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CONSULTATION ON APRIL 2021 NATIONAL MINIMUM WAGE RATES

DEADLINE FOR SUBMISSIONS: THURSDAY 4 JUNE 2020

The Low Pay Commission (LPC) is the independent body that advises the Government on the level of the minimum wage. We have been asked to recommend in October of this year the National Minimum Wage (NMW) and National Living Wage (NLW) rates to apply from April 2021. All interested parties are invited to submit evidence to our consultation by 4 June 2020.

This year, the increase in the NLW to £8.72 will mean it reaches the target of 60 per cent of median earnings, announced in 2015. The Government has asked the LPC to increase the NLW towards a new target, of two-thirds of median earnings, by 2024, taking economic conditions into account. In addition, following advice from the LPC, the Government intends to move the age threshold for the NLW from its current level of 25, to 23 in 2021 and then to 21 by 2024.

Our recommendation for April 2021 will therefore be the first time we recommend an NLW for those aged 23 and over, and the first step towards the new two-thirds target.

For April 2021, our current central projection for the on-course rate is £9.21, with a likely range of 6 pence above or below this figure. This is based on the latest wage growth forecasts, but actual wage growth may turn out higher or lower, and we will update this range periodically throughout the year based on changing forecasts. Our recommendations are also subject to Commissioners' assessment of economic conditions.

What we would like evidence on

For the NLW, we are seeking evidence to advise on our approach to reaching the stated target, including how we should take economic conditions into account – including factors such as the current coronavirus outbreak or changes in the UK's relationship with the European Union. Unlike for other minimum wage rates, in setting a target for the NLW there is some tolerance for job loss.

We are particularly interested in evidence on the following:

- The affordability and effects of an increase in April 2021 to an NLW rate of £9.21. **This is our current central projection for next April's rate, with a likely range of 6 pence above or below this figure.**

- Views on the LPC's remit to 2024, involving a new NLW target of two-thirds of median earnings and lowering the NLW age threshold to 21. **Based on forecasts, our current central projection for the April 2024 NLW rate is £10.69, with a likely range of 30 pence above or below this figure¹.** It is important to note that this projection is based on forecasts of wage growth over the next four years. The NLW in 2024 will depend on how wages actually grow, which in turn will depend on the strength of the economy and the labour market in particular.
- The impact of increases in the NLW since its introduction, including the April 2020 uprating on workers, employers, the labour market and the economy.
- The impact on 23 and 24 year olds of next year's lowering of the NLW age threshold to 23; and the impact on 21 and 22 year olds of the eventual lowering to 21.

For the other NMW rates, affecting workers aged under 23 and apprentices, we are seeking evidence to make recommendations on the basis of raising the pay of as many low-paid workers as possible without damaging their employment prospects.

This year, we are also seeking evidence on specific proposals for changes to the Apprentice Rate. A separate note accompanying this letter sets out the context for our questions on this rate.

Who we would like evidence from

As in past years, we are seeking evidence from the widest possible range of contributors: employers, workers, representatives, experts and the public, with a particular interest in sectors that either account for a lot of minimum wage workers (e.g. retail and hospitality) or where a high proportion of workers are on the minimum wage (e.g. childcare, social care and hair and beauty).

There are several sectors affected by the minimum wage from whom we receive relatively less evidence: this is particularly the case for the security, transport and cleaning and maintenance sectors. It is also the case that a rising NLW will begin to affect sectors which have not previously been considered as minimum wage employers, and we would like to hear evidence from those areas which may be caught by this (for example, the education sector or call centres).

How to submit evidence

Please submit your written consultation responses by e-mail to lpc@lowpay.gov.uk. You can also submit responses by post to the address at the top of this letter.

As part of our consultation, Low Pay Commissioners and secretariat meet stakeholders bilaterally. We are also undertaking a UK-wide programme of visits (see Annex 3 below for locations and dates). Should you be interested in providing evidence via these routes please contact lpc@lowpay.gov.uk.

