



NATIONAL MINIMUM WAGE

Annual Report 2005/06

NOVEMBER 2006

IN ASSOCIATION WITH



MINISTERIAL FOREWORD

Enforced by HM Revenue and Customs (HMRC) on behalf of the Department for Trade and Industry (DTI) the national minimum wage is now recognised as a well-established success for this Government. We entered the seventh year with a basic rate of over £5 an hour, rising again in October to £5.35 an hour.

The past year has seen some excellent results being achieved by HMRC's National Minimum Wage teams. Over £3m arrears have been identified for over 25,000 workers. More details can be found in the report but we would like to acknowledge the hard work the National Minimum Wage Officers have put in to achieve this result.

And following a successful first year, we go into our second year of targeting education and enforcement at key low-paying sectors in turn. This approach means we can discuss and address concerns and issues raised by employers as well as taking enforcement action against those who continue to be non-compliant. Children's nurseries have been chosen for this year. This supports the Government's commitment to improve childcare services ensuring both employers and workers are aware of their responsibilities and entitlements.

The national minimum wage prosecutions policy is now in place. The creation of criminal offences within the Act signalled our aim to ensure that payment of the national minimum wage is taken seriously. The use of civil powers has largely proved sufficient to date but criminal prosecutions will be considered for the small minority of employers that are persistently non-compliant.

This report reflects the work undertaken over the past year and the results that have been achieved. The DTI-HMRC partnership continues to flourish, and we continue to seek ways to make our enforcement activity more effective. We hope you find the report interesting and informative.

Jim Fitzpatrick, Minister for Employment Relations, and Postal Services
Dawn Primarolo, Paymaster General

SECTION 1: AWARENESS AND EDUCATION

Awareness and Publicity

For the minimum wage to remain truly successful it needs to be widely known about and willingly complied with. That is why Section 50 of the National Minimum Wage Act 1998 requires the Secretary of State to draw attention to those affected by it when the Regulations change.

In September/October 2005 the Government initiated a nation-wide publicity campaign to coincide with the increases to the adult and development rates; and the rate for 16-17 year olds. The campaign had several objectives: to inform employers and workers of the new increased rates and the rate for 16/17 year olds; to make employers aware of the change in the law, and to encourage people to call the helpline telephone number to obtain further information and advice.

The campaign was biased towards large circulation national tabloids; supported by adverts in the trade press and selected women's magazines as well as ethnic press and TV listings. The specific target audience included low-paid workers, young workers, ethnic minority workers and all employers – particularly those in retail, hospitality, social care, hairdressing, security, cleaning and childcare.

Young Workers

In the autumn of both 2004 and 2005, the Government ran an Internet publicity campaign on the new rate for 16-17 year olds. Adverts specifically designed to appeal to 16-17 year olds were placed on websites popular with this age group.

Ethnic Minorities

Following a successful campaign in 2004, Gerry Sutcliffe, Employment Relations Minister, wrote to more than 7,000 ethnic community networks in October 2005, providing details of the increases, offering leaflets in ethnic languages and explaining the role of the helpline, which is able to field calls in many ethnic languages. As a result of the mailings the demand for national minimum wage (NMW) ethnic literature increased.

Homeworkers and the Fair Piece Rate

Employers are required to either pay their output workers, including homeworkers, at least the minimum wage for every hour they work or a 'fair' piece rate for each piece produced or task performed, determined by reference to the performance of an average worker. From 1 October 2004, the fair piece rate was set so workers of average speed can earn the minimum wage but from October 2005 this had to be multiplied by 1.2 so workers who are slightly slower than average should receive the minimum wage. As a high percentage of homeworkers come from ethnic minorities, details were also included in a direct mail campaign to ethnic minority community networks in 2004 and 2005.

Awareness and Guidance

As well as paid publicity, the Government continues to take a number of other steps to ensure that awareness and understanding of the legislation remains high. This includes:

- The DTI updated the short guide for employers, employees and young workers in October 2005;
- HMRC continues to make presentations and answer questions on the minimum wage at seminars and conferences working closely

with local communities and relevant groups to improve compliance with the minimum wage.

- Information about the minimum wage rate changes and the helpline is also included in the HMRC's employer bulletins, which reaches about 1.5 million tax registered employers.

SECTION 2: COMPLIANCE AND ENFORCEMENT

Background

The National Minimum Wage Act 1998 has now been in force for over seven years. HM Revenue and Customs has operational responsibility for enforcing the minimum wage and has operated a helpline and network of compliance teams since 1 April 1999 to fulfil that role.

The Department for the Environment, Food and Rural Affairs and the Agricultural Agencies in Scotland and Northern Ireland undertake enforcement of the minimum wage in the agricultural sector. These bodies already had responsibility for enforcing agricultural minimum wages (see Annex B) before the national minimum wage was introduced.

Under powers contained in the National Minimum Wage Act 1998, a worker has the right to receive the minimum wage and can enforce this right by taking their case to an employment tribunal or civil court. However, the Government did not want workers to have to rely on taking action against their employer themselves, as intimidation or fear of losing their job could prevent a worker from making a complaint. The Act therefore allows for the appointment of enforcement officers to act on behalf of workers, where they identify that a business is failing to fulfil its obligations.

HM Revenue and Customs enforces the minimum wage under a Service Level Agreement with the DTI. Under the terms of the Agreement, HMRC provide information, inspection and enforcement services, and respond to enquiries and complaints from workers, employers and third parties to help ensure that employers comply with the minimum wage legislation. This includes visiting a sample of employers about whom no

complaints have been made, to check that they are meeting their obligations under the minimum wage legislation.

ENFORCEMENT OPERATIONS

Helpline

The helpline is based on Benton Park View in Newcastle-upon-Tyne and within Longbenton Contact Centre, part of HM Revenue and Customs. The helpline advisers handle enquiries on all aspects of the minimum wage from workers, employers and third parties. All callers have the opportunity to register a complaint about underpayment of the minimum wage, with the option of doing so anonymously if they wish. Details of complaints are forwarded via the NMW Central Information Unit (CIU) to the relevant regional compliance team to follow up. The helpline also deals with requests for guidance material. All calls are charged at local rates.

