

# ZERO HOURS JUSTICE

Factsheet 1 – March 2021

## Furloughing and Coronavirus Job Retention Scheme: Employer FAQ

Furloughing means asking staff to stay at home without working when there is not enough work for them to do. It could also be referred to as a temporary lay-off.

The coronavirus pandemic and subsequent government lockdowns and restrictions has meant that employers have been unable operate as normal and guarantee the availability of work for staff. Whilst the pay of permanent employees is protected under their employment contract, casual workers and zero hours staff are vulnerable in the current economic climate.

In March 2020, the government set up the Coronavirus Job Retention Scheme (CJRS) to enable employers to keep their staff on in the absence of available. The original scheme was due to end on 30 October 2020, but it has now been extended to 30 April 2021.

Who can use the CJRS?	Any employer with a PAYE payroll scheme that was created on or before 30 October 2020 and UK, Isle of Man or Channel Islands bank account.  The administrator, where a company has been put into administration.
For which staff can you claim wages from the CJRS?	Any staff that were on the payroll before 30 October 2020, including those whom you have re-employed after they stopped working for you. This includes supply teachers, agency workers, casual workers and staff on variable hours or zero hours contracts.
What can I claim?	80% of a worker's wages, up to £2,500 a month, less national insurance and pension contributions.
How do I calculate furlough pay for casual workers and staff on variable hours or zero hours contracts?	If the worker was furloughed before 31 October 2020, they should be paid 80% of the highest of: <ul style="list-style-type: none"> <li>• Earning for same month in previous tax year;</li> <li>• Average monthly earnings for previous tax year;</li> <li>• Average monthly earnings since the worker started work, if less than 12 months.</li> </ul> <p>Otherwise, the worker should be paid 80% of the average payable between the start of employment or 6 April 2020 and the day before they were furloughed.</p>



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<p>How should I furlough staff?</p>	<p>You should confirm in writing to individual members of staff that they have been furloughed, or reach a collective agreement with a trade union.</p>
<p>I cannot afford to pay National Insurance and pension contributions. What should I do?</p>	<p>If you really cannot afford to furlough staff for all of their usual hours, you may want to consider furloughing them for part of their usual hours. Then, if any work is available outside of the furloughed hours, you can pay them as normal for that work.</p> <p>However, as almost all the costs of furloughing a worker under the CJRS is covered by the government, we urge you to find a way to be as humane and kind to those workers who have served your business under normal times. Doing the right thing now is likely to pay dividends in terms of goodwill towards your organisation, especially post-pandemic when more businesses and organisations are likely to be judged on how they handled the pandemic. The costs of not doing the right thing by your people may well end up costing more when potential negative regard, reviews and publicity are factored in.</p>
<p>Why should I furlough casual workers and zero hours contract staff when I am not obliged to pay them for not working?</p>	<p>Yes, casual and zero hours contracts were intended for short term or seasonal work. What we have found, however, is that many casual or zero hours workers end up in regular patterns of work for two years or more. If they are also paid on a PAYE basis and earn a weekly average of £120 or more, this tantamount to permanent employment. We would therefore urge you to review the working pattern of your zero hours staff and furlough those who are in de facto permanent contracts.</p>
<p>Are there alternatives to using the Coronavirus Job Retention Scheme?</p>	<p>If your organisation is doing well and can afford it, there is nothing to stop you from furloughing staff without making use of the CJRS. In this case, it would be to you to agree with your staff or their trade unions a reasonable percentage, using the CJRS rules as a guide.</p> <p>In normal times, zero hours staff are not be paid if they do not perform work. However, they could be entitled to guarantee pay of up</p>



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	<p>to £30 a day for five days in any three-month period. This is an absolute minimum. We would urge to consider whether this is sufficient to support loyal staff in the current economic climate.</p> <p>Finally, zero hours staff who have developed a regular pattern of working for at least two years are likely to be eligible to redundancy pay if you are unable offer work for at least 4 weeks in a row or at least six weeks in a 13-week period.</p>
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If you would like to talk to a member of the Zero Hours Justice team about zero hours contracts, please call our helpline on 01904 900 151 or email [mail@zerohoursjustice.org](mailto:mail@zerohoursjustice.org). You can also find out more information at our website <http://www.zerohoursjustice.org>.

