

CORONAVIRUS – JOB RETENTION SCHEME EXTENDED FAQs

On Thursday 17th December 2020 the government announced the Coronavirus Job Retention Scheme (CJRS) has been extended until 30th April 2021. The government have released guidance for extended CJRS, further updates will be issued by the government as the situation develops. A further review for the CJRS payment arrangements due at the end of January 2021 will now not take place. By bringing the announcement forward the Government are enabling businesses to 'plan ahead for the remainder of the winter and the New Year'. The Extended CJRS (furlough scheme) is more generous than it was in October. The level of grant mirrors levels available in August 2020 where the government paid 80% of wages up to a cap of £2500.

Employees will receive 80% of their current salaries for the hours not worked up to a maximum of £2500. The cost for the employers retaining workers will be reduced compared to CJRS which ended on 31st of October 2020.

Employees may be placed on full furlough or flexible furlough. Employers can agree working arrangements with the employees as previously in the CJRS. Flexible furlough arrangement may continue, this is where employees work some hours. Alternatively, full furlough may apply. Employees can be on any type of employment contract. Employees who are shielding or need to stay at home with someone who is shielding can be furloughed unless they can work from home.

The country entered its third national lockdown, this included the closure of all schools. HMRC have updated its guidance to state employers can, not must furlough employees if they are affected by coronavirus or any other conditions. Other conditions refers to if the employee is unable to work from home or are working reduced hours because:

- The employee is clinically extremely vulnerable or at the highest risk of severe illness from coronavirus and following public health advice.
- Has caring responsibilities resulting from coronavirus. Therefore parents and guardians who are caring for children who are at home as a result of school and childcare facilities closing or caring for vulnerable people in their household.

HMRC will reimburse 80% of furloughed workers wage costs, up to a cap of £2,500 per month. Employers must pay employers national insurance and pension contributions.

The official guidance states businesses will need to:

- designate affected employees as 'furloughed workers,' agree and notify employees in writing of this change - changing the status of employees remains subject to existing employment law and, depending on the employment contract, may be subject to negotiation



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- submit information to HMRC about the employees that have been furloughed and their earnings through the online portal

*Please read these FAQs in conjunction with the official guidance for [employers](#) and [employees](#). The following material is provided only as a guide and is not legal advice. You are strongly advised to seek advice from a qualified legal practitioner regarding your individual circumstances.

**You can access support through the ChamberHR advice line on 01455 852037 or by email hello@questcover.com
COVID related template documents are also available in section 12 of the HR Document Library**

Full details are available on the Gov UK website - <https://www.gov.uk/government/publications/extension-to-the-coronavirus-job-retention-scheme/extension-of-the-coronavirus-job-retention-scheme#interaction-with-other-coronavirus-job-schemes>

Question	Answer
<p>ELIGIBILITY FOR CJRS – Which employers are eligible for CJRS?</p>	<p>All employers with a UK bank account and UK PAYE are eligible for this scheme, fully funded public organisations are not expected to use this scheme.</p> <p>The extended CJRS is applicable to employers or employees who have not used CJRS previously; however, they must fulfil the qualifying requirements.</p> <p>Employees must be on at the PAYE payroll by 23:59 on 30th of October 2020 to qualify. Therefore, the real time information (RTI) submission to HMRC must have been made on or before the 30th of October 2020.</p>
<p>ELIGIBILITY Does the scheme apply equally to all employees?</p>	<p>The scheme is open to all UK employers with a UK bank account and UK PAYE Scheme. You do not need to have claims for the employee prior to 30th October to claim for periods from 1st November.</p> <p>For periods from 1st November onwards; provided they were on the payroll on or before 23.59 30th October 2020 and notified on an RTI submission you can claim for any type of employee on any employment contract:</p> <ul style="list-style-type: none"> • Full time • Part time • Apprentices* • Employees on agency contracts • Employees on fixed term contracts • Employees on flexible or zero hours contracts <p>Foreign nationals are eligible to be furloughed, grants under the scheme are not considered as access to public funds therefore you can furlough employees on all categories of visa.</p>

