

# Coronavirus Job Retention Scheme (the “Scheme”) FAQs

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## OVERVIEW OF THE “SCHEME”

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- **Who is covered by the Scheme?**

Any UK organisation with employees can apply, including:

- Businesses
- Charities
- Recruitment agencies (agency workers paid through PAYE)
- Public authorities

You must have:

- Created and started a PAYE payroll scheme on or before 19 March 2020
- Enrolled for PAYE online
- A UK bank account

Where a company is under the management of an administrator, the administrator will be able to access the Job Retention Scheme.

- **Can public sector organisations access the Scheme?**

The Scheme is likely to be unavailable for the majority of public sector employers, as a lot will be continuing to supply essential services. It will not be available for those who continue to receive public funding for the majority of wage bill.

Those who are not primarily publicly funded and whose staff cannot be redeployed to assist with the coronavirus response may be able to access the Scheme.

- **What does the Scheme offer?**

The Scheme is essentially a safety net for those employees who would have otherwise been laid off, made redundant or otherwise dismissed in response to the current pandemic.

Until 31st July 2020, the scheme offers a grant to cover up to 80% of usual monthly wages (capped at £2500), plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage, of people who are not working but are furloughed and kept on payroll, instead of being laid off.

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- **What is the definition of a furloughed worker?**

This is not a term that we would usually use in UK employment law and therefore there is no legal definition. From our research, it is a term that appears to derive from US labour law and means mandatory suspension from work without pay.

In the UK will be akin to a lay off and there will be a temporary suspension for a specific period of time whereby the furloughed worker will not be able to carry out any work but will remain an employee.

- **Is this different to laying off staff?**

Yes, employers have a limited ability to lay off staff and this is subject to an existing contractual provision. A lay off clause can enable employers to reduce hours and cut wages, as necessary for business needs. Furloughed employees will not be able to carry out any work during the furloughed period but still receive 80% pay.

- **Who qualifies for the Scheme?**

The Scheme will apply to all employees who are on the payroll who have been furloughed, where they would otherwise have been laid off or made redundant due to the current pandemic.

The employee must have been on PAYE payroll on or before 19 March 2020 and can be on any type of contract, for example:-

- full-time employees
- part-time employees
- employees on agency contracts
- employees on flexible or zero-hour contracts
- office holders (including company directors)
- salaried members of LLPs

To be eligible, the employee cannot carry out work for the employer that furloughs them. This includes providing services or generating revenue.

#### **Casual/zero hours workers (“limb b workers”)**

It is clear that casual/ zero hours workers can be furloughed provided that they were on a UK employer’s PAYE payroll and notified to HMRC on an RTI submission on or before 19 March 2020 (or 28 February if re-engaged).

#### **Fixed term employees**

Employees on fixed term contracts can be furloughed. Their contracts can be renewed or extended during the furlough period provided that the extension takes place before the contract ends.

#### **Reduced hours/ pay**

The Scheme will not apply to those employees who have already had their hours or pay reduced, but who are still working for their employer.

If hours have already been reduced and then the employee is furloughed, it is likely that the employee would be entitled to 80% of his/her reduced hours only, unless the employer rescinds the reduction.

#### **Employees who have recently been made redundant since 28 February 2020**

The Scheme covers employees who were made redundant since 28 February 2020, if they are rehired by their employer. The employer can rescind redundancy and agree to place these individuals on furlough to enable the employee to qualify.

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### **Employees on unpaid leave**

If an employee started unpaid leave after 28 February 2020 employers can place them on furlough leave instead. They must then be paid at least 80% of their regular wages up to the £2,500 cap.

If an employee went on unpaid leave on or before 28 February 2020, you cannot furlough them until the date on which it was agreed that they would return from unpaid leave.

### **Employees who are self-isolating/on SSP**

Employees who are shielding in line with public health guidance can be placed on furlough. Employees on sick leave or currently self-isolating should get SSP but can then be furloughed.

### **Employees on Maternity Leave**

Employees who are currently on or planning to take Maternity Leave and who qualify for statutory maternity pay will still be eligible for 90% of their average weekly earnings in the first 6 weeks, followed by 33 weeks of pay paid at 90% of their average weekly earnings or the statutory flat rate (whichever is lower). If an employer offers enhanced maternity pay, this is included as wage costs that an employee can claim through the scheme.

