



CORONAVIRUS

The HR Survival Guide for Small Businesses

Revision 1

Direct Law & Personnel

www.dlp.org.uk

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Coronavirus: The HR Survival Guide for Small Business

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CHAPTER 1 FURLOUGH

WHAT IS FURLOUGH?

Employers can furlough their staff and claim a contribution for their wages through the Coronavirus Job Retention Scheme if certain conditions are met.

The scheme runs between March and October 2020 although new staff cannot be added after June 2020. The amount of grant depends on employee wages and the time the claim is made. The scheme is designed to prevent redundancies and between March and June 2020 paid employees 80% of employee wages up to a maximum of £2,500 per employee per month. After July 2020 employers will need to pay tax and national insurance, after August employers will pay 10% of employees wages and in October this rises to 20%. Employees can return to work from July part time and claim the percentage of the working week they remain on furlough. Those returning full time can no longer apply for furlough.

Don't be "Furlough Shamed" or bullied by employees.

If you have work for staff or they object to 80% pay on Furlough you have options such as redundancy.

Each case should be considered on its own merits.

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	Employee	Employer	Grant
MAR-JUN 2020	<i>If unable to work can be furloughed and receive 80% of wages to remain at home</i>	<i>Employer doesn't have to contribute to wages (to max of £2.5k pcm)</i>	<i>Pays 80% salary contribution to max of £2,500 pcm</i>
30 JUN 2020	<i>No new employees added to scheme</i>		
JUL 2020	<i>Able to work part time and be paid 80% wages when no work available</i>	<i>Employer doesn't have to contribute to wages (to max of £2.5k pcm)</i>	<i>Pays 80% salary contribution to a maximum of £2,500 pcm</i>
AUG 2020		<i>Employer pays for employees national insurance and tax (and 100% for any period worked)</i>	<i>Pays 70% salary contribution (where 80% is capped at £2,500 pcm)</i>
SEP 2020		<i>Employer pays 10% of employee wages (and 100% for any period worked)</i>	<i>Pays 60% salary contribution (where 80% max of £2,500 pcm)</i>
OCT 2020		<i>Employer pays 20% of employee wages (and 100% for any period worked)</i>	<i>Grant completed. Will not be renewed in any second wave</i>
NOV 2020	<i>Scheme ended, employee return to work, agrees reduced hours, laid off or made redundant.</i>	<i>Employer responsible for employee wages, redundancy or laying off staff.</i>	

QUALIFYING FOR FURLOUGH

To claim furlough for any employee you must;

1. have a PAYE scheme in place
2. have enrolled for a PAYE online (takes 10 days to apply)
3. have a UK bank account

To claim for an employee, they must;

1. have been on your paye scheme on 19.3.2020 (ie not hired after)
2. be employed (any type of contract; fixed term, zero hr, part time, flexible)
3. agree not to undertake any work for you until July 2020
4. be furloughed for minimum of 3 weeks
5. not be claiming company or statutory sickness
6. agree to furlough and to any wage deduction

GUIDANCE

- Employees wages are taxed in the normal way whilst on Furlough leave
- Tasks and duties from Furloughed employees can be moved to other employees
- Employees can undertake training or apprenticeship work whilst on Furlough but can't work
- Employees with two roles can claim from both employers or continue working for one or both
- Employees who are shielding (*see Sickness and Shielding, page 18*) can claim Furlough if they would otherwise be made redundant
- Employees who are caring for others who are shielding or have caring responsibilities for children can also be Furloughed (*see Sickness and Shielding, page 18*).

- Fixed term contracts can be extended or renewed to enable Furlough to take place
- Company Directors can be Furloughed. This decision should be decided by a board of directors and noted in company records. Furloughed directors can carry out statutory obligations necessary but can not undertake work to generate commercial revenue or provide services.

TWO BASIC QUESTIONS

QUESTION ONE: Do you have work for the employee?

If yes, not likely to be furlough.

QUESTION TWO: Can that work be done from home?

If yes, they will be homeworker.

CONSIDERATIONS

Claiming the grant from HMRC could take time so consider loans or advances. Any delay in wages should be agreed and explained to employees beforehand.

