



National minimum wage enforcement

Keeping up the pressure - what more needs to be done?

Keeping up the pressure on NMW enforcement – the 10-point plan.

The TUC argues that the NMW enforcement regime must be subject to a process of continual improvement in order to keep up with those employers who actively look for new ways to try to evade their responsibility to pay the National Minimum Wage (NMW).

This report sets out the following 10-point plan for sharpening NMW enforcement during the next parliament:

- Invest an extra £1 million per year to ensure that workers know their rights
- Hire 100 more wages inspectors to crack down on employers who flout NMW law
- Produce stronger official guidance so employers know their responsibilities
- Create a legal gateway for HMRC to share information with local authorities, the Maritime and Coastguard Agency, Civil Aviation Authority and the Driver and Vehicle Services Agency where relevant
- Name and shame all employers who fail to pay the minimum wage
- Introduce a government guarantee to pay arrears when employer goes bankrupt or simply vanishes
- Prosecute the worst offenders and increase the maximum fine to £75,000
- Target enforcement on low pay areas and industries
- Enforce the minimum wage for apprentices, as underpayment is rife in this sector
- Promote collective bargaining so that potential NMW problems can be prevented at source by trade unions.

The TUC also briefly examines the position of 10 vulnerable groups of workers.

The battle to enforce the minimum wage must be a continuous one

The national minimum wage has become a genuine national treasure since it was introduced in 1999. The concept enjoys support from business leaders and trade unions alike and is a matter of political consensus.

Unsurprisingly, there is also universal support for the idea that the minimum wage should be generally adhered to and enforced in a robust way.

Most minimum wage employers simply pay their employees properly, and are happy to do so. There have been roughly a million people benefitting from the minimum wage in any given year.

But although there are no robust statistics, our working assumption is that the number of workers not being paid the legal minimum wage in both the formal and grey economies must be measured in six figures, at least 250,000 in the TUC's view, so there is a lot to be gained.

Conversely, if disreputable employers were allowed to get away with ignoring minimum wage law, then both confidence in the concept and the net benefits that the minimum wage delivers would be quickly eroded.

Employers who deliberately set out to swindle their workers and those who are simply careless over their responsibilities must come to be sure that there will be serious consequences if they fail to comply with the minimum wage. Our goal must simply be to get to a position where cheats are never allowed to prosper from their misdeeds.

Failing to pay the national minimum wage:

- effectively robs low paid workers of some of the income that is their due;
- leads to good employers being undercut by bad and bad by the worst;
- cuts the spending power of minimum-wage workers, meaning fewer customers on the high-street, and
- takes money away from the Exchequer, putting further pressure on the public finances

In short, cheating on the national minimum wage is a very antisocial act as well as an illegal one. Government, employers and workers and their trade unions must engage in a constant battle to ensure that scams are prohibited and loopholes are closed off.

New ways of cheating and attempts to avoid the minimum wage emerge on a regular basis, so constant vigilance is needed.

Over the years, the scams have included under-recording working hours so that the paperwork appears correct, falsely denying the worker's employment status by labelling them self-employed, interns or volunteers, the use of dodgy-piece rates that set unmeetable targets, and forcing workers to pay for uniforms, tools, training or travel.

In addition, in social care, some companies do not pay for properly travel time between home-care visits, which is working time for the purposes of minimum wage law, or for sleep-ins in residential homes.

We have also seen the misuse of zero-hours contracts, for example, for waiting staff at work when no customers are present.

Another attempt to avoid the minimum wage rules involves the employer splitting into accommodation and labour provider arms, so that they can pay the minimum wage with one hand and take it back in higher rents with the other.

Furthermore, the accommodation offset rules, which limit the amount that employers can charge for providing accommodation to minimum wage workers

have been used in situations that we think are wildly inappropriate, including shared cabins on ships, housing that is illegally overcrowded or unfit for human habitation, tents, and in one notable case a rusty caravan with no sewage, electricity or running water.

In other cases, employers go bankrupt, sometimes to remerge under another name, or simply vanish when they are caught cheating their workers. It is tragically unfair that those who have worked for these employers in good faith should be left with no redress at all.

