



Coronavirus – What Every Business Needs to Know

NEW EDITION: CURRENT TO 30/03/2020

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UKCOVIDS

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1. Protecting your workforce

Note. Although Covid-19 is just one type of coronavirus we'll refer to this specific virus by its group name, coronavirus, for ease

Workplace measures to help combat spread of virus

Although it can be difficult to prevent respiratory infections spreading, there are steps that employers can take to help minimise the risk. It is understood that this coronavirus is transmitted via two main routes:

- proximity to an infected person (within 2 metres or less) or possibly through inhalation into the lungs; and
- in circumstances where someone touches a person or object which has respiratory droplets containing the virus on it/them (perhaps as a result of an infected person coughing or sneezing) and then touches their own mouth, nose or eyes.

Taking steps to ensure good hygiene practices and reducing face-to-face contact wherever possible are sensible precautions that can be taken to help reduce the risk of infection within the business. Many businesses that deal directly with the public have had to temporarily close their public-facing services and premises, such as pubs, restaurants, bars and non-essential shops. Essential shops such as supermarkets and pharmacies can remain open and online services and takeaways for delivery are not affected. Further, employers should allow workers to work from home wherever possible and this has resulted in other workplaces closing for this period for enforced social distancing.

What steps can we take to ensure a more hygienic workplace?

There are several active steps that can be taken to achieve a more hygienic workplace for those that are currently still open. Such as:

➤ *Hand washing*

Encourage staff to wash their hands frequently and thoroughly with hot water and soap. If multi-use or fabric towels are currently used for drying hands in communal toilet facilities, replace them with single use paper towels.

➤ *Sanitising hand gel*

Where available, provide sanitising hand gel for staff use. Position bottles around the workplace, e.g. in bathrooms, kitchens and high-traffic areas such as reception.

➤ *Tissues*

Ensure there is a supply of tissues available to staff and that they are aware of the advice to cough or sneeze into a tissue and then to dispose of the tissue immediately.

➤ *Avoid sharing equipment*

Discourage staff from sharing equipment such as keyboards, telephones and mice. Where sharing is necessary, ask staff to wipe equipment down with antibacterial wipes when they have finished using it.

➤ *Social distancing*

As transmission of the virus is more likely with “close contact”, employees should be encouraged to maintain a 2-metre distance from each other where possible. If there is space in the workplace, make use of it by spacing out desks and other workstations. It may be helpful to mark out 2 metre intervals, and to physically move desks a suitable distance apart. Consider whether to suspend workplace practices that encourage direct social interaction as a temporary measure, such as hot desking. Wherever possible, employees should be allowed to work at home so that they can avoid travelling to work and to reduce their social contact as much as possible.

➤ *Avoid shaking hands*

Ask staff not to shake hands with each other, clients/customers or visitors. It may be helpful to position notices in reception and other areas where clients may be to explain why staff will not be greeting them with a handshake now.

➤ *Avoid touching faces*

Remind staff to try to remember to refrain from touching their eyes, nose or mouth if their hands are not clean.

It is not recommended that employees wear facemasks (also known as surgical masks or respirators) to protect against the virus. Current general advice is that facemasks are only recommended to be worn by healthcare/social care workers and symptomatic individuals to reduce the risk of transmitting the infection to other people.

HSE guidance

The HSE has updated its website with some specific advice for employers regarding:

- safely face-fitting respiratory protective equipment during the pandemic
- the temporary relaxation of drivers' hours rules to ensure that deliveries of essential supplies of food and medicine can continue
- the requirement on host employers to allow delivery drivers collecting from or delivering to their premises to have access to welfare facilities
- their responsibilities towards those working from home; and
- guidance for those carrying out health surveillance during the pandemic.

This guidance can be found at <https://www.hse.gov.uk/news/coronavirus.htm>.

You should check the HSE's website regularly, as there is likely to be additional guidance on various topics as the situation evolves.

You may also find the section on infectious diseases helpful: <https://www.hse.gov.uk/biosafety/infection.htm>. Although it has not yet been updated specifically, there is guidance on SARS, which is also a type of coronavirus, and influenza.

[How should we clean the workplace?](#)

If your workplace is still open, consider whether a deep clean of your premises as a whole or of individual workspaces should be carried out. It may be useful to provide cleaning products which will enable staff to carry out regular cleaning of their individual work areas. Several factors will determine how long the virus can survive on any contaminated surfaces, but it is thought that, under most circumstances, the amount of infectious virus on any contaminated surfaces is likely to have decreased significantly after 72 hours.

[What should we do if there is a confirmed case of coronavirus in our workplace?](#)

If a confirmed case is identified in your workplace, the local health protection team will provide you and your staff with advice as to which contacts may be at risk and should self-isolate for 14 days from the last time they had contact with the infected staff member. Current government guidance is that staff who have not had close contact with the confirmed case do not need to take any precautions and can continue to attend work. Employers should take a proportionate and common sense approach to sharing information about confirmed cases within their business. It is sensible to remain discreet, but employers are under a legal duty to protect the health and safety of their workers and sharing names of infected staff will be necessary so that risk of potential exposure to others in proximity can be assessed.

[How do we dispose of rubbish?](#)

Rubbish should be disposed of as usual unless it has been in contact with the member of staff who is suspected of having coronavirus (for example, used tissues). Any such rubbish should be put in a plastic rubbish bag and tied when full. This bag should then be placed in a second bin bag and tied. It should be put in a safe place and marked for storage until the result is available. If the individual tests negative, this can be put in the normal waste. Should they test positive, the local health protection team will instruct you on how to deal with the waste.

Information sharing

Advise staff of the symptoms of the virus (cough, fever and/or difficulty breathing) and give clear instructions (which are in keeping with the latest government guidance regarding self-isolation) as to what you want them to do if they begin to develop symptoms. Managers should be fully briefed on how to spot symptoms of coronavirus and should be clear on any relevant procedures, e.g. sickness reporting and sick pay, in case someone in the workplace develops the virus. More generally, provide staff with information as to what you intend to do regarding payment for absences, either due to sickness or precautionary self-isolation, so they are clear as to what to expect.

Keep staff informed of changes in official advice and how this impacts the company so that they can make informed decisions regarding their working practices and travel arrangements and so they can understand why temporary changes are having to be made and the importance of adhering to instructions aimed to limit the spread of the virus.

It is also important to ensure that staff contact details and their emergency next of kin contacts are up to date so that staff can be contacted at short notice out of working hours in case it is necessary to ask them not to attend the workplace or to inform them about a potential risk from contact with a confirmed case. It may also be worthwhile to ask staff to keep you informed of any plans they have for personal travel out of the UK in the coming months, though it is important not to single out staff on the basis of their race or ethnicity since such conduct will be discriminatory.

Business meetings, travel and social events

In order to reduce the risk of coronavirus spreading to your workplace, face-to-face contact should be kept to the absolute minimum, observing social distancing protocols, and only essential travel, i.e. to and from work, where work cannot be undertaken from home.

How do we reduce face-to-face contact?

Even where homeworking is not possible, workers should be encouraged to utilise facilities such as email and video conferencing and to avoid face-to-face meetings, particularly of large groups, wherever possible.

In addition, allowing a greater degree of flexibility in terms of start and finish times to allow staff members to travel outside of peak times will help to reduce the number of people on the premises at one time and minimise the risk of infection while commuting.

How do we conduct our meetings?

It is advisable to avoid face-to-face meetings, both on and off-site. The government has emphasised the need for social distancing to reduce the spread of the virus. Where possible, try to arrange video conferencing or alternatively, group phone calls if they will suffice. It is also worth considering if meetings can be postponed until such time as the risks associated with the spread of coronavirus have passed.

If it is necessary to hold a meeting in person, keep the number of attendees to a minimum and keep the meeting as brief as possible. Remind staff not to shake hands and to observe social distancing rules. Set up the meeting room to enable participants to maintain their distance, e.g. by not positioning chairs too close together and not providing shared refreshments for the meeting.

Should we cancel upcoming social events?

Yes, if there are company-organised social events coming up these should now be postponed until a later date. It is currently hard to know how long the risks associated with coronavirus will continue, which may make it difficult to plan or cancel events too far in advance, but certainly for the forthcoming weeks and possibly months, there should be no group social events.

TIP

Give staff a point of contact with whom they can raise any issues or concerns they may have and reassure staff that management are meeting regularly to discuss the ongoing situation and to implement any necessary measures.

Our business requires our staff to travel, what should we do?

The government currently advises against all but essential business travel. Non-essential trips or conducting meetings that otherwise require staff to travel should either be postponed or conducted via group phone calls or video conferencing instead.

TIP

Appoint a designated person who will be responsible for monitoring government advice and keeping the management team updated.

Remote/flexible working

Should we be encouraging homeworking?

Yes, on 23 March, the government emphasised that in relation to businesses that are still open, employees who can work from home should do so and only those who cannot work from home should attend the workplace. This situation is expected to last several weeks at least. Naturally, whether it is possible for staff to work from home or to allow more flexible working will be dependent on the nature of the individual business.

