

Guidance on the Coronavirus Job Retention Scheme and on Payments to Contingent Workers

Introduction

This document provides guidance to Schools on both the Coronavirus Job Retention Scheme (CJRS) and on paying contingent workers to reflect the latest updates from the DfE.

Please note that the guidance on contingent workers outlines details of an Interim Average Payments Scheme which Derbyshire County Council has adopted for the contingent worker group. It is entirely up to each School to determine whether they wish to implement this scheme for their relief/casual staff.

Details of the CJRS Scheme and Criteria

The DfE has provided an update to the CJRS. The updated guidance acknowledges that schools may have a separate private income stream that has reduced or stopped altogether and there would be staff that typically work on activities relating to these private income streams. The nature of the activities that are sometimes funded through private income streams, e.g. wrap around care, catering, lettings, mean that it is unlikely that any teaching staff will be eligible to be furloughed under the CJRS.

DfE advice is that schools should first look to make the necessary savings from their existing budget or consider options to re-deploy any staff whose work is entirely funded from external income streams before deciding to furlough them. Only after all other potential options have been fully considered should schools furlough those affected staff and access the CJRS scheme, provided that the following conditions have been met:

- the employee works in an area of business where services are temporarily not required and/or whose salary is not covered by public funding;
- the employee would otherwise be made redundant or laid off;
- the employee is not involved in provision that has been already been funded;
- (where appropriate) the employee is not required to deliver provision for a child of a key worker and/or vulnerable child; and
- that the grant from the CJRS would not be duplicative to other public grants that you receive and would not lead to financial reserves being created for your organisation.

This means that schools must be able to demonstrate that all of the salary costs covered by the grant from the CJRS would normally have been paid using income outside GAG or LA delegated budget lines. Also, the DfE is considering appropriate measures to monitor the use of this scheme in order to detect any duplication of funding, and will be considering potential options to recover misused public funding as required.

Where these conditions are met, schools should receive a grant from the CJRS which is in line with the proportion of its pay bill which could be considered to have been funded by a school's private income. It is important to remind you that you should only claim a CJRS grant if the criteria above can be proven. It is highly likely that the government will undertake a review of claims especially from public sector organisations once normality resumes. It is worthwhile making governors aware of any such claim that you intend to make.

The scheme only reimburses up to 80% of the employee's regular wage capped at £2,500 gross per month, plus the associated Employer National Insurance Contributions and minimum automatic enrolment employer pension contributions on that subsidised wage. The Local Authority strongly recommends that schools continue to pay staff at 100% pay with 80% claimed back from HMRC. This is to ensure staff who are furloughed do not suffer any financial detriment. This would also mean that schools pay the balance of the employer pension contributions for the Local Government Pension Scheme. Employers' guidance on accessing the CJRS can be found [here](#), and please note the recent announcement about the extension of the scheme here [Job Retention Scheme Announcement](#).

What Schools Should Do To Furlough Staff

- Consult with staff to place them on furlough leave. This doesn't need to be for long and can be through email and/or discussion, but should allow time for questions to be raised, answered and involve local Trade Union representatives wherever possible.
- The school need to agree with staff that they be placed on furlough leave and ensure that they inform staff by letter of the change along with retaining a signed acceptance.
- Those schools that purchase payroll services and the HR Advisory Service from the Local Authority must in the first instance contact the HR Advisory Service regarding advice and support on the furlough scheme. If it is subsequently decided to furlough employees then a spreadsheet will be issued by HR Advisory to schools for completion. The completed spreadsheet should then be sent to HR Services where the Local Authority will then apply to HMRC for the grant on behalf of the school. Completed spreadsheets need to be returned to HR Services no later than 01 June 2020 in order to ensure the appropriate claim for all schools can be made. Once the claim is successful and funds are received from the furlough scheme only then will school budgets be reimbursed.
- Schools that purchase other HR advisory providers should liaise with them about whether their plans to furlough staff are appropriate.
- Schools that intend to 'furlough' staff and that use other payroll providers should liaise with them as soon as possible to obtain assistance with accessing the CJRS.

Relief/Supply/Casual Staff

These staff can only be 'furloughed' if they meet the criteria for CJRS as outlined above.

