

This is an update at 19.4.20 of Bulletin initially issued on 8.4.20 now that further details are available. Please see the notes at the end – in particular this is only an overview of the main principles of CJRS.

Coronavirus Job Retention Scheme - Issues For Charities Placing Staff on Furlough

Many charities are of course working flat out at this time, and there is no question of staff being placed on furlough under the Government's "Coronavirus Job Retention Scheme" (CJRS).

But some charities with employed staff who cannot carry out their duties at this time are agreeing to place staff on furlough under the scheme. This means you can continue to pay them, and the Government will reimburse 80% of their salaries for a period of up to four months (1 March – 30 June 2020) up to a maximum of £2500/month. (Initially the scheme was only until 31 May but it has now been extended to include June and it could be extended further.)

More details of the scheme are emerging regularly but it is now *confirmed* that employers can start making claims from some time on Monday 20 April. Key online guidance is as follows:

- The key guidance for EMPLOYERS on the principles of CJRS (which is being regularly updated) is at: www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme
- There is a step-by-step guide for employers (7 page PDF) at: www.gov.uk/government/publications/coronavirus-job-retention-scheme-step-by-step-guide-for-employers
- Details of how to calculate the 80% salary costs (see below for more on this) are at: www.gov.uk/guidance/work-out-80-of-your-employees-wages-to-claim-through-the-coronavirus-job-retention-scheme including a useful online calculator being made available from 20 April.

The scheme is being administered by HMRC given that all employers with a PAYE scheme already have contact with HMRC. The actual web address for claims has not been publicised at the time of writing.

However, some details that have been announced may be particularly relevant to charities whose payroll is administered externally - for example by a third sector organisation or accountants providing a 'payroll bureau service' - see point 7 below. We also highlight several other issues for charities in this Bulletin.

Key features of how the scheme will work

Our current understanding of how the scheme will work is as follows. However, this Bulletin was last updated on 19.4.20 before any actual claims could be made, and even after the system goes live it seems likely that other refinements could be announced. See the gov.uk links as above for official information.

1. Employers will need to APPLY to HMRC for reimbursement of payroll costs for furloughed staff. You will then pay your furloughed staff directly through your PAYE scheme as at present.
2. In order for a member of staff to be furloughed, there must be an *agreement in writing* (though this could be as simple as an email exchange) confirming that the employee will do no work at all for the employer during the furlough period (other than training if applicable – see below). The reason for stopping work must be due to the coronavirus circumstances rather than other issues.

It is up to the employer to decide whether to pay furloughed staff the full salary or only the 80% that is being reimbursed. However, if a charity cannot afford to pay staff their full contractual salary you will need to negotiate this with them in advance as it will be a change to their terms of employment - don't wait until the April payroll to discuss this. But see point 11 below regarding use of charity resources.

As initially announced, the CJRS only applied to staff in post on 28 February 2020. This has now been extended to 19 March 2020 – so potentially a member of staff who started between 29 Feb and 19 March can

be included – but only if they received a wage or salary payment identified in the employer’s PAYE RTI return up to 19 March (but for monthly paid staff a new employee is unlikely to have been paid that soon).

That latest rules indicate that where an employee has moved to a new PAYE scheme due to a TUPE transfer, a transfer of a business as a going concern (which would include most charity mergers) or a reconfiguration of PAYE schemes, then provided the person was employed at the qualifying date in a previous PAYE scheme a claim can still be made (refer to the guidance for details).

3. The reimbursement from HMRC to cover 80% of pay will be topped up to cover employer's national insurance and the minimum employer's mandatory auto-enrolment pension contributions on the 80% (currently 3% of the amount they are paid over the auto-enrolment threshold unless staff have opted out of the pension). So you will effectively be reimbursed the full direct costs of paying your staff at 80% of normal level (up to the £2500/month limit).

However, this calculation needs care, not least because the furlough calculation for March will be based on NI and pension thresholds for the 2019/20 tax year, but calculations for April, May and June will be based on 2020/21. Furthermore, if the employer has their full amount of employer’s NI covered by the £4,000 Employment Allowance you can’t claim the employer’s NI or the government would be reimbursing this twice. (Many smaller charities with only a few staff are in this position, so don’t claim the employer’s NI element without checking this issue.)

Here is a straightforward example. Jane Bloggs is employed by a charity on a salary of £24,000 p.a. (£2,000 per month, unchanged in recent months). If she is furloughed for the month of *April 2020*, the claim would be as follows (assuming the charity’s total employer’s NI amount for the year is well over the Employment Allowance and assuming Jane has *not* opted out of a pension):

-	80% of salary as paid in Feb 2020: (£2,000 x 0.8)	£1,600.00
-	Employer’s NI in 2020/21 on £1,600: (£1,600 – £732) x 13.8%	£119.78
-	Employer’s minimum pension in 2020/21 on £1,600: (£1,600 – £520) x 3%	£32.40
	<i>Total furlough claim to HMRC for Jane Bloggs for April 2020:</i>	<u>£1,752.18</u>

4. The application process to get this reimbursement is online and HMRC have confirmed that applications will open from Monday 20 April. The guidance said that claims will be paid six working days after the date of claim – so if an employer makes a successful claim on 20 April, the funds should be in the employer’s bank account at the latest by Tuesday 28 April. These will be paid directly to the employer’s UK bank account. Because of the huge volume of applications expected, HMRC is strongly encouraging employers to read the guidance and avoid contacting them by telephone. Employees must only contact their employer – not HMRC.

