Select Committee on Economic Affairs

Uncorrected oral evidence: The Financial Secretary to the Treasury

Tuesday 16 July 2019

3.35 pm

Watch the meeting

Members present: Lord Forsyth of Drumlean (The Chairman); Baroness Bowles of Berkhamsted; Lord Burns; Viscount Chandos; Lord Cunningham of Felling; Baroness Drake: Lord Fox; Baroness Harding of Winscombe; Baroness Kramer; Lord Livingston of Parkhead; Lord Skidelsky; Lord Tugendhat; Lord Turnbull.

Evidence Session No. 1 Heard in Public Questions 1 - 9

Witness

I: Jesse Norman MP, Financial Secretary to the Treasury and Paymaster General, HM Treasury.

USE OF THE TRANSCRIPT

1. This is an uncorrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

2. Any public use of, or reference to, the contents should make clear that neither Members nor witnesses have had the opportunity to correct the record. If in doubt as to the propriety of using the transcript, please contact the Clerk of the Committee.

3. Members and witnesses are asked to send corrections to the Clerk of the Committee within 14 days of receipt.
Examination of witness

Jesse Norman MP.

Q1 **The Chairman:** Financial Secretary, welcome to the Economic Affairs Committee. We have just had a changeover in our membership, so some members are leaving and some people who were on the Finance Bill Subcommittee are still here, but we are not like the other place; we are very friendly.

**Jesse Norman MP:** I am dazzled by the number of members. I am glad that there is an institutional explanation for that. It is rather like coming to Mount Rushmore.

**The Chairman:** Thank you very much for coming. I will begin by asking the first question, which is about the sub-committee’s 2018 report. It concluded that the loan charge insufficiently discriminated between different intents and circumstances. Do you agree that some people who participated in disguised remuneration schemes were more culpable than others?

**Jesse Norman MP:** Let me start by saying thank you very much for accommodating me. It is a pleasure to be here. I should say that I speak with the accumulated expertise and knowledge of seven weeks in the job, so I hope that the Committee will aim off a little for my inexperience.

I have tried to use that time to undertake the pretty thoroughgoing process of getting my head around the different issues, in particular the loan charge. That has involved a lot of internal consultation and conversations with professional bodies, outside experts, the adjudicator, the Loan Charge Action Group and the APPG.

I do not think that the charge fails to discriminate. A legal process of this kind needs to treat people equally. It should be universally applicable; that is the nature of law. However, there are different sub-categories within the groups affected and it is important to understand who they are.

Evidently, there is a lot of public concern over this issue. That concern may bear on the relatively small number of people who are specifically adversely affected. Let me just say that, from the work that officials have done—I am reliant on officials at HMT and HMRC—we have seen that something like 50,000 people are affected by this, about 3% of whom are in healthcare or in education, which are often regarded as the most vulnerable groups.

Something like 250 different disguised remuneration schemes fall under the loan charge. I remind the Committee that this is a very contrived means of attempting to avoid tax, involving an offshore trust and a loan document that in many cases does not have a period of time associated with it, does not require interest, does not assess the creditworthiness of the person receiving the loan and, of course, does not require repayment.
That contrived aspect of things points to its status as a means of tax avoidance.

**The Chairman:** What is in my mind is the evidence that we heard of a case where a social worker was made redundant on a Friday and told by the local authority that she could get her job back if she participated in this scheme. Many years down the line, she—not the employer or the local authority—got a bill. That seems to me to be a completely different category of person from some investment banker with a big bonus seeking to avoid paying tax through some kind of employee benefits scheme. Do you agree?

**Jesse Norman MP:** Their situation is quite different. People may well have been gulled into taking on one of these schemes. Of course, it is inevitable that in a political process one will hear about those people. It is impossible not to be moved by that, and for all the right reasons. I suppose my point is that, as it appears, that percentage is very small.

**The Chairman:** It may be a small percentage, but if you have retired and no longer have an income, and you get a bill for £30,000, it is a catastrophe.

**Jesse Norman MP:** Yes, but it is also the result of a process in which you have signed a tax return that turns out to be involved in tax avoidance. You may have other mechanisms for seeking some form of restoration through a political process, but discriminating between different users is not necessarily a part of the tax system. If we applied a discriminatory mechanism between different users to other forms of taxation, we would probably run into trouble with the Committee for other reasons.

**Baroness Kramer:** I have just a couple of questions. We have asked for a distribution analysis, giving averages of the size of these finds, so it is very hard for us to see the actual pattern. I would argue that if you have the information to create an average, you have the information to give us a distribution. I do not know why that has not been forthcoming; it would be very useful.

Do you not agree that any interpretation by a reasonable person of the rules of cheating the taxpayer fairly would recognise the different circumstances of the two situations which the Chairman just described? Is it not therefore the responsibility of HMRC in its role of treating taxpayers fairly to take that on board and adjust its behaviour as a consequence?

**Jesse Norman MP:** We can discuss many things in relation to HMRC and the way it treats its customers. HMRC’s powers and the question of whether the correct balance is struck between general powers and the consent on which an effective tax system should properly rely are points for wider discussion by the Committee. I hope that we will discuss them in the course of the hearing.
In this case, as I said, HMRC and Ministers have sought to address this issue not by picking and choosing user groups—given that a class of people are covered by the loan charge and, it appears, were involved in disguised remuneration and tax avoidance—but by offering them lots of other support in the process. As you know, that support has included support from its customer service, a hotline and potential meetings with Revenue officials, as well as references to the Low Incomes Tax Reform Group, charities and voluntary community service organisations which HMRC funds outside itself, such as TaxAid, Citizens Advice and so on. It also includes specialist help for people who may be adversely affected. That is how they have in general sought to address the issue.

However, there are some things that government can do. In the next few days, I expect to announce a series of further clarifications that will help to settle some of the public concerns that have arisen in this area. They include: guidance to make it specifically clear, in relation to the loan charge, that HMRC will not seek to tax the same income twice; a more collaborative approach to communications with members of the public who may be affected by the loan charge, which draws on the expertise of the Chartered Institute of Taxation and the ICAEW; a commitment that HMRC will not apply the loan charge to a tax year where an inquiry was closed on the basis of fully disclosed information; and what is genteelly referred to as “additional flexibility” for individuals settling under the published terms who may be in genuine hardship.

It is important to say that where a person has no realistic prospect of paying tax due, HMRC will stop pursuit and leave any unpaid debt to be collected later only if those circumstances improve. That is in fact its current practice, but I do not think that is widely understood.

The Chairman: The point that you have just made about what you are going to change is greatly appreciated. It was of course one the recommendations in our report.

