

**Formal consultation response from the Chartered Institute of Payroll Professionals in
respect of: Low Pay Commission Consultation 2020**

Organisation response to be submitted to: The Low Pay Commission

Date of submission: June 2020

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Dear Sirs

By Email

Introduction

The Chartered Institute of Payroll Professionals (CIPP) is grateful to have the opportunity to comment on the Low Pay Commission Consultation 2020. We are pleased to be able to feed into the LPC annual review and hope that this written response will form the basis of an ongoing relationship with the Low Pay Commission (LPC). The CIPP gives permission for you to include us in the list of organisations involved in the consultation exercise. Company information about the CIPP and its role in representing employers and payroll professionals can be found at the end of this response.

Purpose of response

To provide the LPC with responses and views from payroll professionals relating to the impact of the introduction of the National Living Wage (NLW) since its introduction in 2016, and of rate setting for the National Minimum Wage (NMW) rates from April 2021. This year's consultation also asked for additional information pertaining to the Apprentice Rate and its future, and also about how broader economic issues, such as coronavirus and the UK's continued relationship with the EU, following Brexit, may have influenced and potentially changed, the views and experiences that payroll professionals have on the impact of the National Minimum Wage.

In order to collate the views of the payroll profession, which include both in-house professionals, the out-sourced payroll service sector (which includes bureaux, accountants and book-keepers), and also payroll consultants, a survey ran throughout May 2020, and a virtual Think Tank roundtable was held, which was attended by payroll professionals representing a range of sectors and service lines, which enabled open and frank sharing of views and experiences with officers of the LPC together with three Commissioners.

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This was the first think tank roundtable to be held virtually, due to the lock down in place at the time, and we are grateful to everyone involved for making it a successful and informative event.

Summary of key findings

Concerns raised due to the COVID19 outbreak:

- The need to close business premises and furlough staff
- Understanding of gov.uk guidance about furlough and the Coronavirus Job Retention Scheme (CJRS)
- Concern about increased risk of redundancies – particularly in the retail, hospitality, leisure and tourism sectors
- Affordability of the National Minimum Wage in the coming year(s) for employers who pay at, or just above, the National Minimum Wage rates
- Concerns around accurately recording working hours for the purposes of National Minimum Wage calculations, due to large numbers of staff members working from home as a result of the coronavirus crisis

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- Recent focus placed on coronavirus may have meant that changes to NMW guidance have slipped under the radar – do employers need to be re-educated?
- For those in the public sector, will the coronavirus crisis result in a period of austerity?

The full survey responses are shown within the Appendix beginning at page 6.

- 93% of respondents felt that the outbreak of coronavirus will have had an impact on their employer's perception of what the minimum wage rates should be.
- 81% of employers reported that, since its introduction in April 2016, the NLW has not impacted the number of staff that they employ
- 90% of respondents confirm that the NLW has not affected the number of hours worked by staff
- 54% state that the NLW has not significantly impacted the pay structures offered within their businesses, but it has put pressure on maintaining pay differentials and banding
- 41% of respondents confirmed that they did not think the LPC should seek to meet its target rate for the NLW of £10.69 by April 2021

Conclusion and recommendations

Although the majority of the respondents to the survey pay significantly higher than the mandatory minimum wage rates, it is clear to see that, when coupled with anecdotal evidence from the virtual Think Tank, ever-increasing minimum wage rates will have a growing impact on employer pay scales and differentials. There also continues to be concerns with:

- Continued and increasing restriction of access to Salary Sacrifice for workers being paid on or around minimum wage rates, and its inequity, as higher numbers of employees are being paid at National living wage rates
- The increases to NLW / NMW, are significantly higher than inflation rates, devaluing lower wage rates in the private sector, and lower pay spines in the public sector
- Employers are being increasingly restricted in relation to pay differentials and lower pay bands because of increasing minimum wage rates and the reach of those higher rates
- The affordability for employers of increases to the minimum wage rates in 2021 because of the effects of the coronavirus crisis, and the impact it is widely predicted to have on the UK economy

Different minimal pay rates for different age brackets are increasingly viewed as being unfair. Why should somebody aged 20 performing the same job as a 25-year-old be paid at a lower rate? The proposals for the National Living Wage to be extended to younger age groups is welcomed – subject to the impact on the economy as a result of COVID19.

It would appear that there is general support for the LPC's proposal to align the Apprentice Rate with the NMW rate for those aged 16-17, as it is hoped that it would encourage more young people to embark on apprenticeships. Again, a healthy number of respondents confirmed that they pay significantly in excess of the Apprentice Rate so this would have no impact on their business specifically.

Attention has been placed on the Apprentice Rate in this year's consultation due to concerns about underpayment of training hours. Our findings suggest that ignorance of the guidance can often be the route cause for failure to comply, and we look forward to seeing what impact the quarterly compliance bulletins will have.

The LPC recommended that hours should be shown on the payslip where pay varies as a result of hours worked – has this improved compliance? If so, would it be beneficial to also report training hours separately for apprentices?

Improved guidance, boosted with more realistic examples that demonstrate the complexities of pay and reward agreements, when taken together with a regular education campaigns, aimed at employers, to raise awareness of the National Minimum Wage, will improve compliance. We look forward to seeing what impact the recent proposals from BEIS will also have on improving compliance.

It has been disappointing that stakeholder consultation, that was to begin this year, has been postponed due to COVID19 and we look forward to receiving an update of progress for revised plans, as we believe this will support raised awareness and a more effective and transparent flow of information and education, to employers, that in turn will improve compliance with the calculation and payment of National Minimum Wage.

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Accommodation rates in themselves raised little or no comment within our survey, however the subject of employer provided living accommodation and specifically the guidance relating to its provision, outside of the working relationship, is, we believe, a growing area of concern that would benefit from more comprehensive education, using all tools available to BEIS and HMRC including thematic and comprehensive guides and webinars.

It is overwhelmingly apparent that many of the responses provided, both in the survey and the virtual Think Tank roundtable have been impacted with real concerns about the future of employment prospects, due to the outbreak of coronavirus. Unfortunately, the crisis has, and will continue to have, implications for most employers, whatever their sector.

In deciding upon what the minimum wage rate recommendations for 2021 will be, and indeed, the future trajectory of the minimum wage, we draw comfort from the concerns raised by the Low Pay Commissioners as they consulted on the minimum wage rates for 2021.

