



Department for  
Business, Energy  
& Industrial Strategy

# NATIONAL LIVING WAGE AND NATIONAL MINIMUM WAGE

Government evidence to the Low Pay  
Commission on compliance and enforcement

July 2017

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# Executive Summary

The National Living Wage (NLW) was introduced in April 2016 and represented a significant increase to the wages of the lowest paid – over 1.5 million workers are estimated to have benefitted from its introduction. The NLW was increased to £7.50 in April 2017.

The NLW and the National Minimum Wage (NMW)<sup>1</sup> provide essential protection for the lowest paid workers and ensure that these people are fairly rewarded for their contribution to the economy.

## Minimum Wage Compliance

There are no official estimates of minimum wage non-compliance and as such we use a range of data and information to inform our understanding of the scale and nature of minimum wage underpayment. Statistical estimates of the number of employee jobs paid below the relevant minimum wage in April 2016, immediately after the introduction of the NLW, count 360,000 jobs – an increase on the previous year. In the data, over 100,000 of these jobs show very low levels of hourly underpayment i.e. within 10 pence of the hourly rates. However, there are a number of reasons why this is not a fully accurate estimate of non-compliance in the wider economy. The Government will continue work to improve estimates of minimum wage non-compliance.

The Government is committed to increasing compliance with the minimum wage through the provision of guidance, support to employers and workers to understand the law and their rights, and targeted communications campaigns.

Following a successful communication campaign supporting the introduction of the NLW in April 2016, the Government ran a further campaign ahead of the minimum wage upratings in April 2017. This targeted workers and employers across a range of channels, highlighting scenarios in which employers and workers may be at risk of minimum wage non-compliance and encouraging workers to complain if they felt they were being underpaid. The campaign drove over 730,000 visits to the campaign website and we are continuing to monitor the specific impact through a post-campaign survey.

Her Majesty's Revenue and Customs (HMRC) also work with employers to help them understand their obligations and to promote compliance with the law. This includes sector specific guidance using innovative techniques to “nudge” employers towards compliance. Nudge activity incorporates behavioural economics principles and uses a randomised controlled trial to identify the most effective approach in driving compliance. In 2016/17, this approach saw HMRC reach over 250,000 employers.

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<sup>1</sup> Referred to collectively in this document as the minimum wage

## Minimum Wage Enforcement

We are tough on employers who fail to comply and have strengthened enforcement of the minimum wage. We have increased resources to HMRC to enforce the minimum wage – rising to £20 million in 2016/17 from £13 million in 2015/16.

In 2016/17, underpinned by this investment in enforcement resources, HMRC achieved record enforcement results - identifying £10.9 million of minimum wage arrears benefitting 98,000 workers – representing an annual increase of 6.2% and 69% respectively.

HMRC responds to 100% of worker complaints and also conducts proactive, targeted enforcement of at risk employers. HMRC have been transitioning in terms of both the scale and type of their enforcement activity. This includes increasing awareness raising activity to prevent non-compliance and the need for enforcement action. The full impact of these changes is still to be realised.

In 2016/17, there was a marginal increase in the number of investigations closed, from 2,667 to 2,674. Targeted enforcement cases represented a greater proportion of total cases closed in 2016/17 (55%, up from 41% in 2015/16). The strike rate for these targeted enforcement cases also increased considerably over the same period (rising to 34% from 19% in 2015/16).

Whilst complaint-led cases therefore comprised a smaller proportion of overall cases closed compared to the previous year – the cases that were closed were characterised by a higher strike rate (53% in 2016/17 compared to 48% in 2015/16). These complaint-led cases led to the identification £5.7 million of arrears for 30,000 workers; a significant increase on the previous year, suggesting the inclusion of larger and more complex cases.

The Government prioritised the Cleaning, Hair and Beauty, Hospitality, Retail and Social Care sectors for targeted enforcement in 2016/17 and found arrears totalling over £1.1 million from these cases. In terms of total investigations (e.g. targeted enforcement combined with complaint-led work) the most arrears were identified in the Retail sector with over £3.7 million for over 70,000 workers.

Tougher penalties were introduced in April 2016 - underpayments occurring since then are subject to a penalty of 200% of the value of the arrears, capped at £20,000 per worker. While the data for cases closed in 2016/17 will include arrears from previous years, this change to the penalty regime is beginning to show - a record £3.9 million in penalties were issued to employers in 2016/17.

The Government names employers found to have underpaid their workers the minimum wage. As of June 2017 1,046 employers have been named since the naming scheme began, with 556 employers named in 2016/17 alone (197 in August 2016 and 359 in February 2017).

Civil enforcement (i.e. through penalties) is the quickest way to ensure that arrears are paid back to workers which is a priority for this Government. Criminal prosecutions are pursued in the most serious cases of minimum wage non-compliance. Thirteen criminal prosecutions have occurred since the introduction of the NMW in 1999, four of which were in 2016/17.

Tough enforcement action is primarily intended to act as a deterrent to employers otherwise tempted to break the law. It does this by sending a clear message to the employers investigated by HMRC but also by raising awareness of employers' minimum wage responsibilities and worker's entitlements more widely for example through the NMW naming announcements. In 2016/17, there have also been a number of employers who have

voluntarily announced large amounts of minimum wage underpayment; an indication that the profile of minimum wage responsibilities is increasing.

HMRC's budget for 2017/18 will increase to £25.3 million. The additional resource is to fund new teams to proactively review complex employers. Investigations have been opened into 38 large businesses in priority sectors, with further interventions planned, and early indications are encouraging.

# Estimating the scale of minimum wage non-compliance

## Statistical Estimates of Low Paid Jobs

1. There is no register or dataset which allows us to comprehensively estimate the number of employers who are non-compliant with minimum wage legislation at any point in time, or accurately identify businesses that are non-compliant. As with all unlawful activity, there are a number of challenges in accurately estimating it. As such, we rely on a number of sources of information to inform our assessment of the scale and nature of minimum wage non-compliance, which in turn informs our enforcement approach.
2. Information on jobs paid below the minimum wage at a particular point in time can be gleaned from the Annual Survey of Hours and Earnings (ASHE). ASHE is a survey of employees completed by employers. However, this data **does not offer a direct measure of minimum wage non-compliance** in the population. There are legitimate reasons why a job may appear to be paid below the minimum wage in the data, for example where accommodation is provided by the employer, or when varying rates are paid for on call time or travel time. In addition, as results from ASHE are based on a sample of employee jobs in Pay-As-You-Earn income tax schemes, it may not be representative of work undeclared to Government in the hidden economy.
3. ASHE is considered an accurate measure of pay information in the formal economy at a point in time; however an evidence gap remains in reliable earnings data in the informal economy. The Government intends to publish a feasibility study on the possible approaches to estimate the nature and scale of underpayment in the hidden economy in July 2017 and will continue to develop the evidence base to help inform better enforcement going forwards.
4. Below we consider analysis from the 2016 ASHE. Findings from ASHE for 2017 are expected to be released in October 2017.

## ASHE 2016 Estimates

5. The ASHE survey pertains to a specific pay reference period in April. This date moves within April each year (to avoid Easter). For 2015 and earlier years, the minimum wage rates that applied at the time of survey had been in place since the previous October, some 6 months earlier. However, for ASHE 2016 employers were asked to return information for pay reference periods that included the 13th April 2016, just 12 days following the introduction of the NLW on 1st April 2016.
6. This means the estimate of jobs paid below the minimum wage rates in 2016 is not directly comparable to earlier years due to the close proximity of the ASHE reference date to the NLW in this year.
7. In addition to the proximity issue, some employers submitted earnings information for employees whose pay period contained the ASHE reference date but started before the 1st April (e.g. 31st March for employees paid on a monthly basis). In order to comply with the NLW legislation, employees need only pay the NLW for pay periods that commenced

**on or after** the 1st April 2016, therefore pay information that included the 1st April should be assessed against the previous NMW rates.

8. Adjusting for pay periods which predate or span the 1st April 2016, both BEIS and the ONS estimate there were around 305,600 jobs paid below the NLW according to ASHE, equivalent to around 1.3% of all jobs held by employees aged 25 or over. In order to further contextualise these numbers, the LPC have typically compared the estimated number of jobs paid below the NLW to the total number of “low paid” jobs in the economy. The LPC’s autumn 2016 report (p80) defines a low paid job as being paid up to 5 pence above the NLW rate. On this basis, 21.5% of all low paid jobs held by those aged 25 or above are estimated to be paid below the NLW.
9. We have also analysed the number of jobs paid below NMW/NLW longitudinally. This shows that almost 10% of those underpaid in 2016 were paid the NMW (up to 5p above) in 2015 suggesting that the employers of these jobs may not be ‘intrinsically non-compliant’. Furthermore, over 50% of underpaid workers in 2015 went on to be paid at least the NLW in 2016.

