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15 September 2020

Dear Darren,

### **Impact of Coronavirus on Business and Workers**

Thank you for your letter dated 27 July providing an update on the Business, Energy and Industrial Strategy Committee's inquiry on the Impact of Coronavirus on Business and Workers (the Inquiry). Thank you also for acknowledging the central role my Department has played in supporting businesses, jobs and livelihoods in response to COVID-19. BEIS has worked diligently in supporting the national response to this unprecedented crisis, and I would, in turn, like to thank all those who have assisted in this.

The Department has worked in close collaboration with the rest of Government in the creation and maintenance of expansive business support schemes. The Coronavirus Business Interruption Loan Scheme (CBILS), Coronavirus Large Business Interruption Loan Scheme (CLBILS), and Bounce Back Loan Scheme (BBLs) have provided vital support to businesses throughout the pandemic – as of 6 September, over 1.2 million facilities had been approved worth a total of £57.29 billion. We have worked closely with Local Authorities (LAs) and, as of 30 August, have distributed £11.01 billion through the Small Business and Retail Hospitality and Leisure Grant Schemes, with 897,590 business properties benefitting.

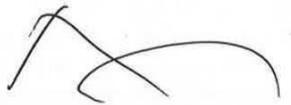
The Department has moved from the initial response, where our priority was to protect businesses and jobs, to considering how we can live with the virus in the short term and reopen the economy. To this end, the Department created tailored guidance on social distancing in the workplace to enable sectors to reopen. The aim of this, in combination with Safer Workplaces guidance, is to allow businesses to operate and generate revenue whilst keeping employees and customers as safe as possible. We continue to engage businesses directly on further support Government could provide, where it is pragmatic to do so.

I would also like to highlight the work that my Department is putting in to finding a vaccine against COVID-19. Although finding a vaccine should not be seen as a silver bullet, it is widely acknowledged across the world that a safe and effective vaccine is key to beating this virus. The Vaccines Taskforce was rapidly established in April this year, and is being ably led by Kate Bingham. To date, the Taskforce has negotiated

access to 340 million vaccine doses from the world's frontrunners in vaccine trials, including those being developed by The University of Oxford/Astra Zeneca partnership, the Pfizer/BioNTech partnership, Valneva and others. The work of the Vaccines Task Force has also expanded significantly our manufacturing capacity. This will enable mass production of an effective and safe vaccine, through the construction and purchase of vaccine manufacturing facilities, many of which are due to begin manufacture within 6 months. The work of the Taskforce is contributing significantly towards our plans of a return to normality, and I hope that we will see the fruits of that labour in the near future.

Please find attached a paper from officials responding to your questions.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Alok Sharma', written in a cursive style.

**THE RT HON ALOK SHARMA MP**

Secretary of State for Business, Energy & Industrial Strategy



## **Response from Officials to the BEIS Select Committee letter dated 27 July**

### **1. Gaps in support for workers during the pandemic**

The Government's economic response to Covid-19, the biggest threat this country has faced in decades, has been on a scale unmatched by any British government in recent history. The Government has kept people in work, supported their incomes and supported businesses, delivering one of the most generous and comprehensive packages of support globally. The Government has prioritised helping the greatest number of people as quickly as possible, whilst considering the need to provide value for money in public spending and protection against fraud and error.

Key to this has been the Coronavirus Job Retention Scheme (CJRS) and Self Employment Income Support Scheme (SEISS).

#### **Coronavirus Job Retention Scheme (CJRS)**

The Coronavirus Job Retention Scheme (CJRS) was available to all employers with a PAYE system and all employees on PAYE regardless of their employment contract. 9.6 million jobs<sup>1</sup> have been furloughed with 1.2 million employers using this scheme. In total, £35.4 billion has been claimed through the CJRS. Additionally, HM Treasury built in part-time flexibility within the scheme, and also pushed back the eligibility cut-off date for the CJRS from 28 February to 19 March, meaning 200,000 employees who were originally ineligible could participate in the scheme.

However, with regard to tronc payments, they cannot be included when calculating payments for the purpose of the CJRS, where they are made at the discretion of the employer or a client. This is because 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, like bonuses and tips, would go beyond the objectives of the scheme. Where tronc payments are non-discretionary, they are included when calculating payments for the purpose of the CJRS.

