UNISON evidence to the Low Pay Commission on minimum wage rates for 2024

June 2023

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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.

SUMMARY OF RECOMMENDATIONS

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

- Set a course for raising the National Minimum Wage to £15 an hour, in line with the path set out by the TUC;
- Harmonise the National Minimum Wage rates into a single rate across all age groups;
- Expand the scope of the Low Pay Commission's role beyond the hourly rate to address the critical issue of working hours in addressing poverty rates of weekly income across the UK.

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

- The planned final step toward achieving a "national living wage" at two-thirds of average earnings in 2024 should be maintained, in recognition that the cost of living has been running at a 40-year high and hitting the lowest paid workers in the UK hardest;
- The April 2024 increase in the minimum wage rates applicable to younger workers should at least build in the 12.4% - 17.8% uplift needed in 2024 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 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];
- In acknowledging the weight of opinion against adoption of a Consumer Price Index formula as the only measure of inflation in the UK, and in recognition of the critical importance of inflation measurement to assessing low pay, call for an independent review of inflation measurement before the effective abolition of the Retail Price Index from 2030;

- 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 proactive investigations and prosecutions of non-compliant employers.
  - Demand legislative reform on sleep-ins so that overnight shifts are counted as working time and care workers receive at least the minimum wage for all of their working hours.
  - Recommend that:
    - Social care employers should not be allowed to "self-correct" where non-compliance comes to light. Enforcement across the full workforce should be ensured by the intervention of HMRC (whose investigations would be made easier if improvements are made to regulations around the standards of minimum wage records that must be maintained).
    - HMRC regularly publishes headline figures of how many social care employers are found to be non-compliant with minimum wage legislation and how many of them have subsequently been allowed to "self-correct".
  - In light of over a decade of inaction to meaningfully tackle the scandal of non-compliance with the minimum wage in the social care sector, UNISON calls upon the Low Pay Commission to make clear their displeasure at the government's failure in the most vocal possible way.

1. EXECUTIVE SUMMARY

General economic context

Summary

- Economic growth is expected to dip in 2023 but then resume rates in line with the average GDP growth rate between 2016 and 2022, when the minimum wage has been on the path toward two-thirds of average earnings.
- Operating surpluses and dividends paid to shareholders have surged upward to £549bn and £94bn respectively in 2022. Both measures have generally been growing faster or at around the same rate as the National Minimum Wage over the last decade.
- The 2022 unemployment rate was the lowest annual rate in almost half a century and though rates are expected to show a slight upturn they are forecast to remain at levels below or in line with the 4.3% average unemployment rate while the minimum wage has been on the path toward two-thirds of average earnings between 2016 and 2022.
- Labour shortages are also apparent in vacancy and turnover data - turnover rates across the economy saw a huge spike in 2022, jumping to 22.5% from 14.6% the year before.
- Inflation is at levels not seen in four decades, led by surging energy, food and mortgage costs, creating a cost-of-living crisis across the economy that is imposing intense hardship on the lowest paid.
- Inflation hugely outstripped the increase in the rate of the highest minimum wage over 2022, wiped out the value of the increase in 2023 and is forecast to gobble up most of the “on-target” increase for 2024.

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 7.1% rise in the highest National Minimum Wage rate needed to stay on course for two-thirds of average earnings in 2024 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 2024 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.
- Given the vital importance of accurately measuring increases in the cost of living facing low-paid workers for the proper functioning of the Low Pay Commission, the commission should acknowledge the weight of opinion against adoption of a Consumer Price Index formula as the only measure of inflation in the UK and call for an independent review of inflation measurement.
- 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 continues to sweep the global economy.

Factors affecting low-income groups

Summary

- Despite the success of the “national living wage” in driving down most measures of low pay derived from the hourly rate, the year ahead is expected to see a resurgence of jobs falling below the Living Wage.
- Employers’ ability to circumvent higher wages through more exploitative forms of contract appears to have contributed toward much more modest falls in low pay measured on a weekly basis.
- 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 over £900 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.
- 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.
- UNISON’s care worker survey has shown the immense strain placed on workers by contracts that can slash hours from week to week, causing income to dip below a basic weekly living wage despite improvements to hourly rates.

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, by building on its 2018 recommendations to contracts offering zero or minimal hours.
- 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 the initiative for social care workers in Scotland and Wales.

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 18 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.
- Data consistently shows that employers pay well above the apprentice minimum wage in most cases and employer support for dropping the rate is widespread
- 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 minimum wage applicable to workers aged 21 and over from 2024.
- 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 – 12.4% for 18-20-year-olds and 17.8% for 16-17-year-olds.
- Similarly, abolition of the apprentice minimum wage is a positive next step in simplifying the minimum wage structure and tackling low pay.