**Table 1: Estimated number of jobs paid below NMW/NLW by rate, 2016**

	A	B	C	D	E
	No. of jobs paid below relevant NMW rate	Total no. of 16+ jobs	Jobs paid below as a proportion of all 16+ jobs	Total no. of “low paid” jobs (those paid up to 5 pence above relevant NMW rate)	Jobs paid below as a proportion of “low paid” jobs
Apprentice Rate	6,700	193,600	3.5%	36,400	18.4%
Youth Rate (16-17)	1,700	285,300	0.6%	26,900	6.4%
Development Rate (18-20)	19,600	994,800	2.0%	114,900	17.1%
Adult Rate (2016) (21-24)	27,800	2,008,900	1.4%	168,900	16.4%
National Living Wage (25+)	305,600	23,760,000	1.3%	1,420,900	21.5%
Formula	-	-	= A / B	-	= A / D
<b>Total</b>	<b>361,300</b>	<b>27,242,600</b>	<b>1.3%</b>	<b>1,768,000</b>	<b>20.4%</b>

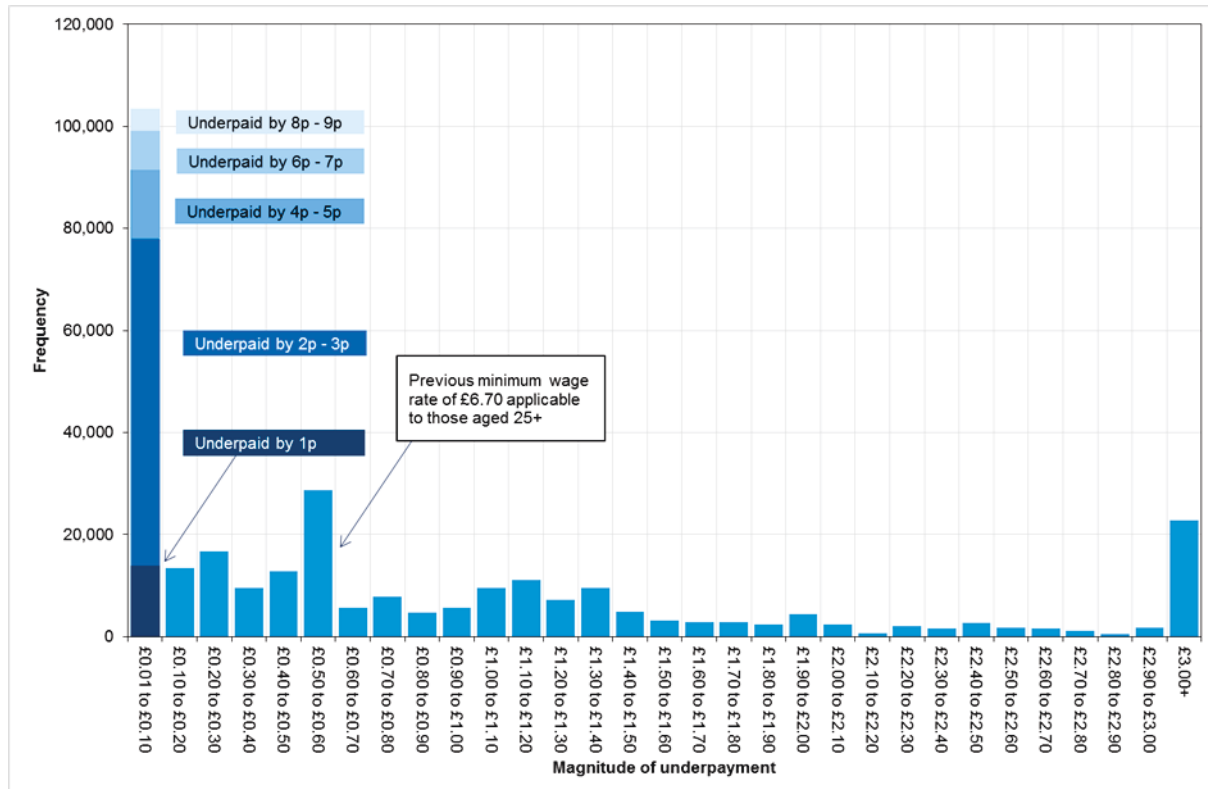
Source: BEIS analysis of Annual Survey of Hours and Earnings 2016

10. Chart 1 below looks in more detail at the level of hourly underpayment in the jobs paid below the NLW. Over 100,000 workers were paid within 10 pence of the £7.20 (NLW rate at the time of survey), of which almost 80,000 were paid within 3 pence. A possible explanation for this small level of underpayment may be how weekly and hourly pay is derived from annual or monthly salary information. Some employers may calculate hourly pay using 4.33 weeks (52 weeks divided by 12 months) and others may use 4.34 weeks per month (365 days divided by 7 days per week is slightly more than 52 weeks in a

year). This small calculation difference can result in estimated hourly underpayment of around 2 pence for a full-time worker on the National Living Wage and could be an artefact of both performing the calculation for the purposes of completing the survey or for the purposes of real life pay.

11. A smaller spike can also be seen in the data between £0.50 and £0.60 of underpayment. This can possibly be explained by employers incorrectly paying the previous rate of £6.70. These spikes *may* be interpreted as cases of accidental non-compliance rather than deliberate underpayment. However, all cases are treated equally under the law.

**Chart 1: Underpayment of the NLW (£7.20) for those due the 25+ rate in 10p pay band**

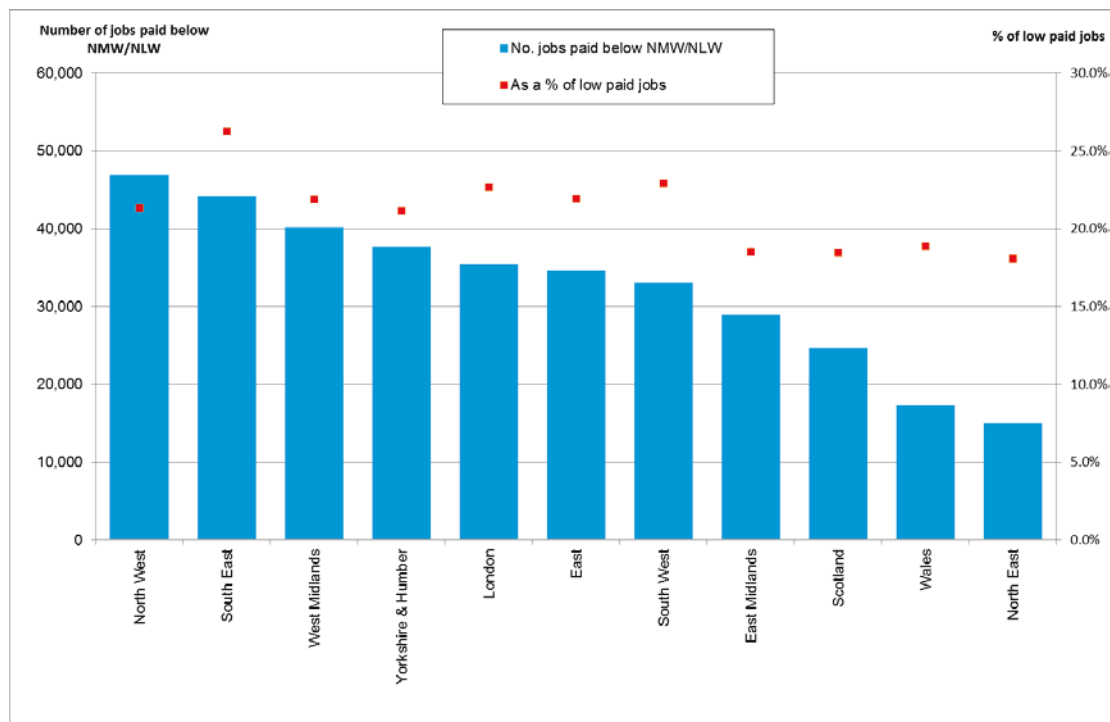


Source: BEIS analysis of Annual Survey of Hours and Earnings 2016

12. Chart 2 below shows the estimated number and percentage of jobs (of all 16+ jobs) paid below NMW and NLW rates in April 2016 by region. Of the 361,300 jobs paid below NMW/NLW an estimated 46,800 jobs were located in the North West and 44,200 jobs in the South East. Wales and the North East saw the lowest number of jobs paid below NMW/NLW. This pattern is in part a reflection of the total number of low paid jobs (defined as those paid within 5 pence of NMW/NLW rates) in these regions.
13. The South East is the region with the highest proportion of jobs paid below NMW/NLW with an estimated 26.2% paid below as a proportion of jobs paid up to 5 pence above of the NMW/NLW rates. The South West and London follow with 22.9% and 22.7% respectively. The North East has the lowest percentage of jobs paid below, with 18.1%.



