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The Rt Hon Kwasi Kwarteng MP
Department for Business, Energy and Industrial Strategy

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Dear Secretary of State,

NATIONAL LIVING WAGE AND NATIONAL MINIMUM WAGE RATES FOR 2022

I write with the Low Pay Commission's (LPC) recommendations for the rates of the National Minimum Wage (NMW) and National Living Wage (NLW) to apply from April 2022. This letter summarises the evidence supporting the rationale for our recommendations, which are the agreed view of the whole Commission.

We recommend that the following rates apply from 1 April 2022:

	2022 rate	Annual increase (£)	Annual increase (%)
National Living Wage (23+)	£9.50	0.59	6.6
21-22 Year Old Rate	£9.18	0.82	9.8
18-20 Year Old Rate	£6.83	0.27	4.1
16-17 Year Old Rate	£4.81	0.19	4.1
Apprentice Rate	£4.81	0.51	11.9
Accommodation Offset	£8.70	0.34	4.1

Our remit from the Government is to recommend the rate of the NLW consistent with reaching the target of two-thirds of median earnings by October 2024. The remit asks us to "advise on any emerging risks and – if the economic evidence warrants it – recommend that the Government reviews its target or timeframe". The aim of this "emergency brake" is to ensure the lowest-paid continue to see pay rises without significant risks to their employment prospects. For the other rates of the NMW, including the temporary 21-22 Year Old Rate, our remit is to recommend as high a rate as possible without damaging employment.

Last year the extent of the economic shock and uncertainty about the future led us to take the difficult decision to recommend an NLW rate below our estimate of the on-course rate needed to meet the 2024 target in our remit. We also recommended modest increases in the other rates of the minimum wage.

The National Living Wage

The economic situation has improved substantially since last year, with GDP approaching its pre-crisis level earlier than predicted and relatively strong growth expected next year. The labour market has also recovered strongly, with payroll employment above its pre-crisis level and a record level of vacancies suggesting this will rise further.

There is good reason to believe the closure of the Coronavirus Job Retention Scheme (CJRS) will not lead to a large spike in unemployment. Few employers are planning redundancies, including the small firms where the majority of furloughed workers remained at the end of the scheme. Measures of hours of work have already returned to pre-crisis levels, suggesting that furlough may have been covering other forms of absence, that workers have already found other jobs, or that they are already counted in unemployment or inactivity figures if they don't believe they have a job to return to.

While there are many positives in the current data, inter-related issues affecting global supply chains, rising input costs and staff availability present some near-term risks. Many businesses, particularly smaller businesses, took on debt during the crisis, supported by Government loans.

Due to the improved economic situation our aim was to recommend a rate that put us back on course to meet the 2024 target set out in our remit. Calculating this path is complex. Our starting point for calculating the NLW path is the hourly median pay figure from April of this year, which we derive from the Annual Survey of Hours and Earnings (ASHE). Last year we had significant issues with the ASHE data. The large number of furloughed workers distorted the data we rely on for plotting the path and understanding the situation for low-paid workers. This year those data issues are reduced, with fewer workers furloughed and more pay information for those who are furloughed.

Overall, while we are better equipped to pinpoint where we are on the path to the 2024 target than last year, there are still some uncertainties in the pay data. While wage growth was faster than expected earlier in the year, the wage data that forms part of our model likely overstates underlying pay growth – with much discussed issues with the current data resulting from the impact of the pandemic. This, combined with forecasts, creates a very front-loaded path, with a larger increase required in 2022 than in 2023 or 2024. We do not believe this is the right approach in the current economic circumstances.

Taking all of this into account we recommend an increase of 6.6 per cent to £9.50. We believe this will put us back on track to reach our estimate of the target of two-thirds of median earnings in 2024, with a smoother path to that target.

This increase is greater than last year's, reflecting the significant improvement in economic conditions. It is also greater than the anticipated rise in inflation, meaning living standards should be protected and those on the National Living Wage should see their pay rise faster than the average.

National Minimum Wage(s)

Last year the picture for young workers was bleak. They overwhelmingly worked in shut-down sectors, were more likely to be furloughed and lost pay as a result. As things stand currently, the situation is very different.

