

COVID-19 Response and Recovery Report: Co-Funded Payroll Scheme

Corporate Services Scrutiny
Panel

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1. Chair’s Foreword

The pandemic caused an extraordinary set of circumstances and the Government was right to step in to provide support for businesses that were experiencing detriment as a result of the measures that were implemented to deal with Covid 19.

Appropriate checks and balances would be expected to safeguard public money, however as this report identifies there are several lessons to be learned.

It is clear that the majority of outstanding cases are genuine and have not been trying to “play the system”. It is imperative that an appeal process is provided to assist the group of people who have a case against the demands for repayment that have been issued against them.

A protracted process has hung over this group and the communication with them has been poor. This has served only to exacerbate anxieties, rather than seeking to find resolution for all concerned.

My thanks go to the officers who have made this report possible in a short time period. It is unusual as it relates to a very specific matter of policy, but the panel’s desire to provide this Report has arisen from the high level of troubling communication received from members of the public.

The Panel hopes that the government will take the points raised on board and resolve outstanding issues in a compassionate manner.



Senator Kristina Moore, Chair

2. Executive Summary

The Corporate Services Scrutiny Panel (the Panel) launched its review into the Government of Jersey's response to COVID-19 in March 2020 and has been carrying out concurrent scrutiny work throughout the course of the pandemic. One key area of the Government's support package and COVID-19 expenditure has been that of the Co-Funded Payroll Scheme, established to provide support to supplement the earnings of individuals who were adversely impacted by the Pandemic, largely due to restrictions imposed to preserve public health. The Panel has received worrying evidence from members of the public outlining issues in the decision making, administration and customer service of the Co-Funded Payroll Scheme application and auditing process.

Upon examination the Panel has found that despite efforts made by the Government of Jersey to ensure clarity, guidelines to the criteria and the application process of various phases of the Co-Funded Payroll Scheme were misunderstood and at times potentially miscommunicated. This has led to cases in which those the Scheme aimed to support are now suffering debt, after providing information in good faith. Although the Minister for Treasury and Resources has acknowledged the good character of Islanders, there has been no acknowledgement that the Government of Jersey guidance may have instigated the issues in some cases.

The Panel has further found that delays in auditing Co-Funded Payroll Scheme payments has led to erroneous but honest claims continuing for extended periods. The Panel has also noted that the communication of repayment demands has caused individuals to feel persecuted and unduly accused, with delays in correspondence further adding to stress of the situation.

The Minister for Treasury and Resources has highlighted that as a non-statutory scheme, decisions regarding payments through the Co-Funded Payroll Scheme, or repayment following auditing, are not entitled to a right of appeal. However, the Panel has established that reviews of cases have been undertaken and it has been highlighted that individuals affected can write to the Minister for Treasury and Resources to request a review of decisions if required.

Upon the Panel's suggestion, payment terms for Co-Funded Payroll Scheme debt have been extended, from an initial 30 days to two years, with an extension to five years available if financial hardship of the debt can be evidenced. The Panel has again recommended that this be further communicated, whilst making further recommendations for the Minister of Treasury and Resources to reduce the timeframe of audits, to ensure greater understanding of criteria and application, to ensure a right of appeal, to transparently communicate any review process and to adopt a common-sense approach to guarantee that those who provided information in good faith are not unduly penalised.

3. Findings and Recommendations

Key Findings

Key Finding 1

The Co-Funded Payroll Scheme was established to support the Island's businesses to maintain employment in order to mitigate the impact of COVID-19 restrictions.

Key Finding 2

No right of appeal to decisions made in relation to the Co-Funded Payroll Scheme applications was given, however, reviews were undertaken in some cases.

Key Finding 3

The Co-Funded Payroll Scheme criteria was updated throughout the pandemic, with guidelines to the criteria and the application process also being refined over the time period.

Key Finding 4

Repayment requests have been made against subsidised payments in the majority of phases of the Co-Funded Payroll Scheme.

Key Finding 5

The Government of Jersey made efforts to make the guidelines to criteria and application to the Co-Funded Payroll Scheme understandable, however, this was not achieved in all cases.

Key Finding 6

Auditing of payments made under the Co-Funded Payroll Scheme were undertaken by both Customer and Local Services and an external auditor. External audit on Phase 7 of the scheme is outstanding, with internal work on earlier phases continuing which could have implication for claims.

Key Finding 7

Delays to auditing of the Co-Funded Payroll Scheme payments, of over a year, made requests for repayment unexpected to some. Repayment of these debts may contribute to severe financial pressure faced by some Islanders.

Key Finding 8

Audits of the Co-Funded Payroll Scheme payments undertaken by Government have compared the figures provided during application to those held by other government departments. Audited information by Government appears to have been incorrectly interpreted or lacked reasoning in some cases.

Key Finding 9

The Government of Jersey undertook to individually contact each business facing a Co-Funded Payroll Scheme repayment demand; however, this may not have always been successfully carried out.

Key Finding 10

Members of the public did not receive a personalised contact to query Co-Funded Payroll Scheme repayment demands.

Key Finding 11

Delays in correspondence regarding the Co-Funded Payroll Scheme repayment demands have at times caused undue stress for businesses/individuals.