**Chart 2: Estimated number of jobs paid below the NMW/NLW in April 2016 by Government Office Region (LHS) – and expressed as a percentage of “low paid” jobs (RHS)**



Source: BEIS analysis of Annual Survey of Hours and Earnings 2016

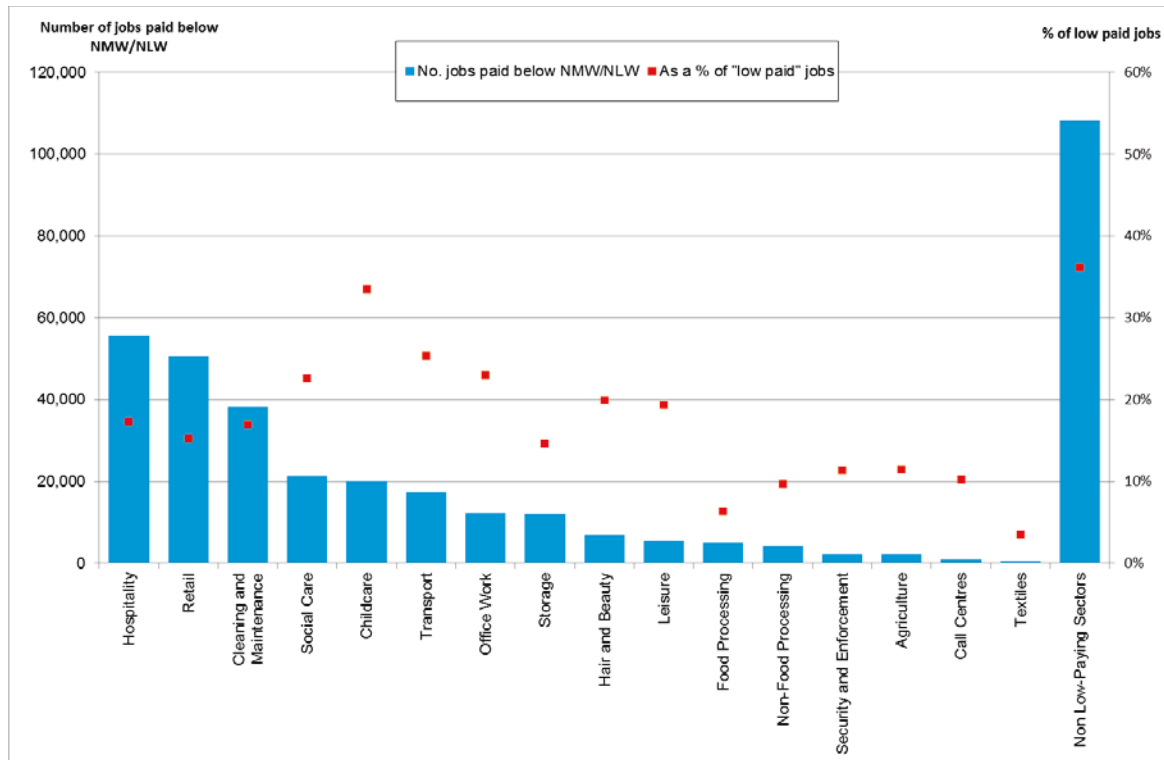
Notes

1. Data for Northern Ireland has not been included due to small sample sizes.
14. Chart 3 presents estimates for low paid sectors in April 2016<sup>2</sup>. ASHE estimates 55,700 jobs were paid below minimum wage rates in the Hospitality sector and 50,500 in the Retail sector, this is equivalent to 17.3% and 15.3%, respectively, of all low paid jobs in these sectors. The sector with the highest proportion of jobs paid below minimum wage rates (other than “non low-pay sector<sup>3</sup>”) is Childcare with 33.5%.
15. HMRC’s targeted sectors for 2016/17 were retail, cleaning, social care, hospitality and hair and beauty – all of which show a relatively high number or proportion of jobs paid below the minimum wage according to the data. New priority sectors will be agreed for 2017/18 and reported in next year’s evidence report. Targeted sectors are discussed in more detail later in this report.

<sup>2</sup> Low Pay Sectors as defined by the Low Pay Commission using Standard Occupational Classifications for 2010. Low pay sectors have been updated by the LPC since their [Autumn 2016 Report](#). More information will be made available in the forthcoming 2017 report.

<sup>3</sup> Non low-pay sector includes all other sectors.

**Chart 3: Estimated number of jobs paid below NMW/NLW by Low Pay Sector in April 2016**



Source: BEIS analysis of Annual Survey of Hours and Earnings 2016

# Awareness and Business Compliance

## Communications campaigns

16. In advance of the minimum wage upratings in April 2017 and to coincide with the first time the NMW rates were increased in April rather than October, the Government ran a large scale communications campaign. The aim was to encourage workers to check their pay to ensure they are receiving at least the statutory minimum ahead of the 1 April 2017 rate rises and to raise awareness among employers. The £1.75 million campaign, which launched in January and ran until mid-April 2017, targeted both workers and employers and ran across radio, billboards, digital and print media. The campaign also levered the significant national and local media coverage generated by the February 2017 naming round. Publicity was built on the successful 2016 campaign for the introduction of the NLW, which increased audience awareness of the NLW to 80% and led to more than one million visits to the campaign website.
17. To date, the 2017 campaign has already achieved more than 730,000 visits to the campaign website [www.gov.uk/checkyourpay](http://www.gov.uk/checkyourpay), of which 167,000 were from 16 target cities. By using a more targeted approach online, we have driven high numbers of website traffic in comparison to last year over a much shorter timescale and with two thirds less budget. We also achieved 60% more media coverage of our key messages than in 2016. The campaign worked with more than 100 local and national partners to engage businesses and employees at the local level and increase awareness of the new rates. A post campaign survey of employees is currently underway and will measure worker awareness of the new rates.
18. Part of the campaign was used to educate employees who might be illegally underpaid by employers, highlighting potential scenarios such as employers counting tips as part of salary, or not paying staff who start work early and finish late. This element of the campaign included advertising in 16 specific UK cities where people were most likely to work in low paid sectors and at risk from abuse in the workplace. The campaign encouraged workers to call Acas and complain if they felt they were being underpaid. In most cases the campaign prompted a higher volume of visits to the website from the 16 cities compared to last year. The post campaign survey will measure awareness of abuses and intentions of workers to act.

## HMRC 'Promote' Activity

19. The HMRC compliance model has evolved in recent years – moving to a risk-driven approach based on a Promote, Prevent and Respond strategy. This involves new compliance techniques including, desk-based investigations (where HMRC contact employers and workers by telephone and examine business records away from business premises to gain assurance that workers' pay is compliant with the law) and 'Promote' interventions that include working with employers, agents and worker groups to support compliance and raise awareness of worker rights. HMRC continues to 'Respond' strongly in cases where their risk assessments show that businesses are not paying National Minimum Wage, with face-to-face meetings and enforcement activity remaining a key part of that strategy.

### Box 1: Examples of Promote work

**Webinars** – HMRC delivered a successful programme of employer orientated webinars with 15 webinars delivered to over 7,100 attendees. Approximately, 1,200 questions from employers were answered by HMRC subject matter experts. Webinars afford HMRC the opportunity to get into the detail with employers and have been successful in looking at more complex issues whilst retaining high attendance figures, high retention figures and high levels of attendee satisfaction (65% of attendees would recommend the webinar to others). We have also delivered worker orientated webinars jointly with TUC.

**Mass email** – The annual rate increase is a key risk for underpayment as employers can fail to implement the rate increase in a timely fashion. HMRC sent 1.2 million emails to employers in advance of the October 16 and April 17 rate increases in an attempt to encourage them to view the rates in advance of them coming into effect. Over 220,000 employers were nudged in this way. Alongside this, HMRC ran a Randomised Control Trial to test the efficacy of different nudge message types within a NMW context. HMRC found that strong deterrence messages (threat of naming, penalties, HMRC audit etc.) all suppressed the click through rates to view the new rates significantly (up to -8%) compared to standard factual wording only. A series of non-deterrence messages performed better, click through rates were still suppressed but only by 1-2% suggesting that a narrative around “errors, mistakes and NMW could possibly apply to my business etc.” resonates better with employers, possibly because employers labour under the impression that they are non-compliant and therefore the deterrence messages are seen as not applying and switch employers off.

**Migrant workers** – HMRC created a simple A5 leaflet designed to convey simple messages to vulnerable workers, around their entitlement to the minimum wage, the current rates and where to source further information. Translations were made available in the following languages – Lithuanian, Bulgarian, Romanian, Czech, Slovakian, Slovenian and Polish. These leaflets were used in a series of joint operations with Border Force as part of Operation Outrun where they were handed out to migrant workers on targeted incoming flights at a variety of UK airports. The leaflets were well received by workers and Border Force staff alike with circa 4,000 being issued. Border Force reported that the opportunity afforded by handing out the leaflets proved a useful vehicle for any wider labour exploitation conversation.

20. Over the last year a new “Promote” team has been established within HMRC. The team is dedicated to improving compliance with the minimum wage by changing the behaviour of employers and workers. Their work has included improving sector specific guidance (in social care, football clubs, recruitment agencies and bakeries) and using innovative communication techniques to raise awareness of NMW risks to “nudge” employers towards carrying out necessary checks and making a voluntary disclosure. More information on arrears collected through nudge campaigns and voluntary disclosures is provided in paragraphs 55 to 61.
21. In 2016/17, this approach allowed HMRC to reach over 250,000 employers, workers and their intermediaries using a combination of webinars, targeted mail shots, face to face contact, digital contact and project work with specific sector bodies. Over the course of the year 15 live webinars were delivered to over 7,000 employers which proved very popular. A new e-learning product was launched in 2016/17 which also proved popular with over 15,000 take ups since its introduction in November 2016. A second e-learning product will be produced in 2017 that will provide further details on errors that drive non-compliance and how to avoid them.

# Routes to HMRC Enforcement

## The Acas Helpline

22. Since the 1st April 2015, the Acas Helpline has, in addition to its usual services, been answering queries previously handled by the Pay and Work Rights Helpline. Acas handle around 900,000 calls each year on a wide range of employment issues including: dismissal, grievances, redundancies and contractual matters.
23. Any worker who requires advice on National Minimum Wage legislation is encouraged to contact the Acas helpline. Acas call handlers provide expert and confidential advice on minimum wage legislation. The majority of calls on minimum wage topics are categorised as ‘enquiries’ which are resolved with advice from the call handler. A smaller number of calls are referred to HMRC to respond to, these are categorised as ‘complaints’.
24. There were 13,490 enquiries to the Acas Helpline relating to ‘NMW/NLW’ topics in 2015/16 and 15,360 in 2016/17, an increase of 14%. The number of enquiries on ‘Non-payment/deductions from NMW/NLW’ topics also increased, from 4,500 in 2015/16 to 4,660 in 2016/17.

