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Industry Coronavirus (CICV) Forum

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Returning from furlough

GUIDANCE ON STEPS EMPLOYERS SHOULD TAKE

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INTRODUCTION

The Scottish Government has published its [route map through and out of the COVID-19 crisis](#). This route map gives an indication of the order in which the Scottish Government will carefully and gradually seek to change current restrictions. It provides practical examples of what people and businesses can expect to see change over time.

Accordingly, If you are currently receiving financial assistance for furloughed workers through the [Coronavirus Job Retention Scheme](#) (CJRS), you may now be looking at the process of how to 'unfurlough' workers.

In this guide, the CICV Forum sets out some practical advice for employers on bringing furlough to an end and how to keep workers safe on their return to work.

WHAT IS THE TIMELINE FOR BRINGING FURLOUGH TO AN END?

In due course, all businesses will be looking to bring their furloughed workers back to work, or to consider other options, once the CJRS comes to an end.

The CJRS, originally scheduled to finish at the end of June, has been extended until the end of October 2020 to run in four stages:

- **June and July:** The government will pay 80% of wages up to a cap of £2,500 as well as employer National Insurance (ER NICs) and pension contributions.
- **August:** The government will pay 80% of wages up to a cap of £2,500. Employers will pay ER NICs and pension contributions.
- **September:** The government will pay 70% of wages up to a cap of £2,187.50. Employers will pay ER NICs and pension contributions and 10% of wages to make up 80% total up to a cap of £2,500.
- **October:** The government will pay 60% of wages up to a cap of £1,875. Employers will pay ER NICs and pension contributions and 20% of wages to make up 80% total up to a cap of £2,500.

In addition, from 1 July 2020, employers will have the flexibility to bring furloughed workers back part-time. It has been left to the employers to decide what part-time means and they will be responsible for paying workers' wages while they are in work.

By implementing a phased transition back to work, this will allow employers to put in place safety measures to make the workplace as safe as possible. It will also mean that employers will share the burden of paying salaries with the government.

Once the CJRS comes to an end you will need to decide, depending on your circumstances, as to whether your workers can return to their jobs. At this stage, you will no longer be eligible for any government grant to keep your workers on the payroll. If your business has been severely affected by the impact of coronavirus, it may be necessary to consider [redundancies](#).

Each period of furlough can be extended by any amount of time while the worker is on furlough, although the CJRS end date is the last day that can be claimed for. This means that whilst you are not necessarily obliged to take workers off

furlough, further agreement may need to be reached with your workers as to how any further leave of absence will work and what they will be paid.

For further information on the future of the CJRS please visit:



<https://www.gov.uk/government/news/chancellor-extends-self-employment-support-scheme-and-confirms-furlough-next-steps>

WHEN CAN FURLOUGH BE BROUGHT TO AN END?

When deciding to take workers off furlough and asking them to return to work, consider:

- **Is it recommended?**

You should only consider bringing furlough to an end for certain groups of workers in accordance with the schedule of phases set out in the Scottish Government's [route map](#).

- **Is it sufficiently safe?**

You have a duty of care to ensure the health, safety, and wellbeing of your workers. This includes identifying and managing any risks to ensure that the workplace is safe for your workers to return to. By implementing a gradual return, this will enable you to test any measures in practice, ensuring these will work as the numbers of returning workers gradually increase.

- **Is it effectively communicated?**

You must clearly communicate your intentions to unfurlough workers as soon as is reasonably practicable, consulting with them where possible, even where there is prior written agreement for immediate recall. This will allow you to address any workers concerns and accommodate any needs, being flexible wherever possible by way of additional time off work or the use of alternative working arrangements.

Employers should remember that the Chancellor has confirmed the CJRS will be coming to an end on Saturday 31 October, with the level of financial support reducing in the lead-up to the end of the scheme. By this point, employers will have to have made a decision on their furloughed workforce.

WHAT STEPS SHOULD BE TAKEN TO KEEP UNFURLOUGHED WORKERS SAFE?

Now that the timing and nature of the relaxation of restrictions by the Scottish Government have been published, all businesses should start to consider their return to work plans.

At the heart of any operational decisions should be how you propose to take care of your workers and safeguard their health and wellbeing. As an employer, you have a duty of care to ensure the health and safety of your workers. This includes their physical, mental, and emotional wellbeing, where many will have understandable concerns about being in the workplace and travelling to work.

This means that if you are looking to take workers off furlough, you must take all reasonable steps to make your workplace safe and to control the coronavirus risks associated with running your business at this time.

