ACS Submission: Low Pay Commission Review 2013

Introduction

ACS (the Association of Convenience Stores) and the Scottish Grocers' Federation (SGF) welcomes the opportunity to provide evidence to the Low Pay Commission (LPC). ACS represents 33,500 local shops across the country including Spar, Costcutter, Londis and thousands of independent retailers.

ACS has used a range of data sources to inform this submission to the Low Pay Commission (LPC). This includes ACS Local Shop Report for 2013 detailing employment figures for the sector and a breakdown of employees in the sector, plus information on store numbers, sales and future trends in the market. Data from ACS Voice of Local Shops (VOLS) survey is also included in the submission. This quarterly survey collects data from 1,100 retailers on sales optimism and employment plans for the year ahead.

ACS also organised a focus group of retailers to understand their reaction to NMW increases. The Focus Group was hosted by the Low Pay Commission and independently Chaired by Charles Cotton, the Performance and Reward Adviser at the Chartered Institute of Personnel and Development. A write up of the meeting and foreword from the Chair is available at Appendices 1.

These reports provide insight into retailers' views on barriers to growth, the burden of employment costs and their confidence about the future, which we hope will support the Commission in their deliberation on the future minimum wage rate. The full reports are available in the appendices of this submission and on ACS' website here.

ACS has also completed a bespoke survey of members specifically to inform the LPC's review of the 2014 minimum wage rate. The survey is of 33 businesses representing almost 1000 retail outlets that employ nearly 14,000 members of staff. This survey asked retailers a range of questions on the wage rates they use in their business, the impact the minimum wage has had on their employment practices and for their recommendation for the 2014 NMW. A full copy of ACS' National Minimum Wage survey is available in the appendices.

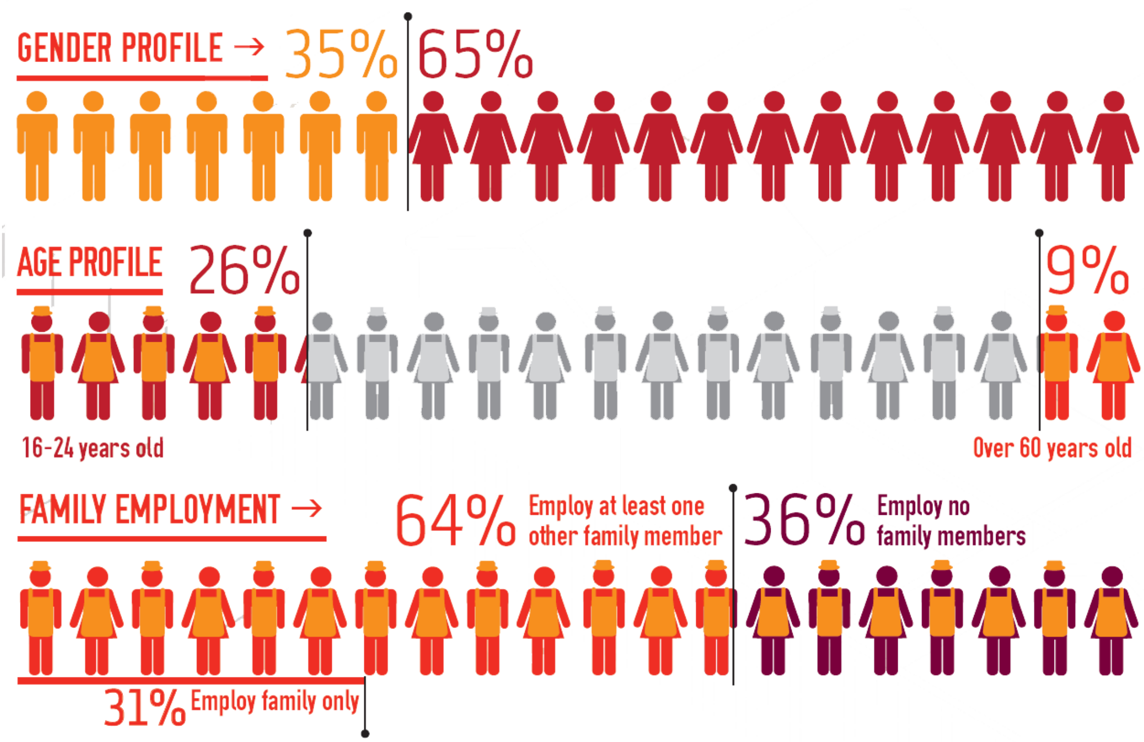
The LPC remit for the review of the NMW this year is very broad and does not, as it has in previous years, include clauses to look specifically at the impact of the NMW on business competitiveness. However, this submission will look to inform the LPC about the approach that convenience stores retailers take to employment, the rates of pay they use and their response to increases in the minimum wage. With the latest data from ACS VOLS survey we will also highlight the striking impact that employment cost increase can have on independent retailers working hours and rates of pay.

