

SPORT ENGLAND

CORONAVIRUS GRANT INCOME: TAX IMPLICATIONS

October 2021

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1. BACKGROUND

1.1. CORONAVIRUS GRANT INCOME

A number of sports clubs received Government grants as part of the Retail, Hospitality and Leisure Grant Fund ('RHLGF'). The RHLGF was issued to support businesses in the retail, hospitality and leisure sectors with their business costs during coronavirus.

For many of sports clubs, the grant funding was received in the 2021/22 tax year and the clubs may not be aware that the grant income is taxable for corporation tax purposes and may not have previously compiled or submitted a corporation tax return.

In addition to the above, sports clubs may have also received funding as part of the Coronavirus Job Retention Scheme ('CJRS') for furloughed employees.

Sport England has requested guidance which will cover the key tax implications/considerations of the above for Club Matters to share with NGBs, Active Partnerships etc.

2. OVERVIEW OF CORPORATION TAX

2.1. CORPORATION TAX IN RELATION TO AMATEUR SPORTS CLUBS

In the UK corporation tax is charged on a company's taxable profits. The term company relates to all incorporated entities (e.g. company limited by shares, company limited by guarantee) but also includes unincorporated associations. This means that typically all clubs are within the scope of corporation tax regardless of how they are formed or constituted. A club could be constituted/structured as one of the following:

- Unincorporated association
- Company Limited by Guarantee
- Community Amateur Sports Clubs ('CASC') (which can be either an unincorporated association or a company limited by guarantee).

Amateur sports clubs are taxed by reference to the period which their annual accounts are prepared (e.g. year ended 31 December 2019) with tax payable based on the profits per the accounts for the period. The tax status of the club is important in relation to the amount of profit that is taxable. Each of the above types of club are discussed below.

Unincorporated Association & Company Limited by Guarantee (non CASC registered)

Clubs can have a number of income sources that can derive solely from members (e.g. members subscriptions), solely from non-members (e.g. venue hire) or can be a mixture of member and non-member income (e.g. bar sales).

There are normally provisions within the club constitution such that the members are not entitled to a share of any profits or any of its assets should be the club be wound-up. Where this is the case then income generated from members is treated as non-taxable under the principals of 'mutual trading'. Equally there is no tax deduction for the costs associated with mutual trading. As a result profit associated with members income will be non-taxable and there is no relief available for any loss.

However, where income is derived from non-members then this income is taxable. Equally any profit on the disposal of assets (e.g. property) is taxable. Any costs relating to such activities can be allowable as a tax deduction. The profit arising will then be subject to corporation tax, currently at a rate of 19%.

Should a loss arise in respect of non-member trading then that loss can be used as follows:

1. Offset against other taxable income in the same accounting period.
2. Offset against taxable income in previous period or potentially the previous three periods for accounting periods ending between 31 March 2020 and 31 March 2022.
3. Carry forward to offset against taxable income in future accounting periods.

Where there is a mixture of member income and non-member income it is possible that some of the clubs costs cannot be directly matched to either member income or non-member income (e.g. bar staff costs/rent and rates etc.). For such costs HM Revenue and Customs (HMRC) will accept a just and reasonable apportionment of these costs between member income and non-member income (e.g. bar staff costs pro-rata to bar income for members and non-members).

CASC

Where the club is a registered CASC there is an exemption from tax in relation to non-member income as follows:

- Trading profits as long as non-member turnover (total sales) is less than £50,000 per annum
- Rental profits where non-member rents are less than £30,000 per annum

- Interest and other investment income received
- Donations received
- Profits on disposal of assets (e.g. Club premises)
- Equally there is no tax relief available for any trading loss

Where the limits for trading profits and rental profits are exceeded then the full amount of non-member trading and rental profits will be taxed at the rate of 19%. Should a loss arise then these could be used as described above for non-CASC clubs.

Are there any conditions?

There are various conditions to be met by a sports club in relation to being a CASC which can be found at <https://www.gov.uk/government/publications/community-amateur-sports-clubs-detailed-guidance-notes/community-amateur-sports-clubs-detailed-guidance-notes>.

The main criteria to consider in relation to coronavirus grant income is that the total of non-member trading income and property income is less than £100,000 per annum.

How should a CASC apply any income or gains?

All income and gains received by the club are required to be wholly applied for the purpose of providing facilities and/or promoting participation in one or more eligible sports. If any expenditure is not incurred for qualifying purposes, then CASC tax exemptions may not be fully available.

3. CORPORATE TAX TREATMENT OF COVID-19 GRANTS

Grants received under Retail, Hospitality and Leisure Grant Fund ('RHLGF')

What is the RHLGF Fund?

Many amateur sports clubs have been eligible to receive grants under the RHLGF scheme.

In response to the global pandemic the Government introduced the RHLGF to support small businesses during coronavirus in the retail, hospitality, and leisure sectors.

These grants were first announced in March 2020 for either £10,000 or £25,000 per qualifying property, dependent on the rateable value of the property. Further amounts have been available as announced by government in January and March 2021.

Are amounts received subject to corporation tax?

Yes.

As these grants compensate the club for lost profit as a result of their closure during Covid-19, the grants are treated as taxable. The amount taxable is based upon the amount shown within the profit and loss account and the tax status of the amateur sports club. Each type of organisation is considered below.

