

Written evidence submitted by Citizens Advice Scotland (CAS)

Scotland's Citizens Advice Network empowers people in every corner of Scotland through our local bureaux (CAB) and national services by providing free, confidential, and independent advice. We use people's real-life experiences to influence policy and drive positive change. We are on the side of people in Scotland who need help, and we change lives for the better

Summary

Citizens Advice Scotland (CAS) welcomed the creation of the Coronavirus Job Retention Scheme (CJRS) and Self-employment Income Support Scheme (SEISS): timely responses which protected incomes and prevented many jobs being lost. There are some gaps in the schemes, together with some misuse or non-use of the CJRS by employers, which have caused detriment to workers. To address some of the remaining gaps in the schemes and ensure they can be wound down safely, Citizens Advice Scotland recommends:

- Making workers who began, or were due to begin, a new job up to the date of the announcement of the Coronavirus Job Retention Scheme (20 March) eligible to be furloughed, regardless of whether they had been paid by that point. As this change will likely be after the cut-off date for new claims, make provision for people in this group to still access the CJRS retrospectively.
- Giving certain types of workers, such as those in the shielding group, a right to be furloughed under the scheme. A formal right for workers to request to be furloughed which cannot be unreasonably refused by an employer could also be considered. As this change will likely be after the cut-off date for new claims, make provision for people in this group to still access the CJRS retrospectively.
- Provide mechanisms for workers to anonymously (to their employer) report instances of employers refusing to furlough them, forcing them to work despite it being unsafe to do so, or placing them on Statutory Sick Pay or annual leave instead of using the scheme to HMRC or the Health and Safety Executive. Sufficient resources should be given to those bodies to investigate and act on reports of misuse or abuse of the scheme by employers.
- People who have become self-employed in the past year should be allowed to access support from the Self-Employment Income Support Scheme.
- Self-employed people should also be entitled to claim support from SEISS for ongoing business costs such as premises, equipment costs, professional body membership fees and insurance where they have been unable to due to COVID-19.
- To ensure that people who are ineligible for either scheme are entitled to social security support, extend entitlement to Universal Credit to students, people subject to immigration control and people with capital exceeding £16,000.

- A flexible approach should be taken to the winding up of the support schemes, tied to the easing of restrictions and direct economic effects of the pandemic. This should take account of the differing impacts on different sectors of the economy, as well as the differing approaches to easing lockdown in the four nations of the UK.

In addition, the schemes and their gaps have highlighted wider issues that we would recommend as priorities for action when the economy begins to recover. Based on CAB evidence, CAS would recommend in the medium term:

- Taking further action so zero hours contract workers, and workers in the 'gig economy' have full employment rights and protections, including income protection if they are unable to work, or given no work by their employer.
- Giving consideration to whether the current employment rights of self-employed people should be increased, in particular giving them a right to Statutory Sick Pay and other forms of income protection.
- Completing the establishment of a Single Enforcement Body for employment rights as a matter of priority.
- Taking a human rights budgeting approach to reviewing the ongoing adequacy of Universal Credit and other social security support with a view to ensuring a minimum income standard.

Introduction and context of response

Citizens Advice Scotland (CAS) welcomes the opportunity to respond to this timely inquiry. The Coronavirus outbreak and social distancing restrictions have created unprecedented challenges. CAS welcomes the UK Government's speedy and comprehensive response in creating the Coronavirus Job Retention Scheme and Self-Employed Income Support Scheme.

The unprecedented challenge has been reflected in the demand for employment advice provided by Scotland's CAB network. Between 16 March and 24 May, Scottish CAB advised clients on 15,071 employment-related issues, representing over 14% of all advice in the period. This is more than three times the typical proportion of employment advice issues (in February it made up just 4% of advice), underscoring the level of concern, change and challenge.

Job Protection Scheme and Self-employment Income Support Scheme

What problems (if any) are individuals facing in claiming support from the Job Protection Scheme and the Self-employment Income Support Scheme?

Citizens Advice Scotland (CAS) welcomed the creation of the Coronavirus Job Retention Scheme (CJRS) and Self-employment Income Support Scheme (SEISS). These timely responses effectively protected tens of thousands of people's incomes during the lockdown, ensured that

people retained employment, allowing many to return to work rather than being made redundant. It also reduced some of the pressure on Universal Credit which would have likely faced a significantly larger number of claims than the already unprecedented number it did.

