



# RealityHR

People Driven Business Growth

# CORONAVIRUS - NATIONAL LOCKDOWN 2021

## SUPPORTING YOUR EMPLOYEES

GET IN TOUCH TO FIND OUT HOW WE  
CAN HELP...



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Following the Government announcement on Monday 5th January 2021, England moves into another national lockdown which will see school closures across the nation and more employees being asked to work from home. Other home nations are also living and working with tough restrictions and so wherever your business or your staff are based, you may have questions about how to best support your teams whilst minimising any impact on your business.

In this factsheet we will highlight frequently asked questions and guidance around moving to remote working, supporting employees who are shielding or now have children at home, flexible working considerations, and employee wellbeing.

Understandably, your employees may be feeling anxious about a rise in case numbers, the new restrictions and the impact of the ongoing Covid situation on their families, their own wellbeing and their ability to work effectively. To support them, regular and timely communication is key; initially to clarify working arrangements and then to maintain contact whether they are working from home or onsite. Understand employees' concerns and difficulties and ensure they feel supported. Clarify your expectations of them during the coming days and weeks, which may need to be adjusted temporarily as the situation settles down. It is important to, as far as possible, help remote workers to separate their work and personal lives to ensure that they don't get burnt out.

We hope this fact sheet provides the guidance you need but every individual situation will be different so please get in touch if you want to talk to a member of the team.

## MUST ALL OUR STAFF WORK FROM HOME?

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The latest advice appears stricter than in recent months, and so everyone that can reasonably work from home should do so, to minimise contact in the workplace and to minimise travel. The Government has published details of roles that they recognise cannot work from home, such as construction and manufacturing. Each business will need to balance the need to support these new measures and permit working from home with the need for effective operations. Consult with your employees and consider what tasks can, or really cannot be done from home.

## CAN I ASK MY EMPLOYEES TO COME INTO THE OFFICE IF I THINK THEY ARE UNABLE TO WORK EFFECTIVELY FROM HOME?

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The Government advice is to stay at home as much as possible and that employers should take every possible step to facilitate their employees working from home. Therefore, you should think carefully about whether it really is essential for employees to attend the workplace.

Consider different ways to motivate and support productivity and high performance for remote workers, if this is your concern. Where it is necessary to work onsite, we recommend that you re-evaluate your COVID-19 risk assessments, ensure your business is Covid-secure in the updated restrictions and guidance, and communicate the findings and the requirements to your employees to reassure them of their safety.

## HOW CAN I BEST MANAGE MY EMPLOYEES' FROM HOME?

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Now, more than ever, it is important to build and nurture relationships with your team members that are based on mutual trust and confidence. Line managers should be available for advice and consultation, and provide support through regular contact, but resist the temptation to supervise their employees' work and working patterns too closely.

It is the responsibility of managers to provide clear guidance on the tasks set, expected results and timescales and who the remote worker can contact for information and support. Check that the employee understands these requirements – this is crucial as it can be more difficult for a remote worker to clarify expectations. It's important that your team members keep their calendars up to date so managers understand when people are working, when they have virtual meetings and when they are away from their desks or work stations.

A good manager will have the trust of their team, a clear brief and be equipped with the training and tools they need to effectively deal with people management issues. Don't place too much value on the number of hours and minutes a day your teams spend remote working. To monitor performance, line managers should focus on achievement or outcomes rather than working hours.

## MY EMPLOYEE CANNOT WORK THEIR NORMAL HOURS AS THEY HAVE YOUNG CHILDREN AT HOME - WHAT CAN I DO?

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The new situation means that many employees will find themselves balancing work commitments and childcare or home schooling once again. Work with your teams to understand their difficulties and explore solutions that work for them and you. This might be agreeing a temporary change in work pattern, perhaps to include core hours, reduced hours, or weekend and evening working, so they can complete their work at times to suit them (whether from home or onsite). You may be able to agree different work tasks if their normal role cannot be done as usual whilst they have children at home. Communication and consultation is key to finding a solution. Agree any changes in writing (email and response is fine) to confirm the amendment and agreed timeframe so you can revert to normal contractual terms when needed or when the schools reopen.

If you cannot agree a workable solution, then you might consider furloughing them as they are unable to work directly because of the pandemic. See our Furlough factsheet for more guidance on this.

## CAN I FURLOUGH AN EMPLOYEE WHO CAN'T WORK DUE TO CARING OR HOME SCHOOLING DEMANDS?

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Yes, Government guidance on the extended Furlough scheme which was updated in November confirms that furlough is available to employees who cannot work because of childcare or other caring responsibilities which have arisen due to Coronavirus. For instance, if your worker is caring for children at home because of closed schools, or if they are caring for a vulnerable person in the household, they may be furloughed if no alternative working arrangements can be made.