Unincorporated association & Company limited by Guarantee (non CASC registered)

As described above these organisations are likely to either have solely member income or a mixture of member and non-member income. In the same way that costs are split between member and non-member income on a just and reasonable basis, grants received under RHLGF should also be split along the same basis as for costs. HMRC guidance says that where grants are based on rateable value then the split could mirror how the rates cost is split. However, HMRC do comment that any reasonable basis can be accepted and that this basis should be applied consistently.

Examples of the impact of Covid-19 grant receipts

Profit making club (no CASC exemption) receiving a £10k grant

	Members	Non-members	Total
Bar sales	80,000	20,000	100,000
Bar costs	(40,000)	(10,000)	(50,000)
Overheads	(32,000)	(8,000)	(40,000)
RHLGF grant	8,000	2,000	10,000
Rent income	0	3,000	3,000
Profit	16,000	7,000	23,000
Tax payable	Nil	1,330	1,330
Tax	Non-taxable	19%	

Loss making club (no CASC exemption) receiving a £10k grant

	Members	Non-members	Total
Bar sales	80,000	20,000	100,000
Bar costs	(60,000)	(15,000)	(75,000)
Overheads	(60,000)	(15,000)	(75,000)
RHLGF grant	8,000	2,000	10,000
Rent income	0	3,000	3,000
Profit	(32,000)	(5,000)	(37,000)

Tax payable	Nil	Nil	
Tax	Non-taxable	19%	

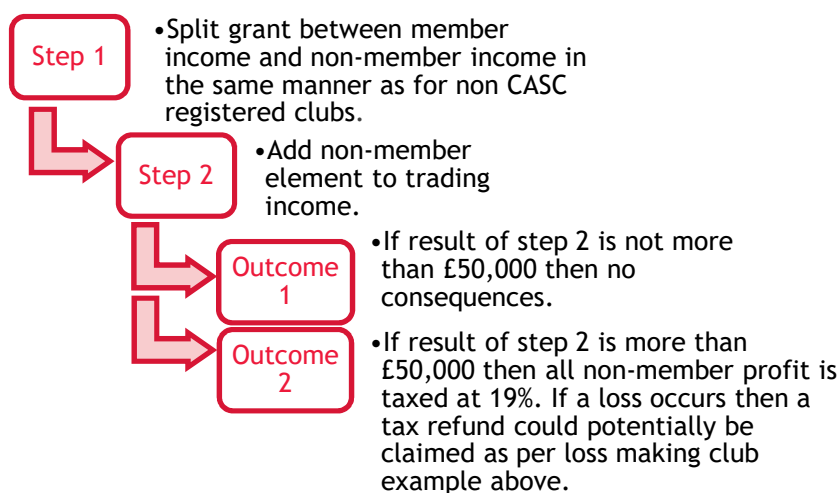
A tax refund of £950 could be obtained in respect of the non-members loss if profits have been made in the previous year. No refund is possible in respect of the members loss.

CASC

As noted above non-member income in a CASC can be exempt from tax if it meets certain conditions. The receipt of a RHLGF grant will have the following implications for a CASC.

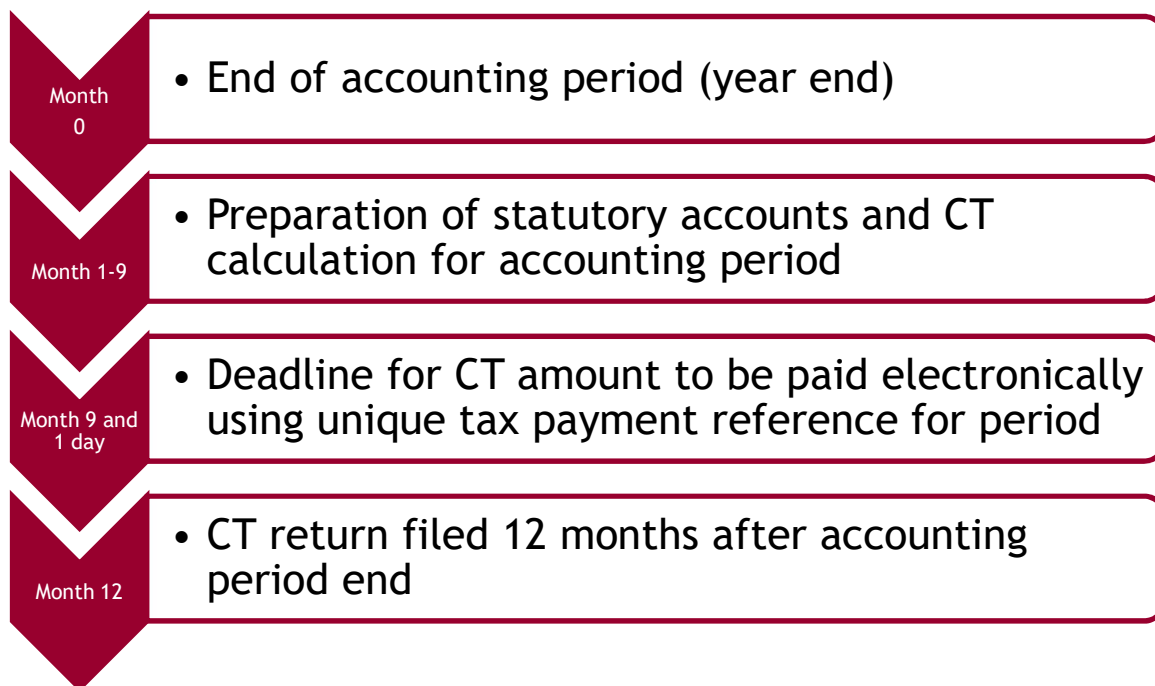
The grant does not count towards the £100,000 income limit condition to be a CASC.

