

FURLOUGHED WORKERS CORONAVIRUS EMPLOYER FAQs

As at 2 November 2020

FINANCIAL FAQs

What does furlough mean?

Employees are effectively laid off for a period of time. They are retained on the payroll system, so do not require a P45.

How long does the scheme last for?

The scheme commenced on 1 March and has now been extended to continue to December 2020.

When does the job retention scheme end?

The scheme ends in December 2020.

What support can we claim for employees in June and July?

You will continue to be able to claim the lower of 80% or £2,500 per employee placed on furlough.

What support can we claim for employees in August?

You will continue to claim the lower of 80% or £2,500 per employee placed on furlough, but you will now be responsible for paying both national insurance and pension contributions.

What support can we claim for employees in September?

From 1 to 30 September, employees should continue to receive the lower of 80% or £2,500 before tax. However, you will only be able to claim for 70% or £2,187.50 and you will have to pay the remaining 10% or £312.50 to top up your employees' payment. You will be responsible for paying national insurance and pension contributions.

What support can we claim for employees in October?

From 1 to 31 October, employees will continue to receive the lower of 80% or £2,500 before tax. However, you will only be able to claim for 60% or £1,875 and you will have to pay the remaining 20% or £625 to top up your employees' payment. You will be responsible for paying national insurance and pension contributions.

What support can we claim for employees from 1 November?

You will be able to claim the lower of 80% or £2,500 per employee placed on furlough, but you will be responsible for paying both national insurance and pension contributions.

Is there a minimum period of furlough?

Yes, the minimum amount of time an employee can be furloughed is three weeks, until 31 July 2020. From 1

August, the flexible furloughing scheme is in place and employees can be brought on and off furlough. There is however a minimum claim period of one week and claims cannot be made across months. Any furlough claim period should be within the current month.

If an employee has worked since 1 March, can we claim for this period?

No, you can only claim from the first day they did no work for you.

How do we make a claim?

HMRC has set up an automated portal which went live on 20 April 2020.

Who can claim up to 31 October?

Any entity that:

- created and started a PAYE payroll scheme on or before 19 March 2020
- has enrolled for [PAYE online](#)
- has a UK bank account.

Who can claim from 1 November?

All employers with a UK bank account and UK PAYE scheme. The employer does not need to have previously used the CJRS.

What do we need to make a claim?

- your employer PAYE reference number
- the number of employees being furloughed
- national insurance numbers for the furloughed employees
- names of the furloughed employees
- payroll/employee number for the furloughed employees (optional)
- your self assessment unique taxpayer reference or corporation tax unique taxpayer reference or company registration number
- the claim period (start and end date)
- amount claimed (per the minimum length of furloughing of three consecutive weeks)
- your bank account number and sort code
- your contact name
- your phone number.

You will need to calculate the amount you are claiming.

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HMRC will retain the right to retrospectively audit all aspects of your claim.

If you have fewer than 100 furloughed staff, you will be asked to enter details of each employee you are claiming for directly into the system. If you have 100 or more furloughed staff, you will be asked to upload a file with the information rather than input it directly into the system. The following file types will be accepted: .xls .xlsx .csv .ods.

Is there any further information I may need to make a claim after 1 July 2020?

You will also need to provide the hours worked by employees and their normal working hours.

How is it paid?

Directly into your company bank account via a BACS transfer.

Is it a loan?

No, it's a grant and does not need to be paid back.

How are the claim percentages worked out?

The furlough grant is calculated on the employees' monthly salary.

How much of the furlough grant do the employees receive?

Until the end of the furlough scheme employees are entitled to receive the lower of 80% or £2,500 before tax for a full month of furlough.

Your employee must receive the whole 80%.

How do we calculate a furlough day rate?

The daily furlough rate can be calculated by dividing the monthly furlough rate (e.g. £2,500 in June) by the number of calendar days in the month.

Do we have to top it up to our employees' full pay?

No.

Is the claim percentage based on their current salary?

For full and part-time (salaried) employees, the reference salary is the amount of salary paid to the employee in the latest salary period ending on or before 19 March 2020. This does not include anything that is not salary such as non-guaranteed overtime or commission.

What about employees with variable pay, i.e. zero-hour contracts?

You can claim for the higher of either the average monthly pay in the 2019/20 tax year or their pay in same month of the previous year.

Is overtime or commission to be paid by us?