There is also a particular problem with the minimum wage and apprentices, where those who do not receive the applicable legal minimum rate constitute the single biggest single group of underpaid workers.

These are some of the problems that have faced minimum wage workers over the years, and that we are trying to address. But this is not the end of the story, as we know that in a couple of year's time disreputable employers will be trying some new trick. We must engage in a constant battle to ensure that every worker who is entitled to the minimum wage actually receives it.

Successful enforcement rests on a number of components

A good enforcement regime needs the proper legal, structural and human support. These are some of the necessary conditions:

- having good minimum wage law, regulations and guidance and enforcement procedures;
- making employers aware of their duties and workers aware of their rights, and how they are enforced;
- having a properly resourced and highly motivated inspectorate that is in tune with intelligence from a wide range of sources and enjoys strong political support; and
- ensuring that workers and their trade unions are also empowered to take their own cases in pursuit of their rights, where they wish to do so.

There have been significant improvements to the enforcement regime in the past

Initially those caught cheating were simply ordered to pay up the minimum wage arrears that they owed, via a HM Revenue and Customs "enforcement notice". They were only charged a penalty if they did not pay up quickly enough and even then the penalty was halved for prompt payment.

In 2009 the government accepted the argument made by the TUC and others that these arrangements did not give employers sufficient incentive to obey the law. If caught cheating, all bad bosses had to do was pay up what they owed in the first place.

Thus the law was changed so that every employer caught paying was charged a penalty. This was matched to what was owed, but with a minimum charge of £100 and a £5,000 maximum per case.

One significant shortcoming of the enforcement regime is that very few employers have prosecuted, just 10 cases in 15 years.

Rather, enforcement has rested largely on the civil route, but civil penalties are not usually in the public domain, so most enforcement activity was invisible. If justice is not seen to be done then it does not provide an effective deterrent.

Thus the previous government also attempted to introduce a “naming and shaming” scheme, but it turned out that the criteria were set too strictly to allow any cheating bosses to be named. The current government then revised the scheme in 2011 and again in 2012. At the time of writing, just 36 employers have been named, although more are promised.

In addition, from January 2014 the government raised the ceiling on civil penalties to £20,000 per offence. Whilst this did not make any difference to the average case (the average case involves a total of £4,000 owed at the rate of about £200 per worker), it opened the way for higher penalties in the biggest and the worst cases.

For example, in 2013 a Hull call centre called Servizon was ordered to repay arrears of £75,117.28 to 183 workers. Under the pre-2014 regime this attracted a civil penalty of £5,000, from January this year the penalty would have been £20,000, and if the current bill is passed, the penalty would match the arrears, at just over £75,000. The move to tougher penalties should provide more of a deterrent, and is to be welcomed.

Every one of these measures was preceded by a TUC campaign, and they also had the broad support of the business community.

The next steps - a 10-point plan for improving the enforcement of the national minimum wage

Despite the efforts of government, trade unions, business leaders and the highly motivated civil servants who work to ensure that the NMW is enforced, there is still no room for complacency.

There is still more that government could do to ensure that the minimum wage is always paid, and we must ensure that every reasonable step is taken.

There are some obvious gaps in the net of protection for low paid workers that need to be filled.

The next section examines ten proposals for improving minimum wage enforcement:

1: Increase budget for advertising and disseminating the minimum wage by £1 million per year

The budget had risen roughly in line with government spending from the introduction of the minimum wage until the onset of the recession, when it was frozen. There was a one-off increase of about 50 per cent in 2009.

The budget was then cut from about £1 million to zero by the incoming government, before being restored to around £100,000 in 2012 and increasing slightly since then.

The TUC can testify that the net effect of this severe cut was that awareness of the details of the national minimum wage and how it could be enforced began to decline. This was mirrored by a fall in the number of calls to the helpline up until the current year.

However, the number of calls has now greatly increased. This is welcome, but the increased volume has put pressure on both the official Pay and Work Rights Helpline and the HMRC National Minimum Wage Enforcement Unit.

Further increases to the budget for dissemination would allow more people to access their rights.

