

Employment – 20:20 vision

Providing clarity and insight on employment law matters

Latest updates to the Coronavirus Job Retention Scheme



The Coronavirus Job Retention Scheme (the “**CJRS**”) is changing in a number of ways from 1 July 2020 (see our [previous briefing](#) outlining the changes).

On Friday, 12 June 2020, the government issued guidance providing more detail on some of these changes – the key points are below.

Flexible Furloughing

- From 1 July 2020, employers will be able to flexibly furlough employees who have previously been furloughed for at least 3 weeks. This will allow employers to agree with employees to come back to work for any amount of time and any work pattern.
- The updated guidance confirms that in order to flexibly furlough an employee:
 - agreement on the furlough arrangements must be reached with the employee (or collective agreement with a trade union);
 - there must be a new written agreement that confirms the new furlough arrangement;
 - the written agreement must be kept for five years; and
 - the employer must keep records of how many hours employees work and the number of hours they are furloughed.
- For employees placed on furlough from 1 July 2020, there is no minimum period for which they must be placed on furlough (the previous furlough period of 3 consecutive weeks will no longer apply). The claim period, however, must be for a minimum of seven days and the claim itself cannot overlap calendar months (see more information about claim periods [here](#)).

- If you are grappling with the calculations involved with the pay for flexibly furloughed employees – see the government’s worked examples [here](#).

Parental leave

- The cut-off date for furloughing an employee for the first time was 10 June 2020, but there is an exception for those on family friendly leave.
- The latest guidance confirms employers can furlough an employee returning from various types of statutory parental leave after 10 June 2020, even if they are furloughing them for the first time. Employers may do this provided that:
 - they have previously submitted a claim for any other employee in their organisation in relation to a furlough period of at least 3 consecutive weeks taking place any time between 1 March 2020 and 30 June 2020;
 - the employee started maternity, shared parental, adoption, paternity and parental bereavement leave before 10 June 2020 and has returned from that leave after 10 June 2020;
 - the employee was on the employer’s PAYE payroll on or before 19 March 2020. This means an RTI submission notifying payment in respect of that employee to HMRC must have been made on or before 19 March 2020.

Tapering

- The government will taper down the level of the CJRS grant in the coming months. In our previous briefing we set out a [handy flowchart](#) on how the tapering of the CJRS will work, the key points are:
 - From 1 August 2020 employers will be required to pay employer NICs and mandatory employer pension contributions of furloughed employees.
 - From 1 September, in addition to the above payments for NICs and pension, employers will be required to contribute 10% towards the furloughed employees' salary costs. The government will contribute 70%, capped at £2,187.50 per month.
 - From 1 October the employer contribution increases to 20%, with the government contributing 60%, capped at £1,875 per month (in addition to the NICs and pension payments set out above).
- If you are wondering how the tapering will work in practice, see the government's worked examples [here](#).

Maximum number of claims

- The number of employees for which an employer can claim in any single period starting from 1 July 2020, cannot exceed the maximum number of employees for which the employer claimed under any claim ending 30 June 2020.
- For example, the guidance states that if an employer had previously submitted three claims between 1 March 2020 and 30 June, in which the total number of employees furloughed in each respective claim was 30, 20 and 50 employees. Then the maximum number of employees that employer could furlough in any single claim starting on or after 1 July would be 50.
- When calculating the maximum number of employees, this does not include those whom the

employer is furloughing for the first time due to them returning from parental leave. This means the maximum number of employees an employer can claim for in these circumstances, is the maximum claimed for in any one claim before 30 June 2020, plus any employees that the employer is furloughing for the first time due to them returning from parental leave.

Next steps

Employers should be planning what to do next, including:

- Do you want to flexibly furlough employees? If so, which work should be done on a part-time basis and what working pattern will be most suitable? Record the business rationale for such decisions.
- How will you monitor the time that an employee works to ensure it is in line with what is expected and that you don't overclaim or underclaim from the CJRS?
- Does your furlough documentation consider the changes from 1 July 2020? If not, update the agreement.
- Do you want to get different templates which can be used for the varying types of flexible furlough arrangement you are putting in place?
- What will you do regarding accrued holidays during this period?
- Are you planning on employees returning to the workplace? Have you carried out risk assessments and ensured you are meeting your health and safety obligations? Do you need to update your health and safety policy?
- Looking ahead, what is your plan for the rest of 2020? If redundancies are on the horizon do you need to be thinking about collective consultation? Do you have contingency plans for a second lockdown?

We have a dedicated Covid-19 team of employment lawyers keeping up to date on the latest developments and who are available to answer any questions you may have. You can find more information [here](#)



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