



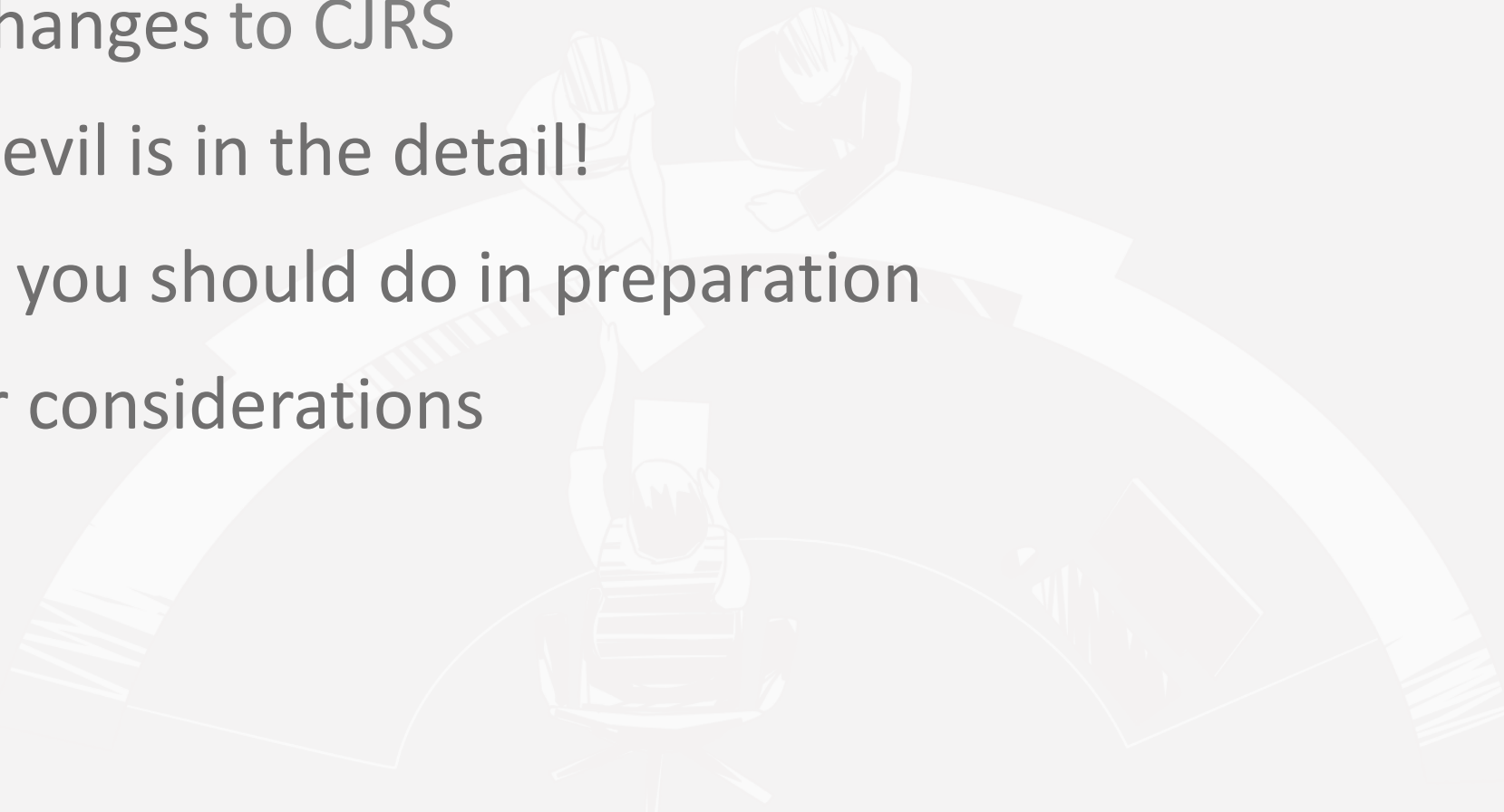
CJRS Update – Flexible Furlough & Employer Contributions

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Agenda

- Key changes to CJRS
- The devil is in the detail!
- What you should do in preparation
- Other considerations



What are the key changes?

- Closing the CJRS to new entrants after 30 June 2020
- Flexible Furlough
- Changes to minimum periods of furlough
- Additional contractual and record keeping requirements
- Mandatory employer contributions

Practical implications -Planning the recovery

- Unprecedented challenges and uncertainty ahead
 - Over 20% fall in GDP reported
 - One word response to predicted job losses
- Businesses focus on financial survival
- If CJRS has been “life support” moving to next phase of Intensive care
- How next phase of CJRS sitting with other survival options

Closing to new entrants

- No new entrants permitted after **30 June 2020**
- Worker must have completed a 3-week period of furlough at some point before 30 June 2020 to be eligible for furlough after 1 July 2020
- Deadline for furlough was **10 June 2020**
- Number of workers claimed for after 1 July 2020 cannot exceed the maximum number of workers that have been claimed
- Should Government be lobbied to set max hours not people?