#### **Decision not to extend the Coronavirus Job Retention Scheme (CJRS)**

The Government has been eager to do everything we can to support the greatest number of people, which is why we adapted the scheme in the ways we have. But for practical reasons, HMT were unable to extend the CJRS "cut-off" date beyond 19

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<sup>1</sup> As of midnight 16 August 2020

March, or include in the SEISS those who began trading after the 2018-19 tax year. Using employee data submitted to HMRC after the CJRS became public, would significantly increase the risk of abuse, because claims could not be confidently verified and the risk of fraud could not be sufficiently mitigated. Accepting returns for 2019-20 creates an opportunity for the filing of fake or misleading returns to claim the grant. HMRC therefore concluded that it would not be right for the Government to expose the tax system to these risks, ultimately at a cost to the taxpayer. HMRC officers made their first arrest relating to fraud and these schemes in July.

Agencies have faced very real difficulties in deciding whether to furlough their workers or not. However, the job retention scheme provided financial support for employers to retain staff they deemed were likely to be affected by this crisis. Consequently, the decision to furlough staff and include them on CJRS claims, had to lie with employers to make an informed judgement on whether there would be work for their staff to do. The guidance for the CJRS has already been extended to reflect the specific needs of agency workers.

### **Self-Employment Income Support Scheme (SEISS)**

Around 95% of people who receive the majority of their income from self-employment could be eligible for the Self-Employment Income Support Scheme (SEISS). The design of the SEISS, including the £50,000 threshold, means it is targeted at those who need it the most, and who are most reliant on their self-employment income. As of midnight 19 July, 2.7m claims had been submitted for the first SEISS scheme, at a total value of £7.8bn. Claims for the second tranche of the SEISS scheme opened on 17 August and as of midnight on 17 August, 296,850 claims had been submitted, worth £768.9m.

Claimants of the SEISS can continue to work, start a new trade or take on other employment. HMT ensured those off work caring for their new baby or adopted child did not lose out from the SEISS. They also made sure those returning from serving their country as reservists got the support they needed and extended both schemes.

Both the SEISS and CJRS protected the jobs of millions and supported the incomes of millions more. These schemes were the right policies for the first phase of the crisis, but now, in this new phase, we need to look forward. The Government's Plan for Jobs is the necessary next step to rebuild and recover.

### **Other support measures**

The Committee is correct that some people have not been eligible for the CJRS and SEISS, or that some workers – like PAYE freelancers – do not have a scheme that expressly caters for them. This is why the Government has ensured that those who needed help with their utility bills were able to access help through mortgage and consumer credit holidays. To make sure we reached the most vulnerable, the Government gave local councils an additional £500m to provide council tax relief for vulnerable people and households affected most by Covid-19. The package for business has included the Small Business Grant Fund, business rates holidays, Bounce Back Loan 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, and the Future Fund.

HMRC officials carefully considered how a new system for those who pay themselves mainly through dividends could work. However, support for those who pay their wages via dividends was much more complex than existing income support schemes. Unlike the support schemes that used information HMRC already held, a dividend support scheme 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. Under current reporting mechanisms, it is not possible for 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 put in place a package of temporary welfare measures to underpin all these measures, to get the UK through the outbreak and help those unable to access other forms of support. This includes a £1,040 increase a year to the Universal Credit standard allowance and Working Tax Credit basic element. Local Housing Allowance rates have been increased for Universal Credit and Housing Benefit claimants and the Universal Credit minimum income floor has been relaxed. Statutory Sick Pay is easier to access, payable from day one, rather than day four, and extended it to those ill, self-isolating or social shielding due to COVID-19.

## **2. Tapering support for workers**

As the Government reduces restrictions and begins the process of economic recovery, we will continue to support workers and businesses. The Government has been working closely with businesses, business representatives and trade unions to ensure that changes to the CJRS and SEISS work for employers, employees and other workers as part of the wider Government response.

The CJRS will remain open until the end of October when, after providing 8 months of unprecedented support, it will close. Furloughed employees will continue to receive the same level of support throughout the life of the scheme, but employers started to make a contribution to this support from August. The level of grant provided to employers tapers modestly from August to continue to support those who require it, whilst providing the incentive for employees to return to work where possible.

These adjustments have been informed by modelling of employer contributions to ensure that overall employer contributions remain small and employers continue to be supported. For instance, modelling indicates that if an average claim lasted eight months, the total cost of employer contributions would represent around 5% of the total gross employment costs an employer would have incurred had the employee not been furloughed. Further, indicative analysis of claims from large businesses suggests that around 25% of Job Retention Scheme monthly claims on an employment level are below the threshold where employer NICs and automatic enrolment pension contributions are due, meaning employers were not expected to start contributing to these claims until September.

