

Latest Government guidance on the Coronavirus Job Retention Scheme State-funded Schools

The government has put in place a number of funding and financial measures to support organisations – both public and private – during the coronavirus (COVID-19) outbreak. These are intended to be temporary, timely and targeted, to support public services, people and businesses through this period of disruption. Their guidance sets out the financial support that is available for different types of education, early years and children's social care providers in England.

We have largely reproduced this guidance and highlighted in bold areas we think are of particular note.

No organisation should profit from the exceptional financial support available and should therefore only access the support required. For example, **organisations which continue to receive government funding should not furlough staff whose salaries that funding could typically be considered to fund**, and therefore will not need to access the Coronavirus Job Retention Scheme (CJRS).

All organisations are expected to have **adequate and effective governance arrangements and controls in place to ensure public funding is spent effectively and appropriately**.

Mainstream state-funded schools

Local authority maintained schools (including pupil referral units) and academies (including free schools) will **continue to receive their budgets for the coming year, as usual, regardless of any periods of partial or complete closure**. That will ensure that they are able to **continue to pay their staff, and meet their other regular financial commitments**, as we move through these extraordinary times. We know that schools may face additional costs as a result of coronavirus (COVID-19). The government have put in place additional support to help schools meet these costs; [guidance is available](#) on this additional funding.

We do not, in general, expect schools to furlough staff. However, we understand that, **in some instances, schools may have a separate private income stream (for example, catering, sports facilities or lettings)**. Where this income has either stopped or been reduced and there are staff that are typically paid from those private income streams, it may be appropriate to furlough staff. Schools should first seek to make the necessary savings from their existing budget or consider options to redeploy these staff before furloughing them. Only after all other potential options have been fully considered should schools furlough those members of staff and seek support through the Coronavirus Job Retention Scheme (CJRS).

To confirm the earlier advice the following conditions need to be met:

- the employee works in an area of business where services are temporarily not required and whose salary is not covered by public funding
- the employee would otherwise be made redundant or laid off

- the employee is not involved in delivering provision that has already been funded
- (where appropriate) the employee is not required to deliver provision for a child of a critical worker and/or vulnerable child
- the grant from the Coronavirus Job Retention Scheme would not duplicate other public grants received and would not lead to financial reserves being created

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.

To illustrate:

If a school's average monthly private income stream (for example, from parent-paid school meals) provides 4% of the schools' overall income, the school could claim support through the CJRS for up to 4% of its pay bill, after exhausting options to meet costs from existing budgets and redeployment. This would be done by furloughing staff (for example, catering staff) whose usual salary or combined salaries are linked with the income lost and come to no greater than 4% of the provider's total pay bill.

Schools are not expected to consider each stream of private income separately so a school should consider its total income from private sources, as a proportion of its overall income, and the pay of all the staff it proposes to furlough, as a proportion of its total pay bill.

Early Years

This section will be relevant to **early years providers that are employers, and that usually have a mix of public income** (largely this will be funding for the free early education entitlements, also known as 'DSG funding') and private income (largely this will be the fees that parents pay for childcare beyond the free entitlements).

On 17 March 2020, the Chancellor confirmed that the government will continue to pay local authorities for free early years entitlement places for 2, 3- and 4-year olds to support providers at this time.

Early years settings should remain open where they are needed to provide childcare for the children of critical workers who cannot be cared for safely at home, and vulnerable children.

A private provider should only furlough employees, and therefore seek support through the Coronavirus Job Retention Scheme, if they meet the following conditions:

- the employee works in an area of business where services are temporarily not required and where their salary is not covered by public funding
- the employee would otherwise be made redundant or laid off

- the employee is not involved in delivering provision that has already been funded (free entitlement funding)
- (where appropriate) the employee is not required to deliver provision for a child of a critical worker and/or vulnerable child
- the grant from the Coronavirus Job Retention Scheme would not duplicate other public grants received, and would not lead to financial reserves being created

If it is difficult to distinguish whether staff are funded through free entitlement or private income for the purposes of meeting the first 3 conditions as listed above, then an early years provider can access the CJRS to cover up to the proportion of its paybill which could be considered to have been paid for from that provider's private income. This would typically be income received from 'parent-paid' hours and excludes all income from the government's free entitlements (or 'DSG income') for all age groups. In line with the conditions of the scheme listed above, providers should initially use the month of February 2020 to represent their usual income in calculating the proportion of its paybill eligible to be covered by the scheme. Providers should adjust these proportions in subsequent furloughing applications if their income from the government's free entitlements changes but are not expected to make any adjustments in relation to changes in parent-paid income.

To illustrate:

If a provider's average monthly income is 40% from DSG and 60% from other income, the provider could claim CJRS support for up to 60% of their paybill.

This would be done by furloughing staff whose usual salary / combined salaries come to no greater than 60% of the provider's total paybill.

