HR – e bulletin

<https://www.blackburn.anglican.org/human-resources-hr>

**National Minimum Wage and Real Living Wage, what are they and who is entitled to them?**

Most employers will find that almost all (please seek advice if you are unsure about specific individuals who you feel might not be) of their employees/workers are eligible to receive the national minimum wage. There are limited categories of workers that are except from the minimum wage; examples of these include;

* The genuinely self- employed
* Voluntary workers

The current rates for the national minimum wage are;

April 2019 25+ 21 to 24 18 to 20 under 18

£8.21 per hour(ph) £7.71 ph £6.15ph £4.35ph

The real living wage is a voluntary rate as recommended by the Living Wage Foundation (LWF). The LWF aims to persuade employers to pay the an independently calculated minimum wage to cover workers basic needs. The current LWF living wage is £9.00 per hour across the UK and £10.55 in London. This applies for 18 years and above.

**Calculating whether a worker/employee is receiving the national minimum wage?**

Sometimes it may not be clear whether or not a worker is being paid the minimum wage, particularly if they are not paid for a set number of hours each week. An employer must ensure that the payments it makes to each worker are at least equal to the national minimum wage for the hours that they have worked.

This can be checked by calculating the gross pay that the worker has received for work done over a particular period (known as the pay reference period), then dividing it by the hours that they have worked during that period, as outlined below. A useful tool to check whether or not the minimum wage is being correctly paid can be found on the [GOV.UK website](https://www.gov.uk/minimum-wage-calculator-employers).

Establishing the pay reference period

To work out whether or not the minimum wage has been paid to a particular worker, the employer needs to establish what the worker's pay reference period is. The pay reference period is the period of time for which a worker's wage is paid.

Therefore, workers who are paid weekly will have a pay reference period of one week, workers paid daily will have a pay reference period of one day and workers who are paid monthly will have a reference period of one month. For the purpose of the national minimum wage, a pay reference period cannot be longer than one calendar month, so workers who are paid less frequently than monthly have a pay reference period of one month.

The worker does not have to be paid the minimum wage for every individual hour worked, but must be paid the minimum wage on average for the hours worked in the pay reference period.

Earnings received during the reference period include pay received during that period and also pay that is earned during that time but paid in the following period. For example, if the relevant pay reference period is the month of June and a commission bonus that is earned between 1 June and 30 June is due, it may not have been possible for the employer to calculate this in time for the June pay run, so the bonus may actually be paid in July. However, the bonus will count towards the June pay reference period rather than July, as this was the period during which the worker earned it.

## Remuneration that counts towards the national minimum wage

Once the employer has established the worker's pay reference period, it should calculate the remuneration received during this period of time.

Only gross basic salary, including any bonus, commission or other incentive payments, can be counted as pay for the purposes of working out whether or not a worker has earned at least the level of the minimum wage.

Extra pay for overtime and shift premia should not be counted. If an employee is found to earn above the minimum wage threshold only as a result of extra pay for overtime or shift premia, this will not be sufficient to satisfy the requirement to pay the minimum wage

Certain employee benefits such as accommodation and annual bonuses can be used as part of the calculation, please seek advice if that is the case.

## Working out the hours worked

Once the employer has calculated the relevant remuneration received by a worker over the pay reference period, it should work out the relevant number of hours worked. The employer will need to calculate how many hours of time work, salaried hours work, output work and unmeasured work the worker undertook in the pay reference period. Salaried hours, output and unmeasured work can require a more detailed method to work out the worked hours, please seek advice if you are unsure on calculating this.

## Record-keeping

It is the employer's responsibility to keep records that demonstrate that it is paying the minimum wage. Unless an employer can prove that a worker is receiving the national minimum wage, officers of HM Revenue and Customs (HMRC), the agency responsible for enforcement of the minimum wage, will presume that the employer is not.

**Enforcement**

HMRC officers have the right to carry out checks at any time and ask to see payment records. They can also investigate an employer following a worker's complaint.

If HMRC finds that an employer has not been paying the correct rates, it will order the employer to pay the arrears to the worker. It will also apply a penalty where an underpayment has been identified. Provided that certain criteria are met, the Department for Business, Energy and Industrial Strategy will also name the employer via a press notice.

**Summary version as used in the e- bulletin**

**National Minimum Wage (NMW) and Real Living Wage (RLW), what are they and who are entitled to them?**

The NMW is the legal minimum pay per hour almost all employees/workers are entitled to. The RLW is a voluntarily wage rate as recommended by the Living Wage Foundation

The current 2019 NMW rates are;

Age 25+ 21 to 24 18 to 20 under 18

£8.21 per hour(ph) £7.71 ph £6.15ph £4.35ph

LWF is £9.00 per hour across the UK and £10.55 in London. The LWF announces it yearly rate in the first week of November. The diocese of Blackburn and National Church recommends the LWF although the decision is down to each individual employer.

**Key message** – check any workers or employees which the parish employs to ensure you are complying with the NMW as a minimum and whether the PCC/Parish wants to pay the RLW.

For more detailed guidance on who might be exempt from the NMW and how to calculate what wage rate you are paying please refer here or all Andy Cooke on 07920 277043