



# COVID-19– Geldards Public Sector Update

Business Emergency Advisory Team

8th April 2020



# Coronavirus Job Retention Scheme – Public Sector

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8<sup>th</sup> April 2020

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# Coronavirus Job Retention Scheme

- Any UK organisation with employees can apply
- From 1 March 2020 last for 3 months
- It is available in relation to all employees on the payroll as at 28 February 2020
- Grant to reimburse the employer per employee will be equal to the lower of
  - 80% of an employee's regular salary;
  - or £2,500 per month;
  - Plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on paying those wages
- Salary as at 28 February 2020 should be used

# Coronavirus Job Retention Scheme

- Furloughed workers must not work for their employer
- Grant paid through new online portal
- Administered by HMRC
- Employer will continue to pay employees in the usual way through payroll
- Employer needs to decide whether it will 'top up'
- Employer can chose to do so but does not have to

# CJRS & The Public Sector

- In principle Scheme is available to Public Sector
- Government guidance – not expected that employees in the public sector will be furloughed
  - Essential public services (NHS, Local Authorities etc.)
  - Public Services to respond to Coronavirus
  - Organisations who receive public funds for staff costs



# Public Funds to Cover Staff Costs

- Employers expected to use that money to pay staff in the usual way
  - Cabinet Office Guidance – Contingent Workers
    - Other public sector contracting bodies encouraged to apply
    - Pay Contingent Workers in the same way as under CJRS
  - Procurement Policy Note 02/20 – Supplier relief due to COVID-19
    - Aimed at ensuring service continuity by maintaining supplier cashflow and protecting jobs between now and end of June

# Non Public Sector Organisations

- Receive public funds
  - No defined purpose
  - Proportion of operating costs
  - Not primary source of funding
- Guidance states

“Where organisations are not primarily funded by the government and whose staff cannot be redeployed to assist with the coronavirus response, the scheme may be appropriate for some staff”

# Non Public Sector Organisations

- More detailed audit trail of effect of Coronavirus
  - Be sure of the level of public funding and where those funds are going
  - Be able to demonstrate
    - Why are staff at risk of redundancy
    - Why can't they be redeployed



# Sources of Information

- <https://www.gov.uk/coronavirus>
- <https://www.acas.org.uk/coronavirus>
- <https://www.geldards.com/>



# Key issues for local authorities – Remote attendance at meetings

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# Local Authority Meetings

- Local Government Act 1972 – Requirements relating to local authority meetings
- Local Government Act 2000 – Meetings of executives
- Other legislation relevant to particular authorities

# Coronavirus Act 2020

- Section 78 – Secretary of State may make regulations relating to local authority meetings
- Sections 59-64 – Postponement of elections, referendums, recall petitions and canvass

# Regulations relating to local authority meetings

- Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel) (Meetings) (England and Wales) Regulations 2020 SI 2020/392
- In force from 4 April 2020
- Apply to local authority and police and crime panel meetings before 7 May 2021

# Local Authority

- County, district, London Borough Council
- Common Council of the City of London
- Greater London Authority
- Council of the Isles of Scilly
- Parish council
- Joint board under section 263(1) Local Government Act 1972
- Port health authority under section 2 Public Health (Control of Disease) Act 1984
- Authority established under section 10 Local Government Act 1985 (waste disposal authorities)
- Joint authority established under Part 4 Local Government Act 1985

