

Select Committee on Economic Affairs

Finance Bill Sub-Committee

Uncorrected oral evidence: Loan charge follow-up

Wednesday 16 December 2020

3 pm

Watch the meeting

Members present: Lord Bridges of Headley (The Chair); Baroness Bowles of Berkhamsted; Lord Butler of Brockwell; Viscount Chandos; Lord Forsyth of Drumlean; Baroness Kramer; Lord Monks.

Evidence Session No. 3

Virtual Proceeding

Questions 29 - 47

Witnesses

I: Mary Aiston, Director, Counter-Avoidance, HMRC; Carol Bristow, Director, Individuals Policy Directorate, HMRC.

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Examination of witnesses

Mary Aiston and Carol Bristow.

Q29 The Chair: Good afternoon and welcome to this meeting of the Finance Bill Sub-Committee. As always, this meeting is being broadcast live via the parliamentary website. A transcript will be taken and published on the Committee website, and our witnesses will have the opportunity to make corrections to that transcript where necessary. Those are the formalities done. Welcome to all our witnesses. Could I ask you to introduce yourselves?

Mary Aiston: I am the director of Counter Avoidance at HMRC.

Carol Bristow: I am the director for Individuals Policy at HMRC.

Q30 The Chair: The original impact assessment of the loan charge says that, "This measure is expected to affect up to 40,000 individuals". It goes on to say that, "The government anticipates that some of these individuals will become insolvent as a result", and that this measure "is not expected to have a material impact on family formation, stability or breakdown".

My first question, and I have a follow up or two on this, is: how many people do you think have become insolvent as a result of the loan charge?

Mary Aiston: We do not have that number at the moment. It is an issue of interest and concern to us. We will need to look at that, probably later in the year, as we work through compliance activity in relation to it.

The Chair: Do you have any idea?

Mary Aiston: I do not have a number that I would want to share with the committee. To repeat the HMRC's publicly stated position on this, bankruptcy is always something that we see very much as a last resort in relation to collecting tax debts. We would only contemplate it in circumstances where we have not succeeded in engaging and communicating with one of our customers to agree manageable payments arrangements.

My strong hope is that the extensive work we have done to work with customers on payment arrangements will mean that the number is lower than the impact assessment predicted. However, we need to do the follow-up work, and that needs to include following up on the loan charge compliance.

The Chair: Can I ask about the second part of the statement, which says that this measure "is not expected to have a material impact on family formation, stability or breakdown"? Do you think that is still correct?

Mary Aiston: Within the terms of the impact note and the scale it was commenting on, I think it was correct. However, I completely recognise, having engaged with thousands of customers on this subject, that people

have experienced considerable stress and pressure that of course will have had a knock-on impact on their families and relations.

The Chair: How many people do you think may have had to sell their homes a result of the loan charge?

Mary Aiston: We have been clear on HMRC policy, and we have said this publicly and put it in writing a number of times now, that HMRC will not require people to sell their main home.

The Chair: I understand that, but you will be very well aware how many people say that they are having to sell their home. Is this not just weasel words—dare I say it—from HMRC and the Government, who are saying in effect: “HMRC is not forcing you to do so, but you still have to do so”. The end result is that people are selling their homes. Surely you would accept that.

Mary Aiston: I am happy to look at any case the committee is conscious of, but we have been very clear with all the customers we have engaged with that we would not require people to do that. What we would do is have an extensive engagement with people about their personal circumstances and the amount of tax they owe, to find a solution that works for them. I am aware of cases where that has led to an agreement with the customer that we would secure a charge on their property in order to support them to settle their disguised remuneration. I am not aware of cases where HMRC has forced the sale of people’s homes, and that has been our position for quite some time now. We have been putting that in writing for some time.

Q31 **The Chair:** I know that Twitter should not be taken as the source of all truth, but I only have to type in “Loan charge, sell homes” and there are a lot of tweets from people saying, “I am in the process of selling my home because of the loan charge”, and so on. This is causing a lot of financial mental stress to a lot of people across the country. I still wonder, as a result of the recommendations from the Morse review, whether HMRC is really bending over backwards to help people. Can you give us any sense at all of the scope of the challenge that you face regarding the number of people who are having to sell their homes?

Mary Aiston: From an HMRC perspective, there is no case where we have forced someone to sell their main home to fund a disguised remuneration settlement. I can tell you about the huge amount of work that we have done with our customers who come forward, have that discussion with us and arrange manageable payment terms, whatever that means for that individual. Some of those may go over an extended period, but I am conscious that our critics mention sale of home a lot. I have not seen a case where HMRC has forced someone to sell their home for a disguised remuneration debt. As ever, and we say this to people who have comments about the loan charge, if they have specific cases that they want us to look at, we are always willing to do so because it would concern me. It is not our policy.

The Chair: Do you think that you are acting in the spirit of the HMRC Charter where it says that it will be responsive, treat people fairly and be

aware of their personal position? To all these people, many of whom may be watching this session, can you honestly say that you think that you are living up to the words and the spirit of that Charter?

Mary Aiston: I think we have worked extremely hard to live up to the words in the Charter, working with people who we accept are sometimes in difficult circumstances and coming up with tailored solutions to support them to settle. I can think of multiple different ways in which we have done that. We have also worked hard with customers whose personal circumstances are less about the financial pressures and more about the pressures on them personally, where they are feeling stressed and struggling with this. We have worked hard to support people through this. I would say that we have worked hard to meet those commitments in the HMRC Charter.

Q32 **Lord Forsyth of Drumlean:** As this question is about the Morse review, I do not know if you watched the earlier session this week, but we had oral and written evidence from one witness who suggested that HMRC had interfered in the Morse review as to who Morse could have as advisers. It was specifically said that anyone who had given evidence to a parliamentary committee should not be included. Also, there was a suggestion that in setting the terms of reference for the inquiry, there was input from HMRC. I am slightly concerned at the idea that anybody who has given evidence to a parliamentary inquiry, which of course could now include you, should be discriminated against. Could you please clear up what that was about?

Mary Aiston: Let me see if I can help here. The context here was that Sir Amyas Morse [*Connection lost.*]

The Chair: We have lost the sound. That is better, we can hear you now.

Mary Aiston: I am sorry, this is an important point, so let me see if I can help. As an independent reviewer, Sir Amyas Morse said that he wanted advisers who were knowledgeable about tax, but it was his ask that they were people who had not had a public position in relation to the loan charge. That was the origin of the request for people who had not taken a position on the loan charge, and that was the connection. I would agree that being a witness at a committee hearing should not per se exclude people from getting involved in an independent review or indeed anything else. The issue here was that Sir Amyas Morse was looking for people who had not had an opinion about the loan charge in the past.

