

Voluntary, Community and Social Enterprise (VCSE) organisations that are dependent on self-generated income or donations from individuals, businesses, and 'private' charitable trusts and foundations should be entitled to claim under the government's Job Retention Scheme (Furlough). For those organisations in receipt of funding from public funds, i.e. from local authorities or central government to support certain staff, etc. then please see the note below. ***The organisation should ensure that the funding for any post that is 'furloughed' is independent of public funding.***

When producing the year-end accounts organisations that are in receipt of funding from the Job Retention Scheme must report the income they have received as a separate line in their financial statements. As far as we are aware this income can be treated as 'unrestricted' but its intended use is to support the organisation in retaining staff and paying salaries.

Public Funding

In terms of those organisations that receive public funding, the HMRC guidance is not entirely clear. However, the current information is that 'where an organisation receives public funding to support staffing costs, or particular members of staff' then this is public funding and therefore the organisation should not claim from the Job Retention Scheme. Claiming from the Job Retention Scheme in this instance would be viewed as 'double' funding for these staffing costs. Further information is available from [Bates Wells](#).

[Information from HMRC](#) reads: '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 outbreak'.

Staff that can be 'furloughed'

The intention of the government's Job Retention Scheme is to enable the continuation of employment for those who may be under threat of redundancy, and to support the employers to maintain this position. Other factors that can result in a member of staff being 'furloughed' include a reduction in the demand for the services provided by certain posts, or that a member of staff needs to be released from their normal duties in order to provide support as a primary carer for a dependent, children, etc. In some instances company directors can also be 'furloughed' if they receive a regular salary from the organisation. Staff on sick leave (including SSP) can be 'furloughed', although the 'furlough' may need to start at the end of the sick leave period.

Those staff who are part-time, on irregular hours, on zero hours contracts etc. can also be 'furloughed'. An average of their hours/pay over a period of time can be used to calculate the amount of pay they will receive. There are various [online calculators to help work this out](#).

Communication with the Employee

Ideally the employer should communicate their intention to 'furlough' a post to the employee before implementing any decision relating to that member of staff. However, this is good practice, rather than a legal requirement.

In addition to advising the employee of the intention to 'furlough' them the employer should also formally write to the employee, confirm the terms of the 'furlough', and highlight that this forms a 'variation' to their normal contract of employment. There are a number of 'standard' letters [available online](#) that can be used as a base to inform the member of staff. Whilst the employee is 'furloughed' they cannot continue to deliver work for the organisation. However, they can attend training, and they can also volunteer for programmes run by other organisations. They can, if their normal contract of employment allows, continue to work for another organisation or business, or take on other paid work, providing they are free to return to their original employer when the 'furlough' finishes.

Although the employee can volunteer for other organisations' programmes, they cannot (under the terms of the 'furlough' arrangements) volunteer for the organisation they have been 'furloughed' from. If that happened, the organisation may be disqualified under the Job Retention Scheme. This needs to be made clear in any communication with that member of staff.

The decision to 'furlough' a member of staff does not affect their employment status. They continue to accrue annual leave and whilst on 'furlough' their continuous employment is not affected.

It is important to include the details of how much the employee will be paid (i.e. their full salary) or the 80% that the HMRC will provide. The HMRC will also provide 80% of the Employer's National Insurance and 80% of the Employer's Auto Enrolment pension requirements. The employer can, and is encouraged to, pay 100% of the salary and simply reclaim the 80% contribution, but the final decision on this is down to the employer.

It is also important to include the date that the 'furlough' will start from, when it will be reviewed and when the employee will be notified. The minimum time that an employee can be furloughed is three calendar weeks (not working weeks). This period can be extended and the employee will need to be notified of any extension. There are a number of templates available online, [such as this one from ACAS](#), which will need to be adapted to fit your particular circumstances.

Whilst on 'furlough' employees may join in with 'social events' such as online shared lunches, online drinks after work etc. in order to retain their connection to their colleagues. If, however, during the course of these social activities a discussion on work develops the 'furloughed' member of staff must leave the social activity as this can be construed as 'work', even though it's connected to a social event.

Organisational requirements and claiming 80% payments

The criteria for the employer are that they must be running a UK payroll and have a UK bank account. The payroll must have been running prior to 28th February 2020 and the employee must have been employed prior to 19th March 2020. They must also be able to provide their PAYE

reference, their PAYE accounts payment code, etc. The payments from HMRC will be made from the date the employee was 'furloughed'.

The Job Retention Scheme is not actually up and running yet. The advice is that it will be operational by the end of April 2020 and that payments will be released and backdated to 1st March 2020, if appropriate. Latest information is that the online portal should be open on 20th April. Employers must register in order to claim from the Job Retention Scheme. HMRC will only pay 80% of the employee's salary (up to £2,500 and excluding any bonus or incentive schemes), Employer's National Insurance, and Employer's contribution to Auto Enrolment. If the employer maintains the employee at 100% of salary etc. they will need to fund the additional 20% from other sources. Further information is available on the [government's website](#).

Information is changing rapidly – do keep up to date

Please note that the information here has been drawn from a number of sources including Refreshing Law Mailings, Sandy Adirondack's mailings, Bates, Wells and Braithwaite, HMRC and ACAS. Sandy Adirondack's free legal updates for voluntary organisations are especially useful: to receive them email legalupdate@sandy-a.co.uk. HMRC [briefings and webinars are also available online](#).

Voscur is here to support VCSE organisations. For support, advice and guidance, please contact us: info@voscur.org or 0117 909 9949