## CAN MY EMPLOYEE USE THEIR HOLIDAY ENTITLEMENT TO LOOK AFTER THEIR CHILDREN?

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Yes, you might approve any request to use holiday entitlement so your employee can care for their children. However, we'd advise against an employee using all of their annual entitlement so early in the year. This could be a good consideration for using up holiday carried over from the previous year.

## WHAT IF THEY REQUEST UNPAID LEAVE?

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Yes, a period of unpaid leave can be agreed between employee and employer if the business can accommodate the absence. This will reassure the employee that they can return to their role once schools reopen, assuming the business needs remain the same, however seek advice on which benefits and entitlements may or may not accrue during a period of unpaid leave.

## CAN THEY REQUEST PARENTAL LEAVE?

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Yes, if eligible and if the business can accommodate the absence. Parental leave is the statutory right for a working parent to take unpaid leave to look after their child. Employees must have one year's continuous service with the Company to qualify, and they may take a maximum of 18 weeks' parental leave up to the child's 18th birthday, although a maximum of just 4 weeks can be taken in any year in respect of any individual child. Employees should give a minimum 21 days' notice to take the leave but employers can postpone the date for up to 6 months if it is not convenient to the business.

## CAN THEY REQUEST TIME OFF FOR DEPENDANTS?

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An employee is allowed a reasonable amount of unpaid time off to deal with an emergency involving a dependant, for example, to make alternative care arrangements for an ill child. However, it is intended to cover the immediate and unexpected situation rather than an ongoing situation, and so is only expected to be a couple of days at the most. It is unlikely to apply in the lockdown situation apart from the first couple of days after the announcement, or if caring arrangements later break down unexpectedly.

## AS AN EMPLOYER, HOW DO I MANAGE AN ANXIOUS PARENT WHO MAY CHOOSE NOT TO USE THEIR USUAL CARE FACILITIES EVEN IF THEY REMAIN OPEN?

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At the time of writing, nurseries and early years care facilities are permitted to remain open for all, and schools remain open to children of critical workers and some children that fall into the “vulnerable” category. Childcare bubbles are also allowed to continue. However, each establishment will have their own policies and may choose not to provide the services they are permitted to.

Even if childcare is available, parents may have concerns about using it and may decide to keep their children at home. Check in with your employees to understand their worries and the impact their work, and try to find a solution that suits both parties. You might encourage them to utilise the childcare available, but cannot force them. While uncertain times continue, employers should do everything they can to support employees who have caring responsibilities and should offer as much flexibility and understanding as possible. They can request holiday or unpaid leave to cover periods of childcare if you can agree to this.

## SHOULD CLINICALLY EXTREMELY VULNERABLE PEOPLE WHO CANNOT WORK BE FURLOUGHED?

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The Government has again advised Clinically Extremely Vulnerable people to “shield” and so stay at home and not attend their workplace. They will again write to those individuals classed as CEV and as their employer, you should follow any guidance they are given. Where they can work from home, they should be allowed to do so.

If their role means they are unable to work from home, and you cannot offer them any other work to do from home, then you can furlough them if they meet eligibility criteria around employment dates (see our Furlough factsheet). If they are not eligible, they may be put on sick leave and paid Statutory Sick Pay as a minimum or Company Sick Pay if this is offered.

## MY EMPLOYEE LIVES WITH A CLINICALLY EXTREMELY VULNERABLE PERSON AND IS CONCERNED ABOUT COMING TO WORK - WHAT SHOULD I DO?

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If your employee lives with a clinically extremely vulnerable person, they themselves are not required to shield but are advised to carefully follow the guidance on social distancing.

We would advise you to talk to your employee, try to be flexible and understanding, and allow them to work from home wherever possible. If this is not an option, then reassure your employee by sharing your COVID-19 risk assessments to demonstrate that your workplace is Covid secure and that risks are as low as possible. Accommodate further suggestions they may have if feasible, such as different or staggered working hours or separate work areas. If they refuse to attend the workplace, you may be able to agree a period of paid holiday or unpaid leave if the business can sustain it. If no solution can be found, seek advice from Reality HR on next steps.

## CAN I DISMISS A WORKER WHO CANNOT WORK BECAUSE OF COVID RESTRICTIONS (DUE TO SHIELDING OR CARING RESPONSIBILITIES)?

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Although legally this could be a fair reason to dismiss, we strongly advise this is not considered until you have explored all other alternatives and sought specific advice from Reality HR. There is a risk of a discrimination claim if you dismissed someone without considering all alternatives and possible adjustments, as well as risking damage to your reputation as a business and employer.

## HOW CAN I SUPPORT MY EMPLOYEES WELLBEING DURING THIS TIME?

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The news of another national lockdown with a stay-at-home order is likely to leave your employees feeling deflated. Many people, not just parents, will have anxieties and fluctuating mental health during this uncertain period, so do have regular and ongoing conversations about wellbeing, ideally through a regular manager-employee one-to-one meeting. Whether they are working onsite or at home, support staff in working as flexibly as possible if that is what they need. Show them you recognise their worries, and that you will do what you can to accommodate their needs within reason. You will create a loyal team who perform better now and in the long term.