The SEISS too has been extended, with the second and final grant open to applications until 19 October. The UK continues to have one of the most generous Covid-19 support schemes for the self-employed in the world. As the economy re-opens it is right that the SEISS also changes. The second grant is worth 70% of an individual's average monthly trading profits and capped at £6,570 in total. This is aligned to the tapering of the grant provided to employers through the CJRS.

It would be challenging to target the CJRS or SEISS to specific sectors in a fair and deliverable way, and it is not always the most effective or sensible way to provide longer term support for those sectors most affected by coronavirus. It would also be difficult to target the schemes at specific sectors without creating distortion, particularly as some firms or workers operate across multiple sectors.

The Government is aware that some sectors, such as those referenced in your letter, are particularly badly hit by the impact of Covid-19 and it is those sectors that are rightly commanding our attention. In the Summer Statement, other measures were announced to support firms in particular sectors. This included targeted action to support jobs in the hospitality and tourism sector, such as the Eat Out to Help Out scheme and a temporary reduction in the VAT rate to 5% for accommodation, attractions and the hospitality sector. The Eat Out to Help Out scheme aims to protect the jobs of 1.8 million chefs, waiters and restaurateurs. By midnight 31 August more than 100 million meals were eaten by diners, with the 84,700<sup>2</sup> establishments signed up to the scheme making 130,000 claims worth £522 million. These numbers are likely to grow, with restaurants having until the end of September to claim back the 50% government-funded discount applied to bills.<sup>3</sup> The accommodation and food services sector has been given 3,924 CBILS facilities worth £956m and 88,427 Bounce Back Loans worth £3.1billion. Combined, the Government believes that these other schemes can provide support to affected sectors and we are continuously reviewing the situation.

### **3. Treatment of workers during the pandemic and health and safety issues**

In conjunction with BROs (Business Representative Organisations), businesses and trade unions, the Government has produced extensive guidance for employers on how to make their workplaces Covid-19 secure which includes Safer Workplaces guidance published by BEIS. Employers have a legal responsibility to protect workers and others who may be affected by their work from risk to their health and safety. The Safer Workplaces guidance produced by BEIS supports employers to consider the risk Covid-19 represents in their workplace in line with their usual health and safety obligations. Failure to complete a risk assessment which takes account of Covid-19, or completing a risk assessment but failing to put in place sufficient measures to manage the risk of Covid-19, could constitute a breach of health and safety law. If the enforcing authority finds that an employer is not taking action to properly manage workplace risk, a number of actions are open to them, ranging from providing advice to issuing enforcement notices.

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<sup>2</sup> This figure as of midnight 27 August 2020, not 31 August 2020.

<sup>3</sup> This data has been extracted from HMRC's COVID-19 statistics on gov.uk:  
<https://www.gov.uk/government/collections/hmrc-coronavirus-covid-19-statistics>

Enforcement responsibility for health and safety legislation rests predominately with the Health and Safety Executive and the Local Authorities (LAs). HSE regulates workplaces such as factories, construction sites and hospitals, whilst Local Authorities enforcement responsibility includes offices, shops and restaurants. HSE is monitoring health and safety issues in the workplace through a combination of:

- Investigating Covid-19 workplace concerns: there have been 4,025 investigations to date<sup>4</sup>. including 359 site visits. Action was taken in 1,107 cases, 20 cases required formal enforcement action, 150 involved written correspondence and 937 received verbal advice.
- Undertaking Spot Checks of workplaces to ensure that they are compliant with guidance: this is a mixture of remote checks and physical site visits. 13,051 cases are being dealt with, which has resulted in 2,692 site visits, taking action in 1,298 cases including 50 formal enforcements, 249 written correspondence and 999 verbal advice.

Businesses inspected by the Health and Safety Executive (HSE) are largely compliant with the Government's Covid-19 advice for employers. The Government's support for monitoring of health and safety issues in the workplace has included making available up to an extra £14.2 million for HSE in financial year 2020/21, to support advice and regulatory activities such as extra call centre employees, inspectors and equipment.

HSE had involvement in around 1,000 cases (mostly verbal advice) requiring specific action to be taken. Where verbal advice sufficed, HSE concluded that the issue was relatively minor or simple to put right and were confident given the record and response by the organisation or business that they will comply with the advice. This again reflects the fact that many employers are either compliant or only require minor improvements to existing arrangements.