¹ This range is based on the average forecast error of half a percent between 2016 and 2020. More detail will be available in our 2020 Uprating Report, to be published in early April.

Our policy is to quote consultation responses in our annual report and to list the names of respondents unless they request otherwise. If you do not wish your response to be made public, then please make that clear in your submission. Otherwise, we will assume that by responding to our consultation you have given consent to us publishing your name and content from your submission.

Annex 1

Consultation questions

Please consider the questions below when responding to our consultation.

About you

1. Please provide information about yourself or your organisation. If possible, include details about your location, the occupation or sector you are involved in, your workforce if you are an employer (including number of NMW/NLW workers), and anything else you think is relevant.

Economic outlook

2. What are your views on the economic outlook and business conditions in the UK for the period up to April 2021? We are particularly interested in views on the following:

- Conditions in the specific sector(s) in which you operate, as well as for the economy in general.
- Any factors likely to boost demand, or alternatively that could make conditions more difficult (for example, the impact of the current coronavirus outbreak or changes in the UK's relationship with the European Union).
- The current state of the labour market, recruitment and retention, as well as the potential impact of changes to immigration rules.
- The experience of wage growth and inflation in the last year and forecasts for the next couple of years.

3. Apart from the minimum wage, what other factors affect workers in low-paying sectors and occupations? Among other things, we are interested in evidence and views on:

- The effect on workers of Universal Credit and other rules around benefits and tax.
- The relationship between the minimum wage and weekly income.
- Access to transport and the effects this has on working life.

The National Living Wage

4. What has been the impact of the NLW since April 2016? Our critical interest is in evidence on the NLW's effects on employment, hours and earnings. We are also very interested in the NLW's effects in the following areas:

- Prices and profits
- Productivity
- Pay structures and differentials
- Wider benefits available to workers (including premium pay and non-pay benefits across the workforce)
- Quality of work, including contract types, flexibility and work intensification
- Progression and job moves
- Training

- Investment

5. To what extent has the NLW particularly affected certain occupations or industries, types of firms (small, large etc), regions or groups (for example women, ethnic minorities, migrant workers etc)?

6. The Government has set a new remit for the NLW based on achieving a target of two-thirds of median earnings by 2024. **Based on forecasts, our current central projection for the April 2024 NLW rate is £10.69, with a likely range of 30 pence above and below this figure.** What are your views on this target and on the LPC's approach to this new remit?

7. How will employers respond to the lowering of the NLW age threshold to 23?

8. What factors should we consider in recommending a date for reducing the NLW age threshold to 21?

9. At what level should the NLW be set from April 2021? **Our current central projection for the on-course rate is £9.21, with a likely range of 6 pence above or below this figure.**

Young people

10. What do you think has been the effect of the minimum wage on young people and on their employment prospects?

11. Lowering the NLW age threshold to 23 means the creation of a new 21-22 Year Old Rate, until the NLW age threshold is lowered again to 21.

- What should be our approach to this rate?
- To what extent will employers use the new 21-22 Year Old Rate when it is introduced next year?
- At what level should it be set?

12. At what level should each of the other NMW youth rates (the 18-20 Year Old Rate and the 16-17 Year Old Rate) be set from April 2021?

Apprentices

In our 2019 report, we outlined the high levels of underpayment recorded for apprentices in the 2018-19 Apprentice Pay Survey.

We believe this underpayment is mainly a consequence of employers not paying apprentices for their training hours. For this reason, we think some employers may be overstating the hourly rate they pay apprentices, because they are not taking training hours fully into account. Annex 2 sets this out in more detail.

In our 2019 Report, we looked at the coverage and usage of the Apprentice Rate. Younger apprentices (mainly 16-18 year olds) are more likely to be paid at or near the rate – around one in three are 'covered' by it. Older apprentices (especially those aged 21 or over) are less likely to be so, although many still earn below the relevant NMW rate for their age. In this way, employers still 'use' the rate even where they do not pay at the rate.

