

FURLOUGH UPDATE 1 June 2020

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Podcast link: <https://www.consultingroom.com/uploads/business/XACT-Podcast-04.06.2020.mp3>

The Chancellor announced on Friday 29 May some new important upcoming changes to the Coronavirus Job Retention Scheme (CJRS).

This is a basic update which does not go into detail on the matter. If you require advice on a particular matter, then please contact us for more information. This should not be relied upon as the advice and guidance is changing daily. HMRC have confirmed a further update on this should be provided by no later than 12 June so this advice will be updated accordingly.

- 10 June 2020 will be the last day that employers can place “first time” new employees on furlough.
- from 1 July, 'flexible furlough' is being introduced, meaning employees will be able to work part-time and be furloughed part-time. Businesses will decide how that will work (in terms of the time split).
- from 1 August, employers will have to pay employee's national insurance contributions and pension contributions, and can no longer reclaim them through the CJRS.
- from 1 September, the government will only reimburse 70% of salary (up to a maximum of £2,190). Employers are required to top-up to 80% (or more, depending on what the employer agreed with the employee).
- from 1 October, the government will only reimburse 60% of salary (up to a maximum of £1,875), and employers will continue having to top up to 80% (or more).
- the furlough scheme will close on 31 October 2020.
- the self-employed grant is being extended, with applications opening in August for a second and final grant. There will be parity with the reducing furlough scheme, paying 70% (not 80%) of average earnings up to £6,75

FAQs

We are planning to reopen the business in the next few weeks – how do we go about bringing employees back to work? How do we select who should return from furlough?

- Have a fair selection process in place, in a similar way that you would when selecting certain roles for redundancies. For example, selecting based on skills, job experience, what type of work it is that requires to be done.
- Be careful not to discriminate against those who may be on furlough for reasons relating to disability i.e. those shielding/for childcare/carer responsibilities
- **Each case should be considered on an individual basis taking account of what the employee's circumstances are and giving them reasonable notice to return to work (there is no minimum notice period to recall an employee back from furlough however it is good practice to give the employee some time to prepare returning to work as they may have childcare or other matters they need to plan for)**
- The workplace risk assessments should be carried out **before** reopening the workplace and requiring staff to return. This is something Xact can provide assistance with as we have competitive return to work packages which include a risk assessment specific to your industry and business needs.
- These assessments should be sent out to staff ahead of their return so that they can see what has been done to ensure the business is "Covid-secure" and raise any questions or concerns they have about returning to work before they are due to start. This will also allow your business to reopen more smoothly.

How will the new flexible furlough work? Can we decide what hours the employee works?

- Yes, the employer can decide on the shift pattern in which they wish the employee to work part time when returning from furlough.
- It has been confirmed that you can have an employee return to work, for example, for 3 days if they are normally contracted to 5 days and the employer has to pay them in full for those 3 days with the remaining 2 days being "furlough" days which will be paid at the current 80% rate however this will reduce to 70% in September and 60% in October.
- An important point to note is that the employer is still then expected to "top up" the difference in September/October to take it to 80% so that the employee will never receive less than 80% of their full salary
- There is no minimum period on which the employee has to be on furlough when this new phase operates
- Further details on how this will operate are due to be released on 12 June and we will continue to update this as it progresses

How do I claim back for an employee on "flexible furloughing"?

- Any working hours arrangement that you agree with your employee must cover at least one week and be confirmed to the employee in writing.

- When claiming the CJRS grant for furloughed hours, you will need to report and claim for a minimum period of a week.
- You can choose to make claims for longer periods such as on monthly or two weekly cycles if you prefer.
- You will be required to submit data on the usual hours an employee would be expected to work in a claim period and actual hours worked.

What about some employees who need to remain on furlough, for example, if they are shielding or have caring responsibilities?

- They can still remain on furlough on full hours as previously agreed however the contributions by the employer will change in August as highlighted above.

What about employees who have never been on furlough before, can we use the flexible furlough scheme for them?

- Any **new employee** to be claimed for under the furlough claim must be made by **10 June** as this is the final day that employers can put any **new** employee on furlough.
- Those employees who have previously been furloughed (for the minimum 3 week period) will be able to be re-furloughed and be able to be use the flexible furlough scheme from any point and after 10 June therefore they do not need to be on furlough by 10 June.
- This is only for new employees who haven't been on furlough before that require to be on it by 10 June to allow the minimum 3 week period which takes it to 30 June and then 1 July is the first date for allowing flexible furloughing. This point has been confirmed to us by the CJRS HMRC advisers.

Do we need a new agreement for employees to be placed on "flexible furloughing"?

- The standard Furlough Agreement will cover the flexible furloughing as it stands so you do not need to get an agreement for flexible furloughing. The flexible furloughing is not a new scheme, it is simply a change of the existing scheme which begins on 1 July which is a change to the current rules stating that an employee cannot do any work on the furlough scheme. The changes are that the employee can now do some work.
- HMRC have confirmed however that you must notify the employee, in writing, to confirm what part time shifts it is they will be expected to work and give them reasonable notice. We would also recommend specifying in that letter that this is a follow on from the original Furlough Agreement thereby meaning you do not need to get a written response from the employer as they will have already agreed to the furlough scheme itself, this is just a change to say they can now do some work on shifts set by the employer. We will provide a template letter to assist you with this.
- We would suggest 1 full calendar week would be deemed to be "reasonable" notice

Can an employee be on 'furlough' for one day out of the week and that day be a holiday day?

- Yes, as the rules relating to holiday still apply in the same way as they do at present which means a furlough day can be a holiday day but must be paid at the 100% rate.

What about staff that are in another country who left at the outset of the pandemic?

- Currently, from 8 June onwards, any new arrival to the UK must quarantine for a period of 14 days before they can do anything including returning to work unless they fall into the exemption list which includes:-
 - Road haulage and freight workers
 - Medical officials who are travelling to help fight coronavirus
 - Anyone arriving from the Republic of Ireland, the Channel Islands, or the Isle of Man
 - Seasonal agricultural workers if they self-isolate on the property where they are working
- Therefore, you should consider the 14 day quarantine period when asking staff from out with the UK to return the work and ensure reasonable notice is given particularly as they will have to arrange flights which are much more limited at present.
- Most of the major airlines have announced that they expect an increased timetable of flights from 15 June onwards
- Particular care should be taken when an employee who is abroad falls into a higher risk category and we would recommend you seek specialist advice on this point as there may be a risk of a discrimination claim if they are unable to travel due to a disability which puts them at higher risk if they catch coronavirus.

If, following a cashflow forecast, a business feels that it wont be able to commercially bring a member of staff back onto payroll, should you start a redundancy process whilst they are in furlough, and if so, what advice would you give on the process?

- review structure in line with that the business operation will be
- what headcount will they need for each role
- then you would look at the redundancy process
- Take specialist advice