

National Minimum Wage – Low Pay Commission consultation

**National Union of Students
response**

September 2016

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 almost 600 students' unions in both the higher and further education sectors, including apprenticeship providers, and through them we represent around 7 million students across the United Kingdom. Students have a clear interest in NMW policy: the most recent research NUS has carried out into student employment suggests that over two-thirds (68%) of students reported having a weekly job. 31% of those in work reported being paid at the NMW for their age, whilst 3% reported being paid less than the NMW.

Current government policy, at least in England, is that student support should make a contribution to costs, and it may not cover all essential expenditure. In further education in particular, little or no funding is available for full-time students. In that context, part-time (or even full-time) employment alongside study is a necessity to make ends meet, not, as is sometimes assumed, merely an opportunity to generate funds for leisure activities.

In particular, apprenticeships can struggle with very low pay, not only because the apprenticeship rate is set so low, but because there are high levels of non-compliance, especially for those aged 18-20 and in certain occupations. The LPC has previously stated there may be a 'culture of non-compliance' in relation to hairdressing in particular. The forthcoming Apprenticeship Pay Survey 2016 should shed further light on this issue, but it is clear that this remains a major problem.

The Low Pay Commission must make its recommendations in light of these considerations, and we hope our evidence will

help in this process. Our evidence this year looks at two main areas: the age and apprenticeship differentials and compliance.

Age and apprenticeship differentials

It has been NUS policy over many years that the National Minimum Wage should be equal for all ages and for those undertaking apprenticeships. The new 'national living wage' (NLW) for those aged 25 and over, which was introduced earlier this year, has introduced a new differential, and has made the relative position of the others even worse. The apprenticeship minimum wage is now less than 50 per cent of the NLW rate, with the potential for perverse consequences as noted in the LPC's report, of employers rebranding jobs as "apprenticeships" or of non-compliance with NMW law¹.

The introduction of the NLW was predicated on the Government's ambition to "increase the real value of the National Minimum Wage" and an acknowledgment in its July budget that the minimum wage must reflect the actual cost of living, which the adult rate of the NMW fails to do – to say nothing of the other rates. Yet the age differential at 25 serves only to entrench discrimination for young people in the minimum wage arrangements, just as social security benefits for young people and student support face significant cuts. It may be politically acceptable to pay young workers a lower wage, but it is only legally so because of a specific exemption to age discrimination legislation and we believe this is being further exploited through the new rates. Such discrimination may be presented as being 'helpful' to young workers – but were this any other group with a protected characteristic but lower employment rates than the average it would be considered ridiculous to have an overt lower wage rate (let alone three different rates), and it should not be any more acceptable for young people. They have as much a right and a need for a living income as any other citizen group.

¹ pp282-3, *National Minimum Wage: Low Pay Commission Report Spring 2016*, Low Pay Commission, 2016

Sadly, although it is not the intention, there are significant equality issues caused by the low pay rates for apprenticeships: 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 general, that the apprenticeship rate is so low that it creates real hardship amongst apprentices. In our recent report, *Forget Me Not*, we outline in some detail the financial struggles of apprentices on the current apprentice minimum wage², including reliance on commercial credit. Other NUS research³ indicates that almost a half of apprentices are making choices about what apprenticeship to do based on what they can afford to get to, not on the basis of any information advice and guidance they might have received or their own career aspirations.

Certain employers will soon receive allocations from funds collected via the new apprenticeship levy. NUS believes that they should use some of these funds to top up the wages of the lowest paid apprentices. Given the reluctance of many to pay more than the minimum the levy policy may give the LPC some leeway to be far more ambitious in its recommended increase.

The LPC must close the yawning gaps between the different rates. It should be of the utmost priority to ensure younger workers and apprentices see a substantial increase in their NMW rates. Moreover, the new 'national living wage' rate is set too low, and NUS believe that a genuine Living Wage should be paid to all.

Compliance

Given the justifications for age and apprenticeship differentials, and the problems

the low rates cause, the need to ensure compliance with the law is all the greater. High rates of non-compliance are particularly associated with apprenticeships and internships, and continued action to understand and address this problem is essential.

The 2015 research⁴ commissioned by the LPC into apprenticeship minimum wage compliance suggests that some of the data reporting is flawed and our picture of this situation may be inaccurate. We hope that this can be corrected in the 2016 *Apprenticeship Pay Survey*, but the data we have still suggests much higher non-compliance for younger workers and in certain sectors.

It is also clear that tackling non-compliance is not simply a matter of ensuring employers set their hourly pay rates at the minimum or more, but in addition on ensuring their understanding certain nuances such as the fact tips should not be used to top up pay to the minimum rate, or the treatment of 'off-the-job' training hours. Employer ignorance is no excuse but while 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 (and we welcome the instances where this has occurred), education employers will also be crucial.

The quality of apprenticeship programmes is equally important. 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

² [Forget Me Not](#), NUS, 2015.

³ [Travel survey](#), National Society of Apprentices/NUS, 2014.

⁴ *The measurement of apprentice pay: Final report to the Low Pay Commission*, Drew, Ritchie and Veliziotis, 2015

any wage at all – indeed such exploitation was reported by learners interviewed⁵.

Internships themselves remain a concern in relation to minimum wage compliance: the research by London Economics commissioned by the LPC and published in 2015⁶ suggests 13-16 per cent of internships which should qualify for the NMW are non-compliant, and so clearly work remains to address compliance and employer understanding.

Summary of recommendations

Given the evidence set out above, our recommendations are:

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 national living wage rate.

2. That the LPC the national living wage be set at those rates defined as a true living wage by the Living Wage Foundation (presently £9.40ph in London and £8.25ph elsewhere).

3. That the LPC should continue to recommend strong action is taken to enforce minimum wage rules around apprenticeships, internships and unpaid work experience, to avoid further exploitation of young workers.

⁵ *Apprentices Pay, Training and Working Hours: a follow up to BIS Research Paper 64*, BIS, 2013

⁶ *The impact of the minimum wage on young people*, London Economics, 2015

Contacts

NUS would be very happy to discuss our response further with the Commission. In the first instance please contact:

Shakira Martin

Vice President Further Education

shakira.martin@nus.org.uk

Rob Young

Vice President Society and Citizenship

rob.young@nus.org.uk

David Malcolm

Assistant Director

david.malcolm@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