



## After furlough – will the new Job Support Scheme prevent redundancies?

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*UPDATE: The Government announced on 31st October that the furlough scheme will be extended from 1st November 2020 until December 2020, in view of the new national lockdown which comes into effect from 5th November to 2nd December 2020. As a result the start of the new Job Support Scheme has been postponed until the end of the extended furlough scheme.*

On 22<sup>nd</sup> October the Office for National Statistics (ONS) published its latest data on the impact of coronavirus on the UK economy and society. Its findings included that 9% of the workforce, or around 2.2 million employees, was on full or partial furlough at the start of October. 30% of businesses in the arts, entertainment and recreation industry were temporarily closed or paused trading. 17% of businesses in the accommodation and food service activities industry reported a severe risk of insolvency. Footfall in high streets, retail parks and shopping centres was below 70% of its level in the same period last year.

### *The Job Support Scheme*

On 24<sup>th</sup> September the Chancellor launched the Job Support Scheme as a key element of the Government's "Winter Economy Plan" to support businesses to protect jobs and manage their finances in the face of the continuing impact of the Covid-19 pandemic on the economy. As originally announced, an employee would need to work at least 33% of their usual hours to be eligible under the scheme, and both the employer and the Government would pay a third of the employee's usual wages for their unworked hours.

There has been extensive criticism of these aspects of the scheme from many quarters, and its effectiveness in preventing redundancies once the furlough scheme ends. For example earlier this week the New Economics Foundation published research projecting that the scheme would save only 500,000 of the 2.7 million jobs at risk of redundancy this winter. The high level of employer contribution would offer little incentive for businesses to retain full-time staff on part-time hours rather than make redundancies. These structural flaws in the scheme would particularly impact businesses facing a reduced demand for goods and services due to facing tier 2 controls.

These concerns over the original design of the scheme appear to have been borne out by continuing announcements of redundancies over the last month across the economy, such as Marston's, Pret a Manger and the National Trust.

*Changes to the scheme announced on 22<sup>nd</sup> October*

Introducing the range of additional measures on 22<sup>nd</sup> October, the Chancellor acknowledged that even businesses that can stay open during Covid restrictions were facing profound economic uncertainty due to a significant fall in consumer demand. This impact of the Covid restrictions is highlighted in tier two areas such as London, particularly in the hospitality sector. However the changes to the Job Support Scheme are not limited to tier 2 areas or particular sectors, but will apply across the UK.

The minimum hours requirement is now reduced to 20%, so one day a week for an employee who normally works full-time.

The employee will still receive two-thirds of their pay for their unworked hours, however the employer's share of this payment is now reduced from one-third to 5%. The Government will fund the other 61.67%, up to a maximum of £1,541.75 per month.

For example, an employee normally works five days a week and is paid £600 per week (£31,200 per year). For the time being she will work two days a week, 40% of her usual hours. The employer will pay her £240 for those two days. In relation to the other three days, the employer will pay £18 and the Government will pay £222. In total she is paid £480 per week, or 80% of her normal pay.

#### *Compulsory closures under tier 3 restrictions*

On 9<sup>th</sup> October the Chancellor's announced an expansion of the Job Support Scheme to support businesses legally required to close under tier 3 restrictions, and no further changes have been made to this part of the scheme. In this situation the Government will pay two-thirds of the employee's normal wages, up to a maximum of £2,100 per month. The employer is not required to pay towards wage costs other than payment of employer National Insurance contributions and auto-enrolment pension contributions. The employee has to rely on benefits such as Universal Credit to make up any part of the one-third shortfall in their income.

#### *Job Retention Bonus scheme*

In light of the extension of the furlough scheme until the end of March 2021, the Government has now cancelled the Job Retention Bonus Scheme. Under this scheme employers who retained a previously furloughed employee until the end of January 2021 were due to qualify for a £1,000 bonus. The Government has said that it will announce a new retention incentive scheme at a later date.

#### *Other options*

Large employers (typically those with over 250 employees) will not be eligible to use the Job Support Scheme unless they can demonstrate that their turnover is lower as a result of the Covid pandemic. At the other end of the spectrum, some businesses have been so severely affected by Covid restrictions that they will struggle to meet the 20% hours threshold. What other options are available?

Businesses could maintain temporary part-time working arrangements without accessing the Job Support Scheme, however the disincentive of the employer contribution to the scheme has now been substantially removed. Employees who are required to work short-time hours will also expect their employer to utilise the scheme in order to minimise the shortfall in their earnings.

In some situations an option to manage through a period of reduced customer demand will be to require employees to use up part of their accrued holiday entitlement, for example to require that one day a week is taken as paid holiday over the coming months. This option might however have adverse implications on

employee engagement and industrial relations.

Despite the changes made to the Job Support Scheme, some businesses may find that it is necessary to plan redundancies once the furlough scheme closes, and it is vital that they properly consult with the affected employees as part of a fair redundancy process and that they can show that they have considered all other options and redundancy is the last resort. The availability of assistance from the Job Support Scheme may well be a relevant factor in an unfair dismissal claim, when the Tribunal determines whether in all the circumstances a redundancy termination during this period was fair or unfair.

*Will the new Scheme do enough to prevent further redundancies?*

Business leaders such as the CBI and the British Chambers of Commerce have described the reforms to the scheme as a significant improvement for struggling businesses. UK Hospitality welcomed the changes as giving business a lifeline to remain viable, saving hundreds and thousands of jobs in hospitality and its supply chain.

The Resolution Foundation has said that the refashioning of the Job Support Scheme has addressed the massive flaw in the scheme and will make a big difference to its effectiveness, although there are still concerns that firms effectively forced to close due to social distancing will not be able to meet the 20% of usual hours threshold.

The Mayor of London however described the announcement as a “sticking plaster solution” in the context of the collapse of tourism into London and its heavy impact on hospitality retail and leisure businesses.

We would welcome your views on how effective the new scheme will be and whether the latest changes will do enough to prevent further redundancies in the near future.

Please contact our [Employment team](#) for advice and support on any of these issues or if you have any queries.