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Senator K Moore
Chair, Corporate Services Scrutiny Panel
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23rd March 2022

Dear Senator Moore,

Corporate Services Scrutiny Panel COVID Response & Recovery Review – Co-Funded Payroll Scheme Repayment

Thank you for your letter of 11th March 2022. We welcome the Panel's continued engagement with the matters surrounding the audit of claims for the Co-Funded Payroll Scheme (CFPS).

In considering these issues, we must not lose sight of the tremendously important role that the Co-Funded Payroll Scheme (CFPS) has played in protecting Islanders' livelihoods and averting business failures. At its peak it supported over 15,000 people and 4,100 businesses. The level of support that businesses could access was amongst the highest of any wage subsidy implemented during the pandemic. This is particularly the case for the self-employed, who were treated the same as employed workers. Many other wage subsidy schemes in other jurisdictions did not take this approach because of the added risks of doing so.

In aiming to treat the support for the employed and self-employed equitably, it would not be correct to subsidise the lost rental and investment income of the self-employed as the Scheme does not do so for the employed. This is especially the case given that investment businesses and property rental businesses were not sectors that were included in the CFPS.

While, as set out in the attached appendix, we do not agree with all of the points raised in the Panel's letter, we believe we are aligned on the Panel's primary requests, namely that:

- businesses, and their accountancy firms, are notified that they may have up to two years to repay amounts that they have overclaimed; and
- repayment plans for amounts overclaimed should be subject to careful case-by-case consideration.

We have instructed Customer and Local Services (CLS) to notify all business that have not yet agreed a suitable repayment plan that it will be possible for repayment to be made over two years and we already take a case-by-case approach to repayments where it is appropriate to do so.

In the vast majority of cases, the default payment period of two years represents a very reasonable amount of time for repayments to be made. The median repayment required is less than £1,600 and more than 80% of repayments are for less than £5,000.

There are some claimants with higher repayment requirements. For larger repayments such as these, we take the case-by-case approach that considers affordability and allows up to five years to repay where the customer can demonstrate to us that a two-year repayment period might cause financial hardship.

Knowing the good character of Islanders, we agree with the Panel that overclaims have been the result of honest mistakes in the vast majority of cases. However, for many of the largest repayments a reasonable person would have been expected to have acted differently. The following table provides some examples of overclaims that have led to a large repayment requirement:

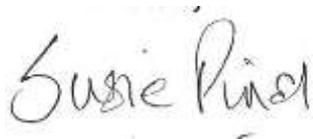
Claimant	Comparable Annual Income from Self-Employment (2019)	Comparable Annual Income from Employment (2019)	Comparable Annual Income from other sources (2019)	Total Annual Income Declared for CFPS
Person A	£0	£3,000	£0	£20,000
Person B	£700	£12,500	£0	£22,000
Person C	£7,000	£0	£1,000	£25,000

In each of these cases, individuals have claimed subsidy payments that are far in excess of their income from employment and self-employment that has been declared for tax purposes in previous years. The reasons for this discrepancy are not clear and could potentially require investigation by Revenue Jersey.

Whatever the circumstances, all claimants should have read the Scheme guidance and understood that the CFPS paid a maximum of 90% of a person's income declared for tax purposes. They therefore should have contacted CLS when they received a payment that was far in excess of their usual income.

In examples like this, we consider that people have potentially taken advantage of a Scheme that was set up to protect jobs and businesses by making urgent payments on trust and applying the necessary control checks later. While we have ensured that the repayment terms for larger amounts are appropriately tailored to affordability to protect Islanders from financial hardship, we do not think it would be appropriate to provide more generous repayment terms to people who have acted in this way. Given the importance of also ensuring funding can be recovered, we hope that the Panel will agree that this is a reasonable balance to strike.

Yours sincerely



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Appendix– Areas of clarification and additional information

“Inaccurate guidelines”

Gross vs Net

The guidance and supporting FAQs were accurate in requesting that claimants declared their gross income. That is what the Government wanted to subsidise in order to ensure alignment with employed workers who received a subsidy based on their basic salary rather than their net salary.

For a self-employed person, using net income would mean taking account of personal tax allowances and Social Security contributions. This would have resulted in a lower subsidy than was provided to employed people with the same circumstances, so it was necessary to use gross income prior to these deductions.

The most frequent mistake is that people have declared their business' turnover rather than the amount they personally receive as income from the business. As the Panel notes, even in a broad definition, gross income could only include a business' profits not its turnover as the income of a self-employed person.

The guidance and FAQs, taken together, for the CFPS were clear about how people's income should be calculated. We made extensive efforts to ensure that the rules of the scheme could be readily understood and applied by businesses. We consulted with a variety of business representative groups at the start of the Scheme, and officials participated in forums such as the Chamber of Commerce webinars that were open to all businesses.

