House of Commons

Treasury Committee

Economic impact of coronavirus: Gaps in support: Further Government Response

Fourth Special Report of Session 2019–21

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The Treasury Committee

The Treasury Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of HM Treasury, HM Revenue and Customs and associated public bodies.

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Publication

Committee reports are published on the Committee's website and in print by Order of the House.

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You can follow the Committee on Twitter using @commonstreasury.

Fourth Special Report

The Treasury Committee published its Second Report of Session 2019–21, *Economic impact of coronavirus: Gaps in support* (HC 454), on 15 June 2020.

A Government Response to that report was sent to the Committee by the Chancellor of the Exchequer, Rt Hon Rishi Sunak MP, on 15 July 2020. The response was reported to the House by the Committee and published on its website on 20 July 2020.

A further Government response was received from the Chancellor on 13 August 2020 and is published as an Appendix to this Report.

Appendix: Further Government Response

Response to the Annex

Employed People

Employees who were made redundant before 28 February are not eligible for inclusion within the Coronavirus Job Retention Scheme (CJRS). (1)

Employees who started a new job in March, but whose employer had not notified HMRC of that individual's employment using the Real Time Information (RTI) system by 19 March, are not eligible for the CJRS. This will affect the many companies that do their monthly payroll after 19 March. (2)

If an employee was made redundant after 28 February, but before 19 March, they will only be eligible for the CJRS if their previous employer agrees to re-employ them and place them on temporary leave. If their employer does not agree—for whatever reason—the employee will not be able to receive furloughed support. (4)

Workers employed by an individual—for example as a nanny or an au pair—may not be eligible for the CJRS if their employer does not use HMRC's RTI system. (7)

It has not been possible to include those for whom HMRC had not received an RTI (Real Time Information) submission notifying payment in respect of that employee on or before the 19 March, either because they were not on their employees' PAYE payroll or because the submission had not yet been made.

The Government has felt under a strong obligation to prioritise help for the greatest number of people as quickly as possible. The scheme has already supported millions of people to remain employed. Given this, the CJRS has had to be set up to operate at significant scale and with limited manual intervention. Extending the cut-off date beyond 20 March would significantly increase the risk of abuse because claims could not be confidently verified against the risk of fraud using the data after this point, when the scheme became public.

The Government is also supporting people on low incomes who need to rely on the welfare system through a significant package of temporary measures. This includes a £20 per week increase to the Universal Credit standard allowance and Working Tax Credit basic element, and a nearly £1 billion increase in support for renters through increases to the Local Housing Allowance rates for Universal Credit and Housing Benefit claimants. These changes will benefit new and existing claimants. Anyone can check their eligibility and apply for Universal Credit by visiting: www.gov.uk/universal-credit.

Workers who started and ended the same contract between 28 February 2020 and 19 March 2020 are not eligible for CJRS. For example, a freelance worker who works through PAYE who took on a job between these days but who has subsequently not received any work will not be eligible under the furloughed workers scheme. For freelance workers it is very common to work on a series of very short jobs. If they were not working on a contract that straddled either of HMRC's cut off dates for RTI submissions (28 February and 19 March) they would not be eligible for the CJRS. We received many submissions from freelance workers in such a position. (3)

We have prioritised helping the greatest number of people as quickly as possible. The scheme is available to all employers with a PAYE system and all employees on PAYE regardless of their employment contract. The scheme has enabled millions of people to remain employed.

Those unable to access the CJRS or SEISS could look for support from the many measures we have launched to make sure people get help at this time. The Government has ensured people who needed it received help with their utility bills and had access to mortgage and consumer credit holidays. To make sure we reached the most vulnerable, the Government gave local councils an additional £500m to provide all recipients of working age local council tax support.

Our support for businesses has reached millions of firms, paying out over £70bn in loans and grants. This includes through the Small Business Grant Fund, business rates holidays, Bounce Back Loans Scheme, Coronavirus Business Interruption Loan Scheme, tax deferrals for VAT and Self-Assessment, preventing commercial tenants from being evicted, the Statutory Sick Pay Rebate Scheme, the Future Fund and more besides.

Underpinning all these measures the Government provided extra funding for the welfare safety net, to get us through the outbreak and help those unable to access other forms of support.

The temporary welfare measures include a £20 per week increase to the Universal Credit standard allowance and Working Tax Credit basic element. We increased the Local Housing Allowance rates for Universal Credit and Housing Benefit claimants and relaxed the Universal Credit minimum income floor. On top of this we made Statutory Sick Pay easier to access, payable from day 1, rather than day 4, and extended to those ill, self-isolating or social shielding due to COVID-19.

