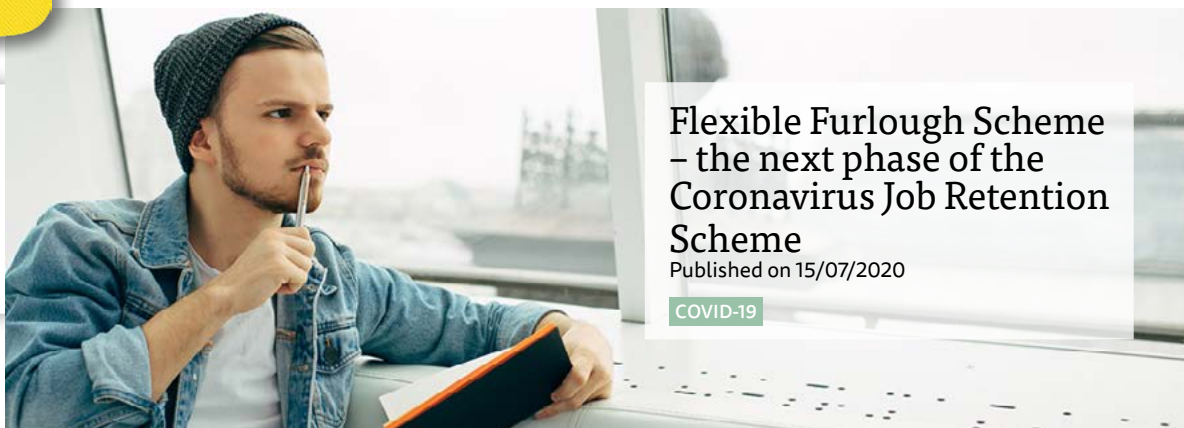




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## Flexible Furlough Scheme – the next phase of the Coronavirus Job Retention Scheme

Published on 15/07/2020

COVID-19

As expected, further guidance was published on 12 June on the newest development in the successful Coronavirus Job Retention Scheme – flexible furloughing. Until now, furloughed workers have been unable to carry out any work for their employers whatsoever. However, from 1 July, employees can move to a flexible furloughing arrangement in which they can work under any part-time arrangement, being paid their normal wage for working hours, whilst employers can still apply for the furlough grant for the remainder of their usual working hours.

This change is largely welcomed by employers, but the downside is the horribly complex calculations attached to the flexible scheme, which may put some employers off utilising it. We will attempt to set out the salient points of the new scheme, with links to the relevant guidance.

### Restrictions on furloughing an employee from 1st July 2020

The furlough scheme closes to new entrants from 1st July 2020 (with the exception of parents returning from statutory family leave), so if an employee hasn't already been furloughed, it is now too late to claim for them under the scheme.

In addition, the number of employees you can claim for in any claim period starting from 1 July 2020, cannot exceed the maximum number of employees you claimed for under any claim ending by 30 June 2020. Finally, claims must be for a minimum period of one week and can no longer overlap different months.

### What working patterns can be used from 1st July 2020?

From 1st July, employers may agree with previously furloughed employees that they will return to work on any shift pattern and for any amount of time. There will no longer be a three week minimum period for furlough and their working pattern can change from week to week. To be eligible for the grant, employers must agree any new flexible furloughing arrangement with their employee in writing.

Of course, flexible furloughing is an option, not compulsory, so if you have no work for your employees, you can keep them fully furloughed. Alternatively, you may wish to put in place a rotational shift pattern (now not restricted to minimum three week periods), which could help to avoid some of the more complex calculations set out below.

### How is an employee paid whilst on flexible furlough?

Employers will be responsible for paying employees full pay for all hours actually worked under flexible furloughing, including Employer National Insurance and Pension Contributions. The grant will then be available to fund the hours employees are not working, calculated by reference to their usual working hours in a claim period. Both the grant and the cap (as in place at the time of the claim) will be reduced proportionately to the hours worked. For example, in July, where an employee remains furloughed for 40% of his usual hours, the employer would be able to claim the grant for up to 40% of the £2,500 cap.

### How are usual hours calculated under the Flexible Furlough Scheme?

If your employee is flexibly furloughed, you'll need to work out your employee's usual hours and record the actual hours they work as well as their furloughed hours for each claim period.

There are different calculations you can use to work out your employee's usual hours, depending on whether they work fixed or variable hours.

#### Fixed hours:

1. Start with the hours your employee was contracted for at the end of the last pay period ending on or before 19 March 2020. (e.g. 40 hours for an employee working Monday to Friday, 9am – 5pm)
2. Divide by the number of calendar days in the repeating working pattern, including non-working days. (e.g. 40 hours/7 days = 5.71)
3. Multiply by the number of calendar days in the pay period (or partial pay period you are claiming for (e.g. for whole of July, 31 x 5.71 = 177.01)
4. Round up to the next whole number if the outcome isn't a whole number (e.g. usual hours for month of July would be 178).

#### Variable hours:

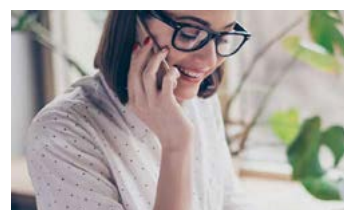
The "usual hours" in this case will be calculated based on the higher of either:

- the average number of hours worked in the tax year 2019 to 2020
- the corresponding calendar period in the tax year 2019 to 2020

You need to calculate the usual hours for each pay period, or part of a pay period, that falls within the claim period.

