

## Adult Social Care: how we expect the sector to interpret guidance on the Coronavirus Job Retention Scheme

Department of Health and Social Care has agreed the following interpretation of the guidance on the Coronavirus Job Retention Scheme, in consultation with HM Treasury.

This is not formally published guidance but has been produced for reference by employers and stakeholders in the care sector.

### How can care companies make use of the Coronavirus Job Retention Scheme

All UK organisations with a PAYE scheme on the 28 February are able to make use of the Coronavirus Job retention scheme, regardless of their status as private or publicly funded organisations. This means that all employers in the care sector are able to make use of the scheme where appropriate.

Care services remain a vital part of the response to Covid-19, and therefore we expect employers to keep the vast majority of their staff working to maintain these services. This is why published guidance on the scheme states that companies in receipt of public funding are “expected to continue employing staff”.

However, it is important to note that this “expectation” does not prevent employers in the care sector furloughing staff altogether. Instead, it sets a principle that in the social care sector, furloughing is expected to be the exception rather than the rule. It is vital that where care workers are available to work, they continue to do so to help support the Covid-19 response. As a result, the guidance makes this point to keep key public sector workers on the frontline where they are needed and applies to care workers in the same way it applies to NHS workers, police and local government employees etc.

Nonetheless, HMT and DHSC recognise there are circumstances where it would be appropriate for an employer in the care sector to furlough a worker. The following list is meant to illustrate examples of where it would be appropriate, but is not necessarily exhaustive:

1. We are aware of instances where Government measures to respond to Covid-19 will have resulted in some roles in the care sector being scaled back or needing to stop, and that cannot be performed from home. Before furloughing workers, organisations should first consider whether workers can be redeployed, including in neighbouring organisations. The following list is not exhaustive, but gives an example of some services that may need to stop or be scaled back as a result of social distancing measures:
  - transport schemes (note, government guidance does not prohibit these continuing to operate, however demand for them may decrease)
  - charity shop workers
  - day centre staff
2. We also know that some of the care workforce will have been contacted by the NHS to say that they should be “shielding” for a period of 12 weeks. These workers are not able to continue working in the usual way. An employer could decide to keep these workers on full pay without using the Coronavirus Job Retention scheme, but the

Coronavirus Job Retention scheme is also available if employers choose to use it for this purpose.

3. There may also be people who are not shielding, and whose roles are still needed during the Covid-19 response, but who for other reasons need to stop work. For example, because it is essential they take time of work to support a vulnerable individual needing to shield. In these circumstances, employers should take a pragmatic approach in discussion with employees. Guidance on shielding means that household members of a person needing to shield are not required to shield themselves, so furloughing would not necessarily be needed for a household member in this case. However, employers should recognise the different circumstances of employees, and that some may need to stay home to protect the wellbeing of a relative and therefore furloughing these employees is an option.

Again, we expect that these are exceptional cases, and for the most part it is vital that employers are keeping care workers available for work. It is also important that employers do not furlough staff who are self-isolating, either because they have symptoms of Covid-19 (for seven days) or are living with someone with symptoms (for 14 days). This is because absence in these cases will normally be significantly less than the period for which a worker would be furloughed (minimum of three weeks).

We would expect those self-isolating to be classified by employers as on sick leave. Statutory Sick Pay (SSP) has now been extended to self-isolators, and those in the same household caring for self-isolators. People who are advised to self-isolate can now obtain a notification via NHS111 that they can use as evidence for absence from work, where necessary.