In relation to the terms of reference, you will see from the information that was released under the Freedom of Information Act that it is not unusual for officials to give advice on terms of reference for an independent review. Sir Amyas Morse himself asked for the terms to be wider than some of the earlier suggestions, and that was indeed what happened. As an independent reviewer, he exercised that influence correctly over the terms of reference.

Q33 **Lord Forsyth of Drumlean:** Thank you for clearing that up. If it was in order not to have people who had expressed a view, I can understand

that. We would apply the same principle if we were taking on special advisers for a committee inquiry.

I will follow up on the Chair's point. I do not understand why we are getting so many cases of people who are saying that it takes too long for the HMRC to reply: "We can't get a settlement", "I'm having to sell my house", and so on. The Chair has mentioned the posts on social media, some of which are quite abusive. These are cases of real misery. It is hard to reconcile that with what you are saying about what you are doing. How do you explain this complete divergence from what you are telling us and the many representations to the contrary that I am receiving?

Mary Aiston: Social media is quite a challenging arena. We have repeatedly said to people with concerns that we are always happy to look at individual cases. Regarding people saying that they have been made to sell their home in relation to disguised remuneration, I am afraid that I cannot explain that.

Lord Forsyth of Drumlean: What about not being able to get a settlement and taking months to reply and all those other things?

Mary Aiston: I can help more with that one. This has been a huge exercise and, over the summer, colleagues in HMRC have, as you have seen from the report to Parliament, supported some 5,600 customers to settle their use of disguised remuneration. It is a big-scale exercise and I am not going to sit here and say that in every single case we got our customer service to the level we wanted.

If you look further back, in the Government's response to the Morse review we acknowledged that we had in the past not always got our customer service right in every case. What I can say is that we have successfully supported thousands of people and, if anyone feels they have not had the service that they should have had from us, we take complaints very seriously. I would encourage people to get in touch with us, as indeed some people have. We always review those independently from the person who worked the case and we take them seriously. I will not be happy until we provide the right level of service to everybody.

Lord Forsyth of Drumlean: They say that they do not get replies. For example, if you see the posts on social media, with Mrs Bloggs saying, "I'm distraught, my husband is having a breakdown. We're having to sell our house", is an effort made to contact them to try to help?

Mary Aiston: If we can identify who somebody is from social media, we will try. We would encourage customers to get in touch with us rather than to try to speak with us over social media, because these are confidential and sensitive issues.

Lord Forsyth of Drumlean: I have a final point regarding all the letters that we have received. If they are sent to you, will you ensure that they are investigated and that people get a proper response?

Mary Aiston: Absolutely, we are happy to look at the correspondence that you have.

Q34

Lord Butler of Brockwell: I will follow up the question regarding the sale of houses. I want to suggest that the following is the reason why we are receiving a lot of complaints. Am I correct in thinking that HMRC would often encourage people to put a voluntary legal charge on their house so that, should they sell it in future, HMRC can recover the moneys from the sale? Let us suppose that that has been done and I am obliged—for family or some other reason—to sell my house. I then find that the house is worth less because I put a voluntary charge on it, which HMRC will collect. I then have less money to invest in another house. Do you think that is an explanation for the difficulties that many people are facing?

Mary Aiston: You are correct that, as part of talking to customers about finding a basis for a settlement, we explore whether it would be appropriate to put a charge on a property. We are always clear that it is a big step and that customers need to take legal advice. It is quite a long process and I would be surprised if many of those instances are arising in the circumstances that you describe, Lord Butler. It is possible. I certainly know that, in talking about this sensitive issue, people will sometimes equate this with forcing somebody to sell their home, which we do not have as a policy at all. When we explore putting a charge on a property in a case where a customer is wanting to settle, it is not something that we force. The choice rests with customers, but it is possible as you say that this is where some of this commentary is coming from.

Lord Butler of Brockwell: You can see that if someone has a house of a certain value and for some reason or other they are obliged to sell it—not forced to sell it by you, but obliged to sell it—because the Inland Revenue has a charge on it, they are going to realise less from it and may have hardship in finding another property of equal value to live in.

Mary Aiston: It is for these reasons that it is not something that anyone should ever do lightly. It is why we are very clear with customers that they need to be taking independent legal advice and why it is not something we would ever push people into. It has to be a considered choice. For some customers who are very keen to settle with us, it is an option that they want to take, but it is never something to be done lightly, for any number of reasons, including the ones that you set out.

Lord Butler of Brockwell: So people have a choice about whether they put a charge on the house. If they choose not to, you will not come on them for their debt at the moment that they sell their house.

Mary Aiston: We look at every case individually when it is as complex as this and we will explore all options with people. It is something that we would want to do with the customer's agreement. We have found a range of different approaches to settling with customers and it is part of the solution in some cases. As I mentioned, there is no maximum period over which somebody can be given to pay their tax debts. It is a complex business, because we need to look at people's current circumstances, which may be very different from when they first were involved in the avoidance scheme that has created the debt. They also need to consider their wider family circumstances.

Lord Forsyth of Drumlean: On that point regarding how you look at individual circumstances, one of the things that struck me in the representations we have received from people in distress is that they say that some people were asked to pay interest, while others were not, and it depended on who they talked to—you do not get consistency. Is that something of concern?

Mary Aiston: That would be of concern and I am happy to look at cases of anyone who feels that they have been charged interest where it was not due. Interest is a matter of statutory law, as to when we charge it and when we do not. The published settlement terms that are available on the GOV.UK webpage very clearly set out the basis on which we were settling cases over the summer. I would expect us to have been settling consistently with those terms. It is also a fact that settlements are assured by a second person before being finalised. It would be a matter of concern if that has been happening and I am always happy to look at an individual case.

Q35 **Baroness Kramer:** I will shift the conversation slightly. You may know from the last evidence session that I have a real interest in engagers. The committee has found it interesting that HMRC does not seem to have gone after engagers, though they are often the beneficiaries of any disguised remuneration scheme. They pay less for the contract work as the difference is made up by the lower tax regimes. Engagers find it very attractive to engage contractors in such a way that they get benefit from a potential tax advantage.

When the committee first addressed this issue, we wondered if HMRC had a conflict of interest and had engaged contractors who were involved in schemes deemed liable for the loan charge. You will also remember that we were initially told, fairly indignantly, that there was not a single case and there was no time when HMRC would have done this. I am looking at a number of copies of FOI responses, and so you will be conscious that that position has evolved.

After initially saying that there were five people on disguised remuneration schemes, but not when they were doing work for HMRC, that information has now changed and we understand that they were indeed doing work for HMRC. Now we understand that the database is incomplete and so there may well have been more people. I understand that you still had a contract using a DR scheme as late as 2020. There were quite a number in December 2019, and quite a number had been retained on those contracts. That is after 2016, when one would have thought that the whole situation was reasonably evident.