Key Finding 12

Communications in relation to the Co-Funded Payroll Scheme repayment demands undertaken by Customer and Local Services have left some individuals feeling persecuted and unduly accused.

Key Finding 13

The Government of Jersey did not widely communicate extensions to payment plan timetables to those affected by Co-Funded Payroll Scheme repayment demands.

Key Finding 14

It has been indicated that there is no right of appeal to a decision to reclaim monies distributed via the Co-Funded Payroll Scheme, however, it has been highlighted individuals can write to the Minister for Treasury and Resources to request a review of these decisions.

Key Finding 15

Co-Funded Payroll Scheme repayment demands have at times been reduced or removed.

Key Finding 16

The Minister for Treasury and Resources has refused to acknowledge any confusion caused by the guidelines to criteria and application to the Co-Funded Payroll Scheme issued by the Government of Jersey.

Key Finding 17

The Minister for Treasury and Resources has made a number of extensions to payment deadlines following correspondence from the Panel, allowing at least 2 years and up to 5 years to pay back overpayment.

Recommendations

Recommendation 1

The Minister for Treasury and Resources should provide all of those who faced or continue to face an overpayment demand, a right to appeal. This should be formally announced by 10 May 2022, with guidance to an appeal process to be published in due course.

Recommendation 2

The Minister for Treasury and Resources must in future include a right to appeal of decisions made on applications to business support schemes. The appeal policy and process should be clearly outlined and communicated at the commencement of a business support scheme to applicants. The outcome of any reviewed appeals to a business support scheme must be reported to the Assembly by the Minister for Treasury and Resources within six months of the final payments to a business support scheme.

Recommendation 3

The Minister for Treasury and Resources must ensure that guidelines to criteria and application to any future business support schemes are tested with a greater selection of users to ensure full understanding of the application process and in order to identify any issues such as those seen in definition of “Gross Income” during the Co-Funded Payroll Scheme.

Recommendation 4

The Minister for Treasury and Resources should ensure in future that auditing is carried out within three months for any support schemes, to avoid unexpected claims being brought against applicants at a much later date when they are unaware that the monies received were being reconsidered.

Recommendation 5

The Minister for Treasury and Resources must ensure that the extension of payment terms of live debts for business support schemes are directly communicated to those individuals or businesses involved as well as to the wider Accounting or Business Support community and the Assembly.

Recommendation 6

The Minister for Treasury and Resources must ensure that cases are reviewed individually when common issues arise during auditing of a business support scheme, with a common-sense approach being adopted to ensure that those who provided information in good faith are not unduly penalised.

4. Introduction

Background and Context

1. On 31 December 2019, the World Health Organisation (WHO) was informed of cases of pneumonia detected in Wuhan City, China. The Chinese authorities identified that this was a new type of Coronavirus (2019-nCoV). The pandemic caused the Government of Jersey to make substantial decisions which impacted lives, the economy, international affairs and public finances in the short, medium and long term.
2. The Corporate Services Scrutiny Panel (the Panel) launched its review into the Government's response to COVID-19 in March 2020 and has been carrying out concurrent scrutiny work throughout the course of the pandemic, having released an interim report in March 2021.¹ The Panel has also carried out scrutiny of the Fiscal Stimulus Fund and use of Public Finance during the response and recovery phases of COVID-19 in the Government Plans for 2021-2024 and 2022-2025. As part of its review of the proposed Government Plan 2022-2025 the Panel lodged an Amendment ([Amd 7](#)) which sought to limit the ability of Government to borrow a further £20 million for the Fiscal Stimulus Fund as it was unjustified. This Amendment was adopted by the Assembly.
3. One key area of the Government's support package and COVID-19 expenditure has been that of the Co-Funded Payroll Scheme, established to protect employment, support businesses and safeguard livelihoods by supplementing the earnings of individuals who were adversely impacted by the Pandemic, largely due to restrictions imposed to preserve public health.
4. The Panel acknowledges that the Scheme was a benefit to many during the worst of the impact of these restrictions and of the pandemic generally. However, it has received worrying evidence from members of the public outlining issues in the decision making, administration and customer service of the Co-Funded Payroll Scheme application and auditing process.
5. The Panel has decided to publish this report reviewing the evidence it has received concerning the Co-Funded Payroll Scheme. This report seeks to reduce duplication of the work of the Public Accounts Committee and Comptroller,² and Auditor General who have passed comments on COVID-19 support schemes.³

Methodology

6. The Panel has received over 55 submissions from members of the public outlining issues in the administration of the Co-Funded Payroll Scheme and has subsequently:
 - Included questions in public hearings with Treasury and Resources Minister and relevant government officers;
 - Written to relevant ministers, highlighting concerns and recommending ways forward; and,
 - Attended private briefings from relevant officers.

¹ [S.R.7/2021](#)

² P.A.C report

³ [R.177/2021 Government support to businesses during the COVID-19 pandemic – Co-Funded Payroll Scheme, Comptroller and Auditor General](#)

The Panel has drawn on aspects of the information it received during the last few months to present this report. Unfortunately, much of the evidence gathered has been provided in a confidential manner and therefore sources of information cannot be identified at times during this report.