Enforcement of the National Minimum Wage

Summary

- A UNISON survey of homecare workers in 2023 found that just a quarter are paid for travel time and just 18% receive any details of their travel time, though travel time constitutes around a fifth of their working day.
- Care workers regularly attest to the immense toll that this places on them and their families, as well as the damage to supporting those under their care.
- Both the Low Pay Commission and Director of Labour Market Enforcement have endorsed our previous findings and made recommendations calling for greater pay transparency in the care sector that have sadly been ignored.
- A UNISON FoI to the HMRC found that:
    - Despite the widely recognised problem of poor-quality minimum wage records in the care sector, particularly in the homecare sector, there has still not been one single care employer referred to the Crown Prosecution Service for prosecution for failing to keep sufficient records in the last decade;
    - The average amounts of arrears per care worker recovered by HMRC are paltry, ranging from £229 in 2018/19 to just £85 in 2022/23;
    - Less than 1% of care employers have been subject to an investigation by HMRC each year on average over the last five years despite widespread non-compliance with the minimum wage across the care sector.
- The “self-correction” system is allowing non-compliant social care employers to act with impunity.
- The government’s announcement in May that as part of its review of Retained EU law, it is proposing to consult on changes to the records that employers are required to keep on employee’s working hours, with a clear view to cutting requirements, raises further alarm bells about the possible impact of any such proposals on care workers.

Conclusions

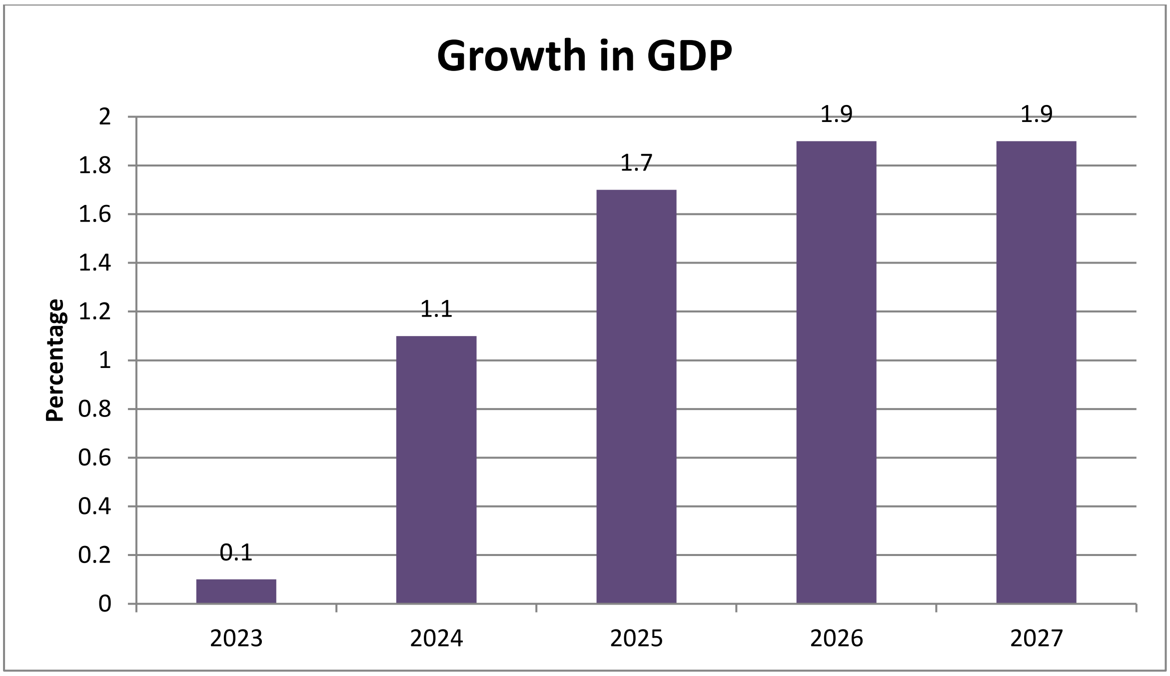
- The Low Pay Commission should recommend:
    - Changes to commissioning practices that ensure that any opportunities for outsourced care employers to not pay their workforce properly for all their working time are severely limited and that councils are able to gain access to payslips and minimum wage 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 proactive investigations and prosecutions of non-compliant employers.
- The commission should demand legislative reform on sleep-ins so that overnight shifts are counted as working time and care workers receive at least the minimum wage for all of their working hours.
- The commission should recommend that:
    - Social care employers should not be allowed to "self-correct" where non-compliance comes to light. Enforcement across the full workforce should be ensured by the intervention of HMRC (whose investigations would be made easier if improvements are made to regulations around the standards of minimum wage records that must be maintained).
    - HMRC regularly publishes headline figures of how many social care employers are found to be non-compliant with minimum wage legislation and how many of them have subsequently been allowed to "self-correct".
- In light of over a decade of inaction to meaningfully tackle the scandal of non-compliance with the minimum wage in the social care sector, UNISON calls upon the Low Pay Commission to make clear their displeasure at the government's failure in the most vocal possible way.

3. GENERAL ECONOMIC CONTEXT

3.1 Economic growth and surpluses

GDP growth for 2022 came in at 4% - the same level predicted when the Low Pay Commission was last considering evidence.

The impact of high inflation is one of the major contributory factors to very modest GDP growth expected by most forecasters this year, but growth in 2024 is predicted to run approximately in line with the average GDP growth rate between 2016 and 2022, when the minimum wage has been on the path toward two-thirds of average earnings.

