

Written evidence submitted by the Chartered Institute of Taxation

1 Executive Summary

- 1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.
- 1.2 HMT and HMRC designed and implemented the Self-Employment Income Support Scheme (SEISS) and the Coronavirus Job Retention Scheme (CJRS) extremely quickly. For that they should be commended.
- 1.3 We are concerned that large sections of the population are still excluded from either of these schemes, even though it is around nine months since the original announcements, and the schemes will remain operational until spring 2021.
- 1.4 We are also concerned at the lack of clear guidance on eligibility, particularly in relation to the third SEISS grant where the tests remain extremely subjective.
- 1.5 Whilst we support publishing data about CJRS claims within an employee's Personal Tax Account, we do not support the widespread publication of employer data as proposed. We do not think that public opinion and fear of adverse publicity should be determining factors in whether a business should claim its legal entitlements. If affordability or other criteria are relevant factors, then these should be incorporated into the design of the scheme.
- 1.6 Whilst we recognise the benefits of transparency, any changes from the 'norm' (ie taxpayer confidentiality) should form part of a wider transparency strategy, supported by primary legislation following proper debate, rather than being implemented on an ad-hoc basis using Treasury Directions.

2 About us

- 2.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.
- 2.2 The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer. We endorse the separate submission to this inquiry made by LITRG.
- 2.3 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

2.4 Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

3 Introduction

3.1 We are pleased to set out our comments in relation to the Committee's inquiry. We previously provided comments on 27 May. These further comments reflect on our experiences over the subsequent six months.

3.2 We have restricted our comments to the two specific questions around value for money, and institutional readiness and transparency.

4 To what extent are government measures value for money for the taxpayer?

4.1 Our comments here relate primarily to the Self-Employment Income Support Scheme (SEISS) and the Coronavirus Job Retention Scheme (CJRS), and their scope and implementation.

4.2 HMT and HMRC designed and implemented the above schemes extremely quickly. For that they should be commended.

4.3 Naturally, due to the urgency of support, there were some 'hard edges' – mainly to prevent fraudulent claims. For example, under SEISS, only those who were already registered as self-employed in 2018/19 (not those who started self-employment after then) and had submitted their tax return by 23 April 2020 were eligible to claim. Under CJRS only those employees (or directors) who were reported to HMRC on an RTI submission as receiving a payment of salary on or before 19 March 2020, for 2019/20, were eligible to be claimed for.

4.4 However, we are now almost nine months on from this point, and there remain large sections of the population still excluded from either of these schemes, in particular:

- Those who commenced self-employment in 2019/20 onwards (and who might in fact have registered their self-employment and submitted a tax return for that year).
- Company directors who would declare themselves an annual salary, and / or extract their 'remuneration' in the form of dividends.
- Those who have made errors completing their tax returns, such as reporting Construction Industry Scheme income as employment income rather than self-employment income.

4.5 It appears to us that following the implementation of these schemes in the spring, the focus during the summer and early autumn was on winding down support in the expectation that we would be returning to some form of normality. In fact, the second peak in the pandemic caused a rather hurried response (for example, the Job Support Scheme (JSS) was dropped the day before it was due to come into effect), and both CJRS and SEISS have been extended until March 2021. Those excluded from these schemes will have lost out on a year's worth of support, and we find it surprising that more isn't now being done to address these inequities.

4.6 Against this backdrop, we were surprised that when the eligibility criteria for SEISS were extended in the summer, this was only to include new parents and military reservists. This represented a far smaller group of potentially excluded individuals than those outlined above, and indeed we understand that take up –

particularly of the new parents extension – has been disappointingly low.

- 4.7 We are concerned that in an attempt to limit support to those who really need it, eligibility for the third SEISS grant (SEISS3) is extremely unclear and relies on subjective judgements that a business (or their adviser) must make, without knowing whether they are within the levels of tolerance envisaged by HMRC. We recognise the need to try to target support, but unclear rules and business's natural fear of HMRC will result in eligible individuals deciding not to claim. We are attempting to engage with HMRC and HMT in relation to SEISS4 so that the eligibility criteria can be more clearly defined.

5 What improvements can be made to institutions to ensure that responses to crises like these are more robust in the future and policy makers have the data they need? What further analysis should the Government do and make transparent?

- 5.1 Our comments here relate to the issues of transparency and responsiveness.

5.2 Transparency

- 5.3 The CJRS is a hugely costly grant scheme, with latest estimates of costs standing at £43bn for the period to 15 November, and the November 2020 to March 2021 extension costing nearly £20bn.¹ Understandably, the cost to the public purse has led to calls for transparency, ie over who is receiving these monies.

- 5.4 The latest Treasury Direction in relation to the CJRS (and it would also have applied to the JSS) requires HMRC to publish information about employers who claim CJRS grants for periods starting on or after 1 December 2020.

- 5.5 We understand that there are two reasons for publication: transparency and deterring fraudulent claims.

- 5.6 Unfortunately, we do not consider that publishing employer data publicly will provide transparency of any particularly helpful kind.