Transcripts for the public hearings can be accessed via the States Assembly [website](#).

Webcasts for the public hearings can be accessed via the [States Assembly webcast site](#).

5. Co-Funded Payroll Scheme

7. The Co-Funded Payroll Scheme (the Scheme) was initially introduced to assist employers and employees whose businesses suffered significant detriment as a result of the COVID-19 global pandemic, with initial aims stated as:⁴

- To maintain employment in selected industries that are severely affected by the public health restrictions introduced in March to manage the outbreak of COVID-19
- To maintain, as far as possible, existing employment relationships so that businesses are able to retain trained staff. As far as possible, employees should be kept in employment that is as similar as practicable to the situation they were in pre-COVID-19.
- Along with other economic support measures being taken by the Government, to allow the business or self-employed individual a greater chance to remain solvent during COVID-19. This should also allow for businesses to resume normal business activity where appropriate as soon as possible post COVID-19, once restrictions are eased.
- Ultimately, the scheme hopes to assist in the recovery of the economy post COVID-19 by ensuring that businesses and employment income can restart quickly once restrictions are eased.

8. The Assistant Minister for Treasury and Resources indicated at that time:⁵

“I am very pleased to confirm that Phase 1 of the Government Co-Funded Payroll Scheme has been launched today for applications. When this scheme was announced only 12 days ago, Senator Farnham promised to ensure that we got financial support to businesses in greatest need as soon as possible. Today, this launch achieves that aim, and eligible businesses will get money within a matter of days of making an application. In order to carefully protect our public finances, in what will be a long road to economic recovery, the Government is taking an approach of ‘economic triage’ with our support schemes.”

9. The Scheme was administered via a team established within the Customer and Local Services Department, which had support from officers in other areas of the Government, such as Treasury and Economy functions.

⁴ [MD-TR-2020-0032 Written Report](#)

⁵ [Government launches co-funded payroll scheme, gov.je](#)

10. The Scheme subsequently supported over 15,000 people and 4,100 businesses at its peak,⁶ with approximately £140 million being paid out by 11 February 2022.⁷

Key Finding 1

The Co-Funded Payroll Scheme was established to support the Island's businesses to maintain employment in order to mitigate the impact of COVID-19 restrictions.

Application, Guidance and criteria

11. The Co-Funded Payroll Scheme only supported businesses within qualifying industries that the Government judged were most affected during the relevant time period. Phase 1 qualifying industries for example were:⁸

- Hotels
- Restaurants
- Bars
- Travel agency and tour operator activities
- Other reservation service and related activities
- Museums and other cultural activities
- Amusement and recreational activities
- Wholesale and Retail (excluding retail food, wholesale or retail pharmacies, wholesale or retail fuel, wholesale or retail construction supplies/DIY supplies, retail sale of household electrical equipment and information and communication equipment, wholesale or retail medical supplies)
- Fisheries
- Hairdressing and other beauty treatment

12. Businesses were also required to confirm that they had suffered material detriment, this was initially classified as a drop in turnover of at least 50%.

13. The Scheme's eligibility criteria was updated throughout the course of the Pandemic. This report will not identify all changes; however, the Panel would highlight the main variations concern:

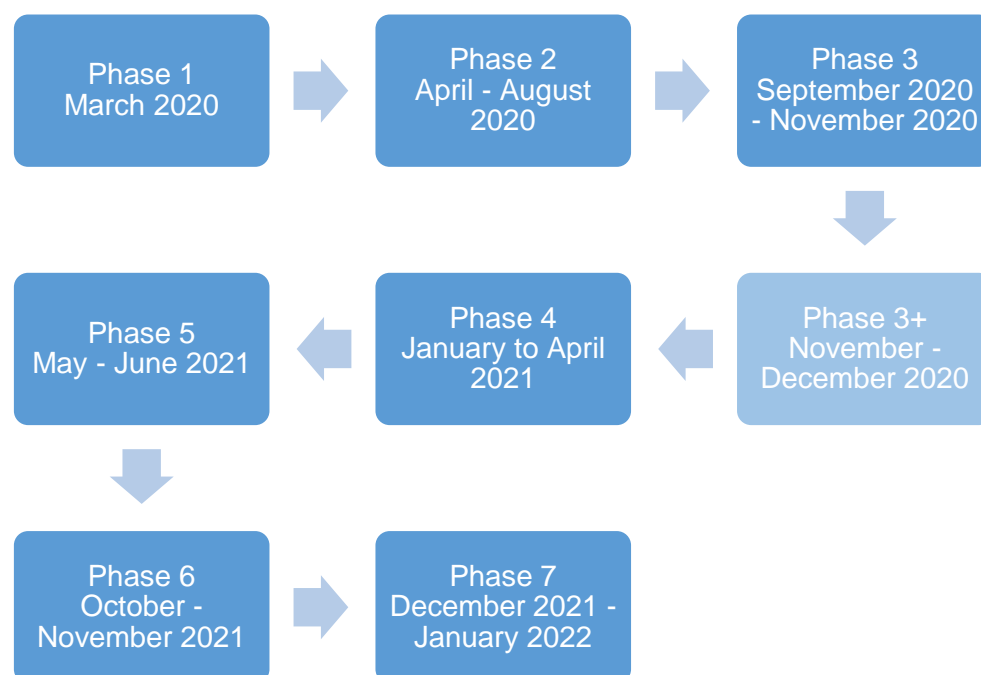
- Variation of eligible industries
- Variation of detriment level

