

# Guide To Furlough Leave Job Retention Scheme



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On Friday 20th March the Government announced further plans to support employers as part of the Covid-19 response. The job retention scheme will cover 80% of wages for laid off employees as an alternative to ending employment.

## What is Furlough leave?

Furlough is a standard word that simply means 'leave of absence', it isn't a legal term and doesn't have a technical definition at law.

## What is the Government's Job Retention Scheme?

If you would have otherwise made an employee redundant or, put them on a period of lay off, the Government is encouraging you to protect your employees job instead by allowing a leave of absence with pay. The Government will pay 80% of your employees salary to make this possible.



## What's the difference between redundancy and lay off?

They are both legal terms with specific legal implications.

Redundancy means to dismiss the employee from their position altogether because you can show that their work has diminished to such an extent they are no longer required.

Lay off means that the worker is not required to work and so is put on a period of unpaid leave. Usually to do this you need to have a clear written clause in the contract of employment giving you a right to do so.

It is assumed that both redundancy and lay off are collectively what the Government are referring to when they say they want to protect employees from being 'laid off'.

## Why would I want to put an employee on Furlough leave?

Furlough leave is only required if you no longer need your employee or the need has diminished significantly. Examples include;

- You have a high-risk household and believe you can manage for the advised 12 weeks without the need for paid care
- Your employee provides social care which isn't needed as you're self-isolating

## I need care to continue, do I have to put my employee on Furlough leave?

No. Furlough leave is only applicable if you don't need the employee to attend work anymore. Care workers have been designated Key workers in the Covid-19 response and can therefore continue to go to work, no matter what the Government guidance is for social distancing.

## Can my employee insist they go on Furlough leave?

No. You must agree to Furlough leave and you will only do so if your need for the worker has gone or diminished significantly.

Any employees who are self-isolating (must stay at home) have the right to time off work as they are considered to be unfit for work and so SSP will apply. This is totally different to Furlough leave. Please note that self-isolating employees are those who have symptoms in the household and need to be off for approximately 14 days or are those who are in the extremely high-risk category and need to be off for 12 weeks or more.



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## How much can they be paid on Furlough leave?

The Government have said they'll repay up to 80% of the employees pay but the employer can choose to make that up to 100%. No other details of the scheme are yet available and so it is unclear if this means you have the 'right' to only pay 80%. It is sensible to talk to your local direct payment team to see if they have any guidance for you about increasing the pay to 100%.

## Why would my employee agree to Furlough leave?

As you're only going to offer it when the alternative is a complete dismissal or leave without pay, this is likely to be a better financial option for them.

It gives them the security that they will continue to be paid (even if at a reduced rate of 80%). It means their employment is protected so when the time is right, they will return to work. You can agree to let them work elsewhere whilst on leave which will mean they can increase their income potential and annual leave will continue to accrue.

## Who can I put on Furlough leave?

Only employees who otherwise you would have the justification to dismiss by way of redundancy OR put on unpaid lay off. It is sensible to take further advice on these issues before you make your decision.



## What's the process?

Make sure you have spoken to your local direct payment team to ensure they are supporting your decision to take this step and be sure you're not leaving yourself without the support you need.

You will need to discuss with your employee the fact that you believe their services are not required and why. You will need to explain that you have considered a redundancy and/or a lay off without pay. You will then explain that in light of the Government's Job Retention Scheme you would like to offer them the alternative of designating them a Furlough Worker.

Speak to your payroll provider for help in notifying HMRC of the employees you have designated as a Furlough worker. When the details of the scheme are made clear to employers over the coming weeks there will be more information provided as to how the re-claim will operate.

If you need any further advice or support with  
employing Personal Assistants

Call: 0161 603 2167

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