Adviser Network Meeting

Coronavirus and Employment Rights

27.03.2020
What will I talk about this morning?

• Basic concepts of:
  – Redundancy
  – Layoffs
  – Short time working
  – Furlough Leave
  – Self Employed Scheme

• Employment Tribunals Update

• Commons questions
REDUNDANCY
Redundancy

• Redundancy is when an employer must reduce or cut its workforce

• Will be leniency given in the current situation

• Shouldn’t unfairly target anyone

• Can still be made redundant on furlough leave
LAYOFFS
Layoffs

• Contractual provision

• No work for a temporary period

• Unless specified by contract – still entitled to pay

• Guarantee Payment
Claiming Redundancy Payment

• You can claim redundancy payment if you have been laid off for:
  – Four consecutive weeks or more; or
  – Six weeks in a thirteen-week period, with more than three of those weeks being consecutive.

• An employer can counter your claim for a redundancy payment if they believe work will be available soon.
SHORT TIME WORKING
Short Time Working

• Similar concept to being ‘laid off’

• Reduced hours

• Earing less than half normal pay

• Can’t be furloughed but can claim redundancy pay
FURLOUGH LEAVE
Furlough Leave

- Coronavirus Job Retention Scheme

- 80% of pay, capped at £2,500

- Extra to cover national insurance and pension contributions

- Employment SUSPENDED
Who does it apply to?

• Only for EMPLOYEES (paid by way of PAYE).

• All UK-wide employers will be eligible, including the public sector, local authorities and charities.

• Organisations can self-certify that it has furloughed employees.

• Employees taken on after 28 Feb 2020 are excluded from the scheme.
What is the 80% based on?

• Higher of

  (i) the earnings in the same pay period in the previous year; or

  (ii) the average earnings in the previous 12 months (or less, if they've worked for less).
What if my hours vary?

• Employer can claim for the higher of:
  
  – Same month’s earning from previous year; or
  
  – Average monthly earning in 2019-20 tax year.
Furlough Leave

• Payment not yet set up on HMRC – aim to set up by end of April

• Backdated to 1 March 2020 and will run for 3 months

• Businesses can re-employ people who have been made redundant since 28 Feb, and then furlough them
Furlough Leave

• To qualify for the payment, an employee must be furloughed for a minimum of three weeks. An employee can then come off furlough.

• This means that employers cannot rotate staff weekly between furlough and non-furlough.

• Employees on furlough leave can do volunteering or training, providing it does not generate any money for their employer.
Further Guidance

www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme
SELF EMPLOYED SCHEME
Self Employed Scheme

• Announced yesterday

• Taxable grant for self-employed people worth 80% of average monthly income, capped at £2,500

• Can claim grant AND continue to do business
Who is eligible?

• Trading profits up to £50K – if earn more won’t qualify

• Majority of income from self-employment i.e. can’t be a side job

• Only for those who have submitted a tax return for 2019
How?

• Contacted directly by HMRC

• Paid direct after fill in online form
UNFAIR DISMISSAL
Several situations where a dismissal may be considered unfair...

1. Dismissed for staying at home following advice from the Government
   – Health and safety breach (no qualifying period)

2. Redundancy dismissal
   – No consultation
   – Unfairly targeted
   – Collective redundancy
     • NB special circumstances defence
     • Protective Award
Several Possibilities which a dismissal may be considered unfair...

3. Dismissed for self-isolating for a long period
   – If advised to self-isolate will be seen an unreasonable, otherwise Employer should use warnings
EMPLOYMENT TRIBUNAL UPDATE
Employment Tribunals

• Still open for limited business

• Hearings and Preliminary Hearings postponed until July

• Still need to get ET1’s in within 3 months time limit
STATUTORY SICK PAY
SSP

• Payable from day one not day four
• 14 days reclaimable from Government
• Entitlement – staying at home to isolate in line with Public Health advice
• Can self certify for first 7 days
• Isolation notes from NHS 111
Company Sick Pay

• Does self-isolation qualify?
COMMON QUESTIONS
Can you work and be a furloughed worker?

Could you work reduced hours?
Can someone on maternity leave come back early and claim furlough leave?
What happens to pension contributions and accruing holidays on furlough leave?
Can I claim SSP as a furloughed worker?
Can I claim SSP if I have taken time off to look after someone?
Will it be considered unreasonable to dismiss for redundancy if furlough is available?
Can I be furloughed from one job and not the other?
Does the 80% mean an employee might get paid less than the national minimum wage?
Advice Line: 028 9024 4401
clare.coulter@lawcentreni.org