

MINISTERIAL FOREWORD

Since April 1999 the minimum wage has been enforced by the Inland Revenue on behalf of the Department for Trade and Industry, and the results demonstrate how successful this partnership has been.

Our research shows that awareness of the minimum wage continues to be at a high level for both employers and low paid employees. And we are continuing to publicise the minimum wage through national advertising campaigns, as well as using other channels such as regional and local media, through schools, working with local communities and on the DTI and Revenue internet sites.

The minimum wage was brought in to ensure a decent wage for low paid workers. Revenue compliance officers have to date identified around £17 million in wage arrears for workers who were not getting what they were entitled to. This is a clear signal of the Government's determination to eradicate poverty wages and to make the policy work. And October 2004 saw further increases in the minimum wage rates, as well as the introduction of a new rate for workers younger than 18 and above compulsory school age. This is designed to help stop the exploitation of young workers without harming their employment prospects.

We also introduced new 'Fair Piece Rates Regulations' in October 2004. These link the minimum wage for output workers to a piece rate for their work and will, we believe, be a simpler regime to understand for both employers and workers. This will particularly benefit home-workers, who include some of the most vulnerable and low paid people in the workforce.

The minimum wage is now seen as one of the most important achievements of this Government and has made a real difference to around a million people each year since its introduction. This report reflects the achievements made to date and we hope you find it both interesting and informative.

Gerry Sutcliffe, Minister for Employment Relations, Competition and Consumers
Dawn Primarolo, Paymaster General
January 2005

SECTION 1: AWARENESS AND EDUCATION

Awareness and Publicity

The Government believes that to be truly successful the minimum wage needs to be widely known about and willingly complied with. That is why Section 50 of the National Minimum Wage Act 1998 requires the Secretary of State to draw attention to those affected by it when the Regulations change. The most recent Low Pay Commission Report (published in March 2004) again recommended Government should continue to publicise the minimum wage, particularly the headline rate as well as the minimum wage helpline number.

In September/October 2003 the Government ran a nation-wide publicity campaign to coincide with the changes to the adult and development rates on 1 October 2003. This campaign was biased towards large circulation national tabloids; supported by adverts in the broadsheets, trade press and selected women's magazines as well as ethnic press and TV listings. The DTI also updated guidance aimed at both employers and employees and made this available in a variety of ethnic languages, including the main Asian languages.

The campaign had several objectives: to inform employers and workers of the new increased rates for the minimum wage; to make employers aware of the change in the law, and to encourage people to call the help-line telephone number to obtain further information and advice.

The target audience included low-paid workers, young workers and all employers – particularly those in retail, hospitality, social care, hairdressing, security, cleaning and childcare.

Analysis of calls to the helpline and visits to the DTI minimum wage website page showed a marked increase in activity during the period of the campaign.

Calls to the helpline doubled in the week commencing 29 September compared to the week before the campaign began and did not drop to pre-campaign levels until 2

weeks after the print and online advertising finished. The highest number of calls occurred in the second week of the campaign, when the call volume was six times that recorded in the first week.

Figures for a six-week sample of the DTI web pages showed a total of 28,842 viewings in June/July. Visitor figures for the six-week period encompassing the advertising campaign more than doubled – 53,707.

The Government commissioned detailed independent research into levels of awareness following the 2002 advertising campaign. This showed that 99% of employers surveyed in eight low-paying sectors and 97% of low-paid workers were aware of the minimum wage, although knowledge of the actual rates was lower.

These results show that efforts to highlight the helpline number and encourage people to seek further information from the web were successful.

The minimum wage increased again on 1 October 2004 and there was a publicity campaign during September/October 2004 to announce the increase to the main and youth rates, as well as the introduction of the new rate for 16/17 year olds. The new rates are:

- ❑ £4.85 an hour for those aged 22 years or above;
- ❑ £4.10 an hour for 18 – 21 year olds; and
- ❑ a new rate for 16 and 17 year olds above compulsory school leaving age, set at £3.00 an hour.

Awareness and Guidance

As well as paid publicity, the Government has taken a number of other steps to ensure that awareness and understanding of the legislation remains high. These include:

- the DTI updated short guides for employers, employees and young workers in October 2003;

- the DTI and the Inland Revenue continue to make presentations and answer questions on the minimum wage at seminars and conferences. Under the heading of CROW (Customer Responsive Outreach Work), twenty presentations were made in 2003/04;
- working closely with local communities and relevant groups to improve compliance with the minimum wage;
- throughout 2003/04, the Inland Revenue held a series of tax/national insurance awareness events in towns and cities across the UK. The Revenue's minimum wage staff attended all of these events; and
- information about the minimum wage rate changes and the helpline is also included in the Inland Revenue's employer bulletins, which reach about 1.5 million tax-registered employers.

SECTION 2: COMPLIANCE AND ENFORCEMENT

Background

The National Minimum Wage Act 1998 has now been in force for over six years. The Inland Revenue has operational responsibility for enforcing the minimum wage and has operated a helpline and network of compliance teams since 1 April 1999 to fulfil that role.

The Department for the Environment, Food and Rural Affairs and the Agricultural Agencies in Scotland and Northern Ireland undertake enforcement of the minimum wage in the agricultural sector. These bodies already had responsibility for enforcing agricultural minimum wages (see Annex B) before the national minimum wage was introduced.

Under powers contained in the National Minimum Wage Act 1998, a worker has the right to receive the minimum wage and can enforce this right by taking their case to an employment tribunal or civil court. However, the Government did not want workers to have to rely on taking action against their employer themselves, as intimidation or fear of losing their job could prevent a worker from making a complaint. The Act therefore allows for the appointment of enforcement officers to act on behalf of workers, where they identify that a business is failing to fulfil its obligations.

The Inland Revenue enforces the minimum wage under a Service Level Agreement with the DTI. Under the terms of the Agreement, the Revenue provides information, inspection and enforcement services, and responds to enquiries and complaints from workers, employers and third parties to help ensure that employers comply with the minimum wage legislation. This includes visiting a sample of employers about whom no complaints have been made, to check that they are meeting their obligations under the minimum wage legislation.

ENFORCEMENT OPERATIONS

Helpline

The helpline is based in Newcastle-upon-Tyne and managed by the Inland Revenue Longbenton Contact Centre (IRCC). The helpline advisers handle enquiries on all aspects of the minimum wage from workers, employers and third parties. All callers have the opportunity to register a complaint about underpayment of the minimum wage, with the option of doing so anonymously if they wish. Details of complaints are forwarded via the NMW Central Information Unit to the relevant regional compliance team to follow up. The helpline also deals with requests for guidance material. All calls are charged at local rates.

0845 6000 678 Monday-Friday, 8am to 6pm for enquiries

0845 8450 360 24 hour automated service for guidance material

Over 53,000 enquiries were received at the helpline during 2003-04. 96% of calls were answered within 20 seconds.

