

Hundreds of companies failing to pay minimum wage

HMRC is increasingly tough on companies and directors failing to pay workers a minimum wage.

In early 2017, the Department for Business Energy and Industrial Strategy named and shamed 361 businesses that had underpaid 15,521 workers a total of £995,684. The employers were required to repay all arrears and pay fines totalling circa £800,000. Among them are well-known names like Debenhams, Subway, Lloyds Pharmacy and St Mirren Football Club in addition to a number of smaller companies. The biggest offenders were employers in hairdressing, hospitality and retail.

Excuses used by businesses for not paying the full basic wage included using tips to top up their pay, making reductions to pay for a Christmas party, or making staff pay for their own uniforms.

The National Minimum Wage ("NMW") is the wage to which almost all workers are entitled. If HMRC finds that an employer has not been paying the NMW, arrears must be paid immediately and a fine may be imposed (up to 200% of the arrears owed, with a maximum of £20,000 per worker). It is also a criminal offence and criminal investigations will be considered where appropriate.

HMRC will hold individuals responsible to account. Whilst unlikely, it is possible that directors will be targeted for criminal prosecutions. The more likely sanction is disqualification from being a company director for up to 15 years.

As HMRC continues to focus upon fair pay, the number of Directors implicated in investigations is likely to continue to increase. Directors and Officers liability insurers will be interested to assess circumstances in which Investigation / Defence Costs might be advanced and, in particular, consider the potential application of exclusions relating to conduct in the event that a disqualification undertaking is agreed or an order to that effect is made.

Please note that should your clients require any confidential advice regarding any insolvency matter they are welcome to contact one of our Partners. Initial advice is provided free of charge and without obligation. Also, if you or any of your colleagues require any clarification regarding insolvency law or procedure, please do not hesitate to contact us.