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Coronavirus: Self-Employment Income Support Scheme

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Summary

To support the self-employed through the coronavirus outbreak the Government introduced the Self-Employment Income Support Scheme (SEISS).

The Scheme has paid taxable grants worth 80% of someone's average monthly trading profit, for a three-month period, worth up to £7,500 in total. On 30 April 2020 the Government published the Treasury Direction to HM Revenue & Customs, the statutory guidelines for HMRC to administer the SEISS. The Scheme was opened for applications on 13 May, and closed on 13 July.

On 29 May 2020 the Government announced a second round of the SEISS, with those eligible able to claim a second grant, worth 70% of their average monthly trading profit, for a further three months, capped at £6,570 in total. On 2 July a second Treasury Direction was published to this effect. Applications for the second grant were opened on 17 August, and were closed on 19 October.

On 24 September 2020 the Government announced an extension to the SEISS to be introduced in November, to cover the six months up to the end of April 2021. The SEISS Grant Extension would be made in two taxable grants – first to cover November to January, second to cover February to April.

Initially it was proposed that the first of these grants would cover 20% of average monthly trading profits, capped at £1,875, but this figure has been revised three times. On 22 October the Chancellor announced the first grant would cover 40% of average monthly trading profits, capped at £3,750. On 2 November the Chancellor announced that the payment for the first month (November) of the first grant would be set at 80% - increasing the total level of this grant to 55% of trading profits, capped at £5,160. Subsequently on 5 November the Chancellor announced that all three months of the first grant would be calculated on the basis of 80% of average trading profits, up to a maximum of £7,500.[1] On 24 November the Government published a further Treasury Direction underpinning the scheme. Applications for the third SEISS grant opened on 29 November and closed on 29 January 2021.[2]

On 3 March 2021 the Chancellor presented the 2021 Budget, and as part of this announced the SEISS would be extended until the end of September 2021.

A fourth grant will be set at 80% of 3 months' average trading profits, paid out in a single instalment, capped at £7,500. Unlike earlier SEISS grants, the grant will take into account 2019 to 2020 tax returns and will be open to those who became self-employed in tax year 2019 to 2020. The online claims service for the fourth grant will be available from late April 2021 until 31 May 2021.

A fifth grant is to cover May to September, and the size of the grant is to be determined, in part, by the amount a claimant's turnover has reduced in the year April 2020 to April 2021. The grant will be worth:

- 80% of 3 months' average trading profits, capped at £7,500, for those with a turnover reduction of 30% or more

1 HM Treasury press notice, *Government extends Furlough to March and increases self-employed support*, 5 November 2020

2 Details of the eligibility criteria for the third grant are set out in, HMRC, *Check if you can claim a grant through the Self-Employment Income Support Scheme*, 16 February 2021 [withdrawn 3 March 2021]

- 30% of 3 months' average trading profits, capped at £2,850, for those with a turnover reduction of less than 30%.

Applications of the fifth grant are to be opened from late July.[3]

As with other aspects of the Covid-19 pandemic and the Government's response to it, this is a fast-moving area and the paper should be read as correct at the time of publication. Similarly, as with other Commons Briefing papers, this information is provided to Members of Parliament in support of their parliamentary duties and is not intended to address the specific circumstances of any particular individual. A suitably qualified professional should be consulted if specific advice or information is required.

[3] HMRC, *Self-Employment Income Support Scheme fourth grant*, 3 March 2021. See also, *Budget 2021*, HC 1226, March 2021 para 2.15-6

1. Coronavirus (Covid-19) pandemic: Government actions

On 17 March 2020 the Chancellor Rishi Sunak announced a £330 billion package of measures to support business and workers to protect against the economic emergency caused by the Covid-19 pandemic, promising "to do whatever it takes to support our economy through this crisis." The Chancellor has made a series of further announcements on the Government's support over the last year. An overview is provided by *Coronavirus: Support for business*, Commons Briefing paper CBP8847. Further information about Covid-19 and the response to it is available from the Commons Library Coronavirus page.

A summary timeline of announcements

- In Budget 2020 on 11 March the Chancellor, Rishi Sunak, set out plans for a £12 billion package of "temporary, timely and targeted measures" to support public services, individuals and businesses through the economic disruption caused by coronavirus.[4]
- On 17 March the Chancellor set out a package of financial measures worth £330 billion ("equivalent to 15% of GDP"). Mr Sunak went on to say "if demand is greater than the initial £330 billion [for loans] I'm making available today, I will go further and provide as much capacity as required. I said whatever it takes – and I meant it."[5]
- On 20 March the Chancellor provided an updated statement on coronavirus. This provided both new measures and updated information on those measures already announced, including "unprecedented" measures for the Government to "step in and help to pay people's wages" – the Coronavirus Job Retention Scheme (CJRS) – or 'Furlough scheme'.[6]
- On 26 March the Chancellor announced the Self Employment Income Support Scheme (SEISS) to pay direct cash grants to self-employed individuals, to mirror the CJRS. Grants would be worth 80% of 3 months' average trading profits, up to £2,500 per month, based on claimants' 2018/19 tax returns.[7]
- On 12 May the Chancellor announced that the CJRS would extend initially to the end of October,[8] and on 29 May he confirmed those eligible for the SEISS would be able to claim a second grant capped at £6,570.[9]
- On 24 September the Chancellor announced a further extension of the SEISS, a two-part grant to cover the period November 2020 to April 2021, as well as a new Job Support Scheme for employees returning to work.[10]
- On 5 November the Chancellor confirmed the extension of the CRJS to the end of March 2021, and the level of the third SEISS grant, based on 80% of 3 months' average trading profits, capped at £7,500. Applications for this grant would close on 29 January 2021.[11]
- On 3 March 2021 the Chancellor confirmed that the CRJS and the SIESS would be extended to the end of September 2021. Individuals who became self-employed during 2019/20 would be eligible for both the fourth and fifth SEISS grants. No other changes would be made to the eligibility criteria.[12]

4 HM Treasury, *Budget 2020*, HC 121, March 2020, para 1.83
5 HMT, *Chancellor of the Exchequer, Rishi Sunak on COVID19 response*, 17 March 2020
6 HMT, *The Chancellor Rishi Sunak provides an updated statement on coronavirus*, 20 March 2020
7 HMT, *Chancellor gives support to millions of self-employed individuals*, 26 March 2020
8 HMT, *Chancellor extends furlough scheme until October*, 12 May 2020
9 HMT, *Chancellor extends Self-Employment Support Scheme and confirms furlough next steps*, 29 May 2020. See also, Update on the CJRS and SEISS : Written statement - HCWS267S, 3 June 2020.
10 HMT, *Chancellor outlines Winter Economy Plan*, 24 September 2020
11 HMT, *Government extends Furlough to March and increases self-employed support*, 5 November 2020
12 HM Treasury, *Budget 2021*, HC 1226, March 2021 para 2.15-6

2. The Self-Employment Income Support Scheme

2.1 Announcement of the SEISS : March 2020

The Office for National Statistics (ONS) estimates that just over 5 million people – 15% of the UK workforce – are self-employed.[13] Following the announcement of the Government's Job Retention Scheme, there were calls for similar support to be provided to self-employed individuals. Frances O'Grady, General Secretary of the Trades Union Congress, told the BBC's Today programme that the lack of measures put in place for the self-employed "will cause real hardship unless we get to grips with it."[14]

On 26 March, the Chancellor Rishi Sunak announced the Government would launch an income support scheme for the self-employed:

> I'm proud of what we've done so far, but I know that many self-employed people are deeply anxious about the support available for them … So, to support those who work for themselves, today I am announcing a new Self-Employed Income Support Scheme.
>
> The government will pay self-employed people, who have been adversely affected by the Coronavirus, a taxable grant worth 80% of their average monthly profits over the last three years, up to £2,500 a month. This scheme will be open for at least three months – and I will extend it for longer if necessary. You'll be able to claim these grants and continue to do business. And we're covering the same amount of income for a self-employed person as we are for furloughed employees, who also receive a grant worth 80% ...
>
> Providing such unprecedented support for self-employed people has been difficult to do in practice. And the self-employed are a diverse population, with some people earning significant profits. So I've taken steps to make this scheme deliverable, and fair:
>
> - to make sure that the scheme provides targeted support for those most in need, it will be open to anyone with income up to £50,000.
> - to make sure only the genuinely self-employed benefit, it will be available to people who make the majority of their income from self-employment
> - and to minimise fraud, only those who are already in self-employment, who have a tax return for 2019, will be able to apply
>
> 95% of people who are majority self-employed will benefit from this scheme.
>
> HMRC are working on this urgently and expect people to be able to access the scheme no later than the beginning of June. If you're eligible, HMRC will contact you directly, ask you to fill out a simple online form, then pay the grant straight into your bank account. And to make sure no one who needs it misses out on support, we have decided to allow anyone who missed the filing deadline in January, four weeks from today to submit their tax return …
>
> The scheme I have announced today is fair. It is targeted at those who need it the most. Crucially, it is deliverable. And it provides an unprecedented level of support for self-employed people … But I must be honest and point out that in devising this scheme – in response to many calls for support – it is now much harder to justify the inconsistent contributions between people of different employment statuses. If we all want to benefit equally from state support, we must all pay in equally in future.[15]

13 ONS, *Labour market economic commentary: March 2020*, 17 March 2020
14 "Coronavirus: Self-employed need financial help, unions warn", *BBC News*, 21 March 2020
15 HM Treasury, *Chancellor's statement on coronavirus (COVID-19)*, 26 March 2020. See also, HM Treasury, *Chancellor gives support to millions of self-employed individuals*, 26 March 2020

On 27 April 2020, the Chancellor said HMRC was "on track" to deliver the scheme in early June, and that the Government would publish detailed guidance "this week".[16]

At the end of that week, on 30 April, the Government published the Treasury Direction to HMRC, the formal legislative guidelines for the Scheme.

2.2 Launch of the Scheme : May-July 2020

On 13 May the Government announced that the SEISS was open for applications, and that those eligible to receive support would be able to receive the government grant by 25 May, or within six days of a completed claim.[17]

HMRC published detailed guidance on the scope of the SEISS when the Chancellor announced its introduction. **Prior to the closure of this first grant scheme on 13 July**, this guidance summarised the eligibility criteria as follows:

> **Who can claim**
>
> You can claim if you're a self-employed individual or a member of a partnership and all of the following apply:
>
> - you traded in the tax year 2018 to 2019 and submitted your Self Assessment tax return on or before 23 April 2020 for that year
> - you traded in the tax year 2019 to 2020
> - you intend to continue to trade in the tax year 2020 to 2021
> - you carry on a trade which has been adversely affected by coronavirus.
>
> Your business could be adversely affected by coronavirus if, for example:
>
> - you're unable to work because you:
>   - are shielding
>   - are self-isolating
>   - are on sick leave because of coronavirus
>   - have caring responsibilities because of coronavirus
> - you've had to scale down or temporarily stop trading because:
>   - your supply chain has been interrupted
>   - you have fewer or no customers or clients
>   - your staff are unable to come in to work
>   - one or more of your contracts have been cancelled
>   - you had to buy protective equipment so you could trade following social distancing rules.
>
> … You should not claim the grant if you're a limited company or operating a trade through a trust.
>
> If you claim Maternity Allowance this will not affect your eligibility for the grant.
>
> To work out your eligibility we will first look at your 2018 to 2019 Self Assessment tax return. Your trading profits must be no more than £50,000 and at least equal to your non-trading income. If you're not eligible based on the 2018 to 2019 Self Assessment tax return, we will then look at the tax years 2016 to 2017, 2017 to 2018, and 2018 to 2019.[18]

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16 HC Deb 27 April 2020 c108
17 HM Treasury, *Applications for Self-Employment Income Support Scheme open early*, 13 May 2020
18 HMRC, *Check if you can claim a grant through the SEISS*, 2 July 2020

This guidance was supplemented by: *How different circumstances affect the Self-Employment Income Support Scheme*, 2 July 2020.

HMRC's guidance also set out how a grant under the first scheme was calculated:

> **How much you'll get**
>
> You'll get a taxable grant based on your average trading profit over the 3 tax years:
>
> - 2016 to 2017
> - 2017 to 2018
> - 2018 to 2019
>
> We will work out your average trading profit by adding together your total trading profits or losses for the 3 tax years, then we will divide by 3.
>
> The grant will be 80% of your average monthly trading profits, paid out in a single instalment covering 3 months, and capped at £7,500 altogether. The online service will tell you how we've worked your grant out.
>
> The grant amount we work out for you will be paid directly into your bank account, in one instalment.[19]

This was supplemented by: *How HMRC works out trading profits and non-trading income for the Self-Employment Income Support Scheme*, 7 May 2020.

As noted, if someone was eligible to receive a grant they were required to make a claim on or before 13 July 2020.[20]

On 29 May HMRC published draft legislation to introduce rules on the taxation of coronavirus business support grants. These grants are treated as income where the business is within the scope of either income tax or corporation tax. Responses on the technical effectiveness of the measure were invited by 12 June.[21] Notably the legislation provides HMRC with powers to recover payments where recipients did not meet the eligibility criteria, and charge a penalty in cases of deliberate non-compliance.[22]

On 25 June the Government published a number of new clauses to be added to the *Finance Bill 2019-21* at the Bill's Report stage on 1-2 July.[23] One of these – NC19 – made provision for this measure; an extract from HMRC's impact note is reproduced below:

> Legislation is included in Finance Bill 2020 that:
>
> - defines a coronavirus support payment
> - confirms that a COVID-19 support scheme payment received by a business, or an individual member of a partnership, is within the scope of tax. It is of a revenue nature for the purposes of calculating either Income Tax or Corporation Tax. Business includes a trade, UK or overseas property business or investment business
> - provides for specific schemes to be added or excluded, and for changes about the application of this legislation to particular schemes to be made, through regulations made by the Treasury
> - ensures HMRC can use its information and inspection powers to check a SEISS or CJRS claim has not been overpaid and that a CJRS payment has been used to pay furloughed employee costs

19 HMRC, *Check if you can claim a grant through the SEISS*, 2 July 2020
20 The closure date was specified in the Treasury's Direction: *Further Treasury Direction made under Sections 71 and 76 of the Coronavirus Act 2020*, 2 July 2020 para 4.
21 HMRC, *Draft legislation: Taxation of coronavirus (COVID-19) support payments*, 29 May 2020
22 HMRC, *Corporation Tax/Income Tax – Taxation of Coronavirus Support Payments : Draft*, 29 May 2020
23 HMT, *Finance Bill 2020: Report stage*, 25 June 2020

- gives HMRC powers to raise an Income Tax assessment on anyone who has received a SEISS or CJRS payment to which they are not entitled, or anyone who has not used a CJRS payment to pay furloughed employee costs. The assessment is equal to the amount to which they are not entitled, or they have not used to pay furloughed employee costs
- ensures the TMA 1970 provisions apply to the assessment
- gives HMRC powers to charge a penalty where a person deliberately makes an incorrect claim for a SEISS or CJRS payment. It also gives HMRC powers to charge a penalty where a person who has claimed a CJRS payment deliberately does not use it for the costs it was intended to reimburse. The penalty will only apply if the person fails to notify HMRC about the situation within 90 days, or 90 days after the Finance Bill receives Royal Assent if it arose before that.
- gives HMRC powers to make a company officer jointly and severally liable for the Income Tax charge raised in relation to any CJRS payment to which the company was not entitled or any CJRS payment which was never intended to be used to pay furloughed employee costs in certain circumstances. Those circumstances are where the officer is culpable for making a deliberate CJRS claim to which the company was not entitled. These powers apply where HMRC can meet certain tests showing there is a serious risk that the company will be unable pay the Income Tax assessment.[24]

HMRC's assessment did not give an estimate of the Exchequer impact of this measure, but stated that the OBR would include its impact "in its forecast at the next fiscal event."

As noted, under these provisions HMRC may charge a penalty where receipts of Covid-19 support payments failed to notify HMRC of any errors in their claim within 90 days of a claim – or 90 days after the Finance Bill's Royal Assent if it arose before then. The draft legislation had set this deadline at 30 days, and there were concerns that this was too short; for example, in the CIOT's submission to the consultation:

> We appreciate that HMRC need to introduce legislation to provide a mechanism to clawback CSPs to which recipients were not entitled and to tax the funds to which they were entitled. Overall, most of the draft legislation appears to achieve this aim in a reasonable way, apart from the length of time given to notify HMRC … If a pers
>
> on knows at the time they made their claim that they were not entitled to receive a CSP payment, then the 30 day deadline seems appropriate.
>
> However, there will be cases where a person is not aware they have received a payment they were not entitled to, for example because they may have made inadvertent errors in furlough claims which may only come to light as their familiarity with the scheme grows, or during a review carried out by their adviser, or a later inspection by HMRC.
>
> There is also a difference between: (i) undertaking a review of claims made to the point the Act receives Royal Assent; and (ii) undertaking a review of future claims, within 30 days of the relevant point. In our view it would be more realistic either:
>
> i) to set the notification deadline at 90 rather than 30 days in all cases; or
>
> ii) to set it to a longer time for claims that were made prior to the Act receiving Royal Assent, with the 30 day limit applying to subsequent claims; or
>
> iii) set it to the 30th day after the day on which the recipient becomes aware, or ought reasonably to have been aware, that they had received a CSP payment to which they were not entitled.[25]

The House agreed a Ways & Means Resolution to allow these new clauses to be added to the Bill on 1 July, before the start of the Report Stage; and these were agreed, without a

[24] *Corporation Tax/Income Tax – Taxation of Coronavirus Support Payments*, 25 June 2020
[25] CIOT, *Taxation of coronavirus support payments*, 12 June 2020 para 2.1, 2.3

division, on 2 July.[26] When he presented these new clauses, the Financial Secretary gave a short explanation as to the procedure for doing so …

> We have brought forward these new clauses at the earliest possible opportunity, and for technical reasons, it is on Report. We have also been slightly limited by the fact that to table each new clause requires a new Ways and Means resolution to be agreed by the House. Report was the first amendable stage of the Bill to take place after the Government had been able to agree the necessary Ways and Means resolution on the Floor of the House. I hope the House will agree that there is a clear need for each of these new clauses to stand part of the Bill.[27]

… as well as a summary of this particular measure:

> New clause 19 seeks to do two things. First, it confirms that grants made under covid-related schemes—for example, the furlough scheme, the self-employment scheme, the small business grant fund, the retail, hospitality and leisure grant fund, the local authority discretionary grant fund and schemes corresponding to those grants within the devolved Administrations—are subject to tax. The new clause also includes a delegated power to add or remove further grant schemes through a statutory instrument, which provides sensible flexibility, so that the Government can continue to support the economy in their response to the pandemic.
>
> The second part of the new clause ensures that HMRC has appropriate and proportionate compliance and enforcement powers in relation to the furlough scheme and the self-employment income support scheme. To ensure that taxpayer money is going only to those who are eligible, the new clause gives HMRC powers to recover overpayments and to impose penalties where there is deliberate non-compliance.
>
> HMRC has given a clear undertaking that these powers will not be used to penalise taxpayers who may be going through difficult times but make honest mistakes in their applications. As previously stated, the powers are designed to be proportionate, and they balance the fact that we are in unprecedented and uncertain times with the need to ensure that HMRC has sufficient powers to enforce the schemes according to eligibility criteria set out and to protect the Exchequer.[28]

2.3 Extension of the SEISS : August 2020

There was considerable interest in whether the Government might extend the SEISS,[29] following the Chancellor's announcement on 12 May that the Coronavirus Job Retention Scheme (CJRS) would be extended until the end of October 2020.[30]

When he announced the extension of the CJRS, the Chancellor noted that while the two schemes offered "parity of support", "the nature of the schemes is different in the sense that employers who have been closed and have to make employment decisions, potentially 45 days in advance in respect of redundancies, do need to be treated slightly differently in that regard. I will of course continue to keep all things … under review."[31]

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26 These provisions form s106 and Schedule 16 of the *Finance Act 2020*. For commentary see, Emma Rawson, "Self-employment income support: is it payback time?", *Accountancy Age*, 7 August 2020; "Taxing excess Covid-19 support payments", *Tax Journal,* 4 September 2020; and, HMRC *Business Income Manual* from para BIM40456, ret'd March 2021.

27 HC Deb 2 July 2020 c576

28 *op.cit.* cc576-7

29 "Coronavirus: Rishi Sunak urged by MPs to extend self-employed help", *BBC News*, 29 May 2020

30 HMT, *Chancellor extends furlough scheme until October*, 12 May 2020

31 HC Deb 12 May 2020 c143. See also, the Chancellor's response to a question by Tracy Brabin at Treasury Questions a few days later (HC Deb 18 May 2020 c359), and, "Aid for UK self-employed in doubt despite pledge of 'parity' with furloughing", *Financial Times*, 27 May 2020.

On 29 May the Chancellor gave more details of the way in which the JRS would be extended, and announced that a second, final grant would be provided under the SEISS in August; part of his statement is reproduced below:

> I can confirm today: The self-employment income scheme will be extended, with applications opening in August for a second and final grant.
>
> The final grant will work in the same way as the first did, paid out in a single installment covering three months' worth of average monthly profits.
>
> To maintain the sense of fairness alongside the job retention scheme… the value of the final grant will be 70%, up to a total £6,570. Otherwise, there will be no changes and no further extensions to the schemes, which continue to be some of the most generous in the world ...
>
> I do want to acknowledge that we haven't been able to support everyone in the exact way they would want. I understand some people have felt frustrated. But you were not and have not been forgotten. Even if you don't qualify for the furlough or self-employment schemes, we've provided a wide range of support …from discounted loans, to tax cuts, mortgage holidays and enhanced welfare.[32]

Further details of the second grant scheme were given in a press notice accompanying the Chancellor's statement:

> - Individuals can continue to apply for the first SEISS grant until 13 July. Under the first grant, eligible individuals can claim a taxable grant worth 80% of their average monthly trading profits, paid out in a single instalment covering three months' worth of profits, and capped at £7,500 in total. Those eligible have the money paid into their bank account within six working days of completing a claim.
> - Applications for the second grant will open in August. Individuals will be able to claim a second taxable grant worth 70% of their average monthly trading profits, paid out in a single instalment covering three months' worth of profits, and capped at £6,570 in total.
> - The eligibility criteria are the same for both grants, and individuals will need to confirm that their business has been adversely affected by coronavirus. An individual does not need to have claimed the first grant to receive the second grant: for example, they may only have been adversely affected by COVID-19 in this later phase. Further guidance on the second grant will be published on Friday 12 June.[33]

In a written statement on 3 June the Chancellor confirmed "the SEISS will be extended and eligible individuals could now qualify for a second and final grant":

> The extension of the SEISS now means eligible individuals whose businesses are adversely affected by coronavirus will be able to claim a second and final taxable grant when the scheme reopens for applications in August.
>
> Individuals will be able to claim a taxable grant worth 70 per cent of their average monthly trading profits, paid out in another single instalment covering three months' worth of profits, and capped at £6,570 in total.
>
> This is in line with changes to the CJRS as the economy reopens and the eligibility criteria remain the same for this final grant. An individual does not need to have claimed the first grant to receive the second grant: for example, they may only have been adversely affected by coronavirus in this later phase.[34]

Prior to the closure of the second grant scheme on 19 October, individuals were entitled to make a claim if their trade had been **"adversely affected"** by coronavirus.

