

Furlough – The UK Government Coronavirus Job Retention Scheme

Last updated: 19 May 2020

The UK Government advice on the coronavirus job retention or “furlough” scheme is constantly changing. This is updated guidance explaining the coronavirus job retention scheme and how it might affect disabled employees and people associated with disabled people including carers.

The UK Government has said that if you cannot maintain your current workforce because your operations have been severely affected by coronavirus (COVID-19), you can furlough employees and apply for a grant that covers 80% of their usual monthly wage costs, up to £2,500 a month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage.

In May 2020, the Chancellor announced that the Coronavirus Job Retention Scheme will remain open until the end of October. The scheme will continue to apply across all regions and sectors in the UK economy. Furloughed workers across the UK will continue to receive 80% of their current salary, up to £2,500.

From the start of August, furloughed workers will be able to return to work part-time with employers being asked to pay a percentage towards the salaries of their furloughed staff. The employer payments will substitute the contribution the government is currently making, ensuring that staff continue to receive 80% of their salary, up to £2,500 a month.

The scheme will continue in its current form until the end of July. Changes to allow more flexibility will come in from the start of August. More specific details and information around implementation will be made available by the end of May 2020.

The scheme is designed to help employers whose operations have been severely affected by coronavirus (COVID-19) to retain their employees and protect the UK economy. However, all employers are eligible to claim under the scheme and the government

recognises different businesses will face different impacts from coronavirus. It is anticipated that it is private sector employers who will primarily use the scheme.

Employees on furlough leave cannot undertake any work for you. You will need to submit information to HMRC about the employees that have been furloughed and their earnings through an [online portal](#).

Employers are at liberty to make the difference between this cap and the employee's salary, but do not have to do so. If the employee's salary is reduced, they should be advised that they might be eligible for support through the welfare system including Universal Credit.

Q: Can any employer claim under the scheme?

Yes, as long as you have:

- created and started a PAYE payroll scheme on or before 28 February 2020
- enrolled for [PAYE online](#) - this can take up to 10 days
- a UK bank account.

Any entity with a UK payroll can apply, including businesses, charities, recruitment agencies and public authorities.

Q: We have an employee who says that the person who used to provide care for his spouse is no longer able to visit their house. This means that he needs to become his spouse's full-time carer, and so is unable to work. Do we have to keep paying him?

In this situation you can furlough this employee and claim 80% of his salary from the Government Coronavirus Retention Scheme. This also applies to employees who have caring responsibilities for children.

Q: We have employees who say that they have to follow Government advice on shielding because of their own disability or the disability of someone that they live with and this means they cannot work. What does this mean and can we furlough these employees?

Yes, you can and should furlough these employees. Shielding is a measure to protect people who are clinically extremely vulnerable by minimising all interaction between those who are extremely vulnerable and others. The Government strongly advises people with serious underlying health conditions (listed below), which put them at very high risk of severe illness from coronavirus (COVID-19), to rigorously follow shielding measures in order to keep themselves safe.

People falling into this extremely vulnerable group include:

- Solid organ transplant recipients.
- People with specific cancers:
 - people with cancer who are undergoing active chemotherapy
 - people with lung cancer who are undergoing radical radiotherapy
 - people with cancers of the blood or bone marrow such as leukaemia, lymphoma or myeloma who are at any stage of treatment
 - people having immunotherapy or other continuing antibody treatments for cancer
 - people having other targeted cancer treatments which can affect the immune system, such as protein kinase inhibitors or PARP inhibitors
 - people who have had bone marrow or stem cell transplants in the last 6 months, or who are still taking immunosuppression drugs.
- People with severe respiratory conditions including all cystic fibrosis, severe asthma and severe COPD.
- People with rare diseases and inborn errors of metabolism that significantly increase the risk of infections (such as SCID, homozygous sickle cell).
- People on immunosuppression therapies sufficient to significantly increase risk of infection.
- Women who are pregnant with significant heart disease, congenital or acquired.