CLS provided a helpline to support Islanders who were making claims to the Scheme and were unsure as to how they should make a claim. The Government also provided additional funding to Jersey Business, which supports SMEs, to run an advisory service, which included support for small businesses that were making claims to the CFPS and other business support schemes. While the Panel's letter infers that these services had misadvised applicants when informing them to use gross income, it was right for them to advise that gross income should be used, and staff were

trained to point out published information that had been made available including the definitions of gross income that should be used.

Ultimately, some degree of error could not be mitigated despite all the efforts that were made as there were thousands of businesses applying for funding and an urgent need to get money into the economy. That meant we had to design an approach where payments were made on trust in the first instance and applied the control checks later. We would have liked to have been able to audit claims sooner but, depending on their circumstances, the underlying 2019 tax information for self-employed people is available later than it is for employed people. Equally, our risk-based audit focused initial resources on the highest value claims given that they represented greater risks.

Common understanding of Gross Income

The CFPS only supported income directly related to a person's self-employment and not rental income or investment income. The latter forms of income may not have reduced as a consequence of the pandemic. It was commonly understood that the CFPS was there to support income related to a person's employment or self-employment. While the definition of gross income to be used does use the word 'includes' this does not imply that any form of income can legitimately be included.

The definition the Government provided to claimants was clear and comprehensive and advisors at CLS and Jersey Business were available to provide further support, which involved directing people to the published definition of gross income. However, in the spirit of attempting to reach a compromise, we do recognise that some people may have thought gross income included other forms of income that were not related to their self-employment. As a result, and in the urgency of a pandemic, used that figure on their application without appreciating that the onus was on them to ensure that all figures provided were in line with the Scheme requirements and consequently payments would be made without further due diligence by Government.

In line with the approach set out in our letter above, where individuals have personal income from other sources and a repayment requirement that exceeds £5,000, the debt management team are considering repayments on a case-by-case basis, taking into account affordability. A potentially large number of people will be able to afford repayments over the standard two years, but where this is not the case, they will have up to a maximum of five years to repay, with the actual timeframe appropriately tailored to their circumstances.

Detriment calculations

Importantly, the criteria for detriment did not change throughout the Scheme. The definition of detriment has always related to a business' turnover compared to the equivalent trading month from a comparable period – generally 2019 but other comparable months are used for new businesses or where it would be a fairer reflection of pre-pandemic performance.

The CFPS did evolve over time to better tailor support to meet the needs of the economy in the context of the prevailing public health restrictions. Between July and October 2020 detriment could be calculated on the basis of a three-month rolling average. However, from November 2020, the Island began to experience a second surge that culminated in the introduction of the Winter Strategy Circuit Breaker. Consequently, trading conditions were deteriorating, and continuing with a three-month rolling average basis would have reduce businesses' access to support when many of them were closed. Equally, the revised CFPS sought to better tailor subsidy levels to the impact that the pandemic was having on a business by linking the percentage subsidy to the actual percentage of detriment that was experienced.

The detriment calculation was flexibly applied to adapt to the underlying economic circumstances. Of course, it is a rules-based test so does have to function in a binary way to ensure that support is appropriately targeted to businesses that need it.

Customer Service Standards

“Hostile and accusatory correspondence that has left individuals feeling accused of defrauding the government”.

In her letter of 7 March, the Minister for Treasury and Resources asked if, with the consent of the individuals concerned, the Panel would share evidence it has of hostile and/or accusatory correspondence so it can be investigated.

Of course, it is entirely against the Government of Jersey’s customer service philosophy to engage in hostile or accusatory correspondence. We are very conscious that business owners have been under acute pressure during the pandemic, and we have put in place additional steps when notifying people of the need to make a repayment including initially contacting people with a personal telephone call. There is no easy way to communicate what is inevitably unwelcome news, but we feel that appropriate steps have been taken to ensure this is done with sensitivity.

Debt management communication is designed to be effective at triggering customers to initiate contact with the debt management team. Our approach has been designed with the benefit of insights from behavioural research, which are clear that, to be effective, the call to action must gradually increase as second and subsequent reminders are issued. In adopting this approach, our debt management correspondence is aligned with the approach adopted by similar commercial organisations, and we do not consider it to be hostile or accusatory.

“That there are instances that telephone messages were not left to inform applicants of their situation”.

Where individuals cannot be reached by telephone, the policy is for customer service staff to leave a voicemail message where possible. It is difficult to comment on individual circumstances without further detail, but staff would be expected to leave a message unless it was not possible for them to do so. Equally, several calls to customers would be attempted before the Department was required to notify people via a different medium.

“Delays in response, varying from days to months. This may have been particularly concerning for individuals facing a 10-day deadline”.

The initial 10 days is the period of time allowed for an individual to make contact with CLS before a debt is raised through the debt management process. There is then a further period of 30 days before any subsequent debt management processes commences.

Once contact with CLS has been initiated, the requirement to act within 10 days will have been met, unless the individual is acting in a deliberately evasive way to delay future collection processes. We have not identified any examples of that happening to date.

