

## **COVID-19 Guidance Emergency Volunteering Leave**

The Coronavirus Act 2020 received Royal Assent on 25 March 2020 and give workers a new statutory right to take emergency volunteering leave.

### **What is Emergency Volunteering Leave?**

Workers (not just employees) can take unpaid leave from their jobs in order to volunteer to help alleviate pressure on health and social care organisations during the COVID-19 pandemic.

### **Who does the right apply to?**

The right applies to all workers, including Uber drivers, except for the following:

- Workers employed or engaged by businesses with fewer than ten staff.
- Crown employees.
- Parliamentary staff.
- Police Officers
- Other employees defined in subsequent regulations.

### **What notice does a worker need to give to take leave?**

Workers wishing to take this leave will need to give their employer three working days' notice and provide them with a copy of their Emergency Volunteering Certificate.

### **What is an Emergency Volunteering Certificate?**

An emergency volunteering certificate is issued to the worker by an appropriate authority (a local authority, the NHS Commissioning Board or the Department of Health) confirming that they have been approved as an emergency volunteer.

### **How much leave can a worker take?**

Volunteering leave can be taken in blocks of two, three or four weeks in each "volunteering period". A "volunteering period" is a period of 16 weeks. Therefore, a worker can only take one block of volunteering leave, in any 16-week period. However, in theory, a worker could stack the volunteering periods back to back and take a block of 4 weeks leave at the end of the first volunteering period and another 4 weeks leave at the start of the second volunteering period thereby taking 8 consecutive weeks for emergency volunteering leave.

### **Can I refuse the leave?**

There is no provision for employers to refuse leave, for example because of operational need.

### **What pay and benefits is a worker on Emergency Volunteering Leave entitled to?**

There is no entitlement to pay during a period of Emergency Volunteering Leave. However, workers remain entitled to the benefit of all of the other terms and conditions of employment which would have applied if they had not been absent. The Act also adds an emergency volunteering rule to any workplace pension or

benefit scheme so as to treat the worker as if they had not been absent (i.e. the period of absence will be deemed not to have any effect on the worker's pension or benefit entitlements). A UK-wide compensation fund will be established to compensate volunteers for loss of earnings, travel and subsistence provided they meet certain conditions.

**What rights do workers on Emergency Volunteering Leave have?**

It is unlawful to subject a worker to a detriment on the grounds that they sought to take, or made use of the benefits of, emergency volunteering leave, or that the employer believed that the worker was likely to take emergency volunteering leave. Equally it is automatic unfair to dismiss an employee for taking or seeking to take emergency volunteering leave (or where the employer believed that the employee was likely to take emergency volunteering leave). Further, this is a day one right and therefore an employee does not need 2 years' service in order to bring a claim. The compensatory award is also uncapped.

**What rights do workers have on return to their jobs?**

Workers have a statutory right to return to the job in which they were employed before the leave, on terms and conditions no less favourable than those which would have applied if the employee had not been absent due to taking Emergency Volunteering Leave.

**Can we consult with employees about redundancy situations whilst they are on Emergency Volunteering Leave?**

Yes. The employee's terms and conditions of employment (except those relating to pay) remain intact during Emergency Volunteering Leave, so you can expect a reasonable amount of contact with your employee during the leave.

**Can a worker be placed on furlough leave after they return from Emergency Volunteering Leave?**

Yes, you should seek to agree the leave with the employee in the usual way.

At present the government guidance is being updated daily so please look out for any further changes affecting the above.

We'll keep you posted.

**Vista Employer Services Limited**

**30<sup>th</sup> March 2020**