The grant does count towards the £50,000 limit for trading income to be exempt. A CASC is considered to be 'trading' if it sells goods or services to non-members. As a result there are two steps to consider.



3.1. CORPORATION TAX COMPLIANCE

Summary of Process



Payment of Corporation Tax

When is corporation tax payable?

Any tax payment is due nine months and one day after the accounting period end (e.g. accounting period ended 31 December 2020 would have a payment date of 1 October 2021). Any late payment will attract interest, currently at a rate of 2.6% per annum.

How is corporation tax paid?

Payment of corporation tax needs to be made electronically (by post is no longer possible). Methods of making the payment are detailed on the HMRC website <https://www.gov.uk/pay-corporation-tax>. In order to make a payment requires the relevant payment reference which consists of a 17 digit combination of numbers and letters and can normally be located on HMRC correspondence.

Filing of Corporation Tax Return

When must a corporation tax return be filed by?

A corporation tax return needs to be submitted within twelve months after the accounting period end (e.g. accounting period ended 31 December 2020 would have a filing deadline of 31 December 2021). All corporation tax filings are required to be filed online and in a specified format.

What are the penalties for late filing?

If the return is filed late there is a £100 penalty. This rises to £200 if more than three months late and to 10% of unpaid tax if more than six months late.

What if the corporation tax return contains an error?

If it is found that a corporation tax return is incorrect then there are potentially penalties based on a percentage of under declared tax which depends on the nature of error and whether reasonable care had been taken in making the original filing of the return.

3.2. VAT TREATMENT OF GRANTS RECEIVED UNDER RETAIL, HOSPITALITY AND LEISURE GRANT FUND

Will the grant income be subject to VAT?

No, the funding is outside the scope of VAT (see below).

If a monetary amount is freely given, it is not with the intention of receiving anything in return and so is outside the scope of VAT. In this situation, the monetary amount (grant funding) has to be unconditional and the following points will help in deciding whether this is the case.

- Does the grantor receive anything in return for the payment?
- Are there any conditions attached to the payment that go beyond merely having to mention it in account statements?
- What will the payments be used for?
- If the grantor does not benefit directly, does any third party receive a benefit?
- Is there a contract and what are the terms and conditions?

On the basis that there is no underlying supply by the recipient of the grant (sports club) to the Government, the funding received will be outside the scope of VAT.

Will the funding count towards the UK VAT registration threshold?

You must register for VAT if the value of your taxable supplies (e.g. bar sales in the clubhouse) exceeds the 'VAT registration threshold' in a 12 month period. This is known as a 'compulsory registration'.

The VAT registration threshold changes annually and can be checked via the following link:

<https://www.gov.uk/vat-registration-thresholds>

As the grant income is outside the scope of VAT, it will not count towards the value of taxable supplies and should be disregarded for VAT registration and deregistration limit purposes.

4. CORONAVIRUS JOB RETENTION SCHEME

4.1. INTRODUCTION

What is the Coronavirus Job Retention Scheme (“CJRS”)?

In response to the global pandemic the government introduced the Coronavirus Job Retention Scheme (CJRS) from March 2020. The Government’s aim of the scheme was to provide grant funding to employers so that they could continue to pay their employees during the pandemic.

As a result of CJRS, a new concept was introduced known as “furlough”. Further details on this are detailed in the next sub-section of this guidance.

The principle of the scheme is that an employer can claim a grant (non-refundable) for the lower of:

1. 80% of regular pay (see step 2 on page 13 for further details on what regular pay is); or
2. £2,500

There are a number of eligibility criteria that has to be met in order to claim the grant and there is a number of HMRC guidance documents which an employer must follow when calculating the claim and submitting to HMRC.

Has CJRS changed at any point?

Yes.

There has been a number of amendments to the scheme and these are commonly referred to as follows:

- a) CJRS version 1 - this was for periods between 1st March 2020 and 30th June 2020
- b) CJRS version 2 - this was for periods between 1st July 2020 and 31st October 2020
- c) CJRS version 3 - this was for periods between 1st November 2020 and 30th April 2021
- d) CJRS version 4, this is the current version of the scheme - this runs from 1st May 2021 and is due to end 30th September 2021

Whilst the basic principle of CJRS has remained the same since March 2020, the eligibility criteria and requirements placed on employers has changed.

A summary of the key changes throughout the life cycle of CJRS can be found at Appendix 1.

What is a furloughed employee?

The concept of an employee furlough is new to the UK but in general terms it refers to when employers require their staff to take unpaid leave of absence.

Can an employee work whilst on furlough?

Please refer to section 4.2 of this document for eligibility criteria.

For the CJRS version 1 mentioned above, to be eligible for the grant, an employee must be on furlough and they could not undertake work for or on behalf of their employer. There are certain activities that can be undertaken and this is detail in section 4.2.

For other versions of CJRS it is possible for employees to undertake work under “flexible furlough” (see the next page for more details).

Does being on furlough impact an employees pay?

This will depend on your circumstances. CJRS requires that an employee receives a minimum of 80% of their “regular pay” (or £2,500 if lower). An employer can choose to top up an employees pay so they receive 100% of their normal pay, but this is at their discretion.

Do I still have to pay tax and operate deductions via payroll whilst an employee is on furlough?