### **Employees with more than one employer**

The guidance states that an employee can be furloughed by one employer and continue to work for the other. Alternatively, they can be furloughed by both employers. Each employer will be entitled to make an application under the Scheme for 80% of the employee's salary.

An employee cannot be furloughed by their current employer and also accept re-engagement by a former employer with the view of being furloughed by that employer also.

### **Company directors**

Salaried company directors can be placed on furlough and receive support through the Scheme. Directors' duties under the Companies Act 2006 must be considered when deciding whether to place a director on furlough. A decision to furlough a director should be formally adopted as a decision of the company, noted in company records and communicated in writing to the affected director.

Salaried individuals who are directors of their own personal service company and salaried members of LLPs may also be furloughed.

For further information relating to the furlough scheme and directors' statutory duties please see the following link to our blog: <https://www.ellisjones.co.uk/blog/article/furlough-scheme--directors-statutory-duties-->

## **PRACTICAL STEPS FOR EMPLOYERS TO UNDERTAKE**

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- **What is the process under the Scheme?**

Employers will need to fairly select those to be furloughed i.e. all if there is no work or closure, or fairly select those who would have been laid off or made redundant.

They would then need to agree the change to the status to furloughed with those employees and notify the employees once the change has been enacted.

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Steps to take:

1. Select for furlough
2. Consider whether it is necessary to consult with employee representatives or trade unions
3. Agree with employees – there are different ways of doing this and employers will need to act quickly
4. Confirm the employee's new status in writing
5. Put in place a written furlough agreement setting out the employee's terms and conditions which is incorporated into their contract of employment
6. Keep a record for five years, until 30 June 2025

- **How are employees selected?**

There is no law covering this however we suggest carrying out a mini redundancy selection. Employees do not need to be notified of this as businesses will have to act quickly. Fair selection criterion may include skills, qualifications and aptitude, standard of work and/or performance, attendance and disciplinary record.

You can select employees based on their length of service however this must be justified and must not be relied upon as the only selection criteria. It is good practice to keep your selection criteria as evidence in case the employee disputes the selection or HMRC ask for evidence.

Employers must be careful not to discriminate through selection and must not select due to protected characteristics.

- **Can employers choose employees based on their ability to work during the pandemic? (i.e. those with children or dependants? Or who are unable to work from home?)**

Workers who cannot work from home or who currently have no work to do may be obvious candidates for furloughing however, employers should take care not to discriminate (i.e. base decisions on the protected characteristics). In particular, we urge employers to exercise caution around age, pregnancy and disability.

- **Can employees volunteer to be furloughed?**

Yes, employers may need to consider a process of calling for volunteers. However employers must be careful to ensure that they can demonstrate a genuine need to furlough employees due to the crisis.

- **How can employers change employment status to furlough status?**

1. In accordance with the contract itself – it is unlikely that the contract will contain relevant clauses to permit this change. Employers may therefore wish to put these clauses in place now;
2. With the agreement of the employee – employers should obtain consent from an employee to amend the terms of the contract (implied agreement will suffice); or
3. With union agreement – a status change is permitted if the terms of employment are collectively agreed between a union and employer. Large, unionised organisations will be able to change terms with union consent without the need for individual employee's consent. We recommend that employers check their contracts to see if the terms can be altered by collective agreement.

If employers are going to furlough and top up the employees pay to full, it will be very easy to obtain an employee's consent to change status. You must still notify them in writing and put in place a written furlough agreement.

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- **What are the risks for the employer if you force the change?**

1. Any employee could bring a breach of contract claim – this is limited to their losses i.e. the 20% difference in pay;
2. Employees with over 2 year's service or who allege that the selection for furlough was discriminatory could bring a claim for unfair constructive dismissal. The employee would have to immediately resign to pursue this claim;
3. If the employer dismisses due to redundancy or some other substantial reason following non-acceptance of the new status, those with over 2 years or alleging discrimination could claim unfair dismissal;
4. Any employee could bring a claim for wrongful dismissal if proper notice of termination is not given;
5. Any employee could bring a claim for discrimination if an employee alleges that they have been selected for furlough due to a protected characteristic (e.g. age, sex, race, disability, maternity); and/or
6. Any employee could bring a claim in relation to collective consultation, if this applies.

- **How can an employee give consent to the change?**

Consent can be oral or in writing (a written response is not a requirement under the second Treasury Direction). In any event, written communication must be sent to the employee confirming the change to furlough status.

Consideration is required for the change and in most cases, the consideration will be the individual remaining an employee and on the payroll.