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32 HM Treasury, Chancellor's statement on coronavirus (COVID-19): 29 May 2020, 29 May 2020
33 HM Treasury, *Chancellor extends SEISS and confirms furlough next steps*, 29 May 2020
34 Update on the CJRS and SEISS: Written statement HCWS267S, 3 June 2020.

HMRC's guidance published at this time underlined that to make a claim for a second grant, an individual's trade needed to have been adversely affected on or after 14 July, and provided examples of when these criteria would be met, reproduced overleaf.[35]

On 15 June the Chancellor announced minor amendments to the SEISS and to the CJRS to improve access for military reservists, and for servicemen and servicewomen returning to their day job after completing a period of active duty. In the first case it was confirmed that reservists who were unable to access the SEISS as a direct result of their service in 2018-19 would be able to make a claim for both the first and second SEISS grant.[36]

One concern that Members have raised is that parents who have had a gap in their trading taking maternity or paternity leave, or sick leave, may be unable to claim the SEISS because they do not meet the test for making a majority of their income from self-employment.[37] On 17 June the Government announced that "self-employed parents whose trading profits dipped in 2018/19 because they took time out to have children will be able to claim for a payment under the SEISS":

> The scheme … requires claimants to have traded in 2018/19 with their profits making up at least half of their total income. They must also have submitted a self-assessment tax return on or before 23 April 2020 for the 2018/19 tax year.
>
> The Treasury has ensured parents, including mothers, fathers and those who have adopted, who took time out of trading to care for their children within the first 12 months of birth of the child or within 12 months of an adoption placement, will now be able to use either their 2017-18 or both their 2016-17 and 2017-18 self-assessment returns as the basis for their eligibility for the SEISS. They will also need to meet the other standard eligibility criteria for support under the SEISS. Further details of the change for self-employed parents will be set out by the start of July in published guidance.[38]

On 2 July the Treasury published a further Treasury Direction, reflecting the introduction of the second scheme and the closure date of the first.[39] This second Direction also made provision for the changes to the eligibility rules regarding military reservists and parents, discussed above.

The online service for applications for the second grant was opened on 17 August,[40] and closed on 19 October.[41]

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35 HMRC, *Decide if your business has been adversely affected for the Self-Employment Income Support Scheme*, 17 August 2020

36 HM Treasury press notice, *Reservists returning to civilian work eligible for government support schemes*, 15 June 2020

37 See PQs37888, 37803 & 37714, 28 April 2020; PQ51985, 4 June 2020.

38 HM Treasury press notice, *Self-employed new parents can claim support grant*, 17 June 2020. See also comments by BEIS Minister Paul Scully (HC Deb 17 June 2020 c785), and PQ73022, 16 July 2020.

39 HMT, *Further Treasury Direction made under Sections 71 and 76 of the Coronavirus Act 2020*, 2 July 2020

40 HMT press notice, *Millions of self-employed to benefit from second stage of support scheme*, 17 August 2020. See also, "Coronavirus: Claims open for second self-employed support grant", *BBC news*, 17 August 2020; "Sunak reopens support scheme for self-employed", *Financial Times*, 17 August 2020

41 See also, Low Incomes Tax Reform Group press notice, *Self-Employment Income Support Scheme: What's new?*, 17 August 2020

13

SEISS: Adversely affected examples

If you're able to work within the social distancing rules

A builder worked on a very small building site and was still able to go to work throughout the pandemic as she was able to work within the social distancing rules.

Adversely affected : Is the condition met? First grant : No Second grant : No

Reason : As the builder's trade was not adversely affected by coronavirus she is not eligible to claim either grant.

If you're unable to find work due to the impact of coronavirus

A builder was unable to find work from March 2020 to September 2020 because of the government restrictions on building sites and the economic impact of the pandemic on the companies she worked for.

Adversely affected : Is the condition met? First grant : Yes Second grant : Yes

Reason : As the builder's business was adversely affected by coronavirus before and, on or after 14 July 2020, she is eligible to claim both grants.

If you were not able to work as normal before 14 July 2020

A builder worked on short-term contracts on different building sites. She only had half the work she would normally have in April 2020 and May 2020 because some of the building sites were closed. She was able to work as normal from June 2020 because the building sites reopened.

Adversely affected : Is the condition met? First grant : Yes Second grant : No

Reason : As the builder's business was adversely affected by coronavirus before 14 July 2020 she is eligible to claim the first grant. However, her business was not adversely affected by coronavirus on or after 14 July 2020 so she is not eligible to claim the second grant.

If you were not able to work as normal on or after 14 July 2020

A builder was able to work as normal from February 2020 to August 2020 because she works on small house extensions which are completely outdoors. However, she caught coronavirus in August 2020, meaning she was unable to work for 6 weeks while she recovered.

Adversely affected : Is the condition met? First grant : No Second grant : Yes

Reason : As the builder was able to work as normal and not adversely affected until after 14 July 2020 she is not eligible to claim the first grant. Her business was adversely affected by coronavirus in August 2020 when she was unable to work for 6 weeks so she is eligible to claim the second grant.

If you had significantly fewer customers due to social distancing rules or had to buy protective equipment

A shop owner closed his shop from March 2020 to 14 June 2020. He reopened his shop on 15 June 2020, but the number of customers he could serve was lower because of the social distancing rules. He also had increased costs due to buying protective equipment.

Adversely affected : Is the condition met? First grant : Yes Second grant : Yes

Reason : As the shop was closed his business was adversely affected by coronavirus before 14 July 2020 so he was eligible to claim the first grant. His business was also adversely affected on or after 14 July 2020 because the number of customers were significantly lower and increased costs for protective equipment he was also eligible to claim the second grant.

If your contracts were cancelled due to the impact of coronavirus

A builder was due to start a 3-month project building a house extension in August 2020. However, this contract was cancelled on 15 April 2020 because the owner of the house had been impacted by the economic effects of the pandemic. The builder incurred additional costs to find new work. From June 2020 onwards, after building sites opened, she was able to work as normal.

Adversely affected : Is the condition met? First grant : Yes Second grant : No

Reason : As the builder's contract was cancelled in April 2020, she was adversely affected by coronavirus before 14 July 2020 so she was eligible to claim the first grant. She resumed work as normal from June 2020 and was able to find other work. Her business was not adversely affected on or after 14 July 2020, so she was not eligible to claim the second grant.

Source: HMRC, *Decide if your business has been adversely affected for the SEISS*, 17 August 2020

2.4 Statistics on take-up of the SEISS

Since their launch, HMRC has published statistics on the take-up and cost of both the SEISS and the Coronavirus Job Retention Scheme (CJRS).

In the case of the SEISS, the total number of claims for the first tranche of the scheme was 2.6m, worth £7.6bn in total. The total number of claims for the second tranche was 2.4m claims, worth £5.9bn in total. The total number of claims for the third tranche was 2.2m, worth £6.2bn in total. By contrast, by 15 February 2021 a total number of 11.2m jobs had been furloughed under the CJRS; the total number of employers furloughing was 1.3m, and the total value of claims made was £53.8bn.[42][43]

HMRC has also published more detailed monthly statistics on SEISS claims, most recently covering claims made up to 31 January 2021; the main findings are as follows:

- Around 5 million individuals reported self-employment income for the tax year 2018 to 2019, and had their data assessed for potential Self-Employment Income Support Scheme eligibility. In order to be assessed, a self-employed individual needed to have traded in the tax year 2018 to 2019 and submitted a Self Assessment tax return on or before 23 April 2020 for that year.
- Via this process, 3.4 million self-employed individuals were identified as potentially eligible for the Self-Employment Income Support Scheme scheme. This means that they met the criteria for the scheme based on Self Assessment returns from the tax year 2018 to 19 and earlier years. However, some of the potentially eligible businesses will not have been adversely affected by Coronavirus or have ceased trading since the tax year 2018 to 19 so will not have been eligible.
- By 31 January 2.2 million (65%) of the potentially eligible population had claimed a third Self-Employment Income Support Scheme grant with the value of these claims totalling £6.2 billion.
- The average value per Self-Employment Income Support Scheme 3 claim was £2,800.
- Around two-thirds of the potentially eligible population are male (2.3 million). The average claim for females is also lower at £2,200 compared to the average claim for males of £3,100.
- Around 91% of claimants are aged between 25 and 64 and take-up of the grant in those age groups is at or above 62%. No one single age group dominates take up of Self-Employment Income Support Scheme 3 grants.
- The sector with the highest number of potentially eligible individuals and the highest proportion of claims is the construction industry. By 31 January, construction workers had made 747,000 claims for Self-Employment Income Support Scheme 3, totalling £2.6 billion.
- The 2 regions with the highest number of claims are London (439,000) and the South East (316,000), reflecting their relative sizes.
- Of the 1.7 million that did not meet the Self-Employment Income Support Scheme criteria, 1.4 million (86%) had trading profits less than non-trading profits (e.g. income from employment or investment income), 0.5 million (33%) had trading profits of £0 or made a loss and 0.2 million (11%) had trading profits over £50,000. (N.B. Individuals may be counted more than once if they

42 *Coronavirus business support schemes: statistics*, Commons Briefing paper CBP8938, 2 March 2021
43 HMRC, *HMRC coronavirus (COVID-19) statistics*, updated 28 January 2021

> have trading profits which meet more than one of these criteria which explains why the figures sum to more than 1.7 million).[44]

This data source also includes a breakdown of SEISS claimants by Parliamentary constituency and local authority.

Coronavirus business support schemes: statistics, Commons Briefing paper CBP8938, 2 March 2021, collates data on the number of applications and total support provided under the Government coronavirus business support schemes. Guidance on the CJRS is given in, *FAQs: Coronavirus Job Retention Scheme*, CBP8880, 15 February 2021.

In November 2020 the Office of Budget Responsibility published estimates of both the SEISS and CJRS as part of its *Economic and Fiscal Outlook*:

> **Employment support measures**
>
> **A.6 The coronavirus job retention scheme (CJRS)** was first announced on 20 March, initially to run until the end of May but now to continue until the end of March 2021 … The gross cost of the subsidy has risen to £64.6 billion, with £62.5 billion of that in 2020- 21. The cost relating to the period to the end of October is £42.5 billion (£12.1 billion less than we estimated in the [*Fiscal Sustainability Report* in July] largely due to claims falling faster than expected).
>
> **A.7** Close to £9 billion of the gross cost comes directly back to the Exchequer in the form of the tax and NICs paid on the subsidised wages. Around £0.3 billion of payments had been repaid by employers by the end of October, reducing the net cost. But around £0.2 billion net loss of compliance yield across the tax system is due to the fact that HMRC is diverting staff from higher yielding activities to focus on CJRS recoveries. Taking all these factors into account gives a net cost of £55.5 billion over the lifetime of the scheme …
>
> **A.8 The self-employed income support scheme (SEISS)** is a taxable grant for the self-employed and members of partnerships. It was initially announced on 26 March as a single payment covering three months, and worth 80 per cent of average monthly profits over the preceding three tax years, up to a maximum of £7,500. A second grant worth 70 per cent of average monthly profits and capped at £6,570 in total was announced on 29 May, with a third following on 5 November, this time reverting to the 80 per cent rate. The gross cost of the three grants is £20.9 billion, all falling in 2020-21. £3.6 billion is recouped in income tax and NICs, around two-thirds of which falls in 2021-22 due to the lag in self-assessment payments. This gives a net cost of £17.1 billion.[45]

In March 2021 the OBR updated these estimates, following the Government's announcement in the Budget that both schemes would be extended to the end of September 2021:

> **Virus-related income support schemes**
>
> **3.86** The gross cost of the CJRS and SEISS combined is expected to reach £79.7 billion in 2020- 21, £3.8 billion less than we forecast in November, but higher than one might have expected after taking the positive surprise on GDP growth into account (Box 3.4). Both schemes have been extended again in the Budget, at an expected cost of £24.3 billion in 2021-22. The success of the schemes in cushioning household incomes from the drop in output over the past year, and the Government's repeated extensions to both as the pandemic has continued, points to the risk that society could demand this more expensive element of the countercyclical fiscal toolkit be deployed again in future downturns.

[44] HMRC, *Self-Employment Income Support Scheme statistics: February 2021*, 25 February 2021. These statistics were first published in June 2020 (see, PQ49838, 3 June 2020).

[45] OBR, *Economic and Fiscal Outlook*, CP 318, November 2020 p175. The OBR also collates information on its analysis of the impact of Covid-19 on its site.

3.87 The £3.8 billion downward revision to spending in 2020-21 is mainly due to the CJRS, where the outturn in November and December was lower than expected. The effect of that is partly offset by upward revisions to the monthly costs for January to March as a result of the lockdown that was imposed in early January. Take-up of the third SEISS grant was also lower than expected, which may partly be due to the tighter restrictions on eligibility compared with the first two grants.

3.88 The Government announced in December that the CJRS would be extended by a month to the end of April, and in the Budget has extended it by a further five months to the end of September. We expect the cost of these extensions to be much lower than in previous months thanks to the easing of public health restrictions and associated pick-up in economic activity; a growing proportion of the employees being on part-time rather than full-time furlough; and the progressive reduction in the proportion of wages that will be subsidised in the final three months of the scheme. All told, we expect the gross cost of CJRS from April to September 2021 to be £10.8 billion, falling progressively from £3.0 billion in April to as low as £0.7 billion in September.

3.89 The SEISS has also been extended further, with two more grants in April/May (covering the months of February to April) and from July (covering May to September). Eligibility has also been expanded to those who traded for the first time in 2019-20, but the criteria to be eligible for the fifth grant have been tightened through adding a 'financial impact test'. These two additional grants are expected to cost £13.5 billion.[46]

[46] OBR, *Economic and Fiscal Outlook*, CP 387, March 2021 pp136-7

3. Reactions to the SEISS

Initial responses

The SEISS appears to have been widely welcomed when it was first announced.[47]

The Director-General of the CBI Dame Carolyn Fairbairn, CBI Director-General, commented, "many self-employed people across the UK will be hugely relieved tonight. These new measures will provide essential support to those facing significant uncertainty and loss of income."[48] Mike Cherry, National Chairman of the Federation of Small Businesses (FSB) said, "it is very welcome that the Government has listened to FSB and responded with a multi-billion-pound package to support our entrepreneurs, and to do so through the self-assessment system,"[49] although in a second press notice Mr Cherry raised concerns that some groups were excluded from its scope: "These include directors of smaller limited companies who pay themselves through dividends or dividends and salary … [and] those who have more recently become self-employed, and those whose profits are above the cap of £50,000 a year."[50]

There were also concerns about the timing of this support package as the Chancellor initially indicated that the Scheme might not be up and running until early June.[51] The BBC quoted the then Shadow Chancellor John McDonnell who suggested that there was "a real risk that without support until June the self-employed will feel they have to keep working, putting their own and others' health at risk.[52] An editorial in the *Guardian* argued the Chancellor "has not gone far enough for the lowest-paid. The self-employed earn about half the amount of those in employment. Covering 80% of poverty wages is just another form of financial destitution. And the money doesn't come until June."[53]

By contrast a leader in the *Times* suggesting that "what Mr Sunak has produced is more generous than many expected and perhaps more generous than it needed to be … if anything the package is even more generous than it is for employees because … the self-employed will be able to claim a grant irrespective of whether their income has actually fallen as a result of the crisis. If everyone eligible claims, it could cost £10 billion for three months."[54] This was also a point raised by the Resolution Foundation in a blog post on the Chancellor's announcement:

> This scheme is in fact much more generous in some ways than that for employees. Although the Chancellor pitched it as being targeted at self-employed workers actually affected by the coronavirus outbreak, in practice self-employed people will be able to claim a grant irrespective of whether their income has actually fallen. This blanket payment approach means that the costs of operating this scheme will be high, although also highly uncertain. HM Revenue and Customs data on self-employed earnings suggests that it could cost around £10 billion over three months if everyone entitled to it claimed.

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47 See, for example, "Sunak reveals coronavirus bailout for self-employed, but they must wait until June", *Times*, 27 March 2020
48 CBI press notice, *CBI response to new self-employment support*, 26 March 2020
49 FSB press notice, *FSB welcomes government support package for self-employed*, 26 March 2020
50 FSB press notice, *FSB highlights gaps in coronavirus income support measures for self-employed*, 1 April 2020
51 See, for example, "Rishi Sunak unveils rescue package for self-employed workers", *Financial Times*, 26 March 2020
52 BBC News, Coronavirus: UK government unveils aid for self-employed, 26 March 2020
53 "Editorial: The Guardian view on government bailouts: steadying unsteady jobs", *Guardian*, 26 March 2020
54 "Leader: Equal Pay - Government support for the self-employed was extremely generous", *Times*, 27 March 2020

> Given that it is very difficult to know in real-time the extent to which self-employed people's incomes have been hit in this crisis, a more targeted approach would have been to focus the scheme on those most likely to be facing challenges, or those who certify that they are in practice experiencing hits to their incomes. For example, there are 1.7 million self-employed workers who are likely to face major income losses because they work in the sectors most affected by the current lockdown, or are parents affected by school closures.[55]

Analysis by the Institute for Fiscal Studies : April 2020

The IFS published analysis of the Covid-19 income support schemes on 2 April.[56] The report looked at both the SEISS and the Coronavirus Job Retention Scheme (CJRS), as well as other changes to social security benefits.

The authors suggested that neither of these schemes were "as well targeted as we would expect in normal times. On average these are very generous schemes, replacing more than 80% of net family income for both employees and the self-employed, but there is a lot of variation. Many of the self-employed will be left financially better off as a result of this crisis, while some will get no support at all."[57]

In the case of the SEISS the authors argued that "the wait until June for the grant to arrive means it is important to ensure the quick delivery of other mechanisms for the self-employed to access cash in the short term." They estimated that between March and June, self-employed families would on average lose around 40% of their normal income, that quarter of these families would not have liquid assets to cover the three months' lost earnings, and 15% would not have enough to cover a single month.:

> Very little extra protection is afforded to self-employed workers over the next couple of months: almost half of them would see their family income fall by at least 40% if their work dried up (a figure barely affected by recent increases in universal credit). However, in June most self-employed workers will receive a large grant – up to 80% of three months' normal profits – if they report being affected by coronavirus at all. If the scheme is extended beyond June, a self-employed person whose business is completely shut down would have a family income thereafter around 14% lower than before the crisis, on average – similar to employees – as opposed to 44% in the absence of recent reforms.[58]

They went on to note that a substantial number of the self-employed would be financially better off as a result of the SEISS:

> In June, the SEISS money arrives and everything changes for the self-employed … A lump sum of £7,500, or 240% of their historical profits (if lower), is very large in a single month, and a majority of the self-employed will see above-average income that month even if they have had to stop work completely.
>
> Whether it is enough, or even more than enough, to repay any borrowing (or make good any dissaving) from the previous months of hardship will depend on a variety of factors, including the exact timing and extent of the decline in their trade, whether their overall income and assets are low enough to qualify for means-tested support, and how far they have been able to cut back on their costs. Other government policies such as the business rate holiday and grants for firms occupying low-value

55 Torsten Bell, Mike Brewer, Laura Gardiner, Karl Handscomb and Daniel Tomlinson, *Unprecedented support for employees' wages last week has been followed up by equally significant, and even more generous, support for the self-employed. But gaps remain*, Resolution Foundation, 27 March 2020

56 IFS press notice, *Fast choices by government provide generous income support to most workers, but leave some with nothing and others with too much*, 2 April 2020

57 *ibid.*

58 Stuart Adam, Helen Miller, Tom Waters, *Income protection for the self-employed and employees during the coronavirus crisis*, Institute for Fiscal Studies, 2 April 2020 p2

> premises and deferral of other tax payments, which are not our focus here, will help in this regard.
>
> The only self-employed people who will not have a higher income in June than they would have had without the coronavirus are:
>
> - those who do not report being hit by the coronavirus at all, and are therefore not eligible for the SEISS…
> - the minority of the self-employed who do not qualify for the SEISS – because self-employment accounts for a minority of their income, because their historical profits are above £50,000 a year, or because they set up their business in the past year and do not have a 2018–19 tax return with a record of their self-employment;
> - the few whose average profits from April 2016 to April 2019 were much lower than they are now – or would be in the absence of the coronavirus – for whom even 240% of that long-run average is less than the lost profits now. …
>
> In fact, a quarter of the self-employed will be financially *better* off than if the coronavirus had never struck, even if their business dries up completely. This is perhaps surprising, since the SEISS would appear to replace at most 80% of their earnings. It happens for two overlapping groups of people:
>
> - those earning little enough that the 20% of lost earnings not made up by the SEISS is outweighed by the benefit giveaways;
> - those who would now – even in the absence of the coronavirus – be earning much less than they averaged from April 2016 to April 2019, so that their current lost earnings are less than the 80% of that historical earnings level they receive through the SEISS.[59]

The report also looked at the numbers of people who would not be entitled to claim support under the SEISS because they did not meet one or more of the eligibility criteria:

> There were 5.1 million people who reported positive self-employment income in 2016–17, the most recent year for which detailed data are available. We estimate that the eligibility criteria for the SEISS mean that:
>
> - About a quarter of people with some self-employment income (1.3 million people) will be ineligible because they received less than half of their income from self-employment.
>
>   For 39% of this group, income from employment (as opposed to self-employment) was their main source of income for the year. This will include people who are employed and self-employed at the same time, as well as some who switched to self-employment part way through the tax year. For another 19% of those who receive less than half of their income from self-employment, pension income is their main source of income.
> - Approximately 225,000 (4%) will be ineligible because their self-employment profits were more than £50,000 a year.
> - Roughly 650,000 (13%) will be ineligible because they entered self-employment in the past year (i.e. since April 2019).
>
> These three groups overlap, so our rough estimate is that in total around 2 million people with some self-employment income (38% of them) will not have it covered by the SEISS. Those with employment income have access to the JRS. Among the 3.8 million people who receive more than half of their income from self-employment, we estimate that roughly 675,000 (18%) will be ineligible for the SEISS.
>
> **Company owner-managers :** There are around 2 million company owner-managers – i.e. people running their own company (as opposed to an incorporated business, i.e. self-employment). Company owner-managers are not eligible for the SEISS. They are

[59] *op.cit.* p2, pp11-2

> eligible for the JRS in relation to their salary if they stop working. However, the HMRC tax records show that many owner-managers pay themselves a very small salary (often set at the National Insurance earnings threshold, which is currently £166 per week) and take the rest of their income in dividends. This is the tax-efficient choice. However, since the JRS covers only salary, not dividends, it means that the JRS will cover only a small part of their actual income.[60]

Commentary on the prospects for future tax reform

When the Chancellor first announced the SEISS he said, "I must be honest and point out that in devising this scheme – in response to many calls for support – it is now much harder to justify the inconsistent contributions between people of different employment statuses. If we all want to benefit equally from state support, we must all pay in equally in future.[61] Reporting on the announcement, BBC economics editor Faisal Islam described this as the "Sting in the tail" for these support measures.[62]

Different tax treatment self-employed and employees

Employees pay income tax and primary Class 1 NICs on their earnings, deducted at source by their employer under PAYE. Their employer will be liable to pay secondary Class 1 NICs on the employee's earnings. By contrast, self-employed persons providing their services to clients will receive any payments gross of tax, and be responsible for paying income tax and NICs on their annual profits. Individuals who are self-employed are liable to pay both Class 2 NICs, a weekly flat-rate charge, and Class 4 NICs, based on a percentage of their annual profits.

