

# Job Support Scheme FAQ

The information on this page was last updated on Thursday 5<sup>th</sup> November 2020.

## Understanding furlough

### Q. What's the difference between furlough and lay off / short time?

Employers can impose short time working or lay off if they have a clause in the employee's contract or, in these difficult times, with the employees agreement. The rules around lay off are complicated and allow the employer to give no work to the employee so they are 'laid off' for an indefinite period. The employee is entitled to a statutory payment of £30 per day but only for the first five days.

With furlough, the consenting employee can do no work but will receive 80% of their salary which the business can claim back from the Government. Furlough will be a much more attractive proposition to the employee than lay off.

### Q. Do I have to pay contributions for furloughed employees?

Currently there is no obligation on you to pay the additional 20% top-up unless that is an express agreement with the employee.

There were no contributions up until 31st July. From then onwards, employer contributions are as follows:

1st August onwards – employers must pay national insurance and pension payments

1st September onwards – employers must also pay 10% of the furloughed employees wages

1st October onwards – employers must also pay 20% of the furloughed employees wages

1st November onwards – employers must pay National Insurance and pension payments only

During this time, employees will not be affected at all – they will always receive 80% of pay when furloughed.

## Eligibility

### Q. How do I know if I am a qualifying employer?

To have any employees on furlough prior to 31st October, you must have a PAYE scheme and have the furloughed employees registered on HMRC's RTI system on or prior to 19th March 2020.

To have any employees on furlough from 1st November onwards, you must have a PAYE scheme and have the furloughed employees registered on HMRC's RTI system on or prior to 30th October 2020.

You may not be an eligible employer if you receive public funding. Please contact your local HR Dept office for advice.



**Q. I have just transferred an employee to my company under TUPE, but after 28th February – I need to furlough them, can I?**

This is a really complicated area of law, so please contact your local HR Dept office for advice on whether or not this applies to your situation.

**Q. When does the furlough scheme close?**

It is anticipated that the scheme will close at the end of March 2021.

**Who can be furloughed?**

**Q. How do I designate employees as furloughed?**

You must get the employees agreement and put this in writing, we can guide you through this process and provide templates where appropriate. The agreement must be kept for five years.

**Q. Can an employee choose to be furloughed on 80%?**

No. It is the employer's decision. We advise to only furlough an employee if this is appropriate for the business, unless an employee's circumstances could mean that they are entitled to be furloughed under the terms of the scheme. For example, parents with childcare responsibilities who are unable to work because of school closures can be furloughed. Contact us for advice.

**Q. If an employee has more than one job, can I furlough them?**

Yes you can furlough them for the job they have with you. It's important you are aware that if you own other companies or your companies are in any way linked (associated companies) then you cannot furlough from one company and allow the employee to continue to work in the other. This is complex, please contact your local HR Dept office for specific advice on this point.

**Q. Can an employee return early from maternity leave and benefit from being furloughed?**

They would need to give 8 weeks' notice as per the normal maternity leave rules but could be furloughed on their return to work if the business requires this. Normal maternity rules will still apply.

**Q. How do we furlough a company director?**

Salaried directors can receive support through the scheme and can continue to fulfil duties to their company as set out in the Companies Act 2006. The Board need to decide which directors should be furloughed, and this should be formally adopted as a board resolution with appropriate records made and communicated in writing to the director concerned. The director must sign and return this and it must be kept for five years.

Furloughed directors must not do work of a kind that they would carry out in normal circumstances to generate commercial revenue providing services to, for, or on behalf of their company. They are allowed to fulfil their statutory duties.



## How long can employees be on furlough?

### **Q. How long is the scheme open for?**

The scheme is currently open until the end of March 2021.

### **Q. How long does an employee have to be furloughed for?**

There is no minimum period of furlough leave but claims must be for a 7 day period.

### **Q. Can I furlough an employee more than once?**

Yes, you can agree any working pattern with your employees and claim for unworked hours under the CJRS.

## Rules of activity whilst on furlough

### **Q. Can an employee work from home and still claim the 80%?**

The guidance states that employees must not do any work for their employers whilst furloughed.

You cannot ask your employee to do any work that:

- makes money for your organisation or any organisation linked or associated with your organisation
- provides services for your organisation or any organisation linked or associated with your organisation

### **Q. Can an employee who is furloughed check emails to just forward on anything that needs doing to their colleagues who are working?**

This might be deemed “providing services” so our advice is not to allow your employees to do any work whilst they are furloughed.

### **Q. Can an employee do volunteering?**

Yes, furloughed employees can take part in volunteer work as long as it does not provide services to, or generate revenue for, or on behalf of, your organisation. They are free to volunteer for other organisations or work for other organisations if you agree to it.

### **Q. We want to provide online training to employees on furlough. Is this allowed?**

Yes and it is a good idea to keep staff up-skilled. You must ensure that furloughed employees receive at least National Minimum Wage/ National Living Wage for their time spent training.

### **Q. I have furloughed an employee but own another company recruiting staff, can they work for my other company?**

No. A furloughed employee cannot work for, provide services to generate revenue for an associated employer.

An associated employer is defined clearly in the Corporation Tax Act in section 1122 – we suggest you contact your local HR Dept office or your accountant for advice on this issue.



### **Q. How do I deal with a situation where a furloughed employee needs to be involved in a disciplinary or grievance process?**

ACAS advises that Someone on furlough can take part in a disciplinary or grievance investigation or hearing, including if they:

- are under investigation in a disciplinary procedure
- raised a grievance
- are chairing a disciplinary or grievance hearing
- are taking notes at a hearing or during an investigation interview
- are being interviewed as part of an investigation
- are a witness at a hearing
- are an employee's companion for a hearing

Gov.uk also states “Employee representatives or union representatives can undertake activities for the purpose of individual or collective representation of employees or other workers.”

Please contact your local HR Dept office before commencing to ensure a fair process.

### **Q. Can the CJRS grant be used to cover redundancy notice pay?**

Contractual or statutory notice pay is a legal entitlement and must be paid in line with the employment contract. If the contract is silent on notice pay, statutory notice pay must be given. The employee can be furloughed during a notice period but their pay must be topped up in line with the employment contract regardless of whether or not the CJRS is claimed.

The rules are clear that the redundancy payment itself cannot be covered by the CJRS grant.

## **Making a claim under the scheme**

### **Q. How do I claim?**

Submit information to HMRC and individuals earnings via the online [portal](#).

The claim process requires essential information to be provided. To save time, we suggest that you read the [step by step guidance](#) before starting.

## **Documentation**

### **Q. What paperwork do I need?**

You must have a written agreement with each individual employee, signed by them confirming that they are furloughed and will not undertake any work for the company. The agreement can be via email.

### **Q. Do I have to keep documentation about the furlough scheme?**

Yes, you must keep the signed agreement to furlough the employee for a minimum period of 5 years.<sup>®</sup>



**Q. What do I do if my employee does not return the furlough agreement?**

As we have to have their agreement in writing you need to inform the employee that they cannot be furloughed and as such you cannot furlough them.

**Q. The gov.uk website says that the employee does not need to provide a written response – why are you advising me to get a written agreement from my employee?**

The guidance clearly states that CJRS guidance does not over-ride or in any way excuse breaches of employment, equality or discrimination law. Our advice is that this is a temporary change to the employment contract, so it's advisable to obtain written agreement from the employee to avoid dispute in future. Our role as your HR dept is to prevent people problems.

**We can advise you on the appropriate documentation for your business depending upon your circumstances so please get in touch.**

**<https://go.hrdept.co.uk/aim-museum>**

