



From NR
 Team: ESSC
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**Submission: CJRS Re-introduction – Final Decision Record
 For decision**

Issue

You are considering re-introducing a version of the CJRS in response to potential new economic restrictions to deal with the ‘Omicron’ variant. At the time of writing, the exact shape and duration of any potential restrictions is unclear, but our present understanding is that in England restrictions may look similar to the previous ‘Step 2’ in April, which included closure of hospitality and indoor entertainment.

Noting that the re-introduction of CJRS will set precedents for the future, you asked us to consider a scheme that limits more generous support (with lower employer contributions to furlough costs) to businesses whose premises are required to close and offers less generous support (with higher employer contributions) to other businesses.

Re-introducing a version of the CJRS in the outlined scenario may help minimise scarring – loss of productive job matches and firm closures – and enable firms to recover quickly once NPIs are lifted. However, it will come at substantial financial cost and risks inhibiting productive reallocation at a time when the labour market is tight. **Overall, our judgement is it would represent value-for-money, factoring in the anticipated restrictions and your decision to target higher support more tightly.**

Timing

Urgent – decisions are needed ASAP if you wish to be ready to announce the scheme at short notice should new restrictions be introduced.

Recommendations

We recommend you agree the key policy decisions and, if restrictions equivalent to ‘step 2’ are re-introduced, make an overall decision to proceed to announce the scheme, noting the economic, value-for-money, equalities, delivery and legal implications of this decision.

The key policy decisions you need to take are as follows:

Scheme rationale and duration	
Decision 1	Economic and fiscal implications – Can you confirm that you have considered the macroeconomic and fiscal implications of your decision to re-introduce a version of CJRS?
Decision 2	Targeting by generosity – Can you confirm that you wish to provide different levels of support (i.e. varied employer contribution rates) to businesses depending on whether or not premises are required to close by

	public health regulations?
Decision 3	First claims period – We recommend that the first claims period begins on the day of new restrictions being introduced in England, with payments backdated to this point. Do you agree?
Decision 4	Scheme duration and exit – Can you confirm that you wish to announce that the scheme would be available until 31 st January?
Employer eligibility criteria	
Decision 5	Legal closure requirement – We propose that where business premises are legally required to close their premises, as set out in public health regulations of one or more of the four governments of the UK, they can claim the higher level of support for the staff working at those premises. Do you agree and are you comfortable with the hard cases that result from this approach?
Decision 6	DA health regulations – For the duration of the scheme, where restrictions differ across the UK, you should note that some sectors may get higher support in the DAs than in England. Where DA's NPIs are in place before the scheme start date (before NPIs are introduced in England), we recommend not allowing premises closed by this legislation to claim for the period before the scheme's commencement (they will be able to claim once the scheme starts). Regarding future NPIs, your public line is that the scheme will close UK wide in January, noting you may come under considerable pressure on this. Do you agree?
Decision 7	DA handling – We recommend that political engagement with the DA's prior to any announcement, and that you will want to take a decision in the round about how to engage the DAs ahead of the package of announcements – noting the context of other support options you are considering including on the self-employed.
Decision 8	Exceptions to closure under health regulations – We propose that businesses can also claim the higher level of support for employees at a particular premises if the premises are required to close, but able to partially operate by an exception set out in the public health regulations. This includes, for example, hospitality venues which may serve outside or offer delivery and collection services. Do you agree?
Decision 9	Mixed-use premises – We propose that – in line with the public health regulations - where a business premises contains an element required to close, but the overall business premises can open, the overall business cannot claim more generous rate of support for workers at that premises. Do you agree?
Decision 10	Local closures due to workplace outbreaks – We recommend that businesses required to close a premises by Local Authorities due to workplace outbreaks should be excluded from accessing the higher level of support for that premises. Do you agree?
Employee eligibility criteria	
Decision 11	RTI cut-off date – We recommend that an RTI submission notifying payment in respect of each eligible employee must have been made to HMRC by the day before any announcement, for a claim to be eligible. We also recommend that the RTI start-date is set at 6 April 2020. Do you agree?

Decision 12	Employees working at closed premises – We propose that employers will be able to claim more generous support for employees that usually spend at least 60% of their time at the closed premises. Do you agree
Decision 13	Flexible furloughing rules – We recommend allowing employers to flexi-furlough employees, including whilst claiming the higher generosity. Do you agree?
Generosity of support	
Decision 14	Employee generosity – We propose to maintain employee generosity at the previous 80% level. Do you agree?
Decision 15	Cap on contributions – We propose that the cap for the maximum guaranteed payment to employees remains £2,500 (but employers can top up employees further if they wish). Do you agree?
Decision 16	Employer generosity – We think the judgement is finely balanced, and any contribution rate in the 5-10% range for the closed population and 20-25% range for the wider population seems reasonable. Can you confirm what rates you are minded towards?
Claims, compliance & transparency	
Decision 17	Claims service – We recommend that claims under the scheme move to being monthly and in arrears. Do you agree?
Decision 18	Pre-payment risking – We recommend that, for the verification of certain claims for more generous support, we extend the pre-payment risking window from 72 hours to 5 days, to help mitigate error and fraud provided the majority are paid within 72 hours. Do you agree?
Decision 19	Shareholder distributions – We recommend announcing that large employers should not make distributions, such as dividends, while accessing the grant, and set that expectation out in guidance. Do you agree? We may need to provide follow up advice very shortly on the nature of the requirement, so we can clarify the position for businesses in post-announcement comms.
Wider requirements	
Decision 20	Equalities implications – Can you confirm that you have considered the equalities impacts of your decisions in the design of this scheme?
Decision 21	State aid implications – Can you confirm that you have noted the state aid consequences of the preferred scheme design and do you agree with our proposed strategy of notification via BEIS’ umbrella scheme?

Annexes

Annex A – International comparisons

Annex B – List of hard cases

Annex C – Charts relating to value for money and costing analysis

Economic and fiscal context

1. In considering your decision to re-introduce a version of CJRS, you should note upfront that **the prevailing macroeconomic conditions are different to**

- previous periods of restrictions** – aggregate household and corporate positions have improved, the labour market is tight, supply is struggling to keep pace with demand and there is a significant risk of persistently above target inflation. Recent events have adversely affected consumer sentiment and activity, posing downside risks to growth, but the MPC’s judgement was that any associated restrictions are less likely to be disinflationary than previously, consistent with their decision to continue tightening monetary policy.
2. When the CJRS was previously in place during periods of strict NPIs, it supported a significant number of jobs, with take-up last winter peaking at 5.1m in January 2021. The majority (64%) of people furloughed at any point between March 2020 and the end of September 2021 were still in their original furloughed employment in October 2021, after the scheme had closed.
 3. **However, the CJRS came at a significant fiscal cost (£70bn over 19 months) and a job retention scheme that ties individuals to furloughed roles risks inhibiting presently high rates of reallocation** (job-to-job flows are at record highs) and exacerbating labour shortages (vacancies are c.300k above 2019 levels). Whilst new restrictions may also lead to rising unemployment even with support in place, we expect tightness and shortages outside of consumer facing sectors to continue and could be exacerbated by sickness / absences. If vacancy levels in close contact sectors and other market sectors fall in line with their proportional respective declines between pre-pandemic and the Q1 2021 lockdown, vacancies across the economy would remain above pre-pandemic record levels. There is little evidence that closing the CJRS led to a noticeable loosening of labour market tightness, but nonetheless these considerations will affect the VfM of any future scheme.
 4. **Overall, we therefore judge that there should be a high threshold for re-introducing job retention support** – likely only where the economy is facing closures across multiple sectors. Further, in these scenarios, we think that the current macroeconomic and fiscal context points towards having a more targeted scheme that is closely matched to the timing of restrictions, in order to ensure VfM. These factors will need to be weighed against the need to contain any economic fallout of public health measures in a timely, deliverable and politically viable manner.
 5. You should also consider the fiscal implications of your decision to re-introduce CJRS. The value-for-money section sets out estimated costings if NPIs and furlough take-up were to be at levels equivalent to April 2021 (when we moved to step 2). This suggests that **monthly gross costs of the scheme would be significant – an estimated £2.1bn** if the closed population paid an employer contribution of 5% and the open population paid a government contribution of 20%.
 6. **You are receiving separate advice on the financing risks associated with your emerging package of economic support**, that comes on top of the existing record net financing requirement. As set out there in more detail, you should note the risks associated with a significant set of fiscal interventions

including the CJRS, particularly as the Bank of England continues to tighten monetary policy, pointing to inflationary pressures emanating from the labour market.

