

Ref: ExpertPanels/HMRC/PPG/3April2020

3rd April 2020

The Rt Hon Rishi Sunak MP  
Chancellor of the Exchequer  
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Sent by e-mail to: [rishi.sunak.mp@parliament.uk](mailto:rishi.sunak.mp@parliament.uk)

Dear Sir

We are writing as the Managing Partners of member firms of the UK200Group, the UK's leading association of chartered accountancy and law firms. Our organisation brings together 150 member offices in the UK with more than 600 partners who serve the needs of roughly 150,000 small, medium and large businesses across the UK together with countless private individuals. We have intimate knowledge of their relationships with one another, with banks and with employees and we are actively engaged with them on a day to day basis.

It is in this respect we write to you with concerns about:

- a) The impact of the Coronavirus Job Retention Scheme (CJRS) and the Self-Employment Income Support Scheme (SEISS) on directors of small companies, sole traders and Partnerships and new businesses
- b) The difficulties faced by small and medium sized family businesses accessing the Coronavirus Business Interruption Loan Scheme

We welcome and strongly support the tremendous efforts of the Treasury to offer support to UK businesses and its employees in the wake of the coronavirus crisis. The measures you have put in place so far have provided a great deal of security and reassurance to our own businesses and clients in this period of unforeseen instability.

However, we have a number of major concerns, in two main areas: job preservation and cashflow.

### **Job preservation**

The CJRS is of great help to large businesses, and SEISS is very well targeted at unincorporated sole traders, but we are concerned that there are gaps between these schemes that leave many people – such as directors of small companies, sole traders and Partnerships, freelancers, and owners of new businesses - without support.

**Small company owners** frequently take low or no salary, relying on the profits of the business which can be highly variable. The CJRS is of no use to such people.

**Sole proprietors and partnerships** can be relatively large – incorporation is not necessarily an appropriate legal structure for many businesses. This group is unable to make any claim at all under CJRS or SEISS if their income has exceeded £50,000 – yet their furloughed employees are eligible to receive 80% of their salary during this crisis.

**Freelancers** often have a mixture of short-term employment and self-employed income. The interaction of CJRS and SEISS means that many will be unable to obtain relief from either, while some will be able to obtain both. This is manifestly unfair.

Examples include:

- *A new leisure business formed in January this year, with over 20 staff. All of these have had to be furloughed, but the couple who own the business are left with a second mortgage on their house and no income at all. Their bank is unwilling to lend further amounts as they have no credit history (see below).*

- *An historian who works with local universities and schools, with a mixture of short and part-time employments plus some self-employed contracts. Her customers prefer the certainty of employment contracts, especially since the changes to public-sector IR35 rules, and so she does not qualify for SEISS. However, being on short-term contracts she has no employer to furlough her, and even if they did the amount due (being a day or half day a week) would be tiny.*

We would recommend that business owners such as the above should be brought within the SEISS regardless of the legal structure of their business. Such individuals should be included in all business-related income (whether employment, self-employment or dividends) in the calculation of taxable income.

This would provide greater relief for many on low incomes, while avoiding the potential for those with a total income above £50,000 to benefit from both CJRS and SEISS (if say they have employment income of £40,000 and trading income of £45,000).

### **Cashflow and the job retention scheme**

The CJRS depends on businesses paying their staff now and reclaiming the cost from the Treasury at some point in late April or May.

The cashflow requirements are supposed to be met by banks under the Coronavirus Business Interruption Loan Scheme (CBILS) but this is not happening.

As an example, one of our member firms approached their bank to request an extended overdraft (although they have never used the existing one) and short repayment holidays on three loans. Although the bank currently holds security for the existing borrowings which is significantly in excess of the outstanding balances, even including the new overdraft, they were only prepared to agree a short holiday for one loan; they would then require up to date statements of assets and liabilities before considering whether new loans could be made.

This attitude makes the CJRS completely ineffective for many businesses, who have no alternative but to make staff redundant purely because they do not have access to cash – even though they and the banks know that it will be available in the near future.

We strongly suggest that banks are obliged to lend 100% of the value of CJRS payments via a temporary loan facility, to be repaid in full upon receipt of payments under the scheme (which could be paid directly to the loan account). Whilst this provides some administrative challenges to the banks, it may be the difference between success and failure of many small businesses.