- **What if the employee does not agree to furlough status (and reduction in salary if employer not topping up)?**

The risks for employers are set out above. In practical terms, the employer can either:

1. Force the change – taking the risk of a claim;
2. Agree an alternative;
3. Dismiss the employee due to some other substantial reason (as they will not agree change) or redundancy; or
4. Keep the employee on the same terms – unlikely to be sustainable in the current climate.

- **Is there a risk of furloughing too many employees?**

Yes if the business is unable to continue without the furloughed employees. However, the employer is entitled to call them back if necessary, and revert to normal employment status.

It is therefore important that this is set out in correspondence sent to the selected employees before the furloughed period starts. You must cover various points in a letter to furloughed employees.

## **FURLOUGHED WORKERS**

- **What are furloughed employees rights?**

Furloughed employees remain employees during this period and are therefore still entitled to pay, benefits and their pension. Employees are entitled to refuse to be furloughed however, the only cause of action that is available to them should they be dismissed due to their refusal is an action for breach of contract/ constructive dismissal. Constructive dismissal is only usually open to those with over 2 year's service. However, due to the significant backlog at the Tribunal and the current climate this is likely not to be an attractive option.

- **Can employees undertake voluntary work for their employer once they are labelled a furlough worker?**

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Until 1st July 2020, the employee will not be able to carry out any work for the employer that furloughs them – the employee will not be able to provide services or generate revenue. Until flexible furlough commences on 1st July 2020, employers must be careful not to insist on work as this is likely to fall foul of the Scheme.

However, employees may be required to complete training courses whilst they are furloughed. If this is the case, then they must be paid at least the national minimum wage for the time spent training, even if this is more than the 80% of their wage that will be subsidised.

- **Can an employee work for another employer whilst on furlough leave?**

Yes. The Scheme provides that a furloughed employee can do work for another employer during furlough leave however; this will be subject to any restrictions in the employee's contract of employment.

- **Can a furloughed employee do volunteer work?**

Yes, they are entitled to carry out volunteer work, as long as this is not for the employee's employer and being used to circumvent furlough.

- **Can employees on furlough undertake training?**

Yes. Training can take place provided that it is not used by the employer to generate revenue or for the provision of services. Under the second Treasury Direction, there is no requirement for the training to be directly relevant to the employee's employment or agreed with them before being undertaken. The purpose of the training must be to improve the employee's effectiveness in the employer's business or to improve the employer's business.

Employees must be paid national minimum wage in respect of the training.

- **What happens to an employee's pension and the auto enrolment pension contribution?**

This will remain unchanged. However, the employer may change their pension contribution if their wages fall below a certain amount with the employee's agreement. The employer will be able to claim back the minimum auto enrolment pension contribution in respect of the 80% of wages.

- **Do employees continue to accrue holiday during furlough?**

Yes. Furloughed employees will continue to accrue annual leave during furlough. Employers can agree with employees to vary holiday entitlement although almost all workers are entitled to 5.6 weeks of statutory paid annual leave each year which they cannot go below.

- **Can annual leave be taken during furlough?**

Furloughed employees can take annual leave during furlough. Although, the employees will be entitled to their usual holiday pay during annual leave and therefore employers will be obliged to pay the additional amounts due to the employee over the 80% cap.

- **Can employers force furloughed employees to take annual leave during furlough?**

It is reasonable for employers to request that furloughed employees take annual leave during the furlough period. They will have to give double the amount of notice than the length of annual leave they wish the employee to take (i.e. 2 weeks notice for 1 week of annual leave). Employees must be paid full pay whilst on annual leave and therefore employers will be required to 'top up' to 100% pay.

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- **Can an employee be served notice whilst on furlough?**

A furloughed employee can be served with notice of termination of employment. Whether this can be claimed under the Scheme is not clear.

The employee will be entitled to the greater of contractual or statutory notice i.e. one week for each year employed up to 12 weeks cap.

It is likely the employee will be entitled to full normal pay for their notice; however the guidance is not clear. For further information please see the following link to our blog: <https://www.ellisjones.co.uk/blog/article/furlough-and-notice>

**Notice: Normal working hours**

Employees with normal working hours who are entitled to only statutory notice from their employer (or less than 1 week more than statutory notice) will be entitled to their normal pay for their normal hours, despite being furloughed. The employer can claim up to 80% of their notice pay but will need to top up the remaining 20%.

