

Flexible Furlough Scheme Webinar

Please email us if you would like the link to the HR webinar we hosted on Wednesday 24th June in partnership with Absolute Works.

On this webinar, I was joined by Joy and Amy, the founder and MD of Absolute Works respectively. Over the 40min session we discussed some of the details of the flexible furlough scheme that is beginning on July 1st and **we worked through some the questions below**. You will also see that some of the participants on the webinar asked their own questions.

I took a number of important points from this including:

- There is a need to keep up to date records and documentation of all your decision making. HMRC can audit these for up to 6 years.
- If you are moving staff onto the flexible furlough scheme, you will need them to sign a new employment / furlough agreement.
- If you have not asked your staff to take their accrued holiday yet, this is something we suggest you consider for July.

This and many other useful things, including the questions below are discussed within ... **we have also clarified some key points relating to dates, including worked examples over the page.**

Key Questions:

MECHANICS OF JOB RETENTION SCHEME

1. What documents do I need to make sure I have in place for the employees that I have furloughed and how long do I need to keep them?
2. Are there any particular communications protocols you'd suggest for staying in touch with employees during this tricky period?
3. Can we rotate furloughed and non-furloughed staff?

HOLIDAYS

4. Does holiday accrue during furlough leave? There are concerns about the amount of accrued holiday when things return to normal?
5. Can staff be asked to use annual leave entitlement after the furlough period finishes and the business is still quiet?

RETURNING TO WORK

6. What do we need to think about with regards to furloughed staff coming back to work?
7. Any advice/tips on how to make the work place ready for returning staff?
8. What rights do staff have, if we ask them to return to work but they can't?
9. What sort of things do I need to think about when looking at requesting employees come back and work part time? Do they have any rights to request to come back on reduced hours?

REDUNDANCIES

10. As a business, we can't support the same level of staff when we return to work (and they've all been on furlough), how do I go about the process of considering redundancies?
11. What rights do employees have with regard to redundancies in this situation?

The Flexible Furlough Scheme - Key points to note are:

You will note that within the webinar there was some confusion around how to manage furloughed staff who may or may not have been brought back yet, but who you would like to be on the new flexible furlough scheme. Please see the following points of clarification and worked examples below:

- From the 1st July, you can only claim through the CJRS (Flexible Furlough Scheme) for employees who were furloughed on or before the 10 June 2020.
- For an employee that has been defurloughed and the employer wants to place them on furlough leave again after 10th June but before the 30th June, they must be fully furloughed for a minimum period of 3 weeks before the employer can place them on flexible furlough leave, which means that they will be fully furloughed for part of July.

Here are a few examples on the start date for Flexible Furlough:

Employee A has been 'fully furloughed' since March 23rd and is still on furlough leave, and the employer wants to bring them back on Flexible Furlough on 1st July - this is ok.

Employee B has been 'fully furloughed' since March, and was unfurloughed on 1st June and then 'fully furloughed' on 9 June. This employee can be either fully furloughed or flexibly furloughed from 1st July, as they will be furloughed for a minimum of 3 consecutive weeks from 9 June 2020.

Employee C has been 'fully furloughed' since March 23rd, and they were unfurloughed on 1st June and fully furloughed again on 15th June. Employee C must be fully furloughed for a 3 week minimum period and cannot be flexibly furloughed until 6 July.

Employee D has been fully furloughed since March 23rd and returns from Furlough on 25th June. They can be Furloughed again from July 1st on flexible Furlough, however if they are put back onto Furlough between 26th and 30th of June, they will need to be on Furlough for 3 weeks before they can go onto flexible furlough.

Employee E has not been furloughed at all and the employer wants to flexibly furlough the employee from 1st July. They cannot do this as the employee E was not placed on furlough leave by 10th June and has therefore not had a minimum of 3 consecutive weeks fully furloughed.

Continued over

Holiday Accrual Guidance

1. Holiday continues to accrue during furlough leave and the Guidance has confirmed this.
2. As a minimum most employees will be entitled to 5.6 weeks holiday per year.
3. Employees can take holiday during furlough.
4. Employees should receive pay at their normal rate of pay for any periods of holiday (where pay varies, separate rules apply and you should seek advice).
5. Employees should be paid 100% of their normal pay for any period of holiday during furlough leave.
6. Where an employer is unable to afford the top up for annual leave to 100% then any pre-booked annual leave will have to be cancelled (even retrospectively) to be used at a later date.
7. Employers **can request an employee cancel any pre-booked holiday** (where there is a business need) by giving notice equivalent to the period of holiday.
8. Employers can give their employees **notice to take annual leave** so long as the notice is twice as long as the holiday the employer is requesting that they take. (There may be exceptional circumstances where this is not appropriate, speak to you allocated HR support for further information). This can also be applied to employees leaving the business, whether this is through voluntary resignation or termination of employment via redundancy, or even where there is an employee due to go on maternity or other family leave. By applying this in their notice period, the company can currently claim 80% through the CJRS (up to a maximum of £2,500) and the business can then top up to 100% of normal pay for any period of holiday. This could **result in substantial saving for the business** rather than following standard procedure of paying for any holiday in their final pay.
9. If an employee usually works **bank holidays** then the employer can agree that this is included in the grant payment. If the employee usually takes the bank holiday as leave, then the employer would either have to top up the employees pay to usual holiday pay, or give the employee a day of holiday in lieu. It is not too late to make adjustments to your payroll and communicate this with your employees.
10. Although there is the facility to roll 4 weeks, there are criteria to meet to put this into practice and it may not be as straight forward as it sounds. Furthermore, by carrying over 4 weeks, the issue of employee taking leave (which can be difficult to manage at the best of times) only gets more difficult. Maybe think about roll over for a pro rata amount equivalent to the period of furlough, where you can't afford to top up the holiday pay (as above)?

Remember, with the CJRS and Government support tapering off from August, **you may want to consider requesting your furloughed employees take holiday now**. You may also want to consider **giving employees who are leaving your business notice to use their holiday during their notice period**, even extending any notice periods to accommodate this ... speak to your allocated HR Support about this without delay.