### **Family Businesses accessing the CBILS**

While the announcement of the CBILS offers significant help to the cash flow of businesses to enable them to survive this crisis, small- and medium-sized family businesses face extreme difficulty in accessing these loans for two reasons:

- The relatively short repayment period for the loans means that the repayments after the crisis will be very difficult to afford
- While government is providing lenders with a guarantee of 80% of the value of the loans, family businesses will find it very difficult to provide the remaining 20% security at a time when the crisis means that both the commercial and residential property markets are facing such uncertainty.

To quote an example:

*A family business in Lincolnshire, established for 60 years, which employs 220 people at this time of year, supplying UK grown flowers to the supermarkets in a highly competitive market with flowers imported from Europe and Africa. They have invested heavily in recent years to automate and develop one of the most modern nurseries in Europe, which means their existing security is fully occupied by their current borrowing in this crisis*

*In common with other supermarket suppliers, their net profit margin annually is under 7% and they will need to borrow the equivalent of 3 years' profits simply to cover their overheads during the*

*lockdown and to bring the business back up to capacity afterwards. This will put an immense strain on the business, leaving no headroom to deal with any other issues.*

Recent announcements suggest that the need for guarantees is being relaxed, although it is still a concern. We would recommend that the term of CBILS loans be lengthened, however, to lessen the impact on business income.

In many cases, it will take time for businesses to return to a position where they can service existing and new debt. Many second-tier lenders effectively use bullet repayments as an effective means of providing businesses with more time to recover from a dip in performance. By utilising bullet repayments, banks can ensure that loans are repaid within the suggested 6-year term, albeit in many cases the loan may be repaid by a re-finance exercise when serviceability has been proven.

## **Solutions**

We know that it is your absolute priority to support businesses during this crisis and that you are working at pace and scale to put new measures in place that protect the economy. We hope that the above gaps can be addressed to level the playing field and support small and family-owned businesses, as you have rightly and effectively supported others in the business community.

We would be very happy to discuss these issues with you in more detail either via teleconference or videoconference. If a meeting would be of interest, please contact Declan Swan [declanswan@uk200group.co.uk](mailto:declanswan@uk200group.co.uk)

Yours faithfully



Andrew Jackson MA (Oxon) CTA  
**Chair UK200Group's Tax Panel**



Declan Swan  
**CEO UK200Group**

## **Enclosed:**

Member firms – Managing Partners signatures  
List of Concerns to SME's



## UK200Group Managing Partners as at 3rd April 2020

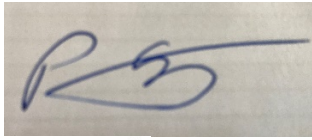
Signature	Name	Company Name	Town
	James Abbott	Abbott Moore Limited	Silsoe
	James Dale	Anderson Barrowcliff LLP	Stockton on Tees
	Brian Bowser	Bowers	Wisbech
	Simon Fothergill	Bright & Sons - Solicitors	Maldon
	Peter Stafford	Cartmell Shepherd Ltd	Carlisle
	Richard McNeilly	Dains LLP	Birmingham
	David Stevens	Ellacotts LLP	Banbury
	Stewart Martin	Edmund Carr LLP	Chelmsford
	Adam Caplan	Freedman Frankl & Taylor	Manchester
	Richard Dilley	George Hay Partnership LLP	Letchworth Garden City
	Brian Scott	Graham Paul Ltd	Bridgend
	Carolynn Pissarro	Griffin Chapman	Colchester
	Jenny Tolmie	Griffin Stone, Moscrop & Co	London WC1
	Denise Lindsell	Hardcastle Burton LLP	Royston
	Christopher Brown	Hart Shaw LLP	Sheffield