Yes.

While on furlough, the employee's wage will be subject to usual income tax, national insurance contributions and other deductions.

Employees that have been furloughed have the same employment law rights as they did previously. That includes Statutory Sick Pay entitlement, maternity rights, other parental rights, and rights against unfair dismissal and to redundancy payments.

Do I have to agree with the employee to put them on furlough?

Yes.

Each employee must be notified in writing that they are being furloughed, however, HMRC's guidance states that "Collective agreement [for furlough] reached between an employer and a trade union is also acceptable for the purpose of such a claim."

The employee does not have to provide a written response and the employer does not need to place all employees on furlough.

We would recommend that employment law advice is sought before issuing the relevant written communications/notifications to selected employees.

Note that a record of this written communication must be retained for six years.

What is flexible furlough?

As part of CJRS version 2, the Government introduced a new concept known as "flexible furlough".

From 1 July 2020, the 'flexible furlough' scheme allows part time working arrangements. The same conditions applied that the worker must have been on furlough, but the difference with flexible furlough is employees can work for any amount of time, and any work pattern but they cannot do any work for their employer during hours that they are placed on furlough.

Are there any additional requirements for flexible furlough?

Yes.

If an employee is placed on flexible furlough, a new written agreement is required to document what hours they will be furloughed and what hours they will be working.

An employer must also keep records for each claim period to demonstrate how many hour was actually worked and the number of hours placed on furlough.

The calculation methodology is also different and you should refer to HMRC guidance on how to calculate. Further details are outlined under step 3 in the next section (see page 14).

4.2. CJRS ELIGIBILITY CRITERIA

Which employers are eligible?

All UK businesses can claim under the scheme if they:

- Created and registered a PAYE payroll scheme.
- Have enrolled for PAYE online
- Have a UK bank account, and
- Have furloughed employees who were already employed, paid via payroll and Real Time Information returns have been submitted to HMRC.

Any entity with a UK payroll can apply, including businesses, charities, recruitment agencies and public authorities.

It is also possible for an employer to claim for CJRS where it has taken on employees from another business, but specific criteria must be met in these circumstances and you should seek appropriate professional advice where this applies.

Can we claim if we receive public funding?

Note there are restrictions if the employer receives public funding to pay employees. An organisation should use public funding instead of making CJRS claims. However, an organisation can use CJRS if they are not fully funded by public grants and they should contact their sponsor department or respective administration for further guidance.

Which employees are eligible?

In order to claim for an employee they must:

- Have been placed on furlough and a written agreement is in place;
- Be on your payroll and a RTI return submitted to HMRC by a certain date, known as the employee's "reference date". There are no restrictions on the type of employment contract and an employer can furlough employees on all categories of visa; and
- There are additional criteria to consider for certain types of employee populations (see below)

The reference date varies depending on the claim period. Please see **Appendix 1** for the applicable reference date for each version of the CJRS scheme.

Are there any additional considerations for certain types of employees?

Yes.

There are complexities for the following types of employees and you should refer to specific HMRC guidance on these to determine if a claim can be made, or seek appropriate professional advice:

- Employees shielding, caring for relatives or off sick (Where employees are carers or need to look after children or are 'shielding' under government advice as a result of the COVID-19 crisis they can be furloughed, but an employer cannot claim for both CJRS and statutory sick pay at the same time);
- Employees on sabbatical or unpaid leave;
- Employees made redundant or laid off. Depending on the claim period you may not be able to claim for these individuals, for example you cannot claim for employees serving a notice period after 1 December 2020 and you cannot re-employ an individual and claim for furlough for periods on or after 1 May 2021; and
- Employees on maternity/adoption/paternity/shared parental leave.

Are there any restrictions on what an employee can do whilst on furlough?

Yes.

When an employee is fully furloughed, they are not allowed to undertake work for your organisation. They can undertake certain types of training, volunteer work, union or pension trustee activities, but there are restrictions in place to prevent certain activities.

Please refer to the following HMRC guidance to check what employees are allowed to do:

[Check if you can claim for your employees' wages through the Coronavirus Job Retention Scheme \(www.gov.uk\)](https://www.gov.uk)

What about if the employee is on flexible furlough?

If an employee is flexibly furloughed they are allowed to work for you, but you should only make a CJRS claim for any usual hours they are furloughed (please see step 3 on page 14)

What amount can be claimed under CJRS?

The following table summarises what funding is provided by the Government under CJRS and what an employee will receive. This table assumes that an employer will only pay furlough to an employee, i.e. 80% of their regular wages.

You will note the amount an employer can claim depends on the claim period and for certain claim periods the Government does not make a full contribution and instead the employer is required to top up/fund a portion of employee wages.

	March 2020 to July 2020	August 2020	September 2020	October 2020	November 2020 to 30 April 2021	May and June 2021	July 2021	August and September 2021
Government contribution towards employer National Insurance Contributions and pension contributions	Yes	No	No	No	No	No	No	No
Government contribution towards wages	80% up to £2,500	80% up to £2,500	70% up to £2,187.50	60% up to £1,875	80% up to £2,500	80% up to £2,500	70% up to £2,187.50	60% up to £1,875
Employer required to fund employer National Insurance Contributions and pension contributions	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Employer required to make Contribution to employee wages?	No	No	Yes, 10% up to £312.50	Yes, 20% up to £625	No	No	Yes, 10% up to £312.50	Yes, 20% up to £625
Employee receives	80% up to £2,500 per month	80% up to £2,500 per month	80% up to £2,500 per month	80% up to £2,500 per month	80% up to £2,500 per month	80% up to £2,500 per month	80% up to £2,500 per month	80% up to £2,500 per month

What can I claim for?