The issue of low pay, NMW and the Living Wage has recently been escalated up the public policy and political agenda as a result of the economic conditions and competition in the jobs market. Retailers are alive to this increasing debate and the role that they must play in providing a valued source of flexible and competitive employment, against their ability to trade profitably in a challenging retail market. ACS has also made submitted evidence to the London Assembly's Economic Committee Review into the 'Low Pay and the London Living Wage' which is available on ACS website here and in the appendices to this submission.

Economic and Convenience Sector Backdrop

ACS' Local Shops Report 2013 (the Report) is a reminder that local shops play a vital economic role. By employing people, fostering entrepreneurship and providing a vital route to market for a range of goods and services, local shops make a significant contribution to the country. The Report has dedicated section to jobs in the convenience sector detailing that the sector employs around 375,000 people[1].

The convenience sector employs a wide range of people of different demographics; 65% of employees are women, 26% of employees are aged between 16 and 24, and 9% are aged over 60. The majority, 74%, of employees in the convenience sector work part time (less than 30 hours per week) and staff turnover for the sector, defined as people employed for less than a year, remains low at 14%.[2]



The updated Report has provided a new and interesting insight in to employee lifestyles and the other commitments they balance around their working life. 52% of store employees have care

[1] ACS Local Shop Report 2013
[2] ACS Local Shop Report 2013

commitments to children of pre-school or school age children, 21% are engaged in full-time or part time study, 14% are retired or semi retired and 10% are engaged in another form of employment.

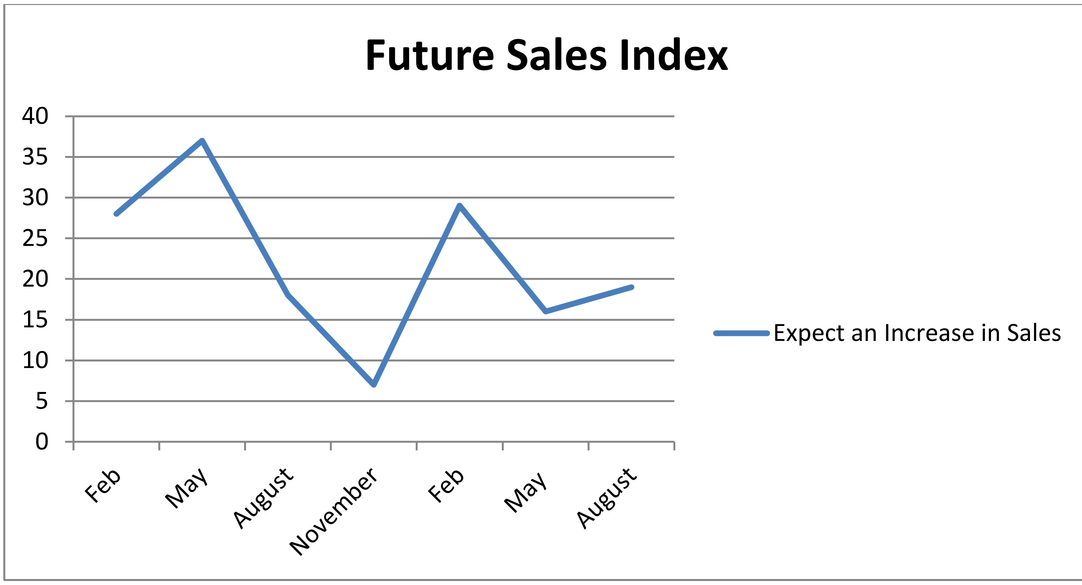
This breakdowns employment in the convenience sector into two groups employees looking for long term career opportunities and those looking for transitional opportunities. Like all parts of the retail sector, individuals can join a convenience store business with little or limited training, can learn significant skills and advance through to well-paid roles with significant responsibilities. 90% of retailers provide in house training opportunities and 45% offer formal training qualifications[3].

Despite tough trading conditions in the retail sector and wider economy the convenience sector continues to grow ahead of the rest of the grocery market, and the sector is projected to grow by 5.3%[4] per year for the next five years. The convenience sector is estimated to be worth £35.6 billion. This growth has been driven by a range of social factors such as the increase in single person households and an aging population.

The growth in the market is unlikely to be shared evenly, multiple retailers are expanding significantly into the convenience market and symbol groups continue to grow. The growth is likely to be at the cost of independent retailers. These continue to be in steady decline, at a around 0.5%[5] per year.

The retail sector has experienced an increase in sales performance overall with sales up 3.9% from July 2012, in real terms growth was 4.4%[6]. However, household incomes are still under pressure with income trackers[7] showing that the average UK household had £160 a week of disposable income in July 2013, down £1 a week from the same month in 2012. Consumers continue to be driven by value in stores meaning retailer have to put more goods on promotion, which in turn squeezes retailers' margins. The latest business performance index from ACS VOLS survey indicates an increase in confidence from independent retailers as a result of strong summer of sales. However, over the last year retailer sales optimism levels have been low, as outlined in the graph below.

