

Sleep-ins

On 19th April NIC highlighted the issue regarding whether sleep-ins constitute time which should be paid at National Minimum Wage.

NIC has received further information from RadliffesLeBrasseur. Please see below:-

Care homes and employment law

May 2017

Are workers entitled to pay while sleeping?

In the case of *Focus Care Agency Limited v Roberts*, the Employment Appeal Tribunal (EAT) has considered and reviewed recent case law in this difficult area and has provided some helpful guidance.

The issue for consideration

If employees sleep-in in order to carry out duties if required, are they engaged in 'time work' for the full duration of the night shift and therefore entitled to be paid the National Minimum Wage for the duration of the night shift? Or are they only entitled to the National Minimum Wage when they are awake and carrying out the relevant duties?

The EAT held that a multi-factorial evaluation is required. No single factor is determinative and each case will depend on the circumstances of the particular situation. The fact that a worker has little or nothing to do during certain hours does not mean she/he is not working; work is not equated with any particular level of activity and can include merely being present to deal with something untoward that might arise.

The EAT set out the following factors to consider when determining whether a person is 'working' by being present:

- the employer's particular purpose in engaging the worker, e.g. if there is a regulatory or contractual requirement to have someone present
- the extent to which the worker's activities are restricted by the requirement to be present and be at the disposal of the employer, including whether the worker would be subjected to disciplinary sanction for leaving the premises
- the degree of responsibility undertaken by the worker during the period. For example, a requirement to sleep-in and to call the emergency services in the case of break in or fire compared and contrasted with a requirement to respond to any problems experienced by a resident in the night
- the immediacy of the requirement to provide services if something untoward occurs or an emergency arises may also be relevant. For example, whether the worker is the person who decides whether to intervene and then intervenes when necessary, or whether the worker is woken as and when needed by another worker with immediate responsibility for intervening

Conclusion

This case has provided a helpful summary of the factors that need to be considered when determining whether a worker who is required to sleep-in should be paid the National Minimum Wage for the total period of the sleep-in shift or whilst the worker is awake and undertaking duties.

[Click here to read the article on our website](#)

Recruiting for potential from under-represented groups

Skills for Care has launched a 'Recruiting for potential' project to support social care employers to explore different ways to widen their pool of applicants, and recruit people with the right values, behaviours and attitudes.

As part of the project they want to build on the success of existing initiatives or models which support people from under-represented groups (such as ex-military, homeless people or disabled people) into education, training and/or employment. They're seeking to fund innovative pilot projects across England which contextualise support already available for the social care and health sectors.

If you are part of a local, regional or national initiative or model and are interested in applying for funding, read more about the project and how to apply by visiting:

www.skillsforcare.org.uk/tender

The closing date for tender applications is **Tuesday 13 June 2017 at 12noon.**

News from CQC

Latest update from NHS Digital and National Cyber Security Centre on cyber attack

15 May 2017

Dear colleague

I wanted to share with you the latest information we have received following the ransomware cyber attack reported on Friday 12 May and over the weekend.

You may find the below article from CareCERT at NHS Digital helpful to understand more about ransomware and how to protect your organisation:

<https://nww.carecertisp.digital.nhs.uk/display/CC/Ransomware+-+Preparing+for+an+Outbreak>

Or the latest guidance from the National Cyber Security Centre (NCSC) and Microsoft can be found here:

NCSC - <https://www.ncsc.gov.uk/guidance/ransomware-latest-ncsc-guidance>

Microsoft - <https://blogs.technet.microsoft.com/msrc/2017/05/12/customer-guidance-for-wannacrypt-attacks/>

The below bulletin from CareCERT at NHS Digital has been developed to help technical teams to prevent further spread of the issue. You may want to share this with the person / team who manages your IT as it sets out specific technical steps to be taken if your organisation is affected.

If your IT system has been affected and you require immediate assistance, you can call the CareCERT support hotline (0800 085 6653). This should be used specifically for help and advice applying patches and remediation support. This number is not for updates and general information and will be in high demand from the providers who have been affected and need help urgently. Please treat it as you would treat any emergency line in a crisis situation.

If you have any general queries or questions you can contact: carecert.soc@nhs.net.

I hope this information is helpful.

Best wishes

Chris Day
Director of Engagement
Care Quality Commission

Norfolk Safeguarding Adults Board

New news items have been posted on the Norfolk Safeguarding Adults Board's (NSAB) website:

- **New dates** for Training for trainers in safeguarding adults awareness - for less than £200 !

(spaces are limited, so don't let your organisation miss out on this exciting opportunity)

- Public Consultation - new guidelines on intimidatory offences and domestic abuse

Go to:

[Norfolk Safeguarding Adults Board \(NSAB\) News](#)