



Low Pay Commission Consultation on the NMW Unite Response – September 2013

Summary of the Main Recommendations

- **Adult Rate** - Unite would like to see a NMW set at living wage level covering all age groups. So that the NMW better reflects the real costs of living and believe the LPC should take the boldest possible step to achieve this.
- **Development Rate, 16 – 17 Year Olds Rate and Apprentice Minimum Wage Rate** - These rates should increase by more than the adult rate in real terms to help close the gap between them and the adult rate.
- **Accommodation Offset** – Unite would support an increase that does not exceed projected RPI or average earnings.
- **Compliance and Enforcement** - Unite recommends that the Government commits to making real terms increases in current funding for monitoring and enforcement of the NMW.
- **Fair Piece Rate** - Unite would like to recommend the removal of the fair piece rate option from the hotel sector because it can be argued that hotel room cleaning work does not constitute “output work” under NMW regulation 5 (1999).
- **Bogus Self Employment in London Hotels** - Unite recommends that the LPC focus on the bogus self employed issue that is becoming increasingly prevalent in employment agencies that are supplying labour to the hotel sector.
- **Enforcement for Vulnerable Workers** - Unite remains concerned that migrant domestic workers continue to be wrongly denied the NMW as (family members), this needs to be addressed. Therefore, Unite recommends that the exemption for domestic workers who are said to live as part of the family should be abolished. In addition Unite calls for a clarification in the law that employers may be prosecuted for not paying the NMW whether their workers have legal contracts or not.
- **Agricultural Wages Board** – Unite would like the LPC to monitor what is happening in this sector during this period of change and to ask to what extent HMRC is equipped with the resources to accommodate these immense enforcement responsibilities.

- **Unpaid Internships in the Voluntary Sector and the Re-Introduction of Paid Entry Level Jobs** - Unite call on the LPC to endorse the code and to target enforcement at unpaid internships in the Voluntary sector.
- **Government Must Rectify the Serious Faults in the NMW Guidance as a Matter of Urgency** - Unite would like the LPC to make similar representations to GOVUK and BIS respectively.

Introduction

This evidence is submitted by Unite the Union. Unite is the UK's largest trade union with 1.42 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, construction, transport, local government, food, agriculture, education, health and not for profit sectors.

Unite is pleased to submit evidence to the Low Pay Commission (LPC) on its further review of the National Minimum Wage (NMW). Unite considers the establishment of the NMW to be one of the most important successes of the former Labour Government. Its introduction and subsequent increases have not had any adverse effects on the labour market, whilst it has benefited millions of low paid workers.

The 1.9% October 2013 rise in the adult rate is welcome. However, the 1.9% increase looks like it will fail to keep pace with inflation, which is forecast by City economists to be 2.8% in October 2013.¹ This difference will see low paid workers' spending power reduced, which will ultimately have a negative effect on the economy.

Unite would ultimately like the NMW rate to apply as a flat rate from age 16 upwards on a 'rate for the job' basis and believes that the LPC needs to be bold in setting a NMW rate for 2014 that will have a significant impact on the working poor and start to tackle income inequality in this country at a time when it is needed more than ever.

The Role of the Low Pay Commission

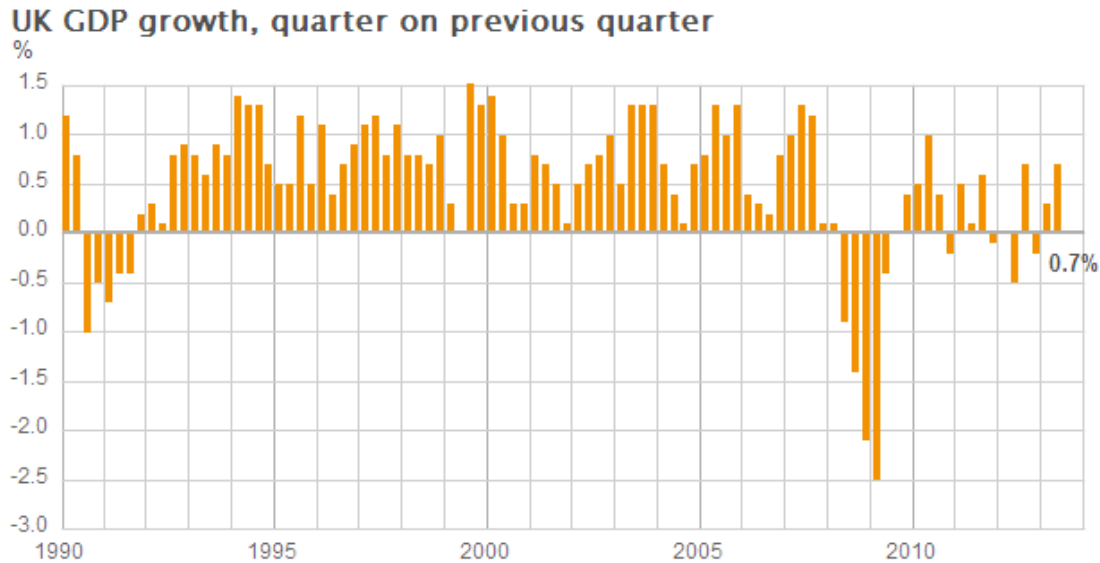
The LPC has been crucial in successfully co-ordinating the range of views that are shared by the different social partners and has made recommendations that have benefited millions of the most exploited workers. Unite would like to put on record its support for the work that has been done by the LPC and looks forward to being a part of this productive process again.

¹ IDS Pay Report.

What are your views on the outlook for the UK economy, including employment and unemployment levels, for the period October 2014 – September 2015?