Jon O'Shea

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Paul Stephenson

Holeys Ltd

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Nick Rawson

Knill James LLP

Lewes

Nick Forsyth

Lambert Chapman LLP

Braintree

Matthew Barrow

Lester Aldridge

Bournemouth

Paul Morton

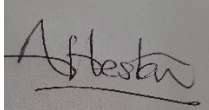
Lodders Solicitors LLP

Stratford upon  
Avon


Chris Pease

Longmores Solicitors LLP

Hertford



Andrew Heskin

Moore Thompson

Spalding



Mark Lello

Parker Bullen LLP

Salisbury



Robert Postlethwaite

Postlethwaite Solicitors Ltd

London WC1



Jeremy Gardner

Roffe Swayne

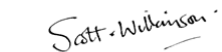
Godalming



Chris Davies

Ross Brooke Ltd

Newbury



Timothy Preece

Scott &amp; Wilkinson LLP

Lancaster



Paul Stafford

TBL Accountants

Southend on Sea



Simon Wake

The Endeavour Partnership  
LLP - Solicitors

Stockton on Tees



David Macdonald

The Martlet Partnership LLP

Worthing



Hayley Bradfield

Watts Gregory LLP

Cardiff



David Rowe

WBV Limited

Swansea



Helen Spencer

Whittingham Riddell LLP

Shrewsbury

**End:**



**3rd April 2020**

**FOR THE ATTENTION OF THE RT HON RISHI SUNAK MP**

**On behalf of the UK200Group**

Andrew Jackson, UK200Group Tax Panel Member  
Declan Swan, UK200Group CEO

### **Introduction**

The UK200Group is an association of around 600 chartered accountancy and lawyer partners located locally around the UK. We have expertise in key service lines including tax, insolvency/restructuring, corporate finance, international business, investment management and pensions. We also have expertise in most sectors of the economy.

We are keen to help both the Government and our 150,000-strong SME client base through these challenging times. The following is a list of questions that have been raised by our members, together with suggestions for alleviating the issues identified:

### **Statutory sick pay**

#### **Clarifications**

We should be grateful if you could confirm that the following are correct:

- The 250-employee limit is applied to individual employers, where an 'employer' is a single PAYE reference. Separate PAYE schemes operated by related parties are to be treated as separate employers for this purpose
- If an employee exceeds 14 days of illness, a sick note will be required as normal to cover the excess.
- Directors are entitled to SSP, just like any other employee
- An employee could be eligible for SSP either because they are sick, or because they are self-isolating. If an employee has a number of periods of absence (for example, they self-isolate for a week, then become able to work from home so are now being paid fully, then fall ill), the 3-day waiting period will apply to non-Covid-19 related absences but not to any that are related to it.
- In the above instance the total number of Covid-19 related sick days for an employee could not exceed 14, regardless of the number of periods of absence.

#### **Questions raised**

- Does SSP apply to a furloughed worker who falls ill? We assume that as they are not working at all, they should still be paid under the furloughed scheme.
- Conversely, can a self-isolating worker be put on furlough instead? If so, what are the implications for the employer and the worker?

### **Furloughed workers**

#### **Questions raised**

Consideration of the practical implications of the regime has highlighted some issues. We imagine that you are considering many of these already, but for completeness:

- Does being an 'essential business' prevent you furloughing workers?
- Staff need to be paid, and funding this payment is a significant strain for many businesses, as the reimbursement system is not yet in place. This is a specific cashflow issue, which doesn't really fall within the scope of 'business interruption' and so CBILS is not particularly suitable. Is there a mechanism for relieving this other than CBILS?
- Will it be possible to net PAYE and NIC due off against amount recoverable? This would mitigate the cashflow impact of paying and then recovering.

## **Suggestion**

A number of businesses have expressed dismay that furlough is all-or-nothing. Although it should work well where there are a large number of people carrying out similar roles, it does not seem suitable for a small business where everyone has a unique contribution to make.

Allowing employees to return from furlough after three weeks alleviates this problem somewhat, but still causes grave difficulties for small businesses.

Would it be possible to permit varying levels of furlough, such that an employee might reduce their hours from say five days a week to two? We can see a number of ways to set the level of reimbursement, though the fairest would seem to be to subsidise 80% of the reduction. In that example, the reimbursement would be capped at 48% of pay, so the employee might receive 40% of their original pay for the days worked and 48% funded by Government.