Should you require clarification of any of the points that have been made in this response, please do not hesitate to contact me or another member of the Policy team.

Yours faithfully

Lora Murphy
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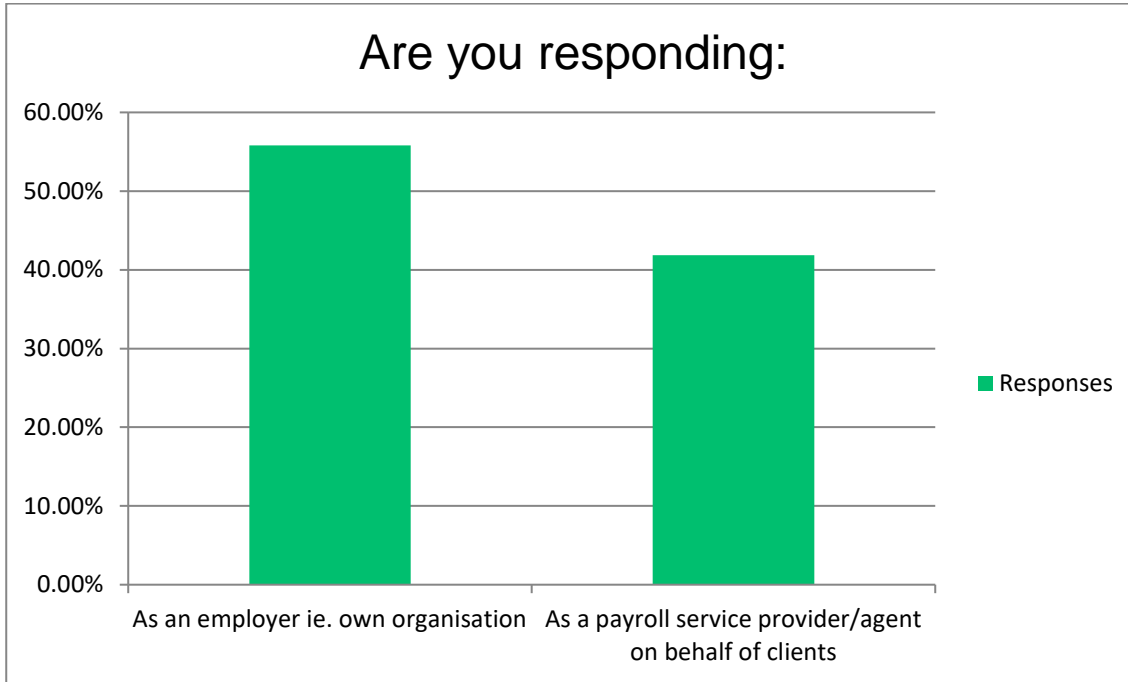
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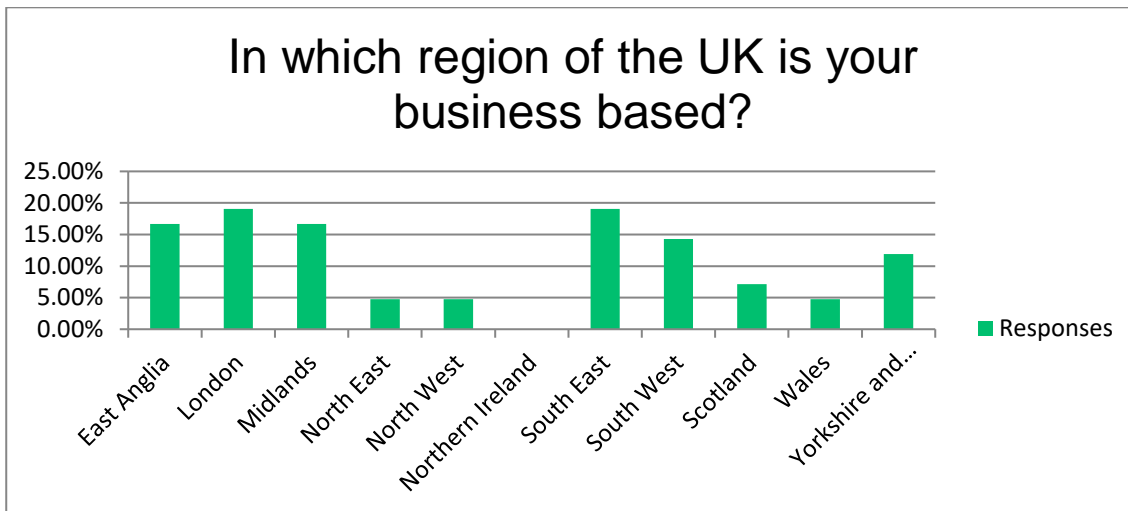
Appendix

Demographics

Survey respondents were represented by both in-house payroll professionals as well as external providers, responding on behalf of, or with reference to, experience with external clients.