If the employee is eligible, before you can calculate a CJRS claim, it is necessary to work out your employees' wage. To do this an employer must determine:

- The length of the claim period
- What you can include when calculating wages
- Your employee's usual hours and furloughed hours

Guidance on each of the above steps is detailed on the next page, but please note there are additional steps to be undertaken to calculate CJRS after this and we would recommend referring to the following HMRC guidance, as the amounts will depend on your circumstances.

[Calculate how much you can claim using the Coronavirus Job Retention Scheme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/how-to-claim-using-the-coronavirus-job-retention-scheme)

Prior to August 2020, it was also possible to claim for costs incurred in respect of employer National Insurance Contributions and employer pension contribution costs. HMRC has archived this guidance, but it can still be found via following the below link:

[KA-01297 - Community Forum - GOV.UK \(hmrc.gov.uk\)](https://www.gov.uk/guidance/ka-01297-community-forum)

Step 1 - what period can I claim for?

- a) The claim period is made up of the days you are claiming, with the starting date being the date you first placed the employee on furlough.
- b) A claim period should be no more than 1 month and where the worker returns to work during a claim period then the end date will be the date they returned to work (the number of furlough days claimed for should be restricted accordingly).
- c) Since July 2020, claim periods must start and end within the same calendar month and last at least 7 days.
- d) You should match your claim period to the dates you process your payroll where possible. You can claim before, during or after you process your payroll, but you can only claim within 14 days (before or after) of the claim period end date.
- e) For each PAYE Payroll scheme, only one claim can be made for any given period - there can be no overlap so each claim must cover all employees furloughed (or flexibly furloughed) for a period.

For CJRS claims made up to 30 June 2020, there was a minimum furlough period of 3 consecutive weeks and whilst employees could be furloughed multiple times, each separate instance must have been for a minimum period of 3 consecutive weeks. When an employee returned to work they must be taken off furlough. Employees must have been added to the scheme by 10 June 2020 (so that they met the furlough days requirement by 30 June when the initial version of the scheme ended).

Step 2 - What employee wage can I claim for?

There are three aspects to consider here:

1. Identifying the employee's reference date (see Appendix 1)
2. Identifying the employees pay based on the applicable reference date (see below); and
3. Special rules for those on family related leave (see the additional subheadings from "Employees returning from family-related statutory leave" onwards at <https://www.gov.uk/guidance/steps-to-take-before-calculating-your-claim-using-the-coronavirus-job-retention-scheme#include>)

Once you have identified the employee's reference date, you should determine the employees regular pay based on the amounts submitted to HMRC on your payroll records. An employee's regular pay for CJRS includes the following:

- Regular basic wages/salary (this should be the amount after salary sacrifice has been applied, i.e. post sacrifice salary)
- Non-discretionary fees which you are contractually obliged to pay to the employee
- Non-discretionary overtime which you are contractually obliged to pay to the employee. These are set and paid at a defined rate.
- Piece rate payments.

All other payments should be excluded from CJRS calculations, e.g. you should not include discretionary bonuses, commission payments or amounts of pay the employee has waived their right to receive.

Step 3 - When do I need to consider usual hours?

For flexible furlough, it is necessary to consider the concept of “usual hours”.

There are 2 different calculations that an employer can use to work out your employee’s usual hours, depending on if the employee works fixed or variable hours.

An employer should use the calculation for variable hours if either of the following apply:

- a) The employee is not contracted to a fixed number of hours
- b) The employee’s pay depends on the number of hours they work

If neither of the above apply, then the employer should use the fixed hours calculation.

Details of how to calculate fixed, or variable hours can be found in HMRC guidance here:

<https://www.gov.uk/guidance/steps-to-take-before-calculating-your-claim-using-the-coronavirus-job-retention-scheme#usual-hours>

Are there any tools I can use to calculate CJRS?

HMRC has created a calculator to assist employers with their calculations. As with all calculators, it must be used with care: it is worth reading HMRC’s specific guidance to understand exactly how to calculate CJRS and deal with the RTI implications. This can be found here:

[Calculate how much you can claim using the Coronavirus Job Retention Scheme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/how-to-use-the-covid-19-job-retention-scheme-calculator)

How do I make a claim?

Employers will need to make a claim via HMRC’s online portal. Claims must be made by the 14th of the following month for each monthly claim.

The HMRC guidance provides detail on the information an employer will need to be able to make a claim but where the claim for the period covers 100 or more employees, HMRC will reject the claim file automatically if it does not include all the information required.

A claim template is available from HMRC here:

[Download a template if you’re claiming for 16 or more employees through the Coronavirus Job Retention Scheme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/how-to-claim-for-covid-19-job-retention-scheme)

The guidance on how to make a claim is here:

<https://www.gov.uk/guidance/claim-for-wages-through-the-coronavirus-job-retention-scheme>

What happens once I have submitted my claim?

Once HMRC has processed the employer’s claim it will make payment by BACs into their nominated UK bank account. If employers have not already paid the employee, then they must pay the employees all of the grant they received for their gross pay.

What happens when the CJRS scheme ends?

When the scheme closes, as per HMRC guidance, the employer has a number of potential options:

- bring the furloughed employee back to work on their normal hours; or
- make change to their contract, such as reducing their employees’ hours; or
- terminate their employment.