2: Increase budget for enforcement

Again, in 2009 there was a very significant one-off increase in the budget for HMRC's enforcement unit, which enforces the minimum wage under contract to BIS.

More recently, there was a smaller increase in the summer of 2014. In addition an increase of £3 million (about 25 per cent) for next year was announced in the chancellor's 2014 autumn statement.

The TUC welcomed these announcements. However, they cannot be the end of the story. Rather, the budget for enforcement must continue to increase in real terms during the next parliament.

Our view is that, despite the increases, the funding available still does not yet match the size of the task. For example, since HMRC prioritises individual complaints, a recent increase in calls to the helpline is likely to mean that project work targeting particular sectors and types of jobs is very likely to be squeezed in the coming period.

This is a flagship policy, which deserves to be well funded. It is also the case that good minimum wage enforcement brings back money to the Exchequer through

increased taxes and decreased tax credits and benefits, which helps to offset the cost of enforcement.

The HMRC team is still of a very modest size, comprising less than 200 staff in all. The TUC's view is that the enforcement unit is well-run and well-motivated, but it simply is not big enough to defeat all the minimum wage cheats.

Funding should be found to hire 100 more HMRC minimum wage compliance officers in the coming period so that many more workers can get what they are due.

3: Produce stronger official guidance so that employers know their responsibilities

The quality of the government's guidance was severely damaged when the new single advice site Gov.UK replaced the BusinessLink and DirectGov sites. The TUC has written to BIS and the Cabinet Office, who are responsible for governed advice, setting out a series of errors and omissions.

Some of these issues have now been rectified, but the advice still contains some errors that may be serious enough to land an employer in a tribunal or court.

To set out a pertinent example, the NMW applies to some workers who may be genuinely self-employed for tax purpose, including some white-collar freelancers and some blue-collar workers, such as those on self-employed tax codes in the building industry. Minimum wage law sets out to test whether such workers are really running their own independent businesses. Legal tests usually include substitutability, ownership of significant assets, earnings from drawings rather than wages and sometimes the number of customers (e.g. "self-employed" but always working for one firm may suggest a dependant "worker" relationship rather than genuine self employment). This is an important set of distinctions, yet the current guidance merely says that the self-employed are not entitled to the NMW, which is obviously far from being the whole story.

There are other issues to be rectified, but the self-employment example is enough to show the likelihood of the guidance leading employers to make decisions that will break the law.

4: Create gateways for HMRC to share information with relevant agencies to aid enforcement

HMRC are specifically prohibited from sharing information about their work except through a properly established legal gateway. The Commissioners of Revenue and Customs Act (2005) sets out a maximum penalty of up to two years imprisonment for breaking this proscription.

It is right that HMRC should exercise due citation, but the law also has the effect of prohibiting proper collaboration between enforcement agencies in some cases. For example, if a local authority suspects minimum wage underpayment which, say, it might have discovered through its role in enforcing working time law or the environmental health regulations, it is open to them to pass the information to HMRC, but HMRC is absolutely prohibited from reporting back the outcome to the relevant local authority. Such an arrangement has the obvious effect of disincentivising local authorities from passing on such intelligence.

Similar considerations apply to the Civil Aviation Authority (CAA), Driver and Vehicle Licensing Agency (DVSA) and the Maritime and Coastguard Agency (CAA). Low pay is rare amongst flight crews (CAA), but sometimes found amongst lorry drivers (DVSA) and absolutely rife amongst seafarers (CAA).

To make matters worse, HMRC have no powers to board a ship to enforce the NMW, whilst the MCA have the power, but no duty to do so – and HMRC cannot tell the MCA what they have done with any information that they have given. This state of affairs seems to the TUC to be dysfunctional.

5: The Government should guarantee arrears when an employer goes bankrupt or simply vanishes

The TUC estimates that about ¼ of NMW arrears are not recovered due to the employer either going bankrupt or going into hiding. As the NMW is both a vital minimum standard and a key government policy, we call on the government to guarantee the NMW for workers in cases where it cannot be recovered.

Obviously government would need to take some steps to ensure that the money was genuinely owed and genuinely non-recoverable, but these due-diligence tests should not be too difficult.

The government already does something similar in cases where statutory redundancy pay cannot be extracted from employers in cases of insolvency¹.