13. As set out in the box above and in Annex 2 below, the evidence suggests that underpayment of apprentices is high and unpaid training hours are the central cause of this. What are your views on the extent of this problem and solutions to it?

14. In response to feedback from a range of groups, one of the options we are considering is raising the Apprentice Rate so it aligns with the 16-17 Year Old Rate. The main groups affected by this would be younger apprentices – 16-18 year olds. What would be the effect of this change on the pay, provision and take-up of apprenticeship places, and training volume and quality for those apprentices affected?

15. For older apprentices, the level of the Apprentice Rate is less relevant. But there is evidence that some employers still 'use' the rate by paying their apprentices below the NMW. What effect do the Apprentice Rate and the other NMW rates have on apprenticeships for older (those aged 21 and over) apprentices? Please consider the pay, provision and take-up of apprenticeship places, and training volume and quality.

16. Do you have any additional evidence on the effect of the Apprentice Rate and the impact of recent upratings?

Compliance and enforcement

17. What issues are there with compliance with the minimum wage and what could be done to address these?

18. What comments do you have on HMRC's enforcement work?

19. What are your views on the Accommodation Offset? What difference, if any, have recent increases in the rate made to the provision of accommodation? If a worker in employer-provided accommodation, have the recent sharp increases led to any hardship?

Annex 2

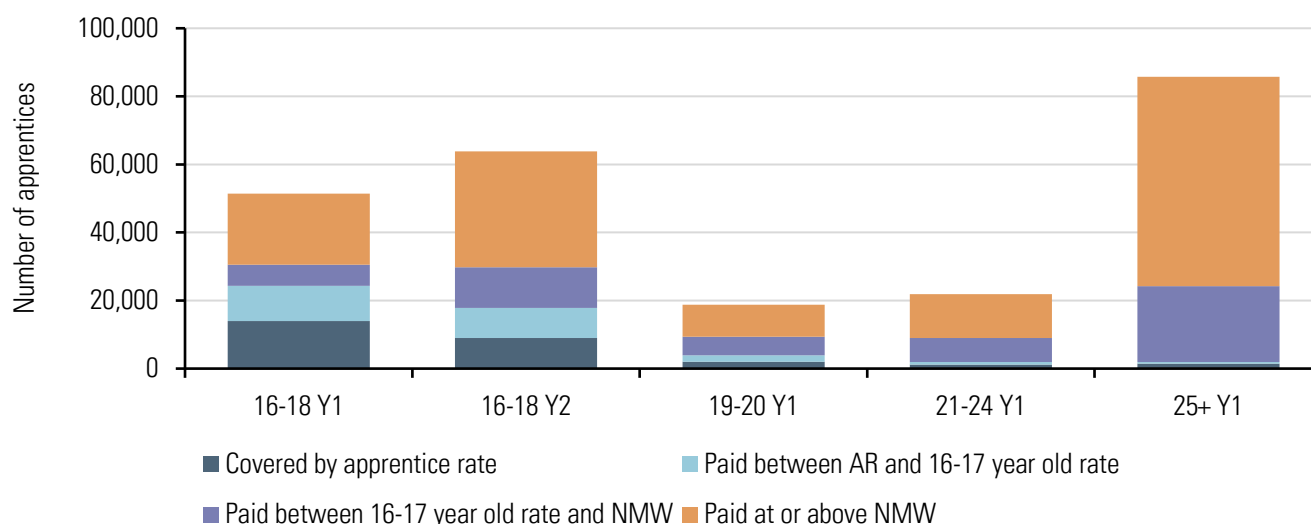
Additional information on the Apprenticeship Rate

The Apprenticeship Rate applies to all apprentices aged under 19 and to those apprentices aged 19 and over in their first year. Apprentices aged 19 and over, from the second year of their course onwards, are entitled to the National Minimum Wage rate for their age. Regardless of their hourly rate, apprentices must be paid for all normal working hours as well as for any training, on or off the job, that is part of the apprenticeship (according to DfE guidance, off-the-job training should make up 20 per cent of an apprentice’s normal working hours).

