

Job Retention Scheme FAQ

On 20 March 2020, the Chancellor announced a new Coronavirus Job Retention Scheme (“the scheme” or “CJRS”) that will allow all UK employers to access support to continue paying part of their employees’ salary for those employees that would otherwise have been laid off during this crisis.

On 26 March 2020, further details on the scheme were released by the government. The guidance has now been updated on numerous occasions, the latest of which can be found [here](#).

On 15 April 2020, a Treasury Direction on the scheme was also released and can be found [here](#). This has now been replaced or possibly supplemented by a new Direction published on 22 May (although it is dated 20 May) which can be found [here](#). The new Direction appears to attempt to reconcile some of the inconsistencies between the original Direction and the frequently updated guidance. It is not, however, easy reading. As previously noted, it carries the force of legislation, so it is helpful that it seems to move closer to HMRC’s guidance.

On 29 May 2020, the Chancellor announced further changes to the scheme, due to come into force on 1 July 2020. These included proposals to allow further flexibility to who can claim under the scheme and provisions regarding contributions to be made by employers. Further details regarding this were issued on 12 June 2020. We have a separate guidance note regarding flexible furlough and the forthcoming changes (see the ‘Flexible Furlough Guidance’ document on the Coronavirus Advice Hub). You should read that document in conjunction with this one and please ask your Employment Law Adviser for further details.

Over time, the guidance documents from HMRC have been added to and some of them have been broken out into separate documents, including a new guide to holiday entitlement during the pandemic, including for those on furlough, which can be found [here](#). The landing pages for employer guidance can be found [here](#), with employee guidance located [here](#).

The guidance on the GOV.UK website is now spread over eight different landing pages as per the following:

1. [Check if you can claim for your employees’ wages through the CJRS](#)
2. [Check which employees you can put on furlough](#)
3. [Steps to take before calculating your claim](#)
4. [Calculate how much you can claim using the CJRS](#)
5. [Claim for wages through the CJRS](#)
6. [Report a payment using RTI to HMRC](#)
7. [Flexible furlough worked example](#)
8. [Further CJRS claim example calculations](#)

These guidance notes are updated often by the government and often with little or no notice. You should always refer to them in the first instance as the most up-to-date source of information.

PLEASE READ THE FOLLOWING POINTS BEFORE MOVING ON TO THE SPECIFIC QUESTIONS

The important points to note are as follows:

- All UK organisations can apply. **Please note:** For those employers who receive public funding which is used to cover staff costs, and that funding is continuing, employers are expected to use that money to continue to pay staff in the usual way. As such, they may not be eligible to

furlough staff and claim under the scheme. If you are in receipt of public funding and this is used to pay all or part of staff salaries, we suggest that further advice is taken from HMRC or your public funding body before agreeing to furlough staff and making any claim under the scheme.

- The HMRC portal to make applications opened on 20 April.
- According to the latest Treasury Direction dated 20 May 2020, the scheme will now remain open until 30 June 2020, but we already know that it will remain available in its current form until the end of July and in an amended form until the end of October.
- Furloughed employees must have been on your payroll AND an RTI submission needs to be made on their behalf by 19 March 2020. They can be on any type of contract, including flexible or zero hours. Apprentices can also be furloughed.
- The scheme also covers employees made redundant or who stopped working for you on or after 19 March 2020 provided they are rehired by their previous employer. We assume full “continuity of service” but this isn’t specified.
- Other than those rehired as above, employees hired after 19 March 2020 cannot be furloughed in line with the scheme.
- Employees transferred into your business via TUPE after 19 March are covered by the scheme.
- You must agree with your employee that they are being furloughed, confirm this to them in writing and retain a copy of that notice for five years. A separate agreement in writing must be made for an employee furloughed on a flexible basis (please see our separate ‘Flexible Furlough Guidance’ document for more details).
- For both full and part-time salaried employees, their actual salary before tax, as of the last pay day prior to 19 March 2020, should be used to calculate the amount of furlough pay. You can claim for any regular payments you are obliged to pay your employees. This includes wages, past overtime, fees and compulsory commission payments. However, discretionary bonus (including tips) and commission payments and non-cash payments should be excluded.
- As well as employees, the grant can be claimed for any of the following groups, if they are paid via PAYE: office holders (including company directors); salaried members of Limited Liability Partnerships (LLPs); agency workers (including those employed by umbrella companies) and limb (b) workers. Please refer to the full guidance for details.
- The scheme will close to new entrants on 30 June 2020. From 1 July 2020, only those employees who have been furloughed for at least three consecutive weeks at some point prior to 30 June 2020 will be entitled to claim. This means that for an employee who has not yet been furloughed under the scheme, they will have to be furloughed by no later than 10 June and remain so until at least the end of June in order to be able to claim beyond 1 July. Please note there is an exemption for employees returning from certain types of statutory parental leave and [reservists](#) returning to work following a period of active service (please see our separate ‘Flexible Furlough Guidance’ document for more details).
- From 1 July 2020, it will be possible for employees to work reduced hours and claim pay for those unworked hours under the scheme. Please see our separate ‘Flexible Furlough Guidance’ document for more details on the new arrangements.
- At present, employers do not need to contribute towards pay under the scheme – this will change from 1 August 2020. From that date, employers are required to pay employer NICs and statutory minimum employer pension contributions. From 1 September, you are

