Adviser Network Meeting
Employment COVID-19 Series

24.07.2020

This mornings topics...

1. Furlough Updates
2. Holiday leave
3. Ending Furlough
4. Redundancy
5. Updated Tribunal guidance

Furlough Update

The Stats

- The Coronavirus Job Retention Scheme has paid out almost £30 billion since its launch in March 2020
- Self-Employment Income Support Scheme totals a further £7.8 billion
- 9.5 million jobs have been furloughed
- 1.2 million employers are furloughing staff

What can be claimed?

July: 80% of furloughed workers’ wage up to £2,500
August: 80% of wages up to £2,500 but employers must pay NICs and pensions contributions
September: 70% of wages up to a cap of £2,187.50 plus NICs and pensions contributions
October: 60% of wages up to a cap of £1,875 plus NICs and pensions contributions

Flexible Furlough

- Staff can now work for their employer part-time
- Only employers with staff who were previously furloughed before 1 July 2020 for three consecutive weeks can avail of flexible furlough
- Flexible furlough has been in operation since 1 July 2020
- Cap on number of employees = no more than previously claimed
- Employer pays for hours worked, government pays for hours on furlough
Flexible Furlough
- When deciding who to bring back – should use fair criteria
- Claims must start and end within the same month
- Minimum three-week period for furlough has been removed
- Minimum claim period = 7 calendar days
- Claims can be made up to 14 days in advance

Calculating payment
- Calculating a claim for flexible furlough is complex
- Employer’s checklist:
  - Usual working hours
  - Hours actually worked
  - Furloughed hours

Calculating ‘usual hours’
- Fixed hours
- Variable hours

Agreement needed
- Agreement needed for temporary contractual change
- Employees should discuss options if disagreement
- The agreement will vary the employment contract (temporarily)
- Employment rights during furlough remain

Is there a minimum number of hours required for flexible furlough?

Can people who are shielding continue to avail of furlough leave, even if there is work available for them?
Holiday Leave

Employers can:
• require staff to take holiday
• cancel holiday (if they give enough notice)

The required notice periods are:
• double the length of the holiday if the employer wishes to require a worker to take holiday
• the length of the planned holiday if the employer wishes to cancel a worker’s holiday or require the worker not to take holiday on particular dates

Employers can ask staff to take or cancel holiday with less notice but need agreement to do so.

Furlough Fraud

• Increase in fraud reported by employees
• Records kept for five years
• Deliberate vs genuine mistake
• Confession period introduced

Ending Furlough

• Employers should talk with staff about any plans to end furlough as early as possible and encourage staff to raise any concerns about returning to work

• If ending furlough, employers should give staff notice in writing

• No minimum notice period
Job Retention Bonus

- Only available for previously furloughed employees
- Employers must retain employees until 31 January 2021
- To avail, staff must earn no less than £520 per month
- £1,000 bonus will be paid in February, once HMRC receives the payroll information

Contract Variations

An employer can make a variation to an employment contract if:
- there's something in the contract that allows the change (a 'flexibility clause')
- the employee agrees to the change
- the employee's representatives agree to the change (for example, a trade union)

An employer can force a change of contract on employees (unilateral change), although this should be a last resort and could lead to legal action.

Redundancy
Redundancy

• Still needs to comply with existing employment legislation i.e. employers must follow the usual rules on redundancy

• Extra rules for collective redundancies

• Consultation during furlough

• Notice pay

Tribunal Guidance

Updated Tribunal Guidance

• Further postpones all hearings currently listed between 1 July to 30 October 2020

• Tribunal building has reopened

• Review preliminary hearings will take place by phone

Further Support


• acas.org.uk/coronavirus

• www.nibusinessinfo.co.uk

• https://www.lra.org.uk/

• www.gov.uk/guidance/

QUESTIONS?

Advice Line: 028 9024 4401

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