Jesse Norman MP: I very much took the report on board and read all the testimony that you received. As with all these things, there will inevitably be guidance to unpack, but that is the broad structure. I was reading it, because I wanted the language to be clear in the record.

Baroness Kramer: We really appreciate the fact that closed year has been separated out, but you will be aware that many people who did not have individual financial advice would not even have known the process by which to achieve a closed year. Many of the most vulnerable groups who are least able to pay will not be able to take advantage of that change in direction, although I appreciate very much the change in direction. Closed year is not a complete answer to the issue.

You spoke about trying to improve communication with the public. The kind of offers being made to people to settle have allowed something like only a five-year period in which to repay a sum of money that is way beyond their means. The pressure has been to sell homes, which you know many people have done. People have dissolved their pension pots,
leaving their families in an incredibly precarious situation.

I hope that you will look at the quality of the assistance programme, because in most people’s eyes it is a limited form of assistance. It basically allows death over five years rather than death over three.

**Jesse Norman MP:** I am not sure that is quite right. It slightly depends on whether people come forward in good faith and undertake not to do it again. Broadly speaking, the terms are set to vary as to circumstance. Of course, they are different now, because there needed to be an incentive for people to come forward earlier and to settle, as 7,000 people have done.

**Baroness Kramer:** Are you telling me that this very aggressive—

**The Chairman:** Baroness Kramer—

**Jesse Norman MP:** It is also important to separate the harsh public rhetoric from the reality of the situation. As I have said, if people cannot pay, they will not be pursued past the point where they cannot do so. I do not think that the Revenue has made anyone bankrupt as a result of the loan charge so far; that may in due course come. I think I am right in saying that it reserves the right to attach a charge to a property, but it does not demand that people sell a property to pay tax due. It is trying to behave as reasonably as possible while preserving the wider taxpayer interest. There is a separate, wider group comprising quite a lot of people, some of them repeat offenders, who are simply unwilling to pay the tax.

**The Chairman:** We need to move on; Lord Fox is keen to get in. On closed tax years, will that be applied retrospectively to people who have already settled?

**Jesse Norman MP:** I do not know the answer to that question. Let me think it through. The expectation is that if people can show that a year was closed on the basis of fully disclosed information, there may be scope for them to revert even where there has been a settlement. I will have to explore that and write to you. The point is that it is on the basis of fully disclosed information.

**Lord Fox:** Very briefly and without stretching the point, you said in your opening statement that your heart went out to these people having been “gulled” into this process. The example given by the Chairman was not of gulling; it was essentially of somebody being let go and then being told by an employer that they could come back, which is hardly the same as gulling. The people who did the gulling were the promoters of this scheme. It seems to me that they are the people getting off scot free. The amount of effort going into getting the individuals to pay is disproportionate to that going in to pursuing the promoters. Perhaps in this re-clarification process, that emphasis could also be changed.

**Jesse Norman MP:** I said that it was impossible not be moved by the specific facts of some cases, but that it was very important to separate
out the relatively small number of people who might be in that position from the very large number of people who might be hiding behind it. I did not want to confuse the two, mindful of the Committee’s concern that the Government should be sensitive to the differences between people who had been involved in disguised remuneration schemes.

I cannot comment on the facts of the situation, which is why it is important that there be scope and support for such people within the system. If they have a further claim of some kind based on natural justice, they should have a political opportunity to pursue it, but I do not think that is part of the tax system.

Q3 Lord Tugendhat: Based on what we have heard so far, I think you have shown that you understand the complexities of this, which go wider than finance and involve some difficult human problems. I have sympathy with HMRC, because its job is to collect tax on behalf of everybody. More normally, it is criticised for letting people off tax rather than bearing down too heavily on them, and this a very special case. It is so special that I wonder whether the Treasury, or more likely HMRC, assesses the impact of loan charge demands on the mental health of individuals. Are you able to take that into account?

Jesse Norman MP: If I may, I will come on to that in a second, but I realise that I did not respond to one aspect of Lord Fox’s question, on the contrast between employers and promoters. So far, of the £1.5 billion that has been recovered, I think I am right in saying that 85% has come from employers and 15% from individuals. The expectation on the Revenue’s side is that, by the time of the final reckoning, some 75% of the money will have come from employers and 25% from individuals.

It is true that the promotion of a tax avoidance scheme is not a crime; it is not illegal. The Revenue works very hard to bring promoters to book where they have broken the law. It also works quite hard to create circumstances that encourage promoters to obey the law. You will have heard of a recent case, the Hyrax case, in which the promoters have been caught.

If there is fraud, there is an opportunity to go after the promoters. If there is not, the new promoters of tax avoidance rules create a rather complex mechanism by which promoters can be caught, potentially given notice and ultimately named and shamed and possibly fined. That is intended to have a longer-term, disciplining effect. I think it has an early effect, because people can see it coming down the road. However, the Committee has expressed a proper concern in respect of the promoters. The difficulty is that in law it is hard retrospectively to go after these people.

On the point raised by Lord Tugendhat, it is very hard to see how a survey of mental health would be done. It is a perfectly proper question to ask. So far, we have the people who have settled, and there is another group who have not settled and are subject to the loan charge.
What I can say is that the Revenue’s officials have to deal with people who are concerned about paying tax and who may be in some mental distress every day. They have quite a sensitised understanding of the extent to which some of these issues may be the product of mental unhappiness or something of the kind. As I said, specific approaches in their customer services are designed to address those issues and refer them out to specialist agencies if needed.

**Q4**

**Lord Burns:** Can you take us through the circumstances in which the charge would fall on the employee rather than the employer? You said that the expectation is that it will be 75:25. What circumstances bring about the 25%, rather than it all falling on employers?

**Jesse Norman MP:** Of course. Let me make a wider point which the Committee has already noted. As you know probably better than anyone, it is part of the function of the Treasury and HMRC—as you know better than anyone, my Lord—to preserve the general taxpayer’s interest against specific lobbies trying to erode it. In a way, that is part of what may be happening here.

Typically, as you know, in an employer scheme there may well be an employer benefit trust or something of the kind. Money will have been lent to the individual through a vehicle. If the employer can be pursued for money, they will be, because this is a form of remuneration that could have been handled through PAYE with the appropriate tax, and it is a matter of public record who the employer is. If that employer has gone bankrupt or is otherwise unavailable for being sued, rules under the PAYE legislation allow the individual to be pursued for any tax that is owing. That is a well-established part of the tax code.

**Lord Burns:** Does that mean, therefore, that none of these cases apply to people employed by public authorities or public service bodies, because they presumably have not gone forward on that basis?