How you manage a return to work will depend on the closure arrangements you are currently operating. Your business may not have been trading at all where everyone has been furloughed, or you may have been trading on a limited basis with some workers furloughed but essential workers still in work.

In either case, any safety measures should include the following:

- Completing a risk assessment to identify what might cause harm in the context of coronavirus and taking reasonable steps to prevent its spread, especially where workers are expected to work with or near other people, or you are increasing the number of workers in the workplace.
- Consulting with workers in the steps you are taking by sharing the results of your risk assessment, explaining the changes you are planning to work safely, and how health and safety will be reviewed and managed.
- Involving workers in the steps you are taking to keep the workplace safe by listening to their concerns and exchanging ideas about how to manage the risk of coronavirus in the workplace.
- Adopting flexible working measures, including allowing workers to work from home, or staggering shifts or start and finish times, to minimise social contact with others and avoid overcrowding.
- Following the government guidelines on safer working, for example,

by putting in place physical distancing measures; imposing additional hygiene measures and hand-washing facilities; providing PPE including face coverings and masks (as appropriate), gloves and screens for work stations; arranging for a deep clean of any work spaces or communal areas; as well as providing extra car-parking spaces so workers can avoid using public transport where possible.

- Where prior agreement has been reached to formally consult with any trade union or worker representatives before bringing furlough to an end, you may also need to involve health and safety representatives in your return to work plans.

For further advice on working safely during the pandemic visit.

- **The Health and Safety Executive**
<https://www.hse.gov.uk/news/index.htm>
- **Construction Scotland - Safe Operating Guidance**
<https://www.cs-ic.org/library/working-on-site-during-the-covid-19-pandemic-construction-guidance/>
- **Construction Scotland - Site Restart Model**
<https://www.cs-ic.org/media/4042/copy-of-annex-a-cs-re-start-model.pdf>
- **CICV Forum - Safe Return and Restart Underpinning Guidance**
<http://cicvforum.co.uk/downloads/>
- **Scottish Government - Construction Sector Guidance**
<https://www.gov.scot/publications/coronavirus-covid-19-construction-sector-guidance/>
- **Scottish Government - Safer Work Places Statement**
<https://www.gov.scot/publications/coronavirus-covid-19-safer-work-places-statement/>
- **Scottish Government - business and physical distancing guidance**
<https://www.gov.scot/publications/coronavirus-covid-19-business-and-physical-distancing-guidance/>
- **Healthy Working Lives - Coronavirus Information for Businesses**
<https://www.healthyworkinglives.scot/Pages/default.aspx>

WHAT STEPS SHOULD BE TAKEN TO UNFURLOUGH WORKERS?

There are various reasons why you may be looking to take workers off furlough. This might be because you need temporary cover for anyone who has become ill or needs to self-isolate, or you have more work than you had initially predicted and need extra workers to cover any backlog. And now that the route map has been published, you may be looking to implement a phased return in anticipation of resuming business as normal.

When you begin making preparations for your workforce to return to work, you should issue a letter informing your workers of the measures you are taking in regard to health and safety to protect them when they return. You should also ask each worker to complete the Coronavirus Questionnaire contained within that letter, which will enable you to make a meaningful risk assessment, and to allocate resources effectively.



For further information, see **Annex 1a** – Health and Safety Preparations Letter/Email Template and **Annex 1b** – Employee Questionnaire

At the appropriate time, you should issue a second letter to each worker that you wish to return from furlough, informing them of the date of their return to work, and the arrangements in place for their safe return to work.



For further information, see **Annex 2a** – Return to Work Letter/Email Template and **Annex 2b** – Part-Time Return to Work Letter/Email Template

Regardless of the reason for curtailing the furlough period, you will first need to check the wording of the furlough agreement, including the arrangements for bringing furlough to an end.

If you have specified a notice period which must be given before you can expect a worker to return to work, you will need to honour this period, unless further agreement can be reached to waive any notice. You will also need to ensure that you provide notice in writing where required.

Additionally, you should check any agreements you have in place with the trade union or worker representatives to see if you must formally consult on a collective basis. Importantly, if there are any proposed changes that will affect the written terms of someone's contract, you must always consult with the individual or their representative.

A contract of employment can be altered only with the agreement of both parties. When any change to a contract of employment is actioned, employers are required to give written notification of the variations within one month of the changes being agreed and put in place.

Changes may need to be made in reaction to economic circumstance or business reorganisation resulting in the need to alter contractual terms such as those relating to hours or pay. On the other hand, a worker may request to make a change to their hours because of changes to their domestic situation.

