

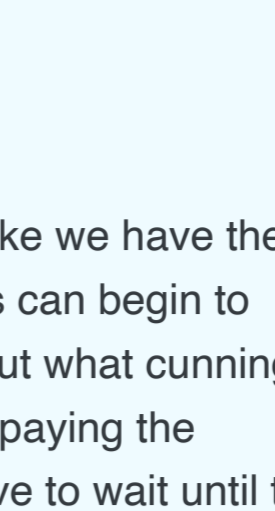
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Welcome to August's PayrockPayroll update. Coming up in this month's edition...

- Structured Flexible Apprenticeships
- COVID-19 update
- Right to work checks
- National Minimum Wage
- A look ahead

PayrockPayroll update



With Parliament in summer recess, it feels now like we have the calm before the storm, when payroll departments can begin to catch up with themselves a little before we find out what cunning plans the Chancellor has conjured up to begin repaying the country's huge COVID debt. Although we will have to wait until the Autumn to find out the Chancellor's repayment strategy, and the impact it may have on payroll, in this month's newsletter I have included a look ahead to some of the changes we already know about. But first, I want to tell you about an exciting new development here at MBKB.

### MBKB is proud to launch Structured Flexible Apprenticeships

If you're reading this newsletter then the chances are that you've had some involvement in apprenticeships at some point or another, either because you've been an apprentice, or you have managed an apprentice. And we know there are some key questions that come up every year such as:

"Why must I do every single module, when I already know some of the elements and have been doing them for years?"

"Can I undertake modules and develop my career in a way that works for me and my organisation?"

Well, here at MBKB we listen, and we are excited to introduce the first fully tailored apprenticeship and development programme which will enable you to undertake a learning programme and enhance that programme with what you need, when and how you need it.

We call it **STRUCTURED FLEXIBILITY**. You choose one of four core routes for your career development

- Leadership / HR
- Payroll and Finance
- Quality Assurance
- Specialists

And then comes the special part – once you have selected your core apprenticeship you can enhance it by selecting two units from any other apprenticeship.

Find out more by watching this [short video](#), or email [train@mbkggroup.com](mailto:train@mbkggroup.com)

It's your life, your career and now, it's YOUR apprenticeship.

### COVID-19 update

#### Gender pay gap reporting deadline looms

Each year employers with more than 250 employees are required to publish their gender pay gap reports, giving information about the differences in pay and bonuses between men and women in their workforce. Information for 2019-20 was due to be published by 30 March 2021 for most public authority employers, or 4 April 2021 for private, voluntary, and all other public authority employers. However, due to the impact of the COVID-19 pandemic, the Equality and Human Rights Commission (EHRC) announced earlier this year that employers would have an additional six months after the deadline to report their gender pay gap information.

All affected employers have until 5 October 2021 to report their gender pay gap information for snapshot dates of either 31 March 2020 (for public sector employers) or 5 April 2020 for private sector employers). Employers should still report their gender pay gap information using the [Gender pay gap service](#).

Employers have also been able to report gender pay gap information for the next reporting year (using a snapshot date of either 31 March 2021 or 5 April 2021) since the beginning of April 2021.

#### The impact of COVID-19 travel restrictions on the movement of workers

Despite Brexit, there are still many businesses who employ workers who move around between the UK and the EU. However, COVID-19 related travel restrictions have had an impact on this movement of workers.

If you have employees who normally work in the UK, the EU, or both, and their work location has changed temporarily because of COVID-19 related travel restrictions, HMRC can consider their individual circumstances, including where they normally work, to decide whether National Insurance contributions are due in the UK. The arrangements with the EU, which allow HMRC to disregard changes to individuals' work locations caused solely by COVID-19 related restrictions, will end no later than the end of December 2021.

If you or your employees need proof that you have to pay UK National Insurance contributions, you should [apply for a certificate using one of the appropriate forms](#) providing details of the COVID-19 related restrictions that apply.

### Right to work checks

Talking about the movement of workers between the UK and the EU, the process for completing right to work checks on EU, EEA, and Swiss citizens has now changed.

You will all be aware that employers must carry out a right to work check for every individual they employ. But following Brexit, you can no longer accept EU passports or ID cards as valid proof of right to work, except for Irish citizens. Instead, you need to [check a job applicant's right to work online](#).

To carry out an online right to work check, you will need the applicant's date of birth and their share code, which they will have obtained when they [proved their right to work online](#).

This new process came in from 1 July 2021, and employers can face a civil penalty of up to £20,000 for each illegally employed worker who does not have the right to work in the UK and where correct checks were not undertaken.

