

Process to place employee(s) on furlough leave

1. Company announcement

Employers should communicate to their employees' the difficulties they are experiencing as a result of Covid-19.

2. Decide which employees to designate as furloughed employees

It may be necessary to use a selection process when deciding who should be designated as a furlough worker.

When selecting employees to "offer furlough to", the Guidance states that equality and discrimination laws apply in the usual way. This could include the justification defences where offers are made to older employees or vulnerable employees who the employer would like to protect from exposure to others.

3. Notify furloughed employees of the intended change

Employers should write to affected employees explain the intended change, the reason for the change and the proposed start date of the change.

4. Consider whether consult with employees' representatives of TU is required

The Guidance says that if sufficient numbers of staff are involved "it may be necessary to engage collective consultation processes to procure agreement".

The law in this area is complex and advice should be taken. There may be ways of avoiding triggering the collective consultation obligations if employers seek volunteers or obtain the agreement of sufficient numbers of staff to be placed on furlough.

5. Agree the change with the furloughed employees

Employers will need to make any changes to employees' employment contracts (which is understood to mean to change their status to furloughed and any related changes, for example, to benefits) by agreement unless they have a contractual right to lay off.

6. Confirm employee's new status in writing

To be eligible, employers must write to their employees to confirm they have been furloughed and keep a record of this.

7. Submit information to HMRC about the employees that have been furloughed and their earnings through the online portal

To claim, the employer will need to submit the employer's PAYE reference number, the number of employees being furloughed, the claim period (start and end date), the amount claimed, the employer's bank account number and sort code (UK bank account) and a contact phone number.

8. Ensure employee's do not carry out further work for the employer while they are furloughed

Employees cannot carry out any work for their employer while furloughed, although they can take part in volunteer work or training (as long as it doesn't generate revenue for the employer). However, if employees are required by their employer to undertake training, they must be paid at least the National Minimum Wage/National Living Wage for the time spent.