[3] ACS Local Shop Report 2013
[4] ACS The Report: The Future
[5] Find reference
[6] IGD Retail Sales Monitor August 2013
[7] Asda income tracker



[8]

ACS NMW Survey

ACS' National Minimum Wage Survey collected information from 33 businesses with a total of 911 stores across the convenience sector representing a total of 13,923 employees. The full list of questions asked in the survey is available in the appendices to this document and online here.

Wage Rates

Retailers were asked to indicate the amount that they paid staff aged 21 or over not in a supervisory role. The average amount paid by convenience retailers was £6.50, 31 pence higher that the current national minimum wage rate.[9]

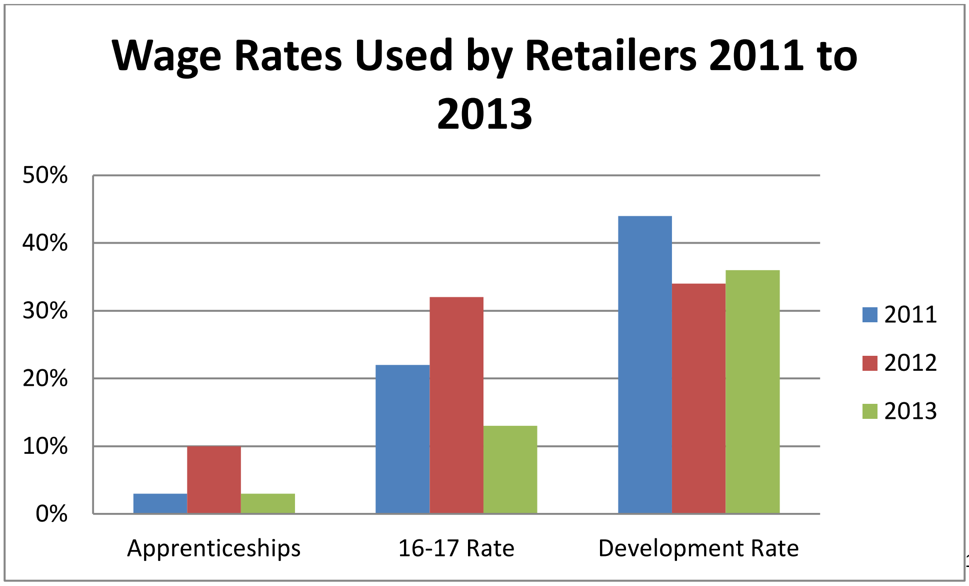
Retailers were also asked to indicate if they used the youth and development rate for staff in their business. There was very limited use of the 16 to 17 years old rate and apprenticeship rate but 36% of respondents indicated that use the Development Rate[10]. Retailers often indicated the sale of age restricted products in store, and the significant penalties for underage sales, means that it is often impractical to employ staff who cannot verify sales themselves. Where staff can do this the adult minimum wage rate is used to reflect the role they are performing.

Retailers were specifically asked if they were more inclined to employ younger staff as a result of the recent decline in the youth and development rate. Only 28% of retailers indicated that they were more inclined to employ younger members of staff as a result of the lower rate.

---

[8] ACS Voice of Local Shops Survey 2012-13: The index is calculated by subtracting the number of retailers indicating an increase in sales with those reporting a decrease sales.
[9] ACS NMW Survey 2013
[10] ACS NMW Survey 2013

There continued to be very limited use of the apprenticeship rate (1%)[11].The graph below shows the trend in wage rates used by retailers from 2011 to 2013:

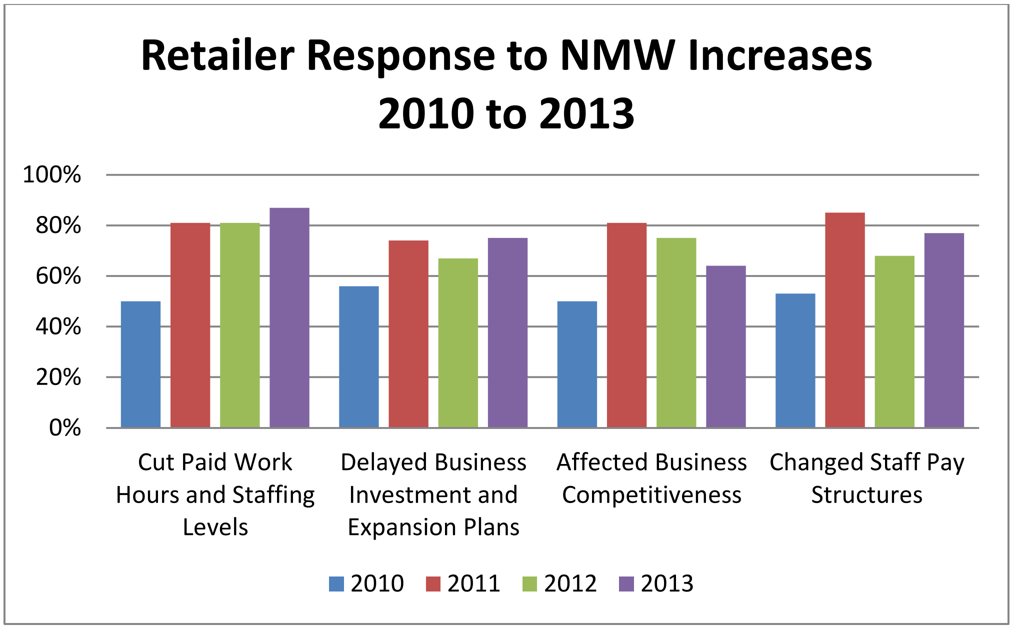


[12]