The reason why I am particularly concerned about this is that I raised the issue in one of those early meetings, because I had heard from a contractor who had been engaged to work for HMRC. This is an illustrative example of the underlying problem. I have been careful in using the term "him/her" for this contractor, but I can now say her, since the person is now publicly known. She had been introduced to the scheme—which later brought her into the grasp of the loan charge—through the agency that had engaged her. The agency was working for HMRC. That contractor had raised questions about whether the scheme

was appropriate and had been reassured. Certainly implied in that reassurance—and as you know there is an email trail—was that HMRC, as the engager, was entirely comfortable with all the arrangements.

You will be conscious that all those people who use what are now deemed as disguised remuneration schemes declared it on their tax forms. Certainly the enforcement arm of HMRC was fully aware. It strikes me as peculiar that there was no cross-conversation. Further, they were in no way secretive because they had no sense that they were doing anything that was either illegal or inappropriate. They discussed it with other people working within HMRC. It was widely known within the IT contractor community—which as you know, has many ways of talking to each other—that people who were subcontracted to HMRC were using these schemes, and they were directly working for HMRC. That confirmed that the schemes were approved and perfectly proper. It encouraged other people to take a positive view of the opportunities, even if it was with a different engager.

I am concerned about HMRC's role as an engager. I also want to understand if this has been one of the reasons for inhibiting, as far as I can see, any attempt by HMRC to go after engagers who have benefited from the whole range of DR schemes. Could you help me with this? Could you also explain why it has been like pulling teeth to get the information on HMRC's position?

Mary Aiston: Let me see if I can help. First, just to be clear, because you mentioned an individual, I cannot comment on an individual.

Baroness Kramer: Understood, but the individual is not unique, I think we can say, can we not?

Mary Aiston: Let me talk about the HMRC position. You are, of course, absolutely correct that the position has evolved, and that is for two reasons. First, we have introduced more checks in our systems, both at the point where contractors are hired, but also regular checks of existing contractors.

Let me just talk through some of the issues that you have raised. Like many organisations, HMRC is using these contractors and contingent labour for specific skills where we need them. We hire people through agencies and structures, and again that is not unusual. HMRC, as an employer and an engager, has never promoted the use of disguised remuneration schemes. We have never condoned the use of disguised remuneration schemes or been actively involved ourselves in that use. Like other engagers, it has been demonstrated that it has been possible for contractors to be using disguised remuneration without the end engager being aware of that. Under the Freedom of Information request that came through, we have explained that there were 15 occasions that we have identified where somebody who was a contractor doing work for HMRC was also at the same time using a disguised remuneration case.

Baroness Kramer: Can I check that that is all post-2016 and that you have no data to confirm any pre-2016?

Mary Aiston: Yes, I do not have more dates on that today. Of those 15 people, five had already stopped and we took immediate action to end the contracts of the other 10, so they were no longer working with us. We will continue to run those checks because, of course, it is a fluid position in that contractors will come and go. Despite the checks that we put in at the beginning, there remains a risk that after someone has joined us they may get involved in a disguised remuneration scheme.

Baroness Kramer: Can I stop you for a second? The way that you are talking, it is as if something floats down out of the sky and has a discussion with a contractor and they move into a disguised remuneration scheme. It is clear from what I have seen that the agencies which you hired presumably presented with a term of reference, so there was a contract that had to be signed on how they would behave and what they would do. Those were the introducers, near as I can tell. That is, at least some, if not all, of the people involved had not been involved in similar schemes before. They were introduced to those schemes through the auspices of the agency which had been retained by you, presumably under a contract and terms of reference. I would like to understand to what extent you were requiring of your own people the standard that you then require of the individual contractor.

Mary Aiston: We are clear with the agencies that we work with that they need to meet the certain standard that you describe. If we found that the agency was not, then that is something we would take very seriously.

Baroness Kramer: So have you removed an agency as a consequence of identifying the 15 who are, we suspect, the tip of the iceberg?

Mary Aiston: The 15 we have dismissed, the agencies—

Baroness Kramer: The individuals but not the agencies?

Mary Aiston: I understand your question. The short answer is, no, but if there is evidence of that, then I am happy to look at that further. We are clear with people who we do business with about the level of compliance that we are looking for—as a tax administration, you would expect us to be.

The Chair: Can I just jump in? Are you saying then that you are still using agencies, even though they are known to have breached the compliance with tax legislation clauses?

Mary Aiston: No, that is not what I am saying.

The Chair: I just want to clarify what you are saying.

Mary Aiston: I can respond to Baroness Kramer's point. She clearly has some insights and I am happy to take them away and have a look at them. What I am saying is that where we know that contractors were working for us and using disguised remuneration, we took immediate action to end those contracts.

I should also add that obviously anyone found to be using disguised remuneration, whether or not it is on a contract working for us, would get

the same compliance response in terms of sorting out their tax affairs. None of this would prevent us from pursuing disguised remuneration across the piece. The fact of the legal position is that we have to conduct tax inquiries where they are legally appropriate, and the end engagers, as we were just covering, will not always be sighted that there is disguised remuneration in their labour supply chain, and they are not legally accountable. The accountabilities rest further down through the supply chain.

Baroness Kramer: Can I stop you there, because I am trying to avoid some hair splitting? Am I hearing from you that HMRC was an engager, it entered into contracts, but from the sound of it did not even address the issue of disguised administration in those contracts, even though it knew that it was prevalent within, or it was certainly being sold pretty aggressively to the contractor community? Somewhere down that supply chain, the individual contractor entered into a scheme. The contractors were “introduced” to the scheme, if that is the right word, by the agency or by the recommended adviser provided by the agency, or whatever else.

Am I just picking the wrong word, because I noticed that in a lot of the memos, particularly when we got the internal memos, there is an awful lot of hair splitting of terminology? Am I using “introduced” as the wrong word or “linked” as the wrong word, or whatever? There was indeed a continuous tie or a communication chain between the agency and the promoter who entered the contractor into the scheme. I am just trying to understand this. It all seems to be so completely open and above board in the sense that nobody was hiding any of this. As I say, people declared it on their tax forms and it was discussed with colleagues, with people they worked for, et cetera. It was discussed widely within the community, not as anything secretive. Everyone thought they were doing something completely allowed. I am just trying to get to the bottom of the engager relationship, just because I find it extraordinary that an engager, particularly like HMRC, would not know this when the conversations were so open and when the exchange of memos were so available.

Mary Aiston: I can say that HMRC did not know it had contractors—

Baroness Kramer: But it made no attempt—it would have allowed an agency to engage provided it did not actually put its personal stamp on, or what is the bit there?

Mary Aiston: HMRC engages with agencies and we have standards that we are clear on, including about tax compliance. HMRC never, ever would encourage, support or condone—

Baroness Kramer: Again, I have to stop you, because many of these agencies would have thought that they were tax compliant in recommending schemes, because it is only in retrospect that they have been labelled disguised remuneration and been subject to the loan charge.