Q: An employee handed in her notice before 28 February and was due to start work for another employer after 1 March when the notice period expired. She has asked if we can re-employ her because she is in the highly vulnerable group and so is unable to go into work for her new employer and she cannot do her job from home. Her new employer cannot furlough her because she would have started work for them after 1 March. Can we re-employ and then furlough her?

Yes, depending on the dates. If you made employees redundant, or they stopped working for you on or after 28 February 2020 (i.e. in this case her notice period expired after 28 February so she remained on your payroll after 28 February) you can re-employ her and put her on furlough leave and claim for her salary through the scheme. This would be good practice in this situation if you are able to do this, as otherwise this employee will have no income other than benefits she might be able to claim.

Q: We had disabled employees who could only do part of their jobs from home, so we reduced their hours as a reasonable adjustment and for others we granted unpaid leave. Can we furlough them now?

No. If employees are working reduced hours for reduced pay you cannot furlough them. If you are paying them their full-time salary for reduced hours, then you can reduce their

salary to pay them only for the hours that they work. You can furlough employees taking unpaid leave but only if they started their unpaid leave after 28 February.

If you furlough employees, they should not do any work for you at all and this should be because they really cannot work from home. See the answer to the following query.

Q: Can we 'furlough' disabled employees who cannot work from home?

This is a possibility but do think this through carefully to avoid discrimination claims from disabled employees.

Employers can only put employees on furlough leave if they would otherwise have to lay them off – i.e. make them redundant because it is no longer possible to pay the employees. If you intend to access the Coronavirus Job Retention Scheme you will need to discuss this with your employee and inform them that you will keep them on your payroll rather than making them redundant.

If you intend to furlough only disabled employees or employees who need to work from home with adjustments, you may be open to claims for disability discrimination. Consider this example. You have two employees who do very similar work for the same salary. One can work from home with no adjustments. The other is disabled and needs adjustments such as assistive technology to work from home. If you choose to furlough the disabled employee rather than make the adjustments they need to work from home then it is open to that employee to claim that they have been treated unfavourably – i.e. paid only 80% of their salary, or if you choose to make the difference, not being allowed to continue to work and occupy themselves because of their disability.

Q: What about employees who are self-isolating or on sick leave? Can we furlough them?

Employees who are self-isolating or on sick leave should be paid sick pay under the terms of their contract or statutory sick pay. Online sick certificates can be obtained. If the employees stop receiving statutory sick pay but are still unable to work, you can furlough them.

Q: Does the furlough scheme mean we cannot make employees redundant?

Government guidance is unclear on this. There is nothing to suggest that you cannot make employees redundant during this period, including those who have been furloughed, but the Government want as many employees to stay in work as possible and so is encouraging use of the furlough scheme. Once the scheme ends if there is still no work for your employees to do or if your organisation is closing all or part of its operation you can make previously furloughed employees redundant. And you will not have to repay the grant received. When choosing criteria for redundancy do be careful not to target unfairly

employees with disabilities as this might lead to disability discrimination and unfair dismissal claim. For more advice on determining fair redundancy criteria BDF Members and Partners can contact advice@businessdisabilityforum.org.uk.

Q: Does the job retention scheme and furloughing only apply to employees? We have disabled apprentices and agency workers and people on zero-hour contracts who are unable to do their jobs either because they cannot be done from home or because they have caring responsibilities for a disabled person. What can we do for them?

Employees can be on any type of employment contract, including full-time, part-time, agency, flexible or zero-hour contracts. Foreign nationals are also eligible to be furloughed.

Apprentices can be furloughed in the same way as other employees and they can continue to train whilst furloughed.

However, you must pay your Apprentices at least the Apprenticeship Minimum Wage, National Living Wage or National Minimum Wage (AMW/NLW/NMW) as appropriate for all the time they spend training. This means you must cover any shortfall between the amount you can claim for their wages through this scheme and their appropriate minimum wage.

Guidance is available for changes in [apprenticeship learning arrangements because of COVID-19](#).



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