Schools should consider the guidance on 'Contingent Workers In Schools' in the next section for all relief/supply/casual staff for information on appropriate payment for this group.

Schools - Relief Covid-19 – Interim Average Payments Scheme for Contingent Workers

Government Guidance is clear that public sector bodies, including schools are not expected to make significant use of the CJRS and that where Government provides funding for the payment of staff then public bodies should use this to continue to pay workers and not access the Scheme.

There is an expectation that employees will continue to be paid as normal, as there are no changes to budgeting arrangements. The use of casual/relief/supply staff may be planned (e.g. exam invigilation) or unplanned (e.g. to cover for another member of staff).

In general terms, payments should be made for planned or reasonably expected use of casual/relief/supply staff.

There may be a variety of working patterns that casual/relief/supply staff may be utilised for and as such have an impact on schools, a few examples include:

- The employee has worked for the school regularly in the recent past, and if there were not a pandemic would expect to continue to be engaged on that same basis going forward.
- The employee has been "recruited" to carry out a piece of bespoke work in the summer term, e.g. an exam invigilator. This is a piece of work that the school has planned and budgeted for, and in the absence of the pandemic would be considered as business as usual.

These are all examples of work that would generally be needed by the school and therefore the government guidance is that they should continue to be paid what they would have received had there been no pandemic.

If you have agreed with a relief worker, such as an exam invigilator when they should attend you will be obliged to honour this agreement and continue to pay them. If however you have asked about their availability and not confirmed when they would be required you would not have the same obligation. In line with the Councils approach to the payment of relief staff as outlined below, it is strongly recommended that schools maintain the pay of these staff even if they have not yet been provided with a schedule and there is no work currently available. This will mitigate the risk of losing these workers who you will be relying on to provide this work in the future and protect individual livelihoods within the spirit of the Governments schemes to support the working population at this difficult time. In determining the payment to be made for

exam invigilators you should determine what you would normally have expected to pay these individuals based on a draft schedule of the exams or the hours worked during this exam season in previous years. A payment on the basis of reasonably expected work can be made through the normal claim form process.

Where the employee has worked irregularly in the recent past, and it is therefore difficult to predict what need there would be for this role if there were no pandemic there is no contractual obligation to pay them if they are not required to work. This includes where the need for a worker has reduced as a result of Covid-19 pandemic.

The Council has decided, however, that in the immediate future where there is a reduction in work available because of how coronavirus has impacted upon the service the Council we will maintain the pay of these staff even if they cannot work. This will apply from Monday 23rd March 2020 until the end of May 2020 and subject to schools returning on 1st June 2020.

This approach will apply to the pay of casual staff paid by claims for hours via Derbyshire County Council payroll where they have been undertaking work on an ad hoc or unpredictable basis. The measures agreed will be in line with the support which is being provided by the Government in the CJRS.

These measures aim to protect:

- against the risk that some may attend work when they should be self-isolating, thereby potentially infecting wider teams and the broader general public;
- against the risk of losing critical workers to jobs in other sectors because they are not getting paid;
- the livelihood of contingent workers

Schools have been asking for clarity about the approach that they should take in relation to the ad hoc casual staff that they employ through DCC payroll including directly employed supply teachers.

For clarity this update provides guidance on what these measures are, and to help schools make the right arrangements with their contingent workers.

Where adopted, this scheme will be applied to those adhoc relief workers who cannot work due to COVID-19, due to the temporary closure or partial closure of schools at this time.

Details of the Scheme

The scheme aims to ensure that those relief workers regularly working in a relief capacity are recompensed at an amount they would have reasonably been expected to receive to ensure they can meet their financial obligations.

The stages of the proposed scheme and how it will be applied are outlined as follows:

1. The relief workers which these payments apply to will be identified

This policy applies to relief employees including those who have other contracted posts with the school excluding those who;

- Have an existing full time contract with the employer
- Have several contracted posts that combined equal or exceed full time hours.

It will only apply to those roles where the demand for relief workers has reduced impacted as a result of Covid-19 whereby;

- Services have ceased or demand has reduced
- Buildings have closed or partial closure
- The individual is shielding and unable to work from home or be redeployed to undertake alternative duties from home

The applicable relief workers will be identified and agreed by the Headteacher, and will exclude any groups of relief workers whereby work has already been committed to and is being paid. These groups can be reconsidered for inclusion if the period of committed work expires and the reason for the reduction in demand continues.