Despite a fall in the number of calls year on year (79,186 in 2001-2 down to 53,676 in 2002-3 and 53,226 in 2003-4) the complaints generated from the helpline traffic have remained constant at 1,996 in 2002/3 and 1,969 in 2003/04. The helpline advisers will establish whether there may be an underlying complaint behind a caller's request for factual information and where necessary make the appropriate referral to a compliance team. The incidence of non-compliance found in minimum wage investigations arising from complaints continues to remain high, at 40% in 2003-4.

Since 1 April 1999, the helpline has responded to more than 365,000 enquiries and handled over 13,500 complaints about non-payment of the minimum wage.

A new feature of the work of the helpline has been the introduction of a fully supported e-mail system available via the DTI and Revenue web-sites. The new system is running well, with the change over from the old external e-mail system being invisible to our customers. Three agents are currently trained on its use by the helpline to ensure continued operation against most contingencies. This is an

incremental development with new, enhanced features expected when the robustness of the current system is fully proven. The expectation is that we will soon for the first time be able to advertise the facility in the confidence that it will stand up to higher volumes of traffic. **1,055 e-mails were received and answered during 2003-4.**

Central Information Unit

The Central Information Unit (CIU) is located alongside the helpline. The role of the CIU has evolved over the last two years from a mainly processing unit to a research and analytical unit whose main responsibilities are:

- to provide quality casework to the 16 compliance teams;
- to work closely with relevant Revenue personnel and other bodies to develop intelligence capability;
- to effectively manage information by recognising and addressing the implication of changes in new technology, working practices and legislation;
- to implement effective analytical processes for handling information;
- to provide the information needed to inform and support policy and strategy decision-making;
- to promote collaborative working with interested parties; and
- to provide technical support to helpline call agents dealing with the more complex telephone and e-mail enquiries.

The change in role has enabled CIU to introduce a risk assessment program to identify employers that are more at risk of not paying the minimum wage. This has minimised the impact of losing a major source of cases - with the demise of the previous system of tax credits in March 2003 - and has ensured that there is a smooth flow of cases to the compliance teams.

By working closely with other parts of the Revenue and other bodies to develop intelligence capability and introducing effective analytical process for handling information, the CIU have been able to provide teams with packaged cases containing quality information from various sources.

Exchange of information is strictly controlled. Section 39 of the Employment Relations Act 1999 and Section 148 of the Finance Act 2000 allow exchange of information between minimum wage officers and tax colleagues.

Outreach Work

CROW work is undertaken by a small team of eight compliance officers who are all trained in presentational skills and respond to requests from organisations across the UK to talk about the minimum wage. These include:

- voluntary organisations representing various trade sectors;
- community organisations representing ethnic minorities;
- Citizens Advice Bureaux;
- Low Pay Units;
- trade unions; and
- large employer groups.

During 2003-04 team members made presentations to Citizen's Advice Bureaux and MENCAP amongst others. The team members also linked up with other Revenue colleagues to attend national Employer Talk events and attended fresher fairs across Northern Ireland.

Compliance Teams

There are currently 16 compliance teams situated across the UK, each with between 3 to 8 compliance officers. They respond to complaints made about employers suspected of not paying the minimum wage. Complaints are referred to the appropriate team by the CIU. Compliance officers also visit a sample of employers about whom no complaints have been made, to check that all employers meet their obligations under the legislation.

In August 2002 an Employment Appeals Tribunal ruled that minimum wage compliance officers were not entitled to issue enforcement notices claiming minimum wage arrears on behalf of former workers. The Government introduced the National Minimum Wage (Enforcement Notices) Act 2003 as a priority to restore the position

to what it was understood to be and to give compliance officers the right to issue enforcement notices on behalf of former workers.

DATA ON ENFORCEMENT

Central Enforcement Operations

During 2003-04, the helpline in Longbenton handled over 53,000 enquiries, most of which were calls made directly to the helpline advisers. This is a decrease of 500 from last year's figure and of 26,000 since 2001-02, which suggests that awareness of the minimum wage may be at almost universal levels. The Revenue continue to work on targeted messages for various sectors e.g. homeworkers, (who were affected by the introduction of the new Fair Piece Rates system on 1 October 2004), to raise awareness of the Helpline and available support and guidance available.

Figures A1 and A2 provide details of the number of enquiries received since the introduction of the minimum wage.

Numbers of enquiries

	1999/00	2000/01	2001/02	2002/03	2003/04
Live	88184	69269	75346	51800	51360
Auto	24786	4776	3036	1074	1031
Written	2169	1240	793	802	835
Coupons	3877	2158	11	0	0
TOTAL	119016	77443	79186	53676	53226

Figure A1

- ❖ *Live* = the number of enquiries handled by a telephone operator
- ❖ *Auto* = the number of calls to the automated line requesting literature
- ❖ *Written* = the number of written enquiries received
- ❖ **Coupons** = the number of coupons sent in from previous advertising campaigns that invited readers to contact us using coupons published in newspapers and magazines.

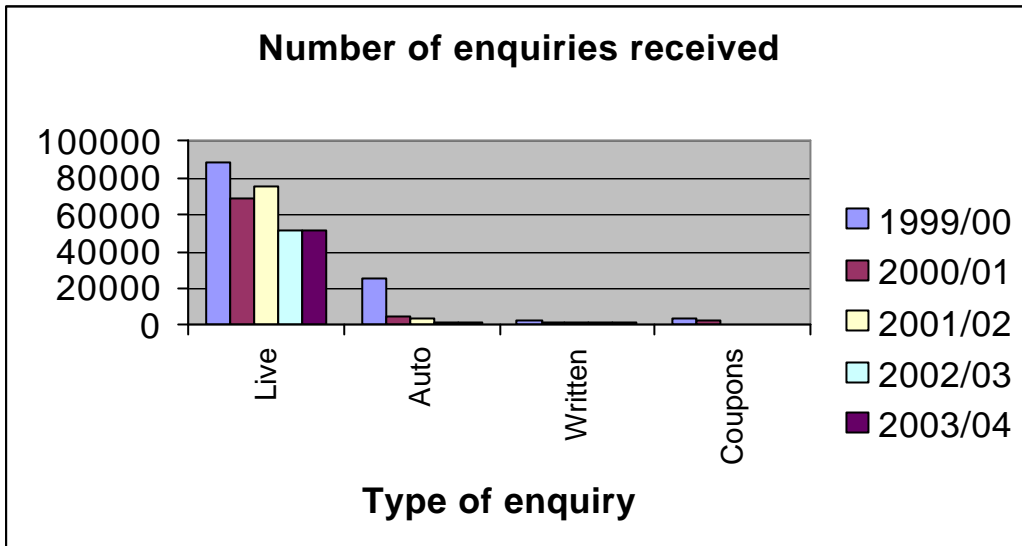


Figure A2

As in the previous year, the volume of calls increased considerably in the weeks around 1 October 2003 when both the main and development minimum rates increased. The main rate increased from £4.20 to £4.50 per hour, and the development rate increased from £3.60 to £3.80 per hour.

Analysis of helpline call volume and visits to the DTI website page showed a marked increase in activity during the period of the campaign. Calls to the helpline doubled in the week commencing 29 September compared with the week before the campaign.

