

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
- Earning 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 as 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