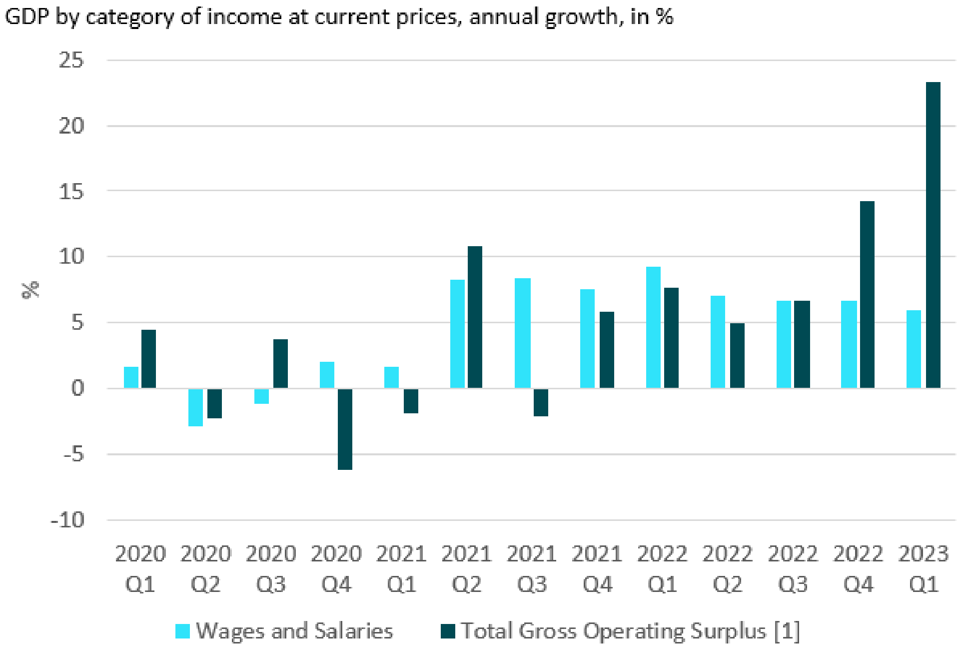


Source: HM Treasury, Forecasts for the UK Economy, May 2023

It should also be noted that while GDP grew at 4% in 2022, operating surpluses across the UK economy saw a huge surge of 10.4% to £549 billion in 2022 – the largest increase in almost 30 years.[1] As evidenced by the graph below produced by the Centre for Economics and Business Research, profit rates have been accelerating markedly since the second quarter of 2022.

Dividend payments made to shareholders saw a similarly large jump in 2022, increasing by 8% to £94.3bn[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 2022, February 2023
[2] Link Group, UK Dividend Monitor, Q4 2022



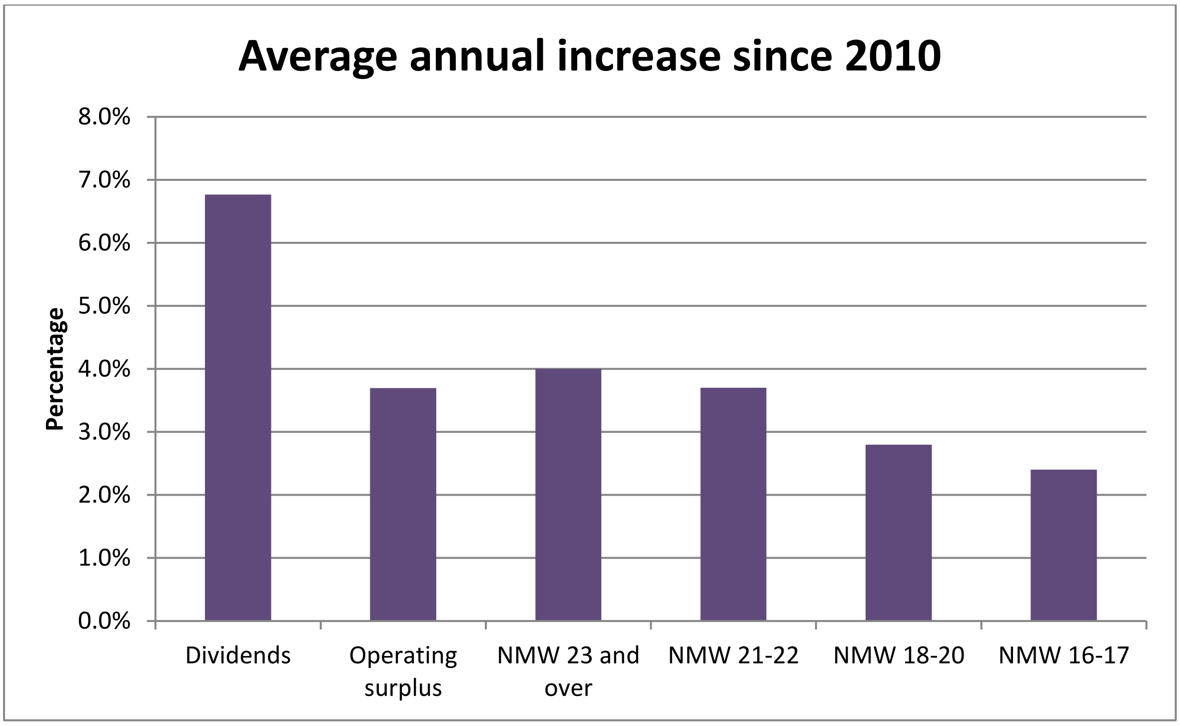
[1]:Includes the operating surplus of financial corporations, private non-financial corporations and public corporations.

Source: The Centre for Economics and Business Research

Information available on chief executive pay at FTSE 100 companies showed an enormous 39% rise in average pay at £3.41m in 2021[3]. Deloitte has gone on to establish that chief executives saw a further 12% rise in 2022 median pay to £4.15m.

