

## ***Preventative approaches to National Minimum Wage offences – promoting compliance, UK***

<b>Title of the policy or measure (in English)</b>	Preventative approaches to National Minimum Wage offences – promoting compliance through the NMW Compliance Strategy’s ‘Promote’ approach
• Country	UK
• Date of publication	November 2018
• Sectors	All
• What groups are targeted by the measure	Employers (direct) Low paid workers (indirect)
• Purpose of measure	Prevention
• Date of publication	12/11/2018
• Short sentence summarising the measure	The preventative ‘Promote’ approach relating to National Minimum Wage (NMW) offences aims to help employers understand how to comply with the law, encourages employers to carry out the necessary checks and voluntarily correct any underpayment they may identify. Low paid workers are also encouraged to raise a complaint with the relevant authorities as a bottom-up source of pressure.
<b>Background</b>	
• Background context driving the implementation of the measure	The UK’s NMW compliance strategy aims to combat UDW through a range of approaches. These approaches are designed to inform employers and workers about their rights and obligations to prevent non-compliance. The strategy has three key themes: <i>promote, prevent, respond</i> . According to the strategy, “the best protection that we can offer workers is to ensure that arrears do not arise in the first place and the strategy focuses on raising awareness through targeted guidance and deterring non-compliant behaviour as well as tackling abuses.” <sup>i</sup> The strategy is key to providing fair standards in the workplace and making work pay. <sup>ii</sup>
• When was the measure implemented? (including start date and end date/ongoing)	The preventative ‘Promote’ approach to National Minimum Wage was adopted in January 2016 and is ongoing.
• Names(s) of authorities/bodies/organisations involved	The Department for Business, Energy and Industrial Strategy (BEIS) is responsible for National Minimum Wage policy. HM Revenue and Customs (HMRC) enforce the NMW on behalf of BEIS.
• Scope of the measure (a pilot project, nationwide, regional wide)	Nationwide
• Type of (policy) measure	Tool
• Key objectives of the measure	<b>General objectives:</b> - reduce prevalence of National Minimum Wage underpayment through improved voluntary compliance. <b>Specific objectives:</b> - improve employer capabilities, opportunities and motivations to be compliant;

	- encourage low paid workers to query their situation with respect to the National Minimum Wage and lodge a complaint with HMRC where necessary for possible enforcement activity.
<b>Specific measure</b>	
<ul style="list-style-type: none"> <li>Description of how the measure operates in practice</li> </ul>	<p>In practice the preventative ‘Promote’ approach is made up of a variety of interventions aimed at employers and workers. Examples include:</p> <ul style="list-style-type: none"> <li>Employer webinars;</li> <li>Sectoral guidance delivered in partnership with social partners;</li> <li>Employer voluntary disclose opportunities;</li> <li>Information campaigns;</li> <li>‘Nudge emails’<sup>iii</sup> sent to employers displaying questionable behaviours in relation to National Minimum Wage;</li> <li>Mass emails to employers designed to mitigate known National Minimum Wage risks;</li> <li>Distribution of worker-orientated leaflets targeted at known at-risk worker populations;</li> <li>Mass SMS text messaging to known at-risk worker populations;</li> <li>E-Learning products;</li> <li>Introduction of an on-line complaint process for workers.</li> </ul> <p>In addition, BEIS promotes compliance by publicising the names of employers who do not comply with the NMW policy. This approach has been highly publicised by the national media (see for example, <a href="https://www.independent.co.uk/news/uk/home-news/minimum-wage-companies-pay-least-list-uk-government-a8433936.html">https://www.independent.co.uk/news/uk/home-news/minimum-wage-companies-pay-least-list-uk-government-a8433936.html</a>). Employers who pay workers less than the minimum wage not only have to pay back arrears of wages to the worker at current minimum wage rates but also face financial penalties of up to 200 % of arrears, capped at EUR 22 832 (GBP 20 000) per worker.<sup>iv</sup> In August 2018, the government published its 15th list to date, naming all employers who have been issued with a Notice of Underpayment (NoU).<sup>v</sup> Those named on the list failed to pay the correct national minimum or living wage rates and owed arrears of more than EUR 114 (GBP 100). Employers have 28 days to appeal against the NoU. If the employer does not appeal or unsuccessfully appeals against the notice, BEIS will consider them for naming. The employer has 14 days to make representations to BEIS outlining whether they meet any of the exception criteria not to be named e.g. if it is likely to carry a risk of personal harm to an individual or their family.</p>
<ul style="list-style-type: none"> <li>What resources and other relevant organisational aspects are involved?</li> </ul>	<ul style="list-style-type: none"> <li>The NMW policy is informed by the work of the independent Low Pay Commission which is responsible for reviewing NMW rates each year along with other aspects of the policy, making recommendations to government.<sup>vi</sup></li> <li>BEIS and HMRC also work with unions, business representatives and others to ensure that the strategy is informed by what is happening in the workplace.<sup>vii</sup></li> </ul>
<ul style="list-style-type: none"> <li>What are the source(s) of funding?</li> </ul>	National. BEIS fund HMRC to enforce National Minimum Wage.
<b>Evaluation and outcome</b>	
<ul style="list-style-type: none"> <li>Has the measure achieved its objectives?</li> </ul>	<p>The prevalence of National Minimum Wage underpayment is difficult to accurately assess (<a href="https://minimumwage.blog.gov.uk/2015/11/06/minimum-wage-non-compliance-how-big-is-the-problem/">https://minimumwage.blog.gov.uk/2015/11/06/minimum-wage-non-compliance-how-big-is-the-problem/</a>), therefore it is not possible to say with</p>

