

Ensuring people do not fall through the gaps in the government’s employment support schemes

Introduction

At Citizens Advice, we are seeing a huge increase in numbers of people coming to our website for support and guidance. Our website had 2 million views in the week to 4th April 2020: our page on ‘if your employer has told you not to work because of coronavirus’ was our most read page, with over 10% of total views. People are, understandably, concerned about their financial security.

Fig. 1. Year on year increase in employment related advice March 2020



% increase in advice issues recorded locally

The government has announced unprecedented interventions to address these concerns and shore up people’s incomes during the covid-19 pandemic, ensuring that most households in the country will be able to avoid unmanageable debt.

The Coronavirus Job Retention Scheme and the Self-Employed Income Support Scheme will guarantee eligible people 80% of their wages or profits, respectively, up to a cap of £2,500 per month. This level of support provides people in receipt of it with the necessary cushion they need to follow public health advice and keep themselves and others safe during the pandemic.

On 4th April, the government announced major clarifications to the Coronavirus Job Retention Scheme. These changes included updates to ensure all workers paid through PAYE (including all agency workers) would be eligible for the scheme if their employers used it, as well as all foreign nationals.

The government also clarified that employers could use the scheme to furlough their workers due to certain personal circumstances, including people who share a household with the shielded group as well as carers & parents, would be eligible.

These are all welcome extensions and clarifications of the scheme's existing generosity. In a fast changing situation, the data we are getting from our advisers suggests that further gaps in the existing package of support will need addressing.

Figure 1: Summary of those protected by government schemes and those who are still at risk



In summary, our main recommendations are that the government consider:

- Making further changes to the Job Retention Scheme's guidance & rules for people in the shielded group or who need to stay at home with someone in the shielded group. This should:
 - a) Make clear (as for parents and carers) that the employer does not need to otherwise be making that person redundant in order to furlough them.
 - b) Give people in these groups, in effect, the right to be furloughed, if their work would otherwise require them to breach public health advice. This could be included as a change to the scheme's guidance.
- The government should clarify the scheme guidance to give employers the option of furloughing workers in the 'increased risk' group.
- The Self-Employed Income Support Scheme should be extended to people who have been self employed for less than a year. The government should also confirm it does not intend to add support from the scheme to the list of public funds, so that people without recourse to public funds are not excluded.

Beyond gaps in the existing system, one potential challenge on the horizon is employers making workers redundant and choosing not to put them on the scheme. The government may want to evaluate further contingencies, should the number of workers in this group be significant. We have identified two main contingency routes:

- Consider giving employers more incentives or obligations to use the scheme. This could include putting more pressure on firms to act, giving workers in certain situations the right to be furloughed or issuing guidance that makes it clear that if an employee is unreasonably refused access to the scheme the dismissal would be unfair.
- Consider temporarily enhancing our safety net further, both by widening eligibility to the benefits system and ensuring people have enough to make ends meet during this period. This could include relaxing the capital limit rules for claiming Universal Credit, turning advance payments into grants and reviewing the value of key components within Universal Credit like the Standard Allowance and the Local Housing Allowance.

Protecting people at greater risk of coronavirus

This section sets out additional protections we think may be appropriate for employees who are in the shielded group, share a household with someone in the shielded group and people who are in the increased risk group.

The government has already made important changes by extending the Job Retention Scheme so that employers can furlough people sharing a household with people who are 'shielding' in line with public health guidance.¹ This allows employers to protect those employees who are in the group of 1.5 million people who are at very high risk of severe illness from coronavirus and have therefore been advised to stay at home at all times and avoid any face-to-face contact for at least 12 weeks.

This change will have positive consequences. We expect most employers will want to take action to protect this group. Before this change was made, we advised Mark, a driver whose child has a rare form of cancer which puts them in the 'shielded' group.

Case study: Mark

Mark is a driver and lives with his partner and 4 children. They receive Disability Living Allowance for his 5-year-old daughter who has a rare type of cancer that mostly affects babies and young children.

Mark's daughter is classed as extremely vulnerable and must follow 'shielding' measures which involve staying at home at all times and avoiding any face-to-face contact for a period of at least 12 weeks.

As Mark can't work, his employer said they'll look into the Job Retention Scheme. Mark would be able to keep 80% of his wages and not put his daughter's health at risk by having to go into work. But 2 hours later, his employer told him that his employment was being terminated.

While Mark's employer would not have been compelled to use the scheme, they may have felt able to with the new guidance. However, even now the guidance could be clearer - it specifies that the employer 'would otherwise have to make them redundant', which could deter some employers from using the scheme. We note this phrasing does not appear for parents or carers, and therefore could be dropped.