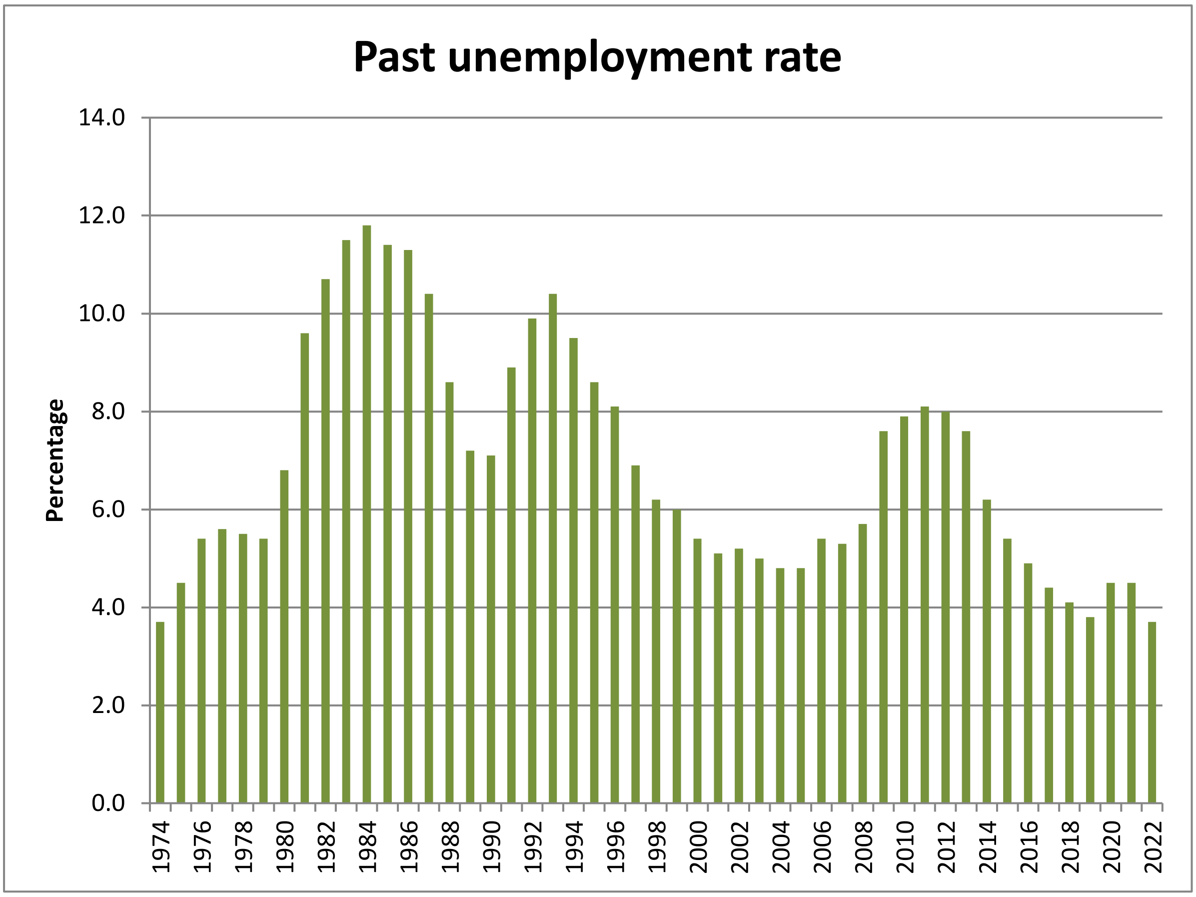
When taking a longer-term view of these benefits drawn by owners of capital, operating surplus increases have shown average rises of 3.7% over the last decade and shareholder dividends have displayed average rises of 6.8%. Average minimum wage rises for the lowest paid workers in the UK over the same period have run at 4% for those aged over 23, 3.7% for those aged 21-22, 2.8% for those aged 18-20 and 2.4% 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] High Pay Centre, Analysis of UK CEO Pay, August 2022