7. Having a more targeted scheme would help limit the fiscal and economic risks outlined above. In general, the more targeted a job retention scheme is towards valuable and / or medium-term viable job matches at highest risk of redundancy, the better the case for intervention. A scheme that targets more generous support to closed businesses where redundancy risks are highest, reducing deadweight and costs, and requires a meaningful employer contribution from other businesses, to incentivise them to release unproductive labour, would improve the VfM of the scheme. However, a limitation to this targeting is that for the sectors in scope like hospitality, skill demands and job match value are low).

Decision 1 – Can you confirm that you have considered the macroeconomic and fiscal implications of your decision to re-introduce a version of CJRS?

Key policy design decisions

8. The below paragraphs summarise previous advice and recommendations made in relation to the policy design of the scheme. **Where not explicitly covered in this advice or noted in paragraph 38 as an issue we plan to return to, we propose the scheme works the same as the previous iteration of CJRS.**
9. **Differentiating generosity between businesses.** We have considered several overarching scheme design models when discussing the potential for re-introducing CJRS. We firstly considered the merits of different ways to target support to the most impacted businesses in previous phases of advice, concluding that the simplicity of basing targeting off the health regulations (and mandated closures) was preferable to sector targeting (which creates numerous boundary and definitional challenges) and a financial impact test (where we found data was unavailable or lagged). We then more recently considered the costs and benefits of a narrower list of options:
 - a. An untargeted scheme with a single employer contribution rate (e.g. 15%). This costs £2.1bn and is simplest to deliver but risks pricing out some badly affected firms and embedding a precedent of expensive untargeted support.
 - b. A targeted scheme that limits support solely to closed business premises. This option is cheapest at £800m pcm and limits distortion but risks substantial hard cases as every business that is heavily restricted but not closed receives nothing.
 - c. A scheme that differentiates between closed and other businesses in generosity of support (e.g. 5% vs 20% EC). This is similarly priced as option (a), but balances limiting hard cases and minimising economic risks. It also establishes a precedent of open businesses getting less support, which may help limit costs sustainably in downside scenarios. **On this basis, you have stated that you are inclined towards option (c).**
10. As in the past, all of these options would exist alongside other forms of government support, e.g. tax reliefs, rent support.

Decision 2 – Can you confirm that you wish to provide different levels of support (i.e. varied employer contribution rates) to businesses depending on whether or not they are closed?

Duration of support

11. First claims period. You will need to decide what date employers can start furloughing their staff and when the first claims period begins. You indicated that your preference is to implement the scheme when new restrictions are announced in England. It will be easier to end the scheme if tied to a period of restrictions, and this will be consistent with our stance that the current level of restrictions (i.e. Plan B) do not warrant a CJRS-style intervention. However, tying support explicitly to restrictions in England may be difficult to justify to the DAs and doing so explicitly will be unhelpful for the Union narrative. Another approach may be to backdate claims to an earlier point however to allow claims for periods where widespread restrictions were not in place; or alternatively, given you are considering 31st January as the end date, introducing support some days after English restrictions, such as 1st January as the start date; however, this will mean a period of time where businesses do not receive support.

Decision 3 – We recommend that the first claims period begins on the day of the announcement, with payments backdated to this point. **Do you agree?**

12. Scheme duration and exit. You need to decide how long the scheme will be in place and how it will be removed. Rather than tapering support away slowly over time, as with CJRS exit last year, there is a case to remove all support on a set date given we expect restrictions to be in place for a much shorter period. You could set this date as the point at which closure restrictions end or at calendar date. One risk of the former is that such restrictions may be in place in England and the DAs for different periods of time. You are minded to pick a clear date – 31st January – for the end of the support rather than the day restrictions are removed. This may leave a small cushion between the end of closures and removal of support. It also keeps any decision on extending support notionally separate to decisions on extending restrictions, though in practice you'd want to consider them together, and works with different versions of the announcement on exit strategy from the restrictions (i.e. whether it's a date, review point etc). You should note that you will come under pressure on what support is available after the end of January to give businesses certainty, including from the DAs.

Decision 4 – Can you confirm that you wish to announce that the scheme will be available until 31st January?

Employer eligibility

13. Legal closure requirement. To determine employer eligibility to the higher government contribution to wages, we propose to follow a simple rule – where

business premises are legally required to close, as set out in public health regulations of one or more of the four governments in the UK, they can claim the higher level of support. Based on our understanding of emerging proposals for public health regulations in England, this definition would capture the following businesses:

- Nightclubs and night-time entertainment
- Hospitality, incl. pubs, restaurants and bars
- Indoor entertainment e.g. cinemas and theatres
- Indoor and outdoor large events, incl. sports events and live performances

14. This proposal aims to target more generous support to sectors likely to be most severely restricted and at risk of making redundancies, helping limit deadweight and costs. It also has the benefit of linking more generous support to the duration of mandated closures, which helps manage precedent risks and means that as NPIs are lifted more generous support is automatically removed. This definition is also relatively straightforward for employers to understand and HMRC to deliver.

15. However, defining eligibility to more generous support based on legal closure risks hard cases. A detailed list of hard cases is set out in in annex 2, but some key ones, which you will need to ensure you are comfortable with, include:

- Mixed-use premises where an element of a business premises is closed but the overall business premises is able to open, meaning they are restricted to less generous support.
- Specific workplace outbreaks could result in business premises being closed by LAs, but they'd only be eligible for less generous support if they're not closed nationally.
- Several sectors like aviation and travel agents have seen major levels of GVA decline in equivalent past restrictions but will not be in scope of more generous support and risk being priced out by the less generous support.
- Supply chains (e.g. breweries of closed pubs) who may also be affected by restrictions will not be eligible for more generous support, although it would be highly challenging in practice to define these firms and bring them into scope.
- For employees at a closed premises working through an agency or umbrella company, their employer would not be eligible to claim for more generous support on their behalf, as their employer's premises has not been closed, meaning that it is relatively more expensive to retain them than other individuals who may be working at the same closed premises.

Decision 5 – We propose that where business premises are legally required to close, as set out in public health regulations of one or more of the four governments of the UK, they can claim the higher level of support. **Do you agree and are you comfortable with the hard cases that result from this approach?**

16. Closures by Devolved Administrations. NPIs are set by the relevant Devolved Administration in SW&NI. Allowing businesses in SW&NI to access the more

generous tier of support when they are required to close their premises by DAs' public health regulations creates a level playing field but may create an incentive (and economic and spending risk) at the margin for DAs to close more businesses. This may mean different sectors are eligible for support with lower employer contributions in SW&NI compared to England. If DAs' NPIs do not legally close business premises, then businesses will only be eligible for the support with higher employer contributions - so there is a handling risk with the DAs that we are seen to be trying to influence their NPIs, to be compatible with the scheme. As covered previously, it is important for HMRC to operationalise the targeted scheme, that we use the health regulations definitions of closed premises in order to assess who is eligible for the support with lower employer contributions.

