

UK: Sports businesses caught out on National Minimum Wage

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On the 8th of March the Government released its latest list of businesses who failed to pay the National Minimum Wage and a number of sports businesses were listed. Birmingham City and Stoke City football clubs were joined by London Irish and St Helen's rugby clubs and racehorse trainer Dan Skelton in the 179 businesses named.

Most businesses fully intend to pay the national minimum wage but can be caught out by complexities in the legislation as the examples below illustrate.

St Helen's explained their underpayment as mostly relating to a misunderstanding regarding training casual staff. The club had not realised that match day stewards needed to be paid for a two hour training session at the start of each season. The requirement to pay for training is however clearly set out in the act and, even for casual staff, these hours need to be paid. This is even the case if training is provided to a large group of potential stewards at the start of the year, some of whom may not go on to actually work at matches or events, which may well be the case for many sports businesses.

Stoke City explained that their issue related to deductions from employees pay for items purchased from the club. Had the staff simply paid cash for these tickets and merchandise there would have been no issue but, as a deduction had been made directly from the employees' pay for these items, the deduction was counted for the purposes of national minimum wage calculation. Although allowing such deductions may appear convenient it can give rise to the issue Stoke City experienced and the club has confirmed that it has now stopped this practice.

It was not clear what the reasons for the failures by Birmingham City, London Irish or Dan Skelton were but restaurant chain Wagamama was one of a few employers who blamed uniform issues. Specifically, the fact that staff had to buy specific items of clothing (e.g. casual black trousers) to wear to work and were not reimbursed for these items effectively meant a deduction to pay, meaning certain employees had not received the national minimum wage. Even if the items can be used by the employees outside of work, the fact that they have to be purchased for work is sufficient for national minimum wage purposes. This issue could well be relevant for sports businesses, particularly if employees are required to wear a particular colour to work. It could equally be difficult to keep a track on how much employees are spending on such items meaning employers have to be pro-active in their record keeping.

As rates increase on 1 April 2018 the above examples present cautionary tales and demonstrate that minimum wage compliance cannot be taken for granted by simply paying an hourly rate that is at least the required amount. The potential negative PR effect of non-compliance (in addition to the fines and potentially criminal liability) are also once again highlighted.

New hourly rates from 1 April 2018

- National Living Wage (age 25+) £7.83
- Standard Adult Rate (age 21-24) £7.38
- Development Rate (Age 18-20) £5.90
- Young Workers Rate (Age 16-17) £4.20
- Apprentice Rate £3.70

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