Since the creation of the Schemes, some CAB clients have been unable to access the CJRS as their employer refused to furlough them. As the cases below illustrate, despite the workers being eligible for furlough, employers' responses have included dismissing workers; making them redundant; changing their contract to a lower number (or zero hours) contract; or simply providing workers on zero hours contracts hours with no work or pay, despite them normally working full time hours. Others have insisted that staff who are unable to work from home continue to work, despite it being unsafe to do so instead of furloughing them.

Citizens Alert: An East of Scotland CAB reports of a client who was dismissed because of the COVID-19 outbreak. Her employer says that he cannot afford to pay staff the 80% pay which he will not receive from the Government for at least six weeks. There seems to be no compulsion for employers to use CJRS if they choose not to. The client is 17 weeks pregnant so will find it difficult to find another job and this will impact on her entitlement to Statutory Maternity Pay. The CAB advised the client to appeal the decision but they would be unlikely to be able to take it any further.

Citizens Alert: An East of Scotland CAB reports of a client who had worked for her employer for one year before being told that she was being made redundant rather than furloughed and paid through the Coronavirus Job Retention Scheme. She was also offered a zero hours contract at a reduced rate of pay, which she felt compelled to accept but has been told that there are no hours available for her at present. Her employer has shown the intention to employ her when social distancing restrictions are lifted, but denied her access to majority of her pay by going about it in this way. It has also created uncertainty about whether she will remain an employee with employment rights or become a worker, and uncertainty about what work she will have when the business reopens.

Others have been ineligible for furlough due to being between jobs or contracts, or by starting a new job after the cut-off date (having been paid through the Real Time Information system by 19 March).

A number of self-employed CAB clients have been ineligible for support from the SEISS, due to working on a mix of "truly" self-employed jobs and multiple short-term PAYE contracts in a year (particularly common in construction, film and TV, and theatre/live arts).

In a number of cases, there has been confusion for the client and their employer over eligibility for the scheme, as in the case below.

! **Citizens Alert:** An East of Scotland CAB reports of a client who started with a new employer in early March and received his first pay on 26 March for his first four weeks of employment. He was sent home at the end of March and understood that he had been furloughed. He is now back in work but has not received pay on 23 April and has been told that he could not be furloughed. This is likely to be because he was on the payroll too late and the employer could be correct. However, the client did not claim benefits as he was reliant on getting 80% of his wages so may have lost out financially, largely due to the confusion over which employees could and could not be furloughed and the poor communication by the employer with employees who could not be furloughed after all. Being such a new employee the client is reluctant to push things with the employer and ask for his missing wages, thus the employee is bearing the financial cost of the employer's decision to close the place of work for a period.

Other self-employed people have not had their full costs covered by the SEISS, due to having ongoing expenses, such as premises, insurance, required membership of professional bodies, vehicle payment plans or storage. These are not covered by the profits-only nature of the Scheme.

! **Citizens Alert:** An East of Scotland CAB reports of a self-employed client who has large fixed costs for their caravan lets business. The client is already in debt but all seasonal bookings have been cancelled due to Coronavirus. The Self-Employed Income Support Scheme only covers 80% of profits, which will not include business expenses such as site fees that will have to be maintained.

Citizens Advice Scotland's recommendations to address some of these issues can be found below.

How effective have these schemes been in maintaining employment and reducing job losses?

According to official statistics, 8.7 million workers have been furloughed through the CJRS (with 628,000 of them in Scotland).¹ In addition, by 31 May, 2.4 million claims (146,000 in Scotland) had been made to the SEISS, representing 70% of the eligible population.²

As noted above, between 16 March and 24 May, Scotland's CAB network advised clients on over 15,000 employment issues, rising sharply from 4% of CAB advice in February to a peak of 18% the week beginning 30 March, and remaining three times the typical share of advice at 24 May (12%).

Based on the above, there is no doubt that without the introduction of the schemes, many of these jobs would have been lost, and additional businesses forced to close. The creation of the schemes also helped limit the numbers of people making a claim for Universal Credit (UC), which saw 2.4 million new claims between 16 March and 9 June³. This is far in excess of what would normally be expected, and placed pressure on the system leading to initial delays and queues.⁴ Without the creation of the schemes, it is likely that more people would have to make a Universal Credit claim, which provides a lower level of financial support than the schemes, and would not have a job to return to after the restrictions ease.

