

Letter from the NEU to the Chancellor:

People Group received this as part of an email. We are informed that it comes from the NEU.

Subject: Re: New information regarding furlough

Dear Rt Hon Rishi Sunak

We are writing to you on behalf of our supply educator members who have been in contact with us sharing their concerns as to the application of the Coronavirus Job Retention Scheme.

We do welcome the creation of the CJRS and the financial stability it has ensured for so many employees. However, its application to agency workers has not been without its problems. The most pressing concern now for our supply educator members is the fast-approaching school summer holidays and what will happen to them and furloughing during this period. We were therefore delighted to learn that this question was put to the Treasury during parliamentary questions yesterday and especially delighted with the response from your department, which was that:

“Agency supply teachers are eligible for the Coronavirus Job Retention Scheme during the school summer holiday period, where they are otherwise eligible for the scheme.”

Given that supply educators’ furlough pay has been calculated over 52 weeks, in accordance with the Treasury Directions, this was our understanding of the position. However, we are aware that some agencies and umbrella companies are informing their workers that they cannot be paid over the summer holiday period. This seems to be based on their interpretation of paragraph 6.4 of the Treasury Direction No.2 which states as follows:

“Where, during the period mentioned in paragraph 12, a period of unpaid sabbatical or other period of unpaid leave is enjoyed by an employee (“unpaid leave”):

(a) no CJRS claim may be made in respect of the period of unpaid leave,”

Those agencies and umbrella companies are asserting that periods between assignments and unpaid leave are one and the same. This, in our view, is plainly incorrect as paragraph 6.4 refers to a sabbatical period and so envisages that any period of unpaid leave is made at the behest of the employee. For all agency workers, periods between assignments arise because there is no work available for them; it is not the same as unpaid leave. Further, school summer holiday dates vary across the country so there is no such thing as a defined school holiday or school closure period.

Further, our view is that had you envisaged that there would be periods such as school holidays when furloughing was not possible those corresponding weeks in the calculation period would not have been included for the purposes of calculating furlough pay. In short, supply educators would have had their furlough pay calculated over 39 weeks not 52. This appears perfectly logical and straightforward to us. However, it appears that some employers would benefit from additional clarification. Therefore, to ensure that thousands of people do not suffer financial hardship during the school holiday period we would be grateful of you could clarify, either through a Treasury Direction or HMRC guidance the following:

1. Supply staff can be furloughed over any school holiday period.
2. That reference to eligibility in the answer to the Parliamentary question referred to above is as per the HMRC guidance namely that: -
 - the employee was on the employer’s payroll on 19 March 2020
 - the employer has a UK PAYE scheme started on or before 19 March 2020
 - the employer has enrolled for PAYE online
 - the employer submitted a report under the Real Time Information (RTI) reporting system for that employee on or before 19 March 2020
 - the employer has a UK bank account
3. The provisions under 6.4 of the Direction referred to above do not include time between assignments for agency workers.

Given the proximity of the summer holidays and the anxiety felt by so many of our members we hope that you will provide this clarity as a matter of urgency.

We look forward to hearing from you.

Yours sincerely

Mary Bousted
Joint General Secretary

Kevin Courtney
Joint General Secretary