

SUPPORTING BUSINESS DURING CORONAVIRUS

SECURING JOBS THROUGH CORONAVIRUS

PREPARED BY
OPTIMAL COMPLIANCE
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INFORMATION FOR LLPS, PARTNERS, EMPLOYEES, AND EMPLOYERS

The Government has announced two schemes to help individuals who are unable to work as a result of Coronavirus. The first scheme, the Coronavirus Job Retention Scheme (JRS) applies to employees, and the second scheme, the Income Support Scheme (ISS) applies to the self-employed. The promoted benefits of the two schemes may be summarised as follows.

Coronavirus Job Retention Scheme

- Employees for whom a claim is to be made are designated as 'furloughed' workers. This means that they cannot work.
- HMRC say that they will reimburse 80% of these employees' wages, up to £2,500 per month.
- The scheme initially will cover the period from 1 March to 31 May but may be extended.

Coronavirus Self-Employment Income Support Scheme

- Self-employed people (including partners) will be able to claim a one-off grant worth 80% of their monthly trading profits, up to £2,500 per month.
- The scheme will only support self-employed people who submitted a tax return in 2018-19 and who are still self-employed now.

REVIEW OF THE SCHEMES

We have reviewed both schemes in detail and have a number of observations to make with regard to the practical implementation of both schemes. It should be noted that whilst the headline terms of both schemes have been made available on the GOV.UK website, minimal technical guidance has been issued by HMRC. This is highly unusual, but is an inevitable result of the Government having to act quickly as a result of this pandemic.

Coronavirus Job Retention Scheme

- This scheme has been back-dated by the Government to 1 March, however HMRC will not be reimbursing employers until the end of April at the earliest. This means that employers are expected to fund Government-mandated pay for employees when their own cash-flow is severely compromised.
- To be eligible for the scheme, employees must be 'furloughed', which means that they cannot work at all. For most businesses that we have spoken to, this is not practical, as there is still useful work that can be carried out on a part-time basis.
- It is also likely to have a negative impact on employees' mental health if they are unable to work at all; it is preferable for them if they can work on a part-time basis.
- The requirement for furloughed employees to do no work is grossly unfair to non-furloughed employees who are still doing some work on reduced pay at less than 80% of normal pay.

Most small businesses that we work with simply do not have sufficient cash reserves to make unfunded payments to employees who are not working.

REVIEW OF THE SCHEMES CONTINUED

Coronavirus Self-Employment Income Support Scheme

- Funding under this scheme will not be available until June. It is unclear how self-employed people or partnerships are expected to fund themselves without pay for three months.
- The scheme offers funding for net profits, but most self-employed people have significant ongoing expenses (e.g. rent and equipment on lease) that must be paid for; the support should be for gross income, not profits.
- The scheme will not help those who have become “newly self-employed” as they do not have a 2018-19 tax return.

It appears that individuals who have been both employed and self-employed from mid-2018-19 onwards will be eligible for both schemes, which seems rather inequitable. Additionally, we understand that employees on large salaries (e.g. £100k p.a.) would be entitled to £2,500 per month from the JRS, but that self-employed people earning £51k p.a. will be entitled to nothing. Our recommendations below seek to address these imbalances.

RECOMMENDATIONS TO LLPS AND EMPLOYERS

Clearly, it is essential that within businesses operating a structure involving both employees and LLP members, everyone must be treated equally. The Government schemes do not achieve this, however following discussions with a number of clients we recommend the following approach to ensure fairness.

Designating team members

We suggest that your team members are divided into four groups:

- Those for whom there is sufficient work that they can continue to work full-time whilst complying with Public Health England's advice (**"Full-time workers"**).
- Those for whom there is insufficient work to justify full-time pay, but for whom there is part-time work available that can be carried out whilst complying with Public Health England's advice (**"Part-time workers"**).
- Those for whom there is no work available at all, but whose services you wish to retain for the future (**"Retained workers"**).
- Those for whom there is no work available at all, and whose services you will not require in the future (**"Redundant workers"**).

PAYMENT TO TEAM MEMBERS

Full-time workers in group 1 should be paid as normal.

Our suggestion at this stage is that **part-time workers** and **retained workers** in groups 2 and 3 should be paid at 50% of their normal pay, or an average of their last three months' normal pay if variable. We are suggesting this policy following discussions about affordability with a number of clients.

This will enable greater business continuity as those who are able to work part-time will be able to do so without being at a disadvantage to those who have been 'furloughed'. It will also prevent the major problem of self-employed people being entitled to no income whatsoever for three months. For LLP members, commitment by the LLP to offer this level of pay (effectively an advance) must be contingent on the LLP member agreeing to reimburse the LLP should they receive funding under the ISS at a later date.

Business continuity must be regarded by everyone in the business as being essential for the future prospects of all.

Payments to **redundant workers** in group 4 will need to be considered on a case-by-case basis. It should be noted that upon reaching two years' service, employees and LLP members will accrue rights to redundancy pay, which could place a further burden on businesses. As far as we are aware, time spent 'furloughed' will still contribute to this two year period.

FUNDING ARRANGEMENTS

All clients are encouraged to apply for CBILS loans if they require cash-flow funding. These loans are available on favourable terms and in many cases without security in the form of personal guarantees. Clients should apply for these loans as soon as possible as there is already a backlog of applications to be processed. See our [guide on these loans here](#).

For payments made under the above structure, OC will assist all LLPs and employers to make claims against the JRS and ISS where this is possible. Eligibility will depend on the exact rules of each scheme, which have not yet been published, however we anticipate that where LLP members and employers work together for the benefit of the business, a significant proportion of the costs for those in group 3 will be recouped. This is because those in group 2 who are also LLP members will still qualify for payments under the ISS (whereas they would not qualify if they were to claim for the JRS as employees on furlough) which can be used to support those in group 3. As noted above, payments received by LLP members under the ISS will need to be repaid to the LLP, to reimburse the LLP for advancing the worker the money.

FUNDING ARRANGEMENTS CONTINUED

Unfortunately, it is possible that clients who have recently implemented the LLP structure will not be able to claim under the ISS due to the inequitable requirement for those taxed as self-employed to have been so engaged for over a year. However these clients will also be benefitting from the greatest cash-flow improvement resulting from using the model, as the cash-flow benefits are greatest in the first year of operating the structure.

We will investigate other options for these clients once the detailed guidance on both schemes has been released by HMRC. It may be possible for these clients to claim under the JRS instead, as the team members will have current-year PAYE earnings which may be eligible income to make a claim. It is also possible that the scheme could be changed following public outcry at its inequitable structure; this has already happened once this week where banks have made a U-turn on the requirement for personal guarantees on CBILS loans.

OUR FEES

We are sympathetic to the needs of our clients at this time and we will be offering fee reductions on a case-by-case basis, generally in proportion to the pay of team members who are unable to work. Our aim is to continue to provide at least the same level of service as usual to all of our clients during this time. In order to achieve this, we need to retain all of our team members on a full-time basis, and we therefore cannot afford to offer 100% fee reductions or payment holidays to any client.

Everyone in our team is authorised to agree fee reductions with their clients so please speak to your client manager in the first instance should you wish to discuss a reduction. We will be asking all clients to commit to making regular monthly payments, by Direct Debit where possible, at the reduced rate to ensure that we can continue to offer a full service.