

/ Coronavirus: A Q&A on Impacts to Business, Finance and HR Functions

In association with

 **MOORE** Kingston Smith



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/ Introduction

In these unprecedented times, business owners are looking closely at the financial position of their businesses.

To meet a need for as much insight and guidance as possible, we held a webinar with chartered accountants and business advice experts Moore Kingston Smith.

The session – [that can be watched back, here](#) - focused on the business impacts of the coronavirus outbreak, notably across three key thematic areas:

- General business
- HR
- Finance

The webinar offered a chance for the submission of questions, tackled by Moore Kingston Smith's experts.

We have collated this Q&A in the following document.

For more coronavirus advice and help from the DMA, [head here](#).

/ Business

In these unprecedented times, business owners are looking closely at the financial position of their businesses.

Moore Kingston Smith is already working with clients to assess and implement the options available them, and the DMA continues to offer support and guidance to Members, and the wider UK data and marketing industry.

What is your view on furloughing part of the team - where they are paid 80% or up to £2,500 per month through the government scheme? Then for the remaining staff, reducing their salaries to the same cap?

That is certainly allowed under the legislation and we have seen this successfully implemented in practice.

The key here is managing both the process and the communication.

Most of our employees are paid more than the £2500 cap for the COVID-19 retention scheme. Can we furlough our people on a reduced salary of £2500 for a period of three months and claim 100 percent back rather than make employees redundant?

Yes.

The furlough grant is calculated by reference to the salary they were on in Feb 2020 (although different rules exist for individuals on variable salaries).

So, the grant the employer is the lower of 80% of the Feb 2020 salary or £2,500.

The government will also pay the employer the associated employer's NI and employer's pension.

So, by agreement with your employees and once you have furloughed them, you could pay the employees an amount equal to the grant you are expecting and then all of your costs are covered (unless you are paying the apprenticeship levy but this is only 0.5%)

Do you need to apply criteria to choose who a company puts on furlough leave?

Yes.

Your options are:

- Ask for volunteers
- Use a selection process in exactly the same way as a redundancy selection process would work, or
- If a role is standalone (as in only one person does it and you don't need it), select on that basis

Can Directors still undertake work, such as running payroll etc, whilst furloughed?

No.

This is as if you have made someone redundant and is a clear alternative to that. They can do no work at all whilst on furlough.

Additionally, currently, if your company is UK-registered, the Director has an employment agreement and is on the payroll (PAYE), they should be able to access the scheme.

Formally adopted as a decision of the company, noted in the company records and communicated in writing to the director(s) concerned.

This is unclear at this stage.

If employed post 28 Feb, does the employee's last salary at prior company count?

For full and part-time employees, their actual salary as at 28 February 2020 is the salary that is used.

For those who do not have a full year's pay, take an average of pay since they joined your company.

If they joined in February 2020, use a pro-rata rate for this period.

What happens with agency workers? If, for example, we are closing a building due to the coronavirus, and have been using agency workers, how do they get placed on furlough? Does the agency still bill the end user?

It is the responsibility of the agency whether they choose to furlough agency workers.

If the workers are not providing a service to you then you should not be billed.

Is there any advice on staff who resigned, and have not been taken on by their 'new employer' (i.e. if they ask to return and be furloughed)?

If staff are no longer employed by you then you cannot furlough them.

If they are still working their notice period and you have not issued the P45, you could agree with the employee that they withdraw their resignation.

Can someone who is furloughed work for someone else during that period?

Yes, as far as we know under the current guidance provided that the two employers are not connected (i.e. under common ownership)

What about the 95% of Directors who have been advised by their accountants/payroll to only take £800 as salary pay, and the rest as Dividends. Surely there are many people in this bracket, is this being further asked of the Chancellor?

The CBI is pushing for some form of relief for one man/woman companies whose directors are remunerated by dividend and therefore get nothing under the Job Retention Scheme or the equivalent for self-employed, as are relevant trade bodies and Moore Kingston Smith.

Formally adopted as a decision of the company, noted in the company records and communicated in writing to the director(s) concerned. However, there is no news on the issue that the furloughed salary would be low.

As a Company Director of a small business, I pay myself minimum wage and a dividend. Is the 80% based on the minimum only?

Yes, that is correct.

**Hello is there any clarity over Directors being covered by furlough?
Are Directors able to change dividend payments to PAYE payments?**

You can claim for the higher of either their February 2019 pay or the average of their pay for the 2019/20 tax year, so it is not possible to change the split and claim the grant.

