
CORONAVIRUS - LETTER SEEKING AGREEMENT TO FURLOUGH LEAVE

Date. (insert date)

Dear (insert name of employee)

Due to the pressures being placed on businesses like ours by the coronavirus (Covid-19) pandemic, the government is putting in place, backdated to 1 March 2020, a “Coronavirus Job Retention Scheme”. This will enable UK employers such as us to hopefully avoid having to make staff redundancies or to lay off staff without pay.

For the foreseeable future we [are operating on an emergency footing with a substantially reduced staff] OR [have temporarily ceased all operations]. We therefore propose that under the terms of that Scheme you be placed on “furlough leave” with effect from (insert date). It is currently anticipated that this will last until [..... (insert date)/31 May 2020], although it may be extended beyond that date. Although we are unable to give you a definitive end date at this stage because it depends on a number of external factors outside our control, assuming you agree to the furlough leave arrangement we have proposed, we will keep the position under regular review and continue to keep you updated. As the position currently stands, the furlough leave would end on the earliest of the following events:

- the government’s coronavirus Job Retention Scheme ending
- either you or the Company ceasing to be eligible for funding under that Scheme
- the Company deciding to cancel furlough leave and bring you back to work [- we would normally expect you to be on furlough leave for at least three weeks as that is the minimum period for each employee]; or
- the termination of your employment for whatever reason.

We believe the current situation arising as a result of the coronavirus pandemic is only likely to be temporary and we hope that, by putting in place this furlough leave arrangement, we will avoid the need to implement a staff redundancy programme. However, we must advise you that if we do not obtain your consent to implement the furlough leave arrangement we have proposed, we may be left with no alternative but to consider other ways of managing this unfortunate situation, which may include redundancy or unpaid lay-offs. Therefore, we are seeking your co-operation during what we appreciate is an unsettling, stressful and difficult time for everyone.

During the proposed temporary period of your furlough leave, you would be formally designated as a “furloughed employee” and, as such, you would not be required to come into work or to work from home. Your contract of employment would continue but, subject to your agreement, you would not receive your normal pay.

Instead, under the terms of the coronavirus Job Retention Scheme, you would be paid 80% of your regular wages or salary, excluding discretionary commission payments and bonuses, provided you remain employed on the Company’s payroll during this time [subject to a maximum liability for the Company of £2,500 gross per month]. Payments made under the Scheme are still subject to deductions for income tax and National Insurance contributions and pension scheme

deductions will continue to be made. The Company will not pay you the additional 20% of your regular wages or salary [and any wages or salary which you may have been earning in excess of our maximum liability are also not covered by the Scheme and will not be paid by the Company] and therefore by signing the attached acceptance slip you agree to waive entitlement to any further wages or salary during your furlough leave.

[*For salaried employees:* Your actual gross salary as at 28 February 2020 will be used to calculate the 80%. [This is subject to our maximum liability set out above.] Discretionary commission payments and bonuses are not included. We can only claim for regular payments that we are contractually obliged to pay you, e.g. basic salary, fees and compulsory commission payments.]

[*For those whose pay varies:* If you have been employed for a full year, you will be paid 80% of the higher of either the same month's earnings from the previous year or your average monthly earnings from the 2019/20 tax year. If you have been employed for less than a year, you will be paid 80% of your average monthly earnings since you started work. [This is subject to our maximum liability set out above.] Discretionary commission payments and bonuses are not included as part of your monthly earnings. We can only claim for regular payments that we are contractually obliged to pay you, e.g. wages, fees and compulsory commission payments.]

If you are opted in to automatic enrolment, your minimum employer pension contributions will be paid in the normal way. You will also continue to receive any other contractual benefits in the usual way, subject to the terms of any benefit schemes.

Please note that as payment is being made to you under the terms of the coronavirus Job Retention Scheme, it is subject to change depending on the rules of the Scheme as may from time to time be in force, and in particular on the interpretation of those rules as more clarity about the Scheme emerges. We therefore reserve the right to amend or update the information we have provided to you about the Scheme, if necessary, when full details of the Scheme are available, and the relevant legislation has been brought into force.

It is important for you to be aware that you must not undertake any work at all during furlough leave (including any work from home), whether for or on behalf of the Company or for any other employer or on your own account in a self-employed capacity (but excluding any other part-time work that you may already undertake outside your normal working hours). Not undertaking any work for the Company during furlough leave is an essential condition of the Scheme and not working for another employer or in a self-employed capacity [without our agreement] is a requirement of your contract of employment. If you do obtain alternative employment with a new employer, you should either first resign from your employment with the Company in accordance with the terms of your contract of employment, or you must seek the Company's prior written agreement to undertake such alternative employment (which, depending on the circumstances, may or may not be granted). If you fail to do so and you do work elsewhere without the Company's agreement, this could result in disciplinary action being taken against you, up to and including summary dismissal for gross misconduct. Please also note that if you work for the Company whilst you are on furlough leave, there is a risk that you may be liable to repay any sums that the Company has paid you under the terms of the Scheme if we become liable to repay such sums to the government. You will, however, be permitted to undertake volunteer work or training during furlough leave, subject to the latest Public Health guidance, provided you are not making money for the Company or providing services to the Company.

Please sign and date the attached acceptance slip and return it to (*insert name*) to confirm that you are willing to accept the furlough leave and pay arrangement proposed above. If you accept the arrangement, it will constitute a temporary variation to your contract of employment, and we will then write to you again to confirm that you have been designated as a furloughed

employee. [In addition, when your furlough leave ends, whilst the Company will always endeavour to provide you with work, in the event of insufficient work still being available, by signing the attached acceptance slip you also agree that the Company is entitled to place you on short-time working or lay you off without pay, except for statutory guarantee payments as set by the government.]

Finally, assuming you agree to furlough leave and pay, during your period of leave you can continue to keep in contact with the Company via (*insert details of how employee can keep in contact during furlough leave*) and the Company will, of course, contact you as soon as there are any developments or other updates relating to your particular employment situation.

Yours sincerely

.....
For and on behalf of the Company

I consent to the furlough leave and pay arrangement and the other terms proposed in your letter dated (*insert date*) and I acknowledge and accept that, in agreeing to this arrangement, I will then be designated as a “furloughed employee” and it will constitute a temporary variation to my contract of employment.

I also agree that if, for any reason, the government decides to reclaim any monies which it paid to the Company in connection with my wages or salary during furlough leave, the Company is entitled to reclaim those monies from me (including by making deductions from my future salary payments).

Signed:

Date:
