



Holiday Home Association News

Edition 161 April 2020

New Loan Scheme for Small Business May Help Self Caterers

The Chancellor has announced a new “bounce-back” loan scheme for small businesses that may be more useful to small business in our sector than previous loan schemes announced by the government.

The usual pattern has been followed here with a political announcement by a senior minister of the basics, after which we have to wait a few days or so for the detail, and at the time of writing we do not yet have the detail. However the key features of this new loan scheme are clear enough:

- The loan will be from £2,000 to £50,000
- The government pays all the interest for the first year, during which there will be no repayments required
- We are promised a “short and simple” online application form. (But we have not seen it yet)
- There is a limit of 25% of turnover
- You have to have been trading at 1st March 2020
- Lending will be provided by banks accredited by the government’s

In News 161:

- New coronavirus loan scheme announced
- Campaign on FHL Rules and self-employment support
- Competition and Markets Authority intervenes on refunds
- Furloughed workers
- Financial Conduct Authority guides insurers
- HSE guidance on coronavirus
- Insurance tips – unoccupied property

British Business Bank, so you will need to choose one of (currently) 48 lenders to apply to.

The Chancellor said “There will be no forward-looking tests of business viability; no complex eligibility criteria; just a simple, quick, standard form for businesses to fill in. For most firms, loans should arrive within 24 hours of approval.”

The new scheme is promised to be ready by Monday morning 4th May.

Of course the trouble with loans is that they have to be paid back in the future, but for some small business such as small agencies and individual owners, this scheme could offer an opportunity to keep afloat at a very difficult time when income has collapsed and some or a lot of expenses still need to be paid, but there is every prospect of future business bouncing back.

Furnished Holiday Letting Rules – Campaigning for inclusion

Self-catering associations across the UK have come together to press the Chancellor to direct HMRC to include income from furnished holiday lettings as income from self-employment when assessing applications under the Self-employment Income Support Scheme.

The issue is that income from furnished holiday lettings is not treated as income from self-employment. When you complete your self-assessment tax return, FHL goes in a different box. This has long been an issue over taxation, but it particularly affects self-caterers who are self-employed running a holiday home business. HMRC consider FHL revenue as income from property, which is different.

To qualify as FHL income, the income has to be from a property that is let for at least 210 days in a tax year, and available for 140 days in a year. This means that only business owners are eligible for the tax benefits of FHL, which enable them to be regarded as business owners rather than landlords for tax purposes. Logically, this should also mean that the income is treated as income from self-employment.

HHA has also written to the Tourism Minister asking him to support the campaign.

Furloughed workers get the pick



If you now have workers who have been furloughed, they are now permitted to do paid work for another employer, so for example they can help with fruit picking or other seasonal agricultural work.

Also on the furlough front the Government has published new guidance that extends the cut off date for being able to furlough workers to 19th March. This means that Employers can claim for furloughed employees that were employed and on their PAYE payroll on or before 19 March 2020 rather than the 28th February.

Directors of companies can be furloughed

Many small businesses are constituted as limited company so the company is a separate legal “person” from the owners, who are most probably also the directors of the company. It has now been clarified that directors may be furloughed provided that they don’t do any work in excess of their statutory obligations as directors. This is slightly different from the general rule that to be furloughed means to do no work for the normal employer. So a furloughed director could compile and send in a statutory return to Companies House but he or she could not paint the windows of a self-catering property as that’s not a statutory obligation of a

company director. This may be useful where there are a handful of directors and it is agreed that one or more be furloughed so that his/her salary can be reclaimed up to 80% and the other directors can cope with whatever work there is still to do.

Any decision like this should be a minuted decision of the Board.