There is a significant financial advantage to individuals working as self-employed rather than as employees. The rate of NICs that the self-employed pay is lower than the rate paid by employees (9% vs 12%), and the self-employed face no equivalent to employer NICs (charged at 13.8%). Employers also have incentives to engage self-employed workers, rather than take on employees: the absence of employer NICs on the payments they make, and the absence of employment rights which employees have.

Over the last decade there has been a significant growth in the numbers of self-employed persons, as well as the numbers of individuals providing their services through a limited liability company that they run as a company owner-manager. While these two groups are often considered together, there are important differences in their treatment by tax and legal systems. In the case of incorporated companies, the profits the company makes are liable to corporation tax, while its employees will be liable for income tax and NICs on their earnings. Company owner-managers may choose to pay themselves dividends to realise a further tax saving as dividend income is subject to income tax but not NICs.

In 2017 the Institute for Fiscal Studies published some analysis to illustrate the tax drivers to self-employment and incorporation.[63] For a person generating £40,000 of income per year, the total tax liability, taking into account both employer and employee NICs as well as the individual's income tax, would be £12,146 if that person worked as an employee. The tax liability would be £8,713 if this income was earned through self-employment, and £7,358 someone provided their services through a company, and paid themselves dividends rather than wages.[64]

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60 *op.cit.* pp4-5

61 HM Treasury press notice, *Chancellor outlines new coronavirus support measures for the self-employed*, 26 March 2020

62 BBC, *Coronavirus: UK government unveils aid for self-employed*, 26 March 2020. See also, "The stings in the tail of Chancellor Sunak's announcement", *Tax Journal*, 12 April 2020.

63 *Tax, legal form and the gig economy*, Institute for Fiscal Studies, February 2017; and, Helen Miller, "Tax in a changing world of work", *Tax Journal*, 21 April 2017. These estimates are for 2017/18.

64 For further analysis see, Institute for Fiscal Studies, *Lack of employment rights doesn't justify lower taxes for the self-employed*, June 2018; Office for Budget Responsibility, *2017 Fiscal Risks report*, Cm 9459, July 2017 (see in particular para 5.54-80); *National Insurance Contributions (NICs) and the self-employed*, Commons Briefing paper CBP7918, 21 December 2018.

Although the Chancellor did not give discuss a time frame for any review, several commentators picked up on this in their initial responses to his statement.

Paul Johnson, director of the IFS, noted "Note Rishi Sunak also said quid pro quo for this support for self-employed now will be a review of the tax/NI they pay in future. They currently pay much less than employees. This package is more generous to them than to employees. An issue for another day, but welcome commitment."[65] Judith Freeman, Oxford Professor of Tax Law, commented "Help rightly announced for self-employed but point made clearly that if they want help from the state they will need to pay the same contributions to the state in future as employees do. I really hope this is the beginning of serious, radical reform."[66] Andy Summers, Professor of Law at LSE, observed "Brave and sensible for [the Chancellor] to seed this now, even just as 'in principle' observation."[67]

Subsequently on 20 July the Office of Tax Simplification published a note reviewing some of its past work, including a 'stock take' of its work on the taxation of the self-employed.[68] In this part of the report the OTS flagged the Chancellor's statement, as well as the Treasury Committee's concerns, discussed below, of the difficulties faced by company owner-managers to obtain Covid-19 support:

> The OTS hopes that this note will be a useful contribution to current thinking, noting
>
> 1. the Chancellor's statement in conjunction with the 26 March 2020 announcement of the Covid-19 support package for self-employed people: "It is now much harder to justify the inconsistent contributions between people of different employment statuses. If we all want to benefit equally from state support, we must all pay in equally in future."
> 2. that the lack of information available to HMRC about the amount and nature of company dividends through the present tax administration arrangements for those who work through personal service companies has meant the government has not been able to find a way of providing them with Covid-19-related support (as noted in the Treasury Select Committee's report of 15 June 2020).

With regard to the "long-standing structural differences between the income tax and NICs treatment of self-employed people and employees" the authors suggested that "what is needed is a broader consideration within government of a suitable approach to resolving these issues, including the communication and development of a package of changes that can be implemented in a more coordinated way."[69]

The Treasury Select Committee's report : June 2020

Following the 2020 Budget, the Treasury Select Committee launched an inquiry on the economic impact of Covid-19. The inquiry is ongoing although on 15 June the Committee published an interim report highlighting those groups of people who have been unable to benefit from either the Self-Employment Income Support Scheme or the Coronavirus Job Retention Scheme.[70] In the case of the SEISS, the Committee raised concerns about the 'cliff-edge' impact of the £50,000 threshold, the position of owner-managers running

65 Paul Johnson, Twitter, 26 March 2020
66 Judith Freedman, Twitter, 26 March 2020
67 Andy Summers, Twitter, 26 March 2020
68 Office for Tax Simplification, *OTS evaluation and stock take note*, 20 July 2020
69 OTS, *Evaluation update and stock take of OTS work on corporation tax, personal service companies and self-employed people's taxation*, July 2020 Executive Summary, paras 2.41, 2.53
70 Treasury Select Committee press notice, *Government must act over gaps in support during lockdown*, 15 June 2020

their own companies, freelancers who did not make over 50% of their income from self-employment, and those who only started in self-employment after April 2019.

An extract from the report is reproduced below:

> While the Committee recognises the importance of allocating financial support to those who earn the least, the design of the SEISS means that hundreds of thousands of people are potentially suffering financial hardship because of the arbitrary £50,000 cut-off that has no equivalent in the job retention support scheme. We are not suggesting that the Government rolls out blanket support to all but it cannot be right to have a system where, in one household, a self-employed single-parent earning just above the cap receives nothing while next door, a couple, either both self-employed and earning profits below the cap, or salaried employees with full entitlement to CJRS receive up to £5,000 a month.
>
> *The Government must tackle the cliff edge that exists in the design of the SEISS by removing the £50,000 cap and allowing those with profits just over this cap access to some financial support, up to the total monthly support cap of £2,500 (as for salaried employees).*
>
> The Government has acknowledged the issue of hundreds of thousands of limited company directors missing out on support but has so far failed to take any action. Many of these individuals, who have a key role to play in firing up the economy again, are facing significant financial hardship.
>
> *The Government must find a practical solution to supporting hundreds of thousands of limited company directors who are missing out on support because they pay themselves in dividends. IPSE has presented the Treasury with a ready-made solution whereby HMRC would request additional information about the proportion of dividends that have come from company profits and from other sources and require self-certification by the applicant. HMRC would reserve the right to investigate claims and, if it was later found that applicants had inflated their figures, HMRC would reclaim the support with penalties. While we recognise that this approach may require significant resources, we urge the Government to accept and implement this proposal. While it will have immediate cost implications, it could mitigate future economic scarring and safeguard future tax revenues.*
>
> It cannot be right that distinct groups of individuals fail to benefit from the Government's principal support schemes when the shutdown has taken away their livelihoods overnight through no fault of their own.
>
> *We call on the Government to recognise the impact of the coronavirus on PAYE freelance workers and establish a system of support which ensures that this group of people can access financial support during the crisis. We recommend it gives this group access to financial support that equates to 80 per cent of their average monthly income earned in the first 11 months of the 2019–20 tax year, based on their PAYE tax record in year. This support should be available up to a total of £2,500 per month (as for salaried employees).*
>
> The Government needs to quickly find a way of supporting the many people who have started a new business, or built their business up in the last year, but are unable to qualify for support because they cannot fulfil the eligibility criteria required by the SEISS.
>
> *The Committee recognises the challenges of offering support to those who need it while implementing the safeguards required to mitigate the very real risk of fraudulent claims for support. However, we encourage the Government to undertake an urgent review to see how it can extend support to those newly self-employed who are unable to benefit from the SEISS.* [71]

[71] Treasury Committee, *Economic impact of coronavirus: Gaps in support*, HC 454, 15 June 2020 pp19-20

The Committee noted that "the Chancellor has often cited the administrative difficulties in addressing issues given the speed with which he has to act", but argued "he has now extended the schemes and therefore has more time to tackle these complexities":

> The Government must adapt its existing schemes or develop new support mechanisms to help these people if it is to completely fulfil its promise of doing whatever it takes to protect people and businesses from the impact of the pandemic. The Chancellor has indicated that he may, in future, reform the tax arrangements for self-employed people, in part justifying this on the basis of the Government's fair treatment now of those self-employed people affected by the crisis. Any lack of fairness in these support schemes may undermine this.[72]

The Chancellor responded to the Committee's report on 15 July. In his letter to the Committee the Chancellor acknowledged that, "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", but went on to say, "this is why the Government has been comprehensive in the economic response it has rolled out. Those unable to access the CJRS or SEISS could look for support from the many measures we have launched to make sure people get help at this time."[73] The Chancellor's letter addressed the concerns the Committee had raised about the SEISS in more detail: the exclusion of those who are recently self-employed …

> I understand the issues the newly self-employed face, but when the SEISS was designed it was clear that for practical reasons it would not be possible to include those who began trading after the 2018–19 tax year. Accepting returns for 2019–20 creates an opportunity for an individual or an organised criminal gang to file fake or misleading returns to claim the grant. Fraudulent activity through returns could include, for example, where no trading activity has taken place, where trading profits have been inflated to increase the size of the grant, or where trading profits have been reduced to below the £50,000 threshold in order to become eligible. It would not be right for the Government to expose the tax system to these risks. Consequently, we have to use the most reliable and up-to-date record of self-employed income, which is from the 2018–19 tax returns, which were due at the end of January 2020.

… the imposition of the £50,000 cap …

> The SEISS has been targeted at those who need it the most and who are most reliant on their self-employment income—this is why we designed the SEISS with the £50,000 cap. Around 95% of those who earned more than half their income from self-employment in 2018–19 could be eligible for this scheme. The self-employed are a very diverse population and have a wide mix of turnover and profits, with monthly and annual variations even in normal times. Some may see their profits unaffected by the current situation, while others have substantial alternative forms of income. For example, those who received more than £50,000 from self-employment profits in 2018–19 had an average total income of more than £200,000. In the 2017–18 year, around 4% of self-employed people received more than £50,000 in self-employment income.[74] The self-employed can also offset losses against profits in other years and other forms of income.

… and the treatment of owner-managers who pay themselves through dividends:

> I have also carefully considered the case for providing a new system for those who pay themselves through dividends. However, though this was a difficult decision, I reached the conclusion that, for practical reasons, the Government will not be able to provide this. Targeting additional support for those who pay their wages via dividends is much more complex than existing income support schemes.

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72 *op.cit.* para 65-6

73 Treasury Select Committee, *Third Special Report of Session 2019–21*, HC 662, 23 July 2020 p3

74 ONS, *Personal incomes: tables 3.1 to 3.11, 3.16 and 3.17 for the tax year 2017 to 2018*, June 2020

> Unlike announced support schemes, which use information HMRC already holds, it would require owner-managers to make a claim and submit information that HMRC could not efficiently or consistently verify to ensure payments were made to eligible companies for eligible activity. This is because, 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. Nor is it possible to distinguish between dividends in lieu of employment income and as returns from other corporate activity.
>
> The Government has assessed the proposal made by IPSE that HMRC adopt a 'pay now, clawback later' approach in this instance, and concluded that such an approach would be highly resource-intensive to ensure appropriate compliance. For each support scheme, the Government has done all it can to support as many people as possible, but we have to minimise the risk posed by those intent on committing criminal fraud. Following IPSE's proposal would be accepting a high risk that incorrect or fraudulent payments could not be recovered, ultimately at a cost to UK taxpayers.[75]

Commenting on the Chancellor's response the Chair of the Committee, Mel Stride MP, said "The Chancellor has effectively drawn a line under helping the million-plus people who have been excluded from support for four months. Despite stating that he will not pick winners and losers when it comes to sectors and businesses that need support, the Chancellor has done this when it comes to households and individuals … The Committee urges the Government to re-think its position."[76]

The Chancellor gave evidence to the Committee on 17 July on the economic impact of Covid-19, and on this occasion Mr Stride raised the position of owner-managers again:

> **Chair:** You have shown a great capacity to step in and fix problems. The Head of HMRC actually said to us that HMRC had ended up doing things that it did not think it was capable of doing. Why does none of that political will and agility seem to have been applied to any of the categories that we have cited in our report, or any of those million-plus people who so desperately need help?
>
> **Rishi Sunak:** … The fact that we have been able to do so much that people thought we were not able to do ought to prove the point. If we could have done an easy thing at scale and speed, while protecting against fraud and making sure that support was targeted and affordable within all of that, we would have done it. I think your point actually proves the thesis. If it was straightforward, given that we have managed to do lots of other things, there is no reason why we would not have done it.
>
> As I said, it is not as if there is no support available for the group of people you have mentioned … It may well be that they have not got exactly what they have wanted, but they may well have been able to access other avenues. As I said in May, our focus now, and my focus for HMRC, and indeed everything else we are doing, is planning for and implementing policies for the recovery. That is where I think our focus should be.[77]

The Government's position was reiterated in a follow-up response to the Committee's report submitted after this evidence session.[78]

In this context it is worth noting a report published by the National Audit Office in October, which looked at the approach taken by HM Treasury and HMRC to manage the risks in implementing both the Coronavirus Job Retention Scheme and the SEISS. The NAO concluded that the schemes had been "largely successful in protecting jobs through the lockdown period, with at least 12.2 million people benefitting from support", although "a combination of policy decisions and constraints in the tax system meant that as many as

75 Treasury Select Committee, *Third Special Report of Session 2019–21*, HC 662, 23 July 2020 pp1-2
76 Treasury Select Committee press notice, *Chancellor has "drawn a line" under helping million-plus excluded people*, 23 July 2020
77 Treasury Committee, *Oral evidence: Economic Impact of Coronavirus*, HC 271, 15 July 2020 Qs860-2
78 Treasury Committee, *Fourth special report of session 2019-21*, 4 September 2020

2.9 million people were not eligible for the schemes."[79] The report notes that given the need to provide rapid financial support, "the Departments accepted there may be a higher risk of fraud and error than normal":

> **The scale of total fraud and error is likely to be considerable, particularly for CJRS, but HMRC will not know the actual levels for some time.** HMRC's planning assumption was that total fraud and error could range from 5% to 10% on CJRS, which would equate to £2.0 billion to £3.9 billion based on payments made by mid-September. For the first SEISS grant, HMRC's planning assumption was that fraud and error could range from 1% to 2%. Both these estimates were largely assumption-based rather than evidence-based. At the end of September 2020, HMRC was developing a programme of work to understand the full scale of fraud and error. It aims to refine its provisional estimates again by the end of 2020 and in spring 2021 as it undertakes more compliance work and receives more operational intelligence.[80]

HMRC's view is that the risk of fraud and error is greater for the CRJS because "it was able to put in place more preventative controls for SEISS":

> For SEISS, Self Assessment taxpayers were invited to apply, rather than for CJRS where taxpayers could make applications themselves. It also calculated the SEISS grant using existing tax return data. This reduced the scope for individuals to either erroneously or deliberately misstate their incomes to increase their claim award.[81]

In the case of the SEISS the report presents some interesting data on the risks of fraud posed by taxpayers amending their self assessment tax returns …

> Any amendments to filed Self Assessment tax returns after SEISS was announced on 26 March 2020 were disregarded in calculating an individual's award. An individual may have had a legitimate reason for making such an amendment but HMRC was concerned about the potential for manipulation. Subsequent analysis of amended returns suggests HMRC's concerns were well founded; taxpayers filed 7,000 amendments the day after the policy was announced with 1,200 of these seeking to increase their trading income by an average of £7,000.

… and fraudsters stealing the identities of legitimate taxpayers:

> For SEISS, HMRC stipulated that self-employed people must make an application themselves. It monitored activity and prevented some large-scale attempts to attack the system. Over a single weekend in May 2020, HMRC blocked around 87,000 claims worth £242 million due to suspicious activity. It did not have the capacity to assess all these claims within the three-day period and acted prudently to halt the applications. It recognised it could have denied some legitimate claims and subsequently contacted nearly all of these claimants to encourage them to claim themselves rather than through agents.[82]

On 12 November the Public Accounts Committee held an evidence session on the Government's Covid-19 job support schemes, and during this the Chair, Meg Hillier, asked HMRC officials about extending the SEISS to those without a 2018/19 return:

> **Chair:** Did you look at anything around allowing interim declarations by people who had been earning money and keeping records but just did not have the mechanism to put that return in? …
>
> **Jim Harra [First Permanent Secretary and Chief Executive]** ... The benefit for us in the way we currently operate the scheme is that it is operated by reference to data that we already held before the scheme was announced … If we had opened up the scheme to self-declaration beyond that, there would have been two issues. One is

79 National Audit Office, *Implementing employment support schemes in response to the COVID-19 pandemic*, HC 862, 23 October 2020 p8
80 *op.cit.* pp10-11
81 *op.cit.* para 3.7. Figure 14 of the report provides key examples of the controls for both schemes.
82 *op.cit.* para 3.20, para 3.22

> that we would have had to build something to capture that data and then manage the error or fraud risk that naturally arises.
>
> **Beth Russell [Director General, Tax and Welfare] :** … The two issues are building a system to collect the data and then being able to check the data. The second of those issues is particularly pertinent here, in the sense that using 2018-19 returns meant that HMRC would be assured that the announcement of this scheme had not meant that that data was manipulated in any way to get higher payments or eligibility for this scheme. The issue with asking people to submit data after a scheme has been announced to get eligibility for it is that the risk is much higher.
>
> Short of HMRC manually checking every claim, it is much harder to determine whether you are paying out anything that is fraudulent. That is a very big consideration of ours here, which is why the principle behind both of these schemes was being able to match in almost real time the information submitted with information already held on HMRC's system before the date of the announcement of these schemes. This meant that, as far as possible, we were reassured that that data and those claims were valid.
>
> **Chair:** Ms Rowland, you can put a tax return in at any point after the end of the financial year. Some people could have submitted their 2019-20 tax returns while we were still in lockdown in April. Is that something you considered looking at?
>
> **Jo Rowland [Temporary Director General, COVID-19 Response Unit]** : We considered this in some detail. We took a very systematic approach to every scheme, looking at how we could get maximum eligibility, but obviously protect taxpayers' money.
>
> As Beth highlights, the No. 1 reason for having this cut-off was that the 2018-19 tax returns were the ones that had been filed to us before anybody knew of a potential scheme, and therefore the incentive to file was all about paying tax, not to receive a grant.
>
> While most of our taxpayers would have been perfectly legitimate in their approach, we know how attractive these schemes are to organised criminals, who would not hesitate to put in fictitious records for the sole purposes of claiming a grant.[83]

The issue of fraud in both CJRS and SEISS claims also arose when HMRC officials gave evidence to the Treasury Select Committee on 7 December:

> **Rushanara Ali:** … Before the Public Accounts Committee, in the session you spoke at recently, you pointed to the fact that £3.5 billion of furlough money has been paid out in error. That was one of the reasons you gave to our Committee for why it is quite difficult to administer support to those groups. Could you say a bit about how that money has been recovered where errors have been made? …
>
> **Jim Harra [First Permanent Secretary and Chief Executive]** … I have two points to make. First of all, the error and fraud you are talking about there is not administrative error by HMRC; it is error or fraud by people making claims. When we were planning for the schemes, we had to make planning assumptions about what the level of error and fraud would be.
>
> In the case of the coronavirus job retention scheme, the furlough scheme, we made a planning assumption that it could be 5% to 10%. Obviously, we have no history of these schemes on which to make that judgment, but we know the general tax gap is 4.7%. We see 4.9% error and fraud in tax credits, for example, so it is not unusual to have a level of error and fraud towards the lower end of that range in schemes. However, it is simply a planning assumption.
>
> We have a range of protections in place. The first protection, which goes to the excluded groups, is that people who can make claims are people who have a history with us. The employers have to have a pay-as-you-earn history with us and the employees in respect of whom they make claims have to have a pay-as-you-earn

83 Public Accounts Committee, *Oral evidence: COVID-19: Support for jobs*, HC 962, 12 November 2020 Qs74-76

history with us. There are then risk assessments and checks that we can do prior to payment where we have any concerns about a claim, and then we have the ability, post payment, to make recovery. We have already recovered a significant amount and also taken criminal investigation action ...

Penny Ciniewicz [Director General, Head of Customer Compliance]: … There are a number of different forms of compliance that we are looking at. Obviously, there is the risk of criminal attack and there is then a risk of opportunistic fraud, where people perhaps make claims to which they are not entitled. There is then also the possibility of error and genuine mistakes being made by people in the heat of the moment. We know very much from experience that the funds that would be lost to criminal attack are very hard to retrieve, so we prioritised designing in controls to prevent those criminal attacks in the first instance. That is where … one of the important controls was knowing that applicants had a footprint with us already. That provides quite a helpful strong control in that context.

We also put in checks to see whether it looks as though there might be suspicious factors involved before the claims went out. We have two legs of work following that. One is to give people the opportunity to self-correct, as we have been doing over the last few months. They have 90 days from the date of the claim to correct their claim if they have made a mistake. We also have compliance investigation processes.

Overall, we rejected around 15,500 claims from both SEISS and CJRS with a value of around £60 million, but we risked close to 140,000 of those where we made further checks as part of that process. In the case of CJRS, we rejected claims worth £12 million as part of our risking process. Our feeling is that this enabled us to block most suspect payments and indeed prevent a lot of the criminal attack that would otherwise have happened. Based on the work to date—we obviously recognise that, as we do our further post-payment compliance work, there might be more suspect claims that come to light—we believe that the levels of criminal attack are very low, somewhere in the region of 0% to 0.6% in the case of the CJRS. Having risked that many claims, 11.9 million, and put all of that effort into trying to make sure we do not let suspect claims out of the door, we have then done more.

Before Royal Assent, we contacted high-risk claimants. We called around 5,000 claimants to nudge them to check their claims, and we also obviously have a fraud investigation hotline, where we have taken the reports from that fraud investigation hotline and we have used the data and information we already have to highlight risky claims.