required to start paying a contribution towards wages too. This table summarises the phased changes that are coming:

	July	August	September	October
Government contribution (E'er NIC & pension)	Yes	No	No	No
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 (E'er NIC & pension)	No	Yes	Yes	Yes
Employer contribution (wages)	Nil	Nil	10% up to £312.50	20% up to £625

- Presently, the scheme is due to end on 31 October 2020

FREQUENTLY ASKED QUESTIONS

- **Can employees be furloughed even if there is work for them to do?**

The guidance suggests not as it specifies that you can furlough “if you cannot maintain your current workforce because your operations have been severely affected by coronavirus”.

However, this has now been superseded by the Treasury Direction. It states at paragraph 6.1 that any employee can be furloughed, provided that:

- (a) the employee has been instructed by the employer to cease all work in relation to their employment;
- (b) the period for which the employee has ceased (or will have ceased) all work for the employer is 21 calendar days or more; and
- (c) the instruction is given by reason of circumstances arising as a result of coronavirus or coronavirus disease.

Our view is that (c) above gives employers a very wide discretion to furlough any employees they see fit, provided their circumstances have been impacted by coronavirus (COVID-19). This would include employees who are vulnerable/high risk and those who have taken time off to care for dependants. If employees are off sick, or shielding, the position seems to have been clarified within the updated Treasury Direction; please see the specific guidance later in this document.

- **Can I lay off/furlough my employees if there is a lay-off clause in their contract?**

You can but the Treasury Direction makes it clear that any period of furlough leave should be agreed by both parties and recorded in writing. Please refer to our associated step-by-step guide on furloughing employees for further guidance.

- **Can I lay off/furlough my employees if there is no lay-off clause in their contract?**

Yes, but agreement will be needed from both employer and employee. Please refer to our associated step-by-step guide on furloughing employees for further guidance.

- **How do I claim back furlough pay?**

The HMRC portal to make applications opened on 20 April. HMRC issued a ['step by step' guide](#) for employers on how to claim under the scheme, setting out the information that you will need to provide and the processes you will need to follow. There is also detailed HMRC guidance online, following the links referred to above.

You can make one application per employee per pay period, so if your employees are paid weekly, you can make weekly applications. HMRC has said each payment will be made within four to six days of each application.

To claim the grant aid, you will need:

- To be registered for [PAYE online](#)
- Your UK bank account number and sort code (only provide bank account details where a BACS payment can be accepted)
- The billing address on your bank account (this is the address on your bank statements)
- Your employer PAYE scheme reference number
- The number of employees being furloughed
- Each employee's National Insurance number (you will need to [search for their number](#) if you do not have it or [contact HMRC](#) if your employee does not have a number)
- Each employee's payroll or employee number (optional)
- The start date and end date of the claim
- The full amounts you are claiming for, including:
 - Employee wages
 - Employer National Insurance contributions (for claims up to 31 July)
 - Employer minimum pension contributions (for claims up to 31 July)
- Your phone number
- Contact name

You also need to provide either:

- Your name (or the employer's name if you are an agent)
- Your Corporation Tax unique taxpayer reference
- Your Self Assessment unique taxpayer reference
- Your company registration number

If you are claiming for employees who are flexibly furloughed, you will also need:

- The number of usual hours your employee would work in the claim period
- The number of hours your employee has or will work in the claim period
- You will also need to keep a record of the number of furloughed hours your employee has been furloughed in the claim period.

You will need to calculate the amount you are claiming. There is an online calculator [here](#) that can be used to do the calculation for you. HMRC will retain the right to retrospectively audit all aspects of your claim.

