Furlough John Paul Liddle
FWES: Covid-19
19 October 2020

Cabinet Secretary for Finance
Cabinet Secretary Rural Economy and Tourism
Minister for Trade, Investment and Innovation

PROPOSED FURLOUGH SUPPORT PACKAGE

Purpose

1. To provide you with advice on options for the proposed furlough support package, announced as part of the overall £40m for businesses affected by Covid-19 restrictions introduced from Friday 9 October.

Priority

2. Urgent.

Background

3. The Cabinet Secretary for Economy, Fair Work and Culture previously announced details of a £40m Covid-19 Restrictions Fund to help businesses affected by the temporary restrictions in place in some local authority areas from Friday 9 October.

4. This included support of up to £9 million to help with the costs of re-furloughing staff by supporting the 20% employer salary contribution, plus pension and National Insurance contributions, required by the UK Government.

5. While this will not be able to fully address the costs faced by employers, it would be a contribution towards those costs in order to sustain employment where possible.

UK Government support

6. The UK Government announced on 9 October 2020 an extension to the Job Support Scheme. The Job Support Scheme will start on 1 November 2020, after the end of the current Coronavirus Job Retention Scheme.

7. In general, the JSS will be less generous than the existing furlough scheme, and will provide a wage subsidy for employees who are working at least 1/3 of their normal hours, with costs shared between UKG and the employer.

8. The extension is for employers who are required by law to close (under public health regimes in each of the 4 nations). The UK Government will offer a grant equivalent to 2/3 of normal pay for employees, up to a cap of £2,100 per month. No contribution will be required from employers.

9. This means between now and 1 November, the only support available to employers who are required to close is through the existing Job Retention Scheme. Since August, employers have had to make a contribution to the costs of the Job Retention Scheme. In October, these are 20% of average salary costs, plus pension and National Insurance contributions which usually amount to around 5% of staff costs. Beyond 31 October, this level of contribution will not be required from employers if they are required to close due to public health restrictions.

Engagement

10. In developing the options proposed in this paper, we have consulted with the STUC, CoSLA and local authority officials, and HMRC.

Which businesses the scheme should support

11. We estimate that there are around 5,305 business premises in the central belt that are required to close temporarily as part of the current restrictions, primarily within the hospitality sector (pubs, bars and restaurants). We also estimate there are around 74,000 people employed in these activities who we would expect to be on furlough over the period of the restrictions. This includes 25,500 estimated to currently on furlough and a further 48,000 that could be furloughed due to businesses closing temporarily.

12. These businesses, uniquely for the remainder of October, will have to make a contribution of 20% to furlough costs. This contribution will no longer be necessary from 1 November, when the new Job Support Scheme provisions come into play for businesses that are required to temporarily close.

13. Both now and after 1 November, there will also be hospitality businesses, and businesses in the wider supply chain, who are not required to close, but face a loss of demand and may furlough staff as a result. These businesses will not be eligible after 1 November for support under the extension to the Jobs Support Scheme, as it will only be available to businesses that are required to close by law. They will, however, be able to furlough staff under the original provisions of the JSS. This will require that employees work at least 33% of their normal working hours. For the remaining hours not worked, the Government and employers will pay 1/3 of the wages each.

14. Putting in place additional arrangements in October to support supply chain businesses that are affected by the closure but are not legally required to close in October may set expectations that similar support would be offered by SG beyond October. **We therefore recommend that the furlough support is only limited to business that are required to close by law**. This is broadly consistent with the approach taken previously in Scotland, and in other parts of the UK, for wider business support.

Which workers the scheme should support

15. The stated purpose of the scheme is to help employers meet the costs associated with staff who can be re-furloughed (in October, these are 20% of

average salary costs, plus pension and National Insurance contributions which usually amount to around 5% of staff costs). The support available could not be guaranteed to fully meet these costs for every employee, but it is a contribution toward the costs. OCEA have estimated that per employee over a 16 day period, the average cost of furlough to an employer for this period is around £117 to cover the 20% employer wage contribution, and £41 to cover employer pension and National Insurance contributions – a total of £158. We also estimate that the average number of employees per business is around 14 but this will vary significantly between different employers.

16. This could be made available under section 126 of the Housing Grants, Construction and Regeneration Act 1996.

Costed options

17. It is important to note that estimates presented here are based on a number of assumptions as well as the best available data, but that this does not allow us to identify individual businesses. Given these limitations, and while we have provided best estimates, there is a risk that actual demand will be higher than what we have been able to estimate.