Around 5,700 investigations are open at the moment. Around 2,000 of those relate to investigations resulting from reports to the fraud hotline. We are continuing to work those investigations, and we will work more as and when we feel that we have reasons to make inquiries into suspicious claims. Throughout that period, however, people have also been repaying. In the context of error overall, so far we have had £504 million made in terms of voluntary disclosures and corrections, including people who were entitled to the grant but decided to pay it back.[84]

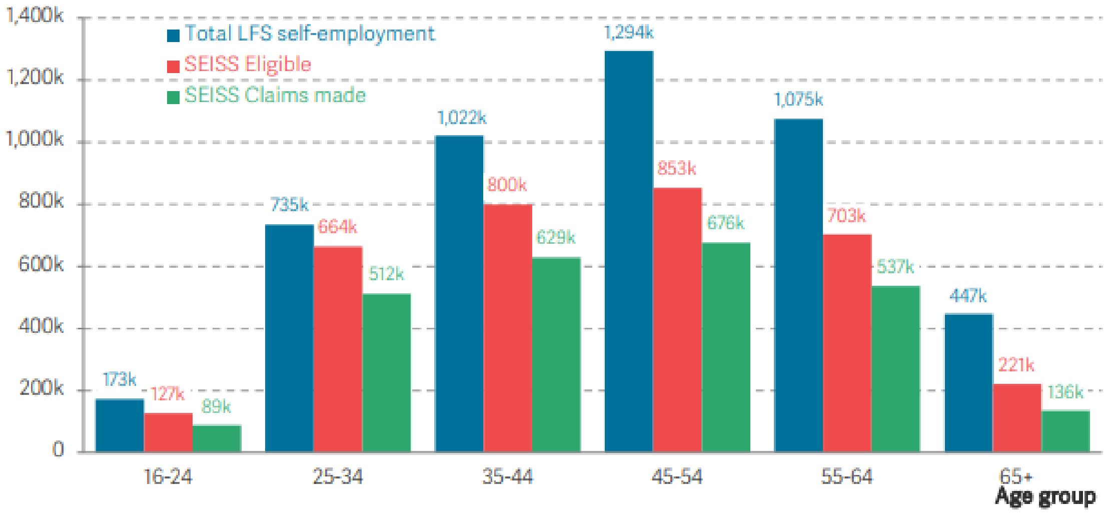
Analysis by the Resolution Foundation : Sept-Oct 2020

In September the Resolution Foundation (RF) published a report on the impact of the SEISS, as well as the Government's other support schemes, across the age distribution.[85] Using HMRC's figures on the uptake of the SEISS and analysis of the Labour Force Survey, the authors note that, "beneficiaries of the Self-Employed Income Support Scheme broadly reflect the age pattern of self-employment, with younger adults benefitting far less than others":

84 Treasury Committee, *Oral evidence: HMRC Annual Report and Accounts*, HC 1061, 7 December 2020 Qs30-31

85 Resolution Foundation, *All together now?: The impacts of the Government's coronavirus income support schemes across the age distribution*, 9 September 2020

> **Figure 7** shows HMRC's analysis of the age of SEISS claimants, alongside estimates from the Labour Force Survey on the number of self-employed individuals, and HMRC's estimates of the number of self-employed workers who were actually eligible for the SEISS.
>
> SEISS recipients peak in the 45-54 age bracket, in line with the age profile of self-employed workers generally. Receipt of the SEISS is particularly uncommon among the under 25s.
>
> FIGURE 7: **Take-up for the Self-Employed Income Support Scheme has broadly reflected the age profile of self-employment**
>
> Self-employment, SEISS eligibility and SEISS receipt by age group: up to July 2020



> NOTES: Excludes those with no age reported.
> SOURCE: RF Analysis of Labour Force Survey (April to June); HMRC, SEISS statistics.
>
> As a fraction of the whole self-employed population (rather than just the eligible population), receipt of the SEISS is lowest among workers aged 45-54 and 55-64, standing at around 50 per cent.
>
> The main reason for this low coverage is the lack of eligibility (as shown by the red bars compared with the blue bars in Figure 7). Among younger workers, the lack of eligibility for the SEISS is more likely to reflect that they are new to self-employment; among older self-employed workers, lack of eligibility is more likely to reflect that incomes are over £50,000 or that people receive payments via dividends. [86]

The following month the RF published a report looking at how the labour market situation had evolved since the outbreak of the pandemic. As the authors explain the core of their analysis is based on a survey of 6,061 adults aged 18-65, which took place on 17-22 September. One section of the report looked at the experience of the self-employed, finding that in every month since April, more than half of self-employed workers were receiving lower earnings than before the crisis, although, in the authors' view, support for these workers has been poorly targeted.[87] A short extract is reproduced below:

> Britain's 5 million self-employed workers have taken a big hit from the pandemic. Our survey shows that, in every month since April, more than half of self-employed workers were receiving lower earnings than before the crisis.
>
> At its peak, three-in-ten were not receiving any pay at all, compared to just 4 per cent employees. Although there has been a partial recovery since the depths of lockdown,

86 *op.cit.* p10
87 Mike Brewer et al., *Jobs, jobs, jobs: Evaluating the effects of the current economic crisis on the UK labour market*, Resolution Foundation, 27 October 2020

one-in-six formerly self-employed workers (17 per cent) were still not working at all in September, and more than half were still experiencing lower pay than before the crisis (this compares with less than one-in-five employees). Those with lower qualifications and younger self-employed workers were more likely to experience prolonged earnings losses: 24 per cent of formerly self-employed 18-34 year olds were without work in September.

Data from the Labour Force Survey shows that 472,000 fewer people were self-employed in the three months to August than at the beginning of the year, and our survey suggests that more than one-in-ten of those self-employed in February (12 per cent) have taken on an employee job since the crisis began, either in place of (9 per cent) or alongside (3 per cent) their self-employed work.

The hit to self-employed workers has been matched by support that, in many ways, is more generous than that for employees: the Government has spent twice as much on the average self-employed worker (£2,518) than on the average furloughed employee (£1,291).

But support has been very poorly targeted.

Of the 42 per cent of self-employed workers surveyed who have claimed the Self-Employment Income Support Scheme (SEISS), one-in-six (17 per cent, equivalent to 435,000 workers) did so despite having experienced no loss of income throughout the crisis – at a cost of around £1.3 billion. And two-thirds of self-employed workers who hadn't claimed the SEISS have experienced a loss of income during the crisis – and therefore may have been more in need of support. Close to 500,000 self-employed workers who were still without work at all in September had received no SEISS support.[88]

[88] *op.cit.* pp9-10

4. The SEISS Grant Extension

4.1 Announcement of new Scheme : September 2020

Some weeks after the Chancellor's announcement of the second SEISS grant, Mr Sunak gave a statement to the House on 8 July setting out a series of measures to boost job creation.[89] Details were set out in a Treasury document, *Plan For Jobs*, which noted the second SEISS grant to be launched from 17 August but did not mention any further changes.[90] On 24 September the Chancellor published a second series of measures to support the economy, and as part of this announced a new Job Support Scheme to "directly support the wages of people in work", and an extension to the SEISS "on similar terms and conditions as the new Jobs Support Scheme."[91] In his statement to the House the Chancellor also announced an extension to provisions allowing businesses and individuals to defer tax payments, initially introduced in March:

> In March, the problem was that we ordered businesses to close. In response, we paid people to stay at home and not work. Today, the problem is different. Many businesses are operating safely and viably, but they now face uncertainty and reduced demand over the winter months. What those businesses need is support to bring people back to work and protect as many viable jobs as we can.
>
> To do that, I am announcing today the new jobs support scheme. The Government will directly support the wages of people in work, giving businesses that face depressed demand the option of keeping employees in a job on shorter hours, rather than making them redundant.…
>
> Throughout this crisis, we have sought parity between employees and the self-employed, providing more than £13 billion of support to over 2.6 million self-employed small businesses, so I am extending the existing self-employed grant on similar terms and conditions as the new jobs support scheme …
>
> [In addition] I want to give businesses more time and flexibility over their deferred tax bills. Nearly half a million businesses deferred more than £30 billion of VAT this year. Under current plans, those payments fall due in March. Instead, I will allow businesses to spread that VAT bill over 11 smaller repayments, with no interest to pay. Any of the millions of self-assessed income tax payers who need extra help can also now extend their outstanding tax bill over 12 months from next January.[92]

Further details of both the Job Support Scheme and the SEISS Grant Extension were given in a Treasury document, *Winter Economic Plan*, published at this time:

> **2.4 Job Support Scheme** – To support viable UK employers who face lower demand due to COVID-19, and to keep their employees attached to the workforce, the government will be introducing a new Job Support Scheme from 1 November 2020. Employees will need to work a minimum of 33% of their usual hours. For every hour not worked the employer and the government will each pay one third of the employee's usual pay, and the government contribution will be capped at £697.92 per month. Employees using the scheme will receive at least 77% of their pay, where the government contribution has not been capped. The employer will be reimbursed in arrears for the government contribution. The employee must not be on a redundancy notice.

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89 HC Deb 8 July 2020 cc973-8

90 HM Treasury, *A Plan for Jobs*, CP261, July 2020 para 3.24

91 HMT press notice, *Chancellor of the Exchequer, Rishi Sunak on the Winter Economy Plan*, 24 September 2020. See also, HMT press notice, *Chancellor outlines Winter Economy Plan*, 24 September 2020

92 HC Deb 24 September 2020 cc1154-5. For details of these tax deferral schemes see, HMRC, *Defer your Self Assessment payment on account due to coronavirus (COVID-19)*, July 2020 & *Deferral of VAT payments due to coronavirus (COVID-19)*, September 2020.

> The scheme will run for six months from 1 November 2020 and is open to all employers with a UK bank account and a UK PAYE scheme. All Small and Medium-Sized Enterprises (SMEs) will be eligible; large businesses will be required to demonstrate that their business has been adversely affected by COVID-19, and the government expects that large employers will not be making capital distributions (such as dividends), while using the scheme.
>
> **2.5 SEISS Grant Extension** – The government recognises the continued impact that COVID-19 has had on the self-employed and has taken action to provide support. The SEISS Grant Extension provides critical support to the self-employed. The grant will be limited to self-employed individuals who are currently eligible for the SEISS and are actively continuing to trade but are facing reduced demand due to COVID-19. The scheme will last for 6 months, from November 2020 to April 2021. The extension will be in the form of two taxable grants. The first grant will cover a three-month period from the start of November until the end of January. This initial grant will cover 20%of average monthly trading profits, paid out in a single instalment covering 3 months' worth of profits, and capped at £1,875 in total. The second grant will cover a three-month period from the start of February until the end of April. The government will review the level of the second grant and set this in due course.[93]

The document did not provide a costing for either of these initiatives.

Further details of the SEISS Grant Extension were given in a Treasury factsheet.[94]

Most coverage of the Chancellor's announcement focused on the new Jobs Support Scheme, although there was some comment that the Government had not extended the SEISS to those groups previously excluded from eligibility. A leader in the *Financial Times* noted, "the Treasury has also slashed support for the UK's 5m self-employed workers, set first at 80 per cent and then 70 per cent of trading profits, to 20 per cent — which could provoke a backlash from government backbenchers. Those who work in industries most exposed to restrictions, such as the performing arts and sport, will be angered by the lack of additional support to sectors such as theirs, which will become viable again, but only once the coronavirus is contained."[95]

This issue was also raised by Members in their response to the Chancellor's statement.

The Shadow Chancellor, Anneliese Dodds, asked "Labour has called repeatedly for continued, targeted support for the self-employed, so I am pleased that that is referred to here, but will these measures avoid the gaps in coverage that have bedevilled existing schemes?"[96] The Chair of the Treasury Select Committee, Mel Stride, asked, "will [my right hon. Friend] say something about whether some of those gaps will be ameliorated or ironed out as a consequence of the new measures, and will he meet me in fairly short order to discuss the options that might be available?" In response the Chancellor said, "I am glad my right hon. Friend welcomes the extension of the existing support grant. Virtually no other country in the world has done that, and it comes on top of the most generous support for our self-employed of almost any country throughout the response to this crisis. Of course, I will be happy to meet him, but I know he will also be pleased to learn that the measures today to defer income tax self-assessment will be of particular importance to our self-employed small businesses."[97]

The issue was also raised with the Chancellor by Ben Lake:

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93 HM Treasury, *Winter Economic Plan*, CP297, September 2020 p5

94 HM Treasury, *Self-Employment Income Support Scheme (SEISS) Grant Extension*, 24 September 2020

95 "Leader: Sunak's support plans pose tough choices for business", *Financial Times*, 25 September 2020. See also, "Coronavirus: What help are self-employed getting from government?", BBC News, 24 September 2020

96 HC Deb 24 September 2020 c1156

97 *op.cit.* cc1158-9

> **Ben Lake :** [Can the Chancellor say] … whether he has changed the terms and conditions [of the SEISS] in such a way as to ensure that those who have been excluded from support so far will now get the help they deserve?
>
> **Rishi Sunak :** The eligibility conditions will remain as they are, with refinements to make sure that businesses are still trading over the winter and to recognise that they have suffered and are suffering an impact on revenues through coronavirus. The reasons for those eligibility criteria are well documented and have been discussed in this House many times, so I will not recap exactly why they are there, but it is worth bearing in mind that the extension of this support means that we have provided more support to 2.5 million self-employed people, which is considerably more than any other country has and for a longer duration.[98]

Subsequently the Financial Secretary was asked about the Government's decision to set the grant at 20% of average monthly trading profits (***emphasis added***):

> **Emma Hardy :** To ask the Chancellor of the Exchequer, what assessment he has made of the financial effect on self-employed people of the setting of the Self-Employment Income Support Scheme grant extension payments at 20 per cent of average monthly trading profits.
>
> **Jesse Norman** : The Self-Employment Income Support Scheme (SEISS) Grant Extension provides critical support to the self-employed, by supporting those who are currently eligible for the SEISS and are continuing to trade but are facing reduced demand due to COVID-19. The scheme will be in the form of two grants, and will last for six months, from November 2020 to April 2021. The first grant will cover a three-month period from the start of November until the end of January. This initial grant will cover 20 per cent of average monthly trading profits, paid out in a single instalment covering 3 months' worth of profits, and capped at £1,875 in total.
>
> ***The Government has broadly aligned this initial grant with the Government's contribution to the Job Support Scheme. The extension is not intended to provide a direct income replacement, as people will be continuing to work while claiming the grant.*** Those who require more support may have access to other elements of the Government's support package. This package includes Bounce Back loans, tax deferrals, rental support, increased levels of Universal Credit, mortgage holidays, and other business support grants.[99]

The Resolution Foundation published some analysis of the Winter Economic Plan the day after his statement, which includes some comments on the SEISS Grant Extension:

> The new Job Support Scheme (JSS) is accompanied by a matching extension of the support for self-employed workers The Chancellor also announced a small, and considerably less generous extension to the Self-Employment Income Support Scheme (SEISS), which – like the JRS – was due to run out in October. Two more grants will be paid, notionally covering the period from November 2020 to April 2021. The first grant will cover 20 percent of average monthly trading profits, paid out in a single instalment covering 3 months' worth of profits, and capped at £1,875 in total. The generosity of the second grant has yet to be determined.
>
> The generosity of support – at 20 per cent of previous profits – is intended to be close to that provided to employees who are benefiting from the JSS, for whom the maximum government subsidy is 22 percent of earnings. However, it is in reality much lower than the income protection being provided to employees on the JSS (discussed above), and far less generous than the two grants covering the self-employed in the first six months of the crisis, which were paid at 80 and then 70 percent of previous earnings.
>
> As ever, with the generally poorly-targeted approach to providing support to the self-employed, these payments will be too generous to many who have only seen small reductions in their work, while also being much smaller than the loss of income for

98 *op.cit.* c1166
99 PQ99089, 13 October 2020. See also, PQ96047, 1 October 2020

> those worst affected. The scheme will be limited to self-employed individuals who are currently eligible for the SEISS and are actively continuing to trade but are facing reduced demand due to coronavirus.
>
> By making these restrictions, the Treasury is rightly hoping to target the grants more, excluding those whose profits have been unaffected or those who self-employment business had already come to an end. Importantly, the Treasury has not widened eligibility to the set of self-employed workers who missed out on the previous scheme because they were new to self-employment, or they paid themselves in dividends as owner-managers.[100]

On 22 October the Chancellor made a third statement on the economy, and as part of this announced changes to both the Job Support Scheme and the SEISS Grant Extension; part of his statement to the House is copied below:

> To protect jobs we are making the job support scheme more generous for employers … First, under the original scheme, employees had to work for 33% of their normal hours, whereas now we will ask them to work only 20% of those hours; and secondly, the employer contribution for the hours not worked will not be 33% as originally planned, or even 20% as it is in the October furlough scheme, but will reduce to 5% … As we increase the contribution we are making towards employees' wages, I am increasing our contribution to the incomes of the self-employed as well. Today we are doubling the next round of self-employed income support from 20% to 40% of people's incomes, increasing the maximum grant to £3,750.[101]

The Chancellor's statement was not accompanied by any detailed costings, although at the time it was confirmed that the revised SEISS Grant Extension represented "a potential further £3.1 billion of support to the self-employed through November to January." [102] The Government also announced that it would out an evaluation of the SEISS, to be "undertaken through 2021 and 2022 [as] ... self-employment data necessary to carry out a full SEISS evaluation will not be available until 2022, upon receipt of Self-Assessment returns." [103]

Most coverage of the Chancellor's statement focused on the changes to the Job Support Scheme,[104] although in their response the Institute for Fiscal Studies highlighted the fact that, "the Treasury has, remarkably, once again neglected to put any cost estimate on a substantial package of announcements." [105] Similarly in response to the statement most Members asked about other issues, though Bill Esterson, Clive Efford and Dave Doogan all raised concerns about the fact that the Chancellor had not announced any changes in the eligibility rules for those previously excluded from the SEISS.[106]

On 31 October the Prime Minister announced proposals for a national lockdown across England, from 5 November to 2 December, and alongside this an extension of the CRJS – the 'Furlough scheme' – to the end of November.[107] In a statement to the House on 2 November the Prime Minister confirmed these measures, adding that "I can announce today that for November we will double our support [for the self-employed] from 40% to

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100 Torsten Bell et al., *The Winter (Economy Plan) is coming*, Resolution Foundation, 25 September 2020 p11
101 HC Deb 22 October 2020 c1250
102 HM Treasury, *Plan for Jobs: Chancellor increases financial support for businesses and workers*, 22 October 2020
103 PQ115590, 24 November 2020
104 For example, "UK chancellor has overhauled his job support scheme in response to second wave of coronavirus", *Financial Times*, 22 October 2020; "Rishi Sunak forced to offer multibillion-pound job package as Covid fears mount", *Guardian*, 22 October 2020
105 IFS press notice, *Sunak's announcement on support for businesses and individuals*, 22 October 2020
106 HC Deb 22 October 2020 c1270, c1272, cc1273-4
107 No.10 Downing Street press notice, *Prime Minister's statement on coronavirus (COVID-19)*, 31 October 2020. See also, *Extending furlough via the Coronavirus Job Retention Scheme*, Commons Library Insight, 3 November, 2020.

80% of trading profits."[108] Details of this change to the SEISS Grant Extension were given in a press notice:

> To reflect the recent changes to the furlough scheme, the UK-wide Self-Employment Income Support Scheme (SEISS) will be made more generous – with self-employed individuals receiving 80% of their average trading profits for November. And to ensure those who need support get it as soon as possible, payments will also be made more quickly with the claims window being brought forward from 14 December to 30 November … As SEISS grants are calculated over three months, the uplift for November to 80 per cent, along with the 40 per cent level of trading profits for December and January, increases the total level of the third grant to 55 per cent of trading profits. The maximum grant will increase to £5,160.[109]

In response to the Chancellor's announcement, Hannah Slaughter at the Resolution Foundation argued, "the Chancellor is right to have extended support today ahead of a second lockdown" but "he has missed an opportunity to better target support":

> "Because payments do not reflect the extent of losses faced by the self-employed, many are receiving large payments despite being largely unaffected, while over half a million workers receive no support despite being without work entirely. The tying of different levels of support to particular months will also pose challenges given the uncertainty of how long this second lockdown will continue."[110]

At the Institute for Fiscal Studies Tom Waters noted that the SEISS was a "relatively blunt tool for insuring workers against income losses"

> We find that – on average – among recipients of SEISS, the first payment fully replaced lost household income. But that reflects some recipients being less than fully compensated for losses, and others more than fully compensated.[111] One in six claimants report experiencing *no loss* in pay between March and September.[112]
>
> Moreover, the financial eligibility criteria exclude many self-employed workers …The financial eligibility criteria for the next two SEISS payments has not changed, so there is likely to be a significant fraction of self-employed workers who see significant income losses as a result of the coming lockdown in England but receive little support. For those that are ineligible because they did not file a tax return in 2018-19 – perhaps because they only recently started their business – it is harder to see how the government could reach them to provide support. But the ineligibility of others – those who get less than half their income from self-employment, or who have profits over £50,000 – is a specific policy choice.

Mr Waters also raised concerns as to the timing of future payments:

> We find that during the two month or so wait between the beginning of the first lockdown and the first SEISS payment, future SEISS recipients reduced their spending by about 13% relative to similar households who had not seen any change in income, and the share making mortgage payments fell by a third. After they received the grant, however, spending fully recovered and mortgage payments largely did too.[113]
>
> The next grant will be paid in early December,[114] meaning that those suffering reduced demand because of the new lockdown will have a month with lower income.

108 HC Deb 2 November 2020 cc25-6
109 HMT, *Government increases support for self-employed across the UK*, 2 November 2020
110 Resolution Foundation press notice, *Chancellor right to extend support for self-employed workers, but many who need help remain excluded*, 2 November 2020
111 Isaac Delestre et al., *Income protection policy during COVID-19: evidence from bank account data, IFS Briefing note*, Institute for Fiscal Studies, 10 September 2020
112 Mike Brewer et al., *Jobs, jobs, jobs: Evaluating the effects of the current economic crisis on the UK labour market*, Resolution Foundation, 27 October 2020
113 Isaac Delestre et al.
114 The Government have announced that applicants will be able to make claims from 30th November. The gap between application and payment for the first grant appeared to be about five days (with the application window opening on 13th May and the first payments on the 18th), so the next grant will probably be received in early December.