It can legitimately take time to respond to customers in some cases, though a period of months would be rare.

“Emails being sent from generic email addresses, using first names only, if at all, without a direct number to call for further information, other than to schedule repayment. This would indicate that individuals did not have sufficient detail of a named contact”.

Generic emails are commonly used in customer service settings to enable a more seamless communication service when staff are not in work or available. The use of a first name means that customers retain access to a named person in what is a very small team.

“Indications by Government that individuals mostly paid immediately, a tactic that could be seen to be pressuring”.

It is conventional practice to indicate that balances are usually paid immediately, where that is the case. The fact that longer payment terms are available may mean that even people entirely able to afford to repay immediately would choose to pay overtime. Our policy is to provide time to repay where it is needed but, of course, it is our preference that balances are settled immediately where additional time is not required. There is certainly no intent to pressure people into doing something that they cannot afford.

“Refusal of further financial support until stated debt is settled, which has been identified by some submissions as tantamount to “blackmail”.

We continue to make payments to businesses that may have repayments to make as long as claimants have agreed an instalment plan for balances that must be repaid. We do not think that it is fair to liken this to blackmail.

We have a responsibility to ensure that public money is safeguarded and, if people have not acknowledged the requirement to repay funds they have erroneously claimed in previous months, there are risks to the recoverability of those amounts. Delaying further payments allows Government to retain the option of offsetting new funds against repayments if that became necessary to protect public money. People are engaging well in this respect so there are very few claims that have been delayed.

Additional Information

Detail on timescales demonstrating request for repayment and repayment receipt.

Of those people who have repaid, 70% of repayments have been made within 30 days, 90% of payments were made within 6 months and 2% were repaid after one year or more.

Where people have entered into an instalment plan, 50% will repay within 18 weeks, 80% will repay within 12 months, 90% will repay within two years and 8% will repay over a period of time greater than two years.

Update on figures to clarify number of businesses who have repaid monies to Government of Jersey

A total of 543 repayment requests have been fully repaid. This is made up of 422 employers and 121 self-employed individuals. Some self-employed people may be associated with the same business so the overall number of businesses will be lower.

Number of businesses who have challenged the request to repay and are either in the process of providing further evidence or in discussion with their accountants and/or Revenue Jersey regarding their 2019 tax submission

CLS has been notified that 172 individuals are intending to provide further evidence or discuss their 2019 tax submission with Revenue Jersey. This number relates to self-employed people rather than businesses. The actual number of businesses impacted will be lower.

Number of businesses which have had their requests for repayments revised down or cancelled.

Repayments reduced	Number of Claimants
Agriculture and Fisheries	2
Fishing	2
Education, Health and Other Services	11
Hairdressing and other beauty treatment	5
Other human health activities	1
Other personal service activities not specified elsewhere	2
Physical well-being activities	2
Sports activities	1
Hotels, Restaurants & Bar	3
Camping grounds, recreational vehicle parks and trailer parks	1
Licensed restaurants	2
Miscellaneous Business Activities	3
Architectural and engineering activities and related technical consultancy	1
Other business support service activities not specified elsewhere	1
Photographic activities	1
Transport and Storage	6
Other passenger land transport	6
Wholesale & Retail	2
Other retail in non-specialised stores	2
Grand Total	27

Repayments cancelled following further evidence	Number of Claimants
Construction	7
Construction of domestic buildings	1
Electrical installation	1
Joinery installation	3
Other specialised construction activities not specified elsewhere	1
Plastering	1
Education, Health & Other Services	6
Child day-care activities	1
Hairdressing and other beauty treatment	2
Physical well-being activities	3
Hotels, Restaurants & Bar	3
Holiday and other short-stay accommodation	1

Licensed restaurants	2
Information and Communication	1
Information service activities	1
Miscellaneous Business Activities	3
Advertising and market research	1
Architectural and engineering activities and related technical consultancy	1
Other professional, scientific and technical activities not specified elsewhere	1
Transport and Storage	5
Freight transport by road and removal services	1
Other passenger land transport	4
Wholesale & Retail	4
Other retail in non-specialised stores	1
Other retail sale not in stores, stalls or markets	2
Sale of motor vehicles	1
Grand Total	29

Clarification on who is carrying out the audit of CPFS applications and payments, and against what criteria this is undertaken

The audit of the CFPS is multi-faceted. A local accounting business has been engaged to undertake the audit of business detriment, which required a greater degree of manual assessment of evidence and the application of professional judgement. CLS officials conducted other elements of the audit including comparisons against contribution schedules and comparisons between CFPS income declarations and the relevant comparable tax declarations. The audits conducted by CLS were based on relatively simple and objective comparisons between two datasets so could be undertaken without engaging external accountancy support.

CLS customer service officers supported all audit processes to ensure that claimants received the high level of customer service that they would expect from a government department.

All aspects of the audit are conducted against the rules of the Scheme as established in the Scheme guidance and supporting FAQs.