UNISON evidence to the Low Pay Commission on minimum wage rates for 2023

June 2022

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INTRODUCTION

As one of the largest trade unions in the UK, UNISON represents in excess of 1.3 million members working across the public services. Our members are employed directly by public sector organisations, by private contractors and community / voluntary organisations engaged in providing public services, and by utility companies.

UNISON represents workers in local government, the health service, social care, schools, universities, further education and sixth form colleges, police and probation services, water and energy companies, environment agencies and transport.

With such a large and wide-ranging set of employees amongst our membership, three-quarters of whom are women, we are well placed to comment on the experiences of workers at the sharp end of low pay.

The evidence that we present in this document sets out our key recommendation for the commission to consider and an executive summary of our analysis. Subsequent chapters go on to consider in greater detail the economic context for increases in the National Minimum Wage, the latest trends affecting low-paid workers, the specific experience of our members in the public services and the enforcement issues in application of the National Minimum Wage.

1. SUMMARY OF RECOMMENDATIONS

UNISON believes that the goal for National Minimum Wage policy in the UK should be as follows:

- Raise the National Minimum Wage to the level of the UK Living Wage announced annually by the Living Wage Foundation and rapidly close on a target of £15 an hour;
- Harmonise the National Minimum Wage rates into a single rate across all age groups.

In moving toward these targets, UNISON believes that the following recommendations should be carried through:

- The planned steps toward achieving a "national living wage" at two-thirds of average earnings by 2024 should be maintained;
- The April 2023 increase in the minimum wage rates applicable to younger workers should at least build in the 10.2%-15.7% uplift needed in 2022 to restore their value of over a decade ago, in recognition that young workers have taken a bigger hit to their earnings than any other group over the period and that the growing gap with the "national living wage" encourages "substitution" of workers;
- In recognition that the cost of living is at a 40-year high and hitting the lowest paid workers in the UK hardest, an emergency increase in the minimum wage should be made in October 2022 to reduce the hardship faced by minimum wage workers before the annual increase in April 2023.
- In recognition that introducing greater age equality by making workers aged 21 and over eligible for the "national living wage" puts a downward pressure on the average earnings figure against which the wage is calculated, an accompanying reform of gender equality should be made to peg the wage to two-thirds of male median earnings;
- To address the contribution of certain forms of employment contract to the expansion of low pay employment in the UK, the commission should recommend the strengthening of legislation to limit the use of zero hours contracts, to prevent the bogus classification of workers as "self-employed" and to extend the employment rights of "workers." [These recommendations should recognise the devolved nature of employment law in Northern Ireland];
- The commission should call on the government to ensure that additional financial provision is made to fund the projected increase in the "national living wage" for those working in the public services;

- The commission should take the following steps to ensure much more effective enforcement of the National Minimum Wage:
    - Recommend:
        - Changes to commissioning practices that ensure that any opportunities for outsourced care employers to not pay their workforce properly for all their working time are severely limited and that councils are able to gain access to payslips and minimum wage records;
        - HMRC provides detailed guidance for council officers on what steps they can take to effectively review the pay records and payslips of the adult social care employers that they commission and to look for any signs that they may not be minimum wage compliant.
    - Condemn the government's lack of serious action to properly enforce previous calls for regulations to set out the minimum requirements on employers for keeping sufficient NMW records;
    - Demand that changes to the standards of NMW records that must be kept need to be accompanied by active and proactive investigation and prosecutions of non-compliant employers.
    - Take the opportunity offered by the social care White Paper to vocally demand adequately funded legislative reform on sleep-ins so that overnight shifts are counted as working time and all care workers receive at least the minimum wage for all their working hours.
    - Call for an end to allowing social care employers to "self correct" when non-compliance comes to light. Enforcement across the full workforce should be ensured by the intervention of the HMRC. And the HMRC should provide the headline figures on how many social care employers are found to be non-compliant with the minimum wage and how many of them have subsequently been allowed to self-correct.

2. EXECUTIVE SUMMARY

General economic context

Summary

- Economic growth for 2021 outpaced predictions when the Low Pay Commission was last considering evidence and GDP is expected to grow a further 4% in 2022.
- Operating surpluses and dividends paid to shareholders have surged upward to £515bn and £94bn respectively in 2022. Both measures have generally been growing faster than the National Minimum Wage over the last decade.
- The 2021 unemployment rate came in almost 1% lower than forecast when the Low Pay Commission was considering evidence, and forecasts for the 2023 rate put unemployment back at the kinds of levels last consistently experienced in the early to mid 1970s.
- Inflation is at levels not seen in four decades, led by surging energy prices, creating a cost of living crisis across the economy that will impose intense hardship on the lowest paid.
- Forecast average earnings growth in 2022 leaves the increase in the main minimum wage rate lower than the increase in wage costs seen by employers more generally.

Conclusions

- A background of historic lows in unemployment, surging cost of living facing low-paid workers, strong general earnings growth and record employer surpluses offers no reason to veer away from the path needed to achieve two-thirds of average earnings by 2024.
- The commission should draw on previous precedents for recommending higher increases than the 8.6% rise in the highest National Minimum Wage rate needed to stay on course for two-thirds of average earnings in 2023 against a background of higher unemployment across the economy.
- The inbuilt adjustment of the “national living wage” to changes in average earnings already represents a powerful insurance against any changed economic circumstances without further intervention.
- The commission should recognise that the majority of the predicted increase in the 2023 rate would be wiped out by price increases for the poorest paid workers in the UK.
- The factors that drive down women’s wages relative to men’s should be acknowledged by pegging minimum wage increases to male median earnings rather than simply median earnings for all employees.

- The commission has largely held its nerve in sticking to target rates to achieve the historic step forward in reaching 60% and then two-thirds of average earnings, despite the dire predictions that first accompanied the vote for the UK to leave the European Union in 2016 and then the Covid-19 pandemic that struck in 2020. It should continue to adhere to the target rate when low-paid workers need it most, as the inflationary surge sweeps the global economy.

Factors affecting low-income groups

Summary

- Despite the success of the "national living wage" in driving down measures of low pay derived from the hourly rate, wider measures of in-work poverty across the UK have been worsening
- Employers' ability to circumvent higher wages through more exploitative forms of contract appear to have contributed toward this diversion between the different measures.
- The Living Wage continues to see rapid growth in its adoption by employers and is widely seen as a standard benchmark of the wage needed to maintain a basic but decent standard of living.
- The "national living wage" has brought a welcome narrowing of the gap with the Living Wage, but a full-time worker on the "national living wage" still receives almost £800 less per year than a worker on the Living Wage.
- The number of major companies operating in low-pay fields such as catering, cleaning and security that have signed up as Living Wage Service Providers is testimony to a willingness to improve earnings of low-paid staff where a level playing field is in operation.
- The Living Wage has made substantial strides across the public sector's directly employed workforce. Where the "national living wage" does apply in the public sector, it is applied to all staff regardless of age. Only the apprentice rate is utilised as a much lower rate that stands outside of the pay scales.
- By far the largest pool of minimum wage workers operate in privatised parts of public services, with social care and facilities management functions such as catering, cleaning and security forming the dominant slice.
- The "national living wage" has not halted continued employment growth in social care, but the poor state of employment conditions is placing severe strain on the sector's capacity to recruit and retain staff.

Conclusions

- If the Low Pay Commission is to truly address the scale of in-work poverty in the UK, it must make recommendations that both deliver a real living wage and curtail forms of contract that are vulnerable to imposition of inadequate hours to achieve a reasonable standard of living.
- To address the contribution of certain forms of employment contract to the expansion of low pay employment in the UK, the commission should recommend the strengthening of legislation to limit the use of zero hours contract, to prevent the bogus classification of workers as "self-employed" and to extend the employment rights of "workers." These recommendations should recognise the devolved nature of employment law in Northern Ireland.

- Without these measures, there is a danger that the gains of the National Minimum Wage are frittered away by allowing employers to impose contracts that reduce wages through fewer hours.
- The Low Pay Commission should recognise the role of privatisation in driving low pay across the UK's public services and the role a minimum based on a truly Living Wage can play in reducing the incentive for driving down costs on the basis of a low-paid workforce.
- The cost implications of the "national living wage" for public sector employers and their contractors need to be addressed through a specific government funding allocation to meet those costs, as has been demonstrated by Scotland's initiative for social care workers.

Factors affecting young workers and apprentices

Summary

- UNISON's case for bringing the youth rates up to the Living Wage can be summarised as follows:
  - Paying a 21-year-old differently to a 20-year-old for doing exactly the same job is a blatant injustice in the workplace;
  - This injustice costs employers in terms of retention, morale and motivation of young staff;
  - In reality, employers do not apply the youth rate across large swathes of the economy, reflecting concern both with unnecessary complexity and damage to morale and productivity caused by differentiation;
  - Unemployment rates for 18-24-years-olds and 16-17-year-olds have fallen to their lowest levels in many years. In the case of 18-24-year-olds rates haven't been lower in at least 30 years and in the case of 16-17-year-olds, only one period in the last 17 years has seen lower rates;
  - While the real value of the minimum wage for workers aged 21 and over has been maintained over the last decade, inflation has taken major chunks out of the value of rates for younger workers.
- The growth in the cash value of the gap between most of the youth / apprentice rates and the "national living wage" has grown since 2016, increasing the incentive to substitute workers on the full rate.

Conclusions

- The youth and apprentice rates should be brought up to the level of the Living Wage.
- The commission should not allow rates to fall ever further behind the "national living wage," thereby increasing the incentive to violate equality legislation, undermine the full rate and reduce employment of staff on the full minimum wage rate or above.
- Increases to restore the real value of youth rates to their 2009 level are a reasonable minimum target in the short term – 10.2% for 18-20-year-olds and 15.7% for 16-17-year-olds.

Enforcement of the National Minimum Wage

Summary

- Poor-quality commissioning practices from local councils, alongside complete indifference from the government about them, continues to contribute significantly to the widespread problem of non-compliance with the minimum wage in the care sector.
- The Low Pay Commission's and Director of Labour Market Enforcement's previous calls for regulations to set out the minimum requirements on employers for keeping sufficient NMW records have merely resulted in the BEIS making a minor change to its voluntary guidance on Calculating the National Minimum Wage.
- Court rulings are now enabling employers to avoid payment of the NMW for sleep-in shifts and the Low Pay Commission's passive acceptance of this gross injustice has enabled this change to be carried through by quoting a position taken by the commission more than 20 years ago as a justifying argument.
- The "self-correction" system is allowing social care employers to escape full compliance.

Conclusions

- The Low Pay Commission should recommend:
  - Changes to commissioning practices that ensure that any opportunities for outsourced care employers to not pay their workforce properly for all their working time are severely limited and that councils are able to gain access to payslips and minimum wage records.
  - HMRC provides detailed guidance for council officers on what steps they can take to effectively review the pay records and payslips of the adult social care employers that they commission and to look for any signs that they may not be minimum wage compliant.
- The commission should condemn the government's lack of serious action to properly enforce previous calls for regulations to set out the minimum requirements on employers for keeping sufficient NMW records.
- The commission should demand that changes to the standards of NMW records that must be kept need to be accompanied by active and proactive investigation and prosecutions of non-compliant employers.
- The commission should take the opportunity offered by the social care White Paper to vocally demand adequately funded legislative reform on sleep-ins so that overnight shifts are counted as working time and all care workers receive at least the minimum wage for all their working hours.

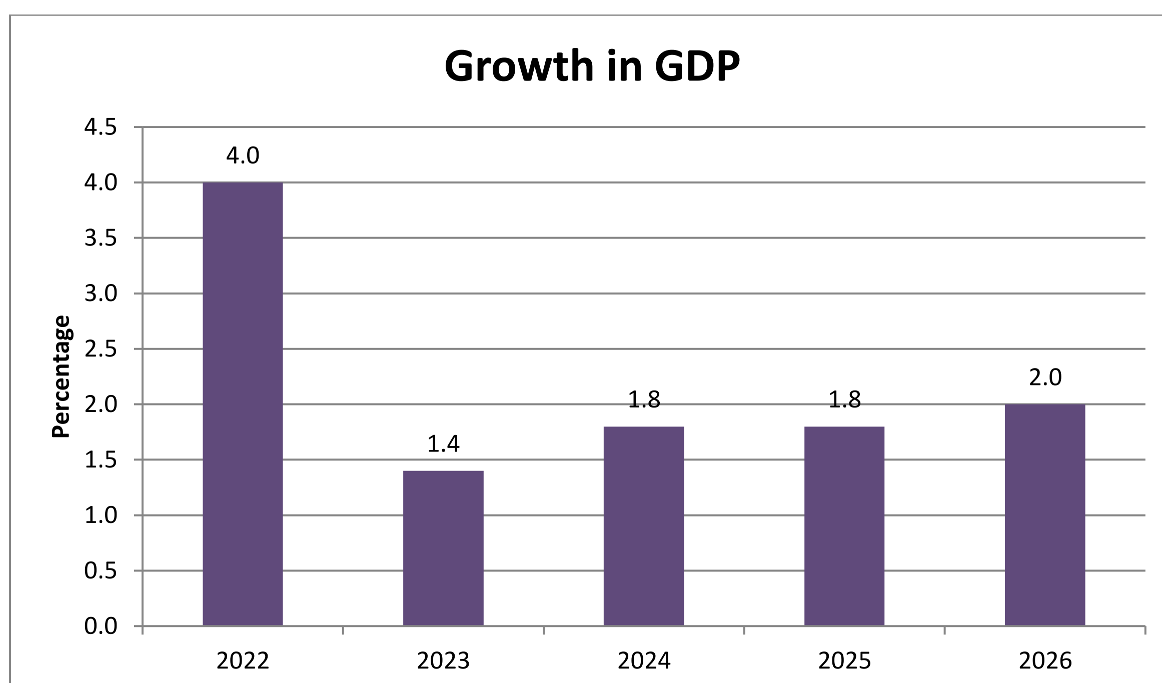
- The commission should recommend that:
    - Social care employers should not be allowed to "self correct" when non-compliance comes to light. Enforcement across the full workforce should be ensured by the intervention of the HMRC (whose investigations would be made easier if improvements are made to regulations around the standards of minimum wage records that must be maintained).
    - The HMRC provides the headline figures of how many social care employers are found to be non-compliant with the minimum wage and how many of them have subsequently been allowed to self-correct.

