**Guidance note 01/05/2020**

**Coronavirus (COVID-19): financial support for education, early years and children’s social care**

**1. Purpose of guidance note**

To provide guidance on the Coronavirus Job Retention Scheme for furloughed workers.

**2. Background**

**Coronavirus Job Retention Scheme for furloughed workers**

The Coronavirus Job Retention Scheme (CJRS) is designed to support employers whose operations have been severely affected by coronavirus (COVID-19) by providing them with a grant to help them to continue paying part of their employees’ wages who would otherwise have been laid off during this outbreak

The scheme will ensure furloughed staff receive up to 80% of their usual monthly wage costs, up to £2,500 a month, plus the associated Employer National Insurance contribution and minimum automatic enrolment employer pension contribution on that wage

The scheme is available to all UK employers, including charities, which had created and started a PAYE payroll scheme on or before 19 March 2020

**The government expects that the scheme will not be used by many public sector organisations, as most public sector employees are continuing to provide essential public services or contribute to the response to the coronavirus (COVID-19) outbreak**

**Where employers receive public funding for staff costs, and that funding is continuing, we expect employers to use that money to continue to pay staff in the usual fashion – and correspondingly not furlough them. This also applies to non-public sector employers who receive public funding for staff costs**

**Organisations that are receiving public funding specifically to provide services necessary to respond to coronavirus (COVID-19) are expected not to furlough staff**

**In a small number of cases, for example where organisations are not primarily funded by the government and whose staff cannot be redeployed to assist with the coronavirus response, the scheme may be appropriate**

[find out more about the scheme](https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme)

**3.** **DfE guidance**

The DfE has released guidance on financial support for education, early years and children’s social care which details the different financial support available including the Coronavirus job retention scheme.

**Which options should be used**

Due to the variety of organisations in the education, early years and children’s social care sectors and the different types of support on offer, it may be appropriate for organisations to access a mixture of different support.

However, we expect that all relevant organisations should first consider any potential options to reduce their operating cost and secure commercial loans (including CBILS, CLBILS and CCFF) before seeking to access grant paying schemes like the Coronavirus Job Retention Scheme or seeking specific support from the Department for Education (DfE).

For organisations that are classified as public sector, and where there is continued public funding, staff that are supported by that public funding should not be furloughed. For public sector organisations where there is also private income which ceases or has reduced, it may be appropriate to furlough staff who would typically be paid from that private income, subject to the 5 conditions below.

We would encourage organisations to first consider how they would be able to redeploy their existing workforce to help support the coronavirus (COVID-19) response. Educational settings that are in receipt of some public funding 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
* (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 lead to financial reserves being created

It is also essential that the grant from the Coronavirus Job Retention Scheme should not be duplicative of other public grants that your organisations may receive. DfE is considering appropriate measures to monitor use of these schemes in order to detect any duplication of funding, and will be considering potential options to recover misused public funding as required.

We are also developing an online tool that will support the education, early years, and children’s social care sectors, in working through this guidance, and understanding the different funding and financial measures available to support them, and their workforce, through this period of disruption caused by coronavirus (COVID-19).

**4. Sector specific guidance**

**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).

**Maintained nursery schools should take account of the guidance in this section. For school-based nursery provision, please refer to the ‘schools’ section below.**

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. On 18 March 2020, the government also announced a business rates holiday for many nurseries in England for the 2020 to 2021 tax year. [Read the guidance](https://www.gov.uk/government/publications/business-rates-nursery-childcare-discount-2020-to-2021-coronavirus-response-local-authority-guidance).

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 governments 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.

Some early years settings may also be eligible for the Small Business Grant Fund (SBGF). The [details and eligibility criteria for SBGF can be found in the guidance](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/878082/small-business-grant-and-retail-leisure-hospitality-grant-guidance-for-businesses-v2.pdf). For more information, and to find out how to apply for the Coronavirus Business Interruption Loan scheme, please refer to the [Financial support for businesses during coronavirus (COVID-19) guidance](https://www.gov.uk/government/publications/guidance-to-employers-and-businesses-about-covid-19/covid-19-support-for-businesses#support-for-businesses-through-the-coronavirus-business-interruption-loan-scheme).

Further [guidance for early years providers](https://www.gov.uk/government/publications/coronavirus-covid-19-early-years-and-childcare-closures) is available.

The DfE is considering appropriate measures to monitor the use of these schemes in order to detect any duplication of funding, and will be considering potential options to recover misused public funding as required.

