

# Annual Leave 😊

*This Week in Employment Law*

**20-04-2020**

## Annual leave and furlough – position clarified

**The government has finally provided clarity on whether annual leave can be taken by staff while they are furloughed. We take a look at this in more detail below:**

- Staff furloughed as part of the Job Retention Scheme can take annual leave. However, they must receive normal pay for this time.
- As only 80% of staff wages, to a maximum of £2,500 per month can be claimed as part of the Job Retention Scheme, employers will need to top up to normal pay themselves.
- The requirement to top up to normal pay is likely to be an important element for employers when deciding on any annual leave requests they receive from employees on furlough.
- Employees can make a request for annual leave when on furlough but the normal rules apply in respect of an employer's ability to refuse the request.
- Employers are also normally able to cancel pre-booked leave and enforce annual leave, however, it remains unclear whether an employer is permitted to enforce annual leave during furlough.
- Annual leave continues to accrue during furlough, but a new law means that four weeks of annual leave which was exclusive to the year in which it was accrued can be carried over to the next two leave years where it was not reasonably practicable to take the leave due to coronavirus.

### Job Retention Scheme extended

Originally set to last until the end of May 2020, employers can now make use of the Job Retention Scheme to fund 80% wages of furloughed workers, up to £2,500 per month, until the end of June 2020. Employers now have an extra month in which to claim wages of furloughed staff. Further extensions may be announced.

#### Did you know?

The HMRC online portal via which employers can claim the grant to cover wages is now open. Currently, it is expected that it will take up to six days for businesses to receive the funds after making the claim. It has been reported that 140,000 applications were made on the first day.

### Eligibility date for Job Retention Scheme changed

Originally, staff needed to be PAYE and have been on the company payroll from 28 February 2020 in order to be furloughed. Now, to be eligible, the individual must be PAYE, have been on the payroll on 19 March 2020 and have been notified to HMRC through a Real Time Information submission on or before 19 March 2020.

#### Did you know?

Real Time Information is submitted to the HMRC each time a payment is made to employees in order to ensure that details for tax and national insurance calculations are up to date. Essentially, the new criteria means that staff must have been paid by the company at least once by that date in order to be furloughed.

### Home Secretary faces bullying allegations

A former Home Office permanent secretary has claimed to the employment tribunal that he was forced to leave his role after bringing bullying allegations against Home Secretary Priti Patel. He accuses her of belittling colleagues during meetings and placing unreasonable demands on her staff.

#### Did you know?

Employees who feel they have been driven to resign by the actions of their employer, such as bullying behaviour, may bring a claim for constructive unfair dismissal if they have at least two years of continuous service. If their treatment can be related to a protected characteristic, they could also claim discrimination.

Under the Job Retention Scheme, staff can be placed on furlough more than once. The Furlough Navigator, provided by Bright HR, can help you to manage this process. For more information on the Navigator, and the Scheme in general, call our 24 hour Advisory Service.

Please contact the 24 Hour Advice Service for advice on your specific situation before acting on the information in this publication.