**Table 2: NMW related calls received by Acas, 2015/16 to 2016/17**

	2015/16	2016/17
Total Calls (all topics)	942,020	890,180
Of which...		
Enquiry on ‘NMW/NLW’	13,490	15,360
Enquiry on ‘Non-payment of NMW/NLW’	4,500	4,660
Referrals to HMRC	1,520	2,310

Source: Acas

### Notes

1. One call may be counted as both a ‘NMW’ and ‘Non-payment/Deductions from NMW’ issue. A caller may enquire about the NMW rates and then raise a NMW underpayment issue therefore these categories should not be added together as it will involve double counting.
  2. Figures are rounded to the nearest 10.
25. The ‘NMW/NLW’ topic includes enquiries on the minimum wage rates and how the legislation is applied in specific circumstances. The ‘Non-payment of NMW/NLW’ topic includes enquiries where a worker indicates that underpayment may be an issue. One call may cover both (or either) topic.
  26. Acas advisers offer a referral to HMRC as an option should callers feel they may have been underpaid. Referrals to HMRC are made in cases where the call handler believes the information should be considered by HMRC. This process includes using transfers, voicemails and directed users to an online form.

27. Table 3 shows a breakdown of ‘NMW/NLW’ and ‘Non-Payment of NMW/NLW’ enquiries by gender and caller type for 2015/16 and 2016/17. Information on age and sector is also collected but as Acas do not systematically ask callers to disclose this information and it is only recorded when a caller chooses to provide it, it has not been presented here due to the large number of ‘unknowns’ for these breakdowns.
28. Calls referred to HMRC may not result in an employer investigation. For example, some discussions with workers reveal that pay is compliant with minimum wage or the complaint does not relate to an NMW/NLW issue such as holiday pay.

**Table 3: Acas calls received by key topic and caller breakdown, 2015/16 and 2016/17**

	2015/16		2016/17	
	‘NMW/NLW’	‘Non-Payment of NMW/NLW’	‘NMW/NLW’	‘Non-Payment of NMW/NLW’
<b>Gender</b>				
Female	8,230	2,630	9,470	2,630
Male	5,250	1,860	5,870	2,010
Unknown	20	10	20	20
<b>Caller Type</b>				
Employee	8,360	3,900	10,330	4,030
Employer	4,100	220	3,940	250
Agency Worker	140	100	240	110
Apprentice	650	210	600	160
Intern	40	20	20	10
Other	190	60	220	100
Unknown	-	-	-	-
<b>Total</b>	<b>13,490</b>	<b>4,500</b>	<b>15,360</b>	<b>4,660</b>

Source: Acas

Notes

1. Figures are rounded to the nearest 10, ‘-’ indicates a figure of less than 5.

## Customer Responsiveness

29. Following a referral, HMRC respond to 100% of complainants within 5 days. This includes attempts at making contact reflecting that in some cases complainants are un-contactable within this period. HMRC will then gather the essential information to begin an investigation and can protect anonymity where requested. In 2016/17, almost 50% of complaint cases were completed within 120 days, almost 80% of cases were completed within 240 days.

30. The Low Pay Commission's Spring and Autumn 2016 Reports recommended that the Government establish a formal protocol for HMRC to handle third party whistleblowing on breaches of the minimum wage. In response, HMRC carried out a pilot to directly receive third party information via the Citizens Advice Bureau. The findings of this project have been applied to the online complaint form to make it easier for third parties to make a complaint.

## Online complaints form

31. As well as calling Acas, a worker who suspects they have been paid below the NMW/NLW may raise a complaint via an online complaint form. The online form was re-launched in January 2017 and allows workers or third parties to make a complaint direct to HMRC without going through Acas first.
32. The introduction of the new form returned 150 online complaints to HMRC in February and 254 in March; this represented approximately 48% and 55% of total monthly complaints respectively. Using the previous form, HMRC typically received around 30 online complaints each month. The impact of the new form clearly represents an encouraging start in improving the routes to enforcement that are available to workers 24 hours a day and which serve to protect the anonymity of vulnerable workers who might not otherwise complain over the telephone. The number of telephone complaints has not fallen while the online complaint form has been in operation. Use of the new on-line form will continue to be monitored throughout the year with a view to understanding better the underlying reasons for this upward trend. HMRC will also check the 'strike rate' on these complaints, where the worker may not have been subject to Acas advice.



## Minimum Wage Enforcement

33. The Government is committed to cracking down on employers who break minimum wage law and is clear that everyone entitled to be paid the minimum wage should receive it. BEIS are responsible for minimum wage compliance and enforcement policy and HMRC enforce the NMW Act on BEIS's behalf.
34. HMRC continues to respond to 100% of worker complaints, with customer waiting times for worker complaint cases monitored throughout the year. As well as complaints, HMRC also conducts proactive, targeted enforcement and takes part in joint operations with other enforcement bodies – such as the Gangmasters and Labour Abuse Authority (GLAA), the Employment Agency Standards Inspectorate (EAS), Police and Local Authorities.
35. The budget for enforcing the NMW increased from £13 million in 2015/16 to £20 million for 2016/17. The increased funding for 2016/17, in part to account for the higher coverage of the new NLW, has served to increase the number of HMRC compliance officers to 399 (as of 31 March 2017), and allowed for greater targeted enforcement.
36. Since 1st April 2016, HMRC have used this funding to recruit 219 new staff deployed on NMW enforcement. New recruits complete a structured technical induction programme which will normally see them involved in investigations after 3 months. The induction programme involves the support of experienced staff which can mean a reduction in other front-line activity in the short-term. However, recruitment on this scale, following on from recruitment of over 100 compliance officers in 2015/16, is an investment to build future capacity.
37. In the 2016 Autumn Statement the Chancellor announced a £4.3m increase, further to a £1 million increase already planned, bringing the enforcement budget to £25.3 million from April 2017. The additional £4.3 million per year has funded new teams to proactively review complex employers, some with complex supply chains, considered most at risk of non-compliance with the NMW. The government will also provide additional support targeted at small businesses to help them understand their obligations and help them to comply.
38. Specialist enforcement teams have now been created. In May 2017 investigations have been opened into 38 large businesses in the priority sectors, taken from HMRC's NMW risk model (for information on the risk model see paragraph 53). Early indications are very encouraging and a further 30 investigations were opened in June 2017 with an ongoing programme for opening more enquiries planned.
39. In anticipation of the increased volume of demand-led work, associated with the increased coverage of workers entitled to the higher National Living Wage, HMRC devised a new risk-based triaging system to determine the best method of handling each complaint and developed different intervention approaches to work with a changing worker and employer customer base.
40. Below we explore data on minimum wage enforcement activity up to 2016/17.



## Box 2: Understanding Enforcement Statistics

The enforcement statistics presented in this report are compiled from management information representing the outcome of cases closed in a 12 month period ending 31st March. As such, the data are an annual snapshot of a caseload that is continually changing – new cases are opened and closed every month and depending on their complexity will be open for different durations. In addition, an HMRC investigation can review wage arrears dating back to a maximum of 6 years so the statistics will also include a historical picture of underpayment<sup>4</sup>.

The ‘strike rate’ is the proportion of closed investigations in which the employer is found to be non-compliant. While this is one metric which helps us monitor trends in enforcement, on its own it does not provide a complete picture of enforcement performance – for example, it does not reveal anything about the scale of workers impacted at a case level. One worker underpaid in a small business affects the strike-rate in the same way as every worker being underpaid in a large business.

Importantly, strike rates (and other enforcement statistics) do not directly reflect **current** levels of non-compliance in the labour market for a number of reasons.

For example, strike rates are a reflection of the time in which the case was closed rather than the date the underpayment occurred in. Strike rates may be interpreted as either a positive or negative indicator of minimum wage compliance in the labour market. In one sense an increasing strike rate may demonstrate that enforcement is targeted in the appropriate areas. Conversely, increasing strike rates may be an indicator that the non-compliance in the population as a whole has increased.

The data presented here shows that strike-rates vary according to whether an investigation is the result of a worker complaint or targeted enforcement. Investigations resulting from a worker complaint are more likely to uncover minimum wage arrears – in 2016/17, arrears were found in 53% of closed cases initiated by a complaint compared with 34% for cases initiated proactively. However, when arrears are found from targeted enforcement cases, they tend to find, on average, greater arrears for a larger number of workers.

Strike rates vary across sectors (see Annex A) as a result of different pay levels and work characteristics. For example, some sectors have a greater use of travel time, uniforms or apprentices all of which may increase the risk of non-compliance.

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<sup>4</sup> Arrears are calculated based on the minimum wage rate in force when the investigation takes place rather than those that were in force at the time of the underpayment, provided the current rates are higher.