If an employee is entitled to at least one week more than statutory notice, their notice pay may be able to be based on their furlough pay (i.e. 80% of their normal pay) if they remain on furlough for the duration of their notice.

**Notice: Hours which vary**

An employee without normal working hours who is entitled to only statutory notice (or less than one week more than statutory notice) is entitled to a week's pay calculated based on the amount of pay for the average number of weekly normal working hours at the average hourly rate (s222 ERA 1996). The employer may need to 'top up' above the 80% if the employee is furloughed.

If an employee is entitled to at least one week more than statutory notice, their notice pay may be able to be based on their furlough pay if they remain on furlough for the duration of their notice.

- **Can an employee be made redundant whilst on furlough leave?**

Yes. The guidance confirms that employees can be made redundant whilst on furlough leave. The normal redundancy rules apply in relation to following a fair redundancy process. Please see the following link to our fact sheet on a fair redundancy process: <file:///W:/Bournemouth%20Files/Employment%20Factsheets/Redundancy-%20Individual%20Consultation%20Process.pdf>

The employer will not be able to claim back a statutory redundancy payment through the Scheme. The position on notice pay is not clear.

- **When should an employer start the redundancy process?**

In the spirit of the Scheme, employers should not keep employees on furlough for the entire duration of Scheme where they intend to make them redundant in any event. In a statement on 27 May 2020, Boris Johnson said 'people should not be using the furlough scheme to cynically keep people on their books and then get rid of them'.

If employers intend to make redundancies, we recommend that the redundancy process is started as soon as possible, starting with warning employees of the risks of redundancies.

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## FURLOUGHED WORKERS PAYMENTS UNDER THE SCHEME

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- **How much will employees receive from the Scheme and how is this paid?**

The Scheme means that the employer will be able to claim a grant equivalent to 80% of furloughed employee's normal pay (capped at £2500 gross). The employer will have to continue paying the employee through its payroll and that the employer can then claim this back through HMRC. In addition the Scheme will cover associated Employer NI contributions and minimum auto enrolment pension contributions on paying the furloughed wages.

- **How is furlough pay calculated?**

### **Employees/ workers with irregular earnings**

If the employee has been employed (or engaged by an employment business) for a full twelve months prior to the claim, you can claim for the higher of either:

- the same month's earning from the previous year
- average monthly earnings from the 2019-20 tax year

If the employee has been employed for less than a year, you can claim for an average of their monthly earnings since they started work.

If the employee only started in February 2020, use a pro-rata for their earnings so far to claim.

### **Regular salary/wages**

Employers can claim for 80% of employees' wages up to a maximum of £2,500 per month. NI and pension contributions still need to be paid to employees and these can be claimed also.

- **Should commission payments be included in the calculation for wages?**

The guidance states that non-discretionary commission payments should be included when calculating an employee's regular salary/wages. We understand non-discretionary to mean contractual commission. A commission payment may be expressed as contractual in the employee's contract of employment or this may be implied into the contract of employment i.e. by evidence that the employee has continually received commission for a significant period of time.

Other inclusions include:

- Non-discretionary overtime
- Non-discretionary fees
- Piece rate payments

- **Do employers have to pay the additional 20% to make up to full pay?**

No. It is ultimately up to the employer to decide whether they offer full pay to a furloughed employee. Employers will need to agree reduction to 80% with the furloughed employees.

If the employers top up, they will also need to top up Employer NI and automatic enrolment pension contributions.

- **Will the employer be required to repay any monies received?**

The Scheme is called a 'grant' and therefore this will be unlikely to be repayable.

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## HOW THE SCHEME OPERATES

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- **How to claim?**

The employer will need to be enrolled for PAYE online and submit an application via the Government gateway. The application must include:

- The employer's PAYE reference number
- The number of employees being furloughed
- The claim period (i.e. start date and end date)
- The full amount claimed (a CJRS calculator is available to calculate the monies due)
- The names, NI numbers and (optionally) payroll/employee numbers of the employees
- The employer's name, self-assessment unique taxpayer reference, corporation tax unique taxpayer reference or company registration number
- The employer's bank account details and contact details

Where a claim is being made in respect of 100 or more furloughed employees, the employees will be asked to upload a file containing the relevant information.

Claims can be backdated until 1st March, if applicable.

Claims should be made in accordance with an employer's normal payroll or in advance of an imminent payroll.

