

Furloughing of Wiltshire Council staff – phase 1 decisions

1. Further to the report circulated on 29 April (attached for reference) this report outlines key information in relation to the first phase of the furloughing work for review and confirmation.
2. The work in relation to furloughing has been divided into three phases:
 - **Phase 1** – to identify a clear list of posts where staff stopped undertaking any work from 20 March 2020 and work in services which clearly meet evidence criteria.
 - **Phase 2** – to review other posts within these services, where there are queries about status, with the aim to finalise a list of posts.
 - **Phase 3** – to gather information about services and posts where there is potential to furlough but guidance is still unclear and further information is required.

Phase 1 overview

3. In this phase the two services that have been reviewed are:

a) Leisure Operations

- An initial list of 259 posts to furlough have been identified within leisure operations (equivalent to 23.5% of roles within the service) – see [appendix 1](#) for details of roles.
- On the basis of our initial calculations the estimated claim through the Coronavirus Job Retention Scheme for this group of staff would be around £61k per month.

b) City Hall, Salisbury

- An initial list of 52 posts to furlough have been identified within City Hall (equivalent to 80% of roles within this service) – see [appendix 1](#) for details of roles.
- On the basis of our initial calculations the estimated claim through the Coronavirus Job Retention Scheme for this group of staff would be around £12k per month.

Phase 2 review

4. There are a number of posts within leisure operations and City Hall which require further assessment because:
 - they had a different “end of work” date which needs to be confirmed; or
 - staff have multiple contracts which need to be reviewed; or
 - staff have been undertaking activity that needs to be assessed to ensure it does not contravene guidance on what is considered to be “work” under the scheme.
5. By the end of phase 2, once these assessments have been carried out, we expect that at least 90% of staff in both of these services will be able to be furloughed.
6. We estimate this would enable the council to make a monthly claim of around £245k through the Coronavirus Job Retention Scheme across these two services.

Phase 3

7. Services being considered as part of phase 3 include:
 - School posts funded fully by parent contributions (e.g. breakfast and after school clubs, catering staff)
 - Statutory functions which generate income which cover salary costs (e.g. parking, development control, building control, land charges)
 - Services which have an element of income generation which funds some posts (e.g. recruitment, street name and numbering, licensing, pest control, systems thinking)
 - Services which closed due to national guidance (e.g. libraries)
8. Additional guidance about whether the Coronavirus Job Retention Scheme can be used in these scenarios has been requested by Wiltshire Council through the MHCLG and also nationally by the Local Government Association.

Coronavirus Job Retention Scheme eligibility

9. As outlined in the paper to CLT dated 29 April following discussion with Victoria Bendle (MHCLG Local Government engagement representative) we were provided with a set of questions to use to evidence that roles the Local Authority intended to furlough met the scheme criteria.
10. Finance, HR and Legal have reviewed the roles identified in phase 1 against the criteria and believe that in all cases they clearly meet all the criteria to enable the council to furlough staff – see table at [appendix 2](#).

Communication and training for staff placed on furlough

11. The scheme guidance clearly outlines that employees who are furloughed can still undertake training related to their role:
Furloughed employees can engage in training, as long as in undertaking the training the employee does not provide services to, or generate revenue for, or on behalf of their organisation or a linked or associated organisation. Furloughed employees should be encouraged to undertake training.
12. There is nothing within the scheme guidance outlining what is acceptable in terms of communicating with staff who have been furloughed, however it is clear that this would not involve providing a service or generating income for the council.
13. Therefore, following a review of current guidance, and advice from legal, the following wording has been included within the letter to be sent to employees being furloughed:
As part of your ongoing training and development you can still keep up to date with council information – this may include receiving information from your management team, attending virtual team meetings, accessing wellbeing support, and reading council communications on [HR Direct](#). You can also continue to undertake online training and learning related to your role whilst on furlough.

