

The livelihoods of incorporated rental property business owners and the vital services of [Property118.com](https://www.property118.com) are at risk.

We need your support to stand up against HMRC's unjust actions.

BACKGROUND

In February 2024, HMRC issued Scheme Reference Numbers (SRNs) to Property118 and its clients under the Disclosure of Tax Avoidance Schemes (DOTAS) legislation. Industry professionals have likened this to placing a "KICK ME" sign on the backs of these businesses and their owners.

Property118 swiftly appealed HMRC's decision to the Tax Tribunal on 5th March 2024, arguing that the recommendations made by Property118 did not provide any tax advantages beyond those intended by legislation and HMRC's extra statutory concessions established over 50 years ago. HMRC was copied into the full details of this appeal on the basis that this would give HMRC more time to reconsider its position and to avoid delays due to the Tribunal having a two-month backlog of work.

On 10th May 2024, the Tax Tribunal finally gave HMRC 60 days to make a "Statement of Case" to justify their actions. One would expect HMRC to respond promptly, especially given that Property118 informed them of the appeal shortly after it was submitted. If HMRC truly believed they had good reason for issuing the SRNs, why did they subsequently apply to the Tax Tribunal Judge to delay to present their case?

Worse still, HMRC wanted to split our Appeal into two separate cases (even though the arguments are largely similar) and double the legal costs for our appeal.

By the deadline of 9th July 2024, HMRC would have had almost five months to justify its actions. Instead, their solicitors have used delay and procedural tactics that drain Property118's resources, preventing us from assisting other landlords and incurring additional legal costs, further depleting our financial reserves to dangerously low levels. The outcome of this is that as of 1st July 2024 the Tax Tribunal Judge issued new directions granting HMRC a further 60 days to submit their Statement of Case.

In summary, HMRC have got their way and managed to 'kick the can down the road' yet again. Assuming they don't manage to delay the justice process even further it will have been well over six months by the time they provide proper justification for

their actions. This is badly impacting our ability to remain in business. This is because we (and all other professional advisers) cannot, with a clear conscience, assist any other landlords to incorporate as a result of the uncertainties created by HMRC's actions.

HOW YOU CAN HELP

We are raising funds to ensure Property118 has the necessary resources to see this legal battle through to the end. Justice can only prevail if we have the funds to continue fighting against HMRC's unfair litigation practices.

Your support will help us to:

- Cover ongoing legal expenses
- Sustain our operations and support services for landlords
- Challenge HMRC's unjust actions and seek a fair outcome

Join us in this critical fight for fairness. Every contribution makes a difference and brings us one step closer to justice.

Please visit our Just Giving page to donate now and help us protect the financial well-being of UK landlords and the essential services provided by [Property118.com](https://www.property118.com).

WHAT ARE THE IMPLICATIONS OF NOT RAISING ENOUGH MONEY?

The implications of us not getting this right almost don't bear contemplating.

Our biggest fear, if we are unable to raise enough money to see this fight through, is that all our incorporation clients will be permanently branded as tax cheats - the repercussions of this will be disastrous for them.

The likely outcome, we believe, is that HMRC will use the same "divide and conquer" tactics that they have used so far; they will be able to go back 20 years and pick off each and every one of our clients one-by-one, investigate them for tax avoidance (even if they have been through an investigation previously) and potentially charge them life changing amounts of tax that they should not be paying, such as CGT on the full capital gains crystallised at incorporation.

It could get even worse than that; HMRC could try to make the property rental company pay tax on mortgage interest payments paid by the company owner.

If we don't maintain an orchestrated, coherent defence strategy, our clients could be left to fight these battles alone. HMRC has all the time and money in the world to fight any number of legal battles - battles that could end up costing our clients hundreds of thousands of pounds in legal fees and extra tax.

We can't let this happen ... but we need your help to ensure that it doesn't.

LESSONS LEARNED FROM MARK ALEXANDER v WEST BROMWICH GROUP ACTION

While we could never have predicted this current set of events, we have been through a complicated legal battle before, for the benefit of our members and the wider landlord industry ... and we won. While the group action was taken on behalf of **400+** Property118 members (the Property118 Action Group), our success was estimated to benefit more than 6,200 of West Brom's BTL mortgage holders and thousands more BTL mortgage holders generally.

Here's a few lessons learned from that case.