Gross Domestic Product (GDP)

The UK economy grew by 0.7% in the second quarter of 2013, up from 0.3% in the first quarter of the year, according to the latest figures from the Office for National Statistics (ONS).²



Source: ONS

The CBI business lobby group has increased its forecast for UK economic growth for 2013 from 1% to 1.2%. It also increased its forecast growth for 2014, from 2% to 2.3%, on predicted increases in disposable income and in business and housing investment.³ The Treasury's independent average forecasts made in the last 3 months for GDP are 1.3% for 2013 and 2.1% in 2014.⁴

Unite understands that all employers will be nervous about the state of the economy given the continuing problems we face in the UK and the Eurozone. However, now growth has returned and is forecast to improve in 2014, it would be wrong to be overly cautious and risk hitting hardest the lowest paid.

² www.ons.gov.uk/ons/dcp171778_271962.pdf

³ www.bbc.co.uk/news/business-23745539

⁴ www.hm-treasury.gov.uk/d/201208forcomp.pdfwww.gov.uk/government/uploads/system/uploads/attachment_data/file/243636/201309forecomp.pdf

Employment & Unemployment

Low Paying Sectors Employment

There has been previous concern about the NMW decreasing levels of employment within the UK's low paying sectors (Retail, Hospitality, Social Work, Cleaning, Textiles, Agriculture, Security and Hairdressing). However, since the introduction of the NMW this has not proven to be the case. In fact, employment in the lower paying sectors within the UK has increased by 1,061,000 or 16%.⁵ In the last year employment in the low paying sectors has increased by 52,000 or 0.7%.

Low Paying Sectors	June 1999	June 2012	June 2013	Change Since June 1999	Change Since June 2012
Retail	2,635,000	2,884,000	2,892,000	+257,000 / +9.8%	+8,000 / +0.3%
Hospitality	1,672,000	1,982,000	1,967,000	+295,000 / +17.6%	-15,000 / -0.8%
Social Work & Residential Care	1,183,000	1,602,000	1,639,000	+456,000 / +38.5%	+37,000 / +2.3%
Cleaning (Services to buildings)	534,000	605,000	649,000	+115,000 / +21.5%	+44,000 / +7.3%
Textiles	143,000	54,000	51,000	-92,000 / -64.3%	-3,000 / -5.6%
Agriculture	262,000	227,000	207,000	-55,000 / -21%	-20,000 / -8.8%
Security	133,000	204,000	195,000	+62,000 / +46.6%	-9,000 / -4.4%
Hairdressing	83,000	96,000	106,000	+23,000 / +27.7%	+10,000 / +10.4%
All low-pay sectors	6,645,000	7,654,000	7,706,000	+1,061,000 / +16%	+52,000 / +0.7%

Unite believes that the evidence continues to show that a NMW in the UK has had a positive effect in the last year on employment levels.

Inflation

In the year to August 2013 the all items retail price index (RPI) rose by 3.3%. Many essentials have been rising at a far higher rate than RPI inflation, which can be seen below.⁶

Food & Drinks Expenditure – Potatoes up 18.1%, fresh fruit up 10.7%, bacon up 8.0%, butter up 7.4%, bread up 7.2%, poultry up 7.1%, processed vegetables up 6.3%, beef up 6.2%, fresh fish up 6.2%, pork up 5.7%, cereals up 4.6%, cheese up 3.9%.

Travel Expenditure - Bus & coach fares up 4.8%, rail fares up 3.6%.

⁵ www.ons.gov.uk/ons/rel/lms/labour-market-statistics/september-2013/table-jobs03.xls

⁶ www.ons.gov.uk/ons/search/index.html?newquery=rpi+detailed+figures

Energy Expenditure - Gas up 8.5%, electricity up 8.1%, fuel and light up 7.6%.

Housing, Clothing & Footwear Expenditure - Clothing & footwear 8.6%, postage up 6.3%, furniture up 4.8%.

The Treasury's independent forecasts for inflation suggest that RPI inflation will remain above CPI inflation and will be around 2.9% in 2014.⁷

	Independent average				
	2013	2014	2015	2016	2017
Inflation rate (per cent)					
- CPI	2.6	2.3	2.2	2.1	2.2
- RPI	3.1	2.9	2.9	3.0	3.4

One thing we can be sure of is that it's the lowest paid who are suffering more than anyone else and they need the LPC to set a NMW rate that will help them during these testing times.

What has been the impact of the NMW? Has this impact varied, and if so how (for example by sector, type and size of business or groups of workers (including women, ethnic minorities, migrant workers, disabled people, older workers, and those who are unqualified))?

Impact on Profitability

Employers are obviously concerned that the NMW reduces their levels of profit. With this said, Unite believes that it is only right that when a company is making profits, that this success should be shared with their employees, especially at a time, when despite the recent difficulties being experienced, UK corporations are making profits of £82.8 billion in Q1 2013, which is up by £5.9 billion or 4.1% from £76.9 billion in Q1 2012.⁸

Retail Sector

The Deloitte 2013 Global Powers of Retailing ranked 15 UK retailing companies within the top 250 companies in the world, of which Tesco was the highest UK retailer in 3rd place.⁹ Tesco made a staggering £2bn profit before tax to the year end February 2013.¹⁰ So Unite would not accept that further increases in the NMW are beyond a company of Tesco's stature, for instance.

⁷ www.hmtreasury.gov.uk/d/201208forcomp.pdf www.gov.uk/government/uploads/system/uploads/attachment_data/file/243636/201308forecomp.pdf

⁸ www.ons.gov.uk/ons/dcp171778_314093.pdf

⁹ www.deloitte.com/assets/DcomAustralia/Local%20Assets/Documents/Industries/Consumer%20business/Deloitte_Global_Powers_of_Retail_2013.pdf

¹⁰ FAME

Beyond the big companies it is difficult to assess what effect the NMW would have had on the profitability of smaller companies, but we do know that within food retailing in the UK, it is increasingly controlled by a small number of multinational corporations. In the UK we now buy 97.9% of our groceries in supermarkets and 75.1% from just four supermarket chains – Tesco (30.2%), Asda (17.1%), Sainsburys (16.5%) and Morrisons (11.3%).¹¹

Within the food retail market in the UK there has been consolidation by the major supermarkets, which now dominate the market. Unite would argue that it is this consolidation that is adversely affecting small retailers far more than any additional costs associated with the NMW.

