



All-Party Parliamentary Loan Charge & Taxpayer Fairness Group

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EGM Meeting of the Loan Charge and Taxpayer Fairness APPG

Tuesday 21st February 2023, 10:00-11:30am

Room R, Portcullis House, Westminster, London. SW1A 2BQ

Minutes

In attendance:

Parliamentarians

Rt Hon Sammy Wilson MP (Chair), Greg Smith MP, Paul Bristow MP, Simon Baynes MP

MP's Staff

Henry Dixon-Clegg (Sir Desmond Swayne MP), Oliver Freeman (Seema Malhotra MP)

Other Attendees

Dave Chaplin (CEO of IR35 Shield), Jason Falinski (ex-member of Australian Parliament), Ken Phillips (Executive Director of Self-Employed Australia), Greg Mulholland (APPG Secretariat), Richard Clancey (APPG Secretariat)

1. Chair's Opening Remarks

The Chair thanked everyone for attending.

2. Election of Baroness Kramer as Co-Chair

This was proposed by Greg Smith MP, seconded by Simon Baynes MP and unanimously agreed.

3. Apologies Received from

Baroness Kramer, Allan Dorans MP, Sir Peter Bottomley MP, Marion Fellows MP, Henry Smith MP, Rt Hon Theresa Villiers MP

4. APPG activity update from the Secretariat

- Jan/Feb-23 Providing support to those who contacted the APPG following news of the tenth suicide.
- Jan-23 Open letter to Prime Minister and Chancellor urging them to agree to resolve the Loan Charge
- Nov-22 Invited candidates for the chair of the Treasury Select Committee to make statements on the issues relevant to the APPG

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- Aug-22 Open Letter to Conservative Leader Candidates asking the next PM to pledge to resolve the Loan Charge
- Call for Evidence from people facing the Loan Charge and those who have settled launched 14-Mar-22. 555 submissions were made of which 71% were from people who had not settled. The Average Liability for those who had not settled was £182K. For those who had settled the average settlement was £147K. The submissions will be made available on the APPG's website. Worryingly 15% of these submissions were from people with suicidal thoughts.
- Ongoing – Aiding MPs with impacted constituents, Treasury Questions

5. APPG Correspondence

Since the last meeting, the APPG has sent the following correspondence:

- **16-Feb Letter to the “Independent Office for Police Conduct” about their investigation of DR related suicides.**
 - *No response received.*
- **09-Jan Letter to Financial Secretary to the Treasury on HMRC's failure to abide by the Agency rules.**
 - *Replies received 20-Feb from FST and HMRC both of which are being reviewed.*
- **29-Jul Letter to Chancellor (Nadhim Zahawi MP) on the ninth DR suicide and the need to avoid further tragedies**
 - **Reply received 10-Aug from Chancellor of the Exchequer:** *Reply stated that Government takes concerns about the wellbeing of taxpayers very seriously. FST working with HMRC on a wider package of emotional and mental support HMRC and will provide the APPG with a more detailed response.*
 - **Reply received 5-Sep from the Financial Secretary to the Treasury:** *Reply from the FST which explained the improvements that HMRC are making and how they will signpost taxpayers demonstrating emotional distress to organisations such as MIND and Samaritans*
- **14-Jul to FCSA on Holiday pay and changes to their code of practice**
 - **Reply received 18-Jul-:** *Didn't feel it was appropriate to respond to the questions raised in our letter as this was published on social media and they did not share the APPG's view that this served the public interest.*
- **29-Jun Letter to HMRC expressing serious concern at their deliberate decision NOT to pursue promoters of schemes subject to the Loan Charge**
 - **Reply received 25-Jul:** *HMRC continue to act against promoters giving examples.*
- **26-Apr Letter to FST inviting her to an Open meeting with the APPG**
 - **Reply received 23-May:** *Would like to meet with just with co-chairs to discuss changes being made by HMRC*

6. Main business/guest speakers – Working toward Tax Fairness & Taxpayer First Legislation

Introduction

The best tax systems maximise voluntary compliance. Effectiveness heavily depends on whether the tax office administers a system with transparency and accountability built on top of statutory processes which ensure the system is 'fair' and ensures taxpayers' rights are enshrined in law. HMRC

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is out-of-control, often demonstrably unfair and is insufficiently accountable. Prime examples are the Loan Charge and the application of the IR35 Off-Payroll Rules.