Figure B illustrates call levels for each month in 2003-04

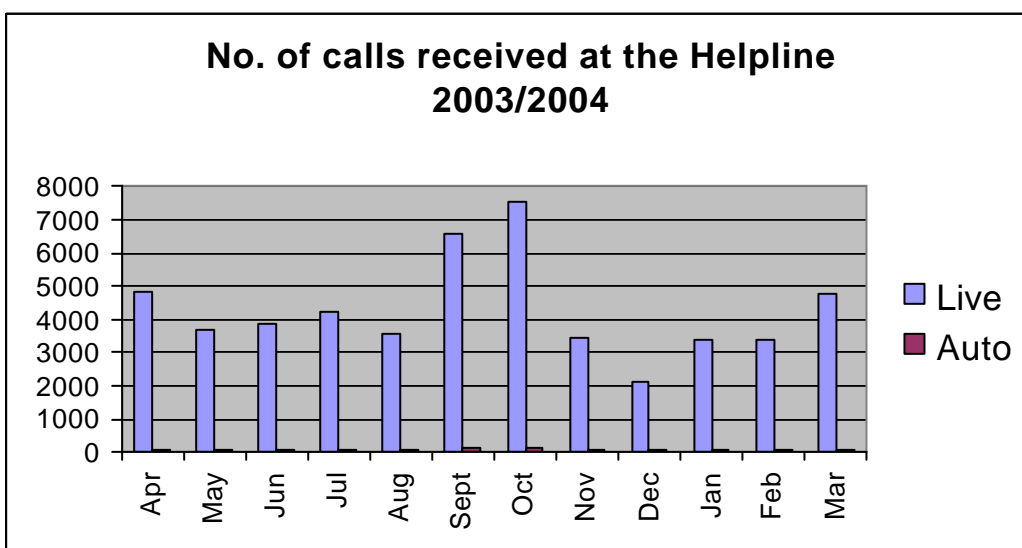


Figure B

Network Enforcement Activity

Our compliance officers continue to produce good results and frequently receive telephone calls, letters and Christmas cards from workers who have been helped to obtain the minimum wage together with arrears of pay.

In 2003- 04 the 16 compliance teams completed more than 5,500 investigations. Although this is a decrease from the previous year, as time has gone on, it is recognised that the complexity of investigations is increasing.

Investigations during 2003-04 fell into three categories:

- **“Complaints”** cases are investigated as a result of a complaint being made about non-payment of minimum wage;
- **“Tax Credit Referrals”** are investigated as a result of information gathered from the Inland Revenue Tax Credit Office; and
- **“Other”** cases are investigated as a result of analysis work done at the Central Information unit to identify employers most at risk of non-compliance.

Figure C1 provides details of the number of employers subject to a completed investigation since April 1999, and the origin of the investigation.

Number of employers subject to a completed investigation

	1999/00	2000/01	2001/02	2002/03	2003/04
Complaint and Third Party	3509	2514	1763	1953	1886
Tax Credits	N/A	1908	2567	2940	2937
Other	2532	2834	1038	1345	718
TOTAL	6041	7256	5368	6238	5541

Figure C1

It is apparent that complaints have been running at a relatively steady level for the past three years. After their introduction, Tax Credit referrals quickly became a major focus for investigation. Indeed, by 2003/04 they accounted for 53 per cent of all completed investigations.

- Hairdressing – 4 workers, 2 underpaid on the youth rate and should have been on the main rate plus 2 underpaid apprentices. Arrears identified of £8,824.
- Restaurant – 1 worker who had agreed to work for less than the NMW weekly pay. Arrears identified of £4,183.
- Housekeeper and caretaker – 2 workers, 1 paid less than NMW and the other given accommodation but underpaid NMW – arrears identified of £2,597.

Figure C2 illustrates the number of cases closed by type since April 1999.

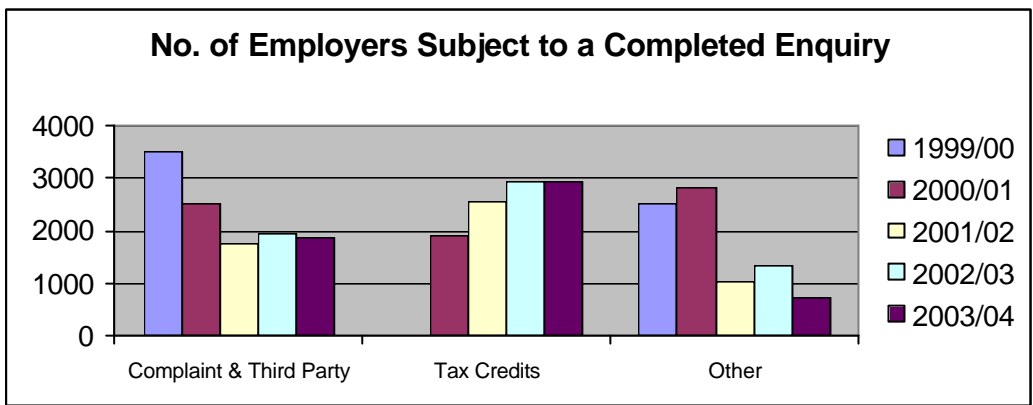


Figure C2

Figure D illustrates the levels of non-compliance identified in our investigations in the five years since the introduction of the minimum wage. Our focus remains on identifying those employers most likely to be failing to understand or undertake their obligations to pay the minimum wage.

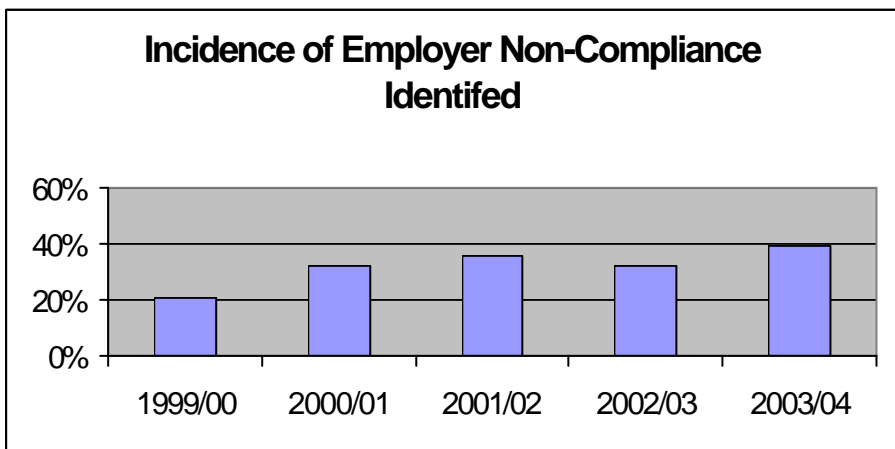


Figure D

Identifying National Minimum Wage Arrears.

The amount of arrears identified decreased in 2002-03 and 2003/04 from the high of 2001-02. Figures E1 and E2 show the total arrears identified by case type since April 1999.

