

# Wurkplace LIVE: HR Advice for Employees & Employers Coronavirus - Furlough and Returning to Work

Host: Mark Whitfield

Panellist: Karen Owen

Sarah McCormack

14<sup>th</sup> May 2020



## AREAS COVERED IN THIS SESSION:

- Furlough update / clarifications
- Staff Engagement and Health & Wellbeing
- Home or away - home working
- Returning to work



# Furlough Recap

1. 80% of 'regular payment' up to £2500
2. Be on Payroll on 19 March 2020 (extended from 28 Feb)
3. Part time/full time/zero/agency/flexible contracts all eligible
4. In place until end of June (extended from end of May)
5. Must be furloughed in 3-week blocks
6. If not breaking existing contract employees can work for other employers
7. Employees can still undertake training as long as does not contribute financially to organisation and must be paid minimum wage
8. Employees continue to accrue holiday
9. SSP and Furlough Pay cannot be claimed at the same time for the same period
10. Finally .... Furlough Leave is a 'change of contract' and so you must seek written consent to the change before placing someone on FL.



# Furlough Headline News

- The headline is that Rishi Sunak has announced on 12<sup>th</sup> May 2020 that the Coronavirus Job Retention Scheme will be extended for four months, until the end of October 2020.
- Until the end of July, there are no changes. From August to October 2020, the scheme continues on the basis **furloughed employees can be brought back part-time.**
- Full details will be published by the end of May.



# Furlough Redundancy Updates

The redundancy process in furlough (NB. may change; seek advice before starting the process).

- Ensure selection criteria fair and not based solely on the criteria made for Furlough Leave - would advise start from the beginning
- Whilst not clear in the guidance, it is indicated that consultation and notice to terminate can be held/given in period of furlough leave
- Redundancy payments cannot be claimed under the scheme - PILON and accrued but untaken holidays can't be claimed under the scheme
- There may be a risk of unfair dismissal if employment is terminated whilst able to claim under CJRS - although not yet tested at Tribunal



# Furlough Update/Clarifications

## Furloughed employees working as union or non-union representatives

- Whilst on furlough, employees who are union or non-union representatives may undertake duties and activities for the purpose of individual or collective representation of employees or other workers. This means that it is not a breach of Furlough for an individual to be accompanied by a colleague during disciplinary meetings, grievance meetings, or redundancy consultations.

## Company directors with an annual pay period

- Directors who pay themselves once a year (typically one-person businesses where most revenue is taken as dividends) are, subject to certain conditions, eligible for furlough.

## Parental Pay

- Furloughed workers planning to take paid parental or adoption leave will be entitled to pay based on their usual earnings rather than a furloughed pay rate. For more information, visit: <https://www.gov.uk/government/news/furloughed-workers-to-receive-full-parental-leave-entitlement>



# Staff Engagement, Health & Wellbeing

It is a time of uncertainty and change which can cause anxiety and stress, people are socially isolated and may be concerned about the future of the organisation and their part in it. This can impact on their health and wellbeing and cause anxiety.

Continuing to ensure that your employees feel part of the team will help them to feel connected to the business.

Underpinning solid change management and people practices is **COMMUNICATION**.

Let's break down what good solid communication looks like in these circumstances:

- Structure
- Providing timely answers to Frequently Asked Questions
- Continue to communicate with your teams
- Dedicated support sites



# Staff Engagement, Health & Wellbeing

## Can businesses communicate with employees that are on Furlough leave?

- Yes. Furloughed staff must not work for their employer until furlough ends and if the employees do any work, then the employer's claims for the government grant may be jeopardised.
- On the other hand, an employer's duty of care for employees continues during furlough so employers must maintain non work-related contact furloughed staff to discuss any personal matters, including their health and well-being, and to allow employees to ask any questions or raise concerns.
- Contact helps maintain furloughed employees' loyalty and engagement so that they can return to work smoothly. Contact should be arranged ahead of time, so it is expected.





# Staff Engagement, Health & Wellbeing

- Keeping people updated and aware of where what your business is doing - whether it is good or bad news for individuals - will help them to make their own decisions and give them some degree of security in very uncertain times.
- The more you share, connect, and support each other the stronger your organisation will be. All of the above will support your employee's health and wellbeing and keep them engaged in the business.



# Home & Away - Future of Work Considerations

Employers could see an increase in flexible work requests from staff who were previously based at the business premises but who have since adapted to homeworking. You may also find that people want to return to the office.

With a possibility of increased flexible working requests, you must make sure you have an up to date policy that reflects statutory procedure.

You must follow this procedure and if you refuse the request ensure that you have legitimate and objective reasons. If not handled properly you could leave yourself open to claims for constructive unfair dismissal and discrimination.

Remember also that this period of homeworking has been mandatory and not something that has been planned for - you need to consider the best approach for your business.



# Home & Away - Homeworking

## From a legal perspective:

- Ensure that you have a homeworking policy / review your homeworking policy, include areas such as supervision, communication, how performance will be monitored.
- Confirm contact methods
- Ensure that all equipment is provided
- Confirm IT and broadband arrangements - will the employer contribute to costs?
- Be clear on your health and safety obligations
- Carry out risk assessments
- Support employees in getting right ergonomic set up
- Video conferencing - keep in touch
- Allow your teams to access the support they need



# Returning To Work

The Govt has released a publication following the announcement made on 10<sup>th</sup> May 2020 called 'Covid-19 Recovery Strategy'.

- For the foreseeable future, workers should continue to work from home rather than their normal physical workplace, wherever possible.
- All workers who cannot work from home should travel to work if their workplace is open.

Covers a roadmap for moving out of lockdown (England).



# Returning To Work

- You should give staff a **reasonable period of notice** of requiring them to return to work.
- Undertake a risk assessment / ensure safe systems of work and that they are being followed.
- Prepare a policy with clear guidance and communication.
- Listen to concerns and have a virtual open-door policy.
- Be aware of who is vulnerable.
- Adhere to social distancing rules. Guidance given includes:
  - Staggering working hours
  - Ensuring employees are at least 2 metres apart
  - Staggering use of social areas such as canteens and kitchens
  - Taping 2 metre spaces
- Remote meeting facilities and video-calls should be in place wherever possible to minimise the need for staff to travel.



# Returning To Work

- Communicate the practical measures you are taking to staff on a regular basis
- Employers will need to continue to support employee's mental health during their return to work. Be conscious of any difficult situation's employees may have experienced or are experiencing at home during lockdown, employees may have been ill themselves or suffered a bereavement because of Coronavirus which will make their return to work more difficult.
- It will be vital to have a **re-induction** process for returning staff, especially for those who have been furloughed. Employers should address any changes in company services, procedures and any changes to work duties or tasks.
- Employers will need to manage the return of equipment that has been borrowed for homeworking.



# Returning To Work - Legal

If employees have concerns about returning to work, they may have a claim under the Employment Rights Act 1996 for detriment or dismissal. If a worker raises a concern about a failure to provide a safe working environment this could amount to a protected disclosure under whistleblowing. Employees can also contact the HSE with concerns.

There are some issues that you will need to consider when restrictions are lifted / have been lifted, such as:

- **Staff who are required to shield or self-isolate**
- **Staff who have suffered a bereavement**
- **Childcare responsibilities**
- **In England employees are advised to avoid public transport**

We advise that you consider each situation on a case by case basis.





0330 400 5490

[www.wurkplace.co.uk](http://www.wurkplace.co.uk)

wurkplace 

# QUESTIONS