⁶ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 23 March 2022](#)

⁷ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re Quarterly Hearing - 11 February 2022](#)

⁸ [Guidance for Coronavirus Co-Funded Payroll Scheme - Phase 1](#)

Figure 1 Timeline: CFPS Phases



15. Application to the Scheme was made via an online form hosted on the Government of Jersey website.

16. No right of appeal was given at the time of application. The Minister has informed the Panel that this was because the Scheme is not a statutory scheme, having been established as a rapid response to COVID-19 pandemic.⁹ This lack of right to appeal was not included in the initial phase's guidelines, however, mention of this was made from phase 2 onwards.

Key Finding 2

No right of appeal to decisions made in relation to the Co-Funded Payroll Scheme applications was given, however, reviews were undertaken in some cases.

Recommendation 1

The Minister for Treasury and Resources should provide all of those who faced or continue to face an overpayment demand, a right to appeal. This should be formally announced by 10 May 2022, with guidance to an appeal process to be published in due course.

Recommendation 2

The Minister for Treasury and Resources must in future include a right to appeal of decisions made on applications to business support schemes. The appeal policy and process should be clearly outlined and communicated at the commencement of a business support scheme to applicants. The outcome of any reviewed appeals to a business support scheme must be reported to the Assembly by the Minister for Treasury and Resources within six months of the final payments to a business support scheme.

⁹ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re Quarterly Hearing - 11 February 2022](#)

17. Guidelines for the application to the Scheme were also published on gov.je with elements included alongside the application form. Customer and Local Services also provided a helpline. Further advice was available via Jersey Business which received additional resources to help in communication and understanding of support measures such as the Scheme. These guidelines were updated through the Scheme and these versions are still hosted online at the time of writing.¹⁰
18. The Treasurer of the States confirmed that learnings were used to update guidance as the Scheme progressed:¹¹

“I come back to the learning would have been principally around the different phases. We got to learn as we went with these schemes in terms of what worked better and what did not work better. So I think that is all there. We just would provide more and more guidance, I suppose.”
19. The Minister has further identified that the Scheme 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 and it has been confirmed that this detriment calculation was flexibly applied to adapt to the underlying economic circumstances.¹²
20. Given the urgent need to get money into the economy when the pandemic commenced, it has been indicated to the Panel that the Scheme had to be designed in a way that put the onus on the applicant to ensure compliance. It was acknowledged by the Minister that it is clear that people have not seen or have misinterpreted the Scheme guidance, which was always a risk that could not be fully mitigated in a way that avoided the significant time delays that would have accompanied a more conventional approach that relied on rigorous up-front control checks.¹³
21. Despite the updating of the guidelines the submissions that the Panel have received indicate that repayments have been requested through the majority of phases, which would indicate that issues in guidance were not rectified in a timely manner.

Key Finding 3

The Co-Funded Payroll Scheme criteria was updated throughout the pandemic, with guidelines to the criteria and the application process also being refined over the time period.

Key Finding 4

Repayment requests have been made against subsidised payments in the majority of phases of the Co-Funded Payroll Scheme.

22. The Panel has been informed that consultation with a variety of business representative groups was undertaken at the start of the Scheme to refine the documents so that they could be readily understood by businesses. In addition, the Co Funded Payroll claim form required claimants to make a formal declaration that they had read and understood those rules.¹⁴

¹⁰ <https://www.gov.je/Health/Coronavirus/BusinessAndEmployment/pages/governmentsupportforbusinesses.aspx>

¹¹ [Transcript - Quarterly Public Hearing with the Minister for Treasury and Resources - 5 April 2022, page 17](#)

¹² [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 23 March 2022](#)

¹³ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 7 March 2022](#)

¹⁴ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 7 March 2022](#)

23. However, many of those who have contacted the Panel regarding the scheme have indicated that the guidance given was unclear. This has largely been associated with guidance given to self-employed applicants in defining and calculating their income.
24. For example, the Frequently Asked Questions Guidance issued for definitions and calculations relevant to “income” for self-employed workers were as follows as of Phase 6 of the scheme:¹⁵

Definitions and calculations relevant to “income” for self-employed workers

39) Q. How should “average monthly gross income” be defined for the purposes of the subsidy that is claimed?

Average monthly gross income includes:

- Any amount paid to the self-employed person by way of wages, salary, fees, bonuses, commission,
- overtime pay
- dividends paid by a company of which the person is a shareholder, where the income of the company is derived from the person’s self-employment
- distributions made by or drawings from a partnership in which the person is a partner
- business profits (a business’ trading income after deducting allowable business expenses) for a sole trader

40) Q. How should “average monthly gross income” be calculated for the purposes of the subsidy that is claimed?