For more details, visit ACAS – Changing an Employment Contract:



<https://www.acas.org.uk/changing-an-employment-contract>

As a responsible employer you should be prepared to be flexible, even where furloughed workers were previously advised of the need to be ready to return to work at short notice, or even where required to do so under the terms of any furlough agreement. In some cases, you may consider providing sufficient time for workers to make any childcare or other arrangements to facilitate their return

CAN YOU UNFURLOUGH WORKERS AND LATER RE-FURLOUGH?

If, after you take workers off furlough, the operational needs of your business change again, for example, COVID-19 transmission levels increase once more, work levels decrease or temporary cover is no longer needed, it remains open to you to re-furlough them. In some cases, employers have rotated their workers in and out of furlough as a means of making things fair.

Under the CJRS, the minimum length a worker can be furloughed for is three weeks. This means that a worker can be furloughed multiple times, making it possible to move a person in and out of furlough, so long as each separate period of furlough lasts for at least three weeks.

If you are seeking to unfurlough workers within the first three weeks of any furlough period, there is nothing to prohibit this. However, you will lose your entitlement to claim under the scheme for the time that they have been furloughed. In these instances, you may want to let the furlough continue until they have been absent from work for at least three weeks where possible in order to ensure that you qualify for grant payments relating to the wages of such furloughed workers through the CJRS.

Where you are intending to re-furlough workers, further agreement should be sought. This can be an updated version of the previous agreement but should be re-signed and dated.

It is important to bear in mind that, presently, you cannot partially furlough workers, even to carry out part-time work from home, although this will change from the beginning of July 2020.

From 1 July, employers can bring workers back to work who have previously been furloughed for any amount of time and any shift pattern, while still being able to claim CJRS grant for their normal hours not worked. When claiming the CJRS grant for furloughed hours, employers will need to report and claim for a minimum period of one week.

The CJRS will close to new entrants from 30 June 2020. From this point onwards, employers will only be able to furlough workers that they have furloughed for a full three-week period prior to 30 June.

This means that the final date by which an employer can furlough a worker for the first time will be Wednesday 10 June 2020, in order for the current three-week furlough period to be completed by 30 June.

WHAT IF SOMEONE REFUSES TO RETURN TO WORK?

You may find that many furloughed workers are reluctant to return to work, either because they are concerned for their own health or that of people they are caring for who may be vulnerable or shielding.

If you are faced with a situation where you are bringing furlough to an end, but workers are expressing a reluctance to return, you should look for ways to accommodate their concerns or practical needs. This could include allowing them to work from home or to take any unused annual leave entitlement.

A furloughed worker will continue to accrue their normal [statutory annual leave entitlement](#) during furlough.

If someone refuses to return to work without a valid reason, you may be able to take disciplinary action against that individual, although caution should be exercised as you risk reputational damage, and even legal action, if you fail to follow fair procedures. It is therefore always best to explore alternative options, such as a leave of absence, either paid or unpaid.

SUPPORTING WORKERS' MENTAL HEALTH

Self-isolation and physical distancing during the pandemic may have affected your workers' mental health.

People may have experienced a wide range of feelings, including fear, anger, sadness, irritability, guilt, or confusion. They may have found it hard to sleep and the pandemic may have increased feelings of stress, anxiety, or depression.

The leftover effects from physical distancing coupled together with trying to get back to a regular work routine can be tough, so it is important to spot workers who may be struggling.

Gather mental health resources and share them with your workers. Inform managers and supervisors/chargehands of these resources and the effects of mental health and ask them to monitor their workers.

For further advice, guidance and support in relation to mental health please visit:

- **Clear your head**
<https://clearyourhead.scot/>
- **Mates in Mind**
<https://www.matesinmind.org/>
- **Breathing Space**
<https://breathingspace.scot/>
- **Samaritans Scotland**
<https://www.samaritans.org/scotland/samaritans-in-scotland/>

THE FINAL WORD

Flexibility, honest communication, and adherence to best practices will help ease the transition as unfurloughed workers adapt to the "new normal".

ANNEXES

Annex 1a: Health and Safety Preparations Letter/Email Template

Name

Address

Date

Dear XXXXX,

I hope that you and your family are keeping safe and well at this time.

We write to advise you that the Company is continuing to progress our preparations to facilitate a safe and controlled return to work.

With a view to regulating activities on site in order to protect against the transmission of COVID-19 when we are able to recommence works, the Company is working with our industry body to help devise and implement Safe Operating Procedures which will change the way work is undertaken on site.

I would therefore like to take this opportunity to let you know that the Company is currently considering a variety of measures which may help to facilitate a managed transition from the present restrictions in a way that deters the spread of the coronavirus as we progressively return to work.

