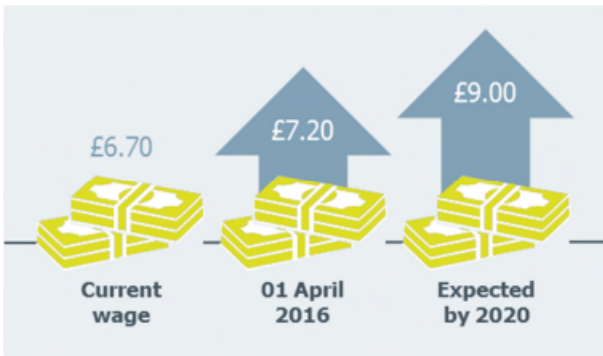


NATIONAL LIVING WAGE

February 2016

BP BERWIN LEIGHTON PAISNER

What changes are coming into force?



As of 1 April 2016, the mandatory 'National Living Wage' (NLW), a new rate of statutory minimum wage, will come into force at **£7.20** for those aged 25 and over.

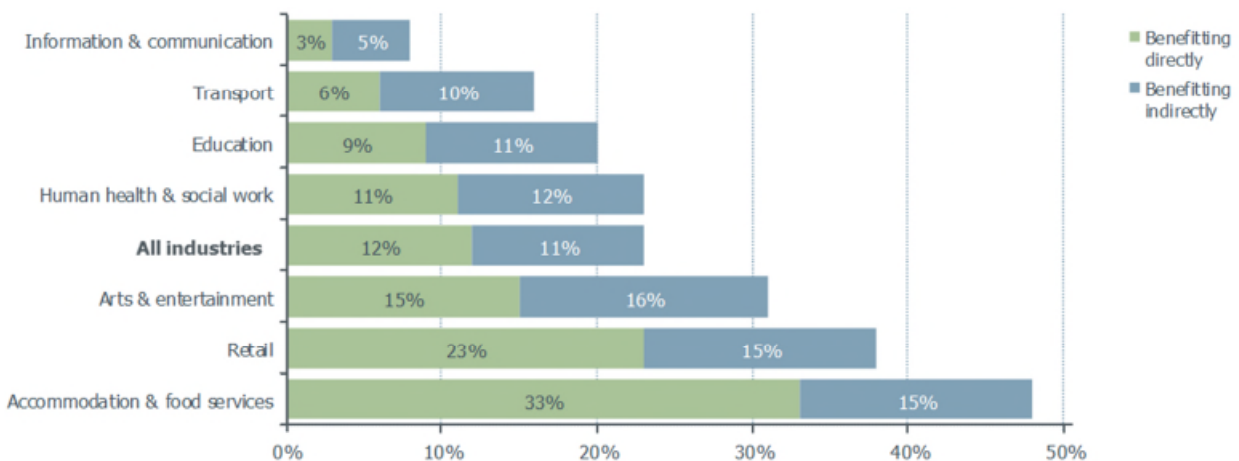
The law will not require every hour to be paid at the minimum rate – it is the average hourly rate of pay over the reference period that is important.

Pay that will not be included in calculating the average hourly rate of pay will be benefits in kind, vouchers and tips.

How will the NLW affect employers?

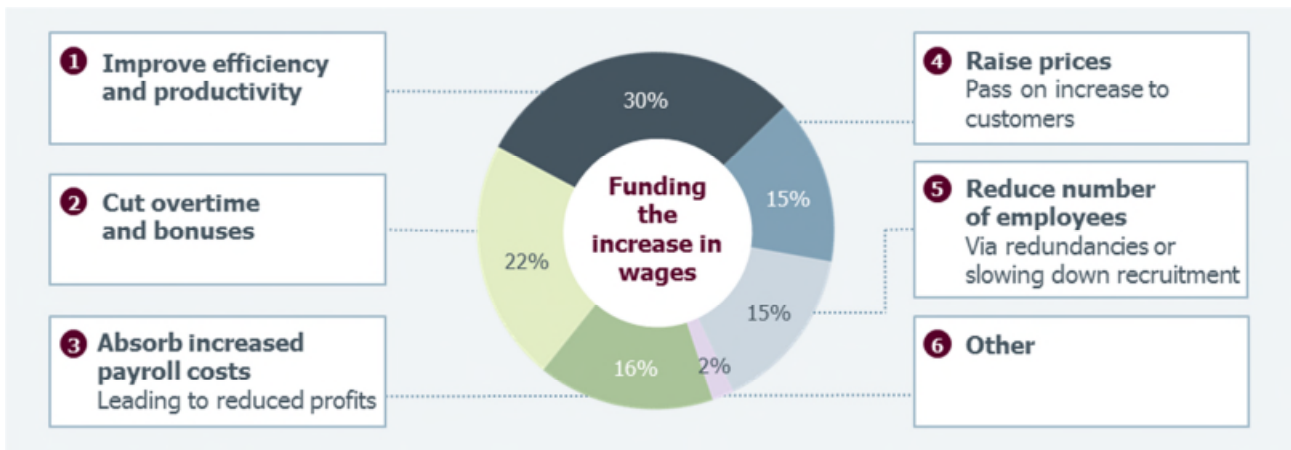
- The NLW is expected to increase wages for more than half of all UK employers.
- An estimated 6 million employees will benefit from the NLW (both directly and indirectly) leading to a **£4.5bn** wage increase across the UK by 2020.
- The upward shift in wages for lower-paid employees will put pressure on employers to increase salaries of those employees already earning slightly above the NLW (those 'benefitting indirectly' as per the graph below) in order to maintain varying levels of salary between different grades of employees.
- It is anticipated that employers in the retail and hospitality sector will be most affected by increased costs.

Employees benefitting by sector



Source: The Resolution Foundation "Taking up the floor, exploring the impact of the National Living Wage on employers"

How are employers likely to fund the increase in wages?



Advantages and disadvantages for employers

+ Advantages

- An increase in pay should lead to greater productivity and loyalty, creating improved customer service.
- Improved retention rates should reduce the need for costly agency staff and lead to a decline in recruitment and training costs.

- Disadvantages

- Dismissing workers aged over 25 to avoid paying the increased rate could lead to claims of age discrimination. Cost alone is unlikely to be a satisfactory objective justification to discrimination.
- It is automatically unfair to dismiss or select an employee for redundancy because the employee qualifies for minimum wage.

Penalties

- 1 If HMRC find that an employer hasn't complied with the NLW they will send them a notice of underpayment
- 2 An enforcement offer of HMRC and/or individuals can also take action through the Employment Tribunal
- 3 Employers will be obliged to pay:
 - Arrears of wages
 - PLUS a financial penalty of up to 200% of the unpaid wages (capped at £20,000 per worker)

What to do next

Employers should prepare early for the April 2016 changes. The Government has encouraged taking the following simple steps:

1. Find out which staff are eligible for the new rate of hourly pay;
2. Update the company payroll in advance of 1 April; and
3. Communicate the changes to staff as soon as possible.

It would be prudent to monitor the ages of relevant employees so that the rate of £7.20 per hour can be applied immediately from their 25th birthday.

It would also be helpful for businesses to work out the total likely cost of the NLW up to 2020 (when it is predicted to increase to £9 per hour). This could help businesses plan their overall strategy to mitigate the increased costs over the course of the NLW changes and not just those in the short term.

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