

# CJRS PAYMENTS AND TERM-TIME WORKERS

Average pay and holidays

## 52 week vs 39 week explained

Term Time workers are only paid for 39 weeks of the year – they do not get paid when the schools are shut for holidays (half term or between terms). This is not new to agency workers and is one of the “tradeoffs” they accept for the flexibility of their position.

DFE guidance states that full time teachers actually work 195 days per year for their 52 week salary and so a temporary teacher (contractor / agency worker/ term time worker) should receive a daily rate which is calculated as 1/195th of the equivalent full time teachers. This is to ensure that a term time worker receives the same salary over 39 weeks that a full time teacher earns in a year.

Full time: £20,000pa equates to £384.62 per week.

Term time: £20,000 / 195 = £102.56 per day x 5 = £512.80 per week (512.80x39= £20,000).

So, a term time workers daily rate is enhanced at the outset to compensate for the fact that they only earn for 39 weeks (they are free to work elsewhere during the holidays if they choose).

CJRS guidance requires employers to take the average salary of the tax year 2019:

<https://www.gov.uk/guidance/work-out-80-of-your-employees-wages-to-claim-through-the-coronavirus-job-retention-scheme#eighty-percent>

i.e. to divide the total earned during the year by 52 weeks. There is nothing anywhere in the guidance to say it should be divided by working weeks only. The examples specifically require non-working days to be taken into account and so non-working weeks should not therefore be excluded. The average is found by dividing over 52 weeks not 39.

To divide the average wage by 39 would lead to an overpayment of term time workers.

A full time employee earning £384.62 per week would receive 80% under CJRS = £307.70 per week. If the CJRS was to last for 52 weeks they would receive £16,000 which is 80% of £20,000.

A term time worker receiving £512.80 per week would receive 80% under CJRS = £410.24 per week. If the CJRS was to last for 52 weeks they would receive £21,332.48 which is £1,332 more than the equivalent annual salary or 106% of annual salary when the scheme requires that they should receive no more than 80%.

If a term time worker receives £20,000 over the 39 weeks of the year according to the CJRS guidance this should be averaged over 52 weeks i.e. £384.62 which would be paid at 80% £307.70 resulting in a payment of £16,000 over a 52 week period which is 80% of the year’s earnings and exactly the same as the full time equivalent employee.

## Term time workers and school holidays

The new treasury guidance states that where a worker would be on a period of unpaid leave a CJRS claim cannot be made for that period.

*6.4 Where, during the period mentioned in paragraph 12, a period of unpaid sabbatical or other period of unpaid leave is enjoyed by an employee (“unpaid leave”)-*

*(a) no CJRS claim may be made in respect of the period of unpaid leave,*

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/886959/CJRS\\_DIRECTION\\_No2\\_20\\_05\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/886959/CJRS_DIRECTION_No2_20_05_2020.pdf)

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A Term Time worker would not normally be paid during school holidays as the assignment is not current over school holidays.

To qualify to be a furloughed employee employees must have stopped working for reasons connected with Covid19. During school holidays and at the end of the academic year term time workers are not working or due to be paid due to the why suspension or ultimate end of the assignment not due to Covid19.

## **“If term time workers are not to be paid for school holidays it is unfair to average their salary over 52 weeks?”**

This is not correct due to the pay year comparison element of the CJRS. Employees should receive the higher of their average salary for the year or the amount they earned in the corresponding pay period last year.

Again assuming a salary of £20,000 earned over 39 weeks and that the CJRS lasts for 52 weeks:

- Minimum CJRS payment -  $£384.62 \text{ pw} @ 80\% = £307.70$  ( $£20,000/52\text{weeks}$ )
- However as there is a previous year comparator payment made at the higher of the two so for
  - 39 working weeks contractors CJRS payment will be  $£512.80 \times 80\% = £410.24 \times 39 = £16,000$
  - 13 weeks they would get  $£307.70$  but if these are school holiday / non-working weeks which are now deemed “unpaid leave” and not eligible for a CJRS payment so the contractor receives = £0
  - Total received = £16,000
- A full time employee paid £20,000 over a 52 week would get  $£384.62 \text{ pw} @ 80\% = £307.70 \times 52 = £16,000$ .

So term time workers are not penalised by being paid for only 39 weeks but having their average salary calculated over 52 weeks in accordance with the CJRS guidance.

The CJRS scheme is voluntary and is designed to assist employees who would otherwise have been laid off from work- it is not an entitlement / benefit that has been granted to employees.