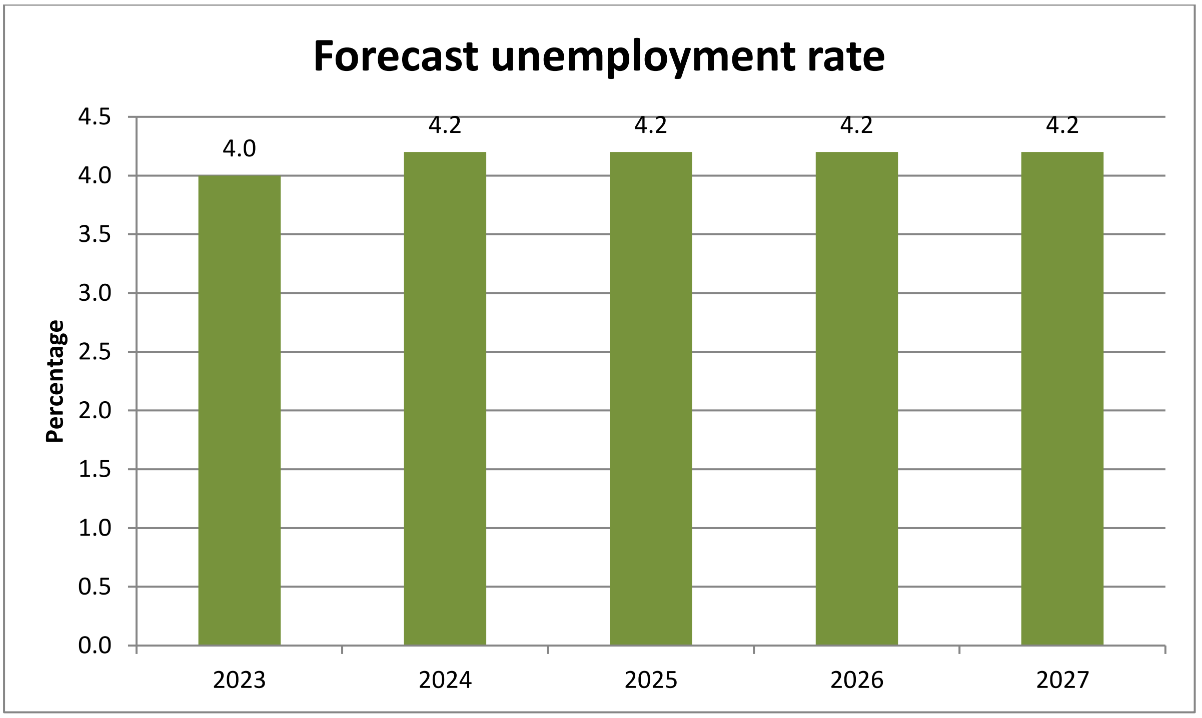

Average annual increase since 2010
Percentage
8.0%
7.0%
6.0%
5.0%
4.0%
3.0%
2.0%
1.0%
0.0%
Dividends
Operating surplus
NMW 23 and over
NMW 21-22
NMW 18-20
NMW 16-17

3.2 Unemployment rate

The 2022 unemployment rate of 3.7% was the lowest annual rate in almost half a century. This is a dramatic decline on a decade ago, when the rate peaked at 8.1% in 2011, and a substantial recovery on the pandemic high of over 5% in 2020. In the period since unemployment was last at the current level in 1974, the unemployment rate has averaged 7%.



The latest forecasts suggest that unemployment will turn up slightly to 4% in 2023 and remain at roughly that level over subsequent years. However, these rates are still below the 4.3% average unemployment rate while the minimum wage has been on the path toward two-thirds of average earnings between 2016 and 2022.



Source: HM Treasury, Forecasts for the UK Economy, May 2023

Though the predicted 7.1% rise in the highest National Minimum Wage rate to stay on course for two-thirds of average earnings in 2024 is significant, we believe that it is worth recalling that the commission has set precedents for numerous 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[4] indicates that the vacancy rate across the economy has slid to 3.4% from a post pandemic peak of 4.3%, but when viewed over the longer term the vacancy rate is still at a higher level than at any point in the two decades before August 2021.

[4] Office for National Statistics, Labour Market Overview, May 2023

The number of unemployed people per vacancy is running at 1.2. This figure remains in a trough that has seen the lowest levels recorded in more than two decades and represents a dramatic decline from 5.8 in 2011.

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 5.5% vacancy rate.

This trend was confirmed by an Institute of Fiscal Studies report[5] 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 10.7% and a turnover rate of 29%,[6] while the NHS displayed a vacancy rate of 8.9% in England at December 2022[7].

The proportion of employers reporting "hard to fill" vacancies is running at 42%, with many of UNISON's largest sectors experiencing the highest rates – education at 60%, healthcare at 55%, public admin and other public sector at 47%[8].

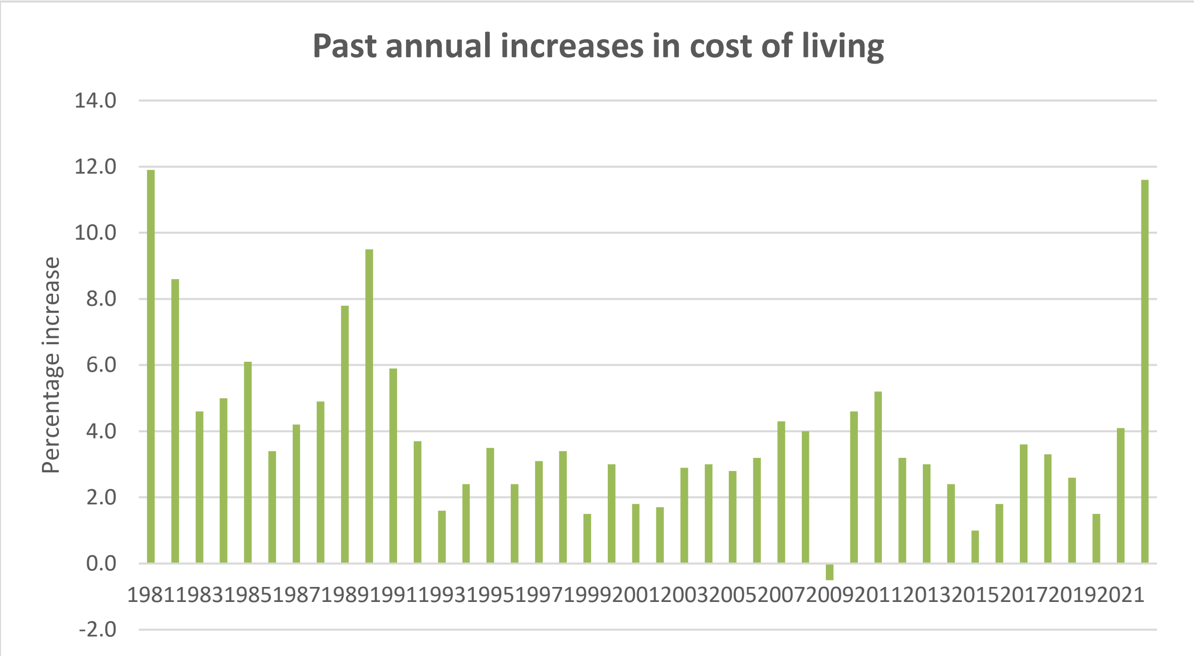
Turnover rates across the economy saw a huge spike in 2022, jumping to 22.5% from 14.6% the year before[9].