Trade Union (TU) representatives have provided valued support in ensuring businesses have appropriate precautions in place. In many instances, TUs can ensure worker confidence is established in workplace controls without any need for contact with an enforcing body. Where there is a need for a regulatory intervention TUs have been an effective way for employers to raise concerns.

The Department is actively monitoring the impact of Covid-19 on the labour market and will continue to monitor this moving forward, considering whether there are any disproportionate impacts occurring across the labour market, including for pregnant women and new parents. In your letter, you raise particular concerns in relation to the treatment of pregnant women during the crisis. Anecdotal evidence suggests that some employers have incorrectly asked pregnant women to take Statutory Sick Pay (SSP) when they should have carried out a risk assessment and taken appropriate action based on that assessment. The requirement to carry out a risk assessment is not new, and the advice provided by health care professionals should be taken into consideration by employers when carrying out the required risk assessment. Employers cannot avoid this requirement by placing their employee on SSP or unpaid leave.

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<sup>4</sup> The data has been extracted from HSE's live operational database on 3rd September 2020 and is subject to change

Where a pregnant worker has been asked to shield because they are at greater risk of severe illness from Covid-19, employers should account for this in their risk assessment; if the necessary control measures cannot be put in place, they should grant the pregnant worker leave on full pay. Employers are not required to suspend pregnant employees on full pay if appropriate control measures can be put in place and employers have also had the option of furloughing their employees, including pregnant women. If a woman has concerns that the employer is not implementing appropriate measures, they should raise this through their employee representative, trade union or direct to the Health and Safety Executive or their Local Authority, depending upon which has enforcement responsibility. Where a woman believes she has been incorrectly placed on SSP or on unpaid leave, she can seek advice in the first instance by contacting The Advisory, Conciliation and Arbitration Service (Acas), who provide free and impartial advice on workplace rights, rules, and best practice.

Women on Maternity Leave and parents on other types of statutory parental leave have a statutory right to be treated as a priority in a redundancy situation. This does not mean that they cannot be made redundant, but rather that they must be given first refusal of suitable, alternative vacancies. Last year the Government consulted on proposals to tackle pregnancy and maternity discrimination and has since committed to extend the 'redundancy protections' that apply to women on Maternity Leave into pregnancy and the period after they return to work. The same principle will apply to individuals returning from Adoption Leave and Shared Parental Leave. The Government remains committed to extending these protections, but this will require primary and secondary legislation. The Covid-19 pandemic has added additional pressures to the parliamentary timetable, but we intend to introduce an Employment Bill in Parliament which will, amongst other things, extend 'redundancy protections' as soon as parliamentary time allows.

More generally, most employees have protections against unfair dismissal. The dismissal of an employee for non-attendance because they are following public health advice to self-isolate may be considered an unfair dismissal by an Employment Tribunal. However, the fairness of a dismissal always depends on all the specific circumstances of each individual case and the instruction to self-isolate will be weighed up along with any other factors which are relevant.

Employees also have protections against automatically unfair dismissal, including in circumstances where they leave or refuse to return to their place of work in circumstances of danger which they reasonably believe are serious and imminent.

Your letter also raised the point of employers reducing their employee's terms and conditions. Businesses can offer new terms and conditions that meet their commercial needs, provided they do not discriminate unlawfully. While it is always open to either party to seek to renegotiate the terms of the contract, if the employer changes any of the terms without the employee's agreement, the employee may be entitled to seek legal redress. The Government has put unprecedented measures in place to support employment. We expect all employers to treat employees fairly.

## **4. Support for Businesses**

### **Alignment of support packages with wider Government Strategy**

In addition to the CJRS and SEISS which have provided wage support to workers across the economy, the Government made available a wide package of financial support for businesses. We have provided additional support to businesses, and especially small businesses, in sectors such as retail, leisure, hospitality and tourism that have been particularly badly hit by restrictions. This support includes grants, business rates relief, and, more recently, temporary measures such as a cut in VAT and the Eat Out to Help Out dining discount scheme. The Government also introduced VAT deferral as a measure to support businesses; as of 7 June, there were 337,000 payments eligible for a deferral, and the total amount of VAT deferred was £27.5bn<sup>5</sup>.

Government's focus has been on designing schemes that could be implemented quickly to ensure help could be provided to businesses as soon as possible, whilst also protecting the UK taxpayer. The Covid-19 loan schemes have now helped more than one million businesses.