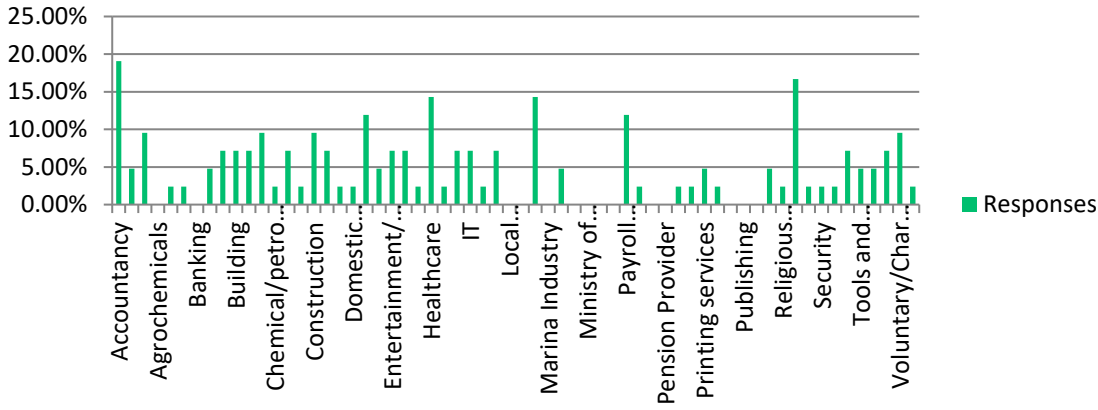


All regions and nations of the UK are represented within our responses

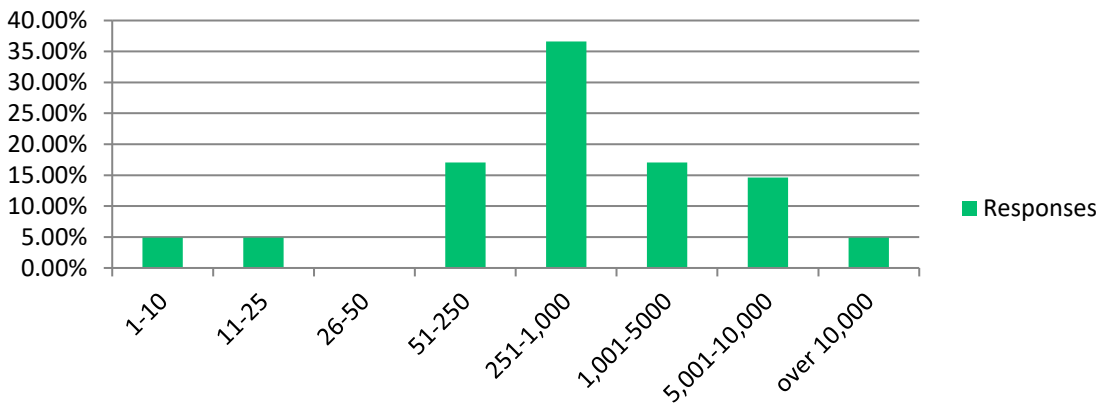


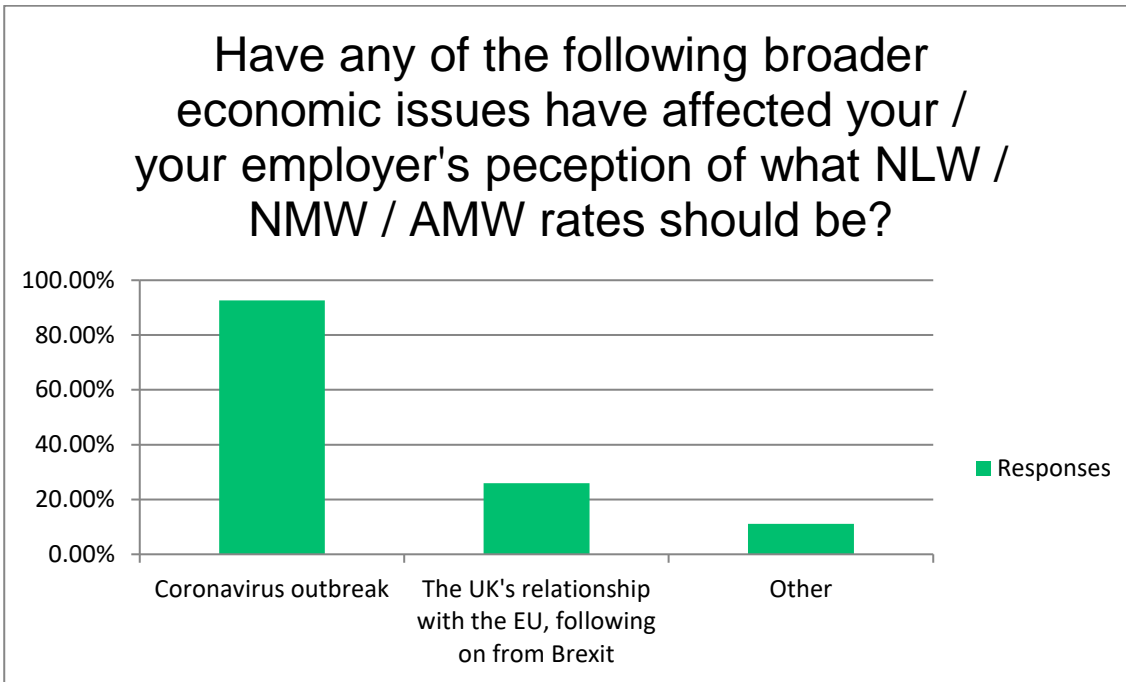
Demographics (continued)

Please indicate which sector of industry you best fall under, if responding as a bureau please tick all that apply for your client base.



Please indicate the total number of employees/pensioners you pay, if a bureau please add the total number of remittances for all your clients.



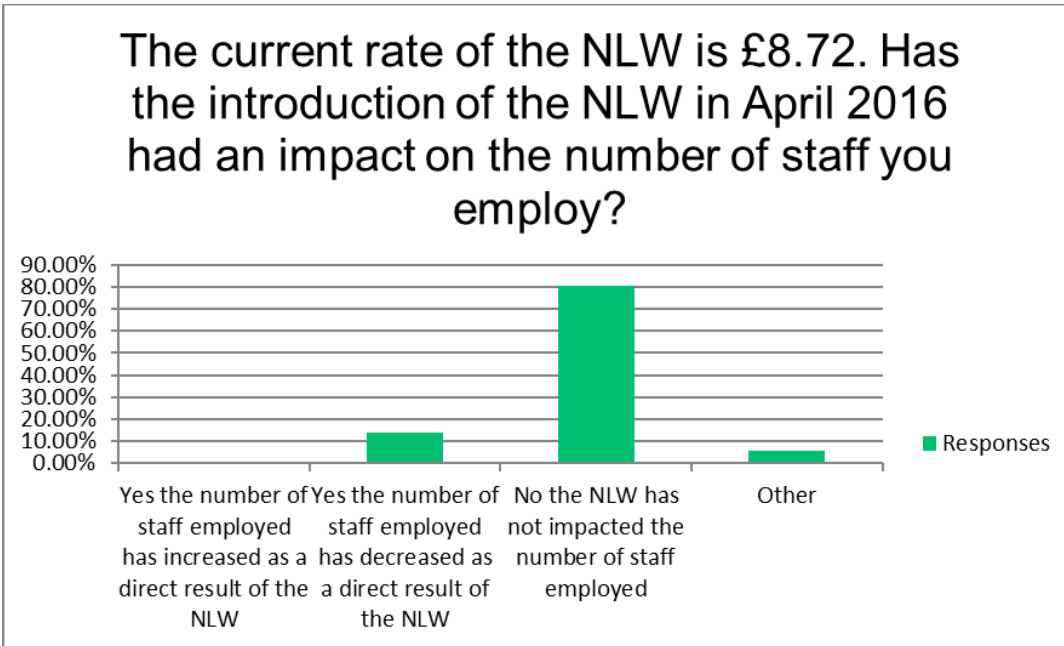


Comments

'We are closing the gap between manual unskilled work and those in support functions. With the COVID19 outbreak, it's a real concern on whether we'll make our budget as it is, for years to come...'

