

National Minimum Wage Naming Scheme

Round 17, August 2021: educational bulletin

Introduction

The National Minimum Wage Naming Scheme exists to increase awareness of National Minimum Wage Legislation and to act as a deterrent to the minority of employers who may be tempted to underpay their workers.

In 2018 the Government undertook a review of the Naming Scheme in order to ascertain its effectiveness and ensure Naming was used in the most efficient way. The outcome of that review was published on 11th February 2020 and can be found here: [Naming employers who fail to pay minimum wage to be resumed under revamped rules](#). The first naming round under those new rules was published on 31 December 2020.

As part of this review the Government has committed to be more transparent about the types of breaches we most commonly find. This educational bulletin focuses on apprentices. We offer some tips to make sure you're paying apprentices properly, as 19% employers in this round had minimum wage breaches in connection with apprenticeships. We also include some more general statistics regarding breaches of National Minimum Wage legislation in this naming round.

Full information on how to make sure you're paying your workers the minimum wage can be found in [our recently updated guidance](#).

Employers named in Round 17



Department for
Business, Energy
& Industrial Strategy

191 employers from across the UK were
named as part of Round 17 of the minimum
wage Naming Scheme



Notes: Geography information is based on employer address postcodes (trading address). In some cases, this may be where the minimum wage underpayment occurred.

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Reasons for minimum wage underpayment in Round 17

Table 1 below shows the number of minimum wage breaches identified for employers named for minimum wage underpayment in Round 17.

Breaches were most commonly associated with employers:

- 47% deducted pay from workers' wages (90),
- 30% failed to pay workers for working time (58), and
- 19% paid the incorrect apprenticeship rate (37).

Table 1. Reasons for minimum wage underpayment in Round 17

Type of underpayment	Further information	Number of employers named
Deductions or payments that take pay below the minimum wage	<p>Deductions include:</p> <ul style="list-style-type: none">• Attachment of earnings administration fees• Food / meals• Parking permits travel costs• Cost of, or lost, work equipment and / or Personal Protective Equipment• Stock or till shortage• Training costs• Christmas savings schemes• Uniform• Childcare costs• Salary sacrifice schemes e.g. cycle to work, pension and employer benefit schemes• Worker purchase of clothes to meet dress code	90
Unpaid working time takes pay below the minimum wage	<p>Unpaid working time include:</p> <ul style="list-style-type: none">• Additional work before and after a worker's shift• Rounding clock-in time to the nearest hour• Travel time• Issues with final pay where employment has come to an end• Pay is delayed / underpaid due to cashflow / cessation in trading / or ad hoc payments	58

Type of underpayment	Further information	Number of employers named
	<ul style="list-style-type: none"> Paid for 'regular' hours or day rate, but a worker has worked for more time than this A salaried hours worker has worked in excess of basic hours Time for undertaking mandatory training Time worked during a sleep-in shift Trial shifts Overtime 	
Failure to pay the correct rate to apprentices	<p>This includes instances where a worker:</p> <ul style="list-style-type: none"> Is an apprentice aged over 19, has completed the first year of their apprenticeship and is still paid the apprentice rate Is incorrectly classified as an apprentice and paid the apprentice rate Has finished their apprenticeship but has not had their pay increased to reflect the higher minimum wage rate to which they are entitled 	37
Failure to pay the uprated minimum wage	<p>This includes:</p> <ul style="list-style-type: none"> Failure to increase a worker's pay when they become eligible for a new minimum wage rate following a birthday Failure to uplift after the increase to the minimum wage rates on the 1st April 	15
Failure to correctly apply the accommodation offset	<p>This includes:</p> <ul style="list-style-type: none"> Accommodation rate above offset therefore reducing pay Living accommodation not provided 	11
Incorrect work type	<p>Incorrect work type has impacted on treatment of elements of pay. For example, incorrectly treating a worker as a:</p> <ul style="list-style-type: none"> Salaried hours worker (broadly speaking, paid an annual salary, under a contract for a basic number of hours each year) Time hours worker (broadly, paid by the hour) Output worker (broadly, paid by the piece - the number of things they make or the tasks they complete) 	9

Type of underpayment	Further information	Number of employers named
	<ul style="list-style-type: none"> • Unmeasured worker (paid in any other way) 	
Worker status error	This includes instances where the worker is incorrectly treated as self-employed, or an unpaid intern that should be classified as worker	4
Other	Any other reason for arrears which does not fit another category such as an hourly rate paid below NMW	44

Notes: Some employers had underpayments for more than one reason. This table therefore totals to more than the 191 employers named in Round 17.

