FACT SERVICE

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National Living Wage and April legal changes

Each year, April generally heralds a raft of legal changes. This April sees the introduction of the National Living Wage, which is in effect a higher National Minimum Wage.

Workers aged 25 and over will be entitled to the National Living Wage rate of £7.20 an hour from the first pay reference period beginning on or after 1 April 2016.

Generally all those who are covered by the National Minimum Wage, and are 25 years old and over, will be covered by the National Living Wage. These include:

- employees;
- most workers and agency workers;
- casual labourers;
- agricultural workers; and
- apprentices who are aged 25 and over.

The penalty for non-payment of the National Living Wage will be 200% of the amount owed, unless the arrears are paid within 14 days.

The maximum fine for non-payment will be £20,000 per worker. However, employers who fail to pay will be banned from being a company director for up to 15 years.

A worker should see the increase in their pay automatically from April if they currently earn less than £7.20 an hour.

The advice is that if you don't see the difference in April, you may want to speak to your employer, if you are a member of a trade union contact them, or you can contact the Acas helpline on 0300 123 1100 for more advice on what to do.

The National Living Wage is a statutory rate and should not be confused with the voluntary Living Wage, which is higher and based on the basic cost of living in the UK. The present rates for the Living Wage are £9.40 an hour in London and £8.25 an hour in the rest of the UK.

Another change in April is no change, as the statutory rates for maternity, paternity or adoption and shared parental leave are frozen at the rate of £139.58 a week or 90% of the employee's average weekly earnings if this figure is less than the statutory rate.

The rate of statutory sick pay has also been frozen at its current weekly rate of £88.45.

To be entitled to these statutory payments, the employee's average earnings must be equal to or more than the lower earnings limit, which is also frozen at £112 a week.

There are increases in the various limits to employment tribunal awards and statutory redundancy payments. The increases reflect the increase in the Retail Prices Index of 0.8% from September 2014 to September 2015.

From 6 April, the maximum amount for a week's pay for calculating a redundancy payment or for various awards, including the basic or additional award of compensation for unfair dismissal increases to £479 from £475.

The minimum amount of compensation for unfair dismissal rises to £5,853 from £5,807. The upper limit on such compensation rises to £78,962 from £78,335, although few successful claimants receive such a sum.

The maximum guarantee pay during lay off or short-time working is frozen at £26 a day. As this applies for up to five days in any three-month period, the maximum remains at £130.

www.livingwage.gov.uk/

www.livingwage.org.uk/what-living-wage

www.legislation.gov.uk/uksi/2016/288/pdfs/uksi_20160288_en.pdf

Firms sign women in finance charter

A number of City firms have signed up to a new charter that links executive pay to gender diversity.

Barclays, Capital Credit Union, Columbia Threadneedle, HSBC, Lloyds Banking Group, Royal Bank of Scotland and Virgin Money have all committed to The Women in Finance Charter, which is supported by HM Treasury and aims to improve gender balance in the financial services industry.

The charter sets out to implement the recommendations from the *Empowering productivity* review headed by Virgin Money chief executive Jayne-Anne Gadhia.

The charter:
- commits firms to supporting the progression of women into senior roles in the financial services sector by focusing on the executive pipeline and the mid-tier level;
- recognises the diversity of the sector and that firms will have different starting points – each firm should therefore set its own targets and implement the right strategy for their organisation; and
- requires firms to publicly report on progress to deliver against these internal targets to support the transparency and accountability needed to drive change.

Firms signing up to the charter commit to gender diversity by having a member of the senior executive team who is responsible and accountable for gender diversity and inclusion. Firms must set internal targets for gender diversity in their senior management and publish progress annually against these targets in reports on their website.

Finally, signatory firms pledge to ensure the pay of the senior executive team is linked to delivery against these internal targets on gender diversity.

The Treasury will publish a list of the firms that have signed up to the charter in three months' time.

www.employeebenefits.co.uk/barclays-hsbc-lloyds-rbs-and-virgin-money-commit-to-charter-linking-executive-pay-to-gender-diversity/

www.gov.uk/government/uploads/system/uploads/attachment_data/file/509464/HM_Treasury_Women_in_Finance_Charter.pdf

Critical reports on academy trust

Education secretary Nicky Morgan has insisted there will be no retreat on plans to convert every state school in England into an academy, enduring a frosty reception from teachers as she told them the education system was "in much better shape" than five years ago.