You should make your claim using the amounts in your payroll – either shortly before or during running payroll. Claims can be backdated until 1 March where employees have already been furloughed. You cannot claim for any period before the employee was placed on furlough.

If appropriate, workers' wages should be reduced to 80% of their salary within your payroll before they are paid. This adjustment will not be made by HMRC.

HMRC will check your claim and, if you're eligible, pay it to you by BACS to a UK bank account.

You must pay the employee all the grant you receive for their gross pay. No fees can be charged from the money that is granted.

- **Can I still make my employees redundant?**

You are obliged to explore alternatives to redundancy as part of a fair process. Dismissing employees without attempting to use the scheme, and the other financial assistance set out by the government, is likely to be regarded as unfair if the redundancy arises out of what you expect to be a temporary downturn in work. The position would be different if you were, for example, permanently closing the business or a particular site but we would encourage you to consider lay-off first given the forthcoming scheme. Note that only employees with at least two years' continuous service can pursue a claim for unfair dismissal.

- **What if I have already made employees redundant?**

The guidance confirms that the scheme covers employees who were made redundant since 28 February 2020, even if you do not re-employ them until after 19 March. This applies as long as the employee was on your payroll as at 28 February and had been notified to HMRC on an RTI submission on or before 28 February 2020. This means that an RTI submission notifying payment in respect of that employee to HMRC must have been made on or before 28 February 2020. In addition, to claim under the CJRS from 1 July 2020, the individual will have to have been furloughed

for at least three continuous weeks by 30 June. Therefore, they would need to have been reinstated and placed on furlough by 10 June to qualify.

Generally speaking, we are advising employers not to re-engage such employees due to the uncertainty of what happens when the scheme ends or how continuity of employment will be treated.

If you are willing to rehire these former employees, we suggest that a conditional offer of re-engagement be made to the dismissed employees confirming that you will re-employ them on the understanding that they will be furloughed, and an application will be made to HMRC under the scheme. The offer of re-employment should also confirm that if the application to the scheme is rejected for any reason, you are under no obligation to pay the employee nor provide them with work. Some care should be taken if you decide to rehire some but not all employees who were dismissed, particularly around the subject of discrimination.

- **What about employees who have left for other reasons?**

The guidance confirms that any employee who left your employment on or after 28 February can be rehired and furloughed even if, as above, you do not re-employ them until after 19 March. This applies as long as the employee was on your payroll as at 28 February and had been notified to HMRC on an RTI submission on or before 28 February 2020. This means that an RTI submission notifying payment in respect of that employee to HMRC must have been made on or before 28 February 2020. As mentioned above, we would advise against doing this due to the uncertainty around what will happen to their employment once the scheme ends. Again, care should be taken if you decide to rehire some but not all employees, particularly around the subject of discrimination.

The above provisions re: having to have been reinstated and furloughed by 10 June 2020 also apply here.

- **What about staff that have transferred to our employment under the TUPE Regulations?**

Employees who have transferred into your employment can be furloughed even if the transfer occurred after 19 March 2020, but presumably on condition that their “continuous service” predates this.

- **How do I decide who to furlough?**

You have quite a wide discretion in relation to who is placed on furlough. You need to ensure that you do not exercise the lay-off clause in such a way that breaches trust and confidence, is discriminatory, or is for a protected reason, e.g. whistleblowing.

Therefore, you can place just some of the workforce on lay-off/furlough as you see fit. However, you should consider how you will do this fairly in order to avoid arguments of discrimination of repudiatory breach. In extreme circumstances, we have seen some employers who have decided to pull names out of a hat to decide who went off, although it is likely to be far more beneficial to work out who to retain based on business need.

Further HMRC guidance on who can be furloughed can be found [here](#).

- **Can an employee request to be furloughed?**

In theory yes, although the decision to furlough rests with the employer. If there is work for the employee to do, and that cannot be done from home, we suggest that furlough is only granted to

those employees whose circumstances have been impacted by COVID-19 to stay within the spirit of the Treasury Direction (e.g. employees who are vulnerable or required to stay at home to look after children following school closures).

- **Can my employees do some work for us at the same time as being furloughed?**

No, not before 1 July 2020. Up to that date, to be eligible for the scheme, an employee cannot undertake any work for the organisation whilst on furlough. If the employee is working on reduced hours, or for reduced pay, they will not be eligible for the scheme.

The guidance confirms that you can submit one claim every three weeks, which is the minimum time an employee can be furloughed for. The updated guidance has clarified that it is possible for employees to come “in and out” of furlough by, for example, spending three weeks furloughed, coming back to work for three weeks (perhaps part-time) before being furloughed again.

