

## UPDATED 21/04/2020: How to manage your suppliers during the COVID-19 Outbreak

Central Government has issued guidance to all public bodies on how they should manage their suppliers during the COVID-19 crisis to ensure service continuity both during and after the crisis so that suppliers are in a position to resume normal contract delivery once the outbreak is over. In addition, Government and the Council have committed to ensuring that schools continue to receive their full budget during this outbreak. Therefore, there is an expectation that schools will look to support individual suppliers where it is appropriate to do so.

This note should be read in conjunction with the following Government guidance:

- Wider [Government advice](#) including the [general advice](#) & [frequently answered questions](#)
- DFE Specific [advice to schools](#) in supporting suppliers, funding agency workers (both directly employed and not directly employed) and applying the coronavirus job retention scheme
- DFE Specific advice in supporting [school meal contractors](#) (please also see below)
- DFE Specific advice to [Schools](#) for reclaiming exceptional costs

Please note, there is no “one-size fits all” answer to a supplier’s request for financial support and a school will need to make a balanced judgement and ensure the decision and associated reasons are fully recorded. You should aim to reach a mutual and amicable agreement with your suppliers that works both now and, in the future, to help ensure suppliers are in a position to resume normal service delivery once the outbreak is over. However, it is important to remember you are the customer and you need to ensure your school is still able to function. Many suppliers are under significant pressure, however as a school you should not feel under duress to make a decision you are not comfortable with or cannot afford.

The guidance from Central Government continues to evolve as this outbreak develops and this note may be updated as further clarification is provided. The information provides a summary of the general Government guidance (also known as Procurement Policy Note PPN 02/20).

**PLEASE ENSURE YOU ALSO REFER TO THE SPECIFIC GUIDANCE PUBLISHED BY THE DFE ON [AGENCY WORKERS](#) & [FREE SCHOOL MEALS CONTRACTORS](#) (also see below)**

### What are the immediate actions schools should take?

#### *Pay Promptly*

The first and most important thing a school can do is to ensure all invoices are processed and paid as quickly as possible regardless of the payment terms.

#### *Ensure you can process invoices remotely from the school*

Schools have been encouraged to stay open wherever possible, however where this is not possible, schools must consider how they will continue to receive and pay invoices remotely. This may include contacting suppliers to ask for invoices to be submitted electronically rather than paper copies.

*Identify those suppliers “at risk” during the outbreak of COVID-19 by reviewing contract terms & whether the service cannot or does not need to be delivered during this time*

Schools should review the contracts in place and ensure they understand the terms and under what circumstances you must pay when a service has been reduced or not delivered. Where you are obliged to continue to pay in the short term please ensure you keep a record of how much of the payment relates to delivered and undelivered services.

Where a supplier is no longer able to provide services in full either because they are unable, or the service is no longer required temporarily. A continuity payment can be made to a supplier defined as being "at risk". There is no clear definition of "at risk" but this may include:

- They are providing critical services that the school cannot do without during or after the outbreak of COVID-19;
- The supplier is considered to be local to and/or dependent on school;
- The supplier is making every effort to continue to provide the services contracted, recognising this is not always possible;
- The supplier has made a reasonable representation of its financial distress and risk to providing services to the school;

#### *What are Continuity Payments?*

Continuity Payments can take a variety of forms and need to be considered on a case-by-case basis but can include:

- Continuing to pay as normal even if service delivery is disrupted or suspended temporarily. If the amount paid normally varies then this may be based on the previous service delivery patterns.
- Agreeing other interim payment terms to support business continuity for example: you may agree to revise payment terms to pay enhanced rates to cover the direct costs of the provision required.
- Supporting the cashflow to a supplier by encouraging them to invoice more frequently for services delivered for example: moving from monthly to weekly invoices to help with cashflow issues
- Agreeing to paying in advance for services provided. This is normally prohibited but the regulations have been relaxed and you can pay up to 25% of total value of contract (covering the period up to 30<sup>th</sup> June) in advance. We would advise not paying more than 4 weeks in advance.

#### *How should a school decide whether a continuity payment should be made to an "at risk" supplier?*

All continuity payments need to be considered on a case by case basis and discussed with your supplier. Schools should:

- Consider the terms of contract:  
Government makes a distinction between volume and non-volume contracts. There is no obligation to pay a continuity payment where there is no contractual volume commitment to supply (where there is no set level of services/goods to be provided i.e. pay for what you use). This is because in these cases the Government assumes the supplier is not reliant on a set amount of regular business to maintain their cash flow. However, you may still choose to come to an interim arrangement.

Where there is a volume commitment (a level of service specified) in the contract a school is expected in the first instance to continue to pay as normal (regardless of whether services have been disrupted or temporarily suspended) unless other forms of continuity payment are more appropriate (as listed above). This would include service level agreements.