[5] IFS, Job Opportunities after the Pandemic, April 2022
[6] Skills for Care, The State of the Adult Social Care Workforce in England, October 2022
[7] NHS Digital, NHS Vacancy Statistics England, December 2022
[8] CIPD, Labour Market Outlook, Spring 2023
[9] XpertHR, Labour turnover rates 2022

3.3 The cost of living

When the Low Pay Commission was last considering evidence, the forecast inflation rate (as measured by the Retail Prices Index (RPI) – we set our reasons for using RPI below) for 2022 was 9.1%. In reality, inflation came in at 11.6% over the year, hugely outstripping the 6.6% increase in the rate of the highest minimum wage.

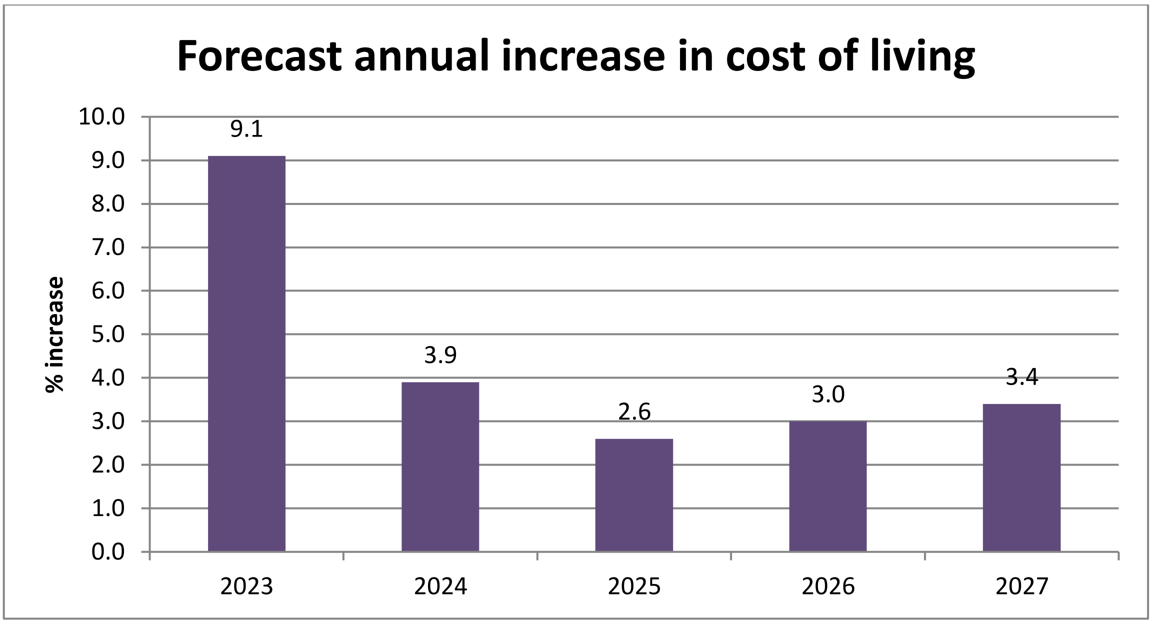
The latest inflation figures to April 2023 show rates remaining stubbornly high at 11.4% and maintaining a pattern that has seen the cost of living rising at the quickest rate in over 40 years.



Source: Office for National Statistics, Consumer Price inflation Tables, April 2023

Despite a 9.7% increase in the highest tier of the minimum wage over 2023, the projected 9.1% increase in the cost of living over the full year will virtually wipe out any real increase in the buying power of the UK's lowest paid workers.

Forecasts of the inflation rate beyond this year indicate that the cost of living will be rising at almost 4% in 2023, as per the table below, taking out the majority of the value of the projected 6.3% 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 2023

The surging cost of living across the economy is being driven by many factors, but among the most significant are these rises[10]:

- A 133% increase in gas prices;
- A 67% increase in electricity prices;
- A 51% increase in mortgage interest payments;
- A 19% increase in food prices;
- A 9% rise in rent for a new rental property.

The pressure on the income of low-paid staff is reflected in figures showing that the effect of particularly strong inflation in expenditure on food, energy and housing is that the Resolution Foundation estimates that the poorest tenth of households was facing an inflation rate 3.5% higher than the richest tenth in March 2023.