> This is shorter than the wait for the first grant, but nonetheless may be a difficult period for many recipients: for example some may have exhausted savings earlier this year.
>
> Looking ahead, there is case for doing six payments covering one month each, rather than two payments covering three. As well as ensuring a smoother stream of income for recipients, this would also be a better fit with the monthly assessment period for UC which matters as many low income self-employed people will be eligible for both SEISS and Universal Credit.[115]

4.2 Launch of the 'third' SEISS grant : November 2020

In a statement to the House on 5 November the Chancellor announced a further extension of the CJRS to the end of March 2021, and a further increase in the size of the SEISS Grant Extension: setting the first payment covering November to January at 80% of average profits, up to £7,500.[116] The net cost of this 'third' grant has been estimated to be around £6 billon,[117] bringing the total cost of SEISS to date to £17.1 billion.[118]

In his statement the Chancellor noted that the Government would review the level of support for employers through the CJRS in January "to decide whether economic circumstances are improving enough to ask employers to contribute more."[119] In response to a question from David Linden, Mr Sunak confirmed that this decision would coincide with the determination of the level of the fourth SIESS grant:

> **David Linden :** The livelihoods of many self-employed Glasgow taxi drivers have been devastated in recent months. I note on page 9 of the Chancellor's statement that he says that the income support grant for self-employed people will go through until January. Why will it not go through until March, in line with the furlough scheme?
>
> **Rishi Sunak :** It will; the grant will be there for a second one. It has already been announced that there will be a fourth grant payable in the spring. The exact value of that will be determined in January at the same time as we decide on the future furlough employer contribution, because those things generally align with each other. There will be a fourth grant, as has already been confirmed.[120]

Generally in their responses to the Chancellor's statement Members welcomed the boost to the SEISS, although Caroline Lucas asked why the Government had not looked at extending the eligibility criteria:

> **Caroline Lucas :** Will [the Chancellor] explain why he has deliberately left out so many people again when announcing this latest version of the self-employed scheme, and will he today finally commit to delivering justice for the self-employed?
>
> **Rishi Sunak :** … One of the criteria for qualifying for the self-employment grant was that earnings were less than £50,000. Because we have less information about the self-employed, it was right to target that support at those who need it most. Of all the people who are majority self-employed, 95% earn under £50,000, and the average

115 Tom Waters, *Self-employment income support and the second national lockdown*, Institute for Fiscal Studies, 3 November 2020

116 HM Treasury press notice, *Chancellor statement to the house – Furlough extension*, 5 November 2020; see also, HM Treasury press notice, *Government extends Furlough to March and increases self-employed support*, 5 November 2020

117 HMT, *Spending Review*, CP 330, November 2020 (Table 1.1 – item 13). This shows a tax cost of £6,875m in 2021/22, followed by a tax rebate of £885m in 2021/22. At the time the Treasury put the cost of the third SEISS grant at around £7.3 billion (HMT, *National restrictions: financial support for jobs and businesses*, 5 November 2020).

118 OBR, *Economic and Fiscal Outlook*, CP 318, November 2020 para A8.

119 HC Deb 5 November 2020 c502

120 *op.cit.* c517

> income of those over the £50,000 limit is about £200,000. I think that is a reasonable and fair way to make sure that we help the most needy in our society.[121]

The *Financial Times* reported concerns from some stakeholders that the Chancellor had not decided to reconsider the coverage of the SEISS for owner-manager companies:

> "It is deeply troubling that the government has still not fixed the devastating gaps in SEISS," said Derek Cribb, chief executive of IPSE, the Association of Independent Professionals and the Self-Employed, a trade body. "Now, those limited company directors and other excluded self-employed who made it through on their savings face financial calamity if they do not get support in this second lockdown." "The government is still failing to fill the significant gaps in the scheme," said Roger Barker [director of policy at the Institute of Directors]. "Many small company directors continue to go without support. It's long past time to sort this problem."[122]

The Government's announcement was also criticised on the grounds that no changes had been made to the eligibility criteria to improve the targeting of the Scheme.

Mike Brewer, Chief Economist at the Resolution Foundation, noted on Twitter, "It is noteworthy that HMT have made no progress in trying to target the JRS on particular sectors, and no progress at all at fixing the terrible targeting of the SEISS. Meanwhile our benefit system is built around idea of precise targeting. It was obvious in March there were big inequities between those made redundant & those on JRS, and between those getting and not getting SEISS. These differences will be much greater after 12 or 9 months, rather than the 3 months both schemes were originally designed for."[123]

Similarly IFS Director Paul Johnson noted, "Taken aback by ChX statement. Basically return to March schemes (dreamt up on the hoof in 24 hrs) as if nothing learnt since. Wasteful & badly targeted for self-employed. No effort at targeting sectors/viable jobs for employees. Big contrast to position just days ago."[124] Subsequently Mr Johnson gave evidence to the Treasury Select Committee about the economic impact of coronavirus on 2 December, and on this occasion was asked about his view of the targeting of the SEISS:

> **Alison Thewliss:** Paul, you said on Twitter that you were "taken aback" by the Chancellor's statement and the way in which the schemes had not been adapted or changed. In what way would you like to have seen a more targeted approach to the job retention scheme and the SEISS?
>
> **Paul Johnson:** The big failing here is the self-employment scheme, and I understand why, to large extent, because it is very difficult to design. To have a scheme where we know that we are very significantly overcompensating a large number of people and very significantly undercompensating and, indeed, ignoring another large group, that was something entirely understandable back at the beginning of April, but really to reintroduce or keep precisely that same scheme seven months later was really quite disappointing. That the combined efforts of HMRC and Treasury could not come up with anything that was one iota better than something that was clearly, to be kind to it, extremely rough justice back in the spring was, as I said, quite disappointing.
>
> We know from all sorts of work now that this is exactly what has happened. There really are significant numbers who saw a very small reduction, if any, in their income and have taken up a large amount of state support entirely unnecessarily, and a very large number who saw incomes fall to zero and have no state support.
>
> This is something that is worth thinking about much more generally for the future: how we think about the self-employed in our labour market and welfare systems. We

121 *op.cit.* c514
122 "Pressure grows to support excluded self-employed" & "Millions of self-employed left out of latest UK support scheme", *Financial Times*, 6 & 8 November 2020. See also, PQ110123, 5 November 2020; PQ115585, 24 November 2020.
123 Mike Brewer, Twitter, 5 November 2020
124 Paul Johnson, Twitter, 5 November 2020

know that more than a third of the growth in employment since 2008 has been among the solo self-employed. We know that their earnings have gone down over that period and they have done much worse than employees. That is not just a result of a change in the composition.

We live in a world where we know that Government policy, through tax and regulation, very significantly incentivises firms to contract with people who are formally or legally self-employed. It is all of those things together with, broadly speaking, a welfare system that is designed around the needs of employees and the mess that we have got into in terms of supporting the self-employed over this period. You see a really big gap in the way that the welfare state works. I do not have any easy answers to that—I have to be open about that—but this is a signal, I would have thought, that maybe this Committee or certainly Government ought to be doing some really serious work on how we go forward with supporting the self-employed.

Alison Thewliss: Would there be a means of looking at it again and meeting the needs of those who have been excluded from the schemes so far?

Paul Johnson: If you had that whole period from April through to November, where, whatever you thought about likelihood, you knew there was at least some significant possibility that this would need to be continued for longer or that some sort of second wave would occur, I would have thought there would have been time to do some significant work over that period.[125]

On 24 November the Government published a further Treasury Direction underpinning the scheme. Applications for the third SEISS grant opened on 29 November and closed on 29 January 2021.

In turn HMRC updated its detailed guidance of the SEISS Grant Extension, an extract from which is reproduced below:

Claims for the third SEISS grant have now closed. The last date for making a claim for the third grant was 29 January 2021. This guidance applies to claims made during the third grant period. Details about the fourth grant will be announced on 3 March 2021. …

Who can claim

To be eligible for the third grant you must be a self-employed individual or a member of a partnership. You cannot claim the grant if you trade through a limited company or a trust.

If you claim Maternity Allowance this will not affect your eligibility for the grant.

You must have traded in both tax years:

- 2018 to 2019 and submitted your Self Assessment tax return on or before 23 April 2020 for that year
- 2019 to 2020

You must either:

- be currently trading but are impacted by reduced demand due to coronavirus
- have been trading but are temporarily unable to do so due to coronavirus

You must also declare that:

- you intend to continue to trade
- you reasonably believe there will be a significant reduction in your trading profits

Reasonable belief In order to claim, you must reasonably believe that you will suffer a significant reduction in trading profits due to reduced business activity, capacity or

125 Treasury Select Committee, *Oral evidence: Spending Review 2020; Economic impact of coronavirus*, HC 1029; HC 882, 2 December 2020 Qs73-74

> demand or inability to trade due to coronavirus during the period 1 November to 29 January 2021. You must keep evidence that shows how your business has been impacted by coronavirus resulting in less business activity than otherwise expected.
>
> **Significant reduction** Before you make a claim, you must decide if the impact on your business will cause a significant reduction in your trading profits for the tax year you report them in. HMRC cannot make this decision for you because your individual and wider business circumstances will need to be considered when deciding whether the reduction is significant. You should wait until you have a reasonable belief that your trading profits are going to be significantly reduced, before you make your claim …
>
> **How HMRC works out your eligibility based on your tax returns**
>
> To work out your eligibility we will first look at your 2018 to 2019 Self Assessment tax return. Your trading profits must be no more than £50,000 and at least equal to your non-trading income. If you're not eligible based on the 2018 to 2019 Self Assessment tax return, we will then look at the tax years 2016 to 2017, 2017 to 2018, and 2018 to 2019.[126]

This was supplemented by updated guidance on how HMRC work out applicants' trading profits and non-trading income,[127] on how someone's personal circumstances may affect their eligibility,[128] and the procedure for making a claim.[129]

As noted, new eligibility criteria apply to SEISS Grant Extension differ from the first two SEISS grants "in order to ensure that it will only be available to self-employed traders who are facing reduced demand or those who are temporarily unable to trade due to COVI-19."[130] HMRC's guidance provides some examples of when these tests would, or would not, be met; an extract is reproduced below:

> **Examples of reduced activity, capacity or demand or unable to trade**
>
> These are examples of people who have been impacted by coronavirus between 1 November 2020 and 29 January 2021.
>
> **Reduced activity, capacity or demand and reasonable belief**
>
> A cafe owner has fewer customers due to government restrictions on households mixing, which reduces her takings. She reasonably believes this will significantly reduce her trading profits. She is eligible to claim.
>
> A plasterer cannot get materials due to supply chain issues due to coronavirus. This has reduced the amount of work he can complete and be paid for. He reasonably believes this will significantly reduce his trading profits. He is eligible to claim the third grant.
>
> A part-time personal trainer works in a gym that has closed due to government restrictions. This reduces her business activity on the days that she works. She reasonably believes this will have a significant reduction on her trading profits. She is eligible for third grant.
>
> **Reduced activity, capacity or demand and no reasonable belief**
>
> A cafe owner has fewer customers due to government restrictions on households mixing, which initially reduces her takings. She increases her prices and believes her trading profits will not reduce significantly, so she is not eligible to claim the third grant.

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[126] HMRC, *Check if you can claim a grant through the Self-Employment Income Support Scheme*, 29 January 2021

[127] HMRC, *How HMRC works out trading profits and non-trading income for the Self-Employment Income Support Scheme*, 29 January 2021

[128] HMRC, *How your circumstances affect eligibility for the Self-Employment Income Support Scheme*, 2 December 2020

[129] HMRC, *Claim a grant through the Self-Employment Income Support Scheme*, 29 January 2021

[130] PQ225841, 19 November 2020

A plasterer cannot get materials due to supply chain issues due to coronavirus. This has reduced the amount of work he can complete and be paid for, but he manages to quickly find a new supplier. He does not believe that the reduced demand will cause a significant reduction in his trading profits. He is not eligible to claim the third grant.

Unable to trade and reasonable belief

A hairdresser has had to shut his shop due to government restrictions. He will not have any income due to the closure and reasonably believes the reduction in his trading profits will be significant. He is eligible to claim the third grant.

A builder has received a letter from the NHS identifying him as clinically extremely vulnerable and it asks him to stay at home. As he is unable to work from home he has a reasonable belief that there will be a significant reduction in his trading profits. He is eligible to claim the third grant.

Unable to trade and no reasonable belief

A hairdresser was unable to work for 2 days as his hair salon closed to be deep-cleaned due to a positive coronavirus case. He does not believe this will significantly reduce his trading profits. He is not eligible to claim the third grant.

A builder has developed coronavirus symptoms and self isolates for 5 days before receiving a negative test result. During those 5 days he was unable to work from home but was able to rearrange his contracts. He does not believe there will be a significant reduction in his trading profits. He is not eligible to claim the third grant.[131]

4.3 Further debate as to the 'gaps' in the SEISS

In September 2020 the Treasury Select Committee published a second report on the economic impact of the pandemic, noting its earlier criticism that "whilst millions were helped by Government schemes, over a million people are still affected by the significant gaps that remain."[132] The Government's response, published on 20 November, noted the decision to boots the maximum SEISS grant to £7,500,[133] but, as the Committee noted, "did not implement the recommendations from our first report to help those who have fallen through the gaps of support, including limited company directors, freelancers and the newly self-employed, persists", adding, "the Government must act to mitigate these significant gaps in support."[134]

Later that month the Chair of the Committee, Mel Stride, wrote to the Chancellor noting initiatives by both the Scottish Government and the Northern Ireland Executive to provide grants for self-employed persons in certain circumstances, to which the Chancellor replied in December.[135] More recently on 20 January the Committee held an evidence session on the gaps in Covid-support schemes, and there was an interesting exchange between Rushanara Ali, and two witnesses, Richard Wild (from the CIOT), and Caroline Miskin (from the ICAEW), on the practical problems of having a new scheme to target those who had recently become self-employed:

Rushanara Ali: … We have seen the Northern Irish experience and the Scottish experience, and where there's a will, there's a way. Do you think the UK Government—the Chancellor, in particular—could be identifying ways of addressing

[131] HMRC, *How your circumstances affect eligibility for the Self-Employment Income Support Scheme*, 2 December 2020

[132] Treasury Committee, *Economic impact of coronavirus: the challenges of recovery*, HC 271, 11 September 2020 p3

[133] Treasury Committee, *Fifth special report of session 2019-21*, HC 999, 20 November 2020 p1

[134] Treasury Committee press notice, *Treasury Committee publishes Government response to second economic impact of coronavirus report*, 20 November 2020

[135] Treasury Committee press notice, *Committee urges Chancellor to help those who have fallen through the gaps of coronavirus support*, 23 November 2020; *Letter from the Chancellor relating to Coronavirus Job Retention Scheme and the Self-Employment Income Support Scheme*, 14 December 2020

> those who are left out? If so, should we be doing similar things, or are there other things that we could be doing? …
>
> **Richard Wild:** … Preparing for this afternoon, I looked at the other support that is available to businesses and individuals. While there is a good tool on gov.uk, it is quite hard to track. If you have premises and have received a £9,000 grant, or if you ran a pub and you received a £1,000 Christmas bonus, for want of a better term, it is very hard to narrow down who is left out in the population who has not received anything or has not received a sufficient amount. Now that Scotland and Northern Ireland have moved with their newly self-employed schemes, it probably makes it more difficult to do something for the rest of the UK, because you then have to decide whether you're willing to give people funding twice or introduce a further complexity, which would be to have to deduct any other support that businesses have received from elsewhere. When the Scottish newly self-employed grant scheme was launched in spring-summer last year, there was a long list of exclusions, which meant you couldn't claim the grant if you were eligible for any other Covid support. As time goes on, it becomes more difficult to target the scheme effectively. …
>
> **Caroline Miskin:** On the other schemes, we do now have a lot of different local schemes and grants across Northern Ireland, Scotland and even some English local authorities. There are a lot of different schemes and there is no one solution to this.
>
> The people who miss out fall into a huge number of different categories. You potentially have to look at a new scheme. There is a limited amount you can do by tweaking the current schemes. Some of the local schemes, which are really targeted, may be the way to go. The one thing I would say about the Northern Irish and Scottish schemes is that I don't see them as being scalable. I don't see it as possible to do those on a—
>
> **Rushanara Ali:** Really? Wouldn't some people argue that at least they are trying, at least they are doing something, whereas our Treasury is being very stubborn? …
>
> **Caroline Miskin:** What I'm saying is that they are by their nature local schemes. I don't believe they could be done on a national scale, because they require the taxpayers themselves to provide significant amounts of data and documentation in evidence. The authorities themselves are doing an awful lot of checking of that data.
>
> **Rushanara Ali:** But these are national schemes—Scotland and Wales. What are they doing that we are not capable of doing? They are implemented locally.
>
> **Caroline Miskin:** It's a question of scale and amount of resource required to check the very considerable amount of data and documentation that they are asking the claimants to provide. There is also a cap on the scheme, on the amount of funding.[136]

The provision of financial support for businesses by individual local authorities has also been mentioned in answer to PQs; for example:

> **Lord Taylor of Warwick :** To ask Her Majesty's Government what plans they have to introduce (1) a taxable grant for directors of limited companies, and (2) a scheme to reimburse small businesses for lost revenue, as part of a COVID-19 support package.
>
> **Lord Agnew of Oulton** : The Government acknowledges that it has not been possible to support everyone as they might want. Targeting additional support for those who receive dividends in lieu of remuneration is complex. Income from dividends is a return on investment in the company, rather than wages. 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.
>
> Limited company directors may still be eligible for other elements of the generous support available, including the Coronavirus Job Retention Scheme (in respect of their salary but not their dividends), Bounce Back loans, tax deferrals, rental support,

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136 *Oral evidence: Economic impact of coronavirus*, HC 882, 20 January 2021 Qs331-4

> increased levels of Universal Credit, mortgage holidays, and other business support grants.
>
> To help businesses dealing with lost revenue, the Government has introduced the Local Restrictions Support Grant (LRSG) (Closed), giving businesses forced to close due to national or local restrictions up to £3,000 per month. This was worth over £1bn for the four weeks of national lockdown in November. In addition, these businesses will benefit from one-off grants of up to £9,000 as announced on 5 January. Similarly, where local areas were subject to enhanced restrictions on socialising, in particular a ban on indoor household mixing, LAs will receive funding that will enable them to make grants to hospitality, leisure, and accommodation businesses worth up to £2,100 per month.
>
> Businesses which are not eligible for the grants for closed businesses may be able to benefit from funding from the Additional Restrictions Grant. The Government recently increased the funding available under this scheme to £1.6 billion across England. It is up to each local authority to determine eligibility for this scheme based on their assessment of local economic need; the Government encourages local authorities to support businesses which have been affected by COVID-19 restrictions, but which are ineligible for the other grant schemes.[137]

At this time the Institute for Fiscal Studies published a report on the SEISS, focusing on the position of those disqualified for any help through the Scheme as a consequence of the two 'cliff edge' criteria: the requirement to have 50% or more of one's income from self-employment, and for one's trading profits not to exceed £50,000.[138]

An extract from the report's key findings is reproduced below:

- Around 1.8 million self-employed people and around 700,000 company owner-managers are not eligible for support through the scheme.
- For some of these people, it is technically very difficult for the government to provide targeted support. This is the case for owner-managers and newly self-employed people. This is not the case for the 1.3 million self-employed people who have less than 50% of their income coming from self-employment, or for the 225,000 people who have profits in excess of £50,000. The government has actively chosen to exclude these people from SEISS.
- There are clear injustices in the way these people are excluded, not least in the hard cut-offs which mean someone with profits of £50,000 can claim the maximum available while someone with £50,001 can claim nothing. Equally, someone with 51% of declared income from self-employment can claim the maximum, while someone with 49% can claim nothing.
- More than half of self-employed people with less than 50% of their income from self-employment have total personal incomes of under £25,000, meaning that targeting support at this group would affect many people with low or moderate personal incomes. They also have relatively low levels of self-employment profits (more than half have profits under £5,000 per year). 45% of people in this situation are women compared with just 35% of those supported by SEISS. We estimate that extending SEISS to them would be relatively cheap in comparison with other spending on government support schemes (between £500 million and £800 million per quarter, with average quarterly payments of between £600 and £1,000 per person).
- People earning over £50,000 per year in self-employment profits have on average very high incomes. While over half of them have incomes between £50,000 and £100,000, some will have much higher incomes. But denying support to them entirely creates a clear unfairness for people who earn just over £50,000 compared with those earning just under, and is inconsistent with how the furlough scheme works for employees. Extending SEISS fully to this

137 PQ HL12253, 1 February 2021
138 "Self-employed without help need answers", *BBC News*, 27 January 2021

whole group would cost £1.3 billion per quarter with a payment of £7,500 per person. Providing a tapered form of support to those with profits between £50,000 and £100,000 would cost must less: around £350 million per quarter.

- Fully supporting those with less than half their income from self-employment and providing some support to those with prior self-employment income between £50,000 and £100,000 would likely cost around £1 billion per quarter. That is just 5% of the cost of SEISS to date (and around 1% of the combined cost of the SEISS and furlough schemes to date). It is hard to believe it would be significantly less well targeted than the current SEISS, and it would certainly support a significant number of people facing financial difficulties.[139]

Writing in the *Times* just prior to the Budget, Paul Johnson, director of the IFS, suggested that support for the self-employed "presumably will be phased out at a similar rate and over a similar period as that for employees", adding:

> It looks as if hopes of better targeting this scheme, which is outrageously generous to many while completely — and in some cases arbitrarily — excluding many others, will be dashed. The way the government has treated the self-employed can go down as one of the bigger failures in the design of Covid support packages. [140]

In addition there has been a lot of interest in the possibility of crafting a separate scheme of support for company directors, excluded from the scope of the SEISS and unlikely to qualify for significant sums from the CJRS should they furlough themselves.[141] In broad terms, it has been proposed that directors would make a claim based on their company's trading profits, rather than their own dividend income – although this figure would be supplemented by any remuneration the company was paying them.[142] The individual director or their accountant would certify the current level of the business' profits, as well as confirm the business had been directly affected by Covid-19 – either in terms of lower sales or a temporary interruption of their trading activities.

