

For publication

Consideration of the use of the Coronavirus Job Retention Scheme

Meeting: Joint Cabinet and Employment and General Committee

Date: 9 June 2020

Cabinet portfolio: Governance

Report by: Executive Director

1.0 Purpose of report

- 1.1 To advise Members on the options available to the council under the Coronavirus Job Retention Scheme, CJRS, and to seek approval to furlough staff that qualify for the scheme.

2.0 Recommendations

- 2.1 To approve the submission of claims to the Coronavirus Job Retention Scheme to furlough staff who have not been able to carry out their roles for the council, where the funding for their posts is largely generated through third party income through sales, fees and charges, where there has been a significant reduction in the associated revenue streams.
- 2.2 To support the key principle that any furloughed staff will continue to receive 100% of their wages and will see no changes to their pension contributions.

- 2.3 To note that for the council to furlough staff, the individual staff member must voluntarily agree to be furloughed as this constitutes a temporary contract variation.
- 2.4 To delegate authority to the Executive Director in consultation with the relevant Cabinet Member and, in conjunction with the HR & Support Services Manager, to take forward claims to the CJRS for June-October 2020 once the new guidelines are announced.

3.0 Report details

Introduction

- 3.1 The Coronavirus outbreak has led to an unprecedented situation across the world and the impact on individuals, communities and businesses has been immeasurable. The Government has sought to bring in a whole range of measures to reduce the spread and impact of the virus, across the health and social care sector in the first instance to preserve lives, but it has also had to put in place significant measures to try to protect business and people's livelihoods at this time.
- 3.2 Whilst most measures have been put in place to support non-public sector organisations, it must be recognised that local authorities and other public sector organisations will still have significant financial difficulties. To a degree the Government are recognising this, and local authorities have had a range of support and additional grant, however this is not currently covering the direct cost of supporting the local effort to respond to coronavirus.
- 3.3 In addition, there are many other losses that the council will need to cover, which the government have not yet confirmed that they will support. These are largely related to the income

that is generated across a range of services that fund the service costs. At this stage in the crisis it is felt that any opportunity to recover lost income / costs, and improve the councils financial position should be taken, as this will be the best way to avoid any future redundancy situations.

- 3.4 Therefore, whilst the government may come forward with additional grants or financial arrangements that enable the council to recover all of the losses, it would seem appropriate that the council consider the option of claiming grant through the Coronavirus Job Retention Scheme, in those service areas where the government have acknowledged that the public sector can qualify for this grant. This report sets out the details of this scheme and recommends that the council furloughs staff in those services that are eligible for the grant.

Background

- 3.5 The Coronavirus Job Retention Scheme, CJRS, was first introduced in March 2020 in response to the COVID-19 outbreak and the national lockdown that was initiated on 23rd March 2020. The scheme was introduced to support businesses and organisations where their operations have been severely affected by coronavirus (COVID-19) and they have not been able to maintain their workforce.
- 3.6 The current CJRS allows businesses to apply for a grant to cover up to 80% of their employees usual monthly wages, up to a maximum of £2500 per month, plus associated Employer National Insurance contributions and pension contributions (up to the level of the minimum automatic enrolment employer pension contribution), based on the 80% wage.
- 3.7 The employer can decide to top up furloughed employees' or workers' wages to 100%, but they do not have to.

- 3.8 The ability to claim at this level of funding is in place until the 31 July 2020.
- 3.9 Government announced changes to the scheme on 29 May 2020. The changes mean that the council can bring back furloughed staff on a part-time basis from 1 July 2020 to increase flexibility during the recovery phase
- 3.10 The levels of government grant available through CJRS will be slowly tapered off in the following way with the council unable to claim employer national insurance or pension contributions from 1 August 2020:
 - In August the council can claim 80% of wage costs up to a cap of £2,500
 - In September the council can claim 70% of wage costs up to a cap of £2,187.50
 - In October the council can claim 60% of wages up to a cap of £1,875

Eligibility for the scheme

- 3.11 Government guidance on the scheme suggests that whilst the scheme is available to public sector employers, the Government does not expect the scheme to be used by many of them, as they will be continuing to provide essential public services.
- 3.12 The government recognises that there might be a limited number of cases in which it is appropriate for local authorities to furlough workers and claim funding through CJRS. This would be in exceptional cases where staff salaries are largely funded by sales, fees and charges, where there is a significant reduction in these revenue streams which are not already offset by additional grant funding from central government, where there staff cannot be redeployed and where the alternative would be redundancy.