You can claim for any payments you are obliged to pay your employees up to the cap. This includes any past overtime or compulsory commission payments. These payments will need to be topped up to 100%. However, you should exclude discretionary bonus (including tips) and commission payments.

Do we pay them or does the government pay them?

You continue to pay your employees via the payroll and then claim the money back.

How do we make a claim via the scheme between now and 30 June 2020?

The guidance states you should make a claim shortly before or at the point of processing payroll. We recommend this is done once payroll figures have been signed off and the furlough amounts to be claimed are clear.

Effectively, you may end up making claims weekly or monthly in accordance with the pay period for each furloughed employee. If an employee's period of furlough falls over two pay periods, you claim for only the portion falling in the current pay period and the other portion in the next claim.

What are the changes to making a claim between 1 July 2020 and October 2020?

From 1 July, claim periods will no longer be able to overlap months. For example, all furlough claims for July must be made in one July claim. For those who are working some hours, you will need to report both their hours worked and the usual hours they would be expected to work in the claim period.

Do employees still make pension contributions?

If they pay 5% of their current salary, they pay 5% of their furlough payment. Do not encourage employees to opt out, as this is unlawful.

Do employees still salary sacrifice?

There has been no guidance but we assume that the salary sacrifice at the amount agreed is deducted before payment. If this is as a percentage, they sacrifice the percentage of their furloughed amount. If it is a set amount, for example childcare vouchers, they continue to sacrifice the full amount.

If an employee is working reduced hours and/or on reduced pay, can we still claim under the scheme?

From 1 March to 30 June, only employees who are not working at all are eligible. From 1 July 2020, when furloughed employees will be able to return to work part-time and you will still be able to claim via the scheme.

If an employee has a company car or receives a car allowance, do we still have to provide this?

Yes, you must continue to provide a company car or pay for a car allowance, unless there is provision to stop this in the employment agreement.

FURLOUGH FAQs

An employee has more than one job, can we still furlough them?

Yes, even if they are not furloughed from their other employer.

Can we simply tell them they are being furloughed?

Employees who have 'short-time working' or 'lay-off' in their contracts can simply be given notice to the fact they are being furloughed. Generally, one week is advisable, however, given the circumstances, you can give much less.

If those clauses do not exist, you should consult with

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your employees to obtain agreement, similar to how you would consult on a redundancy. For 20 or more employees, it is a 30-day consultation period and for 100 or more employees, it is 45 days.

Collective consultation can be brought to an end sooner if all employees agree to the change. For fewer than 20 employees, consultation is a 'reasonable' period of time. Again, given the circumstances, this could be very short.

Can new starters be furloughed up to 31 October?

Employees can be furloughed if they were employed by you on or before the 19 March 2020 and included on RTI submissions for payroll by this date.

If they started after this date and there is no work for a new starter, you will need to exercise short-time working or lay-offs. If you are worried about losing them as an employee, they can be treated the same as the other furloughed employees but their salary cannot be claimed for under the scheme.

Can new starters be furloughed from 1 November?

Employees can be furloughed from 1 November if they were employed by you on or before the 30 October and included on RTI payroll submissions for payroll by this date.

Can employees who transferred under the TUPE regulations after 28 February 2020 be furloughed?

A new employer is eligible to claim under the scheme for the employees of a previous business transferred after 28 February 2020 if the TUPE rules apply to the change in ownership or change in service provision.

What is the last date we can place an employee on furlough to be eligible for the scheme?

The minimum length of a claim is 1 week. Therefore, the latest an employee can be placed on furlough is 24 November 2020.

Who is the scheme open to in July?

From 1 July, the scheme will only be available to you if you have previously used the scheme and you will only be able to use it for employees who have already been on the scheme.

Who is the scheme open to from 1 November?

From 1 November, employees do not need to have been furloughed previously to be furloughed during this period. Employees must have been employed and on the RTI submissions for payroll by 30 October.

What will the 'flexible furloughing' scheme look like from 1 July 2020?

Employees may work on some days during the furlough period and this will not affect your ability to claim under the job retention scheme. For example, the employee could work Monday and Tuesday and be placed on furlough Wednesday to Friday.

If employees do work part of the week, for example they are brought back 2 days per week, the employer must pay the employees at their normal rate of pay for the days they are working. They will only be able to claim furlough pay for the days where there is no work.