3. GENERAL ECONOMIC CONTEXT

3.1 Economic growth and surpluses

GDP growth for 2021 surpassed forecasts when the Low Pay Commission was last considering evidence and totalled 7.5% over the year, in the process taking the economy past its pre-pandemic level.

Strong growth of 4% is again expected this year, before falling back to rates more typical of the pre-pandemic decade. The average growth rate predicted between 2023 and 2026 is higher than the average over 2016-19, when the minimum wage was on the path toward 60% of average earnings.



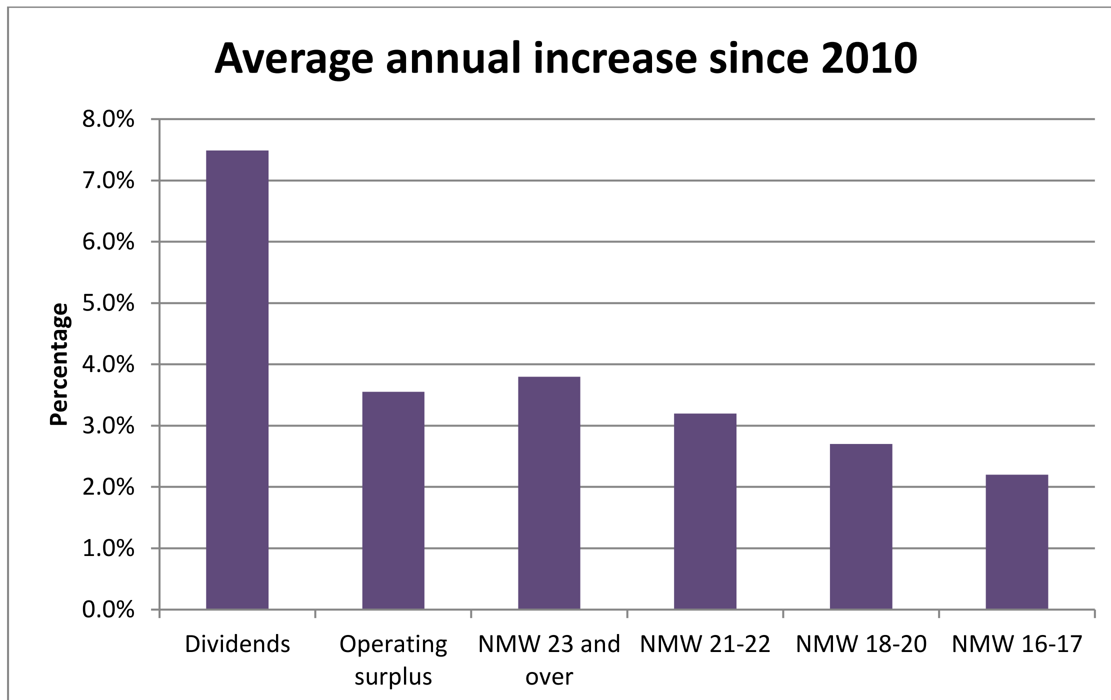
Source: HM Treasury, Forecasts for the UK Economy, May 2022

It should also be noted that, despite the pandemic, operating surpluses across the UK economy rose 5.2% to £515 billion in 2021. After the slight dip in operating surpluses in 2020, that increase restored an upward trend that took operating surpluses to their highest ever level[1].

Dividend payments made to shareholders bounced back dramatically in 2021, growing by almost 50% to £94bn[2]. Only three years in the last decade have seen a higher level of payment to shareholders across the UK.

[1] ONS, GDP first quarterly estimate, UK: October to December 2021, February 2022
[2] Link Group, UK Dividend Monitor, Q4 2021

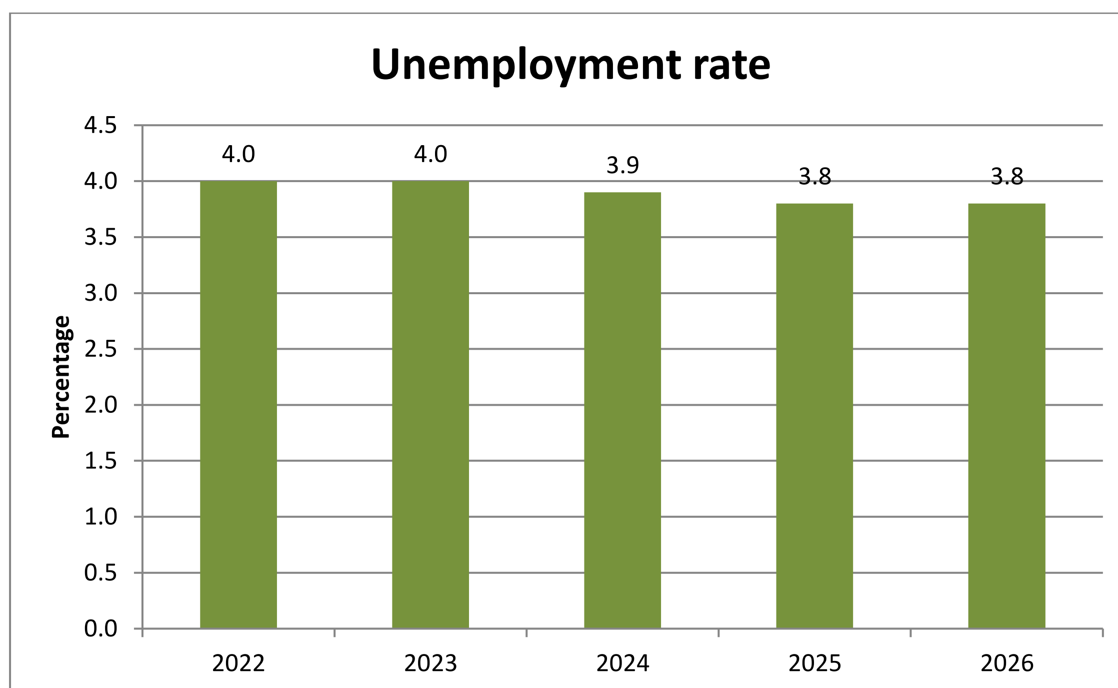
When taking a longer-term view of these benefits drawn by the wealthy, operating surplus increases have shown average rises of 3.6% over the last decade and shareholder dividends have displayed average rises of 7.5%. Average minimum wage rises for the lowest paid workers in the UK over the same period have run at 3.8% for those aged over 23, 3.2% for those aged 21-22, 2.7% for those aged 18-20 and 2.2% for those aged 16-17. Therefore, only the highest minimum wage has seen higher increases than the average growth in operating surpluses and most minimum wage rates have grown at less than half the rate of dividends to shareholders.



3.2 Unemployment rate

The unemployment rate was running at 3.7% in the three months to March 2022 – the lowest rate in over 47 years. This is a dramatic decline on a decade ago, when the rate peaked at 8.5% in 2011, and a substantial recovery on the pandemic high of over 5% in 2020.

The unemployment rate in 2021 came in almost 1% lower than forecast when the Low Pay Commission was last considering evidence, hitting 4.5% over the period. The latest forecasts suggest that unemployment will dip further to average 4% in 2022, before dropping again over subsequent year. The 2023 rate puts unemployment back at the kinds of levels last consistently experienced in the early to mid 1970s.



Source: HM Treasury, Forecasts for the UK Economy, May 2022

Though the predicted 8.6% rise in the highest National Minimum Wage rate to stay on course for two-thirds of average earnings in 2023 is substantial, we believe that it is worth recalling that the commission has set precedents for higher or similar rises against a background of higher unemployment, such as:

- A 10.8% increase in 2001, when the unemployment rate was 5.1%;
- A 7.8% increase in 2004, when the unemployment rate was 4.8%;
- A 7.5% increase in 2016, when the unemployment rate was 4.9%.

Other figures on the availability of work point in a similar direction to the unemployment rate. The Office for National Statistics indicates that the vacancy rate across the economy had bounced back to 4.3% by April 2022 (the highest level in at least two decades).

The number of unemployed people per vacancy fell from 5.8 in 2011 to 1.6 by September 2019, before the pandemic lifted the figure back up to 3.5 by mid 2020. However, recovery has seen the numbers competing for a job drop back even further than pre-pandemic levels to just 1 by March 2022 (the lowest level in more than two decades).

The highest vacancy rate across the economy is in the traditionally low-paid sector of "accommodation and food services," where shortages are reflected in a 7.8% vacancy rate[3].

This trend has been confirmed by a recent Institute of Fiscal Studies report[4] on job opportunities after the pandemic, which found that "we can see a systematic pattern: a shift towards vacancies in lower-skilled and lower-paid occupations."

The acute issues that have been facing the health and social work category are reflected in publications showing that the adult social care sector has a vacancy rate of 8.2% and a turnover rate of 34.4%,[5] while the NHS displayed a vacancy rate of 8.4% in England at December 2021[6].

Almost half of employers (45%) are now report having "hard to fill" vacancies, with public sector employers mostly reporting higher levels than the average – 54% of NHS employers and 49% of education employers report hard to fill vacancies[7].

And the Bank of England Agents' Summary of Business Conditions (Q1 2022) backed up those findings with its report that "recruitment difficulties continued to be intense across almost all sectors and skill levels, with many contacts reporting unusually high rates of job churn and vacancies."

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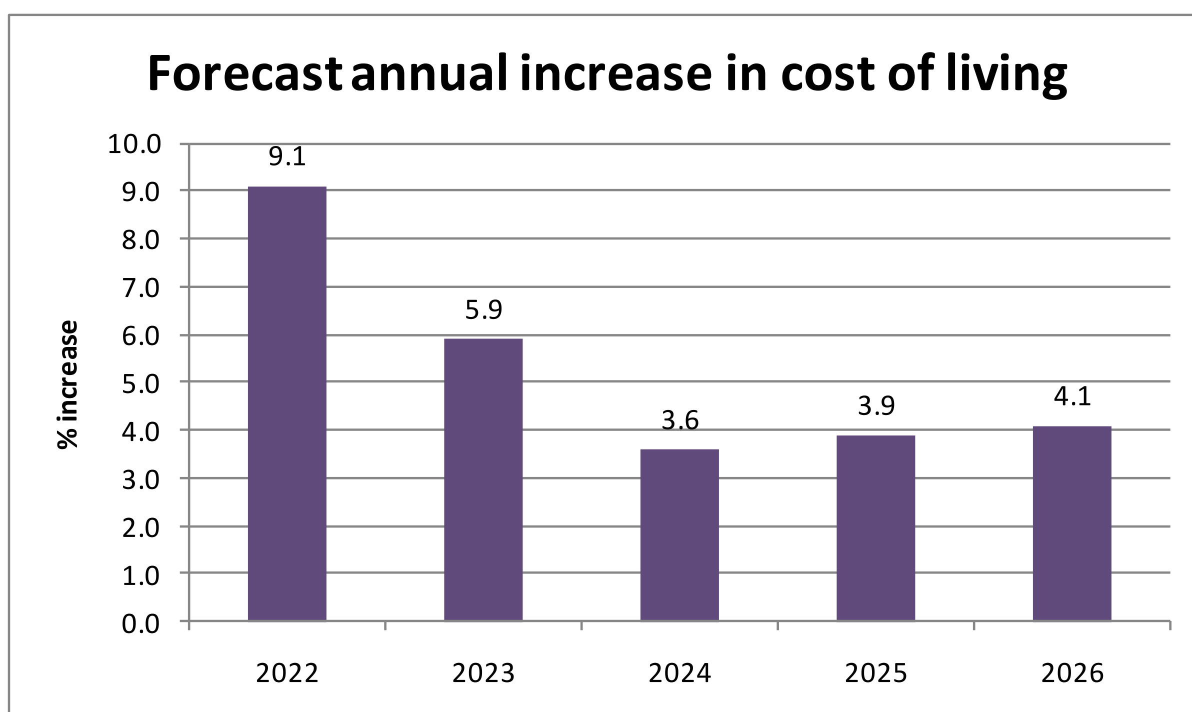
[3] Office for National Statistics, Labour Market Overview, May 2022
[4] IFS, Job Opportunities after the Pandemic, April 2022
[5] Skills for Care, The State of the Adult Social Care Workforce in England, September 2021
[6] NHS Digital, NHS Vacancy Statistics England, March 2022
[7] CIPD, Labour Market Outlook, spring 2022

3.3 The cost of living

In April 2022, inflation (as measured by the Retail Prices Index) hit 11.1% - the highest level in over 40 years.

Despite a 6.6% increase in the highest tier of the minimum wage over 2022, the projected 9.1% increase in the cost of living over the full year will more than wipe out any real increase in the buying power of the UK's lowest paid workers. With the 21-22-year-old rate jumping 9.8% and apprentices by 11.9%, these groups are set to see some real increase. But the 4.1% increase for 16-20-year-olds means a sizeable real terms cut.

Forecasts of the inflation rate beyond this year indicate that the cost of living will be rising at 5.9% in 2023, as per the table below, taking out the majority of the value of the projected 8.6% increase in the highest tier of the minimum wage to stay on track for two-thirds of average earnings.



Source: HM Treasury, Forecasts for the UK Economy, May 2022

The surging cost of living across the economy is being driven by many factors, but among the most significant are these rises:

- A 99% increase in gas bills;
- A 54% increase in electricity bills;
- A 32% increase in petrol prices;
- A 10% rise in both the price of buying a house and rent for a new rental property.

Energy prices escalated sharply in April 2022, when the price cap received an enormous lift and the average bill was expected to increase from £1,277 to around £2,000 a year[8]. And OFGEM have now announced that the cap will increase further to £2,800 in October – a jump of 40% coming on top of the 50% in April, placing an estimated 1.7 million additional homes in fuel poverty (33% of households will be in fuel poverty this winter). The conflict in Ukraine and subsequent sanctions can only push those costs even higher.

Energy and food prices are known to form a larger proportion of expenditure among low-income households and therefore the surge in these costs will take a heavier toll on workers who receive the National Minimum Wage.

Though cushioned by the Spring Statement raising tax thresholds, pay packets will be under further strain from the 1.25% increase to National Insurance contributions that takes effect from 2022/23 and then shifts to a 1.25% Health and Social Care Levy on earnings.

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[8] Resolution Foundation, Higher and Higher, January 2022

Reason for comparing wages to RPI

i) The key arguments

UNISON believes that the Retail Prices Index (RPI) remains the most accurate measure of inflation faced by employees.

