

## **Intern Aware Low Pay Commission Submission October 2013**

### **Executive Summary**

Unpaid internships continue to unfairly exclude people who can't afford to work for free and illegally exploit those who manage to. HMRC and BIS are failing to address the problem, despite some welcome developments.

Unpaid internships impede social mobility, leaving thousands of school leavers and graduates in a Catch 22 situation, unable to get a job because they can't get experience, and unable to get experience because they can't afford to work for free.

Despite the Government's work in increasing some enforcement of the National Minimum Wage for interns, with almost £200,000 recovered in arrears in the last financial year, employers still routinely advertise for internships which are clearly unlawful.

Furthermore, because too few interns know they have a right to be paid, and too few employers know they have a duty to do so, there are not enough complaints to the Pay and Work Rights Helpline to make a difference to the behaviour in the labour market overall.

Based on discussions with HMRC, national polling, surveys, and hundreds of conversations with unpaid interns and employers, we have highlighted several areas in which NMW enforcement could be improved.

### **Polling**

In 2013 we conducted polling with Unions 21 and Survation on the affordability of unpaid internships.

The results are as follows:

- 84% of people said that a young person in their family couldn't afford to complete an unpaid internship based in London.
- 94% of people in social grades DE said that a young person in their family couldn't afford to complete an unpaid internship based in London.
- 87% of people in 'the North' said that a young person in their family couldn't afford to complete an unpaid internship based in London.
- 90% of people in 'the Midlands and Wales' said that a young person in their family couldn't afford to complete an unpaid internship based in London.
- 80% of people in 'the Midlands South' said that a young person in their family couldn't afford to complete an unpaid internship based in London.

Similarly, in a 2012 poll for NUS by Yougov it was found that 10% of young people in ABC1 social grades have undertaken an unpaid internship compared to just 3% of those in the C2DE grade.

### **Case Study**

*I worked for free for over 4 months, unpaid, at a major football club. HMRC contacted me after a complaint by someone else was made, but they haven't updated me about what is going on. This leaves me in the dark. It's now too late to take the case to an employment tribunal (and I don't know whether I could anyway). People deserve to be paid for their work. If the government won't enforce the National Minimum Wage, who will?*

**James, Swansea**

### **Developments**

After the Low Pay Commission's strong recommendations in 2013 that the Government act on unpaid internships, there has been some limited developments

**1. Our suggestion that BIS 'name and shame' employers has been agreed.**

In August 2013 Jo Swinson MP, announced that employers who fail to pay the national minimum wage (NMW) will be publicly named and shamed. This policy announcement, which generated much media coverage, was a re-announcement of the same scheme from January 2011, as agreed by then minister Norman Lamb MP ( Policy on HM Revenue and Customs Enforcement URN 11/529, January 2011).

**2. Our suggestion that a public campaign be launched about intern's rights has been agreed.**

The Government will use a poster campaign and work with Channel 4 to communicate issues regarding the National Minimum Wage to interns. This is welcome.

**3. Increased rhetorical support for fair internships**

From Jo Swinson MP's comments in the Westminster Hall debate on unpaid internships in April, to the Prime Minister's recognition of unpaid internships as an issue in August, the increased rhetorical support from the Government has been helpful. However, too little has been done to turn this into action.

**4. Some enforcement action taken**

There appears to be an increase in enforcement activity, with £200,000 reclaimed in pay for interns. As HMRC refuse to give details of this it is impossible to judge how successful activities have been.

## **Our recommendations**

### **1. Raise penalties for non-payment of the NMW**

The maximum fine possible under the 1998 Employment Relations Act is £5,000. For employers routinely breaking the law, this does not act as a deterrent. The current situation, in which HMRC is forced to choose between issuing small fines which have little effect and criminal sanctions, which are costly for the Government, is leading to a situation where even when enforcement does take place it is not effective in ensuring compliance with the National Minimum Wage Act.

*Recommendation: The penalty for breach of the National Minimum Wage should be changed from 50% of arrears owed with a maximum of £5,000, to 400% of arrears owed, with a maximum of £20,000. Additional penalties should be available where an employer has already been fined.*

### **2. Better support and guidance to vulnerable workers**

In the 2012 Low Pay Commission Report it was recommended on page xvi that “the Government puts in place, and maintains, effective, clear and accessible guidance on all aspects of the minimum wage particularly where there is significant evidence of ignorance or infringing practice.”<sup>1</sup>

However, the 2013 Low Pay Commission notes that guidance is still not sufficient.<sup>2</sup> The Pay and Work Rights Helpline is the main location for advice on minimum wage issues provided by the government. It needs to be significantly improved so as to better educate users about their rights in the workplace and support them with the process of making a complaint.

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<sup>1</sup> <http://www.lowpay.gov.uk/>

<sup>2</sup> [http://www.lowpay.gov.uk/lowpay/report/pdf/9305-BIS-Low\\_Pay-Accessible6.pdf](http://www.lowpay.gov.uk/lowpay/report/pdf/9305-BIS-Low_Pay-Accessible6.pdf)

According to a 2013 poll by Survation, 80% of young people are unaware of the Pay and Work Rights Helpline.<sup>3</sup>

*Recommendations:*

- *Clear information or links to reliable sources explaining who is entitled to NMW, and about the complaint process.*
- *The lack of information on the site can be intimidating for vulnerable workers, who overwhelmingly don't know whether they are entitled to NMW or not.*
- *Clear, concise information about NMW law would empower people complaining to know that they had a case before they entered into a process to challenge their employer.*
- *Clear information about confidentiality is also crucial: there is little information on the website to explain whether complaints will be shared with their employer, which will lead to worries about losing the job or sacrificing a good reference.*
- *Better information about the process and likely outcomes of a complaint is also necessary. People are unlikely to ring the number, or fill out the form with no idea about what will happen after they do so.*

**3. Better communication of enforcement of the National Minimum Wage**

HMRC operates without publicising its enforcement activities. BIS does not actively publicise the Pay and Work Rights Helpline. This means that awareness levels of the services are extremely low amongst interns and employers, leading to greater levels of exploitation. This needs to be addressed.

**Conclusion:**

The integrity and the credibility of the National Minimum Wage Act are being undermined by the large numbers of workers who are being denied their right to pay by being labelled "interns". Whilst the government have offered warm words, the mechanisms to enforce the minimum wage for interns are not working.

If the National Minimum Wage Act is to function effectively and protect vulnerable interns from exploitation and other young jobseekers from exclusion, significant changes need to be made.

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<sup>3</sup> <http://www.tuc.org.uk/economy/tuc-22040-f0.cfm>