***BEFORE USING THIS LETTER, PLEASE NOTE: This template letter is intended for use to provide an update to employees who are currently on furlough under the Government’s Coronavirus Job Retention Scheme, in view of the forthcoming changes to the operation of the Scheme. It is based on the official guidance available as at 17 June 2020. Wording in square brackets will require tailoring to reflect your company’s approach. We have included some brief drafting notes in red text for your information, which should be removed prior to sending this letter to employees.***

***The key changes to the Scheme are that:***

* ***the Scheme will be closed to new entrants from 30 June. Claims from July onwards will be restricted to employees who had previously been on furlough for at least a three week period under the Scheme in its original form, at any time between 1 March and 30 June 2020. The last date on which an employee could be furloughed for the first time under the Scheme in its original form was 10 June. (There are exceptions for employees who have been absent on statutory family leave, who transferred to a new employer under TUPE after 10 June, or who are armed forces reservists returning to their job after a period of active service);***
* ***from 1 July, employees will be permitted to carry out work for their employer on a part-time basis during furlough, with the employer responsible for paying them for their working time, and furlough pay only being available in respect of the non-working hours of their normal working week/pattern – this is referred to as ‘flexible furlough’; and***
* ***the amount of financial support to be provided by the Government to employers will gradually reduce from August, meaning employers will need to begin to fund part of the employees’ furlough pay.***

***We discuss these changes in our FAQs on Furlough under the Revised Coronavirus Job Retention Scheme, available on our website.***

***Our template furlough letter, which you may have used previously to place employees on furlough, provided that Furlough Leave would continue until the earliest of a number of specified events. One such event was the Scheme coming to an end. As the Scheme has now been extended to the end of October, you could use this letter to update your employees as to your intentions regarding the duration of their Furlough Leave and to make them aware of the revisions to the Scheme (in particular improved flexibility and changes to the level of financial support available under the Scheme from August, meaning that employers will need to fund part of the furlough pay). Note that if you had agreed with an employee that their Furlough Leave would last for a specified period (e.g. until the end of June), rather than stating that it would continue until the earliest of a number of specified events (none of which has yet occurred), and you now wish to extend it beyond that period, you would need to seek the employee’s agreement to such an extension.***

Dear [Employee Name]

**FURLOUGH LEAVE - UPDATE**

We are writing to you further to our letter dated [DATE] in which we sought your agreement to be placed on Furlough Leave under the Government’s Coronavirus Job Retention Scheme (the Scheme) [and your agreement to this, dated [DATE]].

When your Furlough Leave began, the Scheme was due to continue until the end of [May/June] 2020 and we had envisaged that your Furlough Leave would continue until the earliest of: the Scheme ending; the Company no longer being able to claim under the Scheme in respect of you; the Company requiring you to return to work; or your employment with the Company being terminated for any reason.

On 12 May 2020, the Government announced that the Scheme would be extended until the end of October 2020 and that it would be modified, with changes to the amount of funding provided by the Government and improved flexibility (the Revised Scheme). Following the publication of Government guidance on 12 June, we now understand that under the Revised Scheme, from 1 July, you will be allowed to conduct some work for us on a part-time basis while you remain on Furlough Leave – this is referred to as ‘Flexible Furlough’. In addition, the level of funding provided to us by the Government (to fund your Furlough Pay) will be gradually reduced, starting from 1 August.

In view of these changes, we wanted to inform you that you will remain on Furlough Leave [*if you are operating a rotational furlough system:* continuing with your pattern of Rotational Furlough] while the [level of financial support the Company can access under the Scheme remains the same (i.e. until 31 July 2020)/Scheme remains in operation (i.e. until 31 October 2020)] unless: we can no longer claim under the Scheme in respect of you; we need you to return to work on your normal contractual hours earlier; we move you onto Flexible Furlough (see below); or your employment is terminated for any reason before that date.

*NOTE: We have given the option here to provide that the employee’s Furlough Leave will continue either until the level of financial support available under the Scheme starts to decrease (i.e. 31 July 2020), or until the Scheme comes to an end (i.e. 31 October 2020). You should select whichever is most appropriate for your organisation. We then provide for the possibility of the employee’s Furlough Leave ending earlier if any of the specified events occurs.*

As mentioned above, from 1 July 2020, the Scheme will be modified so as to allow Flexible Furlough. If we need you to move onto Flexible Furlough, we will discuss with you any part-time work we wish you to undertake, your pay for such work and how this will affect your Furlough Pay. We will confirm any agreed changes in writing.

*NOTE: You can decide the hours and shift patterns you want furloughed employees to work during Flexible Furlough, but such arrangements involve contractual changes and the Government guidance specifies that they will need to be agreed and confirmed in writing in order for you to claim furlough pay in respect of the employee’s furloughed hours under the Revised Scheme.*

[If you have not already done so, we may ask you to take some of your holiday entitlement during your Furlough Leave. We will write to you about this separately.]

*NOTE: This square bracketed wording is intended to inform the employee that you may require them to take some of their annual leave while they are on furlough. The Government guidance on holiday entitlement and pay during coronavirus, published on 13 May 2020, states that employers can require employees to take annual leave during furlough if they give the required notice under the Working Time Regulations. However, it recommends that employers first engage with their workforce and explain their reasons for wanting them to take leave before requiring them to do so. It also cautions that if an employer requires an employee to take holiday while on furlough, the employer should consider whether any restrictions the employee is under, such as the need to socially distance or self-isolate, would prevent the worker from resting, relaxing and enjoying leisure time, which is the fundamental purpose of holiday. We discuss the implications of this in our ‘Furlough under the Revised Coronavirus Job Retention Scheme’ FAQs, which are available on our website.*

If you are still on Furlough Leave [towards the end of July when the level of financial support the Company can access under the Revised Scheme will shortly be due to decrease/towards the end of October when the Revised Scheme will shortly be due to end], we will consider and consult with you at that time about whether we are in a position where you can return to work on your normal contractual hours, [*IF YOU HAVE ONLY PROVIDED FOR FURLOUGH TO CONTINUE UNTIL THE END OF JULY:* or, if not, whether we are able to move you onto Flexible Furlough or keep you on full Furlough Leave under the Revised Scheme,] or if we may need to change your terms and conditions or make redundancies. While we hope that we will not need to make redundancies, the impact of the pandemic on our business is severe. Please be aware that, if redundancies do become necessary, we may take steps to implement any necessary dismissals at the appropriate time, including while the Scheme remains in operation.

*NOTE: We have provided that where an employee remains on Furlough Leave when the level of financial support the Company can access under the Scheme is about to decrease/the Scheme is about to come to an end, the Company will consult with the employee about next steps at that time. (You will need to select the appropriate wording based on what you have said earlier in this letter about the duration of the employee’s Furlough Leave.) The wording above makes clear that, while it is hoped that redundancies will not be required, if they are necessary, the Company may take steps to implement them at the appropriate time, including while the Scheme is still in operation. Government guidance for employees states that an employer can make redundancies during furlough, but this is subject to employees’ ordinary employment rights (e.g. the right to a statutory redundancy payment and the right not to be unfairly dismissed). We suggest that you seek legal advice if you are considering consulting on or implementing redundancies while the Scheme is in operation. You may also find it helpful to attend our webinar, ‘Redundancies in the context of Covid-19’ – you can book a place via our website.*

If you have any questions about this letter, please contact [name, position, contact details].

Kind regards

[Name, position]

***Disclaimer****: This letter and its drafting notes do not constitute specific legal advice and should not be relied upon as such.*