Do we have to allow homeworking?

At present, government advice is that businesses should allow homeworking wherever possible to enable social distancing and so that travel to work can be avoided. Strict social distancing is also particularly important to any members of staff who are classed as vulnerable to the virus, such as those with underlying medical conditions that may make them more likely to become very unwell should they contract coronavirus, and in relation to any members of staff who are pregnant. See the government guidance here: <https://tinyurl.com/t6ssvqa>.

If a worker is disabled, you have a positive duty to make reasonable adjustments to remove any disadvantages or barriers they may suffer accessing work. This may include varying their hours of work, workplace or duties, e.g. moving them away from higher risk, customer-facing duties. All workers may also make flexible working requests.

How can we enable homeworking for as many employees as possible?

Firstly, you should determine which individuals or which category of staff you allow to work from home. If you need a skeleton staff to remain in the workplace, determine how many people you will need on site at any time and whether on-site staff should be set individuals or if attendance at the workplace should be on a rota basis. Either way, make staff aware that they may need to come into the workplace at short notice should there be an issue with a member of the skeleton staff, e.g. if they become ill and are unable to work. Make it clear that you reserve the right to require staff to attend the workplace as and when they are asked to and potentially on short notice.

You should also reiterate that allowing homeworking during this current outbreak is a temporary measure and does not set any precedent in terms of staff expectation to work from home once the current outbreak comes to an end.

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TIP

Make sure all workplace documentation is current so that passwords, safety procedures and relevant policies can be easily accessed by whichever staff members are on site at any given time.

You will also need to consider what equipment those working from home will need. For example, are you happy for staff to use their own IT equipment or will you need to provide laptops to them?

If you need to provide equipment, the amount available may dictate the number of staff who are able to work from home.

If you are happy for staff to use their own IT equipment, this may require forward planning as staff may need to install software to enable them to access company documents/programmes from their personal computer. They may have to check that their own computer equipment and broadband access is compatible with these systems. You will also need to put in place measures to ensure that company data is not retained on personal equipment once the period of homeworking has come to an end.

Make sure that any remote IT access is secure and can cope with additional remote logins - including that any software licences cover the number of staff working from home. Staff should have access to IT support to help them set up from home and work effectively.

TIP

When homeworking comes to an end, explain to employees who have worked from home what you want them to do with any company information they may have at home and ask them to confirm in writing that they do not have any company information retained on personal IT equipment or in hard copy at home.

How do we ensure staff safety if they are working from home?

Work that can be carried out at home is generally low risk. Nevertheless, risk assessments should be carried out to ensure that employees are not being exposed to additional health and safety risks by working from home. The principal matters are the safety of any equipment used and the risk of developing repetitive strain and similar injuries from working at a poorly set-up workstation. Employers may need to ask their homeworkers to complete a display screen equipment assessment. Any equipment provided by the employer must be safe and fit for purpose.

Employees should be discouraged from conducting face-to-face meetings in their own home, as it presents an additional safety risk. If such a meeting is necessary, this would need to be risk assessed and protective measures, such as additional communication with colleagues, should be put in place, in addition to ensuring that strict social distancing and good hygiene protocols are followed.

How do we monitor staff who are working from home?

You should make it clear to staff that the only thing that has changed for this temporary period is their place of work and that the other terms and conditions of their employment continue to apply, including their working hours.

Ask staff to provide you with up-to-date contact details, including a home or mobile telephone number on which they can be reached during working hours if necessary.

Make it clear what level of communication is required. This may vary depending on the seniority of the staff member and the nature of the job. You may want more junior members of staff to report in more frequently, perhaps alerting their line manager when they are starting and finishing work for the day and reporting in on a daily/weekly basis as to what progress they have made on given tasks. You may be content to allow more senior members of staff to work largely independently with minimal contact/reporting in.

If staff are working from home, are there data protection issues?

Homeworking may leave you more vulnerable to data protection issues. In order to minimise this risk, you should make data protection obligations clear to all staff who will be working from home. Ensure that they are aware of the importance of keeping data secure and the means by which they should do so, e.g. ensuring all IT equipment is protected by passwords and keeping confidential documents in a safe place.

Refer staff to the company data protection policy and advise that the same principles apply to working from home as in their usual place of work.

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Ensure staff are aware that they must report any data breaches or potential breaches to the relevant person immediately so that appropriate steps can be taken and nominate someone who can be contacted by homeworking staff should they have any queries or concerns regarding data management.

TIP

Be aware that there are an increasing number of coronavirus-related phishing scams doing the rounds. Staff working from home, concerned about the current situation, may be more likely to fall prey to bogus emails promising handy coronavirus updates, or supplies of hand sanitiser or home-testing kits. This could not only expose the data on their computer to the criminals, but also your network if they are logged in remotely. Make sure staff know what to do if they think they have been sent a phishing email or have landed on a dodgy webpage, that their security software is up to date, and give them a point of contact to report any such activity. For more information, see <https://www.actionfraud.police.uk/>.

[How do we bring homeworking to an end once the risk of infection has passed?](#)

From the outset, make it clear to staff that homeworking is a temporary measure that will be only be allowed until such time as the risk of infection is deemed to have passed and will continue only at the sole discretion of the business. Keep staff updated on an ongoing basis as to how long you envisage homeworking will continue. For example, it may be worth asking managers to contact each member of their team who is working from home either individually or collectively (by email or phone) specifically to discuss the continuation of homeworking on a weekly basis.

[What other flexible working options may help?](#)

If homeworking is not an option, you may want to consider allowing more flexible working hours, subject to the needs of the business, to avoid people having to travel during rush-hour periods. Set clear boundaries as to what is and is not acceptable to avoid any misunderstandings as to what is expected.

If you require a certain quota of staff to be on the premises at any given time you may need to set formal rotas as to who can arrive at what time and on which days. Alternatively, you may wish to impose “core hours” whereby all staff must be on the premises by a particular time and are not permitted to leave until after a certain time. For salaried staff in particular, you should make it clear that regardless of the flexible start and finish times, staff are still expected to work their total number of contractual hours.

2. Absence from work

Sick or self-isolating staff

In order to limit the risk of infection, members of staff who are either exhibiting symptoms or who live with a person who is symptomatic must not attend work. Advise staff of the symptoms of the virus and give clear instructions (which are in keeping with the latest government guidance regarding self-isolation) as to what you want them to do if they begin to develop symptoms. Provide staff with information as to what you intend to do regarding payment for absences, either due to sickness or precautionary self-isolation, so they are clear what to expect.

TIP

Keep staff informed of changes in official advice and how this impacts the company so that they can make informed decisions regarding their working practices and travel arrangements and so they can understand why temporary changes are having to be made and the importance of adhering to instructions aimed to limit the spread of the virus.

What should we do if an employee becomes unwell while at work?

If an employee becomes unwell at work with a persistent cough and/or fever, they should be sent home promptly and advised to follow the self-isolation guidance on the NHS 111 website here: <https://www.gov.uk/government/publications/covid-19-stay-at-home-guidance>.

The employee's workstation and surrounding area should be deep cleaned and if the employee has been in close contact with other staff members you should consult the NHS 111 online service to determine whether they will need to self-isolate and be sent home as well.

What can we do to ensure the health and safety of our staff?

To ensure the health and safety of all employees, employers may wish to inform and emphasise to employees about the need to quarantine themselves/self-isolate in accordance with the latest government guidance.

TIP

Advise staff who to contact within the company to discuss options as to how this can be best achieved, for example whether homeworking is an option, what level of sick leave is available, etc.

Do we need to pay an employee who is in quarantine or required to self-isolate?

If your employee is or becomes symptomatic, they will be entitled to statutory sick pay (SSP) (subject to the usual eligibility requirement of having average weekly earnings of at least the lower earnings limit for NI contributions for the eight weeks prior to the period of incapacity to work) or contractual sick pay in accordance with their contract. SSP is currently payable at a weekly rate of £94.25 (which increases to £95.85 per week on 6 April 2020).

The government has recently announced that anyone with symptoms, e.g. a persistent cough or fever, however mild, should self-isolate for seven days and not seek advice from NHS 111 unless their condition persists or worsens. This is in accordance with updated guidance: <https://tinyurl.com/ut7tx9m>

For employees who are not symptomatic, if they are self-isolating to prevent infection or contamination with coronavirus disease in accordance with guidance published by Public Health England (PHE), NHS National Services Scotland or Public Health Wales, they will be deemed to be incapable of work for SSP purposes under the **Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2020** which came into force on 13 March 2020.

A further amendment on 17 March 2020 ensures that this applies to the guidance as updated on 16 March 2020 (**Statutory Sick Pay (General) (Coronavirus Amendment) (No. 2) Regulations 2020**).

The **Coronavirus Act 2020**, which received Royal Assent on 25 March, provides that any coronavirus-related sick leave will apply from the **first day off work** and that the usual three waiting days necessary before SSP is payable should not apply. This measure has been brought into effect by the **Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020** and applies retrospectively from 13 March 2020.

