

Low Pay Commission Consultation on the National Minimum Wage

**National Union of Students
response**

September 2013

Introduction

The National Union of Students (NUS) welcomes the opportunity to comment on the Low Pay Commission's (LPC's) annual report on the National Minimum Wage (NMW) and to offer our views on how the LPC should recommend NMW policy should change in the future.

NUS consists of over 600 students' unions in both the higher and further education sectors, and through them we representing around 7 million students across the United Kingdom. The majority of these members are thought to undertake some form of paid employment whilst studying, and many will be in low-paid, low-skill work at or near the minimum wage.

It has been long-standing NUS policy, reiterated to the Low Pay Commission now for many years, to ensure that the National Minimum Wage is equal for all ages and for those undertaking apprenticeships. The LPC has had a shameful record in recent years, recommending a freeze NMW rates for young people and apprentices, or an increase lower than that for those on the 21+ rate. This of course reflects a fundamental problem with the minimum wage: the fact such differential rates exist in the first place. We believe the LPC is failing in its duty to prevent exploitation of the poorest young workers and apprentices, by maintaining and exacerbating these differentials. Even the adult rate is set too low and the LPC should be recommending a Living Wage be paid to all.

It should be noted that the political weather on the minimum wage is beginning to change. As the NMW has lost its value the impact on the living standards of the poorest are becoming ever plainer. Politicians including the leader of the Labour Party, Ed Miliband¹, and the Mayor of London, Boris Johnson², have both called for the Living Wage to be paid to workers; the Secretary of State for Business, Innovation and Skills, Vince Cable has recently stated that, "we cannot go on forever in a low pay and low productivity world," and stated he expects the LPC to increase the minimum wage so it regains this lost value³. In this context, continued hand-wringing on young people's pay by the LPC is no longer an option, and it should be of the utmost priority for the LPC to ensure younger workers see a substantial increase in their NMW rates.

This response examines three key issues for our members: the age differentials in the minimum wage rates, the apprenticeship rate, and the position of interns. Our recommendations are summarised below.

Recommendations

1. That the Low Pay Commission recommends to Government the equalisation of the National Minimum Wage so all workers, including apprentices and regardless of age, receive the same rate and that rate is set at the adult rate.
2. That the LPC recommend the adult rate of the NMW be set at the Living Wage rate (presently £8.55ph in London and £7.45ph elsewhere)
3. That the LPC should continue to recommend strong action is taken to enforce minimum wage rules around internships and unpaid work experience, to avoid further exploitation of young workers.

¹ www.independent.co.uk/news/uk/politics/future-labour-government-could-encourage-introduction-of-living-wage-8113767.html

² www.theguardian.com/society/2012/nov/05/living-wage-adopted-government-boris

³ www.theguardian.com/politics/2013/sep/13/liberal-democrats-push-minimum-wage-increase

Age differentials

We remain strongly critical of the decision to maintain differential age rates for younger workers. As the LPC is aware, and we have reiterated over many years this is legal only because of a specific exemption to age discrimination legislation, but codified discrimination remains discrimination – both immoral and, in our view, unjustified.

Moreover, thanks to the deplorable decision of the LPC to recommend a lower increase of the two rates for younger workers (following on from a freeze in 2012 and a lower increase in 2011) this gap has widened still further. This increases the economic challenges young workers face, reinforces negative attitudes to younger workers by employers.

This is an issue of that our members feel strongly about, and which has great relevance to them: the majority of full-time students balance their studies with part-time employment. As we have noted in the past, whilst estimates vary a substantial proportion of full-time learners in further and higher education have a part-time job.

Wider government policy has made reliance on such part-time employment all the greater. Cuts to funding in further education, including the abolition of the Education Maintenance Allowance (EMA) in England mean fewer young people now receive support. Student loan and grant rates in higher education in England have not kept pace with inflation and in many cases have been frozen for several years. The picture is more mixed in the devolved nations but pressures exist in these parts of the UK too.

The shrinking low-skill job market that has been exacerbated by the recent economic downturn means that student workers find it difficult to refuse longer hours, even where they are concerned about the impact it may have on their education. Moreover, we know that longer hours have a negative impact on attainment: for a student working 16 hours per week the odds of attaining a 2:1 degree or

higher were about 60% of those for a similar non-working student.

Nevertheless, many students work substantial numbers of hours, as they have no other choice. We know from recent NUS research that those from neighbourhoods with low participation in HE (a proxy for deprivation) are more likely to work in excess of 16 hours⁴

Those that work are also less likely to work in sectors with trade union representation – only 4 per cent of 18-25 year olds were trade union members in 2005⁵, making it more difficult to challenge employers where required.