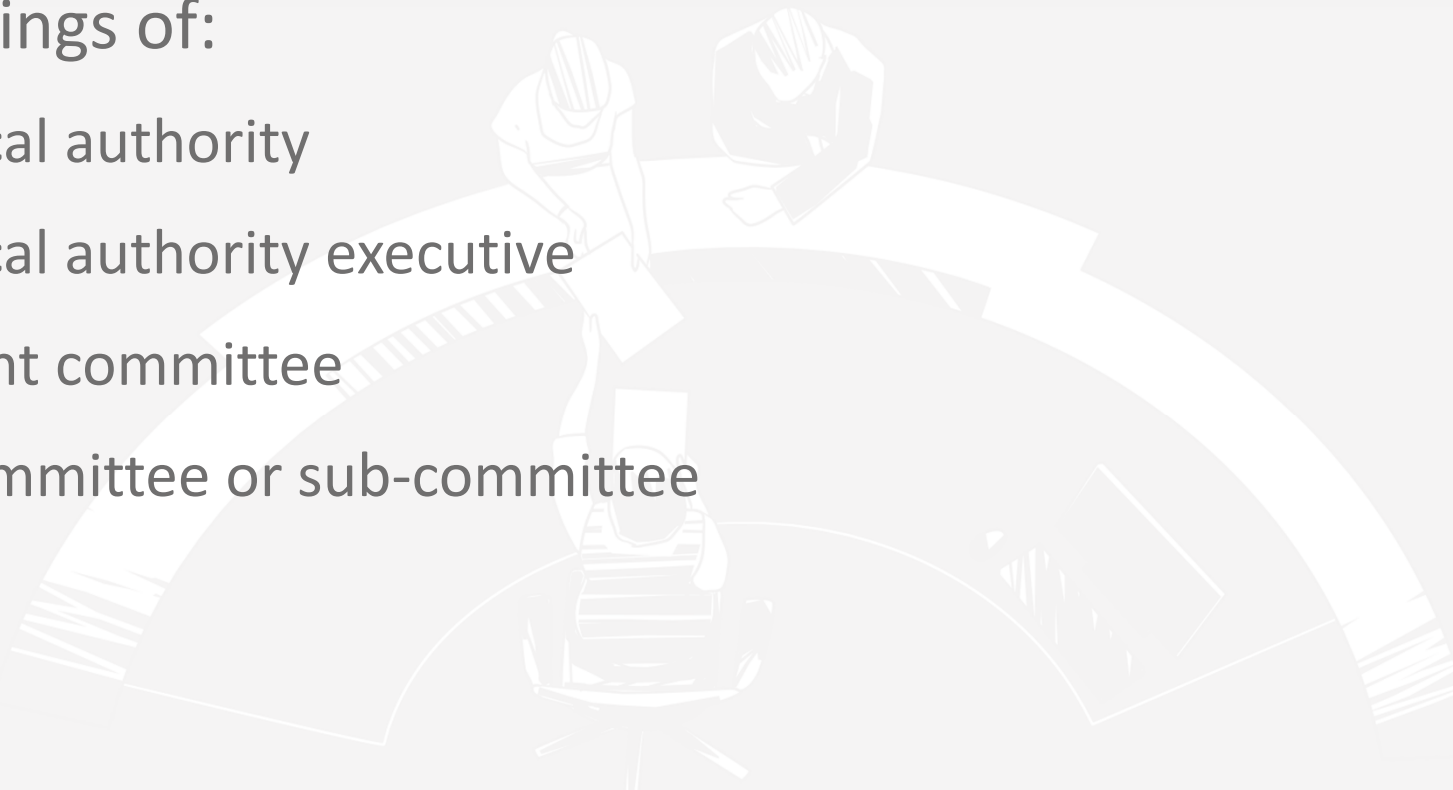


# Local authority

- Joint committee constituted to be a local planning authority under section 29 Planning and Compulsory Purchase Act 2004
- Combined authority under section 103 Local Democracy, Economic Development and Construction Act 2009
- Fire and rescue authority under section 2, 4, 4A Fire and Rescue Services Act 2004
- National park authority under section 63 Environment Act 1995
- Broads authority under section 1 Norfolk and Suffolk Broads Act 1988
- Conservation board under section 86 Countryside and Rights of Way Act 2000

# Local authority meeting

- Meetings of:
  - Local authority
  - Local authority executive
  - Joint committee
  - Committee or sub-committee



# Frequency of meetings

- Local authority may determine frequency and timing of meetings
- If an appointment would otherwise be made at local authority's annual meeting, it continues until next annual meeting or until such time as the authority determines

# Remote attendance at meetings

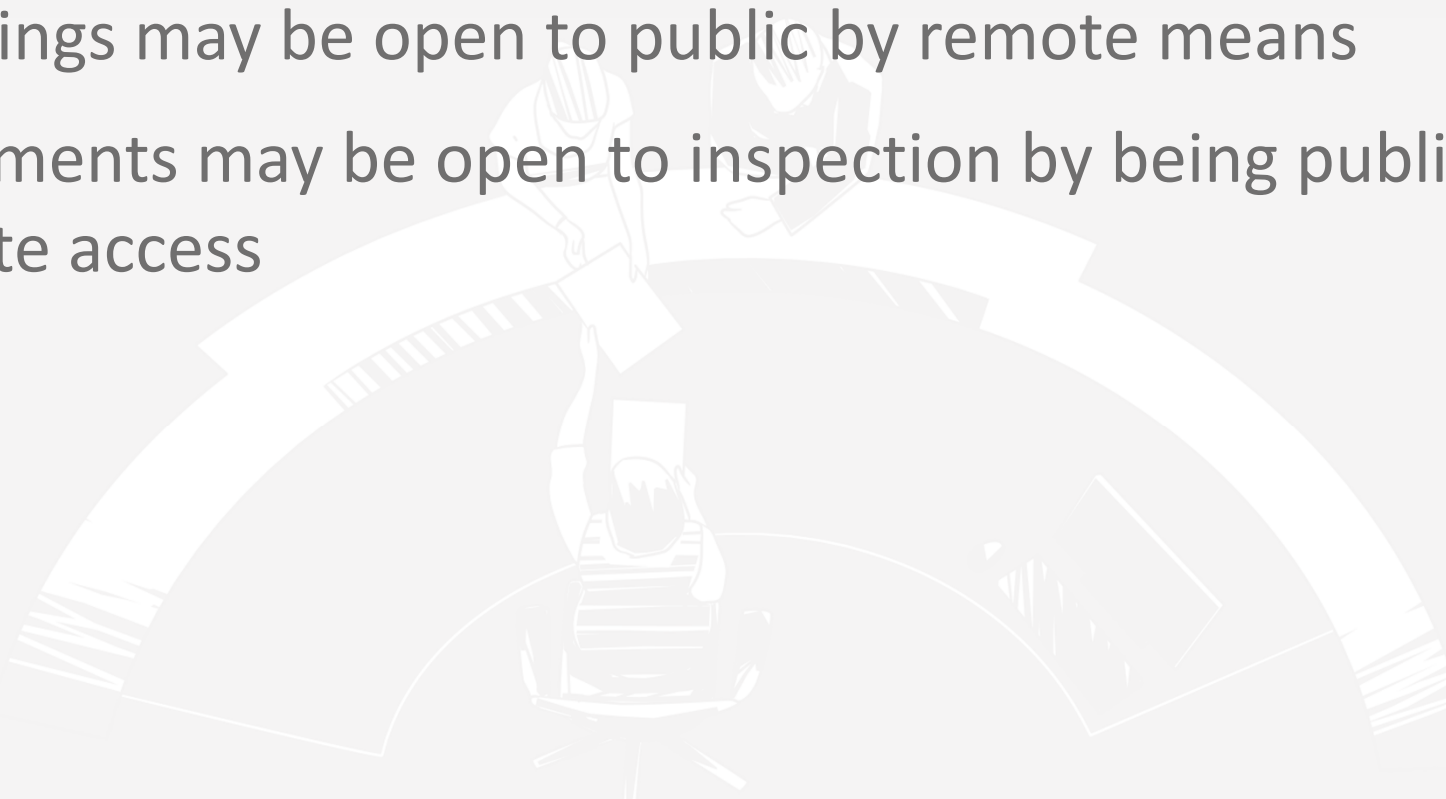
- Local authority member attends meeting if member can:
  - Hear, and where practicable see, and be heard and seen by other members; and
  - Hear, and where practicable, see and be heard by members of the public entitled to attend to exercise a right to speak;
  - Be heard and, where practicable, be seen by any other members of the public attending
- Prohibitions or restrictions to the contrary in local authority's rules have no effect