1. **Get the best possible legal counsel:** Mark Smith of Cotswold Barristers did an excellent job of preparing the case and making the original arguments to the Court. Nevertheless, we knew that we would need serious legal clout to ensure our victory at the Court of Appeal, so we engaged Michael Ashcroft QC.
2. **These battles are rarely won at the first round:** It's important to prepare for more than one round in Court. The First Tier Tribunal (FTT) is unlikely to make decisions that require clarification or a change of legislation, so it's wise to prepare for appeal at the Upper Tier Tribunal (UTT). A very good example of this is the case of Elisabeth Moyne Ramsey v HMRC, in which Mrs Ramsey lost her initial court case at FTT, only to have the FTT's decision overturned by the UTT.
3. **Crowd funding is essential to ensure that the costs per individual are as low as possible:** Our group action case against the West Brom was only made possible by using crowdfunding to raise the funds that were necessary to see the battle through to victory. Without crowdfunding, our case would never have made it past the first hurdle.

WHY DIDN'T WE CONSIDER THE RISK OF THIS HAPPENING?

That's a very good question.

The simple answer is that we could never have predicted someone like Dan Neidle, with his incredibly biased, left-wing, anti-landlord agenda, having anywhere near the sort of influence over HMRC that he appears to have.

The more appropriate answer is that we have always followed the letter and spirit of the legislation, as well as the guidance in HMRC's manuals when working with our clients. Therefore, we could never have predicted that HMRC would take the position they have, that our guidance constitutes tax avoidance, given that nothing we recommend results in any tax advantages beyond those intended by legislation and HMRC's extra statutory concessions.

HOW MUCH MONEY IS NEEDED?

The best legal advice doesn't come cheap. The hourly rate of Felicity Cullen KC is £1,250 + VAT, and she works with Barrie Akin, whose rate is £850 per hour + VAT. In addition, we have agents/solicitors whose fees range from £450 to £650 per hour + VAT. Every £100,000 raised buys just over 42 additional hours of this level of legal support. We may need to raise significantly more than that!

WHY IS COTSWOLD BARRISTERS NOT DOING THIS LEGAL WORK?

There are two main reasons:

1. **Horses for Courses:** Cotswold Barristers have no practical experience in defending DOTAS cases.
2. **Conflict of Interest:** There is an old adage in law which says "any lawyer that defends himself has a fool for a client."

FUNDING TO DATE

Since September 2023, when Dan Neidle first attacked the business and subjugated HMRC into following up, all of the expenses listed above have been funded out of reserves accumulated from income earned as a result of helping landlords. This has only been possible due to our extremely conservative financial management policies. However, our reserves are now close to being depleted. Our competitors have openly commented on Social Media that they cannot understand how we have managed to remain in business!

THE PLAN

The good news is that if all affected landlords were to chip in just £2,000, that would produce a fighting fund of circa £900,000. It may even be possible to top £1,000,000 if other Property118 members and industry professionals agree that this fight is too important to their clients and the whole tax planning industry to ignore. If you can afford to chip in more than £2,000 you can be assured that it will be very much appreciated and put to good use.

That level of funding should cover the legal defence costs regardless of any further dirty tricks HMRC decides to play.

Aside from maintaining the operations of Property118, my two biggest concerns are:

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1. HMRC might decide to decline the Discovery Assessment Appeals and force us all to take those to the Tribunal too. If that becomes the case, it makes sense to have the best possible legal representation fighting for us all, i.e. Felicity Cullen KC and her team. It could also be argued that Cotswold Barristers might become both conflicted and overwhelmed if HMRC were to decide to proceed down that path.
2. My second concern is that even if the Discovery Assessments are cancelled, HMRC's next move might be to argue that they have the right not to apply their extra-statutory concession ESC/D32 to disregard existing finance taken over by the company as a taxable consideration. That could result in HMRC being able to issue yet another Discovery Assessment for CGT based on the liabilities taken over.

We also need to keep Property118 operating with virtually no income at least until we are all completely vindicated. There are significant costs associated with this.

Our servers process around 3.25 million page impressions a month, and we send around 1.5 million emails, including newsletters and comment notifications. The costs associated with this, plus cyber security and our outsourced web management team amount to around £15,000 a month. We also have salaries to pay for three administrators and three further members of staff who work in combined roles as researchers/journalists/editors, amounting to a monthly payroll of £13,272. Including other usual business expenses of £4,032 per month (such as software licenses, accounting, internet and phones, printing, postage, stationery, events, travel, etc), our basic running costs total around £32,304 per month.

THE FUNDRAISING STRATEGY

We plan to make the fundraising campaign viewable to the public once we have exceeded an initial fundraising target of £100,000. We will then promote it on social media and the main Property118 website. We hope other Property118 members will support the campaign, even if they are unaffected by the SRNs, because they value the resources provided by the Property118 website. Furthermore, we hope that other professionals operating within the tax and legal sector will also support our fundraising campaign as a result of recognising how the uncertainties created by HMRC's tactics could also impact their businesses unless they support our actions.

To make a donation, please click on the link below:

[Make a Donation](#)