Is the Government doing enough to ensure that businesses and individuals are claiming appropriately and that fraudulent claims are detected?

Scottish CAB have reported a number of instances where clients' employers have misused, or part-used the furlough scheme. These cases have included paying employees Statutory Sick Pay instead of their wages, forcing employees to take holidays during the furlough period, or asking employees to continue working despite being officially furloughed.

! **Citizens Alert:** An East of Scotland CAB reports of a client who had emailed for advice regarding furlough. She states that her employers have requested that the employees use the bulk of their holiday entitlement before the end of May 2020, whilst they are placed on furlough. This means that these holidays will only be paid at 80% of salary. The client was seeking advice regarding this before she signed her agreement to being furloughed.

It is unfortunate that the proposed new single enforcement body for employment rights⁵ had not been set up by the time the CJRS was established, as it could have played a key role in enforcing. Citizens Advice Scotland has long supported the establishment of a Commission whose functions include bringing together the enforcement powers of the current range of separate agencies to better protect workers and prevent rogue employers from causing hardship to employees, denying them their statutory rights or putting their health at risk⁶.

However, in lieu of the Commission there may be a role for the Health and Safety Executive, as well as HMRC in enforcing the scheme. Providing an easy to access, well-promoted and adequately resourced anonymous reporting mechanism for workers who are concerned their employer is misusing the furlough scheme and causing them detriment may be one route to improving enforcement and protecting furloughed workers.

Has the Government struck the right balance between targeting support and making it easy to access?

Where has Government support been too generous and where has it not been generous enough?

On the whole, the coverage and level of support has been reasonable, although a number of gaps exist, as detailed in our answer below

There appear to be more gaps in the coverage of the Self-Employment Income Support Scheme, although it is acknowledged that given the varied nature of self-employed businesses there would be challenges in providing adequate support to this diverse group. More detail on the gaps in the scheme reported by the Scottish CAB network, together with some recommendations for future action can be found in our answer to the questions below.

How successful has the Government been in plugging the gaps in the schemes? What gaps in coverage still remain and are changes required to increase their effectiveness?

As outlined above, the main gaps in the Coronavirus Job Retention Scheme relate to people who were ineligible for furlough, primarily due having recently left a job to start a new one and not having been paid through the Real Time Information system by the cut-off date of 19 March. Additionally, Scotland's CAB network has advised clients who were ineligible for furlough because they were between jobs or contracts.

As detailed above, more commonly CAB clients have sought advice as they wished to be furloughed but their employer has refused to place them on the scheme, instead making them redundant, paying them Statutory Sick Pay, requiring them to take annual leave or requiring them to work despite it being unsafe to do so and in contravention of government advice.

There are particular issues for a number of groups who are refused furlough but not provided with any work as they would be ineligible to claim Universal Credit, such as full-time students, people with no recourse to public funds, or people with savings in excess of £16,000. This can leave people without any income at all.

In relation to the Self-Employment Income Support Scheme, particular gaps in support appear to be for people with ongoing business costs, such as the rent of premises, which is not covered by the profits-only nature of the scheme, as well as people who work multiple short-term PAYE contracts.

In addition, people who had become self-employed within the last year and had not yet submitted a tax return were ineligible for support. The Scottish Government established a fund to provide support to the newly self-employed which helped plug the gap, although there are

some groups who are also ineligible for support through this scheme – most notably people who have claimed Universal Credit, even prior to the scheme's establishment on 21 April.⁷

As CAS previously highlighted in our response to the Work and Pensions Committee⁸, for a period of time after the announcement of the changes there was a delay in providing official information on the interaction between the schemes (particularly for the SEISS) and Universal Credit, which caused some difficulty for CAB in providing accurate advice to clients. For instance, a number of self-employed clients were reluctant to claim Universal Credit because they believed they would be required to repay it once they received a payment from the scheme.