In such instances of medically required self-isolation, given that this is sick leave for SSP purposes, if you offer contractual sick pay, it would be good practice to pay this.

TIP

Where an employee can work from home, this may be an option to discuss with them as, if possible, this may be preferable to both you (your employee continues working) and your employee (they continue to receive full pay).

Self-isolation of a non-symptomatic employee outside of this remit, i.e. where the employee has not been informed by NHS 111 or PHE to self-isolate, does not currently qualify for SSP. However, as good practice where the employer agrees that self-isolation is nevertheless sensible to protect the rest of the workforce, the employer might be keen to avoid such self-isolating employees from being financially disadvantaged and may therefore choose to:

- treat it as sick leave and follow the usual sick pay policy
- allow the employee to work from home if this is viable/practical; or
- agree for the time to be taken as holiday.

[How is absence from work certified?](#)

By law, medical evidence is not required for the first seven days of sickness in respect of SSP entitlements. After seven days, it is for you to determine what evidence you require, if any, from the employee. This does not need to be a fit note (Form Med 3) issued by a GP or other doctor. You are likely to have set out what is required in your sick leave or similar policy especially if you also offer enhanced contractual sick pay.

TIP

The government has strongly suggested that you use your discretion around the need for medical evidence for a period of absence where an employee is advised to self-isolate as a sick (fit) note may not be attainable in such circumstances. The government has also announced that NHS 111 can issue sick notes where necessary.

[Are there changes in the way we report SSP?](#)

No, you should continue to include SSP in the normal way in your payroll reports (full payment submission and employer payment summary) to HMRC whether absence is because of coronavirus or an unrelated illness.

[What is the new government help for small companies?](#)

The government has announced plans in its Budget to reimburse small employers with fewer than 250 employees any SSP paid to employees in respect of any coronavirus-related absences for the first 14 days of sickness.

TIP

If you expect to qualify for a government refund of your coronavirus SSP payments, keep a separate record of these so when the time comes you can easily identify the amount you're entitled to reclaim.

[What if we pay for an employee's medical treatment?](#)

Where you pay for care or medical treatment for an employee or director with any illness (except one directly caused by the employee doing their job), including coronavirus, it counts as taxable earnings.

If you contract and pay for the medical care directly, it is a benefit in kind and reportable in the usual way on Form P11D.

If the employee pays for it and you reimburse them, it counts as earnings for PAYE tax and NI for NI purposes.

If the employee arranges for the medical care but you pay the bill, it is a benefit in kind for tax purposes and salary for NI purposes.

Exception. Where the employee is working abroad for you when they fall ill the cost of any medical care you pay for does not count as a benefit in kind or earnings.

Should we count time off for self-isolation in relation to sickness management trigger points or redundancy selection criteria?

Where an employee is required or allowed to self-isolate and it is being treated as sick leave, it would be good practice not to count this period of sick leave if the employee remains well throughout in relation to any absence management trigger points or any future redundancy selection criteria.

Care for dependants and compassionate leave

Can an employee take time off work because a dependant has the virus?

This is likely to fall within an employee's right to take dependants' leave often referred to as emergency leave. This allows a reasonable amount of unpaid time off to take whatever action is necessary when (among other things):

- a dependant falls ill (to help/make arrangements for the care of the dependant)
- a dependant dies; or
- there is an incident involving the employee's child that occurs unexpectedly during school.

TIP

As an alternative, you may also consider allowing the employee to take holiday, or to work from home if this is viable/practical.

Note. If the employee has been, or is, in contact with someone who has coronavirus then they will be required to medically self-isolate for 14 days from the onset of their dependant's symptoms, irrespective of whether they go on to develop symptoms themselves.

What if the dependant becomes critically ill or dies?

You may choose to give employees additional time off for certain personal reasons, which is often called compassionate leave, e.g. when a close family member dies or becomes critically ill. Offering a period of compassionate leave can make a positive contribution towards staff morale and loyalty and such leave is usually given, paid or unpaid, on a discretionary basis and/or in accordance with any specific compassionate leave policy you may have.

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Can an employee take time off because their children's school/nursery is temporarily closed?

This is now a pressing issue for all employers as all schools, colleges and nurseries were closed (except to “vulnerable” children and children where one parent is a “key worker”) at the end of 20 March. In these circumstances, employers may wish to allow such employees to work at home where possible and to try and be as flexible with working arrangements as they can, e.g. allowing employees to work around childcare commitments. Being as flexible with employees as possible will help ensure that the employee can continue working, especially as it is currently unknown how long this situation will last for.

As other options for part or some of the time, employees may choose to take emergency leave and maybe also parental leave, both of which are unpaid (see below for the basic statutory right to these types of leave). Depending on how long the school closures last, you may also wish to offer employees an extended period of unpaid holiday leave if they are unable to work. You may, of course, have more favourable contractual provisions or policies, e.g. for a certain length of paid emergency or parental leave, or given the extreme circumstances may choose to provide enhanced leave to help employees with this extraordinary situation of having to home-school children.

➤ *Emergency leave*

This is likely to fall within an employee's right to take emergency leave. This allows a reasonable amount of unpaid time off to take whatever action is necessary because of the unexpected disruption or termination of arrangements for the care of a dependant.

➤ *Parental leave option for longer school closures*

Employees may also have the right to take unpaid parental leave for the purpose of caring for a child for whom they are responsible. This right should not be confused with shared parental leave which is taken after a baby is born or after a child has been adopted. To be eligible to take unpaid parental leave, your employee must have a child under 18 and have completed at least one year's continuous employment with you.

Eligible employees are entitled to 18 weeks' leave in respect of each child. This entitlement applies as a total: if your employee has had four weeks' leave with a previous employer, they will be entitled to 14 weeks' leave with you. You may wish, as good practice, to disregard leave taken in a previous job. You may also offer more favourable contractual terms than these minimum standards, for example by providing longer leave, contractual paid leave, no qualifying period, or making it available to a larger group of staff.

You may have a parental leave policy which sets how and when parental leave can be taken. In circumstances where an employer agrees to deviations from its normal parental leave policy, e.g. waiving/reducing the required notification period or increasing applicability to staff who would not normally qualify for parental leave, the employer should reiterate that such deviations from policy are being implemented in extraordinary circumstances in response to the current coronavirus outbreak and that the usual terms of the policy will resume at the discretion of the employer.

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If there is no arrangement then a default scheme will apply. This default scheme requires employees to give notice (orally or in writing) of their intention to take leave at least 21 days before the leave is due to start. The notice must specify the date on which the period of leave is to begin and end. The default scheme also sets out that employees must usually take parental leave in blocks of one or more weeks and that an employee may not take more than four weeks of leave in respect of each child during a particular year. A year is calculated as starting on the date on which the employee first becomes entitled to leave with regard to each child or, where their entitlement has been interrupted at the end of a period of continuous employment (as when they have changed jobs and are working for another employer), on the date on which the employee most recently became entitled to take parental leave. Subsequent years will start on the anniversary of that date.

TIP

As an alternative, you may want to also consider allowing the employee to take holiday, or to work from home if this is viable/practical.

Emergency volunteering leave

The government has announced that it will introduce emergency volunteering leave which will enable a worker to be absent from work to support the delivery of health and social care services during this coronavirus pandemic. This right is part of the **Coronavirus Act 2020** and will require a statutory instrument to bring it into force.

What notice will we get and when and how long can a worker be off?

Volunteers will be provided with an emergency volunteering certificate by the relevant health authority or council, which will set out how long their volunteering will last. This period will be for two, three or four consecutive weeks. Any such period must fall within a certain timeframe which initially will be a period of 16 weeks beginning on a set day, yet to be confirmed. There may be further timeframes in which volunteering leave can be taken after this initial timeframe ends.

To take such leave, no later than three working days before the first day of the period specified in the emergency volunteering certificate, the worker must:

1. notify you in writing of their intention to be absent from work on leave for the period; and
2. give you a copy of their certificate.

Will we need to pay the worker while they are on volunteering leave?

No, you will not need to pay your worker. Instead, they will be able to claim for their loss of earnings, as well as a travel and subsistence allowance, from the government. Further details as to the extent of reimbursement have yet to be finalised.

Covering staff absences

Some level of staff absence is inevitable, so contingency planning is crucial if a business is to manage the impact on productivity. Identify which areas of your business must be kept going, and what can be put on hold if necessary. Then cross-train staff to cover the essentials where possible. Don't forget the practicalities of someone stepping in at the last minute, e.g. door codes and computer passwords.

Where there are many absences, keep health and safety under close review in the workplace. Particularly for higher-risk work activities, such as those involving machinery or hazardous substances, make sure that anybody covering an absence (including agency staff) is suitably trained and supervised, and that there are sufficient staff members for the activity to be carried out safely.

