



Education Report: Establishment of a leave scheme for casual staff in the schooling sector workforce unable to work due to COVID-19

To:	Hon Chris Hipkins, Minister of Education		
Date:	29 April 2020	Priority:	High
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Purpose of Report

This paper provides advice about the payment of casual contingent state sector schooling workers (those paid using time-sheet and hired on an “as needed” basis such as day relief teachers and a range of non-teaching staff) who are unable to work due to COVID-19 under Alert Levels 3 and Level 2.

Summary

1. There are approximately 8,960 day relief teachers and 3,350 non-teaching staff paid by timesheet for the hours they work in a school or kura each week. In normal settings, this casual workforce operates on an “as needed” basis. There are approximately 57,580 teachers and 30,960 non-teaching staff either in fixed-term or permanent employment within schools and kura.
2. In order to ensure workers are able to conform to public health advice regarding the need to self-isolate the Government has indicated its intention to support continued employment in the state sector and provide minimum levels of income during the current period of crisis.
3. In response to the Alert Level 4 lockdown the Ministry of Education put in place measures to ensure continuation of payment to casual state sector schooling workers [METIS 1225155 refers].
4. On 7 April the COVID-19 Ministerial Group noted that an emergency ex-gratia payment (“the emergency payment scheme”) would be paid by the Ministry of Education to all casual state or state-integrated school or kura workers who had worked on at least one occasion during term one in 2020. The emergency payment scheme included two pay periods, 8 and 22 April 2020 respectively.

5. On 20 April the Government announced that at 11:59pm on 27 April 2020 New Zealand would move to Alert Level 3 of the COVID-19 alert level system. At Alert Level 3, schools and kura re-opened to students, up to and including year 10, who need to attend school on-site for face-to-face learning.
6. While we expect the employment of casual state sector schooling workers to be variable at Alert Level 3, we expect schools and kura to re-engage at least some of this workforce to meet their operational requirements.
7. Given the ongoing health and safety measures and changes to normal operation at Alert Level 3, and most likely Alert Level 2, there will be some casual workers who are impacted by COVID-19 for much longer. These individuals will either be unable to work or have their usual pattern of work disrupted due to:
 - a. being sick with COVID-19, or caring for a dependant who is sick with COVID-19
 - b. self-isolating, or caring for a dependent who is self-isolating due to coming into close contact with someone who has COVID-19
 - c. being higher-risk to COVID-19, or living with members of their household who are higher-risk to COVID-19, in accordance with Public Health advice
 - d. being unable to work across multiple school sites due to public health advice on physical distancing, or
 - e. schools being able to accommodate the low numbers of returning students from within their permanent or fixed-term staffing complements.
8. The nature of casual employment means that many of these workers do not have a regular employer so are precluded from accessing provisions including sick leave and discretionary paid leave.
9. As State sector employees, casual workers are not eligible for other Government COVID-19 schemes. However, they would be eligible for income support provided by the Ministry of Social Development, including emergency support if their circumstances require it.
10. This paper proposes that the existing emergency payment scheme be extended for a period of up to a further 8 weeks. This extension would match the 12-week period of the Government COVID-19 wage scheme (taking account of the four weeks of ex-gratia payments made on 8 and 22 April) and would continue to support casual workers who are either unable to work or have their usual pattern of work disrupted.
11. As we are anticipating that during this 8 week period New Zealand will move from Alert Level 3 to Alert Level 2, and as a result schools go back to more school based learning, we recommend the scheme eligibility changes during this period as follows:
 - a. **During Alert Level 3** the scheme would cover all casual workers who have been deployed in State and State integrated schools and kura, on at least one occasion in 2020, whose income will have been significantly reduced due to Public Health Guidelines operating at Level 3.
 - b. **During Alert Level 2** the scheme would be based on application with only cover those casual workers, who were deployed in State and State integrated schools and kura on at least one occasion in 2020 and are either to COVID-19 or sick with COVID-19. Depending on public health advice in Alert Level 2 we may also need to extend scheme eligibility to coverage to those being at higher-risk to COVID-19.