Out of the top 50 employers in the retail sector in the UK, 46 reported a profit in their latest accounts.¹²

Company name	Primary UK SIC (2007) code	Latest accounts date	Latest Operating Revenue (Turnover) th GBP Last avail. yr	Profit (Loss) before Taxation th GBP Last avail. yr	Latest No of Employees Last avail. yr
TESCO PLC	47110	28/02/2013	64,826,000	1,960,000	416,441
TESCO STORES LIMITED	47110	29/02/2012	41,981,000	2,126,000	264,887
ASDA STORES LIMITED	47190	31/12/2011	21,661,000	507,000	176,453
SAINSBURY'S SUPERMARKETS LTD	47110	31/03/2012	22,288,000	1,114,000	151,300
WM MORRISON SUPERMARKETS P L C	47110	31/01/2013	18,116,000	879,000	128,705
J SAINSBURY PLC	47110	31/03/2013	23,303,000	788,000	105,000
JOHN LEWIS PLC	47190	31/01/2013	8,465,500	198,000	81,900
JOHN LEWIS PARTNERSHIP PLC	47190	31/01/2013	8,465,500	198,800	81,900
MARKS AND SPENCER GROUP P.L.C.	47190	31/03/2013	10,027,000	564,000	81,734
MARKS AND SPENCER P.L.C.	47190	31/03/2012	9,934,300	658,000	81,208
KINGFISHER PLC	47520	31/01/2013	10,573,000	691,000	77,000
SAFeway STORES LIMITED	47110	31/01/2012	9,396,000	530,000	62,283
SAFeway LIMITED	47110	31/01/2013	9,618,000	523,000	57,541
WAITROSE LIMITED	47110	31/01/2013	5,416,100	147,500	51,000
NEXT RETAIL LIMITED	47710	31/01/2013	3,457,617	508,040	45,666
NEXT RETAIL LIMITED	46420	31/01/2012	3,535,029	490,785	43,469
RECKITT BENCKISER GROUP PLC	17220	31/12/2012	9,567,000	2,420,000	35,900
DIXONS RETAIL PLC	47540	30/04/2013	8,439,300	-115,300	35,892
B & Q PLC	47599	31/01/2013	3,637,900	-44,100	30,767
DEBENHAMS PLC	47190	31/08/2012	2,229,800	158,300	30,117
SSP GROUP LIMITED	56103	30/09/2012	1,737,500	14,400	29,796
NEXT PLC	47190	31/01/2013	3,562,800	666,500	28,301
ARGOS LIMITED	47599	28/02/2013	3,752,634	84,662	27,596
PRIMARK STORES LIMITED	47710	30/09/2012	2,297,946	167,507	27,065
DEBENHAMS RETAIL PLC	47710	31/08/2012	2,020,200	191,800	26,936

¹¹ Kantar Worldpanel

¹² FAME

Company name	Primary UK SIC (2007) code	Latest accounts date	Latest Operating Revenue (Turnover) th GBP Last avail. yr	Profit (Loss) before Taxation th GBP Last avail. yr	Latest No of Employees Last avail. yr
HOME RETAIL GROUP PLC	47190	28/02/2013	5,475,400	130,100	24,656
ICELAND FOODS LIMITED	47110	31/03/2013	2,604,669	188,146	23,974
WILKINSON HARDWARE STORES,LIMITED	47520	31/01/2013	1,529,668	27,512	22,897
JOHN MENZIES PLC	84130	31/12/2012	1,903,500	32,000	22,151
TRAVIS PERKINS PLC	47789	31/12/2012	4,844,900	313,300	21,887
NEW LOOK RETAIL GROUP LIMITED	47710	31/03/2013	1,484,000	3,100	21,148
GREENE KING BREWING AND RETAILING LIMITED	11050	30/04/2012	993,000	50,000	20,850
ARCADIA GROUP BRANDS LIMITED	47710	31/08/2012	1,568,451	229,965	20,289
DSG RETAIL LIMITED	47540	30/04/2012	3,743,700	53,700	20,180
DS SMITH PLC	47789	30/04/2013	3,669,300	86,600	19,736
NEW LOOK RETAILERS LIMITED	47710	31/03/2012	1,205,753	68,190	18,718
LLOYDS PHARMACY LIMITED	47730	31/12/2011	1,760,288	57,181	17,885
HOUSE OF FRASER (STORES) LIMITED	47190	31/01/2013	680,500	18,600	17,384
HOMEBASE LIMITED	47520	28/02/2013	1,355,013	-6,702	16,851
MATALAN RETAIL LTD.	47710	28/02/2013	1,125,400	17,600	16,373
WH SMITH PLC	46499	31/08/2012	1,243,000	102,000	16,086
TJX UK SPORTS DIRECT INTERNATIONAL PLC	47789 47640	31/01/2012 30/04/2013	1,353,600 2,185,580	35,400 207,226	14,239 14,076
C. & J. CLARK INTERNATIONAL LIMITED	47721	31/01/2013	859,000	77,000	12,562
BHS LIMITED	47190	31/08/2012	699,769	-116,007	12,283
MCCOLL'S RETAIL GROUP LIMITED	47260	30/11/2012	844,684	6,333	12,139
C. & J. CLARK INTERNATIONAL LIMITED	46420	31/01/2012	824,060	72,850	11,725
B & M RETAIL LIMITED	47190	31/12/2012	935,229	88,323	11,374
FIRESOURCE LIMITED	47190	31/12/2012	935,229	83,930	11,374
JD SPORTS FASHION PLC	47640	31/01/2013	1,258,892	55,117	10,430

Hospitality Sector

A year after successfully hosting “the greatest event on earth”, hotels in London experienced, unsurprisingly, a total revenue and profit decline in July of -6.7% and -14.6% respectively compared to the same month last year, according to the latest HotStats survey of 624 full-service hotels across the UK.¹³

In fact, the capital showed negative year-on-year results across most key performance indicators with occupancy being the only exception. Hoteliers saw a notable increase of 7.1% to 87.9% compared to July in 2012 and 6.2% above the rolling 12 months.

