


The Government's Job Retention Scheme - New guidance for higher education (HE) providers

The Department for Education has recently published guidance on the Government's Job Retention Scheme which has now been extended to last until the end of June this year. It has clarified that its primary focus is to ensure that Higher Education providers are able to continue delivering HE services and support the needs of students both on and off the campus.

 30 April 2020

Please note: the information contained in our legal updates are correct as of the original date of publication

The Department for Education has recently published guidance on the Government's Job Retention Scheme which has now been extended to last until the end of June this year. It has clarified that its primary focus is to ensure that Higher Education (HE) providers are able to continue delivering Higher Education (HE) services and support the needs of students both on and off the campus.

It has made clear that in "most circumstances", HE providers will continue to pay their staff as usual because, it says, Higher Education (HE) delivery has largely moved online and staff are maintaining key services. However, there are two schemes in particular that HE providers need to know about. The first is the Coronavirus Large Business Interruption Loan Scheme (CLBILS) (together with the COVID-19 Corporate Financing Facility (CCFF) and the second is the Coronavirus Job Retention Scheme (CJRS).

The Coronavirus Business Interruption Loan Scheme (CBILS) scheme says that its purpose is to support small and medium-sized businesses with an annual turnover of up to £45m to access loans and finance of up to £5m for up to 6 years. The CLBILS scheme is intended to support those with an annual turnover exceeding £45m and gives access to finance of over £25m in order to assist with cash flow problems. Any application would need to be supported by a business proposal showing viability were it not for the coronavirus pandemic. Those with turnovers exceeding £500m can consider the COVID-19 Corporate Financing Facility (CCFF).

Where any of these schemes are "not appropriate", then HE providers will be eligible for the Government's well publicised CJRS scheme. Employers who have been seriously affected by coronavirus are able to apply for a grant covering 80% of staff's usual monthly wage costs, up to a cap of £2,500 a month. The scheme was intended to run until the end of May only, but the Government announced this week that it has now been extended to run until the end of June. We have published guidance on [the Scheme here](#).

That is not the end of the story, however. The Guidance goes on to state that HE providers should only furlough their staff (that is agree for them to stop working in return for the grant) if they meet the following conditions:-

- They are working 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 be duplicative to other public grants that the HE provider receives and would not lead to financial reserves being created

There are therefore a number of considerations to take into account before deciding to furlough staff in this sector. The starting point is the position of the Department for Education that in most circumstances HE providers will continue to pay their staff as usual because of the ongoing delivery of services online. However, our experience is that many HE providers will argue that operationally they are seriously affected by coronavirus and normal day to day service delivery is nowhere near business as usual. Any organisation seeking to furlough

their staff under this guidance needs to look at each case carefully. Is there a situation where staff are simply not needed on a temporary basis and would otherwise be made redundant or laid off (i.e. asked to cease working or work a shorter week for a period of time)? If so, what are the funding arrangements in place? If there is other (public) funding or a grant available, then there may be problems with submitting an application for the CJRS grant.

This is not a straightforward area. We have found the Government's guidance and the Treasury's accompanying Direction self-contradictory at times. If you need any help navigating your way through these issues, please speak to us.

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