'Loss of revenue to the business during COVID19.'

Impact of the National Living Wage



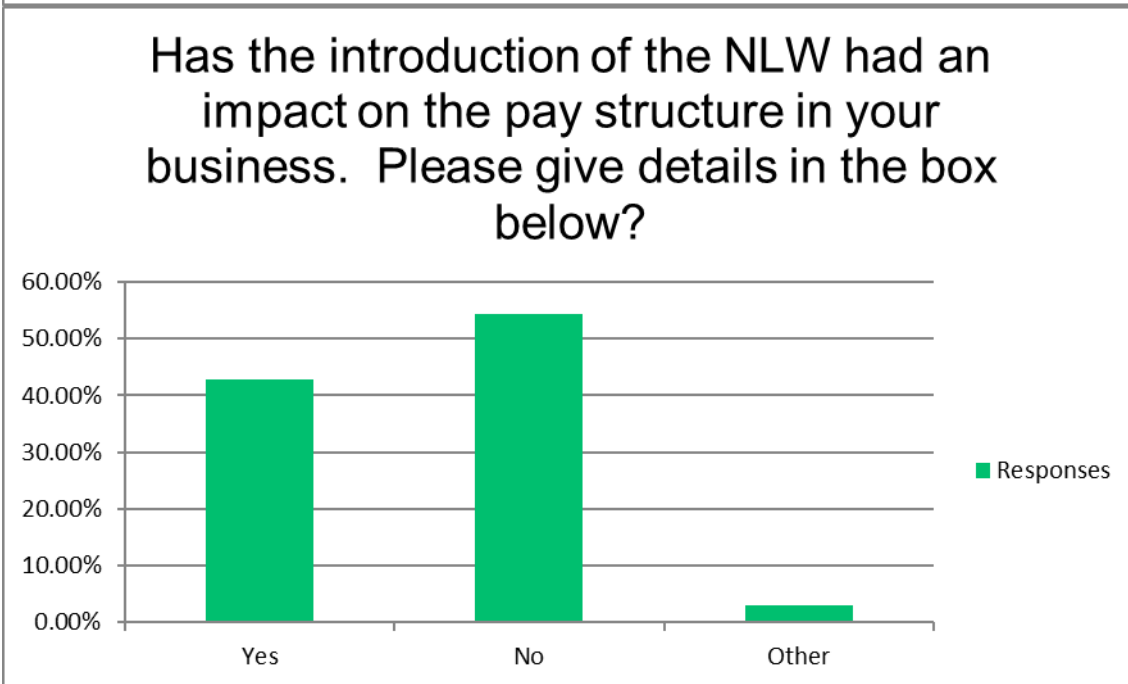
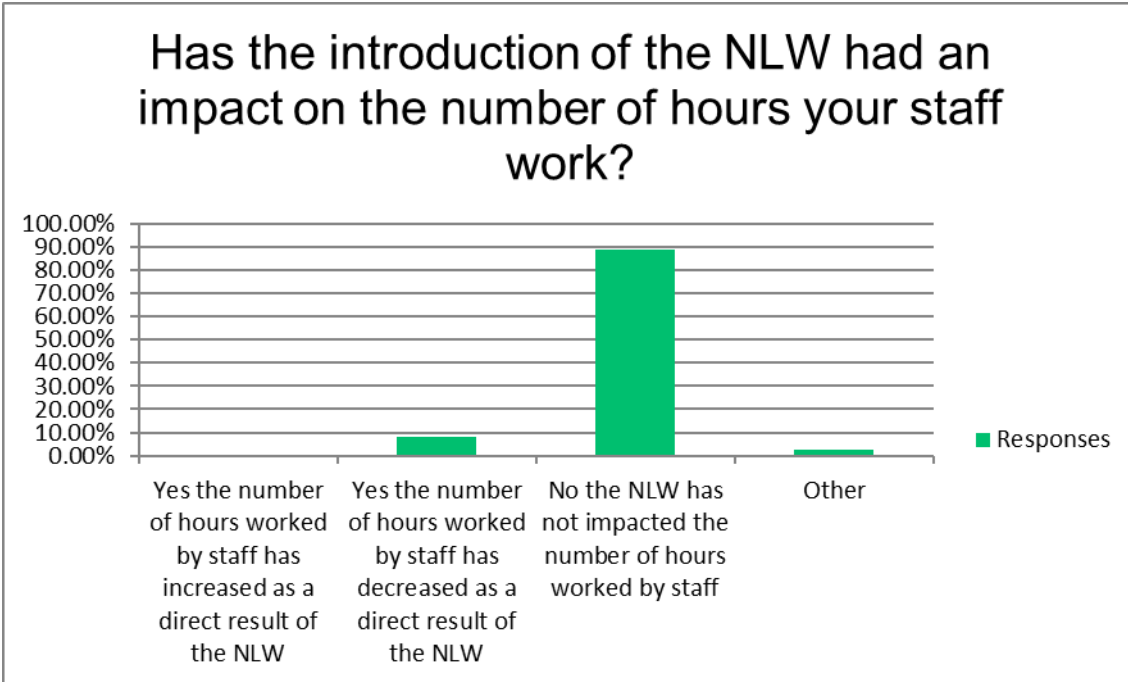
Comments

'Recruitment Agency non-compliance of NLW, specifically in the care and cleaning sector.'

'Haven't really seen any rise or reduction in our client payrolls.'

'We've committed to paying above NLW to all staff, regardless of age since June 2019. Whilst we would like to pay the 'real living wage' we can't afford that as a business at the moment.'

'We haven't reduced our numbers in terms of recruitment despite the increase since 2016. We still employ staff when needed and have opened a new factory.'



Comments

'Reduction in contracted hours as well as available overtime.'

