



# Coronavirus (COVID-19) Business Survival Guide

## Employment Support For Businesses

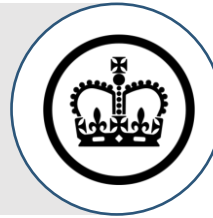
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# COVID-19 – FREQUENTLY ASKED QUESTIONS

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## WHAT DOES FURLOUGH MEAN?



- The word furlough generally means temporary leave of absence from work. This can be due to economic conditions affecting one particular company or matters affecting the country as a whole. Until now the expression has not carried any meaning in UK employment law;
- Furlough leave has been introduced by the government during the coronavirus pandemic to mean leave offered which keeps employees on the payroll without them working. As the furloughed staff are kept on the payroll, this is different to being laid off without pay or being made redundant; and
- People who get furloughed must not work for the employer during the period of furlough but usually return to their job afterwards unless redundancies follow; and
- Any employer in the country (whatever size) will be eligible for the scheme. Charitable and non-profit organisations are included.

- The scheme is intended to apply only to employers who cannot cover staff costs due to COVID-19. These employers can access support to continue paying part of their employee's wage, in order to avoid redundancies.
- It is not known if a large company with sufficient cash flow will be eligible if there is doubt as to whether redundancies would have been made, or if grants will be repayable if employers plan to make redundancies immediately after the coronavirus lockdown and furlough periods come to an end. The government have stated that the payments are grants and not a loan;
- Detailed treasury guidance is expected imminently. This should clarify the mechanics of the scheme; all employers are clearly eligible to apply but we do not know the extent of the evidence required; and
- Presumably public sector employees will not be affected as the scheme applies to employers who cannot cover costs.



## WHICH EMPLOYERS DOES THE CORONAVIRUS JOB RETENTION SCHEME APPLY?

Further information is available via the Government website [here](#).

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## HOW CAN EMPLOYERS ACCESS THE CORONAVIRUS JOB RETENTION SCHEME?



- Employers access the scheme through an online portal. The employer provides details of the affected furloughed employees online and submits information to HMRC about their earnings and any other information required, which will presumably include the employee's NI number.
- Employers should;
  - Fairly select employees affected for being furloughed (the government have not said this but it seems sensible);
  - Decide whether to pay 80% of salary or to supplement it;
  - Gain the employees' written consent unless contractual provisions already cover lay off; and
  - Stop the employees from working if they are now working from home, or send them home from the workplace.

- The employees that can agree to being furloughed are those working for businesses that would otherwise have to dismiss as redundant or lay off part or all of their workforce;
- The 80% wage guarantee will not cover zero-hour contracts or casual workers, unless they work on the PAYE system;
- For employees on zero-hours contracts who are on the PAYE system, their monthly pay in February can be used as a benchmark for furlough pay. It appears that if any employees did not work in February they should claim universal credit;
- Employees staying at home to look after young children are thought to be included in the furlough system in preference to being made redundant; and
- The self-employed are not covered although easier access to benefits will apply to them to cover a drop in income. This includes removing the income floor for universal credit and making an online application process.



## WHICH EMPLOYEES CAN BE FURLOUGHED UNDER THE SCHEME?

Further information is available via the Government website [here](#).

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## DO EMPLOYEES HAVE TO AGREE TO BE FURLOUGHED?



- Yes, employees must be consulted and agree to being furloughed. Changing the status of employees always is subject to existing employment law;
- Depending on the wording of the employment contract there may be an ability to lay-off workers. Although lay-offs under the Employment Rights Act 1996 are a different legal concept the wording in contracts may enable some employers to impose a furlough period;
- If there is no lay off provision in the existing contract the employer will need to agree with the employee that they going to become furloughed because no work is available. Inevitably employees will mostly agree to this; and
- The main alternative would be dismissal by reason of redundancy with the possibility of a delayed redundancy payment or no redundancy payment (for employees who have worked for less than two years). In most cases employees will agree where the alternative is redundancy.

- Yes, if employees do not agree to be furloughed employers can dismiss by reason of redundancy if the redundancy definitions are met and a proper process followed;
- Some employers may feel that the long-term effect on their business will be inevitable closure or rationalisation.
- If employers feel furlough is likely to be followed by redundancies it may help to select employees for furlough using a process similar to redundancy selection; and
- This would involve using objective criteria, such as a scores matrix based on skills, productivity, previous appraisals etc.



## IF EMPLOYEES DO NOT AGREE, CAN THEY BE MADE REDUNDANT?

Further information is available via the Government website [here](#).

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## IS AN EMPLOYER REQUIRED TO SUPPLEMENT EMPLOYEES SALARY OVER THE 80%?



No, employers can make up the additional pay, but they are not required to do so. For employees who have been furloughed employers can choose whether to:

- Only make the salary payment reimbursed by the government;
- Pay all of the difference between the grant and the employee's normal salary; and
- Pay part of the difference between the grant and the employee's normal salary.

Any extra payment the employer chooses to make will be either the additional 20% of salary, or any amount in excess of £2,500. If management choose to pay more, it will depend upon the business' overall health and cashflow affecting the ability to fund payments. Concerns about staff retention once the crisis has passed may also affect decisions being made.

- It is not clear if the furloughed employees will receive £2,500 exactly until more detailed guidance is issued. However, it is logical that employees who earn under £3,125 a month will receive less than £2,500;
- This is because for those earning £3,125 a month, 80% of salary would be £2,500;
  - Employees who earn less than £3,125 a month normally, will get 80% of their salary for three months (or more).
  - Employees earning in excess £3,125 a month will receive the £2,500 figure, which is less than 80% of their salary for those three months (or more) unless the employer chooses to supplement it.
- The £2,500 may include employer's NI and pension contributions, but this is not yet clear. Therefore £2,500 may end up not being the precise maximum gross pay which the employee receives, if for example, pension contributions are then taken into account.