Step by step guidance can be found on the government website: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/881800/Coronavirus\\_Job\\_Retention\\_Scheme\\_step\\_by\\_step\\_guide\\_for\\_employers.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/881800/Coronavirus_Job_Retention_Scheme_step_by_step_guide_for_employers.pdf)

- **How long does it take for HMRC to pay employers after a claim is submitted?**

The guidance states that HMRC aim to pay employees within six working days. The payment will be made via BACS payment to a UK bank account.

- **Can an application be amended under the Scheme?**

HMRC has confirmed that employers cannot amend an application once this has been submitted. An employer is also only able to make one claim during a claim period for each PAYE scheme it operates.

## THE CHANGES TO THE SCHEME

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The Chancellor announced the changes to the Scheme on Friday 29 May 2020.

The scheme continues as normal until 1 July 2020.

The 10 June 2020 is the last day that employers can place employees on furlough for the first time in order for the 3 week period to be completed by 30 June 2020.

The Scheme will close to new entrants on 30 June 2020. From this point onwards, employers will only be able to furlough employees that have been on furlough for a 3 week period prior to this date. They do not have to be on furlough on this date to be later put on furlough, as long as they have been on furlough previously for a minimum of 3 weeks.

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- **What are the changes from 1 July 2020?**

After 1 July 2020, there is no requirement for an employee to be furloughed for 3 consecutive weeks. However, if they are placed on furlough before this date, this must be for a minimum of 3 consecutive weeks.

Employees will be able to remain on furlough and return to work-part time. This will introduce a new flexible furlough. The arrangement must be agreed with the employee in the same way as placing them on furlough.

The guidance confirms that employees can enter into a flexible furlough agreement more than once. This applies for any amount of time and any shift pattern, as long as the employee is working part-time. There is no definition of part-time under UK employment law.

- **How do you get employees back working on flexible furlough?**

You must make the decision as to who returns in a non-discriminatory way and have regard to any future redundancies. You could undertake a mini redundancy selection process in order to determine who returns to work, or could ask for volunteers. You must reach an agreement with employees to return to work on a part-time basis, detailing the hours of work and hours furloughed.

- **How does the employer pay for flexible furlough?**

The employer will have to pay the wages for the time worked but can claim under the Scheme for their furloughed hours. Employers will need to report and claim for a minimum period of a week (7 calendar days).

- **Do you need to keep a record of the flexible furlough hours?**

Yes. Employers must keep records of how many hours employees work and the number of hours they are furloughed.

- **How do you work out employees' pay for flexible furlough?**

**Step 1: Calculate the number of normal hours worked**

1. The number of hours the employee was contracted for at the end of the last pay period ending on or before 19 March 2020.
2. Divide by the number of calendar days in the repeating working pattern. (if weekly pattern, divide by 7).
3. Multiply by the number of days in the pay period (i.e. 31 days in July)
4. Result is rounded up.

**Step 2: Calculate the furloughed hours**

1. The number of usual hours worked (i.e. the result produced above).
2. Minus the number of actual hours worked.

**Step 3: Calculate the maximum wage amount**

1. If a claim is being made for a whole month pay period, the maximum wage amount is £2,500.

**Step 4: Calculate the furlough pay**

For employees on fixed pay:

1. Start with employee's wages from their last pay period before 19 March.
2. If claim period is for full pay period, multiply by 80%.

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For variable pay: look back at the average amount in the 2019/2020 tax year or corresponding month in the previous tax year.

Furlough pay is the lesser of either the employee's usual wages or the maximum wage amount of £2,500.

#### **Step 4:**

1. Multiply the furlough pay by the employee's furloughed hours
2. Divide by the employee's usual hours

#### **Step 5: Calculate the employee's NI and pension contributions**

See the following guidance on calculating the contributions: <https://www.gov.uk/guidance/calculate-how-much-you-can-claim-using-the-coronavirus-job-retention-scheme#work-out-how-much-you-can-claim-for-employer-national-insurance-contributions-nics>

Please see the following link to the government's working example on calculating furlough pay for flexible furlough: <https://www.gov.uk/government/publications/find-examples-to-help-you-work-out-80-of-your-employees-wages/example-of-a-full-calculation-for-an-employee-who-is-flexibly-furloughed>

- **What are the changes from 1 August 2020?**

Employers will be obliged to pay furloughed employee's national insurance and pension contributions. Employers will not be able to reclaim this through the Scheme. The grant will still be at 80% of employee's wages up to a maximum of £2,500.