Coverage of the Apprenticeship Rate is highest for the youngest apprentices, with 36 per cent of 16-18 year olds covered by the rate in their first year and 18 per cent in their second year. These numbers fall steeply for older apprentices, such that only 2 per cent of those aged 25 or older are covered by the rate in their first year. This means that raising the Apprenticeship Rate mainly affects the youngest apprentices; for example, 85 per cent of the apprentices who are paid between the Apprenticeship Rate and the 16-17 year old rate are under 19 years old. This is why we are most interested in the impact of the rate on these younger apprentices.

However, as Figure 1 shows, older apprentices in their first year may still be paid less than the NMW rate for their age group. For example, over 20,000 apprentices aged 25 or older are paid between the apprenticeship rate and the National Living Wage. This is because employers ‘use’ the opportunity to pay apprentices at a discount; it may also reflect the effect of unpaid training hours, which we look at in more detail below.

Figure 1: Coverage and usage of the Apprenticeship Rate, Apprenticeship Pay Survey, GB, 2018



Source: LPC estimates using APS, GB, 2018.

Underpayment of apprentices

In our analysis of the 2018-19 Apprenticeship Pay Survey, we found a high level of apprentices paid less than the NMW rate to which they are entitled – nearly one in five apprentices in the survey report they are underpaid,

and in some age cohorts the number is more like one in three. This is not new; previous surveys have found similar trends.

We believe the critical factor which explains the level and persistence of underpayment is that employers are failing to pay apprentices for some or all of their training hours. In cases where this happens, while employers may state that rates of pay are NMW-compliant, if they do not include all training hours in their calculation, the actual pay the apprentice receives may be lower than their legal entitlement. The examples below set out how this might work.

Examples of non-compliant apprentice pay

The following examples illustrate how non-payment of training hours can lead to non-compliance.

Example 1

An 18 year old enters a level 2 apprenticeship role which the employer advertises as paid at the Apprentice Rate of £3.90 per hour. She spends four days a week in the workplace, working eight hours each day, including both work tasks and on-the-job training. She spends a fifth day receiving off-the-job training at a training provider. At the training provider, she receives six hours of training.

In total, she should be paid for 38 hours each week (thirty-two hours in the workplace and an additional six hours at her training provider). Instead her employer pays only for time in the workplace and disregards the hours of off-the-job training. This means the apprentice receives a weekly wage of £124.80. This equates to an effective hourly wage of £3.28, which is non-compliant.

Example 2

A 30 year old works thirty-seven hours a week in a role where he is paid £9 per hour. He is offered the chance to undertake a two-year level 4 apprenticeship, which involves spending one seven-hour day a week at a local further education college, working a thirty-hour week in the remaining days.

His employer pays only for hours spent in the workplace and disregards the hours spent in college. In the first year of his apprenticeship, he receives £270 each week. This means his effective hourly rate is £7.30. His pay is compliant with minimum wage rules, as this is above the Apprentice Rate of £3.90.

In the second year of his apprenticeship, his hourly pay increases to £10 and he continues to work and study for the same number hours. His employer continues to pay for hours in the workplace only, and he receives £300 each week. This equates to an effective hourly rate of £8.11, less than the National Living Wage to which he is entitled. His pay is now non-compliant.

Our [2019 Report](#) sets out the evidence for this hypothesis in greater detail.

Annex 3

Low Pay Commission visits 2020

As in previous years, we are carrying out a programme of regional visits to hear first-hand evidence on the experience of low pay and the impact of the minimum wage from workers, employers and other affected parties.

Locations and dates of visits are set out below. If you are located in or near one of our destinations, and would like to be involved in a visit, please contact us at lpc@lowpay.gov.uk.

More information is available [on our blog](#).

LPC visits 2020:

- Stoke-on-Trent – 18/19 March
- Belfast – 7/8 April
- Aberystwyth – 13/14 May
- Weymouth and Portland – 3/4 June
- Dunfermline and Fife – 1/2 July
- Sheffield – 5/6 August