- Discuss the position with your supplier – it may be more appropriate for a supplier to seek support from [the National Business/Employee Support Schemes](#) including the [Coronavirus Job Retention Scheme](#).
- Request any relevant evidence from suppliers (including cost information) to help make the final decision
- Consider the relationship with the supplier – do you know the supplier and/or have a good long-standing relationship. Continuity payments should not be agreed where there has been or is performance issues.
- Review the schools' financial position including: what funding will be received and any loss of income i.e. from parental contribution or rental of facilities
- Not double pay for services for example: if the normal supplier is unable to provide the service required and the school is forced to seek another supplier, the normal supplier should not be expected to pay and will need to seek support from other Government Schemes.
- Capture any changes agreed in a contract variation or change note and make clear that the changes relate only to the COVID-19 situation. An example is given by [Government](#)
- Ensure continuity arrangements are time limited (up to 30<sup>th</sup> June 2020) and should include a provision to review as required and state that it is the school's decision when things should return to normal.
- Seek legal advice where appropriate.

#### *What Schools should expect from Suppliers*

If a continuity payment is agreed, the school should expect a supplier to:

- Operate an open book accounting basis with the school and make cost data available to ensure payments have been used as intended for example to continue to pay employees and flow down funding to their subcontractors;
- Deduct the profit elements from a contract that are not delivered during this period where appropriate and possible to do so;
- Invoices should identify the amounts relating to services being delivered and those that are not;
- Not make staff redundant or apply to the Corona virus Job Retention Scheme (CJRS), where it is not appropriate to do so, as outlined in questions 9 & 13 of the [Government's FAQs](#). The purpose of the continuity payment is to avoid this outcome and therefore would not meet the terms of payment. In the case of CJRS, Suppliers would be acting fraudulently if they were effectively double funded both through CJRS and a payments from public funding.

#### **Further advice on what to do**

If you are unsure how to proceed with a supplier, please contact using the following email address:

supplierdistress.childservices@kent.gov.uk

## Exceptional Cashflow Problems in Schools

If you have significant or exceptional cashflow issues, please contact School Financial Services (03000 415 415) for further advice.

## School FSM Contracts (updated 21/04/2020)

*For Schools using providers outside of the KCC framework*

The DFE have recently updated their expectations in relation to how schools should support their FSM contract suppliers during this crisis.

<https://www.gov.uk/government/publications/covid-19-free-school-meals-guidance/covid-19-free-school-meals-guidance-for-schools>

Where suppliers are defined as “being at risk” schools are expected to contact their supplier and agree an interim position. “Being at risk” in this context refers when the service normally required by the supplier has been either reduced or stopped. Schools will continue to receive both their FSM and Infant FSM (IFSM) funding and therefore where possible School should look to support their supplier within the following parameters:

- Schools need to check the terms of their contract and need to be guided by clauses in relation to non-provision service.
- Where there is no commitment to provide a set amount of meals each day the schools can offer to pay up to the normal contract value for FSM/IFSM only (exclude non-FSM) to cover the period between 23rd March and 30th June (equivalent to approximately 56 days of provision). The number of FSM/IFSM should be based on the average number of meals per day provided over the last 3 months. For avoidance of doubt this should be based on the uptake of FSM/IFSM not the total number of eligible FSM/IFSM (unless there is a clause in your contract in relation to this).
- To support cash flow to suppliers you can arrange for this payment to be paid on different terms than normal (i.e. monthly in arrears)
- If the provider continues to provide FSM and the value of the temporary payment (explained above) is insufficient to the actual costs of continuing to provide school meals then you as a school should discuss and agree a separate arrangement. Provider should agree to evidence any extra costs if agreed. You may agree to pay a higher price per meal to cover the additional costs. Schools need to be mindful that additional costs from continuing to supply FSM can be [recouped by the DFE](#) but only up to the overall limits specified, up to £15 per child per week (and this needs to be considered in line with other extra costs the school being incurred in relation to premise and cleaning of staying open longer)
- Schools will need to discuss the payment arrangement with the provider. Supplier will need to consider how this payment may impact their own arrangements in relation to their own staff and their ability to claim from other Government schemes (including Coronavirus Job Retention Scheme) if they are going to continue to receive public funding. For example: Furloughing staff. Providers should not claim against the HMRC scheme for staff that can be funded from FSM/IUFSM payment.
- It is ultimately the schools' decision what agreement is reached with their supplier but schools should bear in mind the DFE expectations. It is also the school's responsibility and

risk if they agreed any payments above and beyond the normal costs of providing FSM.  
Schools should be mindful of the limitations of [reclaiming exceptional costs](#) from the DFE.

*For Schools using providers within KCC framework*

We will be in touch soon to explain the approach being taken and any resulting corresponding charges. During this interim period the providers within the framework are charging KCC in the first instance, therefore you should not be receiving bills directly from the suppliers during this time. This was to provide additional continuity for the contractors during this time.

**Version Updates:**

- Correction to FSM supplier guidance 4<sup>th</sup> bullet point: replaced £15 per meal to £15 per child per week.
- Updater to the FSM guidance and updated the links at the beginning of the document