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## Covid-19 Income Support Schemes- Plugging the Gaps

The two support schemes announced by the government to support worker incomes during the Covid-19 pandemic are incredibly welcome and will assist millions of workers. The Job Retention Scheme (JRS) is aimed at employees and operates through company payroll systems and the Self-Employed Income Support Scheme (SEISS) is aimed at the majority of self-employed workers.

Both schemes are necessarily blunt instruments aimed at capturing the majority of workers and able to be set up at pace. We understand the Treasury's desire to design the schemes in this way, however there are important groups of workers who risk losing out entirely because of the design of the schemes.

Broadly these fall into the following groups.

- PAYE freelance workers
- The newly self-employed
- Personal Service Companies
- Those above the SEISS profit cap
- Those self-employed workers who have had long period out of work recently

Prospect represents 147,500 members across the UK working in a range of sectors. Primarily the above issues are problems for members of our Bectu sector working in the creative industries, especially in film and TV. However they also affect other groups of workers as diverse as archaeologists and school inspectors and will encompass many hundreds of thousands of workers across the economy.

The people affected are often those who have been lauded by government in recent years for creating a 'flexible labour market' and a 'dynamic economy' and yet they now find that they have no protection when disaster strikes. In the longer term we need a reassessment of this part of the labour market, but for now it is essential that government steps up and helps these workers through the current crisis.

### PAYE freelancers

The creative sector (and many other areas) involve large amounts of 'freelance' workers doing a series of short-term PAYE contracts for different engagers over the course of the year. This is particularly common in film and TV where workers are often only contracted for a few days or weeks at a time. Workers in this situation might be able to qualify for the JRS under certain scenarios, but this depends on the exact timing of their contracts and the willingness of engagers to furlough freelance workers.

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A recent survey of our members found that **only 2% of this group of workers had been told that they were being furloughed** under the JRS while **47% were not in contract on 28th February** and so are unable to be furloughed. Two thirds of these workers (65%) typically work between 3 and 8 contracts per year with only 6% working one contract and 6% working more than 12 contracts.

There are different issues faced by this group:

1) **Problem:** People who can be furloughed as they were in a contract on 28th February but this contract expires shortly meaning they will then have nothing to fall back on.
**Solution**: The government have clarified the guidance to show that freelance contracts can be extended by employers on a rolling basis until the end of the JRS period. Government could go further and make it clear they expect this to happen.
2) **Problem:** People who started a new contract after the 28th February cut off and therefore are not eligible for furloughing,
**Solution:** Replace the 28th February cut off with the date of the announcement of the JRS on 20th March. Government have made clear that it is possible to return to the employer you were with on 28th February and ask to be furloughed but this does not help people who were not in employment on that date but started a contract in early March.
3) **Problem:** People whose employers refuse to furlough them because they are not a permanent staff member.
**Solution:** Treasury must make clear that this is not acceptable and that they expect these staff to be furloughed. There must also be easier provision of short-term loans to assist smaller employers who are reluctant to furlough for cash-flow reasons.
4) **Problem:** People who regularly work PAYE contracts as their main source of income but were not in a contract on 28th February and did not start another contract after that date. This is the biggest issue for PAYE freelancers and our latest survey shows around half of all those who work in this way in the film and TV sector are in this predicament.
**Solution:** For those who have a previous employer (ie before February) that might be willing to furlough them then the Treasury could change the guidance to allow this to happen, however this will be a minority as employers are unlikely to wish to furlough past employees and many production companies cease to exist once the production is over and so would be unable to furlough workers anyway.

   A better solution would be for the Treasury to **set up a new Freelance Worker Income Support Scheme** using the PAYE data they have to calculate average earnings for people who declare as 'PAYE freelancers' and compensate them at the 80% rate directly without going through an employer's payroll system (this could be done like a tax rebate). Where furloughing under the JRS is possible this would still be encouraged. The difficulty will be verifying those who are eligible and those who are not, however again the historic PAYE data should prove helpful in avoiding fraud, although there will be issues around new starters who will have only a limited record of working in this way. Unions and employers should be consulted on creating a system for verifying these workers to help to avoid fraud.

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## The newly self-employed

The SEISS works on the basis of tax returns for 2018/19 or the average from over the last three tax years. The biggest losers in this system are those who have declared themselves as self-employed in the last year (since April 2019) and do not have 2018/19 tax records at all or they do not accurately reflect their income. The Institute for Fiscal Studies estimates there are 650,000 people in this situation.

**Solution:** As well as extending the deadline for filing 2018/19 returns for four weeks, the Chancellor should allow start-ups to submit their 19/20 returns during April and have their income assessed on this basis.

## Personal Service Companies (Limited Companies)

**The problem:** Nearly two million workers in the UK are set up as Personal Service Companies (PSCs). This is often the only option in the industries they work in, and we know some have been forced into this position against their will by engagers, however it leaves them unable to fully access either the Job Retention Scheme or the Self-Employed Income Support Scheme because they will take most of their income in dividends from their own company. The government have said they can use the JRS to furlough themselves from their own company but this will only cover a fraction of their actual income (on average around 24% according to our survey). The issue for the Treasury is the difficulty of distinguishing PSC dividend income from income from other dividends and designing a system that does not reward people for dividend income not derived from PSCs.

