

Guidance on members' obligations in relation to the reporting of grants claims under the self-employment income support scheme

This guidance has been drawn up to help members comply with their professional obligations under [Professional Conduct in Relation to Taxation \(PCRT\)](#)¹ where they advise clients who have, or may have, made claims under the self-employment income support scheme (SEISS).

Introduction

This guidance is intended to provide assistance in relation to the reporting of SEISS grants; in particular, where you may be in disagreement with your client's intentions. The guidance focuses on the first three SEISS grants, the receipt of which are reportable on the 2020-21 self-assessment tax return.

Whilst this guidance specifically addresses SEISS grant 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 the CJRS (on which separate guidance has also been prepared²).

Submission of returns

For the avoidance of any doubt, the CIOT consider that SEISS claims fall within the scope of PCRT. We understand that HMRC also considers the standards required under [HMRC's Standards for Agents](#)³ to relate to SEISS claims, too.

You should familiarise yourself with the contents of [PCRT help sheet A: Submission of tax information and 'tax filings'](#)⁴. In particular:

- The taxpayer has primary responsibility to submit correct and complete filings to the best of their knowledge and belief. The final decision as to whether to disclose any issue is that of the client. (paragraph 8)
- A member should act in good faith in dealings with HMRC in accordance with the fundamental principle of integrity. In particular the member should take reasonable care and exercise appropriate professional scepticism when making statements or asserting facts on behalf of a client. (paragraph 12)
- Where acting as a tax agent, a member is not required to audit the figures in the books and records provided or verify information provided by a client or by a third party. However, a member should take care not to be associated with the presentation of facts they know or believe to be incorrect or misleading, nor to assert tax positions in a tax filing which they consider to have no sustainable basis. (paragraph 13)

¹ <https://ciotmktgprodeun.azureedge.net/professional-conduct-in-relation-to-taxation-pcrt>

² Accessible from <https://ciotmktgprodeun.azureedge.net/professional-conduct-in-relation-to-taxation-pcrt>

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

⁴ [https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/1a89d664-e3ae-47a6-9159-c80aa38d11e3/A Tax Filings helpsheet 1 March 2019.pdf](https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/1a89d664-e3ae-47a6-9159-c80aa38d11e3/A_Tax_Filings_helpsheet_1_March_2019.pdf)

- If a client is unwilling to include in a tax filing the minimum information required by law, the member should follow the guidance in [PCRT Help sheet C: Dealing with Errors](#)⁵.

SEISS grants

The eligibility criteria for the SEISS grants changed subtly from grants 1 and 2 (where the criteria were broadly the same) to grant 3 (which incorporated additional criteria to increase the focus of the scheme).

The government guidance in relation to these first three grants has now been archived but can be found [here](#)⁶.

Of particular importance for all three grants is that there is no requirement to apply hindsight. Eligibility for the grants was determined at the point at which the claim was made. If the business has in fact not suffered to the extent expected, it is not necessary to revisit the basis on which the claim was made.

Amendments to tax returns do not impact on either eligibility, or the amount of the grant, for the first three SEISS grants. However, they will impact on the fourth and fifth grants (outside the scope of this guidance).

Errors, incorrect claims, and their disclosure

Claims which were fraudulent must be repaid and, if not, the procedures in [PCRT help sheet C](#) would apply. Otherwise the following table is intended to provide assistance. It is not possible to provide prescriptive guidance due to the subjective nature of some of the eligibility criteria, and because each client's circumstances are unique. Some of the scenarios may overlap, particularly 2 and 3, and it is necessary to consider the position 'in the round'.

Where a client is unwilling to take corrective action, again the procedures in [PCRT help sheet C](#) would apply.

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](#).

Further information regarding overclaimed SEISS grants, including penalties applicable, can be found on [GOV.UK](#), in [compliance check fact sheet 47](#), and in [compliance check fact sheet 11a](#).

⁵ https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/f6d9968b-4882-4c80-b82e-69eacda5ee38/Errors_helpsheet_1_March_2019.pdf

⁶ https://webarchive.nationalarchives.gov.uk/*/https://www.gov.uk/guidance/claim-a-grant-through-the-coronavirus-covid-19-self-employment-income-support-scheme

Ref	Scenario	Necessary action	Client refuses to take the necessary action	Other considerations
1	Client claimed the grant, but was clearly ineligible on the objective criteria. ⁷	The grant must be repaid to HMRC. If HMRC have not already been informed, the amount of the incorrectly claimed grant must be declared on Box 2 on page TR5 of the tax return.	You should follow the process in the flowchart in PCRT help sheet C . This will include ceasing to act for that client if they remain unwilling to take the necessary action.	Consider your obligations under anti money laundering legislation and whether you need to submit a Suspicious Activity Report.
2a	Client claimed the grant, but there is doubt over eligibility due to the subjective nature of some of the criteria. ⁸ – satisfactory client explanation	The member should discuss the claim with the client, ensuring the client understands the eligibility criteria. Where the client provides an explanation of eligibility to your satisfaction no corrective action is necessary, although you should document these discussions.	N/A. No further action is necessary.	
2b	Client claimed the grant, but there is doubt over eligibility due to the subjective nature of some of the criteria. ⁹ – client explanation leaves room for doubt	The member should discuss the claim with the client, ensuring the client understands the eligibility criteria. Where the explanation leaves room for doubt, but the client maintains the eligibility criteria were met, no corrective action is necessary, although you should document these discussions. You may wish to take specialist advice if you are unclear as to whether the eligibility criteria are met in the particular circumstances.	You should consider whether it is appropriate to continue to act for that client. If you conclude that it is appropriate to continue to act (for example, because the position is sufficiently arguable) you should monitor the situation carefully and should it later become apparent that there is in fact an irregularity, despite the client’s previous assurances to the contrary, you should follow the process in the flowchart in PCRT help sheet C . This will include ceasing to act for that client if they remain unwilling to take the necessary action.	Consider your obligations under anti money laundering legislation and whether you need to submit a Suspicious Activity Report.