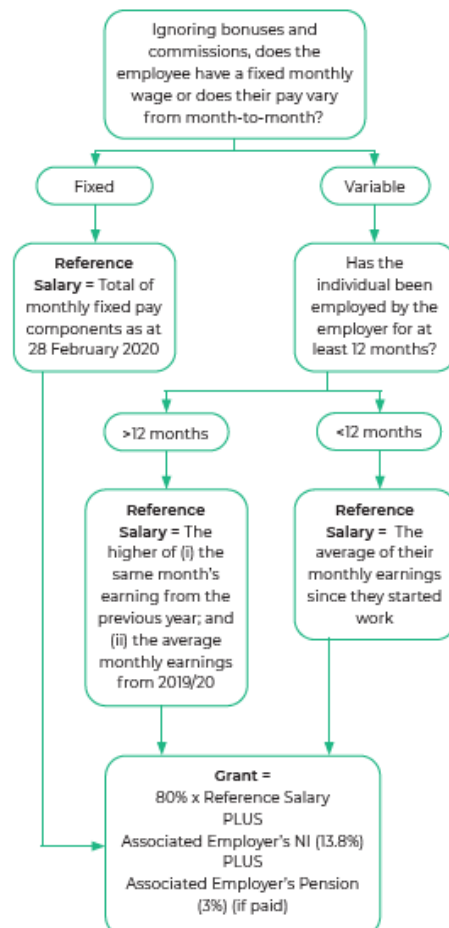
Non-regular, does sales commission count?

No, it's basic wage.

What about quarterly bonuses e.g. OTE?

The salary used to calculate the government grant is the salary in Feb 2020 (unless the employee is on variable pay when different rules apply – see flow chart at <https://mooreks.co.uk/wp-content/uploads/2020/03/Coronavirus-job-retention-scheme-the-details-of-the-scheme.pdf> for the variable pay rules). The salary used must exclude any bonus or similar pay element.

The chart below explains how to calculate the pay for workers on variable pay



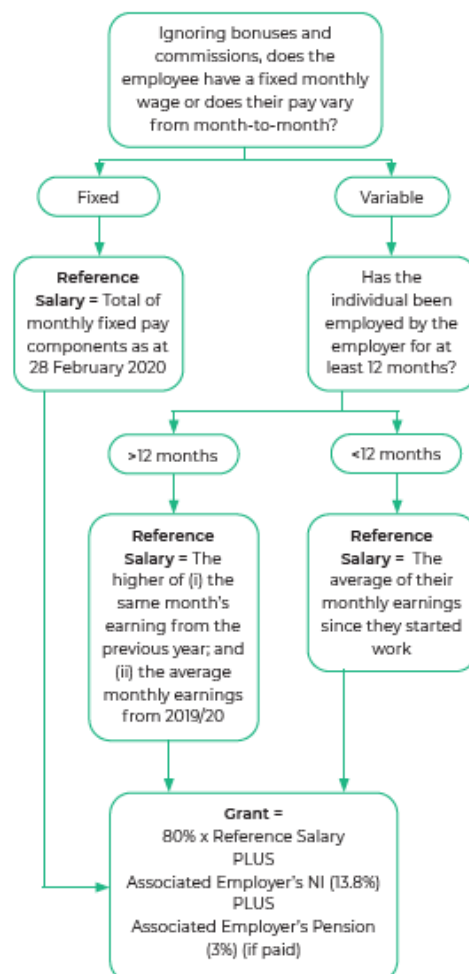
What is happening regards to new starters and furlough? Some are saying they need to have been on PAYE for some time before we could claim, so furlough would not be applicable for any new starters in March/April?

The employee must have been on the payroll as at 28 February 2020.

If any employee started after that date, there is no entitlement to the government grant.

Furloughing: We have staff on zero hours contracts, who have worked a couple of times (when we have been busy) for a few weeks at a time. How do we work out their average pay - do we average the few weeks over the several months they have been on the payroll?

You can claim for the higher of either their February 2019 pay or the average of their pay for the 2019/20 tax year – see flowchart at <https://mooreks.co.uk/wp-content/uploads/2020/03/Coronavirus-job-retention-scheme-the-details-of-the-scheme.pdf>



Can one-man director companies Furlough the director? Are there any other options available for OMBs?

It has finally been confirmed over the weekend that directors can be furloughed. This needs to be “formally adopted as a decision of the company, noted in the company records and communicated in writing to the director(s) concerned.

There is probably nothing to be lost in trying to do if you were in any event planning to continue to pay the director at this level.

Can we defer paying our monthly PAYE/NI over to HMRC at all?

Yes probably.

HMRC has set up a dedicated Coronavirus helpline to help businesses suffering cash flow difficulties.

You can agree a bespoke time-to-pay arrangement to defer payment of PAYE, VAT or Corporation Tax, i.e. payment holidays.

HMRC may also waive late payment penalties and interest where a business experiences administrative difficulty contacting HMRC or paying taxes due to Coronavirus.