0845 6000 678 Monday-Friday, 9am to 5pm for enquiries

0845 8450 360 24 hour automated service for guidance material

Over 61,000 enquiries were received at the helpline during 2005-06, 94.9% of which were answered within 20 seconds

Over 2,100 complaints were generated from the helpline traffic in 2005-06, an increase of 7% over 2003-04 and 10% over 2004-05. The helpline advisers will establish whether there may be an underlying complaint behind a caller's request for factual information and where necessary make the appropriate referral via CIU to the relevant compliance team. The incidence of non-compliance found in minimum wage investigations continues to remain high, at 32% in 2005-06.

Since 1 April 1999, the helpline has responded to more than 500,000 enquiries and handled over 21,000 complaints about non-payment of the minimum wage.

The helpline now has a fully supported email system available via the HM Revenue and Customs website. Four agents are currently trained on its use by the helpline to ensure continued operation against most contingencies. This is an incremental development with new, enhanced features expected when the robustness of the current system is fully proven. The expectation is that soon for the first time HMRC and the DTI will be able to advertise the facility in the confidence that it will stand up to higher volumes of traffic. **1890 e-mails were received and answered during 2005/06.**

Central Information Unit

The Central Information Unit (CIU) is located near the helpline. The role of the CIU has now evolved from a mainly processing unit to a research and analytical unit whose main responsibilities are:

- To provide quality casework to the 16 compliance teams;
- To work closely with relevant HM Revenue and Customs personnel and other bodies to develop intelligence capability;
- To effectively manage information by recognising and addressing the implication of changes in new technology, working practices and legislation;
- To implement effective analytical processes for handling information;
- To provide the information needed to inform and support policy and strategy decision-making;
- To promote collaborative working with interested parties; and
- To provide technical support to helpline call agents dealing with the more complex telephone and email enquiries.

Following the introduction of a risk assessment program to identify employers that are more at risk of not paying the minimum wage, CIU have used the experience gained to develop risk assessment procedures to evaluate all information received. This has ensured that there is a smooth flow of quality casework to the compliance teams.

By working closely with other parts of HM Revenue and Customs and introducing an effective analytical process for handling information, the CIU have been able to provide teams with packaged cases containing quality information from various sources.

Exchange of information is strictly controlled. Section 39 of the Employment Relations Act 1999 and Section 148 of the Finance Act 2000 allow exchange of information between minimum wage officers and tax colleagues.

Outreach Work

Customer Responsive Outreach Work (CROW) is undertaken by a small team of nine compliance officers trained in presentational skills who respond to requests from organisations across the UK to talk about the minimum wage. These include:

- Voluntary organisations representing various trade sectors;
- Community organisations representing ethnic minorities;
- Citizens Advice Bureaux;
- Low Pay Units;
- Trade unions; and
- Large employer groups.

During 2005-06 team members also made presentations to local colleges and Care Inspectorates. The team members also linked up with other HM Revenue and Customs colleagues to attend national Employer Talk events and attended a variety of events across Northern Ireland.

Compliance Teams

There are currently 16 compliance teams situated across the UK, each with between three to eight compliance officers. They respond to complaints made about employers suspected of not paying the minimum wage. Complaints and other cases are referred to the appropriate team by the CIU.

DATA ON ENFORCEMENT

Central Enforcement Operations

During 2005-06 the helpline in Longbenton handled over 61,000 enquiries, most of which were calls made directly to the helpline advisers. This is an increase of over 4,000 calls from last year's figure, which suggests that awareness of the minimum wage may be at almost universal levels and workers know where to contact when changes are coming into effect.

Figures A1 and A2 provide details of the number of enquiries received over the past three years.

Numbers of enquiries

	2003/04	2004/05	2005/06
Live	51,360	56,111	59,275
Auto	1031	907	1354
Written	835	715	726
TOTAL	53,226	57,733	61,355

Figure A1

Live = the number of enquiries handled by a telephone operator

Auto = the number of calls to the automated line requesting literature

Written = the number of written enquiries received

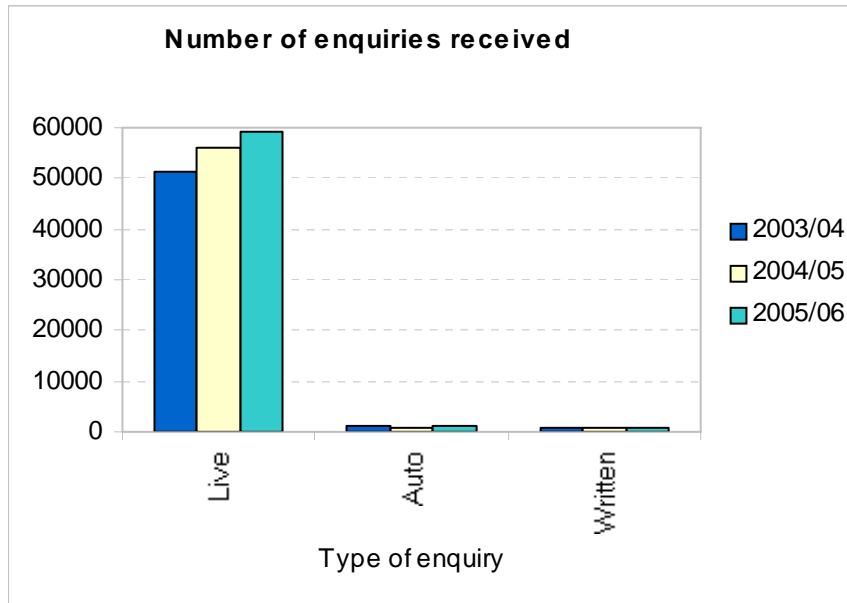


Figure A2

As in the previous year, the volume of calls increased significantly in the weeks around 1 October 2005 when both the main and development minimum rates increased. The main rate increased from £4.85 to £5.05 per hour, and the development rate increased from £4.10 to £4.25 per hour. The new rate for 16 and 17 year olds over compulsory school leaving age, which was introduced from 1st October 2004 remained at £3.00 per hour.

