

How to Bring Staff Back off Furlough

Like many of the challenges presented by the pandemic, furlough is a concept and process many employers have never faced before.

Croner, our trusted HR partner, address some of the key points to understand when considering bringing staff back off furlough.

With your membership, you have access to free advice via Croner's business support helpline: call **0844 561 8133** to speak with an adviser today.

Do I have to take staff off furlough?

No. The Job Retention Scheme is set to continue until the end of October, meaning previously furloughed staff can remain on furlough going forward if the correct procedure is followed. You may wish to bring them back to work on a part-time basis whilst still benefitting from the Scheme, which is something you can do from 1 July.

That said, you should remember that the way the Scheme is funded is set to change from 1 August, which may impact on your decision to keep staff furloughed:

- In August, the government will pay 80% of furloughed staff wages up to a cap of £2,500 per month and employers will pay employer NICs and pension contributions for the hours the employee does not work.
- In September, the government will pay 70% of wages up to a cap of £2,187.50 per month for the hours the employee does not work. Employers will also pay employer NICs and pension contributions and 10% of wages to a cap of £312.50 to make up 80% total up to a cap of £2,500.
- In October, the government will pay 60% of wages up to a cap of £1,875 per month for the hours the employee does not work. Employers will also pay employer NICs and pension contributions and 20% of wages to a cap of £625 to make up 80% total up to a cap of £2,500.

Which members of staff should be brought back first?

The Government has set out specific requirements for employers to adhere to on social distancing and what you can do if social distancing is not possible. Because of this, you may not want to bring everyone back at the same time.

When deciding who to take off furlough, you should consider what employees, departments or groups should return first based on business needs. Alternatively, you could even ask staff to volunteer to return, although the final decision will rest with you.

The legitimate business reasons behind your selection of which employees return to work first should be documented to prove that you have not discriminated against anyone in your decision.

Remember that shielding employees should not return to the workplace until the requirement to shield has ended. In England and Scotland, shielding is set to end on 31 July; in Wales, no earlier than 16 August.

How much notice should I provide to staff before taking them off furlough?

There is no specific time period outlined by the government. However, you should stick to any notice period that you agreed with staff when they were put on furlough. If there was no agreement on notice, it should be reasonable and set with certain things in mind, for

example, allowing employees sufficient time to make any arrangements they need, for example, with childcare.

What procedure should I follow to bring staff off furlough?

Staff should be provided notice that their period of furlough is coming to an end and confirmation on when they will be expected to return. It should also be clearly outlined what new measures have been put in place, such as rules on social distancing, to keep them safe whilst at work.

During this period, further discussions should be had with them in order to talk through any concerns they have about returning to work and any adjustments made to their job if necessary.

On their return, staff should be carefully monitored and invited to come forward with workplace issues they may be having. Remember, some of them may have been away for some time and may need further training to settle back into their role.

What should I do if staff are reluctant to return?

It is important to take the personal circumstances of your employees into account. For example, they may live with someone who is vulnerable to serious illness if they contract coronavirus or be in a vulnerable position themselves. Staff in this situation should be reminded of all steps the company has taken to keep them safe and consider extra adjustments for them.

If they still do not feel comfortable, consider alternatives to their return to the workplace. Can they work from home? Could they remain on furlough for a time? Could their working hours be adjusted to avoid peak travel times etc?

If staff refuse to return without a valid reason, you may be entitled to treat it as a disciplinary issue. However, given the circumstances, this should be the last resort and all other possible solutions explored.

How could flexible furlough help me?

From 1 July, employers have been able to combine work with furlough; previously, employees were not permitted to do any work when they were on furlough. This means that employers can agree part-time work with employees and will pay them in full for those hours; the employee will be on furlough for the remainder of the normal working hours. You can claim 80% wage cost cover from the Job Retention Scheme for the furloughed hours. Remember that the level of assistance the Scheme provides will reduce from August and the Scheme will close at the end of October.

I may not be able to afford to keep all of my staff on once the Scheme ends. What do I do?

Unfortunately, some businesses will have no other option but to make redundancies. However, there are other ways that you might be able to reduce your overheads but keep your staff. For example, you may consider making changes to staff contracts, such as reducing working hours or salaries. Contractual schemes such as enhanced sick or maternity pay could also be reviewed, as could introducing the option for job-sharing. You may also want to consider removing or reducing bonus and commission schemes.

You will need to seek the employee's agreement before going ahead and making changes to any contractual entitlement and a period of consultation should be implemented.

Any discretionary schemes, or other things considered to be 'perks' of the job, could be removed without agreement when not offered on a contractual basis.

Ending the use of agency workers, or other temporary workers, may save costs. You could also remove overtime or offer unpaid sabbaticals.

Changes could be temporary until the situation improves, or permanent.

You can also consider reducing non-workforce relating overheads such as re-negotiating supplier contracts etc.

If redundancies are required, how do I do this?

Once you have considered alternatives and still find yourself in a position to make redundancies, you'll need to ensure that you follow the correct procedure. The actual procedure will differ depending on how many redundancies are proposed but one of the key principles is meaningful consultation with employees allowing them to suggest alternatives. Where you need to select employees for redundancy, you should do so against objective criteria and be careful not to be make any discriminatory decisions. Employees who are made redundant and entitled to statutory redundancy pay if they have been with you for two or more years.

Communication is important at this time. No employee wants to hear that they are losing their job and, despite the current climate, confirmation that this is happening is likely to be distressing. Being honest and open with employees about the situation doesn't change the facts but will help them understand that you have done everything you can.

For pragmatic advice on redundancy, or any further guidance you need, call our dedicated member support helpline on 0844 561 8133.