

NATIONAL MINIMUM WAGE CONSULTATION FOR 2014 REPORT

PCS Submission

PCS represents over 266,000 members in the civil and public services including core civil service, those in public bodies and staff in private companies delivering public services. Many of those members have been the subject of a transfer to private employers or are at risk of future privatisations. In many of those cases wages are very low and some of our members are on the national minimum wage and Living Wage. PCS also represents workers in the Minimum Wage Enforcement Team who have contributed to this response.

QUESTIONS FOR LOW PAY COMMISSION CONSULTATION – 2014 REPORT

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

Surveys show business confidence has improved, output is going up but how will this help people on the national minimum wage? Experience suggests growth is necessary but not sufficient for improving living standards. Adjusting for inflation, median pay peaked at £24,600 in 2005. Now it is the lowest for 16 years at £21,300. The Resolution Foundation's new report 'Low Pay Britain 2013' shows that the number of people earning less than the 'living wage' increased from 3.3 million in 2006 to 4.8 million in 2012. Vince Cable, Secretary of State for Business Investment and Skills (BIS), Business Secretary said recently that the minimum wage should be restored to its real value. He said it had fallen between 10%-12% and was the same value as 2004. PCS agree that it should be increased to a realistic level of £8.25per hour. This is a decent increase from current levels but could be enough to make a real difference to the very low paid.

Wage growth is vital for the economy to prosper. The current 'recovery' has coincided with a significant drop in the household savings ratio and rising personal debt. It is therefore not sustainable at a time of the longest period of real income decline since the 1870s. Studying the starting pay for people entering or re-entering the workforce in 2013, the Resolution Foundation research showed it is 50p per hour less than before the financial crash. PCS opposes this government's austerity measures because they have pushed an extra million people into poverty, and many more nearer the breadline. The government's policies have stifled growth and caused real damage to the economy. We believe the only sustainable recovery must be wage-led, and that necessitates a significant increase in the minimum wage.

PCS represents workers for whom the economic recovery has not happened. They are on very low pay in times of increasing cost of living and are waiting for the increase to the NMW in October. We take phone calls from members who are desperate for the October increase and this still will not make the difference they need to ensure decent living standards.

- **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))?**

PCS members on the NMW who contact the union are generally women in unskilled jobs. This is backed up by statistics which show 25% of all women workers earn less than the living wage as do more than half of those in 'elementary occupations'. These women often work part-time with 40% earning less than the 'living wage'.

There is a wealth of statistical data from official sources and specific research that shows the problems of low pay are real and although the NMW has at least curtailed some of the problem it still needs to be set at a realistic level, and with resources put into enforcement..

Increasing the state pension age will mean growing numbers of older people will be looking for work that will impact on the job market and that subsequently on employers' pay rates. We note that there is already a high level of underemployment.

Zero hours contracts can equate or even be less than the NMW because of the variable number of hours offered, unpaid travel time and national insurance which is sometimes avoided.

The NMW needs to be looked at in the context of these issues rather than in isolation.

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

The national minimum wage with age divisions has meant some jobs are now only for certain rates. For example once a sports centre lifeguard hits their 21st birthday, they are dismissed and a younger person on the lower rate is appointed. The adult rate is too low and the age rates are underpinned by assumptions about work rates of youngsters and about employers' perceived needs rather than the financial needs of young people. At 16 a young person can marry, at 17 drive a car, at 18 vote, yet are not able to earn enough to leave home. The apprentice rate compounds this. The raising of the age young people can leave education and training in 2014 makes a mockery of the 16/17 rate for anything other than part time jobs. The age rates have had their time. Employers should not need to be enticed to employ a teenager by paying a lower rate particularly when the adult rate is so low. The age rates were seen as training rates but that is not applicable when education and training has changed so much.

Mixed messages are sent to youngsters in work or applying for work. The rules around the later leaving age have not been explained. It is already easier for employers to get around paying anything at all, with young people desperate for jobs

willing to do 'internships', 'work placements' and 'work experience' for free. Increasing university costs frightens them away from higher education and leaves a generation underemployed.

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

PCS calls for a substantial increase in the apprenticeship rate. This rate was initially set at the lowest rate commonly paid, and if some employers have failed to note the increases we do not think this is a good reason to refuse to consider rewarding apprentices fairly.

The apprentice rate is less than the age rates and means in reality most jobs for young people are 'apprenticeships' and those over 21 who want a genuine 'apprenticeship' and normally would qualify for the adult rate get excluded on the grounds of cost. This is not helpful to either young people or more mature people trying to re-train or train for the first time.

PCS would want to see a genuine move to pay a rate for people training that reflects what they do and to consider how it relates to the NMW rates.

- **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?**

PCS opposes any increase in the accommodation off-set. On the contrary we consider it should be abolished, as this is more in keeping with the simple concept of a national minimum wage known and understood by all to which there are no exceptions.

