



Department for Business, Energy & Industrial Strategy

Interim enforcement of the National Minimum Wage in the social care sector: “sleep-in” shifts

The government is committed to creating an economy that works for everyone, and ensuring workers are paid fairly, in accordance with National Minimum Wage law.

Work conducted by Government during the summer highlighted the risks posed to the social care sector as a consequence of historical liabilities associated with “sleep-in” shifts. It is crucially important that we ensure stability within the social care sector; not just for vulnerable service users, but also for the many thousands of low paid workers within the sector.

In September, Government announced its intention to publish the detail of an interim National Minimum Wage enforcement approach for the social care sector. From today 1 November 2017, the following provisions will be in place for employers within the social care sector;

- Social care employers presenting risks of National Minimum Wage underpayment for sleep-in shifts will be offered (subject to meeting minimum criteria and at HMRC’s discretion) the opportunity to opt-in to the Social Care Compliance Scheme (SCCS);
- In instances where a worker complaint has been received, social care employers will be contacted directly by HMRC regarding the SCCS. However, social care employers will also be able to self-select into the SCCS where applicable.
- The SCCS scheme will require providers to conduct a thorough self-review in order to identify and then to repay any wage arrears to workers.
- In return, providers will normally be offered a period of twelve months in which to conduct the self-review with access to HMRC technical support, and then up to three months to pay all arrears. Providing all arrears are paid within the SCCS timescales, these

employers will not be subject to financial penalties and will not be eligible for naming.

- Regardless of when an employer enters the SCCS, the deadline for repaying arrears to workers will not be later than 31 March 2019.
- Employers who decide not to opt-into the scheme, will not be offered any further concessions. They will be subject to the full HMRC investigative process – including financial penalties (except for sleeping time arrears accrued before 26th July 2017), public naming and possible prosecution where appropriate.
- There are a limited number of HMRC investigations at an advanced stage that were paused in July 2017. For these cases, and for some providers who are not accepted into the scheme, a bespoke financial assessment may be undertaken to establish the impact of repaying liabilities upon that employer's viability. Enforcement action may be delayed for these providers, allowing additional time for the repayment of sleeping time arrears, if the financial assessment establishes that such time is required to avoid threatening the loss of existing care workers' employment and/or the interests of vulnerable service users.

Since the last announcement in September, the Government has opened discussions with the European Commission. The Government recognises the pressures liabilities are placing on providers and is exploring options to minimise any impact on the sector.

Further details of the Social Care Compliance Scheme, including eligibility criteria and the process for opting-in to the scheme, can be found on this [guidance page](#).

Please also see section 3.10 of [National Minimum Wage Law: Enforcement](#)

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