¹³ www.hospitalitynet.org/news/154000320/4061965.html

Gross operating profit per available room (GOPPAR) in provincial hotels rose for the fourth consecutive month in July by 3.9%, according to the latest HotStats survey. The positive year-on-year performance in the provinces this month was largely a result of the hot weather with holidaymakers happy to make the most of the UK's hotels.

Positive results were recorded in all key performance indicators: both occupancy and average room rate increased by 3.5% to 80.3% and by 0.4% to £71.78 respectively, compared to the same month last year. Additional growth in food (+1.0%), beverage (+3.3%) and leisure (+2.9%) revenues contributed to an increase total revenues per available room of 3.0% representing a twelfth consecutive month of growth.

As for the restaurant part of the hospitality sector, the UK eating-out market is expected to be worth £79.7bn in 2013, a rise of 1.8% from last year according to Allegra's Strategies report 'Eating Out in the UK, 2013'.¹⁴

The report also predicts further positive growth over the next five years, which is thought, will add more than £10bn in value to reach £90bn by 2018. The report surveyed more than 2,000 UK consumers on their eating out habits, and interviewed more than 150 CEOs and other senior executives of major industry players.

Anya Marco, Allegra's director of insight said: "There will be a positive growth of 2.4% CAGR over the next five years. This will be driven by physical expansion, improved consumer confidence with higher anticipated average earnings growth combined with lower inflation rates leading to trading up."

Out of the top 50 employers in the hospitality sector in the UK, 37 reported a profit.¹⁵ Although this is not as impressive as the retail sector's performance, it is clear that the majority of the top 50 hospitality employers in the UK are profitable.

Company name	Primary UK SIC (2007) code	Latest accounts date	Latest Operating Revenue (Turnover) th GBP Last avail. yr	Profit (Loss) before Taxation th GBP Last avail. yr	Latest No of Employees Last avail. yr
COMPASS CONTRACT SERVICES (U.K.) LIMITED	56210	30/09/2012	1,639,871	3,688	51,414
MITCHELLS & BUTLERS PLC	56302	30/09/2012	1,889,000	83,000	41,178
MCDONALD'S RESTAURANTS LIMITED	56102	31/12/2011	1,248,549	176,563	37,729
MITCHELLS & BUTLERS RETAIL LIMITED	56302	30/09/2012	1,631,000	84,000	34,219
WHITBREAD GROUP PLC	55100	29/02/2012	1,778,000	300,500	30,484
SSP GROUP LIMITED	56103	30/09/2012	1,737,500	14,400	29,796

¹⁴ www.hotel-magazine.co.uk/uk-eating-out-market-to-be-worth-79-7bn

¹⁵ FAME

Company name	Primary UK SIC (2007) code	Latest accounts date	Latest Operating Revenue (Turnover) th GBP Last avail. yr	Profit (Loss) before Taxation th GBP Last avail. yr	Latest No of Employees Last avail. yr
ISS FACILITY SERVICES LIMITED	56102	31/12/2012	580,186	23,169	28,389
GREENE KING PLC	56302	30/04/2013	1,194,700	114,800	22,432
GREENE KING BREWING AND RETAILING LIMITED	11050	30/04/2012	993,000	50,000	20,850
SPIRIT PUB COMPANY PLC	56302	31/08/2012	760,000	-588,900	17,234
ISS MEDICLEAN LIMITED	56290	31/12/2012	367,405	21,145	15,779
J D WETHERSPOON PLC	56302	31/07/2012	1,197,129	58,882	14,403
PIZZA HUT (U.K.) LIMITED	56101	30/11/2011	330,959	-24,178	13,670
PGI GROUP LIMITED	28930	31/12/2012	33,181	12,631	13,019
MARSTON'S PLC	56302	30/09/2012	719,700	-135,500	12,289
GREENE KING RETAILING LIMITED	56302	30/04/2012	578,000	-24,000	11,777
BOURNE LEISURE HOLDINGS LIMITED	55300	31/12/2011	813,707	97,411	11,724
THE RESTAURANT GROUP PLC	56302	31/12/2012	532,541	64,561	11,664
WESTBURY STREET HOLDINGS LIMITED	56290	31/12/2012	466,062	6,181	10,370
ARAMARK LIMITED	56290	30/09/2012	350,563	8,042	10,161
MILLENNIUM & COPTHORNE HOTELS PLC	55100	31/12/2012	768,300	171,300	10,157
WESTBURY STREET LIMITED	56290	31/12/2011	406,141	6,509	9,638
SELECT SERVICE PARTNER UK LIMITED	56103	30/09/2012	574,474	-1,636	9,630
MARRIOTT HOTELS LIMITED	55100	31/12/2012	183,421	448	9,585
STARBUCKS COFFEE COMPANY (UK) LIMITED	56102	30/09/2012	413,393	-30,404	8,739
PIZZAEXPRESS (RESTAURANTS) LIMITED	56101	30/06/2012	332,717	63,133	8,632
NANDO'S CHICKENLAND LIMITED	56101	29/02/2012	373,869	53,859	8,125
INTERCONTINENTAL HOTELS GROUP PLC	55100	31/12/2012	1,129,000	342,000	7,981
THE RESTAURANT GROUP (UK) LIMITED	56101	31/12/2011	376,438	48,796	7,826
TRAGUS GROUP LIMITED	56101	31/05/2012	286,270	-18,374	7,256
TRAGUS BIDCO LIMITED	56101	31/05/2012	286,270	-5,343	7,253
COSTA LIMITED	10832	29/02/2012	458,596	62,624	6,865
KENTUCKY FRIED CHICKEN (GREAT BRITAIN) LIMITED	56101	30/11/2011	394,244	47,232	6,795
ELIOR UK PLC	56210	30/09/2012	192,437	6,198	6,684
BAXTERSTOREY LIMITED	56290	31/12/2011	252,031	17,222	5,456
ASK RESTAURANTS LIMITED	56101	30/06/2012	194,202	9,023	5,021
MOTO HOSPITALITY LIMITED	47190	31/12/2012	849,494	-75,529	4,789
LRG HOLDINGS LIMITED	55100	31/12/2011	322,755	-69,180	4,290
INITIAL CATERING SERVICES LIMITED	56210	31/12/2011	74,970	4,410	4,273
MACDONALD HOTELS LIMITED	55100	31/03/2012	139,527	1,769	4,051
DPGS LIMITED	56103	31/03/2012	64,189	-1,702	4,000
ORCHID PUBS & DINING LIMITED	56101	31/12/2011	129,621	-11,019	3,937
MITCHELLS & BUTLERS RETAIL (NO 2) LIMITED	56302	30/09/2012	174,549	20,260	3,881
ARAMARK IRELAND HOLDINGS LIMITED	56210	30/09/2012	165,936	1,842	3,804