Effectively, employees who are already on the furlough scheme can be brought on and off it from 1 July to meet business requirements.

Further guidance is due to be published 12 June 2020.

Is there a minimum period of furlough?

Yes, the minimum amount of time an employee can be furloughed is three weeks, until 30 June 2020. From 1 July, the flexible furloughing scheme is in place and employees can be brought on and off furlough. There is however a minimum claim period of one week and claims cannot be made across months.

Can furloughed employees work i.e. pick up emails before 1 July 2020?

Before 1 July 2020, they can't do any work at all for your company. They can't provide services for or generate revenue for your company.

From 1 July, if employees do pick up emails, those hours will be considered work. You will have to pay them in full for those hours and they will not be eligible to claim the grant for those hours.

Can furloughed employees volunteer or undertake training?

Yes. However, if you require them to take part in company-led training, you must ensure they are paid at least the national minimum wage or living wage, even if this is more than the claim percentage of their wage that is being subsidised. If the employee normally earns the minimum wage, and the claim percentage that is claimed is therefore less than the minimum wage, you will have to pay the difference.

How do we pick who should be furloughed if we want to keep some employees?

Your options are:

- Ask for volunteers
- Use a selection process in exactly the same way as a redundancy selection process would work, or
- If a role is standalone (as in only one person does it and you don't need it), select on that basis.

Are directors eligible?

Yes. If the director is on the payroll, they can be furloughed. They are not allowed to carry out any income-generating work or provide services to the company. They can, however, carry out statutory obligations of a director, such as submitting company accounts.

Can furloughed employees take holiday?

Holidays accrue at the normal rate during a period of furlough. It has now been confirmed that holiday can be taken during periods of furlough. However, you will have to top up any additional amount above the grant for time taken as holiday to the employee's usual rate of pay.

It has been confirmed that you will be obliged to top this up to the employees' normal pay.

The government has been clear that it is keeping the policy on holiday pay during furlough under review, so this may well change in the future.

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What happens with bank holidays?

The guidance has confirmed that if an employee usually works bank holidays, you can agree that this is included in the grant payment. If the employee usually takes the bank holiday as leave, you will either have to top up their usual holiday pay, or give the employee a day of holiday in lieu.

It has been confirmed that you will be required to top this up to the employees' normal pay if you claim for a bank holiday.

Can employees carry over holiday they have been unable to take when furloughed?

Yes, the government has introduced a temporary new law that allows employees who cannot take holiday due to the Coronavirus to carry over up to four weeks' paid holiday over a two-year period.

Can we bring someone back early if business picks up?

From 1 March, you could rotate furlough and bring employees back to the business and put them back on furlough again as long as the minimum three-week period was observed. From 1 July, you will be able to take employees on and off furlough as long as the minimum one-week period applies. Alternatively, employees can remain on furlough until the end of the scheme but you can exercise flexi-furloughing throughout this period.

This will end on 30 June 2020. From 1 July, the 'flexible furloughing' scheme will be in place. The requirement to have an employee on furlough for a minimum of three weeks is no longer there. You could bring an employee back for a week at a time or 2 days a week.

Can we furlough an employee mid-month?

Yes, you can furlough an employee mid-month.

Can we furlough an employee we sponsor for a sponsored Tier 2 visa?

Be aware that there are sponsorship rules that apply that could restrict you in reducing their salary. You should seek immigration law advice in this case.

If an employee is on a fixed-term contract that is due to end before December, can we renew their contract and furlough them until December?

You could previously renew or extend a fixed-term contract that was due to end before the end of the scheme. It is currently unclear whether this covers the new extension to the scheme.

THOSE NOT CURRENTLY AT WORK

What are the options for our employees who cannot work now because childcare providers or schools have closed?

New guidance for employees with caring responsibilities has been released. You can now furlough employees who you would otherwise have had work for but who cannot work due to caring responsibilities. This is going to be especially helpful to parents affected by childcare provision and school closures.

However, this is your decision. If you need the employee

to work but they cannot, they will still need to take dependents' leave, which is usually unpaid.

Can those on long-term sick be furloughed?

Yes, the government guidance has recently been updated stating that you are entitled to place employees who are on long-term sick leave on furlough.

However, if you are not furloughing your employees and there is work to be done, the HMRC helpline has advised that employees who are sick in the long term, should be treated as absent due to sickness.

Can furloughed employees call in sick?