Closing to new entrants

- Exception for employee returning from statutory family leave
 - Previously submitted a claim under the CJRS
 - Employee started statutory family leave before 10 June 2020 and returned after 10 June 2020
 - Employee was on PAYE payroll before 19 March 2020

Flexible Furlough

- Before 1 July 2020 furloughed workers cannot undertake any work for their employer
- From 1 July 2020 employers can:
 - Bring back workers to work for any amount of time and any work pattern
 - Continue to claim under the CJRS for the hours a flexibly furloughed worker does not work
- By reference to the hours they would normally have worked in that period
- ‘Full-time’ furlough still available

Minimum periods of furlough

- Until 1 July 2020 minimum furlough period of 3 weeks
- A furlough period which starts before 1 July 2020 must run for 3 weeks
- For new furlough arrangements after 1 July 2020 there is no minimum furlough period
- Consider claim periods

Claim periods

- After 1 July 2020 claim periods must:
 - Start and end with the same calendar month
 - Be for a minimum period of 7 calendar days
- One claim per period
- No cross calendar claims after 1 July 2020
- **31 July 2020** deadline to submit claims for period prior to 1 July 2020

Employer Contributions

	July	August	September	October
Government contribution: employer NICs and pension contributions	Yes	No	No	No
Government contribution: wages	80% up to £2,500	80% up to £2,500	70% up to £2,187.50	60% up to £1,875
Employer contribution: employer NICs and pension contributions	No	Yes	Yes	Yes
Employer contribution: wages	-	-	10% up to £312.50	20% up to £625
Employee receives	80% up to £2,500 per month	80% up to £2,500 per month	80% up to £2,500 per month	80% up to £2,500 per month

Employer Contributions

- Wage caps will be proportional to the hours a worker is furloughed
 - Employee is furloughed for 60% of their usual hours they are entitled to 60% of the £2,500 cap.
- Employer's can continue to chose to top up wages above the 80% and £2,500 that will be received by the furloughed worker
- No option for the employer to pass on the contribution
- Scheme closes on 31 October 2020

What are the legal requirements for flexible furlough?

- New furlough agreement for flexibly furloughed employees
- Agree the flexible furlough with workers (or reach a collective agreement with a trade union)
- Written agreement confirming the new arrangements
 - Keep record for 5 years
- Record how many hours workers work and hours on furlough

Is collective consultation necessary?

- Government guidance refers to collective consultation
- Collective consultation obligation arises:
 - Employer intends to vary the contracts of 20 or more employees and intends to dismiss employees who do not consent to the change in terms in a period of 90 days or less at one establishment
- Arguably obligation does not arise at the point at which agreement only is being sought

Can you agree a pay reduction with flexibly furloughed staff for hours worked?

- Yes
- Contractual variation (could be included in the flexible furlough agreement)
- Affect claim under the CJRS for furloughed hours?

How do you work out working and furloughed hours in a claim period?

- Determine the flexibly furloughed workers 'usual hours of work' for the claim period
 - <https://www.gov.uk/guidance/steps-to-take-before-calculating-your-claim-using-the-coronavirus-job-retention-scheme#usual-hours>
- Subtract number of hours they've **actually** worked in the claim period
- Certainty needed about the number of hours worked
- Pay the worker their contractually agree rate for any hours worked (subject to NMW/NLW provisions)

How do you work out working and furloughed hours in a claim period?

- The number of hours the employee was contracted for at the end of the last pay period ending on or before 19 March 2020.
- Divide by the number of calendar days in the repeating working pattern (hours per week/7 days)
- Multiply by the number of days in the pay period. (e.g. 31 days in July, so multiply by 31)
- For example: 40 hours per week/7 days x 31 = 177.14, rounded up to 178.
- Calculate the number of working hours and furloughed hours.
- Number of usual hours, 178
- Subtract the number of actual hours worked, e.g. if the employee will work half days (4 hours per day) 4 x number of worked days in pay period (23 for July) = 92 hours
- Usual hours 178 – worked hours 92 = 86 furloughed hours

<https://www.gov.uk/government/publications/find-examples-to-help-you-work-out-80-of-your-employees-wages/example-of-a-full-calculation-for-an-employee-who-is-flexibly-furloughed>

What new information will an employer need to make a claim?

- Existing information
 - <https://www.gov.uk/guidance/claim-for-wages-through-the-coronavirus-job-retention-scheme>
- From 1 July 2020
 - The number of usual hours the worker would work in the claim period
 - The number of hours the worker has or will work in the claim period
 - The number of furloughed hours the worker has been furloughed in the claim period

What new information will an employer need to make a claim?

- Adjusting pay periods
- Make claims based on accurate information
- Repayment of overclaims will be required

Can you plan and make redundancies even while the CJRS is still running?

- Employee can be made redundant while on furlough or afterwards
- The CJRS will not cover reimbursement of redundancy payments
- Will it be unfair to dismiss for redundancy while the CJRS is available?
- Collective consultation

What should employers do in preparation for 1 July 2020

- Consider workforce requirements for July to October and beyond
 - Which currently furloughed workers you would like to return?
 - Shielding
 - Childcare
 - Working patterns (weekly basis?)
 - Seek agreement
 - Keep necessary records

Other considerations

- Are ‘top-up’ payments sustainable with employer contributions?
- Other approaches to managing employment costs:
 - Contractual variations
 - Flexible working arrangements
 - Redundancies

Any questions



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