Our survey revealed that the average dividend income from PSCs was £38,000 meaning that an 80% income replacement would be around the level of the £2500 monthly cap. In order to accrue significant tax benefits from operating as a PSC it is necessary to earn significantly more than this, demonstrating that these workers are mostly not benefiting from a lower overall tax burden.

**Potential solutions:**

**Option 1 (Dividend Voucher):** Directors of PSCs will have Dividends Vouchers issued whenever company pays a dividend listing, among other things, the name of the shareholder, number of shares held, and amount of dividend per share. These are normally simply used to assist the self-declaration process but could be used (in combination with self-assessment returns) to verify how much dividend income is coming from a worker/director's own PSC. For ease the systems could operate through self-declaration and random sampling by HMRC to minimise fraud potential.

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**Option 2 (Companies House):** The majority of those set up as PSCs will submit a self-assessment return which will include their different income streams including dividend income. This will not detail the source of the dividend income which could also include dividends from other investments. However this information could be combined with the balance sheet of the PSC (which should have been submitted to Companies House) which will detail shareholder funds (which should be helpful given these are largely single-shareholder companies). This can further be verified using the Profit and Loss Accounts submitted to HMRC with the CT600. These pieces of information taken together should therefore be able to give a reasonably accurate picture of dividend payment from the PSC to the director which should allow an income replacement scheme to operate. The need for both a self-assessment return and a balance sheet should make the system immune to potential fraud.

## Periods out of work

Self-employed workers who have taken time off for maternity/paternity or due to sickness in the last three years will have lower average incomes for these reasons and will be unfairly punished by the design of the scheme. We understand that the Treasury does not intend this to be the case but the fact remains that there is no current remedy. These workers have already suffered limited protection on these issues compared to employees and now face the situation of double determined as they are punished a second time under the SEISS.

We are open to solutions the Treasury might have for solving this situation. One possibility might be allowing workers to choose the highest of the last three years rather than the average over three years when calculating average income, or by excluding certain periods from the calculation of the average.

## The SEISS profit cap

The £50,000 upper threshold in the SEISS is difficult to justify when there is no equivalent in the JRS. Many people in the creative industries work in London and the South East and fall the wrong side of the threshold, despite not being 'super rich'. Their savings are their pensions and the money they have dutifully put aside to pay the next tax bill due which was due on 31st July (now delayed to January).

We understand the government's desire to exclude very high earners but the current threshold captures people who are in real hardship as they have no prospect of work for many months. A single parent with £51,000 in profit would receive nothing while a couple each on £49,000 would receive £5000 per month under the scheme. **It cannot be right that these people suffer such a huge economic hit simply in order to exclude a minority of people who do not need help.** The cap of £2500 a month already limits the support the wealthy can receive and the upper threshold is unjustifiable.

**We propose that the cap should be removed or failing that should be raised substantially so that it only excludes the genuinely rich.**

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## Universal Credit savings cap

An issue which has been raised repeatedly with the union is the savings cap built into the Universal Credit system which dramatically tapers payments when the claimant has over £6,000 of savings. Many self-employed workers will breach this threshold as they use savings as their pensions and they will have been saving for the 31st July tax deadline (which has now been postponed).

It is simply wrong to punish workers for having saved for retirement or to pay tax. And forcing workers to raid their own pensions or tax savings to get through the next few months would only store up even bigger problems in the future. This savings limit should be temporarily suspended for the duration of the crisis.

# Case Studies

**The newly self-employed**

Emily, make-up artist

I am now a fully self-employed makeup artist, I have only submitted two tax returns so far for my first two years of starting out after graduating. In those first two years I wasn't making great money, still establishing contacts in the film and TV industry. Therefore I was also doing temp office work to make money whilst I slotted it around my makeup work which was either unpaid or for a very small amount.

This past year I have been entirely self-employed with no temp work or other source of income and was due to submit my tax return in April for this. However under this new scheme, the majority of my income has not likely come from self-employment. Even though this past year it had entirely and I have doubled my income. I am extremely worried that I am not then included in this scheme despite losing all my work that I was booked to do.

Rob, freelance film maker

I was previously in full time employment until early August 2018, I officially signed up as a sole trader in late September or early October and naturally it took a little bit of time to start generating business, so my earnings from that first half of the tax year 18-19 are significantly lower than 19-20 which is actually based on a full year of trading, although at the time of writing this the 19-20 tax year hasn't closed yet.

What I've read is that at least half of your income that you're presenting to the government will have to be from the self-assessment year 18-19, of which I only operated for about 5/6 months, and I also spent a lot of money on business expenses getting my operation up and running, so upon submitting my tax return I barely turned a profit and didn't have to pay tax on my earnings. As the government have stated the support provided will be based on profit, I'm likely to receive a very small amount as it isn't pro - rata and my earnings for a proportion of the year will be treated as earnings for a full year.

