

Holiday Pay during Furlough

This information was produced 7/4/20, it may change on a daily basis.

What should be paid if staff take holidays during furlough is still not clear from the current Government guidance. Therefore any advice given around this is based again on the basic principles of UK Employment Law and may be subject to change once further guidance is provided by the Government.

The rules relating to holiday pay are governed by UK and EU law.

Four weeks of holiday are from the EU and 1.6 weeks are additional from the UK only.

EU law states employees should receive their **normal remuneration** during holiday so this includes some overtime, bonuses and commission (depending on the terms). Furlough pay specifically excludes these additional points. Based on the fact that furlough is a brand new “scheme” and not law, we along with other legal experts suspect EU law will take precedence. This means for 4 weeks holiday, staff on furlough are still entitled to normal pay (including those additional payments) if required or they request to take holiday during furlough.

The remaining 1.6 weeks are not governed by EU requirements to pay bonuses etc. So we along with other legal experts suspect those days of holiday would just fall within furlough and the 80% of normal basic pay should be paid. Where someone has additional holiday entitlement over and above the statutory minimum, payment for that time.

Ultimately the employee should receive 100% of normal pay for 4 weeks leave, 80% of basic pay for 1.6 weeks leave and whatever is agreed for any additional leave but, employers can still claim back 80% of basic pay from the furlough scheme regardless of which weeks of annual leave are being taken.