

Flexible Furlough

July 2020



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Flexible Furlough – How does it work?

As part of the recent changes to the Coronavirus Job Retention Scheme (“the Scheme”), the Government has introduced flexible furlough which will allow previously furloughed employees to return to work on a part-time basis whilst remaining within the scope of the Scheme.

So how does that work in practice?

The new rules start from 1 July 2020 and will allow those employees who have previously been furloughed for a period of 3 weeks prior to 30 June to return to work part-time on any agreed hours. Employees will be paid as normal for the hours they work, and the employer will be able to reclaim for the hours the employee does not work (furloughed hours) under the Scheme.

For example, an employee who normally works for 40 hours per week could return to work for 16 hours (equivalent to two days) and remain furloughed for the remaining 24 hours (three days).

What do I need to do?

The hours that the employee will work and those that they remain furloughed should be agreed in writing with the employee(s) in question before the new working pattern starts. Agreed flexible furlough agreements can last any amount of time, and employees can enter into a flexible furlough agreement more than once. There is no longer the minimum period of three weeks for periods of furlough. We can provide a flexible furlough letter for businesses to use.

What can I claim?

Employees should be paid their normal pay for the hours/days that they work. For the furloughed hours, the employee will be paid 80% of their ordinary pay (subject to the pro-rata amount of the cap imposed by the CJRS) for the remainder of their ordinary working hours that they are furloughed.

For example, if an employee normally works 40 hours per week and is returning to work 16 hours, the employer can claim under the Scheme for the remaining 24 hours that the employee is furloughed.

How is the contribution changing under the Scheme?

The amount that the employer will be able to claim under the Scheme is also changing:

	July	August	September	October
Government contribution: Wages	80% up to £2,500	80% up to £2,500	70% up to £2,187.50	60% up to £1,875
Employer contribution: Wages	0	0	10% up to £312.50	20% up to £625
Employer contribution: E'er NICs & pension	No	Yes	Yes	Yes
Government contribution: E'er NICs & pension	Yes	No	No	No
Employee receives	80% up to £2.5k per month			

The amount that an employee will receive (80% subject to the cap of £2,500) remains the same, it is only the contribution from the Government that is decreasing.

What do I need to make a claim?

To make a claim, the employer must have detailed records of:

- the hours worked by employees;
- the usual hours each employee would have worked pre-furlough; and
- the number of furloughed hours during the claim period.

In terms of the employees' usual working hours, it differs between those who have set working hours and those whose hours vary. For those with normal working hours, you should use their core working hours as set out in the contract. *For example*, 40 hours each week.

It is slightly more complex for those whose hours vary. The 'usual hours' in this case will be calculated based on the higher of either the average number of hours worked in the tax year 2019 to 2020 (pro-rated to the relevant claim period), or the average number of hours worked in the corresponding claim period in the tax year 2019 to 2020. This calculation should include annual leave and any paid overtime (where the payment was not discretionary).

How will the calculation work for someone that works varying hours?

An employee started work for an employer in 2005. The employee is paid every two weeks and was furloughed on 23 March 2020. The employer calculates that the employee worked 1,850 hours between 6 April 2019 and 22 March 2020 including annual leave.

The employee will be paid for the pay period 1 July 2020 to 14 July 2020, and the employer is looking to make a flexible furlough claim for the same period (1 July 2020 to 14 July 2020).

The employer works out the average number of hours worked in the tax year 2019 to 2020 as follows:

1. Start with 1850 the number of hours worked in the tax year 2019 to 2020 before furlough
2. Divide by 352 (the number of calendar days the employee was employed by the employer in the tax year 2019 to 2020, up until the day before they were furloughed)
3. Multiply by 14 (the number of calendar days in the pay period) = 73.58
4. Round up to the next whole number because the outcome isn't a whole number = 74

If the employee works 40 hours in that period, then the employee is furloughed for 34 hours (74 - 40).

How will the calculation work for a salaried employee with fixed hours?

In this example, the employee is contracted to work 40 hours per week over 5 days as is paid £2,500 monthly. It has been agreed that the employee will return to work 2 days per week on a Thursday and Friday starting on 2 July. In total they will work 80 hours worked for that month.

For **July** the calculation will be:

1. **Calculate the usual hours in the claim period:**
 - a. 40 hours / 7 days (this is the number of days in repeating work pattern including non-working days)
 - b. X 31 (calendar days in pay period of July) = 177.14
 - c. Round up 178 (hours)

- 2. Calculate the furloughed hours:**
 - a. Usual hours 178 (see stage 1)
 - b. Deduct the hours they worked during the period – 80 hours
 - c. Total furloughed hours = 98 (178 – 82)

- 3. Calculate normal furlough pay:**
 - a. £2,500 per month (normal pay) X 80% = £2,000
 - b. This figure is below the overall cap of £2,500 so £2,000 is used

- 4. Calculate claim for furloughed hours:**
 - a. £2,000 X furloughed hours 98
 - b. / usual hours 178
 - c. = **£1,101.12 plus NI and pension claim under the Scheme.**

If you have any questions, just ask:

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02 July 2020