Consideration of the Coronavirus Job Retention Scheme for Chesterfield Borough Council

- 3.13 The key principle in considering applying for this scheme has been that all furloughed staff would continue to be paid at 100% of their wages. The fact that the Council would be claiming grant of 80% of wages, NI and some pension costs, would in no way affect the wages, pension contributions or any other terms and conditions of furloughed staff.
- 3.14 The council has a number of services which are considered eligible for the CJRS. These include:
- leisure centres, venues and cafes where these premises were told to close down by the Government and have therefore been unable to provide a service; the majority of the costs of these services are funded by income from sales, fees and charges.
 - non-essential services that are provided to housing tenants for housing repairs and maintenance that have not been able to be carried out due to restrictions; the cost of these employees cannot be funded, and there is no work for many of them to carry out.
 - other commercially run service areas where staff are delivering a service to a third party and funded through external income; these services have also ceased if that business is no longer operating.
- 3.15 Within these eligible services, any of the following category of worker will be assessed to be put on furlough, whether they work full time or part time;
- employees
 - workers
 - agency workers
 - those on variable hours contracts

- apprentices
- 3.16 The council would, within these eligible services, also furlough those who are temporarily unable to work because;
- they are shielding (told to stay at home by the NHS because of an underlying health condition)
 - someone in their household is shielding
 - they have childcare responsibilities
 - they are caring for a vulnerable person in their household
- 3.17 The council would also ensure that the selection of staff for furlough is carried out in a fair way to avoid any discrimination and should:
- get agreement in writing from every employee and be clear how much the employee or worker will get paid during their furlough
 - keep furloughed workers on the payroll and continue their employment contracts
 - make sure furlough periods last at least 3 weeks

Analysis of services and furloughed staff numbers

- 3.18 HR business partners and service managers in the eligible service areas have carried out a significant amount of detailed analysis to understand the staff that would qualify to be furloughed. The current proposal is that the initial claim will be backdated to 1 April 2020 through to the 31 May 2020. Analysis needs to be carried out for each individual staff member, to ensure that the furlough claim is for a minimum of three weeks and that the staff have not carried out any work for the authority during that time period.
- 3.19 At the time of writing this report it has been calculated that there are approximately 282 posts that would be furloughed,

with an initial grant claim up to 31 May 2020 being in the region of £360,000.

- 3.20 As the council is now in the recovery phase of the pandemic and looking at options to support the re-opening of the town centre and other services, it is unlikely that future claims will be of the same financial order, however officers will maximise claims each month by claiming retrospectively once resourcing requirements are known.

Human resources/ people management implications

- 3.21 The council will need to consider the emotional wellbeing of its employees in response to furloughing during this time of change and uncertainty. Furloughing is widely recognised as an alternative to redundancy therefore it is essential that a sensitive, yet clear and consistent message is given to all staff that redundancy is not a key consideration at this time.
- 3.22 As further guidance emerges the criteria for furlough may need to be revised and the council may need to consider alternative options in those areas where a return to normal operation is unlikely e.g. venues/leisure.
- 3.23 Prior to this meeting, managers have been in direct consultation with staff members, which has been followed up with a letter seeking their voluntary agreement to being furloughed. It has been explained in the letter that the consultation is being carried out in advance of a decision by cabinet, and that progress towards accessing the CJRS is subject to approval of this Joint Cabinet and Employment and General Committee meeting.
- 3.24 Table 1 shows the current numbers of staff or posts proposed to be furloughed in each of the eligible service areas. The numbers differ due to some staff with multiple roles with the

council being eligible to be furloughed from one post but not another.

Table 1

No. of staff per service area				
Staff/posts	Commercial services	Leisure	Venues	Total
Staff	94	127	34	255
Posts	95	152	35	282

Financial implications

- 3.25 The Council is facing a very challenging financial position as a result of the coronavirus outbreak. Whilst some grant assistance has been provided by Government, this is currently not sufficient to cover the predicted losses and consequently it is appropriate for the council to seek to mitigate these losses through utilising the CJRS.
- 3.26 The government has recently acknowledged that it may be appropriate for local authorities to furlough workers and claim funding from the CJRS where staff salaries are largely funded by income from sales, fees and charges, where there is a significant reduction in these revenue streams and where these staff cannot be redeployed.
- 3.27 The CJRS would therefore enable the Council to cover the cost of staff who work in services where the income generated from sales, fees and charges from third parties previously met these costs. Table 2 shows the estimated level of CJRS grant that would be received from each of the eligible service areas.