## Enforcement Statistics

41. Table 4 shows that in 2016/17, the Government identified over £10.9 million in arrears for 98,150 workers. This represents an increase on the number of arrears in 2015/16 (£10.3 million) and a 69% increase in the number of workers.
42. Please note that enforcement figures for 2016/17 are provisional and are subject to revision throughout the 2017/18 reporting year as a more detailed audit of cases is completed.
43. There are a number of trends driving this top level performance which we consider briefly below:
  - The Introduction of the NLW for workers aged 25 and over in April 2016 has led to a larger number of workers covered by any of the minimum wage rates. While this will not have directly translated to higher non-compliance, it has necessarily increased the 'at-risk' population.
  - There have been concerted efforts to raise awareness. The NLW introduction was accompanied by significant media interest, and the Government conducted a large scale communications campaign coinciding with the introduction of the NLW, a follow-up campaign towards the end of 2016/17, as well as further 'Promote' activity.
  - As shown in table 2, there was a substantial increase in referrals to HMRC between 2015/16 and 2016/17, although it is important to note that the number of complaints remained lower in 2016/17 than in 2014/15. An increase in referrals may not correlate directly with a rise in investigations as some referrals can be eliminated without investigation.
  - To handle the increase in caseload, the number of HMRC compliance officers increased; as of May 2017 there were over 400 officers responsible for enforcing the NMW. This represents the sustained ramping up of HMRCs targeting and investigative capability. The extra resources being invested in NMW enforcement means more cases can be tackled in the long-term.
  - The number of cases closed has remained broadly flat; however, the proportion of cases closed with arrears (the "strike rate") has increased to 42% (compared to 36% in 2015/16). The number of cases opened has decreased but it is too early to see the impact of recruitment, it is expected that new recruits only become fully operational after 12 months.
  - HMRC continue to review and streamline their investigative procedures to ensure that workers receive the arrears owed to them as quickly as possible. The average time taken to complete enquiries has been reduced by 82 days on average (from 297 calendar days in 2013/14 to 215 in 2016/17).
  - There has been a significant increase in targeted enforcement in recent years. In 2016/17, 1,473 cases were closed; 35% more than the previous year (see table 6). Furthermore, the strike rate for those cases has increased markedly from 19% in 2015/16 to 34% in 2016/17.
  - HMRC have also investigated an increased number of large employer cases where a single NMW risk can apply to a large number of workers.

**Table 4: NMW investigations, 2009/10 to 2016/17 (financial year)**

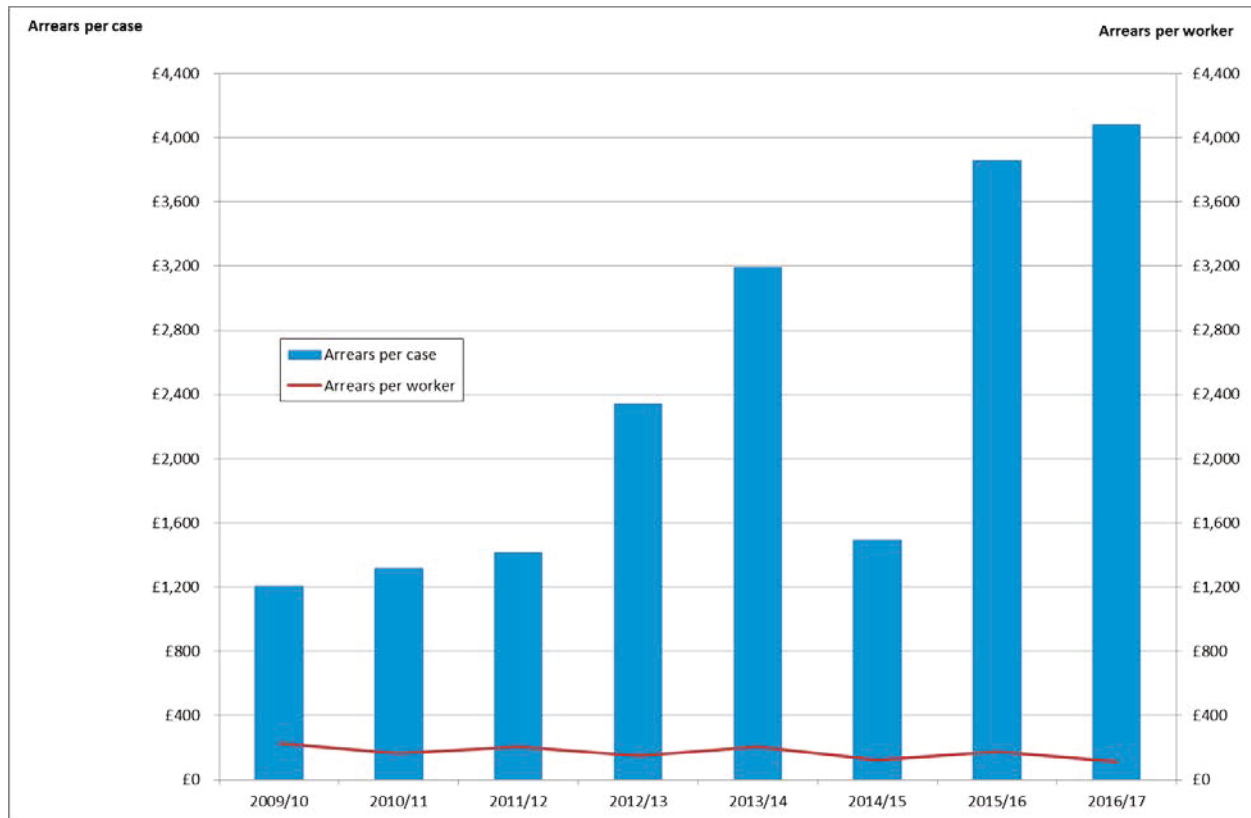
	Opened cases	Closed cases	Closed cases with arrears	Strike rate	Arrears	Workers	No. of penalties issued	Value of penalties
2009/10	n/a	3,643	1,256	34%	£4,390,023	19,245	381	£111,183
2010/11	n/a	2,901	1,140	39%	£3,818,396	22,919	934	£520,568
2011/12	n/a	2,534	968	38%	£3,582,685	17,371	906	£766,807
2012/13	n/a	1,696	736	43%	£3,974,008	26,519	708	£776,517
2013/14	n/a	1,455	680	47%	£4,645,547	22,610	652	£815,269
2014/15	2,328	2,204	735	33%	£3,291,529	26,318	705	£934,660
2015/16	3,246	2,667	958	36%	£10,281,396	58,080	815	£1,780,467
2016/17	2,775	2,674	1,134 <sup>2</sup>	42%	£10,918,047	98,150	821	£3,892,381

Source: BEIS/HMRC enforcement data

#### Notes

1. Between 2005/06 and 2009/10, there were 21,208 investigations, which found arrears of £19,094,334 to 101,259 workers and 753 penalties and charges were issued.
2. An additional 30 cases were originally closed in 2015/16 but the employer notified HMRC of additional arrears in 2016/17. The arrears in these cases are included in the arrears total for 2016/17.
3. Opened cases data is not currently available on a consistent basis for 2009/10 to 2013/14.

**Chart 4: NMW investigations, arrears per case and arrears per worker, 2009/10 to 2016/17 (financial year)**



Source: BEIS/HMRC enforcement data

44. Chart 4 shows the average arrears per case (in cases where arrears are found) have increased between 2009/10 and 2016/17 and now stands at almost £4,100 per case. The average arrears for the workers in those cases has decreased over the same period, from a high of around £230 per worker in 2009/10 to just over £110 per worker in 2016/17. In recent years, the identification of arrears in large employer cases means more money is owed to a large number of workers in those cases.

**Table 5: NMW investigations, Complaint-led, 2014/15 to 2016/17 (financial year)**

	Opened cases	Closed cases	Closed cases with arrears	Strike rate	Arrears	Workers	No. of penalties issued	Value of penalties
2014/15	2,222	2,053	675	33%	£2,712,144	21,071	656	£807,293
2015/16	1,237	1,576	752	48%	£3,297,353	14,594	682	£1,046,751
2016/17	1,516	1,201	640	53%	£5,736,704	29,860	453	£1,357,763

Source: BEIS/HMRC enforcement data

**Table 6: NMW investigations, Targeted Enforcement, 2014/15 to 2016/17 (financial year)**

	Opened cases	Closed cases	Closed cases with arrears	Strike rate	Arrears	Workers	No. of penalties issued	Value of penalties
2014/15	106	151	60	40%	£579,385	5,247	49	£127,367
2015/16	2,009	1,091	206	19%	£6,984,043	43,486	133	£733,716
2016/17	1,259	1,473	494	34%	£5,181,343	68,290	368	£2,534,618

Source: BEIS/HMRC enforcement data

**Table 7: NMW investigations, Targeted Enforcement in priority sectors, 2016/17 (financial year)**

Priority Sector	Opened cases	Closed cases	Closed cases with arrears	Arrears	Workers
Hospitality	184	145	53	£420,196	1,411
Hair and Beauty	152	443	132	£202,755	481
Social Care	142	89	45	£373,751	1,580
Cleaning	115	64	17	£46,847	288

Source: BEIS/HMRC enforcement data

## Big cases

45. Table 8 shows there were 15 cases with arrears of over £100,000. These cases resulted in the identification of £6.8 million in arrears. Large arrears tend to be found in cases where a small amount of NMW underpayment affects a large number of workers. These cases may require considerable and experienced staff to close. HMRC have additional funding for 2017/18 to investigate large employers (see paragraph 37). These figures include arrears that were normally assessed (i.e. arrears assessed by HMRC) and those that were self-corrected. Only arrears that are normally assessed are subject to a penalty and included in the naming announcements.