As a result, it is currently envisaged that a phased return to work will be required across the business with some employees being invited back to work at different stages in a controlled and gradual manner. This may involve the introduction of temporary alterations to working hours in order to reduce the number of site personnel working at any one time so as to help maintain physical distancing parameters when recommencing works. The Company will consult with you in more detail in relation to such proposed changes prior to your return to work.

The Company will also take steps to facilitate physical distancing and enhanced hygiene on site. For example, the Company will introduce measures such as: (examples provided below, please select as appropriate or add further measures)

- Installing new or expanding existing site welfare and toilet facilities
- Installing hand washing/sanitiser stations (or Providing hand sanitiser)
- Amending typical travel arrangements and site access and egress processes
- Alterations to form 'one way' systems
- Installing new Covid-19 signage
- Marking 2m distancing throughout the site
- Re-modelling office and meeting rooms for physical distancing
- Introducing revised cleaning processes for site facilities and the workspace
- 'Road testing' all new systems prior to the supply chain returning to site

However, as you will undoubtedly appreciate, it is also recognised that there is currently a national demand for Personal Protective Equipment (PPE), with availability understandably prioritised for

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health and care workers. The Company and the wider construction industry must therefore, at least in the initial stages of returning to work, base our operating model on controls such as physical distancing and enhanced hygiene rather than extensive and constant utilisation of PPE although disciplined use of PPE will be obligatory in appropriate situations.

On return to work we will ensure that you are familiar with all of the additional health and safety measures that the Company will implement through a comprehensive site induction (or toolbox talk). You will also be advised about how to report any concerns that you may wish to raise in relation to health and safety in the workplace.

If there are any health and safety measures that you would like the Company to consider at any stage, please do get in touch with me to discuss any suggestions that you may wish to forward.

In the meantime, in order to assist the Company's understanding of our workforce's current circumstances, I would be grateful if you could answer the questions detailed below and return your responses to me via xxx@xxx by Date 2020.

All personal data captured in this questionnaire will be processed in accordance with the Data Protection Act 2018 and the Company's Data Protection Policy.

I would also be grateful if you could revert back to me should any of your answers in the questionnaire change between submitting your response and your eventual return to work.

It is hoped that the Company will be in a position to begin to return to work shortly and we will contact you directly to inform you of the date on which you will be asked to return to work.

The Company will endeavour to provide you with as much notice of a return to work as practically possible. However, as you will no doubt appreciate, the Company is continuing to adhere to the construction sector guidance issued by the Scottish Government and the business is therefore reliant upon Government Ministers setting out a timeframe in relation to the recommencement of works with further announcements expected imminently.

Consequently, I must advise you that from this point onwards you may only be provided with a few day's notice before your current period of furlough leave is concluded and you are invited back to work.

In the meantime, should you have any concerns with regard to the content of this letter or the questions in the survey, please do not hesitate to contact me directly in order that we can discuss any issues in further detail.

Yours sincerely,

Name
Position

Enc: Coronavirus Questionnaire

Annex 1b: Health and Safety Employee Questionnaire

Have you been tested for Coronavirus? What was the outcome?

Do you suspect that you have suffered from COVID-19 to date?

Are you currently self-isolating because you, or a member of your household, has symptoms associated with COVID-19 (fever / high temperature, new continuous cough or the loss or a change in your normal sense of smell or taste)? If so, please advise of the relevant timeframe and the expected date on which your self-isolation is due to end.

Have you recently been in close contact with anyone confirmed with the COVID-19 virus?

Have you been issued with a 'shielding' letter from NHS Scotland or other relevant authority?

Is there anyone in your household who is vulnerable or has been asked to shield in accordance with public health guidelines?

Do you have any health issues which place you at increased risk of severe illness from COVID-19 that you would like to advise the Company of at this juncture?

Have you returned to the UK from another country within the last 14 days? If you answer 'yes', please provide details of your travel including the countries that you visited and the dates involved.

Do you have access to your own vehicle in which you could travel to work?

Are there any barriers which may make it more difficult for you to return to work (such as childcare responsibilities with current school closures, a lack of transport or caring responsibilities)?

Do you have any concerns about a potential return to work that the company should be aware of?

If the company was to implement a phased return to work, would you like to be considered for inclusion within the first group of returners? If not, why not?

Are there any other matters that you would like to raise at this time?

Name:

Date:

Annex 2a: Return to Work Letter/Email Template

Name

Address

Date

Dear XXXXX,

Reference: Return to Work

I write further to the receipt of your Coronavirus employee questionnaire and our subsequent telephone conversation on XX May 2020 in order to confirm the arrangements that will conclude your current period of furlough leave which initially commenced on XX March 2020.

