

Coronavirus update - supplying to public sector

17 September 2020

This note covers the extension that has been announced by the Government in regards to the Procurement Policy Note (PPN) published earlier this year concerning how public bodies can pay their suppliers during the coronavirus outbreak.

The original announcements are set out in:

- [Procurement Policy Note 01/20 – Responding to COVID-19](#); and
- [Procurement Policy Note 02/20 – Supplier relief due to COVID-19](#);

and the details of the extension are set out in:

- [Procurement Policy Note 04/20 - Recovery and Transition from COVID-19](#).

1 Recap

The PPN was originally set up in response to the coronavirus pandemic as a way for public bodies to maintain their supply chains. The scheme applies to any agency workers performing live assignments at the time at which they became unable to work as a result of COVID-19. In the public sector, they should be paid 80% of their salary (up to a maximum value of £2,500) for the remainder of their assignments. As well as this, all statutory payments and a percentage of the agency's margin remained payable. The PPN, whilst similar, was set up as a separate arrangement to the wider Coronavirus Job Retention Scheme (CJRS). Government also confirmed that the schemes must be treated separately and not utilised at the same time. Therefore, funds received under this scheme must not be claimed back through the other schemes set out by the Chancellor.

More information on the PPN and its scope and application can be found in the REC's [original briefing on the PPN](#).

2 What does the extension mean?

The key change for the PPN is that the length of the scheme has been extended in line with the CJRS, and will now finish at the end of October.

As well as this, the extension does open up a grey area for agency workers who have started new temporary assignments that may be disrupted by coronavirus in the future. This is of particular concern for schools where there is higher chance of an outbreak occurring. PPN 02/20 sets out 5 stages that a school needs to consider before using the PPN. This sets out the following:

"stage 1: Assessment of whether the supplier has considered other measures announced by the government: this involves asking if they have explored, and applied for, as applicable, all other forms of support available to them, including the wider government business support schemes.

This is to avoid duplication of funding, such as providing both supplier relief under PPN02/20 and payment of related workers that have been furloughed under the Coronavirus Job Retention Scheme (CJRS)"

The wording here suggests that agencies will need to use the CJRS where applicable before applying to use the PPN. This could mean that where agencies have previously furloughed their workers, they might be expected to re-furlough their workers rather than using the extended PPN. Given the changes that have taken place to the CJRS, this could cause issues for agencies due to the higher costs associated with furloughing workers and may mean it is not viable to furlough workers. Where workers are not eligible to receive payment under the PPN, and also cannot be furloughed, they may only have access to Statutory Sick Pay (if they qualify), which is much less financially viable for both the worker and the agency.

3 Other issues for schools

Where supply to schools is disrupted because of coronavirus, agencies will also need to be aware of their obligations under the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (Conduct Regulations). Regulation 20 of the Conduct Regulations states that:

"neither an agency nor an employment business may introduce or supply a work-seeker to a hirer unless the agency or employment business has ... made all such enquiries, as are reasonably practicable, to ensure that it would not be detrimental to the interests of the work-seeker or the hirer for the work-seeker to work for the hirer in the position which the hirer seeks to fill."

This is particularly of relevance where a school has had an outbreak of Covid19, and students and/or staff have tested positive, as supplying a new candidate into this environment could be seen as detrimental to the hirer, the worker and the school which would therefore be a breach of the Conduct Regulations.

4 What is the REC doing?

The REC is well aware that there are some concerns for agencies, particularly where new assignments are affected by Covid, and is seeking clarity from the government as to the application and intention of the PPN until the end of October. In addition, we understand the frustration of members in the reluctance by schools to use PPN provisions in part caused by the lack of clarity. The REC has therefore reached out to the Department for Education, the Employment Agencies Standards Inspectorate and the Crown Commercial Service to ask them to make a clear statement to schools that the PPN should be used when assignments are disrupted by Covid19 outbreaks and issue clear guidance regarding this. We will be meeting them to discuss in the coming week and will update members with any further information.