**Jesse Norman MP:** I am not aware of a circumstance in which a public employer has paid via a disguised remuneration scheme, and I am open to being corrected by the members of the Committee or others on that. There is a widespread suggestion that public authorities may have used contractors, promoters or other intermediaries. Of course, that runs up against the wider problem of recovery from those people.

**Lord Turnbull:** You said that you are not aware of any cases where public authorities have been involved in this, but the Chairman gave you a precise example of that.

**Jesse Norman MP:** I am sorry. Can you clarify? We are talking about acting as an employer.

**Q5**

**Lord Turnbull:** We need to know whether any public sector employers are engaged in the practice of moving their staff to different contractual terms and taking advantage of these schemes. A very specific case of exactly that is quoted in our report and concerns a local authority. If public authorities are involved in this, there should be a generalised
instruction from the Treasury saying, “You as employers have to settle this”. We were told that twice by Lord Young in a debate.

Let me be clear: you say that HMRC will seek to collect the loan charge from employers in the first instance, but that if they are public sector employers they should take it upon themselves to settle these matters. Are HMRC and the Treasury telling any public authority engaged in this matter that it must settle it in the first instance?

**Jesse Norman MP:** I do not think we agree about what the Chairman described. I do not think he was describing a context in which a public employer pays an employee via a disguised remuneration scheme, which would allow pursuit from the employer. I think he was referring to a situation in which a person is nudged into a disguised remuneration scheme run by a third party rather than their local authority or employer. Those are different situations.

Part of the problem is that in those circumstances you cannot pursue the original employer, although in some respects its goal may be being discharged.

**Lord Turnbull:** That is sophistry. The social services department in borough X said, “We have decided that staff who are currently our employees will no longer be directly our employees. They will be dismissed and told that they can come back and work for borough X, but they will be sponsored and paid for by some other party”.

To my mind, that still makes them employees of borough X, which still has responsibility because it took the initiative to save itself tax as much as it did to save tax on the part of the employee.

**Jesse Norman MP:** Has the Committee had any evidence from a public authority that has deliberately used or benefitted from tax avoidance in this way?

**Lord Turnbull:** We had evidence from someone whose terms had been unilaterally changed and fought over, which is why Lord Fox rightly objected to the term “gulled”. These people were not gullied, they were dragooned.

**Jesse Norman MP:** The suggestion is sometimes that people have been gullied and that most of the others have been dragooned. My point is much simpler. Of course, I am very open, as I am sure the Treasury is, to cases you may know of where the local authority or another public body may have deliberately employed a disguised remuneration scheme or procured to move staff into such a scheme to benefit from tax advantages.

I do not think that is what typically has happened. Typically, a local authority has been approached by a third party saying, “We can supply some work needs that you may have. Leave it all to us”. It may have done so; in that instance, people may not have been employed but may have been remunerated in this way.
The Chairman: We might arrange for the clerk to send you all the correspondence and evidence that we have had on this. It concerns not just local authorities; there are suggestions in some of the evidence that it covers health authorities and others and that the motive was simply to save.

Jesse Norman MP: Are you saying that the local authority’s motive was to use tax avoidance to save money?

The Chairman: No.

Jesse Norman MP: That was the case that Lord Turnbull was essentially making.

The Chairman: What he described as sophistry was the distinction that you were making: that the employer becomes some kind of outfit.

Jesse Norman MP: But that is the legally relevant distinction. It is not sophistry.

The Chairman: It is indeed, but we are looking at it from the point of view of the individual who, 20 years down the line, gets a tax bill and who was encouraged—indeed, pretty well dragooned—into doing this. When, in response to our debate, the Minister gave that undertaking, I think we were entitled to assume that we would go back to the local authority or employer who was responsible.

Jesse Norman MP: Do please send me the information. I would be very interested to see it. I am sure that Lord Young was right. Certainly, my investigation has confirmed that wherever possible the Revenue seemed to go after the employer.

The Chairman: This has sparked a lot of interest from the Committee.

Viscount Chandos: Can I follow up on Lord Tugendhat’s question on mental health? If I understood you correctly, I am concerned that you seemed to suggest that it was not feasible to track mental health.

I should declare one of my interests in the Register of Members’ Interests: I am the independent director of the Credit Services Association, a trade association for the consumer credit collection industry. In that industry, where millions of debts are collected every year, there is a regulatory requirement to track mental health, affordability and so on, as you know, and a self-regulatory imposition through a code of practice.

The announcement last month of the breathing space scheme contained the welcome statement that central and local government would be included. So it seems to me that, for 50,000 people as opposed to millions, you should be able to track mental health issues extremely easily.

Jesse Norman MP: Thank you for that. May I just ask a point of information? Does the industry that you describe use surveys to establish
mental well-being?

Viscount Chandos: No.

Jesse Norman MP: I was asked whether HMRC had done a survey. That was the reason.

The other thing I would say about the 50,000 is that it is precisely the point that the Revenue is not precisely sure who these people are. They have to come forward and self-identify as part of the loan charge process, so getting what you might call a neutral basis on which to make a survey is rather difficult. That is certainly the impression that I have had from talking to officials.

Viscount Chandos: But it should not require a survey. It should be part of the process of assessing people’s ability to pay, taking into account mental health and other issues.

Jesse Norman MP: I think that we are on exactly the same page. When the Revenue talks to any taxpayer, its staff are trained to recognise sources of anxiety, distress and potential lack of well-being, and this would fit into that picture as well. One can argue about whether it is doing that well enough, but that is part of the picture. As you might imagine for an organisation that has as many potential payers as it does, it has a lot of experience in this area.

Baroness Bowles of Berkhamsted: I want to follow up in much the same way. Going back to what Lord Turnbull was talking about, you seem to have said that local authorities do not have to do due diligence. I think that would be a very bad thing.

Jesse Norman MP: I have not said that at all. When did I say that?

Baroness Bowles of Berkhamsted: Well, in the sense that if someone is offering them services, they do not have to investigate what dodgy practices those services come from. I will leave the thought hanging there that local authorities are not absolved from the actions that they take simply by having done it through a third party. You may be saying—

Jesse Norman MP: I hope it is perfectly clear that I have never said anything of the kind.

Baroness Bowles of Berkhamsted: The chain of legal liability might not have been continuous, but I still think that the moral responsibility must rest with local authorities that did that.

I want to pursue the mental health issue. From the APPG we have text evidence—I understand that HMRC confirmed yesterday that the texts are genuine—of, in effect, daily harassment of individuals asking them questions about their businesses and their personal lives, with the HMRC texter saying that she was a trained counsellor, forwarding the numbers for the Samaritans and even asking the Samaritans to call, and then, when the person thinks of doing an IVA, dissuading them from doing that so that HMRC can collect the money. Advising on whether or not you
should do an IVA is financial advice, and I do not know whether the HMRC collectors are skilled financial advisers. Maybe the Financial Conduct Authority could look at that.