Company name	Primary UK SIC (2007) code	Latest accounts date	Latest Operating Revenue (Turnover) th GBP Last avail. yr	Profit (Loss) before Taxation th GBP Last avail. yr	Latest No of Employees Last avail. yr
LINDLEY CATERING HOLDINGS LIMITED	56210	31/05/2012	52,070	-1,485	3,605
BUTLINS SKYLINE LIMITED	55300	31/12/2011	186,793	21,133	3,592
FULLER SMITH & TURNER PLC	56302	31/03/2013	271,500	35,200	3,477
TOWN AND CITY PUB GROUP LIMITED	56302	30/09/2012	160,828	94	3,319
NERO HOLDINGS LIMITED	56102	31/05/2012	177,404	19,639	3,317
YOUNG & CO'S BREWERY PLC	56302	31/03/2013	193,677	22,319	3,242

Closing the Gender, Ethnic Minorities and Workers with Disabilities Pay Gap

Unite is pleased that the LPC has been asked to report on the effect that the NMW has had on gender, ethnic minorities and workers with disabilities.

Gender

The NMW has become a vital tool in trying to reduce the gender pay gap due to the high concentration of women in low paid jobs and particularly those women in part time jobs. Over the lifetime of the NMW the gender pay gap has been reduced from 19.7% in 1999 to 10.6% in 2012. This cannot all be attributed to the NMW, but there is no doubt that the NMW has been a positive influence in helping to close the gender pay gap.¹⁶

Hourly earnings excluding overtime

Year	Men	Women	Pay Gap
1999	9.07	7.58	19.7%
2012	13.27	12.00	10.6%

Source: ONS - Annual Survey of Hours and Earnings

Despite the significant potential impact of the NMW on the gender pay gap, the reality is that we are years away from a position of parity between the genders.

Therefore Unite believes that a rise in the NMW will have a beneficial impact in addressing the gender pay gap.

¹⁶ ONS – Annual Survey of Hours and Earnings

Ethnic Minorities

Around two-fifths of people from ethnic minorities live in low-income households, twice the rate for White people. Within this, there are big variations by ethnic group. More specifically, the proportion of people who live in low-income households is:¹⁷

- 20% for White people.
- 30% for Indians and Black Caribbeans.
- 50% for Black Africans.
- 60% for Pakistanis.
- 70% for Bangladeshis.

Recent research from the University of Essex found that in 1993 white people earned an average of 18p an hour more than non-whites, but by 2008 the gap had risen to 43p an hour. This was around 7.5% of the minimum wage for those over 21 in 2008, or 3.6% of median hourly earnings.¹⁸

The research by Dr Malcolm Brynin at ISER and Dr Ayse Güveli, from the Department of Sociology at the University of Essex found that Britain's white workers are paid more than ethnic minorities and the hourly pay gap has more than doubled in the 15 years to 2008.

The end result of all this is that some minority ethnic groups still have equivalent incomes that are well below those of the rest of the population and many still remain below the official poverty line.¹⁹

So clearly the NMW has a key role to play in tackling social exclusion with a high proportion of ethnic minority workers in the low paying sectors of the economy.

Therefore Unite believes that a rise in the NMW would help in trying to tackle the ethnic pay gap.

Workers with Disabilities

According to the Labour Force Survey, disabled people are now more likely to be employed than they were in 2002, but disabled people remain significantly less likely to be in employment than non-disabled people. In 2012, 46.3% of working-age disabled people are in employment compared to 76.4% of working-age non-disabled people. There is therefore a 30.1% employment gap between disabled and non-disabled people, representing over 2 million people. The gap has reduced by 10% over the last 14 years and has remained stable over the last two years despite the economic climate.²⁰

¹⁷ www.poverty.org.uk/06/index.shtml

¹⁸ www.iser.essex.ac.uk/2012/08/28/white-people-paid-more-and-ethnic-pay-gap-widening

¹⁹ http://sticerd.lse.ac.uk/dps/case/cr/CASereport60_summary.pdf

²⁰ <http://odi.dwp.gov.uk/disability-statistics-and-research/disability-facts-and-figures.php>

However this situation is not helped when the Government is currently in the process of closing half of Remploy's 54 factories, which provides employment opportunities for disabled people.

The Government claims that Remploy costs the taxpayer £25,000 a year per person, but trade unions say the figure is more like £7,000 when profits and training placements are taken out. In contrast, a disabled person on full-time benefits costs around £19,000 a year.

Unfortunately the NMW alone cannot provide more employment opportunities for disabled people but a decent increase will help the thousands of disabled workers who are in employment.

What has been the impact of the minimum wage on young people and what effect do you think it has on their employment prospects?