You do not need to retrospectively check the status of any EU, EEA, or Swiss citizens you employed before 1 July 2021. There may be situations in which you identify an EU citizen in your workforce who has not applied to the EU Settlement Scheme by the deadline and does not hold any other form of leave to remain in the UK. Where an EU citizen has reasonable grounds for missing the application deadline, they will be given a further opportunity to apply. Full guidance has been published on the [steps you should take as an employer](#) (Annex B) if this situation arises.

### National Minimum Wage

#### High profile companies named and shamed

Although there are many penalties for not complying with the regulations affecting payroll, it is perhaps being included on the National Minimum Wage (NMW) naming and shaming list, and the accompanying reputational damage, that employers fear more than any financial penalty for non-compliance in any other area.

No employer wants to be seen as short-changing their workers, so it always makes for an interesting read to see who has been included on the list, as well as ringing a warning bell to us all to not be complacent when it comes to the NMW rules.

The latest list was published on 6 August, announcing breaches from 191 businesses between 2011 and 2018 totalling £2.1m and affecting more than 34,000 workers. The employers named were fined £3.2m and have paid back what they owe. The list included some well-known names such as high street retailers The Body Shop, Martin McColl and Pret A Manger, along with football clubs Charlton Athletic, Crewe Alexandra, Oldham Athletic and Sheffield United.

But it is John Lewis which is perhaps a surprise inclusion on the list. Not because they haven't breached the rules, because they have, but the breach was four years ago, and was an accidental breach in an effort to make life easier for their employees, and John Lewis itself made the breach public at the time as soon as it realised what had happened. We discuss this case in the Regulation and Compliance module of MBKB's level 3 payroll administrator apprenticeship, highlighting the importance of knowing exactly what the rules are, and the consequences of not applying the rules correctly.

John Lewis has long been held up as a beacon of good employment practice, indeed it is owned by the employees, whom John Lewis calls partners. The breach arose because John Lewis introduced a form of pay averaging to ensure that those workers whose pay fluctuated, a common occurrence in seasonal professions such as retail, received the same amount each month making it easier for them to budget. This breached NMW rules despite the average minimum hourly pay never being below the national minimum.

Whilst this case shows that not all minimum wage underpayments are intentional, it highlights the responsibility of all employers to understand and abide by the law. The most common reasons for underpaying amongst those named and shamed in the recent list were:

- 47% wrongly deducted pay from workers' wages, including for uniform and expenses
- 30% failed to pay workers for all the time they had worked, such as when they worked overtime
- 19% paid the incorrect apprenticeship rate

You can see the full list [here](#)

#### Failure to correctly pay apprentices

The list highlights that the third most common reason for breaching NMW regulations is failure to pay the correct rate to apprentices. The most common reasons for this are:

- Employers continue to pay the apprentice rate to apprentices who are aged 19 years or over after they have completed the first year of their apprenticeship.
- Employers pay the apprentice rate to a worker who is not an apprentice.
- Apprentices continue to pay the apprentice rate after the apprenticeship ends.
- Employers fail to pay an apprentice for the time they have spent in training during normal working hours, both on- or off-the-job, as part of their apprenticeship.

To help employers understand their legal obligations when paying apprentices, the government has produced an [educational bulletin](#) which offers tips specifically focussing on how to pay apprentices correctly.

#### Absurd reasons for not paying the NMW

Although not paying workers the NMW is a very serious business, some employers don't take the matter as seriously as they should, demonstrated this week when HMRC released some of the most absurd excuses used for not paying the legal minimum. I hope none of these ridiculous excuses sound familiar to you!

1. "She does not deserve the National Minimum Wage because she only makes the teas and sweeps the floors."
2. "The employee was not a good worker, so I did not think they deserved to be paid the National Minimum Wage."
3. "My accountant and I speak a different language – he does not understand me, and that is why he does not pay my workers the correct wages."
4. "My employee is still learning so they are not entitled to the National Minimum Wage."
5. "It is part of UK culture not to pay young workers for the first three months as they have to prove their 'worth' first."
6. "The National Minimum Wage does not apply to my business."
7. "I have got an agreement with my workers that I will not pay them the National Minimum Wage; they understand, and they even signed a contract to this effect."
8. "I thought it was okay to pay young workers below the National Minimum Wage as they are not British and therefore do not have the right to be paid it."
9. "My workers like to think of themselves as being self-employed and the National Minimum Wage does not apply to people who work for themselves."
10. "My workers are often just on standby when there are no customers in the shop; I only pay them for when they are actually serving someone."

### A look ahead

#### Ethnicity and disability pay gap reporting

Earlier I mentioned gender pay gap reporting, but more and more attention is now focussed on the prospect of ethnicity and disability pay gap reporting.

