

LGA Covid-19 Schools guidance 3 April 2020

Further guidance was issued by the DfE regarding schools overnight on 31/3/2020, which is helpful in clarifying some issues, but there are still some areas where we don't yet have additional information. You can read the updated DfE guidance here <https://www.gov.uk/government/publications/covid-19-school-closures/guidance-for-schools-about-temporarily-closing>

This additional LGA Workforce advice is designed to take you through some of those outstanding issues, and to provide clarity on where we have an update, and where we are still pushing for additional information.

1) It is possible for local authorities to co-ordinate schools to act as hubs, and to pool resources, with additional guidance being promised after Easter:

“While as many schools as possible should try to stay open for eligible pupils, this will not be possible for all settings, and the local authority should coordinate pooling of resources so pupils are able to access provision elsewhere.”

“Schools and early years settings in some areas are operating in ‘hubs’ - for example, groups of schools/settings operating at a single site. Is this permitted?”

With significantly reduced pupil numbers, and risks of understaffing due to illness, we understand that shared provision through multi-school or early years hubs and clusters is an option being considered in some areas. In some cases, arrangements are already in place.

This is a useful clarification from the DfE, but it's worth remembering that any hubs will still need to adhere to the social distancing guidance.

2) Additional wording in the guidance has been provided to suggest a flexible approach to annual leave and rest periods:

When will teachers and other school staff take holiday?

We understand that this is a very difficult time for teachers and all school staff, and we are asking a lot of them to help the country fight this virus. We know that school leaders, and local authorities, will make sensible decisions on staffing and what breaks will be needed. But we are asking schools, wherever possible, to [maintain provision for children of workers critical to the COVID-19 response and vulnerable children](#) over the Easter holidays.

Schools may wish to consider adopting rota systems where appropriate to ensure that staff get appropriate breaks whilst managing provision through this challenging period.

3) Bank Holidays during the Easter holidays:

Schools are clearly expected to stay open during the Easter holidays to continue to provide support to the children of critical workers, and vulnerable children. The guidance says:

“Where possible, we would encourage childcare providers, schools and colleges to continue to look after critical workers’ children and vulnerable children throughout the Easter holidays.”

However, the guidance is silent on the question of the two Bank Holidays that fall during the Easter holidays (Good Friday and Easter Monday) apart from the flexibility suggested in this line:

“Schools should make an assessment of the capacity required and, when in doubt, discuss this with their local authority or trust when making decisions.”

It may be that schools find, or have found, local solutions to this issue on the basis of it becoming relevant in such a short timeframe now. The current wording in the STPCD says:

‘No teacher may be required to work on any Saturday, Sunday or public holiday unless their contract of employment expressly provides for this (for example in the case of teachers at residential establishments)’.

For support staff, unless local agreements supersede the provisions in the ‘Green Book’, the arrangements at Part 2 Para 2.6(d) will apply. Namely, that support staff who volunteer, or are required, to work on one or both of the public holidays should receive public holiday pay, plus time off with pay at a later date, for the day(s) on which they work

Therefore, and on that basis, a voluntary and flexible approach may have to be encouraged and sought (where schools do decide to remain open over the bank holiday days, in order to provide care for vulnerable children and the children of other critical workers who are dealing with the pandemic.)

4) Funding Issues

The guidance gives a steer that the DfE expects schools to manage costs within their existing budgets:

Will schools receive funding support?

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.

The guidance assures school that a process will be out in place for schools to claim ‘exceptional costs’ that they face as a result of Covid-19 and gives the example of ‘additional costs for schools that remain open through the Easter holidays’. The exact detailing of that process and the criteria for claiming have yet to be issued.

“We know that schools may face additional costs as a result of COVID-19. We will put in place a new process that allows us to reimburse schools for exceptional costs that they face as a result. For example, where schools are already issuing vouchers to pupils who are eligible for free school meals, but cannot attend school, and additional costs for schools that remain open through the Easter holidays.

We will discuss how best to deliver this funding with stakeholders over the next few days, and will publish details of the scheme shortly, but we trust that this will give headteachers the reassurances they need, so that they are able to concentrate on their vital role in supporting the nation through this crisis.”

5) What does this mean in relation to accessing the Government Job Retention scheme, or furloughing?

We are reminding colleagues that the guidance on **furloughing** with reference to publicly funded organisations:

If you’re a public sector employee

The government expects that the scheme will not be used by many public sector organisations, as the majority of public sector employees are continuing to provide essential public services or contribute to the response to the coronavirus 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.

We know that some schools are expressing concerns about whether or not they can furlough employees which are entirely funded by parental contributions, for example breakfast/after-school clubs. We don’t have a definitive answer to this yet but have made that representation.

Should schools continue to pay supply teachers and other contingent workers?

*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. We expect schools to continue to pay staff they employ directly in the usual fashion, and **correspondingly not furlough them.***

We expect schools will draw first on their existing staff to maintain necessary provision, but schools may continue to need supply teachers and other temporary workers throughout this period. We encourage schools and employment businesses (agencies) to continue to liaise on any potential need to ensure workers are available where required.

6) What does this mean in respect of temporary employees e.g. casual workers, fixed term contracts and internal “bank” staff?

There is an expectation that employees will continue to be paid as normal, as there are no changes to budgeting arrangements. The use of casual staff is of course one of resourcing strategy schools can use to mitigate any gaps in service capacity – these gaps may be planned (e.g. exam invigilation) or unplanned (e.g. to cover for another member of staff). It is

therefore difficult to assess what use of casual staff would be considered as “normal”. There will be areas where national guidance cannot replace local discretion.

However, the guidance suggests that in general terms, payments should be made for planned or reasonably expected use of casual staff.

There may be a variety of working patterns that casual staff may be utilised for and as such have an impact on by schools, a few examples include:

Example 1: the employee has worked for the school regularly in the recent past, and if there were not a pandemic would expect to continue to be engaged on that same basis going forward.

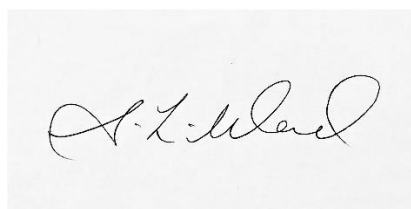
Example 2: the employee has worked irregularly in the recent past, and it is therefore difficult to predict what need there would be for this role if there were no pandemic.

Example 3: the employee has been “recruited” to carry out a piece of bespoke work in the summer term, e.g. an exam invigilator. This is a piece of work that the school has planned and budgeted for, and in the absence of the pandemic would be considered as business as usual.

These are all examples of work that would generally be needed by the school and therefore the government guidance is clear that they should continue to be paid. However, what is less definitive is the method by which an employer would calculate the pay. There are a number of options that may be considered, and it is recommended that a policy is drawn up to ensure that a clear and consistent position is taken.

You may find it helpful to refer to the LGA Frequently Asked Questions on this point <https://www.local.gov.uk/covid-19-employment-law-faqs>

Yours sincerely,



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