## WILL FURLOUGHED EMPLOYEES RECEIVE £2.5K EXACTLY?

Further information is available via the Government website [here](#).



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## WHAT IS THE BASIS FOR FURLOUGH PAY FOR EMPLOYEES FURLOUGHED ON RETURN FROM STATUTORY LEAVE



Statutory leave includes maternity leave, paternity leave, shared parental leave, adoption leave, sick leave and parental bereavement leave.

- In line with other employees, claims for full or part time employees returning from statutory leave after 28 February 2020 should be calculated against their salary, before tax, not the pay they received whilst on statutory leave;

Claims for those on variable pay, returning from statutory leave should be calculated using either the:

- Same month's earning from the previous year; or
- Average monthly earnings for the 2019-2020 tax year.

## TUPE And Business Re-organisation

- A new employer is eligible to claim under the CJRS in respect of the employees of a previous business transferred after 28th February 2020 if either the TUPE or PAYE business succession rules apply to the change in ownership.

## Payroll Consolidation

- Where a group of companies have multiple PAYE schemes and there is a transfer of all employees from these schemes into a new consolidated pay scheme after 28<sup>th</sup> February 2020 the new scheme will be eligible to furlough those employees and claim the grants available under the CJRS.



## CAN EMPLOYEES BE FURLOUGHED IN TUPE/BUSINESS RE-ORG/PAYROLL CONSOLIDATIONS

Further information is available via the Government website [here](#).

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## WHAT INFORMATION DO EMPLOYERS NEED TO CLAIM FOR THE GRANT UNDER THE JOB RETENTION SCHEME



- Employers should discuss with their staff and make any changes to the employment contract by agreement;
- Employers may need to seek legal advice on the process; and
- If significant numbers of staff are involved, it may be necessary to engage collective consultation processes to procure agreement to changes to terms of employment.

To claim, you will need:

- Your employer PAYE reference number;
- The number and names of the employees being furloughed;
- National Insurance Numbers for the employees you want to furlough;
- Payroll/works number for the employees you want to furlough;
- Your Self Assessment Unique Taxpayer Reference or Corporation Tax Unique Taxpayer Reference or Company Registration Number;
- The claim period (start and end date);
- Amount claimed (the minimum length of furloughing is 3 months); and
- Your bank account number and sort code.

If an employee currently has more than one employer:

- They can be put on furlough by one employer and continue to work for another;
- If they're put on furlough by more than one employer, they will receive separate payments from each employer;
- The 80% of their regular wage up to a £2,500 monthly cap applies to each job; and
- If they have had multiple employers over the past year, have only worked for one of them at any one time, and are being furloughed by their current employer, they cannot be furloughed by their previous employer.



## CAN EMPLOYEES BE FURLOUGHED BY MULTIPLE EMPLOYERS

Further information is available via the Government website [here](#).

# CHAMBER MEMBERSHIP SUPPORT



## WHAT DO YOU GET WITH QUEST HR SERVICES?



- Quest's qualified and experienced employment law, HR, health & safety and legal experts will be on hand to deliver the advice you require on a wide range of employment issues;
- Whether on-site, online or on the phone, you can trust the Quest consultants to give you their best at all times;
- Depending on your business needs, Quest can prepare and issue bespoke contracts of employment, employee handbooks and health & safety manuals;
- Whatever your choice you will have access to HR, health & safety and legal libraries containing documents and advice.

- Employment law can be complex and ever changing and keeping up to date can be a time consuming task. Quest provide regular updates and your membership provides access to its team of advisors;
- If you require detailed advice on a specific area of the current Employment Legislation law, please contact the Quest Employment Team for help;
- This HR health check has been designed to identify the main areas and actions you will need to focus on to improve your existing HR situation;
- Quest HR Training Courses can cover techniques to follow when handling difficult situations, legal implications or decision making, while enjoying an excellent quality of training and facilities; and
- A dashboard of Human Resource, Health & Safety and Legal Services advice is available for Chamber members as part of your membership.



## OTHER AVAILABLE RESOURCES

**Contact your local Chamber who will provide your access details if you do not already have these.**



# REDUNDANCY SUPPORT (PACE)



## WHAT SUPPORT IS AVAILABLE FOR THOSE FACING REDUNDANCY?



- The scheme offers free advice and support, as the lead agency in PACE – Partnership Action for Continuing Employment;
- PACE is designed to help minimise the impact for people and businesses facing redundancy, with support from 22 different organisations;
- PACE was set up by the Scottish Government, and also includes DWP (through Jobcentre Plus), local authorities, Citizens Advice, colleges and training providers. Local PACE teams deliver the service across Scotland;
- With its unique understanding of the local labour market, PACE offers a wealth of experience to help companies and people who are facing redundancy; and
- Local teams can respond quickly when situations arise and can also come in and assist businesses to try and minimise the risk of redundancy before it happens.

- For employers, PACE provides support for businesses of any size, no matter how many employees are involved. It is free of charge, and helps take away some of the strain of dealing with redundancy;
- For employees it means free, impartial advice on dealing with the practical and emotional sides of redundancy;
- PACE advisers help people recognise their skills, explore their options and prepare for their next move;
- Because PACE supports companies across Scotland, the partnership can often connect businesses looking to hire new people with those making redundancies; and
- PACE plays a vital role, supporting people through what can be one of the most stressful periods of their working lives.



## THE PACE APPROACH

Further information can be found [here](#).