The most widely quoted figure for inflation in the media is the Consumer Prices Index (CPI), However, UNISON believes that CPI consistently understates the real level of inflation for the following reasons:

- CPI fails to adequately measure one of the main costs facing most households in the UK – housing. Almost two-thirds of housing in the UK is owner occupied, yet CPI almost entirely excludes the housing costs of people with a mortgage;
- CPI is less targeted on the experiences of the working population than RPI, since CPI covers non-working groups excluded by RPI – most notably pensioner households where 75% of income is derived from state pensions and benefits, the top 4% of households by income and tourists;
- CPI is calculated using a flawed statistical technique that consistently under-estimates the actual cost of living rises faced by employees. The statistical arguments are set out exhaustively in the report "Consumer Prices in the UK" by former Treasury economic adviser Dr Mark Courtney, which is summarised here and covered in full here

  While we do not claim that RPI is perfect, we believe that it is a much better indicator than CPI. Estimates arising from Courtney's analysis suggest that, of the 0.9 percentage point average difference between RPI and CPI inflation over recent years, 0.2 percentage points represented an over-estimation by the RPI, while 0.7 percentage points was down to under-estimation by the CPI.

ii) Widespread opposition to CPI

RPI was the virtually unchallenged measure of UK inflation for almost six decades following the Second World War. However, RPI has been under sustained attack by the UK Statistics Authority (UKSA) for almost a decade, since changes in the collection of clothing price data created a substantial difference in RPI and CPI for this very small element of the overall inflation calculation.

Drawing on the work of economists whose theory offered some support to the UKSA's arguments against RPI, the authority derocognised RPI in its official status as a "national statistic" in 2013. Subsequently, the UKSA developed CPIH as its "most comprehensive measure of inflation" in 2017 (CPIH attempts to introduce housing costs into the CPI measure, though it uses the controversial rental equivalence method, which treats owner occupiers as if they were renting their property).

However, those steps faced overwhelming opposition whenever the UKSA put their proposals out to public consultation. UNISON and the TUC have joined with sympathetic economists in defending RPI. In addition, the Royal Statistical Society has consistently stated that CPI was never intended as a measure of changes in costs facing households.

Rather, it was “designed in the 1990s for macroeconomic purposes” and its purpose is to act “as the principal inflation indicator for the Bank of England in its interest-setting rate role.”

The society sums up its position as follows:

“Why should the typical household accept an inflation index that:

- fails to take account of, or does not track directly, one of their main expenditure items: mortgage payments and other costs of house purchase and renovation;
- gives more weight to the expenditure patterns of wealthier households than of other households;
- fails to take account of interest on loans for a wide variety of purposes, ranging from student loans to loans for car purchase;
- includes the expenditure of foreign tourists in the UK but not their own expenditure outside the UK;
- fails to include council tax.”

In 2019, the UKSA then faced a withering rebuke from the House of Lords Economic Affairs Committee over its handling of RPI, most notably with regard to its failure to fulfil its duty to properly maintain the methodology for calculating RPI. As a result, the committee demanded that, “given RPI remains in widespread use, the authority should stop treating RPI as a legacy measure and resume a programme of periodic methodological improvements.”

And the committee directed a further blow at the credibility of CPIH, stating that it was “not convinced by use of rental equivalence in CPIH to impute owner occupier housing costs.”

iii) The continued use of RPI

Though CPI is the figure quoted almost uniformly across the media when reporting inflation, RPI remains a common reference point for pay negotiations.

And beyond pay bargaining, RPI remains the government’s measure for uprating fuel benefit charges on company cars, air passenger duty, alcohol duty, gaming duty, regulated rail fares, student loan interest rates, tobacco duty and vehicle excise duty.

Across the private sector, it is extensively used wherever charges are made on a rolling contract basis. For instance, RPI uprating can be found among:

- Mobile phone tariffs charged by many major providers - iD mobile, O2, Virgin
- Annual property rental reviews – historically, RPI has been a standard benchmark;
- Annual uprating of private sector pension payments;
- Contracts for ongoing services e.g. RPI is commonplace as the agreed uprating charge under Private Finance Initiative projects.

Some organisations, such as Barnardo's and British Telecom, have pursued high profile court cases to reduce uprating of pension payments to CPI, but have found their arguments rejected. BT pursued its claim on the basis that RPI had become an "inappropriate measure" but the courts refused to accept that RPI was inappropriate for the purpose of the scheme.

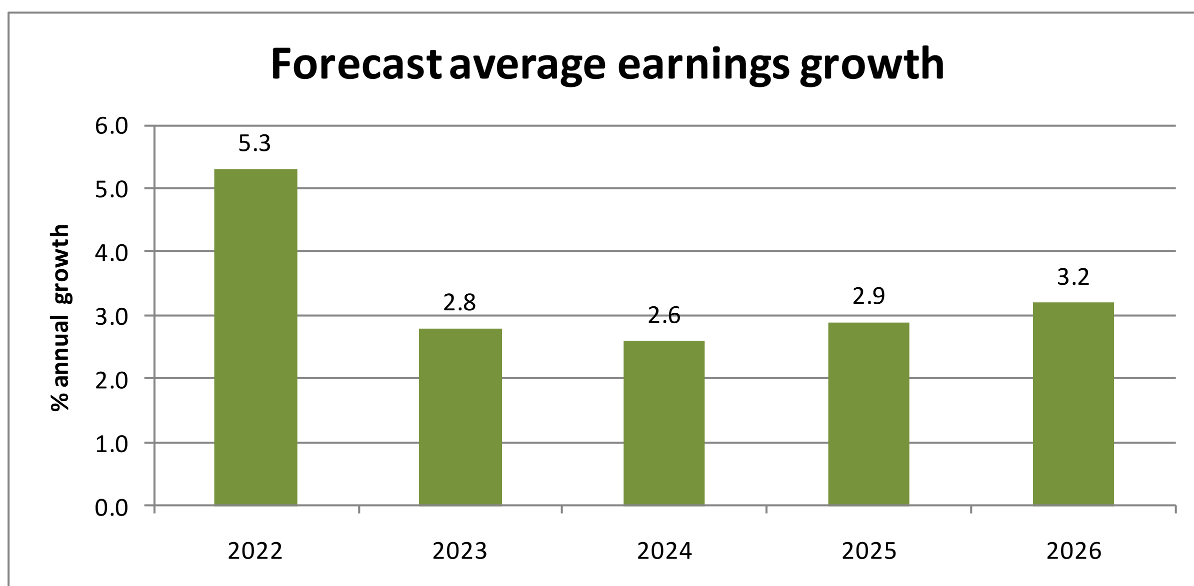
3.4 Average earnings and pay settlements

The distorting effect of the pandemic on average earnings growth has now dropped out of the figures, but average earnings growth nonetheless surged to 7% in the three months to March 2022[9]. If the distorted figures of the pandemic period are set aside, this is the quickest growth in average earnings for over 20 years.

Therefore, the increase to the highest tier of the minimum wage of 6.6% in April 2022 was less than the latest figures showing the average growth in wages experienced by employers across the economy.

In the private sector, where low wage work is most heavily concentrated, private sector average earnings are growing even more strongly at 8.2%.

The Office for Budgetary Responsibility's March 2022 Economic and Fiscal Outlook suggests that earnings growth will continue to run at high levels, averaging 5.3% over 2022, before dipping to 2.8% in 2023, in line with the pattern shown in the graph below. And the Treasury's Summary of Independent Forecasts, published in May 2022, puts the 2023 figures higher at 3.5%



The 2022 forecast is considerably above predictions when the Low Pay Commission was considering evidence for setting the 2022 National Minimum Wage rates. At that time, 2022 average earnings were expected to grow at 2.7%.

[9] ONS, Labour Market Overview, May 2022

Pay settlement figures have been more modest than average earnings, but both the Labour Research Department and Incomes Data Research have recently recorded settlements over the previous three month period pushing up to average 3.5%.

The Bank of England Agents' Summary of Business Conditions (Q1 2022) found that companies said they expected pay awards in 2022 to lie between 4% and 6%, prompting the Monetary Policy Committee to estimate that underlying pay growth would reach 5% in the coming months.

UNISON notes that the disparity between male gross median hourly pay and gross median hourly pay for all employees hit 9% in 2021, with the "all employee" median standing at £14.10, the male median at £15.33 and the female median at £12.92.

The "all employee" figure incorporates the various factors that often drive down average wages for women, such as discriminatory wage setting practices, stepping out of the labour market for child birth and taking on family caring responsibilities, which contribute toward placing women in a weaker bargaining position in the labour market and driving women into low-paid employment.

Therefore, UNISON sees the median male earnings figure as the most relevant benchmark for the National Minimum Wage to be pegged against, so avoiding the impact of gender discrimination.

Summary

- Economic growth for 2021 outpaced predictions when the Low Pay Commission was last considering evidence and GDP is expected to grow a further 4% in 2022.
- Operating surpluses and dividends paid to shareholders have surged upward to £515bn and £94bn respectively in 2022. Both measures have generally been growing faster than the National Minimum Wage over the last decade.
- The 2021 unemployment rate came in almost 1% lower than forecast when the Low Pay Commission was considering evidence, and forecasts for the 2023 rate put unemployment back at the kinds of levels last consistently experienced in the early to mid 1970s.
- Inflation is at levels not seen in four decades, led by surging energy prices, creating a cost of living crisis across the economy that will impose intense hardship on the lowest paid.
- Forecast average earnings growth in 2022 leaves the increase in the main minimum wage rate lower than the increase in wage costs seen by employers more generally.

Conclusions

- A background of historic lows in unemployment, surging cost of living facing low-paid workers, strong general earnings growth and record employer surpluses offers no reason to veer away from the path needed to achieve two-thirds of average earnings by 2024.
- The commission should draw on previous precedents for recommending higher increases than the 8.6% rise in the highest National Minimum Wage rate needed to stay on course for two-thirds of average earnings in 2023 against a background of higher unemployment across the economy.
- The inbuilt adjustment of the “national living wage” to changes in average earnings already represents a powerful insurance against any changed economic circumstances without further intervention.
- The commission should recognise that the majority of the predicted increase in the 2023 rate would be wiped out by price increases for the poorest paid workers in the UK.
- The factors that drive down women’s wages relative to men’s should be acknowledged by pegging minimum wage increases to male median earnings rather than simply median earnings for all employees.

- The commission has largely held its nerve in sticking to target rates to achieve the historic step forward in reaching 60% and then two-thirds of average earnings, despite the dire predictions that first accompanied the vote for the UK to leave the European Union in 2016 and then the Covid-19 pandemic that struck in 2020. It should continue to adhere to the target rate when low-paid workers need it most, as the inflationary surge sweeps the global economy.

4. FACTORS AFFECTING LOW INCOME GROUPS

Having set out UNISON's view of how broad developments in the UK economy should shape the National Minimum Wage increases for 2023, this chapter looks at developments in specific factors affecting low-income groups. It encompasses the scale of low-paid employment in the UK, the spread of the Living Wage across the economy and developments within the public services where UNISON represents members.

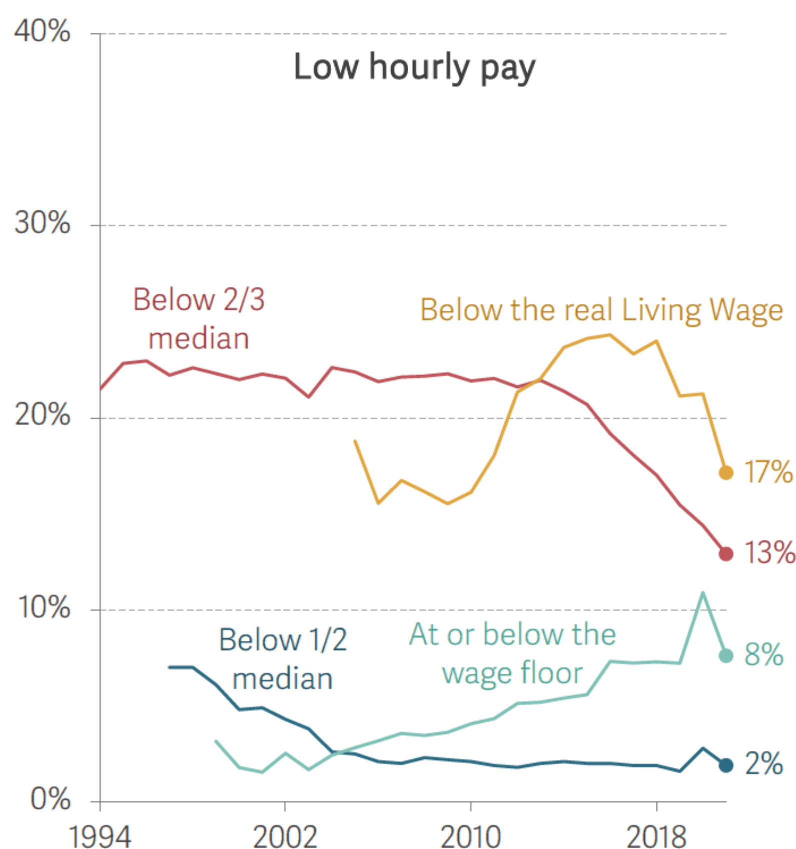
4.1 Scale of low pay in the UK

The Resolution Foundation's 2022 Low Pay Britain report has again produced an exhaustive analysis of the scale of low pay in Britain[10].

The research found that:

- 13% of employees (3.5 million individuals) are paid less than two-thirds of median gross hourly earnings in Britain.
- 17% of employees (4.5 million individuals) are paid less than the Living Wage rate defined by the Living Wage Foundation.

The foundation summarised the long-term trends in these measures with the graph below.



[10] Resolution Foundation, Low Pay Britain, May 2022

The graph shows the marked disparity between those paid below the two-thirds of median earnings threshold and those paid less than the Living Wage. The former has been on a sustained decline since the introduction of the "national living wage," while sub-Living Wage rates moved in in the opposite direction until the "national living wage" came into effect, since when the rate flattened out and then went into a steep decline.

The Low Pay Britain report goes on to emphasise the known tendencies of low pay to occur most frequently among certain groups. The most notable features of the 2022 report included the following data on the proportion of staff falling below the two-thirds of median earnings threshold:

- Men 11% / Women 15%
- 16-to-20-year-olds 63% / 21-to-24-year-olds 26%
- Highest regional rate North East 16% / Lowest regional rate London 8%

And the previous year's report shed light on other important disparities:

- Part time contract 25% / Full-time contract 10%
- Temporary or casual contract 20% / Permanent contract 14%
- Firms employing less than 10 staff 98% / Firms employing 5,000 staff or more 12%

Analysis by the Joseph Rowntree Foundation in its 2021 UK Poverty report takes a wider view than solely the hourly rate of pay to assess the ability of individuals to afford a basic standard of living. According to their measure, the proportion of workers in poverty has risen from 10% to 13% over the last two decades.