Younger workers have been the fastest to move off the CJRS despite being the most likely furloughed workers last summer. Since 1 July 2020, when 1.14m under-25s were on the CJRS, numbers have fallen around 90 per cent, with 120,000 left on the scheme at the end of August. At the same time, employment rates and RTI payrolled employment have recovered quickly and are now approaching their pre-pandemic levels, suggesting young workers have either gone back to their old jobs or found new ones after leaving the CJRS.

This year was the first that 23 and 24 year olds became eligible for the NLW. This appears to have gone smoothly so far. They are increasingly paid the NLW without a spike in underpayment and their employment has not been negatively affected.

As we previously set out, the intention for 21 and 22 year olds is to move them onto the NLW by 2024 and the majority of our stakeholders continue to tell us that this is the right move. We have seen that use of both the NMW and NLW has fallen for this age group, as a greater share of them are now paid above the NLW. Their employment rates have also improved, particularly rapidly over the summer, so that they are just below where they were at the pandemic's outset. To avoid a large step change in the year they become eligible, we judge it sensible to reduce the gap between the 21-22 Year Old Rate and the NLW next year. For this group we recommend an increase of 9.8 per cent to £9.18.

However, for those aged 20 and below there has been an increase in the use of the minimum wage rates by their employers. This is usually a sign of pressure. And while their employment rates are recovering, they fell by more and have more ground to make up than the older age groups. For both 16-17 year olds and 18-20 year olds we recommend an increase of 4.1 per cent, taking them to £4.81 and £6.83 respectively. These increases balance our aim to stay in line with underlying wage growth and ahead of inflation while recognising the higher risk of unemployment for this group.

Last year we committed to aligning the Apprentice Rate with the 16-17 Year Old Rate over two years and we have no significant evidence to suggest a change in this approach. For this group we recommend an increase of 11.9 per cent, aligning it to the 16-17 Year Old Rate of £4.81.

Accommodation Offset

For the last few years we have made significant increases in the accommodation offset to meet our aim of aligning it with the 21-22 Year Old Rate. As this rate is being phased out, this year we have judged it best to increase the Accommodation Offset rate in line with underlying wage growth – by 4.1 per cent to £8.70. Next year we intend to review the operation of the accommodation offset.

Additional remit tasks

This year the Government asked the LPC to undertake several tasks in addition to its standard remit. They concerned an exemption to the minimum wage for domestic workers, the impact of minimum wages on different parts of the country and on different groups of workers with protected characteristics. We set out our response to these below.

Domestic worker exemption

The remit asks "the Low Pay Commission to gather evidence on the application of the 'live in domestic worker exemption' to minimum wage entitlement (regulation 57(3) of the National Minimum Wage Regulations 2015). We ask the Low Pay Commission to present findings on which sectors make use of this exemption, how often is it used and the impact of this on the labour market, with a special focus on equalities impacts".

We have investigated the use of the exemption across low-paying sectors. The requirement for the worker to both live on their employer's premises and be treated as a member of the family is not compatible with most jobs. For this reason, both awareness and use of this exemption is minimal outside of au pairs and domestic work.

The exemption was introduced to facilitate au pair arrangements. Due to immigration changes there is no longer a route for most au pairs to legally enter the country. But at the same time the exemption creates a loophole allowing the exploitation of migrant domestic workers. The loophole arises because the law doesn't define the differences between au pairs and migrant workers in domestic settings. It's hard to prove that someone is not "treated as a family member" particularly for vulnerable women working long hours with poor English and limited resources. The regulations do not adequately describe what an au pair is or does.

Consistent with the Puthenveettil tribunal judgement, our evidence shows that most of the people affected by the exemption are women and that it could therefore be discriminatory as it is more likely to prevent women from being entitled to the minimum wage.

Our recommendation is that exemption 57(3) should be removed.

If the government wishes to retain an exemption it would need to introduce a visa route for au pairs and amend 57(3) to avoid a loophole for exploitation. The exemption should clearly state what is meant by an au pair and the scope of their duties to ensure that it cannot be applied to domestic workers, to care workers, or to au pairs who are de facto working as cleaners and nannies without adequate remuneration or genuine cultural exchange. The exemption should also expressly state that it cannot be relied upon by those employed under an overseas domestic worker visa.

