



## **Guidance on the treatment, and corrective action necessary, in relation to errors regarding the coronavirus job retention scheme**

This guidance has been drawn up to help members working with clients who have made claims under the Coronavirus job retention scheme to help them comply with relevant professional obligations under Professional Conduct in relation to Taxation (PCRT).

### **Introduction**

This guidance is intended to provide assistance in relation to the steps to take if you become aware of errors in coronavirus job retention scheme (CJRS) claims. Whilst this guidance specifically addresses CJRS claims, the fundamental principles and requirements set out in PCRT would also apply to other COVID support administered by HMRC or other authorities, such as self-employment income support scheme (SEISS) claims.

This guidance has been reviewed by HMRC in January 2021 and addresses what we believe are likely to be the most common scenarios.

The guidance is intended to reflect the unusual circumstances surrounding the CJRS and HMRC has said that “We will not be actively looking for innocent errors in our compliance approach” in relation to CJRS.<sup>1</sup> The circumstances include:

- It was introduced quickly and at a time of great uncertainty and confusion
- Guidance was updated multiple times and often came quite late in the process
- Claimants were directed to follow the guidance issued by HMRC rather than the legislation (Treasury Directions)
- It is not easy to check claims by accessing historical guidance applying at the time a claim was made as much of this is now in National Archives rather than on gov.uk
- Errors will rarely come within the definition of being trivial (ie up to £200)<sup>2</sup>

Claims which were fraudulent must be repaid and, if not, the procedures in [PCRT help sheet C](#) would apply.

Other errors in claims should be addressed in the manner set out in the following table. Where a client is unwilling to take corrective action, the procedures in help sheet C would apply.

For the avoidance of any doubt, the ATT consider that CJRS claims fall within the scope of PCRT. We understand that HMRC also considers the principles set out are broadly consistent with the standards required under [HMRC’s Standards for Agents](#)<sup>3</sup>.

In cases of fraud or where clients refuse to correct innocent errors in relation to claims, members must consider whether they need to make an AML Suspicious Activity Report to the National Crime Agency. Please note that a member’s AML obligations are not met by making a report to the [Coronavirus fraud helpline](#).

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<sup>1</sup> <https://www.gov.uk/guidance/pay-coronavirus-job-retention-scheme-grants-back>

<sup>2</sup> [https://www.att.org.uk/sites/default/files/C\\_Errors\\_helpsheet\\_1\\_March\\_2019.pdf](https://www.att.org.uk/sites/default/files/C_Errors_helpsheet_1_March_2019.pdf) see paragraph 16

<sup>3</sup> <https://www.gov.uk/government/publications/hmrc-the-standard-for-agents/hmrc-the-standard-for-agents>

Further information regarding overpaid CJRS grants, including penalties applicable, can be found in [compliance check fact sheet 48](#). Information is also available on gov.uk on [how to Pay Coronavirus Job Retention Scheme grants back](#).

**Association of Taxation Technicians**

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## References

1. Page entitled 'Claim for wages through the Coronavirus Job Retention Scheme', section 'If you have not claimed enough'.
2. Page entitled 'Pay Coronavirus Job Retention Scheme grants back', section 'If you've overclaimed'.
3. For these purposes, HMRC consider a 'reasonable period' as ending, for companies, on the expiry of 12 months from the end of the accounting period in which the grant was received, and for other businesses on 31 January, after the end of the relevant tax year; or the date when an assessment is issued under paragraph 9, Schedule 16, if earlier.

