



All-Party Parliamentary Loan Charge & Taxpayer Fairness Group

www.loanchargeappg.co.uk

Jim Harra
Chief Executive and Permanent Secretary
HM Revenue and Customs
100 Parliament Street
London
SW1A 2BQ

29th June 2022

Dear Mr Harra,

HMRC's failure to pursue promoters of schemes subject to the Loan Charge

We are writing to you to express our serious concern at HMRC's failure to pursue promoters of schemes subject to the Loan Charge and more so at the revelation that a deliberate decision was made by senior HMRC officials not to conduct a review into promoters. It is clear that HMRC wanted to continue to blame and persecute individuals despite them overwhelmingly following professional advice to use the arrangements they did as self-employed workers.

During the course of various Parliamentary debates and committee meetings, many MPs and peers have sought answers as to the numbers of prosecutions, penalties, convictions, arrests and fines of those involved in the marketing and promotion of schemes which are subject to the Loan Charge, and have consistently received unsatisfactory, incomplete and misleading answers from both HMRC officials and also in parliamentary answers.

Freedom of Information responses have revealed the truth, that HMRC haven't take ANY action against promoters for promoting schemes now subject to the Loan Charge.

The FOI response in which the latest revelations have been exposed is [here](#).

In an email (15/8/19) from Penny Ciniewicz, Director General of the Customer Compliance Group, she said ([page 27 of the FOI response](#)):

"In terms of promoters, as the note we shared yesterday with FST indicates, we can't commit to going after promoters of previous schemes for the reasons set out there".

- In terms of promoters, as the note we shared yesterday with FST indicates, we can't commit to going after promoters of previous schemes for the reasons set out there.
- I think we need to be clear at our end what 'doing better' looks like, so that we can be clear it is achievable within the terms set out.

Co-Chairs: Sammy Wilson MP, Greg Smith MP
Vice-Chairs: Baroness Kramer, Dr Lisa Cameron MP, Gerald Jones MP, Sarah Olney MP, Rushanara Ali MP

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This is a clear admission that HMRC are well aware that they have not pursued promoters of loan schemes, for promoting loan schemes (which is the opposite of the impression given to MPs and peers).

Even more troubling than this, is the shocking revelation that a senior HMRC official actually rejected the idea of a review into the role of promoters as they wanted to continue to blame individuals, as has been a key part of their propaganda throughout the implementation of the Loan Charge policy.

Carol Bristow, HMRC Individuals Policy Director in Customer Strategy and Tax Design Group said this in an email (23/8/19, [page 43 of the FOI response](#)):

I too wondered whether a review into the role of promoters in avoidance would actually provide us with some helpful interest and support for our work on promoters. In the end I concluded any review on promoters would be used to claim that individuals were not accountable and so the loan charge was wrongly directed at them. But it might be worth a discussion next week.

You are aware of this email, as you were one of the recipients, so presumably this decision is one that you had personally approved.

All those who are concerned about the way individuals have been pursued by HMRC, whilst promoters have faced no action for promoting loan schemes, will be appalled at this revelation. It backs up the findings of our Loan Charge Inquiry that the Loan Charge is draconian and designed to be punitive, rather than about seeking tax HMRC believes it could and should have legitimately collected at the time. It gives a revealing insight into the overall vision of HMRC and is more troubling evidence of a culture based on targeting the lowest hanging fruit – individuals who cannot realistically defend themselves – not going after those who profited from promoting and operating the schemes.

It is also notable that HMRC's strategy of focusing only on individuals was something that was included in the basis of the supposedly independent review of the Loan Charge, commissioned by the Treasury (and with the terms set, as is known, by the Treasury and HMRC).

An email from Suzy Kantor ([9/9/19, page 27 of the FOI response](#)), the Treasury's Deputy Director, Personal Tax exposed that there had been a meeting with Sir Amyas Morse it appears involving Carol Bristow and that she (and presumably HMRC) were reassured that if appointed to lead the review, he would "stay focused on individuals and not stray further".

Sorry we couldn't move him on this - he was clear that he wanted to have the sort of discretion that he has had in previous roles. I was relatively reassured - would be interested in Carol's views - that in reality, he'll stay focussed on individuals and not stray further.

Suzy Kantor

Deputy Director, Personal Tax, HM Treasury

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This again is shocking, when it is well-known that there are promoters who made huge sums from mis-selling the schemes now subject to the Loan Charge and who are not affected by the Loan Charge nor the subject of any demands from HMRC, nor prosecutions, for promoting these schemes.

This is also more evidence that the 2019 review cannot credibly be described as independent, which has also been further illustrated by other revelations in the same FOI response. We will therefore continue to press for a genuinely independent review that looks at the whole issue, not only focusing on individuals, indeed including looking at HMRC's failure to pursue promoters, the clear and cynical campaign of disinformation and also at the possibility that the Loan Charge itself is unjust and should be repealed.

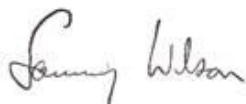
These are the questions we would like answers to, from HMRC:

1. How can you credibly state HMRC is being tough on promoters, when internal emails revealed by FOI show that HMRC are not pursuing promoters for promoting schemes now subject to the Loan Charge?
2. Could you please explain why HMRC took the extraordinary decision not to conduct a review of promoters, because it might have shown that individuals were not to blame, in the way HMRC has always tried to suggest?
3. Considering that you were copied into the email where this decision (by Carol Bristow) was discussed, can you confirm that you supported this decision and strategy?
4. Can you please confirm that only those who *used* the loan schemes are being pursued to pay the tax which HMRC claim has been avoided and that those who promoted, enabled, operated, and profited from the loan schemes have not paid any of the disputed tax?

We are clear that MPs and peers have been given a misleading picture of the reality of the HMRC position regarding promoters of loan scheme are in (now it is clear they have not been pursued for promoting loan schemes, nor asked to pay any of the disputed tax arising from use of the schemes they sold). We believe that this has been deliberate and should be investigated as part of a full and wider (independent) investigation into the clear campaign of disinformation surrounding the Loan Charge.

We look forward to hearing from you.

Yours sincerely,



Sammy Wilson MP
Co-Chair



Greg Smith MP
Co-Chair



Baroness Kramer
Vice-Chair

Cc House of Lords Economic Affairs Committee/Finance Bill Sub-Committee
Treasury Select Committee

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