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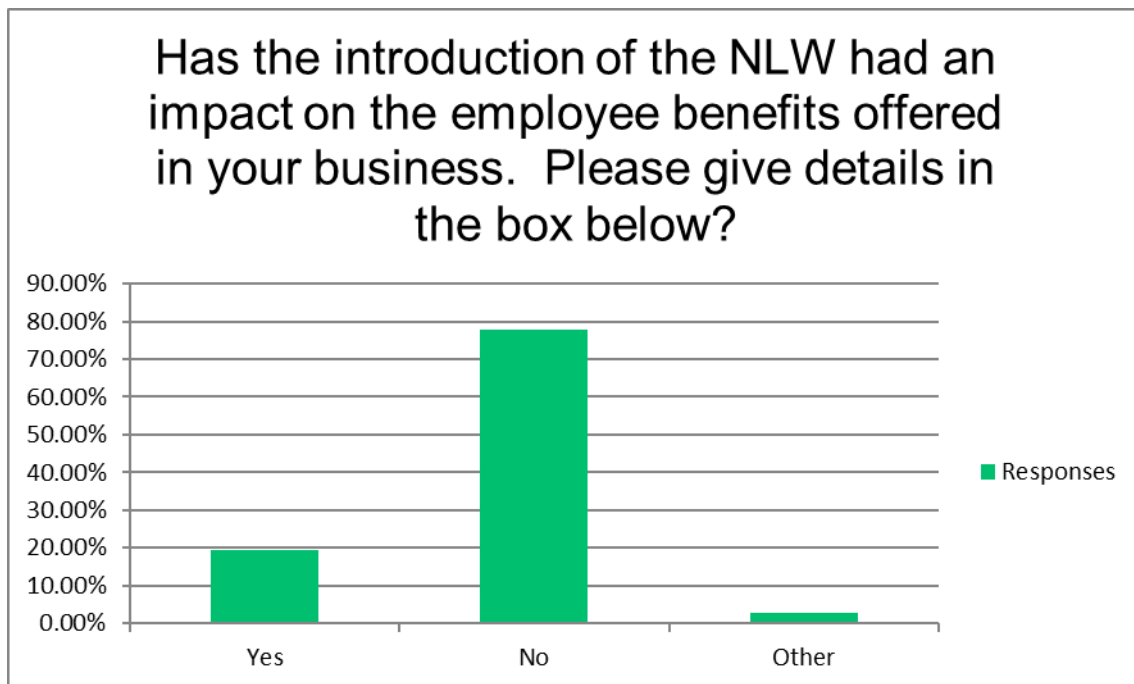
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'Differentials have been difficult to maintain, i.e. skilled employees (supervisors), the gap in pay differential has decreased, we could not continue to give the high percentage increases to all our employees.'

'Due to the large increase in NMW, we will need to look at other staff who are paid slightly more than minimum wage to increase gap between staff on NMW i.e an increase for them as well.'

'We've had to adjust our pay bands for the 'bottom of band' and there is a small gap between bottom of band and point one. We use our pay bands as a negotiation at starting / joining the company, so although we have increased our bottom band, we have not increased the mid-band ranges.'

'Previously there were levels in the production employees. Due to COVID19, all under the NLW have been increased to this, but there are no longer pay levels. This will be reviewed again in July, or once COVID19 is more under control. It does mean that Skill Level one and two employees are now paid the same. '



Comments

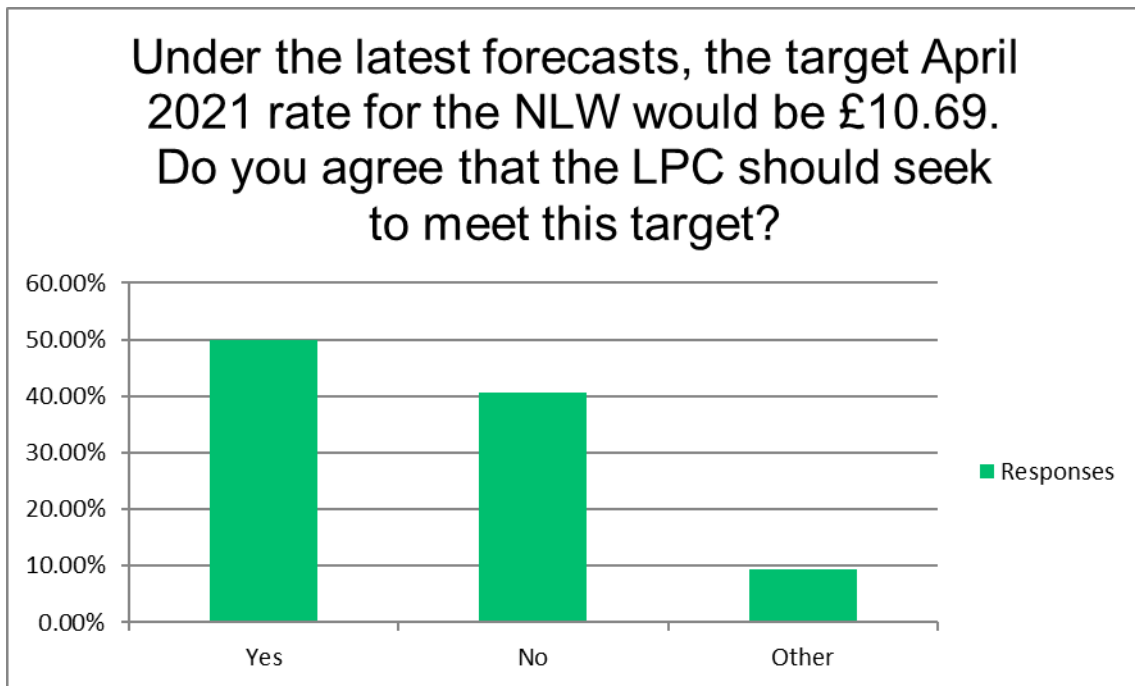
'We can't offer salary sacrifice for NMW employees.'