The table shows that deductions or payments that take pay below the minimum wage is the most common reason for underpayment in this round. This issue was covered in the [Educational Bulletin accompanying Round 16](#) published on 31 December 2020. The third most common reason in this round was failure to pay the correct rate to apprentices.

Apprentices

Common underpayment risks for apprentices

Many apprentices are at risk of being underpaid by their employers. The scenarios below reflect the most common risks of underpayment:

- Employers **continue to pay the apprentice rate** to apprentices who are aged 19 years or over after they have completed the first year of their apprenticeship.
- Employers pay the apprentice rate to a **worker who is not an apprentice**.
- Employers continue to pay the apprentice rate **after the apprenticeship ends**.
- Employers fail to pay an apprentice for the **time they have spent in training during normal working hours**, both on- or off-the-job, as part of their apprenticeship.

Other relevant underpayment risks

All workers, including apprentices, may be also be at risk of being underpaid in the following situations:

- not being **paid for all time worked**. Working time includes any additional time added on to an apprentice's shift, for example time spent at team handover meetings between shifts, or passing through security checks on entry and exit;
- having **deductions** made from pay for items connected with the job, such as uniforms and tools;
- being **over-charged for living accommodation** provided by their employer;
- having **tips** from customers used to meet minimum wage pay.

The minimum wage apprentice rate

The rate you must pay your employee generally depends on how old they are, with those aged 23 and over generally entitled to the National Living Wage. Information on the current minimum wage rates is available [here](#).

There is also a special minimum wage rate for apprentices. To qualify for the **apprentice rate**, a worker must be employed under a statutory apprenticeship agreement or a contract of apprenticeship. A worker will also qualify for the apprentice rate if they are treated as employed under a contract of apprenticeship.

The minimum wage apprentice rate only applies if:

- an apprentice is under the age of 19; or
- an apprentice is aged 19 or over and is in the first year of their apprenticeship.

If an apprentice is aged **under 19** you can pay them the apprentice rate for the duration of their apprenticeship. Once they complete their apprenticeship, they must be paid the minimum wage rate for their age from the start of the pay reference period that begins on or after the date they complete their apprenticeship.

You can only pay the apprentice rate to an apprentice aged **19 and over** for the first year of their apprenticeship. You must pay them the relevant minimum wage rate for their age from the start of the pay reference period that begins on or after the date they complete the first year.

If an apprentice **turns 19** during the second or subsequent years of their apprenticeship, you must pay them the 18-20 year old minimum wage rate from the start of the pay reference period that begins on or after their 19th birthday.

Further information on apprentices

For more information on when someone is employed as an apprentice and should be paid the apprentice minimum wage, see the links below:

For England: [Apprenticeship Funding Rules](#)

For Scotland: [Apprenticeships in Scotland](#)

For Wales: [Apprenticeships in Wales](#)

For Northern Ireland: [Apprenticeships](#)

For Government guidance on apprenticeships and the minimum wage: [Calculating the Minimum Wage](#).

Other minimum wage enforcement issues

What counts as pay for minimum wage purposes?

Minimum wage is calculated by determining the worker's total remuneration in a pay reference period and checking that the average hourly rate of pay for that period is at least the relevant minimum wage rate.

For further information on what counts as pay for minimum wage purposes and on the steps to ensure compliance, please consult [Calculating the Minimum Wage](#).

Record-keeping

Employers' records must be sufficient to show that they are paying each worker at least the minimum wage for every pay reference period worked. Employers must be clear on what elements count as pay for Minimum Wage purposes and they must ensure that any deductions made do not take the worker's pay below the minimum wage rate. Please consult Calculating the Minimum Wage: [record-keeping](#)

Further sources of information

Workers and employers can contact the Acas Helpline on 0300 123 1100 or visit [their website](#) for free, confidential and impartial advice. Additionally, workers who believe that they have been underpaid the Minimum Wage can [submit a complaint to HMRC](#).

HMRC will protect the anonymity of workers who make a complaint and will follow up on every worker complaint received, even those which are anonymous. This includes complaints made to the ACAS helpline, via the online complaint form and those received from other sources.

The Government has also produced an online tool to help workers discover if they may have been underpaid, see [National Minimum Wage and Living Wage calculator for workers](#).

For more information on National Minimum Enforcement see [National minimum wage law: enforcement](#), and for enforcement statistics from the 2019/20 financial year see the [Enforcement and Compliance report](#).