"I want to be clear there will be no pulling back from that vision, there is no reverse gear when it comes to our education reforms," the education secretary told delegates to the NASUWT annual conference over the Easter weekend.

This was just days after two damning Education Funding Agency (EFA) reports into Perry Beeches The Academy Trust in Birmingham were quietly published as MPs began their Easter recess.

The academy trust, praised by prime minister David Cameron, Morgan and her predecessor Michael Gove, has been warned to improve its practices. The EFA investigation, following allegations by a whistleblower, discovered the trust was in "serious breach" of guidelines.

The most remarkable breach came from its head teacher and chief executive Liam Nolan.

Nolan told the BBC he was no businessman, "I'm a head teacher". However, Nolan had sufficient business nous to become involved in a complicated arrangement with a company called Nexus Schools Ltd, a "third party supplier" to the trust. Nexus provided "the services of a CEO" – that is

Nolan – for the trust, but subcontracted the role to Liam Nolan Ltd, a private limited company whose sole director was Nolan.

The EFA investigation into this arrangement said it not only breached the Academies Financial Handbook, but also contravened Treasury guidance "about the employment and contract arrangements of individuals on the avoidance of tax".

The 2015 accounts for Perry Beeches the Academy Trust Limited show that Nolan received £74,000 extra for his services that year and £64,000 for the year before. That meant Nolan received between £210,000 and £220,000 in year to August 2015 and £160,000 and £170,000 in 2014.

The trust when preparing its 2015 accounts knew the game was up, as Nolan's salary for 2014 was restated to take account of the arrangement between Nexus and Liam Nolan Ltd.

Having been found out, Nolan has put his company into voluntary liquidation.

The EFA also found failures around procurement. The trust had no written contract with Nexus despite spending £1,297,712 over two academic years with it. Nor did the trust have an "adequately detailed tendering policy". The EFA judged the trust to have "almost no detail" on how to show value for money.

Conflicts of interest were not appropriately managed. Trustees failed "to have appropriate internal control arrangements". This laxity could increase the risk of fraud, the EFA said. The trustees could not "provide assurance of high standards of probity in the management of public funds".

As there was no written contract with Nexus and no written checks on goods and services received. This significantly increased the risk that "health and safety services provided by Nexus may not meet statutory requirements". This was a "potential breach" of *Education (Independent School Standards) Regulations 2014*.

The EFA said: "Urgent action is required to strengthen governance, financial procedures and management arrangements and ensure trustees fully understand their obligations as company directors and charity trustees."

Strangely, the EFA report did not refer Nolan's nepotism. The 2015 accounts show that a niece and nephew of Nolan were employees of the trust. Helen Nolan received a salary of £49,622 plus pension contributions and Kevin Nolan £20,600 plus pension contributions.

In a second EFA report investigating the number of pupils eligible for free school meals (FSM), the EFA found the trust had breached the Academies Financial Handbook by not keeping any form of FSM eligibility evidence for a period of six years.

Because of the lack of documentary evidence, the EFA was unable to determine whether pupils listed as FSM were eligible or not.

www.localschoolsnetwork.org.uk/2016/03/damning-reports-show-problems-at-perry-beeches-were-more-than-a-little-confusion-over-the-law

www.gov.uk/government/publications/financial-notice-to-improve-perry-beeches-the-academy-trust

www.gov.uk/government/publications/financial-management-and-governance-review-perry-beeches-the-academy-trust

www.gov.uk/government/publications/investigation-report-perry-beeches-the-academy-trust

www.gov.uk/government/speeches/everyone-has-an-opinion-on-education

Fresh privatisation threat to Land Registry

The government likes to bury bad news by releasing it just before parliament breaks. It did so with Perry Beeches The Academy Trust (see previous story) and it did so just before the Easter recess with new plans to privatise the Land Registry.

