

## Do your staff pay for their uniforms?

**The latest round of “naming and shaming” of employers who have failed to pay the national minimum wage (NMW) to their workers has highlighted a significant issue affecting staff uniforms. HMRC’s strict rules mean that many employers may be inadvertently underpaying staff. Here, we take a look at the current issue.**

- It is common practice for employers to make their staff pay for their uniforms. This is perfectly acceptable provided it is covered in the contract and the money deducted from wages does not result in an employee receiving less than the NMW;
- However, employers must be aware that the term “uniform” does not refer only to branded overalls and t-shirts, for example;
- A “uniform” can be created by simply instructing employees what they must wear. A common example is a requirement to wear black trousers and a white shirt. They bear no company branding, and the employee would be free to wear them outside of work too. However, the cost of these items cannot result in the employee’s wages falling below NMW for that pay period. This could mean employers must reimburse employees for the clothes they have been instructed to wear so that their wages meet the appropriate rate of NMW;
- This is exactly how restaurant Wagamama fell foul of the NMW rules recently; they tell staff to wear black jeans. The cost of these jeans resulted in employee pay falling below NMW.

### Unpaid trial shifts could be banned under new laws

Employers frequently ask prospective employees to complete a trial shift in their intended role to see how they fare. Recruitment decisions are then made on an assessment of the performance during the shift. Commonly, someone undertaking a trial shift will not receive payment.

**Did you know?** A new Bill to be discussed by Parliament could ban unpaid trial shifts. Employers would have to pay at least National Minimum Wage for the hours done. It aims to prevent employers from using “trial shifts” to cover things like staff absence.

**Did you know?** Employers would also have to provide clear information on what is expected and also give feedback at the end of the shift.

### Is “image bias” preventing you recruiting the best talent?

A recent survey by LinkedIn showed that 4 in 10 employers had rejected a candidate because they had a visible tattoo. Whilst there is nothing in law to prevent “image bias”, employers should be aware of the potential risks.

**Did you know?** Some tattoos may be connected with a person’s religion. Tattoos may also be used to cover a severe disfigurement. Both of these circumstances may be covered by the Equality Act and a recruitment rejection for this reason may be discrimination.

**Did you know?** Initial telephone interviews may help employers to focus on an individual’s skills rather than appearance.

### Childcare Voucher Scheme to continue for further 6 months

The Government has announced that the new Tax-Free Childcare Scheme, planned for April 2018, will not now be rolled out in full until October. When the scheme is in full operation, the current Childcare Voucher Scheme will be closed to new entrants.

**Did you know?** Anyone currently in your Childcare Voucher Scheme may continue to receive vouchers for as long as they need them. The Scheme will also stay open to new entrants until the Tax-Free Childcare Scheme takes over. Some employees may be worse off under the new scheme so employers may wish to review their support for employees with families.

Administering a Childcare Voucher Scheme includes making a formal change to an employee’s terms and conditions. Employers who wish to make use of the 6 month reprieve on the current scheme can call our Payroll Advice Team for assistance and all the documentation you need to introduce new members. They can also advise you on the complicated National Minimum Wage rules - uniform charges are not the only element of pay that can impact on your legal compliance with the National Minimum Wage.

Please contact the 24 Hour Advice Service for advice on your specific situation before acting on the information in this publication.