Analysis of helpline call volume and visits to the DTI website page showed a marked increase in activity during the period of the campaign. Calls to the helpline reached over 17,500 during September and October 2005 compared to the average monthly number of just over 4,000.

Figure B illustrates call levels for each month in 2005-06

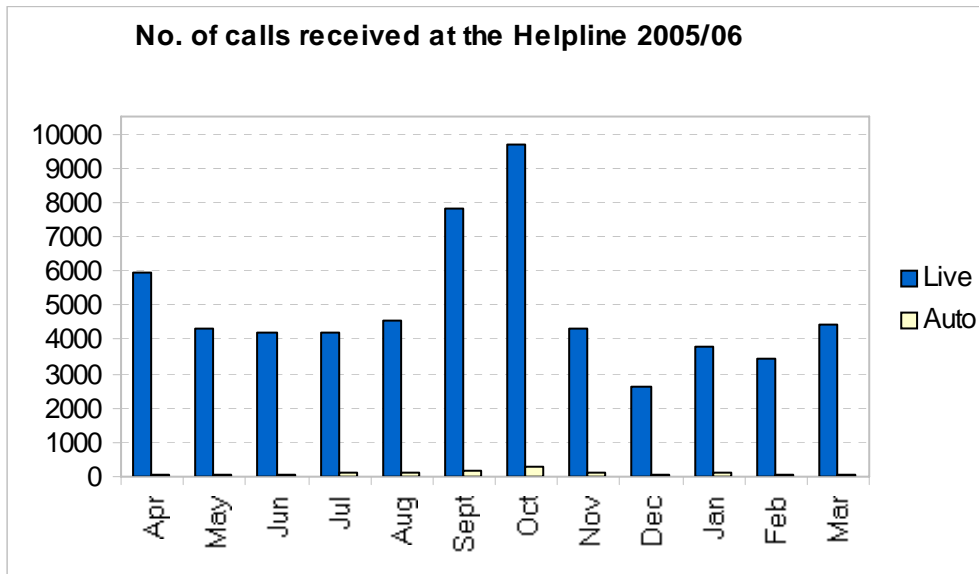


Figure B

Network Enforcement Activity

NMW compliance officers continue to produce good results and frequently receive telephone calls, letters and Christmas cards from workers who have been helped to obtain the minimum wage together with arrears of pay.

In 2005-06 the 16 compliance teams closed just fewer than 5,000 investigations. Although this is a decrease from the previous year, as time has gone on, it is recognised that the complexity and technical nature of investigations is increasing.

Investigations during 2005-06 fell into two main categories:

- **'Complaints'** cases are investigated as a result of a complaint being made by a worker or ex-worker about non-payment of the minimum wage.

- 'Other' cases are investigated as a result of information from the HMRC Tax Credit Office and other sources including third party complainants, which is analysed by the Central Information Unit to identify employers most at risk of non-compliance.

Figure C1 provides details of the number of employers subject to a completed investigation over the past three years, and the origin of the investigation.

Number of employers subject to a completed investigation

	2003/04	2004/05	2005/06
Complaint	1886	1949	2241
Other	3656	3204	2663
TOTAL	5542	5153	4904

Figure C1

It is apparent that complaints have been running at a relatively steady level for the past three years.

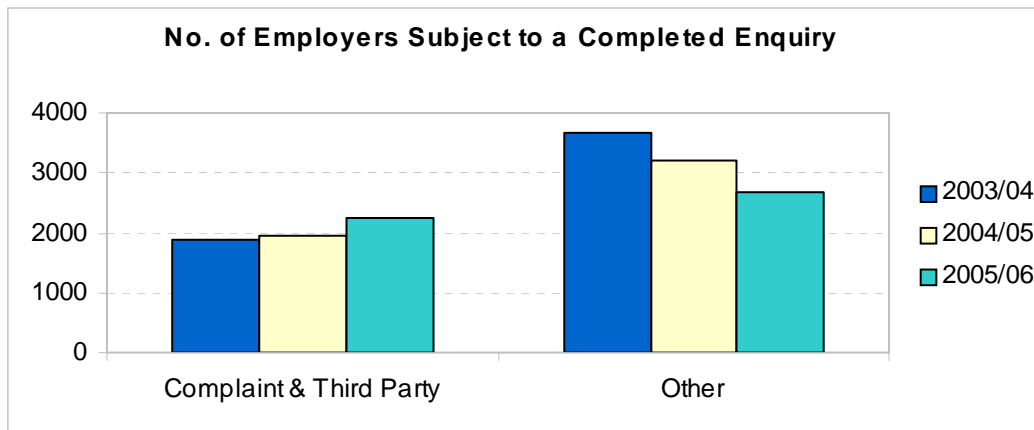


Figure C2 illustrates the number of cases closed by type since April 2003.

Figure C2

Figure D illustrates the levels of non-compliance identified in NMW investigations in the past three years. The Government's focus remains

on identifying those employers most likely to be failing to understand or undertake their obligations to pay the minimum wage.

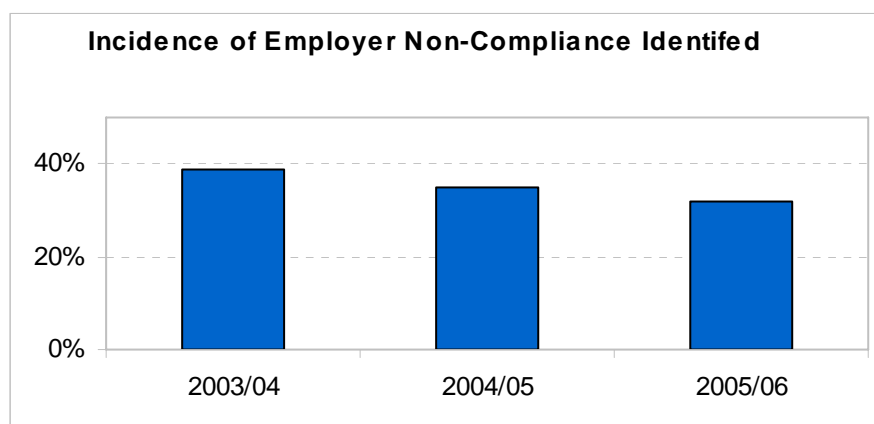


Figure D

Identifying National Minimum Wage Arrears

The amount of arrears identified in 2005/2006 fell from the amount identified in 2004/2005 but remains higher than identified in earlier years. Figures E1 and E2 show the total arrears identified by case type since April 2003.

