

FAQ in response to the revised DfE Guidance on Furloughing

Q. Are we able to furlough all staff that are not required at this time and still be in receipt of FEEE, as previously discussed and agreed on the 2nd April 2020?

No, under the revised DfE guidance issued on 17 April 2020, where childcare settings receive government funding (for example FEEE) they should work out what proportion this is of their income and use to pay for staff wages and only furlough staff whose salaries are covered by a private income received i.e. from private fees paid by parents

Q. Can you confirm that the FEEE (in the worst case scenario) can only be used to pay staff that look after either the 2 year old funded children or the 3 year old funded children i.e. cannot be used for payment of under 2's or children that do not claim funding?

It is up to each childcare setting to work out how to apply the revised DfE guidance in working out which staff should be paid from the government funding (for example FEEE) and which staff should be furloughed.

If it is difficult to distinguish whether staff are funded through government funding or private income, then a childcare setting can access the Coronavirus Job Retention Scheme (CJRS) to cover up to the proportion of its wages bill which could be considered to have been paid for from that setting's private income. Therefore, a setting could decide that any staff employed to work directly with children that are unable to access FEEE funding, i.e. children under 2, should be furloughed as they are paid from the income generated by private fees paid by parents

Q. As this term is for 13 weeks what is the strategy for should the Covid-19 go past this period of time?

At this point, the DfE has stated that the CJRS is a temporary scheme in place for 4 months starting from 1 March 2020, but that it may be extended if necessary and employers can use this scheme anytime during this period. Should the Covid-19 lockdown last beyond the end of this period (end of June 2020) unless DfE issues revised guidance the same principles will apply

Q. I cannot see anywhere where in the FEEE contract with Essex Early Years or the handbook which states that FEEE is to be used for payment of staff, my understanding is that this money is there to enable a setting to offer the "service" as referred to in the contract and handbook, which would include all running costs.

The revised guidance from the DfE issued on 17 April 2020, stipulates that where employers receive public funding for staff costs, and that funding is continuing, they expect employers to use that money to continue to pay staff and not furlough them.

The guidance goes on to say that the split between the government funding and private income for the month of February 2020 should be used to inform the split between which proportion of staff salaries are paid from the government funding received and the proportion of salaries that should be claimed up to a maximum of 80% from the CJRS.

This guidance to cover Covid-19 supersedes any contracts or handbooks issued previously, whilst we remain in this lockdown period.

Q. I have staff who work in an unfunded area in the morning. Then a session which is funded. Followed by a lunch period that isn't then a session that is. And some staff even then go on to work till 6.30pm which is unfunded. How do I calculate this?

Due to the individual business models across the sector, each setting needs to decide how to calculate which staff salaries are covered by government funding and which they will apply to be covered up to 80% from the CJRS. When making this decision the following furlough rules should also be considered as they will have an impact on whether staff will remain able to work or not and there may be certain roles that need to continue to work to support the setting through this period, and settings may need to consider allocating any critical business tasks to staff that are not furloughed

When your employees are on furlough

You cannot ask your employee to 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*

They can take part in volunteer work or training.

Q. I have furloughed all my staff for March and now understand that only some will now be entitled to the government payments due to the funding (FEEE) So what happens now then as I have furloughed all staff and already paid them? Do they pay me back?

Conversations will need to be had with any staff that have been furloughed that may not be eligible for the CJRS since the DfE issued the revised guidance on 17 April 2020. You may also wish to seek legal advice to inform your discussions with staff

Q. Can any percentage of the funding we receive be considered for running costs or is all the funding payments to be used for staff wages?

The DfE has been clear in its revised guidance that where employers receive public funding for staff costs, and that funding is continuing, they expect employers to use

that money to continue to pay staff and not furlough them. Therefore, staff wages need to be paid before other costs are taken into account.

Q. If my nursery was 100% funded, I wouldn't be able to furlough any staff and all the funding would be used to pay the salaries.

Yes, that is correct, if your setting's income was 100% government funded you would need to use this to pay staff salaries and not be able to apply to the CJRS to furlough any staff

Q. The previous Gov directive stated we could average last year's wages to calculate the furlough. You are now asking us to use February which has half term in it?