Average monthly income should be calculated by taking your annual income from the sources identified above and dividing it by 12 to reach a monthly amount. These amounts will be linked to your 2019 income declared for tax purposes.

This is identified as follows:

- Your confirmed average monthly gross income for 2019 that has been included on your 2019 tax assessment
- If you do not yet have a confirmed gross income for 2019, your average monthly gross income as confirmed on your 2018 tax assessment, if this is likely to be a reasonable estimate of your 2019 income.
- If you do not yet have confirmed gross income 2019 and your income changed significantly between 2018 and 2019 (up or down), use an estimate of your average monthly gross income the 2019
- If you did not start trading until 2020 please use the Social Security start-up contribution rate of £1,519 as your average monthly gross income for 2019

It should be noted that for many workers the difference between 2018 and 2019 may not change the subsidy they are able to claim as they may already qualify for the maximum subsidy (assuming these are below the upper earnings limit for the scheme of £8,884 per month).

25. Further advice was given in the application form itself:¹⁶

For self-employed people forced to close due to public health measures (Covid-19 Winter Strategy) they may be entitled to claim up to a maximum of 50% % of your wages up to a maximum of £1250.00. Please see the scheme guidance for details.

- You will need to enter your confirmed average (income for the year divided by twelve) monthly gross income for 2019.
- If you do not yet have a confirmed gross income for 2019, your average monthly gross income as confirmed on your 2018 tax assessment, if this is likely to be a reasonable estimate of your 2019 income.
- If you do not yet have confirmed gross income 2019 and your income changed significantly between 2018 and 2019 (up or down) , use an estimate of your average monthly gross income the 2019.
- If you did not start trading until 2020 please use the Social Security start-up contribution rate of £1,519 as your average monthly gross income for 2019.

If you are self-employed, a sole-trader, a partner or a business owner and were liable for Class 2 contributions in March 2020, you can apply for up to 50% % of your gross average monthly income in 2019 up to a limit of £1000.00 per person. If your business sector qualifies for the elevated scheme you will be entitled to claim up to £1250.00

¹⁵ [CFPS FAQs Phase 6](#)

¹⁶ CFPS Phase 7 application form

If your monthly gross income was above £8,884 in 2019, you are not eligible for a subsidy under the scheme.

Average monthly gross income includes the sum of:

- any amount paid to the self-employed person by way of wages, salary, fees, bonuses, commission, overtime pay
- dividends paid by a company of which the person is a shareholder, where the income of the company derives from the person's self-employment
- distributions made by a partnership in which the person is a partner
- business profits (a business' trading income after deducting allowable business expenses) for a sole trader

26. The Minister for Treasury and Resources has, upon questioning by the Panel, highlighted:¹⁷

“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.”

27. It has been indicated to the Panel by members of the public that this was not clearly outlined at the time of application, and that individual’s understanding of gross income was to include all forms of income. Submissions have identified that accountants, government officers and Jersey Business had confirmed at the time to include all income under the definition of gross income.

28. It has not been possible for the Panel to validate these claims, however, it would highlight that although it has been stated as commonly understood that figures to be entered in application forms should only have related to a person’s employment or self-employment, this was not clearly stated in guidelines at the point of application data entry.

Key Finding 5

The Government of Jersey made efforts to make the guidelines to criteria and application to the Co-Funded Payroll Scheme understandable, however, this was not achieved in all cases.

Recommendation 3

The Minister for Treasury and Resources must ensure that guidelines to criteria and application to any future business support schemes are tested with a greater selection of users to ensure full understanding of the application process and in order to identify any issues such as those seen in definition of “Gross Income” during the Co-Funded Payroll Scheme.

Auditing process

29. Guidance outlined that the figures submitted in an application to the scheme may be subject to future auditing. It is unclear when this auditing was undertaken, however, the Panel has received evidence indicating that individuals were contacted as early as August 2021. It should be highlighted that the individual reporting to the Panel explained that they did not hear back from the Co-Funded Payroll Scheme or Audit team again until February 2022, which they have stated negatively impacted upon them due to the uncertainty of the situation.

¹⁷ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 23 March 2022](#)

30. Indeed, the majority of the submissions made to the Panel indicated that they were primarily contacted in January or February of 2022 and these have often opined that the audit was unexpected due to the time frame between claims and requests for repayment. It has also been suggested that the timeframe of the audit process meant that individuals continued to claim as they believed that they would have been informed of issues earlier.

31. Furthermore, individuals have highlighted that they have included payments made under the Scheme in their 2020 and 2021 tax returns, fearing that this will result in undue tax demands should they be required to repay overpayments. This has also highlighted the issue of multiple payments being demanded at once with some individuals facing:

- Co-Funded Payroll Scheme overpayment debt
- Increased tax payments
- Deferred Social Security contribution payments
- Deferred Goods and Services Tax payments

32. It has been indicated to the Panel that all aspects of the audit are conducted against the rules of the Scheme as established in the Scheme guidance and supporting FAQs. It has been confirmed that two main points of Audit have been undertaken: ¹⁸

- **External** - 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.
- **Customer and Local Services** - 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.