If it becomes unsafe to continue with a work activity, whether due to staff absences or knock-on effects such as not being able to maintain the equipment in a safe condition, or an inability to get hold of the correct personal protective equipment, the work activity must be halted.

If you are relying on employees to work a lot of overtime, make sure they are remunerated in accordance with their contract. Shift patterns may need to be worked out carefully to ensure compliance with working time requirements.

Managing annual leave

As the number of employees affected by coronavirus rises over the coming weeks and months, employers may face significant staff shortages. As a result, you may wish to give careful thought to more closely managing the holiday entitlement of employees while coronavirus continues to pose a threat to staffing levels so that you can better manage any staff shortages.

What should we consider?

Employees are entitled to a minimum of 5.6 weeks' paid statutory annual leave per year (**Working Time Regulations SI 1998**), which is generally pro rata for part-time employees. You may give your employees an enhanced contractual entitlement to paid annual leave, the extent of which may vary depending on the employee's seniority and length of service.

What can we do?

You may wish to give some thought to how much flexibility you have under your contractual or any relevant policy to limit the impact of annual leave during the period while coronavirus poses its biggest risk to your business. For example, you may wish to consider:

1. Refusing any new holiday requests. Most contracts and holiday policies permit the refusal of leave requests, and warn staff not to book any holiday arrangements until their leave has been approved. Under the default statutory scheme, provided the employer gives as much notice of the rejection as the amount of leave requested e.g. two weeks' notice to reject a request for two weeks' leave, then this complies with the statutory requirements.
2. Exercising any contractual power to designate a particular period of time as annual leave. This power could be used to ensure that any accrued leave is used up before the major impact of coronavirus occurs, therefore freeing up the number of available staff for later in the holiday year, when there may be coronavirus-related staff shortages.
3. Seeking the agreement of employees to carry over any contractual annual leave entitlement, i.e. any leave in addition to the 5.6 weeks' statutory minimum (pro rata for part-time employees) into the next holiday year - therefore postponing when this leave is taken.

Note. On 27 March legislation was brought into force which allows workers to carry over up to four weeks of unused statutory leave into the next two leave years to ease the requirements on businesses to ensure that workers take their statutory amount of annual leave in any one year (the **Working Time (Coronavirus) (Amendment) Regulations 2020**).

Download zone



For a **Holidays Policy**, visit <https://specialreports.indicator-flm.co.uk>. You'll find the access code at the front of this Special Report.

In addition to checking the contract/policy and any preferential terms, there are several default provisions which may assist you in managing the impact of annual leave. In particular, the default scheme permits you to:

1. Give counter-notice to prevent the employee taking annual leave which has already been approved/granted. To exercise this right, you must give equal notice as the amount of leave that is being rejected, e.g. if the employee requests one week's leave, the employer must give one week's counter notice. It is generally accepted to be good practice that you should bear the cost of any holiday cancellation associated with the cancellation of a holiday for which the time off has previously been approved (assuming this is not recoverable via travel insurance - some travel insurance policies contain provisions to deal with this scenario); or
2. Give employees notice to take any remaining annual leave at a time determined by the employer. Such notice must be at least twice the length of the period of leave that the employee is being ordered to take, e.g. if the employer wants to force the employee to take two weeks' additional leave, it must give at least four weeks' notice.

TIP

Encouraging discussion between managers and staff, and for employees to make suggestions as to possible solutions, may go a long way to preserving goodwill with the workforce. If the workplace recognises trade unions, they should be involved in such discussions/plans.

3. Cost saving during any downturn in business

On 23 March the government announced a number of emergency measures to dramatically reduce social contact in the UK, which included ordering certain businesses and venues to close, including pubs, cinemas, theatres, retail stores selling non-essential goods, hair and beauty salons and other community and leisure outlets and businesses. These measures have had an immediate and dramatic effect on economic activity. In addition, as the number of employees affected by coronavirus rises over the coming weeks and months, and with crucial supply lines being affected, or customer demand decreasing, many other businesses will suffer an economic downturn. Staff shortages due to illness or self-isolation may also mean you cannot continue your business as usual, which may impact on remaining staff.

Such downturns in business or productivity could lead to you needing to consider options such as laying staff off, short time working or even redundancies. The government has announced a coronavirus job retention scheme to enable you to continue to pay workers who you would otherwise have to make redundant.

Coronavirus Job Retention Scheme

As part of the support packages to assist businesses during the coronavirus pandemic, the Coronavirus Job Retention Scheme has been created. Under this temporary scheme, employees of any UK employer who would otherwise have been made redundant due to the coronavirus pandemic will be able to keep their job, with the government paying up to 80% of their wages, subject to a cap of £2,500 per month per employee. The money is in the form of a cash grant.

When will the scheme start and how long will it last?

The scheme will be backdated to 1 March and will initially operate for three months, which can be extended if necessary. HMRC will operate the scheme and is working urgently to set up a system for reimbursement. It is anticipated that the first payments under it will be made in the next few weeks and (hopefully) by the end of April at the latest.

Will the scheme apply to our business?

Yes, all UK employers, regardless of size, or whether they are charitable/non-profit, will be able to access the scheme. There is no requirement for an employer's business to be closed, so an employer may furlough some employees and not others. The scheme is designed to help you during this period so that you can keep employees on the payroll who otherwise would have been laid off or made redundant by the downturn of business created by the coronavirus.

Will the scheme apply to our employees?

The scheme can apply to any of your staff who are currently paid via your existing payroll including:

- full-time employees
- part-time employees; and
- employees on flexible or zero-hour contracts.

The scheme also covers agency workers so recruitment agencies will be able to furlough workers on their payroll.

Can we rehire an employee and then claim back to 1 March?

Yes, the scheme is backdated to 1 March with a view to covering those who have already been made redundant as a result of the coronavirus. The scheme therefore covers employees who have been made redundant since 28 February if you rehire them.

Can we furlough an employee now and claim back to 1 March?

No, you can furlough them and the scheme will cover their wages from when you do so. The backdating only applies to those who have been made redundant/laid off since 28 February.

Can we furlough an employee hired after 28 February?

No.

What about employees currently on SSP or unpaid leave?

Employees on sick leave or self-isolating should get SSP, but they can be furloughed after this.

Employees on unpaid leave cannot be furloughed, unless they were placed on unpaid leave after 28 February.

What about employees who need to shield themselves in line with public health guidance?

Such employees can be placed on furlough.

How long must an employee be furloughed for?

Employees will need to be furloughed for a minimum of three weeks.

Can our employee do any work for us while furloughed?

To qualify for the scheme, employees cannot undertake any work for or on behalf of you while they are furloughed. Employees on short-time working, e.g. those working on reduced hours or pay are therefore excluded.

[Can our employee volunteer or do training while furloughed?](#)

Yes, employees can volunteer or train provided this does not involve anything that would create revenue or provide services for your business.

TIP

If your worker is required to, for example, complete online training courses while they are furloughed, then they must be paid at least the NLW/NMW for the time spent training, even if this is more than the 80% of their wage that will be subsidised.

[What will we be able to claim in respect of each furloughed employee?](#)

Employers can claim a grant of up to 80% of a furloughed employee's gross pay, subject to a cap of £2,500 per month, per employee.

TIP

For employees with variable pay, the 80% grant will apply to the higher of: (1) the earnings in the same pay period in the previous year; or (2) the average earnings in the whole previous twelve months (or fewer if they have worked for less time than this, including a part month calculation if they were taken on in February).

[Will employer NI and minimum mandatory employer pension contributions be covered?](#)

Yes, this will be covered by the scheme. Therefore, once you've worked out how much of an employee's salary you can claim for, you will need to work out the amount of employers' NI and minimum mandatory employer pension contributions and claim for that too.

[Can we top up the difference in pay?](#)

Yes, you can top up the difference between the furloughed payment and an employee's full salary if you are in a position to do so, but you are not obliged to do this.

TIP

Employers' NI and automatic enrolment contribution on any additional top-up salary will not be funded through this scheme. Nor will any voluntary automatic enrolment contributions above the minimum mandatory employer contribution of 3% on qualifying earnings.

[Will our furloughed employee have to pay tax and NI?](#)

Yes, furloughed employees will pay tax and NI on any payments received through this scheme.

[How do we furlough an employee?](#)

If you decide to access the scheme in order to avoid redundancies and lay offs, you will have to designate which affected employees should move to furloughed employee status.

It is important to note that the normal principles of employment law will apply. If you have a contractual right to lay off staff, then you can simply notify affected employees of the intention to change them to furloughed employee status and at least the furloughed employee status will ensure that staff are partially paid.

If you don't have a contractual right to lay off staff, then you cannot unilaterally impose furloughed employee status without their consent. Employers are therefore advised to consult with affected staff (individually and collectively depending on the number of staff potentially involved) with a view to reaching agreement on affected staff becoming "furloughed employees". Affected staff will have to agree, preferably in writing, to their change of status to furloughed employee and new written terms and conditions of employment should be issued. In these circumstances, it is anticipated that staff would prefer to remain employed and continue to receive a partial salary. However, if staff do not agree, you may have to consider implementing your redundancy procedures.