	<p>*Apprentices can continue to train and must be paid at least the Apprenticeship Minimum Wage/National Living Wage/National Minimum Wage as appropriate for the time they spend training, meaning you must cover any shortfall.</p>
<p>ELIGIBILITY How should an employer agree furloughed status with an employee i.e. in writing?</p>	<p>Your affected employees will need to be designated ‘furloughed workers’ and this will need to be agreed with employees and confirmed in writing.</p> <p>Furlough agreements must be in place before the start of a claim period. The agreement can be amended during the claim period.</p> <p>A record of this communication must be retained for 5 years.</p> <p>It is important to note that changing employees’ employment rights is still subject to employment law and unless lay off or short time working clauses are included in contracts of employment, separate negotiation will be required. It is best to take employment advice on this point.</p>
<p>Can workers be REQUIRED TO TAKE furlough leave?</p>	<p>Employees must agree to be placed on furlough; they cannot be forced. However, furlough is an alternative to permanent options, such as redundancy.</p>
<p>TRADE UNIONS Can Trade Unions negotiate on behalf of employees?</p>	<p>Yes, this is possible but only where the company have a collective agreement in place with a recognised trade union.</p>
<p>Are TEMPLATE LETTERS available?</p>	<p>Yes, we have made a template furlough letters available, located in the HR reference library under the Furlough section.</p> <p>Alternatively if you unable to access these please email your HR Business Partner or hello@questcover.com and a free template furlough letter will be sent to you.</p>

<p>Can I RE-HIRE staff who I have recently made redundant and back date the claim?</p>	<p>Any employees who were on the payroll on 23rd September 2020 and were made redundancy or stopped working for the employer after this date can be reemployed and claimed for. Please note the usual employment rights would apply and therefore employers should consider this option carefully. NOTE – employers are no longer able to retrospectively agree to put employees in furlough from 1st November; this opportunity ended on 13th November.</p>
<p>Can employers CONTINUE TO CONTACT furloughed employees?</p>	<p>The employee cannot work for you during the period of furlough (even making phone calls or sending email); however, it is okay to periodically keep in touch from an employee welfare aspect.</p> <p>Where an employee is on flexi furlough, this means the days / hours they are on furlough.</p>
<p>Can DIRECTORS furlough themselves?</p>	<p>Directors are eligible to be furloughed provided they meet the necessary criteria.</p> <p>What is different is that company directors have duties to their company as set out in the Companies Act 2006 therefore the decision should be made by the board and formally adopted within the company records.</p> <p>Directors will be able to carry out their particular duties to satisfy the statutory obligations of the company without falling foul of the furlough rules, provided they do no more than would reasonably be judged necessary for that purpose; however they cannot carry out work that would generate revenue or provide services to benefit the company.</p>
<p>SALARY What is the definition of "salary" on which 80% pay should be calculated on?</p>	<p>This is based on salary and any regular payments you are obliged to pay for such as past overtime, fees, and compulsory commission payments. Discretionary bonuses (including tips), commission payments and non-cash payments should be excluded. Employers continue to make Employers National Insurance contributions and minimum automatic enrolment employer pension contributions.</p> <p>There is a maximum monthly payment cap of £2,500 for employees</p> <p>The government have issued further guidance on how to make the calculation.</p> <p>There is also an HM Revenue & Customs example of how to calculate a claim for a flexible furlough employee.</p>