The report adds that, "at 68% the proportion of working-age adults in poverty who are in a working household has never been higher. In 1996/97, this number was lower than 50%."

What life on low pay means for workers was also brought home in a new Living Wage Foundation report published in February 2022. Based on polling of 1,702 employees in the UK who were earning less than the real Living Wage, the research found that:

- 38% said they had fallen behind with household bills in the past year;
- 32% said they had skipped meals regularly for financial reasons;
- 23% said they had fallen behind with their rent or mortgage payments;
- 17% said they had taken out a pay-day loan to cover essentials;
- 43% said the pay they received for their work negatively affects their levels of anxiety;
- 42% said the pay they received for their work negatively affects their overall quality of life;
- 28% said they had been unable to heat their home for financial reasons;
- 30% said that the pay they received for their work negatively affects their relationships with close friends and family;
- 25% of parents said that the pay they received for their work negatively affects their relationships with their children.

The much more modest decline in measures of low pay on a weekly basis compared to that for hourly pay in the Low Pay Britain report ties in with the latest Annual Survey of Hours and Earnings (ASHE) data. ASHE suggests that, while 14.2% of the workforce are paid less than two-thirds of average earnings in hourly terms, 25.5% are paid less than two thirds of the average in weekly terms. Since 2015, prior to the NLW, low pay measured by hourly earnings has dropped 6.3%, while in terms of weekly earnings the decline has been 3%[11] (as per graph below).

[11] ONS, Low and High Pay in the UK, 2020

4.2 Labour market developments

UNISON believes that the broad pattern of reductions in the proportion of workers on hourly wages below low pay thresholds is to the credit of the Low Pay Commission in largely sticking to "on-target" increases since 2016. However, the more muted success when looking at a wider definition of low income is perhaps connected to changes in the labour market that must be addressed to stop employers circumventing the minimum wage.

The last year has seen further evidence emerge about the scale of insecure work across the economy and the prevalence of low pay within such work.

The last TUC estimate of the scale of insecure work in July 2021, put the figure at 3.6 million workers or 11% of the UK workforce. This was composed of:

- 876,800 zero-hours contract workers (excluding the self-employed and those falling in the categories below);
- 824,400 on other insecure work (including agency, casual, seasonal and other workers, but not those on fixed-term contracts);
- 1.91 million low-paid self-employed (earning an hourly rate less than the minimum wage).

Subsequent TUC research[12] found that the number of "people in England and Wales who said that they performed work they had found via an online platform at least once a week grew from 5.8% of the working population in 2016 to 11.8% in 2019, rising to 14.7% in 2021.

And insecure work has shown a particular surge among young workers aged between 18 and 24, rising around 2% between July and October 2021 to cover around 22% of the workforce[13].

The Joseph Rowntree Foundation[14] estimated the total in insecure work to be even higher than the TUC, at 4.4 million people or 13% of the workforce.

It also spelt out the prevalence of low pay among these groups:

> *"Half of those in casual or seasonal work are in the lowest fifth of earners and the vast majority are in the bottom two quartiles. Workers with zero-hours contracts are similarly bunched towards the bottom, with 57% in the bottom quintile. While the pattern for agency workers is less extreme, they are still more common for those with lower earnings.*

[12] TUC, Seven ways platform workers are fighting back, November 2021

[13] Health Foundation, Begin again? Assessing the permanent implications of Covid-19 for the UK's labour market, Mike Brewer, Charlie McCurdy & Hannah Slaughter, May 2021

[14] Joseph Rowntree Foundation, Making work secure: unlocking poverty and building a stronger economy, July 2020

"This is partly because these work arrangements are most significantly used in low wage sectors such as hospitality, accounting for 16% of all employment in accommodation and food and 15% in arts and entertainment. Both are sectors with a many low-paid workers, especially accommodation and food where the majority of workers are low paid."

In its 2021 UK Poverty report, the Joseph Rowntree Foundation also makes the following observations about how the nature of employment contracts is contributing to the general growth of in-work poverty:

"Over the last 15 years, the poverty rate for full-time and self-employed workers has remained relatively unchanged. For part-time workers though, there has been an upward trend in the poverty rate. In 2005/06, 17% of part-time workers were in poverty, compared with 22% in 2019/20.

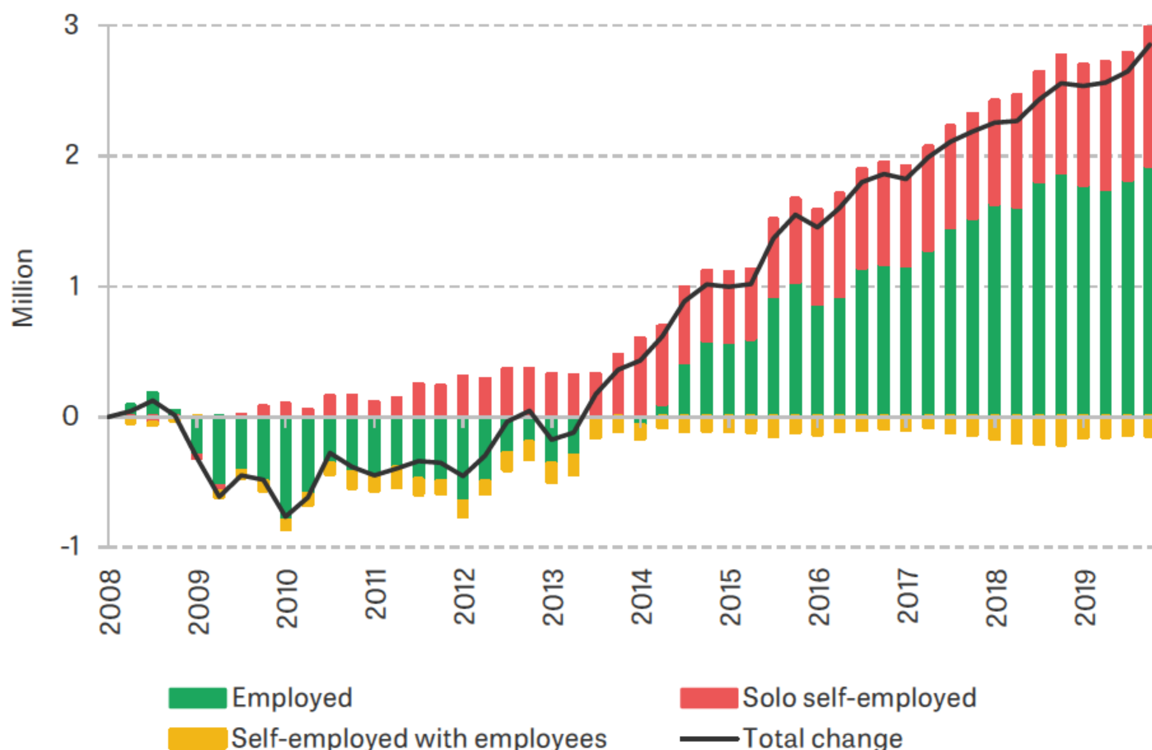
We also see the impact of hours worked by individuals within a family when analysing poverty rates by their work status. It is becoming more and more evident that in many households, all individuals in them must be working full-time hours to avoid falling into poverty.

This shows that part-time work and insufficient hours is one of the drivers behind the increase in in-work poverty. This is concerning, as insufficient hours is a characteristic of insecure work, and a recent estimate of the propensity of this in the UK labour force is just over 1 in 10 workers."

Over the last year, the IFS Deaton Review of Labour Market Inequality[15] has been of particular value for understanding labour market trends. The graph below shows the importance of the "solo self employed" in employment growth since around 2014, which it estimates now accounts for 12% of employment.

[15] Giulia Giupponi and Stephen Machin, The IFS Deaton Review on Labour Market Inequality, March 2022

Figure 11. Change in total employment by employment type since Q1 2008



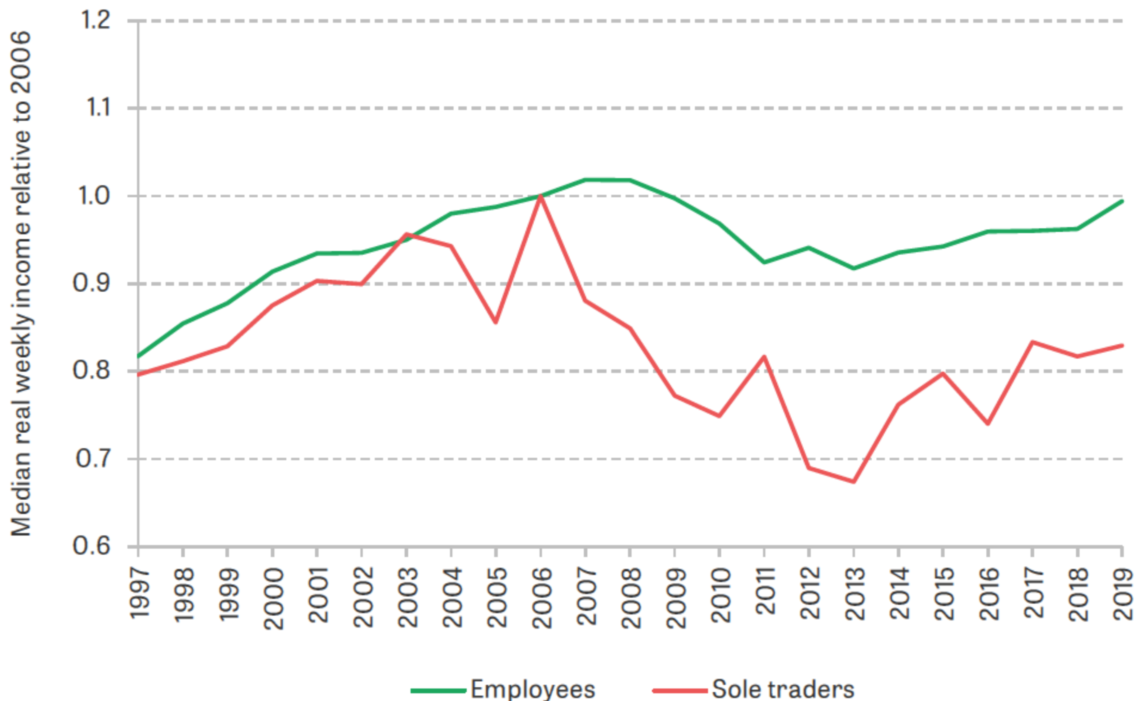
The scale of low pay among this group is reflected in the review's findings that:

> *"Analysis of survey data from the Family Resources Survey indicates that median pre-tax earnings were £276 a week among the solo self-employed in 2018–19, compared with £395 a week among employees (Giupponi and Xu, 2020). This data point, however, masks substantial variation in earnings. Over half (55%) of sole traders earn less than £300 a week, compared with a third (33%) of employees.*
>
> *"Self-employed individuals are strikingly over-represented in the lowest two deciles of the weekly income distribution – a pattern that has become more pronounced over the last two decades. In 2019, even though they made up 9.5% of employment, the self-employed formed 27% and 19% of earners in the first and second deciles respectively. The share of the lowest-earning quintile who are self-employed has increased by 54%, or 8 percentage points, from 15% to 23%, between 1999 and 2019.*
>
> *"The solo self-employed are characterised by high rates of underemployment. Throughout the past 20 years, they have consistently been the employment group with the largest fraction of workers wanting to work longer hours – higher than for the employees and the self-employed with employees."*

“Data from the UK Labour Force Survey analysed by Datta, Giupponi and Machin (2019) show that zero-hours contract workers earn on average around £5 less per hour than the average employee and they work on average 10 fewer hours per week. The median hourly wage for zero hours contract workers is very close to the prevailing minimum wage. A large fraction of zero hours contract workers are paid at or near the minimum wage, so that more than half of them are affected by minimum wage upratings, compared with just 20% of all employees on average.”

And the review’s findings were emphasised in the graph from the report below.

Figure 14. Real median weekly income by employment type



These findings built on earlier studies in 2021, adding to concerns over the scale of insecure work operating outside minimum wage controls or enabling employers to impose hours that do not allow workers to achieve a regular reasonable weekly income regardless of the hourly rate. The vulnerability of these types of contract were given added emphasis over the period of the pandemic, when lack of adequate sick pay emerged as a major issue for many.

The Learning and Work Institute report published in February 2021 on The Future of the Minimum Wage uncovered through an employer survey that “one in nine (11%) of all businesses said they had made greater use of temporary and flexible contracts in order to respond to the introduction of the NLW.”

This research added to studies such as that presented on the social care sector in 2018[16], which found some evidence that employers had responded to the introduction of the "national living wage" by intensifying use of zero-hours contracts.

The extent to which the UK labour market has been allowing employers to avoid the minimum wage through bogus classification of staff was also given further limelight by the Supreme Court's ruling in February 2021, which confirmed that Uber drivers are workers and not self employed .

Yet, as one of the drivers who brought the case stated: "If the purpose of the law is to protect workers, why doesn't the government do it? It can't be the job of precarious workers to go on a six-year journey. They should enforce the law."

4.3 Spread of the Living Wage and contrast to NMW

The Joseph Rowntree Foundation's calculation of the Minimum Income Standard (MIS), based on what members of the public think people need to achieve a socially acceptable standard of living, put the 2021 figure at £20,400 for a single person at a time when the highest tier of the minimum wage meant £17,400 for a 37.5 hour week[17].

The MIS means that a single person on the top rate of the minimum wage is still around 14% short of the required income, while a lone parent with two children falls 12% short.

The MIS basket of goods feeds into the calculation of the Living Wage, which is announced every November by the Living Wage Foundation. In 2021, the rate for outside of London was set at £9.90 and the rate for London was set at £11.05 an hour.

The £9.90 figure is a weighted composite of the wage needed by a variety of different household types. The hourly wage for different households ranges from £6.85 for a couple to £21.95 for a lone parent with three children.

Adoption of the Living Wage has expanded with astonishing speed over recent years to become a widely quoted benchmark of the minimum earnings needed for low-paid staff to have a "basic but acceptable" standard of living.

There are now nearly 10,000 employers accredited as Living Wage employers by the Living Wage Foundation, a figure that has grown from around 200 just a decade ago.