Total Arrears identified by Case Type (£)

	2003/04	2004/2005	2005/2006
Complaint and 3rd Party complaint	1,352,422	2,600,461	2,155,708
Tax Credit	932,486	819,014	794,564
Other/proactive	273,188	340,886	341,244
TOTAL	2,558,096	3,760,361	£3,291,516

Figure E1

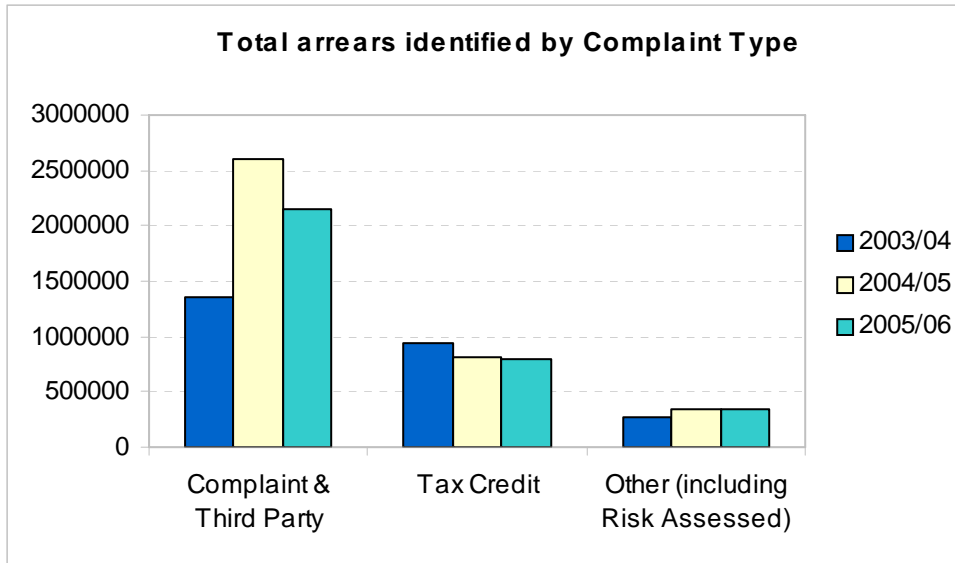


Figure E2

The figures also show that the percentage of employers, who were investigated and found not to be paying the minimum wage, hit 32% in 2005/06.

The number of workers for whom arrears have been identified for each of the last three years has risen year on year. The number of workers for whom arrears were identified increased dramatically in 2005/2006. However, just over 15,000 workers were identified in only 5 cases.

Number of Workers identified

Year	Male	Female	Total
2003-04	5,026	4,402	9,428
2004-05	5,801	5,460	11,261
2005-06	11,257	14,057	25,314

Figure F shows the average arrears identified during the last three years of the minimum wage.

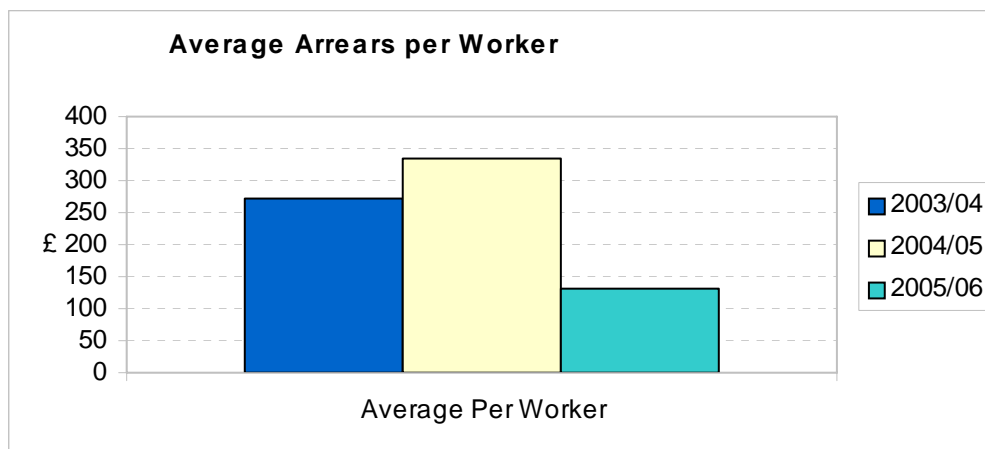


Figure F

Nine cases were heard by an employment tribunal, either as a result of an appeal by the employer against an enforcement notice, HMRC taking action on behalf of workers or both. A successful outcome in favour of the worker was achieved in 78% of the cases.

[Data on complaints about non-payment of minimum wage](#)

In addition the work of the helpline advisers in explaining minimum wage enforcement procedures to callers and ensuring they understand the support available to them has paid dividends.

Callers to the helpline are asked to provide their date of birth to inform HMRC's understanding of their particular circumstances and the advice given but many of those who wish to register an anonymous complaint are reluctant to provide personal information. As a result, HMRC do not have age details for a large proportion of complainants.