<p>Will I need to TOP UP the other 20%?</p>	<p>You can fund the difference if you wish but there is no legal obligation to do this under the scheme.</p>				
<p>How will pay be calculated in the case of employees with VARYING REMUNERATION e.g. those working on commission?</p>	<p>You can claim for any regular payments you are obliged to pay; however, discretionary bonus (including tips), commission and non-cash payments are excluded.</p> <p>For furlough periods starting 1st November 2020; the reference period is the last pay period ending on or before 30th October 2020.</p> <p>If the employee has variable pay; the usual pay calculation is determined by when they were on your payroll.</p> <p>The rules for the furlough payment differ from the previous system; therefore, it is advised you refer to the calculator available on the Gov UK website.</p>				
<p>HMRC PUBLISH INFORMATION</p>	<p>The HMRC publish information about the CJRS claims on the internet. This includes the employer name and a reasonable indication of the amount claimed. This is mandatory unless the employer can show the exposure would cause ‘serious risk of violence and intimidation’ to their workforce.</p>				
<p>EVIDENCE How do employers’ evidence to HMRC that an individual is a furloughed worker?</p>	<p>A schedule of furloughed workers must be produced and submitted to HMRC through the portal created for this purpose. Amount claimed. Remember to keep your salary calculation as HMRC will retain the right to audit.</p> <p>After submission, you must keep a note of the reference number issued as there will be no other confirmation issued by HMRC.</p>				
<p>HMRC Furlough grant claims</p>	<p>Claim for the furlough grant must be submitted by 11.59pm 14 calendar days after the month you are claiming for. If this time falls on a weekend or a bank holiday; the claim should be submitted the next working day.</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Claim for furlough days in</td> <td style="width: 50%;">Claim must be submitted by</td> </tr> <tr> <td style="border-top: 1px solid black; border-bottom: 1px solid black;">November 2020</td> <td style="border-top: 1px solid black; border-bottom: 1px solid black;">14 December 2020</td> </tr> </table>	Claim for furlough days in	Claim must be submitted by	November 2020	14 December 2020
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<p>How much of this process will be AUTOMATED in terms of BACS payments to our business account?</p>	<p>Once HMRC have received your claim and you are eligible for the grant, payments will be made via BACS payment to a UK bank account.</p> <p>Claims will need to be made in accordance with actual payroll amounts at the point at which you ran your payroll or in advance of an imminent payroll.</p>										
<p>REIMBURSEMENT In what time frame will firms be reimbursed for furloughed workers?</p>	<p>This will be via a grant from HMRC (not a loan). The portal went live on 20 April 2020 and is available to all UK employers who have a UK bank account and UK PAYE payroll scheme.</p> <p>Employers do not have to have claimed before for the furlough payment.</p> <p>From 1st November 2021 there is no maximum limit in the number of employees the employer can claim for.</p> <p>HMRC will check the claim and provided you are eligible will pay into the nominated bank account by BACS.</p> <p>HMRC aim to make the payments to the nominated bank account six days after receipt of the claim provided your claim matches records that they hold for your PAYE scheme.</p>										

	<p>You must retain all your claim records for 5 years as HMRC retain the right to audit. Any claims based on inaccurate information will be recovered by HMRC.</p> <p>Furloughed employees should not contact HMRC as it is the employer who will make the payment to the employee.</p>
<p>PAYE Will PAYE continue to be deducted in the normal way?</p>	<p>HMRC will pay a grant to the employer must process the furloughed employees through their payroll as normal so PAYE and Employee National insurance contributions will be deducted. Employees will also continue to make automatic enrolment contributions on qualifying earnings unless they have elected to opt out or have ceased savings into a workplace pension plan.</p>
<p>Can furloughed employees continue to have SALARY SACRIFICE deductions taken from their pay?</p>	<p>Agreement will need to be sought before suspending salary sacrifice arrangements as these arrangements have been contractually agreed and would, in general, must be terminated and dealt with subject to that agreement.</p> <p>We would advise completing a cost – benefit analysis before carrying out this measure as dependant on policies employers and employees may be required to pay more tax and National insurance contributions.</p>
<p>SICK LEAVE Can employees who are certified as sick be made furloughed workers?</p>	<p>Employees on sick leave should be paid SSP, or sick pay where contractual, for the duration. They can subsequently be furloughed when their period of sickness ends if required as the scheme is not intended for short term sickness.</p> <p>Employees who are shielding or need to stay at home with someone who is shielding can be furloughed. They do not have to be placed on furlough if they can continue to work from home.</p> <p>Please note an employer will not be able to recover SSP if you have furloughed an employee. It should be noted that furloughed employees retain their statutory rights and therefore if a furloughed employee becomes ill, they must be paid at least the SSP rate if they are considered as sick and not furloughed.</p>

