

Demand-led Funding: Apprenticeships employed in schools and colleges and term-time only contracts

Date of issue October 2009

LSC office National Office

Publication intent External

Purpose

- 1 This briefing note is published to deal with issues relating to the minimum wage for an Apprentice raised by LSC colleagues in relation to Apprentices working within schools and colleges on term-time only contracts,

Background and introduction

- 2 The minimum wage for an Apprentice in 2009/10 is £95 per week based on working between 30-35 hours per week. This applies to all Apprentices aged 16-18 and learners aged 19 years or more in their first year of an Apprenticeship.
- 3 Guidance is already published that explains about those Apprentices that due to their work and shift patterns do not work a 'normal' week. This uses a rolling average over a month in order to ensure that the requirement of £95 per week has been met.
- 4 However, there are Apprentices who work in schools and colleges where they work on 'term-time only' contract. This means that when the school or college is closed to pupils or students they are not required to work. This may well suit the learner as it may fit in with family and childcare commitments. This includes classroom support staff as well as other support and administrative staff working in schools and colleges.

Issue

- 5 The issue that has been brought to our attention are learners who work only during term-time at or above the minimum wage but are then paid over the full year rather than just the time spent working. This means that the weekly (or monthly) wage is spread over 12 months rather than months that the learner works. For example, an apprentice is contracted for 39 term-time only weeks a year and is paid £100 for 30 hours per week. The annual salary of

this Apprentice is £3900. This is then paid at an even monthly rate of £325 per month or £75.06 per week. This seems to be below the minimum wage for an Apprentice and therefore not meeting the requirement set by the LSC. This example takes into account any statutory holiday entitlement is taken within the 39 weeks.

Solution

- 6 It is clear that the issue is not about what is paid rather the manner in how it is paid.
- 7 The LSC recognises that academic term-time only staff should not be discriminated against due to their 'normal' working pattern. Therefore, for this category of employees it is accepted that the payment made by their employer will relate to working time and not to the payment pattern. As long as this meets the current minimum wage policy it would be seen to be compliant.

To note

- 8 Apprentices over the age of 19 should be paid as required under the National Minimum Wage legislation after the first year of their apprenticeship. This date is one year after they start their Apprenticeship and not from the date when they become 19 years of age.
- 9 All employees have a legal entitlement to paid holidays. This must be taken into account when calculating whether the apprentice is meeting the minimum wage requirements.
- 10 It is assumed that during the period when the apprentice is not working that learning has been put on hold. Providers are **not** expected to treat these periods as 'breaks in learning' for funding purposes and amend the ILR. However, the normal rules on funding will apply and the apprentices last day in learning will be the date of their last review if they leave before achieving.

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