The government's maximum exposure through such a measure would be about ¼ of arrears identified. This amounts to about £1 million per year. This is a relatively small figure for government, but would be a welcome boost for hard-done-by low paid workers.

6: Name all non-paying employers

The NMW is largely enforced through a civil penalty regime. Such penalties are usually not in the public domain, but successive governments have sought to find a way to publicise NMW penalties.

¹ See government guidance: <https://www.gov.uk/your-rights-if-your-employer-is-insolvent/claiming-money-owed-to-you>

The process has borne quite a small amount of fruit, as fewer than 40 cheating employers have so far been named. However, there were 680 notices of underpayment issued last year². Assuming that the government may choose not to publicise some cases where the amount involved is very trivial, and perhaps literally a handful of instances where there are other good reasons not to name the employer, this probably should mean that there are between 500 and 600 cases that could be named and shamed each year.

Naming a large number of employers – and indeed a number of larger employers – would have a stronger deterrent effect on deliberate cheats and make careless employers be more careful.

7: The worst offenders should be prosecuted and should receive much higher fines

We also argue that the more serious cases should be taken to court. These would include repeat offenders, those who obstruct HMRC in their investigations and those who keep false records.

As most enforcement is by civil penalty, there have only been 10 successful prosecutions under the NMW Act since its inception in 1998.

The TUC has taken full account of the fact that prosecutions are more expensive than civil penalties plus naming and shaming, but there is still some merits in taking a few of the worst offenders to court each year so that the depths of their offences can be fully plumbed. Naming is quite a bland process, which simply identifies that a certain employer failed to pay certain workers a stated sum of money. Court reports tend to go into a lot more detail in bad cases.

It seems to us that a lot more needs to be done about the worst offenders, so that they receive a greater degree of public shame, as is commensurate with the nature of their offence.

The government should adopt a target of prosecuting at least 12 minimum wage cases per year.

One issue to be overcome is that the courts have been too lenient with NMW offenders, with fines in the region of £1,000 to £3,000. Obviously this would be nowhere near enough in the worst cases.

A related point is that the maximum fine is only £5,000, whilst the maximum civil penalty is now £20,000 and set to rise. The maximum fine available is also trivial in comparison with quite modest offences against property. A sweatshop owner who copies a branded shirt and cheats his workers out of the minimum wage is likely to

² Government interim evidence to the Low Pay Commission, October 2014:
<https://www.gov.uk/government/publications/national-minimum-wage-interim-government-evidence-for-the-2015-low-pay-commission-report>

be fined £75,000 for trademark infringement and less than £5,000 for the NMW offence.

Higher fines and tougher sentencing are clearly needed. The government should also consider whether there have been any aggravated offences that would warrant a custodial sentence. To extend the comparison, the shirt bootlegger might face up to two years in prison for their offence.

The maximum fine for minimum wage offences should be increased to £75,000, and a way must be found to persuade the courts to treat such offences more seriously³.

8: Deal with the apprentice NMW problem

It is clear that apprentices make up the single biggest group of workers who are not paid the relevant rate of the minimum wage. A recent official survey found 14 per cent non-compliance, which amounts to about 120,000 apprentices paid less than the statutory minimum⁴

The TUC has argued that the use of the much lower apprentice rate of the minimum wage, currently £2.73 per hour, which is used for apprentices under 19 or 19 or over who are in the first year of apprenticeship, must be much more tightly constrained. This is discussed further in the second section of this paper, which deals with vulnerable groups of workers.

The government funds a substantial part of apprentice training. There is a strong need to establish a more active compliance regime within the structure of the training regime.

Employers have contracts with colleges and other training providers to train their apprentices. The TUC argues that all training providers should have to check with employers that they are paying their apprentices the NMW.

If the employer is found to have underpaid and the provider failed to carry out the proposed check then the provider should risk losing their funding. This would add a whole new tier of enforcement to this key at-risk sector.