<p>OTHER LEAVE Can employees who are off on any other leave e.g. maternity leave or paternity leave etc be made furloughed workers?</p>	<p>For employees on maternity leave the normal rules apply. If you offer enhanced (earnings related) contractual pay to women on Maternity Leave, this is included as wage costs that you can claim through the scheme. The same principles apply where your employee qualifies for contractual adoption, paternity, or shared parental pay.</p> <p>If an employee returns from maternity or any other parental leave period; you can claim in respect of a period that commences on or after 1st November; the normal scheme rules apply.</p> <p>If an employee wants to end their maternity leave early to enable them to be furloughed with your agreement; they must give the employer a minimum of 8 weeks' notice of their return to work. Employers cannot furlough them up to the end of the 8 weeks.</p>
<p>How do I calculate statutory paid PARENTAL LEAVE entitlements for an employee who is a furlough worker?</p>	<p>Furloughed workers are entitled to pay based on their usual earnings rather than at the furloughed pay rate. This will include entitlement to statutory maternity pay and other forms of parental and adoption pay.</p>
<p>WORKING WHILE FURLOUGHED Can we furlough workers on a rolling basis?</p>	<p>You can furlough employees during the period the scheme is in operation in line with business operational needs subject to the minimum claim period of 7 calendar days.</p> <p>Employees may be placed on full furlough or flexible furlough.</p> <p>Flexible furlough enables employees to work part time and be furloughed for the remainder of their contracted hours of work.</p>
<p>WORKING WHILE FURLOUGHED Can employees work for other employers whilst furloughed e.g. supermarkets, NHS?</p>	<p>If an employee has more than one employer (multiple jobs), provided it is permitted within your employment contract, they can continue to work for one employer and be furloughed by another.</p>

	<p>If that employer subsequently decides to furlough the same rules apply and they can receive 80% of their salary from that employer. The 80% of salary or £2,500 cap applies to each contract of employment (job).</p> <p>Additionally, if your contracts of employment allow or you agree, an employee can work commence work for another employer whilst furloughed.</p> <p>A furloughed employee can take part in volunteer work if it does not provide services to or generate revenue for, or on behalf of your business or a linked organisation.</p> <p>Please note in both cases above; you should clearly outline to the employee this is a temporary arrangement and they must be able to fulfil the needs of their substantive contract in your employment at short notice.</p>
<p>WORKING WHILE FURLOUGHED Can furloughed workers be rotated back into the business?</p>	<p>As it is a separate claim for each period, furloughed workers can be brought back into work on a gradual basis as required by the business recovery within the time parameters of the scheme. Other action may need to be considered beyond this date if the business is unable to bring an employee back to work.</p>
<p>WORKING WHILE FURLOUGHED Can furloughed workers undertake ad hoc work for the business?</p>	<p>Where an employee is on full furlough; they cannot undertake any work for the business. However, if the employee is on flexible furlough; they may work some hours and be furloughed for the remainder of their contracted hours.</p> <p>The rules are slightly different for Directors who can undertake statutory obligations of the business under the Companies Act 2006 (provided they do no more than would reasonably be judged necessary for that particular purpose).</p>
<p>ANNUAL LEAVE Will employees continue to accrue annual leave while furloughed?</p>	<p>Holiday leave continues to be accrued in line with employees employment contract during the furloughed period.</p>

<p>ANNUAL LEAVE How will holiday entitlement and pay be treated during the furlough period?</p>	<p>Whilst an employee is furloughed, no other payments should be made. The employee is in effect temporarily 'laid off' as opposed to permanently 'laid off'.</p> <p>Employees can request and take holiday days and bank holidays in the usual way during a period of furlough leave. They must however seek agreement from their employer first. Furlough workers must get their usual pay in full for the holiday, bank holidays taken.</p> <p>Employer can require employees to take their holiday during a period of furlough by giving double the length of notice as the period of holiday. For example, 2 days' notice for 1-day holiday.</p>
<p>ANNUAL LEAVE Do we need to pay-up all accrued but unused holiday to the point of furlough?</p>	<p>No. This is not necessary as holiday leave will continue to accrue whilst they are furloughed.</p>
<p>ANNUAL LEAVE Should I ask employees to take annual leave before furloughing?</p>	<p>This is a matter for each business to consider. The purpose of furloughing is to prevent unemployment and to ease financial pressures on a business in order that it can survive a temporary downturn in business. Asking an employee to take leave will result in the company continuing to pay the employee which in the current climate may not be an attractive proposition.</p>
<p>ANNUAL LEAVE Are we expected to deduct used but not accrued holidays to this point?</p>	<p>No. The worker will remain an employee during the period of furlough and retain contractual benefits other than that around pay.</p>
<p>PENSIONS Can we deduct pension, and other voluntary deductions?</p>	<p>Employees will continue to make automatic enrolment contributions on qualifying earnings unless they have elected to opt out or have ceased savings into a workplace pension plan.</p>