Allied to the issues for workers on zero hours contracts described above, others with precarious employment arrangements, and the self-employed, the COVID-19 pandemic has once again highlighted the need to strengthen the rights and protections for workers in these types of employment, as Citizens Advice Scotland has previously recommended.^{9 10}

To address some of the remaining gaps in the schemes, Citizens Advice Scotland recommends:

- Making workers who began, or were due to begin, a new job up to the date of the announcement of the Coronavirus Job Retention Scheme (20 March) eligible to be furloughed, regardless of whether they had been paid by that point. As this change will likely be after the cut-off date for new claims, make provision for people in this group to still access the CJRS retrospectively.
- Giving certain types of workers, such as those in the shielding group, a right to be furloughed under the scheme. A formal right for workers to request to be furloughed which cannot be unreasonably refused by an employer could also be considered. As this change will likely be after the cut-off date for new claims, make provision for people in this group to still access the CJRS retrospectively.
- Provide mechanisms for workers to anonymously report instances of employers refusing to furlough them, forcing them to work despite it being unsafe to do so, or placing them on Statutory Sick Pay or annual leave instead of using the scheme, to HMRC or the Health and Safety Executive. Sufficient resources should be given to those bodies to investigate and act on reports of misuse or abuse of the scheme by employers.
- People who have become self-employed in the past year should be allowed to access support from the Self-Employment Income Support Scheme.
- Self-employed people should also be entitled to claim support from SEISS for ongoing business costs such as premises and insurance where they have been unable to due to COVID-19.
- To ensure that people who are ineligible for either scheme are entitled to social security support, extend entitlement to Universal Credit to students, people subject to immigration control and people with capital exceeding £16,000.

In addition, the schemes and the gaps in their coverage have highlighted wider issues that would appear to be priorities for action as the economy begins to recover. Based on CAB evidence, CAS would recommend in the medium term:

- Taking further action ensure that zero hours contract workers, and workers in the 'gig economy' have full employment rights and protections, including income protection if they are unable to work, or given no work by their employer.
- Giving consideration to whether the current employment rights of self-employed people should be increased, in particular giving them a right to Statutory Sick Pay and other forms of income protection.
- Completing the establishment of a Single Enforcement Body for employment rights as a matter of priority.
- Take a human rights budgeting approach to reviewing the ongoing adequacy of Universal Credit and other social security support with a view to ensuring a minimum income standard.

Continue to increase the National Minimum Wage to meet the value of the independently-calculated voluntary Living Wage¹¹

How viable is it for the Job Protection Scheme and the Self-employment Income Support Scheme to be open for longer?

How and when should the Government's support packages be wound up?

How should the Government prioritise which continuing sectors and groups to support as time goes on and ongoing support is needed?

What actions does the Government need to undertake to pursue to support a successful exit strategy?

The Government proposes for the CJRS to continue until 31 October, with employers progressively taking on a larger share of contributions, including furloughed employees being able to return part-time from 1 July.¹² The deadline for making a claim for the SEISS is currently proposed for 13 July, with people whose businesses are adversely affected after 14 July being able to make a claim for a second and final grant capped at £6,570.¹³

However, it is unclear to what extent all businesses will be able to fully re-open by October. Depending on the ongoing progress towards a re-opening after lockdown, it may be that some sectors and groups are able to return to a state of relative normality, but others are not. This may be because aspects of the business are still unable to operate due to remaining restrictions, or because the wider impact of restrictions still has a significant effect on their ability to operate. It is also possible that a 'second wave' of the COVID-19 outbreak emerges, with lockdown restrictions needing to be re-imposed if the virus begins to spread widely again.

Additionally, as each of the four nations of the UK has adopted different routes out of lockdown with different timescales for the reopening of certain aspects of the economy, it is also possible that some sectors will be re-opened in England, but not in Scotland by the time the schemes are proposed to come to an end. There are also differences in the reliance of the UK's nations and regions on particular sectors. Some of these, like tourism and hospitality in Scotland, will take longer to recover, while also being a proportionately bigger employer than the UK average.

Care should be taken to ensure that the end of the schemes does not provoke a sudden wave of redundancies and mass unemployment situation in November, together with a 'second wave' of claims to Universal Credit. The winding up of the schemes should take the above factors into account, providing flexibility to allow for the diversity of the UK's economy.

CAS recommends that a flexible approach should be taken to the winding up of the support schemes, tied to the easing of restrictions and direct economic effects of the pandemic. This should take account the differing impacts on different sectors of the economy, as well as the differing approaches to easing lockdown in the four nations of the UK.

