

Dear Chief Secretary,

Date

07.05.24

I write to seek your assistance to resolve the issues being caused for employers in the NHS regarding compliance with the National Living Wage (NLW), following the uplifting of minimum wage rates in recent years, which have been compounded by delayed announcements of annual pay awards for the NHS, and the wider public sector.

For the attention of

The Rt Hon Laura Trott MBE
MP

action.cst@hmtreasury.gov.uk

I would also like to seek your support to commission an urgent review of the interaction between the full suite of 'salary sacrifice schemes' in the NHS and the NLW in future years.

By way of introduction, NHS Employers is part of the NHS Confederation, the membership body that brings together, supports and speaks for the whole healthcare system in England, Wales and Northern Ireland. The NHS leaders we represent employ 1.4 million staff, care for more than 1 million patients a day and control £150 billion of public expenditure.

As a key part of the total reward offer, there are several salary sacrifice scheme arrangements in operation across the NHS. These are introduced by employers to benefit their employees, by providing a cost-effective benefit in exchange for giving up salary.

It is this reduced salary, which must be considered for the purposes of establishing whether an individual employee is receiving pay of at least the NLW rate. As a result, allowing employees to participate in salary sacrifice arrangements can increasingly lead to employers inadvertently breaching the NLW rate as an employee's earnings must not be operating below the national minimum rate set.

A number of organisations in the NHS, including one of our largest employers in the north, are reporting that HMRC are approaching them and advising that salary sacrifice arrangements that impact on the NLW should cease immediately, notwithstanding the delay to government pay awards. This apparent mismatch between areas of government policy is causing real distress to those staff impacted whose cost of living has increased as a result.

Given that any non-compliance with the NLW will be resolved for some employees by the government's pay award, I write to also ask that HMRC pause any further advice to employers on this area until after government has confirmed pay awards for 2024/25.

We look forward to hearing from you. Your team can get in touch via external.affairs@nhsconfed.org if it would be helpful to discuss this in more detail.

Yours sincerely,



Daniel Mortimer
Chief Executive, NHS Employers and Deputy Chief Executive,
NHS Confederation

CC: Nigel Huddleston MP, Financial Secretary to the Treasury

The Rt Hon Andrew Stephenson CBE MP, Minister for Health and
Secondary Care