17. The decisions around what to do when restrictions are in SW&NI but not England can be broken down into two aspects:

- a. If SW&NI restrictions come in sooner than the scheme's start date:
 - Backdating claims to when DA regulations came in would create a precedent risk of providing support to a sub-sector in one of the DAs and could add extra complexity to the system. However, not providing support will provide presentational risks.
 - Employers which are legally required to close through the DA regulations would still be able to claim the support with lower employer contributions for employees at those premises, once the scheme is commenced.
- b. If SW&NI restrictions last longer than in England and beyond the planned scheme end date of January 2022, you will be criticised for making a policy for England and potentially come under pressure to extend the scheme for those under restrictions in the DAs, which would include two options:
 - In a scenario that **the overall scheme remained open**, then businesses legally required to close their premises in SW&NI could continue receiving support with lower employer contributions, whilst those not legally required to close UK-wide would be able to continue to access standard support.
 - Alternatively, you could **extend the scheme for closed businesses only**, so that businesses in SW&NI which are legally required to close for longer than January 2022 continue to receive support with lower employer contributions. This may incentivise DAs at the margins to keep things shut (although there will of course be strong wider incentives to lift restrictions as soon as they can). But it would also come under criticism that other open businesses in SW&NI and England that are still facing low demand won't have access to the less generous rate of support.

On balance, we recommend that the scheme will close UK wide in January, while continuing to keep things under review as the health situation evolves.

Decision 6 – where restrictions are in place across the UK, you should note that some sectors may get higher support in the DAs than in England.

We recommend not allowing premises that were closed by DA legislation before the scheme start day to be allowed to claim for the period prior to commencement. They would still be able to claim the support with lower employer contributions for employees at those premises once the scheme has started. However, you should note you are likely to face handling pressures on this issue.

Do you agree?

18. **DA Handling.** For HMRC to operationalise the scheme, DAs will need to word their health regulations so that employees normally working at the business premises which are deemed legally closed can receive the higher level of support. If they do not, there is a risk that DA businesses under similar restrictions to English businesses may not be able to access the support with lower employee contributions. This is also a significant change from previous versions of the CJRS given that eligibility for more generous support is tied to regulations, so it is important we engage early with the DAs on this. Consultation with the Northern Ireland Executive in particular, certainly before the Directions are made, will also satisfy the expectations of the Northern Ireland devolution settlement.
19. We recommend that political level conversation on the measures across the package should happen before the day of announcement. We also recommend follow up conversations to discuss the links between regulations and the scheme. You should note we cannot realistically expect DA officials not to brief their ministers on this, and whilst we expect that the DAs will engage constructively, we should expect some push on details of the scheme.

Decision 7 – We recommend that political engagement with the DA’s prior to any announcement, and that you will want to take a decision in the round about how to engage the DAs ahead of the package of announcements – noting the context of other support options you are considering including on the self-employed.

20. **Exceptions to closure under health regulations.** Under Step 2 England regulations, there are exceptions where business premises included in the list required to close can partially operate. This includes, for example, hospitality firms that are closed but allowed to serve food and drink outdoors or off-premises (i.e. deliveries and collections). Under our proposed definition, as these business premises are legally required to close, they’d be eligible for higher support and we’d clarify this in comms. There may be a risk of this being viewed as providing preferential treatment to hospitality in particular, given some parts (e.g. fast food chains with a delivery business) have fared well and the sector as a whole has been less impacted than some open sectors (hospitality saw -31% GVA decline in April 2021 vs air transport at -90%). However, we judge that this approach is defensible and we are simply hanging eligibility off the regulations and not making sector-by-sector judgements.
21. There are wider exceptions (see Annex B) that apply to a smaller number of business premises that are required to close but can remain open to perform specific non-revenue making functions. For example, a theatre that remains open

to provide voluntary services for the homeless. These cases would work in the same way – as the premises are required to close, but the business is partially operating by exception, they are eligible for higher support.

Decision 8 – We propose that businesses can also claim the higher level of support if the premises are required to close, but able to partially operate by an exception set out in the public health regulations. This includes, for example, hospitality, which may serve outside or offer delivery and collection services. **Do you agree?**

22. Mixed-use premises. There is a question of how to treat ‘mixed-use’ premises, a hard case where only part of the activity on a business premises is subject to closure. Examples include a garden centre with a café or hotels containing a bar or restaurant. Step 2 England and previous DA health regulations define the mixed-use issue as where a larger business premises contains a smaller element required to close, but the overall business premises can open. We propose to mirror this treatment, ensuring consistency with the regulations and limiting access to higher support to circumstances where the overall business premises is required to close. This would leave the judgement with the employer, as they have had to under previous lockdowns. The outlined approach may leave discrepancies in treatment: if bars are shut then a standalone bar can claim higher support for its staff but a hotel with a bar can only claim lower support in respect of its bar staff. However, these businesses are subject to differing constraints on their ability to operate, as the hotel still has revenue sources, so this differential treatment seems justified.

Decision 9 – We propose consistent with how we expect the regulations to operate, that where a business premises contains an element required to close, but the overall business premises can open, the overall business cannot claim more generous rate of support. **Do you agree?**

23. Local closures due to workplace outbreaks. There may be some closures of business premises legally mandated by Local Authorities who now have powers to deal with specific workplace outbreaks, and there is a question as to whether these closed business premises should be eligible for the higher support. Since the powers were introduced, there have been 330 uses in England: 220 of these were in 2020 and 110 in 2021. We feel there are arguments against the inclusion of such closures: eligibility for higher support is based on cross-economy and whole sector closures, whereas it’s likely LA mandated workplace closures are limited in scope and for short periods; LAs may themselves be able to provide other support; and it would add complexity to delivery.

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Decision 10 – We recommend that business premises required to close under local closures due to workplace outbreaks should be excluded from accessing the higher level of support.

Do you agree?

Employee eligibility

24. **RTI cut-off.** As with previous iterations of CJRS, there will need to be a cut-off date before which a RTI submission notifying payment in respect of each employee must have been made to HMRC, for that employee to be eligible. This is to avoid employers setting up a new PAYE scheme or inflating the number of employees on their payroll, and fraudulently claiming the grant. To maximise the number of employees who have recently joined their employer that are captured, whilst still reducing the scope for employers fraudulently making submissions in response to the announcement of the new scheme, we propose that the cut-off date be set at the day before the announcement that CJRS support may be re-introduced. Some employers will have taken on employees but are yet to notify HMRC of their employment. These individuals would be a hard case.
25. **RTI start date.** Alongside, we need to include a cut-off date after which an RTI submission must have been made, to avoid allowing dormant employees who have not been paid by an employer for some time into scope. This date was previously set as 19 March 2020. We propose setting the earlier cut-off date as 6 April 2020, based on work undertaken last year on JSS. This aligns with the start of the previous tax year and ensures that the infrequently paid, and those on extended periods of statutory leave, are brought within the scope of the scheme.

Decision 11 – We recommend that an RTI submission notifying payment in respect of each eligible employee must have been made to HMRC by the day before any announcement, for a claim to be eligible. We also recommend that the RTI start-date is set at 6 April 2020. Do you agree?
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26. **Employees working at multiple premises.** Some businesses may have more than one premises – one of which is open and one of which is required to close, with employees potentially working some of the time at one premises and some of the time at the other. We propose that for a business premises to be considered an employee’s primary workplace, an employee must usually spend at least 60% of their time working at the closed premises. The 60% figure follows the approach for employer NICs relief for Freeports and balances ensuring an employee works for the majority of their time at a closed premises against a stricter requirement which could exclude some employees. For the claims period, an employee would either be claimed for more generous support or less generous support, based on the 60% rule. This information would be self-declared and HMRC would be unable to check whether an employee has actually previously worked 60% of their time at a premises. However, the figure will aid an employer in making decisions around which level of employer contribution should apply to employees.