Total Arrears identified by Case Type (£)

	1999/00	2000/01	2001/02	2002/03	2003/04
Complaint and 3rd Party complaint	1,083,502	2,009,038	3,928,901	2,542,235	1,352,422
Tax Credit	n/a	820,689	1,096,669	784,978	932,486
Other/proactive	158,839	204,646	110,229	258,728	273,188
TOTAL	1,242,341	3,034,373	5,135,799	3,585,941	2,558,096

Figure E1

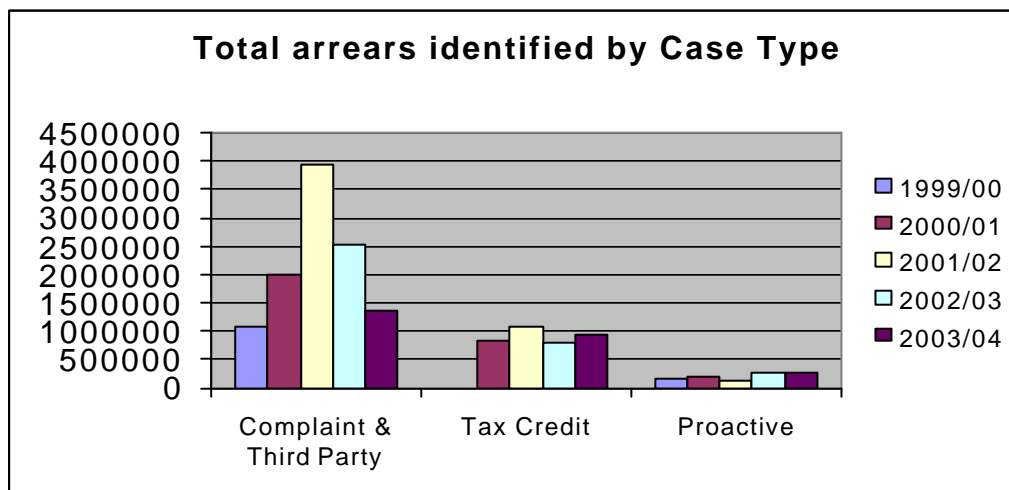


Figure E2

Pattern of arrears

The level of arrears has clearly fallen in the last two years. There are a number of different factors at play here.

First, because the minimum wage has now been in operation for over six years, the period in which non-compliance may have occurred is extending, as is the period that a compliance officer may be investigating. As a result, identifying and calculating the

arrears due to workers has become more complex and takes longer, and this has affected overall case numbers.

Second, the arrears figure for 2001/02 was unusually high because of a single large case, worth £1.8 million. 2003/04 happened to be a year with few individual cases of over £50,000 (two cases totalling £140K). This contrasts with 2002/03 that had four large cases totalling £1.4 million, and 2001/02 that had seven large cases totalling £2.4 million. (Between April and October 2004 there had already been five large cases totalling £1 million, with no change in policy regarding targeting of large cases). If the large cases are removed, the arrears from 2001/02 to 2003/04 are £2.7 million, £2.2 million and £2.4 million respectively, showing how relatively few large cases can affect annual arrears.

The figures also show that the percentage of employers investigated found to have arrears have hit a high of 40% in 2003/04. This high strike rate was related to the high quality information which the Revenue received in connection with Working Family Tax Credit claims, which contained details of current salary and employer.

Complaint made to the helpline. A night porter at a hotel whose hourly rate was below the NMW for someone over 22 years of age. Our officer visited the business and spoke to the Director and her Solicitor, explained how salaried hour's staff should be dealt with and recommended changes to improve the wage records - the complainant received £1,825 arrears.

Figure F shows the average arrears identified during the first five years of the minimum wage.

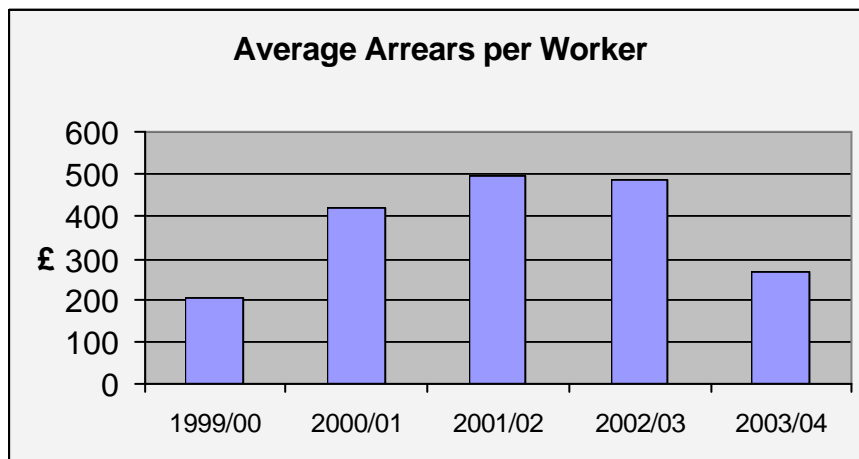


Figure F

A bar worker complained that he was being paid below NMW - £36 arrears identified and repaid. During the course of the review, it was found that the hotel was using student labour, mainly from Spain. They were paid a small training allowance making them far cheaper to employ than locals. A case of unfair competition until NMW legislation came into play. Arrears identified as due to overseas workers totalled £27,247. Whilst it has to be admitted that with problems of corresponding across national boundaries it has not been possible to ensure that every penny has been repaid, a significant proportion of arrears has reached the workers. And news does travel. One student moved to another hotel. Having received one amount of unexpected arrears, he has now complained that this employer is paying below the NMW.

The effect of the August 2002 Employment Appeals Tribunal decision in the case of Bebb Travel meant that although compliance officers continued to investigate possible failures to pay the minimum wage where a former worker was involved, when a breach was discovered, they could merely request that the employer put matters right. As a result, the number of Enforcement Notices issued in 2002-03 totalled just 26 compared to 61 in 2001-02. Similarly, we issued 3 Penalty Notices in 2003-04, compared to 6 in 2002-03.

Seven cases were heard by an employment tribunal, either as a result of an appeal by

the employer against an enforcement notice, the Revenue taking action on behalf of workers or both. A successful outcome in favour of the worker was achieved in 80% of the cases.

An Australian bar worker had left her job and on tidying up her tax affairs before returning home, realised she had been underpaid. The employer had no time sheets, disputed the hours worked and refused to accept accommodation offset, would not pay and an Enforcement Notice was issued. The employer appealed, the tribunal found in our favour but the employer still refused to pay. IR Solicitors advised that civil proceedings would follow – instalments were offered and refused and papers were prepared for County Court. The day before the deadline, the employer paid in full - the £815 arrears was sent to the worker in Australia.

Data on complaints about non-payment of minimum wage

The number of complaints received during 2003-04 met our forecast. Some good results have been achieved in partnership with external organisations (see Enforcement Pilot Projects on pages 18-21).