So there is obvious evidence of severe pressure being applied by HMRC, and probably severe pressure on the people who are having to do the collection to behave like that. I would not find behaviour like that coming naturally. How are these people being incentivised such that they will operate in such a way? Are there bonus schemes?

**Jesse Norman MP:** You have raised a series of issues. Let me respond to them.

I have not for one second suggested that local authorities are not morally culpable in situations where they may have failed to check whether someone is taking on employees and acting in an abusive way. It is quite wrong to suggest that I have said anything of the kind.

The question that was being addressed was the meaningful distinction, from a tax-collection standpoint, between promoters and employers. I gave you a pretty full description of the distinction. I was pulled up on it by Lord Turnbull and I pointed out that, although he might consider it sophistry, there was a legal distinction. That is what we were talking about.

You have then raised the question of HMRC badgering and called it evidence. It may be evidence of something, but I do not think it is anything more than one data point in a much bigger picture about the status—not that it is unimportant; it is obviously very important and deeply meaningful to the person concerned and, if true, of course it should be referred to the appropriate authority. If there is malpractice or abuse—this may be abusive behaviour by some public official—they should be pursued for that.

However, one would have to see a much wider suite of evidence to believe that it was evidence for a more generally oppressive approach. A lot of the evidence that I have seen—equally anecdotal, from talking to different people and looking at different cases—is that actually the Revenue is bending over backwards to try to get better at improving the way it deals with taxpayers. In part, I think that is because of the work of this Committee; I think it understands that the hot breath of Parliament is behind it and its officials, who are very public-spirited individuals, are concerned that they may have overbalanced a little. It is important to put those records straight.

I cannot comment on the compensation arrangements for officials at the Revenue. There are set, agreed public targets for revenue collection based on the way in which the tax base is changing, and in general they perform very diligently in attempting to meet those targets.

**The Chairman:** Perhaps Baroness Bowles might let you have a copy of that material, if you would like.
Jesse Norman MP: I am very happy to see the material, and I can assure you that I will make sure that officials pursue it.

Baroness Bowles of Berkhamsted: Some of it is already in the public domain—it has been tweeted—but I have kept names out of it.

Lord Turnbull: You said there was a distinction between someone being directly employed and working for a council or through an intermediary. The whole point of this case is that the Inland Revenue is claiming that there is no distinction and has succeeded in getting the courts to rule that this attempted change of status has not changed the tax position. It is because there is no distinction that the whole thing arises.

Jesse Norman MP: Sorry, I thought we were discussing the status of the employer versus the promoter. There is a distinction there. From the recipient’s standpoint, the Revenue’s position, as you know, is that if someone is paid in this contrived way via a disguised loan scheme, that is remuneration. Although it bears on only part of the case, that was the finding in the leading case in the Supreme Court.

Lord Turnbull: That is what I am saying. I think the phrase that the Inland Revenue uses is that this attempt to move people into a different tax status has proved to be invalid.

Jesse Norman MP: I think we are talking at cross purposes. I do not disagree that if someone is paid via a disguised remuneration scheme, that is remuneration.

Lord Cunningham of Felling: Is there a rule in government that applies to all departments and agencies to say that in no circumstances will the departments employ contractors using a disguised remuneration scheme?

Jesse Norman MP: I am not aware of one.

Lord Cunningham of Felling: Do you think there should be one?

Jesse Norman MP: I certainly think there should be one. If there is not, it may be because existing custom and practice is already so clearly set against that form of compensation.

The more challenging question, which is linked to Baroness Bowles’s question, is in what circumstances in the past, or conceivably in the future, a public authority should be allowed to use a third party that is adopting or using one of these things, or whether it should be properly subject to a due diligence process that establishes whether it is doing so.

Lord Cunningham of Felling: So you cannot say that that state of affairs exists in Whitehall.

Jesse Norman MP: I do not believe it does, but I cannot say that it does not.

Lord Cunningham of Felling: What steps need to be taken to ensure that whatever has happened in the past is not repeated in future?
**Jesse Norman MP:** I do not think there is any evidence that a public authority has—

**Lord Cunningham of Felling:** No. I do not have any evidence. I was just asking you the question.

**Jesse Norman MP:** Right. So if there is no evidence of it, there may not be a requirement for steps. If there is any lack of clarity in public authorities about the importance of not having these schemes and of public authorities paying people in the usual way for that kind of work, that should be made clear.

**Lord Cunningham of Felling:** But I am focusing specifically on government here and government agencies, not other local authorities or agencies. You said that you do not know whether this rule of conduct exists. How would you find out?

**Jesse Norman MP:** I think I said that I did not think there was a rule, not that I did not know, so the question of finding out does not arise.

To take the NHS as an example, you will be aware of the evidence that some parts of it—it is a very large organisation—may have used contractors or intermediary organisations that use people as contractors and pay them in this way. If that were true, the public statements made by Ministers and the Revenue over the past three years would have made it perfectly clear that that was unacceptable in a public authority.

**Lord Cunningham of Felling:** Sure. I return to my question: how do we find out whether it has happened or is happening?

**Jesse Norman MP:** Are you asking whether there should be an audit or disclosure process whereby people are required to disclose whether any remuneration of this kind is being or has been undertaken by their contractors?

**Lord Cunningham of Felling:** The past is the past. There is nothing much that we can do about it other than to try to ensure that this kind of conduct does not happen again.

**Jesse Norman MP:** Of course.

**Lord Cunningham of Felling:** My question is how we can establish what is necessary to get to that point.

**Jesse Norman MP:** As you will be aware, the Revenue has sought quite vigorously to make the rules clear. I would be happy to take this away and look at whether there is scope or a requirement to promulgate further regulation or direction in government itself on this issue. But there can be no doubt, from the number of cases that have been pursued, the amount of press that this has achieved, the public communications that HMRC has undertaken and the ministerial statements that have been made, that the Government are in no sense
happy about this and that they would frown very seriously at it if they came across it. I do not think there is any evidence of it being done.

**Lord Cunningham of Felling:** Thank you. Will you write to the Chairman about whatever you discover?

**Jesse Norman MP:** If I may, I will take the thought on board and see where we come out. Then I will write to the Chairman.

**The Chairman:** We need to move on from the loan charge, but a few moments ago you indicated that you thought that there was evidence of this happening in the health service.

**Jesse Norman MP:** No. I think I said, “If there is evidence”. I have heard anecdotally of stories, but not actual evidence.