#### HMT direction and interaction with Statutory Sick Pay

Some stakeholders have raised an issue with the interpretation of HMT's direction to HMRC on the Coronavirus Job Retention Scheme. The following sets out the position on this issue, as agreed with HMT:

- HMRC will act at all times in accordance with the HM Treasury Direction.
- HMRC's interpretation of the Direction is set out in its published guidance. It is HMRC's expectation that customers should consider the guidance in the first instance when seeking to understand the operation of the scheme and HMRC's interpretation of the Direction.
- HMRC's interpretation of the Direction is that it does **not** prevent somebody from being furloughed if they are on Statutory Sick Pay or are liable for Statutory Sick Pay, including if they are following shielding measures in line with public health guidance.
- We're grateful for the feedback we have received on both the HM Treasury Direction and HMRC's guidance. HMRC and HM Treasury will continue to consider these comments and will provide appropriate clarification if necessary.

#### Further information

General support on business questions can be found in Government [FAQs](#) or over the phone, Monday to Friday, from 9am to 6pm: [0300 456 3565](tel:03004563565)

## Personal Assistants

This section is copied from already published Skills for Care guidance. Government is continuing to work through the interaction between the Coronavirus Job Retention Scheme and personal assistants, especially to recognize different circumstances amongst this group. Further guidance will be shared as we make progress on these issues.

### **What is the Governments expectation on furloughing of PAs?**

In general, the government expects that the Coronavirus Job Retention Scheme will not be used by many public sector organisations, or individuals who employ people through funding provided to them as a direct payment. This is because the majority of public sector employees are continuing to provide essential public services or contribute to the response to the coronavirus outbreak. The government consider PAs to be an essential worker, and as such, furloughing of this cohort should be minimal.

Where employers receive public funding for staff costs, and that funding is continuing, we therefore 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.

In a small number of cases- for example where it is not possible for your PA to deliver the care and support you require, and where they cannot be redeployed to assist with the coronavirus response- the Coronavirus Job Retention Scheme may be appropriate. You will need to explain why this is the case when processing your claim for furlough

### **If I think the scheme might be appropriate for me, with my circumstances, what do I do?**

As above, it is generally advisable for individuals to continue their current care arrangements wherever possible, putting in additional precautions in relation to hygiene and infection control. For example:

There are some points that could be considered to help make a decision about what's best for you and your care arrangements.

- If you decide to stop PAs from coming into your home, depending on their employment contract they may be entitled to full pay. They are not automatically entitled to be furloughed under the government's Coronavirus Job Retention Scheme as the work is still available. Where family or friends are willing to provide care on a voluntary basis there will be no added costs to the budget during this time. This could be considered for a short period e.g. 3 weeks, and then reviewed with the CCG/LA.
- If family or friends are unable to provide care on a voluntary basis and require payment for this (insert reference to the FAQ on employing family / friends), this is an added cost pressure to the budget and would need to be agreed with the individual's LA or CCG, with the necessary budget adjustments made. This could be considered for a short period e.g. 3 weeks, and then reviewed with the CCG/LA.
- In either of the situations above, PAs could be considered for re-deployment to provide voluntary support to other people e.g. assisting with personal care, activities of daily living, shopping, getting medications, prescriptions etc.

In all circumstances it is advisable where possible that people speak with their CCG/LA before making any formal changes.

**I have taken the steps above and am going to process a claim. What do I need to do?**

The government will only provide funding for the PA that you directly employ, if you provide evidence that they have been furloughed with sufficient rationale. You should discuss this with you PA- including potential redeployment of your PA to support other people during this pandemic. This should be discussed this with your LA or CCG too.

You may need to make changes to the employment contract by agreement. If so, you may choose to seek legal advice on the process dependent on your circumstance. If sufficient numbers of staff are involved, it may be necessary to engage collective consultation processes to procure agreement to changes to terms of employment.

To make a claim, you will need:

- your ePAYE reference number
- the number of employees being furloughed
- the claim period (start and end date)
- amount claimed (per the minimum length of furloughing of 3 weeks)
- your bank account number and sort code
- your contact name
- your phone number

You will need to calculate the amount you are claiming on behalf of your PA. HMRC will retain the right to retrospectively audit all aspects of your claim.

Further information can be found at <https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme#employees-you-can-claim-for>