33. There has been confirmation to the Panel that the only outstanding external audit is in respect of Phase 7 of the Scheme.¹⁹ The Panel has subsequently been informed that some work on earlier phases remains underway that could have implication for claims for other phases.

Key Finding 6

Auditing of payments made under the Co-Funded Payroll Scheme were undertaken by both Customer and Local Services and an external auditor. External audit on Phase 7 of the scheme is outstanding, with internal work on earlier phases continuing which could have implication for claims.

Key Finding 7

Delays to auditing of the Co-Funded Payroll Scheme payments, of over a year, made requests for repayment unexpected to some. Repayment of these debts may contribute to severe financial pressure faced by some Islanders.

¹⁸ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 23 March 2022](#)

¹⁹ [Transcript - Quarterly Public Hearing with the Minister for Treasury and Resources - 5 April 2022, page 17](#)

Recommendation 4

The Minister for Treasury and Resources should ensure in future that auditing is carried out within three months for any support schemes, to avoid unexpected claims being brought against applicants at a much later date when they are unaware that the monies received were being reconsidered.

34. As with applications to the Scheme there is no formal appeals process against auditing decisions. Indeed evidence submitted to the Panel has identified that the audit undertaken has been binary in nature and this was acknowledged by Government Officers in a Quarterly Hearing with the Minister for Treasury and Resources:²⁰

“...there is no subjective element to this. It is not a judgment that has been applied by officials, it is fairly binary: that number is smaller than that number and, therefore, there is a difference. If there is a difference that stands that an individual cannot provide further information to justify or that does not end up revising their tax calculations because they discovered, having looked at them more closely, they are inaccurate, then there is a case to answer, effectively.”

35. From the submissions made to the Panel it appears the largest issue identified during audit has been discrepancies between the figure entered for 2019 gross income compared to that stated in 2019 tax returns. The Minister has indicated that some individuals have declared their business' total income rather than their personal income. In other cases, individuals have declared other forms of income such as investment income or rental income which were not eligible to be subsidised.²¹ As highlighted earlier in this report, the guidance issued on this has been questioned.
36. It has been confirmed to the Panel that a total of 543 repayment requests have been fully repaid. This is made up of 422 employers and 121 self-employed individuals. CLS has been notified that 172 individuals are intending to provide further evidence. It would appear to the Panel that a proportion of the 172 will be challenging the decision based upon the guidance provided as part of the Scheme.

Key Finding 8

Audits of the Co-Funded Payroll Scheme payments undertaken by Government have compared the figures provided during application to those held by other government departments. Audited information by Government appears to have been incorrectly interpreted or lacked reasoning in some cases.

Communication of repayments

37. The Panel has been informed by the Minister that in the first instance of a repayment request calls were made to each individual, or a message left where possible. It has been further indicated that several calls to customers would be attempted before the Customer and Local Services Department was required to notify people via a different medium. It has been confirmed that, in common with good customer service practice, officers follow a script when making calls to ensure that people are consistently provided with the information they require.²² The Panel has been informed by some members of the public that they did not receive these calls, submissions have also commented upon the script led nature of the call negatively.

²⁰ [Transcript - Quarterly Public Hearing with the Minister for Treasury and Resources - 5 April 2022, page 17](#)

²¹ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 7 March 2022](#)

²² [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 7 March 2022](#)

38. These calls were followed up by email outlining the request for repayment. The Panel has noted from evidence received that these lacked a named contact for individuals to ask questions to, which members of the public have suggested may have aided in dealing with issues and requests in a more timely and personalised manner. The Minister had indicated that:²³

“Customer and Local Services instigates each contact personally over the telephone and customers are given the customer service advisor’s names so, from that point on, they have a named contact.”

However, upon further questioning by the Panel the Minister has acknowledged that generic emails are commonly used, to aid in the customer service setting to enable a more seamless communication service when staff are not in work or available.²⁴ The Minister has indicated that she is satisfied that an appropriate level of personal support and dialogue is provided.

Key Finding 9

The Government of Jersey undertook to individually contact each business facing a Co-Funded Payroll Scheme repayment demand; however, this may not have always been successfully carried out.

Key Finding 10

Members of the public did not receive a personalised contact to query Co-Funded Payroll Scheme repayment demands.

39. Upon reviewing submissions, which have included copies of emails received by members of the public, the Panel notes the tone of voice in correspondence which has been suggested by individuals as accusatory and pressuring. The Minister explained that debt management communication is designed to be effective at triggering customers to initiate contact with the debt management team.²⁵ Although this is understandable in some cases, the Panel is of the view that this may have unduly added to the stress of an already negative situation.
40. The email correspondence which the Panel has received as part of submissions indicate that an initial 10 days was given to resubmit information should the individual believe that wrong figures had been used as part of their 2019 tax return. The Minister confirmed this period of time allowed for an individual to make contact with Customer and Local Services before a debt was raised through the debt management process. There was then a further period of 30 days before any subsequent debt management processes commenced.²⁶
41. The email correspondence also indicated that those who had claimed from the Scheme in error normally paid in full immediately and that failure to repay in the timeframe may have resulted in legal action.
42. Although the Minister has indicated that there was no intent to pressure people into doing something that they could not afford, the inclusion of terms such debt collection, legal action and to pay immediately have been identified as pressuring and

²³ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 7 March 2022](#)

²⁴ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 23 March 2022](#)

²⁵ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 23 March 2022](#)

²⁶ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 23 March 2022](#)

unempathetic by submissions that the Panel has received. The Panel has been informed by members of the public that there have been cases in which individuals have paid debts that they now feel they should have challenged.