12. Based on the cost of the existing emergency payment scheme, the scheme extension under Alert Level 3 is expected to cost around \$9.5 million per fortnight. At Alert Level 2 and under new criteria the scheme would cost less. We are however unable to estimate this lower cost accurately as access to payments would be on an “as needed” application basis¹.
13. We have learnt a significant amount about the complexity of school employment practices and the need for improved temporary service desk and payroll processing functions. If you are in agreement with the scheme extension further work will be needed to size and cost associated processing functions.
14. We do not recommend excluding those aged over 65 years from this support, as this could be seen as discriminatory based on age and would not be in line with the other income support being provided by the Government for workers impacted by COVID-19.
15. If you agree to extend the emergency leave scheme, then ahead of the 12 week mark we will review the scheme and provide further advice to you taking into account the Government’s position of financial support for other groups of workers still impacted by the pandemic.
16. If you would prefer not to extend the existing emergency payment scheme under either or both of the Alert Levels we can either:
 - a. explore the Government’s COVID-19 wage subsidy becoming available to this workforce as sole contractors, although this might open up risks of other state sector employees entering this scheme
 - b. direct them to income supports from the Ministry of Social Development, this would however have an immediate impact on benefit payments.

Recommended Actions

The Ministry of Education recommends you:

- a. **note** that, on 7 April the COVID-19 Ministerial Group noted that an emergency ex-gratia payment would be paid by the Ministry of Education to all those paid using time-sheet and hired on an “as needed” basis who had worked on at least one occasion during term one in 2020 at a State or State-integrated school or kura
Noted
- b. **note** that, the final Alert Level 4 emergency ex-gratia payment was made on 22 April
Noted
- c. **note** that, there is likely to be a portion of those paid using time-sheet and hired on an “as needed” basis who are not able to return to work, or have their pattern of work significantly restricted under either Alert Level 3 or Alert Level 2
Noted

¹ It is noted that of those who received the emergency ex-gratia payment approximately 3,500 were aged over 65, assuming they received an average payment of \$690 per fortnight the cost would have been around \$2.4 million per fortnight

- e. **note** that, a partial or complete loss of income during a period of self-isolation can be a significant disincentive to comply with the Ministry of Health's public health guidance for some workers and that offsetting this loss of income was a key policy rationale underpinning the emergency payment scheme, and similar Government initiatives such as the COVID-19 Wage Subsidy and COVID-19 Essential Workers Leave Scheme

Noted

- f. **note** that, those paid using time-sheet and hired on an "as needed" basis who are not able to work due to COVID-19 may be able to access income support provided by the Ministry of Social Development, with COVID-19 considered an emergency event for income support purposes; the amount of support they may be able to access will vary depending on their personal circumstances

Noted

- g. **agree** that, the Ministry of Education will develop advice for Cabinet consideration that extends the leave payment scheme **during Alert Level 3** for those paid using time-sheet and hired on an "as needed" basis, who were deployed in Sate and State integrated schools and kura on at least one occasion in 2020 and whose income is significantly reduced due to Public Health Guidelines operating at Alert Level 3

The Ministry of Education will instruct Education Payroll Limited to make a leave payment proportion to the amount of casual work which they undertook in term 1, 2020, abated by any casual work undertaken during term 2, for those able to work on a single school site

Agree **Disagree**

- h. **agree** that the Ministry of Education will develop advice for Cabinet consideration that changes the scheme eligibility **during Alert Level 2** so that it only covers those paid using time-sheet and hired on an "as needed" basis who are unable to work due to Public Health Guidelines operating at Alert Level 2 when:

- a. they are sick with COVID-19, or are caring for a dependant who is sick with COVID-19, or
- b. they are self-isolating, or are caring for a dependent who is self-isolating due to coming into close contact with someone who has COVID-19, or
- c. they, or a member of their household are deemed higher-risk to COVID-19, in accordance with public health guidelines

Agree **Disagree**

- i. **note** that any leave scheme established under recommendation g. above, is likely to be required until public health advice confirms that higher-risk employees can safely return to work, or the corresponding 12-week period of the Government COVID-19 wage scheme for private sector employers concludes

Noted

- j. **note** that the scheme extension does not exclude those aged over 65 years, as to do so could be seen as discriminatory based on age and would not be in line with the other income support being provided by the Government for workers impacted by COVID-19

Noted

- k. **note** that the cost of the new leave scheme during Alert Level 3 is expected to be around \$9.5 million per fortnight, and while the cost during Alert Level 2 cannot be costed as it is an application based approach and schools go back to more school based learning it is likely to be significantly less

Noted

- l. **note** we expect this scheme may be in place for some months and therefore Cabinet approval for additional funding from the COVID-19 Support Contingency will be required

Noted

- m. **agree** that this paper is proactively released when information about the Government's response to the control of COVID-19 is released.

