

National Living Wage

Your questions answered



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National Living Wage

As the National Living Wage (NLW) is due to come into force on 1 April 2016, we have set out below our most commonly asked Q&A, to help you and your school prepare for the changes.

Q: What is it?

A: The NLW will set the minimum wage for those workers aged 25 and over at £7.20 per hour (it is estimated that this will increase to £9 per hour by the year 2020).

This is a 50p per hour increase to the National Minimum Wage of £6.70 per hour (which will continue to apply to those aged between 21 and 24).

This is part of the Government's strategy to boost "living standards" for those aged 25 and over. Only time will tell if the age limit needs to be adjusted to reflect the needs and demands of those in their twenties, or if it is subject to an age discrimination claim (which could be likely).

Q: Who will it apply to?

A: The NLW will apply to all workers aged 25 or over, except for those in their first year of an apprenticeship. It is estimated that the changes will affect over 1 million workers.

Q: What will the National Minimum Wage rates be from 1 April 2016?

A: We have set out below a table showing the five National Minimum Wage categories as from 1 April 2016:

| Category of Worker | Rate of pay (<i>hourly</i>) |
|--|-------------------------------|
| Apprenticeship rate (<i>under 19 years of age or those in their first year of apprenticeship</i>) | £3.30 |
| Under 18 but above the compulsory school age | £3.87 |
| Age 18-20 | £5.30 |
| Age 21-24 | £6.70 |
| Age 25 and over | £7.20 |

Q: How could this affect your school?

A: Following the introduction of the NLW it is possible that a school could find itself in a situation where a 24 year old Teaching Assistant is on a lesser rate of pay than a 25 year old cleaner, or caretaker. This is due to the agreed National Joint Council (NJC) pay scales which do not currently incorporate the new requirements of the NLW.

The current NJC scale point 8 pays £7.19 per hour which is 1p under the NLW.

UNISON, GMB and Unite have already raised this as an issue. Their submission on this issue can be found by following the link below:

<https://www.unison.org.uk/content/uploads/2015/08/NJC-Pay-Claim-2016-17-FINAL.pdf>

The Local Government Association has issued a useful circular setting out their view on the current position. Please follow the link below for more details:

http://www.seemp.co.uk/empcirc_nlw_uplift_19jan16.pdf

For the moment all we can do is wait and see if there is an agreement reached to amend the NJC pay scale in line with the NLW. However if agreement cannot be reached by 1 April 2016, schools will need to take steps to ensure that they are paying the appropriate minimum wage to their staff.

Q: What happens if the NLW is not paid?

A: A school could face severe civil and criminal penalties if it does not comply with the NLW rules. These could include:

- On the spot inspections carried out by HMRC officers, which can include requiring schools to produce records to prove that the NLW is being paid appropriately.
- Facing a fine/penalty of up to £20,000 per underpaid employee.
- Being “named and shamed” as an employer who fails to adhere to the NLW.
- Receiving a formal “notice of underpayment” from a HRMC compliance officer, requiring payment of the NLW within 28 days of the notice.

- A formal complaint being made by an underpaid employee to HMRC or the Pay and Work Rights helpline.
- An Employment Tribunal claim for unlawful deduction of wages claim (made by the underpaid employee).
- In the most serious cases, criminal prosecution by the Crown Prosecution Service.

The potential ramifications as set out above are best avoided by ensuring that the NLW is paid appropriately to staff that are entitled to it.

Start planning now...

It is estimated that salary budgets will increase by 3.4% as a result of this change, so schools should start planning for the introduction of the NLW and its impact on budgets now. If your school is unable to accommodate this in the long term you may wish to consider making changes to staffing structures or terms and conditions of employment in order to set off a higher salary bill.

If you have any questions about the NLW or any other HR or employment law issues please contact the FBeducation team on 01332 227 596.

Legal Services Overview

Commercial Services:

Commercial Contracts:

- Agency & Distribution
- Bribery Act Compliance
- Data Protection
- IT & e-Commerce
- Intellectual Property
- Outsourcing & Supply Agreements
- Public Procurement
- Terms & Conditions

Commercial Property:

- Conditional Sale Agreements
- Development Agreements
- Joint Ventures (*as part of a wider team construction & public procurement*)
- Land Acquisition & Disposals (*including options*)
- Leases
- Planning / Section Agreements
- Profit Sharing / Overage Agreements
- Property Acquisition & Disposals
- Property Management

Construction & Engineering:

- Adjudication
- Alternative Dispute Resolution (ADR)
- Appointment Documents for Professional Consultants
- Arbitration
- Building Contracts
- Dispute Management
- Litigation
- Security Documentation

Corporate Finance:

- Acquisitions & Disposals
- Acquisitions Finance
- Buy-outs
- Company Secretarial Services
- Corporate Governance
- Joint Ventures
- Loan & Security Arrangements
- Partnerships
- Property Finance
- Reorganisation & Restructuring
- Shareholder Relations

Dispute Resolution / Debt:

- Commercial Contract Disputes
- Shareholder and Partnership Disputes
- Insurance Disputes
- Injunctions
- Professional Negligence
- Alternative Dispute Resolution
- Property Litigation
- Insolvency
- Debt Recovery

Licensing & Entertainment:

- Alcohol & Entertainment Licensing
- Betting & Gaming Licensing
- Regulatory Advice & Prosecutions
- Reviews & Enforcement
- Training

Employment Law & HR:

- Contracts and policies
- Disciplinary matters
- Sickness and absence
- Capability
- Redundancy / restructuring
- Unfair dismissal
- Discrimination
- Restrictive covenants / restraint of trade
- TUPE
- Settlement agreements

Private Client Services:

Family & Divorce Law:

- Divorce
- Financial Matters
- Children Issues
- Cohabitation
- Civil Partnerships
- Pre-nuptial Agreements

Residential Conveyancing:

- Buying / Selling Property
- Re-mortgaging
- Transfer of Equity
- Right to Buy
- Probate Sales

Wills, Probate, Tax & Trusts:

- Wills
- Probate
- Lasting Powers of Attorney
- Court of Protection
- Inheritance Tax Planning
- Trusts

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