
STATES OF JERSEY



COVID-19 RESPONSE AND RECOVERY REVIEW – CO-FUNDED PAYROLL SCHEME REPORT (S.R.9/2022): RESPONSE OF THE MINISTER FOR TREASURY AND RESOURCES

**Presented to the States on 13th May 2022
by the Minister for Treasury and Resources**

STATES GREFFE

**COVID-19 RESPONSE AND RECOVERY REVIEW – CO-FUNDED
PAYROLL SCHEME REPORT (S.R.9/2022): RESPONSE OF THE MINISTER
FOR TREASURY AND RESOURCES**

Ministerial Response to:	S.R.9/2022
Ministerial Response required by:	10th June 2022
Review title:	COVID-19 Response and Recovery Review – Co-Funded Payroll Scheme Report
Scrutiny Panel:	Corporate Services Scrutiny Panel

INTRODUCTION

I am pleased that the CSSP, like PAC and the CAG has confirmed that people who have overclaimed subsidies and still have outstanding balances should repay the funding they are not entitled to.

While the Panel recognises that the Government was right to establish the CFPS, I am disappointed with the lack of balance in the Panel's report. It is, of course, the rightful and valuable role of Scrutiny to signal where Government's work could be improved but the report focuses solely on the 10% of funding that was overclaimed and has to be repaid while having nothing substantive to say about the 90% of funding that was instrumental in protecting the livelihoods of more than 15,000 Islanders, helping 4,100 businesses to stay trading and ensuing the economy has been able to recover strongly after the greatest economic crisis we have seen for decades.

I would invite the Panel to think about what the Island would look like now if bold action had not been taken by Government knowing that the Scheme had to be engineered to apply lots of important control checks after payments had been made and there would inevitably come a point where it was clear some applicants had overclaimed and would therefore have to repay funding they were not entitled to. Ministers and officials should be applauded for putting the risks of that aside and doing what was needed to meet the moment.

Islanders will make their own judgements and I'm sure they will recognise the tremendous good that the CFPS has done, but it is more than unfortunate that the public narrative around the Scheme has been clouded by this report. I am immensely proud of the CFPS and of the dedication shown by the officers who worked tirelessly, through weekends, public holidays, and often late into the night to protect Islanders from the economic consequences of Covid-19. The Scheme has met its objectives in this regard so that work paid off.

FINDINGS

	Findings	Comments
1	<p>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.</p>	<p>The objectives of the Co-Funded Payroll Scheme (CFPS) were as follows:</p> <ul style="list-style-type: none"> • ensure businesses can survive the pandemic: enable as many businesses as possible to survive the immediate crisis so they are in a position to resume trading so supply capacity remains intact • maintain employment: ensure employment remains as close to pre-pandemic levels as possible • support Islanders' incomes: ensure workers continue to benefit from a reasonable level of income to avoid hardship during the pandemic and preserve demand to support an economic recovery once social distancing and Stay at Home restrictions are lifted; and • support a robust economic recovery: enable nominal Gross Value Added (GVA) in each of Jersey's sectors to return to pre-pandemic (2019) levels by 2022 at the latest. <p>As the Comptroller and Auditor General has indicated in her report on the Scheme, we are pleased that the CFPS appears to have met its objectives.</p>
2	<p>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.</p>	<p>Islanders had recourse at all times by contacting CLS officials managing the Scheme and ultimately the Minister for Treasury and Resources should there be issues that would necessitate potential changes to the rules of the Scheme or judgements made by officials. This process allows for issues to be resolved without a need for a formal appeals process, which can often be time consuming.</p> <p>It is worth noting that a formal appeals process would be unlikely to change the repayments that must be made for the self-employed, who are the primary focus of the Panel's report. The audit testing for the self-employed relies on a simple comparison of two different sets of data and does not require judgement on the part of the auditors. While a small number of repayment requirements have been revised down, so far all of those have been the result of the claimant realising that they had made an error on their tax declaration, which,</p>