Release Not release

Ellen MacGregor-Reid
Deputy Secretary
Early Learning and Student Achievement
29/04/2020

Hon Chris Hipkins
Minister of Education

29/04/2020

Background

1. Following the Government's announcement of its intention to support continued employment in the state sector throughout the COVID-19 pandemic, and provide minimum levels of income during the Alert Level 4 lockdown period, the Ministry put in place measures to ensure income continuity for education staff in the state and state integrated schooling sector, including the establishment an emergency payment scheme for the casual schooling workers (those paid using time-sheet and hired on an "as needed" basis such as day relief teachers and a range of non-teaching staff).
2. These workers are employed only as needed by schools to meet their operational requirements, for example to provide short-term cover of a permanent teacher's sick leave or professional development. Some casual workers have advised the Ministry that they rely wholly or in part on this casual work.
3. The emergency payment was paid over two fortnightly pay periods (4 weeks), with the last payment of this scheme was made on 22 April 2020. The cessation of this payment scheme means that there will be no targeted support for casual workers who are unable to work as a result of the continued effects of COVID-19.
4. In effect these workers have been provided with less certainty than that provided to permanent or fixed term employees, where schools have been advised to continue to provide discretionary leave where required, or private sector employees whose employer has accessed the COVID-19 Wage Subsidy, where 12 weeks support has been provided.
5. On 20 April, the Government announced that at 11:59pm on 27 April, New Zealand would move to Alert Level 3 of the COVID-19 alert level system. At Alert Level 3, schools are open for on-site schooling for students up to year level 10. However, all children and young people who can stay at home, should stay at home and access distance learning.
6. While we expect the employment of casual workers to be variable at Alert Level 3, we expect schools and kura will re-engage at least some of this workforce to meet their operational requirements.
7. A partial or complete loss of income during a period of self-isolation can be a significant disincentive to comply with the Ministry of Health's public health guidance for some workers. Offsetting this loss of income during self-isolation was a key policy rationale underpinning original emergency payment provided, and similar Government initiatives such as the COVID-19 Wage Subsidy and COVID-19 Essential Workers Leave Scheme.

Establishment of a leave scheme

8. We have investigated if casual workers will be eligible for support from either the COVID-19 Wage Subsidy or COVID-19 Essential Workers Leave Scheme. These schemes have been established to support employees who are negatively affected by COVID-19. However, neither are available to directly support individual workers who are employed on a casual basis.
9. While Cabinet recently agreed to an expansion the COVID-19 to include both essential and other workers [CBC-20-MIN-0047 refers], the schemes do not apply to state sector employees and accordingly similar arrangements have been made where required in the education sector, such as for Boards of Trustees who employ Hostel workers.

10. Casual workers who are unable to work may be able to access individual income support provided by the Ministry of Social Development, including emergency income support related to COVID-19 where appropriate. The support provided will vary according to each person's individual circumstances. In some cases casual workers who also operate business enterprises may also have an entitlement to access the Wage Subsidy or Essential Workers leave scheme.
11. We do not recommend excluding those aged over 65 years from the leave scheme, as this could be seen as discriminatory based on age and would not be in line with the other income support being provided by the Government for workers impacted by COVID-19.
12. As State and State integrated schools and kura re-open initially for distance learning, and then for face-to face learning to a limited number of students, we expect some may engage the casual workforce to meet their operational requirements but at Alert Level 3 it is probable that most will manage within their existing permanent and fixed-term staff.
13. While we will continue to encourage schools and kura to employ relieving staff and load hours worked, the amount of casual work is likely to vary significantly from usual volumes of employment. Regardless, a portion of the workforce will be unable to work, or their ability to work will be significantly reduced, as a result of COVID-19 health and safety requirements at Alert Levels 2 and 3.