Mary Aiston: HMRC has been challenging these schemes for the best part of 20 years. We have always regarded this as tax avoidance and have opened thousands of inquiries on that basis for, as we all know, two decades now. HMRC's view of these types of arrangements has not changed; we have always regarded them as tax avoidance. While I appreciate that people may take word of mouth, we know that people will sometimes be tempted into these schemes by the words of colleagues. People would be signing up to arrangements where they were remunerated for professional activity on the basis that they did not pay any tax, and I would be surprised if anybody thought that was going to be an acceptable way to pay yourself or be paid.

Baroness Kramer: I have lots more questions, but I feel I should cede to my colleagues at this point.

Q36 **Lord Monks:** We have been concerned about the position of low-paid workers and those who are particularly vulnerable in recent years to some of the people who have been flogging these kinds of schemes. We have been particularly concerned about the position recently reported that people are being recruited for anti-coronavirus duties in the National Health Service. These schemes have been being promoted for those workers.

The question is: what can HMRC, and others, do to limit the targeting of these vulnerable workers? We know that you are used to dealing with the relatively well-off who are into tax avoidance, but this particular cohort is rather different and living much more on the breadline. Can you say something about that?

Mary Aiston: Yes, certainly. The report we published recently about the state of marketed tax avoidance in the UK showed that there has indeed, over the years, been a shift from tax avoidance being something sold to relatively well-off people, to disguise remuneration, which has a much wider reach. Our data suggests that your typical user of disguised remuneration is on about twice average income, but averages clearly cover a range, and there are some people in disguised remuneration who are still very well-off, but there are also people on more middling incomes in the way that you described. We share your concern that these are being marketed and, in particular, the concern around professionals returning to the NHS to do their bit in relation to the coronavirus pandemic.

There is a lot that we are doing and there are two things that are perhaps worth particular mention. First, building on a pilot and work that was supported by Sir Amyas Morse in his review, we are using Pay As You Earn data to identify at the earliest possible opportunity where we think people have got into an avoidance scheme. We are not waiting for a self-assessment to come in or a deadline for that, and instead are writing to people at that early opportunity to explain our concerns and to give them the opportunity to come straight back out of avoidance. To give you an idea, this year we have written to about 27,000 people on that basis, including NHS returnees in the way that you describe.

The other thing that we have done—and we launched this in November—is that we kicked off a communications campaign that is seeking to target the contractors that we know promoters target with a message to raise awareness about tax avoidance and the risks of getting into it. That is a communications campaign, which, as I say, started last month but will carry on through into the new year, trying to reach out to people and encourage them to ask questions before they sign up for arrangements of this kind. I would welcome any help anybody can give us in getting that message across to people who may be targeted by promoters. Meanwhile, of course—and I am sure you will have questions about this—it is an important part of our job to be tackling the promoters and trying to take them out of the market. I think this issue requires a response across the piece—absolutely tackling promoters all the way through to trying to raise awareness among contractors and others to encourage them to ask questions before they sign up.

Q37 The Chair: Before I turn to Baroness Bowles, can I ask you about the figures that are in your report and try to shed some light on them? They seem to suggest that 30,000 individuals are involved in disguised remuneration schemes, or were in 2018-19, compared with 22,000 in 2013-14. Why is that increase? Is it just because we have become better at collecting data or is there a trend? I have got a follow up on that and then I will turn over to Baroness Bowles.

Mary Aiston: It is, of course, the right question, Lord Bridges, and we have more work to do to understand precisely the issue, which is how much of this is a market that is unfortunately still growing and how much of it is that we have got better at spotting what is going on out there. We have got more work to understand that, but my expectation is that it will be a bit of both. We certainly have got better at not only identifying these arrangements but doing so at an earlier opportunity so that we can write to people in the hope that they will get out of avoidance before they have built up a big bill.

The Chair: Following on from that, you may have seen that at the last session it was pointed out that some of the reasons potentially behind this is due to IR35 and the link to wanting to set up a disguised remuneration scheme. Do you see that as a linkage? Is this rise a consequence of that?

Mary Aiston: In short, I do not think there is a link, but Carol may want to say more about that from the off-payroll IR35 perspective.

Carol Bristow: I am happy to come in if that is helpful. We would say that we definitely are alive to the noise that people make about creating this perceived link between the off-payroll working rules and disguised remuneration schemes. We would say that the off-payroll rules do not in any way force people into using tax avoidance schemes. The off-payroll working rules ensure that individuals working like employees are taxed like employees, even if they work through their own company or another intermediary.

The reform due to be introduced in April 2021 does not so much introduce a new tax as move the responsibility for paying the existing tax

and operating the off-payroll rules from the worker's personal service company to their end-client agency or umbrella company who employs them. DR schemes, of course, seek to turn income into a loan to try to ensure that it is not taxed at all. The two things are separate. We would definitely want to try to get out the message and we have tried so far as possible to reinforce this message that individuals should not be tempted to use contrived tax avoidance schemes that claim to get around the off-payroll working rules. As Mary mentioned, we want to raise awareness about the risks and consequences of getting involved in tax avoidance, so that people can steer clear.

Q38 **Viscount Chandos:** I go back to the distress and problems that have occurred around collection. In asking the question I should disclose my position as chair of the Credit Services Association. The *Times* last week had an extensive article about HMRC's collection tactics following which, I understand, the HMRC has apologised for some of its behaviour. Is not the issue around the loan charge part of a bigger problem? If you looked at the principles that the FCA apply for consumer credit collection in areas such as affordability, forbearance, method and tone of communication, how do you think you would measure up?

Mary Aiston: I am not an expert in the FCA rules, so I would need to take that specific aspect away and have a look, but let me say something about the debt issues that were raised in the *Times*. HMRC recognised, of course, that in the middle of a pandemic, lots of businesses were facing financial difficulties and initially we pulled back from a huge amount of our debt collection.

We have restarted it, in as sensitive and data-led way as we can. To give you a sense of scale, in an ordinary year—which this is not—HMRC would expect to do face-to-face visits on about 400,000 occasions. As we have restarted sensitively, we have, since March, now done around 1,000, so a non-trivial number but a lot less than we would normally do. The context is important. Before we would ever go and visit, we would seek to communicate and engage with that customer in a variety of ways. If that has not been possible, the visit is to explore the customer's position and understand how they are situated in relation to paying the debt that is due, including exploring what support and help we can offer.

I should add, because I know people will worry about this, that that visit is always done with health and safety as a priority for the customer and for our staff. It is only ever to a business premises—this is not people visiting people's homes. I would also say—without being an expert in the criteria that you were referencing—that we have a very good track record of finding manageable payment terms for our customers and are very flexible where people need as long as they need.

