took their own life, and (3) the clear disinformation of HMRC as exposed in numerous reports and communications.

### **Loan Charge APPG**

29<sup>th</sup> June 2020



## Appendix – FOI requests and responses

FOI request for correspondence between the Review secretariat team and the Treasury -

[https://www.whatdotheyknow.com/request/all\\_correspondence\\_between\\_sir\\_a](https://www.whatdotheyknow.com/request/all_correspondence_between_sir_a)

Email text provided – FOI2020 00559 Attachment 1 of 2 -

[https://www.whatdotheyknow.com/request/633519/response/1563550/attach/4/FOI2020 00559 Attachment 1 of 2.pdf](https://www.whatdotheyknow.com/request/633519/response/1563550/attach/4/FOI2020_00559_Attachment_1_of_2.pdf)

Attachments provided – FOI2020 00559 Attachment 2 of 2.pdf -

[https://www.whatdotheyknow.com/request/633519/response/1563550/attach/5/FOI2020 00559 Attachment 2 of 2.pdf](https://www.whatdotheyknow.com/request/633519/response/1563550/attach/5/FOI2020_00559_Attachment_2_of_2.pdf)

FOI request for correspondence between the Review secretariat team and the HMRC -

[https://www.whatdotheyknow.com/request/all\\_correspondence\\_between\\_sir\\_a\\_2](https://www.whatdotheyknow.com/request/all_correspondence_between_sir_a_2)

Email text provided – FOI2020 0053 EMAILS REDACTED FINAL -

[https://www.whatdotheyknow.com/request/633520/response/1563630/attach/3/FOI2020 0053 EMAILS REDACTED FINAL.pdf](https://www.whatdotheyknow.com/request/633520/response/1563630/attach/3/FOI2020_0053_EMAILS_REDACTED_FINAL.pdf)

Attachments provided –FOI2020 0053 ATTACHMENTS REDACTED Final -

[https://www.whatdotheyknow.com/request/633520/response/1563626/attach/4/FOI2020 0053 ATTACHMENTS REDACTED Final.pdf](https://www.whatdotheyknow.com/request/633520/response/1563626/attach/4/FOI2020_0053_ATTACHMENTS_REDACTED_Final.pdf)