**The Chairman:** We record evidence. People who are faced with this problem have written to us with examples.

I am left with the feeling that much of the ire is directed at HMRC, but it was the Government who changed the law that enabled the Revenue to go back 20 years. The evidence that we have had is that many people declared it on their tax returns and made it clear that they were involved in these schemes, and no action was taken. Then, after they had perhaps retired and had no income other than their pensions, they were suddenly presented with a bill.

If there was evidence of a health authority or a local authority doing this, they did it to avoid employer’s national insurance, and I am left bewildered as to why it is the nurse who has retired who suddenly gets this bill. I understand the point that you made about the liability in law, but surely there is a distinction, is there not, between someone who does not understand tax affairs and is given an option by their employer and someone who deliberately uses the scheme.

Add to that the fact that the liability on the nurse or the local authority worker is calculated on the basis of total remuneration, which they might not have received because of the commission charges by the people operating the schemes—they get off scot free because they have disappeared or are offshore, or for whatever reason—there seems to be a fundamental injustice here, which in part has been created by the law that we passed and its retrospective nature.

**Jesse Norman MP:** I do not think it is retrospective. It is retroactive; it goes back. This is an imprecise analogy, but imagine that we were debating the tax base of a capital gain; we might well go back 10, 15 or 20 years to work out the original costs so that we could work out the uplift in value and therefore what the capital gain is. In a way, this is a parallel case. When we think about assets, we often look back to the past. So retroaction in that sense is not necessarily particularly strange, although I agree that the instrument is unusual.
The second point is that you as a Committee have repeatedly referred to the question of the person who might be in a public authority, such as a nurse or someone in a similar position working in the NHS. Such people represent 3% of the people we are talking about. That number of people is 0.2% of the number of taxpayers. Of that number of people, 30% stopped their involvement after one year because they were worried about the scheme.

The vast majority even of contractors, who are a bigger group in this area, decided not to take up these things. These choices were made by individuals. If we focus on just a tiny proportion of the iceberg, we miss the much bigger picture. The Committee ought to think about that as well as thinking, for all the obvious and proper human reasons, about the circumstances of a relatively small percentage of the whole.

**Q11**  
**Lord Skidelsky:** I agree with the Chairman that it is retrospective. Schemes that were avoidable at one time ceased to be avoidable under legislation passed subsequently. That does not seem analogous with your capital gains analogy. That is my first point.

Secondly, on the question of the case to which we have referred, does a person in those circumstances and in distress have a secure port of call? Do they have a telephone number or an address where they are told, "Look, if this is causing you a problem, ring us up and we will try to help and explain things"—in other words, an address that is not a robot but an actual person?

**Jesse Norman MP:** I do not think it is retrospective. It does not seek to open up any tax for liability that was not liable at the time. This was a disguised remuneration scheme, so the tax was payable at the time. If there had been proper disclosure, in many cases it would have been identified and pursued.

Yes, there is a specific telephone number, and yes, it is properly supported. It is just part of a much wider process of outreach. I do not for a moment suggest that HMRC is a perfectly oriented customer service organisation, by any means; you have heard evidence from the adjudicator, which perhaps we will move on to later in the conversation.

May I make one other point? If people settled before the loan charge became due, they did not have to pay the gross amount, including the fees. They could escape the cost of the fees. One of the tragedies of this whole argument has been that extreme aggression in fighting the loan charge has brought people who might have been much better-advised to settle early into a position of hostility with Revenue, when the one thing that HMRC would like is for them to come forward so that it can try to treat them on a fair and sensible basis.

**The Chairman:** Lord Skidelsky, I was hoping that you would take us away from the loan charge and on to the wider issues.

**Lord Skidelsky:** I am learning about this subject, so I am prepared mainly to listen and not to ask a question.
The Chairman: Lord Fox, I know that you wanted to come in. Would you mind leading us on question 4?

Q12 Lord Fox: I will do my duty.

Briefly, the comparison that you made with CGT seemed a little disingenuous to me, because when I bought my house 25 years ago, I knew that capital gains of some nature would be accrued on it, so I am not sure that I accept that as an analogy.

You made a point at the end about accepting the net number. Some of the people who were the least capable of making that decision have been affected the most by this. Would you acknowledge that the people who did not have access to good advice are generally the people who have suffered from not accepting and closing? They are the people who are being caught with a tax bill that is much bigger than it would have been had they paid it in the normal way. That seems unfair.

Jesse Norman MP: I do not know whether it is bigger than it would have been had it been paid in the normal way, but it is certainly bigger than it would have been if they had settled earlier on a net basis rather than the full basis of the charges.

Of course, this was a liability. I return to the contrived nature of this: this was a loan that was never payable, on which no interest was due and where no creditworthiness assessed. It was in no sense anything other than a contrived arrangement. People are ultimately responsible for settling their own tax bill.

Q1 Lord Fox: Thank you for that answer. My next question is away from this issue. Are you confident that HMRC enforcement activity receives appropriate external scrutiny?

Jesse Norman MP: That is a very good question. As you know, the Revenue has significantly increased its serious and complex fraud work, and enforcement is a very important part of HMRC. It is in the nature of enforcement work that it is harder to scrutinise, because it often involves personal cases and individual circumstances that cannot be the subject of proper scrutiny by Ministers. We are therefore reliant on tax commissioners and, as it were, internal procedures to ensure that enforcement is properly scrutinised. As you know, there is the Independent Office for Police Conduct to which cases can be referred. As an enforcing authority, HMRC is subject to that.

Lord Fox: Do you agree that, at a time when there are reductions in the number of people at HMRC but a requirement to collect more tax more quickly, there is pressure on those people to act in a way that is against what we would want them to do and that internal pressure is building on them that needs to be scrutinised.

Jesse Norman MP: I am not sure about that. It is very interesting that if you talk to HMRC officials, they do not communicate a sense of pressure
in the way you describe. They certainly have an impulse to recover tax due, because it is a highly operational department.

It is certainly true that increased enforcement has given that focus more emphasis. One reason for that is that people seeking to avoid tax have become massively enabled by technology over the past few years. They can now flee the country, they can operate from remote locations. When those locations are brought within international jurisdiction, they can move to other ones; they can co-ordinate with third parties; they can use communications to mislead. It is a fast-moving, complex and difficult situation.

**Lord Fox:** Which makes the pressure greater.

**Jesse Norman MP:** The Government have funded them quite extensively. My predecessors have written very substantial cheques to the Treasury to try to manage the process of helping them to improve all those activities.

**Q2 Lord Fox:** That is starting to answer the question that I was moving on to: what mechanics does the Treasury have to satisfy itself that HMRC is acting responsibly?

