



HM Treasury

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[redacted under section 40(2) of the FOI Act]

7 December 2020

Our reference: TO2020/42742

Dear [redacted under section 40(2) of the FOI Act],

Thank you for your letter of 23 September 2020 entitled "Review into the April 2019 Loan Charge – Request for Reconsideration". Please accept our apologies for the delayed response.

In your letter you raise a number of concerns about the independence of the review of the Loan Charge policy led by Sir Amyas Morse ("**the Review**"). You cite the All-Party Parliamentary Group's report from June 2020 ("**the APPG Report**") as evidence of the Review's lack of independence. You assert that HMT must ask Sir Amyas to consider the APPG Report and make any amendments or addendums to his report that he considers appropriate in the light of it.

We would like to assure you that the Review was robust and independent. Sir Amyas was formerly the Comptroller and Auditor General of the National Audit Office for ten years and, as such, has a strong record of holding the Government to account.

Moreover, Sir Amyas had full discretion over how the Review was run, which stakeholders he engaged, and the recommendations he made. Sir Amyas rigorously ensured the independence of his report and has rejected the suggestion of Government interference made in the APPG Report in the strongest of terms. This is clear from the statement he issued when the APPG Report was published, which stated as follows:

My independent review of the Loan Charge represented my own judgement following the evidence that I heard – including over 700 individual impact statements. My 20 recommendations included the need for both significant changes to the Loan Charge, and to HMRC's future approach for combatting tax avoidance. My conclusions speak for themselves, and show that I was independent of government. Any suggestion that I was (or could have been) unduly influenced by the civil servants who supported me ignores that the report is my own, and my ten years of experience at the National Audit Office in holding government to account.

It is also worth noting that the Review led to significant changes to the Loan Charge policy. The Government accepted all but one of the 20 recommendations made in the Review, and

HMRC estimates that more than 30,000 people will benefit and an estimated 11,000 will be taken out of scope of the Loan Charge altogether. These changes will have an Exchequer cost of £745m.

We have addressed the specific concerns raised in your letter in more detail below.

You suggest the scope and objectives of the Review were narrowly defined so as to limit the potential for far-reaching recommendations to be made. It is standard practice, when setting up an independent review into Government policy, for the terms of reference to be agreed between the review's chair and the commissioning department. This does not mean that the terms of reference were designed to limit the scope of the Review's potential recommendations; rather, their purpose was to ensure that the Review was appropriately targeted at the issues most in need of being addressed. The terms of reference did not curtail the Review's independence; Sir Amyas had full discretion to set the terms of reference as he deemed appropriate and more broadly to determine how the Review was run, the stakeholders he engaged and the content of his report. Moreover, he had extensive scope to consider whether the Loan Charge was an appropriate policy response and to make wide-ranging recommendations for its reform, which he did in his report.

You also make a series of claims about the independence of the Review relating to the composition of the secretariat and the collaboration between the secretariat and HMT/HMRC. In particular, you assert that (i) the Review lacked independence as a result of the fact that the secretariat was comprised of secondees from HMT and HMRC, (ii) HMT and HMRC sought to improperly influence the Review, including by seeking to influence the choice of experts, (iii) the secretariat had an improperly close relationship with HMT and HMRC staff, (iv) there was inappropriate collaboration between the secretariat and the Chancellor's Press Secretary, and (v) there were improper communications between the secretariat and HMRC in preparing answers for the Treasury Select Committee ("**the TSC**").

Responding to each of these concerns in turn:

- (i) It is usual practice for staff from a commissioning department to be seconded to the secretariat of independent reviews in order to provide support to the review and expertise in the particular policy area. The secondees were all civil servants bound by the Civil Service Code and expected to carry out their roles in line with the core values of integrity, honesty, impartiality and objectivity; as such, the secondees had a clear remit to support Sir Amyas in the conduct of the Review.
- (ii) HMT and HMRC did not seek to improperly influence the Review. Sir Amyas had full control over the Review's management and recommendations, and received evidence from a range of external experts and stakeholders, including individuals affected. Sir Amyas also chose to conduct a call for evidence, which led to over 700 impact statements and testimonies being received, as well as meeting on multiple occasions with many individuals affected by the Loan Charge, their family and their tax advisers.
- (iii) The secretariat did not have improperly close relationship with HMT and HMRC staff. Friendly exchanges between members of the secretariat and HMT or HMRC

staff is not evidence that those departments somehow had undue influence over the conduct of the Review.

- (iv) While it is true that there was a degree of collaboration between the Chancellor's Press Secretary and the secretariat, this was intended to ensure that there was consistency in communications regarding matters such as the progress of the Review and the nature of its recommendations. This does not call into question the independence of the Review.
- (v) Further, exchanges between the secretariat and HMRC staff to ensure the accuracy of statements to the TSC are not evidence of improper communications; rather, it is civil servants' duty to ensure evidence presented to TSC is correct, in order for the TSC to fulfil its role in examining the expenditure, administration and policy of HMT and HMRC.

Finally, you state that the fact that HMT and HMRC were afforded privileged access to the Review's conclusions is evidence that the Review was not independent. HMT and HMRC were allowed to review Sir Amyas's report prior to publication in order to give them the opportunity to correct any factual errors or misinterpretations, which is normal procedure for independent reviews. This did not enable either department to influence the Review's findings and recommendations, and the final decisions on what, if any, changes were made to the report as a result of concerns raised by HMT and HMRC rested with Sir Amyas.

For the reasons set out above, we do not consider it necessary to ask Sir Amyas to reconsider his findings and recommendations in the light of the APPG Report. We hope this letter will reassure you and your clients that the Review was conducted independently of any form of Government interference and that its recommendations are the product of a robust and independent process.

Yours sincerely,

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