A very high percentage of the payment terms that we reach with people are successful. I think that evidences that we take a lot of care to reflect people's personal circumstances and the sensitivity of being in tax debt. We felt it was important to start to look at the tax debt in 2020, because clearly we need a functioning tax system to be paying for the public services that we are all relying on, but it has been done in the most sensitive way. I will be the first to admit that, among the millions of

customer engagements that we have, we do not always get it right—you are right about that—but when things go wrong it is important that we are upfront, apologise and put it right promptly.

Q39 **Baroness Bowles of Berkhamsted:** I have personal experience that the HMRC is not always on top of its data. I have been trying for five years to get my MEP taken off my address, but despite numerous efforts nobody is able to change that, so one wonders what else cannot be changed. More broadly, I want to know what lessons HMRC has learned from the problems with the loan charge and how are you seeking to apply those in other areas of tax administration and compliance. That is one question.

I have a second. It is really a set of assurances or otherwise that I would like, going back to the broader issue that was raised about the involvement of HMRC in having suppliers that were using contrived schemes and disguised remuneration schemes. First, what due diligence is there in your supply chain and do you accept that there should be a stronger due diligence than you have obviously had in the past? What has changed? Can you supply us with a copy of the terms that you impose on contractors to show that they are not using disguised remuneration schemes and that they are discouraged from using contrived schemes? Presumably, your contracts should reflect what you are expecting everybody else to do, so it would be nice to see that requirement in writing in your contracts.

HMRC has to be above suspicion and behave in an exemplary way, not least because if you are, wherever it is in your organisation, using these schemes, they can—as Baroness Kramer pointed out—be used as a method of endorsement. There is plenty of evidence that the end taxpayer has been conned in many ways, and this is just potentially another source of how people can be led into thinking that they are doing something that is above board, and something that does not profit them. It is not the low-pay taxpayers, even though they are having to pay it back, who have by and large gained from these schemes. It has been money pocketed further up the supply chain. Just as one should be able to show that your supply chain is free from slavery, can you show that your supply chain—through its contracts and its due diligence—is free of contrived schemes? That surely should be what you should do, so that you show that you are a paragon for when contractors are used.

Mary Aiston: Can I take your questions in reverse order and finish with lessons from the loan charge? HMRC has always complied with the due diligence required both by the law and by the Civil Service rules around hiring, which are pretty thoroughgoing. However, in addition to that, and on the back of past experience, we have added further checks on the way in, to improve our assurance on that. In addition, we now do more checks in flight, if you like. On a rolling basis during the course of the year we will cross-check all the contractors who were working on HMRC business with the data we have about people who we know are using a disguised remuneration scheme, so that if somebody was not using the scheme when they started working for us, we will still pick it up. That is why we were able to identify and terminate the contracts of the 10 people who we referred to earlier.

I am sure we would be happy to share with the committee more information about the checks that we carry on and some of the standard contracts. I am not a commercial expert though, so I will let my commercial colleagues ensure that I am not tripping over any rules at their end, but we are happy to be transparent about how we go about that. I recognise, as a tax professional, that it is important that HMRC is clear that we do not condone tax avoidance in any shape or form and that we do not get involved in promoting it or supporting it. That is absolutely vital for any tax authority.

The Chair: Do you, therefore, think that HMRC is wrong to use the companies that were listed in the *Times* last week, such as 1st Locate and BPO, which are using tax avoidance or appear to be using tax avoidance schemes in Jersey and elsewhere? Is that wrong?

Mary Aiston: I cannot comment on individual cases, Lord Bridges, but I would—

The Chair: In principle, therefore, if HMRC, as this article implies, finds that HMRC is using these agencies that have these kinds of counter avoidance schemes, I would have thought that you, as head of Counter Avoidance, would not commend this as a way forward but, indeed, would be opposed to it. Is that right?

Mary Aiston: As head of Counter Avoidance I am absolutely opposed to tax avoidance.

The Chair: So you are opposed to this practice, surely. We do not have to name schemes and we do not have to name companies. I am asking about a principle that Baroness Bowles is after. You should be a paragon of virtue and leading by example. The *Times* has shown that you were not. That is just simple in my book. Do you agree with that?

Mary Aiston: I do not want to imply that I am agreeing with the factual accuracy of a newspaper article—that is my hesitation—but let me be clear about what I can be clear about. As a point of principle, HMRC does not promote tax avoidance, does not support tax avoidance and does not want to be having contractors or anybody else working with—

The Chair: Therefore, if it were to be found that these companies cited by the *Times* are indeed using counteravoidance schemes, will HMRC sever all links with those companies and the individuals behind them?

Mary Aiston: It is important that, in such a sensitive area, we do not cause a problem later by appearing to have discussed in public named individuals.

The Chair: I am not naming any individuals. I am asking for a principled policy approach; that is all I am interested in.

Mary Aiston: As a point of principle, we oppose tax avoidance and we are clear with the people we do business with that they need to meet certain standards around tax compliance. I am more than happy to share with the committee as much of that as my commercial colleagues feel we

can within commercial law. I am sure that would be considerable transparency about how we approach this. I am just careful that—

The Chair: I understand that entirely, but I would love to see in writing follow-up to what you are saying and whether or not you are, therefore, committing, and HMRC will commit, to stop using any agency that has these kinds of schemes in place and not to use those individuals as directors behind them in the future. I would love you to put in writing what the policy is in light of this case, if you could, please.

Mary Aiston: Absolutely, noted, Lord Bridges, and we are going to have to come back in writing.

The Chair: Baroness Bowles, I am sorry I interrupted. You had some other points here.

Baroness Bowles of Berkhamsted: Well, no, I am digging in the same area. I am also wondering whether you can have penalty clauses in your contracts and whether you have given any thought to that. Obviously, you can say, “Right, we will not use you anymore”, and you can go down the line of having a blacklist of companies and of individuals who have been directors of companies that have used contrived schemes—I mean a blacklist as far as your use of them is concerned. Have you also thought of penalty clauses, because there has to be some kind of extra deterrent if you are going to be this paragon of virtue? Are there any?

Mary Aiston: When we share the information, that will set out for you everything that we do in this space. I think that is the best way to handle this, because I do not have the details of every aspect of the contractual side. We are more than happy to be transparent with the committee about the approach that we take. We recognise the concern.

Baroness Bowles of Berkhamsted: There was also just general broader lessons throughout the whole of HMRC. Do you any thoughts about that?