Further, people in the shielded group or who share a household with the shielded group likely need further immediate protection - nothing would require Mark's employer to offer to furlough him. This does not seem to be an isolated case in our data. In recent weeks our advisers have highlighted cases that include:

- A mother who lives with her son who has cystic fibrosis, who is worried that her workplace will require her to work

¹ The scheme already included people in the shielded group; [Guidance: Claim for your employee's wages through the Coronavirus Job Retention Scheme](#), HM Revenue & Customs

- A nursing home worker with chronic obstructive pulmonary disease refused furlough and only offered SSP
- A scrapyard worker whose daughter has a terminal illness was threatened with dismissal if he doesn't return to work after a 2 week self-isolating period
- A worker with a heart condition being refused furlough as his employer wants him to continue working at his job maintaining fleet vehicles

Recommendation: People in the shielded group or who share a household with the shielded group should be given, in effect, a **right to be furloughed if their work would otherwise require them to breach public health advice**. While we expect most employers to act well towards these groups, given the firmness of public health advice to them, employers should be obliged to furlough them. This should be included in the Coronavirus Job Retention Scheme guidance.

We provide more detail on what a right to be furloughed could look like below.

However, public health advice also identifies a population who are at increased risk of severe illness as a consequence of coronavirus and are therefore advised to be 'particularly stringent in following social distancing', including people who are (for example) over 70 or have a chronic neurological condition. They are strongly advised to avoid non-essential use of public transport, work from home and avoid large and small gatherings in public spaces.²

Increasingly, our advisors are reporting concerns from this group, who feel they have to put their health at risk by continuing to work. In recent weeks our advisers have highlighted cases that include:

- A caravan park worker with asthma and diabetes whose employer has refused to pay them as they've chosen to self-isolate.
- A carer with diabetes who is unable to practise social-distancing at work. Her employer has left her with two options - she must stay in work or take unpaid leave.
- An 8 months pregnant mental health worker who cannot work from home due to GDPR but has been denied furlough. She wants to comply with her employer but is anxious about jeopardising the health of her unborn child.

Our polling suggests that 19% of employees and eligible workers fall into this group. Given the diversity of work requirements and the possibility of putting social distancing policies in place in the workplace, we have not recommended giving these workers the right to be furloughed. But employers should have the option of furloughing these workers should their workers request it and they are in a position to do so.

² [Guidance on social distancing for everyone in the UK](#), Public Health England

Recommendation: To protect employees who are at increased risk, the government should clarify the scheme guidance to give employers the option of furloughing workers in this group.

Protection for the self-employed

The Self-Employed Income Support Scheme currently excludes people who have not submitted a tax return for the tax year 2018-19. In practice, this will exclude both people who have historically been self-employed but were not in 2018-19, and people who recently became self-employed. We estimate that the number of people who have been self-employed for less than a year is sizable - over 400,000 people.³

We understand the rationale for this exclusion, both from a fraud prevention and an administrative complexity perspective. It is obviously difficult to form a view, for example, on how people made a majority of their incomes from the tax year 2019-20 when the deadline for self assessment will not fall until January 2021.

These problems seem sufficient that it may be challenging to include this group of self employed people in the initial payment tranche. However, given self-employed people can submit their tax returns immediately after the end of the tax year, the scheme could consider allowing people who only became self-employed in the financial year to be eligible for backdated grants upon approved submission of their self assessment for the current tax year.

Recommendation: The Self-Employed Income Support Scheme should be extended to people who have been self employed for less than a year.

The inclusion of foreign nationals in the guidance on the Job Retention Scheme is welcome, indicating that people without recourse to public funds will be eligible. The government should confirm that it does not intend to add support from the Self-Employed Income Support Scheme to the list of public funds, to ensure this group have access to the support they need in this exceptional time.

A challenge on the horizon: helping people who have been made redundant

The government has invested considerable effort in making the Job Retention Scheme attractive to employers, ensuring that they face minimal costs for using the scheme. In particular, a very sensible feature of the existing scheme is that workers who have already been made redundant can be re-engaged and furloughed on the Job Retention Scheme. The government has so far understandably refrained from placing additional requirements on businesses, in recognition that this is an economic crisis for workers and businesses alike.

However, we know from a record 950,000 Universal Credit claims between 16-31st March that it is likely many people have been made redundant already; though we hope

³ Citizens Advice analysis of Quarterly Labour Force Survey, October-December 2019

that employers may reverse their redundancy decisions as they are reassured by guidance that they are eligible for the scheme and take action to re-engage and furlough employees now.

Our data also suggests a potentially troubling picture. Interest in our advice pages on redundancy has skyrocketed in March, with a 170% increase compared to a similar time last year. The advice we gave on redundancy more than doubled in March, compared with the previous year, a trend that is only accelerating so far in April.

