

How is the Coronavirus going to affect you as an employer?

What is the Coronavirus Job Retention Scheme? Under the Scheme, any employer can obtain a grant to cover 80% of the salary of employees who would have been otherwise laid off, up to a total of £2,500 per month for each retained employee.

How long is this in place for? This has been backdated to 1 March 2020 and will be open initially for at least three months unless this is extended.

Do employees still come to work? No, employees should not be asked to do any work while they are essentially laid off from work, which is called 'Furlough Leave'. Employees should remain available for work in the event that circumstances change before the end of the three-month period.

How are we reimbursed by HMRC? You will submit information about the employees that have been furloughed to HMRC through a new online portal. HMRC are working urgently to set up the system for reimbursement, but please be assured it will be backdated to 1 March, so you can place employees on furlough leave straight away.

How much notice do we have to give staff? Employees can be furloughed with immediate notice, it would be advisable to have a meeting with them first if this is convenient, but if this is not possible you should confirm this in writing.

Do we have to pay the extra 20% of employees' wages? You can choose to top up employees' salary to ensure they are not losing out, however you are not under any obligation to do so.

What if an employee refuses to be furloughed? If you do not have sufficient work for employees and they refuse to be furloughed, the alternative is redundancy or lay off with only guarantee pay. It is important that employees understand that the reason you are placing them on this leave is to ensure you are able to retain them as an employee.

What if an employee does not have a fixed salary? If you have employees on casual or zero hour contracts, and would normally just stop providing them with work when there wasn't any, as opposed to laying them off, then arguably they shouldn't be offered furlough leave. However, this does seem unfair for those who have worked regular hours so it may well be that a system will be introduced to calculate an average based on past earnings, but this has yet to be done. You would therefore place them on furlough leave at your own risk.

Can staff be placed on furlough leave subject to a rota? Whilst it is not expressly stated you cannot do this, the purpose of the scheme is to compensate an employee whose role has been identified as been laid off. Therefore, if there was a rotation in place it could be argued that their role was still available albeit being carried out by someone else, if they could step in and out of it. We would also suspect it be a logistically nightmare for HMRC to try to keep track of which employee is to be reimbursed. As we understand it is not designed to compensate staff for an odd month here or there, or odd week. The safest advice therefore is to identify staff for furlough leave, place them on leave and then have a reduced workforce if you are not closing completely.

Can staff work elsewhere whilst on furlough leave? At this stage we can't say for sure, as we haven't been told either way. Whilst we do not see any problem with volunteering whilst on furlough leave, the government will not be wanting people to make more money than what they would usually earn, but at the same time there may well be a real need for some employees to find a way to top up the 20% shortfall. It is therefore at your discretion as to whether you allow them to do so or not, but it should be explained to them that they can be called off furlough leave at any time.

Can a new starter be placed on furlough leave? Again, there is no definitive answer to this question, and it may be that the HMRC try to argue that the reason they have no work is due to the old contract ending as opposed to being laid off, but this is open to interpretation as there is no qualifying period for being placed on furlough leave, so arguably they can be from day one along with their colleagues. The safest advice would be to defer their start date, but if you do take them on and place them on furlough leave on day one, then you should at the very least have written evidence to show that the job offer was made prior to furlough leave being introduced, and perhaps add a sentence into their furlough letter saying they will be paid on the proviso they will be reimbursed, otherwise they would just be laid off with guarantee pay.