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So for the newly freelance / self employed people the government are pledging no fixed support as yet and although I am eligible for Universal Credit it won't be anywhere the 80% of my average earnings based on the last year, so I really hope that they offer some support to the newly self-employed, because I am likely to have to move out of my home very soon unless the situation changes.

Since the coronavirus I've lost a contract with a retained client that would've guaranteed me at least 4 months of work, no work for the foreseeable future and no income until I can get onto the Universal Credit which is unlikely to cover as much as my living expenses in my rented property which is £600 a month including all bills.

If the government would consider accepting income from the latest tax 19-20 year I and lots of other newly self employed people would be entitled to a much more reasonable amount of support.

**PAYE Freelancer**

Claire, TV researcher

I am a researcher working in the television industry on a freelance PAYE system designed by HMRC. I have not worked since mid Dec as this is a quiet time around the television industry every year, and now all work in television has been cancelled because of Coronavirus. I have paid income tax on my earnings this year (sometimes on an emergency tax code, or several different ones) despite not earning over the Personal Allowance limit. My partner and I have saved £10,000 over the past two years so we can buy our first home and my partner is in full time work, but only earns £14,500 annually. It seems this is now going to count against us for trying to get on the property ladder. I have applied for Universal Credit but an online calculation is telling me that all I will be entitled to is £74 a week Jobseeker's Allowance which is based on my NI contributions.

Rose, TV researcher

I am freelancer working in TV. I was working on a contract for a series of a TV show which ended on 25th of February, I received my final pay slip on 28th February. The next season was due to start filming in May and I had already signed a contract to work on it. These contracts are relatively long and are very rare in this industry. To bridge the gap I was planning on working a series of very short contracts. I had a few days of work with a different company from the 10th of March that was due to be extended however the production was shut down due to the pandemic.

I am now in a situation where my main employer cannot furlough me as I left my contract with them on 25th February due to natural expiry and I am not yet under contract with them for the next series (which will almost certainly now be delayed). The company I worked for in early March also cannot furlough me as I was not contracted with them on 28th February. Something must be done for people like me who fall through the cracks. I have a continuous PAYE history and colleagues who were still under contract with my previous employer on 28th February are being furloughed.

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**Limited company/PSC**

Claudia, film industry

I am not eligible for the income support for workers as I invoice through my limited company and technically I am employed by that company and no salary has been allocated as I am paid with dividends.

All this means that I form part of the 5% of people who are not covered by the latest offer from the Chancellor.

Like everyone else in the film industry I have no way of earning a living while the restrictions are in place and all the studios are closed.

To cope with this I have drawn down £10,000 from my pension which I was hoping not to do as this means that the pot for the future is much smaller.

Evan Williams, 2019 Bafta winner, Current Affairs, Myanmar's Killing Fields, for Channel 4 and PBS

I provide current affairs material to Channel 4, BBC, PBS in the US and SBS in Australia from London, paying taxes and employing freelancers to do so. I have no other choice than to have a limited company to do this for insurance, employment and management reasons. It seems unfair that people like myself - and I am sure there are many running small production companies in the same way - are excluded from what is sound scheme.

Almost all the work I had booked for the next year has been put on ice as broadcasters deal with drop in ad revenue and having to dedicate immediate commissioning funds to films on the Covid outbreak. It's very uncertain any of that work will return and that creates a very uncertain situation for my income to feed our family with two small children where I am the sole earner while my wife has been taking care of the kids.

**SEISS cap**

Helen, TV producer

I am a freelance TV producer (schedule D/sole trader) working in documentaries, and after losing all my work this year due to the coronavirus epidemic, I now find myself in a situation where I have zero income.  My contract as a series producer on Channel 4's '24 Hours in A&E' was due to start this month but understandably that is now on hold for the foreseeable. I am actively trying to find work, but there is very little on the horizon, and much uncertainty about when the industry will pick up again.  As always it's been a quiet start to the year as far as works concerned so I really don't have anything in reserve.

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I live alone in South East London and have a hefty mortgage and bills to pay on my own. My net profit over the last 3 years was around £63k, and last year it was £60k. After tax I take home less than £50k which is not a particularly high amount for a single person living in London. I work exceptionally hard to be able to support myself as a single person living in London and save sensibly for my tax as I earn, and it now seems that is all I will have to live on during this time, and yet the government will still want that back at a later date saddling me with a considerable debt for the future. And those tax savings will only last so long.

I have applied for a mortgage holiday which I am still waiting to hear about but it seems I won't be entitled to any support from the government. If the treasury were able to lift (or abolish) the £50k eligibility threshold so many more of us would be able to access much needed support. I apparently fall into the bracket where the average person earns £200k, but £60-65k net profit (not net income after tax and NI) is a far cry from that figure and I feel like I'm being lumped in with the likes of celebrities earning inordinate sums. I'm not unique or niche, there are countless television workers falling through the gaps as well as builders, plumbers etc who will be in exactly the same position. It doesn't really feel as though there is true 'parity' with employees given where this threshold is set. This figure also does not take into account that Londoners are paid more than in other areas and have higher overheads.

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