From 1 July 2020, employees can be furloughed on a flexible basis. You can bring employees back to work for any amount of time and on any shift pattern whilst still being able to claim the CJRS grant for the hours not worked. You will need to pay for any hours the employee does work.

- **What is the minimum claim period for a furloughed employee?**

Up until 30 June, employees must have been furloughed for a minimum of three weeks in order to make a claim under the CJRS.

From 1 July 2020, there is no minimum furlough period for flexible furlough arrangements. However, any claim through the CJRS portal must be in respect of a minimum one-week period.

For an employer who was operating a rota scheme of at least three weeks on furlough, three weeks off, that can now be amended to much shorter periods to suit the needs of your business.

Due to the changes around flexibility and employer contributions, claim periods can no longer straddle different months. The first time you can make a claim for days in July will be 1 July and you cannot claim before this point.

Please also note that the last day that you can submit claims for June is the 31 July 2020.

- **Can my furloughed employees work for another employer when furloughed by us?**

If your employee has another job or jobs, they can continue working elsewhere for another employer whilst furloughed with you. The guidance clarifies that they can take up new employment during the time they are furloughed by you if their Contract of Employment with you permits this. We believe that you are able to waive any contractual restriction on such alternative work for the period of furlough with you, but you will need to be clear that they must return to your employment when directed to do so.

- **Can my employees do volunteer work or training?**

Yes, provided that does not provide services to you or generate any revenue for your organisation. The updated guidance issued on 12 June states that you cannot furlough your employee and then ask them to volunteer for you in the same or a different role. The updated Direction states that training during furlough will not count as work if:

“(a) the purpose of the study or training is to improve-

(i) an employee’s effectiveness in the employer’s business, or

- (ii) the performance of the employer's business,
- (b) except as generally improving an employee's effectiveness in, or the performance of, an employer's business, the study or training does not directly-
 - (i) provide a service to the employer or the business activities of the employer,
 - or
 - (ii) contribute to the business activities of the employer or anything generating income or profit for the employer, and
- (c) the study or training undertaken does not directly contribute to any significant degree-
 - (i) in the production of goods the employer intends to supply to another person as part of the making of a supply of goods or services for a consideration to that person, or
 - (ii) in the making to any person of a supply of services for a consideration by the employer."

If workers are required to undertake training courses whilst they are furloughed, then they must be paid at least the National Living Wage / National Minimum Wage for the time spent training, even if this is more than the 80% of their wage that will be subsidised.

- **Will the 80% up to £2,500 be based on average earnings or basic pay?**

The grant from HMRC will cover the lower of 80% of an employee's regular wage or £2,500 per month plus the associated employer NICs and minimum automatic employer pension contributions. For fixed-rate employees, i.e. those with an annual salary, this is based on basic pay. The employee's actual salary as of the last pay period prior to 19 March 2020 should be used to calculate the 80%. For those with variable pay/hours, use the higher of the corresponding month's pay from the previous year or an average of the last 12 months (or less if employment started less than 12 months ago).

Both the GOV.UK guidance and the Treasury Direction state that the amount payable should be calculated by reference to regular wages. These would include:

- Regular wages you paid to employees
- Non-discretionary payments for hours worked, including overtime
- Non-discretionary fees
- Non-discretionary commission payments
- Piece rate payments

Discretionary bonus (including tips) payments, discretionary commission payments, non-cash payments and other non-monetary benefits in kind (such as a company car) and benefits received under a salary sacrifice scheme should be excluded from the calculation. To help with your calculations, GOV.UK has two pages on its website which should be reviewed before you start. Firstly, [Check if you can claim for your employees' wages through the CJRS](#), then [Steps to take before](#)

[calculating your claim](#) and finally an online calculator – [Calculate how much you can claim using the CJRS](#).

Please note that from 1 August 2020, employers need to start contributing towards the scheme in line with table on page 3 above.

- **What about benefits in kind and salary sacrifice schemes?**

The grant will **not** cover the cost of non-monetary benefits provided to employees, including taxable benefits in kind. Similarly, benefits provided through salary sacrifice schemes (including pension contributions) that reduce an employee's taxable pay are **not** included. The employer will be obliged to continue to provide contractual benefits to furloughed employees (unless terms are lawfully varied).

As you will be aware, HMRC defines benefits in kind as **non-cash perks** which an employer provides to an employee.

