

# Furlough and Annual Leave

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# What is Furlough?

- As part of its response to the COVID-19 pandemic the government has introduced the [Coronavirus Job Retention Scheme](#).
- Temporary leave of absence from work.
- Introduced to provide employers with an option to keep employees on the payroll without them working or working reduced hours under the flexible furlough scheme (starting in July)
- An alternative to implementing redundancies or lay offs without pay.

# Which employees are eligible for Furlough?

- The employees that can agree to being furloughed are those working for employers whose businesses have been severely affected by coronavirus.
- The furloughed employees must have been on the employer's PAYE payroll on 19 March 2020.
- Employees who have been on sick leave can be placed on furlough leave after the period of sick leave has ended if there is no work for them to do. Employees who are shielding themselves in line with government advice can also be placed on furlough or sick leave.

# How do I put staff on Furlough?

- Employers must select people for furlough in a fair way to avoid any discrimination.
- They should:
  - get agreement in writing and be clear how much the employee or worker will get paid during their furlough
  - keep furloughed workers on the employer's payroll and continue their employment contracts
  - make sure furloughs last at least 3 weeks
- **10 June 2020** is the last date employers can put people on furlough for the first time.

# How do I end Furlough?

- Employers should regularly review furlough agreements to decide when to bring furloughed staff back to work.
- It can help employers to consider:
  - which job roles and skills are needed in the workplace
  - if all furloughed staff are needed back at the same time
  - if any staff might be kept on furlough because they're temporarily unable to work, for example if they're caring for someone or are shielding
- There's no minimum notice period for furlough, but employers should:
  - talk to staff about any plans to end furlough as early as possible
  - encourage staff to raise any concerns or problems about returning to work

# What is Flexible Furlough?

- From 1 July 2020 employers will be able to bring back furloughed employees part time if they need to.
- The flexible scheme applies to employers currently using the scheme for previously furloughed employees.
- Employers will need to share the burden of paying NI and salaries from August onwards.
- Employees can work part-time under the revised flexible scheme.

# How the government's furlough scheme will work over the next few months

Percentage breakdown of wages for furloughed workers



Note: Employers will pay National Insurance and pension contributions from August

Source: HM Treasury

# Business Owners and Partners

- Owners of small businesses who pay themselves a PAYE salary are covered under the furlough scheme.
- The [Coronavirus Self-employment Income Support Scheme](#) provides a similar sort of support to those not eligible under the job retention scheme.
- This means self-employed directors with taxable profits below a £50,000 annual threshold whose business has been adversely affected by coronavirus can apply for support under the self-employment scheme (The scheme is going to be extended beyond June.)

# Holiday entitlement

- Almost all workers, including zero-hour contracted workers and those on irregular hours contracts, are legally entitled to 5.6 weeks' paid holiday per year (The exception is those who are genuinely self-employed.)
- A worker has the same holiday entitlement, regardless of whether they are on sick leave, maternity leave, parental leave and adoption leave, and other types of statutory leave.

# Do holidays accrue during Furlough?

- Yes. Employees continue to accrue holiday while on furlough.
- Where an employee gets more than their statutory holiday entitlement (5.6 weeks or 28 days), the employer could agree to reduce their holiday entitlement to the statutory amount.

# How do employees take holidays during Furlough?

- Furloughed employees can take holiday during furlough so the bank holidays and any additional holiday that arise during the furlough period, can be taken.
- In most situations, employees and workers should use their paid holiday ('statutory annual leave') in their current leave year. This is 5.6 weeks in the UK.
- This is important because taking holiday helps people:
  - get enough rest
  - keep healthy, both physically and mentally

*“It is common ground that the purpose of the entitlement to paid annual leave is to enable the worker to rest and to enjoy a period of relaxation and leisure.”*

# Can I compel staff to take leave?

- The government has published guidance, which supports the view that employers can compel employees to take holiday during furlough.

*"If an employer requires a worker to take holiday while on furlough, the employer should consider whether any restrictions the worker is under, such as the need to socially distance or self-isolate, would prevent the worker from resting, relaxing and enjoying leisure time, which is the fundamental purpose of holiday."*

- This will require the employer to give a furloughed employee notice of double the mandated holiday (so, five days holiday would require 10 days' notice).

# What are the required notice periods?

- Double the length of the holiday if the employer wishes to require a worker to take holiday on particular days.
- If the employer wants to cancel a planned holiday then the notice must be at least the length of the planned holiday.

# What about staff who have pre-booked holidays?

- Employers could also cancel pre-booked holidays, but the employer must give the employee the same number of days' notice as the original holiday request (so five days leave requires five days' notice to cancel).
- Where an employee wants to cancel holidays during their furlough leave, they would need their employer's agreement, so employees do not have the right to cancel pre-booked holidays. This is a matter for the employer to decide.

# What about Bank Holidays?

- Bank holidays are usually part of the legal minimum 5.6 weeks' paid holiday.
- Employers can still require employees and workers to take paid holiday on a bank holiday, unless they're off sick. They must give employees or workers notice.
- Employees and workers can also ask to take a day's paid holiday on a bank holiday.
- If the employer agrees, they must get their usual pay in full.

# Can staff carry over untaken holiday?

- The government has introduced a temporary new law allowing employees and workers to carry over up to 4 weeks' paid holiday into their next 2 holiday leave years.
- They may be able to carry over holiday if they've been 'furloughed' and cannot reasonably use it in their holiday year.
- This law applies for any holiday the employee or worker does not take because of coronavirus, for example if:
  - they're self-isolating or too sick to take holiday before the end of their leave year
  - they've had to continue working and could not take paid holiday

# Be flexible about holiday during coronavirus!

- It's a good idea to:
  - Talk about any plans to use or cancel holiday during coronavirus as soon as possible
  - Discuss why holiday might need to be taken or cancelled
  - Listen to any concerns, either from staff or the employer
  - Welcome and suggest ideas for other options
  - Consider everyone's physical and mental wellbeing
  - Prepare a temporary holiday policy to consider how holiday will be handled during this crisis.
  - Be aware that it's a difficult time for both employers and staff

# Q&A



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