

Extended furlough and the vaccine roll-out: *What the employer needs to know*

Updated guidance on the Coronavirus Job Retention Scheme has been published following increased restrictions across Great Britain and Northern Ireland aimed at controlling the spread of coronavirus.

Employers should consider how the latest changes impact their business.

Employer Claim Information

Previously we highlighted that HMRC planned to publish details of all employers making claims under the CJRS as part of its commitment to transparency and to deter fraudulent claims. More detail has emerged on this – which will in turn impact on some employers' decision whether or not to continue to avail of the 'Furlough' scheme given the loss of confidentiality and public exposure. A list of employer names will be published on Friday 26 January for claims which started on or after 1 December 2020 and, from February onwards, HMRC will also publish Company Registration Numbers (if applicable) and the value of claims within a banded range.

HMRC have confirmed that it will not publish claim details where it would result in a serious risk of violence or intimidation to individuals, or those living with them. The exemptions from publication are very limited and unlikely to remove concerns for employers who are primarily focused on corporate confidentiality. That said, employers concerned about publication can submit a request not to publish claim details using the following link:

www.tax.service.gov.uk/submissions/new-form/apply-to-remove-an-employer-from-job-retention-scheme-register

Furlough for caring responsibilities

Employers can place individuals on furlough and claim for them under the CJRS if they have caring responsibilities resulting from Covid-19, which prevent them from working or require them to work reduced hours.

Updated employee guidance now lists examples of caring responsibilities, including caring for children who are at home as a result of school or childcare closures. While this will be a welcome development for many employees, it is not clear whether caring responsibilities extend to secondary-school aged children.

Further guidance is, as ever, expected but in the meantime, employers should be mindful of this change and consider requests on a case by case basis. On a practical level, whilst employees can request to be furloughed, it remains down to employer discretion whether to facilitate requests. Exploring adjusted working patterns or alternative paid leave may be preferable subject to business need. It is certainly a seismic shift for the 'furlough' scheme which has morphed from a short term emergency measure to avoid redundancy (Job Retention Scheme) to a scheme whereby employers have a broad discretion to seek to avail of job support 'grants' in order to preserve the employment relationship in the wider meaning of the word. This is obviously

a drain on the public purse, but equally is a generous and necessary mechanism to cope with the impact of the pandemic bearing in mind that the initial CJRS was anticipated to be a quick, short term emergency measure due to expire, initially in June 2020.

Furlough expiry?

The current furlough scheme is extended to the end of April 2021. While there is every anticipation that the scheme will end at that point, that expectation appears conditional upon a more positive nationwide outlook based on the vaccine rollout and the corresponding relief of pressure on the NHS. Some political commentators are already suggesting that the scheme will be extended beyond April, with a graduated reduction akin to that experienced in 2020. In that context, it remains a very much 'wait and see' position for all employers who have used, are using, or might yet feel the need to use the JRS benefits.

Vaccination considerations for Employers and Mandatory Risk Assessments

The roll-out of Covid-19 vaccines to priority groups is obviously a welcome development. However, at an early stage, employers need to be live to the challenges this may present for their workforce. Health and Safety, Human Rights and Data Protection considerations will all be increasingly important as vaccines become more widely available.

- In certain sectors, primarily healthcare, mandatory vaccination against certain diseases is a requirement of the role. The position is far less straightforward for more traditional sectors however.
- While employers cannot force employees to have the vaccine, it would be sensible to encourage vaccination, signposting the

benefits as well as highlighting the potential consequences depending on their individual roles and circumstances.

- Many employers will be anticipating a physical return to the workplace in the near future, however health and safety considerations will remain paramount and caution is recommended. Existing preventative measures should not be scaled back simply because vaccinations are being rolled out and employers planning for a return should consider updating risk assessments to include vaccination considerations, especially where not all employees have received the vaccination or have refused it.
- A blanket approach to employee vaccination status should be avoided. Employers risk discrimination claims if they treat vaccinated staff differently from unvaccinated staff. Employees may refuse the vaccine because of a protected characteristic such as religious belief and currently, pregnant women and individuals with certain medical conditions are being advised not to receive the vaccine. Pressing individuals on their reasons for not being vaccinated could also lead to employers being fixed with knowledge of a previously unknown disability and obligation to consider reasonable adjustments.
- If an employer makes vaccination mandatory for employees and they suffer an adverse reaction, the employee may seek to bring a personal injury claim as a result.

This is an area where guidance and best practice is likely to develop rapidly. For now, a logical first step for employers considering measures and policies in relation to vaccines would be to discuss plans with employees and allow them to ask questions and voice their concerns.

For further information on this topic please contact any member of the [ALG Employment Team Belfast](#).

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