



## The Covid diaries: Day 7 - I fought the law and the law won

A daily fly-on-the-wall blog about running a legal business during the Covid-19 crisis.

By **Darren Isaacs** - 24 March 2020

This new "furlough" thing is actually quite complicated.

We had our usual Tuesday lunch-time know-how session today. No points for guessing what the main topic of conversation was.

Get a bunch of employment lawyers in the same room, introduce a discussion about a very new employment law concept (one that is not even reflected in published legislation yet), and you better settle in for the long haul!

There are a tonne of issues to get to the bottom of.

One of the most pressing, and confusing, is this: the UK government has introduced this paid "furlough" scheme under which an employer can put an employee on "furlough" instead of making them redundant, and the employee will get 80% of their pay (up to a cap) paid for by the UK government. Sounds simple enough. However, the whole point of this new scheme is that it is an urgent response to an immediate problem, and it is meant to kick in when the employee would otherwise be made redundant. But in the UK we have a process to go through before selecting an employee for redundancy, and if it is a mass redundancy (20+ proposed redundancies within 90 days) then it is a minimum consultation period of 30 days (20-99 proposed redundancies) or 45 days (100+ proposed redundancies).

So how do you reconcile an urgent Covid-19 response like the new "furlough" scheme, against minimum consultation periods of up to 45 days? A 45-day consultation period does not say "urgent pandemic response to save my business" to us!!

And not to mention the world of trouble we are in because the UK government has adopted a US term ("furlough") which has a slightly

different meaning in the US (i.e. no pay) than it will do here. Explaining that is going to be fun.

We anxiously await the actual regulations (which may have arrived by the time this diary entry is published).

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If you would like to read our **Covid diaries starting from day 1** please [click here](#).