**State-funded schools**

This includes maintained schools, academy trusts, alternative provision, non-maintained special schools, state funded boarding schools and school-based nursery provisions. Maintained nursery schools should refer to the early years section above.

**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). Central government have put in place additional support to help schools meet these costs; [guidance is available](https://www.gov.uk/government/publications/coronavirus-covid-19-financial-support-for-schools) 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 lettings, or boarding provision funded by parents in state boarding schools). 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.

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 paybill 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 paybill, 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 paybill.

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 paybill.

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.

**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](https://www.gov.uk/guidance/employment-status-employment-intermediaries#who-is-an-employment-intermediary) (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](https://www.gov.uk/government/publications/procurement-policy-note-0220-supplier-relief-due-to-covid-19) (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](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/877221/PPN02_20-Contingent-Workers-Impacted-by-Covid-19-2.pdf).

The [supplier relief guidance](https://www.gov.uk/government/publications/procurement-policy-note-0220-supplier-relief-due-to-covid-19) 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](https://www.gov.uk/government/publications/procurement-policy-note-0220-supplier-relief-due-to-covid-19) 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](https://www.gov.uk/guidance/claim-a-grant-through-the-coronavirus-covid-19-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](https://www.gov.uk/government/publications/covid-19-school-closures/guidance-for-schools-about-temporarily-closing).

**High needs funding**

Local authorities have an important role in making sure that the high needs funding they receive as part of their DSG is used effectively in making educational provision for children and young people up to the age of 25 with Education, Health and Care (EHC) plans, and other vulnerable children and young people. Authorities will continue to receive their high needs budgets and should continue to pay top-up and other high needs funding so that the employment and payment of staff supporting children and young people with special educational needs and disabilities (SEND), and those requiring alternative provision, can continue. High needs funding will therefore continue to be paid to the following types of setting, whether from local or central government:

* local authority-maintained schools (mainstream, special and pupil referral units)
* academies and free schools (mainstream, special and alternative provision)
* non-maintained special schools
* independent schools, including independent special schools
* independent alternative provision
* high needs places in further education (FE) colleges and sixth form colleges
* special post-16 providers
* hospital schools

Funding will be maintained and should not be reduced because some or all children and young people are not in attendance (because of sickness or self-isolation, or where the institution has temporarily or partially closed).

Similarly, where settings pay top-up or other funding for pupils attending alternative provision, or pay for other SEND or alternative provision services, these payments should continue to be made so that teachers and other staff in all types of setting can be paid in accordance with their existing employment contracts. If placements and services for the summer term have not yet been agreed, settings should be willing to fund on the basis of previous patterns of placements and commissioning. Where changes to the delivery of special provision and alternative provision are required, the first response should be to redeploy existing resources, if necessary between settings and other institutions as well as within settings.

Teaching and non-teaching staff (administration, operations, maintenance and catering) should not be furloughed where they are funded from continued high needs funding, and where necessary and feasible, should be available for redeployment within settings and in other settings to assist in maintaining provision for vulnerable children and young people, and the children of critical workers.

**Residential special schools**

State-funded residential special provision is delivered in various types of setting, including state-maintained schools, non-maintained special schools, independent schools and special post 16 institutions. While the educational costs will continue to be funded from the DSG, the residential costs are met from social care budgets. Local authorities will continue to receive funding for social care provision and should continue to pay residential costs so that the employment and payment of staff supporting children and young people who require residential provision can continue.

**Multiple contracts**

Further guidance has been received to say where an employee has multiple contracts with the same employer that it may be possible to furlough one contract where the funding has gone and for the employee to continue to work under the other contract.

**Summary of guidance**

Where a school is solely in receipt of public funding and this is continuing, it should not furlough staff at this time.

Where possible schools should redeploy staff.

Where a school receives some private funding then they may be able to furlough staff up to the percentage of the funding, but schools must ensure they do not receive double funding as a result of furloughing staff. If you are considering furlough, please go through the step-by-step “when and how to furlough “guide below.

If schools are not sure if they can furlough an employee, then they should contact the HMRC helpdesk to get confirmation for their situation.

Kerry Anderson – HR Business Partner, People Management

1st May 2020

When and How to Furlough

This step-by-step guide is intended for Local Authority Maintained Schools and Nurseries (“LAMSN”).