Young People in the Labour Market

Clearly the current labour market statistics do not make comfortable reading. The unemployment rate for 16 to 24 year olds was 21% in the three months to July 2013, up 0.5% from the three months to April 2013.²¹

There were 960,000 unemployed 16 to 24 year olds in the three months to July 2013, up 9,000 from the three months to April 2013. The number of unemployed 16 to 17 year olds increased by 10,000 on the quarter to reach 195,000 and the number of unemployed 18 to 24 year olds decreased by 1,000 on the quarter to reach 765,000.

Excluding people in full-time education, there were 668,000 unemployed 16 to 24 year olds in the three months to July 2013, up 9,000 from the three months to April 2013. The unemployment rate for 16 to 24 year olds not in full-time education was 19.4%, up 0.5% from the three months to April 2013.

However, despite these poor labour market statistics for young people, Unite does not think there is any evidence that the NMW has had a negative impact on youth employment. Unite believes the fall in youth employment over the period of the NMW is in large part due to more young people staying on in full-time education, rather than the NMW and slow growth, which has not helped to improve young peoples employment opportunities.

Young People and Pay

Unite's young members tell us that pay is the number one determining factor in why they choose to initially go for or stay in a job. Unite would ultimately like the NMW to apply as a flat rate from age 16 upwards on a 'rate for the job basis.' Unite believes that the principle of equal remuneration for work of equal value is an important one.

²¹ www.ons.gov.uk/ons/dcp171778_325094.pdf

Previous research by the Employer's Forum on Age (EFA)²² has attempted to address some of the common objections and showed that equalising the development NMW rate with the adult NMW rate would not have detrimental effects. Some of the EFA's members including Mark's and Spencer's and B&Q removed their age bands a number of years ago.

Unite believes that a removal of the development rate would have minimal negative impacts on employment for 18 to 20 year olds and that any positive impacts would more than offset any negative impacts.

Where Unite is organised, part of our bargaining strategy is for the abolition of youth rates where they apply. In those areas where Unite has abolished youth rates by negotiation there is no evidence that this has led to a decrease in young people employed. This is largely because many companies are prepared to abolish youth rates in recognition that doing so aids recruitment, retention, motivation and productivity.

Unite believes that the UK should move towards a position where workers are not discriminated against on the basis of age, but are paid the rate for the job.

What has been the impact of the Apprentice Rate of the NMW?

Apprentice Rate of the National Minimum Wage

Unite believes that apprentices should be paid at least the National Minimum Wage for their work as this is the national baseline wage for all workers in the UK regardless of their skill level, age or legal status, below which no worker should fall.

In terms of the impact of the introduction of the Apprentice rate of the National Minimum Wage on the provision, take-up, and completion of apprenticeship opportunities.

Unite is pleased to see the total volume of Apprenticeship framework achievements in 2011/12 was 140,600.²³ Unite hopes that these are genuine apprenticeships which contain proper training programs. However this was a decrease of -19.4% compared to 2010/11.

Unite does not believe it would be accurate to attribute previous dramatic increases in apprenticeships in 2010/11 down to the new apprentice rate of the National Minimum Wage but clearly it could have had a positive affect.

However, many employers pay apprentices more than the Apprentice rate of the National Minimum Wage anyway. Unite members in construction, local authorities, graphical trades, manufacturing and engineering receive minimum rates of pay that are above the NMW for their age from day one.

²² Employers Forum on Age – 'Equalising the NMW.' Page 1-4, 2008.

²³ www.thedataservice.org.uk/Statistics/fe_data_library/Apprenticeships/

One example from the construction industry can be seen below:-

Agreement	Details	Minimum	Maximum	Progression	Hours
Plumbing (England & Wales) JIB	Apprentice	£5.61 ph	£11.20 ph	1st year of training £5.61 ph 2nd year £6.43 ph 3rd year £7.26 ph 3rd year with NVQ Level 2 £8.83 ph 4th year £8.94 ph 4th year with NVQ Level 2 £10.15 ph 4th year with NVQ Level 3 £11.20 ph	37.5

Source: Labour Research Department

In general Unite believes that the Development Rate, 16 – 17 Year Olds Rate and Apprentice Minimum Wage Rate should increase by more than the Adult Rate in real terms, to help close the gap between them and the Adult Rate.

What is your view of the Commission’s position that the current arrangements for the accommodation offset should be retained, and that it intends to recommend staged increases in the offset towards the value of the hourly adult rate of the NMW when economic circumstances mean the real value of the NMW is tending to rise?

Accommodation Offset

In principle Unite is opposed to charges for accommodation being deducted from the NMW. Having workers accommodated on site is to the employers’ benefit and therefore the employer should be fully responsible for the cost.

However, Unite is aware that ill-thought through deregulation without effective enforcement guidelines could lead to further exploitation. Therefore, Unite believes that the Low Pay Commission (LPC) should continue to keep the accommodation offset under serious review.

In its original recommendation (June 1998) the Low Pay Commission (LPC) recommended that accommodation should be the only benefit in kind to count towards the national minimum wage. This recommendation was designed to be a protective measure. By recommending an accommodation offset, the LPC intended to discourage employers from recouping the National Minimum Wage paid to a worker by levying excessive accommodation charges. When recommending the level for the accommodation offset, the Low Pay Commission did not seek to reflect the actual cost to the employer or the actual value of renting accommodation for the worker. Allowing a market rate would not have recognised the advantages to the employer of providing accommodation.

Unite has seen no evidence based to change this policy and would support an increase that does not exceed projected RPI or average earnings.

How far is there compliance with the NMW? Do particular groups experience problems with NMW compliance (for example apprentices or interns/others undertaking work experience)? Where there is non-compliance are there implications for the NMW rates, or other implications (for example for the quality and accessibility of official guidance on the NMW, or for the enforcement work of HMRC)?