In addition the work of the helpline advisers in explaining minimum wage enforcement procedures to callers and

ensuring they understand the support available to them has paid dividends.

Callers to the helpline are asked to provide their date of birth to inform our understanding of their particular circumstances and the advice we give but many of those who wish to register an anonymous complaint are reluctant to provide personal information. As a result, we do not have age details for a large proportion of complainants.

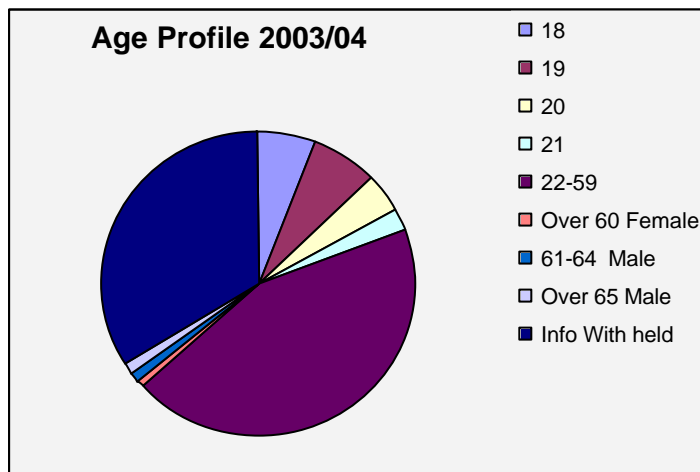


Figure G

The Belfast NMW team worked a highly successful case centering on the interpretation of being “on call”.

The 3 workers all worked for a housing association. Following extensive research and excellent work by NMW officers, an agreement was reached with the employer and payment of £47,248 was made.

Worker A received £18,828

Worker B received £20,846

Worker C received £7,574.

Once again, complaints during 2003-4 were received in almost equal numbers from male and female workers. In principle there should be more complaints from female workers, who tend to work in lower paid sectors of the economy. We have been looking at the issues surrounding this and are hopeful that the work we are doing in addressing the concerns of specific groups such as home-

workers where there is a predominantly female work force will begin to be reflected in the statistical results.

The employer was a fairly large one involved in car sales and the repair business. A worker complained that he was an apprentice and not being the NMW after the appropriate exemptions ran out. Our officer visited the employer and found that he was not operating the apprenticeship rules correctly. The result was that there were a total of 13 apprentices who were due arrears of NMW.

The total arrears due and paid were £10,676.

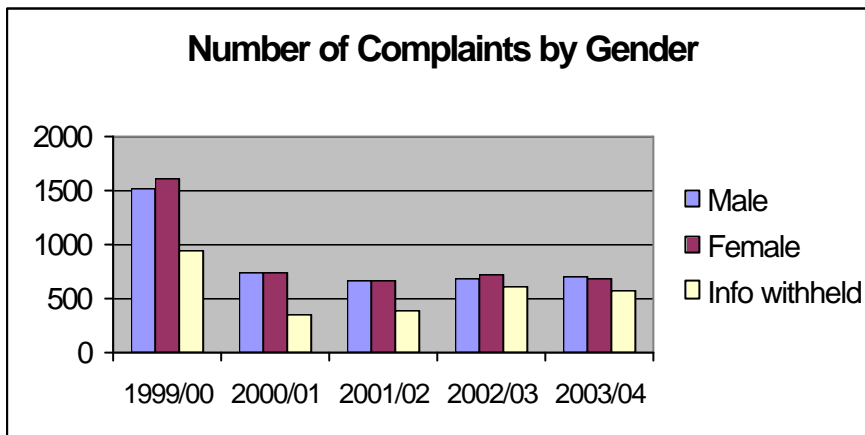


Figure H

Figure I shows the number of complaints received by trade sector. There are noteworthy increases in respect of hospitality and social care.

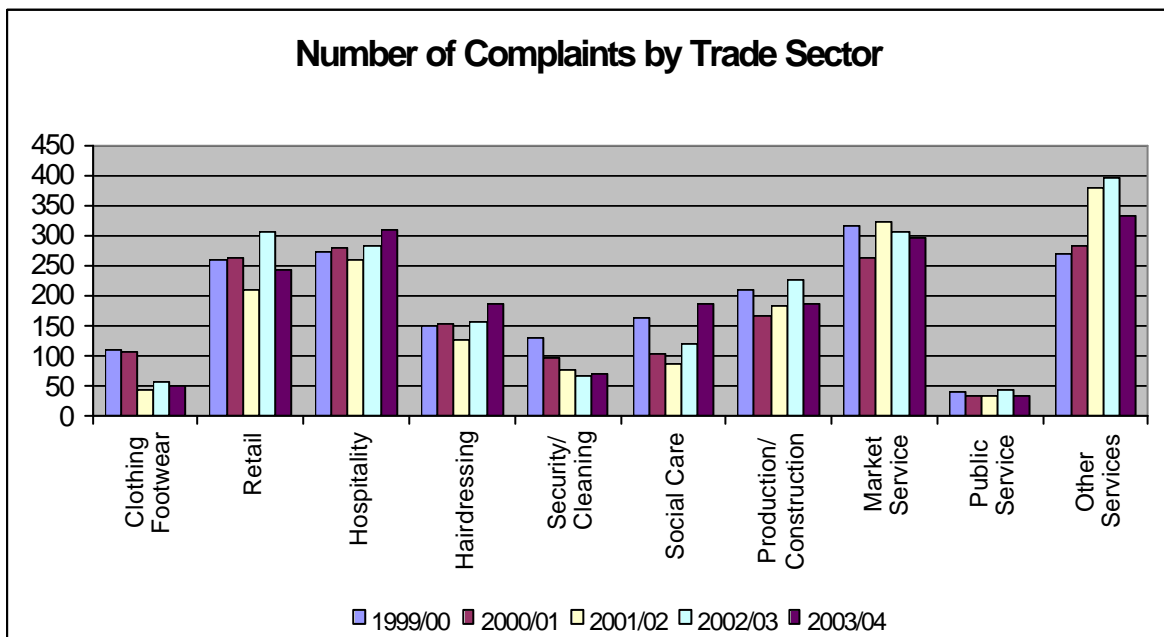


Figure I

Figure J illustrates the number of complaints received by geographical location.¹ The highest incidence of complaints is registered in Scotland with a high increase in London, the Northwest and Southwest.