Mary Aiston: Let me share some of my lessons. There is the government response to Sir Amyas Morse’s review, and our report to Parliament at the beginning of the month which set out a lot of what we have been doing following the review. Speaking for myself, I think there have been some important lessons that we have absolutely deployed elsewhere. Early on in the disguised remuneration development, one of the key lessons for colleagues in Counter Avoidance was that we needed increasingly to communicate directly with end customers and not just through the registered agent, because in many circumstances that was the person who had sold the scheme. We started right back in 2017-18 writing to large numbers of customers to explain more about where they had got to. They would all have had a notice of enquiry, but our regular communications started going out to more customers, and that is a piece of learning that we have taken wider.

There is a big piece of learning about when we are talking with a customer who has got an open tax enquiry and about settling that enquiry. Of course, the customer is also interested in how they are going

to pay. Historically, that might have been a rather distinct conversation. We have brought together two arms of HMRC so that we can have a single conversation with the customer, not just about how much is due at the end of the enquiry, but also exploring with them on a personal basis how they can settle that in a way that will work for them, as well as for us. There has been a lot of learning about the additional support that we have put in place for customers who need it. These are customers who are not just finding it an experience they would rather not have but are really finding it stressful and difficult at an emotional level. We have acted to improve training for our people on how to identify and explore that and how to support customers. We have provided a much-increased level of support for customers experiencing that extra level of difficulty. That is an approach that is being rolled out across the whole of the Customer Compliance Group, not just Counter Avoidance, to take that learning further forward.

Last on my list would be a broader approach to communications. This is not just about writing to individual customers. We touched on social media earlier and discussions about the loan charge have absolutely played out on social media. We have learned a lot from that. Some of it has been a difficult experience, including for some of my individual members of staff, but we have also realised that we need to be modern in our communications in getting the message out. Therefore, the contractor communications campaign that we kicked off last month is very much going through social media in a bid to use the channels that will reach the people who we need to reach out to. Those are just some of the lessons from my perspective, Baroness Bowles.

Q40 **Baroness Bowles of Berkhamsted:** I have one other small question. How do you find out if somebody is in difficulty in making payments? Obviously, if they do not make them, you can suspect. Do you give any reminders so that, if their circumstances change and they are in difficulty, they can come back and make arrangements again? Are there checks, because you are pressing close to the edge of what is viable quite often in the settlements that you reach. You are using a large amount of disposable incomes and, if people are on lowish incomes, they have nothing left to meet a crisis. How will people know to come and ask you for help rather than going to a loan shark?

Mary Aiston: It is important to say that in reaching agreements we have made a public and published commitment that we will not seek to go beyond 50% of somebody's disposable income, unless there are really high incomes, which is a different circumstance and not the circumstances you are talking about. We have made that commitment, unless exceptionally a customer was enthusiastic and wanted to do that and we felt that was sustainable, but from an HMRC point of view we would never go beyond that. I recognise the point you are making around how important it is that we explain to customers that, if they hit problems, the right thing to do is to come and talk with us. This is partly an issue around messaging, but it is also an issue around trust and operating in a way that makes customers feel that that is something they would be comfortable doing, and that they recognise they will get a prompt professional response.

That is absolutely our ambition. We do not achieve it in every last case, but we are doing a lot more and putting into far more of our communications that sort of reassurance message to encourage people that, if they are having trouble meeting their tax debts, the best thing to do is get in touch with us and explore what is possible. As I said, we have a good track record of supporting people with debt problems, but we cannot help if we do not know. If I can widen your point, I think the same issue applies where customers are sadly struggling and finding it stressful, and are struggling with their mental health. We have extra support available. We have trained our staff to try to spot where that is the case, but understandably people do not always find that an easy thing to talk about and we need to keep working at building public trust so that people feel more comfortable telling us when they are struggling in any of these ways, because we can help.

Q41 **Lord Forsyth of Drumlean:** Listening to all the things that you are doing and that you say you are going to do, I think you are in a difficult position. You are getting all the flak for all these issues and you are telling the committee that you understand and that you are doing this, that and the other, but I cannot help feeling that at the root of this problem, apart from a cultural issue, is resources. You have been asked by Ministers to go out and collect more money and deal with the so-called tax gap, yet the resources are being cut. I wonder if at the root of this problem is that you do not have the people and the resources that you need in order to create the kind of culture that is required for what you are being asked to do.

Mary Aiston: We have shown in recent years that we can make great strides in supporting our people to take different approaches through training and development, through introducing different processes and approaches. I am very proud of the colleagues that I work with in Counter Avoidance. I think they have shown themselves to be flexible and, at quite a deep level, caring about some of the difficulties that customers have had with this. To pick up the resourcing point, over the course of this year you will have noted from the report to Parliament that we have had over 1,000 people supporting work to help customers to settle their disguised remuneration over the summer. HMRC remains committed to this area of work and deploying the people that we need to on to it.

Lord Forsyth of Drumlean: So was that a yes or a no?

Mary Aiston: That was me saying as the Director of Counter Avoidance that, in the run-up to 30 September, I feel I have had the resources I needed and that we have worked hard to support our colleagues with training and better processes to deal—

Lord Forsyth of Drumlean: Sorry to interrupt you, but I am going back to the stuff we are getting about it taking months for people to write replies. I got one today about a Member of Parliament who had written and had still not got a reply. I am trying to be sympathetic here. I think HMRC has done a brilliant job in coping with all the change that has been required in order to deal with Covid and everything else. As the Chair has pointed out, the number of cases appears to have been going up and not

going down. In trying to see the other side, I am asking whether a possible explanation for these complaints and these failures is that we are just trying to get too much. We are trying to get a pint out of a half-pint pot.

Mary Aiston: My experience of looking at cases where we have not got it right is too often more on the process side, or because we have prioritised stuff that was urgent and where things have just not been handled well. It is around tightening that up, as opposed to the question you reasonably raise around resourcing. In relation to the growth in the 30,000 that the report shows we think have been in avoidance in 2018-19—in a sense this is part of the disguised remuneration story—the success of tackling that is about looking at the position end to end. We have been talking about the individual customer end, but very much also about tackling the promoters. The committee will be aware that we have made a public statement that we have doubled the resources that go into tackling promoters, because ultimately the more we can do at that end of the arrangement and disrupt promoters and take them out, the fewer people will be selling. It is more complex than a straightforward resourcing issue, but I thank you for your question.

Lord Forsyth of Drumlean: It was your chance to ask for more money from the Treasury.

Q42 **Baroness Kramer:** I have a small question on the 30 September deadline. This was the deadline for settlement without penalty, in effect, if I understand it correctly. You said, I think, that there were something like 30,000 or 40,000 cases outstanding. In that summer period, I think you settled only around 5,000 or 6,000 of them. Quite a number of people missed the deadline by a few days—we have heard of one case where it was simply because replies did not come from HMRC. I wanted your view of whether or not that was a success, whether or not you think that people understood that the penalties were backdated to January and whether or not there needs to be some leeway and extension of that scheme given Covid.