Employees placed on the CJRS are not allowed to work. Therefore, an employee is not eligible for financial support under the CJRS if their working hours are only halved, rather than reduced entirely. (5)

Since 1 July, employers can now bring back to work employees that have been furloughed for any amount of time and any shift pattern, while still being able to claim CJRS grant for the hours not worked, and there is no minimum furlough period.

Companies cannot place their employees on the CJRS if they make annual rather than monthly data submissions to HMRC. Interlinking with this restriction is HMRC's 19 March RTI cut-off date. Many companies run their annual payroll in the last month of the tax year, the last week in March. Were annual submissions permissible with CJRS, the companies who make their submissions in the last week of March would be excluded because of HMRC's 19 March deadline. In combination, the requirements of monthly submissions, and the submission to take place on or before 19 March, are not compatible with many companies' business practices. (6)

Those paid annually are eligible to claim under the CJRS, as long as they meet the relevant conditions. This includes being notified to HMRC on a Real-Time Information (RTI) submission on or before 19 March 2020, which relates to a payment of earnings in the 19/20 tax year.

The requirement for there to be a payment of earnings in the 19/20 tax year applies for any employee being claimed for under the scheme, irrespective of how frequently they are paid (e.g. weekly, fortnightly or monthly).

We have prioritised helping the greatest number of people as quickly as possible. The scheme will enable millions of people to remain employed. The CJRS has had to be set up to operate at significant scale and with limited manual intervention. The 19 March 2020 was chosen because this date is the day before the CJRS was announced. The 19 March 2020 allows as many people as possible to be included by going right up to the day before the announcement and balances the risk of fraud that exists as soon as the scheme became public.

Payments made through a PAYE tronc system—such as tips in the hospitality sector—are not allowed to be included within the CJRS payment calculations. (8)

Pay that individuals receive in the form of discretionary commission, which may make up a significant element of their income, is excluded from the CJRS. This means that while staff may receive an element of CJRS income, it can be significantly lower than they would normally receive. (9)

The objective of the CJRS is to help employers whose operations have been severely affected by coronavirus to retain their employees and protect the UK economy. To achieve this, the grants compensate employers for the payments that they are obliged to make in order to avoid the need for redundancies. Covering discretionary payments would go beyond the objectives of the scheme.

Therefore, where tronc payments are non-discretionary, they are included when calculating payments for the purpose of the CJRS. Where tronc payments are made at the discretion of the employer or a client, they cannot be included when calculating payments for the purpose of the CJRS.

From 10 June it would no longer have been possible to place additional workers on furlough. As a result, when employees who had been on maternity leave returned to work from 10 June, they would not have been able to be furloughed. With no access to the CJRS it is possible that many of these workers may have been made redundant. (10)

We note that on 9 June the Government announced that "people on paternity and maternity leave who return to work in the coming months will be eligible for the Government's furlough scheme". We welcome that announcement, but it would have given greater certainty if the Government had made that announcement sooner. We believe it is important for the Government to communicate this effectively. The CJRS is intended for employers to furlough staff if "they're unable to operate or have no work for their employees to do". The scheme does not provide support to employees who have had to reduce or cancel work due to their own circumstances, rather than due to their employer's requirements. Therefore, employees are unable to make use of the CJRS if they need to temporarily halt their employment themselves to care for an isolating relative or to look after children. (11)

HMRC and HMT officials have been working at pace to implement the changes announced in record time. At the end of May, we wanted to give employers as much certainty as possible on how the CJRS will work until the end of October. This doesn't change what was announced on 29 May. Since then, we have been working through the detail and we are setting this out as early as possible.

The CJRS is intended for employers to furlough staff if "they're unable to operate or have no work for their employees to do". The scheme does not provide support to employees who have had to reduce or cancel work due to their own circumstances, rather than due to their employer's requirements. Therefore, employees are unable to make use of the CJRS if they need to temporarily halt their employment themselves to care for an isolating relative or to look after children. (12)

If you are unable to work, including from home, due to caring responsibilities arising from coronavirus, such as caring for children who are at home as a result of school and childcare facilities closing, or caring for a vulnerable individual in your household, then you should speak to your employer about whether they plan to place staff on furlough. The grant will start on the day you were placed on furlough and this can be backdated to 1 March 2020.

The purpose of the Coronavirus Job Retention Scheme is to support people who would otherwise have been made redundant.

While not a gap, the CJRS provides support to individuals on a per job basis. The guidance states that "If furloughed by more than one employer, you'll receive two separate payments from each employer. The monthly cap of 80 per cent of your regular wage up to £2,500 applies to each job." This means that an individual with two jobs can receive two entitlements of CJRS money. Such individuals could therefore receive significantly more money than other people, despite not being in greater need. (13)

The CJRS has been designed to help businesses avoid redundancies as well as helping people maintain their income level throughout the crisis. As such, it is right that the CJRS has been designed on a per-job basis to ensure than no employers lose out and that employees can receive at least 80% of their total wages.