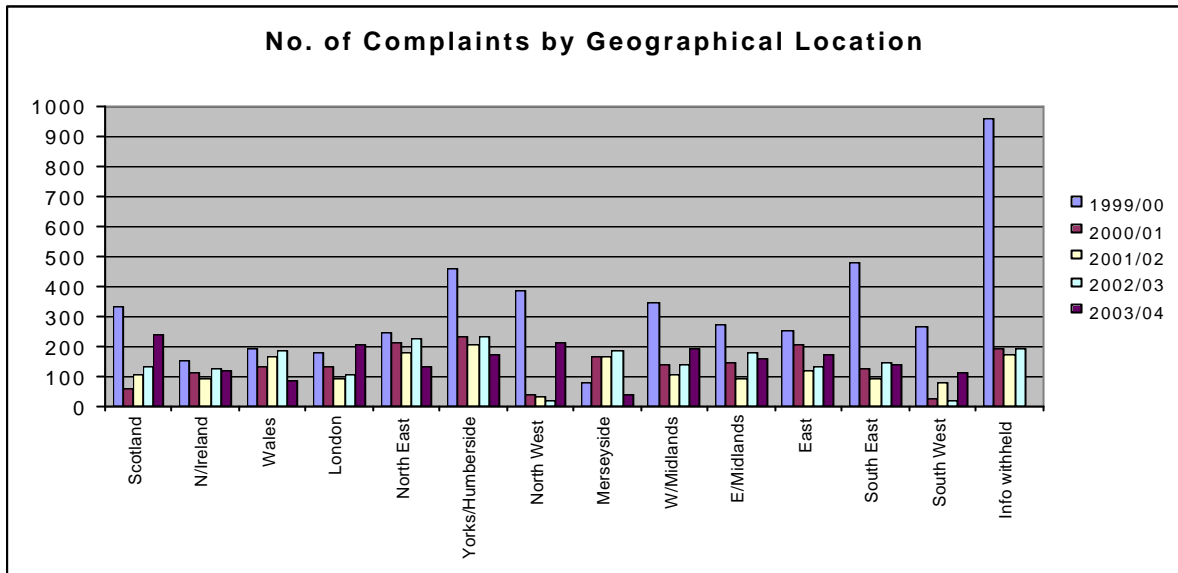


Figure J

An apprentice was found in a transport garage to be owed £1,653 in arrears as the employer thought he could pay below the NMW throughout his apprenticeship. Four minibus drivers were also found all working for much less than the NMW including one who was receiving £5 for 15 hours work per week. The employer had asked them all to sign statements saying they agreed to low wages. Arrears of £10,798 were identified and paid to the drivers.

ENFORCEMENT PILOT PROJECTS

Background

In 2001/02, the DTI and Inland Revenue established seven community-based pilots in conjunction with external organisations following recommendations made in the second report published by the Low Pay Commission.

The projects were established in areas where it was felt that there was a low level of awareness of the minimum wage and a low level of complaints about non-payment of the Minimum Wage. Five of these projects continued into 2003-04.

¹ The statistics are recorded in accordance with Government Office regions rather than the regions in which the compliance teams are based.

Progress in 2003-2004

Local Helplines

The Northern Ireland National Minimum Wage helpline has been in operation since September 2001. The Northern Ireland Citizens Advice Bureaux, in partnership with Inland Revenue and DTI, operate the helpline. The helpline was set-up to serve the workers and employers in Northern Ireland. Since its inception there have been over 6000 calls to the helpline with over 300 worker complaints referred to the Belfast compliance team for investigation.

Following an anonymous complaint to the helpline a hairdressing company was visited.

It was found that a young lady with special needs had been employed since July 1999. She had worked 36 hours per week and had been paid a training wage of £78 per week. The company thought they were doing her a favour by employing her. Arrears of pay of £1,700 have now been paid and her weekly wage has increased to NMW rates.

A Scottish National Minimum Wage helpline was launched in February 2003. The Scottish Low Pay Unit operates this helpline, in partnership with Inland Revenue, DTI and Citizens Advice Scotland. The aim of this project is to raise awareness of the minimum wage issues and enforcement activity in Scotland. The project provides an outlet for the workers in Scotland who would prefer to discuss minimum wage issues with a non-official organisation or to utilise the face-to-face contact available through the Citizens Advice network. Since the launch of the helpline it has taken over 1000 calls generating over 50 worker complaints, which have been referred to minimum wage compliance teams for investigation.

Working with Community Organisations

In the East Midlands, the partnership with Leicester City Council and the Knitwear, Footwear and Apparels Trades Union has continued to develop. The community outreach worker has encouraged workers to come forward and complain about the non-payment of the minimum wage. Between April 2003 and March 2004, 31 referrals were generated and £31,552 in arrears identified in 15 completed cases as a result of the work of the project.

The pilot project with the National Group on Homeworking (NGH) aimed at improving awareness of the minimum wage among ethnic minority and homeworkers in Bradford and the surrounding area, closed at the end of September 2003, with all parties in agreement.

The partnership with the West Midlands Employment and Low Pay Unit initially aimed to raise awareness of the minimum wage across the region, targeting ethnic minority groups. The project was broadly successful in raising awareness and has since focused its attention on the bigger challenge of working to encourage vulnerable workers to come forward and complain about employers not paying the minimum wage.

Two cases taken to Tribunal.

In both cases we argued that telephonists providing cover for long periods, when others were free to sleep or do as they chose, were working and not simply on call. The employer in the first case argued that the worker was self-employed. The tribunal found that she was a worker and she was awarded £11,241. In the second case, the employer argued that the workers were only working when actually taking calls, and were on call throughout the remainder of their shift. The Tribunal upheld our view and arrears of £82,722 will be shared between 3 workers.

- Arrears secured of £25,719 for 14 waiters working in a Chinese restaurant. The employer and agent proved to be extremely co-operative in this review.
- Arrears secured of £9,839 for 2 workers in travel agents.
- A nursing home was paying less than the NMW. Arrears were identified of £17,581 for nine workers.

A 'virtual home-workers team' (VHT) has been set up by the Revenue as part of a long-term strategy to build expertise and disseminate best practice among compliance officers. The team comprises at any one time of a number of compliance officers working similar cases simultaneously from their home teams, co-ordinated by a specialist officer from the Shipley team. The VHT has now established a firm grounding in the minimum wage network and is recognised as a valuable source of home-working information, advice and support.

Since the team was set up, the number of cases registered totals 71, the number of cases closed is 37 and £279,532 in arrears have been identified.

A doorman registered a complaint. An inspection of records was carried out and enquiries made. It was agreed that the complainant had not been paid the NMW but the officer believed the working hours provided by the complainant were excessive so traced and interviewed a previous doorman. Arrears of £206 were calculated and repaid.

SECTION 3: POLICY BACKGROUND

The Act and the Low Pay Commission

The independent Low Pay Commission was set up in July 1997 to advise Government on issues surrounding the introduction of the minimum wage. The Commission was given a statutory footing once the National Minimum Wage Act was passed in July 1998. The minimum wage itself came into force on 1 April 1999.

October 2003 increases

In March 2003 the Government accepted the recommendations of the Low Pay Commission that the main minimum wage rate should be increased by 30 pence/hour in October 2003, to £4.50, and the youth rate by 25 pence /hour to £3.85. The increase in the main rate was around double the rate of average earnings growth and almost three times the rate of inflation, and worth an extra £546 a year before tax for someone working a 35-hour week. The 20 pence an hour increase in the youth rate boosted pay by over £360 a year before tax for someone working a 35-hour week.

Latest Report of the Low Pay Commission

In July 2003, the Government announced new terms of reference for the Commission and asked them to report to the Prime Minister and the Secretary of State for Trade and Industry by the end of February 2004.