These proportions could change in subsequent furlough applications as a result of DSG income changing (but not where income from parents increased or decreased). For example, if this provider subsequently receives additional DSG income from a local authority as a result of providing additional hours of childcare, such that its new DSG income would represent 55% of its total income in February 2020, then its maximum use of the furlough scheme should, from that point, be reduced to 45% of its paybill.

Supply teachers and other contingent workers in state-funded schools

The below guidance sets out the general principles that state-funded schools (hereafter referred to as 'schools' in this section) and [employment intermediaries](#) (hereafter referred to as 'agencies' in this section) should follow for contingent workers during the coronavirus (COVID-19) outbreak.

Where schools are the workers direct employer

Schools will continue to receive their budgets for the coming year as usual, regardless of any periods of partial or complete closure. This will ensure that they are able to continue to pay for staff and meet their other regular financial commitments.

Hence, we expect schools to ensure any employees funded by public money continue to be paid in the usual fashion from their existing staff budgets, and correspondingly not furloughed, in line with the HM Revenue and Customs guidance for public sector organisations.

Where schools have live assignments with contingent workers, and where the school is the workers' employer, schools should continue to pay these workers from their existing school budgets and not furlough them.

Where schools have terminated contracts with contingent workers due to coronavirus (COVID-19) earlier than the original terms set out, and where the school was the workers' employer under that contract, schools should reinstate these contracts on the terms previously agreed, as long as the contractor is not already accessing alternative support through another government support scheme.

Where schools are not the workers direct employer

Schools are advised to refer to all parts of the [Procurement Policy Note 02/20](#) (PPN 02/20), which provides guidance for public bodies on payment of their suppliers for the purposes of ensuring the continuity of critical service during and after the coronavirus (COVID-19) outbreak.

Where schools have agency workers on live assignments who can continue to work, they may continue to make previously agreed payments for the supply of workers in line with the approach set out in PPN 02/20. Agencies who receive money for workers in line with this guidance should not furlough these workers and should follow the open book accounting rules set out in PPN 02/20 to provide schools with proof that workers are continuing to be paid as normal.

Where schools have agency workers on live assignments who cannot continue to work due to coronavirus (COVID-19), schools and agencies should refer to the guidance set out in [Procurement Policy Note 02/20: Contingent Workers Impacted by COVID-19](#).

The [supplier relief guidance](#) covers the length of existing live assignments up to the end date that had been previously agreed. It does not require these assignments to be extended further if the resource will not be required.

Where agency workers are not on live assignments with schools, or where a previously agreed assignment is due to end, schools and agencies should discuss any further

demand for the worker. If there is no further demand, the employer can apply to furlough the worker via the Coronavirus Job Retention Scheme.

Once a worker has been furloughed, they become unavailable to work and cannot provide services for their employer for a minimum of 3 weeks. Schools and agencies should bear this in mind when discussing ongoing resource requirements and agencies should keep this under regular review. Please refer to the [supplier relief guidance](#) for more information.

Where a worker is self-employed

Self-employed workers who are unable to work because of coronavirus (COVID-19) will be able to access support through the [Self-Employment Income Support Scheme](#).

Starting new temporary contracts

We expect schools will use their existing staff to maintain necessary provision, but schools may also continue to need supply teachers and other temporary workers throughout this period. We encourage schools and agencies to continue to liaise about any potential need to ensure workers are available where required.

School workforce employers can find additional guidance on the school workforce in the guidance on [temporary school closures](#).

If you made employees redundant or they stopped working for you after 28 February

If you made employees redundant, or they stopped working for you on or after 28 February 2020, you can re-employ them, put them on furlough and claim for their wages from the date on which you furloughed them through the scheme. This applies to employees that were made redundant or stopped working for you after 28 February, even if you do not re-employ them until after 19 March. This applies as long as the employee was on your payroll as at 28 February and had been notified to HMRC on an RTI submission on or before 28 February 2020. This means an RTI submission notifying payment in respect of that employee to HMRC must have been made on or before 28 February 2020

If an employee has had multiple employers over the past year, has only worked for one of them at any one time, and is being furloughed by their current employer, their former employer/s should not re-employ them, put them on furlough and claim for their wages through the scheme.

If your employees are working reduced hours

If an employee is working, but on reduced hours, or for reduced pay, they will not be eligible for this scheme.

If your employee is on unpaid leave

If an employee started unpaid leave after 28 February 2020, you can put them on furlough instead. If you put them on furlough then you should pay them at least 80% of their regular wages, up to the monthly cap of £2500.

If an employee went on unpaid leave on or before 28 February, you cannot furlough them until the date on which it was agreed they would return from unpaid leave.

If your employee is self-isolating or on sick leave

If your employee is on sick leave or self-isolating as a result of Coronavirus, they'll be able to get [Statutory Sick Pay](#), subject to other eligibility conditions applying. The Coronavirus Job Retention Scheme is not intended for short-term absences from work due to sickness, and there is a 3-week minimum furlough period.