Complexities can arise with the last 2 options and you should seek appropriate professional advice.

Where could I go wrong with my CJRS claim?

Detailed below are some of the common errors that employers could made when making their CJRS claim.

Please note this list is not exhaustive.

- Incorrect calculation of reference pay, for example Including/excluding incorrect pay elements.
- Variably paid employees, for example incorrect averaging calculations, comparisons of wrong periods.
- Fixed pay employees - incorrectly using the variable pay rules.
- Salary sacrifice arrangements, for example not excluding from reference pay, or deducting the salary sacrifice from the 80% furlough pay.
- Employee's not receiving full payment of the grant. There is potential for the whole of the individual's claim to be clawed back by HMRC if this arises.
- Incorrect amount claimed for employer's National Insurance Contributions (periods prior to 1st August 2020). This typically arises where employees received additional pay (other than furlough), returned to work during the claim period, or was furloughed for part of the claim period.
- Incorrect amount claimed for employer pension contributions, for example a claim being made for an employee that was not in a pension scheme, or the pension scheme is not a qualifying pension auto enrolment scheme.
- Incorrect calculation of usual Hours for flexible furlough calculations. For example:
 - a) Using actual working hours in a month instead of HMRC's calculation
 - b) No pro-rating for "short" months
 - c) Not adjusting the formula in corresponding claim months where number of days or hours of work varied

Can I correct a claim?

Yes.

HMRC has setup a facility to allow employers to correct claims, but there are strict deadlines that must be met in order for HMRC to approve the claim and release funds. These are as follows:

- For periods ending 30th June 2020, all amendments were required to be submitted to HMRC by 31st July 2020.
- For periods between 1st July 2020 and 30th October 2020, all amendments were required to be submitted to HMRC by 31st July 2020.
- For periods after 1st November 2020, all amendments are required to be submitted to HMRC within 28 days after month end (unless this falls on a weekend then it is the next working day). For example, for claims for July 2021, any amendments should be submitted to HMRC before 11:59pm on 31st August 2021.

I have claimed too much from HMRC, or I no longer need the funds. Can I repay this to HMRC?

Yes, employers are able to repay HMRC if they have claimed too much or no longer need the funds.

Note penalties may apply if the employer has over claimed and has not returned to HMRC within 90 days of date the funds were paid to employer by HMRC (no penalty would be charged for earlier periods if returned by 20 October 2020, or 90 days, whichever is later).

Failure to notify HMRC may result in penalties of up to 100% of the payments.

Could HMRC review our claims at a later date and ask us to return funds?

Potentially.

HMRC has invested approximately £100m in a recruiting a CJRS Task Force made up of over 1000 inspectors who will be tasked with undertaking reviews of claims made by employers to check if the correct amount was claimed. Where they suspect a fraudulent claim or an employer has claimed too much they will investigate employers further and ask employers to provide records to evidence the claim amounts made.

Where an employer is unable to provide records to back up the claim amounts made, HMRC has powers to force the employer to return the CJRS funding and could also seek to impose penalties.

As of March 2021 HMRC were investigating over 26,000 cases and there have been a number of HMRC letter campaigns asking employers to check that their claims are accurate and contact them following this review.

If an employer receives a letter from HMRC we would recommend they contact a professional tax adviser to discuss their options.

Disclaimer

Please note this guidance is not exhaustive and may not cover all circumstances that apply to an employer. An employer should seek professional employment tax, employment law advice or other appropriate advice as appropriate before taking any action.

4.3. CORPORATION TAX

What is the corporate tax treatment of funds received under the CJRS?

The amount of tax payable upon the profits per accounts for the relevant period. Each type of the amateur sports club is considered below.

Unincorporated Association & Company Limited by Guarantee (non CASC registered)

The treatment is the same as for RHLGF grants and hence is dependent on whether the club has solely member income or a mixture of member and non-member income. In the same way as for RHLGF the grant is split between member and non-member income on a just and reasonable basis. This should mirror the apportionment of the furloughed employees costs and be offset accordingly and hence it is likely that the costs and grant would offset against each other to give a neutral outcome.

CASC

The CJRS grant does not count towards the £100,000 income limit condition.

As the grant directly relates to a cost of the club and is not related to turnover the grant does not count towards the £50,000 turnover limit for non-member trading income to be exempt. As a result the CJRS grant should not have any impact on a CASC unless the CASC had already exceeded the £50,000 turnover limit for non-member trading income. In such a circumstance then as with a non CASC registered club there would need to be an exercise to split the grant between member and non-member income with a taxable profit or loss arising as a result.

4.4. VAT TREATMENT OF CJRS FUNDING

Will the grant income be subject to VAT?

No, the funding is outside the scope of VAT (see below).

If a monetary amount is freely given, it is not consideration for any supply and so is outside the scope of VAT. In this situation, the monetary amount (grant funding) has to be unconditional and the following points will help in deciding whether this is the case.

- Does the grantor receive anything in return for the payment?
- Are there any conditions attached to the payment that go beyond merely having to mention it in account statements?
- What will the payments be used for?
- If the grantor does not benefit directly, does any third party receive a benefit?
- Is there a contract and what are the terms and conditions?

On the basis that there is no underlying supply by the recipient of the grant (sports club) to the Government, the funding received will be outside the scope of VAT.

Will the funding count towards the UK VAT registration threshold?