Parliament could solve this problem using 'Taxpayer First' legislation enacted by the US Congress, which confronted similar unfairness and related problems in the 1990s. Congress successfully enacted laws (1998) imposing procedural fairness rules on the IRS, resulting in US tax collections being maintained at a lower cost to the community and the government. The US laws offer a model for the UK Parliament to adopt.

Ken Phillips (from Melbourne via Zoom) is an Executive Director of Self-Employed Australia.

Ken explained that the issues UK Taxpayers are experiencing now with HMRC are very similar to those experienced by Australia a few years ago. In 2020 there was major tax reform proposed in Australia which was largely based on the [US Taxpayer Bill of rights 1998](#). The US model consisted of:

- Taxpayer bill of rights ([US Bill of Rights Specifics](#)) which consisted of 10 rights that include the right to pay no more than the correct amount of tax and the right to finality
- Taxpayer code ([1998 & 2019 IRS Reform Specifics](#)) which contained many reforms that included that the IRS had to prove that tax was due, the IRS could only charge the same interest rate as the government pays, the IRS couldn't force the selling of a seized property at less than a minimum bid price (80% of the valuation), the introduction of an Internal appeals procedures that forbade communication between appeals officers and other employees that might compromise the appeal's independence
- Taxpayer Advocate ([more details here](#)) that is funded by but operates independently within the IRS and oversees compliance with the Taxpayer Rights and Code, assists taxpayers to resolve IRS problems and reports directly to congress.

These reforms were legislated which was critical to their effectiveness.

The complete document "[Seeking Tax Fairness for UK small business people](#)" by Ken Philips and Dave Chaplin is available by clicking on the link.

Dave Chaplin is CEO of UK company IR35 Shield

Dave explained some of problems that UK Taxpayers are experiencing with HMRC. A summary of these is below – more detail on this may be found [here](#).

- The power-balance is one-sided when taxpayers enter into disputes with HMRC. There are insufficient checks and balances.
- The Tax Consultation Framework introduced in 2011 has failed is now largely ignored by experts – this leads to badly informed policy making and a badly informed Parliament who waive through badly drafted legislation.
- HMRC have been given more powers than the police and now collect tax by intimidation rather than by seeking the truth.
- HMRC do not treat taxpayers consistently due to tax complexity. This leads to miscarriages of justice.
- HMRC have more powers than the police but with less checks and accountability. This gives an opportunity for an abuse of their powers.

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Taxpayer fairness is required to:

- Ensure everyone is treated fairly
- Guard against an abuse of power
- Protect the vulnerable

The existing “rough tax justice” leads to tax uncertainty and impedes UK growth.

Jason Falinski (from Sydney via Zoom) was a member of the Australian Parliament until May 2022 and Chair of the influential Tax and Revenue Committee of the House of Representatives

- The implementation of the taxpayer advocate was critical to tax reform in Australia.
- Tax law had evolved in Australia to the point it existed only to serve the needs of Government and to the extent that it breached fundamental legal rights
- The Australian Tax office leveraged the Government’s request to collect as much tax as possible and asked for extraordinary powers including the collection of debts before those debts had been proven.
- Having an Advocate within the Tax Office whose job it is to look after the interests of tax payers is the only solution that’s worked globally primarily because members of Parliament are not Tax experts. People who’ve studied tax law for many years would tell you that they’re only experts in some areas of taxation so understandably impossible for MPs who do not have that experience and have other duties to understand the entire operation of the tax system. This means that when legislation is put to Parliament they are not in a position to understand the negative effects they will have on citizens. The Advocate’s job is to ensure those pieces of legislation ensuring are not passed or if they are that MPs fully understand their implications.
- Where the Australian tax office didn’t like passed legislation or the meaning of it they spent several years redefining what the law says so they could use it to do what they actually wanted it to. It was incredibly difficult for members of Parliament and the Executive to stay on top of that. That’s why it’s so important to have a body embedded within the tax office with a clear set of rights that does understand these things to maintain the balance of power between the tax office and the ordinary citizen.

Action (raised by Greg S): Co-chairs to discuss what actions to take forward.

7. Next meeting

Proposed to discuss HMRC’s use of the PAYE Regulations under section 684 to sidestep employer regulations, override taxpayer protections and pass tax liabilities to the employee (making Loan Charge legislation completely unnecessary). Date to be arranged with Officers.

8. AOB

None

Meeting Finished at 11:25am

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