To calculate based on average hours:


1. Start with the number of hours worked (including paid leave) in the tax year 2019/2020 before the employee was furloughed. (e.g. 1850 hours worked in tax year before being furloughed)
2. Divide by the number of calendar days the employee was employed in the tax year, up until the day before they were furloughed. (e.g. employee furloughed on 23rd March, so 352 days worked in the tax year. Calculation is 1850/352 = 5.26)
3. Multiply by the number of calendar days in the pay period (or partial pay period you are claiming for). (e.g. employee gets paid 4 weekly, so claim period is 28 days. Calculation is 5.26 x 28 = 147.16)
4. Round up to the next whole number if the outcome isn't a whole number. (e.g. usual hours for the month of July would be 148).





### Contact us

If you need assistance with anything from a quote to a new claim, you can contact us in the following ways.

 **Write to us**  
9 Whiteladies Road  
Clifton  
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BS8 1NN

 **Email or call us**

 **Before-The-Event Sales Team**

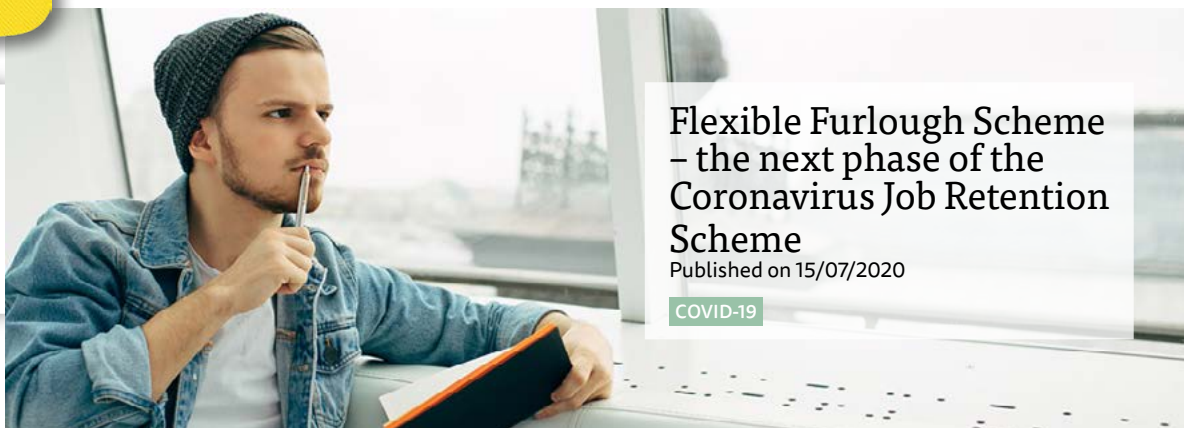
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continuing

To calculate based on corresponding calendar period in the tax year 2019/20:

1. Identify the pay period in the 2019/20 tax year that correspond to at least one calendar day in the pay period you are claiming for.
2. If the pay period you are claiming for starts and ends on the same calendar days as the identified pay period in the 2019/20 tax year, use the number of hours they worked in that pay period. (e.g. this will usually be the case if the pay period is a calendar month, so for example, for a claim for July, you would look at July 2019 and the employee may have worked 150 hours during that month).
3. If the pay period you are claiming for does not start and end on the same calendar days as the identified pay period in the 2019 to 2020 tax year – you'll need to add together a proportion of the hours worked in each of the pay periods you've identified (e.g. this is likely to be the case for pay periods that don't fall on a calendar month, e.g weekly, four weekly etc)

Employers will need to carry out both of these calculations and use the higher figure for the employee's usual hours.

Some of these calculations can appear horribly complex, and the inclusion of non working days in the calculation can at first appear alien. It would go beyond this note to set out the exact method of calculation for each different type of worker or claim, with each possible working pattern, so we would suggest that employers consider the worked examples set out in this guidance note for more assistance [please click here](#).

Once you understand the "usual hours" for each employee, you will need to ensure that you record hours worked under flexible furlough in order to be able to calculate what hours you will be required to pay full pay for, and the remaining furloughed hours that can be claimed for under the grant (subject to the cap, and contribution level in place at that time).

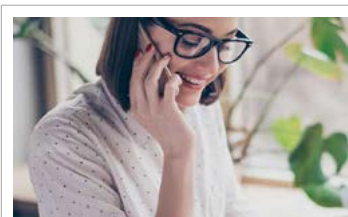
### Can employers agree reduced pay for employees working under flexible furlough?

Many employers have agreed a reduced level of pay for those employees who are not furloughed, to assist with financial difficulties. We have not seen anything in the guidance to say that employers could not agree a reduced rate for employees returning to work part time, so long as this was agreed as a contractual variation, in the usual way. However, for the purposes of making claims under the grant, the pre-furlough pay should be used.

### Government guidance notes

Whilst the above provides a summary of how flexible furlough will work, it is important that employers carefully review the relevant guidance before claiming. Unfortunately, the changes have been incorporated into the existing five guidance notes, plus introducing a further three guidance notes. The links to the relevant guidance notes, and what they are used for are as follows:

1. [Check if you can claim for your employees' wages](#)
2. [Check which employees you can put on furlough](#)
3. [Steps to take before calculating your claim](#)
4. [Calculate how much you can claim](#)
5. [Claim for wages](#)
6. [Reporting employees' wages to HMRC when you've claimed through CJRS](#)
7. [A worked example of how to calculate what you should claim for employees who are flexibly furloughed](#)
8. [Long list of worked examples to help you calculate your employees' wages under various scenarios](#)



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