A bid to privatise the Land Registry in 2014 was vetoed by the then business secretary in the coalition government, Sir Vince Cable. However, documents released at the end of the Autumn Statement in November 2015 confirmed earlier speculation that the issue was once again being considered by chancellor George Osborne, with the Rothschild investment bank asked to consider options. And Sajid Javid, the new business secretary, wants to sell the Land Registry off.

The Land Registry, which now employs around 4,500 people and has had a monopoly on recording land and property information in England and Wales since 1862, could be worth £1.2 billion which would help chancellor Osborne cut the deficit.

The government is quite clear about its greed for money. The consultation says: "An upfront capital receipt from a sale of part or all of Land Registry operations would provide proceeds to the Exchequer which would help reduce the national debt."

Former chief land registrar John Manthorpe has written to business minister Anna Soubry and other MPs to point out the Land Registry operates at "no cost to the public purse" and that it is "highly regarded by those who depend on it as a provider of trusted, prompt services".

"Land registration is not an activity that any responsible government can transfer to the private sector," he added.

The PCS civil service union has pledged to campaign vigorously against the plans.

PCS general secretary Mark Serwotka said: "We exposed the emptiness of the government's case last time and will do again to put a stop to this plan that is being driven by short-term political choice, not economic necessity.

"Homebuyers and owners rely on the Land Registry to provide an impartial professional service and it must remain under public control, free from any profit motive and conflict of interest.

"It is utterly disgraceful that the government waited until the end of the day before MPs break for Easter to publish its consultation, but is a sure sign ministers know the strength and breadth of opposition they will face."

www.gov.uk/government/uploads/system/uploads/attachment_data/file/510987/BIS-16-165-consultation-on-moving-land-registry-operations-to-the-private-sector.pdf

www.pcs.org.uk/en/news_and_events/news_centre/news_centre.cfm/fresh-threat-to-land-registry-as-sell-off-plan-published-on-last-day-before-recess?

Disabled people failed by government

The government is failing to protect disabled people from discrimination, according to a report arising from a nine-month investigation by a House of Lords select committee.

The Equality Act 2010 and disability committee has concluded that laws designed to address disability discrimination were "not working in practice", while government spending cuts were having "a hugely adverse effect on disabled people".

Baroness Deech, chair of the committee set up to examine the impact of the *Equality Act* on disabled people, said disabled people were being let down across the whole spectrum of life, including in access to public buildings, housing, public spaces and public transport.

She said: "When it comes to the law requiring reasonable adjustments to prevent discrimination, we found that there are problems in almost every part of society, from disabled toilets in restaurants being used for storage, to schools refusing interpreters for deaf parents, to reasonable adjustments simply not being made."

The report also calls on the government to carry out an assessment of the cumulative impact of the cuts to spending and other major reforms on disabled people, a demand that has been made repeatedly by disabled activists.

The committee provides a string of examples of how disabled people have been affected negatively by cuts in public spending, in addition to benefit and tax changes, including cuts to advice services, and legal aid, the introduction of fees for employment tribunals, cuts to the budget of the Equality and Human Rights Commission (EHRC), and cuts to public transport, social care, mental health services and support for disabled students.

The report criticised the 2012 transfer of the EHRC's helpline to a private provider and calls for its restoration to the EHRC.

It concludes: "In the light of this list we think that the conclusion that disabled people have been hit particularly hard is inescapable.

"Difficult decisions must be made, but they must also be done in a fair, transparent and accountable way."

The committee also found that there should have been separate legislation to protect disabled people from discrimination, rather than including disability in the *Equality Act 2010*, although it was now "too late to undo this mistake".

Merging the *Disability Discrimination Act* with the other protected characteristics in a single *Equality Act* had "led to a loss of focus on disability discrimination and a sense of a loss of rights among disabled people", the committee concluded.

But the report says that separating disability now from the other "protected characteristics" such as gender and sexuality would be "impractical", and it would be more sensible to improve the *Equality Act* so that it gives "greater prominence to disability" and increases "protection of disabled people".

www.disabilitynewsservice.com/government-is-failing-disabled-people-on-discrimination-say-peers/

www.publications.parliament.uk/pa/ld201516/ldselect/ldeqact/117/117.pdf

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