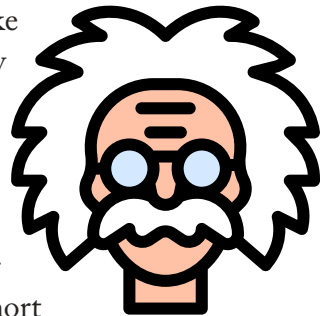
Consider topping up the grant to 100% of wages but this doesn't have to be done.

You will need agreement from your employees if you don't have a lay off clause or short time working clause in your employment contracts.

Employees need to agree to (a) make the deduction and (b) to be on furlough.

Make sure you can justify your decisions if you aren't treating all staff the same—equality and discrimination laws apply to your decisions.

A record of your employees agreement must be kept for 5 years.



For employee's with variable pay take the highest of (a) same month last year or (b) the average month or tax year 2019-2020, or, for continuity less than one year work on the average from the period worked.

Apprentices can be furloughed and continue training however will be paid normal wage for training.

MAKING A CLAIM

To make a claim you will need;

- Your PAYE reference number
- The number of employees being furloughed
- The claim period (start and end date)
- The amount being claimed (per the minimum length of 3 weeks)
- Your bank account number and sort code
- Your contact name
- Your phone number

Claims should be made when running payroll and backdated to 1 March 2020 where employees have been furloughed already. Wages should be reduced by 80% on payroll before they are paid as HMRC will not make this adjustment.

CHAPTER 2 REOPENING

As businesses are gradually reopen, non essential stores are open to customers from 15th June and employees who can't work from home can return to their place of work the world will look a lot different. If your business or work is the same as it was before you are doing it wrong (see chapter xx on Safe Working). Although work places are starting to open there are still a considerable number of staff who are refusing to return, so what happens in these situations? We set out the top three reasons for staff refusing to return to work.



Guidance is to have premises open if it is not “reasonably possible for that person to work from the place they are living”. Employers must comply with strict duties for social distancing and regular risk assessment.

The message is clear that wherever possible staff should be home and if they can't then furlough needs to be considered (*see Furlough, page 4*). So, let's consider where you have work and you remain open but staff can't come to work;

REASON ONE—SICKNESS

Employees who aren't well with Coronavirus symptoms will be paid sick pay. The first 14 days of SSP (£95.85 per week) can be

reclaimed from HMRC. If staff are sick with other conditions then normal sickness rules apply.

REASON TWO—CHILDCARE

Employees who can't work due to childcare should be consulted to consider flexible work and hours with wages adjusted. If employees are unable to offer you any hours then you can consider placing employees on furlough until the end of June or subsidising pay until the end of October if they are already on the scheme. (see Furlough, page 4)

REASON THREE—CARING RESPONSIBILITIES

Employees who are looking after others who are 'Shielded' (see Sickness and Shielding, page 18) may be able to be Furloughed. A decision should be made by the employer considering others that can care for the shielded person, the type of work and ability to work from home, how others in the same position are treated and any other factors or flexibility. It may be that you decide, as an employer that furlough is appropriate in this situation. Can ask the employee for the shielding letter, a sick note or/and carry out a welfare meeting to understand the issues and whether they can be risk assessed or addressed in other ways.

WHAT IF MY EMPLOYEE REFUSES TO COME TO WORK?

Employees who refuse to come to work—and you can prove it's safe for them to do so—can be told their absence will be unpaid. Take any employees fear of corona seriously. Provide evidence of your risk assessments and rules or policies embedded on social distancing and equipment available. Discuss with your employee even if they don't accept your position, before you confirm their leave is not paid. Employees in this position will be absent on unpaid leave.

Those who are refusing to come to work and trying to convince others to do the same (there are plenty of these out there) can be treated differently and warned if they don't stop this behaviour could potentially be disciplined.

We have had many questions and examples of these scenarios. If you have followed the above advice, for those refusing to come to work evidence the measures you are taking with regular risk assessments (daily if necessary) then where employees are being disruptive or damaging the reputation of the business you are entitled to consider disciplinary action. Gather as much evidence as possible and either seek legal advice or follow your disciplinary process.