The Living Wage is now paid by some of the UK's most high-profile private companies, such as Barclays, HSBC, Nationwide, Google and KPMG. It has even made inroads into traditionally low-paying areas such as the retail sector, where IKEA and Lidl have signed up as Living Wage employers. The Living Wage has now reached the point that almost half of FTSE 100 companies are accredited.

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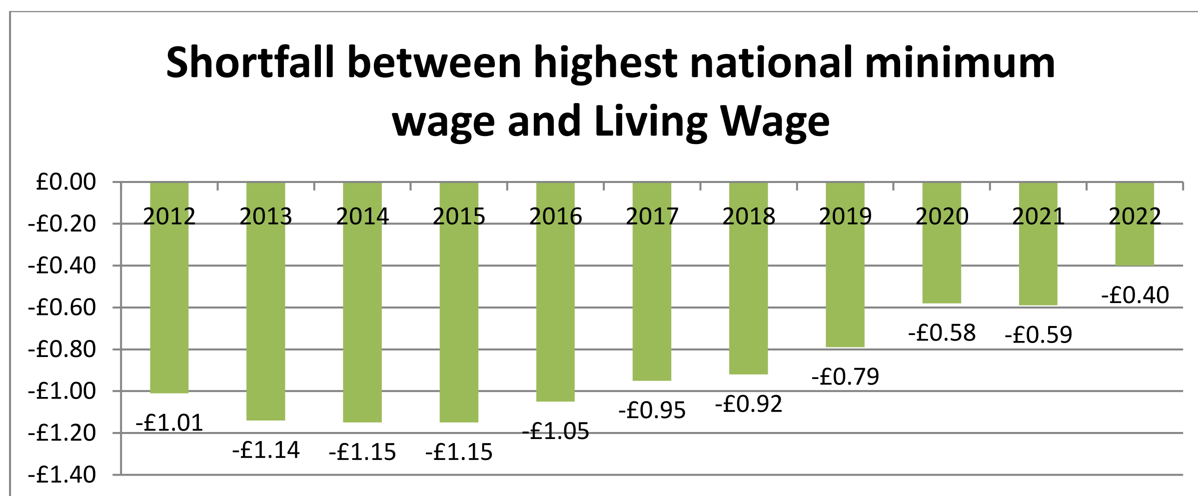
[16] N Datta, G Giupponi, S Machin, Zero Hours Contracts and Labour Market Policy, October 2018

[17] Joseph Rowntree Foundation, A Minimum Income Standard for the United Kingdom in 2021, July 2021

The pressure on employers in low-paying sectors over the last year can also be seen in recent trends for most of the major supermarket retailers to lift starting wages to at least £10 an hour.

While the Living Wage has been gaining ever greater inroads, the graph below shows how the gap between the Living Wage and the highest minimum wage tier has diminished since the introduction of the "national living wage."



However, for a full-time worker on a 37-hour week, the highest National Minimum Wage is still almost £800 a year short of the wage needed for a basic but acceptable standard of living.

Trends in the rapid escalation of private companies as accredited Living Wage employers despite the competitive disadvantage, in crude cost terms, that it may place on them shows that there is an appetite and capacity to pay the Living Wage.

However, many are held back by the absence of a level playing field, given that the National Minimum Wage still stands a considerable distance behind the Living Wage.

An open letter from chief executives published in September 2014 on the future of the National Minimum Wage made it apparent the "level playing field" was one of the most valued dimensions of the National Minimum Wage, by stating:

> *"For businesses, it has created a level playing field, enabling employers to improve business performance and staff conditions without fear of being undercut by companies competing on lower wage rates".*

The readiness to commit to the Living Wage when it is on the basis of a level playing field is also demonstrated by the range of companies who have signed up to the Living Wage Foundation's category of Living Wage Service Providers.

These employers do not commit to paying the Living Wage to all staff, but they "always supply a Living Wage bid alongside every market rate submittal to all of their prospective and current clients."

Dominated by cleaning, catering and facilities management companies, the list of over 170 signatories includes major providers, such as Compass Group, Engie, ISS, Mitie, OCS, Securitas and Sodexo.

While it may be relatively easy to sign up to the Living Wage in sectors where low wages account for a small part of the paybill, in sectors where low wage employment forms a major part of the workforce, such as cleaning, catering and social care, the Living Wage is only likely to be delivered through the lead and level playing field that a legal minimum provides.

Further developments in 2021 saw the British Cleaning Council (BCC) renew its commitment to being a Living Wage employer and encourage member organisations to pay the rate to both directly employed staff and contractor staff.

BCC deputy chairman Jim Melvin stated: “Cleaning and hygiene personnel are hard-working, skilled and dedicated people and many are on the frontline in the fight against Coronavirus, often putting themselves at risk to do vital work, keeping key industries going and protect the health and well-being of others. They deserve a fair day’s wage for a hard day’s work and recognition of the skills and training they have acquired.”

The last year has even seen many retailers push starting hourly pay rates above the Living Wage, under the pressure of labour shortages in traditionally low paying sectors. For instance, most supermarket retailers have moved staff up to a starting wage of at least £10 an hour.

4.4 Developments in public services

Among the principal public sector bargaining groups where UNISON represents members, the table below shows the lowest rate within each group and demonstrates that the great majority already paid the highest 2022 minimum wage rate before it came into force.

UNISON bargaining groups	From	Rate (£)	Hourly (£)*
Local government (England, Northern Ireland & Wales)	01/04/2021	18333	9.50
Local government (Scotland)	01/04/2021	18867	9.78
NHS Agenda for Change (England, Northern Ireland & Wales)	01/04/2021	18546	9.49
NHS Agenda for Change (Scotland)	01/04/2021	19487	9.97
Higher education	01/08/2021	17338	8.99
Further education (England)	01/08/2021	18513	9.60
Further education (Northern Ireland)	01/04/2021	18333	9.50
Police staff (England & Wales)	01/09/2021	18753	9.72
Police staff (Scotland)	01/09/2021	20598	10.68

* The hourly rate is based on a 37-hour week, with the exception of the NHS, which has a standard 37.5-hour week

Almost all parts of the public sector apply their bottom rate to staff regardless of age. Therefore, the youth rates are hardly utilised, though the apprentice rate is adopted by many of the bargaining groups as a separate rate outside the pay scale.

Across the public sector, the Living Wage has made major inroads. Now long-established as the baseline in Scotland across all public sector organisations, it was extended to social care workers in Scotland's private and voluntary sector from October 2016. From 2022, Scotland's public sector pay policy has gone further in setting a £10.50 hourly minimum.

The Welsh Government has committed to achieving a Living Wage minimum in social care by 2024 and a framework agreement setting the Living Wage as a key target is in place for support staff in more than 12,000 schools across the UK.

Low pay remains a significant issue in the public sector, but the issue is becoming ever more concentrated in those parts of public services that have been outsourced to the private or voluntary sector.

Decades of privatisation have turned large swathes of public service workers over to private and voluntary sector employers, particularly in such low paying areas as catering, cleaning, refuse collection, building maintenance, call-centre and administrative work.

One of the largest pools of labour in this category is social care, where over 80% of employment is now in private hands across England[18]. However, whereas many privatised areas of public services offer no comprehensive picture of employment trends because they stand outside the public sector's directly employed workforce, the Skills for Care annual reports do at least provide a broad outline.

In its 2021 report entitled The State of the Adult Social Care Sector and Workforce in England, Skills for Care estimates that the sector has gone through a 12% increase in employment between 2012 and 2021, taking the number of jobs up 174,000 to 1.67 million workers. The minimum wage has not halted this growth, with employment expanding by 7.1% (110,000 jobs) since 2015, before the introduction of the "national living wage," and the last year showing the sharpest job growth over the entire period since 2012.

However, the terms of this employment are reflected in the fact that almost a quarter of all jobs are zero-hours contracts (rising to 42% in domiciliary care), median pay of private sector care workers was £9.01 in 2020/21 (when the highest tier of the minimum wage was £8.72) and 21% of care workers are on the minimum wage.

Consequently, the vacancy rate is well above the economy average at 7% (105,000 vacancies) and the care worker turnover rate is well above the economy average at 34%.

Employers are often aware of the damage that low-pay norms are causing, with 80% citing low wages as the biggest barrier to recruiting and retaining staff, while 76% of staff state that they leave for better paid careers in other sectors[19].

And while demand for social care is expected to continue to expand to the point that almost half a million further workers will be needed in the sector by 2035 in England, the difficulties in attracting staff on current terms have been well documented and are anticipated to create a shortage measured in hundreds of thousands of workers[20].

However, UNISON notes that, to take on the difficulties in the sector, Scotland has been consistently uprating government funding to enable all adult social care workers to receive the Living Wage, including payment at the rate for sleepovers. Since April 2022, Scotland has established a £10.50 minimum in adult social care, underpinned by the Scottish government.

We also note international developments, with Germany applying a minimum wage of €12.55 (currently equivalent to around £10.55) for care assistants in 2022. This rate is close to that recommended as the minimum rate by the UK's Migration Advisory Committee in its April 2022 report[21], which believes that £10.50 per hour should be brought in immediately across the adult social care sector. The increase takes place against a background of Germany deciding to raise the general minimum wage to €12 an hour from October this year.

[18] Skills for Care, The State of the Adult and Social Care Workforce in England, October 2021
[19] Hft, Sector Pulse Check, 2018
[20] IPPR, Fair Care, November 2018
[21] Migration Advisory Committee, Adult Social Care and Immigration, April 2022

Summary

- Despite the success of the “national living wage” in driving down measures of low pay derived from the hourly rate, wider measures of in-work poverty across the UK have been worsening
- Employers’ ability to circumvent higher wages through more exploitative forms of contract appear to have contributed toward this diversion between the different measures.
- The Living Wage continues to see rapid growth in its adoption by employers and is widely seen as a standard benchmark of the wage needed to maintain a basic but decent standard of living.
- The “national living wage” has brought a welcome narrowing of the gap with the Living Wage, but a full-time worker on the “national living wage” still receives almost £800 less per year than a worker on the Living Wage.
- The number of major companies operating in low-pay fields such as catering, cleaning and security that have signed up as Living Wage Service Providers is testimony to a willingness to improve earnings of low-paid staff where a level playing field is in operation.
- The Living Wage has made substantial strides across the public sector’s directly employed workforce. Where the “national living wage” does apply in the public sector, it is applied to all staff regardless of age. Only the apprentice rate is utilised as a much lower rate that stands outside of the pay scales.
- By far the largest pool of minimum wage workers operate in privatised parts of public services, with social care and facilities management functions such as catering, cleaning and security forming the dominant slice.
- The “national living wage” has not halted continued employment growth in social care, but the poor state of employment conditions is placing severe strain on the sector’s capacity to recruit and retain staff.

Conclusions

- If the Low Pay Commission is to truly address the scale of in-work poverty in the UK, it must make recommendations that both deliver a real living wage and curtail forms of contract that are vulnerable to imposition of inadequate hours to achieve a reasonable standard of living.
- To address the contribution of certain forms of employment contract to the expansion of low pay employment in the UK, the commission should recommend the strengthening of legislation to limit the use of zero hours contract, to prevent the bogus classification of workers as “self-employed” and to extend the employment rights of “workers.” [These recommendations should recognise the devolved nature of employment law in Northern Ireland].

- Without these measures, there is a danger that the gains of the National Minimum Wage are frittered away by allowing employers to impose contracts that reduce wages through fewer hours.
- The Low Pay Commission should recognise the role of privatisation in driving low pay across the UK's public services and the role a minimum based on a truly Living Wage can play in reducing the incentive for driving down costs on the basis of a low-paid workforce.
- The cost implications of the "national living wage" for public sector employers and their contractors need to be addressed through a specific government funding allocation to meet those costs, as has been demonstrated by Scotland's initiative for social care workers.

5. FACTORS AFFECTING YOUNG WORKERS AND APPRENTICES

This section considers the specific issues facing workers below the highest tier of the minimum wage and draws particular attention to the consequences of the gap between the rates.

5.1 Youth rate latest developments

UNISON greatly welcomes the commission's recommendation that prompted the government to reduce the age eligibility for the "national living wage" to 23 years in 2021 and plan a further drop to 21 years in 2024.

UNISON has always argued the case for removing the age tiers of the minimum wage in the context of moving the minimum on to the Living Wage. Therefore, we note with some concern that the impact of reducing the age eligibility in the context of the "national living wage" is to pull down the average earnings figure on which it is calculated. Therefore, most minimum wage workers will pay a price for equalising the rates.

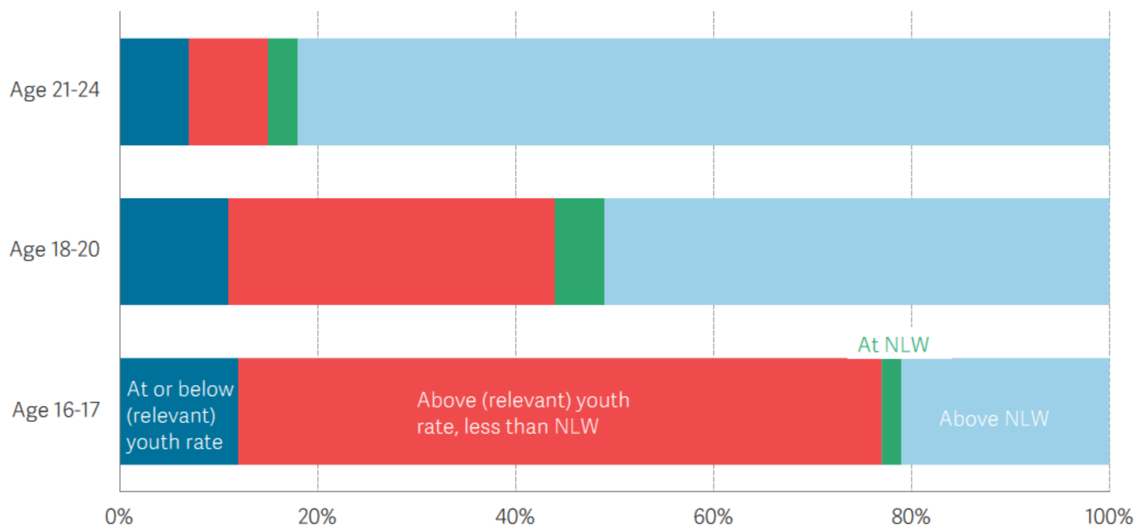
Though recognising the positive steps taken by the commission, UNISON believes that the lower National Minimum Wage rates that continue to apply to young workers and apprentices remain a fundamentally unfair and discriminatory feature of the minimum wage system. To have a young employee working alongside an older employee receiving different rates for doing exactly the same job represents an unacceptable injustice in the workplace. This discouraging introduction to working life can only have a negative impact on the retention, morale and motivation of young employees.