**Table 8: NMW closed cases, arrears and workers by banded arrears per case, 2016/17 (financial year)**

Arrears per case	Closed cases with arrears	Arrears	Workers
£1 - £100	204	£9,730	406
£101 - £500	304	£82,965	786
£501 - £1000	157	£113,221	597
£1,001 - £5000	316	£746,049	3,680
£5,001 - £10,000	88	£606,894	3,044
£10,001 - £20,000	35	£505,453	2,112
£20,001 - £50,000	27	£807,844	2,486
£50,001 - £100,000	18	£1,229,786	6,448
£100,000+	15	£6,816,105	78,591
<b>Total</b>	<b>1,164<sup>1</sup></b>	<b>£10,918,047</b>	<b>98,150</b>

Source: BEIS/HMRC enforcement data

### Notes

1. The table includes 30 cases which were originally closed in 2015/16 but the employer notified HMRC of additional arrears in 2016/17.

## Complaint-led and Targeted Enforcement

46. HMRC continue to respond to every complaint received, including those made via the Acas helpline and those from other sources. HMRC conducts investigations into employers when the complainant wishes to remain anonymous. In addition, HMRC conducts targeted enforcement proactively to investigate sectors and worker groups where there is a high risk of workers not getting paid the legal minimum wage.
47. In 2016/17, the number of closed complaint-led cases decreased by 24% compared to 2015/16. This can be linked to a 40% reduction in complaint volumes received in 2015/16 and therefore an associated reduction in complaint-related workload carried forward in to 2016/17. In 2015/16, a short-term decline in cases referred to HMRC was experienced. This trend was reversed in 2016/17 and therefore we would expect this to contribute to an increase in closed complaints in 2017/18. The increase in complaint-led investigations has reduced resources to investigate proactive risk-based targets.
48. Targeted enforcement aims to proactively investigate employers who are at risk of being non-compliant with minimum wage legislation. The threat of being proactively enforced provides a valuable deterrent to employers and supports workers who may not be aware that they are being underpaid or are unwilling to contact Acas if they are being underpaid.
49. For the 2016/17 reporting year BEIS and HMRC agreed Social Care, Hair and Beauty, Cleaning, Retail and Hospitality would be priority sectors for targeted enforcement. These sectors were chosen based on a combination of quantitative and qualitative data. Data from Pay As You Earn (PAYE) tax records, the Annual Survey of Hours and Earnings and findings from HMRC enforcement investigations are considered alongside stakeholder feedback (reported in the Low Pay Commission report) and Ministerial priorities.
50. In 2016/17, the level of targeted enforcement activity increased from 1,091 closed cases in 2015/16 to 1,473 in 2016/17 (see table 6) – a 35% rise. Targeted enforcement accounted for around 55% of all closed cases compared to 41% in 2015/16 and 7% in the 2014/15.
51. The cases closed in 2016/17 found arrears for a greater number of workers than the year before but yielded a smaller amount of underpayment with almost £5.2 million compared to almost £7.0 million in 2015/16. In 2016/17 targeted enforcement levied penalties of £2.5m on employers.
52. The strike rate in targeted enforcement cases has tended to be lower than in complaint-led cases. This is, in part, a reflection of the fact that it is impossible to perfectly predict whether an employer has underpaid any of its staff based only on risk factors; a complaint tends to be a stronger indication that an employer may have underpaid a worker. However, the strike rate for proactive work has increased recently, rising from 19% in 2015/16 to 34% in 2016/17.
53. We will continue to seek to improve our targeted enforcement approach by exploring the evidence on non-compliance and responding to this. In particular, HMRC have developed and are now testing a risk model which uses data from a range of sources, including PAYE and Tax Credits information to identify workers at most risk of NMW underpayment. While PAYE information captures earnings information in detail, it is not possible to precisely calculate hourly rates of pay as employers are only mandated to return hour's information in broad categories (e.g. 1 to 16 hours). The model has started to generate casework for compliance officers to investigate. The outcomes from these



cases will be used to refine the model in targeting employers in future. Initial findings from the model have yielded encouraging results by identifying businesses with a high risk of underpayment to a high degree of accuracy.

54. Prof Sir David Metcalf was appointed as the Director of Labour Market Enforcement on 1 January 2017. The Director is responsible for producing an annual strategy setting the strategic direction of the three existing labour market enforcement bodies, including HMRC's minimum wage team, to ensure that enforcement efforts are coordinated and targeted. This includes insights from the Director's intelligence Hub, which aims to provide a single view of risk and priorities across the spectrum of non-compliance. NMW enforcement information is shared with the Hub on a monthly basis. We will respond to recommendations the Director makes and consider his intelligence and insights to improve minimum wage enforcement.

## Self-Correction

55. When HMRC identify underpayment of a worker or group of workers, self-correction is one approach sometimes pursued to support effective and efficient enforcement. As well as issuing a Notice of Underpayment detailing the quantity of arrears and penalties an employer must pay, HMRC have the flexibility to instruct the employer to self-correct for the rest of their payroll or for ex-employees – freeing up compliance officers to work on other investigations (for example in response to surges in worker complaint volumes and extending the reach of the targeted enforcement programme). This approach is only used in cases where it is considered appropriate and there is confidence that self-correction will not be abused by the employer. Notwithstanding, in all self-correction cases, HMRC follow up by testing a sample of workers to ensure the arrears due have been correctly calculated and paid to workers.
56. Self-correction was introduced in 2014/15 and has helped to identify a significant amount of arrears and ensure it has been paid back to workers quickly (over £6m in 2016/17) while requiring proportionally less investment of enforcement resources. Arrears achieved via self-correction are included in total arrears figures reported but are not included in the total value of arrears employers are named for. In addition, penalties are only applied to arrears recorded on a Notice of Underpayment (NoU), so self-correction reduces the employer's liability to penalties, but does not reduce the amount of arrears they must repay to workers.
57. Table 9 shows a breakdown of the 1,164 cases closed with arrears in 2016/17 by whether the total arrears in the case were solely 'HMRC assessed and recorded on a 'NoU' (i.e. not via self-correction), solely 'self-corrected', or involved an element of both. The vast majority of cases (838 cases or 72%) involved HMRC assessment of arrears only, but 147 cases (equivalent to 13%), which involved HMRC assessed **and** self-corrected arrears yielded the vast majority of arrears (over £7.4 million). These cases typically involved larger employers and larger numbers of workers and ex-workers, and were usually caused by payroll errors which could be adjusted automatically across the workforce.
58. Table 9 shows that just over £6 million in arrears were self-corrected (equivalent to 55%) with almost £4.9 million in HMRC assessed arrears and reported on a NoU. This compares to over £4.6 million in self-corrected arrears in 2015/16.



## Nudge Activity

59. Nudge letters incorporate behavioural economics principles to encourage employers to check for underpayment, repay any arrears and then declare the repayment to HMRC. It also encourages future compliance by sending key messages to employers on the consequences of not paying NMW.
60. Each and every individual worker complaint is followed up by HMRC. Where HMRC estimate the potential arrears owed are low and the number of workers is small, the under NMW triage process for handling worker complaints, a nudge letter may be considered effective and is issued to the employer as the first response. This approach enables HMRC to minimise the time taken to investigate complaints, support resolution at the earliest stage possible and ensures enforcement action is proportionate to the risk of non-compliance.
61. It also means that HMRC expend proportionate resources for small amounts of arrears for smaller numbers of workers where the employer would respond positively to a nudge to comply. Investigative resource can be used, instead, on employers where non-compliance is more extensive, or deliberate. Where employers do not respond to a nudge letter there is a clear escalation route to a full compliance intervention including penalties and referral for naming where arrears are identified. In 2016/17, 154 employers have put things right for their workers in response to a nudge letter.

**Table 9: NMW investigations by Notice of Underpayment or Self-correction, 2016/17 (financial year)**

Column	Enforcement type	Closed cases with arrears	Arrears	Workers	Penalties
-	<b>Total</b>	1,164 <sup>1</sup>	£10,918,047	98,150	£3,892,381
A	All arrears within a case assessed by HMRC (captured on NoU)	838	£2,089,349	6,003	£1,442,624
B	All arrears within a case assessed by self-correction.	179	£1,384,590	18,521	-
C	Arrears partly assessed by HMRC and partly by self-correction	147	£7,444,108	73,626	£2,449,757
D	Of which HMRC assessed arrears	-	£2,799,437	27,848	£2,449,757
E	Self-corrected arrears	-	£4,644,671	45,778	-
F = A+D	Total HMRC assessed arrears	985	£4,888,786	33,851	£3,892,381
G = B+E	Total self-corrected arrears	326	£6,029,261	64,299	-

Source: BEIS/HMRC enforcement data

#### Notes

1. The table includes 30 cases which were originally closed in 2015/16 but the employer notified HMRC of additional arrears in 2016/17.
2. Some NMW cases with arrears are solely HMRC assessed, some are solely self-assessed and some involve an element of both. These are reported in rows A, B and C respectively.