# Amendment of Standing orders

- Local authority may make standing orders or rules about remote attendance, including:
  - Voting
  - Member and public access to documents
  - Remote access of public and press to meetings

# Public and press access

- Meetings may be open to public by remote means
- Documents may be open to inspection by being published by remote access





# Practical issues to consider

- Maintaining public access
- Maintaining confidentiality
- Conduct of members
- Reasonable decision making
  - Taking account of all relevant matters
  - Predetermination
- Positive impact of new arrangements

# Action to take

- Review your constitution
- Consider how you will deal with practical issues
- Monitor effects of new arrangements



# Rent Obligations and Concessions

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8<sup>th</sup> April 2020

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# Rent obligations

- *Coronavirus Act 2020*
- Section 81 and Schedule 29 - Residential Tenancies
  - All possession proceedings stayed for 90 days
  - Notice of commencement of possession proceedings extended to 3 months
- *Section 82(1)*
  - *a right of re-entry or forfeiture, under a relevant business tenancy, for non-payment of rent may not be enforced, by action or otherwise, during the relevant period.*
- *“relevant period” – from 26 March 2020 to 30 June 2020*
- *Can be extended by regulations*

# What section 82 does

- Provides a moratorium in respect of forfeiture for non-payment of rent under business tenancies during the relevant period.
- Is retrospective – catches cases where possession proceedings had already been brought or possession orders already made before 26 March 2020.
- Covers all types of financial payments under a lease not just annual rent
- Covers peaceable re-entry as well as possession proceedings
  - Covers head tenants and intermediate tenants if property let to business tenant
  - Implications for Section 30(1) (b) L&TA 1954

# What it doesn't do

- It doesn't relieve the tenant of liability to pay rent.
- It doesn't affect any other remedies for non-payment of rent
  - Debt action
  - Statutory demand
- It doesn't affect forfeiture for non-financial breaches.



# What should you be doing now?

- Talk to your tenants
- Consider arrangements to temporarily re-schedule rent payments:
  - Deferred payment
  - Rent holiday
  - Document any arrangements you agree by side letter
- If possible:
  - Make sure arrangements are personal to the tenant
  - Make them time limited

# Implications for State aid

- No State aid if aid has no effect on cross-border trade (local aid rules)
  - Business has a predominantly local customer base
  - Aid will have no more than a marginal effect on the competitiveness of equivalent businesses in other EU states
- Market terms transaction (Market Economy Operator Principle)
  - What terms would a private operator be willing to offer in the present circumstances, including all the COVID-19 uncertainty?
  - the MEOP assessment must be tailored to the circumstances
  - MEOP assessment to be done in advance and carefully documented

# Implications for State aid

- De Minimis exemption
- Aid of up to €200,000 (currently £177,000) per undertaking over any 3 year period
- Documentary requirements
- “Undertaking” normally includes the whole group of companies, and complex rules as to when separate businesses are treated as a single undertaking with a single *de minimis* entitlement between them

# Any questions



# Contact details



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