Self-Employed people

If a self-employed person earns more than £50,000, they are not eligible to receive support as part of the Self-employed Income Support Scheme (SEISS). This is in contrast to the CJRS, where there is no cap on earnings. (14)

To be eligible for SEISS, self-employed trading profits must be no more than £50,000, with at least half of their income from self-employment. This ensures it is targeted at those who need it the most and are most reliant on their self-employment income. Around 95 per cent of those with more than half their income from self-employment in 2018–19 could be eligible for this scheme.

A self-employed person will only receive 80 per cent of their average three-month trading profits, not their revenue. Profits are what is made by an individual after business expenses have been paid out. If the Government support only reimburses self-employed people for their foregone profits, these will be insufficient for those who are still incurring business costs that haven't stopped during the lockdown. (15)

This scheme is intended to support individuals who rely primarily on their trading profits from self-employment and whose income has been adversely affected by COVID-19.

The self-employed are a very diverse population. They have a wide mix of turnover and profits, with monthly and annual variations even in normal times. The SEISS is based on trading profits because providing support on the basis of an individual's past turnover would be unfair. For example, an individual could have had a high turnover, but have made a loss. A turnover based system would provide more support to them than an individual with a lower turnover who made a profit.

Self-employed people whose self-employed trading income constitutes less than half their income are not eligible for the SEISS. For example, if 40 per cent of an individual's income is self-employed, and 60 per cent of their income is as an employee, they are not eligible for any self-employed support. (16)

To be eligible for SEISS, self-employed trading profits must be no more than £50,000, with at least half of their income from self-employment. This ensures it is targeted at those who need it the most and are most reliant on their self-employment income. Around 95 per cent of those with more than half their income from self-employment in 2018–19 could be eligible for this scheme.

If a self-employed person did not trade in the tax year 2018–19 they are not eligible to receive support under the SEISS. This means that no self-employed person who has set up their business since 6 April 2019 is eligible for support. (17)

The most reliable and up-to-date record of self-employed income is from the 2018–19 tax returns. The Government recognises that those who started trading more recently will not have submitted a tax return for the 2018–19 tax year, and it has considered alternative approaches. This included using tax returns for 2019–20, now these can be submitted to HMRC. However, there would be significant risks for the public purse if the Government relied on these returns for the SEISS. The self-employed can file returns for 2019–20, but this creates an opportunity for fraudulent activity through returns where no trading activity has taken place, where trading profits have been inflated to increase the size of the grant, or where trading profits have been reduced to below the £50,000 threshold in order to become eligible. Unfortunately, HMRC would not be able to distinguish genuine self-employed individuals who started trading in 2019–20 from fake applications by fraudulent operators and organised criminal gangs seeking to exploit the SEISS. The Government cannot expose the Exchequer to these risks and the extension of the SEISS does not mean these concerns have been reduced.

If a self-employed person had not submitted their self-assessment tax return for 2018–19 by 23 April they are not eligible for the SEISS. (18)

The eligibility criteria includes the submission of an Income Tax Self-Assessment tax return for the tax year 2018–19. HMRC will use data from returns to identify those who may be eligible for the scheme.

Special provision was been made for those who missed the deadline in January, and they had until 23 April 2020 to submit a return to be included in the SEISS. Claims based on late returns submitted between 26 March 2020 and 23 April 2020 will be subject to additional anti-fraud checks by HMRC.

The exception to this is those who are subject to the Loan charge. These individuals have until September 2020 to submit their tax return for 2018–19.

Individuals who have set up their own private company and take their income in the form of dividends are not allowed to include those dividends in the calculation of their earnings as part of the CJRS. (19)

Dividends are not covered by the CJRS or the Self-Employment Income Support Scheme (SEISS). Income from dividends is a return on investment in the company, rather than wages. Under current reporting mechanisms it is not possible for HM Revenue and Customs (HMRC) to distinguish between dividends derived from an individual's own company and dividends from other sources, and between dividends in lieu of employment income and as returns from other corporate activity.

The Government has worked with stakeholders and carefully considered the case for providing a new system for those who pay themselves through dividends. However, targeting additional support for those who pay their wages via dividends is much more complex than existing income support schemes. Unlike announced support schemes, which use information HMRC already holds, it would require owner-managers to make a claim and submit information that HMRC could not efficiently or consistently verify to ensure payments were made to eligible companies, for eligible activity.

The Government has heard the suggestion made that HMRC could adopt a 'pay now, clawback later' approach. However, such an approach would be highly resource-intensive to ensure appropriate compliance, and there is a high risk that incorrect or fraudulent payments could not be recovered, ultimately at a cost to UK taxpayers.