Volunteering whilst furloughed

14. The scheme guidance outlines that employees who are furloughed cannot do any work that:
 - *makes money for your organisation or any organisation linked or associated with your organisation*
 - *provides services for your organisation or any organisation linked or associated with your organisation.*

15. There is very little guidance on what might be considered a linked organisation and therefore advice from legal is to construe this in the widest possible sense and therefore we should not allow any employee on furlough to work for any council services (including those set up for the purposes for COIVD-19 response), or to volunteer within schools where the council is the employer.
16. However employees can volunteer for community groups where there is no direct link with council services.
17. If agreed this approach will be clearly outlined in a Frequently Asked Question document which will be provided to employees who are furloughed.

Agreement to furlough

18. The scheme outlines a requirement to “*make any changes to the employment contract by agreement*” however as the council will continue to pay employees their normal contracted pay during the period of furlough we do not consider that this is a variation to their contract of employment.
19. However the scheme guidance goes on to say:
To be eligible for the grant employers must confirm in writing to their employee confirming that they have been furloughed. If this is done in a way that is consistent with employment law, that consent is valid for the purposes of claiming through the scheme. Collective agreement reached between an employer and a trade union is also acceptable for the purpose of such a claim. There needs to be a written record, but the employee does not have to provide a written response. A record of this communication must be kept for five years.
20. In order to ensure we have complied with the scheme guidance fully the intention is to consult with the recognised Trade Unions and ensure that they have been informed and consulted and agree the approach to furloughing staff.
21. We will then include the following wording in the letter sent to employees being furloughed:
We have consulted with the recognised Trade Unions and agreed with them which groups of staff will be furloughed and the process for doing this. Agreeing to be furloughed (placed on temporary leave) does not change your contract of employment with the council and will have no impact on the amount that you will be paid.

Advising staff of furloughing

22. Advice from legal is that that employees to be placed on furlough are written to individually. The recommended approach is to do this via a letter posted on the payslip portal (R-powered). Where employees have not accessed this documentation within 14 days of the next pay date a printed copy of the letter will also be posted to their home address.
23. Approximately 98% of staff have accessed the R-Powered portal at least once and therefore it is considered that this is an appropriate method of informing staff, alongside communication from the management team within the service.

Recommendations and decision log

24. The CEOs are asked to review and log decisions in relation to the recommendations of the working group as follows:

- a) CEOs to confirm and log the decision to approve roles identified in [appendix 1](#) to be furloughed based on evidence provided in appendices [2](#) and [3](#).
- b) CEOs to confirm that agreement should be sought from the unions that they have been informed and consulted and agree the approach to furloughing staff.
- c) CEOs to confirm and log the decision that, in line with LGA guidance and in line with the council's coronavirus policy which was agreed with the unions, any staff who are furloughed **will continue to be paid their full normal contracted pay** (i.e. 100% of their normal pay), recognising that we can only claim 80% of this back through the scheme.
- d) CEOs to confirm approaches recommended by working group in relation to:
 - communication and training
 - volunteering
 - advising staff of furloughing

25. CEOs to note that reports will be brought outlining any further roles to be furloughed in phases 2 and 3 and to confirm the approach to making the council's claim through HMRC in due course.

Report author:

Paula Marsh - Strategic Delivery Manager, HR&OD

Working group members:

Lizzie Watkin – Head of Corporate Finance

Steve Perry – Payroll and Business Development Manager, HR&OD

Mike Edgar – Solicitor, Legal

David Redfern – Head of Service - Communities

Appendix 1

Leisure Operations - roles furloughed in phase 1

Contract Type	Number of roles
Casual	115
Catering/Cleaning staff	3
Coach/Personal Trainer	16
Coaching Assistant/Supervisor	10
Duty Manager	12
Fitness Consultant	2
Reception staff	11
Recreation Assistant	56
Swimming Teacher/Coach	5
Permanent	64
Catering/Cleaning staff	18
Fitness Consultant	2
Reception staff	14
Recreation Assistant	30
Variable Hours	80
Coach/Personal Trainer	33
Coaching Assistant/Supervisor	13
Recreation Assistant	9
Swimming Teacher/Coach	25
Grand Total	259