This is recognised by many employers and even in sectors such as social care we have seen operators call for equalisation of rates over the last year. Park Lane Healthcare finance director Chris Lane stated:

> *"Younger people work just as hard as older people in the same roles and should be compensated as such. We hope other care homes will follow our example and match the wage for young carers.[22]"*

The great majority of employers accordingly waive the youth rates. The graph below from the Resolution Foundation (though based on Low Pay Commission data) found that 93% of employers paid 21–24-year-olds above their then youth rate. However, even among 18–20-year-olds and 16–17-year-olds, approximately 90% paid more than the relevant youth rate[23]

[22] Care Home Professional, Hull care home operator calls for age equality in living wage, November 2021
[23] Resolution Foundation, Low Pay Britain 2020



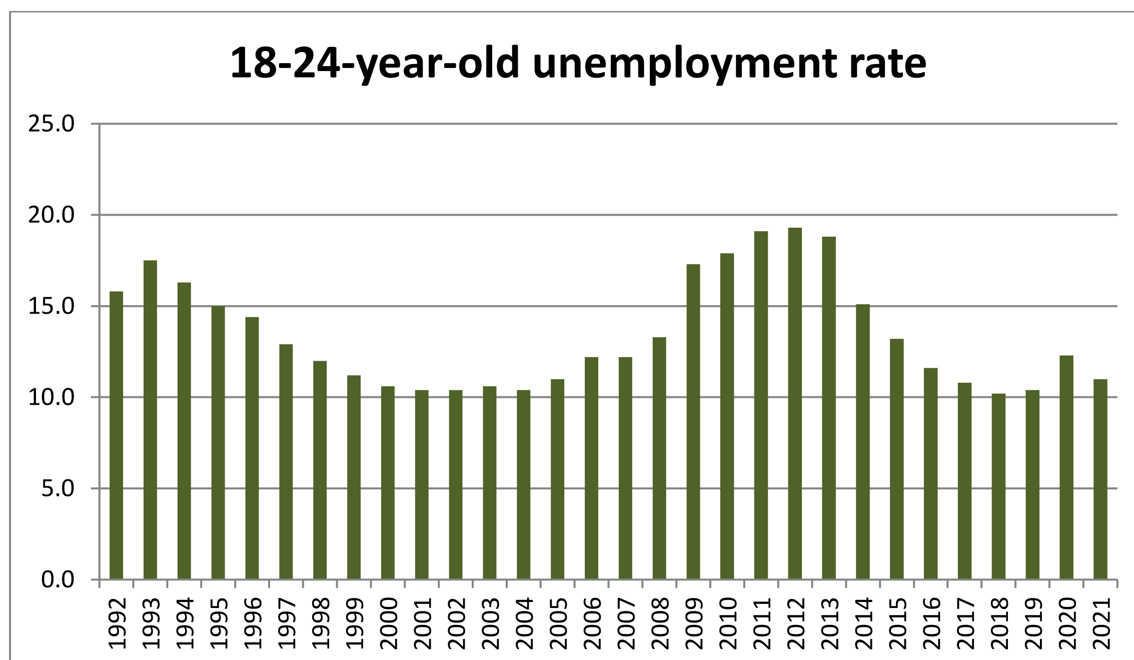
Even within the low-paying retail sector, research by Incomes Data Research for the Low Pay Commission has found that all the major supermarkets do not operate age related pay[24]. And, as noted in the previous chapter, no major public sector employer utilises the youth rates, preferring to apply the "national living wage" across the board.

The Young Women's Trust confirmed this picture in 2018, when it published the results of a survey which found that 79% of employers believe that young people should be paid the same as older people for the same work – a figure that only dropped to 77% among small and medium sized organisations.

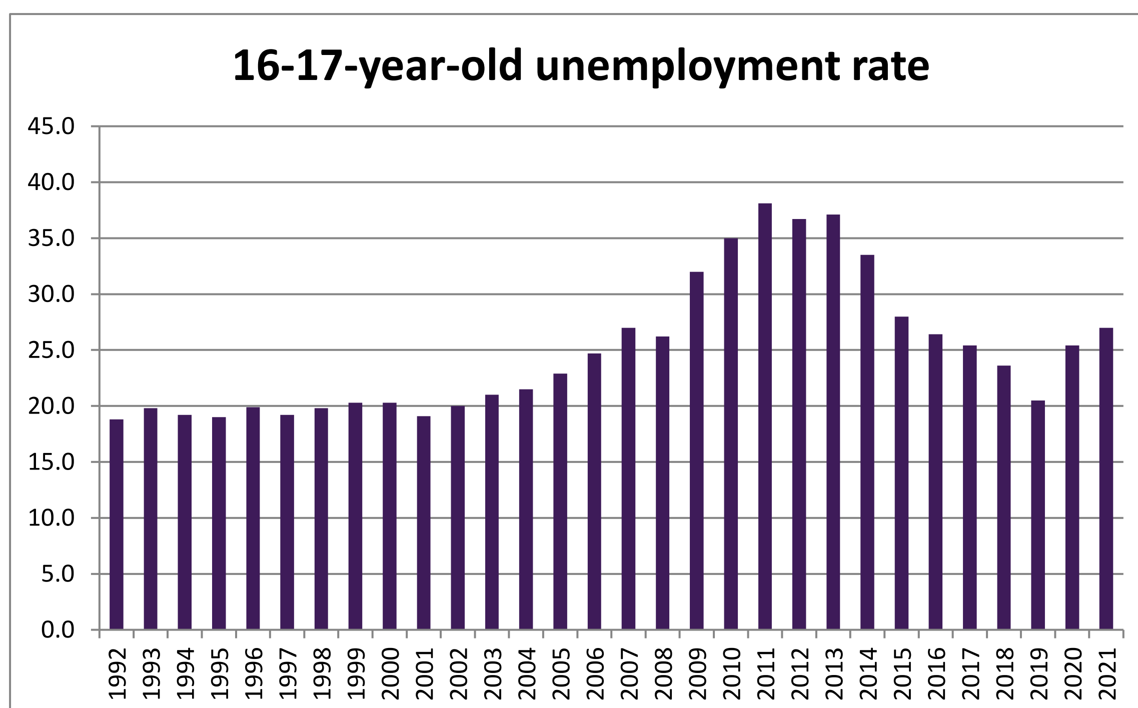
[24] Incomes Data Research, The National Living Wage, October 2017

5.2 Employment and wage rates among young workers

The unemployment rate for younger groups over 2021, in the teeth of continued pandemic measures, actually showed a dip for 18–24-year-olds, while continuing to rise for 16-17-year-olds, as reflected by the graphs below. However, both rates remained lower than much of the previous decade, confounding expectations among many that the pandemic would lead to a major spike.



Source: ONS, Labour Market Overview, February 2022



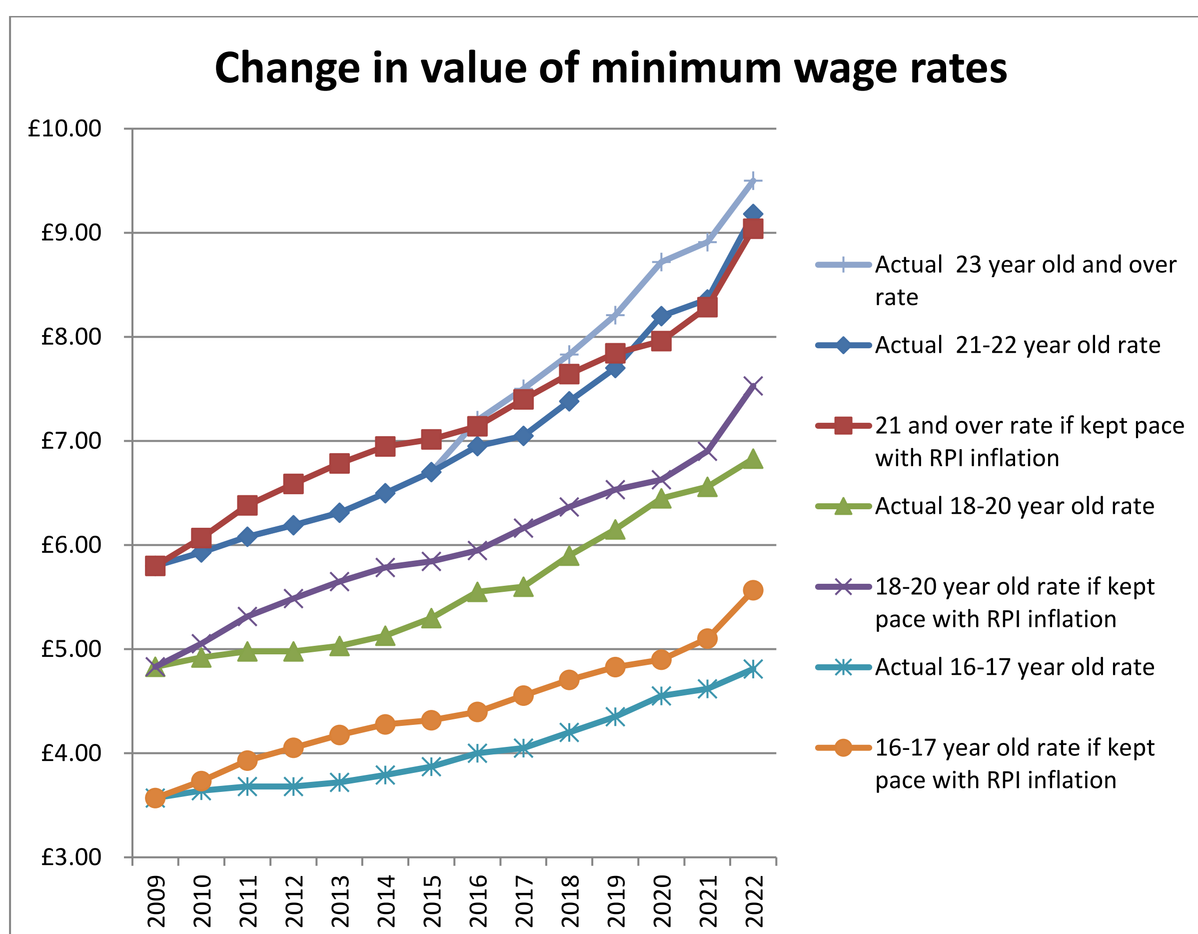
Source: ONS, Labour Market Overview, February 2021

The latest unemployment figures also show that in the three months to March 2022, the 18-24-year-old unemployment had dipped to almost 9% from a December 2020 peak of almost 14%. The unemployment rate for this age group is at its lowest level in the last 30 years – the entire period for which data is available.

The recent decline in the 16-17-year-old unemployment rate has been even more dramatic, dropping from 35% in May 2021 to 23% in the three months to March 2022. Only 2019 has seen unemployment among 16-17-year-olds at a lower level over the past 17 years.

5.3 Impact of inflation on value of youth rates

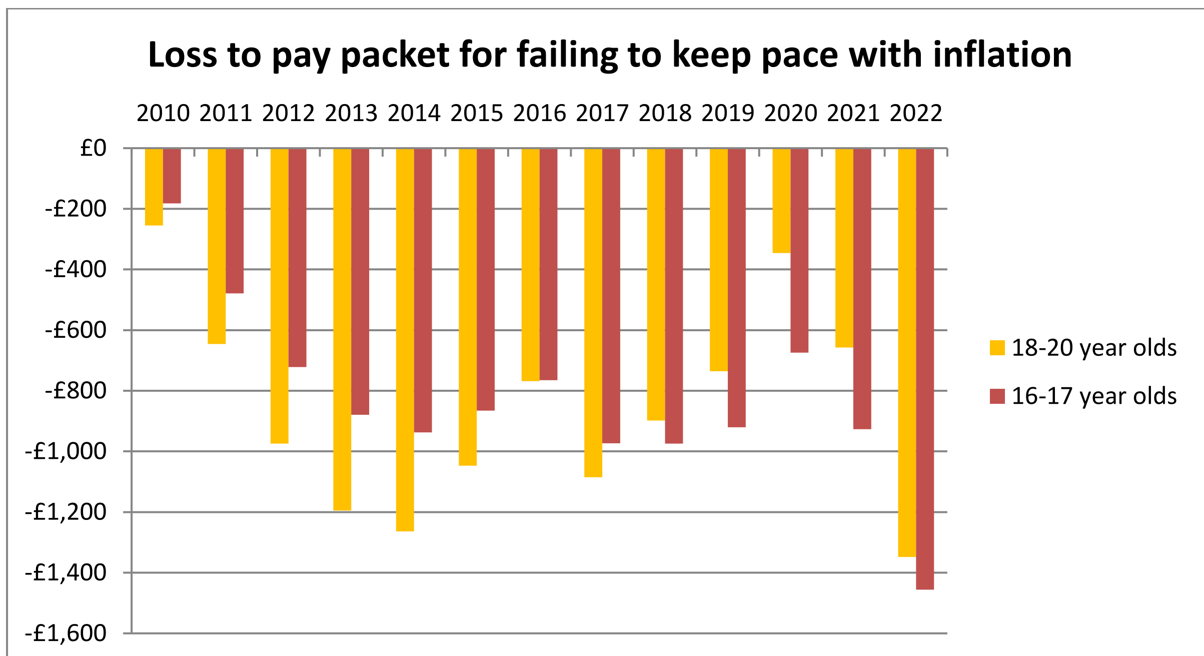
The graph below contrasts the path of the minimum wage rates with the path that they would have followed if they had kept pace with RPI inflation since 2009.



The graph shows that the real value of both rates for workers aged 21 or over has overtaken their value more than a decade ago in 2009, following the accelerated increases since 2016.

However, both rates for those aged under 21 continue to lag behind their 2009 value – the rate for 18-20-year-olds is still worth 10.2% less and the rate for 16-17-year-olds is still worth 15.7% less.

This means that the value of a full-time minimum wage salary for workers under the age of 21 has followed changes in purchasing power in line with the graph below, based on a 37-hour week and RPI accumulated inflation rates since 2009.



This year, the annual value of the rate applicable to 18-20-year-olds is still over £1,300 less than it was in 2009 and for 16-17-year-olds it has devalued by over £1,400. The cumulative impact of this devaluation since 2010 has been a loss of earnings at over £11,200 for 18-to-20-year-olds and over £10,700 for 16-to-17-year-olds.