Economy, public finances and monetary policy

The UK economic response to the COVID-19 crisis must be clearly linked to wider economic strategy, including the economic strategies of the UK's nations and regions. Scotland's Economic Strategy aims to create a more successful country with opportunities for all and with increasing sustainable economic growth at its heart. The Strategy adopts a dual approach of increasing competitiveness and tackling inequality and therefore promoting inclusive growth.

It is imperative that inclusive growth underpins the economic response and recovery from the COVID-19 crisis to ensure that those who access advice from the Citizens Advice network in Scotland are fully supported, existing inequalities are not exacerbated and that competitiveness benefits consumers and stimulates economic growth for the benefit for all.

Central to an inclusive growth approach will be balancing economic stimulus and competitiveness with measures aimed at tackling inequality. Thought must be given to economic support for all in society and all sectors of the economy for this to truly be inclusive. Otherwise any economic response that is overly focussed purely on sustained economic stimulus will only help to cement or worsen inequality.¹⁴

The economic approach across the UK should be co-ordinated, with effective measures by the UK Government on reserved matters affecting Scotland, including strengthening employment protections and ensuring the adequacy of social security support.

June 2020

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- ¹ Coronavirus Job Retention Scheme Official Statistics – HM Revenue & Customs, June 2020
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/891249/Coronavirus_Job_Retention_Scheme_Statistics_June_2020.pdf
- ² Self-Employment Income Support Scheme (SEISS) Official Statistics – HM Revenue & Customs, June 2020
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/891603/SEISS_Official_Statistics_June_2020.pdf
- ³ Universal Credit declarations (claims) and advances: management information: 1 March to 9 June 2020 – Department for Work and Pensions, June 2020 <https://www.gov.uk/government/publications/universal-credit-declarations-claims-and-advances-management-information>
- ⁴ Citizens Advice Scotland written response to Work and Pensions Select Committee inquiry: DWP's response to the Coronavirus outbreak, April 2020 <https://committees.parliament.uk/writtenevidence/1677/html/>
- ⁵ Good work plan: establishing a new single enforcement body for employment rights consultation – Department for Business, Energy and Industrial Strategy, July 2019 <https://www.gov.uk/government/consultations/good-work-plan-establishing-a-new-single-enforcement-body-for-employment-rights>
- ⁶ Citizens Advice Scotland response to Good Work Plan: establishing a single enforcement body for employment rights consultation – January 2020 <https://www.cas.org.uk/publications/cas-response-uk-government-consultation-good-work-plan-establishing-single-enforcement>
- ⁷ Newly Self-Employed Hardship Fund – Scottish Government
<https://findbusinesssupport.gov.scot/service/coronavirus/newly-self-employed-hardship-fund>
- ⁸ Citizens Advice Scotland written response to Work and Pensions Select Committee inquiry: DWP's response to the Coronavirus outbreak, April 2020 <https://committees.parliament.uk/writtenevidence/1677/html/>
- ⁹ Citizens Advice Scotland response to Low Pay Commission Consultation on April 2020 National Minimum Wage Rates – June 2019 <https://www.cas.org.uk/publications/cas-response-consultation-april-2020-national-minimum-wage-rates>
- ¹⁰ Citizens Advice Scotland response to the Business, Energy and Industrial Strategy Committee 'Future world of work and rights of workers' inquiry – December 2016 <https://www.cas.org.uk/publications/cas-response-future-world-work-and-rights-workers-inquiry>
- ¹¹ Citizens Advice Scotland response to Low Pay Commission inquiry – June 2020
https://www.cas.org.uk/system/files/publications/citizens_advice_scotland_response_to_low_pay_commission_consultation_202_0.pdf
- ¹² FAQs: Coronavirus Job Retention Scheme – House of Commons Library, June 2020
<https://commonslibrary.parliament.uk/research-briefings/cbp-8880/>
- ¹³ Coronavirus: Self Employment Income Support Scheme – House of Commons Library, June 2020
<https://commonslibrary.parliament.uk/research-briefings/cbp-8879/>
- ¹⁴ Citizens Advice Scotland's submission to the Advisory Group on Economic Recovery – May 2020
<https://www.cas.org.uk/publications/citizens-advice-scotlands-submission-advisory-group-economic-recovery>