



# The F-Word – Implementing Flexible Furlough

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# Today

- Flexible furloughing recap
- Practical steps:
  - How do I end furlough?
  - Returning to work
  - How do I implement flexible furlough?

# Double F - recap

- From 01 July 2020
- CAN do work
- Maximum flexibility in terms of hours worked – agreed with employee
- ACTION POINT - Check furlough agreements(!)\*

# Double F Pay - recap

- Hours worked: Full pay (calculated in new way!)
- Furloughed hours: Claim under CJRS (80%) (calculated in old way!)
- Holiday: Furlough + top up \*
  - Average holiday pay
  - Discard “workless weeks”

# Current landscape

- CJRS closed to new entrants
- Flexible furlough from 01 July - Upmost flexibility re hours worked
- Agree working hours with employee – in writing and keep for 6 years.
- Full time furlough continues
- No minimum period of furlough after 01 July
- Don't forget “normal” employment law
- NB – amend Furlough Agreements

# Ending furlough

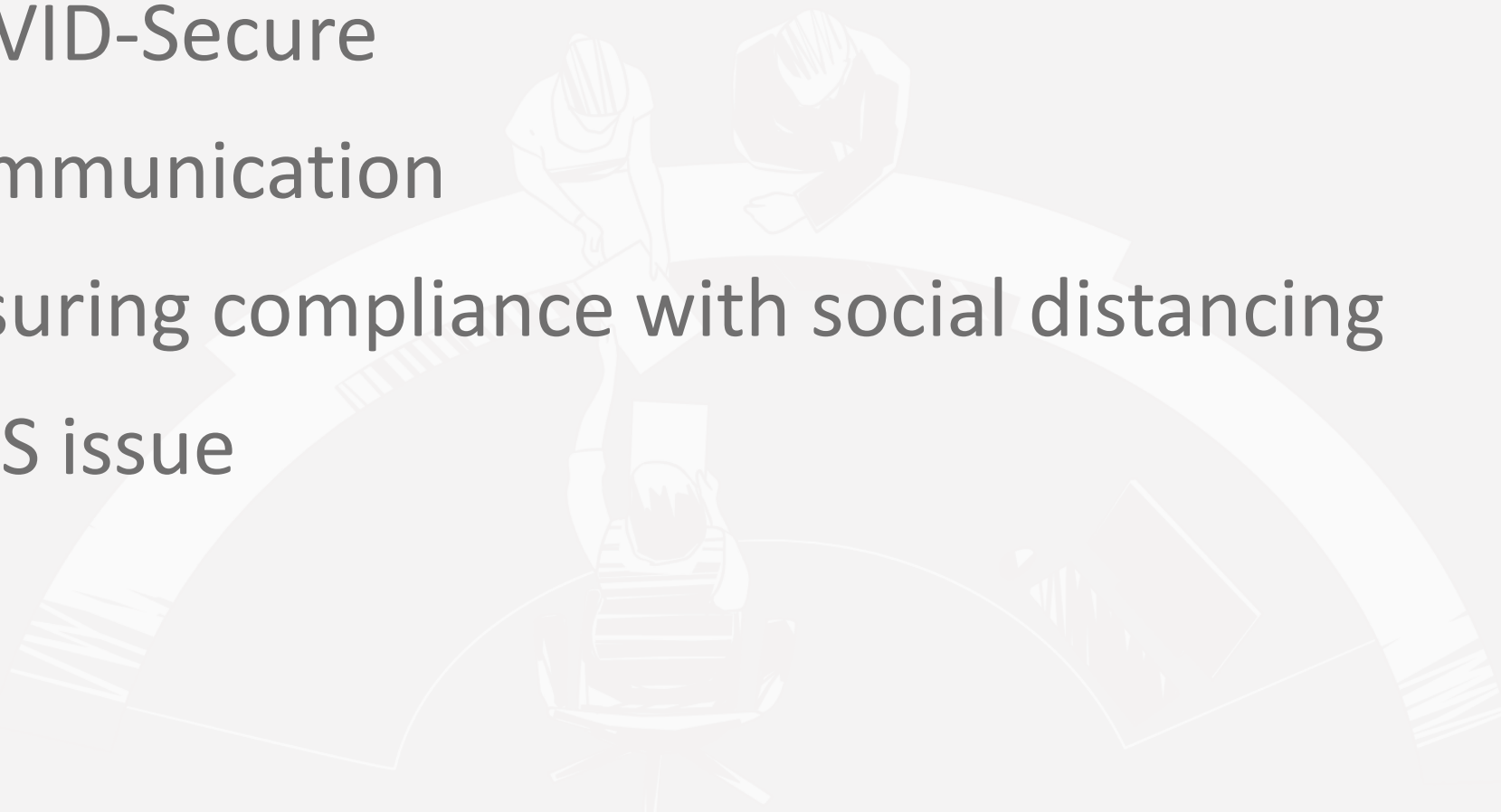
- Furlough Agreement terms – notice
- Reasonable notice implied
- Working central to employment relationship
- Communication
- Simple process – written confirmation

# Implementing Flexible Furlough

- New Furlough Agreement Vs letter of variation
- Keep for 6 years
- Be clear
- Hours of work – how communicated?
- Communication(!)
- Careful selection:
  - Discrimination
  - Volunteers