While individuals who have set up their own private company and are employed as a director are able to furlough themselves as part of the CJRS, they are unable to then carry on working, in line with the conditions of the CJRS. This is in contrast to self-employed people who are able to continue to trade while making use of the SEISS. (20)

Yes, the self-employed can continue to work and remain eligible for the taxable grant as long as they meet the other criteria, including their trade being adversely affected as a result of COVID-19. If you receive the grant you can continue to work, start a new trade or take on other employment including voluntary work, or duties as an armed forces reservist.

Individuals who have been on maternity leave during the three-year period of average profits will have their income reduced, because their income will have been lower than in other years where they were not on maternity leave. (21)

The Government has amended the Self-Employment Income Support Scheme (SEISS) eligibility conditions to support self-employed new parents.

This means self-employed parents will be able to claim grants if they were taking time out of their trade to care for their new-born or newly adopted child and, as a result, did not submit a Self-Assessment tax return for 2018–19 or their trading profits in 2018–19 were less than their non-trading income.

This is not a fundamental change to the Self-Employment Income Support Scheme, but an amendment to bring these individuals into eligibility for the scheme. It does not affect the grant calculation for those who submitted a 2018/19 return and were already eligible. For those already eligible for the Self Employment Income Support Scheme, the existing grant calculation will remain as it already mitigates against any periods of reduced earnings for any number of reasons, which all self-employed individuals can experience.

For some individuals, income declared as Furnished Holiday Lettings income is their main source of income. However, it is not classified by HMRC as self-employment trading income and therefore those receiving it are not eligible for relief via the SEISS. A potential contrast has been drawn to those who run a Bed and Breakfast. (22)

Properties that meet the qualifying tests for furnished holiday lettings are charged under the property income rules. The Self-Employment Income Support Scheme (SEISS) applies to individuals who complete the self-employment pages of the Self-Assessment return, or partnership trading pages. These pages exclude income from property, including furnished holiday lettings, which is distinct from trading income.

However, those who are not eligible for the SEISS may still be eligible for the other elements of the unprecedented financial support package made available by the Government. The SEISS is one element of a comprehensive package of support for individuals and businesses, including Bounce Back loans, tax deferrals, rental support, increased levels of Universal Credit, mortgage holidays, and other business support grants.

Universal Credit

Individuals not eligible for a coronavirus specific Government support scheme, for any reason, may still be eligible for Universal Credit. However, if a household has savings of more than £16,000, they are not eligible for Universal Credit. The £16,000 savings restriction does not apply to either the CJRS or the SEISS. It is not clear why there is no savings threshold applied to the CJRS or SEISS when such a cap is maintained for UC. (23)

UC is a benefit that supports low income households. It therefore assesses total household earnings from work and other sources of income, ensuring support is targeted at those families most in need, who do not have access to additional financial assistance. A working age household will only be ineligible for UC if they have savings over £16,000. In such cases, it is likely that they have alternative means of financial support.

Individuals with "no recourse to public funds" who are made redundant will not be able to receive Universal Credit as UC is classed as a public fund. In contrast, an individual with "no recourse to public funds" who is employed and placed on furlough, or who is self-employed can make use of the CJRS or the SEISS. (24)

The public interest in migrants being financially independent and not being a burden on the State is long established and protected by successive Governments. No recourse to public funds ("NRPF") is a standard condition applied to those staying in the UK with a temporary immigration status to protect public funds. Migrants who are here without leave are also subject to no recourse to public funds. Therefore, most temporary migrants do not have access to public funds as a matter of course.

What constitutes a public fund is set out in immigration legislation, in S115 of the Immigration and Asylum Act 1999 and rule 6 of the Immigration Rules, S117 through to S119 of the Immigration and Asylum Act 1999 and supporting regulations, and Schedule 3 of the Nationality, Immigration and Asylum Act.

Many of the support measures put in place to respond to the current global pandemic can be accessed by individuals with no recourse to public funds. In addition to the assistance being given under the Coronavirus Job Retention Scheme and the Self-employed Income Support Scheme, statutory sick pay and some other work-related benefits are also not classed as public funds and so are also available to all. Furthermore, if an individual has been working in the UK and sufficient national insurance contributions have been made, they may be entitled to claim contributory Employment and Support Allowance.

Many of the other measures we have put in place are available to those with NRPF, including protections for renters from evictions, a mortgage holiday for those who need it and support for those who are vulnerable and need assistance with access to medication and shopping.

Exceptions to the NRPF condition are already in place for some groups of migrants, such as refugees or families here on the basis of family life/Article 8, where they would otherwise be destitute. Those on human rights routes can also apply to have their 'no recourse to public funds' condition lifted if their financial circumstances change. The Home Office has published advice and information about the support available at these difficult times, including to migrants subject to NRPF.