

## COVID-19: FURLOUGHED WORKERS - FAQs

### WHAT DOES FURLOUGH MEAN?

#### **What does furlough mean?**

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

#### **How long does the scheme last for?**

Currently, the scheme is set to last from 1 March to 30 May. However, this may be extended beyond that.

#### **Even though the employee worked in March, can we claim for this period?**

No, you can only claim if they were already laid off.

#### **How do we claim the 80%?**

HMRC will set up a portal, this is most likely to be automated, and however, the portal is not live yet.

#### **Is it a loan?**

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

#### **Is it 80% of £2,500?**

No, it's 80% of the salary up to £2,500.  
*A separate fact sheet will follow which explains in more details how this is calculated.*

#### **Do we have to top it up?**

No, you don't.

#### **Do we pay them or does the government pay them?**

Employers continue to pay them via the payroll and then claim the money back.

#### **Do employees still make pension contributions?**

There is no guidance on this, so assume that they continue to pay, so if they pay 5% of their current salary, they should pay 5% of their furlough payment. Do not encourage employee to opt-out, this is unlawful.

#### **Do employees still salary sacrifice?**

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

#### **Can I simply tell employers they are being furloughed?**

Employers should discuss with their staff and make any changes to the employment contract by agreement. When employers are making decisions in relation to the process, including deciding who to offer furlough to, equality and discrimination laws will apply in the usual way.

To be eligible for the subsidy, employers **should write to their** employee confirming that they have been furloughed and keep a record of this communication.

Employees who have 'short time working' or 'lay off' clauses in their contracts, they can simply be given notice to the fact that they are being furloughed. Generally, one week is advisable, however, given the circumstances, you can give much less. If those clauses do not exist, then you should consult with the employees, almost in the same way you would consult on a redundancy for example. More than 20 employees, it is 30 days consultation period and over 100 employees 45 days. For less than 20, it is a 'reasonable period', again, given the circumstances, this could be very short.

#### **Can furloughed employees work i.e. pick up emails?**

No, they may not. They cannot do any work at all for your company or another company.

#### **Can furloughed employees volunteer?**

Technically no, however, the government is seeking around 500,000 people to volunteer within the NHS, so this could be relaxed if they volunteer for that purpose.

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

- The company could ask for volunteers;
- The company could use a selection process in exactly the way a redundancy selection process could work; or
- If the role(s) are standalone (as in, only one person performs that role and you don't need it), then you can select on that basis.

### **Are directors eligible?**

Currently, if the company is UK registered, the director has an employment agreement and is on the payroll (PAYE), then they should be able to access the scheme. However, when the HMRC portal opens (which could be April), it's automated and it may reject anyone with director status. This is unclear at this stage.

### **Can furloughed employees take holiday?**

Holidays accrue at the normal rate during a period of furloughed, however, once they are furloughed, they cannot be on the scheme and then come off to take holiday (paid at the full rate) and then go back to furloughed. They are laid off.

### **Can we bring someone back early if business picks up?**

Yes, you can.

### **If you bring someone back and business dries up again, can you put them back on furlough?**

It is unclear if the scheme will allow employers to do that. It may only allow it to happen once.

## **THOSE NOT CURRENTLY AT WORK**

### **Can those on long-term sick be furloughed?**

No, they cannot. Deliberately changing someone from long-term sick to furlough so they could access the scheme would be deemed as fraudulent.

### **Can furloughed employees call in sick?**

Not really, they are laid off during this period.

### **If your employee is on Statutory Sick Pay**

Employees on sick leave or self-isolating should get Statutory Sick Pay but can be furloughed after this. Employees who are shielding in line with public health guidance can be placed on furlough.

### **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 COVID-19 employers are not under any obligation to furlough the employee as an alternative.

### **What if those redundancy consultations are connected to COVID-19?**

During consultation, employers should consider all alternatives to redundancy. If the option to furlough isn't considered, there could be a risk of unfair dismissal claims.

### **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 employers suspect this is so they can be furloughed with everyone else, you may elect to end it early and tell them to return but it is advisable to explain that it's a temporary measure and they wouldn't be able to return to maternity leave once the furloughed period ends. Again, any abuse of the scheme will be viewed as fraudulent.

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

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

## **CONTACT US**

If you have any queries or need any advice, please do not hesitate to contact us on:

Liverpool

Tel: 0151 703 1080

Email: [mail@moorenw.co.uk](mailto:mail@moorenw.co.uk)

Manchester

Tel: 0161 832 4281

Email: [info@moorenw.co.uk](mailto:info@moorenw.co.uk)