The HMRC helpline number is 0800 024 1222 and opening hours are Monday to Friday 8am to 8pm, and Saturday 8am to 4pm.

HMRC has deployed 2,000 people to work in this call centre but delays should be expected.

Expect to wait a long time on hold and ideally avoid calling in the middle of the day when demand for this service is expected to peak.

Most applicants seem to be having particular success with 3-month PAYE/NIC holidays.

/ Finance

Never before has the mantra “cash is king” been so important.

In these uncertain times it is vital to manage your business’s cash flow and your own to ensure you both come out the other side in good health.

What about private landlords’ income - is that classified as self employed

No.

What if you are self-employed and PAYE employed somewhere else too?

That’s fine but to qualify for the Self-Employment Income Support Scheme, the self-employment income must represent more than 50% of their income for either the 2018/19 tax year or the average of the three years ending with 2018/19.

What about common ownership? Two separate businesses but with common ownership - does that enable each business to access a CBIL?

Each business will be assessed individually and can borrow separately.

It will only become an issue if the shareholders are required to provide security to both companies.

We now have a Virtual Office and am told we are not eligible for the Small Business Grant. The only difference is when we had a Physical office at this Building, we got Small Business Rate Relief (SBRR) but paid Rent. We now pay Rent and Still No Business Rates but as we no longer get a letter stating we are eligible for SBRR.

We still have the same Overheads less around £300 (the difference between Rent for an Office against Rent for Virtual Office). This is clearly an oversight by Government.

Yes – I believe that WeWork is lobbying government on this point.

If self-employed, can SSP only be claimed from 6 April when the income floor is removed?

I don't think that SSP is capable of being paid to self-employed individuals.

To be clear with Furlough: it's a grant, not repayable by the company?

It is a grant and does not need to be paid back.

I have corporation tax to pay on 1 August. Can I defer that?

HMRC has set up a dedicated Coronavirus helpline to help businesses suffering cash flow difficulties.

They can agree a bespoke time-to-pay arrangement to defer payment of PAYE, VAT or Corporation Tax.

HMRC may also waive late payment penalties and interest where a business experiences administrative difficulty contacting HMRC or paying taxes due to Coronavirus.

The HMRC helpline number is 0800 0159 559 and opening hours are Monday to Friday 8am to 8pm, and Saturday 8am to 4pm. It is not available on bank holidays.

HMRC has deployed 2,000 people to work in this call centre but delays should be expected. Ideally avoid calling in the middle of the day when demand for this service is expected to peak.

To clarify an earlier question. Under furlough if an employee is paid £2,700 a month can the employer reclaim £2,500 or $£2,700 \times 80\% = £2,160$?

If £2,700 is the salary in Feb 2020, the grant is the lower of £2,500 or 80% of £2,700 so, in this case, the grant would be £2,160 (plus the associated employer's NI and employer's pension).

Did you say 25% of previous year's revenue? And, double the annual salary?

Yes, generally it is the higher of 25% of 2019 revenue and twice the annual wage costs.

The banks are trying to sell commercial loans instead of CBILS, even where we're eligible... has there been further legislation to stop them from doing this?

No fresh legislation but the Government is putting pressure on the banks to operate within the spirit of the scheme.

The onus must still be for a business to present a viable and realistic proposal to borrow to the lender. Responsible lending means it must've been viable before COVID-19.

Yes, the business must be able to evidence that it was viable prior to the crisis.

Evidence will be profits and positive cashflows and will be shown via management accounts prior to March as well as statutory accounts.

When you say viable, is that calculated over multiple years?

Generally, yes.

It will vary from business to business depending on the profile.

If it can be evidenced for multiple years rather than just 12 months of strong profitability and cash flows, then the lending case will be stronger.

Where commission staff are on a basic salary, but which is below minimum wage - do we need to make up the difference?

When an employee is furloughed, they are not working so not entitled to the NMW or NLW.

The only exception to this is if you require furloughed employees to carry out training which would entitle them to be paid the NMW or NLW while they are training.

/ HR

In the current climate businesses are ordered to close and employers are opting to preserve employment for their employees and avoid redundancies as far as possible.

Companies experiencing a temporary reduction in work and unable to sustain the costs of full-time working for all employees can explore the options of short-time working and lay-offs.

Here's a cross-section of responses responded to and picked up on from the DMA / **Moore Kingston Smith** webinar.

Can you furlough someone on maternity leave?

Only when they are ready to return to work.

Employees are required to give a minimum of eight weeks' notice to end their maternity leave and come back to work earlier than intended.

Bear in mind that if an employee on maternity leave gives notice to return and you suspect this is so they can be furloughed with everyone else, you may agree to this.