Table 2

Service	Claim total (April & May (£))
Arts and Venues	£26,177
Commercial Services	£211,414

Health and Wellbeing	£108,603
Total	£346,194

Legal and data protection implications

- 3.28 The CJRS has been developed as a consequence of provisions in the Coronavirus Act that was enacted in March 2020.
- 3.29 Although there is not a definitive list of services that sets out where councils are eligible to claim grant through the CJRS, the guidance that has been set out by government has been carefully reviewed and it is considered appropriate and lawful for the council to furlough staff as set out in this report.
- 3.30 Data protection obligations will be complied with in carrying out the measures set out in this report.

Communications

- 3.31 Following a decision from Members internal and external communication messages will be released to carefully set out the reasons that the council has taken this difficult decision.

Consultation

- 3.32 Unions were advised on 15th May & 22nd May 2020 that the council intended to pursue a claim under CJRS, and each gave their support for the approach outlined on the proviso that the council continued to pay employees 100% of their pay. It must be noted however that to vary an individual's contract of employment, a process of individual consultation must be undertaken as this cannot be agreed through collective bargaining.
- 3.33 Consultation has been undertaken with the Local Government Association and other Local Authorities to fully understand the opportunities associated with the CJRS and the potential

challenges to ensure that we are well placed to support our employees during this time.

- 3.34 The approach to furlough will be undertaken with due regard to individual confidentiality and in accordance with our information assurance and data governance protocols.

Equality, diversity and human rights

- 4.0 A preliminary equality impact assessment (EIA) has been completed (Appendix A) and this demonstrates that a full EIA will not be required as the selection of staff for the scheme has been based on their role and availability of work rather than their individual characteristics. As individuals have the right to refuse to be furloughed this supports the matter of individual choice.

Risk management

- 4.1 Table 3 sets out the key risks associated with the issues and proposals set out in this report.

Table 3 Risk register

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
There may be a reputational risk to the council in submitting a claim under the CJRS as HMRC may later decide that the Council was not eligible to claim.	M	M	The Chief Executive has discussed the possibility of submitting the claim with the head of people for the LGA who did not advise against it.	L	L
There is a financial risk that if we do not claim, and were later told we should have done, we would have	H	M	Submitting the claim will enable the council to reduce the financial risk.	M	L

lost that income.			Submitting retrospectively enables the council to achieve the maximum grant whilst retain flexibility of the workforce		
Staff do not agree to be furloughed which means that the council is not able to make a grant claim.	H	L	Unions have been consulted and the council has agreed to ensure that staff are not financially disadvantaged by paying 100% of wages. Staff will be assured that this is being pursued to support the council finances and not as a precursor to redundancies	M	L

5.0 Alternative options and reasons for rejection

- 5.1 Consideration was given to including other services which have been significantly impacted and where staff have not been able to work. This included museums, visitor information centre, grounds maintenance and streetscene. However, since these services are primarily funded from the councils general fund revenues, they were not considered eligible service areas for the CJRS.
- 5.2 Many private organisations have reduced the pay of their staff to the 80% grant they can claim from HMRC. This option has not been considered as the council made a commitment to the workforce at the outset of the pandemic to ensure that no member of staff suffered financial hardship due to being in a protected category or due to the lack of work provided and therefore to overturn this decision, in relation to those staff

proposed to be furloughed, would cause significant issues and breach equality legislation.

6.0 **Recommendations**

- 6.1 To approve the submission of claims to the Coronavirus Job Retention Scheme to furlough staff who have not been able to carry out their roles for the council, where the funding for their posts is largely generated through third party income through sales, fees and charges, where there has been a significant reduction in the associated revenue streams.
- 6.2 To support the key principle that any furloughed staff will continue to receive 100% of their wages and will see no changes to their pension contributions.
- 6.3 To note that for the council to furlough staff, the individual staff member must voluntarily agree to be furloughed as this constitutes a temporary contract variation.
- 6.4 To delegate authority to the Executive Director in consultation with the relevant Cabinet Member and, in conjunction with the HR & Support Services Manager, to take forward claims to the CJRS for June-October 2020 once the new guidelines are announced.

7.0 **Reasons for recommendations**

- 7.1 To enable the council to apply for the Coronavirus Job Retention Scheme to furlough appropriate staff and receive a grant towards the costs. This will help to alleviate the significant financial pressures that the council is facing in responding to the coronavirus outbreak and minimise the long-term risk of having to consider staff redundancies.

Glossary of Terms

CJRS	Coronavirus Job Retention Scheme
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Decision information

Key decision number	960
Wards affected	
Links to Council Plan priorities	

Document information

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Background documents

These are unpublished works which have been relied on to a material extent when the report was prepared.

This must be made available to the public for up to 4 years.

Appendices to the report

Appendix A	Equality impact assessment