

Guidance on support for agency workers during the Covid-19 crisis

Last updated: 22 April 2020

Your rights to sick pay should be set out in your contract of employment that you have with your agency or umbrella company.

However, even if you have no contractual sick pay, if you're an employee and earn at least £120 a week, you will be able to get £95.85 per week statutory sick pay (SSP) for up to 28 weeks. The government has announced SSP will be paid from the first day you are off sick if it is related to coronavirus.

SSP covers you both if you're ill and if you need to self-isolate because you have been in direct contact with the virus. You will still need to provide a sick note or fit note. You no longer have to go to a doctor to get a sick note or fit note. You can get one by calling NHS 111.

The Coronavirus job retention scheme is a temporary scheme open to all UK employers (including agencies and umbrella companies) for at least four months starting from 1 March 2020. It is designed to support employers whose operations have been severely affected by coronavirus (Covid-19).

General advice on the Coronavirus job retention scheme can be found at:

https://www.ucu.org.uk/media/10842/UCU-guidance-on-the-Coronavirus-job-retention-scheme/pdf/UCU_CJRS_furlough_guidance.pdf but basically the government will cover 80% of staff costs (up to £2500 a month) for staff who are 'furloughed' under the scheme.

If your agency is unable to offer you work, or you are shielding in line with public health guidance (or need to stay home with someone who is shielding) or unable to accept work due to caring responsibilities resulting from coronavirus (Covid-19) then your agency may be able to claim under the government's Coronavirus job retention scheme and offer to 'furlough' you.

If you are an agency worker paid through PAYE ('pay as you earn' where the agency deducts tax and national insurance contributions from your wages), you are eligible to be furloughed and receive support through this scheme.

The furlough would need to be agreed between you, as the worker, and your agency as your deemed employer.

However, we would expect the end clients (universities, colleges, prison educations, local government-etc.) to be in discussion with your agency if they are unable to offer you any work due to Covid-19 on how your agency can best support you.

Where the agency is a wholly owned subsidiary of the end client, then we would expect agency staff to be treated no less favourably than directly employed staff at the institution.

As with employees, agency workers should perform no work for, through or on behalf of the agency that has furloughed them while they are furloughed, including for the agency's clients. However, you can be furloughed by one agency and continue to work for another.

If you are supplied by an agency to an umbrella company that operates the PAYE, then it will be a decision of the umbrella company on whether or not to offer you the option of being furloughed.

If your hours of work are varied then the scheme will cover 80% (or £2500 whichever is the lower) of the following:

- if you have been employed by the agency for a year at the time of the claim: the higher of either:
 - the same month's earning from the previous year
 - average monthly earnings from the 2019-20 tax year
- if you have been employed for less than a year, the agency can claim for an average of your monthly earnings since you started work.

The minimum period you can be furloughed for is three weeks but you could be furloughed for three weeks, offered work and then furloughed for (a) further period(s) if work becomes unavailable again.

Although the government will only cover 80% of staff wages (or £2500 whichever is the lower) for the furloughed period, we are calling on employers, including agencies, to guarantee no financial detriment for furloughed staff (ie cover 100% of wages). We are also calling on all employers to continue occupational pension payments during the furloughed period and to assure staff that there will be no detriment to them during any furloughed period in terms of sick pay, annual leave, maternity rights etc.

We know that Protocol (who supply many FE Colleges with teaching staff) have the following message on their website:

'We anticipate that all Protocol workers who meet the qualifying criteria will be protected by the employed job retention scheme and we will be in touch shortly with further details.'

If you have been told by your agency that there is no work for you because of the Covid-19 crisis and they are not covering your wages or you are unable to accept work due to caring responsibilities then you may want to ask your agency to furlough you under the government's scheme.