5.4 Research findings on youth rates

A more detailed assessment of all these issues was set out in the research entitled "Young Adults and the National Minimum Wage" by the New Policy Institute[25], which was submitted alongside our evidence in 2017.

Many of the key findings of that research related to the 21-24-year-old age group. However, the following dimensions of the report continue to offer insights relevant to younger workers:

Raising the value of minimum wages for people under 21 has not historically harmed employment outcomes

- Increasing the value of youth minimum wages for people under the age of 21 in the UK has not had negative employment effects outside of economic downturns, and does not affect young people's educational choices.
- Evidence from the UK and abroad indicates that raising the value of the minimum wage for teenagers encourages greater labour market activity in this group.
- The body of evidence on the productivity of young workers is conflicting, and shows that productivity and age may not have as straightforward a relationship as is often assumed - increasing the value of minimum wages of young people may increase their productivity.
- There is some evidence from both the UK and abroad that a large difference in value between youth rates and adult rates leads to the substitution of older workers for younger ones. Recent surveys of employers in the UK suggest that the current difference between the NLW and the youth rates may risk this occurring.

Publication bias reduces certainty in the international evidence

- Reviews of international evidence have shown that increases to minimum wages have negative employment effects for young people in countries without age differential wage rates. They also indicate that young people experience more negative employment effects from changes to wage rates in economic downturns, even in countries with age differentials.
- However, a meta-analysis of the international literature concluded there was publication bias towards studies that demonstrated negative employment effects of minimum wages, which calls into question the body of evidence.
- Recent studies corrected methodological issues in earlier studies that found negative youth employment effects from changes to the minimum wage in the USA. These studies found no negative employment effects for teens, even during times of economic downturn. It is possible other international studies showing negative employment effects are also the result of flawed methodology.

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[25] New Policy Institute, Young Adults and the Minimum Wage, June 2017

- The majority of evidence from other major European economies demonstrates small or insignificant effects from minimum wages on youth employment, however differing labour market interventions mean these countries are not directly comparable to the UK.

Abolishing age differentials could bring many benefits to employers

- The rationale for age-based wage differentials views young workers as less productive that older workers. This is at odds with the value that many employers place on young people.
- Higher wages could encourage higher labour market participation by young people in sectors where they are needed, such as social care.
- Paying young people already in employment the same rates as older workers would bring an end to ‘divisive’ wage policies which could bring many benefits from improved morale, such as lower turnover and higher productivity.

5.5 Apprentice rate latest developments

UNISON welcomes the commission's recent analysis of the apprentice rate, which acknowledged much disuse of the rate for certain age groups (just 2% of those aged 25 or older in their first year) and the contribution of failure to pay for training hours in the huge numbers of apprentices not receiving their legal pay. We also welcome the commission's recommendation taken up by the government to bring the apprentice rate in line with the youth rate for 16-17-year-olds as at least a positive step.

However, UNISON also remains of the view that the apprentice minimum wage is grossly inadequate and this position appears to have considerable support across both unions and employers. In its 2018 survey, the Young Women's Trust found that three-quarters of employers believe that that the rate is too little for apprentices to live on.

In October 2018, the Commons Education Select Committee expressed concerns about the paltry rate that currently prevails by recommending[26] that the government "continues to raise the apprentice minimum wage at a rate significantly above inflation. In the long-term it should move toward its abolition."

In July 2021, the All-Party Parliamentary Group for Apprentices added their weight to the calls with a demand that apprentices' minimum wage should be brought in line with the full National Minimum Wage[27].

The most recent Apprentice Pay Survey[28] also confirmed the ability and willingness of employers to pay well above the apprentice minimum wage, with the finding that the median hourly pay for workers in their first year of the lowest grade apprenticeship stood at £6.85 – that was 85% above the then prevailing apprentice minimum wage.

5.6 Research on the apprentice rate

In 2019, UNISON conducted a Freedom of Information survey on apprenticeships among 244 NHS Trusts across England. The responses revealed that almost two out of every three trusts paid more than the then prevailing apprentice minimum wage.

As part of UNISON's 2018 evidence, UNISON submitted research entitled "Apprentices and the Minimum Wage" by the New Policy Institute[29].

[26] Commons Education Select Committee, The Apprenticeships Ladder of Opportunity, October 2018
[27] All-Party Parliamentary Group on Apprenticeships, Annual Report for 2020- 2021
[28] BEIS, Apprenticeship Pay Survey 2018/19 – Great Britain, January 2020
[29] New Policy Institute, Apprentices and the Minimum Wage, May 2018

The conclusions of that research were as follows:

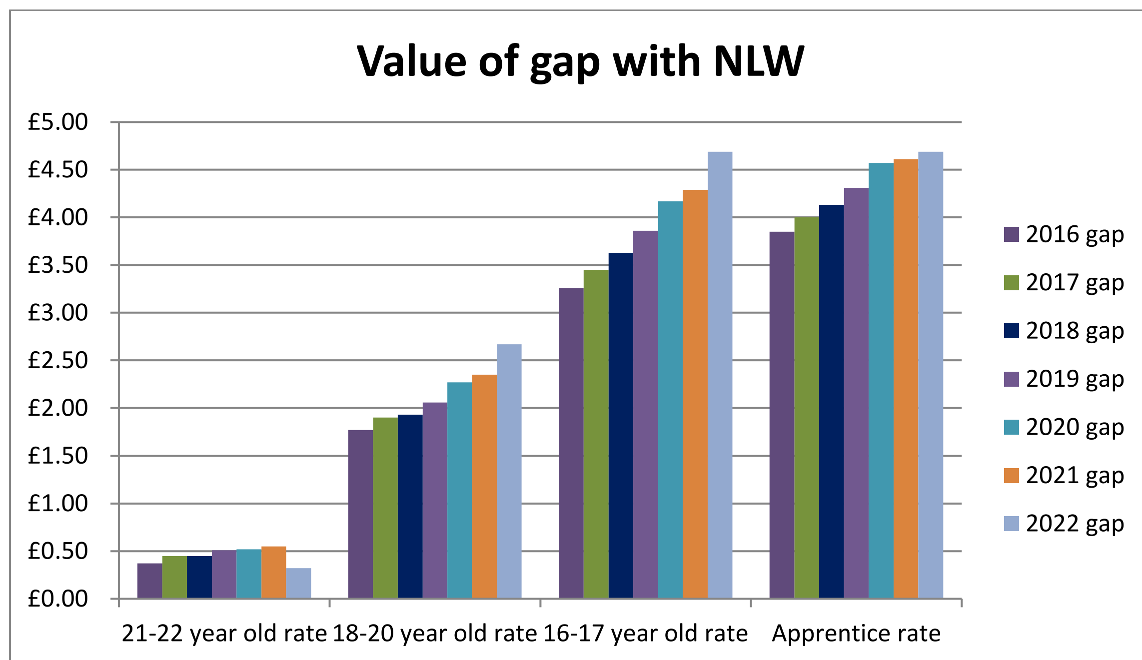
- Evidence from both the UK and abroad points to the net cost of apprenticeships as a key factor in employers' decision to offer apprenticeships, of which wages are just one part. Apprentice productivity, training costs and retention rates post apprenticeship all contribute to the net cost of offering apprenticeships, and employers' willingness to incur a cost rather than a profit from apprenticeships.
- The fact that raising the NMWAR 21% in 2015 had no significant impact on apprenticeship starts provides evidence that previously increasing the NMWAR did not result in a significant increase in net costs. The significant reduction in apprentice starts following the introduction of the Apprentice Levy indicates that employers have been far more impacted by this increase in training costs.
- The 34% reduction of apprenticeship starts for over 25s, driven by a reduction in Intermediate (Level 2) apprenticeships, indicates that low wage sectors are the most affected, and that employers may have become (at least temporarily), more sensitive to the higher wage costs associated with older apprentices, as they attempt to offset training costs.
- The evidence suggests that increases to the NMWAR alone do not impact on apprentice starts. However, the NMWAR does not occur in a vacuum, but rather in a policy landscape which has seen huge changes that have affected the cost of apprenticeships beyond wages. The research reviewed in this report points to apprentice wage rates as being a fairly ineffective instrument for influencing employers' offer of apprenticeships. It seems that policy relating to training costs may have a far larger impact, although the impact of the Apprentice Levy so far seems to be negative.
- While wage rates may not have a significant impact on the number of apprenticeships offered, the differential wage rates may contribute to employer behaviour towards apprentices in other ways- such as under compliance (whether intentional or not) and substitution of younger, cheaper apprentices for older ones.
- Where apprentice wage rates may also have more influence is over apprentice behaviour- both current and potential. While the majority of people who have undertaken apprenticeships may not see the wage level as a primary motivation, there is evidence that low wages may be dissuading people from low-income backgrounds from undertaking apprenticeships to begin with.
- Higher wages may also improve both completion rates and retention rates. In this way, raising wages may indirectly encourage employers to offer more apprentice places in the long run, by reducing the net costs of apprenticeships as completion and retention rates rise. Improving completion rates is also vital to fulfilling the ultimate goal behind policies attempting increasing apprenticeships: ensuring a 'pipeline' of trained young workers to meet the skills needs of the future.

5.7 Undermining of the "national living wage"

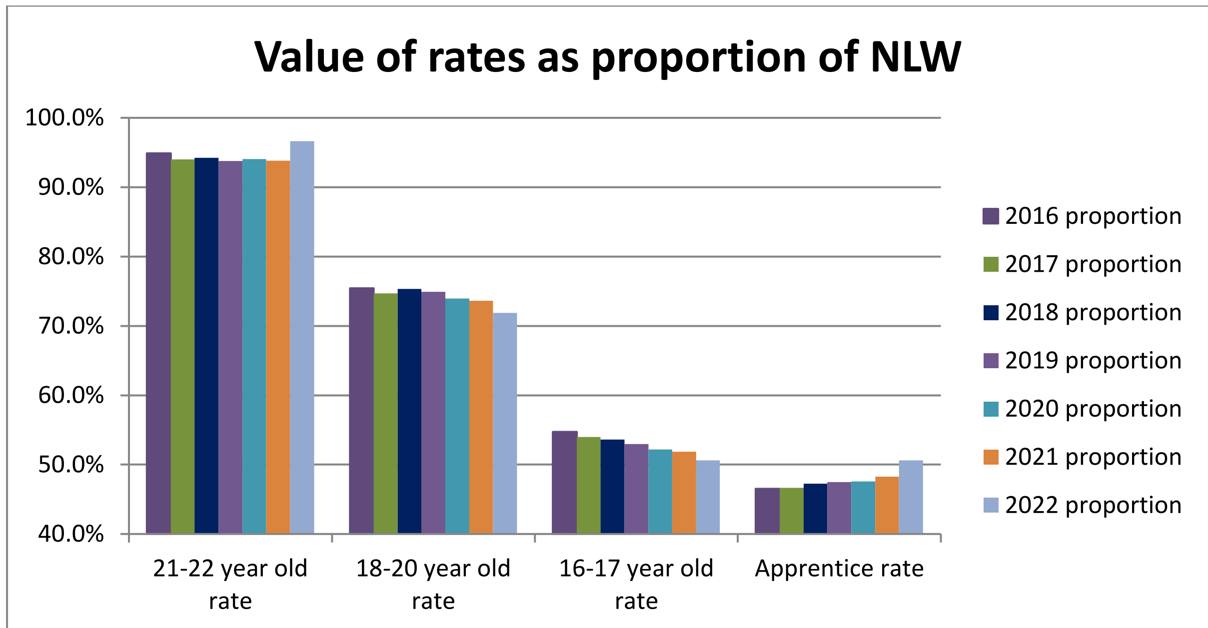
UNISON is concerned that the larger the gap between the "national living wage" and youth / apprentice rates the greater the incentive to violate equality legislation through age discrimination in the recruitment process and substitution of workers on full rates of pay. These concerns have been exacerbated by last year's decision to raise the youth rates applicable below the age of 20 at a considerably lower rate than those applied to workers aged 21 or over.

The cash value of the gap has increased across all the youth and apprentice rates since 2016 except those for 21–22-year-olds, increasing the cost advantage to employers of substituting staff with those on lower minimum wage rates. Cost savings to an employer stand at £4.69 an hour for an apprentice or a 16-17-year-old, and £2.67 an hour for an 18-20-year-old. The cash advantage for an employer of a 16-17-year-old has increased by more than £1.40 an hour since 2016.

The graph below illustrates this trend.



As a proportion of the NLW, the lowest youth rates have been in continual decline over the full period. This means that 18-20-year-olds are now on 72% of the NLW rate, while the 16-17-year-olds and apprentice rates are worth barely more than half the NLW rate.



These cost advantages to employers come on top of the tax savings they already make under National Insurance rules. Employers are not liable for National Insurance Contributions for staff under the age of under 21 or apprentices under the age of 25.

Summary

- UNISON's case for bringing the youth rates up to the Living Wage can be summarised as follows:
  - Paying a 21-year-old differently to a 20-year-old for doing exactly the same job is a blatant injustice in the workplace;
  - This injustice costs employers in terms of retention, morale and motivation of young staff;
  - In reality, employers do not apply the youth rate across large swathes of the economy, reflecting concern both with unnecessary complexity and damage to morale and productivity caused by differentiation;
  - Unemployment rates for 18-24-years-olds and 16-17-year-olds have fallen to their lowest levels in many years. In the case of 18-24-year-olds rates haven't been lower in at least 30 years and in the case of 16-17-year-olds, only one period in the last 17 years has seen lower rates;
  - While the real value of the minimum wage for workers aged 21 and over has been maintained over the last decade, inflation has taken major chunks out of the value of rates for younger workers.
- The growth in the cash value of the gap between most of the youth / apprentice rates and the "national living wage" has grown since 2016, increasing the incentive to substitute workers on the full rate.

Conclusions

- The youth and apprentice rates should be brought up to the level of the Living Wage.
- The commission should not allow rates to fall ever further behind the "national living wage," thereby increasing the incentive to violate equality legislation, undermine the full rate and reduce employment of staff on the full minimum wage rate or above.
- Increases to restore the real value of youth rates to their 2009 level are a reasonable minimum target in the short term – 10.2% for 18-20-year-olds and 15.7% for 16-17-year-olds.

6. ENFORCEMENT OF THE NATIONAL MINIMUM WAGE

The final chapter of our evidence sets out the issues that UNISON believes are at the heart of continued widespread non-compliance, particularly in the social care sector, alongside the steps that are necessary to effectively ensure workers receive the wage to which they are legally entitled.