Some businesses were unable to benefit from the loan schemes because they rely on equity rather than debt finance. Government launched the Future Fund in recognition of the importance that these high-growth, pre-profit companies play in the UK economy and in aiding the recovery. An initial £250m was allocated to the Future Fund at launch and further funding has been made available to meet demand from investors and companies; the overall scale of the scheme is being kept under review.

The Future Fund is open to companies in every region and nation of the UK and complements existing British Business Bank (BBB) programmes such as the Northern Powerhouse Investment Fund, Midlands Engine Investment Fund and Cornwall and Isles of Scilly Investment Fund.

In order to ensure value for money, the scheme has been designed on commercial terms and the provision of Government investment is subject to at least equal match-funding from private investors. Firms are also required to have raised at least £250,000 in equity in the last five years to demonstrate they have a proven track record of raising investment.

### **Reviewing the success of loan schemes and the performance and behaviour of banks**

The Covid loan schemes (CBILS, CLBILS, BBLs) have provided vital support to businesses through the pandemic. The loan schemes were developed at pace, and this, together with the uncertainty surrounding the circumstances of the pandemic, meant that ministerial directions were required on the grounds it was not possible to assess value for money with certainty.

The introduction of these schemes represented a large increase in the scale of the British Business Bank's operations and additional resource has been provided to

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<sup>5</sup> The data has been extracted from HSE's live operational database on 3rd September 2020 and is subject to change

manage this. We will continue to consider the impact of these schemes on the British Business Bank and will consider how the liabilities acquired due to these schemes can best be managed.

The British Business Bank has expanded the number of lenders accredited to deliver the loan schemes to increase the supply and choice for businesses. The British Business Bank put a robust process in place to ensure lenders met eligibility criteria for accreditation and comply with it thereafter. In addition, lenders wishing to issue CLBILS loans worth more than £50m are subject to an enhanced accreditation process, ensuring that they have the requisite capabilities and experience to manage these larger facilities.

Periodic audits are used to ensure lenders are setting fair and legitimate terms for loans under the schemes. Samples of transactions are analysed during the audit to check that scheme eligibility rules and processes have been followed. This includes checks on whether the benefit of the Government guarantee has been passed on to borrowers in the form of lower borrowing costs than would otherwise have been charged.

Since the launch of the loan schemes, Ministers and officials have met and continue to meet with banks and other finance providers to closely monitor implementation. Updated statistics on the uptake of the schemes are published regularly by Government and lenders provide regular updates on application volumes, loan facilities agreed and a range of other data to the British Business Bank.

### **Local Authority support to businesses**

As of 30 August 2020, Local Authorities have paid Small Business and Retail, Hospitality & Leisure Grants to the value of £11.01 billion to 897,590 business properties. It is not possible to comment on the rate at which individual applications were turned around as Local Authorities were responsible for administering the scheme, however, Ministers did speak to every Local Authority to provide advice and weekly management information was published.

The intention of the Small Business and Retail, Hospitality and Leisure Grants was that businesses could be paid automatically where Local Authorities already had sufficient information to do so. This was one of the reasons for aligning grants to eligibility for appropriate business rates reliefs, in addition to targeting small businesses and those in sectors most exposed to the impact of Covid-19 closures. It is believed that this approach contributed to Local Authorities being able to pay out grants totalling over £10 billion between 1 April and 31 May 2020, with 85% of this funding paid out in the first 5 weeks after the grant schemes were launched.

The Local Authority Discretionary Grants Fund (LADGF) provides each Local Authority with the ability to use up to an additional 5% of funding to provide grants to small businesses with relatively high fixed costs (e.g. rent) that are not in scope of the qualifying business rates reliefs (which defines eligibility for the Small Business and Retail, Hospitality and Leisure Grants).

These grant funds closed to new applicants on 28 August 2020 and all final payments will be made by 30 September. The performance of each fund will be evaluated to ensure that the issues associated with their delivery, impacts, and wider lessons are captured. Local Enterprise Partnerships (LEPs) and Growth Hubs have played an important role in publicising the schemes to help ensure businesses across England have been aware of the schemes. We have ongoing work with LEPs to ensure that collectively they are well connected to their respective Local Resilience Forums (LRFs), so that LEPs are more routinely engaged early in economic recovery planning and intervention.

### **Skills maintenance and recovery**

Skills and knowledge are key to economic recovery. BEIS is working closely with DFE and DWP to ensure that we have the skills in place to recover from the impact of Covid-19 and to deliver jobs and growth. In the Summer Economic Update on 8 July it was announced that payments of £2,000 would be given to employers for each apprentice aged under 25 they hire, and £1,500 for each apprentice over 25. The Government has provided funding to triple the uptake of traineeships and improve the quality of the training delivered through this programme. We will also fully fund 18-19-year olds who are unable to find employment to study for a Level 2 or 3 qualification in targeted high value courses.