The school should seek to recompense those employees regularly working in a relief capacity and therefore will only include those relief workers who have received payments under their relief contract in consecutive months Jan, Feb and March 2020. Schools may contact the pay team at HR Services via email to pay@derbyshire.gov.uk should they require clarification over which employees this scheme refers to and the average earnings level to be applied for each employee. Schools must then email pay@derbyshire.gov.uk if they wish to implement the Average Payments Scheme for relief/casual staff detailing the employees that they wish to be included in this average earnings top-up. Only eligible employees identified by the policy will be included as part of this average earnings top-up. If there is an employee who falls outside of the scope of this policy then you should discuss this with the HR advisory service.

Schools are reminded that the normal payroll lockdown periods remain and HR Services will only make the average earnings top-up if instructed by the school and if the notification is received prior to that lockdown period. Backdated top-ups to April 2020 can be arranged accordingly. If required advances could be made with prior notice.

The School should continue to seek redeployment for these employees where it is appropriate to do so. If an employee refuses to accept a reasonable redeployment request they may lose their eligibility to the scheme.

2. The average earnings of applicable workers will be calculated

With the pool of relief workers provided using the above criteria, a calculation will be applied to determine their gross average earnings paid (not worked) in the period 1 April 2019 – 31 March 2020 (or their period of employment if they have been employed on the relief record for a shorter period) aggregated across all their relief records at the School. The purpose of aggregating their relief earnings is so that it evens out any decrease in working in one role against an increase in another. Where an employee has 12 months service or less their first month of employment will not be included in

the average as they would not have been paid until the following month as relief hours are input and paid a month in arrears.

The gross payments attributable to contracted posts (where applicable) will not be included in the average figure.

This list of relief workers and their average payment will remain the static comparison figure. This figure will be referred to as the 'average earnings'.

3. Monthly comparison

Each month following the first payroll run in the payroll processing cycle, the gross payments for relief workers will be collated (and for those with multiple relief records aggregated across all records). The gross payments attributable to contracted posts (where applicable) will not be included in the comparison figure and as above these have been excluded from the average earnings figure.

This figure will be referred to as the 'monthly earnings' and will be output on a monthly basis as outlined above, commencing from and including April 2020.

The following calculation will be applied to identify any shortfall in earnings;

Monthly earnings - Average earnings = Deficit earnings or Surplus earnings

Where the employee has a deficit in earnings these earnings will be 'topped up'.

I.e. an employee's average earnings equal £1000. In April they earn £1200 and in May they earn £200. The following calculations and payments would be due;

April 2020 - £1200 (Monthly earnings) - £1000 (Average earnings) = £200 surplus earnings (no payment due)

May 2020 - £200 (Monthly earnings) - £1000 (Average earnings) = £800 deficit earnings (£800 payment due)

4. Payments

Any deficit earnings for June relating to work undertaken in May 2020 will be topped up in June 2020 pay. Any deficit earnings for April or May relating to work undertaken in March or April can be backdated and paid in June 2020 pay.

The payment will be input against their lead relief record where they have several relief records. The payment description on the payslip will display as 'CV19 av top up.' This payment will be eligible to the normal deductions of tax and national insurance and will be pensionable. For payments to be made in June payroll confirmation of any employees to be included in this scheme will be required 11th June 2020. The next available payment date will be in July's payroll run and the date information is required by from schools is 7th July 2020.

If an employee received retrospective payments relating to a previous month the 'top up' will be adjusted in the following months pay.

5. Communication

Schools will need to have confirmed to HR Services by 11th June 2020 any eligible employees that they wish to receive the average earnings top-up to be made in June 2020 payroll. Employees identified as requiring a top-up will be written to outlining their eligibility to the scheme, to confirm their average earnings payment and to explain the calculation and 'top up' process. This will also confirm that they will continue to be considered for redeployment and to remain eligible for the scheme they should accept offers of work where it is reasonable for them to do so.

Any email returns providing the details of your contingent workers should be sent to pay@derbyshire.gov.uk headed up as **Schools - Relief Covid-19 – Interim Average Payments Scheme for Contingent Workers**

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