During Alert Level 3

14. In addition to employees directly impacted by a COVID-19 diagnosis or who are deemed higher-risk, there is likely be a portion of the workforce whose ability to work will be significantly reduced as a result of COVID-19 and health and safety requirements at Alert Level 3. We are anticipating that this is likely to continue to be the official advice for Alert Level 2 as well.
15. Public health advice regarding schooling operations prohibits the movement of personnel across multiple school sites. This significantly limits the ability of day relief teachers and non-teaching staff to gain employment as they normally would work across different schools and kura.
16. Therefore during Alert Level 3 it is proposed that the emergency payment scheme is extended to all State and State integrated schools' casual staff whose ability to seek work is impacted by COVID-19 and associated Public Health guidelines restricting and who are not able to access other supports put in place by the Government as part of its response.
17. The leave payment will be paid automatically by Education Payroll Limited to all casual workers, in the same manner as the Alert Level 4 scheme, i.e. those workers who:
 - a. are a current State or State integrated education sector worker, which is defined as workers who have worked on at least one occasion during the current school year for a State or State-integrated school or kura; and
 - b. have worked variable day relief or casual hours during the 2020 school year, up to the conclusion of Alert Level 4 payments on 22 April.
18. The amount of the leave payment would be abated by any payment for work undertaken on or after 22 April, ensuring the payment compensates only for the work which the casual worker has not been able to undertake due the restriction on the number of school sites that they can work at, or where they are unable to work at all due to measures to control COVID-19.

19. We expect that as the country continues to move down through the alert levels and these restrictions ease, relievers and non-teaching staff who normally work across multiple schools and kura will be able to return to their usual patterns of work, and will begin operating as normal.
20. However, depending on final health and safety advice at each alert level and/or the nature of the Government COVID-19 wage or leave scheme it may be necessary to continue the leave scheme during Alert Level 2 for higher-risk employees.

During Level 2

21. The Government has signalled its intention that people who are sick with, or required to self-isolate to control the transmission of COVID-19 should not be required to work and risk transmission of the virus. Similarly, higher-risk people who are particularly high-risk to becoming seriously unwell due to COVID-19 should not be required to work where their health may be at serious risk..
22. During Alert Level 2 the leave scheme would be accessed on direct application, where an individual declares that they meet certain criteria including:
 - a. They are a current education sector worker, which is defined as workers who have worked on at least one occasion during the current school year for a State and State integrated school or kura; and
 - b. They have been negatively affected by COVID-19 as follows:
 - i. they are sick with COVID-19, or are caring for a dependant who is sick with COVID-19
 - ii. they are self-isolating, or are caring for a dependent who is self-isolating due to coming into close contact with someone who has COVID-19
 - iii. they, or a member of their household, are at high-risk to COVID-19, as defined by public health advice.
23. Those workers who meet the criteria would also need to declare at the point of application that they are not concurrently receiving other government support to mitigate the effects of COVID-19 e.g. other wage subsidy schemes.
24. The amount of the leave payment would be based on the variable day relief or casual hours worked during the 2020 school year, up to the conclusion of Alert Level 4 payments on 22 April.
25. If it is agreed to extend the emergency leave scheme, we will review the scheme ahead of the 12 week mark and provide further advice, taking into account the Government's position of financial support for other groups of workers still impacted by the pandemic.
26. If you would prefer not to extend the leave scheme through the Ministry of Education then we can either:
 - a. explore the Government's COVID-19 wage subsidy becoming available to them as sole contractors, although this might open up risks of other state sector employees entering this scheme, or

- b. direct them to income supports from the Ministry of Social Development, this would however have an immediate impact on benefit payments.

Calculation and payment of the leave provided

- 27. During both Alert Level 3 and Level 2 the leave payment will be calculated using each eligible worker's average hours of casual work undertaken during the 2020 school year up to 22 April. This is the same approach taken with the Alert Level 4 Emergency Payment scheme.
- 28. During Alert Level 2, people meeting the criteria (paragraph 22 above) will need to apply directly to the Ministry. Due to pay period deadlines and manual processing of applications, it is likely there will be some lag between when a person places their application and when they receive payment.
- 29. The emergency payment scheme that operated during Alert Level 4 delivered income support to approximately 13,000 casual workers each pay day (8 and 22 April). We would anticipate similar numbers during Alert Level 3 and then for a significant drop in the number of eligible people during Alert Level 2, although we still anticipate a high number of applications.
- 30. Applications will operate on a high trust model, where individuals will make a declaration that they are eligible. Retrospectively this will be monitored through an auditing process similar to the MSD wage subsidy and leave schemes.
- 31. Due to the timing of pay periods, we expect the first payment during Alert Level 3 will be made on 20 May 2020. The payment would be paid retrospectively for the period which precedes this i.e. 22 April to 19 May. Payments will be taxable, attract superannuation subsidies, and be subject to other payroll deductions.
- 32. If an individual has not worked in a school during the current school year, they will be deemed not to be a current schooling sector employee and will be directed to other government support systems, such as the income support provided by the Ministry of Social Development.