43. Indeed, the claim that repayment of any subsidy claimed in error was normally paid immediately seems to be false, the Minister has subsequently identified:²⁷

- 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.

44. The Panel has received reports that payments of later phases of the Scheme have been withheld until a Debt Repayment Plan is in place with labelling that this action surmounted to black mail. The Minister has indicated:²⁸

“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”

The Minister also highlights *“People are engaging well in this respect so there are very few claims that have been delayed.”* This may indicate that people are indeed being pressured into setting up payment schemes for debts which they may not have otherwise done so.

45. As discussed in the next section of this report, the Minister has extended repayment terms to up to 2 years in all cases regarding the Scheme following a request to reconsider her position by the Panel. This was mentioned in a press release on 24 February 2022,²⁹ however the Panel subsequently learnt that those being contacted to set up debt management plans had not been informed. As such the Panel wrote to the Minister requesting that all those in correspondence with the Co-Funded Payroll Scheme and Debt Management teams be forwarded the new terms, and that accountants and businesses be proactively contacted so that they could also be made aware, this was accepted by the Minister.³⁰

46. The Panel would also highlight that it has received reports that responses to correspondence have at times been delayed, from periods of days and in some cases months. The Minister has acknowledged that it can legitimately take time to respond to customers in some cases, though indicates a period of months would be rare.³¹

Key Finding 11

Delays in correspondence regarding the Co-Funded Payroll Scheme repayment demands have at times caused undue stress for businesses/individuals.

²⁷ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 23 March 2022](#)

²⁸ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 23 March 2022](#)

²⁹ <https://www.gov.je/News/2022/Pages/CFPSExtensionForRepayments.aspx>

³⁰ [Letter - To Minister for Treasury and Resources re Co Funded Payroll Scheme Repayments- 11 March 2022](#)

³¹ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 23 March 2022](#)

Key Finding 12

Communications in relation to the Co-Funded Payroll Scheme repayment demands undertaken by Customer and Local Services have left some individuals feeling persecuted and unduly accused.

Key Finding 13

The Government of Jersey did not widely communicate extensions to payment plan timetables to those affected by Co-Funded Payroll Scheme repayment demands.

Recommendation 5

The Minister for Treasury and Resources must ensure that the extension of payment terms of live debts for business support schemes are directly communicated to those individuals or businesses involved as well as to the wider Accounting or Business Support community and the Assembly.

Review of repayments

47. As highlighted, there is no formal appeals process in the Scheme as it has been stated that decisions have been made in a non-subjective manner, however, a number of individuals are challenging repayment demands and there have been instances in which individuals have had their repayment debts reduced or removed.³²
48. The Panel has questioned the right to appeal and was informed that although no formal process was in place there was a de facto review process available in that individuals are entitled to write to the Minister. It has been confirmed that there have been no cases elevated to the Minister for consideration.³³
49. The Minister has acknowledged that overclaims have been the result of honest mistakes in the vast majority of cases,³⁴ however, there has been a lack of acknowledgement of the guidance issues. This has frustrated many of those who have contacted the Panel, with submissions indicating that they provided information in good faith based on the guidance available and feel that they are now being penalised for making use of the support Scheme at a time of need. A number of cases have indeed suggested that they double checked their assumptions with the department prior to completing their claim.
50. Submissions to the Panel have highlighted that the terms of repayment were unrealistic. The Minister has indicated that in considering the timeframe for repayments she must also balance the obligation to the taxpayer to ensure that the funding that people are not entitled to is able to be repaid.
51. Following the Panels request the Minister has confirmed that relaxation to repayment deadlines would be given, with payment plans available up to two years. Further extension has also been indicated for larger repayments on a case-by-case approach that considers affordability and allows up to five years to repay where the customer can demonstrate that a two-year repayment period might cause financial hardship,³⁵ or for debts over £5,000.³⁶

³² [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re Quarterly Hearing - 11 February 2022](#)

³³ [Transcript - Quarterly Public Hearing with the Minister for Treasury and Resources - 5 April 2022, page 17](#)

³⁴ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 23 March 2022](#)

³⁵ [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 23 March 2022](#)

³⁶ [Transcript - Quarterly Public Hearing with the Minister for Treasury and Resources - 5 April 2022, page 19](#)

Key Finding 14

It has been indicated that there is no right of appeal to a decision to reclaim monies distributed via the Co-Funded Payroll Scheme, however, it has been highlighted individuals can write to the Minister for Treasury and Resources to request a review of these decisions.

Key Finding 15

Co-Funded Payroll Scheme repayment demands have at times been reduced or removed.

