



14th June 2020 - Flexible Furlough Guidance

On 12 June, the Government released further guidance on how the flexible furlough scheme will operate from 1 July 2020. This scheme is an adaptation to the original Job Retention Scheme, and has been designed as a way to assist employers bring furloughed employees back into work on a part time basis while still being able to claim financial assistance from the Job Retention Scheme.

We have set out below some Q&A on the flexible furlough scheme.

What is a flexible furlough?

From 1 July 2020, employers can bring furloughed employees back to work for any amount of time and any work pattern.

You will still be able to claim the furlough grant for the hours your flexibly furloughed employees do not work, compared to the hours they would normally have worked in that period.

How do I put employees on flexible furlough?

From 1 July 2020, only employees that you have successfully claimed a previous grant for will be eligible for more grants under the scheme.

This means they must have previously been furloughed for at least 3 consecutive weeks taking place any time between 1 March and 30 June 2020. For the minimum 3 consecutive week period to be completed by 30 June, the last day an employee could have started furlough for the first time was 10 June.

You should have a discussion with employees who you wish to place on the flexible furlough scheme because you will need to agree the arrangements of their part time work. The agreement should be confirmed in writing and you must keep a written record of the agreement for five years.

You do not need to place all your employees on furlough. In addition, you can continue to fully furlough employees if you wish.

How long can flexible furlough last?

Flexible furlough agreements can last any amount of time. This means that they do not need to last for a minimum of 3 weeks. However, the period that you claim for must be for a minimum period of 7 calendar days. Any flexible furlough period of less than this cannot be claimed for via the scheme.

Employees can enter into a flexible furlough agreement more than once.

What do I pay an employee on flexible furlough?

You will pay the employee for the hours they work, along with national insurance contributions and pension contributions for those hours.

The scheme will allow you to recover the remainder of wages to a maximum cap. Wage caps are proportional to the hours an employee is furloughed. For example, an employee is entitled to 60% of the £2,500 cap if they are placed on furlough for 60% of their usual hours.

The amount that the scheme will cover will begin to decrease from September 2020, and you will be responsible for all of the national insurance and pension contributions from August 2020, regardless of the employee being on flexible furlough.

Claims under the new scheme will be open from 1 July 2020.

When claiming for employees who are flexibly furloughed you should not claim until you are sure of the exact number of hours they will have worked during the claim period. This means that you should claim when you have certainty about the number of hours your employees are working during the claim period. If you claim in advance and your employee works for more hours than you have told HMRC about, then you will have to pay some of the grant back to HMRC.

What records do I need to keep?

You'll need to keep records of how many hours your employees work and the number of hours they are furloughed during flexible furlough. For example, you will need to record that an employee who normally works for 37 hours a week is actually working for 15 hours and is furloughed for 22 hours.

Can my employees work for me during 'down time' in flexible furlough?

During flexible furlough, employees are not allowed to do any work for you or any linked or associated organisation during the periods that you record them as being on furlough.

Employees on flexible furlough can do training during the hours that they are recorded as being on furlough, but must be paid at least national minimum wage for those hours.

How do I calculate normal working hours?

If your employee is flexibly furloughed, you'll need to work out your employee's usual hours and record the actual hours they work as well as their furloughed hours for each claim period.

There are two different calculations you can use to work out your employee's usual hours, depending on whether they work fixed or variable hours.

You should work out usual hours for employees who work variable hours, if either:

- your employee is not contracted to a fixed number of hours
- your employee's pay depends on the number of hours they work

Where the employee's working hours are fixed, or their pay does not vary with the amount of hours worked, the reference period for calculating their hours is the hours your employee was contracted for at the end of the last pay period ending on or before 19 March 2020.