Once agreed, you should write to each affected employee confirming furloughed employee status, confirming that they will receive 80% of their salary up to a cap of £2,500 per month which will be subject to the usual employee tax and NI via PAYE. The letter should make it clear that the payment is being made under the Coronavirus Job Retention Scheme and will continue until such date that either the employer exits the scheme or the scheme closes.

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For a **Letter Seeking Agreement to Furlough Leave**, visit <https://specialreports.indicator-flm.co.uk>. You'll find the access code at the front of this Special Report.

You should then pay your furloughed employees in accordance with the arrangements and claim reimbursement from HMRC.

[What information will we need to give HMRC?](#)

You will then need to submit information to HMRC about the staff that have been furloughed and calculate how much you are claiming. This will entail providing information on:

- your PAYE reference number
- the number of employees being furloughed
- the claim period (start and end date)
- amount claimed
- your bank account number and sort code
- your contact name; and
- your phone number.

[What rights do furloughed employees have?](#)

Employees who have been furloughed have the same rights as they did previously. That includes statutory sick pay entitlement, maternity rights, other parental rights, rights against unfair dismissal and to redundancy payments.

Can we make a furloughed employee redundant after furloughing ends?

Yes, you can still make an employee made redundant while on furlough or immediately after. There is no requirement to bring the employee back to work after the period of furlough. If an employee is made redundant during the period of furlough, then grant payments will cease.

What is the tax treatment of this retention grant?

Payments received by a business under the scheme must be included as income in the business's calculation of its taxable profits for income and corporation tax purposes, in accordance with normal principles.

Businesses can deduct employment costs as normal when calculating taxable profits for income and corporation tax purposes.

More information

For more information on the scheme see: <https://tinyurl.com/tapx56j>.

Lay-off and short time working

Where you cannot provide work to an employee, you may, as a temporary measure and where permitted by your contract of employment with the employee, lay off the employee or put them on short time working until normal levels of work resume. Lay-off and short time working may provide a way to save jobs or reduce the need to make redundancies. The difference between the two options is:

1. Lay-off: employees are laid off where they have not been provided with any work by their employer on a temporary basis.
2. Short time working: employees are on a short-time basis where they have been laid off for a set number of contractual days each week, or if the number of hours they work during a working day has been reduced.

If we have a contractual right to lay off staff

When considering the possibility of lay-off and short time working, the starting point is to consider the contract of employment, because lay-off or short time working can only be unilaterally imposed where the contract permits this. If the contract does include a provision granting you a power to impose a lay-off or short time working, then you will need to check any conditions in the clause, e.g. when it may be triggered, how much notice must be given, and make sure these are followed.

Where there is a contractual right to lay staff off, or impose short time working, this is not subject to an implied term as to the reasonableness of the period of lay-off; the employee's remedy for a lengthy period of lay-off is to claim a redundancy payment under the specific statutory scheme. Alternatively, if you continue to lay off an employee or put them on short time working even when the measure can no longer be justified, i.e. in an attempt to avoid

making a redundancy payment, the employee could claim constructive dismissal based on a breach of the implied term of trust and confidence (which would include a claim for a redundancy payment if the reason for dismissal is redundancy).

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For a **Lay-off and Short Time Working Clause**, visit <https://specialreports.indicator-flm.co.uk>. You'll find the access code at the front of this Special Report.

If we don't have a contractual right to lay off staff

If there is no contractual right to impose a lay-off or short time working, you are faced with two main choices:

1. Seek the express agreement of the employees to an immediate voluntary temporary lay-off or short time working. This is effectively a voluntary, short-term and temporary variation of contract.
2. Seek the express agreement of the employees to change the contract to include a lay-off or short time working provision, which can be exercised in the future when necessary to preserve jobs. This would be a longer term, permanent variation of the contract which would grant the employer the right to impose periods of lay-off or short time working in the future when necessary.

Whichever option is chosen, the express consent of the employees to the contractual variation should be sought. As lay-off and short time working have an impact on the amount of pay, it is not open to you to unilaterally change the contracts, e.g. by exercising an express clause permitting minor changes to the contract.

TIP

To seek the express agreement of your employees, you should consult with the staff to explain the difficulties the business is facing, and that the lay-off or short time working is a way to save jobs. Agree how long any lay-off or short time working can operate and when/how this will be reviewed/extended. The agreed arrangements should be confirmed in writing with each employee as it amounts to a temporary contract variation.

What are guarantee payments?

When an employee is laid off, they may have a statutory right to receive a minimum statutory guarantee payment. This is payable for every complete workless day where the employer cannot provide the employee with work. To be entitled to a guarantee payment, employees must be continuously employed for one month ending with the day before the workless day. The right arises when work of the kind which the employee is employed to do is not provided to them during any part of their normal working hours in a workday due to:

- a decrease in your business requirements for that work; or
- any other event affecting the normal working of your business in relation to that work.

A complete working day must be lost; the right is not applicable in respect of a day in which some work is provided. For example, guarantee pay may be available if a business closes entirely on Mondays and Fridays, whereas it would not be available if it instead closes from 1.00pm on Monday to Friday. Where a shift starts before midnight and ends the following day, the workless day will be taken to be the day they started the shift if it is, or would normally be, longer in duration before midnight. If not, it will be treated as falling wholly on the second day.

TIP

An employee is not entitled to a guarantee payment if you have offered suitable alternative work and they have unreasonably refused or they do not comply with any reasonable requirements which are made with a view to ensuring that their services are available, e.g. a requirement to phone to find out about availability of other alternative work.

What rate is payable?

The amount payable for a complete workless day is calculated by multiplying the number of normal working hours in that day by the guaranteed hourly rate. This is one week's pay divided by the number of normal working hours that week (which can be a twelve-week average of hours for staff with variable hours). This is subject to a maximum amount payable for a workless day (currently £29 for each workless day, which increases to £30 on 6 April 2020) and is payable for a maximum of five workless days in any three-month period.

What happens to holidays and other benefits?

Provided the employment contract remains unbroken during the lay-off, employees continue to accrue their statutory holiday leave as normal, as is also the case for periods of short time working. The element of their contractual holiday leave that is over and above the statutory entitlement will accrue according to the terms of the individual contract. Likewise, any contractual benefits will remain unaffected. Holiday pay should be at the employee's normal rate of pay, even where holiday is taken during short time working.

How long can the lay-off or short time working continue?

Employees who have two years' service or more can apply for redundancy and claim redundancy pay if they have been laid off without pay, or put on short-time working and receive less than half a week's pay for:

- four or more weeks in a row; or
- six or more weeks in a 13-week period.

TIP

You should bear those limits in mind when fixing the duration of any periods of lay-off or short-time working.

Redundancy

If your business suffers an economic downturn over the longer term, this could lead to you needing to consider redundancies to reduce staff costs. There are three types of redundancy situation, involving a temporary or permanent:

- closure of the entire business
- closure of the employee's workplace; and
- diminishing need for employees to carry out work of a particular kind (meaning there is either less work or fewer employees are needed to do the work).

Redundancy can be a potentially fair reason for dismissal. However, to be fair, the employer must follow a fair redundancy process. A fair redundancy process will include:

1. Devising a fair method of selecting which employees will be made redundant.
2. Individual consultation with affected staff.
3. Considering whether suitable alternative employment is available for otherwise redundant staff (women on maternity leave and other staff on statutory leave have special protection which grants them priority for suitable alternative employment).
4. An appeal process to allow employees who are made redundant to appeal against their selection.

Further, if there are 20 or more redundancies within 90 days at one establishment, a process of collective redundancy information and consultation is required (either with trade union representatives or elected representatives).

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For a **Redundancy Policy**, visit <https://specialreports.indicator-flm.co.uk>. You'll find the access code at the front of this Special Report.

TIP

It is good practice to first consider seeking volunteers for redundancy and/or early retirement to reduce the number of compulsory redundancies.

Redundancy pay

A redundant employee who has two years' service or more will be entitled to a statutory redundancy payment calculated by reference to age, length of service (subject to a maximum of 20 years) and salary (subject to a statutory cap for a week's pay of £525 (£538 from 6 April)) as follows:

- for each complete year of employment in which the employee was aged 41 or over: 1.5 week's pay
- for each complete year in which they were aged 22 to 40: one week's pay; and
- for each complete year in which they were aged 21 or under: 0.5 week's pay.

The maximum statutory redundancy payment is £15,750 (£16,140 from 6 April).

You may have given your employees the right to enhanced contractual redundancy pay, so you'll need to check your employees' contracts and any redundancy policy to check what sum you will need to pay.

Redundant employees (irrespective of service) will also be entitled to receive notice pay. You will need to decide and discuss with your affected employees how much, if any, of their notice period you will require them to work.

How do we deal with tax and NI contributions for statutory redundancy pay?