Key Finding 16

The Minister for Treasury and Resources has refused to acknowledge any confusion caused by the guidelines to criteria and application to the Co-Funded Payroll Scheme issued by the Government of Jersey.

Key Finding 17

The Minister for Treasury and Resources has made a number of extensions to payment deadlines following correspondence from the Panel, allowing at least 2 years and up to 5 years to pay back overpayment.

Recommendation 6

The Minister for Treasury and Resources must ensure that cases are reviewed individually when common issues arise during auditing of a business support scheme, with a common-sense approach being adopted to ensure that those who provided information in good faith are not unduly penalised.

7. Conclusion

The Co-Funded Payroll Scheme was a benefit to many during the worst of the impact of the COVID-19 restrictions and of the pandemic generally. However, submissions made to the Panel have suggested that there were issues in the guidance given to the criteria and application to the Scheme and that the Government's approach following auditing has led to some Islanders feeling persecuted, unduly accused, stressed and, in some cases, facing years of debt.

The Minister for Treasury and Resources has not acknowledged that Government guidance may have caused issues at times, however, it has been highlighted that a review of decisions can be undertaken despite the lack of a formal appeals process.

The Panel has recommended that the Minister for Treasury and Resources should ensure that a right of appeal exists in support schemes and that review processes are transparently communicated. The Panel has also recommended that timeframes of audits are reduced and guidance to criteria and application of future support schemes are better tested to aid in understanding by those applying.

The Minister for Treasury and Resources ultimately holds responsibility for decisions regarding the issues faced by Islanders facing debt following the Co-Funded Payroll Scheme. The Panel has made a final recommendation that a common-sense approach to cases be adopted to ensure that those who provided information in good faith are not unduly penalised.

Appendix 1 – The Corporate Services Scrutiny Panel

The Panel is comprised of the following States Members:



Senator Kristina Moore, Chair



Deputy Steve Ahier, Vice-Chair



Senator Steve Pallett



Senator Tracey Vallois*

*Senator Vallois declared an interest in having been a member of the Council of Ministers and an invited member of Competent Authorities Ministers up to 10 January 2021.

Appendix 2 – Useful links

- [Letter - Deputy Chief Minister to Corporate Services Scrutiny Panel re CoFunded Payroll Scheme - 25 March 2022](#)
- [Letter - Comptroller and Auditor General to Corporate Services Scrutiny Panel re Co-Funded Payroll Scheme repayment - 23 March 2022](#)
- [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 23 March 2022](#)
- [Letter - to Minister for Treasury and Resources re Co Funded Payroll Scheme repayments- 11 March 2022](#)
- [Letter - to Deputy Chief Minister re Co-Funded Payroll Scheme repayment - 11 March 2022](#)
- [Letter - to Comptroller and Auditor General re Co-Funded Payroll Scheme repayment - 11 March 2022](#)
- [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re CFPS repayments - 7 March 2022](#)
- [Letter - to Minister for Treasury and Resources re Co Funded Payroll Scheme - 3 March 2022](#)
- [Letter - Minister for Treasury and Resources to Corporate Services Scrutiny Panel re Quarterly Hearing - 11 February 2022](#)
- [Letter - to Minister for Treasury and Resources re Quarterly Hearing Follow-up - 8 February 2022](#)
- [Advice on Gov.ie for Co-Funded Payroll Scheme](#)

Appendix 3 – COVID-19 Response and Recovery Review: Terms of Reference

1. Public Finance

Undertake an in-depth review of the Government's decision-making processes regarding the preparation, response, and recovery phases of COVID-19 (COVID-19 phases) considering:

- a. whether the current and future use of Public Finance is consistent and meets the requirements of the Public Finance (Jersey) law 2019.
- b. sustainability and suitability of emergency response structures and levels of resourcing, of all forms, allocated to COVID-19 phases being sufficient or excessive to meet stated aims.
- c. the initial impact on Public Finance, due to the response of Government to COVID-19 phases, in relation to departmental budgets, programs and capital projects.
- d. lines of accountability for the use of Public Finance during COVID-19 phased response.
- e. any other matters the Panel believe relevant to the review within its remit.

2. Recovery Plan 2021-24

Review the Recovery Plan regarding the replenishing of Public Finance due to COVID-19 considering:

Budget

- the income raising proposals,
- how spending will be funded,
- how Government expenditure has evolved,
- individual departmental budgets and their feasibility,
- the viability and deliverability of capital projects,
- efficiencies being sufficient or excessive to meet stated aims,
- payback borrowing plans to Public Finances being sufficient or excessive.

Financial, economic and growth forecasts

- the levels of income against expenditure,
- the assumptions made for the economic forecasts,
- the impact of the financial and economic forecasts in Recovery Plan,
- timeline to replenish the Strategic Reserve and the source/s from which it will be replenished,
- the economic sustainability of Recovery Plan.

Design and implementation of the Recovery Plan 2021-24

- allowance is made for the deficit in 2021 and beyond the period of the Recovery Plan,
- reserves; their use, and how they are allocated,
- fiscal soundness of the Government's recovery plan.

Given the fast-changing nature of the COVID-19 pandemic, the Panel may also need to consider any other matters it believes relevant to the review within its remit.



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