“keep calm and carry on”

CHAPTER 3 HOME WORKING

40% of employers are considering home working as part of their future business plans as an effect of Covid19.

Homeworking is the new norm for many and likely to be in place for some time.

Using an COVID-19 At Home Working policy is advisable (download from <https://www.dlp.org.uk/coronavirus/>) as it sets out employee expectations for this period, data protection rules and where and when to seek

advice or help.

It may be worth having a discussion about flexible working and making allowances for different hours, types of work, projects or anything else depending upon issues of childcare, ability to use equipment or access data from home etc. Any agreement should be confirmed in writing along with details of how this affects that employees pay and when it can be reviewed.

Zoom is a great tool for having team meetings where you can all see each other or have updates and worth considering.

Having daily or at least weekly team meetings is worth while also and if you have these early in the day will ensure you are satisfied that employees are up and working.

If you have a small team it's worth having these meetings as often as possible and asking others to chair them even to discuss what they plan to do today, the issues of home working, how they

are finding or solving issues, giving work updates and setting work targets. Having the same agenda each day means employees know what to expect from the meetings and can plan responses beforehand and not be nervous to be on video call.

If employees don't need to be in touch every day or their work is sent by email then it's worth calling these meetings welfare meetings so you can all check in with each other—maybe they prefer to do this without you being present—it's worth asking the question!

As well as weekly or daily meetings with your team it is also worth calling every person separately to catch up as often as you can. This means you can answer questions and ensure everyone is ok. It doesn't have to all be about work but just chat about news and the situation—show you care. This is especially important for those who live alone or have developed symptoms, or have family members who have. The more this situation unfolds the more people are starting to have friends or family who are sick or becoming ill.

TOP 5 TIPS FOR MANAGING STAFF WORKING FROM HOME

1. Agree hours and workload and review regularly
2. Communicate
3. Set expectations and realistic goals for agreed work
4. Communicate
5. Give regular feedback
6. Communicate

See *Communication, Wellbeing & Getting Advice*, page 13 for wellbeing notes for home workers.

CHAPTER 4: COMMUNICATION, WELLBEING & GETTING ADVICE

There are 5.8 million small businesses in UK employing 16.6 million staff which is 50% of private sector UK turnover.

Source FSB 2019

Communication is the *art of imparting information by any relevant method*. But knowing what is impart and what to keep confidential is a different issue to how to communicate.

It is accepted that thousands of businesses are facing bankruptcy over coronavirus. If you are in this category you are not alone.

Business interruption loans are available and can be found but are viewed by many as slow or risky. It's not ideal to take out a loan when you don't have a secure (or any) income and don't know what the future holds. But how much of this do you share with your staff?

The answer will depend in each case on the type of business, relationship you have with your employees and what your past relationship has been but our key points are to consider the following;

1. Honesty is usually the best policy but exact details usually confuse and remove the focus
2. Employees aren't daft. They can see what is happening and how much work you have. They will presume the worst if you

don't communicate—it may not be as bad as they were thinking

3. Employees deal with bad news better than you think. Those who don't want to help and would rather leave were never that committed to you or your business.

WELLBEING

Simple advice from NHS about wellbeing is to advise others to;

Stay in touch with family and friends over the phone and on social media

Try and keep yourself and others busy with as many activities as possible including online learning

Do light exercise at home or outside once a day

WELLBEING ADVICE FOR HOMEWORKERS IS TO;

Advise employees to find their own space in their home to work even if it's a corner of a room

Advise and ensure they take regular breaks including lunch breaks

Advise they keep regular work hours

Try to give employees regular targets which are monitored and reviewed so tasks or projects don't drift

Advise employees to have separate work and social time where they can shut off work in an evening and not think about their jobs

Give employees information where they can to get IT help or other assistance relevant to their job

GETTING ADVICE

If in doubt get advice, but get advice from the right places. The TV, your accountant or LinkedIn is not going to be the best place to receive specific legal advice. Only rely upon people you know

and who are expert in their subject. Get tax or finance advice from your accountant and get HR advice from someone who knows the law and is expert and up to date with the rules and regulations. Getting this wrong is not an option.