You must register for VAT if the value of your taxable supplies (e.g. bar sales in the clubhouse) exceeds the 'VAT registration threshold' in a 12 month period. This is known as a 'compulsory registration'.

The VAT registration threshold changes annually and can be checked via the following link:

<https://www.gov.uk/vat-registration-thresholds>

As the grant income is outside the scope of VAT, it will not count towards the value of taxable supplies and should be disregarded for VAT registration and deregistration limit purposes.

APPENDIX 1 - CJRS KEY CHANGES

The following table outlines the key differences between the different versions of the CJRS scheme and the impact on eligibility criteria and the amount that can be claimed.

Topic/rule	CJRS v1 March to June 2020	CJRS v2 July to October 2020	CJRS v3 November to April 2021	CJRS v4 May to September 2021
Did an employee needed to be previously furloughed	No. An employee must have been furloughed for a consecutive three week period between 1 March and 30 June 2020.	Yes, apart from exceptional circumstances	No. Provided they placed on furlough prior to the reference date.	No. Provided they placed on furlough prior to the reference date.
Maximum number of individuals that an employer can claim for	No maximum	Cannot exceed the maximum number of employees claimed for under any claim ending by 30 June 20 unless in very exceptional circumstances	No maximum	No Maximum
Is Flexible Furlough available?	No	Yes	Yes	Yes
Claim deadline	31 July 20	30 November 20	14 days after each month end, (unless this falls on a weekend then it is the next working day)	14 days after each month end, (unless this falls on a weekend then it is the next working day)
Can additional employees be added to the claim?	31 July 20	N/A	28 days after month end (unless this falls on a weekend then it is the next working day)	28 days after month end (unless this falls on a weekend then it is the next working day)

Under-claim amendment deadline	30 November 20	30 November 20	28 days after month end (unless this falls on a weekend then it is the next working day)	28 days after month end (unless this falls on a weekend then it is the next working day)
Over-claim amendment deadline	20 October 20	90 days after receipt of grant not entitled to	90 days after receipt of grant not entitled to	90 days after receipt of grant not entitled to
Could a claim be made for an employee who is serving a statutory notice period?	Yes	Yes	November 20 - Yes December 20 onwards - No	No
What period could be claimed?	Can start and finish in different months	Claim periods must start and finish in same month	Claim periods must start and finish in same month	Claim periods must start and finish in same month
Length of claim period	No minimum	At least 7 days unless it contains first or last day of month	At least 7 days unless it contains first or last day of month	At least 7 days unless it contains first or last day of month
Employee Eligibility (must have been included in RTI submissions)	RTI submission made on or before 19 March 20	RTI submission made on or before 19 March 20	RTI submission made on or before 19 March 20, or RTI submission made between 20 March 20 and 30 October 20	RTI submission made on or before 19 March 20, or RTI submission made between 20 March 2020 and 30 October 20 RTI submission made between 20 March 2020 and 2 March 21
Fixed paid employees: Reference date for salary and usual hours calculations	Last pay period ending on or before 19 March 20	Last pay period ending on or before 19 March 20	Option 1 - Where employee was on a RTI submission made on or before 19 March 20, use the last pay period ending on or before 19 March 20 or	Option 1 - Where employee was on a RTI submission made on or before 19 March 20, use the last pay period ending on or before 19 March 20 or

			Option 2 - Where employee was on a RTI submission made between 20 March 20 and 30 October 20, use the last pay period ending on or before 30 October 20	Option 2 - Where employee was on a RTI submission made between 20 March 20 and 30 October 20, use the last pay period ending on or before 30 October 20 Or Option 3- Where employee was on a RTI submission made between 31 October 2020 and 2 March 2021, use the last pay period ending on or before 2 March 21
Variable paid employees:	Higher of: Average number of hours worked in 2019/20, and	Higher of: Average number of hours worked in 2019/20, and	Option 1 - Where employee was on a RTI submission made on or before 19 March 20, use the higher of: Average number of hours worked in 2019/20, and	Option 1 - Where employee was on a RTI submission made on or before 19 March 20, use the higher of: Average number of hours worked in 2019/20, and
Usual hours calculations	Corresponding calendar period in 2019/20	Corresponding calendar period in 2019/20	Corresponding calendar period in 2019/20 Or Option 2 - Where employee was on a RTI submission made between 20 March 20 and 30 October 2020, use:	Corresponding calendar period in 2019/20 Or Option 2 - Where employee was on a RTI submission made between 20 March 20 and 30 October 20, use:

			<p>Average number of hours worked from 6 April 20 to first day spent on furlough after 1 November 20</p>	<p>Average number of hours worked from 6 April 20 to first day spent on furlough, on or after 1 November 20</p> <p>Or</p> <p>Option 3- Where employee was on a RTI submission made between 31 October 2020 and 2 March 2021, use:</p> <p>Average number of hours worked from 6 April 20 to first day spent on furlough, on or after 1 May 21</p>
<p>Reference pay calculation for variably paid employees</p>	<p>Higher of:</p> <p>Average wages earned in 2019/20, and</p> <p>Wages earned in corresponding calendar period in 2019/20</p>	<p>Higher of:</p> <p>Average wages earned in 2019/20, and</p> <p>Wages earned in corresponding calendar period in 2019/20</p>	<p>Option 1 - Where employee was on a RTI submission made on or before 19 March 20, use the higher of:</p> <p>Average wages earned in 2019/20, and</p> <p>Wages earned in corresponding calendar period in 2019/20</p> <p>Or</p> <p>Option 2 - Where employee was on a RTI submission made</p>	<p>Option 1 - Where employee was on a RTI submission made on or before 19 March 20, use the higher of:</p> <p>Average wages earned in 2019/20, and</p> <p>Wages earned in corresponding calendar period in 2019/20</p> <p>Or</p> <p>Option 2 - Where employee was on a RTI submission made</p>