Normally, an employee cannot switch freely out of a salary sacrifice scheme unless there is a life event. HMRC agrees that COVID-19 counts as a life event that could warrant changes to salary sacrifice arrangements, if the relevant Contract of Employment is updated accordingly. Please seek advice from your payroll/tax advisers regarding any salary sacrifice questions you may have.

- **Do I have to top up pay to 100%?**

No. If the employee agrees to be furloughed at the level offered by HMRC, there is no obligation to do this.

- **Do I have to contribute any money under the scheme?**

At the moment, no, but this will change in August. For details of the level of employer contributions from 1 August, please see the table on page 3 above and our separate 'Flexible Furlough Guidance' document.

- **Do I have to top up pay to keep employees at National Minimum Wage (NMW) rates?**

No. If an employee is furloughed and does not work, and 80% of their normal earnings would take them below the minimum wage based on their normal working hours, they still only receive 80% as they are not working. You do not have to apply the increase in the NMW coming in from 6 April in relation to furlough pay, but this will need to be applied to any training that is undertaken after that date. Also, if flexible furlough is utilised for an employee from 1 July 2020, any periods actually worked will have to be paid at least at NMW levels.

- **What if the employee's pay varies?**

This is more complicated. If the employee has been employed for more than 12 months, you can claim the higher of the same month's earnings from the previous year OR average monthly earnings for the 2019-2020 tax year.

For employees employed for less than a year, you should claim an average of monthly earnings since they started work. If they only started in February 2020, use a pro-rata for their earnings so far.

- **Will employees continue to accrue holidays whilst furloughed?**

Yes. Employees who have been furloughed have the same rights as they did previously, such as the right to accrue annual leave.

- **What about employees currently signed off sick or self-isolating?**

The position regarding employees off sick/self-isolating and furlough was previously not at all clear given the direct contradiction between the GOV.UK guidance and the original Treasury Direction. This seems to have been resolved now by the new Direction which provides that employers and employees can agree that statutory sick pay (SSP) is no longer payable, enabling the employee to be furloughed.

The new Direction still talks in strange terms in this regard, but the intent seems clear and seeks to conform with the guidance that says that the shielding and long-term sick can be furloughed.

If an employee is off sick or self-isolating for a short period due to COVID-19, they should not be furloughed for this reason alone.

- **What if an employee becomes sick while furloughed?**

It is up to employers to decide whether to move these employees onto SSP or keep them on furlough. Given furloughed employees will be significantly better off from a financial perspective than if they were on SSP, we suggest that employees are simply kept on furlough in this instance.

- **What about shielding employees?**

“Shielding” employees are those that have been advised to “shield” by the government, as well as those who are living with someone who is shielding. They will have been contacted directly by the NHS by either text message or letter and advised not to go out in public for 12 weeks. If possible, and in line with the general population, they should be working from home.

If it is not possible for them to work from home, then consideration will need to be given as to whether they can be placed on furlough.

Previously, the Treasury Direction appeared to create all kinds of problems in this area. Thankfully, this seems to have been resolved in the latest update, although the wording is still quite confusing and arguably not completely in line with the HMRC guidance. Our view at this time is that you can agree to furlough these staff.

- **What about other categories of vulnerable or high-risk employees?**

Outside of shielding employees, there are other categories of vulnerable employees, such as those who:

- Are pregnant;
- Are aged 70 or over; or
- Have medical conditions but who haven't been written to directly by the NHS and advised to shield.

Again, these employees should be working from home if possible. If that is not possible, then the wider definition of who can be furloughed as set out in the Treasury Direction means that these workers are capable of being furloughed. Further, each of them will probably have a protected characteristic and not placing them on furlough may well amount to indirect discrimination. It seems that we may now be in a position where the advice should be to furlough those employees regardless of downturns/operational difficulties, etc.

Please note that pregnant employees have additional protections. Where they cannot attend work due to health and safety concerns (for example, because the work environment is unsafe due to COVID-19), they may be entitled to full paid leave. As an alternative to full paid leave, pregnant employees can be placed on furlough if they are unable to attend work for reasons arising out of COVID-19. It may well be prudent to top up their pay to 100% given that they may have the right to fully paid leave in any event.

- **What about employees taking time off to care for dependants?**

If it is not possible for these employees to work from home, then the new, wider definition of who can be furloughed as contained in the Treasury Direction means that those taking time off to care for dependants because of the COVID-19 pandemic can be furloughed.

- **What about those on unpaid leave?**

The original Treasury Direction talked about two separate periods of unpaid leave.