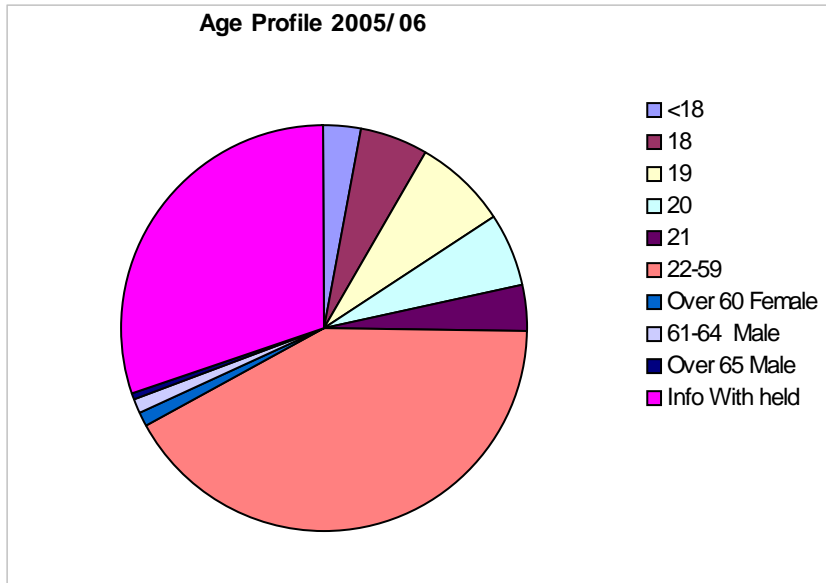


Figure G

In 2004/05, we saw for the first time, a slightly larger proportion of complaints from female workers, this has continued into 2005/06. In principle there should be more complaints from female workers, who tend to work in lower paid sectors of the economy. HMRC and DTI have been looking at the issues surrounding this and addressing the concerns of specific groups such as home-workers where there is a predominantly female work force. Although too early to tell, the NMW enforcement activities may have begun to have more of an impact on the female workforce.

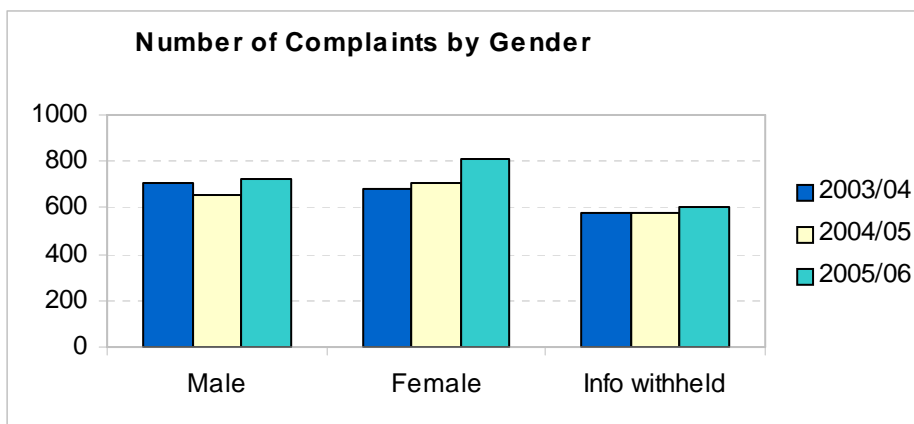


Figure I shows the number of complaints received by trade sector.

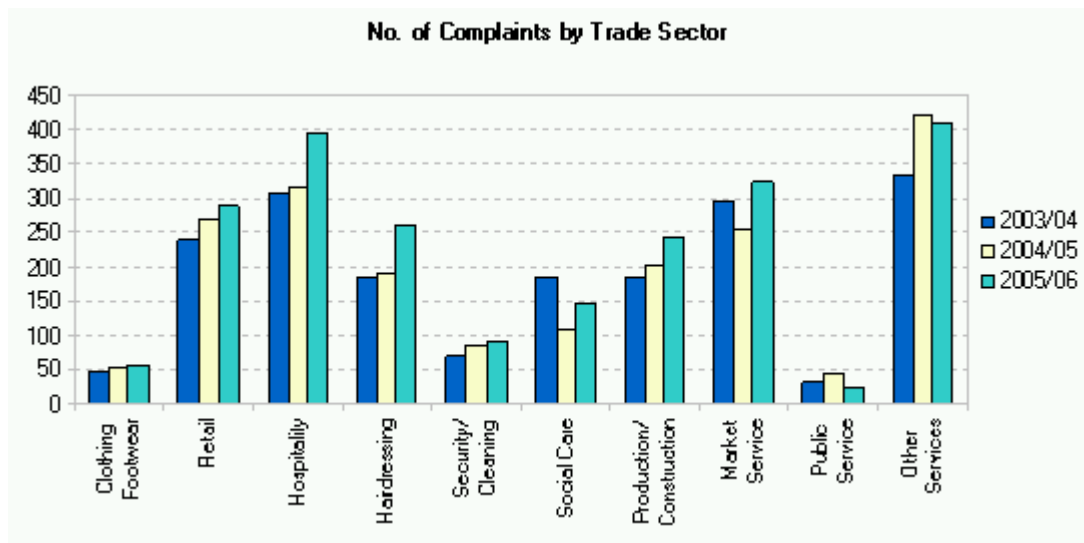


Figure I

The hospitality sector has shown a continued increase in the number of complaints about non-payment of the minimum wage. In addition, the complaints in the hairdressing sector have significantly increased. This reflects the work that was undertaken on targeted enabling in this sector.

Figure J illustrates the number of complaints received by geographical location.¹ The highest incidence of complaints is registered in Wales, for the second year running. The North West has also shown a noticeable increase in the number of complaints from that region.

¹ The statistics are recorded in accordance with Government Office regions rather than the regions in which the compliance teams are based.

