



Response to Request for Information

Reference FOI 021633
Date 5 February 2016

Care & Support Workers

Request:

I would like the following information:

1. Do you directly employ Care & Support Workers? [If NO skip to (18)]
Yes
2. Do they undertake Sleep-In work? [If NO skip to (6)]
Yes
3. Is it your policy that there are circumstances in which this constitutes 'Time Work' for the purposes of calculating National Minimum Wage? [If NO skip to (5)]
No
4. What are these circumstances?
N/A
5. How was this policy decided upon, by whom (i.e. in what roles)? Please provide minutes of the meetings in which this policy was decided.
N/A
6. Do your employees undertake 'Live-In' work? [If NO skip to (10)]
No
7. Is it your policy that there are circumstances when they are eligible for NMW? [If NO skip to (9)]
N/A
8. What are these circumstances?
N/A
9. How was this policy decided upon, by whom (i.e. in what roles)? Please provide minutes of the meetings in which this policy was decided.
N/A
10. Do any of your employees get 'Premium Rates' at particular times or on particular days (e.g. Bank Holidays, over-time, unsocial hours etc.)? [If NO skip to(12)]

No

11. Under what circumstances?

N/A

12. Please provide data of 'Premium Rates' historically available to these staff; what the rates were under what circumstances and when their eligibility for these rates began and ended?

Prior to the implementation of the Single Status Agreement – Collective Agreement 25 March 2013, 'Premium Rates' were historically available to these staff in line with the National Agreement on Pay and Conditions of Service (Green Book) – First edition July 1997.

Under this agreement, employees in receipt of basic pay at or below point 28, who were required to work (a) beyond the full-time equivalent hours for the week in question or (b) on Saturday or Sunday or (c) at night or (d) on public holidays or (e) sleeping in duty or (f) other non-standard working arrangements were entitled to compensation as set out below:

(a) Additional Hours

Employees who were required to work additional hours beyond their working week were entitled to receive enhancements on the following basis:

Monday to Saturday	Time and a half
Sundays and Public and Extra Statutory holidays hours)	Double time (min 2 hours)

(Part-time employees were entitled to these enhancements only at times and in circumstances in which full-time employees in the establishment would qualify. Otherwise a full working week for full-time employees should have been worked by a part-time employee before these enhancements applied).

(b) Saturday and Sunday Working

Employees who were required to work on Saturday and/or Sunday as part of their normal working week were entitled to an enhancement.

Saturday	Time and a half
Time and a half - basic pay above point 11	
Double time - basic pay at or below point 11	

(c) Night Work

Employees who worked at night as part of their normal working week were entitled to receive an enhancement of time and one third for all hours worked between 8.00 pm and 6.00 am.

(d) Public and Extra Statutory Holidays

Employees required to work on a public or extra statutory holiday should have, in addition to the normal pay for that day, been paid at plain time rate for all hours worked within their normal working hours for that day. In addition, at a later date, time off with pay should have been allowed as follows:

Time worked less than half the normal working hours on that day

Half Day

Time worked more than half the normal Working hours on that day

Full Day

(e) Sleeping-in duty

Employees required to sleep in on the premises should have received a sleeping-in duty allowance of £27.21. This allowance covered the requirement to sleep in and up to 30 minutes call out per night, after which the additional hours provisions will apply.

(f) Other non-standard working patterns

Where employees were engaged in non-standard patterns of work other than those covered by (a) to (e) above, local arrangements for compensation could be negotiated.

This could have included, for example:

- (i) shift working
- (ii) free and rest day working
- (iii) evening working
- (iv) recall to work (including travel time)
- (v) standby duty
- (vi) unavoidable split shift or split duty working
- (vii) irregular hours working
- (viii) lettings.

13. Please provide data of the average hourly rate of front-line Care & Support staff (not inclusive of Team Leaders or above) at this time and historically, as best as you are able?

On average, frontline Care & Support roles are paid at Grade 5, which ranges from £21,530 to £24,472 per annum. This provides an average hourly rate of pay of between £11.16 to £12.68 per hour.

14. Is the pay of these staff (including such things as sleep-in rates) subject to a Collective Bargaining arrangement involving unions?

Yes

15. Which unions?

Unison

GMB

Unite

16. Have you sought advice from HMRC, ACAS or the Dept. of BIS regarding any of these arrangements (with special regard to sleep-in and live-in rates)?

No

17. Please provide the content of these communications?

N/A

18. Do you Commission other organisations to provide Care & Support services?
[If NO ignore the remainder of these questions]
Yes
19. Do you contractually require these organisations to pay National Minimum Wage? [If NO skip to (24)]
Yes. The contracts do not explicitly refer to payment of NMW, but do require providers to be compliant with all relevant legislation.
20. Do your contracts define the understanding of National Minimum Wage under which the company is expected to operate (such as the circumstances in which sleep-in or live-in workers are eligible for NMW)?
As above. The contracts do not specify circumstances for payment of NMW, but do require providers to be compliant with all relevant legislation.
The City of Wolverhampton Council require that all its providers pay at least the NMW. At present our contracts do not define the understanding of the national minimum wage. A provider needs to ensure that staff receive the NMW for the time they work.
21. What do you do to ensure the contract is robust (e.g. punitive clauses in the case of a breach)?
- The Services provided under Contract to the City of Wolverhampton Council need to be of a quality as defined within the Service Specification and all providers must comply with all relevant guidance (such as Good Practice) legislation regulations and standards published thereunder or any subsequent amendments thereto.
 - The Provider shall inform the Council immediately and confirm in writing within 24 hours if it is unable or likely to be unable or fails to provide the Service or any part thereof in accordance with this clause or to a level likely to prejudice the well-being of any Service User or the Provider becomes aware of any act omission or circumstance which will or may prevent or hinder the delivery of the Service.
 - The Provider shall ensure that the Service complies with any special conditions imposed on the registration of the Provider by a regulatory body or its successor bodies subject to formal notice of any temporary dispensation.
 - Each contract will have a service suspension and termination clause which explains the steps that will be taken if a provider fails to deliver the service in the required manner.
 - The City of Wolverhampton Council also operates a service suspension and termination policy.
22. What do you do to monitor adherence to this contractual obligation once the service is 'live'?
- Contract service reviews are carried out during the lifetime of the contract. These reviews will vary in length of time and content depending on the type of contact and its value.
 - Quality Assurance and Compliance officers will also carry out planned and on occasion unplanned inspections of the service being delivered.

23. What are your policies/procedures for handling a report of breach of contract in this regard?
This would depend on what the breach was, but may link to either the suspension policy or the care home closure protocol.
24. Do you commission other organisations to carry out 'Live-In' work?
No
23. For this 'Live-In' work: any information you hold as to what proportion of the fee you pay to the contracted company is actually paid to the worker?
N/A