



# GUIDE TO FLEXIBLE FURLOUGH

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# **GUIDE TO FLEXIBLE FURLOUGH**

**The Coronavirus Job Retention Scheme (CJRS), more commonly known as the furlough scheme, was a new concept to all, and was introduced in March as the UK went into a national lockdown.**

The aim of the scheme was to ensure that as many people could be kept in employment as possible for as long as possible. The way in which this would be possible is that employers could claim a grant from the government and were able to claim 80% of their employees' wages, who were placed on "furlough leave".

When it was first introduced, the rules were clear that employees could not carry out any work for their employers at all if they were placed on furlough. There were a lot of calls for the government to make the scheme more flexible as research suggested that employers had some work for employees to do, but not enough to bring them back for a week or longer. They may have only had work for them for a couple of hours in a day or a few days in the week.

*On the 12<sup>th</sup> June 2020, the government made the welcome announcement and introduced the concept of flexible furlough.*

## **So, what does it actually mean?**

Flexible furlough means that employers can bring back employees from furlough leave for any work pattern and length of time that they require them to work. Employers can still claim for the government grant for the hours that the employee is on furlough, but they will have to pay the employee their full pay for any hours that the employee does work.



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## **Who can be placed on flexible furlough?**

Employers can only place employees on flexible furlough if they had been furloughed for 3 consecutive weeks between the period of 1<sup>st</sup> March 2020 and 30<sup>th</sup> June 2020. In other words, an employee would have had to have been furloughed for the minimum 3 weeks between March and June in order for them to be placed on furlough.

In order for the 3-week minimum period to be completed by the 30<sup>th</sup> June 2020, employers should have put employees on furlough for 3 weeks by the 10<sup>th</sup> June 2020. You can only put an employee on flexible furlough if they have completed a 3-week minimum furlough period by the 30<sup>th</sup> June 2020. Furthermore, employers cannot put any new employees on furlough either.

*This means that from July 2020, claims cannot overlap calendar months.*

## **How can I put employees on flexible furlough?**

In short- talk to them! You need to discuss this with your employees as you need to have an agreement between you and your employer about the arrangements of their hours and part time work. You will need to have this agreement confirmed in writing and where you have agreed to put employees on flexible furlough, you must keep a record of this agreement for 5 years. You can store these records in your employee's personnel file or have a separate coronavirus area where you store everything coronavirus based.

In the agreement, make sure you cover the following things:

- The hours that the employee will be working; and
- The hours that the employee will be on furlough

There is no obligation to put employees on flexible furlough just because the scheme has come into force. If required, you can keep employees fully furloughed if you need to.



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## **How long does flexible furlough last?**

Unlike when the employees were placed on full furlough, there is no time limit or minimum period for employees to be placed on furlough. In short, this means you do not need to put employees on furlough for a period of 3 weeks. The flexible furlough agreement between an employer and employee can last any length of time but the employer has to claim for a minimum period of 7 calendar days. You cannot claim under the scheme for a furlough period of less than 7 calendar days. You can, however, enter into a flexible furlough agreement with your employee more than once.

## **How much do I pay employees on flexible furlough?**

If you have employees who are placed on flexible furlough, you would have to pay them for the number of hours that they have worked. This includes national insurance contributions and pension contributions for the hours they have worked.

For the rest of the time that they remain on furlough, you will be able to claim the remainder of the employees' wages up to the maximum cap.

As the scheme is going to be coming to an end in October, the amount of money which employers will be able to claim back from the government will reduce overtime.

## **Do I need to keep a record of when my employees are working?**

In short- yes. Employers will need to keep records of how many hours each employee works and how many hours they are kept on furlough and details of the normal hours of work. For example, if your employee works 40 hours per week usually, but you have come to an agreement that they will be placed on flexible furlough, you expect them to work for 20 hours per week and they will be kept on furlough for 20 hours per week, you will need to keep a record of this for 5 years. Ensure that you keep a record of their normal working pattern too.



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## **How can I calculate normal working hours?**

If you have placed an employee on flexible furlough, you will need to calculate their normal working hours. You will also need to keep a record of the number of hours they are kept on furlough and are expected to work during each claim period.

Depending upon whether your employee has fixed hours or works variable hours, you will need to do a slightly different calculation, which is set out below.

### Fixed hours

If your employee has fixed hours of work each week e.g. 35 hours per week or where their pay does not vary on the number of hours they work, you would need to use the hours that your employee was contracted for at the end of the last pay period which ended on or before the 19<sup>th</sup> March 2020.

### Variable hours

If your employee's hours of work are variable i.e. their hours of work vary from week to week, you will use the higher of the 2 calculations set out below:

1. The average number of hours they have worked in the tax year 2019 to 2020; or
2. The corresponding calendar period in the tax year 2019 to 2020.

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## How are the government contributions changing?

As part of the government's plan for employers to rely on the government grant as time goes on, they have issued guidance which will see a change to the contributions that the government will make to employee's wages, which are set out below.

Date	Employer and government contributions
1 <sup>st</sup> July 2020	<ul style="list-style-type: none"><li>• The government will pay 80% of employees' wages (up to a maximum of £2500 per month)</li><li>• They will also pay the employers national insurance contributions and pension contributions for the hours the employee doesn't work</li><li>• Employers must pay employees for the hours that they do work</li></ul>
1 <sup>st</sup> August 2020	<ul style="list-style-type: none"><li>• The government will pay 80% of employee's wages (up to a maximum cap of £2500) and employer's pension and NIC contributions for the hours the employee does not work</li></ul>
1 <sup>st</sup> September 2020	<ul style="list-style-type: none"><li>• The government will pay 70% of employee's salary (up to a maximum cap of £2,187.50) for any hours the employee does not work;</li><li>• The employer will have to pay NIC and pension contributions</li><li>• Employers have to top up the remaining 10% (so that the employee receives 80% of their pay to a cap of £2500) or more if this has been agreed</li></ul>
1 <sup>st</sup> October 2020	<ul style="list-style-type: none"><li>• The government will pay 60% of employee's salary (this is a maximum of £1,875) for the hours the employee does not work</li><li>• Employers have to top up the remaining 20% of employee wages to make up 80% of their pay or to a cap of £2500 or more if this has been agreed</li><li>• Employers will have to pay NIC and pension contributions</li></ul>
31 <sup>st</sup> October 2020	The scheme will close

As with the scheme before, it is at the discretion of the employer if they choose to top up their employee's wages so that they receive more than 80% of their monthly pay.

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If you have any queries in relation to the above or need some help making sense of the guidance, please contact us by calling us on 0115 870 0150 or by emailing us at [support@guardian.online](mailto:support@guardian.online)

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