Decision 12 – We propose that employers will be able to claim more generous support for employees that usually spend at least 60% of their time at the closed premises. Do you agree?

27. Flexible furloughing rules. In JSS, we were intending to require that all employees being claimed under the ‘closed’ element of the scheme had to be full-time furloughed. However, we have re-considered this position and now propose an alternative approach. If business who have premises required to close but can partially operate by exception (e.g. takeaways) are eligible, then it would be sensible to allow them to access flexi-furlough to support them in doing productive work where possible. Removing ability to flexi-furlough may disincentivise economic activity at the margin. We also now have evidence from Summer 2020 that whilst the move to flexi-furlough increased errors (calculations became more complex), the overall levels of fraud in the scheme decreased, as employers could flexi-furlough employees for the few hours they worked, and only claim when they didn’t.

Decision 13 – We recommend allowing employers to flexi-furlough employees, including whilst claiming the higher generosity. **Do you agree?**

Generosity of support

28. Employee generosity level. There is a question as to whether we maintain employee generosity at the previous 80% level. Reducing it would lower costs and incentivise employees to search for alternative work where possible. However, it would have a negative impact on household incomes, especially as the majority of CJRS claimants earn less than 20k p.a. Indeed, the ONS found that more than one-quarter of households whose household head is an employee did not have sufficient financial assets to cover a 25% fall in household employment income for three months or more. In the context of a downside scenario, it will also lead to strong external criticism, as we’ve previously provided 80% in a similar context. Therefore, we’d recommend maintaining employee generosity at 80.

Decision 14 – We propose to maintain employee generosity at the previous 80% level. **Do you agree?**

29. Cap on contributions. We have considered the option of amending the £2,500 pcm cap on the maximum combined government and employer contribution to furlough costs. The rationale for the cap is to reduce scheme costs in a way that doesn’t have a welfare impact and 7% of claims had earnings above the cap.

- Germany and Austria have higher caps –£6000 and £4672 a month – and raising our cap may support more high-wage/skilled employees. However, it risks increased cost and deadweight (and there is no evidence that the sum the employee receives top little to ensure job retention).
- Lowering the cap would conversely reduce take-up amongst higher paid (and potentially higher value matches). It might help save costs, but even if the cap were reduced to e.g. £2,000 pcm it would have a smaller impact.
- Across both options, any changes may cause confusion for employers familiar with the current calculations.

30. Overall, we do not recommend amending the cap. As before, this cap does not prevent the employer voluntarily topping their employee up to receive higher pay.

Decision 15 – We propose that the cap for the maximum guaranteed payment to employees remains £2,500 (but employers can top up employees further if they wish. **Do you agree?**)

31. **Employer generosity.** We are considering introducing employer contribution on both the closed and wider populations. There are a series of key factors you should consider in making your decision on the appropriate levels:

- Economic context: The labour market conditions entering this phase of the pandemic create a stronger case for facilitating reallocation by imposing a cost on job retention, especially as other sectors like social care are facing acute shortages.
- Evidence of impact: Our models tentatively assume a 5% increase in employer contributions reduces take up by c. 1.5% or 50k jobs based on Step 2 take-up (3.7m). Employer contributions then decrease costs by lowering take-up and reducing the government contribution. We estimate a 5% increase may reduce costs by £60m pcm for the closed group and £130m pcm for the wider group.
- Firm financial health: some firms have seen a period of revenue recovery but others (e.g. SMEs) saw debt rise substantially (c. 45% by May 2021) or face major revenue impacts (e.g. food and beverages and creative arts and entertainment respectively saw a -34% and -40% GVA decline in April 2021 vs pre-Covid).

32. **Employer generosity for closed population.** The impact of employer contributions on a closed population is uncertain, given the lack of precedent under CJRS. However, there are several considerations that can drive us towards a position:

- Around 45% of employers (Dec 2020 data) would pay nothing to furlough employees who fall under the NICs threshold. As this group have no incentive to release unproductive labour, this suggests a non-zero percentage contribution.
- However, the hospitality and leisure sectors have typically low pay, indicating firm-specific human capital and job-match value is low. When combined with the large impacts restrictions may have (e.g. modelling based on April 2021 GVA data suggests 51-60% of the food and beverage sector will rely on cash reserves to fund labour at 20% employer contributions), it indicates a higher contribution may risk excess redundancies (though this risk is lower if restrictions are only in place for a short period). This suggests no more than a 5-10% contribution.

33. **Employer generosity for wider population.** We have limited evidence of the effect of employer contributions on this group either, as we previously did not

require them under a step 2 scenario (although that was during an elongated period of restrictions). We can think about employer contributions in a similar way for this population too:

- Businesses in this population can at least partially operate, and many sectors captured will not have seen significant turnover impacts. Current labour market conditions also create a stronger case for preventing labour hoarding. This suggests a relatively high floor for the contribution rate (c. 15-20%).
- However, it is worth noting that the wider population contains some sectors who've seen major turnover impacts throughout the pandemic (e.g air transport had -90% GVA decline vs pre-Covid in May 2021). In JSS Open, we got significant challenge from these 'effectively closed' businesses when we introduced a 33% contribution because it priced them out of support, which suggests having a ceiling for the contribution rate at c. 25%.

Decision 16 – We think the judgement is finely balanced, and any contribution rate in the 5-10% range for the closed population and 20-25% range for the wider population seems reasonable. **Can you confirm what rates you are minded towards?**

Claims, compliance and transparency

34. Claims service. We recommend moving claims to be monthly and in arrears to shorten delivery timelines and reduce error and fraud. We judge this to be important for effective delivery of targeting a 'closed' population as there may be fluctuations in NPIs, and employers and HMRC need to know what restrictions were in place in the applicable claims period. Moving to claims in arrears would more broadly reduce error and fraud by limiting errors and preventing the element of fraud where the employer receives the grant but does not pass it on (as employers will have already paid employees). It also allows HMRC to conduct some RTI checks pre- not post-payment. There may be cash flow impacts for firms who [used to?] claim in advance, but many firms have recovered revenue over the summer and if we announce the scheme in advance, employers will know to hold onto staff in knowledge of future support.

Decision 17 – We recommend that claims under the scheme move to being monthly and in arrears. **Do you agree?**

35. Pre-payment risking. For previous iterations of CJRS you decided on a 72-hour window in which to conduct pre-payment checks. Claims not showing signs of being fraudulent or incorrect within this period were automatically approved and paid out, including where checks could not be completed within the window. To mitigate against error and fraud, we recommend introducing new pre-payment checks in addition to those in place in previous iterations of the scheme. To complete these, we recommend extending the risking window to five days where we cannot verify eligibility to the higher generosity within the 72-hour window. HMRC propose to complete manual checks within 2 working days but to hold claims longer if needed. HMRC also recommend they pay out, provided at least one data point or manual validation has been found. Where no evidence that the

employer should claim the higher rate is found, HMRC will invite employers to claim the lower rate.

Decision 18 – We recommend that, for the verification of certain claims for more generous support, we extend the pre-payment risking window from 72 hours to 5 days, provided the majority are paid within 72 hours. **Do you agree?**

36. Shareholder distributions. You requested advice on how to limit distributions and other returns of cash to shareholders, such as dividend payments or share buybacks, by businesses using the CJRS. There are several challenges with making this a legal requirement: companies may wait until after the requirement ends to pay out, HMRC has limited ability to enforce, and some cases require exclusion (e.g. where already announced. In any circumstance, we think it would be proportionate to restrict the condition to large employers (based on relative claims size and presentational risk of shareholder distributions being made whilst receiving support). We propose to do further work on the scope, duration and stringency of any requirement, but for the announcement we suggest setting out that large employers should not make distributions, such as dividends, whilst accessing the grant.