			<p>between 20 March 20 and 30 October 20, use:</p> <p>Average wages payable from 6 April 20 to first day spent on furlough after 1 November 20</p>	<p>between 20 March 20 and 30 October 20, use:</p> <p>Average wages payable from 6 April 20 to first day spent on furlough, on or after 1 November 20)</p> <p>Option 3- Where employee was on a RTI submission made between 31 October 2020 and 2 March 2021, use:</p> <p>Average wages payable from 6 April 20 to first day spent on furlough, on, or after 1 May 21</p> <p><i>For all options above, note that where part of the period includes statutory sick pay related leave, family related statutory leave or reduced rate paid leave following such periods, these days should now be left out of the average, unless the employee was on one of these kinds of leave throughout the entire period used to calculate their average wages, in which case you should include the days during</i></p>
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				<i>and wages related to that leave.</i>
Reference pay calculation for fixed paid employees	No adjustment	No adjustment	<p>Pay frequency changed between reference period and pay period:</p> <p>Wages pro-rated to new pay frequency, then multiplied by 80%</p>	<p>Pay frequency changed between reference period and pay period:</p> <p>Wages pro-rated to new pay frequency, then multiplied by 80%</p>

APPENDIX 2 - GLOSSARY OF TERMS

TERM	DEFINITION	GUIDANCE
Coronavirus Job Retention Scheme (“CJRS”)	This is a government funded scheme where employers can apply for grant funding to pay their employees.	<u>Check if you can claim for your employees' wages through the Coronavirus Job Retention Scheme - GOV.UK (www.gov.uk)</u>
Furlough	This is a new employment law concept due to Coronavirus. In general terms it refers to when employers require their staff to take unpaid leave of absence. For an employer to claim CJRS grant funding an employee must be placed on furlough.	<u>Coronavirus (COVID-19): what to do if you're employed and cannot work - GOV.UK (www.gov.uk)</u>
Flexible Furlough	This is another new employment law concept due to Coronavirus. Where an employee is flexibly furloughed, they will work reduced hours rather than stopping work completely. If an employer	<u>Steps to take before calculating your claim using the Coronavirus Job Retention Scheme - GOV.UK (www.gov.uk)</u>
Furlough agreement	This is a written agreement issued by an employer confirming the employee has been placed on furlough. The employee does not have to provide a written response for the furlough agreement to be valid.	<u>Check if you can claim for your employees' wages through the Coronavirus Job Retention Scheme - GOV.UK (www.gov.uk)</u>

Reference date	An employee's reference date determines which calculation rules should be used when calculating CJRS grant claims.	Steps to take before calculating your claim using the Coronavirus Job Retention Scheme - GOV.UK (www.gov.uk)
Reference salary/pay	Reference salary is linked to regular pay. This is the regular pay the employee received in the pay period HMRC asks employers to use when calculating CJRS. Reference salary will depend on the time period the claim is made (see appendix 1) and whether the worker is deemed to be a fixed-rate or variable employee.	Steps to take before calculating your claim using the Coronavirus Job Retention Scheme - GOV.UK (www.gov.uk)
Regular pay	This is the pay used to calculate how much an employer can claim for an employee under the CJRS grant funding scheme. There is specific criteria outlined in HMRC guidance.	Steps to take before calculating your claim using the Coronavirus Job Retention Scheme - GOV.UK (www.gov.uk)
Claim period	The claim period is made up of the days that the grant is being claimed for. The start date of the first claim period is the date the first employee was furloughed. Claim periods must start and end within the same calendar month and last at least 7 days.	Steps to take before calculating your claim using the Coronavirus Job Retention Scheme - GOV.UK (www.gov.uk)
Fixed-rate employee(s)	This is the one of two types of employees for the purposes of CJRS calculations. A person is a fixed rate employee if they: <ul style="list-style-type: none"> - are entitled under their contract to be paid an annual salary - are entitled under their contract to be paid that salary in respect of a number of hours in a year - are not entitled under their contract to a payment in respect of the basic hours other than an annual salary 	200414_CJRS_DIRECTION_-_33_FINAL_Signed.pdf (publishing.service.gov.uk)

	- are entitled under their contract to be paid in regular, equal instalments	
Variable-rate employee(s)	<p>This is the one of two types of employees for the purposes of CJRS calculations.</p> <p>A person is a variable-rate employee if they do not meet the prescribed conditions to be considered a fixed-rate employee.</p>	<p>200414_CJRS_DIRECTION_-_33_FINAL_Signed.pdf (publishing.service.gov.uk)</p>
Usual hours	<p>An employees' usual hours are those that they would have worked in that pay period if they had not been flexibly furloughed. It is a specific term used for calculating CJRS.</p> <p>This usual hours figure is used to calculate furloughed hours for employees that have been flexibly furloughed.</p> <p>The calculation of usual hours differs for fixed-rate and variable-rate employees.</p>	<p>Steps to take before calculating your claim using the Coronavirus Job Retention Scheme - GOV.UK (www.gov.uk)</p>

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