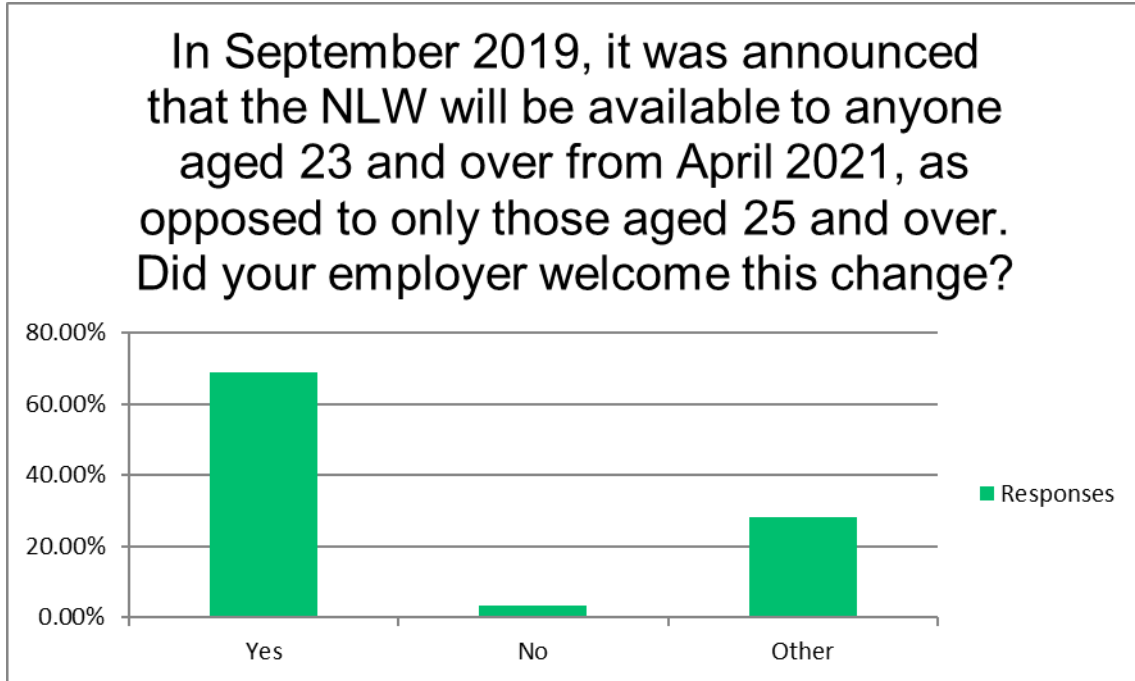
'The increase has made it more and more difficult for us to offer the benefits available to our higher paid employees through salary sacrifice to the detriment of these lower paid employees who would like to take up the offer. Our lower paid employees are, for example, forced to pay more for their pension than our employees who are paid slightly more.'

'Some employees would like to cover their families for medical expenses through salary sacrifice and enabling them to take advantage of the company scheme - as this dips them below NMW they are unable to do this and therefore have to purchase this on the open market at increased cost.'

'Some staff can no longer have their pension as salary sacrifice due to the increase in NMW their gross pay would be under NMW.'

April 2021 rates of the NLW and other minimum wage rates

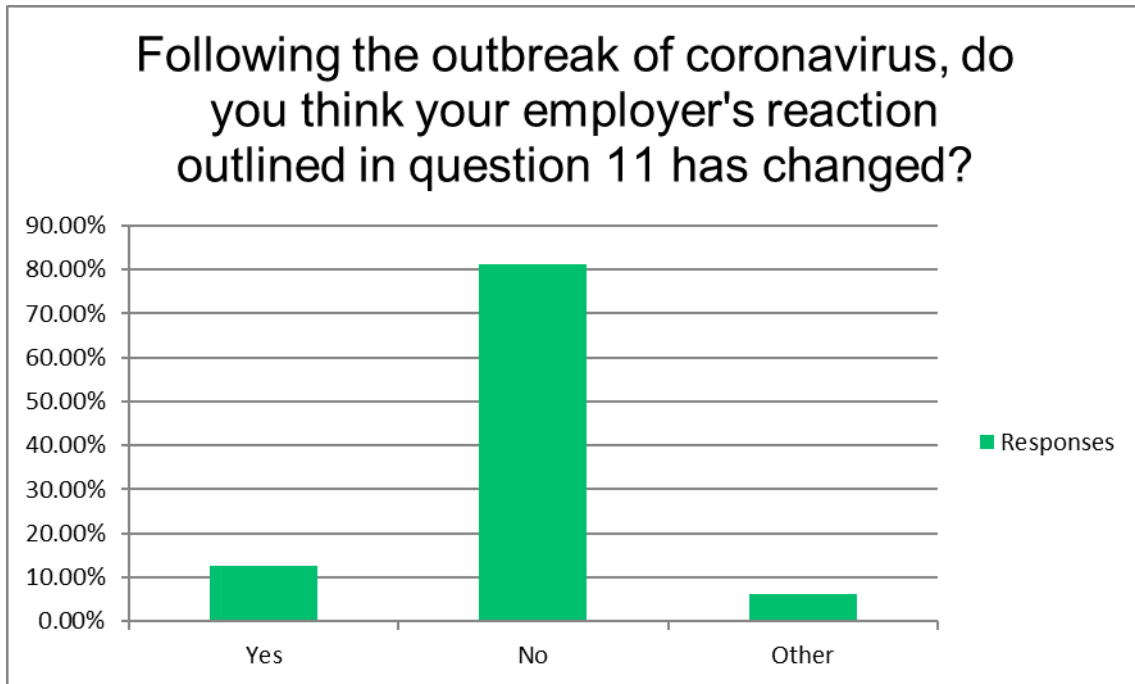




Comments

‘We pay above NLW £8.72 for all ages.’

‘It would neither be welcome or unwelcome, but again, other staff pay rates would need to be considered as a high rate of NMW means other mid-range paid workers who have worked to gain skills and qualifications may not be much better off than unskilled workers.’



Comments

'We have been told to tighten our belts.'

'We are a food manufacturer, we have incurred unprecedented increases in our cost to manufacture goods. The pressure on businesses is huge, the number of people out of work and the number of businesses that have or will go out of business due to Covid 19 is growing by the day.'

'Unless the LPC change the implementation date it is still something that will need to be done.'

Q: The current rate for individuals aged 25 and over is £8.72, what amount do you think this rate should be in April 2021? Consider the fact that the rate will be extended to those aged 23 and over.

Responses ranged from between £8.90 and £15.

Q: Due to the NLW being extended to those aged 23 and over from April 2021 onwards, there will be a new rate for those aged 21-22 until the NLW age is lowered to 21 in 2024. What should the NMW rate for those aged 21-22 be from April 2021?