If an employee was on unpaid leave on 28 February 2020, they could not be furloughed until that period of unpaid leave came to an end – either on the date originally agreed between the parties or when it is ended by a particular event.

In addition, no claim could be made to the scheme in respect of unpaid leave that began before or after 19 March. Therefore, the effect of the Treasury Direction was that a period of unpaid leave cannot count towards furlough leave and the unpaid leave must end before the furlough can begin.

These sections of the Treasury Direction have been updated, although the wording is, frankly, very confusing. The main change appears to be around varying the end date of unpaid leave that started before 28 February. The [HMRC guidance](#) on this appears in line with the original Treasury Direction and our feeling at this time is that nothing has really changed on this, so the above should be followed at this time.

- **What about employees on holiday?**

You will recall that our advice was not to allow holidays during furlough until we received clarification on the matter. That arrived from two sources: the guide on how to calculate pay and the [employee](#) website guidance (although, for some reason, the employer guidance is still silent on the issue). There is now a dedicated guide to holidays in furlough as mentioned above.

So, employees on furlough can take annual leave. However, employers are required to top up pay to normal 100% levels for any day's holiday taken during the furlough period. If you now wish to instruct employees to take annual leave, you can do so by giving notice twice the length of the holiday you require them to take (i.e. two weeks' notice to take a one-week holiday).

Please note that instructing employees to take all of their annual leave during a lockdown period could affect the relationship of trust and confidence between you and your employee, so please take advice before forcing any holiday periods longer than one week. There is also a possible argument that forcing someone to take holidays during this lockdown period could be in breach of the Working Time Directive, the European legislation from which the UK regulations were derived.

- **What about employees on maternity leave or similar statutory leave?**

Maternity leave, adoption leave, paternity leave and shared parental leave continue as normal. If an employee applies to return to work early, perhaps because they expect to be furloughed and so in

receipt of 80% pay rather than Statutory Maternity Pay, you can require them to give you eight weeks' notice, although you can waive this or agree shorter notice. We advise that you are clear with your employee about whether they will be furloughed on return to work as they might otherwise be giving up part of their leave and so maternity pay on a false premise.

Please note that the new guidance states: "You can claim through the scheme for **enhanced (earnings related) contractual pay** (our emphasis) for employees who qualify for either maternity, adoption, paternity or shared parental pay". It is not entirely clear, but this appears to suggest that an employer may be able to furlough such employees and then claim 80% of the "enhanced (earnings related) contractual pay" on the proviso that if they were at work, rather than on family leave, there would be nothing for them to do. In practice, it is difficult to envisage that any such employees would agree to furlough if the enhanced contractual element of maternity pay was to be reduced. In reality, this option is likely only suitable where an employer will top up (by 20%) the enhanced contractual maternity pay element and/or where lawful redundancy is otherwise an imminent risk. Importantly, the employees will retain the normal statutory family leave rights/protections and the right to full statutory maternity pay, so extra care should be taken with this category of employees.

- **How do I calculate furlough pay for those returning from family-related statutory leave?**

Family-related statutory leave includes maternity leave, paternity leave, shared parental leave, adoption leave, parental bereavement leave and unpaid parental leave.

For employees on fixed pay, claims for full or part-time employees furloughed on return from family-related statutory leave should be calculated against their salary, before tax, not the pay they received whilst on family-related statutory leave. The same principles apply where the employee is returning from a period of unpaid statutory family-related leave.

Claims for those on variable pay who are returning from statutory leave should be calculated using the higher of either:

- 80% of the same month's wages from the previous year (up to a maximum of £2,500 a month); or
- 80% of the average monthly wages for the 2019/20 tax year (up to a maximum of £2,500 a month).

- **What happens when the government ends the scheme?**

You will need to decide whether furloughed employees will be able to return to their duties. If this is not possible, you might need to consider either further unpaid lay-off, if permitted by the Contract of Employment or otherwise agreed by your employees, or redundancy if you believe that the shortage of work will continue for some time to come. The guidance makes clear that the grant cannot be used to substitute redundancy payments, and that HMRC will continue to monitor businesses after the scheme has closed.

Please note that whilst the government and HMRC guidance on the scheme has been expanded, it is being updated on a fairly regular basis. The information in this document is correct at the time of writing (15 June 2020). No doubt further updates will be released in the forthcoming weeks and this document will be updated in line with that. Indeed, we are expecting further updates very

shortly regarding the scheme beyond July 2020. Please note that as further detail emerges, some of the advice provided may change in line with further guidance from the government. Please ensure that you check the government's website for the latest guidance on the scheme.