Mary Aiston: At the time of the Sir Amyas Morse report and the Government's response, we estimate there were around 12,600 customers who were still in a position where they could settle their use of disguised remuneration and, as a result, not have to pay the loan charge. Of those, we estimate around 1,300 were then taken out of the scope of the loan charge following the review and the legal changes. Around 5,600 were supported through and chose to settle. Of the balance, we have agreed to give around 1,000—we said this in the report to Parliament—some more time. The remainder are a mix of people who dropped out of the process for one reason or another, sometimes very much by choice, and are in a position where they need to return the loan charge.

The deadline for filing an 2018-19 self-assessment return was 31 January 2020. We recognise that a number of customers who were in the process of settling had chosen to pause during the course of the independent review. That independent review came out roughly this time last year, and that did not give people very long to then work through their options and file their returns. HMRC wrote to people and said that, while the

statutory deadline was 31 January, we would give them a further eight months and that, if they sent in their return by 30 September, there would not be a penalty—we said this on the day of the report. That was to support people in order to comply, whether they were part of the 12,600 customers who were still in a position to settle at that point in order not to pay the loan charge, or whether they were outside that group and wanted to use that time to ensure that they got their return right, to talk to us about time to pay if they needed it, and so on. The statutory deadline was always 31 January. We said to people that, if they got in by 30 September, we would not charge a penalty.

It is probably worth me saying a bit about the roughly 1,000 customers for whom we have given more time. Again, we said publicly and put on GOV.UK the criteria that we were following—if a customer was engaging actively with us, if there were some circumstances beyond their control that meant that they were not able to complete that process on time and if we were satisfied that they would still be able to complete the settlement process fairly promptly, we would give them a bit longer, and we have worked through that. There are also some in there who are customers who wrote in and complained, saying, “The reason I was not able to complete my settlement on time was because I was waiting for HMRC.” As I mentioned, we treat all complaints seriously and look at those carefully. Some of those are cases where the customer complained and some of them are where my people identified that there was a reason why we needed to consider that.

That is the approach that we have taken to the deadline and I am satisfied that, in supporting another 5,600 people into settlement over the course of the summer, that is good for them in terms of getting certainty. It also means that we have secured some further funds for public services in that way.

Lord Butler of Brockwell: I am in a bit of a muddle about the figures. I have figures of 55,000 people you wrote to in January about the extension of the deadline. Of those, my figures, again, are that 42,000 have now either made returns or explain that they don't need to. Are those figures right? How do they relate to the figures you have just given, and what are you going to do about the other 12,000?

Mary Aiston: The figures are right, and it is quite difficult to set one set of figures against another because they do not all overlap in a tidy way. There are a lot of overlaps in that. The 55,000 people we wrote to in January 2020 were people impacted by the loan charge in a wide range of ways. They were not just the people who were still eligible to complete settlement of their disguised remuneration and, by so doing, did not have to pay the loan charge. It was a much wider group of people we wrote to in order to explain what they needed to do, including a lot of people who, in January, we knew would need to return and pay the loan charge because they were not still in a position to be able to settle and escape it.

That is where the figure of 55,000 came from. The figure of 42,000 is the number that we know have filed a 2018-19 return. We are doing, and will be doing for some time now, considerable follow-up work and analysis to look at returns that came in where we were expecting the loan charge,

and to ensure that everyone who needs to return the loan charge has done so and that people have returned the right figure.

That is a long piece of work, and, picking up on the point about lessons, we will continue to do that in a way that takes account of the individual. We will need to take steps in some cases to ensure that we are protecting our position, and we will need to follow up with people, but we will continue to do that in a way that recognises the human being who is caught up in this.

Lord Butler of Brockwell: Thank you. Throughout this, you have referred to taxpayers as customers. Thirty years ago, I tried to stop the Inland Revenue doing this, because I do not think that taxpayers really regard themselves as customers. Why do you find it helpful to do so?

Mary Aiston: I find it helpful to do so, because I find that when working with my colleagues it is a way of helping to raise everyone's awareness and to remember that there is a real person at the end of this. Whilst it is not like being a customer of a supermarket, I recognise that people have a choice about whether to comply with their tax obligations or not, and they always have a choice about whether to respond to our letters and so on. I find that using the word customer helps to remind us all that that is the case.

Lord Butler of Brockwell: Do you think there is a danger that you irritate the taxpayer?

Mary Aiston: Yes. I do recognise that as a risk, and in some circumstances we stick to "taxpayer" because it is never part of my mission to annoy people unnecessarily.

Q43 **Viscount Chandos:** The implementation report found that HMRC had yet to make any repayments for voluntary restitution that no longer fell within the scope of the loan charge. What are the reasons for the delay, and how are these being addressed?

Mary Aiston: It is correct that we have not made any repayments, and I am very sorry that that is the case, because we were hoping to have made some by now. It is probably worth me talking this through. The legislation in the Finance Act was required to get this work kicked off. That received Royal Assent in July and it requires HMRC to put a scheme in place for the repayments. The repayments position is actually really complicated. It needs to fit with a wide range of settlements that have been made over the period of the disguised remuneration story. Unfortunately, and I am sorry for this, when we first used the scheme, we found that it did not work in practice in all circumstances. That does not mean that it repaid too much or too little. There were just certain types of settlement where you got caught in a loop, and it did not give you a very clear answer at all. So that has held us up.

We have written to around 1,600 customers who we were aware of, and we think they are the totality of who will be entitled to a refund or, in some cases, a waiver of tax for voluntary restitution. Just over half of them have replied to us, and we are now working through at pace, but

these are complex arrangements, and getting to the refunds is complex. We cannot just take the initiative and refund the money for a legal reason.

When this first came up, I asked my team: "Can't we just refund this? We know who the people are, we know how much they paid. Can't we just send them a cheque?" Unfortunately, the very clear answer was no. That is because when somebody settles an enquiry, HMRC and that individual reach a civil contract. All the legal advice is that if HMRC unilaterally repays part of that, it does not just refund the voluntary restitution but breaks the contract, so the money that we were due to keep, which is tax that is legally due, would then be at risk.

The process has to involve us engaging with the customer, reaching a new agreement and a new civil contract before we can refund. In some cases where people are paying over instalments, however, it is about waiving late payments rather than actually making a refund. I am sorry that it has been slow, but this is priority work for us and I really hope that in the new year we will start to get some of these refunds flowing.

Viscount Chandos: Would you agree that the fact that there have been these payment delays by HMRC reinforces the feeling amongst taxpayers that it is a very asymmetric system—one in which HMRC, as we have heard earlier in vigorous terms, pursues people for timely payments from them but seems immersed in what will seem, certainly to the taxpayer, like bureaucracy and not being able to get repayments in their direction?

