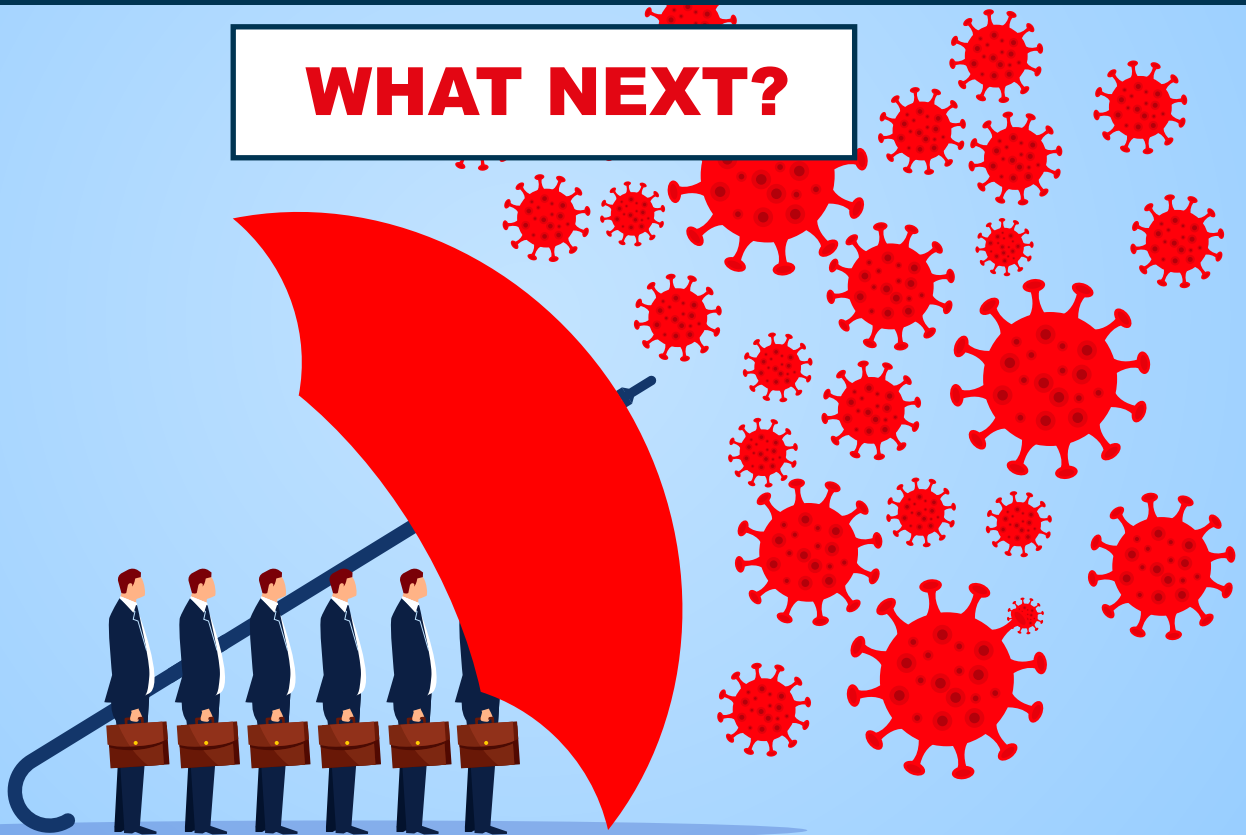


THE EXPLOITATION OF COVID-19 GOVERNMENT SUPPORT SCHEMES:

WHAT NEXT?



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1. INTRODUCTION

In response to the economic disruption caused by the COVID-19 pandemic, the government rapidly introduced several large-scale schemes to support vulnerable businesses. Two of the most utilised government support measures were the Coronavirus Job Retention Scheme ('CJRS') and the Bounce Back Loan Scheme ('BBLs'). Whilst these measures have provided a lifeline for many businesses, they have also facilitated an increase in fraudulent activity. This is evidenced by a reported 24% rise in fraud during the pandemic.¹ Now that these measures have ended, what are the government proposals for how to hold those involved in the fraudulent exploitation of these schemes accountable?

2. FRAUDULENT EXPLOITATION OF GOVERNMENT MEASURES

2.1 Coronavirus Job Retention Scheme

The CJRS was introduced on 20 April 2020. It supported businesses by paying 80% of the wages of employees placed on "furlough" (up to £2,500 per month). It ended on 30 September 2021 having been in place for 11 months, during which over 11.7 million jobs were supported and over £70 billion was paid.