<p>WHAT OPTIONS do we have to give our employees?</p>	<p>The aim of Coronavirus Job Retention Scheme (CJRS) is for businesses to retain employees during the period in order that they can bring them back when the business situation improves (subject to the current scheme duration).</p>
<p>Can furloughed workers receive TRAINING?</p>	<p>A furloughed employee can take part in training as long as it does not provide services or revenue to the business. If workers are required to complete training in connection with the business, they must be paid the National Living Wage or National Minimum Wage for the time spent training, meaning you may have to top up at the companies expense.</p>
<p>Will REDUNDANCIES be considered unfair in circumstances where employers could have applied for the scheme?</p>	<p>Companies should explore all options and adopt the best option for their company. The CJRS is to avoid mass redundancies and unemployment; however, in some cases there may be no alternative.</p>
<p>Is CONSULTATION in a redundancy situation compulsory; especially where employer is facing financial uncertainty?</p>	<p>Companies must ensure they always follow due process; failure to do so will result in unfair dismissal claims. Employment Tribunals may be sympathetic to the current situation but will not look favourably where companies have deliberately failed to follow a fair and reasonable process.</p>
<p>Can we use furlough grant for the NOTICE PERIOD payment where an employee's employment is being terminated/ ending?</p>	<p>Claims cannot be made for any day in which an employee is serving notice during the furlough period. This applies to both statutory and contractual notice.</p> <p>This includes employees who are serving notice of resignation or retirement.</p>
<p>Will the scheme be EXTENDED beyond 30th April 2021?</p>	<p>The government has not commented on this; however this is a fluid situation.</p>
<p>CAN STAFF REFUSE to be furloughed?</p>	<p>Yes, staff must agree to be furloughed and cannot be forced. If an employee refuses; the company should consider alternative options for example, redundancy.</p>

<p>I understand that the employment contract must allow VARIATION IN TERMS at company discretion otherwise a consultation period of a month is needed. If this is done, I assume the company can still back date the application of the furlough?</p>	<p>Typically, where there is no contractual clause to vary the contract or lay off employees; employers must enter a period of consultation and seek employee agreement prior to applying the changes to the contract. However, this is an exceptional situation and many companies do not have time to conduct a consultation period.</p> <p>The government have offered the CJRS and therefore companies should discuss the options with their staff openly and frankly and seek agreements from staff. The aim is to avoid a redundancy situation.</p>
<p>Does the company have to prepare a CONTINUITY PLAN to apply for furlough</p>	<p>No continuity plan is required to apply for a CJRS grant, however when selecting employees, employers should be aware that equality and discrimination laws will apply in the usual way.</p>
<p>Can HOLIDAY LEAVE be carried over?</p>	<p>Working Time Regulations has been amended. Workers who have not taken all their statutory annual leave entitlement due to COVID-19 will now be able to carry up to 4 weeks over into the next 2 leave years.</p>
<p>If making staff redundant after furlough has ended, do NORMAL REDUNDANCY RULES apply?</p>	<p>Yes, the usual redundancy procedure will apply, and payments should be made according to the redundancy policy if the organisation have one or statutory redundancy guidelines.</p>
<p>Can VOLUNTARY DEDUCTIONS e.g. private medical insurance continue to be deducted from employees on furlough?</p>	<p>Yes, providing the scheme is still in operation and the employee has no objection to continuing with their scheme.</p>
<p>Can an employee PAY FREQUENCY change during furloughed status?</p>	<p>This is subject to agreement from the employee to change their payment frequency.</p>

<p>Can firms insist that employees undertake PERSONAL DEVELOPMENT while on furlough?</p>	<p>Training is permitted providing the employee does not provide services to or generate revenue for the employer whilst undertaking it.</p> <p>If employees are required by you to undertake training (such as online training) while on furlough, they must be paid at least the National Living Wage/National Minimum Wage, even if that is more than the level of their 80% subsidised pay under the scheme.</p>
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