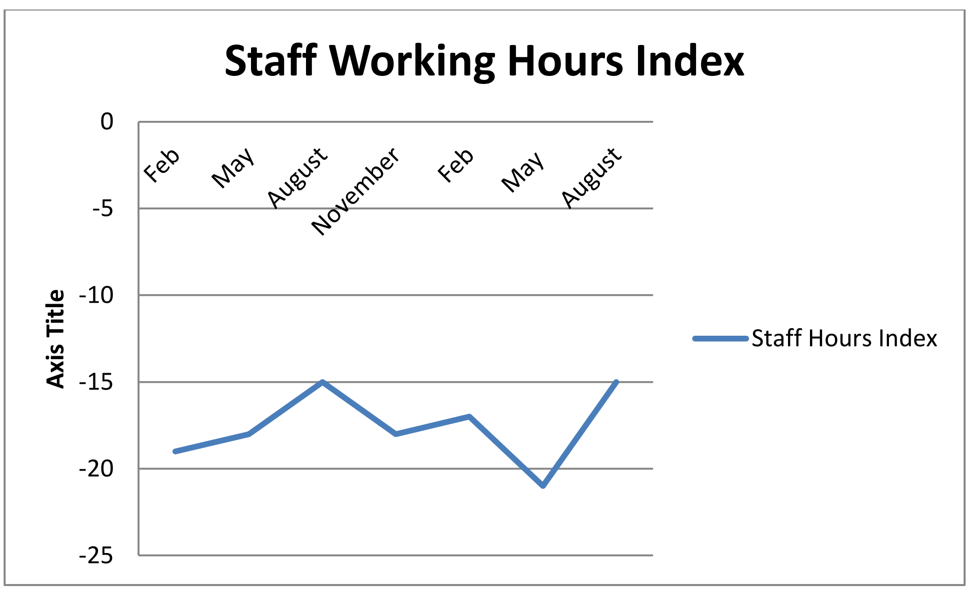
Impact of NMW Increase

The graph below outlines the track from the ACS NMW survey from 2010 to 2013 of ways retailers respond to minimum wage increases. There is a clear correlation between increases in the minimum wage and a reduction in staff hours and pay structures from 2010 to present. This is also true of delays to expansion and investment plans, with 75% indicating they have delayed expansion and investment plans[13].

[11] ACS NMW Survey 2013
[12] ACS National Minimum Wage Survey
[13] ACS NMW Survey 2013



The ACS NMW Survey showed that 87%[14] of retailers indicate that they have reduced staff hours within the business and also attribute this to employment increases. The graph below shows the staff working hour's index for the level of paid staff hours in the last year, it shows that retailers have limited desire to increase staff hours.



[15]

The increase in staff hours between May and August is consistent with all the optimism and sales indexes for August 2013 corresponding with a good sales period over the summer. Nonetheless, 72%[16] of retailers in the VOLS survey indicated they planned to keep their staff working hours at the same level for the year ahead. In the ACS NMW survey retailers maintain

---

[14] ACS NMW Survey 2013

[15] ACS Vocie of Local Shop Survey: The index is calculated by subtracting the number of retailers indicating an increase in staff working hours with those planning to decrease staff working hours.

[16] ACS VOLS Survey August 2013

that profitability (71%) and sales (56%) are the key determining factors in wage rates and staffing hours[17].