We consider that this would have a number of advantages:

- It would avoid disadvantaging small businesses where all employees are key
- It would reduce resentment between staff: there is a serious risk that seeing colleagues get three months' holiday for only a 20% reduction in pay could damage morale significantly
- It would enable furloughed staff to retain skills and stay up to date
- It builds in resilience against the possibility of non-furloughed staff falling ill
- Mental health worries related to enforced isolation and inactivity would be alleviated
- Businesses would be significantly less disrupted, mitigating damage to the economy

It would of course be necessary to balance this against the risk of increasing contact if more employees are at work, but where home-working is possible this should not be an issue.

## **Business owners and the self-employed**

### **Small companies**

The salaries of many directors of small companies across England are supplemented by dividends after the payment of corporation tax. Under CJRS that dividend income has been excluded because of the difficulty in distinguishing between salary conversion and a return on investment in shares. However, without those dividends the salaries of those directors typically range between £8,600 and £12,500.

Under CJRS some furloughed employees will receive more than the director of the company that employs them. It is vital that the business directors who are taking decisions at a local level across the country to power our economy through this crisis have financial parity with their employees by recognising the package that is needed to fund a household rather than salary alone.

### **Unincorporated businesses**

There are similar concerns for those who fall under SEISS. Although businesses often incorporate when profits begin to exceed £50,000, some prefer to continue as sole proprietors or in a Partnership.

This group is unable to make any claim at all under the scheme if their income has exceeded £50,000 – yet their furloughed employees are eligible to receive 80% of their salary during this crisis.

### **New businesses**

New businesses also face a disadvantage under SEISS against businesses that have not submitted tax returns for the last financial year. New businesses created before 31 December 2019 should be allowed



to submit initial documents to HM Revenue and Customs by 23 April to participate in SEISS, if established businesses that had not submitted to HMRC have been given a grace period to register a claim.

While these new businesses are in their infancy, some will be thriving and have taken on staff. If a new business owner can submit furloughing claims to protect the incomes of their employees, then they must also be able to participate to protect themselves.

### **Freelancers**

A large number of people, particularly in the arts, education, and health sectors, work very flexibly across a number of contracts. It is not unusual for an individual to have several short-term contracts at any one time, some of which are employment, some self-employed, and some through their own company or partnership. The form of the contract is usually dictated by the customer, and in many cases (especially in the public sector) they are encouraged to be on the payroll.

In very many cases these individuals have income of much less than £50,000 per annum, but which is very fragmented.

For example, if an historian runs a number of events for local schools, museums, and universities, while also earning income from writing books and articles, their income might consist of £10,000 of self-employed income and £15,000 of employment, made up of several dozen contracts worth a few hundred pounds each. SEISS will not be available, as qualifying income is less than 50%, but it is unlikely that whichever institution(s) they happened to be under contract to at 28 February will regard a contract lasting a week or fortnight as being suitable for CJRS for the next three months.

This leads to different treatment of individuals who are in virtually identical situations: it cannot be right that a worker's right to assistance can be prejudiced because slightly too much of their income has been taxed under PAYE.

Equally, if another individual has £45,000 of self-employed income plus £40,000 of employment income, then they could be entitled to both SEISS and CJRS – without affecting their self-employment income, in many cases.

We would suggest that where self-employed individuals undertake employment in a closely-related field, that employment income should be included in self-employed income for purposes of SEISS. This would be the first example above a fuller relief (by permitting SEISS), and also remove the double-counting for the second (by denying SEISS).

### **General suggestion**

Such an approach could also benefit business owners generally, if SEISS permits all business-related income including dividends as well as employed and self-employed income. Existing tests such as those for Entrepreneur's Relief could be used, as they are well understood, and the scope for abuse would be restricted as any furlough pay would automatically limit an SEISS claim (which does not occur under the current system).

### **Cashflow management**

#### **Business Interruption Loans**

We are receiving widespread reports that banks are unwilling to lend to businesses, as they have to bear normal risk criteria in mind. Although the Government is urging them to lend, they still seem to be too conscious of potential downsides and seem to be reading the requirement to have a viable borrowing proposal as being a relatively high hurdle.