18. Ministers have previously announced that up to £9m will be available to support furlough costs.

19. The main £20m grant is being offered on a differentiated basis depending on the rateable value of the business premises that has been told to close. We considered this for the furlough element of the grant but there is no reliable way of linking the rateable value of the premises to the number of people employed in it, so we have not pursued this further.

Option A

20. We could offer a standard grant for every business we expect to close as a result of the restrictions.

21. We estimate that the average cost per business premises for all employees that we estimate could be furloughed following the restrictions in the Central Belt will be between £1,178 and £1,637 to cover the required 20% wage contribution over a 16 day period. We estimate the average cost per business to cover National Insurance and Pension contributions of workers on furlough over this period to be £572.

22. We could offer a standard grant covering 20% employer wage contributions, simply calculated from this average cost times the number of business premises we expect to be affected. This would give a cost range of £6.25m to £8.68m. A rounded offer of £1,600 per business premises would cost £8.49m, and meet the average furlough cost for the average number of employees per business – around 14.

23. If the grant offered was also intended to cover pension and National Insurance contributions for furloughed workers, this gives a cost range of between £1,750 and £2,209. In this scenario, a rounded offer of £2,200 to support the average number of 14 employees per business premises would cost £11.67m.

24. This figure represents the estimated support required per average business. This will be skewed upwards by a small number of large firms, meaning that the majority of businesses supported (who have less than 14 employees) would receive grant funding in excess of CJRS costs incurred. However, this also means that a small number of firms employing large numbers of workers will be under-supported in this sense, and so may need support via other means to cover these costs. The majority of businesses affected have less than 10 employees.

25. The main advantages are the relative ease of administration and the limited scope for fraud.

Option B

26. We could offer a lower standard grant for every business we expect to close as a result of the restrictions with furloughed staff (COSLA are gathering this information) by self-declaration, given the significant disparity in size of business and number of employees. If we set this at a level less than the £9m previously announced, we could use the remainder to increase the other fund elements of the £40 million package. If you agree in principle, to this, further advice will follow on where this should be re-allocated.

27. As in Option A, we could offer a standard grant contributing to the 20% employer wage contributions, simply calculated from this average cost times the number of business premises we expect to be affected, but for a smaller number of employees than the average of 14. The majority of the businesses affected have less than 10 employees. A standard grant of £1,200 would provide enough cover to meet the 20% employer wage contribution for 10 employees, and would cost £6.37m.

28. If the grant offered was also intended to cover pension and National Insurance contributions for furloughed workers, then providing cover for 10 employees would require a standard grant of around £1,500, and cost up to £7.96m.

29. Offering a smaller standard grant reduces the level of potential overpayment to smaller organisations. Diverting some of the £9m to the discretionary fund, and making support for larger employers to deal with furlough costs one of the purposes of the discretionary fund, would help to address the issue of underpayment. As with Option A, this option would be relatively straightforward to administer and would limit the scope for fraud.

Option C

30. We could offer a fixed amount per employee, and require businesses to provide sufficient information along with their application for local authorities to be satisfied that the business employed that number of people.

31. To provide a differentiated award based on number of employees, or salaries of employees, we would need employers to provide appropriate evidence of the number of people they employed, and we would ideally need to be able to validate this. Without collecting and validating this information, there would be a significant risk of fraud. Local authorities do not hold data about how many people are employed at a business.

32. HMRC holds information based on PAYE schemes, and it is this data that they have used to underpin the Job Retention Scheme. While this includes personal details of each employee, there is not necessarily a correlation between claims made to the Job Retention Scheme, and the business premises where individual employees work. For large chain businesses, this may be a single return covering a large number of premises in different parts of the UK.

33. HMRC are looking at the introduction of new systems to allow them to determine whether employees are related to specific premises to support the extension of the Job Support Scheme, but these will not be in place until later this year and will not produce data until at least January.

34. We cannot, therefore, identify a way of verifying how many employees at a specific location have been placed on furlough. HMRC officials also highlighted that there is no existing legal or technical gateway for this type information to be shared – either for SG or local authorities to collect and provide this kind of information to HMRC to validate, or for HMRC to provide this information or confirm accuracy; and that there would be potentially significant change and administration costs for HMRC to put in place arrangements if these could be agreed – alongside the existing operational pressure that HMRC faces.

35. We could continue to pursue this with HMRC but are not certain that an acceptable solution would be identified, and not confident that this work could be completed to the timescale required.