Policy decisions relating to education funding are of course out of the control of the LPC. However, it is failing young people by maintaining age differentials and exacerbating the economic difficulties younger workers face, and requiring them to work longer hours to make the same income as older workers.

The LPC seeks to justify its decisions through claims that employment opportunities would be negatively affected by an equal rate and that younger workers are less productive than their older counterparts. There are also concerns that a higher rate could disincentivise full-time education.

The increased focus on research in these areas are welcome, although in the 2013 report the LPC notes that the data in support of the LPC's current position of differential rates is weak, and in many cases the evidence contradicts their position.

As we have noted in the past the research commissioned by the LPC in 2011 and undertaken by Dickerson and McIntosh⁶ found

⁴ The Pound in your Pocket: Measuring the Impact, NUS, 2012

⁵ Labour Force Survey, 2005

⁶ p41, An Investigation Into The Relationship Between Productivity, Earnings And Age In The Early Years Of A Working Life, Dickerson and McIntosh for the Low Pay Commission, 2011

that, "...the relative productivity differences between younger workers aged 16-21 and older workers are smaller in the post-NMW period..." and that, "...[o]ne possible explanation is the NMW can be viewed as an efficiency wage, motivating the effort response of workers."

Just as was the case for the older counterparts, younger workers become more productive when their wages increase. The follow-up report for 2012 showed that the statistical evidence between young workers and productivity is weak, with their conclusion being that as best as can be stated younger workers showed greater productivity increases in the immediate pre-recession period, only for these to fall back during the recession. They include a table which demonstrates the increase in wages for younger groups is much lower during the recession than for their older counterparts⁷.

Both reports therefore can be read that any lack of or fall in productivity may in fact be *caused* by their lower wages, as younger workers are less motivated. It can be argued then that the NMW age differentials may be the reason for lower productivity, rather than this being the justification for a lower rate, and lower increases since the recession have reduced productivity. A worker who knows they are paid less than a co-worker doing the same job for no other reason than age is perhaps less likely to be motivated.

This evidence is further substantiated by research conducted by Queen Mary's University on the merits of paying the Living Wage⁸. The research identified two key findings relating to increased productivity; that companies paying the Living Wage saw improvements in the stability, attitudes and characteristics of workers, and that over half of those in Living Wage workplaces felt more positive and more loyal about their employment after it was introduced, resulting in a 25% drop in staff turnover.

⁷ Figure 1, A Further Investigation Into The Relationship Between Productivity, Earnings And Age In The Early Years Of A Working Life, Dickerson and McIntosh for the Low Pay Commission, 2012

⁸ <http://www.geog.qmul.ac.uk/livingwage/pdf/Livingwagecostsandbenefits.pdf>

There are other potential causes, as Dickerson and McIntosh discuss, including the increase in those undertaking full-time education. It can also be argued – and is – that younger workers require greater training from their employers and this explains lower productivity and justifies a lower NMW rate (as in effect this is made up by the investment in training). We asked last year for the LPC to commission research to determine how much those paying the lowest rates do in fact invest in such training and their younger workers. It has not done so and we recommend this again.

We do not believe that, even if the evidence were to show they do – and, sadly, we doubt it would – it would justify a lower rate as good employers should invest in their staff regardless. However, it is important to understand whether employers are being truthful in their assertions, particularly in the light of BIS research which showed 20 per cent of apprentices do not receive on-the-job training, where evidently there is a requirement for that to occur, and follow up research which said the "key factor" is "lack of interest and support from employers." In other words, the justification for the lower rates for young people is based on a spurious justification and is in fact a simple licence to exploit younger workers.

It remains that even were training provided, or even if productivity was lower, such blatant discrimination against younger workers, even if sanctioned by law, simply cannot be justified if the same principles cannot be applied to other groups. Even were it legal, the LPC would (rightly) never contemplate lower wage rates for disabled workers or ethnic minority groups, despite some such groups having higher unemployment rates. It should be equally unacceptable for the LPC to endorse such discrimination against young people.

This is a position many of the leading companies in the UK have taken – as has been noted in previous research for the LPC, large employers such as Tesco, Asda, Waitrose, Marks and Spencer and TK Maxx do not have

lower rates for younger workers⁹. The logic they applied should extend to all companies operating in the UK.

Many others pay the full adult rate at 18, and only have lower rates for 16 and 17 year old workers. Another area for future LPC research which we suggest once more might be *why* they have chosen these policies as opposed to offering lower rates for younger workers.

As for employment rates, we have noted above that the youth unemployment rate has remained more or less static for two years. In the absence of further data it is not possible to determine whether minimum wage policy has had any effect on employment at all.

