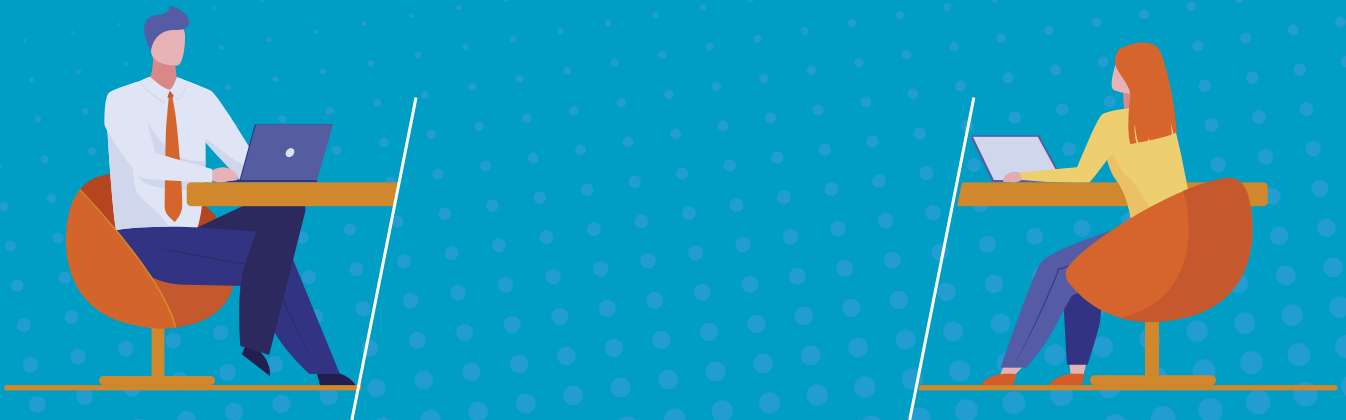


Human Resources Coronavirus Support

Section 1: **Homeworking**

Section 2: **Coronavirus Job Retention Scheme**



Human Resources Coronavirus Support

As the COVID-19 virus continues to spread around the world, it's causing unprecedented HR challenges for many businesses. This information sheet developed by Corinna Lloyd-Jones, Menter a Busnes' HR Director, outlines some current topical employment considerations.

Section 1: Homeworking

Social distancing

On 23 March, the Government announced that the public must stay at home, except in limited circumstances, including when their work cannot be done from home. As a result, all employees who can work from home should be permitted to do so.



The Government has also issued guidance on shielding people, including children, who are at very high risk of severe illness from COVID-19 due to an underlying health condition. The guidance also applies to those who need to stay home with someone who is shielding. Although the shielding guidance does not specifically refer to working, it does identify those employees who would be particularly vulnerable if required to attend work as normal. As a result, where homeworking is not possible for these employees, employers are advised to carefully consider before requiring them to attend work.

Full guidance on shielding can be viewed here:
<https://www.gov.uk/government/publications/guidance-on-shielding-and-protecting-extremely-vulnerable-persons-from-covid-19/guidance-on-shielding-and-protecting-extremely-vulnerable-persons-from-covid-19>

School closures

Following UK school closures from 20 March, employers should expect some disruption to people's ability to work as normal where they have childcare responsibilities. Normally, it would not be appropriate for an employee to work from home while providing childcare, however as the COVID-19 crisis develops, employers may need to take a more pragmatic approach to avoid a situation where large groups of the workforce are unable to perform their work responsibilities.

In these unprecedented times, employers may be prepared to adopt a more flexible approach to homeworking by allowing employees to work around their childcare responsibilities. For parents of younger children who require constant attention, this may involve reducing or changing an employee's working hours, in consultation with them, so they are able to split the childcare with another parent or family member in the household so that both are able to continue working.

Alternatively, some parents may choose to take some time off as holiday for normal processes and pay apply there. Employees may also assert their statutory right to some time off to care for a dependant, which is normally unpaid, unless there is a contractual right to pay. Given that schools are likely to be closed for some time, however, it is likely that many employees who can work from home would prefer to do so (rather than taking unpaid time off) if their employer is prepared to allow them to temporarily work flexibly.

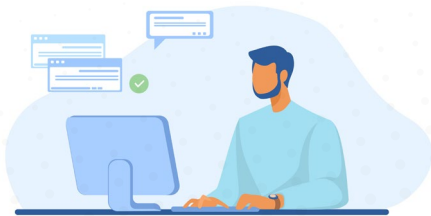
Section 2: Coronavirus Job Retention Scheme (CJRS)

On 20 March, the Chancellor announced the new CJRS, which subsequent Government guidance confirmed is “designed to help employers whose operations have been severely affected by coronavirus (COVID-19) to retain their employees and protect the UK economy” by offering UK employers grant support to continue paying part of their employees’ salary during the crisis. All UK businesses are eligible across all sectors.



To access support, employers need to designate affected employees as ‘furloughed workers’ and discuss the change with them. Essentially, a furloughed worker remains on the payroll, including zero hours workers, but is temporarily not provided with work due to the COVID-19 outbreak.

Administered by HMRC, employers can claim a grant to cover 80% of furloughed workers wage costs, up to a cap of £2,500 per month. Employers can choose to top-up the differences between the funded support and the workers’ salary, but is under no obligation as part of the scheme to do so.



The minimum length of furloughing is three weeks. An employee can, however, be furloughed more than once, subject to the minimum time period of three weeks, as often as the employer and employee agree, and one period can follow straight after an existing furlough period.

Employment rights

Changing the status of employees to furloughed workers is subject to existing employment law and, depending on the contract of employment, employers need to agree the change with their staff:

- where there is a contractual lay-off clause, employers can furlough their workers without any further action, or;
- where there is no contractual lay-off clause, employers will need to seek the employees’ agreement; although 80% per month, up to a cap of £2,500, may not initially be an attractive option compared to full pay, it is likely to be more attractive than redundancy if no other solution can be identified.

Furloughed status must be agreed between the employer and employee as workers will remain employed while furloughed, and, as a result, will continue to accrue holiday and be protected under employment law.

To be eligible for the grant, the Government guidance stipulates that employers must confirm in writing to their employee that they have been furloughed. A record of this communication must be kept for five years.



Designating employees

Businesses need to designate affected employees as furloughed workers before discussing the change with them. Where all employees are not designated, employers should carefully consider who to choose, e.g. based on the skills that will continue to be in demand during the crisis.

For example, although employers can furlough employees who are shielding in line with Government guidance (or need to stay home with someone who is shielding) where they are unable to work from home and would otherwise be at risk of redundancy, it is essential to discuss and agree the change with them. Designating employees deemed as very high risk of severe illness from COVID-19, even though it may be with best intentions, and furloughing them without a meaningful discussion, could leave the business open to discrimination claims from employees who allege they were treated less favourably on the basis of a protected characteristic, e.g. their age, disability or pregnancy.

Rotating employees on furlough

The CJRS will officially be in place for three months from 1 March 2020. The guidance confirms that employees must be furloughed for a minimum period of three consecutive weeks.

Employees can be furloughed multiple times, but each separate instance must be for the minimum period of 3 consecutive weeks. This suggests employers can rotate employees on furlough to spread the workload across the workforce, providing each employee is furloughed for a minimum of three weeks.

Full guidance on the CJRS can be viewed here:
<https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>

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