### **Additional support for affected sectors**

As we look forward, BEIS and the Government more widely will continue to review the interventions which have been introduced, including the loan schemes, and continue to take account of the most up to date and evolving evidence of the wider impact of Covid-19 in order to consider how best to support economic recovery. Additionally, the National Audit Office is conducting an investigation of the Bounce Back Loan Scheme, looking at the scheme's purpose and how it functions; performance to date; and how Government manages the associated value for money risks.

### **Relieving corporate burdens and aiding company rescues**

The Corporate Insolvency and Governance Act received royal assent on 25 June 2020, and came into force on 26 June 2020. Its provisions are relieving burdens on businesses arising as a consequence of the Covid-19 outbreak and allowing them to focus all their efforts on continuing to operate. Companies and other types of business registered at Companies House are getting more time to file accounts and certain extensions and flexibilities on how they conduct general meetings including AGMs. The Act introduced a new moratorium to give companies breathing space from their creditors while they seek a rescue and introduced a new form of restructuring plan sanctioned by the court that will bind creditors to the plan. Crucially, and further to protect directors and companies, it also introduced temporary suspension of wrongful trading provisions and temporarily prohibited the presentation of winding-up petitions and the service of statutory demands.

## **Last resort business interventions ('Project Birch')**

As part of its normal operations, the Government has always considered providing support to strategically important companies that can reasonably be expected to have a long-term viable future, and whose failure or distress could cause disproportionate harm to the UK economy or society. Companies must have exhausted all other options before being considered, and any support given will be on terms that protect the taxpayer, with existing lenders and shareholders expected to contribute to and share in the financial burden. Companies receiving support also need to agree to appropriate conditions, including those relating to tax, supplier payment terms, climate change and corporate governance.

Each case is considered individually, and the type of support provided bespoke to a company's needs. Some cases may involve short-term financial arrangements only, while others may include longer-term facilities, including provisions to allow the taxpayer to share in the benefits of a company's recovery. The Government recognises the need to manage any investments made, and consideration is being given to the most efficient and effective way of doing this.

Where last resort support is provided, Parliament will be notified in the normal way, with further details available in the relevant Department's annual report. Any commercial and policy conditions attached to an intervention will also be monitored using appropriate mechanisms. As we discussed in the Select Committee on 9<sup>th</sup> July, it remains the case that the Government has provided last resort support of £30m to one firm, Celsa Steel (UK) Ltd, to enable the company to continue trading.

## **Business and Planning Act**

The Business and Planning Act, led by BEIS includes measures from a number of Government Departments. These were introduced help businesses succeed in these new and challenging conditions over the coming months. Two industries that are particularly supported by the Act are businesses selling food and drink, such as cafes, pubs and restaurants, and the construction industry.

The Act introduced a temporary fast-track process for businesses selling food and drink to obtain permission from the local council for the placement of furniture such as tables and chairs on the pavement outside their premises; it also temporarily makes it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption off the premises. This helps these businesses to maximise their capacity whilst adhering to social distancing guidelines.

The Act also includes a number of measures to ensure that the planning system in England can continue to operate effectively and proactively support the planning and safe construction of new development following the impact of Covid-19. These measures include a new route for developers to seek to amend planning restrictions on construction site working hours to temporarily allow extended working hours. This is to ensure that, where appropriate, planning conditions are not a barrier to allowing developers the flexibility necessary to facilitate the safe operation of construction sites during the response to the Covid-19 pandemic and to proceed at pace with work

otherwise delayed as a result of Covid-19. The Act also extends the expiration of certain planning permissions and listed building consents, providing certainty to the construction industry where developments are delayed due to Covid-19.

## **5. Bad corporate behaviour, late payments and the UK's supply chain**

The Government retains the right to retrospectively audit all aspects of the CJRS with the scope to claw back fraudulent or erroneous claims. HMRC does and will continue to monitor claim data, compare against records of earnings and review reports to their fraud hotline. HMRC will not hesitate to take action against those found to be abusing the scheme.