Decision 19 – We recommend announcing that large employers should not make distributions, such as dividends, while accessing the grant, and set that expectation out in guidance. **Do you agree? We may need to provide follow up advice very shortly on the nature of the requirement, so we can clarify the position for businesses in post-announcement comms.**

Outstanding decisions post-announcement

37. There are a number of areas where there are still outstanding policy decisions, which will need to be taken after the initial announcement and prior to publication of the guidance. There is some presentational risk associated with proceeding with an announcement prior to taking these decisions, and we expect pressure to announce further detail in areas, however we judge that the information covered in the decisions above is sufficient to enable businesses to know what support they can get. **Are you content to proceed with the announcement without these decisions having yet been taken?**

38. The outstanding policy decisions include but may not be limited to:

Employer eligibility and conditions

- The precise scope, duration and requirement of any restriction on shareholder distributions.
- Whether we prevent businesses who are in PAYE debt to HMRC from being able to access support.

Employee eligibility and calculations

- What cut-off date is in place for when an employee must have transferred by under TUPE provisions to be eligible.
- What updates we need to make to reference pay and usual hours calculations to account for employees more recently hired by the employer.

Claims and transparency

- Considering the scope for further publication of claims information to ensure transparency. We will at a minimum publish employers' names and amounts claimed (in bands), as we did previously in CJRS.

Interactions with other schemes/forms of support

- Whether employees on the scheme would still be eligible for Working Tax Credits, even if they don't work the amount of hours they would usually need.

Value for money assessment

39. This advice assesses the value for money case for introducing a version of the CJRS that enables employers required to close by Coronavirus public health restrictions to claim back a higher proportion of employees' wages. This advice assesses VfM by:
40. **Drawing on evidence from the original CJRS to assess the vfm case for intervening relative to doing nothing.** Overall, this suggests that there is a strong vfm case for intervening when implementing restrictions on businesses.
41. **Comparing the changing context and the impact on the case for intervention.** The strong labour market, inflationary pressures and fiscal and financing risks weaken the case for intervention. However, if restrictions on businesses are expected to be very short-lived this strengthens the case.
42. **Comparing the vfm case for a more targeted CJRS relative to an untargeted scheme.** Fundamentally, we assess that a scheme that is more generous for employers required to close and, therefore, focused towards valuable job matches with a high risk of redundancy under restrictions, but which are viable in the medium term, has higher the value for money and therefore a lower risk of deadweight costs.
43. However, there is a considerable degree of uncertainty with any value for money assessment given the unknown path of future NPIs, the take-up of any new scheme and strength of any economic recovery once NPIs are lifted.
44. There are also significant risks that will impact the vfm case, such as: the impact of current economic conditions; the nature and length of public health restrictions; the value of preserving jobs in different sectors; and error and fraud.

VFM case for the original CJRS

Benefits:

45. **Protecting job-employee matches and reduce scarring:** The primary benefit of the introducing the CJRS is to preserve job matches, prevent firm closures and minimise the scarring consequences of the pandemic on individuals and the economy as a whole. There is significant evidence this was achieved: Preliminary estimates from the HMRC/HMT evaluation of the first 6 months of CJRS suggest that between 35% and 65% of the jobs furloughed would have

otherwise been made redundant. Additionally, 16% of firms claiming the CJRS claimants that said they would have had to close permanently without the scheme and were still operating at the time of survey. Likely in part due of the success of the CJRS, the OBR recently downgraded their assessment of the long-run scarring consequences of the pandemic for the UK.

46. **Support incomes:** Over the course of 19 months the CJRS supported 11.7 million unique jobs. For many households this will have represented significantly higher support to incomes than if they'd been made redundant. Analysis suggests that the CJRS payments to households represented 4% of working households' pre-pandemic gross income. The income support has two consequences: 1) it likely supported aggregate demand in the economy with wider macroeconomic benefits. and (2) it reduces the burden and cost of the welfare system (discussed in net costs below).

Costs:

47. **Fiscal cost:** In total the gross cost of the CJRS was around £70bn. The net cost is substantially lower due to tax paid on CJRS grants and avoided welfare costs. This cost pays for some of the benefits set out above but in addition includes two types of deadweight costs:

- the cost of supporting jobs that would have been retained anyway.
- the cost of supporting jobs that will not be viable post-removal of the NPIs

48. **Economic cost:** The economic cost of the CJRS is the potential for the scheme to have prevented or reduced the incentive for optimal reallocation of resources. The CJRS provided support to pay the wages for jobs that were temporarily unviable. This had the result of keeping (hoarding) labour in existing firms and sectors, rather than adapting and undergoing sectoral change. This was under the assumption that those jobs and firms would become viable post-restrictions and that excess job-destruction was sub-optimal. However, it is inevitable (but hard to quantify) that some low productive/unviable firms and jobs have been supported and that this has crowded out other productive ventures. One argument against this is that the majority (64%) of people furloughed were still in their furloughed employment after the scheme had closed (even after accounting for standard job-to-job moves) – implying many of the jobs supported by the CJRS were in fact viable post support.

Wider context

49. **Economic conditions:** In short, the current economic conditions imply the economic cost of preventing reallocation of labour may be higher than when previously implemented and the benefit of avoiding scarring may be lower (if easier to find a new job). There may also be less of a case for the role of maintaining incomes boosting aggregate demand.
50. The economy is starting from a different position to the start of the pandemic and the labour market is extremely tight, including in sectors that will not be directly

affected by current and any further restrictions. Further detail on labour market tightness can be found in figure A.3 in the annex.

51. From an aggregate perspective, this means that the VfM case for preserving capital-labour linkages and inhibiting reallocation could be weaker than before, particularly given the current state of the labour market where job-to-job flows are currently at record highs. Even though high vacancies are unlikely to continue at these levels in sectors that are forced to close, the reintroduction of the CJRS could further increase the economic costs by increasing tightness in essential public or private sectors that remain open and demand is still high, such as essential retail or health and social care.
52. Furthermore, there is a risk that the scheme has a negative impact on output by keeping workers locked to unviable firms, limiting the productive reallocation of labour. However, the targeted nature of the scheme should mitigate this to an extent. On balance, while there is a risk that some of the funding goes to jobs that would have been retained anyway and to some jobs that would be unviable in the longer term, the revised design of the support and the fact its duration is expected to be limited to the timing of the demand shocks should limit the deadweight costs.
53. **Fiscal context:** Government debt levels at this stage of the pandemic are higher than when the CJRS was first implemented and there are greater government financing risks due both to this higher level of debt and to wider macroeconomic conditions. Therefore, consideration of the fiscal cost of the scheme and the impact on our fiscal space carries greater weight.
54. **Length and nature of restrictions:** In short, shorter NPIs mean that a higher proportion of jobs are likely to remain viable (less underlying sectoral change) and the fiscal cost per job supported is lower.
55. A period of short, sharp restrictions across the whole economy (e.g. 1 month) is unlikely to impact the medium-term viability of jobs: if a job is already viable pre-restrictions, it is likely that it will still be viable following a short period of restrictions. In this instance, the case for preserving linkages is strengthened given that the scheme would play a role in protecting valuable and viable job matches that may have otherwise be lost due to businesses being credit constrained under restrictions. On the other hand, a shorter period of restrictions means that firms may be more likely to have retained workers anyway, although this is uncertain. The high costs of firing and rehiring, as well as the difficulties businesses currently face with finding staff adds to the case for a short-term intervention. But, given these costs, some businesses may still choose to retain staff absent any support.
56. Generally, the benefit of the CJRS when NPIs are in place for longer is that it prevents more would-be viable and valuable job matches being lost and prevents an increase in unemployment. However, it is important to recognise there are also higher costs if the scheme was in place for longer. Aside from the higher fiscal costs of retaining jobs for a greater period, a scheme that is place for longer prevents reallocation between non-viable and viable jobs that would

otherwise be happening without the scheme in place. So, whilst a scheme with a longer duration would continue to protect would-be viable jobs, there is a significant risk that a longer running scheme locks in jobs that are non-viable, preventing productive reallocation of labour and creating further economic costs.