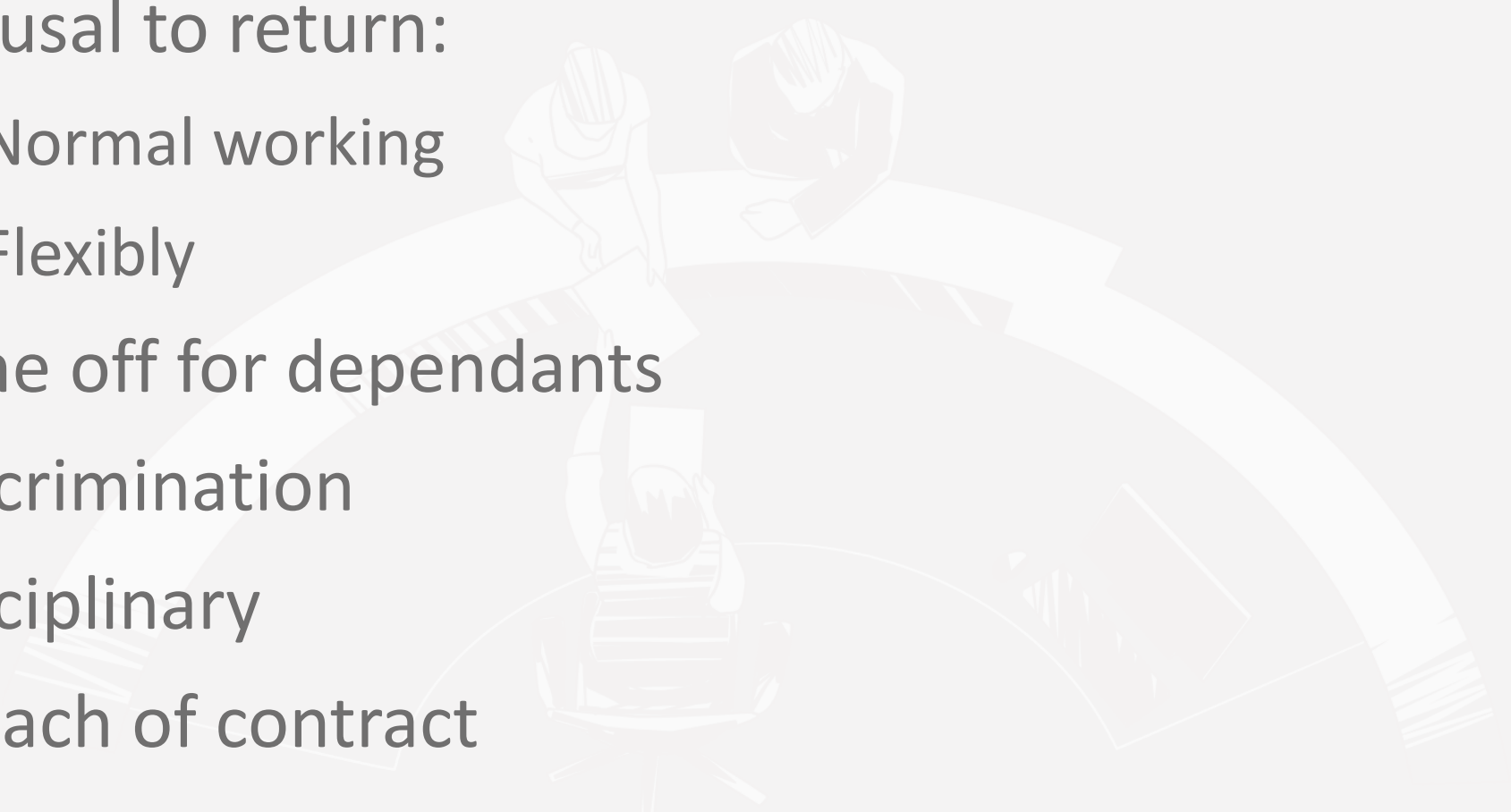
# Returning to work

- COVID-Secure
- Communication
- Ensuring compliance with social distancing
- H&S issue





# Issues...

- Refusal to return:
    - Normal working
    - Flexibly
  - Time off for dependants
  - Discrimination
  - Disciplinary
  - Breach of contract
- 

# Examples...

- Sammie works full time. She has 2 children ages 2 and 8 and neither are yet back at school or nursery. There is no alternative childcare. Her partner also works full time. You want Sammie back into the office full time.
  - Time off for dependants
  - Discrimination
  - Voluntary considerations/alternatives
  - Disciplinary?

# Examples...

- Jack works full time on site as a joiner and has been furloughed since 02 April. You are ready to bring 3 out of 5 joiners back and have selected Jack as he isn't shielding and doesn't have childcare responsibilities. He refuses saying he has just embarked on a home refurb project.
  - Voluntary considerations/alternatives
  - Coming back to full time hours
  - Disciplinary

# Examples...

- Vera is 75 years old and has heart failure. She works 10 hours a week in your café serving. She has been furloughed. You are opening for takeaways and so want her back from furlough. She is shielding. And is worried about coming back.
  - Age discrimination
  - Disability discrimination
  - Duty of care
  - Government advice
  - SSP or furlough

# Examples...

- Sandy is 45 years old and works as a full time accounts clerk. From 01 July you want to get her back from furlough part time and use flexible furlough. She is refusing to agree to the flexible furlough agreement and/or come back part-time – what are your options?
  - NB – flexible furlough is a change of contract
  - Need agreement
  - Consider bringing back full time or keep on furlough
  - Disciplinary??

# Examples summary

- *Communication is key*
- *Facilitate working from home where possible*
- *Explore the reasons for behaviour/refusal*
- *Discrimination – age, disability, sex*
- *Time off for dependants*
- *Duty of care*
- *SSP*
- ***Flexible furlough (part-time) is change of contract!***
- *Disciplinary – gross misconduct?*

# Action Points

- New Furlough Agreement/contract variation
- Extending furlough
- Plan hours of work, record accurately
- Agree working hours with employee
- Communicate salary expectations

# Any questions





# Contact details



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