

## **Business Owners and Managers**

*When this crisis is over and we are bringing our teams back to work they will remember how we responded during the crisis, how we communicated with them and ultimately how we made them feel with our actions.*

If you have furloughed any of your team, or are considering furloughing, here are some essential pointers to keep you on the right track:

### **Furlough Checklist:**

- Talk to your team about furlough, what it entails, why you are using it and what it will mean for them.
- Re-assure them that your contract of employment with each other is still in place, this is a temporary measure for a temporary situation.
- Be open and as transparent as you can about why the Job Retention Scheme is your choice.
- Decide if you can top up the team's salaries above the 80% the Government will be contributing.
- Ask if any team members would like to volunteer for furlough.
- Think about team members who could benefit because they live with people in the vulnerable or high risk categories.
- Provide written confirmation of furlough if that is the decision you come to. Apex have some letters that will be useful for this.
- Let the team have copies of the Apex support sheet that is in this pack.
- Gather the information needed for HMRC in order to place your team member(s) on furlough. We have put together a checklist on Excel to send to you to support you with this.

### **Government Guidelines for Furlough:**

- Both you and your team member(s) have to agree to them being placed on furlough.
- The government will cover 80% of the team member's salary up to £2,500 per month.
- You must write to your team member confirming your decision to be eligible to claim.
- Any UK employer with a UK bank account will be able to claim, as long as your team member started with you on or before 28<sup>th</sup> February and there was a PAYE payroll record in place on this date.
- If you made anyone redundant after the 28<sup>th</sup> February, they can be re-employed and placed on furlough.
- The minimum amount of time a team member can be furloughed is three weeks, and the maximum is three months – however this may be extended.
- You can furlough and un-furlough your team members, and rotate them to keep it fair between your team members.

### **Annual leave options when on furlough:**

The rules on this are not clear in the government guidance, therefore we are using our best judgement on how this will be applied.

Option 1 - this is to be used when employees receive a regular basic salary i.e. no bonus or commission involved

[www.apexhr.co.uk](http://www.apexhr.co.uk) reach us on 01752 825697 or 07815 622482 or 07843 300471

Find us on Facebook Apex HR and LinkedIn under Apex Human Resources

Released on Tuesday 7<sup>th</sup> April 2020

- The employer can instruct an employee to take annual leave whilst on furlough. However, the following criteria must be applied:
- Number of annual leave weeks instructed x 2 is the amount of notice required before the annual leave can start. So for example, if you are instructing an employee to take 2 x weeks' annual leave you must give them 4 weeks' notice before the annual leave period will commence
- the employee will receive 80% of their salary in the line with the Job Retention Scheme (JRS) for the 4 weeks' prior to the annual leave commencement and for the 2 x weeks of annual leave the employee will continue to receive 80% furlough subsidy + 20% which the employer is liable to pay in line with the Working Time Regulation (WTR)
- At the end of the holiday period, the employee returns to the 80% subsidy

Option 2 - this is for employees who receive basic salary plus commission and/or bonuses i.e. pay varies month to month depending on targets and performance

- Follow everything for point 1 above
- 2. Not only must the employer pay the 20% top up for the holiday weeks' they must calculate average commission/bonus payments over the last 12 months
- As an example if a team member earns £20k basic and £10k over a year in bonus his/her total salary is £30k. The team member is instructed to take one week's holiday. To calculate the employer contribution for commission and bonuses for the holiday week for the team member, apply the below formula total salary - basic salary / 52 x no. of week's leave

$$30k - 20k / 52 = £192.31$$

In this scenario the employer must pay the team member for that one week's holiday  $20,000 / 52 = £384.62$  for the week he is entitled. 80% of this comes through JRS and 20% by the employer which is £76.92

So if the team member is just on basic this is what he would get. As the team member has performed well and earned commission/bonus, they have to pay the £192.31 on top of the basic of £76.92

3. at the end of the holiday, the team member returns to the 80% payment if remaining on furlough

The bank holidays for commission and bonus are quite complex. This is an argument that if WTR EU law is applied, the 1.6 weeks of holiday made up of bank holidays in the UK only has to be paid at the 80% rate.

It is important to put a big caveat in here, this is a preliminary legal interpretation and as yet untested by the courts so it's difficult to be precise.

We have provided some working examples below:

**Team members that receive a basic salary:**

80% of salary on Furlough	80% of salary on Furlough + 20% of salary paid by Employer	80% of salary on Furlough
4 weeks' notice on JRS prior to holiday	2-week annual leave or holiday	Return to JRS



[www.apexhr.co.uk](http://www.apexhr.co.uk) reach us on 01752 825697 or 07815 622482 or 07843 300471

Find us on Facebook Apex HR and LinkedIn under Apex Human Resources

Released on Tuesday 7<sup>th</sup> April 2020

Example:

Gary, a member of the team earns £20,000 per annum. During the furlough period, he receives 80% of his normal salary - £307.69 per week. For the weeks that Gary is instructed to take annual leave he will have received £307.69 plus an additional 20% to be paid by the employer - £76.92.