Responses ranged from between £7.20 to £10.69.

Q: At what level should each of the other rates of the minimum wage be set in April 2021

18 – 20-year olds

Responses ranged from between £6.58 to £10.69.

16 – 17-year olds

Responses ranged from between £4.64 to £10.69.

Apprentices

Responses ranged from between £4.23 to £8.

Accommodation offset

Responses ranged from between £8.20 to £10.

Q: What effect, if any, do you think the minimum wage has on young people and their employment prospects?

'This is good motivation for going to work and not waiting for benefits.'

'It shows how society values them within the workplace, and ... we need to invest in them.'

'...younger people would be more likely to seek employment if the wage was raised.'

'The apprentice rate will deter people from taking part in this category - it is too low.'

'...helps an employer as they know the going rate to pay and cannot pay below this.'

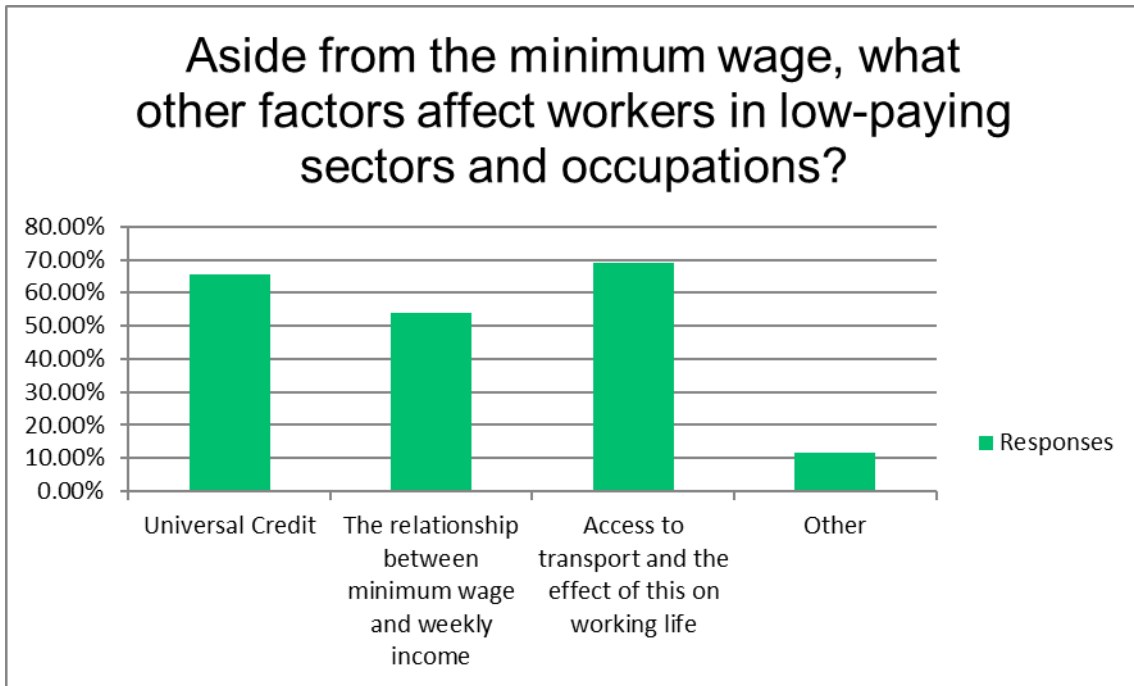
'I think they're happy with being paid more, in a lot of admin support roles, the young have an amazing insight and breadth for learning and progressing. Why should they earn less than someone because of their age?'

'...should make it easier to get into employment as employers don't need to pay as much out initially.'

'... It makes no difference to my organisation as we pay all equal of the NLW and above.'

'A low NMW may encourage them to seek further education instead of working for NMW.'

'The positive effect is it enables employment at a reduced cost for employers to enable young people to initiate a career. The negative impact is that some (unscrupulous) employers do end contracts to avoid the increases in earnings as people progress in age.'



Comments

'The distance from home to work, how much rent they pay or board all has an impact.'

'Non-access to salary sacrifice even when they would like to, and the detriment this has on their income and access to additional benefits.'

'People should not have to rely on UC to earn a wage if they are working. The divide between those who do not want to work, and those who do, should make working worthwhile.'

'Travel costs can take most of your wage so it's not cost effective to work.'

'Universal Credit rules being subject to hours worked vs. the minimum wage and subsequent low weekly income can become an unfortunate cycle that it is hard for the employee to break away from. Those on a low income may have difficulty accessing their own transport and may also live in cheaper areas without good public transport. The inability to travel to work, particularly during unsocial hours can further add to limited opportunities...'

Apprentices

Q: Evidence indicates that underpayment of apprentices relates largely to unpaid training hours. What are your views on this problem, and do you have any solutions to the problem?

'We treat training time as working time and therefore it is paid.'

'Training time to be completed during normal working hours and time recorded appropriately.'

'Every apprentice is entitled to pay while training as an incentive and a form of building confidence that they are valued. HMRC needs enforcement to see compliance in that section.'

'It needs to be made clearer in the guidance. I have always found the apprentice pay the most confusing to calculate.'

'Underpayments generally occur because the rules/ rates etc. are not understood by employers. They are complicated and not easily reported on.'

'Apprentices should be aligned with the 16-17-year-old rate and paid for every hour, including training.'

Q: The LPC is considering raising the Apprentice Rate so it aligns with the 16-17 year old rate. What effects do you envisage this having on the pay, provision and take-up of apprenticeship places, and the volume and quality of training for affected apprentices?

'I expect there would be less availability of apprenticeship places.'

'We are in an area of low unemployment, everything will get back to normal once we have got through the worst of Covid 19. If we offered the apprentice rate, even if it was linked to the 16 - 17 year old rate, we would not get any applicants.'

'Little for our company, as they are all paid at a higher rate already.'

'As some apprentices are 18 - 19 years of age this would be a fairer rate to pay than the current £4.15.'

'I think this will be a positive move.'

'This is positive - many institutions do pay well above the Apprentice Rate, and where this is working, and demonstrating the aims and objectives of the program, this should be aligned.'

'I feel it would be a benefit to organisations and individuals if the rate was to be increased...'

'Hopefully more people will apply especially where we are lacking skilled workers I think it would increase the uptake.'

'It is such a small amount who would be employing apprentices in large enough numbers for it to make a huge impact on a business.'