In addition, the government should not fund training for employers who repeatedly fail to pay the minimum wage. The government pays for all training for 16-18 year old apprentices, and part-funds training for those aged 18-23. There is

³ For example, the issue could be put to the Sentencing Council, which now produces sentencing guidelines that help judges and magistrates decide the appropriate sentence for a criminal offence. <http://sentencingcouncil.judiciary.gov.uk/>

⁴ BIS, “Apprenticeship pay survey 2014”, December 2014, p28

<https://www.gov.uk/government/publications/apprenticeship-pay-survey-2014>

also some more limited funding for some older apprentices, so this would provide a much-needed incentive to be careful to pay the NMW.

9: More proactive targeted work on enforcement in high risk areas

It is possible to identify occupations, industries, localities and groups of people who suffer a high risk of minimum wage cheating, using risk assessment techniques and intelligence sources.

HMRC do some of this work already, and sometimes combine with other agencies like local authorities, HSE, the police and UK Border Agency in order to undertake multi-agency operations.

However, these efforts are relatively modest in terms of size and frequency, since they are constrained by the budget available.

In addition, HMRC rightly prioritises direct complaints. A sharp increase in the volume of individual complaints about the NMW during the past year means that their budget for proactive work is squeezed. This necessary work needs to be properly funded.

10: Promote collective bargaining so that potential NMW problems can be prevented at source by trade unions.

The TUC and its affiliated unions have established a good working relationship with the HMRC minimum wage inspectorate. As might be expected, we have proved to be a vital source of intelligence about broad trends and specific issues.

Acting within the strict rules that govern proper behaviour for HMRC staff, the inspectorate has been able to work with a number of union officers to sort out problems for groups of union members.

This largely positive experience has been a useful reminder of the broader strengths of trade unions in ensuring that workers are treated fairly and are not cheated by unscrupulous employers.

But unions could do more to enforce the minimum wage if they were recognised in more workplaces.

As a first step, the government could reinstate ACAS's duty to promote collective bargaining⁵. This would be a signal that collective bargaining remains the best way to articulate the voice of the workforce and settle issues at work.

⁵ When ACAS was established in 1975, it had a duty to “promote the improvement of industrial relations and the development, and where necessary, reform of collective bargaining machinery”. This statutory duty to promote collective bargaining was removed by the Major government via the *Trade Union Reform and Employment Rights Act 1993*.

The 10-point plan – testing strengths and weaknesses.

Measures	Strengths	Possible weaknesses	Other comments
More money for NMW publicity and the Pay and Work Rights Helpline	Important to ensure that employers and workers know their rights and duties.	Will not stop deliberate cheats.	There is a lot of evaluation of past government initiatives that would help ensure that the money for dissemination is used wisely.
Further increase to budget for enforcement	As the team is already motivated and well run, this would lead to increased results for a relatively modest outlay.	Government budget constraints	It should be a priority to further increase the budget for enforcement as quickly as possible.
Improve GovUK web guidance	Workers and employers need to be clearly aware of the rights and duties. Would reduce accidental underpayment and make workers more confident.	Guidance needs to be supported by awareness- raising and enforcement, otherwise it will not be effective.	Quality of guidance strongly reduced during move to Gov.UK. Some improvements have been made, but the current text still includes some serious omissions and errors that may lead employers to fall foul of the law.
Government to guarantee arrears where they cannot be recovered from employer – e.g. when employer goes bankrupt or vanishes.	Should be affordable, as this will only ever apply to the minority of the £3/£4 million arrears identified each year (estimate around maximum £1	We believe that the employer should pay, whenever this is humanly possible. Need to check that debt is genuine and that employer can-not meet debt, so	There is precedent in government support for statutory redundancy payments. Needs clear rules as to when it

	million per year). Would help to demonstrate a government commitment to fairness.	some administration costs are inevitable.	would apply. Needs to ensure public money well spent, whilst not making low paid employees wait too long.
All NMW non-payers to be named	A strong incentive for reputable customer-facing businesses to comply.	Less effective for non-customer facing businesses and out-and-out criminals who plan to vanish if caught.	The rules are now in place to name and shame, and the government has released a second group of names. However, government lawyers may still be very cautious. Need to ensure that significant numbers of NMW cheats are named – there should be literally hundreds of suitable cases.
Introduce a prosecution strategy targeting the worst offenders	Civil penalties are not all publicised, and even those that are lack details of the offence. For example, previous government releases have blandly said that xx business owes yy amount of workers a total of £zz. Court reporting often brings out further specific details of the offence. It must be good for justice to be seen to be done.	Prosecutions are said to be quite costly, in comparison with imposing civil penalties.	It is right that penalties should escalate. A prosecution strategy that targeted repeat and aggravated offenders, such as those who keep false records or obstruct HMRC in their investigations would engineer a higher degree of shaming, and this would create a stronger incentive for compliance.