Where employers have a business need to bring in workers from a long way from the place of work then they should bear the cost of that rather than being able to pass the accommodation costs on to the workers.

- **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)?**

The amount spent on enforcement has not changed for several years now, apart from the cutting of several hundreds of thousands of pounds that had been provided by DCLG for the dynamic response team. We consider it is time to consider a substantial increase in funding.

The NMW enforcement teams in HMRC will be facing some new challenges and an increase in their workload. They will be taking in enforcement in the agricultural

sector. While this is not a huge part of the economy (perhaps 1%) it has much more significance for this work because of the prevalence of wage rates at or below NMW in this sector.

Romanians and Bulgarians will have the right to be employed in the UK from 1/1/2014. There is plenty of evidence that many of those who wish to work here have already arrived, as they are allowed to come here and trade as self-employed businessmen but not to work as employees. As a result large numbers are employed on bogus self-employment contracts, often alongside A8 nationals doing the same work who are treated as employees. As supposedly self-employed people they are not entitled to minimum wage, and are often not paid it.

The enforcement agency is not currently challenging these arrangements as any attempt to secure arrears of NMW for these workers could not be defended at an Employment Tribunal, because the Tribunal would consider they were working illegally and therefore did not have an enforceable contract. Employers will be tempted to continue to underpay these workers after 1/1/2014, and the enforcement agency will need to challenge them. While the bogus self-employment arrangements are unlikely to stand up to legal scrutiny it will still take a lot of work to win Tribunals.

Enforcement staff from the Employment Agency Standards Inspectorate (EASI) in BIS are transferring to HMRC. We consider that the work they do enforcing the Conduct Regulations is crucial, and indeed much of it is necessary if the UK is to fulfil its obligations under European law. While the funding of NMW enforcement by HMRC has been frozen, that for EASI has been ruthlessly cut. There are now only 11 staff, where there had been 31 staff two years ago and more than this previously, when they struggled to cover the increasing numbers of agencies. There are no Inspectors between Newcastle and Bury St Edmunds, or Bury St Edmunds and Exeter. We believe HMRC needs additional funding to cover this work.

Although workers have an alternative means of pursuing minimum wage by applying to a Tribunal themselves, with the imposition of fees for applications to Employment Tribunals we anticipate that the workers who might have taken this route will approach HMRC instead, generating additional work.

The imposition of fees for Employment Tribunals will make it disproportionately expensive for workers to pursue the underpayment or failure to pay holiday pay. PCS has argued that that Enforcement Officers are frustrated when HMRC finds an underpayment of holiday pay virtually every time they find an underpayment of NMW, yet can do nothing about it. Indeed they have to laboriously exclude weeks or months when the underpayment arises from holiday pay rather than NMW from their calculation.

The worker is still left the stress of a time consuming and expensive Tribunal to secure justice in respect of holiday pay. This situation will be more difficult and PCS urges serious consideration of the ability of HMRC to enforce holiday pay rights alongside minimum wage. There is a strong correlation between employers that underpay NMW and employers that fail to pay holiday pay at all.

We would welcome more prosecutions for NMW offences, but would caution that this should not be at the expense of the enforcement agency working on securing arrears for workers. We recommend that priority is given to prosecuting employers with insufficient records for NMW purposes where this is preventing the calculation of the arrears of NMW due to workers.

We welcome the move to name and shame more employers for NMW underpayment and to remove the restrictive criteria. However we should point out that the reason only one employer was named on the old criteria was not because there were no more that could have been. HMRC did in fact put employers forward and the bottleneck was caused by cuts to the number of civil servants working in BIS. That Department was cut extensively and it did not have sufficient staff to consider which employers should be named. Unless this funding is addressed the new naming scheme will run into similar problems.

- **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)?**

We believe there should be a single adult rate of 8.25 per hour, a genuine considered realistic apprentice rate, and the accommodation offset abolished.

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

PCS considers that for a 'living wage' proposal to have a positive impact it must be enforced, and this should be entrusted to an enlarged HMRC compliance operation. It would be possible to legislate for a Living wage for workers who are funded from the exchequer, both public sector workers and those providing public services, working for employers on outsourced and privatised contracts.

Labour providers and employment agencies could be required to pay a living wage. This measure would immediately lift living standards for many workers and their families. It would help those who earn too little for the 'conditionality threshold' to be met for universal credit. At the moment the wage level is too low and will mean that workers in the benefit offices (who themselves receive benefits) will be telling those on the minimum wage to find jobs that earn more or lose benefits. The interaction between the minimum wage and in-work benefits needs to be unpacked and tackled.

A living wage would generate significant benefits for government, through increased employee and employer tax contributions, and reduced entitlements to means-tested in-work benefits such as tax credit and housing benefit.