Weekly payment whilst in annual leave - £307.69 + £76.92 = **£384.61 (net)**

**Team members that receive a basic salary plus commission and/or bonuses:**

80% of salary on Furlough but excluding bonus/commission payments	80% of salary on Furlough + 20% of salary paid by Employer + A weekly payment based on average commission and bonuses earned over last 52 weeks	80% of salary on Furlough but excluding bonus/commission payments
4 weeks' notice on JRS	2-week annual leave	Return to JRS

Example:

Judith earns a basic salary of £20,000. Over the last 52 weeks she has been busy meeting her targets which has earned her an additional £10,000 in commission and bonus payments. During the furlough period, she receives 80% of her basic salary - £307.69 per week. For the weeks that Judith is instructed to take annual leave she will receive £307.69 plus an additional 20% to be paid by the Employer- £76.92. Judith will also receive average commission and bonus payments over the last 52 weeks. £10,000/52= £192.30\*

Weekly payment whilst on annual leave - £307.69 + £76.92 + £192.30 = **£576.91 (net)**

**\*Please note this is only for the statutory annual leave entitlement and not any additional leave entitlement agreed by the Employer or the 1.6 weeks or 8 bank holidays. For the 1.6 weeks, or for any contractual holiday over and above the statutory minimum, the team member will be entitled to 80% of their basic salary for such holiday days.**

**What you can ask your team members to do while on furlough:**

Please see the section under **Team Members** titled **“Do’s and Don’ts while you’re on Furlough”**. This will show you what you can and cannot ask your teams to do while they’re on furlough.

**How to look after your team members who are on furlough:**

Barry Wehmiller are an American equipment and technology solutions firm. During the economic downturn in 2008, they had some big decisions to make. Their CEO, Bob Chapman, decided that “It is better that we all suffer a little, so that none of us has to suffer a lot.” This is when they introduced their own furlough scheme (which was 4 week’s unpaid leave), to avoid making anyone redundant.

[www.apexhr.co.uk](http://www.apexhr.co.uk) reach us on 01752 825697 or 07815 622482 or 07843 300471

Find us on Facebook Apex HR and LinkedIn under Apex Human Resources

Released on Tuesday 7<sup>th</sup> April 2020

Those who could afford it more, took 8 weeks, and those who couldn't, continued to work. The members of this particular team worked this through by themselves, there was no argument about who needed it more etc, they all understood and came to the best decision for each other, and for the future survival of the business.

To best look after your teams, consider who would be best to furlough:

- Who's personal circumstances mean this is more realistic.
- Who it would work for (perhaps people with children/dependants).
- How it would look to rotate people on furlough.

Also, consider these things:

- "We would never dream of getting rid of one of our children in hard times" – Bob Chapman
- Rather than everyone look out for themselves, everyone in your company needs to come together and look after each other, like a family.

With this in mind, once your team member(s) are on furlough, it is very important that you stay in regular contact with your team, keep them updated about how long they are likely to be on furlough for, and how the company are doing. Also, take interest in how they are getting on, make sure they are doing okay while on furlough, and support them wherever possible. It would be really beneficial to help your team members be ready to return to work.

### **What can Apex do to support you?**

Apex are happy to support our clients in any way possible at any time, especially in times like these. We want to support you, and your teams as much as we can. A few things we have already thought of are, keeping in contact with you, and your team, especially those that have been furloughed. We have considered scheduling weekly check in phone calls to see how everyone is getting on. We will also be putting together a health and well-being guide for team members who are on furlough. It's really important that furloughed team members are not forgotten about.

We also have letters that you can send to your team members regarding furlough, employment offer postponements/retractions, terminations and more that will be very useful. They are written in a very human way and will help your teams to understand your decision.

From the whole team at Apex, wherever you are, stay safe!

We are all optimistic that we will see the best of people during these challenging times, so we all need to look after ourselves and others.

We are grateful for your support, and we will do our best to continue to support you.

Keep up to date on our website <https://www.apexhr.co.uk/>

Reach us on 01752 825697 or 07815 622482 or 07843 300471

Find us on Facebook Apex HR and LinkedIn under Apex Human Resources.

## List of Resources used in this Document:

- <https://www.gov.uk/guidance/check-if-you-could-be-covered-by-the-coronavirus-job-retention-scheme#while-youre-on-furlough>
- <https://www.hr-inform.co.uk/news-article/government-release-further-guidance-on-employee-furlough>
- <https://www.acas.org.uk/coronavirus/if-the-employer-needs-to-close-the-workplace>
- <http://outsideincompanies.com/a-truly-human-furlough-an-alternative-to-a-reduction-in-force/>
- <https://www.trulyhumanleadership.com/?p=645>
- <https://www.bbc.co.uk/news/business-52109833>
- <https://www.blood.co.uk/>
- <https://www.concordiavolunteers.org.uk/feed-the-nation>
- <https://www.countryliving.com/uk/wildlife/farming/a31954445/help-feed-the-nation/>