Geographical effect of minimum wages

The task from the Government here is as follows: "to support the government's levelling up agenda we ask the Low Pay Commission to gather evidence on the differing impact across the United Kingdom of increases to the minimum wage rates, to improve understanding of what part low-paid work plays in outcomes in different parts of the United Kingdom".

We used pre-pandemic evidence to answer this question to ensure the effects we describe are not conflated with those of the pandemic. This is not new territory for the LPC – understanding how the minimum wage works in different parts of the country is central to our overall understanding. Pre-crisis we would normally visit up to eight different locations each year, speaking with both workers and employers to understand the minimum wage's impact on their lives. Through the pandemic we have continued to ensure we hear evidence from all parts of the UK through online meetings.

When the NLW was introduced in 2016 we saw a jump in coverage – the number of workers paid within 5 pence of the rate – from 1m to 1.6m. Though every part of the country has minimum wage workers, this increase was largely concentrated in small towns, rural and coastal areas. Lower-paid areas, as expected, saw larger increases in coverage.

Importantly, the lowest-paid part of the pay distribution within each region and nation in the UK saw its hourly pay rise faster than the average and faster than it had done in the preceding four years. This means that inequality in hourly pay between and within different parts of the UK declined. Alongside this, the areas with the highest percentage of workers covered by the NLW saw the fastest growth in employment rates between 2016 and the first quarter of 2020.

The increases in the NLW between 2016 and 2019 therefore reduced pay inequality between and within UK regions, with no strong evidence of large-scale adverse employment effects. This has been confirmed by multiple econometric studies, both internal and those we've commissioned, which rely on differing effects in different parts of the country to measure the overall effect. The pandemic complicates any assessment of more recent increases, but we will continue to use all the available data to understand the minimum wage's impact across the whole of the UK. Early next year we will publish a fuller review into the NLW's impact in its first phase (up to the pandemic) considering its fuller impact on pay and household incomes.

Workers with protected characteristics

The remit this year asks us "to gather particular evidence on groups of low paid workers with protected characteristics", noting that such groups include "younger, older, disabled, and women workers, and workers of ethnic minorities". As with our geographical analysis, we have restricted our analysis to the pre-2020 period as in more recent data it is not possible to disentangle the effects of the pandemic.

As the remit itself acknowledges, it has long been the case that certain groups are more likely to be low paid. Minimum wage coverage is higher for women, for disabled workers and for some (but not all) ethnic minorities. This reflects occupational segregation, where workers from a particular group are concentrated within a given industry. We have sought to monitor the potentially greater vulnerability of such groups to employment effects as a result of the rising minimum wage. Over time we have not seen any decline in these groups' employment rates, although we should note we do not yet have evidence for the period of the pandemic.

This year in response to the remit we have commissioned detailed research into the NLW's impact on groups with particular protected characteristics, including women, ethnic minorities and disabled workers, particularly on their employment retention and likelihood of pay progression. Findings to date suggest no evidence of any fall in employment retention associated with the NLW. We will be publishing our findings in full.

In general, many of the employers and workers we spoke to recognised that, by boosting pay at the lower end of the distribution, the NLW had a positive impact on groups with protected characteristics. However, a number of respondents noted the minimum wage's limitations in remedying long-existing pay gaps.

Concluding remarks

The Commission welcomes the Government's continued commitment to ending low pay. Achieving this is likely to require the Government to think carefully about the support and funding it provides in a range of other areas beyond the rate of the NLW.

The Commission has noted on multiple occasions the need for additional support for the social care sector to enable it to fulfil its ambitions to pay workers a decent wage. This need has only become more urgent.

We heard again this year about the acute pressures on the childcare sector, and the impact on both providers and low-paid parents, and would highlight this as a further area where additional government funding is vital.

The impact of our recommendations is dependent on strong compliance and enforcement action. Without this some employers can unfairly undercut their competitors and exploit workers. We urge the Government to take this into consideration as it develops the Single Enforcement Body.

Yours sincerely,

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Chair of the Low Pay Commission

Copied to the Rt Hon Boris Johnson MP and Paul Scully MP