However, explain to them that the furlough period is a temporary measure and they will not be able to return to maternity leave once the furloughed period ends.

Again, any abuse of the scheme will be deemed fraudulent.

If a company pays enhanced maternity then they can claim 80% of the difference between statutory maternity pay and their enhanced pay policy, subject to the usual caps.

The employee's status of work doesn't change however, they remain on maternity leave.

Can you ask people who are furloughed to take annual leave when they come back? If so how much are you allowed to specify? For example: if a flip flop furlough one week back, one week 'holiday' and then back on furlough?

Holidays accrue at the normal rate during a period of furlough.

However, to furlough an employee you have to change their status of work and every day that they are furloughed is considered a 'workless day'.

Furlough is essentially an extension of short time working or layoff to help us get through the next few months without having huge numbers of employees receiving no pay.

Under these regulations employees are unable to take holidays on workless days.

So, in the absence of the furlough guidance being explicit about holidays, we are working on the basis that employers should comply with layoff and short time working regulations.

Can you ask employees to take leave whilst on furlough if there is a clear business need?

No.

Holidays accrue at the normal rate during a period of furlough.

However, once they are furloughed, they cannot take leave while furloughed.

If you are placed on furlough but your employer later decides to terminate your employment, would you still be entitled to your notice period as stated in your contract of employment or does this change if you are furloughed prior?

It appears you can, subject to any further guidance on this subject.

If redundancy is confirmed, it is likely you would have to remove your employees from furlough status and pay the contractual notice period.

Using the furlough grant as part payment will most likely be deemed an abuse of the system.

Furlough - while on furlough has the government confirmed if you can still accrue annual leave? Acas say you do but unclear if the government have clarified this.

Holidays accrue as normal and as per contractual entitlements while on a period of furlough.

It is unclear at the moment how bank holidays are going to be affected.

Everything is leaning to being able to still claim for bank holidays and then the employee would get the bank holidays back in lieu once they have returned to work.

However, it's not been explicitly said. It's likely that we won't receive clarification until the portal goes live.

If an employee was employed on 28 Feb but a P45 has been issued, is it too late to furlough that employee?

Employees made redundant after 28 February 2020 could be rehired and placed on furlough, and your company can still access the scheme.

If a P45 has already been released, we aren't yet certain how this would affect a claim and whether or not the portal will automatically reject those no longer 'active' on payroll.

/ About Moore Kingston Smith

The only firm of accountants and advisers with a dedicated office of over 100 media specialists that proactively support the extensive range of needs of independent media businesses – covering marketing services, film & TV and entertainment, theatre and mediatech.

We know it's not just about the numbers. As well as providing accountancy, tax and corporate finance services, over the years, by working with some of the industry's most successful companies, we have developed a deep understanding of what drives media businesses. As your trusted advisers we use this experience to work in partnership with you to help maximise your growth and profit potential. We conduct extensive research into industry performance every year with a view to understanding not just the benchmarking data, but also identifying what the best performers do to achieve exceptional results. Our well-developed structured approach to our strategic advisory services helps you effectively manage risks, build revenues, attract and engage people and identify key opportunities to improve performance and enterprise value.

All this means we are well placed to support you throughout the whole of your business lifecycle:

- Start up and small businesses – let our one stop shop approach take care of all your needs, including set up, company secretarial, legal, outsourcing, payroll, accounts and tax including R&D
- Growing and mature businesses – we can support you as your business grows with our award winning technology enabled audit approach, accounts preparation, tax compliance and advisory services such as HR and employee incentives
- International – we can leverage Moore Global's network of accountancy and advisory firms in over 100 countries, to take the pain out of expanding into unfamiliar territories. We can co-ordinate your international audit requirements, and advise on international tax
- Exit planning – our media specialist award winning M&A team, with hundreds of transactions under their belt, will ensure you are well prepared for any transaction and maximise the proceeds from the value you have created within your business

We have hundreds of clients across the media sector who all benefit from our very personal partner led approach, providing the very best guidance, expertise and specialist sector insights.

In short, we're more than just accountants who count your numbers – we're business partners whose ambition is to help you grow your numbers so that you realise your fullest potential.

/ About the DMA

The Data & Marketing Association (DMA) comprises the DMA, Institute of Data & Marketing (IDM) and DMA Talent.

We seek to guide and inspire industry leaders; to advance careers; and to nurture the next generation of aspiring marketers.

We champion the way things should be done, through a rich fusion of technology, diverse talent, creativity, insight – underpinned by our customer-focussed principles.

We set the standards marketers must meet in order to thrive, representing over 1,000 members drawn from the UK's data and marketing landscape.

By working responsibly, sustainably and creatively, together we will drive the data and marketing industry forward to meet the needs of people today and tomorrow.

www.dma.org.uk