'I do not actually think that many large employers would be employing apprentices at this minimum pay level anyway.'

'The apprentice levy would actually gain from this increase although to a limited degree as larger employers are in the main already paying at higher rates than this.'

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Q: What effect do the Apprentice rate and other NMW rates have on apprenticeships for apprentices aged 21 and older, in terms of the pay, provision and take-up of apprenticeship places, and the volume and quality of training for affected apprentices?

'If we paid the low rate, we would not attract any candidates.'

'I don't think many 21-year olds take up the places as the rate of pay is so low.'

'We don't usually attract those who are older apprentices as we would offer below the age rate in the first year. The training quality would not alter.'

'We have taken the decision to pay higher than the NMW or app rate after six months of progression within their apprentice scheme.'

'This is not such an attractive package for older apprentices.'

'Few people over 21 are considering apprenticeships at this level of pay.'

'Internal uptraining of apprentices to higher levels would also generally be on higher rates than the minimum.'

Q: What records do you maintain to accurately document all hours that your apprentices are working and undertaking training?

'Google Docs.'

'Timesheets if working off site, or Time and Attendance when working on site.'

'T&A flexi sheet.'

'They have to clock in and out during working hours on site, and we receive reports from the college regarding attendance.'

'They use swipe cards for all of their hours working and training and are paid accordingly.'

'They are recorded on our ERP. This population is recorded by employment type and their hours are recorded accordingly.'

'All hours are recorded, including training and development time and appropriate time is given off away from the workplace for the apprentice to concentrate on their development.'

'Soon to implement a time & attendance system. Currently training is carried out in normal work hours.'

'T&A System and training hours register.'

Compliance and Enforcement

Q: What issues are there with compliance with the minimum wage, and how could these issues be addressed?

'The basic rules around NMW are easy enough to understand- what employers are falling down on is the more technical aspects of the rates. Most employers want to be compliant and if an error occurred, they would rectify it immediately. There should be the option to put right (i.e. pay the shortfall) within 28 days of the issue being raised without the name and shame being used.'

'There is a big difference between those employers who make technical mistake to those that are actively cheating their workers out of their legal payments.'

'I feel that HMRC come down too hard on some companies as these are genuine mistakes not deliberate fraud.'

'The technical breaches are the issue. The guidance is not clear enough. HMRC needs to understand how pay is made up, and how workplaces are trying to do their very best to ensure no breach, but unfortunately with silly and unrealistic (too simple) examples in the guidance, it's not surprising employers are breaching under silly technicalities'

'Companies not understanding what payments/deductions have to be included when calculating the wage'

'Underpayments generally occur because the rules, rates etc are not understood by employers.'

'Many employers do not ask employees to record all worked hours and this impacts on their ability to accurately determine whether NMW, NLW has been met.'

'NMW can be very complicated, especially when you take into consideration things like shifts (especially continental shifts), average pay, salary sacrifice pensions and salaried pay.'

'We had a NMW audit a couple of years ago and some of the things like dividing a salary by 52.14 for a weekly rate, are not really clear to payroll professionals until HMRC told us.'

'There are some confusions regarding the details that are included into the calculations, and it may be helpful to have a [more robust] calculator that supports this.'

'Lack of understanding around provision of uniforms - clearer guidance.'

Q: Do you have any comments on HMRC's enforcement work? Do you have any feedback on the recently announced changes to how they will proceed in relation to NMW / NLW compliance, and how useful do you find guidance on the matter?

'Should be more engagement with employers. Employers will not contact HMRC to clarify an issue if they know they are then likely to have an inspection or be named publicly. Should be time to rectify an issue, not all employers are criminals and they should not be treated as such. Naming and shaming should be for those who are taken through the courts to be made to pay up.'

'Define the hours / weeks calculation more precisely for monthly paid employees.'

'There is need for more visibility from HMRC as to deter employers from continuous non-compliance.'

'It would be more useful for HMRC to commit to supporting employers and allocating webinars with real life examples whenever changes are made.'

'I don't agree with the threshold being increased as underpayments shouldn't happen at all, so all who underpay should be made public.'

'I don't believe naming and shaming is a good idea unless opportunities to rectify and work with HMRC have been rejected.'

'More education opportunities for employers is essential.'

'I agree with their enforcement of this, however it would be helpful to have more guidance on this that all employers can access.'

'Guidance can be woolly. The changes are welcome for honest mistakes.'

Company Information

The Chartered Institute of Payroll Professionals (CIPP) was established as an official industry body in 1985 when the Institute of British Payroll Managers (IBPM) was formed. In 1998, the IBPM merged with the Association of Pensions and Superannuation Administrators (APSA) to form the Institute of Payroll and Pensions Management (CIPPM), which became the Institute of Payroll Professionals in September 2006 and was granted Chartered Status in November 2010. The CIPP is the Chartered Institute for payroll professionals in the UK and currently has in excess of 10,000 members enjoying a range of benefits. In addition, the CIPP is the UK's leading provider of education for payroll, and has established the friends of automatic enrolment which is responsible for bringing together and educating all of those responsible for implementing automatic enrolment for pensions.

The mission statement of the CIPP is:

Leading payroll and pension professionals through education, membership and recognition

Representation

The views of the Chartered Institute are sought and valued by Government departments and other organisations, as witnessed by its representation on bodies ranging from HMRC, and other external Employer Consultation Groups. The Institute, through its Policy team headed up by Helen Hargreaves, has been responding to consultation documents and attending consultation meetings for more than 20 years.

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As a result of this sustained effort, we have created sound working relationships with the DWP, HMRC, BEIS and other Government departments.

The Chartered Institute operates an Advisory Service staffed by professionals able to provide accurate and authoritative advice on a wide range of topics. It also runs national forums which allow members direct contact with representatives from HMRC and other relevant bodies and also provides a forum for members to input and feedback on the CIPP's policies.

Education

The Institute validates and controls a wide range of professional qualifications in both the payroll and public sector pensions sectors, from Payroll Technician Certificate level to Masters level. IPP Education, a wholly owned subsidiary of the CIPP, delivers the qualifications and provides tutors at officially recognised standards. IPP Education also runs a comprehensive range of short training courses throughout the UK.

Events

The CIPP also runs a series of conferences throughout the year, culminating in the Annual Conference and Exhibition.

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