⁷ For example, the business has ceased trading, or the business became incorporated etc.

⁸ For example, whether the business has been ‘adversely affected’ (SEISS 1 and 2), or has suffered reduced activity, capacity or demand (SEISS 3) etc.

⁹ For example, whether the business has been ‘adversely affected’ (SEISS 1 and 2), or has suffered reduced activity, capacity or demand (SEISS 3) etc.

Ref	Scenario	Necessary action	Client refuses to take the necessary action	Other considerations
2c	Client claimed the grant, but there is doubt over eligibility due to the subjective nature of some of the criteria. ¹⁰ – <i>inadequate client explanation</i>	Where the client’s explanation is inadequate and you conclude that the eligibility criteria are not met, you should advise the client to repay the grant to HMRC. If HMRC have not already been informed, the amount of the incorrectly claimed grant must be declared on Box 2 on page TR5 of the tax return.	You should follow the process in the flowchart in PCRT help sheet C . This will include ceasing to act for that client if they remain unwilling to take the necessary action.	Consider your obligations under anti money laundering legislation and whether you need to submit a Suspicious Activity Report.
3	Client claimed the grant, but there is a lack of supporting evidence to corroborate the claim.	The member should discuss the claim with the client, and the types of evidence the client should retain to demonstrate eligibility. ¹¹ Lack of evidence would not of itself require corrective action, but would be one of the key factors to take into consideration in 2 above.	See 2 above.	Remember, it is not necessary to apply hindsight, and the relevant evidence could constitute a mixture of ‘real time’ factors (being closed, lost contracts etc), as well as evidence available subsequently (business accounts etc). In any event, agents should encourage their clients to identify and retain the evidence that demonstrates entitlement to the grant.

¹⁰ For example, whether the business has been ‘adversely affected’ (SEISS 1 and 2), or has suffered reduced activity, capacity or demand (SEISS 3) etc.

¹¹ See <https://www.gov.uk/guidance/claim-a-grant-through-the-self-employment-income-support-scheme#recordstokeep>

Ref	Scenario	Necessary action	Client refuses to take the necessary action	Other considerations
4	The member <u>knows</u> a grant was received, but the client does not wish to report receipt of the grant on the return.	If a grant has been received, it must be included in the relevant box on the tax return (see below). You should remind your client of these obligations, the fact that HMRC know who has claimed the grant and is already investigating discrepancies with submitted returns, and the consequences of failure to report the grant. You should document these discussions.	You should follow the process in the flowchart in PCRT help sheet C . This will include ceasing to act for that client if they remain unwilling to take the necessary action.	Agents were not able to make grant claims on behalf of their clients, and claims could be paid by HMRC into personal bank accounts. However, agents were expected to advise clients, including on their eligibility and the process for making claims. Further, agents may undertake the record-keeping for some of their clients. A member may, therefore, have some knowledge of whether a grant was claimed.
5	Client will not confirm receipt of the grant (and therefore appears unwilling to report it), but the member <u>suspects</u> a grant might have been claimed.	If a grant has been received, it must be included in the relevant box on the tax return (see below). You should remind your client of these obligations, the fact that HMRC know who has claimed the grant and is already investigating discrepancies with submitted returns, and the consequences of failure to report the grant. You should document these discussions.	You should consider whether it is appropriate to continue to act for that client. If you conclude that it is appropriate to continue to act (for example, because the client's position is plausible – either through evidence or explanation) you should monitor the position carefully and should it later become apparent that there is in fact an irregularity, despite the client's previous assurances to the contrary, you should follow the process in the flowchart in PCRT help sheet C . This will include ceasing to act for that client if they remain unwilling to take the necessary action.	Consider your obligations under anti money laundering legislation and whether you need to submit a Suspicious Activity Report. It is also important that the grant amount is not also included in other boxes on the tax return in order to avoid double-counting (and potentially double taxation). You may need to review how software is populating the return.
6	The amount of grant received by the client was more than they were entitled to.	There is no requirement to check the calculation of the grant. However, if it becomes apparent that the amount paid to the client exceeded their entitlement, the excess must be repaid to HMRC. If HMRC have not already been informed, the excess must be declared on Box 1 on page TR5 of the tax return.	You should follow the process in the flowchart in PCRT help sheet C . This will include ceasing to act for that client if they remain unwilling to take the necessary action.	This is an unlikely scenario as HMRC undertook the calculations based on data it holds. But we understand that overpayments were made in a small number of cases.