**Jesse Norman MP:** It is through processes of overall ministerial scrutiny, through transparency wherever possible in terms of aggregates, through support for the institution’s culture and through internal sharing of information that does not allow abusive practice to be located within any one part of institution.

**Lord Fox:** What markers would you look for that flagged up a problem? If you are scanning the behaviour of HMRC, what are you looking for?

**Jesse Norman MP:** Could we zero in a little more on what kind of enforcement you are talking about—it is a very wide spread? Do you mean enforcement in respect of domestic tax evasion or of international VAT carousel fraud?

**Lord Fox:** Let us focus on the big job, which is getting tax from the majority of the people, rather than on individual causes célèbres; it is the day-to-day management of the relationship between HMRC and the majority of people in this country. What are you looking for when it comes to flagging up a problem or good behaviour?

**Jesse Norman MP:** Thank you. That is a very helpful clarification. I am looking for a whole raft of different things. First, I am looking for feedback on transparency and things like customer service statistics. As you know, the vast majority of tax in this country is not paid through any form of explicit enforcement; it is paid through self-assessment processes. That is becoming easier over time because of the digitisation of the relationship between the taxman and the taxpayer.

With transparency between both sides, the question of enforcement drops out of the picture, because you are able to say, "Actually, we don't
have to go after people. They are paying as they go across a much wider spread of different taxes”.

**Baroness Bowles of Berkhamsted:** I want to look at the justice system, because it appears that access to justice has diminished in the tax system in recent years. There were some recommendations in the sub-committee’s report which the Government have rejected. In one example, on having a right of appeal, it was said: “A right of appeal is considered as part of the policy process for all new powers introduced, and included where appropriate”. I can just see that nasty word “appropriate” appearing in some statutory instrument or whatever results.

The fact is that it is a simple policy choice to dismiss having an appeal process. When the sub-committee’s report was given to the Lord Judge, the former Lord Chief Justice of England and Wales, he said: “If the taxpayer questions an asserted tax liability, HMRC cannot be judge in its own cause. The imposition of penalties on those who wish to use the court system to establish that, contrary to the views of HMRC, there is no liability, fetters access to justice”.

When we have one of the former leading judges of England and Wales saying that this fetters access to justice, it is an issue to be taken seriously when there is no access to appeal rights. It seems that individuals are very quickly put on to an escalator with follower notices and accelerated payment notices.

I understand the concern about the clever people with their advisers who can game the system, but, again, you cannot put everyone at risk just because there are some clever clogs out there who can do that. There needs to be some recourse to justice. HMRC making up rules and being judge and jury over everything just does not seem the sort of natural justice on which this country normally likes to pride itself.

**Jesse Norman MP:** Thank you very much for the question. You will understand that accelerated payment notices and follower notices are miles removed from the experience of the vast preponderance of taxpayers. We are not talking about the vast majority of taxpayers; we are talking about a specific set of taxpayers.

Lord Judge’s intervention in that debate was extremely powerful. I watched the debate and saw the intervention. I have agreed with HMRC that it will take his suggestion seriously, and, following proper consultation and internal discussions with the MoJ, it will revert to me, if I am in post, and certainly to the Committee with an analysis of how that concern can be addressed.

It is obviously a foundational matter of the rule of law—my father-in-law wrote a book on the rule of law—that no one should be judge in their own cause. That goes back to the origins of natural law; you find it in Hobbes and the rest of it.

In the case of Lord Judge’s specific suggestion, you will recall that he argued that a leave requirement should be introduced if a taxpayer
wished to take proceedings and the case did not have merit. In those circumstances, the taxpayer would need permission from a court. That is a perfectly proper judicial response.

A lot of different aspects of access to justice are to be observed here. The trouble with Lord Judge’s suggestion is that it could increase the amount of litigation enormously. It would be expensive, it would require lots of submissions to consider applications, it would probably lengthen the process and it would allow scheme users to retain their cash-flow advantage for longer.

I also worry that it would turn the First-tier Tribunal from a relatively quick, simple and inexpensive route into something slower, more complicated and more expensive, when one of the joys of the tribunal is precisely that it has that capacity. I do not want to nobble that. There are genuine issues in taking what Lord Judge says in the terms in which he suggested it, which is why I have asked officials at HMRC and the Ministry of Justice to have a proper think about it and come back to us.

The issue that is raised is right. It is not in the interests of the public more generally for well-organised, well-funded people to be able to gum up the whole system. That is a risk. The difficulty, from a natural justice standpoint—just as much as it is from a rule-of-law standpoint—is balancing the individual circumstances of the case and the proper respect to be paid to the individual with the wider public interest in not allowing the system to be gamed.

**The Chairman:** May I follow on from that? I do not recall precisely what Lord Judge said, because I do not have it front of me, but I know what he said in his evidence to the Committee. His suggestion that you should go to a judge was to get around the problem that if you seek to challenge it you could be subject to a 50% or 60% additional payment, so it is a tax on justice. I do not think that he was focusing on that in particular as a solution. I think he was saying, and the Committee felt, that it must be wrong that someone who feels that they have a genuine case cannot have their day in court without facing a 50% or 60% penalty.

That is the case with follower notices in particular. Let us say that you and I have some scheme. You agree to go along with it, perhaps because you do not want your name in the paper or you do not want the hassle, and then I am told that because you have agreed I have to pay the money. I say, “That is ridiculous. I will go to court”, and you say, “You can go to court, but it will cost you 60% more if you do so”. That seems wrong. I am delighted that you have asked HMRC to look at it.

Equally, the Committee was very much aware of sharp people, as you say, gumming up the system and deliberately delaying things.

**Jesse Norman MP:** Often to the detriment of the people that the Committee is supposed to care about.

**The Chairman:** Exactly. We are very grateful for that response.
Baroness Drake: I want to push you a little on that point. You are asking the Revenue to look at this issue again. How do you balance access to justice with constraining poor corporate behaviour that abuses the appeal system? What is the Treasury view on the criteria that could be brought to bear in balancing those two tensions? Even though you have asked the Revenue to look at it, the Treasury will have a view on the criteria that would allow you to make that distinction.

Jesse Norman MP: That is an extremely interesting question. I have not reflected deeply on what the criteria would be, but I would certainly expect to be involved in consideration on the proper response to Lord Judge’s concern. I would expect that to be discussed within the Treasury.

As you can imagine, the Treasury’s concerns will be very much along the lines of those that have discussed in this Committee. It will be keen for there to be a proper sense of justice in the process and that there should be no drag on the appellate system for taxpayers. Obviously, it will also be keen to keep costs under control. There is a rather intricate balance to be struck between those different things. I would not expect the Treasury to have a more distinguished set of instincts or intuitions on this than the Committee, the MoJ or HMRC.