City Hall, Salisbury - roles furloughed in phase 1

Contract Type	Number of roles
Permanent	2
Box Office/Hall Attendants	2
Variable Hours	50
Box Office/Hall Attendants	17
Duty Managers	1
Stewards/Bar Staff	23
Technicians	9
Grand Total	52

Appendix 2 – Evidence that posts meet scheme criteria

Test stipulated by Office for MHCLG	Leisure operations	City Hall
The employee works in an area of business where services are temporarily not required and where their salary is not covered by public funding	Test met - Centres closed 20 March. In line with <u>national guidance</u> leisure centres are on the list of <u>businesses that were required to close</u> . Finance emails at appendix 3 confirm no public funding.	Test met - City Hall closed 20 March in line with <u>national guidance</u> as it was on the list of <u>businesses required to close</u> . Finance emails at appendix 3 confirm no public funding.
The employee would otherwise be made redundant or laid off	In normal circumstances the loss of income would mean leisure centres would not be sustainable and would close resulting in redundancies for staff. Furloughing these employees would avoid the need for redundancies in this situation.	In normal circumstances the loss of income would mean City Hall would not be sustainable and would close resulting in redundancies for staff. Furloughing these employees would avoid the need for redundancies in this situation.
The employee is not involved in delivering provision that has already been funded	The leisure services are funded from public subscriptions which have ceased. Finance emails at appendix 3 confirm.	The City Hall services are funded from ticket sales, room hire, sales of beverages etc. which have ceased. Finance emails at appendix 3 confirm.
The employee is not required to deliver provision for a child of a critical worker and/or vulnerable child	Not applicable - no services are being provided	Not applicable - no services are being provided
The grant from the Coronavirus Job Retention Scheme would not lead to financial reserves being created	Unavoidable operational costs are being incurred without the means of funding them. Any grant received through the scheme will be used to pay salary costs of staff within these services areas.	Unavoidable operational costs are being incurred without the means of funding them. Any grant received through the scheme will be used to pay salary costs of staff within these services areas.
The grant from the Coronavirus Job Retention Scheme should not be duplicative of other public grants that your organisations may receive.	Service receives no public grants and no money received by Wiltshire Council in respect of COVID-19 scenario will duplicate funding received through this scheme. Finance emails at appendix 3 confirm.	Service receives no public grants and no money received by Wiltshire Council in respect of COVID-19 scenario will duplicate funding received through this scheme. Finance emails at appendix 3 confirm.

Appendix 3 – Copy of emails from finance

City Hall

From: Sykes, Leanne
Sent: 29 April 2020 00:05
Subject: City Hall Furloughing

The staff considered for furloughing in City Hall are temporarily not required and their salary is funded by fees and charges for that service and not from public funding.

These employees are not involved in delivering provision that has already been funded.

The grant from the Coronavirus Job Retention Scheme will be credited back to the service area and will support the lost income, will not fully cover the costs incurred by the service and will not lead to financial reserves being created.

The grant from the Coronavirus Job Retention Scheme is not duplicative of other public grants received by Wiltshire Council.

Kind Regards

Leanne Sykes
Head of Finance Growth, Investment and Place

Leisure Operations

From: Sykes, Leanne
Sent: 28 April 2020 23:58
Subject: Leisure Services Furloughing

The staff considered for furloughing in Leisure Services are temporarily not required and their salary is funded by fees and charges for that service and not from public funding.

These employees are not involved in delivering provision that has already been funded.

The grant from the Coronavirus Job Retention Scheme will be credited back to the service area and will support the lost income, will not fully cover the costs incurred by the service and will not lead to financial reserves being created.

The grant from the Coronavirus Job Retention Scheme is not duplicative of other public grants received by Wiltshire Council.

Kind Regards

Leanne Sykes
Head of Finance Growth Investment and Place