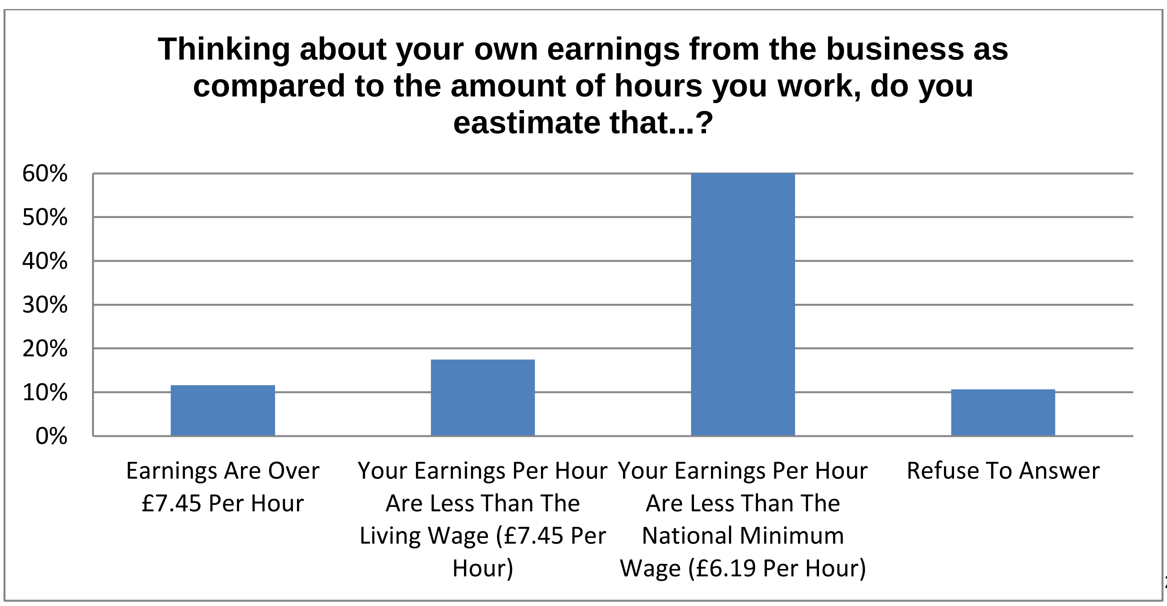
63% of retailers indicated that they had to lay off staff in the last year, showing that retailers are still looking to reduce employment costs from their business[18]. Of the 63% of retailers that reduced their staffing levels 85% of them indicated that this was due to increased employments cost such as the national minimum wage. Retailers also referenced that increased operating costs such as rent, business rates and utility bills had impacted on their business performance.

It is clear from these results that retailers have struggled to maintain staffing hours in their business despite an uplift in national economic performance and sales optimism. Many retailers are making up the difference by working more hours themselves.

Retailer Low Pay

An important but often under assessed element of the low pay debate is the amount of money that retailers take home compared the hours they work. 57% of shop owners work more than 50 hours per week and 28% take less than 10 days holiday per year[19]. 83% retailers indicate in the NMW survey that they have increased their own working hours to reduce the employment costs within their business[20]. This has a significant impact of the hours to ratio that retailers receive.

The graph below based on the VOLS survey of 1,100 retailers reflects the rates of pay retailers believe they take out of the business and shows that the majority of independent retailers (63%) believe they earn less than the national minimum wage.



[21]

[17] ACS NMW Survey 2013
[18] ACS NMW Survey 2013
[19] ACS Local Shop Report 2013
[20] ACS NMW Survey 2013
[21] ACS VOLS May 2013 – Focus on Wages

The increasing number of hours that retailers have to spend in their business has knock on effect on their ability to spend time growing and improving their business. Such extensive working hours could also work to deter new entrepreneurial entrants to the convenience sector. We urge the LPC to think carefully about the impact that further wage increase will have on independent retailers and the numbers hours that they take on in their business.

NMW Recommendation

ACS asked retailers to recommend what action the LPC should take on the 2014 NMW rate. 90% of retailers in the survey strongly agreed or agreed that the NMW rate for 2014 should be frozen at its current rate[22].

ACS urges the Low Pay Commission to be cautious in its recommendations to government on the NMW rate for 2013. There is a clear steer from small business that wage rates should be frozen at their current level.

Other Costs

Respondents to survey continue to highlight that their operating costs have increased significantly recently, such as business rates, rents and utility costs. These costs must also be off-set elsewhere in the business for it to remain profitable. The areas of key concern raised by retailers were:

Business Rates

In just the last two years the financial burden on retailers from business rates increases was £784 million in 2012/13[23] and the 2.6% increase enacted the 2013 Budget will increase rates bills by a further £175 million in the retail sector. For many retailers business rates bill can often be higher than the rent on their properties.

There is significant pressure on the Government to take further action in this area from across the retail sector.