CHAPTER 5: SAFE WORKING

Office environments need to be safe and follow strict guidelines. Not only do checks, measures and risk assessments need to be in place but you also need to address the mental side of safe working and ensure you communicate properly and effectively about the changes, how seriously you take safety and what the new rules are. Take time to consider what your new work place will look like. Ask yourself how many people can you accommodate? What happens to other employees? Can you instigate shift patterns? How will you clean and who will clean in between each shift if you do?

Offices have come the full cycle in the last 10 years from silo offices, to open plan to flexible working back to divided offices. Do you need screens? How will you ensure each person has their own allocated work space, can't share cups or stationary, has enough hand sanitiser, has a one way system, contact with others is limited where possible and start or end times are staggered to reduce contact. All these things need considering and communicating effectively.

Write a policy and use it as a tick list. You can download our safe working policy from <https://www.dlp.org.uk/coronavirus/> as a starting point to address different factors of the work environment and see if you're ready for staff to return.

CHAPTER 6: SICKNESS & SHIELDING

There are three groups of sickness for employers to consider outlined below.

Group One—those displaying symptoms of coronavirus are not able to come to work and must isolate for 7 days from the day of the symptoms first showing. The Social Security legislation has been amended to allow employers to claim from HMRC from day one of sickness for a maximum of 14 days. The sickness can be covered by an isolation note available on line through NHS111. Employees are entitled to £95.85 per week. After the first 14 days if the sickness continues then the normal rules of sick pay, or SSP, will apply. Should any employee have contractual company sick pay then employees will be entitled to that payment and the SSP reclaimed to subsidise that entitlement.

Group Two—those who are vulnerable to coronavirus are those defined by Public Health England as well as those who are over 70 or pregnant or those with underlying health issues. For these employees there is no entitlement to sick pay but you must ensure that you are meeting the rules of social distancing and if an employee wishes to self isolate then this should be allowed.

Group Three—Shielding is a measure to protect those who are extremely vulnerable by minimising interaction between those and others. Those who were told to shield, by way of a letter from

the NHS, will be coming to the end of this period and may be able to return to work or want to go on sick leave (if they are genuinely not well enough to work). It may be necessary to complete a Occupational Health report or consider capability proceedings in some cases. Measures for those who are advised to continue shielding, through a medical note or OH report, will need to follow the below.

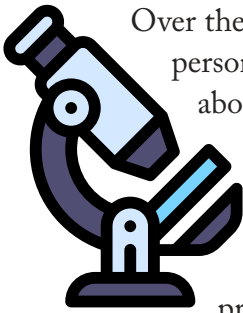
Those who have a condition which makes them extremely vulnerable or have received a letter from NHS England are strongly advised to shield themselves.

MEASURES SET OUT IN GUIDANCE ON SHIELDING ARE:

1. To avoid contact with anyone displaying symptoms of coronavirus including high temperature and/or new and continuous cough.
2. To not leave their house.
3. To not attend any gatherings. This includes gatherings of friends and families in private spaces, family homes, weddings and religious services.
4. To not go out for shopping, leisure or travel and, when arranging food or medication deliveries, these should be left at the door to minimise contact.
5. To keep in touch using remote technology such as phone, internet, and social media.



CHAPTER 7: MICROSCOPIC BEHAVIOUR



Over the years it has become obvious that personalities and a persons true feelings come out at certain times. It's not just about reacting under pressure it's about more than that, it's similar to the saying that the only time you can ever trust what any member of staff says to you is in their exit interview. How people act in a crisis can offer very valuable insights into commitment, priorities and honesty. It's a unique opportunity to see staff in a different light and not only do these behaviours come out but they are accentuated—it's as though they are put under the microscope. This is something that business leaders need to be aware of as their own actions and behaviours will also come out in the same way.

CASE STUDY ONE

Employee is a new director of a business that can remain open during the crisis. On the first sign of corona he went home and took three children out of school. Director has refused to answer work calls or emails since. The director manages a team of six. When asked to work by the senior Director he responded saying he has been working from home full time. Logging onto the system it is obvious this isn't the case and that the one or two emails which have been sent were out of date, unprofessional and

damaging to the reputation of the business. One customer had complained about one of the emails and its lack of professionalism. When asked in a welfare call if there were any issues, offered flexible hours or to take some annual leave the director replied that there were no issues and work was good indeed that 'he was working hard, was in touch with his team and had adapted well to homeworking'. It was found that the director had made one call to a colleague he managed, stating that he felt it was 'out of order' that the business was still open and hadn't be closed.