As you will recall from our conversation, the company is now in a position to invite you to return to work on Date 2020 in order to resume works at Site.

Consequently, I can confirm that the signed agreement dated Date 2020 which temporarily varied your contact of employment, placing you on a period of furlough leave in accordance with the provisions of the Coronavirus Job Retention Scheme (CJRS), will cease on your return to work on Date 2020 when your full contractual pay will recommence as you will once more be expected to perform your contractual duties across your normal working days and hours.

The company has endeavoured to provide you with as much notice of a return to work as possible. However, as you will no doubt appreciate, the provision of notice has been difficult due to the prevailing circumstances and the COVID-19 related challenges that we have all faced in recent weeks.

For the avoidance of doubt, the company will remove your details from any applications submitted to the CJRS applicable from the date on which you return to work.

However, I must take this opportunity to advise you that the company may ask for your consent to be placed on furlough leave again in future, dependent upon the progress achieved in suppressing the transmission of the coronavirus and available levels of safe work.

Finally, the company has also implemented a number of additional health and safety measures related to protecting against the spread of COVID-19 and you will be fully advised of such precautions on your return to work. We would ask that continue to comply with established social distancing guidance when travelling to and arriving on site.

In the meantime, please do not hesitate to contact me directly should you have any concerns in relation to your scheduled return to work.

Yours sincerely,

Name
Position

Note: This correspondence should be tailored and adjusted to suit your individual company's circumstances. In particular, the sections highlighted should be completed, adjusted or removed in accordance with your company's preferences and intentions.

Annex 2b: Part-Time Return to Work Letter/Email Template

Name

Address

Date

Dear XXXXX,

As you are aware, due to the coronavirus outbreak, it was necessary for **company** to seek your agreement to designate you as a “furloughed worker” in line with the government’s Coronavirus Job Retention Scheme.

Following my previous letter, you confirmed your agreement to be designated as a furloughed employee and you were placed on furlough from **furlough start date** until **further notice / specific date**.

The government recently announced that from 1 July 2020, workers can return to work from furlough leave on a part-time basis, while continuing to be furloughed for the remainder of their contracted hours.

I am writing now to request that you resume work with a revised temporary working pattern from **unfurlough date**.

The working pattern will initially last from **start date** to **end date** and would be as indicated below.

WEEK	MON	TUE	WED	THU	FRI	SAT	SUN
DATE							
DATE							
DATE							
DATE							

Your contracted hours are **total contracted hours**.

Your hours of work during this period are **total proposed working hours**.

Your hours of furlough during this period are **total proposed furlough hours**.

Note: This correspondence should be tailored and adjusted to suit your individual company's circumstances. In particular, the sections highlighted should be completed, adjusted or removed in accordance with your company's preferences and intentions.

You will be paid at 100% of usual wages for each hour worked during this period, as had been the case before the COVID-19 pandemic.

You will be paid at 80% / 100% of usual wages for each hour spent on furlough during this period.

Agreeing to the revised temporary arrangements as detailed above constitutes acceptance of a temporary change in the terms and conditions of your employment.

As has been the case while full-time furlough was in effect, you will continue to accrue holiday at the normal rate, and normal employer pension contributions will continue to be made on your behalf.

In order to enact the working pattern detailed above, company requires your written agreement. Please reply to this letter using the contact details below by date indicating your acceptance or otherwise of the proposal.

If you have any questions about this arrangement, please contact name of contact at contact details of contact in advance of this date

Company may have to ask for your consent to be placed on full-time furlough again or make changes to the working pattern detailed here. In this instance I will write to you again.

Yours sincerely,

Name
Position

Current members of the CICV Forum:

- Association for Consultancy and Engineering
- British Constructional Steelwork Association
- Builders Merchants Federation
- Building Engineering Services Association Scotland
- Chartered Institute of Architectural Technologists
- Chartered Institute of Building
- Civil Engineering Contractors Association Scotland
- Construction Plant-hire Association
- Electrical Distributors' Association
- Federation of Master Builders
- Finishes and Interiors Sector
- Lift and Escalator Industry Association
- National Federation of Roofing Contractors
- Royal Incorporation of Architects in Scotland
- Royal Institution of Chartered Surveyors
- The Scaffolding Association
- The Scottish Building Federation
- The Scottish Contractors Group
- Scottish Plant Owners Association
- SNIPEF
- SELECT
- The Stone Federation (GB)

Further information



www.cicvforum.co.uk



info@cicvforum.co.uk