The Commission were asked to:

- consider whether the October 2004 up rating of the adult and development rates recommended in their fourth report remained appropriate in the light of economic circumstances, and if not make any recommendations for change;
- continue to monitor and evaluate the impact of the minimum wage, with particular reference to the effect on pay, employment and competitiveness in low paying sectors and small firms; the effect on different groups of workers;

the effect on pay structures; and the interaction between the minimum wage and the tax and benefit systems; and

- consider the possible advantages and disadvantages of a minimum wage rate for 16 to 17 year olds. They were asked to focus on the operation of the youth labour market and to work closely with the wider Government review looking at the financial incentives for young people to participate in education and training and the system of financial support for young people.

In March 2004 the Government published the latest Low Pay Commission Report “Protecting Young Workers”. The Government accepted the Low Pay Commission’s recommendations that the adult and youth main minimum rates should rise from £4.50 to £4.85 an hour (around 8% increase) and from £3.80 to £4.10 an hour (also around 8% increase) from 1 October 2004. The Government estimates that 1.1 million jobs across the UK stand to benefit from these increases.

New national minimum wage for 16 and 17 year olds

The Government also announced that from 1 October 2004 there would be a new rate for 16 and 17 year olds above compulsory school leaving age set at £3.00 per hour. The young people’s rate had been recommended by the Low Pay Commission to provide a balance between encouraging young people to stay in education or training and tackling those employers offering extremely low levels of pay and minimal training of young workers.

The Government also accepted the Commission’s recommendation that 16 and 17 year old apprentices should be exempt from the new young workers rate. The Government did not want to discourage employers from offering training places. At the moment apprentices who are over 18 are only entitled to receive the minimum wage if they have completed the first year of their apprenticeship and have reached the age of 19.

National Minimum Wage (Enforcement Notices) Act 2003

The National Minimum Wage (Enforcement Notices) Act received Royal Assent on 8 May 2003 and came into force on 8 July 2003. The Act was needed because of a tribunal decision in August 2002 which ruled that Section 19 of the National Minimum Wage Act 1998 meant that the Revenue could only issue enforcement notices in respect of future payment of the minimum wage or in respect of both future and past failures to pay the minimum wage, and that they could not issue notices solely in respect of a past failure to pay the minimum wage. This was never the intention of ministers when introducing the National Minimum Wage Act.

Fair Piece Rates

In February 2003 the Government consulted on replacing “fair estimate” agreements with a system which would enable the setting of “fair piece rates”. Responses from all sides supported a move to fair piece rates and the removal of the four-fifths rule.

In November 2003 the Government further consulted on the draft regulations. Once the consultation had finished the Government confirmed that employers would no longer be allowed to set the rate of pay using the four-fifths of the time that it takes an average worker to complete a set block of work.

From October 2004 employers have to pay their output workers the minimum wage for every hour they work or, in effect, a fair piece rate derived from the time that a worker working at the average speed would have taken to produce the piece in question.

In April 2005, home-workers will see a further improvement in their wages when employers will have to pay the average worker at a rate of 120 per cent of the minimum wage for a block of work. This means that more employees – not just the fastest – will get the minimum wage.

Many home-workers have suffered from low wages from unscrupulous employers and around 170,000 home-workers across the county should see their wages increase.

The Employment Relations Act 2004

The Government introduced a package of technical measures to help enforcement of the minimum wage in the recent Employment Relations Act. These measures are as follows:

- The National Minimum Wage Act 1998 does not contain any specific power that permits enforcement officers to disclose information that they have obtained from an employer to his workers, or from workers to their employer. This means that officers cannot easily cross-check the different versions of events given by the worker and employer. The Employment Relations Act amends the 1998 Act to make it clear that some disclosure is allowed, and this should help officers to determine whether an employer is complying with the legislation. However without the workers authority the Inland Revenue will not pass information on to employers in a way that would reveal the identity of the complainants.
- Under the 1998 Act, compliance officers are unable to withdraw enforcement notices which set out the arrears due to workers, even if new evidence has come to light or they realise they have made an error. The position is the same for penalty notices, which are issued when employers refuse to comply with enforcement notices. This means that tribunal hearings are presently the only way to rectify notices that both sides know to be incorrect, and this then delays the process and wastes the time of the tribunals. The Employment Relations Act therefore introduces an amendment to allow officers to withdraw enforcement and penalty notices and replace them with corrected notices where necessary.
- The phrase ‘the same enforcement notice’ in subsection 19(3) of the 1998 Act might be misread as meaning that enforcement notices could only cover more than one worker if they covered past arrears. The Employment Relations Act introduces a technical amendment to make it clear that enforcement notices can cover more than one worker whether they cover past arrears or future compliance or both.
- The Agricultural Wages Act 1948 only allows DEFRA to appoint officers from DEFRA to enforce the agricultural minimum wage. The Employment Relations Act introduces an amendment which gives DEFRA the flexibility to appoint

officers from other Departments to enforce the agricultural minimum wage. The 1998 Act already gives the DTI this flexibility in respect of the national minimum wage. DEFRA requested these powers. We understand that they do not have alternative officers in mind at the moment, but would like to have this flexibility for the future.

The Employment Relations Act received Royal Assent in September 2004 and we expect the measures described above to come into effect in April 2005.

ANNEX A

Performance against Public Service Agreement and Service Delivery Agreement

Targets and Forecasts

Public Service Agreement (PSA) 2003/04

The Inland Revenue agrees targets annually with the Department of Trade and Industry, which sponsors minimum wage enforcement work, underpinned by a Service Level Agreement between the two departments. The Revenue's targets and forecasts are also published in the Inland Revenue Spring Departmental Report.

Under the Agreement, the Revenue reports progress against the agreed targets on a monthly basis.

The Revenue also agrees to provide advice and assistance to employers and workers and to investigate complaints about non-payment of minimum wage, enforcing the law where necessary including minimum wage decisions by employment tribunals.

Service Delivery Agreement (SDA) 2003-04

The targets and forecasts in the SDA underpin the PSA above.

National Minimum Wage Enquiries	<u>2003/04</u> Target/ Forecast	2003/04 Result
No of enquiries received	60,000	53,226
No of complaints received about non-payment of NMW ¹	1,750	1969
% of calls answered within 20 seconds	90%	96%
National Minimum Wage Enforcement Activity		
No of completed compliance cases	5,500	5,541
Incidence of non-compliance identified	35%	40%
Arrears identified	–	£2.56m

Quality Standards

Under the Service Level Agreement (SLA) between the Inland Revenue and the Department of Trade and Industry there is a requirement for: -

‘The service provider to institute and maintain a comprehensive and documented quality assurance system for the provision of each service in order to maintain a consistently high quality service that meets the agreed service standards.’

In order to achieve the required standards, the National Minimum Wage Compliance Quality Initiative (CQI) was introduced in April 2001.

Two teams carried out the 2003-04 audit. They had no previous involvement with the cases they reviewed.