	Findings	Comments
		after correction, reduced or eliminated the disparity with the income declared for CFPS purposes.
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.	<p>The Report narrative that supports this finding entirely inaccurately declares ‘issues in the guidance were not rectified in a timely manner’.</p> <p>No ‘issues in the guidance’ have been identified nor are requirements for repayment a result of any inadequacies in the Scheme guidance.</p> <p>The CFPS evolved over time to reflect changes in economic conditions and public health restrictions. Changes were principally related to the level of subsidy paid by the Scheme and the range of sectors that qualified for support. The revised guidance for the Scheme was always published prior to any new phases of the Scheme being introduced.</p> <p>No changes were made to the qualifying income criteria that are the reason that most have to repay funding. People who have to make repayments typically declared a higher income on their CFPS claim than they did for tax purposes. The Scheme criteria relating to income that was supported did not change so the requirement to make repayment was not a result of changes in the Scheme.</p>
4	Repayment requests have been made against subsidised payments in the majority of phases of the Co-Funded Payroll Scheme.	None.
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.	<p>We welcome the Panel’s recognition of the significant efforts that were made to ensure that the guidance and detailed Frequently Asked Questions (FAQs) document could be readily understood by applicants.</p> <p>The guidance and FAQs for the CFPS were clear about how people’s income should be calculated. We consulted with a variety of business representative groups at the start of the Scheme to refine the documents so that they could be understood by businesses. Customer and Local</p>

	Findings	Comments
		<p>Services (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. We therefore made extensive efforts to ensure that the rules of the scheme could be readily understood and applied by businesses.</p> <p>The Panel's report makes assertions that it states have not been verified. We are satisfied that Government did everything it could in the context of an emergency response to ensure the guidance provided was clear about how claims should be made.</p>
6	<p>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.</p>	<p>None.</p>
7	<p>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.</p>	<p>There was no delay to the audit process. The audit process commenced August 2020 as the audit adopted a risk-based approach that focused on the highest value claims made by large businesses.</p> <p>The Government has been clear at all times that while it is incumbent on Ministers to ensure that public funds are safeguarded, the repayment process should not cause financial hardship. Extended repayment terms have been made available. All claimants can take up to 2 years to repay with terms of up to 5 years provided on a case-by-case basis where appropriate.</p> <p>The CFPS paid one of the highest levels of subsidy of any wage-subsidy scheme implemented during the pandemic, which was effective in mitigating the economic impact of Covid-19. People who have to repay the funding they overclaimed, still get to keep all of the</p>

	Findings	Comments
		support they were entitled to and we do not accept that the requirement to make repayments is placing claimants under severe financial pressure.
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.	<p>This finding relates to the fact that the majority of people who have to repay some of the funding, declared a higher income when applying for CFPS subsidy than was declared on their tax return.</p> <p>Many of these people have claimed for their business income rather than their personal income, and therefore, received a subsidy that was often higher than the amount of money they usually make from their business in normal economic conditions. Others have included income that is not related to the self-employment that the Scheme was there to protect such as rental income, investment income, or their income from an unrelated job. These other sources of income were not eligible for support and were often unaffected by the pandemic. When taking account of the CFPS subsidy, claimants would have received a high level of income than they did before the pandemic.</p> <p>While the overwhelming majority of overclaims are likely the result of honest mistakes, it is absolutely not the case that these issues are the result of Government incorrectly interpreting the rules of the Scheme or making decisions that lacked reasoning.</p> <p>The report refers to 172 that have indicated they intend to provide further evidence as to the accuracy of their CFPS claim. It suggests that they are challenging the guidance provided by the Scheme. In fact, they have indicated their intention to review and update their tax declaration.</p>
9	The Government of Jersey undertook to individually contact each business facing a Co-Funded Payroll Scheme repayment demand; however, this may	The process of making contact with individuals is still underway but has been successful where carried out.

	Findings	Comments
	not have always been successfully carried out.	
10	Members of the public did not receive a personalised contact to query Co-Funded Payroll Scheme repayment demands.	<p>The overwhelming majority of people were contacted by telephone, whereupon the advisor would introduce themselves and the reason for the call, a very small minority who were unable to be contacted by telephone received an email notification.</p> <p>While a generic email <i>address</i> is used to allow for seamless communications when individual staff members are unavailable or out of the office, emails sent are still signed off with the customer service adviser's first name. The use of a first name means that customers retain access to a named person in what is a very small team.</p>
11	Delays in correspondence regarding the Co-Funded Payroll Scheme repayment demands have at times caused undue stress for businesses/individuals.	<p>We are very conscious that business owners have been under acute pressure during the pandemic, and we have put in place additional customer service 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.</p> <p>Correspondence with customers has been timely in the overwhelming majority of cases. As the report notes, it would be rare for correspondence to take place over extended timeframes, but in some cases there may be legitimate reasons why responses are provided some time after a previous contact.</p>
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.	The customer service team have been very balanced and factual, at no time has there been an instance where the staff have acted in an accusatory manner. As would be expected of a high-performing customer service organisation No evidence has been presented to demonstrate that CLS staff have not at all times treated each customer respectfully.