<p>Higher NMW fines for prosecutions. The pros and cons of introducing custodial sentences for the worst offender should be considered.</p>	<p>A higher fine is a stronger incentive to comply with the NMW. Maximum fines in the courts must be more than the maximum civil penalty, since the offences that will be prosecuted will always be the most serious. The TUC has been cautious about arguing for custodial sentences for employers, but this might be appropriate in the most aggravated offences – as it is for tax fraud and trademark infringement, for example.</p>	<p>Judges may still choose low fines. Guidance on tougher sentencing would also be needed.</p>	<p>It can't be right that civil penalties can now be higher than fines imposed by court. Current NMW fines much too low – typically £1,000 to £3,000 which may be less than the comparable civil penalty. Also, for comparison, it is less than 1/10 of the average fine in a trade- mark infraction case.</p>
<p>More information sharing gateways for HMRC, to assist collaboration. This is needed because HMRC's confidentiality rules means that they cannot give feedback on complaints passed to them by local authorities, or government transport bodies like the Maritime and Coastguard Agency and the Vehicle and Operator Services Agency.</p>	<p>Information sharing boosts the quality of enforcement. Primary legislation would be needed, but it would certainly be worth creating a gateway for local authorities – which then effectively means that other bodies such as MCA could efficiently be included in the amendment.</p>	<p>Ability to share will still be constrained by resources and organisational culture, to some degree.</p>	<p>The incentive to pass on info is diminished when there is never any feedback. The rules on disclosure are specified by the Commissioners of Revenue and Customs Act 2005, which allow for prison sentences for wrongly disclosing info.</p>

<p>More targeted enforcement – perhaps focusing on the retail industry and social care.</p>	<p>Retail is the second biggest sector for NMW jobs (270,000), but has not been targeted yet. Social care has around 87,000 minimum wage jobs, but the sector is under intense funding pressure. Likely to find considerable non-compliance.</p>	<p>The retail sector has many small or franchise employers, so it is difficult to reach them all. However, it might also be worth looking at the contractors supplying the big chains. Social care has some similar considerations. It is unlikely to be fully solved until government invests more.</p>	<p>HMRC has targeted a number of sectors for extra enforcement over the years. For example, The hospitality sector has been targeted (281,000 NMW jobs), but retail has never been checked. Some enforcement work has been done in social care, but more is needed.</p>
<p>Take action to ensure that apprentices are paid the relevant minimum wage. Funding and training contracts to be dependent on compliance. Use of the special apprentice rate to be limited.</p>	<p>Delivering high quality apprenticeships is a key goal for government and has cross party support. The persistence of too many bad apprenticeships would damage the brand. Parts of this initiative should attract broad support.</p>	<p>There is likely to be employer resistance to constraining the use of the apprentice rate, since this would also mean paying more to some apprentices on the legal minimum (currently £2.73 per hour for some apprentices). The TUC argues that this rate is simply too low to live on.</p>	<p>Training providers and employers threatened with loss of funding will have the usual right of appeal.</p>
<p>Promote collective bargaining so that potential NMW problems can be prevented at source by trade unions.</p>	<p>There is a wealth of evidence that union members have better terms and conditions than non-members. Union members are therefore less likely to end up on the</p>	<p>There would be resistance from some politicians and employers to any measure that might give unions a stronger role.</p>	<p>Establishing genuine fairness at work cannot just rest on legislation. There should also be a stronger role for trade union collective</p>

	<p>minimum wage, or to be paid less. In addition, unions have a large core of paid officers and trained volunteer stewards who would be capable of ensuring that NMW issues do not arise in the first place.</p>		<p>bargaining in articulating the voice of people at work. If those who wish to see the establishment of a more active civil society simply stop at the door of the office or the factory then the message will not reach people at work, and work plays a central part in people's lives.</p>
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Ten vulnerable groups of workers.