Baroness Drake: So it is open territory for the moment.

Jesse Norman MP: In a way, that is quite a good thing, is it not? Lord Judge has raised an important issue and the Committee has given it oomph, so we in government, quite properly, should think about it.

Baroness Kramer: This question follows the same theme in the sense that proportionality and justice lie at the heart of it. You will remember that HMRC extended the time limit for assessing offshore matters from four or six years to 12 where there was evidence that a taxpayer failed to take reasonable care.

How does that seem proportional to you? I say that with the human knowledge that for most of the people I know who have a holiday home abroad, or who worked abroad in their youth and have ended up with some assets or a bank account over there or have pensions coming in from that particular piece of work—certainly where the numbers are large—the chance of them having anything close to records going back 12 years to refer to, particularly since that was not a rule in the past, is exceedingly slim.

Jesse Norman MP: I think I am right in saying that a general feature of the tax code is that the period of time for which you must keep records is not always the same as the period of time over which a piece of recovery may legally take place.

Baroness Kramer: I understand that, but it does not make much sense, does it?

Jesse Norman MP: Again, there is a series of conflicts there. The number of cases in which there may be evasion is relatively small, so you
may have to go back 20 years. We cannot mandate people to keep records for 20 years against the possibility that they will be found liable.

The offshore case uses 2012-13, I think, as the anchor year. Every year thereafter is then added until you reach 12 years, so it does not bring in any new cases from before that anchor; it just requires people who know about it now to be sensitised to what the effects may be in case there is some form of tax assessment or action during that period.

**Baroness Kramer:** One of our concerns throughout, as you can see in the loan charge case, is that HMRC has tended not to act promptly in dealing with taxpayers but to find all kinds of rationale for delaying its activity.

Can you explain to me what underpins that particular approach? Why is pressure not being put on HMRC to act in a prompt and relevant way, rather than it having the opportunity to set issues aside for fairly long periods only to come in with the cavalry very much later?

**Jesse Norman MP:** Again, the difficulty is that we are now seeing the ramified internationalisation of different forms of potentially taxable behaviour. It is very far from always being possible for the Revenue to get the information it needs to do its job. You have to build in a series of safeguards against that. There are safeguards here, but the view has been that more time is required to give it the proper scope to collect the tax due.

Q6 **Baroness Kramer:** And it is not unrelated. Perhaps as a last question, I would like a comment from you. As you will know, last summer HMRC consulted on additional powers that would allow it to seek information from third parties like banks without first seeking the agreement of the taxpayer and, probably even more significantly, without the tax tribunal, and with no right of appeal.

Is this gathering of more power without appeal an undermining of the tax tribunal system and of the safeguards that it offers the taxpayer? Can you help us understand why you want to water down safeguards in this fairly significant and continuous way? We have now seen three or four examples of that. On these specific powers, how do you intend to follow up on the consultation?

**Jesse Norman MP:** There are two or three different issues there. One is that I do not think we are watering down the safeguards; it is a question of the appropriate way in which to meet the wider taxpayer interest in recovering tax due while giving the rule-of-law and access-to-justice concern proper weight.

It will not have escaped the eagle eyes of the Committee that the personal information notice legislation was not included in L-day. I have asked officials to take that back under consideration, in part because of the conversation that has been had in this Committee and some of the testimonies that we have received. We need to think more deeply about
how the different issues are to be traded off against each other and how the balance of powers versus discretion is to be properly exercised.

By the way, if I may say so I think the Committee should be delighted by that, because it is a change from the position that the Government took in its response.

**The Chairman:** This is the last question. I was going to leave it to the end.

**Jesse Norman MP:** I had not realised. I just wanted to flag that one issue. If this is the last question, I will get some other stuff in as well that I want to tell you.

**The Chairman:** With this Committee, you never quite know what the last question is. Baroness Drake, it is your question.

**Baroness Drake:** The offshoring question?

**The Chairman:** No, I was going to change the subject entirely to VAT and Maxing Tax Digital.

**Baroness Drake:** How is HMRC monitoring the impact of Making Tax Digital for VAT on small businesses? Could you share information on what the early results of that monitoring reveal?

**Jesse Norman MP:** Yes, I would be delighted to. If this is the last question, may I add some additional material that I think would be of some interest to the Committee after I have responded to it?

I have a couple of points. First, we are still some weeks away from the next so-called stagger date, which is 7 August. Something like 675,000 people have come through Making Tax Digital so far. There is a very fast rate of take-up now. You may have seen from advertising billboards that the private sector is now actively leading and engaged on this. As you know, there is a very wide array of software—some free, some expensive—that is designed to enable companies to respond to it, and those things are being vigorously promoted. Yesterday, we had 17,000 small businesses sign up to Making Tax Digital.

So it is early days. Historically, the Committee has expressed some concern about the cost to businesses. Officials assure me that they are seeing no reason to resile or depart from their original cost estimates, which were £109 to get set up and £30-odd a year thereafter, which I hope is some form of reassurance for the Committee. We will have to see how things pan out on 7 August, but it is looking cautiously positive.

**Baroness Drake:** What about the quality of the submissions filed? Do they feel MTD-compliant or is there significant room for manoeuvre in terms of—

**Jesse Norman MP:** As you will be aware, there are a series of ways in which the system can miscue and there are concerns within the industry. These are being addressed, I think relatively effectively. That is the
impression that I have. There is certainly no shortage of people coming forward to express where they have concerns, but they are a relatively small proportion of the whole.

You might expect, as you get closer to the deadline, that the harder-to-move cases are the ones that would come in late, which is why it is potentially encouraging that the number coming in seems to be going up rather than down on a daily basis. You asked about monitoring. It is being very closely monitored.

Baroness Drake: I do not know this answer off the top of my head: what percentage of the population that you need to bring in are those 17,000?

Jesse Norman MP: Over 1 million small businesses are subject to this, so 675,000 is a meaningful indentation. They fall into different staggers, if you see what I mean. I think the goal is to get to 80% by the due date, and HMRC has made clear that it will not be exacting any kind of punitive arrangements on companies that do not manage to make it by that date.

For those that do, there is some anecdotal evidence that the process of digitalisation elsewhere leads to productivity improvements that are potentially quite significant, so there might be a kicker effect on small businesses from the act of coming into the Making Tax Digital arrangement.

Baroness Drake: You are getting these results coming in and they are giving you a feel for the situation now. The Government stated that they would not extend Making Tax Digital to new taxes in 2020, but, with regard to readiness, what is what you are seeing doing to the Government’s attitude to extending it in 2021 or maybe later?

