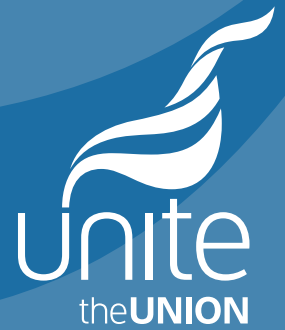


Defend Social Care and Housing



Briefing

June 2014

Sleep-ins and National Minimum Wage Regulations

There have recently been a number of legal challenges made through the Appeal Tribunal with regard to wages paid to workers who do sleep-ins.

The Tribunals have concluded that workers must be paid a minimum of the National Minimum Wage for every hour of the sleep-in and not a flat rate 'allowance'.

Some of the arguments put forward by companies on why workers have been paid below the minimum wage include:

- Time spent sleeping should not be paid.
- If sleep-in payments are added to the salary and divided by the entire number of hours worked, workers are averaging more than the minimum wage per hour.
- The payment for sleep-ins constitutes an allowance and is not therefore subject to National Minimum Wage regulations.

However, tribunals have ruled:

- Because workers are on the premises, must stay on the premises, and cannot leave, they are 'working' for the entire period and whether or not they are asleep for any period of the sleep-in is irrelevant.
- Because sleep-ins do not constitute salaried work but rather, 'time work', hours and salaries cannot be averaged out and National Minimum Wage must be paid for each and every hour of the sleep-in.
- Allowances are appropriate for certain things like working in a hazardous atmosphere. They are not the appropriate/legal payment for a sleep-in and therefore, National Minimum Wage regulations apply.

If this affects you then you should lodge a grievance for unlawful deduction of wages.

Your Regional Officer/ Workplace Reps have a template grievance for you to use. The internal process must be followed before we can lodge tribunal claims on your behalf.

Your claim may be back-datable for up to six years. In the case of *Esparon t/a Middle West Residential Care Home v Slavikovska*, the claimant won over £15,000 from their employer in backdated sleep-in payments.

Unite will only represent workers who are members of Unite so if you are not a member, now is the time to join!

Together we are stronger

www.unitetheunion.org/dschc



DEFEND SOCIAL CARE AND HOUSING

Membership Form - GB About You

Surname Mr Mrs Ms Miss Dr Rev Male Female

Forename

NI No. / / / / /

Date of Birth / /

House No./Name

Street

City/Town

Postcode

Home Tel. Mobile

Email

Please tick if you wish to receive the union's magazine.

About Your Job

Employer/Company Name

Department

Job Title

Work Address

Postcode Work Tel.

NMC No.

Tick 1 21 or more hours per week (full time rate) I am an apprentice or on full time training scheme
 Less than 21 hours per week (part time rate) Student in full time education Self employed

Equal Opportunities

Unite the Union is committed to the promotion of equal opportunities for all and it is the Union's aim to provide services and support to members that is free of discrimination on the basis of race, gender, religion, sexual orientation or disability. What ethnic group do you belong to?

Mixed White & Black Caribbean Asian or Asian British Pakistani Black or Black British African

White British Mixed White & Black African Asian or Asian British Bangladeshi Black or Black British Other

White Irish Mixed Other Asian or Asian British Other Chinese

White Other Asian or Asian British Indian Black or Black British Caribbean Mixed White & Asian

Other/please specify

Do you regard yourself as disabled? Please tick if you are Lesbian Gay Bisexual Trans

For office use only (Member No.)

Direct Debit Details Instructions to your Bank or Building Society to pay by Direct Debit



Originators ID Number

9 7 1 4 6 7

Name of bank/building society

Town of the Bank

Sort Code

On the selected day of the month:

Account Number

7th 14th 21st 28th

Name(s) of Account Holder(s)

Instruction to your Bank or Building Society

Please pay Unite the Union Direct Debit monthly from the account detailed in this instruction subject to the safeguards assured by the Direct Debit Guarantee. I understand that this instruction may remain with Unite the Union and, if so, details will be passed electronically to my Bank Building Society.

Authorisation of deduction of your trade union contribution from your pay (check-off)

Note: Not all employers operate check-off. I hereby authorise the deduction of Unite the Union subscriptions from my pay of such amounts as shall be notified to my employer on my behalf from time to time by Unite the Union. I also authorise my employer to inform Unite the Union of any changes of address.

Paid weekly or monthly? Weekly Monthly

Payroll No.

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You have the right at any time to stop us using your details for third party marketing purposes. If you do not wish us to communicate with you or share your contact data for these purposes, please tick this box. Please note that this will preclude you from receiving our special offers or promotions.

I agree to abide by the union's rules. I authorise the payment above.

Are you or have you been a member of a trade union? (including Unite the Union) Yes No
 If yes, please give the name of the union and date of last payment

When you join Unite, you are also authorising the Union to deduct an additional amount for your subscription to your local branch fund.

Signature(s)

Date

Recruitment Code

Branch Code

Workplace Code

Job Code