This next section examines the position of 10 vulnerable groups of workers. The aim is to consider the degree to which they need to be the focus of a special effort to ensure that they receive the NMW.

The groups of workers considered are:

- Migrant workers
- Domestic workers
- Unpaid work – such as interns and bogus “volunteers”
- Social care workers
- Zero hours contract workers – including agency workers
- Bogus self employment
- Misuse of tied accommodation
- apprentices
- Seafarers
- Salary sacrifice schemes

Ten particularly vulnerable groups of workers.

sectors	Problem	What might help	Other comments
Migrant workers	Lack of knowledge of UK law, possible fears about the legality of their	Target sectors with high degree of migrants, such as horticulture and	Large migrant communities tend to become established and

	employment status, language difficulties.	meat packing. Produce material and provide interpretation in the most common languages.	develop their own support networks. Romanian and Bulgarian migrants are quite new at the moment and have arrived in quite small numbers, so they are an obvious focus for targeted support.
Domestic workers	All too often treated like servants. Exempt from the NMW and some other employment law if they live “as part of a family”. Some, evidence that families may lie about these arrangements to avoid the law.	Strengthen the law by tightening or removing the exemption. Prioritise this sector for enforcement. Strengthen links with domestic workers’ advocate groups like Kalayaan.	This issue will be hard to solve because these workers are often isolated, but removing the legal exemption from the NMW would at least give them more of a fighting chance.
Unpaid work – interns, “volunteers” etc	There has been a growing used of unpaid work in recent years. This has spread from the glamorous careers like journalism, fashion, Politics etc into things like engineering, administration and personnel management. More recently employers have been moving towards calling unpaid workers “volunteers” to try to avoid admitting	Continue to target for enforcement. Either ban unpaid job adverts, or at least make employers specify why they believe that the unpaid post is not covered by the NMW.	The expectation of unpaid work is disillusioning a tranche of young people. Some have undertaken multiple unpaid jobs. This practice rules out fair recruitment, as jobs tend to go to friends and family. It also deprives the Exchequer of tax and NICs revenue, which has a modest but perceptible negative effect

	NMW liability.		on consumer demand.
Social care	<p>Contracts, and thus terms and conditions, under pressure from local authorities, who often buy an individual's care by spot auction, meaning that one employer may have hundreds of different contractual arrangements, making enforcement labyrinthine.</p> <p>Widespread non-payment of travel time between in-work calls, which in some cases illegally take pay below the NMW.</p>	<p>The priority must be to get better funding, as soon as feasible.</p> <p>But there are also some other measures that can be taken.</p> <p>Specify in contracts that NMW must be paid.</p> <p>Public sector should not deal with proven NMW cheats.</p> <p>Target this sector for enforcement.</p>	<p>One provider should not have 200 different pay rates for 200 workers. Pay is opaque in the sector, but may often breach equalities law as well as the NMW.</p> <p>Improving the quality of care should be a political priority.</p> <p>Increasing life expectancy means that a growing number of people are having contact with social care.</p>
Other workers with irregular hours or zero hour contracts, including agency workers.	<p>Casual workers, agency workers and zero hours contact workers whose hours vary are clearly vulnerable, and they may have very low incomes.</p> <p>There has been an exponential growth in the use of zero-hours contracts since the onset of the recession. The TUC's view is that a substantial minority of employers are using them to try to avoid paying the NMW in circumstances where it would generally be due.</p>	<p>Target zero-hours contracts and employment agencies (on the basis of risk assessment) for NMW enforcement.</p> <p>In cases where pay is close to the legal minimum.</p> <p>The government should further tighten the rules on the use of zero-hours contracts, as per the TUC's response to the recent government consultation.</p>	<p>Underpayment and wild variations in earnings cause serious difficulties with benefits and tax credits. Many workers develop rent arrears.</p> <p>Note that employment agencies have already been identified as a high-risk sector by HMRC, and have featured in their occasional multi-agency street-sweep operations.</p>