You can decide whether to move these employees onto statutory sick pay or keep them on furlough, at their furloughed rate. However, the employee must receive an amount equivalent to the SSP rate as a minimum, which is in line with their statutory rights.

Can those self-isolating be furloughed?

Employees who need to self-isolate should be placed on sick leave for the period they are required to self-isolate, usually for a period of two weeks, and paid in accordance with your sick pay policy. However, if you need to furlough employees for business reasons, you can furlough self-isolating employees, as with other employees. In these cases, the employee should no longer receive sick pay and would be classified as a furloughed worker.

Are employees who are shielding placed on sick pay or furlough?

Yes, those who are shielding can be placed on furlough.

What about those that are self-isolating because they live with someone who is shielding?

You can furlough employees who are unable to work because they need to stay home with someone who is shielding. We advise getting evidence from the government of the shielding status of the person they live with.

Can those on maternity leave be furloughed?

Only when they are ready to return to work. Employees are required to give a minimum of eight weeks' notice to end their maternity leave and come back to work earlier than intended. Bear in mind that if an employee on maternity leave gives notice to return and you suspect this is so they can be furloughed with everyone else, you may agree to this. However, explain to them that the furlough period is a temporary measure and they will not be able to return to maternity leave once the furloughed period ends.

Parents on statutory maternity, paternity, adoption, shared parental and parental bereavement leave who return to work in the coming months after a long period of absence will be permitted to be furloughed, even after the 10.06.2020 cut-off date.

This will only apply where they work for an employer who has previously furloughed employees.

What if we have an enhanced maternity pay policy?

While you cannot furlough employees as such (as their

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status of work will not change), you can claim for 80% of the enhanced maternity pay. This will change to 70% in September and 60% in October. It is currently unclear whether employers will be able to claim 80% of enhanced maternity pay from 1 November.

What about those about to go on maternity leave, can they be furloughed?

Yes, then their status changes when their maternity leave commences.

Can employees on unpaid leave be furloughed?

Yes, those on unpaid leave can be furloughed and access the scheme. However, you may not make claims for pre-agreed sabbaticals or periods of unpaid leave under the job retention scheme.

What if an employee left my employment but their new employer has withdrawn the offer due to Coronavirus?

There is yet to be actual guidance on this from the government, however, HMRC has confirmed that any employee who has stopped working for their employer but was on RTI submissions for payroll by 23 September, can be reinstated and furloughed. This is your choice, you are under no obligation to reinstate them. It could be helpful for those employers that hadn't yet managed to replace the person and where the person was a real asset to the company.

REDUNDANCY

We're in redundancy consultation now, can we furlough those employees?

Yes, this is an alternative to redundancy. However, if the redundancy is not connected to Coronavirus, you are not under any obligation to furlough your employees. It might even be deemed fraudulent.

What if the redundancy consultations are connected to Coronavirus?

During consultation, you should consider all alternatives to redundancy. If you do not consider the option to furlough, you could be at risk of unfair dismissal claims.

If an employee was made redundant but they were employed on 28 February 2020, should we reinstate them and put them on furlough?

Employees made redundant after 28 February 2020 could be rehired and placed on furlough, and your company can still access the scheme.

If an employee was made redundant as of 31 October, can we reinstate them and put them back on furlough?

There is yet to be actual guidance on this from the government, however, HMRC has confirmed that any employee who has been made redundant but was on RTI submissions for payroll by 23 September, can be reinstated and furloughed.

Can you start redundancy consultation during a furlough period?

Yes, and if redundancy is confirmed, you can claim for the notice period through the job retention scheme. This also applies if you are paying in lieu of notice (the monthly cap will still apply to pay in lieu of notice). Although this is not explicit in public guidance. The HMRC helpline confirmed this and informed that it was contained within their internal guidance.

If an employee is made redundant after we have taken advantage of the job retention scheme, is the grant repayable?

No.

STAYING IN TOUCH WITH YOUR EMPLOYEES

Can we contact employees who are furloughed?

There is nothing to suggest that you cannot, however, you must not ask them to undertake any work.

Naturally, you will want to check in on their wellbeing, especially for those currently on their own, so do call or email them to stay in touch.

SUPPORT FROM HR SPECIALISTS

If you have any queries or need further advice, please do not hesitate to contact us on [01708 758 958](tel:01708758958) or [0207 566 3938](tel:02075663938).