In recent weeks our advisers have highlighted cases that include:

- A financial advisor of 2 years being made redundant because their employer doesn't believe they should be paid through the furlough scheme if they're not working.
- A person with mental health problems being laid off from work without redundancy pay. They weren't informed about the furlough scheme or offered any support.
- An IT worker given an ultimatum between a 50% pay cut or redundancy, with 24 hours to make their decision. Their employer refused to use the Job Retention Scheme, stating it was too uncertain when they'd receive money under it.

It isn't possible to judge whether this presents a serious risk to the scheme's success yet, particularly given the scheme is not yet operational. It may be as employers gain a better understanding of the scheme, these figures begin to reverse. And, we accept some economic damage - including to people's household finances - is likely to be unavoidable and permanent.

However, the government will need a contingency plan should the scheme not succeed on the scale needed in achieving its twin aims of ensuring people do not face significant income shocks and maintaining employment relations as they existed prior to the crisis, insofar as is possible.

We think two main contingency routes exist. Firstly, the government could increase the incentives or obligations for firms to use the scheme. Several options for this exist:

- Pressure from government, indicating that the government has made unprecedented support available to employers, both to sustain their businesses and to pay their wage bills, and further measures may be taken should employers not support their workers where necessary.
- Amending unfair dismissal law or creating guidance to make it clear that if an employer unreasonably refuses to access the scheme, the dismissal could be unfair.
- Giving workers who are at risk of redundancy the right to be furloughed in certain circumstances.

These options will not be necessary should the Job Retention Scheme work as intended. However, we think there is merit in giving them thought now in case that eventuality occurs.

There are important questions about how a right to be furloughed might be designed, should it be needed. The overall aim of such a right would be to meet the aim of the retention scheme - to preserve existing economic relations and wage levels (at 80%), while the acute phase of this crisis persists. It would not curtail employers' ability to make these workers redundant once the acute phase has passed and the retention scheme is lifted.

In practice, this would require careful design to protect workers and avoid undue burden on businesses. This might include:

- Eligible workers would need to have had an employment contract with the employer after 28th February 2020 and apply only to workers in certain circumstances (e.g. in the shielded group) or who have been made or are being made redundant.
- This right would not apply when the employer is becoming insolvent due to non-wage costs.
- Thought would need to be given about whether employers or the state would bear responsibility for meeting the costs of ongoing contractual and statutory rights of continued employment, such as redundancy pay accrual. It would be important to ensure that existing workers' rights would not be curtailed. We would expect that employers would be able to claim back for appropriate costs associated with statutory rights when the schemes wound down.
- Employers would have the freedom to make employees redundant in line with normal redundancy rights after the Job Retention Scheme came to an end and the right to furloughing would be strictly time limited to the duration of the scheme.

This option could provide temporary relief for workers made redundant or who are in particular circumstances that require furloughing. Such a step would obviously require careful mitigation and implementation to ensure it did not create unreasonable additional costs and liabilities for employers who are already facing challenging circumstances.

Alternatively, the government could provide further enhancements to the social safety net. Increasing the standard allowance in Universal Credit by £1,000 a year from April as well as increasing the Local Housing Allowance (LHA) to the 30th percentile of local market rents, will both go some way to reducing the income shock newly redundant workers could face - however, our estimates suggest this will not go far enough.

Our polling shows that nearly 4 out of 10 (38%) people have lost income because of this crisis, with nearly 1 in 10 (8%) losing 80% or more. Analysis of our debt advice data,

adjusted for changes in consumption during this crisis, suggests a single person household has necessary outgoings of £180 per week excluding housing costs.

While fixing LHA to a certain percentile of local market rents is appropriate in normal times, where people have the potential option of downsizing due to changes in their economic circumstances, many people making new Universal Credit claims will likely face rental costs far in excess of LHA, with no near-term opportunity to move house.

Therefore, a second contingency that the government should consider is temporarily enhancing our safety net further - both by widening eligibility to the benefits system, and ensuring people have enough to make ends meet during this period. This should include:

- Relaxing the capital limit rule for claiming Universal Credit (currently £16,000) to at least widen eligibility to the benefit to support groups such as self-employed people (who may have savings in excess of £16,000 for a future tax liability).
- Temporarily switching advance payments to grants so people applying for Universal Credit receive money quicker and aren't faced with debt further down the line.
- Building on the three-month suspension of deductions from Universal Credit for Tax Credit, benefit overpayments and Social Fund loans - temporarily suspend the repayment of advance payments for existing claimants particularly if they are not made into a grant for new claimants.
- Temporarily raise or suspend the benefit cap to ensure people can access adequate levels of financial support during this period.
- Increase the value of legacy benefits (e.g. Jobseeker's Allowance and contributory Employment and Support Allowance) to reflect increases made to the standard allowance within Universal Credit and Tax Credits.
- Continue to review the value of components within Universal Credit to ensure claimants have adequate support to meet essential costs, e.g. the standard allowance, the Local Housing Allowance.