CASE STUDY TWO

Employee works as part of a production team of 20 employees who work on a supply chain supporting essential work and products. Employer has spent much time and money in ensuring that strict rules of social distancing and safe policies for separation, staggered start and end times to avoid congestion, and individual work stations are professionally cleaned each night. The employee believes from the TV and media that if he takes 12 weeks off he will be paid 80% of his wages and hasn't come to work or spoken with his employer. Employer has been phoning other employees and telling them not to go to work as a protest and "not to worry as they have to be paid by law".

CASE STUDY THREE

Employee works as part of a call centre team taking calls and has been moved to home working. Employee has been in isolation in her home and been putting in additional hours whilst no one has been watching. Employee never asked for additional reward, has never complained and is helpful to the point of calming down

others and making a real difference to the business and the attitude of those she works with.

Some of these cases arising are more extreme than others and whilst employers should appreciate these are special times and it is unlikely you are going to get the same level of work out of someone working from home during this period as you would when they were office based, it's important to address both the good and the bad as and when they arise. If you have started to notice other employees behaviours as the boss, then others will have also seen this and wonder why that person is allowed to mess about and get away with not working when they themselves are putting in the hours.

TIPS FOR MICROSCOPIC BEHAVIOUR MANAGEMENT;

1. Don't ignore bad behaviour
2. Reward and comment on good behaviour
3. Make notes to remember behaviours and to consider further action

CHAPTER 8: LEADERSHIP, VALUES & BUSINESS PLANNING

As a business leader right now is a time to shine and work on your business skills. Business planning has never been more important but knowing what to plan and how can be tricky.

Our advice is that businesses need to concentrate on the following priorities;

- Being a good leader
- Keeping calm
- Seeking best knowledge from the correct people

Being a good leader means being a boss, not shirking responsibilities or refusing to make tough decisions and not hiding away. So how are you leading right now? What are you leading in? Are you leading at all? Have you looked at your values and are you leading on those?

Keeping calm is part of your role but also part of your duty as an employer. By keeping calm you can keep others calm. Even if you don't feel calm or feel events and any situation is out of your control you need to put plans in place to deal with what you know and what you can control. Others will follow you mood and copy your emotion so it's important to have a word with yourself and ask how you think you are coming across.

Seeking knowledge is so important. No one knows everything. Financial advice needs a financial expert, HR needs an HR or legal expert, social media requires a marketing expert, medical advice a doctor and so on. Getting advice is easy but getting the right advice from the right person takes some planning—don't stumble across something you saw or heard and apply it to your business without checking it out properly and running it past those you trust. Getting different opinions is fine but at the end of the day your business is your responsibility and getting it wrong will be blamed on you. Much information in the public domain is confusing, wrong or generic. Your issues are personal and specific. When you make decisions make sure you consider what weight you can add to different pieces of advice. Getting it wrong isn't really an option right now.

DLP advice comes from an embedded philosophy and knowledge that all issues come from people, accountability or communication.

By drawing a table of issues down the left hand side and then issues of people (who), accountability (what) and communication (how) across the top you can fill in a table which is a business plan

	People <i>(who)</i>	Accountability <i>(what)</i>	Communication <i>(how)</i>
Leadership			
Keeping Calm			
Seeking Knowledge			

to focus on your business issues, who you trust to give you advice and how you will communicate answers or strategy. It's a useful tool to scribble in what you need to focus on.

“You can only fix the roof when the sun is shining”

VALUES

In amongst the issues, decisions and stress of the past few weeks did you refer to or rely upon your values? In the most serious of business weeks and learning how to survive most business owners totally forgot about their business values.

When the essence of a business is left after you have stripped away the offices, customer base, supply chain, sales funnel and staff—you are left with exactly what you stand for and are focused on what you want to achieve. These are your values. Is it profit which is your goal or helping people?