Statutory redundancy pay is exempt from tax up to £30,000 and fully exempt from NI. The exemption for NI is aligned with that for tax in respect of payments made on or after 6 April 2020, i.e. they are only exempt to £30,000.

Because statutory redundancy pay is capped at a figure well below the £30,000 limit unless it's topped up with a non-statutory payment, there will never be a need for you to account for PAYE tax or NI.

What about tax and NI on non-statutory redundancy pay?

You may need to account for PAYE tax and NI on non-statutory redundancy pay. This includes all pay and benefits in kind for the termination of employment excluding statutory redundancy pay or a non-statutory pay, e.g. an amount agreed between you and an employee, equivalent to the statutory redundancy amount. For example, if an employee is entitled to statutory redundancy of £2,100, but their contract or other agreement means you pay £3,000 instead, £2,100 is not taxable while £900 is potentially taxable.

Tax and NI is payable on any of the potentially taxable amount if and to the extent that:

- it exceeds £30,000 or
- it is "post-employment notice pay" (PENP). This part is taxable as earnings and subject to PAYE tax and NI like salary. A payment in lieu of notice (PILON) falls into this category.

Note that if an employee works their full contractual notice period any pay for that period is liable to PAYE and NI as normal salary.

A calculation is needed to work out how much of the potentially taxable amount is PENP (and so liable to tax and NI). The PENP formula is:

$$(BP \times D \div P) - T$$

where:

BP = the employee's basic pay for the last pay period (week or month) before the date on which notice of redundancy is given. Basic pay excludes overtime, bonuses, commissions, allowances, and benefits in kind

D = the number of days in the PENP (the period from the last day of employment to the date when the notice period would have expired if given in full)

P = the number of days in the last pay period, and

T = are amounts paid on termination (other than holiday pay and termination bonuses) that are already taxable as earnings, e.g. a contractual PILON.

Example

Mrs F is paid £5,000 per month. At the end of June, she is informed that she is being made redundant and must leave her job immediately without working her contractual three-month notice. Her employment contract contains right to a PILON Mrs F's employer agrees to pay her a total termination payment of £25,000 including £7,000 statutory redundancy payment.

Her last normal monthly pay period was May.

The potentially taxable amount (HMRC calls this the relevant termination award (RTA)) is therefore £18,000 (£25,000 – £7,000)

BP, basic pay, is £5,000.

D, the duration of the post-employment notice period, is three months.

P, the duration of the pay period which ends prior to the termination date, is one month.

Mrs F's PENP is £15,000. $((5,000 \times 3)/1)$

The following consequences result:

- the statutory redundancy payment of £7,000 is exempt*
- the PENP of £15,000 is subject to tax and NI in full; and*
- the balance of the RTA of £3,000 (£18,000 – £15,000) and the £7,000 statutory amount is within £30,000 exempt amount and so not liable to tax or NI.*

The taxable PENP should be processed as normal pay through payroll software.

How are other payments on termination of employment treated?

If a payment is made to an employee “because of redundancy” rather than “for redundancy” it’s taxable as normal pay. For example, if an employee has accumulated a bonus that normally would not be paid for several months but you pay it sooner because of redundancy, you must at that time put it through your payroll as earnings and deduct any PAYE tax and NI due.

4. Help with tax, VAT and related issues

What has coronavirus got to do with tax?

Although most of the announced measures to tackle the coronavirus pandemic focus on employees, and specific tax measures have been few and far between so far, there have been some announcements. Additionally, some of the other measures will have indirect effects, especially for business owners and employers.

In this section, we explain the directly announced tax measures and explain what indirect consequences you might need to consider.

VAT

What is the VAT deferral that was announced?

No VAT payments will be due between 20 March 2020 and 30 June 2020.

Example

Acom has VAT quarters that include the three months to 31 March 2020. Ordinarily, the payment for this quarter would be due by 7 May 2020. However, as this falls into the deferral period, the payment will not be due.

TIP

You don't need to formally claim this, but if you pay by direct debit you should cancel it or it could automatically be taken once your VAT return is submitted.

What happens to the unpaid amount?

The VAT is still payable to HMRC and will need to be made good by the end of 2020/21. The aim is to give a cash-flow benefit to help your business, or to retain staff by paying wages before accessing the job retention scheme.

What about filing deadlines?

There has been no announcement (yet) to suggest that VAT return deadlines will be pushed back. You should therefore endeavour to complete your returns and use estimated figures where possible.

If you are late filing your next return and were genuinely prevented from doing so because of the coronavirus, you might have a "reasonable excuse" which can mean you don't enter the default surcharge process. You can claim a reasonable excuse on **Form WT2** at <https://tinyurl.com/uhdkb4v>.

Losses

What if coronavirus affects our business adversely meaning we have a loss this year?

There has been no special measure relating to losses announced yet. However, it is likely that more small businesses will be loss making, and so it will be useful to familiarise yourself with the way that they can be relieved. Self-employed losses are claimed via the tax return and, by default, will carry forward to offset future profits from the same trade.

Can we claim relief more quickly?

Yes, trading losses can be offset against general income in the same year as the loss arose, or in the previous year. This might be very helpful if you are struggling with cash flow as a result of the coronavirus.

The relief is claimed on the tax return, so if you realise a loss in 2019/20 and want to secure relief for that year, you should complete your return as soon as possible after 5 April 2020. However, claiming relief against your 2018/19 return might be quicker and allow a refund of tax from that year to be paid. You can claim relief by amending your return for that year by 31 January 2021.

Alternatively, you can make a standalone claim in writing. This might be relevant to you if 2019/20 was your first year of trading.

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For an **Unincorporated Business Trading Loss Relief Claim**, visit <http://specialreports.indicator-flm.co.uk>. You'll find the access code at the front of the Special Report.

Note. The amount that can be relieved like this in a single tax year is restricted to the lower of £50,000 and 25% of adjusted total income.

Example

Phil has a total income of £70,000 in 2019/20 and makes a trading loss in that year on one of his businesses of £60,000. The maximum amount of relief Phil can set against his total income for 2019/20 is £50,000 as this is the greater of £50,000 and 25% of his income. The remaining £10,000 loss can be carried forward.

Business rates

Do we still have to pay business rates?

This depends on what type of business you run. The 2020 Budget had already announced that small retailers in England with a rateable value of less than £51,000 would have their rates abolished for 2020/21. As an emergency measure, this has been extended to all England-based retailers for 2020/21.

Businesses that can take advantage include:

- shops
- restaurants and cafes
- pubs and other drinking establishments
- cinemas
- live music venues
- venues used for assembly and leisure, e.g. leisure centres
- hotels, guesthouses, B&Bs and self-catered accommodation
- nurseries.

Additionally, you may be able to claim a grant if your business pays little or no business rates.

Employees working from home

What's the tax position if we provide employees with equipment to work at home?

If you lend equipment, e.g. computers, office furniture, to employees so they can work at home you won't have to report it on Form P11D as a benefit in kind even if they make modest personal use of the borrowed items.

Similarly, if an employee needs additional services at home so they can do their job, such as the installation or upgrade of broadband, the extra cost will not be a taxable benefit in kind.

Note. If an employee uses existing services which they have personally signed up for, e.g. broadband, mobile phone, and you contribute towards the cost of these, you must account for PAYE tax and NI on the amount you pay as if it were extra salary. But this isn't required where there is a discrete identifiable amount on the bill which relates to services used wholly for work.

Can we pay an employee's household costs for working at home?

Current rules allow you to reimburse employees for "additional" household costs resulting from working at home. HMRC is aware that there will be additional domestic costs such as higher energy bills but caps the amount you can pay tax and NI free. It was announced in the 2020 Budget that this would rise to £6 per week from £4 from 6 April 2020.

For this exemption to apply there must be a homeworking agreement with your employees. Plus, the employee must work regularly from home. This doesn't mean all the time but there must be a pattern, say one day per week - this condition won't be an issue in the current circumstances. The homeworking period doesn't have to last a set length of time for the exemption to apply.

In practice, and especially during the coronavirus crisis, any communication, e.g. emails, notifying your staff that they should work at home, will be enough to constitute a homeworking agreement. Remember to keep a copy of any emails you've sent to your staff on the subject.

TIP

There's no requirement for you or your employees to keep a record of the additional home-related costs.

What if we pay more than the flat rate allowance?

While in theory you can pay a tax and NI-free amount exceeding the £6 per week (£4 up to 5 April 2020) it only applies where the household expense is “wholly, exclusively and necessarily” incurred by the employee in the course of doing their job. Normally, HMRC interprets this rule very strictly, which for practical purposes means that you should treat any excess as taxable pay and apply PAYE tax and NI accordingly.

However, HMRC might choose to adopt a lighter touch this tax year. Therefore, you should tell your employees who are required to work at home because coronavirus to keep records of their domestic costs with their tax records as they might be allowed to claim a tax deduction later.

IR35

What is happening with the off-payroll rules?