Jesse Norman MP: One thing that is important to bear in mind is that Making Tax Digital for VAT is a very different kettle of fish from Making Tax Digital for income tax. One of the things that I have said to officials is that it is really important for them to be advertent and properly detailed in reflecting on the lessons of the Making Tax Digital VAT process as they come to think about that. There is certainly evidence that the system was launched before it was fully ready, so there is a certain amount of catch-up on the fly retrospectively. Obviously we do not want that to happen in future.

Baroness Drake: So you would not say, on the evidence that you have seen so far, that the fact in itself that this is focused on VAT allows you to be confident that you can rush ahead in 2021?

Jesse Norman MP: A fair assessment would say that, the Chancellor having taken the decision to delay the next stage past 2020 and having extended the process somewhat and cut out those below the VAT threshold, the Revenue has done pretty well. However, let us see how it runs before the end of it.

Q8 Lord Livingston of Parkhead: This question is about Making Tax Digital
but actually it applies to a number of things. VAT is not unique to the UK. Are you aware of the extent to which we have looked around and asked, “Who else does this? Has someone already done it better? Are there lessons to be learned?”

A more generic question is the extent to which we look at other methods of operation—rather than at the tax policy itself—of other revenue authorities and see them as a way of testing whether what we are doing is right or indeed, occasionally, reasonable.

**Jesse Norman MP:** Again, that is a very interesting question. The Revenue has lots of international relationships, as you might imagine, because it is running part of an international tax system. It has very close relationships with particular tax authorities, and it routinely talks to and learns from them.

It also gets, and seeks to be, benchmarked, both at its own insistence and others’, against other taxing authorities around the world. It has its own consultants who come in periodically and run the slide rule over its own performance compared with others’.

What is really interesting is the context of some of the issues that we have been discussing of powers versus consent.

Of course, that tends to play out very differently in a different national context between one country and another, because so much of it is normative and therefore based on the particular circumstances of a country or society.

I would like to use this opportunity to crowbar in a couple of other issues that may be of some interest. First, because I feel as strongly as the Committee does about getting the issue of powers versus consent right, I have agreed with HMRC that it will work with the adjudicator to try to be much quicker about absorbing issues of complaints and making itself a much more complaint-friendly organisation.

I know the adjudicator rightly complained to you about that and has had concerns about that ethos of customer service for taxpayers—I use the phrase “customer service for taxpayers” advertently; I regard them as taxpayers rather than customers—and ensuring that those are properly reflected in operational policy and processes. The Revenue, of course, was going to be introducing digital services in order to improve ease of access for people who want to use the adjudicator’s service.

Secondly, and this goes to a point that Lord Fox made, I have agreed with the Revenue that it will establish a new professional standards committee that will advise the commissioners, including taking advice from a range of independent experts and considering the issues relating to the implementation of powers, so it will be operationally focused.

It will not consider individual cases; that is not its goal. Its goal is to sit above the individual case. In particular, it is not a means of reopening issues relating to the loan charge. It is designed to respect the concern
that parliamentarians and other authorities have had about whether the professional standards have been properly reflected across the institution. I have agreed with the Revenue that it will publish detail of the membership and terms of reference in the autumn.

The Committee raised the issue of powers more widely. It will recall that there was an extensive powers review between 2005 and 2012. I have agreed with the Revenue that that should be given what I call a post-implementation update. By that, I mean evaluating how the powers introduced since 2012 have played out in relation to safeguards and the concerns that we have discussed today, but also talking to their various stakeholders, taxpayers and various professional bodies. I, my successor or the Permanent Secretary to HMRC will write to the Committee in the autumn in relation to that work.

I do not think it is appropriate to have the full powers review that was requested by the Committee, given that the last powers review lasted until 2012. My own view is that these things should be once a decade or so, but it is absolutely appropriate to have a proper appraisal, a touch on the tiller, as to how those powers may have been used relative to safeguards since 2012. I hope that is of some interest to the Committee.

The Chairman: I think the Committee is very grateful for that. I do not know whether I should say that we hope you will still be in post, because I hope you might become Chancellor.

You have mentioned a number of initiatives. They have all been noted, but if you could bear to do so it would be really helpful, from the point of view of ease of access for people looking on the website, if you wrote to the Committee with the various points. We are extreme grateful for the way in which you have responded to the report and volunteered to come to the Committee in order to be subject to its questions, which are always polite but also quite sharp.

I said that was the last question, but I think Baroness Harding has a question arising from it.

Baroness Harding of Winscombe: I do. Thank you, Financial Secretary, for being so open with real initiatives. What we have been talking about this afternoon has done quite a lot of damage to HMRC’s reputation. I appreciate that only a very small number of taxpayers have been caught up in these processes, but some of the damage is just through huge numbers of people reading about this and fearing that they might one day get caught up in it.

In addition to the concrete recommendations or actions that you have just set out, what will you and HMRC be doing to help to rebuild that trust?

Jesse Norman MP: You go to the wider point. Let me be clear: I think HMRC is one of the best taxing authorities in the world. It is jam-packed with high-quality, dedicated professionals, and I have enormous respect for it. I had respect for its before I became ministerially responsible for
it—to the extent that any Minister is responsible for it—and my respect has got greater.

I also think that to some extent it has been the victim of some pretty orchestrated and energetic negative campaigning. I have tried to distinguish in testimony today between the deeper interest and some of the cases that, for obvious and good reasons, have grabbed the headlines.

The point I would make is that it is not the work of a single moment or a single set of decisions to rebuild. There has been a shift in the balance, which I do not think is enormously helpful, but I think HMRC is still widely respected. If you look at the numbers, you see that if anything the levels of complaint over time are going down, and public esteem is still very high. However, it is absolutely right for the Committee to have raised the possibility that if we do not act now, that potential basis of consent might be undermined.

I have been talking about the professional standards committee and more transparency—actually, I have not really talked about more transparency, but I will happily write to the Committee on that—in talking about the different forms of respect for the rule of law, Lord Judge, personal information notices and the rest of it. That is all part of a concerted attempt by me, with HMRC and other Ministers, to try to start to redress that balance. I am here, because I feel strongly that this Committee is the right place, given the work that it has done on powers, to bring those results and ideas to.

As the Chairman has asked, I will write to him. As I have said, I also expect to be writing to colleagues and giving a Statement to the House more widely that captures some of the detail of this, and which will also be more publicly accessible.

Lord Fox: Hopefully, the letter will cover that which I was seeking.

The Chairman: Excellent. Financial Secretary, we thank you again for your courtesy in coming to us, taking our suggestions on board and responding to our questions so carefully and with consideration. That is very much appreciated.