6.1 Poor quality commissioning – a longstanding and worsening problem

For almost a decade, UNISON has been highlighting how poor-quality commissioning practices from local councils, alongside complete indifference from the government about them, has contributed to the widespread problem of non-compliance with the minimum wage in the care sector.

Beginning in 2014 we have asked councils across England, Scotland and Wales the same question on a number of occasions:

> "*Does your council currently make it a contractual condition that your externally commissioned homecare providers must pay their homecare workers for their travel time?*"
>
> The rationale for asking this question is that non-payment of travel time is one of the main factors behind non-compliance with the minimum wage in the care sector. UNISON research has shown that as much as 73% of homecare workers employed by outsourced care providers are not paid for their travel. Homecare workers spend a significant proportion of their working day travelling between visits. The UK Homecare Association, which represents homecare providers, estimates that staff spend 19% of their working day travelling between the homes of the people they care for. Given that most homecare workers are paid at minimum wage level or just above, not being paid for even just a small amount of working time has the effect of pulling their average hourly pay rate across a pay reference period below the minimum wage.
>
> When we conducted the FoI request in 2018, 46% of councils said they made payment of travel time an explicit contractual requirement. This represented a significant increase from just the 6% of councils who did this back in 2014.
>
> However, our recent findings show that only 43% of councils currently make payment of travel time a contractual requirement, representing a reverse of the recent progress we've seen on this front.

In addition to the question about travel time we asked:

"*Does your council ever review the payslips and minimum wage records of your externally commissioned providers to monitor compliance with the national living wage?"*

Unfortunately, only 25% of councils take this step to help ensure that care workers employed by commissioned adult social care providers are being paid at least the minimum wage.

We did receive evidence of good practice from local councils who undertake these checks such as the two examples below:

"*As part of the regular quality and contract management of the Council's contracted home care providers under the Ethical Framework for Home Support, wage records are checked by officers to ensure that providers are paying Real Living Wage to care staff*." Stockport Council

"*Leeds City Council staff visit contractors to inspect staff management processes including types of contract, wage rates and staff support mechanisms. As part of this visit the officers require providers to supply evidence that the provider is paying wages in compliance with the Leeds Living Wage. This evidence has included payroll information, payslips and interviews with staff*." Leeds City Council

Carrying out check on payslips and minimum wage records can be particularly helpful at identifying possible non-compliance because UNISON research has shown that most care workers (63%) cannot tell from their payslips whether they are being paid for all their working time and that minimum wage records are often very hard to access. Having council officers review these documents can serve to highlight any potential problems and could help facilitate any referrals to HMRC if they believe that there is a risk of or evidence of non-compliance with the minimum wage, especially where these officials have an understanding of what they are looking for. It strengthens minimum wage protection in the sense that those commissioning public services are participating in the process of policing the minimum wage. It should not be left to low paid workers on zero hours contracts (and thus particularly vulnerable) to police compliance with statutory rights and minimum wage compliance which is what is effectively being left to happen. Because many social care companies aren't doing it, many commissioning bodies aren't doing it, and often HMRC isn't. it's being left to those with least security and power to take individual claims against employers to Employment Tribunals.

Unfortunately, most councils do not undertake any of these checks and some of them were labouring under the apprehension that they were not permitted to carry out such activities:

"*No, the Council does not review payslips and minimum wages of externally commissioned providers. The data sharing agreement does not extend to viewing this information, and to do so would be a breach of GDPR*." **Warwickshire County Council**

"*This is not in our general practice since payslips are employees' confidential / private information and we are not the employer to have direct access to those.*"
Wandsworth Council

"*No, this is not the role of Council Commissioners and remains the legal responsibility of HMRC*" **Birmingham Council**

A significant response to this problem from the government, its enforcement bodies and all local councils is long overdue. To date, the only meaningful action has come from a small number of local councils who have proactively decided to improve their commissioning practices to help improve the terms and conditions of their outsourced care workers.

There has also been some recognition of this problem from the Director of Labour Market Enforcement (DLME). In the 2018/19 DLME strategy report there was a recommendation "*that the public procurement contract templates are amended to include an emphasis on employment law obligations.*" Unfortunately, the government rejected the recommendation that "procurement templates should be amended to explicitly compel compliance with labour market regulations in public contracts."

There was also a specific recommendation on this problem in 2020/21 strategy paper.

"*Recommendation 4:*

The LME bodies should identify ways to actively and effectively support local authorities in their due diligence and monitoring of externally commissioned services with focus on workers' rights.

Specifically for social care, the LME bodies should consider the following methods (but may find other ways of achieving the same aim):

a. *Develop a good practice guide that Local Authorities can easily incorporate into their procurement processes;*
b. *Raise awareness within Local Authorities of the enforcement bodies' powers, regulations, and common breaches to ensure a greater flow of intelligence and appropriate referrals where non-compliance is suspected.*"

However, as of summer 2022, we are still yet to receive any formal government response to these important recommendations.

The government cannot be allowed to continue to sidestep this issue. As we have reported to the Low Pay Commission for almost a decade, this endemic problem of care workers not being paid for all their working time has major financial implications for the care workers themselves (even more so now given the soaring cost of living) and also has a negative impact on the recipients of care services. Unlawfully low rates of pay help to fuel high turnover and vacancy rates in the sector and help to encourage some care workers to reduce the amount of contact time they spend with service users in order to reduce the amount of time they have to travel without being paid. Reports by various organisations such as the IPPR have highlighted how local authorities' approach to commissioning plays a significant role in shaping the quality

of jobs and the care provided and contributes to poor standards and the poor treatment of the workforce.

The Migration Advisory Commission also recently called for this problem to be addressed. In their "Adult Social Care and Immigration: A Report from the Migration Advisory Committee" from April 2022 they highlight non-payment of travel time as a major problem. One of their main recommendations is: "*We recommend that workers in social care should be paid for the hours while at work, whether this is time spent travelling or sleeping. Whilst these hours are not being properly compensated, low paid workers are being underpaid for their time spent at work. Where care is being provided through public funds, those funds should increase to fully reflect the additional costs involved*"

The Government has a unique opportunity to improve commissioning practices and stamp out non-compliance with the minimum wage thanks to its planned social care reform agenda. Its White Paper "People at the Heart of Care" states "*We also want to work with commissioners and providers to make sure care workers are paid for all the hours they work and to improve the terms and conditions of the workforce, to help ensure a sustainable future supply of care staff" but there is little detail of how these problems will be addressed as it only focuses "on strengthening market shaping and commissioning functions*". If the Government was serious about ensuring minimum wage compliance and putting an end to poverty pay; given the large majority they enjoy in Westminster they would act.

We know that the COVID-19 pandemic has resulted in the deaths of hundreds of care workers who were carrying out a vital public service. The very least the government can do to help address this and other historic wrongs that the care workforce have enduring is to take some meaningful steps to properly enforce payment of the minimum wage in the sector. Improving how adult social care services are commissioned by councils and providing them with the resources to do so is one simple step they can take. Travel time must be a contractual requirement as standard alongside providing evidence that all homecare workers are being paid for their travel time. Commissioned employers must be made to provide clear and understandable payslips providing a breakdown of different elements of their working time (e.g. contact time, travel time and waiting time) and minimum wage records of their workforce to councils as standard to help demonstrate minimum wage compliance.

We urge the Low Pay Commission to take note of our findings and force councils to commission care services in a way that ensures that any opportunities for outsourced care employers to not pay their workforce properly for all their working time are severely limited and that they are able to gain access to payslips and minimum wage records.

> We also request the Low Pay Commission orders HMRC to provide detailed guidance for council officers on what steps they can take to effectively review the pay records and payslips of the adult social care employers that they commission and to look for any signs that they may not be minimum wage compliant. Council officers will then be strongly encouraged to refer any employers to HMRC.

6.2 NMW records

Despite UNISON, the Low Pay Commission and the Director of Labour Market Enforcement highlighting the problem with the quality of minimum wage records that are maintained by social care employers we are still yet to see any prosecutions put forward by HMRC of any such social care employers.

Furthermore, despite a recommendation from the Low Pay Commission (echoing a recommendation from the Director of Labour Market Enforcement) that “we join the Director of Labour Market Enforcement in recommending that the Government reviews the regulations on records to be kept by an employer, to set out the minimum requirements needed to keep sufficient records” there has been little progress. Clarifying the regulations around record keeping further would be both useful in providing guidance to employers on their obligations and demonstrating to workers what they have a right to expect. It would also have the important effect of removing a purported barrier to enforcement (according to HMRC).

Despite widespread recognition of this problem BEIS have refused to change the existing regulations around the standard of minimum wage records that must be maintained by employers. Rather than change the regulations they only agreed to make some very modest changes to their Calculating the National Minimum Wage guidance.

The guidance still says:

> “By law, you are required to keep sufficient records to show that you are paying your workers at least the minimum wage for each pay reference period and to be able to produce this in a single document. There is no definition of what counts as ‘sufficient’ records. The situation will vary from employer to employer and from worker to worker. It is left to your own judgment for each worker. It is for you to judge when, for any particular worker, you should keep more detailed or specific records to show you are paying at least the minimum wage.”

The guidance now also says:

> “We do recommend though that records are kept in a consistent way, with a clear breakdown on working time and associated pay rates across a pay reference period, to make records accessible to workers. It may also be appropriate for employers to provide their workers with a clear breakdown of all their working time and associated pay rates across a pay reference period.”

Despite this modest change the guidance is still fundamentally extremely poor because it still gives employers the freedom to maintain NMW records in any way they see fit. Crucially, the guidance is not binding and so unscrupulous employers will just continue to ignore it. It also means that HMRC NMW inspectors remain hinder in carrying out their work as they cannot force employers to maintain their NMW records to a set standard that would help to improve pay transparency and make their jobs easier. We therefore once again call upon the government to change the regulations around the standard of NMW records that must be maintained. We hope that the Low Pay Commission can once again reiterate their request as well.

On top of these changes to record keeping it is vitally important for them to be accompanied by active and proactive investigation and prosecutions of non-compliant employers. Whilst good record keeping can provide a good bedrock we need to then also see more investigations carried into social care providers so that there are consequences for employers who fail to maintain sufficient records.

6.3 Sleep-ins

Just as the imminent prospect of new social care legislation offers the opportunity to improve commissioning practices for homecare services, the same applies to sleep-in shifts. The government must take this opportunity to state that all time spent on a sleep-in shift is working time for the purposes of calculating the minimum wage. If the government truly does "*want to work with commissioners and providers to make sure care workers are paid for all the hours they work and to improve the terms and conditions of the workforce*" then they must remedy the injustice that sleep-in care workers have been dealing with for years and deliver meaningful legislative reform on this issue.

We have made clear in our previous submissions how the work of the Low Pay Commission has been used to justify poverty pay for low paid care workers and urged them to make a corrective statement on the topic given their repeated unwillingness to intervene again on the matter. Given the recent launch of the social care White Paper, it is imperative that the Low Pay Commission now adds its voice for the need for adequately funded legislative reform on the sleep-in issue as loudly and forcibly as possible. A new approach is needed whereby overnight shifts are counted as working time and all care workers are entitled to at least the minimum wage for all their working hours.

6.4 Use of self correction by non-compliant employers

UNISON has previously highlighted the problem of HMRC's approach in allowing employers that are non-compliant with the minimum wage to 'self-correct' and identify the level of arrears they must pay to their wider workforce and allowing them to avoid a more thorough HMRC inspection. A significant amount of HMRC investigations involve employers only being named and shamed for failing to pay arrears to one individual worker even though the problems around non-compliance are systemic.

Given the problems in the care sector where many care workers struggle to calculate how much they have been underpaid by, due to the pervasiveness of poor-quality payslips and minimum wage records, social care employers should not be allowed to self-correct.

Self-correction allows employers to avoid any fines for non-compliance and also means they will not be considered for any naming and shaming rounds, thus avoiding any negative publicity or further scrutiny. HMRC still does not publish what proportion of the total arrears they recover each year are the result of their typical NMW investigations and what proportion stem from employers being allowed to self-correct. In-lieu of making the changes to self-correction that we have long called for the very least HMRC should do is routinely publish what amount of NMW arrears they recover each year is as a result of self-correction and how many workers and employers it relates to.

We also call for HMRC to provide the headline figures of how many social care employers are found to be non-compliant with the minimum wage and how many of them have been allowed to self-correct.

Summary

- Poor-quality commissioning practices from local councils, alongside complete indifference from the government about them, continues to contribute significantly to the widespread problem of non-compliance with the minimum wage in the care sector.
- The Low Pay Commission's and Director of Labour Market Enforcement's previous calls for regulations to set out the minimum requirements on employers for keeping sufficient NMW records have merely resulted in the BEIS making a minor change to its voluntary guidance on Calculating the National Minimum Wage.
- Court rulings are now enabling employers to avoid payment of the NMW for sleep-in shifts and the Low Pay Commission's passive acceptance of this gross injustice has enabled this change to be carried through by quoting a position taken by the commission more than 20 years ago as a justifying argument.
- The "self-correction" system is allowing social care employers to escape full compliance.

Conclusions

- The Low Pay Commission should recommend:
    - Changes to commissioning practices that ensure that any opportunities for outsourced care employers to not pay their workforce properly for all their working time are severely limited and that councils are able to gain access to payslips and minimum wage records.
    - HMRC provides detailed guidance for council officers on what steps they can take to effectively review the pay records and payslips of the adult social care employers that they commission and to look for any signs that they may not be minimum wage compliant.
- The commission should condemn the government's lack of serious action to properly enforce previous calls for regulations to set out the minimum requirements on employers for keeping sufficient NMW records,
- The commission should demand that changes to the standards of NMW records that must be kept need to be accompanied by active and proactive investigation and prosecutions of non-compliant employers.
- The commission should take the opportunity offered by the social care White Paper to vocally demand adequately funded legislative reform on sleep-ins so that overnight shifts are counted as working time and all care workers receive at least the minimum wage for all their working hours.

- The commission should recommend that:
    - Social care employers should not be allowed to “self-correct” when non-compliance comes to light. Enforcement across the full workforce should be ensured by the intervention of the HMRC (whose investigations would be made easier if improvements are made to regulations around the standards of minimum wage records that must be maintained).
    - The HMRC provides the headline figures of how many social care employers are found to be non-compliant with the minimum wage and how many of them have subsequently been allowed to self-correct.