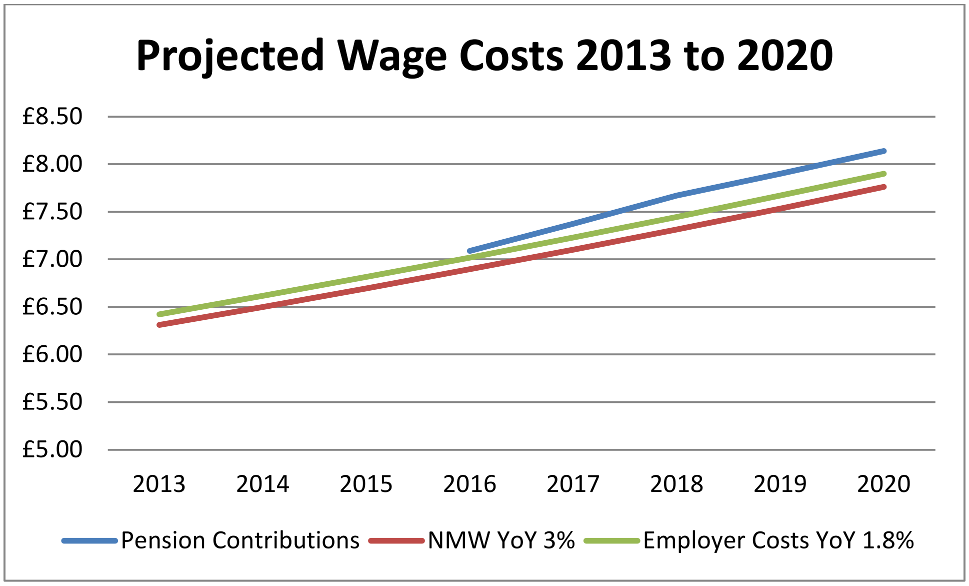
Employment Costs

Evidence from our work on the real cost of employment for retailer's shows a range of employment costs that have to be taken into account to calculate the true cost of employment. The graph below shows the increase in national minimum wage rate at 3%[24] year on year.

The graph below also accounts for the actual cost of employment when employer national insurance contributions and paid holiday leave for a full time member of staff working 35 hours per week are taking into account.[25] The additional auto enrolment pension will be introduced from 2016 starting at 1% and eventually reaching 3% by 2018. This will mean a £1.50 per hour

[22] ACS NMW Survey 2013
[23] DCLG Business Rates Statistical Release
[24] 3% is the average percentage increase in the National Minimum Wage since 2005
[25] This does not take into account the £2000 Employment Allowance contribution announced in 2013 Budget Statement

increase in actual employment costs. Based on these projections the actual cost of the national minimum wage in 2020 will be £8.14 per hour



Utility Bills

Convenience retailers are increasingly highlighting enlarged energy costs in their stores due to high number of refrigerators used all year round. This trend will increase as energy costs and energy security issues develop over time.

Ofgem, the energy regulator, research[26] into small and medium sized business experience of the energy markets highlights their primary driver was price. The research suggests that energy cost tend to be a higher proportion of overheads for food retailers due refrigeration.

Employment Practices

Zero Hours Contracts

There has been extensive debate of the use of Zero Hours Contracts in their business and the impact that they can have on employees. ACS asked members the extent to which they used Zero Hours Contracts in their business and 72% of respondents said that they did not use them at all[27].

The limited use of Zero Hours Contracts in the convenience sector correlates with the limited use across the retail sector, with retail employees accounting for only 11% of those on zero hours contracts.[28]

National data shows that across all employers larger organizations are more inclined to use zero hours contracts: “In 2004, 11% of workplaces with 100 or more employees used zero hours

[26] Small and Medium Business Consumers’ Experience of the Energy Market and their Use of Energy
[27] ACS NMW Survey 2013
[28] The Workplace Employment Relations Study

contracts, increasing to 23% in 2011."[29] However, retailers that do use Zero Hours Contracts in their business believe they are valuable tool to support their business at peak trading times such as Christmas or to cover staff holidays. Retailers also highlight that contracts are often useful to students and semi-retired people looking for short term supplementary employment.

Accommodation Offset

ACS asked retailers to what extent they used the Accommodation Offset. All respondents indicated that they did not use Accommodation Offset.

National Minimum Wage Guidance

ACS asked retailers to indicate where they would go to get information about National Minimum Wage regulations. 83% of respondents indicated they would use the Gov.uk website to find information on regulations. ACS also hosts information on its website with details of national minimum wage regulations but this is not an issue that ACS or its advisors receive regulate contact on from retailers.

Extended Remit

ACS welcomes the opportunity to provide comment on the Secretary of State's extension to the Low Pay Commission's remit for the 2014 review. We understand the existing pressures on households and the Government to drive up standards of living, but believe that sharp increases in the wage floor will have damaging impacts on retailers and in turn the employment market. As set out in the evidence from our members as employment budgets increase retailers have little choice but to adjust staffing levels, delay investment or reduce staff hours.

We support the current system for setting the NMW rate through objective analysis by the Low Pay Commission resulting in a recommendation to Government. Political interventions and pressure on the process for setting the NMW sets a worrying precedent and could undermine the good work that the Low Pay Commission has delivered over the last 15 years. The Government are not obliged to accept the recommendations of the Low Pay Commission and can choose to increase or decrease the minimum wage rate beyond the recommendation they are given.

The call for forward guidance from the Secretary of State assumes that the Low Pay Commission makes their decision entirely retrospectively and does not assess prospects for the year ahead. This is unfounded, in the Low Pay Commission 2013 report[30] Chapter 5 "Rates" there is a dedicated section on "Economic Prospects" (5.5), which assess prospects for growth, inflation, pay settlements, earnings, employment and summarises various economic forecasts. This has been a feature of all the Low Pay Commission's report since its formation and shows clear consideration of future economic conditions.

