

## Quick Q&A: Handling Holiday During COVID-19

April 3, 2020

As employees settle into working from home, it is important for employers to consider their approach to annual leave while the COVID-19 crisis is ongoing. Regular rest breaks help to ensure the physical and mental wellbeing of employees during a stressful period with additional work, health and family pressures. It is also important from a business continuity perspective to ensure that employees do not return to work with a significant amount of holiday outstanding. With this in mind, Katten looks at common queries that have come up recently regarding holiday accrual and pay.

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| <p><b>Does holiday entitlement continue to accrue while staff are furloughed, laid off or on short-time working?</b></p> | <p>Yes, employees continue to accrue holiday as they remain employees of the company. If an employee is entitled to more than the statutory minimum amount of 28 days' paid holiday (inclusive of bank and public holidays) then you can, by agreement, negotiate a reduction in their contractual entitlement provided that doesn't go below the statutory minimum.</p>   |
| <p><b>Can I ask staff to take holiday at a specific time?</b></p>  | <p>Yes, employees can be required to take holiday at a specific time, provided they are given notice of at least twice the length of the period of leave that they are being required to take (e.g., for a five day holiday they would need to be given 10 days' notice). We would recommend that employees continue to record their holiday in your usual holiday tracker system. You can ask an employee to take holiday regardless of whether it has already been accrued.</p>  |
| <p><b>How much should I pay staff who take holiday while furloughed?</b></p>   | <p>While the guidance is not clear cut, we expect that holiday pay will be payable at an employee's reduced furloughed rate of salary for any holiday taken while furloughed. This will be reimbursable as salary up to the Her Majesty's Revenue &amp; Customs (HMRC) limits under the coronavirus job retention scheme.</p>  |
| <p><b>Can staff carry over accrued but untaken holiday?</b></p>  | <p>The UK Government has amended the Working Time Regulations so that employees and workers can carry over up to 4 weeks' paid holiday over a 2-year period, if it was not reasonably practicable to take the leave due to the coronavirus. This is a change from the current position where the 'basic holiday' of 4 weeks must be taken each year as a health and safety measure, meaning that it was only previously possible to carry over the balance of holiday above 20 days (which in the UK would be a minimum of 8 days). So in practice, employees can now carry forward 4 weeks as a matter of law. We recommend considering the impact of holiday accrual on the business when things return to 'normal' (i.e., employers should consider whether they want to require employees to take holiday even while they are furloughed).</p> |
| <p><b>Can I force employees to cancel a booked holiday?</b></p>  | <p>Employers are still able to refuse an employee permission to take holiday on particular days (e.g., if they are critical to the business at this time and the employer needs them at work), provided that they give notice to the employee which is at least as long as the holiday requested. However, the law has changed to say that employers can only exercise this right where there is "good reason to do so".</p>   |

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## CONTACTS

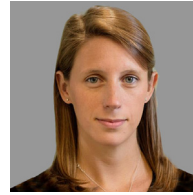
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