57. The breadth of public health restrictions will also impact the VFM case for intervening. Whilst it is true that the CJRS could reduce the productive reallocation of labour when parts of the economy are open, widespread health restrictions would likely increase the case for the CJRS. In this scenario, reallocation would be harder as labour demand will likely be more subdued across the economy. In this instance, the case for the CJRS is higher because reallocation would likely be limited even without support.
58. If restrictions, such as those during Step 2 of the Roadmap, were to be reintroduced, this may lead to implied CJRS take up of between 2.8 million and 3.6 million jobs across both the open and closed elements of the new scheme. Whilst estimates that relate to the first six months of CJRS are not completely applicable to the current situation, these figures imply that **not having a CJRS is likely to result in significant job losses in the hundreds of thousands**. Further detail on the sectoral breakdown of the estimated monthly furloughed population is in figure A.2.

VFM of scheme with different employer contributions based on requirement to close

Benefits

59. A primary benefit of a scheme that provides lower-cost support to employers that are required to close (via lower employer contributions) is that it prioritises protecting viable and valuable job matches that are most at risk of redundancy due to public health restrictions. This increases the value for money of the revised scheme design relative to a scheme with a single employer contribution. This is, in part, because it limits any increase in unemployment and reduces the potential deadweight fiscal costs of supporting jobs that would not have otherwise been lost, which would be higher in a single EC scheme.
60. By requiring employers that are not required to close to contribute a larger amount towards employees' wages, the revised scheme design, to an extent, mitigates the risk of hoarding of productive labour and preventing reallocation within open parts of the economy. However, this is finely balanced as lower ECs for closed businesses could prevent reallocation to open parts of the economy where vacancies remain high. This is outlined in more detail below.
61. Requiring open employers to contribute more towards employees' wages should reduce the fiscal cost per job furloughed as the government contribution is lower relative to a scheme with a single employer contribution. The aggregate fiscal cost is also lower in part due to lower government contribution per job, as well as lower estimated take up and reduced deadweight costs.

Costs

62. Whilst enabling closed employers to contribute a relatively smaller amount towards employees' wages is effective at protecting viable and valuable job matches most at risk, lower contributions risk preventing productive reallocation of labour to essential public or private sectors that remain open and where demand is still high, such as essential retail or health and social care.
63. The sectors most likely to be required to close typically have lower firm specific human capital and job match value as proxied by pay levels and employee churn. This may lead to lower value of protecting the jobs in these sectors.
64. Requiring closed businesses to contribute towards employees' wages could also lead to some firms being unable or unwilling to furlough long-term viable jobs due to the upfront cost. This may result in higher levels of unemployment in the near-term and greater scarring in the medium-term.

Error and fraud:

65. Introducing a CJRS scheme with a standard and enhanced level of support carries the same error and fraud (E&F) risks as the previous, untargeted, iteration of the scheme, in addition to the new risk of employers' misrepresenting themselves as 'closed' in order to claim more generous support. HMRC's provisional E&F estimate for the period of 1 November 2020 to 30 September 2021, falls between 5 to 7% for claims. A Closed and Open version of the scheme introduces the risk of employers wilfully or erroneously misrepresenting themselves as 'closed', in order to claim more generous support. HMRC estimate that absent the further controls outlined below, (in addition to those already in place in previous iterations of the scheme), the residual E&F range for this scheme would fall at the higher end of a 5-10% range equating to [c.£105m to £210m per month] from a total scheme cost of {£2.1bn per month}.
66. In order to mitigate the risk of E&F, HMRC have therefore designed additional controls, including further pre-payment checks. To facilitate these additional controls, HMRC will:
- Require claims be made in arrears such that employers could claim no earlier than one month after a period of furlough: this reduces the risk of customer error and allows HMRC to verify that employees are paid before releasing grants.
 - Extend the 72-hour window for risking claims to allow for additional verification if there is not a positive match against at least one data point. Those going for manual check will need to be held for an additional 2 days. We will only pay the higher generosity rate where there is positive evidence the employer is in the closed category. However, this may take a significant amount of resource to undertake these checks, and this is a departure from CJRS as previously delivered. In that scheme we paid unless evidence of wrongdoing was apparent. This approach switches that to payment only upon positive, albeit still light touch, validation.

67. With additional controls and checks in place, HMRC estimate the residual E&F to fall to the lower end of the 5-10% range. This estimated residual E&F rate includes the impact of paying in arrears, extending the risking window, conducting additional pre-payment risking and validating sectors and activity. In detail the additional prepayment compliance checks involve:

- Conducting additional pre-payment risking using Full Payment Submission and RTI digital records to verify that payments to employees, of the correct sum, have been made.
- Conducting checks to validate employers' sector and activity, in order to confirm that they are subject to restrictions.

68. In previous iterations of the CJRS, the following transparency measures were introduced (although we have no evidence that these had an impact on E&F):

- Publishing the names of employers that had claimed under the CJRS, and the value of their claims;
- Informing employees of their furlough status via their Personal Tax Account.
- In this scheme, we would look to bolster this by sharing additional information on CJRS grant payment to employees' Personal Tax Account.

69. Further behavioural nudges can be designed and included within the claim service, asking for positive confirmation the employee hasn't worked and more detail on individual employees, including contact details. We are seeking confirmation that this does not breach GDPR. Any data gathered can be used in post payment compliance.

70. The wording of all nudges and prompts would have to be carefully handled to ensure maximum impact and for that reason we would engage with Behavioural Insight. We would also have to be mindful of the frequency of nudges and prompts, as too many could reduce their effectiveness (nudge fatigue).

Conclusion

71. There is mounting evidence that the original CJRS delivered on its policy objectives (although the evaluation is yet to be finalised). The economic and fiscal context mean that the arguments for and against job support intervention are more finely balanced than previously. Our assessment is that the revised scheme is more appropriate to deploy in response to short and more limited health restrictions and in current economic/labour market conditions, but there are risks to this assessment. Reintroducing a scheme with different employer contributions for open and closed businesses also has its costs and benefits. These are similarly balanced, particularly on the extent to which it limits reallocation. However, providing enhanced support for employers most likely to be closed (via lower employer contributions) more effectively targets support to employees most likely to be made redundant and reduces deadweight costs related with a single employer contribution scheme. Combined with the additional E&F measures, and based on the current information, this scheme is likely to present value for money, although this judgement is ultimately sensitive to the nature and duration of economic restrictions.

Costings

Groups eligible (% EC)	Monthly gross cost (£bn)	% of rounded baseline cost (10% untargeted)	Monthly net cost estimate (£bn)	Take up (million employments)	Cost per million take up (£)
Untargeted 10%	2.3	100%	2.3	3.74	610
Open 20% / closed 10%	2.0	89%	1.7	3.55	480
Open 20% / closed 5%	2.1	91%	1.8	3.50	500
Open 25% / closed 10%	1.9	83%	1.6	3.52	450

72. The main driver of the cost of any scheme is the underlying level of furlough demand, predominantly driven by the tightness of NPIs and the state of the economy. This is very uncertain and difficult to predict: all the preliminary costings that follow assume that baseline furlough take-up (no ECs or eligibility restrictions) is 3.7 million – the same level as furlough take-up in late-April 2021 under Step 2 restrictions.

73. Higher employer contributions reduce the cost of the scheme through two channels: directly, as the government pays out less money per claim, and indirectly, as higher employer costs reduce the demand for furlough.