Our members have made clear that wage rates in their businesses are determined by profitability of their business and general performance and retention of staff. Pegging wage

[29] The Workplace Employment Relations Study 2011
[30] Low Pay Commission Report 2013

increases to an arbitrary external monetary indicator does not meaningfully reflect the performance of a business and the wage rates they can pay. There are many other examples of economic mechanisms triggering increases that have resulted in damaging increases such as business rates, which is linked to September RPI inflation resulting in successive large increases in rates bills of 4.6%, 5.6% and 2.6%. This shows that forward guidance will not provide retailers and other businesses with any certainty on the future wage rates they will be expected to absorb.

There are also other actions the Government can take to support NMW and increase living standards. There has been continual increases in the personal tax allowance since 2010 but this has not completely removed full-time NMW earners from paying tax. The Government could also consider allowing the Low Pay Commission to make recommendations for future wage rates over a two year period with a caveat that they can revert to an annual review in extreme fluctuations in the economy. This would provide retailers with greater certainty on the wage rates they can expect and allow them to budget accordingly.

A sharp increase in the wage floor is a blunt instrument for driving up living standards and the wider impacts on the employment markets must be taken into account. The Low Pay Commission are performing a valuable role in making recommendations that balance the protection of low paid workers with the ability of businesses to perform profitability and maintain employment levels.

For further information on this submission please contact Edward Woodall, Public Affairs Manager: Edward.woodall@acs.org.uk or 01252 533014.

Appendices 1

ACS National Minimum Wage Focus Group

ACS National Minimum Wage Focus Group

25th September 2013

Low Pay Commission, Southampton Row, Victoria House London

Chairman's Foreword:

This focus group has been formed to gather a better understanding of the impact that the National Minimum Wage and other employment costs have on convenience retailers. Its intention is to examine how retailers respond to wage increases, balancing the profitability of their business with the reward and the retention of good staff.

The convenience retail sector employs 375,000 people, and smaller operators are acutely sensitive to increased employment costs, representing a significant proportion of their turnover. Many of the impacts arising from increased employment costs, such as the National Minimum Wage, are more subtle that you would imagine. Instead of store closures and job losses retailers look to reduce staffing hours, remove bonuses or not replace staff as they leave.

The inability to maintain employment budgets has also been driven by the current trading climate. Retailers have stated their turnover has increased in the last year but consumer spending is still value led, reducing retailers' profit margin. Employment costs are one of the few variables that retailers can still adjust in their business. Fixed cost increases such as business rates, rents and energy costs have to be met but other tactics can be used by retailers to reduce their employment costs.

Looking ahead these retailers lack confidence that employment costs will level out, driving them to deliver more efficiency in their business through a range of practices such as technological change, self scan tills, and use of zero hour contracts. The National Minimum Wage is not the only driver of employment increases, the cost and administrative burdens of automatic enrolment pensions and retail time information are also a considerable worry.

The evidence that these retailers have provided is compelling and I urge the Low Pay Commission to carefully consider the issues that convenience retailers have raised during their review of the 2014 minimum wage rate.

Charles Cotton is the Performance and Reward Adviser at the Chartered Institute of Personnel and Development.

Retailers:

Adrian Costain, Pareto Retail Ltd, Merseyside

Dennis Williams, Premier Store, Edinburgh

Mike Fitton, Southern Co-op (Franchisees), Portsmouth

Simon Lawrence, Lawrence Garages, Norfolk

Steve Highland, Bluntisham Service Station, Cambridgeshire

Peter Wagg, News on the Wharf, London

Alex Mortimer, Sewell Retail Group, Hull

Observers:

James Lowman, Chief Executive, ACS (the Association of Convenience Stores)

Edward Woodall, Public Affairs Manager, ACS

Tony Studd, Low Pay Commission.

Focus Group Meeting

James Lowman, ACS Chief Executive, opened the meeting to thank the retailers for attending, Charles Cotton for kindly agreeing to chair the meeting and to the Low Pay Commission for hosting the Focus Group. It was explained that purpose of the group was to provide retailers with the opportunity to drill down on the detail of the impact of National Minimum Wage (NMW) on their business and the specific ways in which they respond to employment cost increases.

Charles Cotton opened the meeting and explained that his role was to facilitate debate and focus the group's discussion on three key areas – Wage Rates, Employment Practices and Economic Conditions.

CC: What is it that influences your decision on wages rates for your staff and what rate do you currently pay staff? Do you for example link it to skills, time served, productivity, competing employers?

- The majority of the group reflected that they were paying staff on the adult **National Minimum Wage (NMW) rate**.
- It was reflected that it was increasingly hard to reward above this rate and that pay structures between shop floor staff, supervisors and managers had been squeezed significantly as a result of wage increases.
- Wage rates were also influenced by general performance of staff and those that had remained loyal to the organisation over a number of years.

Economic Performance

- The group suggested that consumer confidence remained low and spending habits continued to be value driven and that their businesses were under pressure.

- There was consensus that turnover of most of their businesses had increased but profit margins were down because so many products were on promotion.
- Profitability was identified as a key factor in wage rate decisions.