Take 3 companies making headlines

Sports Direct—Their mission is “*to be the leading sports and lifestyle retailer*”. They were slammed at the start of the crisis for arguing they were an “essential” business to provide sports wear to keep the UK fit and healthy. The controversy is that this put profit before health and safety of staff or the public. But look again at their mission, it is to ‘be’ the leading retailer. That suggests profit does come before lifestyle, it can be argued they were exactly living their mission?

Virgin Atlantic—Were the first company at the start of the crisis, to put all 8,561 staff on unpaid leave for 8 weeks. Their mission is “*To think about long term impact of every business decision made today for the future*”. And that's exactly what they did. They lived their mission.

Apple—Were ahead of the curve. They set up a Corona plan early on which included huge charity giving, donating medical masks in Europe and US and assisting with getting worldwide supply chains moving. They even programmed Siri to ask consumers about symptoms to diagnose COVID-19. Their mission, is to provide *'the best user experience to customers through innovation'*. They literally put their customers first. They also lived their mission.

Are you leading your business in the focus of your values? Were they your guide to lead you through the confusion, or did you forget they were there?

It's a good exercise to review them now to see how you fared but also to review your actions and judge your own performance. Did your actions align or did they conflict with your values?

CHAPTER 9: REDUNDANCY



Redundancies are hard to get right and very easy to get wrong. Missing a stage, prejudging an outcome or having a matrix which is not fit for purpose will all render the whole process unfair. The answer to getting the process right is down to planning. The best single piece of advice we can give is to plan then plan some more. When you go into the first meeting for the first consultation you should already be in a position to set out your pools, matrix, losses, figures, process and justifications. You should also have your plan, timings, costings and answers ready to obvious questions and correspondence and documents at the ready. This is different to prejudging. This is planning. Never walk into a consultation unprepared. We have set out below the factors and heading you have to consider and plan. Reference our redundancy planning road map at <https://www.dlp.org.uk/coronavirus/>.

What is a Redundancy?

The legal definition of a redundancy we have to apply can be found in s139 of the Employment Rights Act 1996. This section refers to three situations applying to a person dismissed by redundancy. This is defined where a dismissal is wholly or mainly attributable to; (a) the actual or proposed closure of a whole business (b) the actual or proposed closure of the business at a particular place or

(c) a reduction in the need for employees to carry out work of a particular kind.

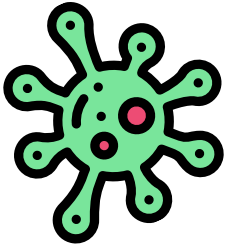
Important points we can take from this definition are;

- A redundancy must relate to a reduction of work
- A redundancy cannot be limited to a need to reduce expenses
- A redundancy relates to a role and not a person

Other points to apply are;

- A redundancy should be considered only as a last resort – ending someone’s employment should never be decided lightly
- A redundancy process, as well as the decision, must be fair and reasonable
- A redundancy process can be used for employees under two years but doesn’t need to be
- There is no legal right for employees to claim unfair dismissal under two years of service

Redundancies need to be handled properly and will be individual to each circumstance and business need. For specific help or advice, after the above decisions have been considered, please contact DLP for a free consultation.



CORONA-VOCAB

Coronavirus COVID-19	Is the virus (COVID is what it causes) COrona VIRus Disease 2019. The virus was formally named by the WHO on 11 February 2020.
SARS2	Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).
Novel	COVID is ‘novel’ because it’s never been identified in humans before.
Shielded	Those who are considered ‘high risk’ or ‘very high risk’ and need to be shielded from the virus which will likely have more effect on them than others.
Isolation	To separate those who are sick from those who aren’t sick.
Quarantine	To separate those who are well from those who are sick to prevent them being ill.
WFH	Working From Home
OFL	On Furlough Leave
CJRS	Coronavirus Job Retention Scheme (ie furlough)
OOO	Out of Office
WHO	World Health Organisation—a United Nations agency responsible for Public Health.
CBIL	Coronavirus Business Interruption Loan scheme offering up to £5 million for SMEs through the British Business Bank.
EVL	Emergency Voluntary Leave