36. We could potentially ask businesses to provide information as part of their application – e.g. copies of the claims they have made for the Job Retention Scheme previously. CoSLA officials' very strong view was that simply asking for this information, with no way to validate it with HMRC, would be an unacceptable fraud risk for local authority auditors, and might only be palatable if SG accepted this risk.

37. This option would also place a higher administrative burden on both employers and local authorities to process applications.

38. It would target support directly at the employers and workers most in need.

39. With average furlough costs of £117, providing this support to the c. 74,000 people we expect to be furloughed would cost £8.66m. If the grant offered was also intended to cover pension and National Insurance contributions for furloughed workers, at an average cost of £158, this would cost £11.7m.

40. Some businesses will have taken on new employees who cannot be re-furloughed (as the existing rules for the CJRS require employees to have been in their current job in March 2020, and to have been furloughed at least once prior to 30 June 2020). By tying the grant explicitly to the individuals who have been furloughed, there is less scope to ask employers to give any consideration to providing support to this group.

41. The grant will most likely be taxable, under either Income Tax or Corporation Tax depending on how the business is established, as is the case for the UK Government's main furlough scheme grant and other business support grants and payments.

Preferred option

42. On the basis of the analysis above, we recommend that **Option B** is the most viable option for delivery within the timescale required, addressing the fraud risk, while providing some scope for additional support to be provided to larger employers.

43. We recommend that the level of the standard grant be set at **£1,200**, which on average would provide cover for the furlough costs of around 10 employees. The majority of businesses affected have less than 10 employees. This would cost **£6.37m** and would allow **£2.63m** to be redirected to increase other elements of the £40m package.

Delivery

44. We have had initial discussions with both HMRC and COSLA about how they might separately or together administer a grant scheme. It does not appear feasible to ask HMRC to deliver this support, and exploring this route further is likely to take significant time with little likelihood of success. COSLA and local authorities' view was that they would be able to administer a grant scheme, but that a scheme which was based on accepting information from employers without being able to validate this would be an unacceptable fraud risk. They also said that local authorities face significant operational constraints in setting up and running the business support grants already announced within the timeframe required, and asked that consideration be given to putting the furlough support in place on a slightly longer timescale.

STUC engagement

45. Officials held an initial discussion with Dave Moxham from the STUC on Monday 12 October, alongside representatives from Unite and Prospect. They welcomed the focus on supporting continued employment, and accepted both that the detail of how this was allocated and provided required to be worked through quickly, and that for administrative purposes, it would be most feasible for the payments to be provided to employers (and then disbursed to employees) rather than to employees directly.

46. Further discussion on the options under consideration was held with STUC officials on Wednesday 14 October. Following further consideration with affiliates, the STUC have confirmed that they are broadly accepting of the approach, but that they would wish to see a clear fair work statement of expectation was placed on the non-furlough) grant elements of the assistance, and (for the furlough grant) for the applicant for grant to be explicitly required to commit that the purpose to which support will be put will be to retaining workers on furlough.

Ensuring that the purpose of the grant is met

47. This was a concern for the UK Government when the main furlough scheme was initiated. In part this is addressed through HMRC's administration of the furlough scheme through PAYE – but this does not allow them to validate whether the people for whom the employer has claimed are indeed not working.

48. As part of the UK Government guidance on the application process for the main furlough scheme, an employer must confirm in writing to employees (or to a trade union on a collective basis) that they have been furloughed to be eligible for the grant. We would look to include a similar provision in relation to this grant – asking employers to confirm in writing to their employees that they are applying for this grant funding in relation to the furlough contribution.

49. In addition, Grants made by SG cannot be made to companies with certain connections to tax havens, under the Coronavirus (Scotland) (No. 2) Act 2020. While this grant would be made by local authorities rather than SG, we will look to include this in the eligibility criteria.

Recommendation

50. That you agree:

- To limit support to businesses required to close in the central belt, and do not extend this to businesses in the supply chain;
- To provide support for all furloughed workers at premises that have been required to close – both those already furloughed and those being re-furloughed because local restrictions vs limiting to newly re-furloughed;
- To offer a standard grant for each business premises required to close, rather than scaling the award based on number of employees;
- To set the level of this standard grant at £1,200, which would be a sufficient contribution to meet the average cost of furlough for up to 10 employees, and that the majority of businesses affected have less than 10 employees;
- That we expect the total cost of this to be **£6.37m**; and
- That the remaining £2.63m be redirected to other elements of the £40m support – on which we will provide you with further advice if you agree to this in principle.

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Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
First Minister Cabinet Secretary for Economy, Fair Work and Culture Minister for Business and Fair Work			X X		X