# Penalties, Prosecution and Naming

## Civil Penalties

62. The Government is serious about enforcing the NLW and NMW and has a number of ways of punishing employers who underpay. The mix of civil penalties, criminal prosecutions and the minimum wage naming scheme are also essential to deterring other employers from underpaying their workers.
63. One of the Government's aims is ensuring that as a result of enforcement action workers receive the money they are owed as quickly as possible. In the vast majority of cases HMRC pursue civil penalties, which is the quickest way of ensuring workers receive their arrears. The civil route involves HMRC conducting an investigation and identifying a worker(s) has been underpaid and then taking enforcement action via the civil courts if payment isn't made.
64. Minimum wage underpayment is unacceptable. The Government has increased the civil penalty for minimum wage underpayment - for underpayment which occurred since April 2016, the penalty is calculated based on 200 per cent of the arrears they owed. This falls to 100% for prompt payment (within 14 days).
65. Table 4 shows that 821 penalties were issued to employers in 2016/17, a similar number to in 2015/16 (815). However, the combined total penalties of £3,892,400 were more than double the amount in 2015/16 (£1,780,500)<sup>5</sup>.

## Criminal Prosecutions

66. HMRC refer cases to the Crown Prosecution Service who decide whether to prosecute. Prosecutions are reserved for the most serious non-compliance, and are not necessarily the best approach in most cases. Criminal sanctions against companies often mean that workers, the ultimate beneficiaries of enforcing the NMW, end up waiting longer for their lost earnings to be paid back.
67. In November 2015, HMRC set up a dedicated Serious Non Compliance (SNC) team focused on targeting the most serious cases of willful non-compliance, or cases where there may be evidence of modern day slavery, or exploitation, and identifying early when cases may reach the threshold for prosecution. In particular, criminal sanctions are

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<sup>5</sup> There are a number of reasons why the value of penalties collected in one year cannot be directly compared to the total value of arrears reported for that year;

- a. A 200 per cent penalty calculation is applied to arrears that related to pay periods on or after 1 April 2016. For underpayment that occurred before this time a previous penalty calculation regime will be applied.
- b. Where the total value of arrears owed by an employer amounts to less than £100, a minimum penalty of £100 is applied.
- c. Where the penalty amounts to more than £20,000 for one worker a maximum penalty cap is applied. In 2016/17, in only two cases an individual worker was owed arrears greater than £20,000. There have been no instances so far where the penalty cap has been applied under the current penalty regime.
- d. Penalties are only applied to arrears recorded on the Notice of Underpayment, therefore arrears identified as a result of self-correction are not in scope of the penalty regime.

pursued in the following circumstances:

- Where an employer obstructs HMRC during the course of an investigation;
  - Where an employer has repeatedly failed to pay the minimum wage; or,
  - Where an employer has failed to keep or preserve or falsified records.
68. The decision on whether to prosecute is ultimately made by the Crown Prosecution Service (CPS) who will consider all the evidence and whether it is in the public interest to prosecute. The average cost of a prosecution case is estimated to be many times more costly than a civil case, and may not result in the worker getting back what they are owed.
69. In addition, the Immigration Act 2016 created a new labour market undertaking and enforcement order regime. This new regime specifically targets those employers who persistently and brazenly commit breaches of labour law. Businesses can be requested to enter into an undertaking to take steps to prevent further offences. If a business refuses or fails to comply then a magistrates' court (or similar in devolved administrations) has the power to impose an Order which **requires** the business to take steps to avoid further offences. Information on the number of Undertakings and Orders will be a matter of public record and will be included in future reports.
70. HMRC's SNC team has established effective operational links with other enforcement agencies. In 2016/17, the team conducted 54 visits in conjunction with Officers from the GLAA, EAS, Home Office Immigration Enforcement and the Police. Expert NMW witness statements have been provided to assist Police investigations into suspected modern slavery. In addition, the team has participated in several joint Labour Market Enforcement operations targeting employment agencies, poultry farming and employers of migrant workers.
71. Since the introduction of the NMW Act there have been 13 prosecutions; all of which have occurred since 2007. There were 4 successful prosecutions in 2016/17. BEIS and HMRC are continuing to monitor the number of cases under investigation and considered for prosecution. A project to remove some barriers to prosecution, including updating the prosecution policy and pursuing civil and criminal routes at the same time is under way. A table of all prosecutions is shown at Annex C.

## Minimum Wage Naming Scheme

72. The naming scheme is now firmly established as part of the civil sanctions used to deter employers from breaking NMW rules. Table 10 shows that since the introduction of the revised scheme, BEIS has named 1,046 employers, who between them owed over £4.5 million in arrears and paid penalties charged of almost £2.2 million (arrears achieved via self-correction are not included in total arrears employers are named for). BEIS considers all employers for the naming scheme, with the exception of the following cases:
- Where the investigation commenced before the advent of the naming scheme (Oct 2013).
  - Where an employer has corrected all of the arrears and paid it back to workers before HMRC have commenced an investigation.
  - Where the arrears owed were £100 or less.
  - Where a case is being considered for criminal prosecution.

73. The vast majority of employers (almost 95%) that are eligible under the naming scheme are ultimately named. It is important to note that employers are not named at the point when a Notice of Underpayment (NoU) is issued. Under the NMW regulations, employers have 28 days to appeal against a NoU. They then have a further 14 days to make representations to BEIS against being named. Furthermore, BEIS waits for any judgement of Employment Tribunals and/or Section 19D action (payment recovery) before considering the case for naming. The published criteria for exemptions to naming include consideration where naming carries a risk of personal harm to an individual or their family, whether there would be a national security risk because of naming, or whether naming would be against the public interest. As such, there can be a lag between the cases accounted for in the enforcement statistics shown in table 4 and employers named.
74. The regular announcements of employers named for minimum wage underpayment continues to attract strong national and local media coverage. Media reports of the naming scheme helps to raise awareness of minimum wage rules, how employers have transgressed the rules and the consequences if identified by HMRC. In 2016/17, there have been a number of employers who have publicly announced instances of minimum wage underpayment for a large number of workers, outside of the naming scheme, and shown a willingness to put this right before a HMRC investigation has been closed.

**Table 10: Employers named for NMW underpayment (revised naming scheme)**

Date of Naming	Employers named	Arrears	Workers covered
Feb 2014	5	£6,900	6
Jun 2014	25	£43,900	78
Nov 2014	25	£89,600	80
Jan 2015	37	£177,100	806
Feb 2015	70	£157,700	405
Mar 2015	48	£162,800	4,026
Jul 2015	75	£154,000	293
Oct 2015	113	£387,500	1,693
Feb 2016	92	£1,873,700	3,352
Aug 2016	197	£465,300	2,168
Feb 2017	359	£994,700	15,513
<b>To date</b>	<b>1,046</b>	<b>£4,513,100</b>	<b>28,420</b>

Source: BEIS/HMRC enforcement data

Notes

1. The arrears figures included as part of naming rounds do not include self-corrected arrears.

# Enforcement approach for 2017/18

## Budget and priority areas

75. The enforcement budget for 2017/18 has been increased to £25.3 million. This will allow HMRC to do further work supporting smaller businesses to be compliant with minimum wage laws and increasing our enforcement of large and complex businesses – which typically take longer to investigate.
76. The HMRC risk model will continue to be developed in 2017/18. The model has already started to generate casework for targeted enforcement investigations and as the outcomes from these investigations become clear; the model will be refined further.
77. HMRC will build on the rollout of the “nudge” letters and are exploring options to send direct text messages to a sample of working tax credit customers to encourage them to check whether they see an increase in their pay as a result of the NMW and NLW uprating in April.
78. We also plan to publish an evaluation of the £1.75 million communications campaign, which launched in January and ran until mid-April 2017 and targeted both workers and employers and ran across radio, billboards, digital and print media.
79. We will continue to focus on priority areas for enforcement in 2017/18 and targeted enforcement will adapt in order to address new and emerging underpayment risks. HMRC will make use of the new undertakings and enforcement orders regime. Our enforcement approach will respond to recommendations made by the Director of Labour Market Enforcement and consider his intelligence and insights to improve minimum wage enforcement.

**Annex A: NMW investigations by Standard Industrial Classification (2007), 2016/17 (financial year)**

SIC Division	SIC Division and/or Group Name	ASHE April 2016 Jobs paid at or below NMW <sup>1</sup>	Closed cases	Closed cases with arrears	Strike-rate	Arrears (£)	Workers
Section A	Agriculture, Forestry and Fishing	16,900	21	8	38%	11,164	8
Section B	Mining and Quarrying	-	*	*	*	*	*
Section C	Manufacturing	124,500	121	45	37%	110,661	691
	10 Manufacture of food products	46,900	62	19	31%	73,399	616
	11-33 All Other Manufacturing	77,700					
Section D	Electricity, Gas, Steam and Air Conditioning Supply	-	*	*	*	*	*
Section E	Water Supply; Sewerage, Waste Management and Remediation Activities	4,900	*	*	*	*	*
Section F	Construction	32,700	132	50	38%	112,618	94
	41 Construction of buildings	7,000	48	15	31%	15,660	27
	42 Civil engineering	4,500	9	5	56%	54,472	9
	43 Specialised construction activities	21,200	75	30	40%	42,486	58
Section G	Wholesale and Retail Trade; Repair of Motor Vehicles and Motorcycles	413,900	280	132	47%	3,870,956	70,867
	45 Wholesale and retail trade and repair of motor vehicles and motorcycles	57,500	75	38	51%	105,819	442
	46 Wholesale trade, except of motor vehicles and motorcycles	54,000	32	14	44%	51,974	131
	47 Retail trade, except of motor vehicles and motorcycles	302,400	173	80	46%	3,713,163	70,294
Section H	Transportation and Storage	34,700	58	23	40%	76,005	676

