

Funding the Future

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Those who are supporting Jimmy Carr (and others) argue that because what he's done is not illegal it's OK, so there's no reason to condemn what he's done.

There are three responses. The first is that there are many things that are legal which are clearly wrong and so immoral. Over time let's just mention slavery, apartheid, sex discrimination which were legal and all morally wrong whilst homosexuality was illegal and that illegality was morally wrong. Let's not ever presume the law is a guide to what is right and wrong.

Second, there's the fact that there is common law which can be, and often is, used to attack tax abuse. It's the law on cheating. [http://en.wikipedia.org/wiki/Cheating_\(law\)](http://en.wikipedia.org/wiki/Cheating_(law)) summarises it. As that notes:

*In most cases the codified statutory form of cheating and the original common law offence are very similar, however there can be differences. For example, under [English law](#) it was held in *R. v. Sinclair* [1968] 3 All 241 at 246 that "[t]o cheat and defraud is to act with deliberate dishonesty to the prejudice of another person's proprietary right." However at common law a great deal of authority suggested that there had to be contrivance, such that the public were likely to be deceived and that "common prudence and caution are not sufficient security against a person being defrauded thereby".*

The Revenue often prosecute people for cheating. They're right to do so.

Third, let's be clear; Carr can't say that this scheme is legal. What it does is exist in the spaces between the law. By exploiting company law, trust law, contract law and tax law in more than one jurisdiction the scheme seeks to get round what is the law - to pay tax on income. Is that legal? Who knows? Is it illegal? Again, who knows? It simply hasn't been tested yet.

So on the "it's legal" argument the best we can say is maybe it is, but no one can be sure.

And what we can also say is maybe it isn't legal, but we don't know.

In other words at best the legality of this planning is uncertain.

But what we do know is that it's immoral and that's because its objective is to cheat. And cheating can itself be illegal.

Not a great basis for doing something, is it?