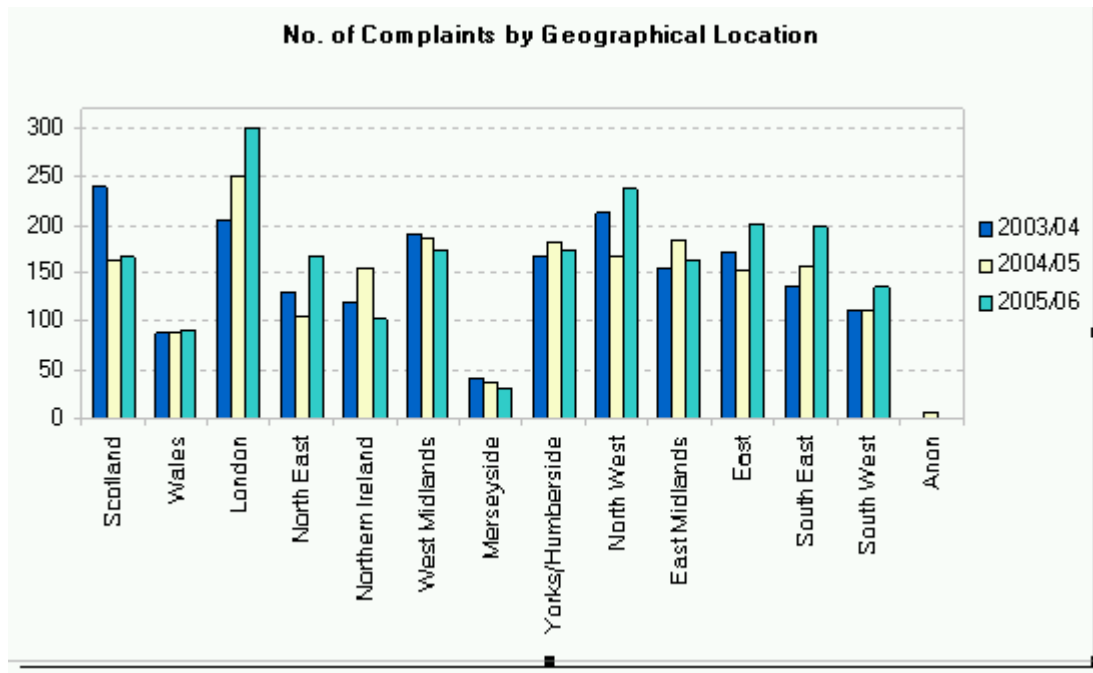


Figure J

Quality Standards

An enhanced system piloted from December 2004 to February 2005 was rolled out nationally from April 2005. The new system is designed to assist NMW compliance officers as they progress a case and prompts managers' input at the end of each of the three stages of working a case (opening, enquiry and settlement stage). The new process ensures that cases are reviewed and evaluated throughout their working life by both the compliance officers and their managers, facilitating input from managers before the enquiry is settled. The first internal audit of the system is currently taking place but initial findings are that over 78% of cases were marked as satisfactory or better. Recommendations in the audit report will include changes to improve or consolidate current working methods.

Further management checks were put in place from October 2005 that require cases to be reviewed by team leaders and area managers so that the performance of all the NMW compliance teams can be maximised

across HMRC. There are mandatory checks at six-month intervals to allow progress of the enquiry to be monitored, and if necessary influenced by managers. This is to ensure consistency across the NMW business, where teams had developed their own monitoring arrangements.

ENFORCEMENT PILOT PROJECTS

Background

In 2001/02, the DTI and HMRC established seven community-based pilots in conjunction with external organisations following recommendations made in the second report published by the Low Pay Commission.

The projects were established in areas where it was felt that there was a low level of awareness of the minimum wage and a low level of complaints about non-payment of the minimum wage. Three of these projects continued into 2005-06 as detailed below.

Local Helplines

The Northern Ireland National Minimum Wage helpline has been in operation since September 2001. Citizens Advice Northern Ireland, in partnership with HM Revenue and Customs and DTI, operate the helpline. The helpline was setup to serve the workers and employers in Northern Ireland. Since its inception there have been nearly 11,377 calls to the helpline with over 488 worker complaints referred to the Belfast compliance team for investigation. After external qualitative evaluation which took place during 2005/2006, it was agreed that the Northern Ireland helpline should move from project status to a service provided under contract to the DTI, to be reviewed every three years. This change in status will take effect from July 2006.

The Scottish National Minimum Wage helpline has been operated as a project, by the Scottish Low Pay Unit, since February 2003. They work closely with the local NMW compliance team, and Citizens Advice Scotland. The aim of this project is to raise awareness of the minimum wage issues and enforcement activity in Scotland. The project provides an outlet for the workers in Scotland who would prefer to discuss minimum wage issues with a non-official organisation or to utilise the face-to-face contact available through the Citizens Advice network. Since the launch of the helpline it has taken over 3,065 calls generating over 204 complaints, which have been referred to minimum wage compliance teams for investigation. Budgetary constraints and a refocusing of enabling activity means that the decision to withdraw funding from the Scottish helpline was made which will take effect from the end of June 2006. The local compliance team will continue to offer support to the Low Pay Unit on minimum wage issues, where required.

Working with Community Organisations

In the East Midlands, the partnership with Leicester City Council and Community (the former Knitwear, Footwear and Apparels Trades Union) has continued. The community outreach worker has encouraged workers to come forward and complain about the non-payment of the minimum wage. Between April 2005 and March 2006, 22 referrals were generated. From the cases generated by those referrals, that have now been concluded, 43 workers have benefited and £9,228 in arrears has been identified for those workers. Leicester City Council underwent a substantial transformation of its advice and guidance services in 2005/06, with the minimum wage project embedded in a more holistic, better equipped service. This service would bring together benefits advice, employment rights advice, a welfare-to-work labour market initiative and minimum wage compliance work. Budgetary constraints and a refocusing of enabling activity means that a decision to withdraw funding from the Leicester project was made which will take effect from

the end of June 2006. The local compliance team will continue to offer support to Leicester City Council on minimum wage issues, where required.

SECTION 3: POLICY BACKGROUND

The Act and the Low Pay Commission

The independent Low Pay Commission was set up in July 1997 to advise Government on issues surrounding the introduction of the minimum wage. The Commission was given a statutory footing once the National Minimum Wage Act was passed in July 1998. The minimum wage itself came into force on 1 April 1999.

October 2005 increases

In March 2005 the Government accepted the recommendations of the Low Pay Commission that the main minimum wage rate should be increased by 20 pence/hour in October 2005, to £5.05, and the youth rate by 15 pence/hour to £4.25.

Latest Report of the Low Pay Commission

In July 2005, the Government announced new terms of reference for the Commission and asked them to report to the Prime Minister and the Secretary of State for Trade and Industry by the end of February 2006.