SIC Division	SIC Division and/or Group Name	ASHE April 2016 Jobs paid at or below NMW <sup>1</sup>	Closed cases	Closed cases with arrears	Strike-rate	Arrears (£)	Workers
Section I	Accommodation and Food Service Activities	374,800	649	272	42%	1,186,660	5,140
	55 Accommodation	62,300	180	72	40%	610,356	2,130
	56 Food and beverage service activities	312,500	469	200	43%	576,304	3,010
Section J	Information and Communication	13,700	31	12	39%	17,967	17
Section K	Financial and Insurance Activities	6,800	16	8	50%	3,041	9
Section L	Real Estate Activities	12,200	43	13	30%	47,669	52
Section M	Professional, Scientific and Technical Activities	45,900	65	29	45%	152,798	1,231
	69 Legal and accounting activities	12,300	12	7	58%	3,511	27
	70 Activities of head offices; management consultancy activities	13,300	15	7	47%	54,499	122
	71 Architectural and engineering activities; technical testing and analysis	6,200	*	*	*	*	*
	72 Scientific research and development	-	*	*	*	*	*
	73 Advertising and market research	-	12	5	42%	73,985	1,053
	74 Other professional, scientific and technical activities	7,700	14	6	43%	13,786	7
	75 Veterinary activities	-	*	*	*	*	*
Section N	Administrative and Support Service Activities	265,000	285	110	39%	1,612,770	8,215



SIC Division	SIC Division and/or Group Name	ASHE April 2016 Jobs paid at or below NMW <sup>1</sup>	Closed cases	Closed cases with arrears	Strike-rate	Arrears (£)	Workers
	77 Rental and leasing activities	8,700	*	*	*	*	*
	78 Employment activities	115,200	73	32	44%	1,447,797	7,560
	79 Travel agency, tour operator and other reservation service and related activities	-	19	5	26%	8,151	7
	80 Security and investigation activities	12,000	19	3	16%	1,181	7
	81 Services to buildings and landscape activities	97,500	*	*	*	*	*
	82 Office administrative, office support and other business support activities	28,700	70	31	44%	75,392	224
Section O	Public Administration and Defence; Compulsory Social Security	7,800	*	*	*	*	*
Section P	Education	90,100	60	34	57%	69,886	180
Section Q	Human Health and Social Work Activities	198,000	258	154	60%	2,869,948	9,363
	86 Human health activities	31,000	77	55	71%	466,407	1,274
	87 Residential care activities	91,200	78	33	42%	278,205	687
	88 Social work activities without accommodation	75,800	103	66	64%	2,125,336	7,402
Section R	Arts, Entertainment and Recreation	59,400	52	16	31%	44,459	202
Section S	Other Service Activities*	66,100	578	220	38%	717,633	1,376

SIC Division	SIC Division and/or Group Name	ASHE April 2016 Jobs paid at or below NMW <sup>1</sup>	Closed cases	Closed cases with arrears	Strike-rate	Arrears (£)	Workers
	94 Activities of membership organisations	11,200	*	*	*	*	*
	95 Repair of computers and personal and household goods	-	*	*	*	*	*
	96 Other personal service activities	51,700	571	216	38%	712,135	1,363
Section T	Activities of Households as Employers; Undifferentiated Goods-and Services-Producing Activities of Households for Own Use	-	*	*	*	*	*
Section U	Activities of Extraterritorial Organisations and Bodies	-	*	*	*	*	*
Other		144,500	148	55	37%	106,576	481
<b>Total</b>		<b>1,768,000</b>	<b>2,674</b>	<b>1,134<sup>4</sup></b>	<b>42%</b>	<b>10,918,047</b>	<b>98,150</b>

Source: BEIS/HMRC enforcement data and BEIS analysis of Annual Survey of Hours and Earnings 2016

#### Notes

1. The estimated number of employee jobs paid at or below NMW is based on Standard Industrial Classifications (SIC 2007) codes from ASHE 2016 and uses those paid within 5 pence of the NMW/NLW rates.
2. Caution is advised in making direct comparisons between ASHE data and HMRC enforcement statistics. ASHE data is based on a snapshot of pay and hours in April 2016 and assesses pay for a single pay reference period. HMRC enforcement statistics refer to arrears and workers identified across the entire reporting year and may refer to underpaid wages dating back 6 years
3. ASHE estimates of jobs paid at or below NMW/NLW have been rounded to the nearest 100.
4. The closed cases with arrears column excludes 30 cases which were originally closed in 2015/16 but the employer notified HMRC of additional arrears in 2016/17. These arrears have been included in the 2016/17 total.
5. '-' indicates an unweighted count of less than 30.
6. '\*\*' indicates a number that has been suppressed to protect low employer self-identification.

7. 'Other' includes the following SIC Divisions; 'Mining and Quarrying' (B), 'Electricity, Gas, Steam and Air Conditioning Supply'(D), 'Water Supply' (E), Public Administration and Defence' (O), 'Activities of Households as Employers' (T), 'Activities of Extraterritorial Organisations and Bodies' (U) and the following SIC Group Names; 'Architectural and engineering activities' (71), 'Scientific research and development' (72), 'Veterinary activities' (75), 'Rental and leasing activities' (77), 'Services to buildings and landscape activities (81), 'Activities of membership organisations' (94), 'Repair of computers and personal and household goods' (95).

**Annex B: NMW enforcement by workplace region, 2016/17 (financial year)**

Region	Closed cases	Closed cases with arrears	Strike-rate	% paid below NMW/NLW of jobs paid at or below
North East	119	47	39.5%	18.1%
North West	415	163	39.3%	21.4%
Yorkshire and The Humber	238	127	53.4%	21.2%
East Midlands	193	85	44.0%	18.5%
West Midlands	220	88	40.0%	21.9%
East of England	175	78	44.6%	21.9%
London	331	149	45.0%	22.7%
South East	239	111	46.4%	26.2%
South West	196	93	47.4%	22.9%
Wales	151	53	35.1%	18.9%
Scotland	293	94	32.1%	18.4%
Northern Ireland	103	45	43.7%	n/a
Other	1	1	100%	-
<b>Total</b>	<b>2,674</b>	<b>1,134<sup>4</sup></b>		

Source: BEIS/HMRC enforcement data and BEIS analysis of Annual Survey of Hours and Earnings 2016

**Notes**

1. Regional trends may be the result of differences in the concentration of employers across the UK or in the sector composition within a region – for example a region with a large number of employers in low-pay sectors will drive investigations in that region. Furthermore, these figures combine complaint-led and targeted enforcement work and there may be a different pattern when these breakdowns are considered separately.
2. The estimated percentage of employee jobs paid at or below NMW/NLW is based on ASHE 2016 and uses those paid within 5 pence of the NMW/NLW rates.
3. Caution is advised in making direct comparisons between ASHE data and HMRC enforcement statistics. ASHE data is based on a snapshot of pay and hours in April 2016 and assesses pay for a single pay reference period. HMRC enforcement statistics refer to arrears and workers identified across the entire reporting year and may refer to underpaid wages dating back 6 years.

4. The closed cases with arrears column excludes 30 cases which were originally closed in 2015/16 but the employer notified HMRC of additional arrears in 2016/17. These arrears have been included in the 2016/17 total.

5. Geography information is based on the employer address postcode (trading address). In some cases, this may be where the NMW underpayment occurred. BEIS have subsequently linked postcodes to the National Statistics Postcode Lookup file for February 2017 to identify Government Office Regions.

**Annex C: NMW Prosecutions, 2007/08 to 2016/17**

	Name of employer	Trading Name	Area	Offence	Date
1	T Aguda	Rascals Day Nursery Ltd	Walthamstow	31 (5) (a)	28/08/2007
2	Torbay Council		Torquay	31 (5) (b)	01/10/2007
3	R Singh	Pound Mania	Nottingham	31 (5) (b)	30/04/2008
4	David Jackson	Jackson's Butchers	Sheffield	31 (1); 31 (2); 31 (3); 31 (4).	02/07/2008
5	Pauline Smout	Jackson's Butchers	Sheffield	31 (1); 31 (2); 31 (3); 31 (4)	02/07/2008
6	Zaheer Ibrahim	The Jewel in the Crown	Nottingham	31 (5) (b)	21/07/2008
7	Ahmed Yassine	The Pheonix Hotel	Rotherham	31 (2); 31 (5) (b)	13/02/2009
8	B G Optical		Manchester	31(1); 31(2); 31(3); 31(4); 31(5)(a); 31(5)(b)	23/06/2010
9	Widescope Security		London	31(1); 31(5)(b)	26/02/2013
10	Amanda Barrett	Amanda's Precious Bubbles Day Nursery Ltd	Birmingham	31(1); 31(2)	11/05/2016
11	Richard Hunt	The Rock Hotel (Weymouth) Ltd	Weymouth	31(5)(a); 31(5)(b)	13/05/2016
12	L.UK/Euro (Brighton) Ltd	3D Telecon	Oldham	31(1); 31(5)(a)	04/08/2016
13	Dida Brothers Car Wash		Southampton	31(1); 31(2)	08/12/2016



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