74. For the closed-open scheme a 5%pt increase in the closed scheme EC reduces the cost by roughly £60m per month, while a 5%pt increase in the open scheme EC reduces the cost by around £130m per month. This reflects the fact that roughly one-third of furlough take up is in closed sectors in the modelling.

75. In summary, under Step 2 restrictions a targeted scheme (open 20%/closed 10% or open 25%/closed 10%) is likely to save the government £300-£400m per month relative to an untargeted scheme with 10% ECs – 12% to 18% of the total cost. If you are minded to have 0% ECs on some sectors, targeting presents bigger savings: open 20%/closed 0% is £600m cheaper than an untargeted scheme with 0% ECs – a saving of 22%.

76. Framed another way: imposing 10% ECs on closed sectors saves around £120m per month (comparing 20% open/10% closed to 20% open/0% closed) and is expected to support 40,000 fewer jobs.

77. Caveats: Approximate monthly costing estimates, produced at speed. Published costings would need to be developed further by KAI and scrutinised by the OBR. The state of the economy and restrictions in place, which will have an impact on the costing. More detailed costings would need to consider time frames for the scheme and be aligned to the latest economic forecast (i.e. the path of sector level GVA).

78. Employer behaviour is also very uncertain; take-up under a future NPI scenario could differ from April 2021 so employers may behave in a different way to our assumptions and thus impact the costing.
79. For these costings we have assumed that the untargeted scheme E&F rate with payment in arrears controls, around 5% (between 4% to 6%), equating to £115m of total costs of £2.3bn per month. The targeted scheme E&F rate is higher after additional compliance controls are impacted: at 6% (between 5% and 9%), equating to £105m of costs £2.1bn per month. KAI continue to revise and update the E&F estimation as more information becomes available. These caveats highlight the indicative and uncertain nature of the costings at this stage.

Equalities implications

Reintroducing the CJRS

80. When formulating new policy or reviewing existing policy, and thereafter coming to a decision / agreeing a policy proposal you are required to have “due regard” to the Public Sector Equality Duty (PSED) in the Equality Act 2010. The duty requires public bodies to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations (between people who share a protected characteristic and people who do not share it). The protected characteristics are age, disability, race, religion/belief, sex, sexual orientation, pregnancy and maternity, gender reassignment, and in respect of the duty not to discriminate, marriage and civil partnership. To comply with the duty, we must consider a set of questions, outlined below:
- a. Would the policy options concerned have differential impacts on those with any of the protected characteristics for equalities? If yes, what are they and are there any mitigations that could be applied?
 - b. Given the assessment of impacts, any differential impacts on protected groups are a proportionate means of achieving a legitimate aim and it is therefore right to proceed with the proposed measure?
81. The impact of reintroducing CJRS will have some similar equalities impacts as the original CJRS. In general, ONS, the Resolution Foundation and survey data suggests younger people (those under 35), people from ethnically diverse backgrounds and individuals on lower incomes are more likely to lose their job due to the impacts of Covid-19, partly because many are on insecure contracts and/or employed in vulnerable sectors. Many protected groups including women, people from ethnically diverse backgrounds and disabled people are more likely to be lower paid. HMRC data also shows at its peak a disproportionately large number of young people under 25, and people on lower wages, have been furloughed. Reintroducing the CJRS in any form is likely to mitigate the risk of redundancy and thus protect the incomes for many groups with these characteristics, compared to the counterfactual of not introducing the scheme. We have explored these issues in the short time available as well as others in further detail in our analysis. We will continue to monitor impacts of this policy through HMRC data and analysis as the scheme rolls out, as we have done in the previous CJRS. Overall, the re-introduction of CJRS will help businesses more directly impacted by NPIs and mitigate the risk of redundancy for many protected groups compared to the scenario where the CJRS wasn't reintroduced.

Future assessment of equalities impacts

82. The health regulations apply differently and therefore have different types of impact between sectors. The design of the reintroduced CJRS distinguishes levels of support for those businesses required to 'close', thereby reducing some of the difference in impacts of the regulations between closed and other sectors. However, we expect some disparities between sectors may occur due to the policy design of the scheme but cannot model all the specifics. We will work with HMRC to get more data during the life of the scheme which might identify where impacts are arising, as a result of the split between lower and higher support. We can feed this data and analysis into reviews of the scheme.

Closed population who receive a higher level of support

83. The most substantial change between this scheme and the prior CJRS is a higher rate of support will be targeted at sectors where premises are required to close under the public health regulations through a lower level of employer contributions (c. 5%). The different levels of employer contributions do not alter the take home pay of the employee (this remains at 80%). There are also differences in other areas such as payment in arrears but many of the key features of the original scheme, as noted in previous advice, are maintained.

Impact of 0-5% employer contributions

84. For businesses that are required to close due to public health restrictions, there will be enhanced support (lower employer contributions) which will predominantly affect and benefit, relative to redundancy, those in the affected sectors. During step 2 restrictions of the original CJRS, the sectors with the highest take up rate were those most affected by NPIs (e.g. food and beverage services (hospitality), arts and entertainment), we assume this will be similar now. ONS and HMRC data suggests employees in these sectors are more likely to be lower paid and are therefore more likely to be women, younger and from ethnically diverse backgrounds. The lower employer contributions will provide greater support towards the wages of those directly impacted by changing NPIs.

Impact of 20-25% employer contributions

85. **Level of contribution:** All eligible businesses are able to claim the CJRS and, if their business is not closed under public health restrictions, employers will pay 20-25% in employer contributions. We have not introduced 20-25% employer contributions as the economy returns to tighter NPIs before and therefore the impact is uncertain. However, the economy is in a much stronger position now and employers are therefore more able to afford employer contributions as restrictions begin to tighten. Pre-omicron labour market data for October and November showed further growth in employee numbers and record levels of tightness in the unemployed people per vacancy ratio. There is also evidence of employers voluntarily topping up employee pay during tight restrictions: the Low Pay Commission estimates that approximately 54% of employees placed on furlough had their pay topped up to 100% of their reference salary in April 2020.

86. Higher employer contributions should be more feasible for businesses who are not forced to close to afford and businesses that are legally closed will be eligible for enhanced support. We assume businesses not forced to close would still be economically active and so would, in general, be less impacted. However, it is acknowledged that some “open” businesses may be as or more severely impacted than some businesses that are eligible for enhanced support. This is likely to include businesses embedded in supply chains for those businesses forced to close but which remain open themselves, e.g. factories, food and drink producers and suppliers, transport and logistics. This will particularly impact those with less diverse portfolios, which are more likely to be SMEs. Sectors such as aviation and travel will also pay the higher employer contribution but may be particularly impacted by NPIs and changing consumer behaviour.
87. Whilst it is not clear exactly which businesses will use the 20-25% employer contributions we assume take up of the scheme will be similar to the original CJRS. For example, the retail sector had a high take up of the original CJRS. Employees in this sector are more likely to be younger and from ethnically diverse backgrounds. The scheme would aim to continue to support these employers and help mitigate the risk of redundancy for employees.
88. However, there may still be challenges for some firms who are affected by the 20-25% employer contribution. The higher employer contribution, compared to the enhanced support offer, will put more pressure on firms with low cash reserves and some of those firms may be particularly impacted by the NPIs. Firms with low cash reserves will be spread across all sectors.
89. It is reasonable to assume that there is an increased risk of redundancies within some firms who are not eligible for the enhanced support offer compared to having an untargeted scheme which offered 0-5% employer contributions to all firms. HMRC data shows furlough usage was disproportionately made up of small businesses and lower income workers. Given the employee profile of firms that are most likely to access the CJRS any increased risk of redundancy will have a greater impact on younger people, women, people from ethnically diverse backgrounds, people with disabilities and those with caring responsibilities.
90. This conclusion is further supported by a Resolution Foundation report which found employees on lowest incomes were three times as likely as higher paid workers to experience a negative impact on their work due to the pandemic and were much more likely to be furloughed. Therefore, if employer contributions reduce take up of the scheme and lead to higher levels of redundancy it will likely cause negative impacts on low paid employees – though the impact on household income will depend on interactions with the welfare system and other income sources. There may also be differences in employer contributions for employees doing similar work but who are employed in different ways, for example those directly employed by closed businesses, where their employer would be eligible for enhanced support, as opposed to those who work in those businesses but are employed by agencies, where their employer would not be eligible for enhanced support.