Short term illness/ self-isolation should not be a consideration in deciding whether to furlough an employee. If, however, employers want to furlough employees for business reasons and they are currently off sick, they are eligible to do so, as with other employees. In these cases, the employee should no longer receive sick pay and would be classified as a furloughed employee.

Employers are also entitled to furlough employees who are being shielded or off on long-term sick leave. It is up to employers to decide whether to furlough these employees. You can claim back from both the Coronavirus Job Retention Scheme and the SSP rebate scheme for the same employee but not for the same period. When an employee is on furlough, you can only reclaim expenditure through the Coronavirus Job Retention Scheme, and not the SSP rebate scheme. If a non-furloughed employee becomes ill, needs to self-isolate or be shielded, then you might qualify for the SSP rebate scheme, enabling you to claim up to two weeks of SSP per employee.

If your employee becomes sick while furloughed

Furloughed employee retains their statutory rights, including their right to Statutory Sick Pay. This means that furloughed employees who become ill must be paid at least Statutory Sick Pay. It is up to employers to decide whether to move these employees onto Statutory Sick Pay or to keep them on furlough, at their furloughed rate.

If a furloughed employee who becomes sick is moved onto SSP, employers can no longer claim for the furloughed salary. Employers are required to pay SSP themselves, although may qualify for a rebate for up to 2 weeks of SSP. If employers keep the sick furloughed employee on the furloughed rate, they remain eligible to claim for these costs through the furloughed scheme.

If your employee has more than one job

If your employee has more than one employer, they can be furloughed for each job. Each job is separate, and the cap applies to each employer individually.

Employees can be furloughed in one job and receive a furloughed payment but continue working for another employer and receive their normal wages.

If your employee is on a fixed term contract

Employees on fixed term contracts can be furloughed. Their contracts can be renewed or extended before their natural conclusion during the furlough period without breaking the terms of the scheme. There is no minimum period which must be left to run on a fixed term contract to enable it to be renewed or extended, but it must not have ended. The furlough period must be for a minimum period of three consecutive weeks. Where a fixed term employee's contract ends because it is not extended or renewed before its natural conclusion you will no longer be able claim grant for them once the contract ends. Fixed term contracts which ended, without extension or renewal, on or before 19 March 2020 will not qualify for the grant once they have ended.

If your employee does volunteer work

A furloughed employee can take part in volunteer work, if it does not provide services to or generate revenue for, or on behalf of your organisation or a linked or associated organisation. Your organisation can agree to find furloughed employees new work or volunteering opportunities whilst on furlough if this is in line with public health guidance.

If your employee undertakes training

Furloughed employees can engage in training, as long as in undertaking the training the employee does not provide services to, or generate revenue for, or on behalf of their organisation or a linked or associated organisation. Furloughed employees should be encouraged to undertake training.

Where training is undertaken by furloughed employees, at the request of their employer, they are entitled to be paid at least their appropriate national minimum wage for this time. In most cases, the furlough payment of 80% of an employee's regular wage, up to the value of £2,500, will provide sufficient monies to cover these training hours. However, where the time spent training attracts a minimum wage entitlement in excess of the furlough payment, employers will need to pay the additional wages (see National Minimum Wage Section for more details).

Agreeing to furlough employees

Employers should discuss with their staff and make any changes to the employment contract by agreement. When employers are making decisions in relation to the process, including deciding who to offer furlough to, equality and discrimination laws will apply in the usual way.

To be eligible for the grant employers must confirm in writing to their employee confirming that they have been furloughed. If this is done in a way that is consistent with employment law, that consent is valid for the purposes of claiming the CJRS. There needs to be a written record, but the employee does not have to provide a written response. A record of this communication must be kept for five years.

You do not need to place all your employees on furlough. However, those employees who you do place on furlough cannot undertake work for you.

Minimum furlough periods

Any employees you place on furlough must be furloughed for a minimum period of 3 consecutive weeks. When they return to work, they must be taken off furlough. Employees can be furloughed multiple times, but each separate instance must be for a minimum period of 3 consecutive weeks.

When your employees are on furlough

You cannot ask your employee to do any work that:

- makes money for your organisation or any organisation linked or associated with your organisation
- provides services for your organisation or any organisation linked or associated with your origination

They can take part in volunteer work or training.

Employee taxes

Your employees will still pay the taxes they normally pay out of their wages.

This includes pension contributions (both employer contributions and automatic contributions from the employee), unless the employee has opted out or stopped saving into their pension.

Employee rights

Employees still have the same rights at work, including:

- Statutory Sick Pay
- maternity and other parental rights
- rights against unfair dismissal
- redundancy payments

Grants cannot be used to substitute redundancy payments. HMRC will continue to monitor businesses after the scheme has closed.