- **What are the changes from 1 September 2020?**

Employers will also be required to pay 10% of employees' pay, capped at £312.50. The government will pay 70% of employees' pay, capped at £2,187.50.

- **What are the changes from 1 October 2020?**

Employers will be required to pay 20% of employees' pay, capped at £625. The government will pay 60% of employees' pay, capped at £1,875.

- **Is there a New Treasury Direction?**

A new Treasury Direction for the Scheme was issued on 22 May 2020. Please see the following link for the full direction: <https://www.gov.uk/government/publications/treasury-direction-made-under-sections-71-and-76-of-the-coronavirus-act-2020>

- **Is it possible to furlough employees who have not been furloughed after 10 June?**

No, employees must have been placed on furlough by 10 June 2020 in order for their employer to claim for them under the Scheme.

- **Is it possible to furlough employees returning from statutory parental leave after 10 June?**

It is now possible to furlough an employee returning from statutory parental leave (i.e. maternity, paternity, adoption or parental bereavement) after 10 June, even if you are furloughing them for the first time. This is provided that the employee has returned from that leave after 10 June, you have previously submitted a claim for any other employee in your organisation between 1 March and 30 June 2020 and the employee was on your PAYE payroll on or before 19 March 2020.

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## FOLLOWING THE CHANGES TO THE SCHEME

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- **When will the furlough Scheme end?**

The Scheme has been extended until 31 October 2020.

- **Can an employer force an employee to return to work on flexible furlough?**

Employers should start to have a discussion with employees about returning to work, if they wish for them to do so. There is no set notice under the Scheme but employees should be given reasonable notice to return to work. If the employee does not want to return to work, there must be a good reason for this i.e. shielding, child care responsibilities etc. Employers should discuss the reason with the employee and consider whether any adjustments can be made i.e. working from home.

- **What are the options for those who have child care responsibilities?**

It is important that employers discuss with their employees any reasons as to why they cannot return to work. The options for these employees are:

1. Keep them on furlough.
2. The employee could submit a request to take parental or dependant leave. This would be unpaid unless agreed otherwise.
3. The employer and employee reach an agreement for the employee to work flexible hours or work from home.
4. Employers must be careful to avoid potential claims for discrimination and should consider any reasonable adjustments for these employees.

- **How does furlough end?**

The furlough period is likely to end following one of three events:

1. The employer or employee ceases to be eligible for funding under the Scheme
2. The employer gives the employee notice that their employment will resume on the terms and conditions which applied prior to their furlough period started, or on amended terms (if agreed with the employee)
3. The employee's employment terminates for any reason (i.e. by reason of redundancy)

This will also depend on the terms of any furlough agreement between the employer and employee.

- **What are the options for furloughed employees at the end of the furlough period?**

The idea is that the furloughed period is temporary and fixed term and that employees will return to the same job after the expiration of this period. However, employers may still need to terminate employees after the expiry of this period depending on business needs. If this is the case, the normal redundancy process should be followed.

For employees with less than 2 years' service, it would not be necessary to follow a redundancy process before dismissing the employee however, the employer should take care to ensure that the employee is not able to bring a claim for discrimination based on their dismissal. Employees can be made redundant whilst on furlough.

Alternatively, employers may wish to consider lay-offs or asking employees to reduce their working hours or pay on a temporary basis. As this constitutes a contractual change, there must be a contractual right to enable employers to put employees on short time working or, agreement must be sought from employees. Any permanent change must be agreed in writing with the employee.

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- **What is collective consultation?**

Where an employer is proposing to make 20 or more employees redundant within any period of 90 days or less at one establishment, there is a legal obligation to inform, consult and notify the Secretary of State in the Department for BEIS. Employers must follow a constructive consultation process which involves notifying all relevant parties (i.e. employees, union representatives and/or elected representatives).

## **USEFUL LINKS**

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Treasury Direction: <https://www.gov.uk/government/publications/treasury-direction-made-under-sections-71-and-76-of-the-coronavirus-act-2020>

Employers' guidance: <https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>

Employees' guidance: <https://www.gov.uk/guidance/check-if-you-could-be-covered-by-the-coronavirus-job-retention-scheme>

## **CONTACT US**

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If you need any assistance with how to deal with workers or employees in these unprecedented times, please do not hesitate to contact Kate Brooks on 01202 057754 or at [kate.brooks@ellisjones.co.uk](mailto:kate.brooks@ellisjones.co.uk)

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