Compliance and Enforcement

Unite would firstly like to congratulate HM Revenue & Customs (HMRC) enforcement team. Since the NMW introduction in 1999 more than £48.2 million in NMW arrears for over 199,000 workers has been identified. In 2011/12 HMRC identified £3.6 million in arrears of wages for 17,000 workers and in the 6 months to the end of September 2012 HMRC identified £2.6m in arrears for 19,000 workers.²⁴

Unite believes that this success clearly warrants increased funding for NMW enforcement, especially when you consider that in the coming year there could be an extra 100,000 new apprentices and potentially 100,000 plus agricultural workers, with the abolition of the Agricultural Wages Board that covers England and Wales.

Therefore Unite recommends that the Government commits to making real terms increases in current funding for monitoring and enforcement of the NMW.

At what level should each of the rates of minimum wage be set in October 2014 (i.e. for adults, 16-17 year olds, 18-20 year olds, apprentices, and the accommodation offset)?

Setting a Bold Target for the Adult Rate

According to the 'Low Pay Britain 2013' report by the Resolution Foundation economic downturn has pushed a further 1.4 million employees below the Living Wage - the rate deemed necessary for a basic standard of living. Low Pay Britain 2013 shows that 4.8 million Britons (20% of all employees) earn below the Living Wage - a leap from 3.4 million (14%) in 2009 - at the height of the recession.²⁵

The Living Wage was calculated at £7.20 outside London and £8.30 in the capital for the period covered by the report - April 2012. Since then the Living Wage has risen to £7.45 an hour outside London and £8.55 in the capital.

The Living Wage is gathering political momentum and even Conservative MP Guy Opperman has called on his party to back the campaign for a living wage,

²⁴ www.gov.uk/government/uploads/system/uploads/attachment_data/file/49986/13-280-national-minimum-wage-compliance-report-for-2011-12.pdf

²⁵ www.scribd.com/doc/165161949/Low-Pay-Britain-2013

citing ISER research on the impact on employment since the introduction of the minimum wage.²⁶

Writing in the New Statesman, he states:

"Britain is a country in which some workers earn so little that the government has to step in and provide aid. That is the system of tax credits we have; a subsidy by any other name and a £4bn one at that. How and why did we let it become acceptable for a full-time job not to pay enough to live on? The living wage isn't just a wonkish idea - it's the political world catching up with many Britons' reality.

When the national minimum wage was adopted in 1998, many were sceptical. The fear was that it might hit the number of jobs available. There is ample evidence to show this is not the case. For instance, in 2012 the Institute for Social and Economic Research at the University of Essex studied the minimum wage and "found almost no evidence of significant adverse impacts on employment". Today, the minimum wage is supported by all three mainstream parties and rightly so. Yet, for many, the minimum wage does not represent a fair wage."

Unite welcomes the recent announcement on the 16th September 2013 by the Secretary of State for Business, Innovation and Skills:²⁷

"The National Minimum Wage is a vital safety net in protecting the low paid. However, as signs of an economic recovery start to emerge, we need to do more to make sure that the benefits of growth are shared fairly across the board.

"The Low Pay Commission every year carries out a huge amount of valuable, detailed work looking at labour conditions across the economy. Today, in addition to their ongoing annual remit, I am asking them to extend this expertise to help the government and business understand how we can deal with the issue of low wages in the economy. In particular I have asked them to look at what economic conditions would be needed to allow the National Minimum Wage to rise by more than current conditions allow."

Therefore Unite would like to see a NMW set at living wage level covering all age groups. So that the NMW better reflects the real costs of living and believe the LPC should take the boldest possible step to achieve this.

²⁶ www.iser.essex.ac.uk/2013/08/13/conservative-case-for-living-wage-based-on-iserevidence

²⁷ www.gov.uk/government/news/cable-announces-plans-to-boost-fairness-for-workers

Are there any other views or evidence you would like to give us about the operation and impact of the National Minimum Wage?

Fair Piece Rates

Unite has highlighted examples of agencies who are abusing the fair piece rate by underpaying the NMW in the hotel industry to the LPC before. Unite unfortunately has to report that the situation has not improved in the past year, based on our experiences.

Clearly the hotel industry has been trying to avoid their financial responsibility by employing agencies and contract cleaning companies for room cleaning services, which were previously directly employed. The hotel industry must not simply be allowed to transfer the blame to agencies and contract cleaning companies.

Many of the piece rates for cleaning rooms in the hotel industry have been set at unattainable levels, which make it impossible for workers to achieve the NMW. One way to stop this would be to remove the fair piece rate option from the hotel sector because it can be argued that hotel room cleaning work does not constitute “output work” under NMW regulation 5 (1999).

Therefore Unite would like to recommend the removal of the fair piece rate option from the hotel sector because it can be argued that hotel room cleaning work does not constitute “output work” under NMW regulation 5 (1999).

Bogus Self Employment in London Hotels

The situation in London Hotels and the employment standards in force have been described by union leaders as “the race to the bottom”. This situation has been fed by widespread out-sourcing to employment agencies. This means that every time a client hotel puts up for renewal an out-sourcing contract puts wages and terms and conditions under pressure. The possibility of reputational damage to brands and hotels is minimised by the ability of client hotels to “blame the agency” if breaches of employment law like underpayment of the NMW or irregular workers are found working in hotels.

The Central London Hotel Workers branch of Unite, are now seeing evidence of bogus self employments rise across the industry. A typical situation would be as follows:

- agency recruits migrant workers either legally or via student visa or via precarious workers;
- worker would be given one or two weeks training as an employee;
- the worker would then be told how to become “self employed” and would carry on working but with a different status;
- students would be rotated so the 20 hours per week limit would not be breached;

- problems with the client would be met by the worker being moved to a different employer;
- with no employment rights, no complaints will be made about underpayment of the NMW for instance.

Unite recommends that the LPC focus on the bogus self employed issue that is becoming increasingly prevalent in employment agencies that are supplying labour to the hotel sector.

