

## Ensuring fair pay: monitoring the real living wage in early learning and childcare



The monitoring of the Real Living Wage (RLW) for early learning and childcare (ELC) workers in Scotland was incorporated into the National Standard for Early Learning and Childcare as part of the implementation of the 1140 hour expansion in 2021.

The National Standard outlines that all funded providers, including both local authority and private providers, must meet specific criteria, including paying staff the RLW for the delivery of funded hours. Local authorities are responsible for ensuring compliance with this standard as part of their contract management arrangements and in their role as Guarantors. In June 2023, in the report on the delivery of the 1,140 hours expansion, Audit Scotland recommended that the Scottish Government should “work with councils to urgently put in place a process for monitoring progress with providers paying the living wage to staff delivering funded ELC.”

Given the diverse financial and staffing challenges faced by partner providers, a balanced approach that combines rigorous oversight with flexible support is essential. The following case study outlines how three different local authorities have developed tailored strategies to monitor and ensure fair pay in the ELC sector.

### Approach 1: on-site verification

One large urban council has developed a comprehensive, multi-layered approach to monitoring RLW compliance, which focuses on collaboration, support, and transparency.

Their monitoring process begins with clear contractual obligations. As part of their contract management arrangements, all funded providers are expected to adhere to the National Standard, which includes paying staff the RLW for the delivery of funded hours. Providers must agree to these terms as part of their contract with the council. They introduced this back in 2021 prior to 1140 being rolled out.

A key part of their monitoring process involves regular staff visits to ELC settings. These visits are scheduled to ensure that the providers meet all aspects of the National Standard, including RLW compliance. The monitoring team checks providers' financial records and employee payroll records to verify that staff are paid at least the RLW.

Effective communication is a cornerstone of this type of monitoring process. Providers are encouraged to reach out if they face challenges, and the local authority team works with partners to identify solutions. If a provider is struggling to meet wage standards, the first step is always to understand what went wrong and how the issue can be resolved. By fostering an open dialogue, they ensure that providers are not penalised without first being given the opportunity to work through difficulties.

A crucial component of this particular monitoring system is ensuring that staff are paid fairly regardless of the children they work with. There is no "two-tier" pay system, where employees working with funded children are paid differently from those working with non-funded children. This policy helps eliminate potential divisions and ensures fairness, ensuring that all staff are valued equally for their work.

If any provider is found not to be paying the RLW, the local authority approaches the situation with a solution-oriented mindset. The first step in addressing any non-compliance is to have a positive, constructive conversation with the provider. The council staff will explore the issue, asking why the RLW is not being met and offering guidance on how to rectify the situation. In cases where the issue is more time-sensitive, the council will support providers by offering extended periods to comply.

The council keeps a detailed record of all monitoring activities and findings. This includes documentation of staff wages, conversations with providers, and any corrective actions agreed upon. These records are used to track progress and ensure continued compliance.

## **Approach 2: annual compliance form**

A smaller local authority providers employs a simpler method that integrates RLW monitoring into broader contractual and business engagement processes. Many of the early learning and childcare staff in the local authority are below the minimum age for RLW, meaning that wage compliance may not apply universally. This contextual awareness allows for a practical and proportionate approach to monitoring.

This local authority also requires partner providers to agree to the contractual obligations from the outset. This agreement is repeated annually with the partner providers completing an annual compliance form. This form includes a tick-box declaration for the providers to complete to confirm that they pay staff the RLW. This approach allows the council to capture essential wage information in a structured manner without placing excessive demands on providers.

The local authority do not include RLW discussions in site visits with partner providers, instead choosing to focus these inspections on the quality of care and daily operational elements. Business matters and policies are handled separately through the compliance form, which covers business-related aspects that are not directly observable during inspections.

To support providers and encourage open communication, this particular local authority host funded provider business meetings once per term. These meetings serve as a platform for providers to ask questions, discuss compliance concerns, and seek advice on matters such as RLW. This proactive engagement fosters collaboration and ensures that providers have access to the guidance they need to meet their contractual obligations.

### **Approach 3: annual compliance form and staff verification**

A third local authority, builds on the annual compliance form model by introducing additional verification measures and applying a two-tier sustainable rate model. In October, the council begin their preparations for updating sustainable rates the following year. As part of this process, all partner providers are issued a digital compliance form. One of the key questions on this form asks whether staff delivering funded ELC are being paid the RLW.

If providers confirm they are paying RLW, the subsequent question asks them to list the names and full email addresses of the relevant staff members. The form clearly states that a sample of staff may be contacted for verification purposes. For larger settings, those with more than ten eligible staff, a list representing 30% of the relevant workforce is requested to support audit requirements.

This council operates a two-tier sustainable rate model. Providers who confirm that they are paying RLW receive the agreed updated sustainable rate year on year. If a provider indicates they are not currently paying RLW, they remain on the existing, lower sustainable rate until compliance is confirmed. The local authority engages with these providers to understand the barriers, which are often temporary issues such as budget timing, and offers support to help them achieve compliance and move to the higher rate as soon as possible.

### **Conclusion**

These three different approaches highlight the different ways Scottish councils are meeting their responsibility to monitor the RLW as part of the National Standard for ELC. From detailed, on-site checks and payroll verification to annual declarations and digital forms with sample audits, each model reflects the operational capacity, local context, and provider landscape of the authority.

These approaches showcase how local authorities can monitor RLW compliance in ways that align with their operational structures and take a proportionate approach. By combining contractual obligations with proactive communication and adaptable compliance methods, councils can promote fair pay while maintaining strong partnerships with early learning and childcare providers.