The Government's business loan schemes provide facilities to businesses which are experiencing disruption to their cashflow as a result of Covid-19. Finance may be used for suitable business purposes. Under CLBILS, to ensure that large loans backed by taxpayers' money are being used in the right way to support businesses and jobs through this difficult time, some restrictions are placed on the firm receiving the support. For facilities of up to £50m, dividend payments can continue but may not be increased for as long as any facility under CLBILS remains outstanding. For facilities of more than £50 million, additional restrictions apply in relation to dividends, share buybacks, bonuses and senior pay.

The British Business Bank's audit function enables the Bank to sample portfolios of lending to assess compliance with the rules of the three loan schemes and take various forms of action as required. This could ultimately include the removal of lenders' accreditation from the schemes, if an audit demonstrated that lenders were not operating according to the scheme rules. The Government keeps the loan schemes under review and continues to monitor their implementation.

The Government acknowledges that late payment remains a significant problem for small businesses. We are focussed on fulfilling the manifesto commitment to clamp down on late payment. The Small Business Commissioner has been very active in highlighting this issue and has written to individual businesses who are protecting themselves by holding back payments to suppliers. The Small Business Commissioner has also thanked those businesses showing leadership by ensuring their smallest suppliers are paid more quickly, recognising the positive steps they are taking. The Office of the Small Business Commissioner is monitoring the situation closely and reporting back to BEIS regularly. Furthermore, the Minister for Small Business, Consumers & Labour Markets, Paul Scully MP, has also jointly written with the Small Business Commissioner to the Chair of The 100 Group and the top 18 accountancy firms in the UK, asking them to encourage their members to ensure prompt payment by their large business clients during the Covid-19 crisis.

The Department will shortly launch a consultation on strengthening the powers of the Small Business Commissioner. We are keen to capture as many views as possible to ensure the policy response is the right one and, in light of businesses having more urgent priorities, we did not believe that consulting during the height of the crisis was appropriate.

We do not intend to make the Prompt Payment Code mandatory for business as this would, in effect, set maximum payment terms for companies when contracting with suppliers. While setting limits on the maximum legal payment terms might address the problem of lengthy payment periods in some commercial contracts, we believe the disadvantages of a 'one size fits all' approach are of greater significance. Furthermore, the Government would be restricting businesses' ability to negotiate business to business contracts, which carries a risk of a negative impact on the UK economy of making business more difficult to do. We will however be discussing reform and strengthening of the current voluntary Code with signatories and other interested organisations.

The Government agrees with your principle that late payers should be excluded from Government contracts, which is why since 1 September 2019, suppliers risk being excluded from procurement for large Government contracts if they cannot demonstrate prompt payment to their supply chain.

## **6. Local Lockdowns**

The Leicester lockdown (initially including Oadby and Wigston and parts of Blaby and Charnwood districts) was announced by the Secretary of State for Health and Social Care on 29 June. The Leicester lockdown was imposed via regulations<sup>6</sup> made under the Public Health (Control of Disease) Act 1984 ("PHA"). Section 45C of the PHA confers on the Secretary of State for Health, powers to make regulations which make provision for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination in England. The Leicester lockdown regulations were made in response to the serious and imminent threat to public health caused by the incidence and spread of coronavirus, and these regulations closed whole sectors (e.g. non-essential retail, hospitality and leisure). These powers were supplemented on 18th July with additional England-wide regulations<sup>7</sup> giving Local Authorities powers to restrict access to or close individual premises, restrict access to or close certain public spaces and restrict or prohibit events in the local authority's area.

Those regulations also enable the Secretary of State for Health and Social Care to direct a local authority to use its powers under the regulations. The effect of this is to provide for more targeted closures and restrictions based on evidence that a direction responds to a serious and imminent threat to public health and is necessary and proportionate to manage Covid-19 transmission. These local powers, along with other local interventions imposed by Ministers (such as in Blackburn with Darwen<sup>8</sup> and Bradford, Luton<sup>9</sup> and in the North of England<sup>10</sup>), demonstrate the strategy of imposing

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<sup>6</sup> The Health Protection (Coronavirus, Restrictions) (Leicester) Regulations (S.I. 2020/685), now replaced by the Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations (S.I. 2020/824) (as amended).

<sup>7</sup> The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 (S.I. 2020/750).

<sup>8</sup> The Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) Regulations 2020 (S.I. 2020/822)

<sup>9</sup> The Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Luton) Regulations 2020 (revoked) (S.I. 2020/800)

<sup>10</sup> The Health Protection (Coronavirus, Restrictions on Gatherings) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/865)

interventions as locally as possible, to minimise negative impacts on businesses on a national scale.