For those able to work from home, regularly check that they are not working too many hours.

Don't let them feel obliged to check emails or work platforms at all hours of the day. Encourage staff to take regular breaks, even if it's just to leave the room to make a cup of tea, and encourage them to shut down their home PCs when they have finished for the day so there is a clear break between work and home. Be mindful of the NHS's recommended "Five Pillars to Wellbeing" which include maintaining connections with colleagues, friends and family, being active as far as possible; taking notice of the natural world; learning new things; and giving support and time to others. Some of these may be more difficult than usual because of the circumstances, but support them however you are able.

Whilst we have been through lockdown before, a winter lockdown is very different. Poor weather and less daylight can affect wellbeing, with very real mental health conditions such as Seasonal Affective Disorder. Wherever possible and practical, actively encourage your teams to block out some time in their working day for wellbeing activities in the daylight – a walk, run, yoga or simply a cuppa outside in the fresh air before it gets dark. If they feel unable to exercise or take a break until nightfall, this may affect some people's health and ability to work effectively.

Some teams working apart will still value virtual tea breaks or any activities which can bring them together for those "watercooler chats" and informal catch ups – perhaps ask one of the extraverts in your team if they'd like to set something up, but don't insist on compulsory attendance from all!

Don't forget to look after your own wellbeing – this sets an example to your employees but is also important in managing your own health and work performance so you can better steer your business through these tough times.

Finally, make available and signpost further advice or support, such as Employee Assistance Programmes (EAPs), charities and helplines, and any other wellbeing resources you have available. EAPs can be invaluable and low cost – speak to us if you'd like to learn more.

## I AM NOW HAVING TO CONSIDER FURLOUGHING EMPLOYEES. WHO CAN I FURLOUGH?

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The 'new' extended furlough scheme followed on from the previous furlough scheme which ended 31st October. It runs until 30th April 2021. All UK businesses are eligible to participate (including limited companies, sole traders, charities etc) even if they have not used the scheme before. Organisations that are fully publicly funded are not expected to use the scheme.

For periods of furlough from 1st November onwards employers can claim for any employees who were employed on 30th October 2020 if they had made an RTI submission for them between 20th March 2020 and 30th October 2020, including:

- full-time employees
- part-time employees
- employees on agency contracts
- employees on flexible or zero-hour contracts
- Apprentices
- Directors (can claim against their PAYE salary only, not dividends)

Deadlines for claiming furlough funds are now much shorter – approximately just two weeks after the end of the month in which your staff were furloughed. Do check these dates carefully so you do not miss the window to claim your funds.

## CAN MY EMPLOYEE ASK TO BE FURLOUGHED?

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Yes, although you do not need to agree. However, if your employee has difficulties working because of caring responsibilities or needing to shield, they can be furloughed if no alternatives can be found, and so their requests should be considered carefully.

## CAN I CLAIM FURLOUGH WHEN EMPLOYEES ARE ON HOLIDAY?

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An employer cannot place a worker on furlough purely to cover their holiday. An employer will need to demonstrate that there was a need to furlough that worker because of the impact of the pandemic, and not just because they were taking planned holiday. However, where employees are furloughed because of the impact of the pandemic, then they can request to use their holiday entitlement in the normal way, and if approved, each day of holiday whilst on furlough should be topped up to the worker's normal daily pay, over and above what they would receive for a day of furlough. This includes bank holidays; when a worker would usually take a bank holiday as leave, but are furloughed on this date, the employer can class it as holiday and top up to the normal day's pay. An employer should NOT claim furlough for all employees who are absent due to Bank Holidays but not furloughed at other times. Where an employer is using flexi furlough, then hours taken as holiday count as furloughed hours and not working hours, and should be topped up to normal pay (although the employer can still claim the furlough funds).

Remember, if you as the employer are requesting that your employee takes holiday whilst they are on furlough, you need to give them twice as much notice as holiday they are taking. E.g. if you are asking someone to take one week of holiday, you need to give two weeks' notice.

# HOW DO I MANAGE AN INCREASE IN FLEXIBLE WORKING REQUESTS?

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It is expected that there will be an increase in employees exercising their legal right to make a flexible working request, to achieve shorter or different working hours during the lockdown, or because they wish to continue working remotely after lockdown. Each request should be handled individually assessing the advantages and disadvantages of the application. For further information please visit our website Coronavirus hub for guidance on managing flexible working requests.

## CONTACT AND UPDATES

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Please note: We have used the term "employees" throughout this factsheet but much of the information will also apply to other types of workers. Please contact us if you need specific advice about different types of employment status.

We will continue to keep our website updated with the latest information. We have numerous factsheets available on our Coronavirus Hub.

Please contact us if you feel you need to talk anything through or require our support, we are more than happy to help.