**Introduction and Eligibility**

This guide is based on the latest government and LGA guidance notes as of 5th May 2020. Please note that at the time of publication, the guidance on furlough by LAMSNs is unclear and the Department of Education (“DfE”) has not released its online tool.

Please note that following this step-by-step guide DOES NOT constitute, not should it be construed to constitute an acceptance that an LAMSN is eligible to furlough staff and claim a funding grant under the CJRS. That decision rests solely with HMRC. HMRC may either reject an application at first instance, or indeed retrospectively claim a rebate for a grant that is deemed to be ineligible following a subsequent audit.

Further, as stated above, DfE is considering appropriate measures to monitor the use of these schemes in order to detect any duplication of funding and will be considering potential options to recover misused public funding as required.

Therefore, LAMSNs must make their own decisions on whether to seek to furlough staff and in doing so must be satisfied that they are making a declaration to HMRC that the application is submitted is “in accordance with the guidance.”

This step-by-step guide seek to provide the most transparent way for an LAMSN to determine:

1. If it is seeking to furlough “in the spirit” of the CJRS (e.g. to avoid the duplication of public funding);
2. Whether it can demonstrate that it has exhausted all other reasonable and/or practical alternatives before doing so;
3. That it is only seeking to recover the percentage of the paybill applicable to private income (and demonstrate the methodology applied to achieve this)
4. That is has selected furloughed staff properly, fairly and in a non-discriminatory way

Step-by-Step Guide

1. Are you in receipt of private income? If the answer is yes, proceed to question 2. If not, see above (you should not be furloughing any staff at this time)
2. Have you lost the source of private income? If the answer is yes, proceed to question 3. If not, see above (you should not be furloughing any staff at this time)
3. Are you eligible for any other available government coronavirus-related grants/funding? If yes, we recommend that you explore this before furloughing staff. If the answer is no, or you have explored this option but you can either demonstrate that you were either unsuccessful, or were successful but this has not alleviated the financial pressure, then proceed to question 4.
4. Have you exhausted all available redeployment options? If the answer is yes, move to question 3. If not, we recommend that you explore this before furloughing staff. If not, proceed to question 5.
5. Are all the following five conditions met?
	1. the employee works in an area of business where services are temporarily not required and whose salary is not covered by public funding
	2. the employee would otherwise be made redundant or laid off
	3. the employee is not involved in delivering provision that has already been funded
	4. (where appropriate) the employee is not required to deliver provision for a child of a critical worker and/or vulnerable child
	5. the grant from the Coronavirus Job Retention Scheme would not duplicate other public grants received and would not lead to financial reserves being create

If the answer is yes, proceed to question 6.

If the answer is yes to e) ONLY, under the current guidance for LAMSNs, you may not be eligible to furlough staff under the CJRS.

However, pending further guidance/online tool from DfE and based on the illustrative examples above, LAMSNs can consider applying for a grant to cover the proportion of its pay bill which could be considered to have been paid for from that provider’s private income.

In making this assessment, the LAMSN needs to consider the following additional questions:

* 1. Is the application to furlough staff solely intended to mitigate the impact of lost private income?
	2. Is the consequence of not furloughing staff financial detrimental to the LAMSN to the potential detriment of the future learning provision?
	3. Can you clearly define the lost income and furlough staff who are at least partially involved in the area in receipt of private income?
	4. Are you satisfied to make a declaration to HRMC that your application is “in accordance with the guidance?”

If the answer is yes to all, proceed to question. If the answer is no to any or all, we recommend that you do not furlough staff currently and seek further advice.

1. Are the staff you propose to furlough eligible? Click on this link for further information <https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme#who-can-claim>. Proceed to question 7
2. Have you considered and understood the basis upon which you can claim wages/salary (referred to above)? Click on this link for further information <https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>. Proceed to question 8
3. Have you made sure that the percentage of the paybill you are seeking to recover is in line with the guidance (i.e. the grant from the CJRS WILL NOT lead to financial reserves of public funding being created)? Proceed to question 9
4. Do you understand how to procedurally furlough staff? Is your decision in accordance with good employment practice and law (e.g. applied fairness and non-discriminatory approach) and have you obtained written agreement with employees? If the answer is not, or you are unsure, we strongly recommend that you seek advice before proceeding. Then proceed to the next question.
5. Before submitting your application, please read the HMRC document *“Claim for your employees’ wages through the Coronavirus Job Retention Scheme (CJRS) - A step by step guide for employers*