Although some employers already choose to disclose their ethnicity and disability pay gaps, it isn't mandatory. Back in 2018 the government published a consultation on ethnicity pay gap reporting, but it has not yet published its response. However, a parliamentary petition, calling for the introduction of mandatory ethnicity pay gap reporting, collected over 130,000 signatures meaning that this must now be debated in Parliament when it returns after the summer break.

In addition, the government's new national disability strategy, which is focused on improving workplace inclusion and narrowing the disability employment gap, includes plans for an "Access to Work adjustments passport" and a consultation on whether organisations with 250 or more employees should produce disability workforce reports.

Whilst it is acknowledged that it isn't as easy to publish statistical information on ethnicity and disability as it is for gender, I fully expect to see, at some point in the not too distant future, pay gap reporting for both ethnicity and disability.

#### New National Insurance categories

We all know that the government offers incentives to encourage us to do what it wants us to do, and in payroll we see these regularly, whether it's encouraging the population to cycle to work or pay into a pension scheme by offering tax relief; or encouraging employers to hire apprentices and young people by offering National Insurance holidays. And next year sees the introduction of several new National Insurance categories as the government offers more incentives to employers.

#### Employing veterans

The first is National Insurance category V, which is available to employers of qualifying veterans for 12 months following the start date of their first civilian employment after leaving the regular armed forces. You may already be aware of this as I have mentioned it in previous updates because the NIC relief actually came into effect on 6 April 2021, however, because of the tight timeframe, there wasn't enough time to introduce the new NI category or software functionality before the start of the tax year, so for 2021-22 employers must pay the secondary NICs on the earnings of eligible veterans and then claim back the associated relief at the end of the tax year. We are still waiting for guidance explaining how this will be done.

But from 6 April 2022, employers will be able to use NI category V for qualifying veterans, which means that employers will not need to pay secondary NICs up to the newly created Veteran's Upper Secondary Threshold (VUST) which will mirror the existing Upper Secondary Threshold (UST), thus allowing employers to claim the NIC relief in real time.

#### Freeports

The second incentive is for employers based in Freeports, but first we need to understand what a Freeport is. Freeports are a special kind of port where normal tax and customs rules do not apply. They can be airports as well as seaports and are similar to free zones, or 'enterprise zones', which are designated areas subject to a broad array of special regulatory requirements, tax breaks and government support.

To encourage businesses to locate themselves in Freeports, and thereby stimulate economic activity in their designated areas, a reduced rate of employer's NICs will be applicable to all Freeport based businesses.

From 6 April 2022 a zero-rate of secondary NICs will apply to employee earnings over the secondary threshold and up to a newly created Freeport Upper Secondary Threshold (FUST). For tax year 2022-23 the FUST will sit at £25,000, earnings above this amount will be subject to 13.8% rate of employer NICs.

Four new Freeport NIC category letters will be introduced from 6 April 2022:

- F – standard category letter
- I – married women and widows entitled to pay reduced NICs
- S – employees above the state pension age
- L – employees who can defer paying 12% NICs, and pay 2% as they already pay NIC in another job

To be eligible for the relief, employers must have a physical premises within the Freeport tax site. The employee must also be a new hire after April 2022 and cannot have worked for the employer in the previous two years. The NIC relief ends 36 months after the employee started work. Additionally, employees are only eligible if they spend at least 60% of their working time within a Freeport tax site.

### PayrockPayroll Update

#### August Payroll Update

Join me on Friday August 27 at 10am for a live webinar in which I explore in more detail the changes we can expect in the payroll world now and over the next few months. It's also an opportunity for you to network and share knowledge and experiences with other payroll professionals.

Follow this [link](#) to register your place

#### PayrockPayroll social networking groups

We all know that the payroll profession is a complex world of constantly changing rules, and interpreting those rules so that you can fulfil your obligations can sometimes make you feel like the weight of that world rests on your shoulders.

To share that weight, to learn from the experiences of others, to network and share advice and good practice with other payroll practitioners, why not join our social media networking groups on LinkedIn and Facebook.

Follow this link to join the [PayrockPayroll LinkedIn](#) group

Join the [PayrockPayroll Facebook](#) group using this link

#### Payroll support helpdesk available to PayrockPayroll members

As payroll processing gets ever more complicated, we know that, much as we would like to, none of us can know everything, and here at PayrockPayroll we want to help. As a PayrockPayroll member you have access to our payroll support helpline. Several of you have already used this service, all you need to do is email your query to [payrollsupport@mbkggroup.com](mailto:payrollsupport@mbkggroup.com) but please remember to write your membership number in the subject line, it was included in your membership pack email.

As a reminder, your Tier 2 PayrockPayroll membership includes:

- Payroll Update sessions – Online
- PayrockPayroll e-newsletter – Monthly
- Payroll helpdesk / support - 10 queries
- 1 x short course delivery
- PayrockPayroll - Annual Industry Festival