Leicester businesses that had to close, or which were prevented from re-opening, continued access to a range of support provided by Government including CJRS, SEISS and loan products. Any business eligible for Covid-19 Business Support grants that had not previously responded to local efforts to contact them could still apply for a grant. The Government, through DHSC, has provided £3m of funding to Leicester City Council (£2.6m) and Oadby & Wigston Borough Council (£0.4m) to provide discretionary grants to impacted businesses. The Government, through DHSC, has also recently announced new payment for people self-isolating in highest risk areas, details of which can be found at the following link:

<https://www.gov.uk/government/news/new-payment-for-people-self-isolating-in-highest-risk-areas>

BEIS continuously monitors data from the Insolvency Service and DWP on all areas of the UK. To date, we have not seen significant indications of increased redundancies in the period after the local lockdown compared to the period before; averaging 100 per day before the lockdown and 68 per day after (recognising that there might be some lag; data is for the whole of Leicester and Leicestershire and may obscure varying trends within that geography). There is some evidence of an increase in company insolvencies for Leicester. Between March and 28th July, these were running at 14 per month. By the end of the first week of August, the city had already recorded 9 new insolvencies. It will, however, take some time to determine if there is a real increase.

BEIS continues to work with DHSC, the Joint Biosecurity Centre and other government departments to monitor infection rates across the country, review the impact of responses and be prepared in the event of any further significant local intervention. We recognise that every region and community will be feeling the impacts of this crisis and are working to make sure individuals and businesses are directed to the right support during this difficult period.

Ultimately, the best way to ensure that Covid-19 infection rates are controlled and local lockdowns avoided is to adhere to Local Outbreak Control Plans and for the public and businesses to continue to be alert, wear face coverings where required, follow social distancing, hand washing and Covid Secure guidance, get tested if they think they may have Coronavirus or are contacted as part of Test and Trace and take appropriate actions depending on test results. The Government remains prepared to take immediate action to impose restrictions should the epidemiological and situational awareness evidence require them to protect the public and reduce the transmission of the virus. We are keeping under review whether any tailored support schemes for business or individuals might be necessary, factoring in lessons from the wide range of Government support currently in place.

## **7. Consumers**

The volume of price-related contacts received by the Competition and Markets Authority (CMA) and Which? have declined significantly from their peak in April and remain at low levels. The CMA's most recent Coronavirus taskforce update, published

on 3 July<sup>11</sup>, shows there was an average of 11 such contacts per day in June. The CMA plans to publish a further taskforce update later in the year. In its most recent survey covering 1 - 14 June Which? received an average of 10 complaints per day.

The CMA has now written to 277 firms about price rises for essential products, accounting for over 4,600 complaints: over 40% of the total number of actionable complaints received were about price rises. In June, the CMA opened four investigations under Chapter II of the Competition Act 1998 into suspected breaches of competition law by four pharmacies and convenience stores, related to suspected charging of excessive and unfair prices for hand sanitiser. As of 3 September, the CMA has closed all four investigations, as it considered that the retailers' prices do not or are unlikely to infringe competition law.

The CMA also released a joint statement on 3 July with several trade associations condemning price gouging and has recently published a joint letter with the General Pharmaceutical Council to pharmacy owners and superintendent pharmacists, reminding a small minority of that charging unjustifiably high prices for essential products, including hand sanitiser, face masks and paracetamol, is unacceptable.

The Government remains committed to tackling consumer rip-offs and bad business practices. We continue to work closely with the CMA, consumer, and business organisations to detect any new issues for consumers, including any instances of profiteering. We will update the law if it is proportionate to do so, acting on the basis of the most up to date information.

## **8. Winter Planning**

While the interventions outlined above refer to measures taken by Government to alleviate the impact of the virus to date, we are also firmly focussed on planning for the winter months. The Government's response has reduced the burden of the virus significantly from its peak in spring, however the winter months may present further, different challenges. There are many unknown factors as we go into winter, such as how Covid-19 will interact with other viruses and the impact of the changing weather.

Along with the rest of Government, BEIS is working to ensure that we are as ready as possible for different winter resurgence scenarios. Over the past months, our understanding of the virus and its transmission has greatly improved, and over the coming months we will continue to assess what the UK can learn from other nations and embark upon exercises to test our winter plans, working collaboratively with other Government departments to mitigate the effects of a resurgence. We will be ready to deploy targeted interventions that protect the health of individuals, whilst allowing businesses to continue along their recovery journeys where it is safe to do so.

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<sup>11</sup> [CMA Covid-19 Taskforce Report 3 July 2020.](#)