	<p>confidence whether the ‘Promote’ approach has conclusively and positively influenced overall levels of non-compliance.</p> <p>Secondary indicators of success show that employers and workers have been encouraged to seek information in relation to National Minimum Wage as a direct result of the interventions deployed. Similarly the number of complaints received from workers has increased.</p>
<ul style="list-style-type: none"> <li>Assessment method (including indicators used to measure its impact), and the outputs and outcomes achieved</li> </ul>	<p>In 2017/18 the ‘Promote’ approach was responsible for stimulating in excess of 165 000 information-seeking behaviours by UK employers and workers. Worker complaints increased by 132 % in 2017/18 compared to the previous year.</p>
<ul style="list-style-type: none"> <li>What are lessons learnt and the key conditions for success?</li> </ul>	<p>The prevention approach can effectively complement the traditional enforcement approach as part of a rounded compliance strategy by helping to reduce employer behaviours and errors that lead to non-compliance.</p> <p>Key conditions for success include:</p> <ul style="list-style-type: none"> <li>Commitment to the principle of upstream prevention;</li> <li>Adequate resourcing;</li> <li>Willingness to take measured risks/innovate;</li> <li>An evidence based approach – demonstrate what works in the ‘test and learn’ environment and scale up accordingly;</li> <li>Delivery of interventions at scale in order to change behaviour at the population level;</li> <li>Access to relevant datasets;</li> <li>Availability of actionable insight – research, analysis etc. that identifies key issues and trends in relation to National Minimum Wage compliance.</li> </ul>
<ul style="list-style-type: none"> <li>Level of transferability (e.g. other countries/groups/sectors)</li> </ul>	<p>Highly transferable, subject to conditions for success identified above.</p>
<p><b>Additional information</b></p>	
<ul style="list-style-type: none"> <li>Contacts</li> </ul>	<p>Phil Conley, Promoting Compliance Manager, National Minimum Wage, HM Revenue and Customs  Email address: phil.conley@hmrc.gsi.gov.uk</p>
<ul style="list-style-type: none"> <li>Sources</li> </ul>	<p>Weblinks:</p> <ul style="list-style-type: none"> <li><a href="https://www.independent.co.uk/news/uk/home-news/minimum-wage-companies-pay-least-list-uk-government-a8433936.html">https://www.independent.co.uk/news/uk/home-news/minimum-wage-companies-pay-least-list-uk-government-a8433936.html</a></li> <li><a href="https://minimumwage.blog.gov.uk/2015/11/06/minimum-wage-non-compliance-how-big-is-the-problem/">https://minimumwage.blog.gov.uk/2015/11/06/minimum-wage-non-compliance-how-big-is-the-problem/</a></li> </ul>
<ul style="list-style-type: none"> <li>Metadata and key words for online search</li> </ul>	<p>UK; preventative approaches; promote approach to national minimum wage; compliance strategy; awareness raising; compliance promotion campaign; notice of underpayment; targeted guidance; non-compliant behaviour; fair standards; making work pay; national advertising campaign; national media</p>

<sup>i</sup> National Minimum Wage Compliance Strategy, 2010. Internet: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/201214/10-678-nmw-compliance-strategy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/201214/10-678-nmw-compliance-strategy.pdf)

<sup>ii</sup> Ibid.

<sup>iii</sup> To engage with certain recipients (employers) via targeted emails in order to motivate them to behave in a particular way.

<sup>iv</sup> Information obtained from the Government Press Release March 2018, *Nearly 180 employers named and shamed for underpaying thousands of minimum wage workers*. Available at

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<https://www.gov.uk/government/news/nearly-200-employers-named-and-shamed-for-underpaying-thousands-of-minimum-wage-workers>

<sup>v</sup> The information in this paragraph was taken from Government Press Release March 2018, *Nearly 180 employers named and shamed for underpaying thousands of minimum wage workers*. Available at <https://www.gov.uk/government/news/nearly-200-employers-named-and-shamed-for-underpaying-thousands-of-minimum-wage-workers>

<sup>vi</sup> Ibid.

<sup>vii</sup> Ibid.