For detailed information here is a useful web link:
<https://www.rossmartin.co.uk/covid-19/4643-covid-19-company-directors-shareholders>

Another gap in support for company directors arises where they are wholly or mainly paid through dividends. For example, if a holiday homeowner has a couple of properties owned through a limited company, services them personally, and does not draw much of a salary but reaps the rewards in dividends, there is no support package. Small Business Minister Paul Scully is reportedly working on a solution to this gap in provision but so far nothing has been announced. If any member is in this situation, do let us know.

Financial Conduct Authority Guides Insurers – a bit

The Financial Conduct Authority has published and updated guidance for the insurance industry as to its expectations in the current emergency. The guidance is too lengthy to reproduce here but in summary the FCA expects:

- Insurers not to unfairly penalise people for changes of

circumstances over which they have little or no control, e.g. suddenly working from home.

- Clear communication with customers, especially if there are changes to policies

There is, however, a lot of emphasis on fairness and they are expected to “Act fairly, honestly and professionally in accordance with the best interests of customers.” However this statement of guidance is so very open to interpretation that it will be of only limited use in the event of a dispute with an insurer.

The FCA has also written to insurers regarding disputes about business interruption insurance. It has reminded them that “Where a policyholder is a small business with an annual turnover below £6.5m, and fewer than 50 employees or an annual balance sheet below £5m it is likely to fall within the jurisdiction of the Financial Ombudsman Service”. The FCA has established a Small Business Unit charged with the task of co-ordinating all the FCA’s functions regarding small businesses.

Unfortunately, the FCA also point out that most insurance policies that cover business interruption do not cover pandemics.

Support Tool Launched

Your editor has tried out a new “find your support” tool on the government website. It actually worked rather well. A few questions lead you to a list of what support you might be able to claim. Go to:

<https://www.gov.uk/business-coronavirus-support-finder>

Insurance Tips from David Morris

Be aware of the unoccupancy wording in your self catering insurance

With all that you have to consider at these difficult times do remember that property damage insurance claims can still occur, and the usual procedure for claiming remains unchanged.

Any property insurance – including self catering insurance – will require certain actions to be taken to maintain full cover (unless your policy automatically restricts to very basic cover after a certain period of unoccupancy).

It is likely that these actions have been changed (insurers are allowed to improve cover after the policy has started; they are never able to restrict cover once the insurance is in place) and that requirements have been relaxed.

Many self caterers do not live near their properties, and with caretakers / managers / cleaners being restricted as to their movements it may prove difficult or impossible to have the property internally and externally checked.

So that there are no nasty surprises check with your Insurance Broker as to the improvements in cover.

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01202 642840
www.selfcateringinsurance.co.uk

Most of our self-catering insurances are underwritten by Allianz. Allianz has extended the unoccupancy period 60 days and is subject to review by the insurers towards the end of this period.

HSE Issues Guidance for Offices etc

The Health and Safety Executive has published guidance for employers on social distancing in the workplace. Although quite ambiguous, what they say carries some weight.

The strong advice from government on social distancing is advice rather than a legal requirement but the HSE publication suggests that in the workplace, health and safety legislation could be used by them to enforce social distancing arrangements. Given that an employer is required under the Health and Safety at Work Act 1974 to ensure, so far as is reasonably practicable, the health safety and welfare of employees, this could quite easily be used against a reluctant employer.

The HSE says: *Where HSE identifies employers who are not taking action to comply with the relevant public health legislation and guidance to control public health risks, e.g. employers not taking appropriate action to socially distance or ensure workers in the shielded category can follow the NHS advice to self-isolate for the period specified, we will consider taking a range of actions to improve control of workplace risks. These actions include the provision of specific advice to employers through to issuing enforcement notices to help secure improvements with the guidance.*

Whilst we have not heard of any prosecutions or enforcement notices being used to enforce coronavirus precautions this is possible, therefore employers with office accommodation need to do whatever they can to keep staff separated from one another if working from home is not possible.

Reporting Covid-19 to the HSE

Self-catering does not often involve serious accidents to staff and so RIDDOR (The Reporting of Injuries, Diseases, and Dangerous Occurrences Regulations) is not a frequently-mentioned topic in these pages.