CQI

The overall score of the 2003-04 CQI audit is 3.33 which is disappointing compared to last year’s result of 2.6 (overall quality assessment of 2 = good, 3 = satisfactory). We believe the drop in the score reflected a growing awareness among the auditors and across the NMW business of what constitutes good quality casework, rather than a reduction in the quality of the work undertaken. Nevertheless, the audit for 2003/04 revealed a problem with both the current Compliance Quality Initiative (CQI) form and in some instances, the quality of the underlying casework. The NMW Policy and Strategy Group are taking forward a fundamental change to the existing system (which was itself refined for 2004-2005) to assist compliance officers when working a case, to improve the quality of work and to ensure quality is measured in a consistent way.

We are bringing the monitoring of NMW quality in line with IR generally. An enhanced system will be piloted from December 2004 to February 2005 and will be rolled out nationally from April 2005 as a “Quality Monitoring System”. The new system is designed to assist compliance officers as they progress a case and prompts managers’ input at the end of each of the three stages of working a case (opening, enquiry and settlement stage). Currently, the CQI form is completed at the end of a

case. The new process will ensure that cases are reviewed and evaluated throughout their working life by both the compliance officers and team leaders, facilitating input from managers before the enquiry is settled. The revised questions and guidance address the problems of uncertainty and ambiguity in the current CQI form.

Further management checks will be put in place from April 2005 to require cases to be reviewed by team leaders and area managers so we can maximise the performance of all our teams and the business. These will be mandatory checks at six-month intervals to allow progress of the enquiry to be monitored, and if necessary influenced by managers. This is in line with the practice and guidance in other compliance business streams of the Inland Revenue, and will ensure consistency across the NMW business, where teams have developed their own monitoring arrangements. A further measure to provide for consistency across the business is the introduction of standard file structures for NMW enquiries. These are being piloted with the Quality Monitoring System between December 2004 and February 2005, for introduction across the NMW business from April 2005.

The significant changes we are introducing will not be in place until April 2005 and so will not influence the quality audit score for 2004-2005. (The 2004-2005 CQI audit scores will not be directly comparable to the audit scores for 2003-2004 because of refinements to the CQI process introduced in April 2004.)

Together we believe these three initiatives - the new Quality Monitoring System, 6-monthly progress checks, a standard file structure – respond to the disappointing CQI audit score for 2003-2004 and put in place tools to improve quality and quality measurement for the longer term.

ANNEX B

AGRICULTURAL WAGES: REPORT ON THE FIFTH YEAR (APRIL 2003 - MARCH 2004)

England and Wales

Introduction

This report covers the fifth year's work of the Agricultural Wages Team (AWT) based at DEFRA's office in Ergon House. Since 1 April 1999 the AWT, formerly known as the Agricultural Wages Helpline and Compliance Co-ordination Unit (Helpline/CCU), took over, from MAFF Regional Service Centres, responsibility for dealing with queries about provisions in the Wages Order and for handling complaints.

Procedure

When a complaint is received and it appears that the worker has been underpaid, AWT staff attempt to resolve matters by writing to, or in some cases telephoning, the employer and explaining the requirements of the legislation. The aim is to persuade the employer to pay the worker at the correct rate and to pay arrears. If the employer agrees to put matters right by a specific date and the AWT receives confirmation from the worker that this has been done and that he or she is content, the case is closed. If the employer refuses to co-operate or fails to pay the money, the case is passed to an Agricultural Wages Inspector (AWI) to investigate.

A visit from an AWI may be sufficient to prompt the employer to put matters right. Where this fails, an Enforcement Notice may be served. A schedule of arrears attached to the Notice shows the sum due to the worker for the hours worked, holiday taken etc in each pay reference period and sets this against the sum received. The arrears due in each pay reference period are calculated and the total sum due is stated in the Enforcement Notice. (Where an Enforcement Notice relates to more than one

worker a separate schedule is required for each worker.) An employer may appeal to an Employment Tribunal against an Enforcement Notice. Provided the Notice is upheld, the employer is required to pay the arrears due and, if he or she fails to do so, a Penalty Notice may be served.

1 April 2003 - 31 March 2004

Following the National Minimum Wage (Enforcement Notices) Act 2003 coming into force in July 2003 work was begun on reactivating all those case put on hold after the Employment Appeals Tribunal (EAT) ruling in the Inland Revenue Wales and Midlands v Bebb Travel plc case removed our powers to enforce the Agricultural Minimum Wage on behalf of former employees. The cases were at all stages of the investigation and enforcement process and included 1 where a penalty notice had been issued. Work on all these cases was resumed by the end of September 2003.

The AWT's pre-inspection casework has achieved settlement 15 cases and has resulted in the payment of arrears of approximately £18,000 A further 32 complaints have been passed to an AWI for inspection once informal avenues had been exhausted. At 31 March 2004, there were 36 open cases. Seven of the open cases were at the final stage prior to the issue of an Enforcement Notice and of these, most had been on hold in the previous year because of the Bebb Travel ruling.

The following table gives the number of calls and complaints received from 1 April 2003 to 31 March 2004 with the four preceding years' figures for comparison. The reduced number of calls received by the Helpline has arisen after the introduction an automated telephone system which allows callers to request copies of the Agricultural Wages Order and listen to recorded details of the current minimum agricultural wage rates.

Calls and complaints received 1st April 2002 to 31 March 2003

	1999/00	2000/01	2001/02	2002/03	2003/04
Calls to Helpline	2610	3476	4092	4477	4254
Complaint forms received	82	75	45	40	70
Cases passed to AWIs	36	37	19	2	22
Enforcement Notices issued	2	2	5	1	0

Penalty Notices issued	0	0	0	0	0
Cases resulting in debt recovery action	0	0	2	0	0
Employment Tribunal Appeals	1	2	3	0	1
Employment Tribunal hearings	0	1	2	0	1
Enforcement Notice upheld	0	1	2	0	1
Value of arrears in cases where Enforcement Notice has been served	£4,694	£6,882	£18,409	£1,907	£8,787

Scotland

The Agricultural Wages (Scotland) Act 1949 as amended requires Scottish Ministers to ensure compliance with the terms of the Agricultural Wages (Scotland) Orders (made by the Scottish Agricultural Wages Board) and to investigate complaints. This enforcement work is undertaken by the Scottish Executive Environment and Rural Affairs Department (SEERAD) with five Agricultural Wages Inspectors carrying out around 100 farm inspections each year and investigating complaints as necessary. As in previous years the majority of investigations show a very high degree of compliance with statutory minimum hourly rates of pay and that problems are more likely to arise with respect to overtime rates, holiday entitlement and sick pay. The industry generally remains reluctant to adopt the use of time sheets despite these being mandatory.

Between April 2003 and March 2004 a total amount of approximately £6,000 of arrears of pay and allowances was recovered by SEERAD on behalf of agricultural workers in Scotland.

Northern Ireland

The Department of Agriculture and Rural Development operates a similar Helpline to that of Defra and dealt with approximately 200 enquiries in the year up to March 2003. During this period no complaint cases were opened.