The off payroll working rules can apply if a worker provides their services through an intermediary, such as a company, when they would otherwise be taxed as an employee. The government had planned to make it the responsibility of large and medium-sized private sector organisations to determine whether a contractor is employed or self-employed for tax purposes and deduct PAYE where necessary from April 2020.

Despite criticism, the government announced that the reforms would be going ahead as planned at the Budget in March 2020. However, a decision has now been made to postpone the implementation until 6 April 2021 to help businesses and individuals affected by the coronavirus.

The reforms will only change who is responsible for determining the employment status of contractors, so those operating via personal service companies still need to be able to show that an employment relationship does not exist in the event of an HMRC enquiry.

Business vehicles

We have light vans with MOTs due shortly, what should we do?

MOT testing stations are currently allowed to remain open, so if your MOT is due before 30 March you should book it in to be tested as long as you are not self-isolating or living with someone with symptoms or are extremely vulnerable to coronavirus. However, if the expiry date is after 30 March 2020, you will be given an automatic six-month extension.

However, you must ensure any vehicle is safe to drive. You must also pay your vehicle excise duty (road tax) as usual.

[We have heavy goods vehicles, what do we need to do?](#)

All MOT tests for lorries, buses and trailers have been suspended for three months from 21 March 2020. You will get an automatic extension, unless your vehicle failed its MOT before the suspension date. In this case you must contact DVSA.

Tax for individuals - direct tax measures

[Has self-assessment been affected?](#)

Yes, HMRC has announced that self-assessment payments due by 31 July 2020, i.e. the second payment on account for 2019/20, will now not be due until 31 January 2021.

In practice this means that there will simply be one larger payment due by 31 January 2021.

[What use is that?](#)

The change will give a cash-flow advantage for six months. Whilst it is possible to claim to reduce payments on account, e.g. where you know your income has reduced, interest is charged in the event there is then a balance to pay. HMRC will not charge interest on the delayed instalment. You will therefore be able to use the money for other things in the meantime.

[How do we access this?](#)

You don't need to make a formal claim. No penalties or late payment interest will be applied for the deferral period.

[We're already in a time to pay arrangement and can't make my instalments, what should we do?](#)

HMRC has indicated that it is scaling up its time to pay service in the wake of the coronavirus outbreak. You should contact the dedicated helpline on 0800 0159 559 to discuss your arrangement.

[What about the next tax return?](#)

There has been no announcement that the next self-assessment return deadline will be extended. However, if coronavirus is still affecting the country later in the year, this could change.

Tax for individuals - expatriates

Not usually resident in the UK but have been prevented from leaving - where resident?

In general, your UK tax residence status for any tax year is binary. You are either tax resident or you aren't for the entire year. There are some circumstances where it is possible to split the tax year into a resident and non-resident period, but this is generally for people who are either moving into or out of the country on a long-term basis.

If you become UK resident for 2019/20, the result is that all your worldwide income and capital gains become chargeable to UK tax. This can be costly if you are from a country that has a lower tax rate than the UK.

UK residence depends on the outcome of the statutory residence test (SRT). This revolves around counting the number of days you are in the UK during a tax year. The exact number of days that trigger UK residence depend on your circumstances and residence history - there is no "one size fits all" limit.

Download zone



For **Statutory Residence Test Flow Charts**, visit <http://specialreports.indicator-flm.co.uk>. You'll find the access code at the front of this Special Report.

What counts as a day, and do they all count?

The general rule is that you are in the UK for a day if you are present at midnight. If you arrive at 9.00pm on a Tuesday and leave at 6.00am on the Thursday you include two days when looking at the SRT, even though your presence here lasted less than 48 hours.

However, certain days can be ignored. These are:

- days where you are here at midnight but were "in transit"; and
- up to 60 days where you are here due to "exceptional circumstances".

HMRC has confirmed that where travel out of the UK has been delayed due to the coronavirus, the additional days spent in the UK can be ignored as exceptional circumstances in some situations. Specifically, the following circumstances can automatically be counted as exceptional:

- you are quarantined or advised by a health professional or public health guidance to self-isolate in the UK as a result of coronavirus
- you find yourself advised by official government advice not to travel from the UK as a result of coronavirus
- you are unable to leave the UK as a result of the closure of international borders; or
- you are asked by your employer to return to the UK temporarily as a result of coronavirus.

Other delays may be considered on a case-by-case basis.

This needs to be considered in conjunction with the existing HMRC guidance on exceptional circumstances at <https://www.gov.uk/hmrc-internal-manuals/residence-domicile-and-remittance-basis/rdrm13200>.

Note. Currently, there has been no extension to the upper cap of 60 days. Unless this changes, a longer delay might well mean additional days need to be counted.

5. Help with other compliance issues

Accounts and other Companies House filing

Are there any filing extensions?

Companies House is encouraging all companies to ensure that they file their accounts on time, where possible. A company can apply for a three-month extension if it is unable to meet the deadline due to coronavirus <https://www.gov.uk/guidance/apply-for-more-time-to-file-your-companys-accounts>. At the time of publication, over 10,000 businesses had already been granted this temporary extension.

TIP

Make sure you apply for an extension before your filing deadline. If you file your accounts late without an extension being agreed in advance, the usual rules apply, meaning that Companies House can only decide not to collect the automatic penalty in a very narrow set of circumstances.

Is Companies House open to enquires?

Companies House call centres are closed during the pandemic. Where possible, companies should use the online service to continue to meet their filing obligations, such as filing their confirmation statements and notifications of other changes. Documents can still be posted, but this varies for different offices and may be subject to change. Check the Companies House website before posting for the up to date position.

TIP

Many businesses will have little or no custom for the time being, so it's the ideal time to get on top of company admin, including filing any outstanding paperwork online at Companies House.

Companies House's updates on its service during the pandemic can be found here: <https://tinyurl.com/thykpq8>.

Shareholder and board meetings

Only public companies are obliged to hold statutory AGMs, and the government has announced that they are to be granted temporary flexibility to enable them to hold meetings online or to postpone them.

The requirement to social distance prevents smaller companies from holding face-to-face meetings as well, but company law and the companies' own articles of association already offer the solution.

[What about shareholder meetings?](#)

Shareholder meetings can be avoided altogether by using written resolutions. These are circulated to all shareholders eligible to vote and are passed by the same majority as would be needed at a meeting, depending on the type of resolution. In some cases, additional information has to be supplied.

TIP

Some written shareholder resolutions have to be filed at Companies House within 15 days. This should be done online during the lockdown.

[What about board meetings?](#)

Many companies' articles of association enable directors to make decisions using written board resolutions. Or, like the Model Articles for private companies, they may enable directors to make decisions unanimously without a formal meeting. Those companies that do not have such a provision in their articles may wish to pass a shareholder resolution (using the written resolution procedure) to change the articles accordingly.

TIP

Check your company's articles to see what is allowed, and whether there are any specific procedures you need to follow in order for the resolution to be valid. While it is always best to have the proper formalities in place, don't panic if something has been overlooked or is not practicable in the current conditions. Informal decisions are still viewed as valid where all of the directors or shareholders are in agreement.

Advertising

The Advertising Standards Authority has already published rulings relating to claims made by advertisers about the ability of products to protect users from coronavirus. It has reminded firms to be responsible at this time, and not to make any efficacy claims in relation to preventing, treating or curing the virus unless they are permitted to do so and can support their claims by robust documentary evidence. Advertising must not exploit people's fears regarding the outbreak.

Competition law

In acknowledgement of the fact that strict adherence to competition law may impede the security of essential supplies, the Competition and Markets Authority (CMA) will not take enforcement action against cooperation between businesses or rationing of products to the extent that this is necessary to protect consumers. This enables supermarkets to co-ordinate efforts and work together where necessary to ensure that enough food and other essential supplies remain available.

What action is the CMA taking?

The CMA will act against businesses that seek to exploit the situation. It has set up a “COVID-19 taskforce” to tackle firms attempting to do so, e.g. by exchanging longer-term pricing or business strategies, inflating their prices or making misleading claims. This taskforce will also advise the government on relevant policy and legislative measures that may be necessary as the situation unfolds.

TIP

If your business falls into the “essential supply” category, you can work with other suppliers and retailers, however only to the extent that is necessary. Consider devising a policy on the extent to which your business needs to do so and make sure that all staff responsible for communicating with other businesses are aware of the limits. Documenting your decisions in this way will help to rebut any allegation that you have taken it too far.

6. Managing financial difficulties

Dealing with creditors

The consequences of the lockdown have decimated the cash flow of many businesses. As so many are in the same boat, except for businesses that serve the key sectors keeping the country going (health and social care, supply of food and other essential goods, infrastructure, etc.), lenders, landlords and creditors will not be surprised to receive calls asking for payment deferrals. It is always best to be upfront with creditors and try to come to an arrangement with them, particularly at this time when co-operation between all businesses in a supply chain will be key to its survival in the long run.

What if we can't pay?