<b>Results in:</b> <b>Scenario:</b>	<b>Too little grant claimed</b>	<b>Too much grant claimed</b>	<b>Insufficient salary paid to employee</b>	<b>Excessive salary paid to employee</b>
<b>Correct underlying facts, reasonable interpretation of the guidance in force at the time of the claim</b>	N/A - No further action is necessary as the claim would be considered to be correct. However, if another interpretation of the guidance is reasonable, which would result in a higher claim, it may be possible to increase the claim in accordance with the time limits and procedures set out on <a href="https://www.gov.uk">GOV.UK</a> . <sup>1</sup>	N/A - No further action is necessary as the claim would be considered to be correct.	N/A – If the grant represents 80% of salary and that has been paid to the employee then no further action is necessary in relation to the claim as it would be considered to be correct. However, action may be necessary by the employer if the employee is paid otherwise than in accordance with their furlough agreement / employment contract (outside the scope of this guidance).	N/A - If the grant represents 80% of salary and that has been paid to the employee then no further action is necessary in relation to the claim as it would be considered to be correct. However, action may be taken by the employer if the employee is paid otherwise than in accordance with their furlough agreement / employment contract (outside the scope of this guidance).
<b>Correct underlying facts, unreasonable interpretation of the guidance in force at the time of the claim</b>	The grant claim is incorrect. It may be possible to increase the claim, to correct it, in accordance with the time limits and procedures set out on <a href="https://www.gov.uk">GOV.UK</a> . <sup>1</sup> Further action is necessary in relation to the grant if this results in the employee being underpaid (see right).	The grant claim is incorrect. The overclaimed amount would need repaying in accordance with the time limits and procedures set out on <a href="https://www.gov.uk">GOV.UK</a> . <sup>2</sup>	If the employee has not been paid the minimum of 80% of a reasonable interpretation of pay for the time furloughed, this would invalidate the claim in respect of those employees affected and could result in an income tax charge arising under paragraph 8, Schedule 16 of the Finance Act 2020. However, the claim will not be invalidated if the employer makes good any shortfall to their employees within a reasonable period. <sup>3</sup>	Action may be taken by the employer if the employee is paid otherwise than in accordance with their furlough agreement / employment contract (outside the scope of this guidance).

<p><b><u>Incorrect underlying facts, reasonable interpretation of the guidance in force at the time of the claim</u></b></p>	<p>The grant claim is incorrect. It may be possible to increase the claim, to correct it, in accordance with the time limits and procedures set out on <a href="#">GOV.UK</a>.<sup>1</sup> Further action is necessary in relation to the grant if this results in the employee being underpaid (see right).</p>	<p>The grant claim is incorrect. The overclaimed amount would need repaying in accordance with the time limits and procedures set out on <a href="#">GOV.UK</a>.<sup>2</sup></p>	<p>If the employee has not been paid the minimum of 80% of a reasonable interpretation of pay for the time furloughed (in this case because of incorrect underlying facts), this would invalidate the claim in respect of those employees affected and could result in an income tax charge arising under paragraph 8, Schedule 16 of the Finance Act 2020. However, the claim will not be invalidated if the employer makes good any shortfall to their employees within a reasonable period.<sup>3</sup></p>	<p>Action may be taken by the employer if the employee is paid otherwise than in accordance with their furlough agreement / employment contract (outside the scope of this guidance).</p>
<p><b><u>Incorrect underlying facts, unreasonable interpretation of the guidance in force at the time of the claim</u></b></p>	<p>The grant claim is incorrect. It may be possible to increase the claim, to correct it, in accordance with the time limits and procedures set out on <a href="#">GOV.UK</a>.<sup>1</sup> Further action is necessary in relation to the grant if this results in the employee being underpaid (see right).</p>	<p>The grant claim is incorrect. The overclaimed amount would need repaying in accordance with the time limits and procedures set out on <a href="#">GOV.UK</a>.<sup>2</sup></p>	<p>If the employee has not been paid the minimum of 80% of a reasonable interpretation of pay for the time furloughed (in this case because of both incorrect underlying facts and an unreasonable interpretation of guidance), this would invalidate the claim in respect of those employees affected and could result in an income tax charge arising under paragraph 8, Schedule 16 of the Finance Act 2020. However, the claim will not be invalidated if the employer makes good any shortfall to their employees within a reasonable period.<sup>3</sup></p>	<p>Action may be taken by the employer if the employee is paid otherwise than in accordance with their furlough agreement / employment contract (outside the scope of this guidance).</p>

