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All Branch/Station Reps – Briefing Note 04/20

COVID-19 – Furlough employees

Latest update – 06 April 2020

Furloughed Employees (Job Retention Scheme)

In an effort to provide more clarity over the ‘furloughing’ of employees (Job Retention Scheme) the government provided an update over the weekend.

The guidance provides the following clarifications:

- Employees can start a new job when on furlough (meaning they might end up earning 80% of the old salary and 100% of a new one). This was not prohibited in the earlier guidance, but the new guidance expressly allows it. The guidance does say it has to be allowed under the old employment contract, but presumably the old employer can waive that.
- An employer can reclaim 80% of compulsory (i.e. contractual) commission back from HMRC, as well as basic salary. But it can only be referring to the commission from past sales as the furloughed employees cannot be completing new sales when on furlough.
- The 80% does not include non-monetary benefits (e.g. the value of health insurance or a car).
- Company directors can be furloughed. They can still perform their statutory duties, but not other work for the company.
- Employers must notify employees of their furlough status in writing (the previous guidance did not require it be in writing) and keep the record of that written notification for five years.
- Employees can be furloughed multiple times, ie they can be furloughed, brought back to work, then re-furloughed (subject to each furlough period being at least three weeks)
- Employers can reclaim 80% of fees from HMRC. The previous guidance said they could not.

'Public sector organisations

The government expects that the scheme will not be used by many public sector organisations, as most public sector employees are continuing to provide essential public services or contribute to the response to the coronavirus outbreak.

Where employers receive public funding for staff costs, and that funding is continuing, we expect employers to use that money to continue to pay staff in the usual fashion – and correspondingly not furlough them. This also applies to non-public sector employers who receive public funding for staff costs.

Organisations who are receiving public funding specifically to provide services necessary to respond to COVID-19 are not expected to furlough staff.

In a small number of cases, for example where organisations are not primarily funded by the government and whose staff cannot be redeployed to assist with the coronavirus response, the scheme may be appropriate for some staff.'

The government's updated guidance can be found at (gov.uk/coronavirus). If after reading this information your question still has not been answered, please contact FRSA HQ.

Annual Leave

The government has made changes to legislation around annual leave due to the Coronavirus pandemic. For firefighters this means those who have not taken all of their annual leave entitlement due to COVID-19, will now be able to carry it over into the next **2 leave years**.

Before the change, firefighters entitled to 4 or 5 weeks leave per year (depending on service length) couldn't carry over leave into the next leave year, meaning staff would lose their holiday if they do not take it.

The change in regulations will allow **up to 4 weeks** of unused leave to be carried into the next 2 leave years, easing the requirements on FRs to ensure that staff take statutory amount of annual leave in any one year.

This will mean fire service staff can continue working in the national effort against the coronavirus without losing out on annual leave entitlement.

Fire Service Pay

As 'lockdown' continues across the UK, we are very much aware that some On-Call staff are becoming more anxious about how they are going to meet their financial obligations. We pre-empted this scenario which is why we wrote to the NFCC Chair last week raising our concerns over the fact that the pay of On-Call staff was likely to reduce, due to an increase of crew being available, maximum ridership levels and call levels reducing. This mixed with a potential reduction in primary employment earnings was a recipe for disaster.

However, we have identified ways in which this risk could be mitigated via temporary measures such as aggregating pay based on the previous 12-months earnings and innovative ways of utilising On-Call staff within the service i.e. paid volunteer work and covering of shortages in Wholetime establishment levels.

We believe further guidance on these measures are due to be published in a guidance document from the NFCC, in our view this cannot come soon enough so that On-Call staff can be given the reassurance and financial stability that they need at this difficult time.

Health and Safety Executive (HSE)

The HSE has published guidance on RIDDOR reporting of incidents where staff have contracted COVID-19 as a result of work. This advice can be found via their website - <https://www.hse.gov.uk/news/riddor-reporting-coronavirus.htm>

Ends

Tristan Ashby

Chief Executive Officer