91. **Mitigations and policy rationale:** The policy rationale for the reintroduced CJRS is to preserve employer-employee matches, enabling firms to reopen quickly and limit scarring due to unemployment. The different levels of employer contributions reflect the degrees of need for businesses based on public health restrictions. We assume businesses who will have to pay higher employer contributions will, in general, be less affected and as such the equalities impact risks would overall be lower. Whilst the policy design takes steps to mitigate equality impacts, the groups above (young people, people from ethnically diverse backgrounds, women and disabled people) are still likely to be more exposed.
92. Negative impacts could be further mitigated by returning to the original untargeted CJRS or by providing bespoke support to affected industries. We explored these policy options but found any bespoke support (eg FIT test) was either not workable from a delivery/operational perspective or was not within adequate levels of fraud and error. Returning to an untargeted CJRS goes against the policy rationale of targeting the scheme to ensure VFM and ensuring valuable and / or medium-term viable job matches at highest risk of redundancy. There could have been a risk it would draw people away from employment and increase inactivity, including locking people into non-viable jobs; and any increase in cost (minus welfare savings) which will disproportionately impact future generations and those on lower incomes who rely more on public services. It is difficult to predict the impact on protected characteristics of the employees within sectors that are not eligible for enhanced support in detail but given there is a possible increased risk of redundancy and given the employee profile within these sectors we would expect greater impacts to fall on young people, women, people with disabilities and people from ethnic minority backgrounds. As flagged above, we will keep this analysis under review as data and information become available.
93. The eligibility criteria for enhanced support are in line with public health rules, and a different definition would require new delivery aspects. The policy was formulated to target the scheme, manage fraud risk and the administrative and policy need to deliver this scheme quickly to ensure support is provided to firms and employees who need it.

Eligibility

94. All businesses who meet the eligibility criteria will be eligible for CJRS when reintroduced. Extending the RTI window significantly also increases the number of employees eligible for the scheme, including young people joining the workforce for the first time. This will support all protected characteristics who are in businesses that claim support.

Employee generosity

95. Maintaining the 80% support rate will provide certainty to those on the scheme and support employees on lowest wages: women, younger people and those with caring responsibilities, as shown in ONS data. It is employees with these characteristics who will be hit hardest by this decrease in pay, the latter of which will have to use this reduced income to support themselves and their dependents.

Self-employed

96. The re-introduced CJRS does not include support for self-employed individuals, who are usually more likely to be men, older in comparison to employees and have childcare responsibilities. However, this is mitigated by expanding the scope of the Additional Restrictions Grants and providing additional funding, we will allow Local Authorities to provide support to self-employed people where it is most needed. The Government continues to provide considerable support for businesses and jobs, including the self-employed, into spring next year, including for the most affected sectors. This includes:

- a. The Recovery Loan Scheme is in place until June 2022, meaning businesses will continue to benefit from Government-guaranteed finance.
- b. Businesses will be protected from eviction if they are behind on rent on their premises, thanks to the moratorium in place until March 2022.
- c. Business rates relief for eligible retail, hospitality and leisure businesses in England is available until March 2022, and hospitality and tourism businesses will continue to benefit from a VAT reduction – paying only 12.5% until March 2022.
- d. The Government recently announced £1 billion of new grant support for the hospitality, leisure and cultural sectors to protect jobs and businesses.

Payment in arrears

97. CJRS grants will be paid in arrears. Grants are paid to employers to support payment of employee wages. Whilst most businesses on the previous CJRS paid employees monthly there were some employers who paid on a weekly basis. This could lead to a higher chance of job loss if cash reserves are low. As mentioned above, firms with low cash reserves could be spread across sectors and given the profile of employees of firms accessing furlough any cashflow challenges could have equalities impacts on protected groups. We expect these to be lower paid workers who are more likely to be women, younger and from ethnically diverse backgrounds. However, there are strong operational reasons for this aspect of the scheme design including that it will help reduce fraud and error. It's also worth noting that we are unlikely to get state aid approval in time for any scheme to pay out on a prospective basis.

Regional impacts

98. There are more likely to be Covid-19 cases and therefore restrictions in cities and urban areas where there is higher population density. We expect more businesses to be closed in cities and urban areas as a result of public health rules as employments are more concentrated here. This will have a direct impact on the level of employer contributions. Urban areas tend to have populations which are younger and more ethnically diverse than the UK average, so such restrictions and thus level of support, would have a disproportionate impact on people who belong to these groups.

Decision 20 – Can you confirm that you have considered the equalities implications of all your policy decisions in the design of this scheme?

Delivery implications

99. Delivery timeline: Should a scheme be announced imminently, to take effect from the point of announcement, the CJRS claims service would go live on 9th February, with the first claims made at this date. This is based on moving to claims in arrears and allows time for: the direction to be drafted, IT to be finalised and HMRC to receive RTI submissions and other data necessary to do pre-payment checks. There are also some timing issues for employers, including the need to draw up furlough agreements and understand what support they are eligible for absent detailed guidance.

100. Resourcing: We are in the process of staffing teams to stand up the scheme and expect the necessary resource to be in place within four weeks of the business case being signed off (ongoing). HMRC has previously used Contingency Labour to support customer services and compliance risking on COVID schemes, which after scheme closure was moved to BAU activities. If HMRC is required to deliver any additional COVID support, further resourcing pressures will arise and HMRC may need to redeploy staff from BAU work, reducing other services. HMRC are currently working to understand any impact on BAU activities if we stand up the scheme and are looking to recruit up to 1500 Contingent Labour colleagues. We will also closely monitor capacity pressures across HMT and HMRC given potential staff illness from Omicron and booster volunteering.

101. Supplementary estimates. To note, HMRC’s current Supplementary Estimates position does not include spending on a contingency scheme over the rest of FY21/22. We would aim to provide any additional budget or cash funding for 21-22 required through Supps. You have received advice from GEP on the implications of Covid spending decisions on the Supps process and options available in the case of urgent and unavoidable spending in excess of Supps budgets after publication.

Legal implications

102. Legal basis for delivering a scheme. Previous schemes have been implemented under S.76 of the Coronavirus Act (CVA), and other ancillary provisions. We will continue to use this power, which is not due to sunset in March 2022. We believe it is reasonable for all claims to be submitted in this financial year but we are considering the legal powers available to pay late claims. It may be that some residual expenditure could fall in 22/23.

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104. **Devolved Administrations.** From a constitutional perspective, fiscal and economic matters are a devolved matter in Northern Ireland. As such, it would be advisable to consult with them for implementing a UK-wide scheme prior to making the Direction.
105. **State aid and subsidy control.** The CJRS model proposed will favour certain firms over others. This means that the scheme or the more generous element of the scheme is likely to amount to a subsidy and, to the extent that Article 10 of the NI Protocol (NIP) is engaged, a State aid. As previously advised, there may be respectable but high-risk arguments to suggest the scheme is not a subsidy or State aid. But the less risky approach – which would avoid business uncertainty – is to proceed on the basis that it is and to manage that as an aid permitted under BEIS's Umbrella approval, a prolongation of which has recently been notified to the Commission and which we anticipate will be approved before any CJRS grants fall to be paid.

Decision 21 – Can you confirm that you have noted the state aid consequences of the preferred scheme design and do you agree with our proposed strategy of notification via BEIS' umbrella scheme?