	Findings	Comments
13	The Government of Jersey did not widely communicate extensions to payment plan timetables to those affected by Co-Funded Payroll Scheme repayment demands.	The extension of repayment arrangements was announced through the media and Jersey Business, which supports SMEs was also informed, so it was widely communicated. The same channels were used to promote the change in repayment timescales as were used to announce the launch and extension of the Scheme itself. They were effective in that setting so it was reasonable to rely on the same approach for communicating the change to repayment timescales. To ensure that all claimants are aware of the repayment terms available, CLS has subsequently contacted all individuals that have yet to agree a mutually convenient repayment plan.
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.	None.
15	Co-Funded Payroll Scheme repayment demands have at times been reduced or removed.	This has been the case where the claimants have corrected their tax declaration. This brought their tax affairs closer into line with the income they declared for CFPS and thereby reduced or eliminated any requirement required.
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.	The Minister recognised in writing to the CSSP that, despite Government's extensive efforts to ensure that guidelines could be understood by the public, it was clear some people had misinterpreted them.
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.	There was only a single decision to extend the length of repayment plans that would be agreed.

RECOMMENDATIONS

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
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.	MT R	REJECT	<p>Formal appeal processes are often time-consuming, bureaucratic mechanisms that are not appropriate for a Scheme on the scale of the CFPS, which received over 27,000 individual claims.</p> <p>Islanders had recourse at all times by contacting CLS officials managing the Scheme and ultimately the Minister for Treasury and Resources should there be issues that would necessitate potential changes to the rules of the Scheme or judgements made by officials. This process allows for the same benefit of an appeals process but it able to operate in a leaner way. In many cases it will also have allowed for more timely responses to made.</p>	N/A
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.	MT R	REJECT	As it did when creating the CFPS, the Government of Jersey will consider whether a formal appeals process is appropriate for any new scheme. However, for the reasons outlined above it was not an appropriate mechanism for the CFPS and the Government will not be bound by a requirement to introduce formal appeals process for every Scheme.	N/A

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
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.	MT R	REJECT	<p>As set out above, extensive efforts were made to ensure that the rules of the Scheme could be understood by members of the public. This work was done under acute time pressure given the urgent need to provide support to businesses while the Stay-at-Home Order was in place. I am satisfied that the Government did everything it reasonably could in the context.</p> <p>In future, we would make similar efforts, but anything we do will always be imperfect and some people will not understand or chose not to read the guidance provided despite our best endeavours.</p>	N/A
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.	MT R	REJECT	<p>The primarily focus of the Panel’s report is the audit of the self-employed. It would have been impossible to conduct the audit of self-employed workers within three months as the necessary tax data used as a comparison for self-employed people would not have been available. The first claims for the CFPS were made during April 2020, the deadline for making tax declarations did not pass until July 2020. The resulting tax assessments were not finally completed until the end of 2020.</p> <p>The CFPS audit was conducted on the basis of risk. The high value claims from large businesses were audited first and the audit of the self-employed was rightly conducted later in the risk-based audit programme.</p> <p>All future audits should be conducted on the basis of the right risk-focused judgements and not arbitrary timescales.</p>	N/A

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
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.	MT R	REJECT	No action arises from this recommendation as this has already been undertaken as the Panel was informed. Individuals who had initially been given 12 months to repay have all been contacted via telephone to advise of the extension in time to repay.	N/A
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.	MT R	REJECT	No action arises from this recommendation as this has always been the approach that has been adopted by the Scheme.	N/A

CONCLUSION

The CFPS should be held out as a symbol of what work in Government can achieve. It should reset the too often negative discourse about the role of Government in our community and inspire the next generation of officials and politicians to leave a positive mark on our Island's public life. With the benefit of perfect hindsight, of course there are things we could have done better, but the CFPS was incontrovertibly a success.