If you are unable to meet loan repayments or are in danger of exceeding your overdraft, make sure you keep the lender informed. They may be able to help, for example a payment holiday or emergency loan. Banks may impose extra conditions for their continued support, such as additional reporting so they can better monitor the effect of the outbreak on your business.

Government help

In addition to the measures put in place to assist employers keep employees on the payroll and the temporary tax measures, the government has announced two new grants to help businesses.

What grants are available?

Small businesses that pay no or very little in business rates will be eligible for a £10,000 grant. You do not need to apply - your local authority will contact you if your business qualifies.

Businesses in the retail, hospitality and leisure sector may be eligible for a grant that depends on the rateable value of their premises. A grant of £10,000 will be given to businesses with premises with a rateable value of £15,000 or less; £25,000 will be given to those whose premises have a rateable value of between £15,001 and £51,000. The grant applies per property. Again, there is no need to apply - your local authority will contact you if your business qualifies.

Details of the government's measures can be found here: <https://tinyurl.com/w8u7ygw>.

Taking on additional borrowing

What additional borrowing is available?

The government has set up a new Coronavirus Business Interruption Loan Scheme for SMEs, providing access to working capital (including loans, overdrafts, invoice finance and asset finance) of up to £5 million in value for up to six years. For the first twelve months, the government will pay the interest and any up-front fees, and it will also guarantee 80% of each loan to try to ensure that lenders continue to provide finance to SMEs.

Who is the scheme open to?

The scheme is open for applications; details of the scheme and a full list of the accredited finance providers can be found on the British Business Bank's website: <https://tinyurl.com/v62yg6x>.

Some private lenders are also providing specific support to SMEs, including making funding available, to help them keep going, for example:

- Lloyds Banking Group: <https://tinyurl.com/rnursrs>
- NatWest: <https://tinyurl.com/rmhs39>; and
- Barclays: <https://www.barclays.co.uk/business-banking/>.

As the situation evolves, more lenders may well do the same. Just as you would when sourcing new funding at any other time, it will be worth contacting several lenders to see who can offer you the best deal.

Contractual obligations

What about our current contracts?

If your business is on hold, use the time to review your current contracts and assess your business' obligations and potential liabilities. You may be likely to default, either in terms of payment or fulfilling the order, but other contractual parties are likely to be similarly affected. Try agreeing to scale down temporarily or take a payment/production break.

TIP

Keep written records of contractual variations and review the situation regularly. Not only will records avoid any arguments in future about what was agreed but keeping in touch with the other parties will make it easier to get business going again when restrictions are lifted.

In many cases, it will be possible to agree a way forward with other parties relatively informally. However, if you prefer, or have, to quote your legal rights, you will need to review the relevant contract to see if it covers business interruption for reasons such as this.

What is force majeure?

A “force majeure” clause excuses a party from its obligations under a contract following a certain event which is beyond its reasonable control and has made carrying out the contract impossible or impracticable. If the event, in this case the pandemic, is covered by the clause, the defaulting party will not be liable for its failure to perform its contractual obligations.

The clause will usually include:

- a definition of force majeure events
- notification and other formalities if such an event occurs; and
- the consequences of a force majeure event occurring.

Whether the pandemic is a force majeure event will depend on the wording of the clause. Reference may be made to the outbreak of a notifiable disease, an epidemic or pandemic, or parties may have to rely on more general wording such as “*circumstances beyond the parties’ control*”.

There is usually an obligation on the affected party to mitigate, which means that they must be able to show that they have done everything they can to avoid the event or its consequences.

If your contract includes a force majeure clause that can be used in these circumstances, the remedy will also depend on how the clause is drafted (and there may be a choice):

- the contract may be suspended while the event is ongoing. When it comes to an end, contractual obligations are re-activated;
- the non-performing party’s liabilities for non-performance/delay are excused; or
- there is a right to terminate the contract (either for one or both parties).

TIP

When taking any action under a contract, make sure you inform the other party of your decision properly. How to do this will be specified in the contract. Even if you have agreed a course of action over the phone, you may need to confirm in writing/ give a length of notice for the decision to be binding.

TIP

If your contracts do not include force majeure clauses, consider whether they should in future. If your contracts do include force majeure, now is a good time to review it to make sure it stands up to the current situation. Going forward, force majeure clauses are likely to mention pandemics specifically, if they do not already.

What about “frustration”?

If there is no force majeure clause, you may be able to rely on the common law doctrine of “frustration”. This applies where a supervening event renders the performance of a contract radically different from the obligations set out. However, its application is narrow in scope and will not apply where the contract has a force majeure clause.

What are the legal consequences of breach of a loan agreement or contract?

The consequences of defaulting on a loan or breaching a contract will be set out in the agreement in question. However, one consequence of the lockdown is that the courts are, to all intents and purposes, closed, and enforcement action such as evictions and repossessions are being advised against. However, you won't want the threat of legal action hanging over your head when the restrictions are lifted, so make sure you agree a course of action with your lender or counterparty to a contract. Keep any such agreement documented. Lawyers are still working from home, so you can still seek legal advice if you need to.

Insurance

Are we covered by our insurance?

Unfortunately, many businesses are unlikely to be covered, as standard business interruption insurance policies are dependent on damage to property and exclude pandemics.

The government has stated, however, that where a business has cover for pandemics and government-ordered closure, or "closure by authorities", they should be covered, including those that closed or suffered loss as a result of the official advice to avoid pubs, theatres etc. prior to the lockdown.

Where an insurance policy covers losses stemming from an outbreak of a "notifiable disease", the business should be covered as the government has classed the coronavirus as such.

Insurance policies differ significantly, so it is vital that you check the terms and conditions of your specific policy and contact your provider.

TIP

Pay attention to all the terms of your policy if you are considering making a claim. Insurance companies will always scrupulously check that a claimant meets all their terms and conditions, not just those relating to orders to the circumstances of the business interruption.

Insolvency

This pandemic is going to hit most businesses hard financially. Even with the government's measures to soften the blow, some businesses will ultimately end up in insolvency. For companies that were struggling beforehand, the pandemic may well be the final straw.

What are the directors' liabilities?

Under normal conditions, when a company is in financial difficulties, or is headed that way, its directors' duty to act in the company's best interests becomes a duty to act in the interests of the creditors. This usually means ceasing to trade when insolvency looms.

The good news for directors is that the government has announced that the wrongful trading provisions are being temporarily suspended. Wrongful trading enables directors who were negligent in their management of the company prior to it going into liquidation to be held personally liable to contribute to the company's assets. Typically, this catches directors who allowed their company to carry on, incurring more debts, beyond the point at which they were obliged to cease trading.

In the current situation, there will be many directors having to face up to the fact that their companies are insolvent. This relaxation of the rules means that they do not necessarily have to call in the liquidators straight away. If there is a reasonable prospect of the business being resurrected once the lockdown has been lifted, they can put the business on hold instead. Bear in mind, however, that this concession is aimed at helping businesses that have a genuine prospect of surviving the pandemic. If there is no prospect of survival, e.g. where a company was already experiencing significant financial problems, the directors should still seek advice on insolvency proceedings.

The suspension of wrongful trading is backdated to 1 March 2020 and applies for three months. This relaxation of the rules does not give directors carte blanche to behave as they wish; other provisions that can confer personal liability, such as for fraudulent trading, remain in place.

Tip

Seek professional advice and document your decision making particularly carefully at this time, in case you are called on to justify the course of action taken at a later date. Bear in mind that this leeway will help businesses that would have survived the pandemic; those that were already struggling may still have to go into insolvency.

In addition, those companies already undergoing a formal rescue or restructuring process are to be allowed to continue trading and purchase essential supplies to enable them to do so, e.g. energy and raw materials.

The details of these measures have not yet been finalised at the time of publication and the legislative changes necessary to bring them into force have not yet been made.

[The Insolvency Service](#)

At the time of publication, the Insolvency Service itself remains open, although its telephone helplines have closed for the time being. Businesses can contact the Insolvency Service online at <https://www.gov.uk/government/news/coronavirus-covid-19-delivering-our-public-services>. For those businesses already subject to an insolvency procedure and their creditors, the Official Receiver's work continues, so information must still be provided via email to the relevant office: <https://www.gov.uk/government/news/contacting-an-official-receiver>.

Further guidance

Public Health England and the NHS 111 online service regularly update the information on their websites. You can subscribe to receive specific emails with coronavirus updates.

Public Health England's latest guidance for employers and businesses:

<https://tinyurl.com/tyk8sua>

NHS 111 online:

<https://tinyurl.com/vccz7ux>

The government's action plan setting out measures you can expect to be taken in the coming months:

<https://tinyurl.com/rbhaemp>

Acas guidance for employers:

<https://tinyurl.com/tsprvt5>

Advice on self-isolation and who needs to do it:

<https://tinyurl.com/slo8y39>

Full guidance on staying at home and away from others in response to measures implemented on 23 March:

<https://tinyurl.com/qvkua27>

Advice on vulnerable children and children of "key workers":

<https://tinyurl.com/sqjewep>

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