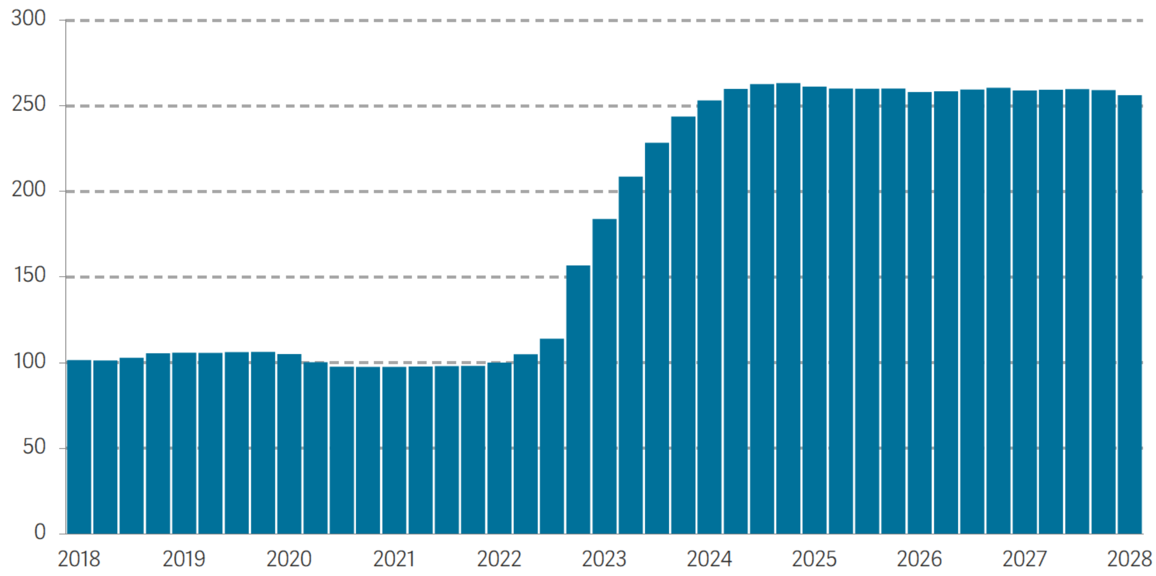
[10] Office for National Statistics, Consumer Price inflation Tables, April 2023

In its Living Standards Outlook 2023, the Resolution Foundation stated that higher mortgage interest rates “will result in new living standards pain for the around 1.8 million households with fixed rate mortgages that are set to be renewed in 2023-24, as well as at least 1 million floating-rate mortgagors who face the impact of continued rises in the Bank of England’s policy rate. Indeed, the average mortgagor household renewing their mortgage in 2023 will face a £3,000 annual increase in their mortgage costs.”

The consequences for this year and beyond are shown in the Resolution Foundation’s figures below:

FIGURE 26: **Mortgage interest payments are projected to be persistently a lot higher than they have been in recent years, due to higher interest rates**

Indexed average mortgage interest payments (Q1 2022=100): UK



SOURCE: OBR, Economic and Fiscal Outlook November 2022.

Despite the extension of the Energy Price Guarantee (EPG) to June this year, the foundation expects that “the scaling back of the EPG and removal of £400 universal bills support in April will cause energy bills to jump by 20 per cent for households on pre-payment meters (PPMs). Despite warmer weather anticipated from April, those on PPMs are set to see their monthly bills in April rise from £202 to £247.”

Furthermore, tax rises coming into effect in April 2023 mean a £700 hit to a typical household.

Consequently, “the fall in living standards for non-pensioners in 2023-24 is set to be largest single-year fall since 1975.”

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.” The current cost-of-living crisis has appeared to bear out these doubts about CPIH, since at April 2023 the measure assessed owner occupers’ housing costs as rising at 4%, at a time when mortgage interest payments are rising at over 55%.

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 surveys of public opinion consistently show a large proportion see RPI as the most accurate indicator of their experience.

Even 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.

iv) Recommendation

UNISON believes that the accurate measurement of increases in the cost of living facing low-paid workers is an absolutely vital issue for the proper functioning of the Low Pay Commission in making appropriate judgements about increases in the National Minimum Wage.

Therefore, we do not believe that the LPC can stand aside from the controversy over the measurement of inflation and simply accept the effective abolition of the Retail Price Index from 2030.

UNISON believes that the commission should acknowledge the weight of opinion against adoption of a Consumer Price Index formula as the only measure of inflation in the UK and call for an independent review of inflation measurement.