The Commission were asked to:

- Consider whether the October 2006 upratings of the adult and development rates recommended in the 2005 report remained appropriate in the light of economic circumstances and the other factors identified as relevant in that report, and if not to make any recommendations for change;

- Review the level of the 16-17 year old rate, keeping in mind the position of the youth labour market and the incentives for young people to participate in education and training;
- Review the operation of the accommodation offset and, if appropriate, make recommendations for any changes needed to the regulations; and
- Review the treatment of benefits-in-kind, including where those benefits are offered as part of a salary sacrifice arrangement.

In March 2006 the LPC made its recommendations to the Government and the Government published the latest Low Pay Commission Report. The Government accepted the Low Pay Commission's recommendations on increases to the minimum wage:

- An increase from £5.05 to £5.35 an hour for the adult minimum wage (around 6% increase),
- An increase from £4.25 to £4.45 an hour for the development rate (also around 4% increase),
- An increase from £3.00 to £3.30 for 16 and 17 year olds (an increase of 10%). When making the recommendation for the 16 and 17 year old rate the Commission took account of the absence of any uprating in 2005.

The new rates apply from October 2006. The Government estimates that 1.3 million jobs across the UK stand to benefit from these increases.

[Benefits in kind – Salary Sacrifice Schemes](#)

In the Government evidence supplied to the Commission, we outlined our position on salary sacrifice schemes.

Although the Government recognised the value of the four main schemes (namely, childcare vouchers, Home Computer Initiative, bicycles and pension contributions), we did not believe that there was a strong enough case for allowing these benefits to count against the minimum wage at the present time. For workers from low to moderate-income families, claiming childcare support through working tax credits is likely to be an equally good or better alternative to sacrificing their salary for the childcare benefit.

The Government notes that the other schemes are at an early stage in their development. We believe that there is insufficient evidence to justify changing the legislation. We continue to believe that the only benefit in kind, which should count towards minimum wage, is accommodation. We felt that this would retain the simplicity of the minimum wage and make it easier to enforce.

The Low Pay Commission looked at this issue closely and agreed that salary sacrifice schemes should not count towards the minimum wage. They concluded that allowing further benefits in kind to count towards minimum wage pay would undoubtedly complicate the national minimum wage while only benefiting a small number of workers. It would also introduce new risks: some workers might see their wages reduced in return for a benefit of little or no value.

Older Workers Development Rate

In their 2005 report, the LPC provisionally concluded that the older workers development rate should be abolished from October 2006 and that, simultaneously, the 12 months exemption from the minimum wage should be extended to cover all apprentices aged 19 and over.

The Government initially agreed that the Commission should consider these issues as part of their 2006 Report. However the timetable for regulations needed to address the age strand of the Employment Directive meant that the Government decided to consider this issue first, and invited the Commissions views on our proposals.

The Government therefore concluded that the impact of withdrawing this exemption would be limited and in view of the impending age strand of the Employment Directive its retention would be difficult to justify. We therefore proposed to abolish the older workers development rate in the forthcoming Employment Directive.

The Low Pay Commission concur with this approach. Take-up for the older workers development rate remains very low and consultation responses suggested unanimous support for abolishing it. They concluded therefore that the older workers development rate should be abolished in October 2006.

[Extension of the 12 months apprenticeship exemption](#)

Apprentices aged 19 to 25 in the first 12 months of their apprenticeship are not entitled to the minimum wage. However all apprentices aged 26 and above must be paid the minimum wage.

The Government evidence to the Low Pay Commission said that in view of the forthcoming age strand of the Employment Directive retaining the 26-year old threshold would require objective justification. The evidence demonstrated that the number of apprentices aged 26 and above is extremely small. The Government therefore believed that the 12-month exemption should be extended to cover all apprentices aged 19 and over.

The LPC reported that their view had not changed since their 2005 report. They received no evidence to alter their view that it would be difficult to justify an age limit on the apprenticeship exemption objectively in terms of the age discrimination legislation and concluded that the 12 months apprenticeship exemption should be extended to cover all apprentices aged 19 and over.

Leonardo da Vinci Programme

In the 2005 regulations we amended the section of the legislation where certain workers do not qualify for the national minimum wage and introduced an exemption from the national minimum wage for participants in the Leonardo da Vinci Programme. The programme is a European Community vocational training programme, under which participants gain vocational work-experience in other member states. The exemption was introduced at the request of the Department for Education and Skills who is concerned that if the minimum wage applied to the UK host organisations, the participation rate could significantly decrease, and given that many partnerships have reciprocal projects this could have a detrimental effect on the number of outgoing UK participants.

Enforcement

The National Minimum Wage Act 1998 has now been in force for over seven years. HMRC has operational responsibility for enforcing the minimum wage through a contract with the DTI.

Targeted Enforcement

In July 2005 Gerry Sutcliffe announced a new approach called “targeted enforcement” under which we will target publicity and enforcement at

key low-paying sectors in turn, by meeting the main employer groups in each sector to discuss their concerns about the minimum wage. Our purpose is not to tackle the great majority of good employers, but to tackle the minority of bad employers, and issue guidance and publicity aimed at both workers and employers addressing their main concerns.

For the first year of this program the Government chose the hairdressing sector as it is known as a low paying sector, with a high amount of non-compliance with the minimum wage. The two key hairdressing federations told us they had no difficulties with being the first selected for targeted enforcement and indeed welcomed it as an opportunity to make the application of the national minimum wage consistent and understandable across the hairdressing sector.

It rapidly became clear in the summer of 2005 on meeting the hairdressing federations that a key issue was the position of apprentices. In October 2005 we produced two guides related to hairdressing and the minimum wage. Firstly, a detailed guide with case studies which we sent to all training providers and hairdressing employers, and secondly a short guide which was sent to all hairdressing apprentices. The result being that both the DTI and NMW helpline received hundreds of calls from hairdressing employees on this issue.

Under this approach HMRC planned to generate at least 500 hairdressing cases during the first year, compared with around 200 in previous years. Since the pilot commenced last summer, 629 cases have been registered, 368 selected as part of the project and the remaining 261 generated from complaints. To date 504 cases have been closed with arrears of pay of almost £379,000 identified, on behalf of 491 workers.