Mary Aiston: I am sure that is how it feels for some people. I am keen to get these out as quickly as possible, subject to ensuring that we have protected money that is still due to the Exchequer and that we do this in a professional way. I would encourage the taxpayers we wrote to but who have not responded yet to get back to us so that we can progress those cases as well. Anyone who for any reason thinks that they are due a refund who has not heard from us, again, can get in touch with us because that is still open to them to do so, and we will work those through.

Q44 **Lord Forsyth of Drumlean:** The idea that people might be able to spread over three years the payments that were due seems to have been a bit of a flop, and not very many people have been able to take advantage of it. What is the reason for that?

Mary Aiston: Sir Amyas Morse recommended it and it was legislated for, recognising that for a number of taxpayers that might mean that they pay tax at a higher rate for less of their loans. We estimated at the time that around 21,000 people might benefit from this. As of the end of September, as you say, the report shows that 1,740 people had put in an election. There could be any number of reasons for that, including some people deciding that they do not want to make an election and that they would rather settle in one go. There will be some people who are not returning the loan charge at all. We have also exercised the discretion which the Finance Act gave us and said—this is publicly available information—that we will accept automatically any elections that come in by the end of December. So people still have time to get them in.

Lord Forsyth of Drumlean: The end of December, did you say? The week after next, you mean.

Mary Aiston: Yes. I appreciate that it is soon now, but we made a public statement about this earlier.

Q45 **Lord Forsyth of Drumlean:** I know that you will be bored by being asked this question, but the committee is very struck by how able HMRC is to get the Treasury to include provisions for extra powers here and there in Finance Bills, but the response on tackling the promoters is another matter. Again, that is one of the things which I think people find absolutely infuriating: that these people, who have led people into misery, retire to their yachts in the Caribbean or wherever. I know you say that it is all very difficult, but have you not thought seriously about changes in the law that will enable you to get these people?

Viscount Chandos referred to the asymmetry whereby you find some retired social worker or nurse and ruin their retirement by getting them to pay up because they joined some scheme, which they see as retrospective. I know you will say that it was not retrospective but retroactive. However, with these promoters, you proudly announce, "Well, we can't possibly have retrospective legislation to deal with them". Can you see how unfair that is? I would have thought there was considerable political support for getting these people, even if it did mean taking a retrospective view.

Mary Aiston: I completely recognise the anger that people feel about the role of promoters, and it will not surprise the committee that it is firmly shared within HMRC. We have a very active team who use all the existing powers at our disposal to disrupt and go after promoters in a range of ways.

Regarding your question about policy, the committee will have noted that we consulted on proposals to tighten up the existing regime that would enable us to move faster in a number of circumstances. I am grateful to everyone who responded to that consultation, and we will absolutely follow that up.

That was about tightening the existing regime, but you will have seen on legislation day that the Government announced that they were exploring further proposals to improve our ability to go after promoters both more fiercely and more quickly. We will consult on those in the new year, and there will be a lot more detail about them then, but the proposals include more steps to tackle some of the things that make this difficult, including promoters who base themselves offshore but who do business in the UK through UK-based intermediaries. We are looking to put those UK-based intermediaries on the hook for penalties and so on, in the same way as the offshore promoter the offshore promoter.

The proposals also include tackling head on the secrecy that promoters rely on to wrap up and obfuscate what they are up to, as well as trying to find ways to land the financial consequences on promoters more quickly, and additional powers to shut promoters down. I note your point about retrospection in relation to legislation involving promoters. Obviously it

will be for Ministers to choose the detail and the policy they should adopt, but I am looking forward to the consultation and getting more out on this plan.

Lord Forsyth of Drumlean: That is a very encouraging answer. I think it was Lord Monks who made this point earlier this week in another session, and it was one of the things that impressed me a million years ago—I think in 1992, when I was responsible for health and safety in the Department of Employment. We have made progress in leaps and bounds on people taking health and safety in the workplace more seriously. I am cynical enough to believe that one of the main ways in which that was achieved was by making directors of the companies personally liable. That seems to me to be a route that might be worth thinking about in discussing these matters with Ministers.

Q46 **Baroness Kramer:** I will largely follow on Lord Forsyth's point on engagers or end-user clients. HMRC will now use private as well as public sector end-user clients to determine the IR35 status of contractors. Have you considered putting a responsibility on end users for the arrangements that are offered through them to their contractor, through the agencies that they use to recruit those contractors, and indeed perhaps even introduce some measure of liability? It seems to me that if they are acting for you on IR35 and therefore looking that closely at the contractor, they ought to be able to contribute on this issue of remuneration schemes.

Mary Aiston: As you will be aware, we ran a call for evidence over the summer on what other action could be taken to stop the ongoing use of disguised remuneration. It will not surprise you that this generated some ideas from the people who took the time to contribute, about the role of end engagers. Again, we will come out with our response to that call for evidence in 2021.

Q47 **Baroness Bowles of Berkhamsted:** I would like to endorse Lord Forsyth's idea of personal liability for directors. That is the only way you actually get a certain type of responsibility. Another way is regulating tax advice, which has been a bit, "Oh, no, we don't want to do that", but I really do not understand why not. You would then have tools to take action with regard to unregulated bodies. Why can you not just outlaw any use of offshore intermediaries?

Mary Aiston: Again, there was a call for evidence in 2020 on the subject of improving tax advice. The committee may well be aware that the proposals coming out of that, which have been published, explore in detail the scope that a requirement for professional indemnity insurance could provide to secure some of the improvements that we are looking at.

There is more detailed work going on on that as a route through to what you are saying, which is about improving the quality of advice. It is a complex area, and regulation was considered as part of that, but that is the route that we will be following up in further detail, alongside, as I mentioned, a lot of proposals to strengthen the regime for tackling promoters of tax avoidance.

On your point about tax advice, there is a huge number of highly reputable, very good quality people professionally giving advice and helping with tax compliance in the UK. We need to take the whole picture into account as well as the promoters we all would love to see the back of. It is complex, but I note your point.

Baroness Bowles of Berkhamsted: There are an awful lot of people who are in the reputable tax advisory slot who will do everything they can, in responding to a consultation, to say that you do not need regulation, because they just do not want it. You have to put the public first, and inconvenience to a profession in having proper regulation should not be put ahead of danger to the public from people who are basically committing fraud and scamming them. Therefore, I hope that replies to consultations are not just weighed up but that you actually look at the source.

Mary Aiston: To reassure you, a considerable amount of thought goes into considering replies to consultations and, as I say, there will be a further detailed consultation in that area and much more to come next year in relation to approaches to tackling promoters.

The Chair: Thank you both, Mary Aiston and Carol Bristow, for joining us this afternoon. I know full well how busy you are and—I think that Lord Forsyth said this—we know how much work you have had on your plates, thanks in part to Covid, so many, many thanks for sparing the time. Thank you all.