5. In order to apply, the employer must have a Government Gateway account and an active PAYE online enrolment. Many charities will already have a Government Gateway account because of other dealings with the government, but if not you can create an account at www.access.service.gov.uk/registration/email. Charities with employed staff will normally have an active PAYE scheme, but if not (e.g. if all your staff are below the PAYE threshold) it is possible to apply for an online PAYE account before making a claim.

HMRC say each employer will need to provide:

- your ePAYE reference number
- a unique legal identifier for the employer – the guidance mentions that this can be your corporation tax unique taxpayer reference or company number (but for many charities which are not companies and which have never made a corporation tax return including charitable trusts, associations, and CIOs/SCIOs this may be a challenge – we hope that other options may be available)
- the legal name of the employer
- the employer’s address
- the number of employees being furloughed
- the dates of the furlough claim period (start and end dates)
- amount claimed (see above for the principles)
- your bank account number and sort code
- your contact name
- your phone number.

6. Employers will need to calculate the amount they are claiming, as outline above. The principles are explained at www.gov.uk/guidance/work-out-80-of-your-employees-wages-to-claim-through-the-coronavirus-job-retention-scheme and from tomorrow (20 April) an online calculator will be available to help with the ‘grossing up’ issue – i.e. working out the total amount to claim including the amount for employer’s NI and the minimum autoenrolment pension contributions.

Until the system launches, it is not quite clear how the information will be entered to make claims, but see details above. It seems that there will be three main fields for each employee being furloughed:

- Name
- National Insurance number
- Amount claimed – based on salary (up to 80%), employer’s national Insurance and pension contribution.

The guidance says that employers with up to 100 staff will be able to enter details separately in the online system for each employee (although there is a warning that the system will not save information as entered and it will time out after 30 minutes of inactivity, so it is worth having all the details to hand at the start). Employers claiming for more than 100 furloughed staff will be able to upload a spreadsheet with the information.

7. Initially HMRC said the claim would have to be made by the EMPLOYER – not the payroll agent in the case of employers who use a 'file only' payroll bureau. However, they have now indicated that a payroll bureau can make a claim on the employer's behalf provided you are prepared to provide the payroll bureau with the employer's bank details to receive the reimbursement.

Hopefully any charities that use payroll bureaux will have already discussed how to handle this. But if course this will mean a huge amount of extra work for those charities and businesses providing payroll bureau services (and of course, making claims under CJRS will be additional to their normal work so there are likely to be additional fees for this). Note that you can only claim the actual cost (including employer's NI and minimum employer's pension contributions) – HMRC will not reimburse administrative costs. The full amount of the reimbursement must be used to pay the furloughed staff.

8. It appears that claims must be made separately for each furlough period. Employees do not have to be furloughed for the entire 4 month period 1 March to 30 June but for any individual employee the minimum time on furlough for the employer to make a claim is a 3 week block. Employers who have more than one PAYE scheme must make a separate claim for each scheme.

9. If the employee is on a regular monthly salary, the claim should be based on their normal monthly pay as at the last pay period before 19 March – so in the normal case where staff are paid by the calendar month this will be their February 2020 salary. If their income is irregular you use either use the same month's earnings from the previous year (so a furlough claim for April 2020 would be based on their earnings in April 2019) or you can use their average monthly earnings for the tax year 2019/20. The guidance indicates the claim should be based on whichever figure is more favourable. For weekly paid staff it's a bit more complex but the principles are similar. The HMRC guidance also shows how to make the calculation in cases of staff who have not worked a full month – this requires pro-rata calculations based on the number of days in the month.

10. It's worth noting that you calculate 80% of normal salary and then apply the £2500 monthly limit. So, for someone earning £37,500 p.a. or more, you would get reimbursement sufficient to keep them on a salary of £30,000 (£2500 per month). For someone earning £20,000 you would get reimbursement sufficient to keep them on a salary £16,000 during the furlough period (£1333 per month). If their pay normally includes bonuses or commission see the HMRC guidance as the rules are complex but in general only basic salary is covered.

11. For charities it is a difficult decision on use of charitable resources whether it is right to top up the pay of staff who are furloughed (and hence not delivering any work for the charity) back to the normal level. This could be seen as using charitable funds to provide private benefit (to staff) with no link to advancing your charitable purposes. But trustees may feel that maintaining furloughed staff on full salary could be justified if it will help to retain their commitment to the charity when normal activities resume and reduce the risk of them looking for other jobs – but it cannot be justified in charity law purely as a goodwill gesture. So trustees need to discuss this carefully – do get in touch for further help.

12. Furloughed staff can undertake training for the employer while on furlough. They can also undertake voluntary activities (even potentially with the charity employing them) BUT the rules are very strict and charity trustees could well be guilty of fraud if they make furlough claims to HMRC for staff who are, in effect, still carrying out part of their normal duties. Furloughed staff cannot undertake any income-generating work (e.g. fundraising) nor take part in normal service provision by the charity. But it seems to us that if the charity doesn't normally provide services like home shopping for its beneficiaries it would be hard to argue that a furloughed member of staff was still working if he/she voluntarily helped some house-bound service users with shopping.

Please refer to the provisos below – this article is only an overview and is based on our understanding of the CJRS based on announcements so far (at 19.4.20) – however, many operational issues are not yet fully clear.

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