Criminal Prosecutions

The great majority of minimum wage cases are settled without the need for any formal enforcement action. However the National Minimum Wage Act also provides for criminal prosecutions as a long-stop where employers are regularly or deliberately non-compliant. In addition to failure to pay the minimum wage, the criminal offences include obstructing officers, failing to keep adequate records, and producing false records.

DTI, HMRC and the Revenue & Customs Prosecutions Office (RCPO) have agreed a criminal prosecutions strategy. Since this was agreed, HMRC have reviewed around 35 cases and are in the process of pursuing six of these. We will be working with HMRC to generate more cases as a matter of urgency – but this will always be a measure of last resort reserved for the small number of seriously non-compliant employers.

Volunteers and the Minimum Wage

DTI and HMRC officials have held a number of meetings with the Central Council for Physical Recreation (CCPR) on the subject of the minimum wage and volunteers. The CCPR reported that there may be circumstances in which a sports club believe that a member is acting as a volunteer, but an entitlement to the minimum wage could arise because a small non-cash benefit or an honorarium is being offered. DTI and HMRC have agreed a DTI policy statement, which says HMRC will not undertake pro-active investigations on CCPR Sports Clubs and certain benefits-in-kind will not be treated as such for minimum wage purposes.

ANNEX B

AGRICULTURAL WAGES: REPORT ON THE SIXTH YEAR

(APRIL 2005 - MARCH 2006)

England and Wales

Introduction

This report covers the sixth year's work of the Agricultural Wages Team (AWT) based at Defra's office in Ergon House.

Procedure

When a complaint is received and it appears that the worker has been underpaid, AWT staff attempt to resolve matters by writing to, or in some cases telephoning, the employer and explaining the requirements of the legislation. The aim is to persuade the employer to pay the worker at the correct rate and to pay arrears. If the employer agrees to put matters right by a specific date and the AWT receives confirmation from the worker that this has been done and that he or she is content, the case is closed. If the employer refuses to co-operate or fails to pay the money, the case is passed to an Agricultural Wages Inspector (AWI) to investigate.

A visit from an AWI may be sufficient to prompt the employer to put matters right. Where this fails, an Enforcement Notice may be served. A schedule of arrears attached to the Notice shows the sum due to the worker for the hours worked, holiday taken etc in each pay reference period and sets this against the sum received. The arrears due in each pay reference period are calculated and the total sum due is stated in the Enforcement Notice. An employer may appeal to an employment tribunal against an Enforcement Notice. Provided the Notice is upheld,

the employer is required to pay the arrears due and, if he or she fails to do so, a Penalty Notice may be served.

1 April 2005 - 31 March 2006

In 2002 the Employment Appeals Tribunal ruled, in the *Inland Revenue Wales and Midlands v Bebb Travel plc*, that enforcement notices could be issued only in respect of future payments of the minimum wage or in respect of future and associated past payments. The National Minimum Wage (Enforcement Notices) Act 2003, which came into force in July 2003, gave us the power to issue enforcement notices in respect of former workers. This power applied retrospectively and following enactment, work was begun to reactivate those cases put on hold after the *Bebb Travel* ruling. Further progress was made in clearing the backlog of cases and work was completed and Enforcement Notices were issued for the remainder of these cases during 2005/06. Arrears of pay were recovered for the workers concerned for all but two of these cases. Of the two remaining cases, which involved two former workers of one employer, debt recovery through the County Courts is underway.

The AWT's pre Agricultural Wages Inspection (AWI) casework has achieved settlement in 45 cases and has resulted in the payment of arrears of approximately £93,248. A further 17 complaints have been passed to an AWI for inspection once informal avenues had been exhausted. At 31 March 2006, there were 41 open cases, five of which involved employers with multiple worker complaints. Five of the open cases were at the final stage prior to the issue of an Enforcement Notice.

The following table gives the number of calls and complaints received from 1 April 2005 to 31 March 2006 with the five preceding years' figures for comparison.

Calls and complaints received 1st April 2000 to 31 March 2006

	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06
Calls to Helpline	3476	4092	4477	4254	5082	4780
Complaint forms received	75	45	40	70	88	64
Cases passed to AWIs	37	19	2	22	30	17
Enforcement Notices issued	2	5	1	1	4	10
Penalty Notices issued	0	0	0	0	0	0
Cases resulting in debt recovery action	0	2	0	0	0	3
Employment Tribunal Appeals	2	3	0	1	4	3
Cases settled prior to Employment Tribunal Hearing	-	-	-	-	3	4
Employment Tribunal hearings	1	2	0	1	1	2
Enforcement Notice upheld	1	2	0	1	1	3
Value of arrears in cases where Enforcement Notice has been served	£6,882	£18,409	£1,907	£8,787	£81,347	£69,711
Open cases carried forward	-	-	-	-	59	41

Scotland

The Agricultural Wages (Scotland) Act 1949 as amended requires Scottish Ministers to ensure compliance with the terms of the Agricultural Wages (Scotland) Orders (made by the Scottish Agricultural Wages Board) and to investigate complaints. This enforcement work is undertaken by the Scottish Executive Environment and Rural Affairs Department (SEERAD) with five Agricultural Wages Inspectors carrying out around 100 farm inspections each year and investigating complaints as necessary. As in previous years the majority of investigations show a high degree of compliance with statutory minimum hourly rates of wages and that problems are more likely to arise with respect to overtime rates, holiday entitlement and sick pay. The industry generally remains reluctant to adopt the use of time sheets despite these being mandatory.

Between April 2005 and March 2006 £5,939.46 of arrears of pay and allowances was recovered by SEERAD on behalf of agricultural workers in Scotland.

Northern Ireland

The Department of Agriculture and Rural Development operates a similar helpline to that of Defra and dealt with approximately 200 enquiries in the year up to March 2006. During this period three complaints were opened and resolved with payments totalling £2,626.66 being made in respect of arrears.

Department of Trade and Industry. <http://www.dti.gov.uk/>

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