In past weeks, Ministers have confirmed that the proposal was being scrutinised; for example:

> **Owen Thompson**: To ask the Chancellor of the Exchequer, what assessment he has made of the potential merits of implementing a director's income support scheme, in the context of the covid-19 outbreak.
>
> **Jesse Norman** : The Government has recognised taxpayers have faced immense challenges during the COVID-19 pandemic. It has prioritised delivering support to as many people as possible, as quickly as possible while guarding against the risk of fraud or abuse.
>
> The Government always welcomes constructive proposals from stakeholders to improve the design of its COVID-19 business support schemes, including the suggestion for a Directors Income Support Scheme (DISS). This proposal aims to provide a new system for company directors, based on reported profits. The Government has consulted key stakeholders and is currently scrutinising the proposal in detail.
>
> In the meantime, let me highlight that company owner managers could be eligible for existing support schemes including the Coronavirus Job Retention Scheme for the income taken by company owner managers via PAYE, Bounce Back loans, tax

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139 Jonathan Cribb, Isaac Delestre and Paul Johnson, *Who is excluded from the government's Self Employment Income Support Scheme and what could the government do about it?*, IFS Briefing note, 27 January 2021

140 "Budget is Sunak's chance to show us who he is and where he wants to go", *Times*, 1 March 2021

141 "MPs demand UK Covid support for 3m excluded self-employed", *Financial Times*, 25 January 2021; "Fix gaps in furlough for self-employed workers, government urged", *Guardian*, 4 February 2021; "Mind the gaps", *Taxation*, 25 February 2021

142 "Directors income support scheme proposed", AccountingWeb.co.uk, 27 November 2020; "New proposal for limited company director support: how does it work?", IPSE blog, 15 December 2020

> deferrals, rental support, increased levels of Universal Credit, mortgage holidays and other business support grants. More information about the full range of business support measures is available at: www.businesssupport.gov.uk/coronavirus-business-support/.[143]

On 11 January the Treasury Select Committee wrote to Sir Tom Scholar, Permanent Secretary at the Treasury, and as part of this raised two questions in relation to this issue:

> **The Excluded**
>
> - We would grateful if you could set out any administrative or practical reasons why the Directors Income Support Scheme as proposed by various groups such as the Federation for Small Businesses is not a viable solution for helping Limited Companies.
> - Do the tax returns for 2019-20 provide the Treasury with any more information which would enable the Treasury to help the self-employed?
>   - Isn't it possible to make the last tranche of the Self-employed Income Support Scheme eligible to those who had been previously excluded from SEISS on the grounds they were newly self-employed who had not submitted their 2018-19 tax returns?[144]

Sir Tom replied to this letter on 22 January and on these questions, provided the following comments (***emphasis added***):

> Treasury Ministers always welcome constructive proposals from stakeholders, including those submitted by the Federation for Small Businesses on the SEISS. But, unfortunately, the proposal for a Directors Income Support Scheme (DISS) still gives rise to a significant risk of fraud.
>
> The DISS seeks to address the issue that eligibility for the SEISS and the grant amount are based on an individual's earnings from self-employment, but that it is not possible under current reporting mechanisms for HMRC to distinguish between dividends paid in lieu of employment income and those paid as returns on investment in a company. The DISS proposal is that the government would pay grants to companies based on corporation tax returns, supplemented with further information gathered from a self-certification by Directors or their accountants, and that the companies would then have the option to pass on the grant received to Directors.
>
> ***The Government's assessment of the DISS is that the scheme as proposed is unworkable, because it is intrinsically reliant on self-certification by owner-managers of companies.*** The effect of this reliance on self-certification is potentially to open the scheme up to an unacceptable level of fraud and abuse, and perhaps even criminal activity. Ministers believe that the Government cannot expose the tax system to these risks.
>
> You also asked about plans for the fourth grant of the SEISS. As you know, the Financial Secretary to the Treasury was subsequently asked about this when he appeared before the Committee on 25 January. As he said in a written answer on the same day, the Government will continue to look for ways to improve the Self-Employment Income Support Scheme (SEISS). It continues to consider the matter carefully and work closely with stakeholders to explore how best to support different groups. The Government will set out further details on the fourth SEISS grant in the Budget.[145]

[143] PQ131336, 14 January 2021. See also, HC Deb 25 January 2021 cc132-138.
[144] Treasury Select Committee, *Letter from Chair to Tom Scholar regarding economic analysis and gaps in support*, 11 January 2021
[145] Treasury Select Committee, *Response from Tom Scholar to Chair regarding economic analysis and gaps in support*, 26 January 2021. In answer to PQ137980 (19/1/2021) the Minister noted, "the Government has taken a flexible and responsive approach and has extended the SEISS over the coming months. The Government will continue to look for ways to improve the SEISS grant and existing support."

On 15 February the Committee published a third report as part of its ongoing inquiry into the economic impact of coronavirus, and as part of this reiterated its earlier concerns as the eligibility criteria of the SEISS:

> We recognise that it may not have been possible for the Government to help all those who have fallen through the cracks of the support schemes. However, we are disappointed that the Government has so far shown no inclination to expand or provide alternatives to the SEISS, which is providing a vital life-line to many but is not available to all those whom we believe should qualify.[146]

The Committee argued that data from 2019/20 self assessment returns could now be used "to help the newly self-employed who missed out on previous support", that the Government should "reconsider the 50 per cent limit in the eligibility criteria for the fourth tranche of the SEISS grant so that those who derive less than half of their income through self-employment can receive some level of support", and remove "the £50,000 cap and allowing those with profits just over this cap access to some financial support up to the total monthly support cap of £2,500."[147]

More widely the Committee suggested that consideration be given to "other models of support, including those developed by the devolved administrations." It acknowledged that in the case of limited company directors, "there are administrative difficulties to overcome and fraud risks with the implementation of any scheme", but it questioned "whether the Treasury could do more to investigate how to mitigate the fraud risks inherent in the DISS scheme and similar schemes, and whether the levels of fraud risk merit the Treasury's position of not providing any support at all."[148]

In this context the Financial Secretary gave a written answer just prior to the 2021 Budget as to risk posed to different aspects of the tax system from self-certification:

> **Caroline Lucas** : To ask the Chancellor of the Exchequer, what the reasons for the differences in self-certification requirements for limited company directors for accessing (a) income support, (b) the self employed income support scheme, (c) submitting a tax return and (d) other aspects of the tax system.
>
> **Jesse Norman** : The tax system relies in part on self-certification through Self-Assessment as it is not possible to corroborate all information received from taxpayers. HMRC have various controls in place to mitigate the fraud risks associated with Self-Assessment.
>
> The risks associated with this depend on the type of scheme. For example, the risk is higher when HMRC are paying money out than when they are taking money in. Controls in place in the Self-Assessment system to mitigate fraud risk associated with self-certification have been built up and tested over many years and have proven to be very effective at preventing fraud.
>
> In relation to wider income support, self-employed Universal Credit (UC) claimants must report their earnings each month in order for their payment to be calculated and released to them. If a Work Coach suspects that a claimant is misreporting their earnings to inflate their award, they can refer the claim to be investigated for fraud.
>
> UC presents a different type of risk compared to COVID-19 support schemes. The Government has been clear that due to the generosity and speed of delivering the COVID-19 support schemes, they could be subject to opportunistic fraud and perhaps even criminal activity.
>
> On the Self-Employment Income Support Scheme, its purpose is to support the incomes of people who have lost earnings due to the pandemic. The scheme relies on

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146 Treasury Select Committee, *Economic impact of coronavirus: gaps in support and economic analysis*, HC 882, 15 February 2021 p4
147 *op.cit.* para 39, para 55, para 64
148 *op.cit.* para 76, para 49

verified HMRC data to identify and target support to those in need. Unlike the SEISS grants that use information HMRC already hold, targeting additional support at limited company directors would require them to make a claim and submit information that HMRC could not manageably or consistently verify in order to ensure that payments were made to eligible companies and for eligible activity. Relying on self-certification to identify directors or determine income sources could open the scheme up to unacceptable levels of fraud and error.[149]

[149] PQ154945, 1 March 2021

5. Budget 2021: the SEISS fourth and fifth grants

On 3 March 2021 the Chancellor presented the 2021 Budget, and in his statement to the House announced an extension to both the CJRS and the SEISS:

> The furlough scheme will be extended until the end of September. For employees, there will be no change to the terms. They will continue to receive 80% of their salary, for hours not worked, until the scheme ends. As businesses reopen, we will ask them to contribute alongside the taxpayer to the cost of paying their employees. Nothing will change until July, when we will ask for a small contribution of just 10%, and 20% in August and September …
>
> Support for the self-employed will also continue until September, with a fourth grant covering the period February to April, and a fifth and final grant from May onwards. The fourth grant will provide three months of support at 80% of average trading profits. For the fifth grant, people will continue to receive grants worth three months of average profits, with the system open for claims from late July.
>
> But as the economy reopens over the summer, it is fair to target our support towards those most affected by the pandemic, so people whose turnover has fallen by 30% or more will continue to receive the full 80% grant. People whose turnover has fallen by less than 30% will therefore have less need of taxpayer support and will receive a 30% grant.
>
> I can also announce a major improvement in access to the self-employed scheme. When the scheme was launched, the newly self-employed could not qualify because they had not all filed a 2019-20 tax return. But as the tax return deadline has now passed, I can announce today that, provided they filed a tax return by midnight last night, over 600,000 more people, many of whom became self-employed last year, can now claim the fourth and fifth grants.[150]

The Budget report also provided some details of the extension to the SEISS:

> **2.15 Self-Employment Income Support Scheme (SEISS) fourth grant** – To support the self-employed across the UK through the next stage of the pandemic, the government confirms that the fourth SEISS grant will be worth 80% of three months' average trading profits, paid out in a single instalment and capped at £7,500 in total. The grant will cover the period February to April, and can be claimed from late April. Self-employed individuals must have filed a 2019- 20 Self Assessment tax return to be eligible for the fourth grant. This means that over 600,000 individuals may be newly eligible for SEISS, including many new to self-employment in 2019- 20. All other eligibility criteria will remain the same as the third grant. Further details will be published in due course.
>
> **2.16 SEISS fifth grant** – The government announces that there will be a fifth and final SEISS grant covering May to September. The value of the grant will be determined by a turnover test, to ensure that support is targeted at those who need it the most as the economy reopens. People whose turnover has fallen by 30% or more will continue to receive the full grant worth 80% of three months' average trading profits, capped at £7,500. People whose turnover has fallen by less than 30% will receive a 30% grant, capped at £2,850. The final grant can be claimed from late July. Further details will be published in due course.[151]

It is estimated that the two further grants will cost £12.8 billion in 2021/22. The Budget costings note that SEISS grants are taxable income and also subject to National Insurance contributions, so that it is estimated this measure will *raise* £1.65 billion in 2022/23.[152]

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150 HC Deb 3 March 2021 c252
151 *Budget 2021*, HC 1226, March 2021 p45
152 *op.cit.* p41 (Table 2.1 – item 2)

HMRC has published a short note which gives some further details of these grants:

> At the Budget it was confirmed that the fourth SEISS grant will be set at 80% of 3 months' average trading profits, paid out in a single instalment, capped at £7,500.
>
> The fourth grant will take into account 2019 to 2020 tax returns and will be open to those who became self-employed in tax year 2019 to 2020. The rest of the eligibility criteria remain unchanged. Your eligibility for the scheme will now be based on your submitted 2019 to 2020 tax return. This may also affect the amount of the fourth grant which could be higher or lower than previous grants you may have received.
>
> **1. Who can claim**
>
> To be eligible for the fourth grant you must be a self-employed individual or a member of a partnership. To work out your eligibility we will first look at your 2019/20 Self Assessment tax return. Your trading profits must be no more than £50,000 and at least equal to your non-trading income. If you're not eligible based on your 2019/20 Self Assessment tax return, we will then look at the tax years 2016/17, 2017/18, 2018/19 and 2019/20.
>
> You must also have traded in both tax years:
>
> - 2019/20 and submitted your tax return by 2 March 2021
> - 2020/21
>
> You must either:
>
> - be currently trading but are impacted by reduced demand due to coronavirus
> - have been trading but are temporarily unable to do so due to coronavirus
>
> You must also declare that:
>
> - you intend to continue to trade
> - you reasonably believe there will be a significant reduction in your trading profits due to reduced business activity, capacity, demand or inability to trade due to coronavirus
>
> **2. What the fourth grant covers**
>
> The fourth grant will provide a taxable grant calculated at 80% of 3 months' average trading profits. The fourth grant will be paid out in a single instalment and capped at £7,500 in total.
>
> **3. How to claim**
>
> To allow us to process recently submitted 2019 to 2020 Self Assessment tax returns, the online claims service for the fourth grant will be available from late April 2021 until 31 May 2021.
>
> If you are eligible, HMRC will contact you in mid-April to give you your personal claim date. This will be the date that you can make your claim from. There will be more guidance about the fourth grant in due course.
>
> **4. Further support**
>
> The UK government has also announced that there will be a fifth and final grant covering May to September. You will be able to claim from late July if you are eligible for the fifth grant. The amount of the fifth grant will be determined by how much your turnover has been reduced in the year April 2020 to April 2021.
>
> The fifth grant will be worth:
>
> - 80% of 3 months' average trading profits, capped at £7,500, for those with a turnover reduction of 30% or more
> - 30% of 3 months' average trading profits, capped at £2,850, for those with a turnover reduction of less than 30%

> Further details will be provided on the fifth grant in due course.[153]

The Chancellor's announcement appears to have been widely welcomed, although some stakeholders raised concerns that no change had been made to the £50,000 threshold nor any special provision for limited company directors.[154] In the Institute for Fiscal Studies' initial response to the Budget, Jonathan Cribb (one of the authors of the IFS' report on the SIESS published in January) said, "It makes sense for the government to extend the furlough and SEISS schemes through to June in full while there are still restrictions on economic activity, and then to phase it out so that by October the schemes are gone, but they are still not including 1.5 million self- employed people who earn over £50,000 or have less than 50% of their income from self employment."[155]

The Chartered Institute of Taxation welcomed the extension of the SEISS, although it noted the turnover test to apply to the fifth grant, and the fact that the Government were to introduce powers to enable HMRC to recover SEISS grants where someone was entitled to the grant at the time of claim but subsequently ceased to be entitled to all or part of it:

> CIOT Head of Technical, Richard Wild, said: "The Chancellor is right to extend this scheme to those who became self-employed in the year before the pandemic. Excluding them was always rather rough justice. It's a case of better late than never."…
>
> "Potential claimants should be aware of two important factors within today's announcements.
>
> "First, the fifth grant will vary depending upon the extent that a reduction in turnover can be demonstrated, and the extent of that reduction. There is no detail yet regarding the period over which turnover will be evaluated, and it would be advisable for business owners to start recording their weekly or monthly turnover if they aren't already doing so.
>
> "Secondly, HMRC announced new measures enabling HMRC to recover grants where an individual was entitled to the grant at the time of claim, but subsequently ceases to be entitled to all or part of it. This seems to be part of a £100m investment in HMRC to combat fraud within the COVID-19 support packages. Again there is scant detail at the moment, but it remains vital that business owners retain evidence which demonstrates that they made a valid grant claim."[156]

In the latter case, provision to this effect is to be included in the Finance Bill to be introduced after the Budget; details were given in a tax information note from which the following is taken:

> **General description of the measure**
>
> Current legislation enables HMRC to reclaim overpaid SEISS grants where the claimant did not meet the eligibility criteria at the time of claim. This measure makes changes to the time and circumstances when a 100% tax charge may arise in relation to SEISS payments.
>
> It enables HMRC to recover grants where an individual was entitled to the grant at the time of claim but subsequently ceases to be entitled to all or part of the grant. It also extends the Treasury's regulation making powers in relation to charges if a person is not entitled to a coronavirus support payment, to bring the SEISS within scope of the legislation. …

153 HMRC, *Self-Employment Income Support Scheme fourth grant*, 3 March 2021.
154 "Many UK self-employed still out in the cold even after Covid help extended", *Financial Times*, 3 March 2021; "Sunak extends support for self-employed but critics say millions miss out ", *Guardian*, 3 March 2021; "SEISS grants for newly self-employed will also help 200,000 others", *Times*, 5 March 2021
155 IFS, *Initial reaction from IFS researchers - In Full*, March 2021. See also, Tom Waters, *IFS 2021 Budget: the Budget and household finances – presentation*, 4 March 2021 (slide 5).
156 CIOT press notice, *Support for newly self-employed - better late than never, but review your entitlement carefully warns CIOT*, 3 March 2021

Operative date

This measure will apply to SEISS payments made on or after 6 April 2021.

Current law

Relevant provisions are at section 106 and Schedule 16 *Finance Act 2020*.

Under paragraph 8 of Schedule 16, an individual is liable to a charge, if they are not entitled to COVID-19 support payments in accordance with the scheme under which the payment was made.

Proposed revisions

Provisions will be introduced in the Finance Bill 2021 to amend s106(3) and paragraph 8 Schedule 16 *Finance Act 2020*.

Section 106(3) *Finance Act 2020* will be extended so that the Treasury may make regulations about the application of (including provision modifying) Schedule 16 to SEISS Paragraph 8 of Schedule 16 will be amended so that where a recipient of a SEISS grant stops being entitled to keep all or part of the grant due to a change in circumstances, a tax charge equivalent to the amount of the grant to be recovered, can be applied.[157]

[157] HMRC, *Updates to tax charges when a person is no longer eligible to Self-Employment Income Support Scheme payments*, 3 March 2021. The measure is not anticipated to have any significant Exchequer impact.

6. FAQs

Q1. Who is eligible for the SEISS?

The statutory rules for the SEISS have been set out in two Treasury Directions.

A claim must be made by a 'qualifying person', and for these purposes a person is a qualifying person if the following conditions are met:

- They make more than half of their income from self-employment, up to £50,000 in profit per year.
- They have carried on a trade in 2018/19 and 2019/20, and submitted their tax return for the tax year 2018/19 on or before 23 April 2020.
- They are trading in 2020/21 when they apply (and/or intend to continue to trade in the 2020/21 tax year) and have been financially adversely affected by the Coronavirus outbreak.[158]

HMRC produced an online tool which people have used to check their eligibility, using their Self Assessment Unique Taxpayer Reference and National Insurance number.

In a written answer the Financial Secretary Jesse Norman underlined the point that, "HMRC do not refuse applications for the scheme. People are either eligible to apply for SEISS and, based on the information held by HMRC given access to the service, or they are ineligible and not given access. Eligibility is based strictly on the criteria set by the Chancellor. In addition, HMRC actively monitor claims for evidence of risk/fraudulent behaviour. Where HMRC sees this type of compliance risk, HMRC rejects the claim."[159]

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The eligibility criteria for the SEISS has excluded a number of groups of people.

- **Those who became self-employed after April 2019.**

The Financial Secretary explained the reasons for this in response to a PQ

> This was a very difficult decision and it was taken for practical reasons. Unlike employee income, self-employed income is not reported monthly, but at the end of each tax year on the individual's Income Tax Self Assessment return. This means that the most reliable and up-to-date record of self-employed income is from 2018-19 tax returns, which were due at the end of January 2020.
>
> The Government recognises that those who started trading more recently will not have submitted a tax return for the 2018-19 tax year, and it considered alternative approaches. However, HMRC would not be able to distinguish genuine self-employed individuals who started trading in 2019-20 from fake applications by fraudulent operators and organised criminal gangs seeking to exploit the SEISS.[160]

In answer to a second PQ on 9 June the Minister added these points:

> The SEISS is governed by a Direction issued by the Treasury. That Direction clearly sets out the parameters of the scheme, including the eligibility and payment calculation rules. The 2018-19 return must have been filed by 23 April 2020, and no amendments made after 6pm on 26 March will be taken into account. The SEISS makes no provision to accept later returns or amendments, for example on reasonable excuse or error grounds. If claimants feel HMRC

158 *Treasury Direction made by the Chancellor under Sections 71 and 76 of the Coronavirus Act 2020*, updated 2 July 2020; HMRC, *Check if you can claim a grant through the SEISS*, 20 October 2020
159 PQ110062, 10 November 2020. See also, PQ43927, 14 May 2020; PQ90169, 21 September 2020.
160 PQ43971, 15 May 2020. See also PQ52498, 9 June 2020; PQ72964, 21 July 2020.

have got their eligibility decision wrong they may ask for a review, following the process set out on GOV.UK.[161]

In April the ONS published an overview of self-employment, and as part of this estimated that 3% of self-employed people (151,000) had become self-employed after the end of 2018/19, though "as our data cover January to December 2019, these estimates will not include people who have become self-employed since the start of 2020 and might under-report the extent of newly self-employed people."[162]

- **Those whose annual trading profit from their self-employment exceeds £50,000.**

Unlike the CJRS, the SEISS sets a £50,000 earnings cap. In calculating someone's annual trading profit, HMRC take average profits over 2016/17 to 2018/19:

	2016/17	2017/18	2018/19	Average trading profit for the 3 tax years
Trading profit/loss	£60,000	£60,000	-£30,000	£30,000

If someone did not trade in 2016/17, HMRC uses the two tax years 2017/18 and 2018/19. If someone traded in 2016/17 and 2018/19, but did not trade in the year between, HMRC only use someone's 2018/19 return to calculate their average trading profit.[163]

The Government's case for the £50,000 cap has been set out in answer to several PQs:

> **Asked by Lord Black of Brentwood** : To ask Her Majesty's Government what is the justification for the cap on trading profits in order to access the Self-Employment Income Support Scheme to be set at £50,000 when there is no cap on earnings in the eligibility criteria for the Coronavirus Job Retention Scheme.
>
> **Answered by: Lord Agnew of Oulton** : The Coronavirus Job Retention Scheme (CJRS) and Self-Employment Income Support Scheme (SEISS) are different schemes. The CJRS is designed to prevent businesses laying off staff. The SEISS is designed to support the living standards of the self-employed.
>
> The SEISS, including the £50,000 threshold, is designed to target those who need it most and who are most reliant on their self-employment income. The self-employed are a very diverse population. They have a wide mix of turnover and profits, with monthly and annual variations even in normal times. The self-employed can also offset losses against profits in other years and other forms of income. Some may see their profits unaffected by the current situation, while others will have substantial alternative forms of income. For example, those who had more than £50,000 from self-employment profits in 2017-18 had an average total income of more than £200,000. In addition, the self-employed can continue to work and remain eligible for the taxable grant as long as they meet the other criteria, including their trade being adversely affected as a result of COVID-19.
>
> Those with average profits above £50,000 may still benefit from other support. Individuals may have access to a range of grants and loans depending on their circumstances. The SEISS supplements the significant support already announced for UK businesses, including the Bounce Back Loan Scheme for small businesses, the Coronavirus Business Interruption Loan Scheme, and the deferral of tax payments.

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161 PQ52597, 9 June 2020. See also, E-petition 310471, "Provide COVID19 income support for the newly self-employed, without HMRC records", 2 April 2020
162 Office for National Statistics, *Coronavirus and self-employment in the UK*, 17 April 2020
163 HMRC, *How HMRC works out trading profits and non-trading income for the Self-Employment Income Support Scheme*, 20 October 2020

> More information about the full range of business support measures is available on GOV.UK.[164]

The issue was raised with Treasury Minister Stephen Barclay when he gave evidence to the Treasury Select Committee on 29 April:

> **Mr Steve Baker:** On the 50k cut-off … we have all had cases … where people are just over the threshold and get nothing … Why can you not dispense with that 50k cut-off and instead use the £2,500 a month cap on what you pay people? …
>
> **Stephen Barclay:** …The way this is designed is off the self-assessment tax forms. That is the operational design. That is where the £50,000 threshold has been linked and that enables us to cover 95% … There is a desire from the Committee … to deliver schemes at speed, but there is an equal desire to cover every single scenario. We have sought to have a package of measures. This covers 95% of people in self-employment where it is the majority of their income, but there are other measures alongside it. It is important that we look at the total package of measures.
>
> **Mr Baker:** You have made that very clear. … Is the problem not that, if you had two high-paid furloughed employees in a household, they would be very much better off than a household where somebody was just over the threshold? Again, I say to you, surely the thing to do here is to use the cap in what you pay out, instead of looking at the cap of what people usually earn.
>
> **Stephen Barclay:** We have been asked this question of household income: could we not do this assessment from a household income? Indeed, when we come to major fiscal events, the distributional analysis is linked to household income, but there is a significant time period. Often it takes up to two years to do those household surveys, to design them and get that data back. It is the operational design that is driving this. That is why it is based in the way that it is.[165]

- **Those whose trading profit from their self-employment constitutes less than 50% of their total annual income.**

Non-trading income covers: income from earnings; property income; dividends; savings income; pension income; overseas income; and miscellaneous income (including taxable social security income).