<p>Crack down on the use of bogus self-employment.</p>	<p>Employers look to evade the NMW, holiday pay and NICs by allocating their workers bogus self employment status. There would be a wide-ranging uplift for workers from a successful crack-down. This would also benefit the Exchequer, and would help ensure a level playing field for employers.</p>	<p>An intervention must be well-targeted and based-on intelligence. The practice is well-documented, including construction and professional driving.</p>	<p>Note also the growing use of employment intermediaries to disguise employment as self-employment, and thus avoid employment taxes and deny employment rights to their workforce.</p>
<p>Workers in tied accommodation</p>	<p>Employers may split business into employer and accommodation wings, to avoid rent deduction limits set in NMW Act. The NMW “accommodation offset” has been used for workers living in tents, huts and houses unfit for human habitation Note also that abolition of Agricultural Wages Board in England and Wales has caused some confusion this year as the AWB dealt with accommodation in a different way.</p>	<p>Reinstate BIS guidance saying that the artificial division into employer/ accommodation within a firm will be regarded as a breach of the act. Specify that NMW accommodation offset cannot be used for temporary structures such as caravans and tents, or for accommodation that is overcrowded or unfit for human habitation. Closely monitor the agricultural sector where accommodation is provided</p>	<p>Employer has greater control of their workers when they provide accommodation, so workers can be less likely to claim their rights. Local authorities could do more to enforce rules on Houses in Multiple Occupation, and should pass suspicions to HMRC. Sometimes it’s obvious that something is wrong - like finding 12 beds in a 3 bedroom house.</p>
<p>Apprentices</p>	<p>The latest BIS pay survey (Dec 2014) shows that 1 in 7 apprentices are</p>	<p>The NAS are already revising apprenticeships to focus more on</p>	<p>The current situation is so bad that unless it is rectified it is</p>

	<p>illegally unpaid. Govt evidence to LPC shows that apprentices feature in 1 in 4 HMRC investigations. The complex rules in this sector may lead to some employers making mistakes, but many others are deliberately using apprentice status to avoid the NMW.</p>	<p>quality and will put NMW information in apprentice contracts – but this will not be nearly enough on its own. Government should withdraw apprentice funding from employers who fail to pay the NMW. Government should commission further pay surveys to track progress. But structural reform is also needed – see column on right.</p>	<p>likely to undermine the apprentice brand. There are 3 possible rates for apprentices, depending on age and length of time in training. The BIS secretary has asked the LPC to consider raising the apprentice rate (which applies to more than half of apprentices) up to the 16-17 year old rate (e.g. from £2.73 to £3.79). This would be welcome, but it would still leave 3 possible rates for apprentices. The TUC argues for the exemption for apprentices aged 21 and over abolished, which would cut out 1 apprentice rate. The rate should not be available for those doing advanced or higher level apprenticeships, which would reduce the number affected.</p>
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<p>Seafarers</p>	<p>Many are exempt, as NMW stops at the shoreline and internal waters, unless you are domiciled in UK – even for those only working between two UK ports. Thus Filipino workers employed on, say, the Stranraer to Belfast ferry are exempt from the NMW.</p>	<p>Some improvement made through the Equalities Act (EU seafarers must be paid same as UK seafarers for same work), and some tweaks to NMW act to cover non-EU seafarers who “have a significant link to economic life of UK”. Nevertheless, an estimated 47% of seafarers on British ships are still not covered by NMW, and most are paid below it. If there was political will, Government could convene an expert working party to find a way to tighten rules.</p>	<p>Not straightforward to solve. Must comply with the international law of the sea. Te Foreign Office has been quite unhelpful. But more could be achieved.</p>
<p>Crackdown on salary sacrifice schemes that cut below the NMW. These are operated by “employment intermediaries”</p>	<p>Helps workers, who may otherwise not accrue sufficient NICs for benefits and pensions.</p>	<p>Such schemes are already illegal – but the law needs to be fully enforced.</p>	<p>Helps the Exchequer as well as protecting workers. Government announced a consultation on the use of these “umbrella companies” in the autumn statement</p>