- 5.7 *Integral to the purpose of CJRS is that the amounts paid to an employer pursuant to a CJRS claim are only made by way of reimbursement of the expenditure incurred or to be incurred by the employer in respect of the employee to which the claim relates [paragraph 2.3 of the Treasury Direction]. Publication of total amounts per employer does not enable a greater understanding of whether the CJRS is meeting its purpose, or demonstrate the necessary link between grant claims and individual employees.*

- 5.8 We are concerned that by seeking 'transparency' the result will simply be to put employers in the firing line for criticism on grounds which are not relevant to the qualifying criteria for the scheme (such as continuing to pay dividends, or the perception that the business or sector is sufficiently 'well-off'). Social and mainstream media coverage demonstrates the criticism that certain sectors and employers have already suffered when it became apparent that they had furloughed staff.² It should be remembered that the CJRS was intended to help protect jobs and the wages of those temporarily not working during the coronavirus outbreak. The fact that there was a broader profitable business wasn't meant to preclude a claim - indeed it might be thought to be almost an advantage as it suggests once COVID is addressed, the jobs do indeed

¹ See Table 1.1 <https://www.gov.uk/government/publications/spending-review-2020-documents/spending-review-2020#responding-to-covid-19-1>

² See for example <https://www.msn.com/en-gb/news/uknews/tottenham-u-turn-on-decision-to-furlough-non-playing-staff-during-coronavirus-crisis/ar-BB12yzs1> and <https://www.theguardian.com/business/2020/dec/13/accounting-giant-bdo-makes-u-turn-on-furlough-payback>

have ongoing viability. If the government wished to introduce tighter criteria to target it only at those in need, it could have done so.³

- 5.9 Publishing employer data means that employers must not only ensure that they are properly eligible for the CJRS, but that they can also withstand the public criticism that might subsequently arise. Further, an employer who has laid off staff rather than putting them on furlough may also come in for criticism if they are not on the published list. We do not think that public opinion and fear of adverse publicity should be determining factors in whether a business should claim its legal entitlements.
- 5.10 We should also be mindful of the wider context. Whilst we recognise that the government publishes data on the recipients of grants,⁴ HMRC normally only publish taxpayer or business names when they have done something wrong, such as the list of deliberate tax defaulters.⁵ And there are countless regimes, many of which cost billions of pounds, under which taxpayers and businesses obtain deductions, reliefs, allowances or even direct payments from HMRC, which are not currently disclosed to the general public. We see no reason why CJRS claims should be any different from the 'norm' and we think that any departure from this should form part of a wider transparency strategy, supported by primary legislation following proper debate, rather than being implemented through ad-hoc Treasury Directions.
- 5.11 We do not consider that the published safeguards are adequate. They are restricted to a serious risk of violence or intimidation [paragraph 34.7] and do not take into consideration reputational or similar impacts on employers. We are also concerned as to how employers will become adequately aware of these safeguards before the information is published, in order to take the required action.
- 5.12 There is at least a theoretical risk that this approach may lead to employers laying off employees, if they are concerned about the potential backlash from being known to have made a claim, but not being able to afford to pay the staff themselves.
- 5.13 We favour the approach of publishing details of employers' claims within employees' Personal Tax Accounts (PTA) (along with an alternative telephone process for those unable to transact digitally). This ensures that the disclosure is targeted to those who can more likely identify the existence of abuse (ie because it relates to a claim in relation to their own circumstances), whilst having the ancillary benefit of encouraging individuals to engage with their PTAs. We understand that the principal form of furlough fraud is employees continuing to be required to work, despite the employer having claimed for them under the CJRS as if they were furloughed; this form of disclosure is entirely appropriate as a response to that.
- 5.14 We suspect that if HMRC continues with its current intention to publish employer data, it will be inundated with poor quality and unsubstantiated calls and online reports of fraud. We are already receiving feedback that the fraud hotline is under pressure and there can be long waiting times before getting through to an adviser. This will undoubtedly become more acute if HMRC start to publish employer data.
- 5.15 Responsiveness
- 5.16 Again, we acknowledge the speed with which HMRC has implemented the COVID support schemes.
- 5.17 However, in dealing with these schemes, as well as itself coping with the impacts of COVID, there has been a detrimental impact on normal business processes, particularly around levels of service to taxpayers and

³ We note, for example, the 'financial impact test' which would have been required for larger employers claiming under the proposed Job Support Scheme.

⁴ For example, <https://cap-payments.defra.gov.uk/Search.aspx>

⁵ See <https://www.gov.uk/government/publications/publishing-details-of-deliberate-tax-defaulters-pddd/current-list-of-deliberate-tax-defaulters>

their agents. For example, in 2020/21 the average speed of answering phone calls has constantly been in excess of eight minutes and peaking at nearly fifteen minutes (against a five minute target) with typically over a third of customers waiting over ten minutes, despite a greater than 30% reduction in calls as compared to 2019/20.⁶ We are also receiving reports of a larger than normal number of calls being disconnected by HMRC before getting through to an adviser (so not reflected in the above statistics), and delays in many other areas.

5.18 It is important that HMRC recognise, and act upon, three aspects of this:

- Businesses and their agents are themselves coping with working in an unfamiliar manner, which may impact on their own productivity.
- Businesses are implementing, and agents are advising on, the various COVID support schemes, which for many is also impacting on their 'business as usual' activity.
- The difficulties in getting through to HMRC, and / or obtaining necessary information, are making it more difficult to comply with their tax obligations.

5.19 It is against this backdrop that we have called for leniency on penalties; particularly in relation to the Self-Assessment deadline, but also in a wider context around compliance obligations generally. We are grateful for the steps which HMRC have already taken to ease compliance (eg use of electronic communication, scanned documents etc), and that they are keeping deadlines and penalties under active consideration. It is important that HMRC are not perceived as able to miss deadlines and targets themselves, with no consequences, while not extending the same considerations to taxpayers.

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⁶ See <https://www.gov.uk/government/publications/hmrc-monthly-performance-report-october-2020/hmrc-monthly-performance-update-october-2020>