HMRC's guidance explains that in determining this test, they look first at someone's 2018/19 tax return. If they are not eligible based on the 2018/19 return, they then look at the tax years 2016/17, 2017/18, and 2018/19.

	2016/17	**2017/18**	**2018/1919**	**Average for the 3 years**	**Total**
Trading profit	£50,000	£50,000	-£10,000	£30,000	£90,000
Non-trading income	£15,000	£15,000	£15,000	N/A	£45,000
Eligibility using 2018/19 only	N/A	N/A	No	N/A	No
Eligibility using the 3 tax years	N/A	N/A	N/A	Yes	Yes

164 HL PQ3990, 20 May 2020. See also, PQ53286, 8 June 2020. Further to the £200,000 figure given here, the Chancellor has confirmed that "those who had more than £50,000 from trading profits in 2017-18 had a **median** average total income of around £100,000." Treasury Committee, *Letter from the Chancellor of the Exchequer re Committee session on 15 July 2020*, 13 August 2020.

165 Treasury Committee, *Oral evidence: Economic impact of coronavirus*, HC 271, 29 April 2020 Qs 322-3

So even if you made a loss in the tax year 2018 to 2019, you would still be eligible because:

- your average trading profit for the 3 tax years is £30,000 - which is less than £50,000
- the sum of your trading profits for the 3 tax years is £90,000, which is at least equal to the sum of your non-trading income of £45,000 for those years.[166]

Ministers have stated the Government has no plans to amend this provision:

> The Self-Employment Income Support Scheme (SEISS) is only available to those whose trading profit makes up 50% or more of their total income, as the SEISS aims to provide financial support to those who rely on self-employment as their main source of income. Many individuals earn small amounts of income from self-employment in addition to income from employment and other sources. These individuals may benefit from other policies such as the Coronavirus Job Retention Scheme.
>
> Individuals may have access to a range of grants and loans depending on their circumstances, and the SEISS supplements the significant support already announced for UK businesses, including the Coronavirus Business Interruption Loan Scheme and the deferral of tax payments. More information about the full range of business support measures is available at www.businesssupport.gov.uk/coronavirus-business-support/.[167]

- **Those who are not self-employed but provide their services through their own personal service company (PSC) – see Q11.**

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HMRC's statistics on the first tranche of the SEISS state that around 5 million people who reported self-employment income for 2018/19 had their data assessed for potential SEISS eligibility. Of these 3.4 million "were identified as potentially eligible", though "some of the potentially eligible businesses will not have been adversely affected by Coronavirus or have ceased trading since 2018 to 2019." Of the 1.6 million that did not meet the SEISS criteria, 1.4 million (88%) had trading profits less than non-trading profits (for example income from employment or investment income), 0.5 million (33%) had trading profits of £0 or made a loss and 0.2 million (11%) had trading profits over £50,000.[168]

Q2. How does someone apply for a grant?

Since the launch of the Scheme, HMRC has contacted individuals directly if they think someone is eligible. Applicants have been required to complete the application themselves through the Government Gateway account. Tax agents/advisers cannot make the claim on someone's behalf, but they can check their eligibility.[169]

Individuals who are unable to claim online have been advised to contact HMRC for help (HMRC's contact number is, 0800 024 1222, and is open Monday to Friday: 8am to 4pm).

In evidence to the Treasury Select Committee, prior to the Scheme's launch, Jim Harra (HMRC's Chief Executive) explained, "We have the data to calculate people's entitlement,

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[166] HMRC, *How HMRC works out trading profits and non-trading income for the SEISS*, 20 October 2020
[167] PQ48534, 22 May 2020. See also, PQ57245, 15 June 2020
[168] Individuals may be counted more than once if they have trading profits which meet more than one of these criteria which explains why the figures sum to more than 1.6 million. HMRC, *Self-Employment Income Support Scheme statistics: August 2020*, 21 August 2020.
[169] HMRC, *Check if you can claim a grant through the SEISS*, 20 October 2020. See also, LITRG, *Coronavirus: Self-Employment Income Support Scheme (SEISS)*, 2 December 2020.

but we need two things from them. First of all, we need them to say whether they wish to claim, because it is only open to people whose incomes have been affected by coronavirus, and we will need their bank account details. I do not have, off hand, the number that we would have bank account details for. Some self-employed people put bank-account details on their tax return if they are entitled, for example, to a repayment, but very often those are the bank account of a nominee, such as an agent."[170]

In answer to a PQ in May the Financial Secretary noted, "accountants, tax agents or advisers cannot make claims on behalf of their clients. Designing a scheme that enabled agents to do this would have taken significantly longer to deliver, at a time when speed is a priority."[171]

Q3. Is there a closing date for applications?

Yes. If someone is eligible and wanted to claim a grant for the first Scheme, they were required to make their claim on or before 13 July 2020. If someone is eligible to claim a grant for the second Scheme, they were required to make their claim on or before 19 October 2020.[172]

Q4. How is the size of the grant calculated?

The amount someone received depends upon their annual trading profit. HMRC's detailed guidance on its approach to calculating taxable profits provided these worked examples for the first grant (for which applications closed on 13 July) …

> If HMRC have confirmed you are eligible for the first grant, this is how we work out how much grant you'll get if your average trading profits were £42,000 over the last 3 tax years.
>
> **Example**
>
> | | |
> |---|---|
> | Average trading profit | £42,000 |
> | Divide by 12 | £3,500 |
> | Multiply by 3 | £10,500 |
> | Work out 80% | £8,400 |
>
> As the maximum amount payable for this grant is £7,500 that is the amount you will receive.

… and the second and final grant (for which applications opened on 17 August):

> If HMRC have confirmed you are eligible for the second and final grant, this is how we work out how much grant you'll get if your average trading profits were £42,000 over the 3 tax years.
>
> **Example**
>
> | | |
> |---|---|
> | Average trading profit | £42,000 |
> | Divide by 12 | £3,500 |
> | Multiply by 3 | £10,500 |
> | Work out 70% | £7,350 |

170 Treasury Committee, *Oral evidence: Economic impact of coronavirus*, HC 271, 8 April 2020 Q101
171 PQ45260, 19 May 2020
172 These closure dates are specified by HMT, *Further Treasury Direction made under Sections 71 and 76 of the Coronavirus Act 2020*, 2 July 2020 paras 4, 6

> As the maximum amount payable for this grant is £6,570 that is the amount you will receive.[173]

Q5. When is the grant paid out?

Generally within six working days of a completed claim.[174] HMRC's guidance – now withdrawn - advised those making a claim for a second grant that "we will send an email when your payment is on its way. Do not contact us unless it has been more than 10 working days since you made your claim and you have not received your payment in that time."[175]

Q6. Can those in receipt of a grant continue to trade or get a second job?

Yes. HMRC's guidance underlined that, "if you receive the grant you can continue to work; start a new trade or take on other employment including voluntary work, or duties as an armed forces reservist."[176] This point has also been made in answer to PQs.[177] It is worth noting that the Treasury Direction states that to qualify for making a claim, someone must "carry on a trade the business of which been adversely affected by coronavirus or coronavirus disease" : para 4.2(b). The Treasury Direction uses the same term in its description of claims made under the Scheme:

Claims

> **3.1** A claim for a payment under SEISS must be made in such form and manner and contain such information as HMRC may require at any time (whether before or after payment of the claim) to establish entitlement to payment under SEISS.
>
> **3.2** A claim must be made by a qualifying person.
>
> **3.3** A claim may only be made in relation to a trade the business of which has been adversely affected by coronavirus or coronavirus disease.
>
> **3.4** No claim may be made if it is abusive or is otherwise contrary to the exceptional purpose of SEISS.[178]

In their guidance on the first and second grants the Low Incomes Tax Reform Group (LITRG) underlined that when making an application for a grant, individuals would be asked to confirm their self-employment profits have been adversely affected by Covid-19:

> [Examples of this] include if you have not been able to work for periods of time due to self-isolating, shielding or as a consequence of caring responsibilities caused by coronavirus, or if your business has had to temporarily close or scale down due to lockdown, making your workplace 'COVID secure', staff shortages, or a lack of customers … it may be the case that your business was adversely affected earlier on in the coronavirus outbreak but then your trading patterns resumed as normal, so although you claimed the first or second grant you might not be able to claim any further grants if you are no longer adversely affected …

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173 HMRC, *How HMRC works out trading profits and non-trading income for the Self-Employment Income Support Scheme*, 20 October 2020

174 HM Treasury, *Applications for Self-Employment Income Support Scheme open early*, 13 May 2020. See also, HMT, *Letter from the Chancellor to expert tax community, 4 May 2020.*

175 HMRC, *Claim a grant through the Self-Employment Income Support Scheme*, 20 October 2020

176 HMRC, *Check if you can claim a grant through the SEISS*, 20 October 2020

177 PQ HL3124, 5 May 2020

178 HM Treasury, *The Coronavirus Act 2020 Functions of HMRC (Self-Employment Income Support Scheme) Direction*, 30 April 2020

> You will be expected to keep business records to show how your business has been affected and that you are eligible to claim the grant.[179]

As has been noted, the SEISS does not disincentivise people from continuing to work, either in their original trade or by taking a new job.[180] The Scheme differs from the Job Retention Scheme in that grants paid under the SEISS do not cover actual loss of earnings. Rather, the SEISS pays out at a level calculated based on past earnings. So, even if a self-employed individual has seen only a small reduction in their profits since the launch of the Scheme, they still receive a full grant. In their detailed commentary on the Scheme, the Institute for Fiscal Studies noted that some self-employed workers would therefore be financially better off than they would have been without the crisis.[181]

Q7. What does someone have to do after they receive a grant?

HMRC's guidance underlined that recipients need to keep records of the grant they have received, and report this income:

> **Record keeping and reporting**
>
> You must keep a copy of all records in line with normal self-employment record keeping requirements, including the:
>
> - amount claimed
> - grant claim reference
>
> You should also keep any evidence that your business has been adversely affected by coronavirus at the time you made your claim.
>
> You will need to report any Self-Employment Income Support Scheme grants:
>
> - on your Self Assessment tax return for tax year 2020 to 2021
> - as self-employed income for any Universal Credit claims
> - as self-employed income for changes to your tax credits claims
>
> Grants should be treated as income received on the day it's paid for any Universal Credit claims or tax credit changes.[182]

In their guidance on the first and second grants the LITRG underlined the importance of keeping business records:

> As part of the claim process you will confirm that you meet all of the eligibility criteria and HMRC will explain how the grant has been calculated and what you will receive. It is important to either print or take a screenshot of the calculation of your SEISS grant and the grant claim reference.
>
> If you think that the grant calculation is incorrect then you can request a review by calling HMRC – you will need your grant claim details and the explanation of why you do not agree with the calculation. Keep records of the amounts received and plan for tax and National Insurance contributions on the grants. ...
>
> Remember it is also important to keep records detailing how your business was adversely affected by the coronavirus outbreak in respect of a claim for any SEISS grant … The records could show a reduction in your monthly business income during the coronavirus outbreak or include details of when your business premises were closed, when you were unable to work because of shielding or caring responsibilities

179 LITRG, *Coronavirus: Self-Employment Income Support Scheme*, 5 February 2021
180 Stuart Adam & Helen Miller, *Help is coming for (most of) the self-employed*, IFS, 26 March 2020
181 IFS press notice, *Fast choices by government provide generous income support to most workers, but leave some with nothing and others with too much*, 2 April 2020
182 HMRC, *Claim a grant through the Self-Employment Income Support Scheme*, 20 October 2020

> (for example if you were home-schooling) or any business support loans you have applied for.
>
> You might want to think about how you keep these records – particularly if your business is affected by the illness of either yourself or a family member, or caring responsibilities for children or others caused by coronavirus. It may be easiest to note the dates of these events in a diary kept for business purposes, so that these are separate from your personal records. This will mean that the information is easily available to produce should HMRC ask for it in future.
>
> There are restrictions on information that HMRC can ask you to produce in the event of an enquiry if such information is of a personal nature, for example relating to ill-health. However, in the context of proving entitlement to SEISS, it might be reasonable for HMRC to ask you to produce records showing the impact of such ill-health on your business – such as having to stop work for a certain period.[183]

As part of its compliance activity, HMRC has been emailing claimants that may have ceased trading and therefore do not qualify for a grant.[184] Individuals in this position are asked to complete a form for this purpose. HMRC had advised that individuals who had received a grant before 22 July needed to complete this form by 20 November. Those who have received a grant on or after this date have 90 days within the date of their receipt of that grant.[185]

Q8. What if someone thinks their grant is too low?

HMRC's guidance has stated that in these circumstances "you should check how much you'll get or contact your tax agent or adviser for help. If you still think the grant amount is too low, you or your agent can contact HMRC."[186] HMRC have an online service for claimants to check the status of their payment, if they think the grant amount is too low or HMRC have asked them to update their details for their claim.[187]

In answer to a PQ the Financial Secretary has underlined the point that "there is no legal right of appeal against decisions made in relation to the SEISS":

> **Karin Smyth** : To ask the Chancellor of the Exchequer, what criteria are used to decide whether to allow an appeal for a Self Employment Income Support Scheme (SEISS) grant application; how many SEISS applications have been allowed an appeal; and how many of those applications subsequently had their decisions reversed since that scheme was introduced.
>
> **Jesse Norman** : The review process for the Self-Employment Income Support Scheme (SEISS) is a non-statutory process put in place by HMRC to provide additional protection to customers. There is no legal right of appeal against decisions made in relation to the SEISS, and there is also no legal provision for 'reasonable excuse' within the legal framework for SEISS.
>
> HMRC have limited discretion in operating the SEISS and any exercise of this discretion must be rational and justifiable on the grounds of good management and administration. This discretion can only be used in exceptional circumstances. Such circumstances could include situations where HMRC have made an error which has affected an individual's eligibility for, or amount of, a SEISS grant.
>
> HMRC publish statistical information through structured Management Information and statistical releases on GOV.UK. They are currently working through the analysis

183 LITRG, *Coronavirus: Self-Employment Income Support Scheme*, 5 February 2021
184 ICAEW press notice, *HMRC begins SEISS post-claim compliance activity*, 20 October 2020
185 HMRC, *Tell HMRC if you've stopped trading and review your eligibility for the Self-Employment Income Support Scheme*, 18 November 2020
186 HMRC, *Claim a grant through the SEISS*, 20 October 2020
187 HMRC, *Return to your claim for the Self-Employment Income Support Scheme*, 2 December 2020

> they are able to provide based on the data available. HMRC will give an update in due course on the types of data available and timing for publication.[188]

The absence of a right of appeal was an issue raised in the technical journal *Taxation*, in the context of the case of an accountant failing to submit tax returns for 3 of their self-employed clients on time, resulting those clients failing to meet the eligibility criteria for a grant. One extract from the responses made to this query is copied below:

> Thirty years ago, HMRC's sole function was to administer the tax system. [The *Taxes Management Act (TMA) 1970* – which sets out the main statutory provisions underpinning HMRC's administration of the tax system] allows time limits to be extended when there is a reasonable excuse. However, it applies only to HMRC's functions in administering those of the Tax Acts to which TMA applies.
>
> In recent years, HMRC has volunteered, or been required, to take on other functions. In relation to such functions, the powers of HMRC are limited by reference to the legislation under which the function arises. In the case of SEISS, the relevant legislation is a Treasury direction of 30 April 2020 made under *Coronavirus Act 2020*, s 76. [Under the provisions of the Treasury direction] … a person is simply not eligible for SEISS if he has not delivered his 2018-19 return to HMRC on or before 23 April 2020. This means, irrespective of how sympathetic HMRC may be, it cannot make payments to clients who did not in fact deliver a tax return by 23 April 2020, because the legislation gives it no power to do so.[189]

Q9. What if someone thinks they have received too much?

Generally recipients are required to inform HMRC if they believe this to be the case within 90 days of receiving the grant.[190] Failure to do so may result in HMRC charging a penalty. HMRC has published further guidance on the circumstances in which a penalty is charged, the size of that penalty, and the conditions for appeal.[191]

In their guidance on the Scheme, the Low Incomes Tax Reform Group advise grant recipients to check the amount they have received is correct:

> If you have claimed a SEISS grant but you were not entitled to receive it, you have an obligation to notify HMRC of that fact. This might be the case if you claimed the grant but you later realised that you did not meet all of the eligibility conditions.
>
> You have a similar obligation to notify HMRC if you have been overpaid either grant but you were nevertheless entitled to receive a smaller amount. We understand that this should be rare as HMRC will make the calculations automatically based on information submitted on your Self Assessment tax returns. However, we understand that in a number of cases HMRC have overpaid grants due to their own error and as a result they will not be seeking recovery of the overpaid amounts. If you are unsure, you should contact HMRC.
>
> HMRC have stated that individuals do not have an obligation to check that the amount they have received is correct. However, we suggest that individuals nevertheless check the amount received so that:
>
> - if they have been underpaid, they query this with HMRC; or
> - if they have been overpaid, they can notify HMRC in accordance with their legal obligation to do so (though HMRC may not seek recovery of the overpaid amount if it is as a result of their own error).

188 PQ90169, 21 September 2020
189 "Readers' Forum: Coded out - Cancellation of HMRC agent code causes SEISS problems", *Taxation*, 22 September 2020
190 HMRC, *Tell HMRC and pay the Self-Employment Income Support Scheme grant back*, 4 December 2020
191 HMRC, *Penalties for not telling HMRC about Self-Employment Income Support Scheme grant overpayments - CC/FS47*, 28 July 2020

> We understand that HMRC have contacted a number of individuals who have claimed a SEISS grant but have previously notified HMRC that they have stopped trading. If you have received such an email from HMRC, you should review whether you were eligible for the grant(s) you claimed – for example, you may have restarted trading before making a claim (even if it is a different trade). If you had not completed the specific form by 20 November 2020, you may have been blocked from claiming further SEISS grants.[192]

HMRC have advised that someone can ***voluntarily*** pay back some or all of the grant they have received at any time.[193] In its guidance the LITRG note, "we understand that some individuals feel like the SEISS grant has over-compensated them for the adverse effect their trade has suffered":

> This is not unusual, given that there is no minimum economic impact you must have suffered in order to qualify as 'adversely affected'. HMRC have responded to this by saying they will allow voluntary repayments of some or all of the grant individuals have received … We understand from HMRC that if you do pay some of it back voluntarily, you will only be liable to income tax and Class 4 National Insurance on the 'net' amount that you keep. You should therefore keep a careful record of the amount you receive and amounts repaid and ensure that only the amount you have kept is included on your 2020/21 Self Assessment tax return.[194]

Q10. Is the grant liable to tax?

Yes. HMRC's guidance confirmed that "the grant does not need to be repaid but will be subject to Income Tax and self-employed National Insurance."[195] Statutory provision is included in the *Finance Act 2020* (specifically s106 & Schedule 16), confirming that a grant made under the SEISS and other coronavirus support payments, are subject to tax.[196]

In its guidance the CIOT note "the grants … are subject to Income Tax and Class 4 National Insurance Contributions … The grants are taxable in the tax year 2020/21. They should be reported in full on your 2020/21 self-assessment tax return in due course. Specific boxes will be provided on the form for them. No part of the grants should be reported on your tax return for the tax year 2019/20."[197]

HMRC's Business Income Manual discusses the tax treatment of coronavirus support payments;[198] an extract on the taxation of SEISS grants is reproduced below:

> Except where the payment forms part of partnership income, the SEISS payment falls to be taxable in the 2020/21 tax year. The amount received should be added to the trading profits (or losses) of the basis period of the 2020/21 tax year. If there is an overall loss for the year, the normal loss relief rules then apply.
>
> Where a SEISS payment is received by a partner in a trading partnership, it is added to the partner's trading profit share unless the partner pays the amount into the partnership and it is not retained by the partner. Where the payment is transferred to the partnership it is treated as the partnership's trading income in the same way as any other trading income received by the partnership and the amount will be taxable income of the accounting period of the partnership.[199]

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192 LITRG, *Coronavirus: Self-Employment Income Support Scheme*, 5 February 2021
193 HMRC, *Claim a grant through the SEISS*, 20 October 2020
194 LITRG, *Coronavirus: Self-Employment Income Support Scheme*, 5 February 2021
195 HMRC, *Check if you can claim a grant through the SEISS*, 20 October 2020
196 HMRC, *Corporation Tax/Income Tax – Taxation of Coronavirus Support Payments*, 25 June 2020
197 CIOT, *Self-employment Income Support Scheme*, updated 4 March 2021
198 HMRC *Business Income Manual* see from para BIM40456, ret'd March 2021
199 *op.cit.* para BIM40458. The guidance gives a number of worked examples. See also, "Taxation of SEISS grants", *Taxation*, 17 November 2020.

The Low Incomes Tax Reform Group have raised concerns that claimants might assume "the amount is exempt from tax, particularly as it is described … as a grant":

> The term 'grant' may be construed as meaning something given or awarded to you, for example, and could easily be conflated in people's minds with grants for studying/scholarships which would not normally be taxable. When referring to the Self-Employment Income Support Scheme grant, we acknowledge that Government and HMRC have referred to it as a 'taxable grant' – nevertheless, anecdotal evidence from our contact with claimants suggests their awareness of it being taxable may be low … Victoria Todd [head of LITRG] said, "The Government has announced recently that a second wave of grants will be paid under the scheme in August 2020. We urge HMRC to do as much as they can to publicise that the grants are chargeable to income tax and National Insurance, to reduce the risk of people being surprised by higher-than-expected 2020/21 tax bills."[200]

Q11. Can directors of personal service companies claim?