Normally you have to report workplace accidents causing serious injury such as a broken leg, but the regulations also cover diseases.

You must report under RIDDOR if a person dies as a result of “exposure to a biological agent” at work, so if an employee sadly dies from covid-19 and there is reason to believe he or she caught it at work, you must report this.

You must also report if you are informed that an employee has been diagnosed as having “any disease attributed to an occupational exposure to a biological agent”. So, this means if you are told that a member of your staff has been diagnosed with covid-19 and there is reason to believe they caught it in the course of work, you have to report it.

Also reportable is “Any accident or incident which results or could have resulted in the release or escape of a biological agent likely to cause severe human infection or illness.” It is fairly

unlikely that this one will arise in a holiday home agency or business, unless an infected person deliberately coughs over a member of staff.

RIDDOR reporting is via an online form, just do a quick online search to find it.

HHA Contacts:

ce@holidayhomeassociation.org.uk

Tel: 020 7078 7329

Legal helpline: 0113 2580033

Tax helpline: 0330 043 0046

Please do not send letters by post at present.

Competition and Markets Authority Steps in to Refunds Complaints

The CMA has published a press release and statement chastising those in the holiday accommodation business who have refused refunds or insisted on offering vouchers instead of cash. They say that 4 out of 5 complaints are related to refunds and cancellations and holiday accommodation is one of the three main sectors involved.

The CMA say “If it finds evidence that companies are failing to comply with the law, the CMA will take appropriate enforcement action, including moving quickly to court if a firm does not address its concerns. Individuals can also take their own legal action against unfair terms should they choose to.”

The press statement says:

“For most consumer contracts, the CMA would expect a full refund to be issued where:

- a business has cancelled a contract without providing any of the promised goods or services
- no service is provided by a business, for example because this is prevented by the restrictions that apply during the current lockdown
- a consumer cancels or is prevented from receiving the service, for example due to the restrictions that apply during the current lockdown”

The CMA have also published a statement of their view of what the legal position is. Whilst of course the terms and conditions signed by the customer take precedence, we all know that these are often silent on pandemics and related emergency laws.

The CMA views are largely consistent with the legal advice published to members in News 160. They say that a full refund should be given to customers where the holiday cannot be taken due to the effects of the emergency.

Whilst we have suggested that an administration charge might be made under the terms of the Law Reform (Frustrated Contracts) Act 1943, which allows a deduction for costs incurred, the CMA are suggesting that no such charge should be made and only that “the business may be able to deduct a contribution to the costs it has already incurred in relation to the specific contract in question (where it cannot recover them elsewhere)”.

The CMA also expresses the opinion that “rights to a refund will usually apply even where the consumer has paid what the

business says is a non-refundable deposit or advance payment.”

On the controversial matter of vouchers, which some businesses are offering, it says that “Consumers can normally be offered credits, vouchers, re-booking or rescheduling as an alternative to a refund, but they should not be misled or pressured into doing so, and a refund should still be an option that is just as clearly and easily available. Any restrictions that apply to credits, vouchers, rebooking or re-scheduling, such as the period in which credits must be used or services re-booked, must also be fair and made clear to consumers.”

The intervention by the CMA will come as a further blow to a beleaguered industry, leading to more pressure from consumers to refund monies paid. Whilst owners and agents cannot avoid paying refunds where consumers insist upon them, the best course is always to negotiate a “deal” with customers if possible that protects future income and your reputation.

English Tourism Week

The annual promotional week has been postponed, unsurprisingly. The new dates are 25th-31st May, and the theme of the week will now be about recovery from the crisis currently engulfing tourism. The week is all about influence, influencing ministers and other Members of Parliament, opinion formers and raising awareness amongst the public of the importance of tourism.

It remains to be seen whether the organisers have been over-optimistic in planning a date as early as May.