

When Does Shielding Apply?

Most funding bodies are taking the overall guidance that people should stay at home and only go out when absolutely necessary. Where direct payment employers are able to receive care informally (unpaid) funding bodies are offering to pay the employee's wages in full or by a % (often 80%).

Whilst shielding applies strictly to specific medical conditions, funding bodies are taking a broader approach due to examples like the one below:

A couple have a child who is undergoing chemotherapy, the father is the child's informal carer and the mother is a PA for other employers. The mother does not want to work with other employers as she would be at a higher risk of passing COVID-19 on to her son. Strictly as she isn't the child's main carer she doesn't fall into the shielded category however most funding bodies would allow this to be considered shielding and pay full pay or a % to the PA.

It is worth noting that the NHS have also advised there may be people who didn't receive a shielding notification. These people can contact their GP and get a doctor's note if they believe that they should have had a letter.

Shielding at risk groups

<https://digital.nhs.uk/coronavirus/shielded-patient-list>

What is the difference between furlough / lay off

Lay off occurs when an employee's normal work isn't available resulting in unpaid leave. It can only happen by agreement which may be found in the contract of employment. If an employee is laid off, or has hours and pay reduced to less than half, for 4 weeks or more, they have the right to request a redundancy payment which will terminate the employment unless the employer can show that normal work will resume within 4 weeks.

Furlough is a non-legal term meaning leave of absence which the Government have adopted to describe employees who do not need to attend work, for Coronavirus purposes, and 80% of their salary is reclaimable through the Job Retention Scheme. Suspending work duties under the furlough criteria prevents redundancies occurring.

What about the Job Retention Scheme (JRS)?

JRS is not automatically available to publicly funded employers but could be used in some circumstances.

If you are reducing wages it must be agreed by both employer and employee as it is a variation of contract and a furlough notification must be sent to the employee in writing. If you are paying 100% this isn't a variation and a simple communication that the employee doesn't need to attend is best practice. A template for each is attached.



If you need any further advice or support with employing Personal Assistants

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Employer	Options	Reasoning	Actions to be taken
Is shielding (doesn't want employee attendance)	Full paid leave or a % agreement	Most local authorities are allowing the employer to pay full pay using their DP, if this is the case the shielding template is the best option. Where you may want to attempt to claim back from the JRS or reduce wage to 80% furlough needs to be agreed with the employee	Issue the shielding letter or furlough template, whichever is applicable
has COVID-19	Full paid leave or a % agreement	In this circumstance you will be able to pay your PA and should contact your local CCG, and funding body. The employee can only work if correct PPE is provided	Inform PA of circumstances and stay in touch
Is isolating due to symptoms in the household (doesn't want employee attendance)	Full paid leave or a % agreement	This period is only for 7-14 days thereafter the employee can return to work	Inform PA of circumstances and stay in touch
Is fine but worried (doesn't want employee attendance)	Full paid leave or a % agreement	You will need to contact the funding body and seek approval to pay the PA in full or agree a % of their wage in line with the furlough criteria if they are to be on leave	Issue the shielding letter or furlough template, whichever is applicable
Employee			
is shielding	Paid leave or a %	If an employee is shielding or is living with someone who is shielding, the government guidance makes provision for the employee to be furloughed under the JRS scheme. Otherwise SSP is applicable.	Furlough template or follow sickness absence procedures
has COVID-19	Pay SSP	Employer can claim back SSP for the first 14 days and employee will be paid SSP from day 1	Ask for an isolation note from the employee and keep in touch to ascertain return date. Notify payroll
is isolating due to symptoms in the household	Pay SSP	If an employee is isolating, they will be entitled to SSP from day 1. Some funding bodies are topping this up to 80%/100% pay. The employee will likely be away for 14 days. This SSP can be reclaimed from the government	Ask for an isolation note from the employee and keep in touch to ascertain return date. Notify payroll
Is fine but worried (doesn't want to attend)	Should work	There isn't any provision for leave and pay for this circumstance. The employee is a key worker and so should continue to work with sound hygiene practices and PPE where necessary	Ensure good hygiene practices are implemented and follow government guidance
is sick not COVID-19	Pay SSP	SSP is payable and the sickness absence can be handled in the normal fashion	Follow standard sickness absence procedures
cannot get childcare and so cannot come to work	Full paid leave or a % agreement. Otherwise unpaid emergency leave for dependants	As PAs are key workers school and nursery placements should be available. This may take time to action or the employee may need to work outside of school hours without back up childcare. This can be handled as unpaid emergency leave for dependants. However, the government have made provision in the latest guide to allow such employees to be furloughed under the JRS scheme if the need for leave will be prolonged	Discuss employees needs to assess requirements for time off. Use the furlough template if paid leave is applicable