Operational considerations

- 33. During usual operations casual workers are employed by schools, with payroll services provided by the Ministry and Education Payroll Limited. As casual workers often have no single usual employer the leave scheme would need to be operated by Ministry, with workers seeking assistance, receiving payment and making inquiries via a central pay service.
- 34. Delivery of the scheme is likely to continue, for high-risk employees during Alert Level 2 and accordingly, the scheme may operate for several months. In order to operate the scheme the Ministry will establish new temporary inquiry and payroll processing functions.

Financial Implications

- 35. Initial cost estimates are:
 - a. Provision of leave payments during Alert Level 3 are expected to be approximately \$9.5 million per fortnight

36. During Alert Level 2 the new leave scheme is expected to be much less but, as it is not possible to estimate how many teachers may be eligible due to contracting COVID-19, or who fall within the other vulnerable workers categories, it is not possible to cost.
37. There are approximately 8,960 day relief teachers and 3,350 non-teaching staff paid by timesheet for the hours they work in a school each week. The average cost of the emergency payment scheme during Alert Level 4 was approximately \$9.5 million (\$8 million was paid on 8 April and a further \$11 million paid on 22 April). We expect that during Alert Level 3 the new leave scheme would cost no more than an equivalent amount.
38. During the Alert Level 4 emergency payment scheme we learnt a significant amount about the complexity of school employment practices. Over the two pay period EPL and ourselves fielded approximately 600 enquires from school administrators and casual workers, including many casual workers that do not have a school administrator to discuss their individual employment matters with. With the scheme extended for some months we estimate that departmental costs of up to \$1.4 million could be needed for service desk and payroll processing functions. If you are in agreement with the scheme extension further work will be needed to size and cost these processing functions.

Other staff impacted by Public Health advice at Alert Level 3

39. Some permanent or fixed-term workers are also likely to be impacted by Public Health advice. Where the advice limits staff movement between different work sites, for example employees who normally work part-time for one or more different state or state integrated schools, or a combination of state integrated and private or ECE, staff will be impacted if their usual hours of work cannot be accommodated across their different employers.
40. Where permanent workers who are unable to work on site due to health and safety guidelines at COVID-19 Alert Level 3, cannot work from home they should be paid discretionary leave and schools will be able to access funding where they incur additional costs as a result. Where part-time staff work across more than one school, and their work cannot be managed to minimise social contact, the Ministry may be expected to provide funding to several schools for the same staff member.

Risks

41. There is a risk that some staff may receive overpayments and it would be difficult to seek repayment.
42. During Alert Level 2 any payments will necessarily be paid retrospectively as employees will need to apply. This means there will be likely be delay in receiving the payment. The impact of any delay is mitigated by support already provided to those who received the emergency payment scheme though the term break, a period they would not otherwise be employed, and any payments received during Alert Level 3.
43. While casual workers will be required to declare to their circumstances and need to access the scheme it will be necessary to provide the leave under a high trust model. Due to processing timeframes and requirements it will not be possible to verify eligibility for the scheme before payments are processed. Eligibility could be audited retrospectively, however, any overpayments may not recoverable.

44. The proposed leave scheme provides direct income support to casual schooling sector employees. This may be considered more beneficial than the support that has been provided to casual employees in other sectors e.g. ECE.

Communications

45. Communications to schools will be provided at each point there is a change from the current situation. This will include detailed advice when the COVID-19 alert levels change, regardless of whether there is any impact on school operations.
46. We will continue to make use of the following channels to publicise available information:
- a. The Ministry of Education website - www.education.govt.nz
 - b. Social media channels such as Facebook and Twitter targeted to teachers, schools and administration and support staff
 - c. The *School Bulletin* newsletter to principals
 - d. Māori medium channels through the Te Reo Māori communications team
 - e. Regional Offices
 - f. Other partner sites such as NZSTA, NZEI Te Riu Roa, PPTA and the School Business Managers Association.

Next Steps

47. We will prepare a paper for Cabinet seeking agreement to establish a leave scheme for casual workers, according to your preference above.

Proactive Release

48. We recommend that this paper is proactively released following announcement of the scheme.