No. Individuals working through their own personal service company (PSC) may be in position to furlough themselves and claim support through the CJRS, but, as the Treasury Select Committee has noted, benefits are likely to be "minimal" given that owner-manager directors usually pay themselves a minimum salary and take the majority of their income as dividends.[201]

There have been calls for the eligibility criteria for the CJRS and the SEISS to be extended to cover dividend income, but without success. Treasury Secretary, Jesse Norman, set out the Government's rationale for this in answer to a PQ on 1 May:

> Income from dividends is a return on investment in the company, rather than wages, and is not eligible for support through the Self-Employment Income Support Scheme or Coronavirus Job Retention Scheme (CJRS). Under current reporting mechanisms it is not possible for HM Revenue and Customs 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. Expanding the scope would require HMRC to collect and verify new information. This would take longer to deliver and put at risk the other schemes which the Government is committed to delivering as quickly as possible.
>
> Those who pay themselves a salary through their own company may be eligible to claim for 80% of usual monthly wage costs, up to £2,500 a month, through the CJRS. Individuals who are not eligible for the CJRS may be able to access other support Government is providing, including the Coronavirus Business Interruption Loan Scheme and the deferral of tax payments. More information about the full range of business support measures is available at www.businesssupport.gov.uk/coronavirus-business-support/.[202]

In a second written answer on 9 June the Minister added the following points:

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

200 LITRG press notice, *Self-employed grant claimants warned of tax hit*, 10 June 2020
201 Treasury Committee, *Economic impact of coronavirus: Gaps in support*, HC 454, 15 June 2020 para 38
202 PQ38471, 1 May 2020. See also, PQ HL3951, 20 May 2020.

> intensive to ensure appropriate compliance, and there is a high risk that incorrect or fraudulent payments could not be recovered, ultimately at the cost of UK taxpayers.[203]

The Low Incomes Tax Reform Group have raised concerns that business owners who were self-employed but have recently incorporated might mistakenly think they would meet the eligibility criteria for the Scheme.[204]

When the SEISS was first announced the *Financial Times* reported that it had been contacted by "tens of thousands" freelancers working in the UK's creative industries, concerned that they would lose out because they traded through their own personal service company.[205] Freelancers in this position have argued that the industry requires that they operate this way, and that it is unfair for them to be excluded from support as a consequence.[206] The issue has often been raised in the House but Ministers have not indicated any willingness to reconsider the scope of the Scheme.[207]

As noted above, on 12 November the Public Accounts Committee held an evidence session on the Government's Covid-19 job support schemes, and during this Peter Grant raised the position of owner-managers with HMRC's Chief Executive Jim Harra:

> **Peter Grant:** … You previously said, Mr Harra, that it was not possible within the time available to distinguish between a person who owns their own company and holds most of the shares in it but also works in that company full time as a director and someone who invests in a company, takes dividends and has nothing to do with its management. As you gave that answer before, can you tell me what HMRC has done to try and find a way to provide for people who are employees of a company in which they are also the main shareholder?
>
> **Jim Harra:** First of all, it is important to say that the owner-manager of a company can benefit from the furlough scheme in respect of the salary that they draw from the business if they qualify like any other employee for it. When the Government set up the support schemes, they aimed to support employment and the self-employed. The schemes were not aimed at supporting investors for the loss of investment income through dividends on their shareholdings. I appreciate that owner-managers of companies often pay themselves a relatively low salary and top it up with dividend income. There is a whole range of tax and NICs benefits that come from organising things in that way.
>
> It is extremely difficult to define which dividend payments you might want to treat as being in lieu of salary. On top of the difficulty of coming up with that definition, frankly we do not have any data to enable us to identify which dividend payments that people receive fall into that category. That position has not changed, and we still do not have any such data, and therefore whilst we have, of course, looked hard at this, we have not been able to make any change to the schemes.
>
> **Peter Grant:** HMRC may not have that information, but Companies House has, and it puts it on its website for anybody to go and look at, free of charge. I can look at a company in my constituency or in anyone else's and I can tell whether it is a small business, whether it has a very small number of shareholders, and whether that small number of shareholders are also registered as directors of the company. That is enough to tell me whether they take their earnings by way of salary or by way of dividends and that these are people who are drawing money from the wealth that they have created through their company …

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203 PQ55002, 9 June 2020
204 LITRG press notice, *COVID-19 grant warning for new limited companies*, 14 May 2020
205 "Creative industries left out of self-employed support", *Financial Times,* 30 March 2020
206 See also, Creative Industries Association, *The Federation responds to the Chancellor's statement on self-employed workers and freelancers*, 26 March 2020
207 For example, PQ46566, 22 May 2020; PQ81846, 8 September 2020; and comments by the Exchequer Secretary in a debate on government support for the self-employed and freelancers: HC Deb 17 September 2020 cc590-3. See also, E-petition 303345, "Pay self-employed workers a wage due to lack of earnings caused by COVID-19", 22 March 2020.

> Surely in the last eight months it should have been possible to put together an automated way of comparing Companies House records with HMRC records—not necessarily with the expectation of identifying everybody, but couldn't that have been used to identify a significant number of people who should be getting support, but who are not?
>
> **Jim Harra:** I think any definition that you came up with that was targeted at the type of income that you would be trying to relieve here would have to distinguish between distributions of retained profits from previous years versus distributions of this year's earnings, and also distributions which are actually a return on capital invested in the business compared with distributions which are being, in reality, paid as a salary, but not described as a salary. I am not aware that there is data that enables you to do that or, indeed, an agreed definition of how you would actually define which dividends you wanted to catch here.
>
> Quite frankly, this is an area, as you would expect, that HMRC has looked at quite closely over the years from a tax point of view, because there are considerable tax advantages gained from structuring in this way. If we had been able to come up with a definition of this type of dividend income, that is something that we might well have done before now.[208]

Q12. Was provision made for those subject to the Loan Charge?

Yes. On 31 March HMRC confirmed that special arrangements would be put in place "to ensure that those liable to the Loan Charge can benefit from the self-employed income support scheme where appropriate, even if they have not filed their 2018-19 tax return."[209] HMRC's guidance has addressed this point as follows:

> **If you have loans covered by the loan charge and have not agreed a settlement with HMRC before 20 December 2019**
>
> If you have received payment for work or services in the form of a loan or other form of credit covered by the loan charge, you may be able to claim a grant if you were self-employed in the tax year 2017 to 2018 and have submitted your Self Assessment tax return for that year. This also applies if your loans will be removed from the loan charge because of the changes announced by the government following the loan charge independent review.
>
> HMRC will work out your eligibility and average trading profits based on either:
>
> - the average of the tax years 2016 to 2017 and 2017 to 2018
> - the tax year 2017 to 2018 if you were not self-employed in the tax year 2016 to 2017
> - You also did not have to file your 2018 to 2019 Self Assessment tax return by 23 April 2020. You should have filed by 30 September 2020.[210]

Further background on the Loan Charge is given in, *The 2019 Loan Charge*, Commons Briefing paper CBP8811, 12 February 2021.

[208] Public Accounts Committee, *Oral evidence: COVID-19: Support for jobs*, HC 962, 12 November 2020 Qs82-83. See also answers to further PQs: PQ110123, 5 November 2020; PQ110759, 11 November 2020; PQ117292, 23 November 2020.
[209] HMRC, *Letter from Penny Ciniewicz to the Loan Charge APPG*, 3 April 2020
[210] HMRC, *How your circumstances affect eligibility for the Self-Employment Income Support Scheme*, 2 December 2020. See HMT, *The Coronavirus Act 2020 Functions of HMRC (SEISS) Direction*, 30 April 2020 paras 5.1-6, para 9

Q13. Is provision made for those whose eligibility was affected by having a new child in 2018/19?

Yes. As noted, there have been concerns that parents who have had a gap in their trading taking maternity or paternity leave, or sick leave, may be unable to claim the SEISS because they do not meet the test for making a majority of their income from self-employment.[211] On 17 June the Government announced that "self-employed parents whose trading profits dipped in 2018/19 because they took time out to have children will be able to claim for a payment under the SEISS."[212] HMRC's guidance has said the following on this issue:

> **If having a new child affected the trading profits you reported for the tax year 2018 to 2019**
>
> If you're self-employed and had a new child, you may be able to make a claim for a grant.
>
> If you're already eligible for the grant based on your 2016 to 2017, 2017 to 2018 and 2018 to 2019 Self Assessment tax returns, your grant amount will not change.
>
> You may be able to make a claim if having a new child either:
>
> - affected the trading profits or total income you reported for the tax year 2018 to 2019
> - meant you did not submit a Self Assessment tax return for the tax year 2018 to 2019
>
> For this scheme having a new child is any of the following:
>
> - being pregnant
> - giving birth (including a stillbirth after more than 24 weeks of pregnancy) and the 26 weeks after giving birth
> - caring for a child within 12 months of birth if you have parental responsibility
> - caring for a child within 12 months of adoption placement
>
> You must have been self-employed in the tax year 2017 to 2018 and have submitted your Self Assessment tax return for that year on or before 23 April 2020.
>
> You must also meet all other eligibility criteria.
>
> We will work out your eligibility and average trading profits based on your Self Assessment tax returns for either the:
>
> - average of the tax years 2016 to 2017 and 2017 to 2018 if you were self-employed in both these years
> - tax year 2017 to 2018 if you were not self-employed in the tax year 2016 to 2017
>
> You need to verify with HMRC that having a new child has affected your eligibility.
>
> If you have already done this, you can make a claim on or before 29 January 2021. If not, you must contact us before making a claim.[213]

The LITRG has also published guidance on this aspect of the SEISS.[214]

As noted, this provision did *not* amend the size of a grant someone has received if they were already entitled to make a claim. In answer to a PQ in July the Financial Secretary to

[211] See PQs37888, 37803 & 37714, 28 April 2020; PQ51985, 4 June 2020.

[212] HM Treasury press notice, *Self-employed new parents can claim support grant*, 17 June 2020. See also comments by BEIS Minister Paul Scully (HC Deb 17 June 2020 c785), and PQ73022, 16 July 2020.

[213] HMRC, *How different circumstances affect the SEISS*, 2 December 2020

[214] LITRG, *Self-employment support scheme 'parental' extension: who does it help?*, 27 November 2020. The LITRG's guidance includes some helpful worked examples.

the Treasury noted, "the Government has amended the Self-Employment Income Support Scheme (SEISS) eligibility conditions to support newly self-employed parents. **This is an amendment to bring these individuals into eligibility for the scheme**."[215]

Q14. I have been contacted about the Scheme. Is this a scam?

HMRC has warned people to be wary of scammers targeting the various Covid-19 support measures that have been announced: "You should contact HMRC if you receive any suspicious texts, calls or emails claiming to be from HMRC as this may be a scam."[216] HMRC has also published examples of HMRC related phishing emails and bogus contact.[217] General advice on what to do about internet scams and phishing is on Gov.uk.

Q15. Can you apply if your immigration status is listed as "no recourse to public funds"?

Yes. HMRC's current guidance confirms "grants under the Self-Employment Income Support Scheme are not counted as 'access to public funds', and you can claim the grant on all categories of work visa."[218] This treatment of SEISS grant payments aligns with that of payments from the Coronavirus Job Retention Scheme.[219]

Coronavirus: Calls to ease No Recourse to Public Funds conditions, Commons Briefing paper CBP8888, 27 April 2020, summarises who is subject to the No Recourse to Public Funds (NRPF) visa condition and how it is applied, and identifies what state support and concessions might be available for migrants with NRPF during the coronavirus crisis.

If specific advice is needed, a suitably qualified professional should be consulted. The Immigration Law Practitioners' Association publishes a list of specialist practitioners. Gov.uk guidance 'Find an immigration adviser' and 'Legal aid' may also be helpful.

Q16. Has there been a 2 month 'gap' in the SEISS?

It has been suggested that those eligible to receive grants under the SEISS were unable to make a claim in September and October, although, as pointed out in written answers, these months were covered in the scope of the second grant made under the SEISS: "The first SEISS grant was open for applications from 13 May until 13 July and the second was open for applications from 17 August until 19 October."[220] Similar concerns have been raised in the context of the Government delaying confirmation of the fourth SEISS grant until the 2012 Budget:

> **Drew Hendry** : To ask the Chancellor of the Exchequer, what assessment his Department has made of the effect on business cash flow management of the waiting period for the announcement of payment amounts and dates of the fourth Self-Employment Income Support Scheme.
>
> **Jesse Norman** : The Government is committed to supporting the self-employed population during the COVID-19 pandemic through a substantial package of support.

215 PQ75376, 21 July 2020 – **emphasis added**
216 HMRC, *Check if you can claim a grant through the SEISS*, 29 January 2021
217 HMRC, *Examples of HMRC related phishing emails and bogus contact*, 27 January 2021
218 HMRC, *Check if you can claim a grant through the SEISS*, 29 January 2021
219 PQ46098, 21 May 2020
220 PQ109675, 4 November 2020 - see also, PQ96803, 6 October 2020.

> The three Self-Employment Income Support Scheme (SEISS) grants combined provided up to £21,570 of support for each individual, placing the SEISS among the most generous schemes for the self-employed in the world. As of 31 December, about 2.7 million individuals have made claims totalling over £18.9 billion so far across all three grants.
>
> The claims window for the third grant closed on 29 January 2021. The Government committed on 24 September 2020 that there would be a fourth grant; details of which will be announced alongside other economic updates at Budget in March.
>
> The SEISS is not intended to provide a month-by-month replacement of income. Due to the volatility of self-employed income and the lack of granular data that HMRC hold on self-employed trading profits, precise mapping of income replacement month by month is not possible. Instead, the SEISS provides a lump sum payment to support eligible self-employed individuals whose businesses have been affected by coronavirus.
>
> The SEISS continues to be just one element of a substantial package of support for the self-employed. In addition to the SEISS, individuals may also have access to other elements of the package, including Bounce Back loans, tax deferrals, rental support, mortgage holidays, self-isolation support payments and other business support grants.[221]

The question of 'extending' the SEISS to the two months prior to its launch has also been raised in PQs:

> **Liz Saville Roberts :** To ask the Chancellor of the Exchequer, what assessment he has made of the potential merits of backdating the Self-Employment Income Support Scheme to include March and April 2020.
>
> **Jesse Norman** : The Self-Employment Income Support Scheme (SEISS) has been, and continues to be, one of the most generous self-employed COVID-19 support schemes in the world. The SEISS is not intended to provide a month-by-month replacement of income. Due to the volatility of self-employed income and the lack of granular data that HMRC hold on self-employed trading profits, precise mapping of income replacement month by month is not possible. Instead, the SEISS provides a lump sum payment to support eligible self-employed individuals whose businesses have been affected by coronavirus.[222]

Q17. Has the SEISS been extended after October 2020?

Yes. On 22 October the Chancellor confirmed a six-month extension to the SEISS, to apply from November 2020 to April 2021, with two further lump sum instalments. The third SEISS grant would cover the three-month period from the start of November 2020 until the end of January 2021, while the fourth would cover the three-month period from the start of February until the end of April 2021.[223] Applications for the third SEISS grant opened on 29 November and closed on 29 January 2021.

As noted, the Government only announced details of the fourth SEISS grant, as well as a final fifth grant, in the Budget on 3 March (see section 4 of this paper). Full details on these two grants have yet to be published, although the online claims service for the fourth grant will be available from late April 2021 until 31 May 2021, and applications of the fifth grant are to be opened from late July.[224]

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221 PQ153300, 22 February 2021

222 PQ122825, 3 December 2020

223 HM Treasury, *Plan for Jobs: Chancellor increases financial support for businesses and workers*, 22 October 2020. This extension had first been announced the previous month (HMT press notice, *Chancellor outlines Winter Economy Plan*, 24 September 2020).

224 HMRC, *Self-Employment Income Support Scheme fourth grant*, 3 March 2021. See also, *Budget 2021*, HC 1226, March 2021 para 2.15-6

To be eligible for the third grant, self-employed individuals, including members of partnerships, would :

- have been previously eligible for the Self-Employment Income Support Scheme first and second grant (although they do not have to have claimed the previous grants)
- declare that they intend to continue to trade and either:
  - are currently actively trading but are impacted by reduced demand due to coronavirus
  - were previously trading but are temporarily unable to do so due to coronavirus.

On 5 November the Chancellor announced that the third SEISS grant would be based on 80% of trading profits, capped at £7,500,[225] and, as before, the Government issue a further Treasury Direction underpinning the scheme.[226]

Notably the Government ruled out any changes to the eligibility criteria for the third grant to include the newly self-employed,[227] or amending the £50,000 threshold.[228]

HMRC published detailed guidance of the SEISS Grant Extension,[229] supplemented by guidance on how HMRC work out applicants' trading profits and non-trading income, on how someone's personal circumstances might affect their eligibility, and the procedure for making a claim.[230] As the Low Incomes Tax Reform Group noted, there were "***additional*** qualifying criteria for the third grant, compared with the first two grants":

> **Who was eligible for the third SEISS grant?**
>
> In order to have been eligible for the third grant:
>
> - you must have met all the general eligibility criteria for SEISS discussed above; and
> - your business must have suffered reduced activity, capacity or demand (see below) in the period **1 November 2020 to 29 January 2021**, compared to what could reasonably have been expected but for the adverse effect on the business of coronavirus; and
> - as a result of the reduced activity, capacity or demand suffered by the business, you must have reasonably believed that you would have suffered a significant reduction in trading profits for a 'relevant basis period' (see below) compared to what you could reasonably have expected were it not for the reduced activity, capacity or demand.
>
> **Reduced activity, capacity or demand**
>
> This means, for example, that:
>
> - you carried out less work due to supply chain disruptions (reduced *activity*); or
> - you are temporarily unable to trade – for example, because your business has had to close, you've tested positive for coronavirus and you are unable to work,

225 HMT press notice, *Government extends Furlough to March and increases self-employed support*, 5 November 2020

226 HMT, *Further Treasury Direction made under Sections 71 and 76 of the Coronavirus Act 2020*, 24 November 2020

227 PQ134102, 14 January 2020

228 PQ110193, 10 November 2020

229 HMRC, *Check if you can claim a grant through the Self-Employment Income Support Scheme*, 16 February 2021

230 HMRC, *How HMRC works out trading profits and non-trading income for the Self-Employment Income Support Scheme*, 29 January 2021; *How your circumstances affect eligibility for the Self-Employment Income Support Scheme*, 2 December 2020; & *Claim a grant through the Self-Employment Income Support Scheme*, 29 January 2021.

> or you cannot work because of parental caring responsibilities (reduced *capacity*); or you had fewer customers or clients than you would normally expect (reduced *demand*).

> However, you could not make a claim for the third grant if your reduced activity, capacity or demand was solely as a result of having to quarantine after travelling to the United Kingdom from overseas.
>
> Note that having *increased costs* – for example, the purchase of personal protective equipment (PPE) – does not, by itself, mean that you had reduced activity, capacity or demand. There must have been some impact on the amount of work you had, or on your ability to carry out that work, in order to qualify.
>
> You can find further examples on GOV.UK.
>
> **'Significant reduction' and 'relevant basis periods'**
>
> There was no requirement for trading profits to be reduced by a certain fixed amount or percentage, but the reduction must be 'significant'. HMRC say you need to consider your individual and wider business circumstances when making this assessment.
>
> The reduction must also have been as a result of the reduced activity, capacity or demand suffered by the business.
>
> Any income received from COVID-19 support schemes such as the first and second SEISS grants and the small business grants should not have been included when considering whether your trading profits have been significantly reduced.
>
> A 'relevant basis period' is a basis period for your business which overlapped with the period 1 November 2020 to 29 January 2021. A basis period is usually 12 months.
>
> If your basis period ended in the period 1 November 2020 to 29 January 2021 (for example, your basis period ended on 31 December 2020), then you will have two relevant basis periods.
>
> You needed to consider whether or not you had a significant reduction in trading profits over the *whole* of at least one basis period, not just the period from 1 November 2020 to 29 January 2021.[231]

As noted above (section 4.2), HMRC's guidance gave a series of examples of how these terms should be applied; it also gave a number of examples where individuals would **not** be eligible for a grant:

> **Other examples**
>
> An electrician is still trading but has had increased costs due to buying masks, cleaning supplies and screens. She is not eligible for the third grant because increased costs were the only impact on her business and she has not lost customers.
>
> A dentist returns from a holiday abroad and has to self-isolate for 14 days due to quarantine rules. As this is the only impact on her business, she is not eligible to claim the third grant. This is because reduced demand due to self-isolation after foreign travel is not included in the eligibility criteria.
>
> An accountant reduces his business activity because he wants to partially retire. He reasonably believes this will have a significant reduction on his trading profits. He is not eligible for third grant because the reduced business activity was not caused by coronavirus.
>
> The client of a dog walker cancels a contract due to coronavirus. The dog walker could but chooses not to look for additional work to replace the contract. This means her business activity and her trading profits are reduced because she chooses not to replace the contract and not because of coronavirus. She is not eligible for the third grant.

[231] LITRG, *Coronavirus: Self-Employment Income Support Scheme*, 5 February 2021 (**emphasis added**). This 'reduced demand' test is set out in para 4.2 of the Treasury Direction.

> An IT consultant has other income from renting property. He has made losses on renting due to renovation costs. This is not related to his trading profits from his IT consultancy service. As his consultancy business has not been affected due to coronavirus, he is not eligible for the third grant.[232]

Q18. What support is available to those who are not eligible?

There is no single grant scheme targeted to all those individuals who did not meet the eligibility criteria for the SEISS. As a consequence, in answer to PQs about the 'gaps' in the Scheme, Ministers have referred to the various other sources of support that are available that individuals *may* be able to access:

> **Asked by Colum Eastwood** : To ask the Chancellor of the Exchequer, what support the Government provides to self employed people that are unable to access the self employed income support scheme as a result of not having the relevant income tax and national insurance contributions.
>
> **Answered by: Jesse Norman** : The Government has designed measures that can be operationalised quickly and effectively under the Self-Employment Income Support Scheme (SEISS). It continues to work with stakeholders to make sure funding reaches those who need it most, keeping all policies under review. Some 95% of people who receive the majority of their income from self-employment could benefit from the SEISS and anyone requiring support before the beginning of June should have access to other measures appropriate to their individual circumstances.
>
> For example, the self-employed can benefit from the Government's relaxation of the earnings rules (known as the Minimum Income Floor) in Universal Credit. Individuals may also have access to a range of grants and loans depending on their circumstances, including the Coronavirus Business Interruption Loan Scheme, the Bounce Back Loans Scheme, and the deferral of tax payments.[233]

Further information on these measures is available in two Commons Briefing papers:

- *Coronavirus: Support for household finances*, CBP8894, 22 June 2020
- *Coronavirus: Support for businesses*, CBP8847, 15 January 2021.

Q19. Where can I get further information?

IPSE (the Association of Independent Professionals and the Self Employed) provides information on the coronavirus business support measures, as well as further help and guidance for the self-employed. The Federation of Small Businesses (FSB) also provides information on the various schemes. The Chartered Institute of Taxation has detailed guidance on the SEISS, and the Association of Tax Technicians have a series of FAQs, on their respective sites. The Low Incomes Tax Reform Group have detailed tax and benefit guidance relating to Covid-19, including *guidance on the SEISS*. The charity TaxAid is providing support and advice for the self-employed during the coronavirus outbreak; contact details and further information are on their webpage.

[232] HMRC, *How your circumstances affect eligibility for the Self-Employment Income Support Scheme*, 2 December 2020

[233] PQ42213, 6 May 2020. See more recently PQ133974 & PQ133991, 11 January 2021

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