Workforce

- The group reflected that the recruitment process could be costly and there was a particular lack of core skills amongst younger staff.
- Few reported problems in attracting applicants for jobs. Instead, the challenge was finding those with the right skills and attitudes. A lot of resource could be taken up by the recruitment process.
- There had also been a cut back in staff training budgets too, in order to reduce costs.
- There was a view that two thirds of staff that had been in the business for over two years, could be relied upon and were in most instances paid above NMW
- However, significant churn in the bottom third of staff in the business meant that NMW was used as the starting rate in the business, which was not the norm in all previous businesses in previous years.

Zero Hours Contracts

- Some members of the group discussed the use of Zero Hours Contract (ZHC) and the increasing importance to retailers as wage costs increased.
- ZHC were described as valuable for driving productivity in store i.e. getting staff to attend the store at short notice for the arrival of a delivery.
- It was reflected that previously staff could be maintained for longer hours when wage costs were lower but know there was **"no fat left in the industry"** and staff hours had to be managed carefully.
- Other members described that ZHC were useful for good staff that had left the organisation to complete study or semi retire that are available for seasonal work or holiday cover.
- Some members reflected that they do not use ZHC in their business.

CC: Do any of you use the Apprentice, Youth or Development rate in your business?

- There were some examples of the youth and development rate being used but the group highlighted that for operational reasons that often it was not viable or considered fair if staff were completing similar roles.
- Due to licensing laws the employment of senior staff (18+) was preferable and wherever possible, for challenging age restricted sales.
- The adult rate of pay was used for the majority of staff to reflect the same level of responsibility.
- Members of the group reflected that was a stigma attached to use of these lower rates as a **"cheap source of labour"** and would not go down well on the shop floor.
- There was a consensus that apprenticeships were not offered in many small retail stores for entry level employees because of the low skills base.

CC: Can you explain how your employment practices have changed as a result employment cost increases? For example do you employ more part-time staff to avoid National Insurance Contributions threshold or have you changed staff structures and working patterns.

Employment Cost Increases

- The group were clear that the NMW was not the only employment cost that had increased, there was also holiday entitlement, real time information (RTI) implementation, pension automatic enrolment and sick pay.
- **Automatic enrolment was a significant worry** for all retailers across the group because of the substantial increase in the employment budget, up to 3%, but also ongoing administrative costs of opting employees in and out of the scheme.
- The group also outlined significant problems with employees taking **sick leave** and question how robust the system was for assessing fitness to work. It was highlighted that employers still had to pay holiday entitlement for staff on sick leave.
- The combined cost of these issues and increases in the NMW had led to a significant change in employment practices as set out below:

Pay Rates and Structures

- The majority of the group used the NMW rate for their staff now, but in previous years had been able to pay above the rate.
- The rate of pay between entry level staff and supervisory staff had been squeezed significantly to the point where the differential is so minimal that some supervisor roles had been removed.
- Others reflected that store manager bonuses had been removed and that where managers had left stores they were being replaced by junior staff or not replaced at all.

Employment Practices

- There was a mixed response from the group on part-time and full-time staff. Some had moved to more part time staff to be more flexible, while others had moved staff on full time contracts to retain them.
- Some retailers had considered the introduction of self scans tills to reduce staff capacity.
- Attendance bonus, for motivate staff to attend work, had been removed to reduce staff costs.

Owner Wages

- Members of the group stated that they had significantly reduced the wages they take from the business and rely solely on the profit from the business.

CC: What would you recommend that the Low Pay Commission do for the 2014 minimum wage rate?

- There was consensus that further increases would be damaging to retailers and there is need for the Government and political audiences understand the economies of scale involved for retailers and the employment of staff.
- Across all budget lines fixed costs had increased substantially for example utility bills, business rates, property rents.
- As these fixed costs increase retailers have to find money from other budgets and the **only variable costs they have to manage is staff costs**
- This has led to a significant reduction in working hours and staffing levels within the business, which will only be exacerbated further if wage costs go up further.

CC: What do you think of the Secretary of State's extension of the Low Pay Commissions remit to use 'forward guidance' to determine when NMW can be increased?

- The group were apprehensive about forward guidance and the inevitable increase in the NMW rate. There was a clear view that employers needed more flexibility to reward staff and manage employment costs.
- Further increases in the NMW will only serve to pressurise staffing budgets leading to cuts in staff hours.
- The group discussed other ways which the NMW could be more flexible, with key points as follows:

Regional NMW

- Some representatives favoured a regional variation in the NMW reflecting deprived areas that had less competitive employment markets and workforce skills.
- However, the group also acknowledge the dangers of a regional NMW such as creating a two tier employment market and the difficulty of setting the regions across the country where there are pockets of relative prosperity and deprivation.

Tax Burden

- It was highlighted that the Government could do more to lift NMW earners out of tax altogether.
- It was recognised that the personal allowance had been increased but this did not take full-time NMW earners fully out of the tax bracket.

Probationary NMW

- Given the high churn of staff at the 'bottom' end of the employment market it was suggested that a probationary NMW should be introduced.
- This would allow retailers to employ staff on a lower wage rate for six months giving the retailer time to understand their employment potential before paying them the full NMW rate.