Whilst the CJRS has been successful in protecting jobs across the UK, it was introduced at haste resulting in over-complexity which has been described as a 'magnet for fraudsters'.²

Subsequently, at least 5-10% of the £70 billion distributed under the scheme is estimated to have been claimed fraudulently. In some cases, this has been on a large scale: a Financial Times investigation uncovered a group of companies that received up to £40 million in furlough support in a single month, despite seemingly having no staff.³

1 <https://www.gov.uk/government/news/joint-taskforce-relaunched-to-protect-against-rise-in-fraud-crime>

2 <https://parliamentlive.tv/Event/Index/7e05fe6c-40a2-404b-9d31-2840624a64be>

3 <https://www.ft.com/content/b3c70369-5170-47ca-b779-fc0898fd29e6>

2.2 Bounce Back Loan Scheme

The BBLS was designed to provide financial support to businesses across the UK by providing loans of up to £50,000, or a maximum of 25% of annual turnover, to help businesses maintain their financial health during the pandemic. The scheme offered lenders a 100% government-backed guarantee against the outstanding balance of the facility (both capital and interest). In the 11 months between its inception on 4 May 2020 and its end on 31 March 2021, over £46 billion has been loaned under the scheme.

The Public Accounts Committee has suggested that the focus on speed of delivery of the BBLS exposed taxpayers to potential losses in the region of £15 billion to £26 billion. While most of these will likely be credit losses, the extent of fraudulent claims under the scheme is yet to be revealed.

It does however seem probable that there will be a multitude of fraudulent claims given the application procedure involved in claims under the BBLS (which merely required self-certification and did not require lenders to check the information on the loan application form, nor to perform credit and affordability checks). Additionally, banks did not collect information on how businesses used the loans once they were granted. This left the scheme extremely vulnerable to exploitation by fraudsters.

Arrests have already been made in relation to fraudulent use of the BBLS, including three men who were arrested for claims totalling over £6 million,⁴ and two individuals who have been imprisoned for fraudulently claiming £489,000 through the scheme.⁵ However, the real scale of the problem is expected to become increasingly apparent over the coming months as the first repayments become due.



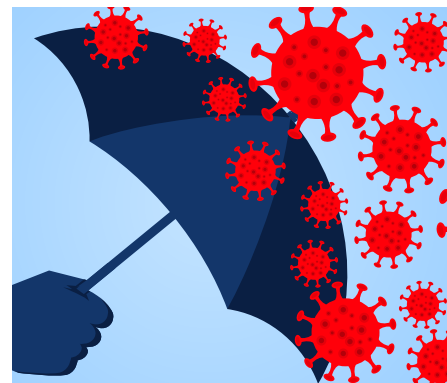
3. GOVERNMENT RESPONSE

The government has announced several strategies in response to the rise in fraud during the COVID-19 pandemic. Perhaps the most significant of these is the proposed Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill 2021 (the 'Bill') which is now in its third reading in the House of Lords. Relating specifically to BBLS fraud, it will give the Insolvency Service powers to investigate and take action to disqualify directors of companies who have fraudulently claimed loans and have since been dissolved. This power will be retrospective to allow conduct that took place before the law comes into force to be investigated.

However, the effectiveness of the Bill (if it is passed) will turn on how these new powers are funded, how the government will prosecute directors it holds culpable, and what the approach to the dissolved companies themselves will be.

Only time will tell how the Bill will operate in practice, but we can expect the Insolvency Service to be extremely busy over the next 12 months dealing with the unknown number of fraudulent BBLS claims.

In addition, the Taxpayer Protection Taskforce ('TPT'), announced in March 2021 will be staffed by more than 1,250 HMRC employees who will be responsible for investigating those who have sought to fraudulently claim taxpayers' money, including those claiming fraudulently under the CJRS and BBLS. This will extend the number of people within HMRC with powers to investigate claims. The success of this taskforce is yet to be seen, but on 27 October it was announced that a further £55 million will be invested (in addition to the original £100 million provided for the initiative), suggesting a significant number of claims are already being investigated.



4. CONCLUSION

The true scale of fraudulent activity in relation to government support measures over the past 18 months remains to be seen, as does the effectiveness of the government's proposed response. It seems likely that as the year draws to a close data will reveal higher instances of fraud than have presently been reported, with delays in fraud detection continuing to present challenges. HMRC and the government will need to collaborate in their approach to combatting the fraudulent use of support measures, as the effects of COVID-19 will last long after the public health crisis subsides. Lessons should also be learned from the drafting of emergency support measures, to ensure that opportunities for fraud are thoroughly considered before measures are implemented to try and reduce the vulnerability of similar schemes in the future.



⁴ <https://www.theguardian.com/uk-news/2021/jan/23/three-men-arrested-amid-inquiry-into-6m-covid-loan>

⁵ <https://www.lexisnexis.co.uk/blog/covid-19/two-jailed-for-exploiting-coronavirus-covid-19-bounce-back-loans>