Where an employee works variable hours, you will use the higher of:

- the average number of hours worked in the tax year 2019 to 2020
- the corresponding calendar period in the tax year 2019 to 2020

A reminder of key milestones and activity is detailed below for you:

Month 2020	Activity/reminders
June	10 June: Last date for new employees to start their first period of 3 week furlough.
	12 June: Further guidance on flexible furlough and calculation of claims under the flexible scheme will be published.
	Throughout June: Start to think about how you can use the Flexible Furlough Scheme from 1 July.
	Ongoing review: on an ongoing basis, it's important to review your costs. Consider if you need to make changes to your organisational structure? Will this include any redundancies, hours reduction etc? If so, when will you need to start consultation?
	Throughout June: In time for 1 July, create a system to track which days employees are either working or furloughed.
	Throughout June: Create template letter to confirm working and furlough days – this will be sent to employees in line with time frame the business are using to determine how and when they need employees to work.
	Throughout June: Issue first flexible furlough agreement ready for 1 July.
	1 July: Employers can make their first claim under the new flexible furlough scheme. Previously furloughed employees can return to work part time by agreement with the employer, and employers can still claim furlough grant for normal hours not worked.
	Throughout July: Prepare claims based on a week's work collect data to show employees usual working hours

	31 July - Employers have until this date to make any claims in respect of furlough periods before 30 June.
August	<p>1 August:</p> <p>The government will pay 80% of wages up to a cap of £2,500 for the hours an employee is on furlough and employers will pay ER NICs and pension contributions for the hours the employee is on furlough.</p>
September	<p>1 September: Reminder that furlough contribution rate changes.</p> <p>The government will pay 70% of wages up to a cap of £2,187.50 for the hours the employee is on furlough. Employers will pay ER NICs and pension contributions and top up employees' wages to ensure they receive 80% of their wages up to a cap of £2,500, for time they are furloughed.</p> <p>Start thinking about what happens at the end of the scheme – will you need to make redundancies?</p>
October	<p>1 October: Remember that furlough contribution rate changes.</p> <p>The government will pay 60% of wages up to a cap of £1,875 for the hours the employee is on furlough. Employers will pay ER NICs and pension contributions and top up employees' wages to ensure they receive 80% of their wages up to a cap of £2,500, for time they are furloughed.</p>
	1 October: Last date to commence 30-day consultation period to effect redundancies as at 31 October.

Month	Potential furlough grant amount	Mandatory amount payable by employer	Employer NICs and pension contributions	Government calculation of average gross employment costs to employer	Percentage salary received by employees who are furloughed 100% of the time
June	80% up to £2,500	Can top up furlough pay voluntarily but must pay employees for any hours worked	Claimable under the grant (up to the minimum automatic enrolment employer pension contribution, calculated on 80% of wages up to £2,500 a month)	None	At least 80% of salary up to £2,500 per month
July	80% up to £2,500	Can top up furlough pay voluntarily but must pay employees for any hours worked	Claimable under the grant (up to the minimum automatic enrolment employer pension contribution, calculated on 80% of wages up to £2,500 a month)	None unless employee works	At least 80% of salary up to £2,500 per month
August	80% up to £2,500	Can top up furlough pay voluntarily but must pay employees for any hours worked	Payable by employer - not claimable	Employer minimum payment averages 5% of pre furlough costs	At least 80% of salary up to £2,500 per month
September	70% up to £2,187.50	Must top up furlough pay by at least 10%	Payable by employer - not claimable	Employer minimum payment averages 14% of pre furlough costs	At least 80% of salary up to £2,500 per month
October	60% up to £1,875	Must top up furlough pay by at least 20%	Payable by employer - not claimable	Employer minimum payment averages 23% of pre furlough costs	At least 80% of salary up to £2,500 per month

* (CIPD update)

If you are considering making redundancies, the legal requirement and process to vary will follow depending on the number of proposed redundancies, so HR advice must be taken as early on as possible from us, so we can support you with this,

More information is available in the furlough guide and on the Government website - <https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme#who-can-claim>

(Disclaimer: While everything has been done to ensure the accuracy of the contents of this at the time of publication, it is a general guide only. It is not comprehensive and does not constitute specific HR advice. Specific HR advice should be sought in relation to the particular facts of a given situation and please refer to Government website for the most up to date information).



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