A further report showed that the introduction of a 16-17 year old rate of the NMW has had no impact on young people's decision-making between work and education¹⁰. Indeed, the authors of this study say their evidence, "provides reassurance that recent increases in the NMW (as well as future increases) are unlikely to unduly influence the choices that young people make as they transition out of education and into the labour market."¹¹

We are also conducting our own research this year into young people and the labour market, which we will use to inform our response in 2014.

In the meantime we continue to believe the justifications provided for lower wages for younger workers are based on either inconclusive evidence or inaccurate assertions. We believe the LPC should recommend equalisation of minimum wage rates so that all workers aged 16 or over are entitled to the current rate for those aged 21 and over.

⁹ An examination of the trend in earnings growth for young workers, Incomes Data Service for the Low Pay Commission, 2012

¹⁰ The impact of the minimum wage regime on the education and labour market choices of young people: a report to the Low Pay Commission, Crawford et al for the Low Pay Commission, 2011

¹¹ p4, *ibid*.

Apprenticeships

As an overarching principle NUS believes that it remains wholly unacceptable that the apprenticeship rate is so low, £2.65 an hour in 2012/13 (£2.68ph from October 2013), and it should be equal with the adult rate. Older apprentices do of course move on to this rate after the first year, demonstrating that it is possible to do so. For all of the reasons we outline in the previous section it is discriminatory to have a different policy for younger apprentices who undertake the same work.

In fact, the equality issues are all the more stark for apprentices: women workers are much more likely to be in those apprenticeships (hairdressing, social care) that pay at the minimum wage, whilst men dominate in better paid sectors such as engineering. The apprenticeship rate entrenches gender inequality by allowing those sectors to pay their female apprentices such a small amount and does nothing to alleviate poverty.

In this context it is all the more shocking that such high proportions of apprentices are not paid at the apprenticeship rate, with more than 70 per cent of hairdressing apprentices and two fifths of construction apprentices paid less in 2012 – worse figures than a year earlier. In the LPC's own report it states there may be a 'culture of non-compliance' in relation to hairdressing in particular.

Whilst we appreciate the LPC has recommended more concerted action we believe this will take time to change any such culture and the LPC will need to continue to place an emphasis on strict enforcement and public identification of those employers who are failing to comply with the law.

Even where apprentices are paid the correct rate they may not be receiving the training that ostensibly justifies their lower pay: 20 per cent said they received neither on- or off-the-job training, and BIS research suggests this the "key factor" is "lack of interest and support

from employers," suggesting that in some cases employers are employing apprentices so they can pay this worker less without ever wishing to invest in training, an analogous situation to those employing 'internships' which they believe do not attract any wage at all – indeed such exploitation was reported by learners interviewed¹².

Most shocking of all was the fact that the BIS research found so many of these apprentices were resigned to lower pay and exploitation as this was what they expected from the sector in which they worked or because they felt helpless to change their situation. The LPC has a moral imperative to improve the situation of such workers, both through increasing the minimum wage rate for apprentices and by continuing to recommend stricter enforcement.

Finally, the 2013/14 academic year will be the first in which adult learners aged 24 or over will have to pay to undertake a higher-level apprenticeship in England, at the cost of perhaps several thousand pounds. This will have the effect of reducing the number of apprenticeships being undertaken by adults over 24: as matters stand very few have actually applied for the new loans to cover the costs. Whilst the principle of charging individuals to work is wrong and this policy should be reversed, it is all the more outrageous that such apprentices may also be paid such a piteously low wage for the first year of service.

We therefore recommend that the apprenticeship NMW rate be equal to the adult rate for all and at all stages in the apprenticeship, and rigorously enforced with employers.

¹² Apprentices Pay, Training and Working Hours: a follow up to BIS Research Paper 64, BIS, 2013

Internships

NUS continues to support the LPC's position on internships and the minimum wage as outlined in successive reports, and its rejection of any different set of rules for those undertaking internships and other forms of unpaid work experience.

It is greatly concerning that despite the LPC's view the problem of exploitation of internships

and illegal advertisement of jobs as internships is not improving, and that the guidance is even less accessible than it was. BIS must redouble its efforts.

We therefore welcome the LPC's statement that the law relating to the NMW and internships should be rigorously enforced, and we would be happy to further discuss with BIS how we can assist with providing information to young and vulnerable workers on their rights in this area and how to report potential breaches of the law if necessary.

Contacts

For more information please contact:

David Malcolm
Head of Social Policy
david.malcolm@nus.org.uk

Dom Anderson
Vice President (Society and Citizenship)
dom.anderson@nus.org.uk

Macadam House
275 Gray's Inn Road
London WC1X 8QB
t 0845 5210 262
f 020 7380 0794
e nusuk@nus.org.uk
www.nus.org.uk