Yes, that is correct. The revised DfE guidance issued on 17 April 2020 states that for this application to the CJRS, settings should use the month of February 2020 to represent their usual income in calculating the proportion of its wages bill eligible to be covered by the CJRS.

Q. What do we do if the income we receive from funding (and private fees) does not just cover staff wages?

We still have rent to pay for the building even though the setting is closed and some fixed costs like insurance and affiliation fees. Are settings allowed to take into account this expenditure as part of the calculation to find which percentage of FEEE funding covers wages?

The DfE has been clear in its revised guidance that where employers receive public funding for staff costs, and that funding is continuing, they expect employers to use that money to continue to pay staff and not furlough them. Therefore, staff wages need to be paid before other costs are taken into account.

Q. As a sessional pre-school, funding is received twice per term as are the fees we receive from parents. Parents that paid for sessions in March are now asking for refunds for the sessions they didn't receive, and we are currently receiving no private monies as we are not open.

- Do I divide our income from the spring term 2020 to work out our supposed monthly income to come up with the figures for February? or
- Do I divide total private and public income received so far over the year? or
- Do I have to work out how much monies I would expect to receive per the month of February per child from the various sources and total them?

The revised DfE guidance issued on 17 April 2020 states that for this application to the CJRS, settings should use the month of February 2020 to represent their usual

income in calculating the proportion of its wages bill eligible to be covered by the CJRS. Therefore, settings will need to work out their average income for the Spring 2020 term based on what would have been paid if you hadn't need to close due to Covid-19 and use these figures to calculate the proportionate split between government funding and private income

Q. Do I have to use the month of February to calculate the private income, as during this month there was half term meaning less income than normal.

The concern is that once I claim I cannot adjust the amount of private income on future claims.

Yes, that is correct. The revised DfE guidance issued on 17 April 2020 states that for this application to the CJRS, settings should use the month of February 2020 to represent their usual income in calculating the proportion of its wages bill eligible to be covered by the CJRS.

*The guidance also goes on to say that settings will be able to adjust the proportions for the government funding element if this changes; but are saying that settings will **not** need to decrease the income from private fees. This is in recognition of the fact that it is likely that the income from private fees will have significantly decreased, meaning that the number of staff a setting was able to furlough initially will also have significantly decreased*

Q. I was wondering if you could give me any further information on Essex County Council's position regarding the distribution of 'free entitlement' funding following the announcement from DfE yesterday. I have seen some of the LAs have announced they will stick to the commitment of distributing the full summer funding to all settings however I have not seen any information regarding the position in Essex.

ECCs interpretation of the revised DfE guidance on the flexibility to use early years entitlement funding to secure childcare for children of critical workers and vulnerable children is that this will only happen where a child (that's parents qualify as a critical worker or is defined as vulnerable child) is unable to access their funded place at their usual childcare setting and needs to access their place at another setting. The intention is that the child's FEEE funding will "follow them" to the new setting, and therefore in these instances will be claimed back from the original setting and paid to the new setting for the period of time the child will be attending. Should this happen, the setting will be able to make adjustments to the proportion of claims to the CJRS in subsequent claims

*ECC will work with any providers that are affected by this to agree what adjustments will be needed, and the process that will need to be followed. **Please note** this update guidance will supersede the previous guidance issued by ECC that stated providers should use the FEEE funding already paid to them to offer places to new children that are eligible to access a place as they are children of critical workers or classified as a vulnerable child*

*It is **not** our understanding that this will lead to the need to claim any of the FEEE funding paid for the Summer 2020 term from a setting that is closed, outside of these circumstances*

Q. I have heard that another local authority has provided a Furlough Calculator for their settings to use to work out what should be claimed

We are aware other Local Authorities have provided a Furlough Calculator. This is not something Essex have produced at this stage, due to the vast variance in the makeup and financial business models of our childcare providers across the County. Should you find independently, a calculator that you believe supports your claim, then it is your choice to use these tools, understanding that you may need to produce evidence of the finances at a later stage should the HMRC /Essex request it.