We appreciate that CBILS is not intended to support unviable business, but by its nature it must include some which are somewhat precarious. We would therefore recommend that the lending rules are relaxed in order to allow more flexibility. At the very least we would suggest that guidelines make it clear that any impact of the pandemic, whether direct or indirect, must be disregarded when considering the viability of the business. If a loan would have been made this time last year, then it should be made now.



We note that although family businesses are well-established and well run, they typically have relatively fine profit margins the relatively low property values in many areas mean that having sufficient security to cover bank loans is always a particular challenge for this sector.

CBILS is therefore proving to be challenging for our businesses for two reasons:

- The fine profit margins typical of this area will make the repayment of these loans over a short time period of only 6 years very challenging, to the extent that many businesses will fail to qualify for the loans on this criteria. We note that it may take two to three years to restore the lost profits of the immediate future, much less generate additional funds to repay the loan.
- Arranging the security to cover the remaining 20% of the loans will be difficult if businesses already have bank borrowings, or if up to date property valuations are required during a time of such uncertainty.

Therefore, we are very concerned that more will need to be done to provide effective cash flow help for these family businesses, otherwise they will fail.

Business owners also report that they are being pressed to provide personal guarantees for loans, which duplicates (and makes redundant) the 80% guarantee provided under CBILS. Given the great uncertainties there are at present, many of them are reluctant to accept the risk to their homes and other assets. The removal of personal guarantees on loans up to £250,000 alleviates but does not remove this problem.

We would recommend that banks be required to add the 80% guarantee to the £250,000 threshold, such that a loan of up to £1.25 million does not require a personal guarantee – this being the £250,000 requiring no guarantee, plus the £1 million guaranteed by Government. We would further urge that guarantees only be required for borrowings over this threshold, rather than it being an all-or-nothing position.

Finally, a requirement for loans is that a coherent business plan is in place, incorporating a cashflow forecast. The uncertainties surrounding the Job Retention Scheme and the timing of SSP repayments make this difficult to prepare. Having some firm dates for repayments of these amounts would be a significant help.

### **Local authority grants**

These are extremely welcome. The main questions that have been raised are:

- How soon will they be made available? We understand that this is in the hands of local authorities.
- Different authorities seem to be taking different approaches, but the general thrust is that businesses have to apply for the grants. It was originally announced that authorities would proactively contact businesses that qualify. What steps can be taken to ensure that no business loses out?
- Are they taxable? We assume so, as they are to defray costs, but should be grateful if the position could be confirmed.
- Several different levels of grant are available, with different criteria. We understand that any given business will only receive one grant (per property, if they have more than one), but should be grateful if this could be confirmed.

### **Other tax issues**

#### **Cash accounting**

We would recommend that the threshold for cash accounting be increased substantially, to allow for businesses to pay tax only on profit that has been realised. Aligning the threshold with the VAT cash accounting scheme would seem to be a logical step, although increasing that threshold would have more of an impact on many businesses.

## Deferral of tax payments

These again are very welcome. Our questions are:

- How should VAT payments be made, in due course? Is the payment date essentially deferred to 31 March 2021?
- Is VAT and duty on import still due through deferment accounts, or can that also be delayed?
- Are there any proposals for deferring payment of PAYE and NIC?

We should appreciate any clarification that can be made available regarding Time to Pay. Historically HMRC has been reluctant to allow multiple TTP arrangements for the same taxpayer, but it seems as though this may be more common over the short term.

A number of self-employed individuals are expecting much lower profits this year, although they made payments on account in January. These can be reclaimed from HMRC, but we should welcome confirmation that such repayments will be made promptly.

## Tax returns

Businesses are under considerable pressure managing the crisis. The preparation and submission of tax returns is an additional burden at this time. Would it be possible to defer the submission dates for returns in a similar way to the extension granted for Companies House accounts?

Particular immediate concerns are:

- P11Ds, especially where employment contracts have changed for furloughing and the value of benefits will need to be recalculated
- P60s, for similar reasons
- Employment related securities reporting
- Annual Tax on Enveloped Dwellings
- VAT returns

An automatic 3-month extension of all deadlines falling between now and 30 June would be enormously helpful in alleviating the administrative burden in the short term.

**End**

## Document Control

Amended version of original list sent to HMRC and HMT via Nigel Mellor on the 26<sup>th</sup> March 2020