

Employers Guide: Returning to work from furlough

May 2021

With the Coronavirus Job Retention Scheme (furlough) ending on 30 September 2021 and many furloughed workers returning to work within the next few months, we set out some of the key steps employers should think about to make the transition back to work as smooth as possible.

Ending furlough

Requiring employees to return to work is unlikely to cause issues in most cases. Most employees will have received less pay whilst on furlough and will be keen to return to work and normal pay. However, employers must consider reasons why an employee may not be keen to return to work, such as shielding and vulnerability.

Employers are advised to do their best to resolve any issues, for instance, by allowing employees to work from home, although this may not always be possible depending on the job.

[ACAS](#) guidance suggests that employers and employees should discuss plans to return to work as soon as possible, including:

- when it is anticipated staff will return to the workplace;
- how staff will travel to and from work;
- complying with any health & safety reviews;
- any adjustments to the workplace (where necessary); and
- any phased return or agile working arrangements.

Where these discussions take place, using clear communication, it is more likely that employees will feel included in the decision and be more committed to return to work.

There is no statutory notice period required to bring about the end of furlough. The first step is to check the furlough agreement with the employee. It is likely there is a provision for 'reasonable' notice, but there may be a specific period of notice identified. If the agreement is silent, an employer can exercise discretion, but clear communication is key and the call back to work should still give a reasonable notice period.

Deciding which employees to bring back

Employers should regularly review their furlough agreements to decide which employees should return to work and when. Employers should consider the following:

- which jobs and skills are needed in the workplace; and
- whether furloughed staff are needed back at the same time or if any staff should be kept on furlough due to temporarily being unable to work, for example, if they are shielding.

Employers will need to ensure that they do not apply any discriminatory criteria when deciding who should return to work and who should be kept on furlough, as the usual equality and discrimination laws will apply.

Changes to employment contracts and policies

There may be some temporary contractual changes that employers need to put in place. These could include changing the working hours and break times of employees to ensure that there is staggered arrival and departure and preventing crowding.

If the business has suffered financial hardship due to the coronavirus pandemic, an employer may need to temporarily reduce employees' working hours and their pay to allow the business to recover.

An employer may also feel it is necessary to change an employee's job description or duties to meet the new needs of the business. These changes cannot be imposed unilaterally and employers will need to consult with their employees.

Employers may want to give thought to agreeing annual leave too close to the return to work from furlough, or indeed may prefer employees to take holiday at a certain time. In either scenario, employers will need to consider notice requirements set down by statute or enhanced in the employment contract or holiday policy. Employees may also have the right (under [section 13\(10\)](#) of the Working Time Regulations) to carry over their annual leave if it was not reasonably practical to take it during the holiday year.

Furloughed employees

Various surveys have been carried out to measure the effects that furlough has had on workers. One [survey](#) has found evidence of a significant disparity between furloughed workers and their non-furloughed colleagues in terms of personal confidence, commitment to work, employee wellbeing and job satisfaction.

The key to overcoming this is to make those returning to work from furlough feel valued within the business. They are likely to feel that their role is less vital than their non-furloughed colleagues.

Communication will be an important way to provide reassurance and to help furloughed employees understand any changes that will take place and provide them with an opportunity to ask questions and voice any concerns they may have.

Speak to [Karen Cole](#) today who can review your employment documents and advise you how best to end furlough and ensure your employees feel integrated within the business.

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Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