Enforcement for Vulnerable Workers

The 'Domestic Workers Visa' prevents domestic workers from changing employer. As most domestic workers only ever challenge NMW abuses at the point they leave their employer to work for someone else. The implications of this are that the NMW would not really be enforceable in private households, which leaves domestic workers with poverty pay.

Unite does not believe that any worker should be exempt from basic employment rights. Unite believes that employers should face penalties for paying below the NMW whether their workers are documented or not. Unite's experience is of employers capitalising on the fear and insecurity of these workers and often only becoming interested in their status if a worker complains.

The maintenance of the NMW is dependent on all workers, irrespective of their employment status, to be paid no less than the NMW level. The current position encourages employers to recruit migrant workers (documented or otherwise) precisely because they are able to get away with paying significantly less than the NMW. This has had a downward (deflationary) pressure on the wages of indigenous workers at the lower end of earnings in the economy. This is clearly an unintended gap in the enforcement of the NMW and employment rights per se.

It is unacceptable that an employer who commercially benefits from paying low wages to an undocumented worker on the basis of illegality of contract, can escape subsequent penalties based on the same illegal contract to which they were (as employers) party. Clearly, undocumented workers will not make a complaint if they believe that the involvement of the authorities may lead to their detention and deportation, so enforcement in this case cannot rely on individual complaints by workers.

In practice, this means that each case is being treated separately and each individual is being required to prove they are covered by the NMW before their particular circumstances can be looked at, which is time consuming and creating additional barriers to these workers receiving the NMW they are entitled to. As a minimum Unite would like to see a situation whereby a trade union can make a representative action on behalf of a group of workers to an employment tribunal and that in such instances HMRC enforcement officers should have access to such workers if they are detained.

Unite remains concerned that migrant domestic workers continue to be wrongly denied the NMW as (family members). This needs to be addressed, therefore Unite recommends that the exemption for domestic workers who are said to live as part of the family should be abolished. In addition Unite calls for a clarification in the law that employers may be prosecuted for not paying the NMW whether their workers have legal contracts or not.

Abolition of the Agricultural Wages Board (AWB)

Opponents of the AWB argue that the legislation is unnecessary now that there is a NMW. This entirely misses the point of the AWB. Whilst it is true that Grade 1 rates are 2p an hour more than the NMW (from 1st October 2012), only 20% of workers covered by the AWB are on the Grade 1 £6.21. 80% of the 154,000 workers covered directly by the AWB are on Grades 2-6 at rates from £6.96 an hour to £9.40 an hour.

Opponents of the AWB also conveniently forget that the Agricultural Wages Order also covers grading arrangements; skills and qualifications; overtime; training costs; apprenticeships; allowances and grants; holidays and other leave; sick pay and much more besides. Most significantly, the Agricultural Wages Act also regulates the provision of tied housing, which 30% of farm workers live in, protecting workers from punitive rent rises and eviction from their homes. All this protection will be lost with abolition.

The call for abolition has been driven by the NFU, and we believe that this is down to their horticultural industry members. This part of agriculture is under pressure from the supermarkets to supply fruit and vegetables at ever tighter margins, and the industry is seeking to cut their costs at the expense of workers. Unite has asked the NFU how wage rates would be set for grades 2-6 if abolition goes ahead, and how the industry would attract the 60,000 new entrants over the next ten years which Lantra, the Sector Skills Council for agriculture, says are necessary just to stand still. There has been no response from the NFU and it is clear that they have given no thought to how wages would be negotiated or set post-abolition.

Around 140,000 agricultural and horticultural workers have been formally covered by the AWB and the pay of a similar number has been benchmarked against the AWB rates. Overnight on 1st October 2013, once abolition of the AWB takes effect, a quarter of a million rural workers, who are quintessentially 'hard to reach', will come under the enforcement regime of HMRC.

Therefore Unite would like the LPC to monitor what is happening in this sector during this period of change and to ask to what extent HMRC is equipped with the resources to accommodate these immense enforcement responsibilities.

Unpaid Internships in the Voluntary Sector and the Re-Introduction of Paid Entry Level Jobs

Unites report 'Unpaid Internships in the Voluntary Sector' (which is attached in Appendix 1) demonstrates that unpaid internships are on the increase. They are becoming the fastest growing source of abuse under the National Minimum Wage regulations. Unpaid internships aren't just wrong but in many cases they are illegal. Under employment law, people who work set hours, do set tasks and contribute value to an organisation are "workers" and are entitled to the National Minimum Wage but many employers in the voluntary sector are paying their interns nothing.

Unite are also strongly urging all reasonable employers who care about their workers to sign up to a voluntary code that pledges they will end unpaid internships and pay all interns at least the National Minimum Wage.

Unite call on the LPC to endorse the code and to target enforcement at unpaid internships in the Voluntary sector.

Government Must Rectify the Serious Faults in the NMW Guidance as a Matter of Urgency.

Unite are concerned that the new GOVUK guidance on the NMW appears to be incomplete and may be misleading in parts. (An outline of some of the problems with the current text is in Appendix 2.)

Guidance has a very important role to play in explaining rights and duties to workers and employers alike. Unite are sure that the LPC share Unites desire to ensure that it provides an authoritative statement, with sufficient detail to ensure that everybody knows the right thing to do.

Unite are concerned that some of the errors in the new guidance are so serious that they wrongly appear to exempt some workers who are actually covered by the minimum wage legislation. In addition, some aspects of the minimum wage regime are simply omitted.

Unite would like the LPC to make similar representations to GOVUK and BIS respectively.

Diana Holland
Assistant General Secretary
Unite the Union

20th September 2013

For clarifications and more information please contact:

John Neal
Researcher
Unite the Union
128 Theobald's Road, Holborn, London, WC1X 8TN
Tel: +44 (0)207 611 2633
Fax: +44 (0)207 611 2746
Email: John.Neal@unitetheunion.org
Internet: www.unitetheunion.org.uk