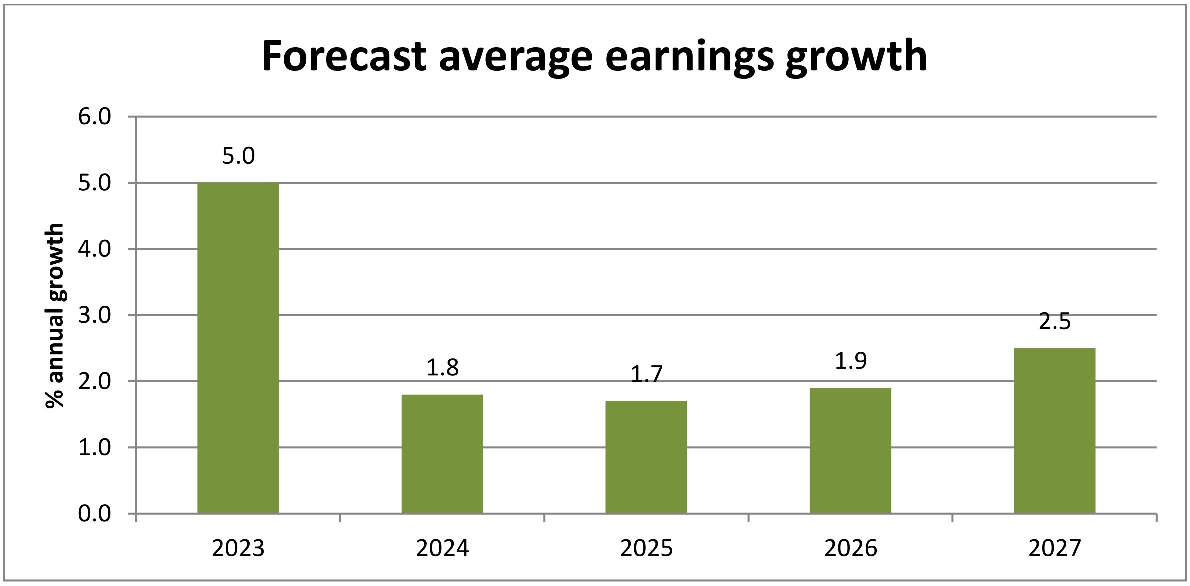
3.4 Average earnings and pay settlements

Average earnings growth hit 5.8% in March 2023[11] and though this figure was down on recent levels that emerged during the Covid-19 pandemic, it is still higher than all but four months in the 20 years prior to June 2021.

Similarly, pay settlements over the three months to May 2023 were running at 6%[12].

Over 2022, average earnings grew by 6.2%, which was around 1% above the level predicted when the Low Pay Commission was last considering evidence.

The Office for Budgetary Responsibility's March 2023 Economic and Fiscal Outlook suggests that earnings growth will continue to run at high levels, averaging 5% over 2023, before dipping to 1.8% in 2024, in line with the pattern shown in the graph below.



The Bank of England Decision Maker Panel indicates that pay settlements will be even higher as its latest survey shows that companies are expecting a 5.6% increase in wages over the next year[13].

The higher vacancy rate among typically low-paying sectors has been driving examples of even stronger wage growth in those sectors.

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[11] ONS, Labour Market Overview, May 2023
[12] Labour Research Department, Payline Database
[13] Bank of England, Decision Maker Panel, April 2023

Incomes Data Research published research in March 2023 which found that “pay for retail assistants in 2022 were typically 9% higher when compared to 2021.”

“Some 81% of firms in our sample reported difficulties with recruiting staff in 2022, compared to 64% that experienced this in 2021. The proportion of employers facing difficulties with staff retention overall has risen slightly with 65% reporting problems, compared to three-fifths in our last study.”

“Aldi, Lidl and Sainsbury’s are now paying a basic minimum rate of £11.00 an hour, while Tesco and Asda are planning to implement rates of £11.02 and £11.11 from April and July respectively.”

We note that the consequences of this wider economy wage growth has been that despite the acceleration in the growth of the minimum wage rate during the drive toward two-thirds of average earnings, the number of workers covered by the minimum wage fell between 2019 and 2022 from two million to 1.6 million (i.e. 7% to 5.4% of employee jobs)[14].

UNISON also notes that the disparity between male gross median hourly pay and gross median hourly pay for all employees hit 8% in 2022, with the “all employee” median standing at £14.77, the male median at £16.01 and the female median at £13.56.

The “all employee” figure incorporates the various factors that often drive down average wages for women, such as discriminatory wage setting practices and 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.

[14] Low Pay Commission, National Minimum Wage Report 2022, January 2023

Summary

- Economic growth is expected to dip in 2023 but then resume rates in line with the average GDP growth rate between 2016 and 2022, when the minimum wage has been on the path toward two-thirds of average earnings.
- Operating surpluses and dividends paid to shareholders have surged upward to £549bn and £94bn respectively in 2022. Both measures have generally been growing faster or at around the same rate as the National Minimum Wage over the last decade.
- The 2022 unemployment rate was the lowest annual rate in almost half a century and though rates are expected to show a slight upturn they are forecast to remain at levels below or in line with the 4.3% average unemployment rate while the minimum wage has been on the path toward two-thirds of average earnings between 2016 and 2022.
- Labour shortages are also apparent in vacancy and turnover data - turnover rates across the economy saw a huge spike in 2022, jumping to 22.5% from 14.6% the year before.
- Inflation is at levels not seen in four decades, led by surging energy, food and mortgage costs, creating a cost-of-living crisis across the economy that is imposing intense hardship on the lowest paid.
- Inflation hugely outstripped the increase in the rate of the highest minimum wage over 2022, wiped out the value of the increase in 2023 and is forecast to gobble up most of the “on-target” increase for 2024.

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 7.1% rise in the highest National Minimum Wage rate needed to stay on course for two-thirds of average earnings in 2024 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 2024 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.
- Given the vital importance of accurately measuring increases in the cost of living facing low-paid workers for the proper functioning of the Low Pay Commission, the commission should acknowledge the weight of opinion against adoption of a Consumer Price Index formula as the only measure of inflation in the UK and call for an independent review of inflation measurement.
- 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 continues to sweep 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 2024, 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 2023 Low Pay Britain report has again produced an exhaustive analysis of the scale of low pay in Britain[15].

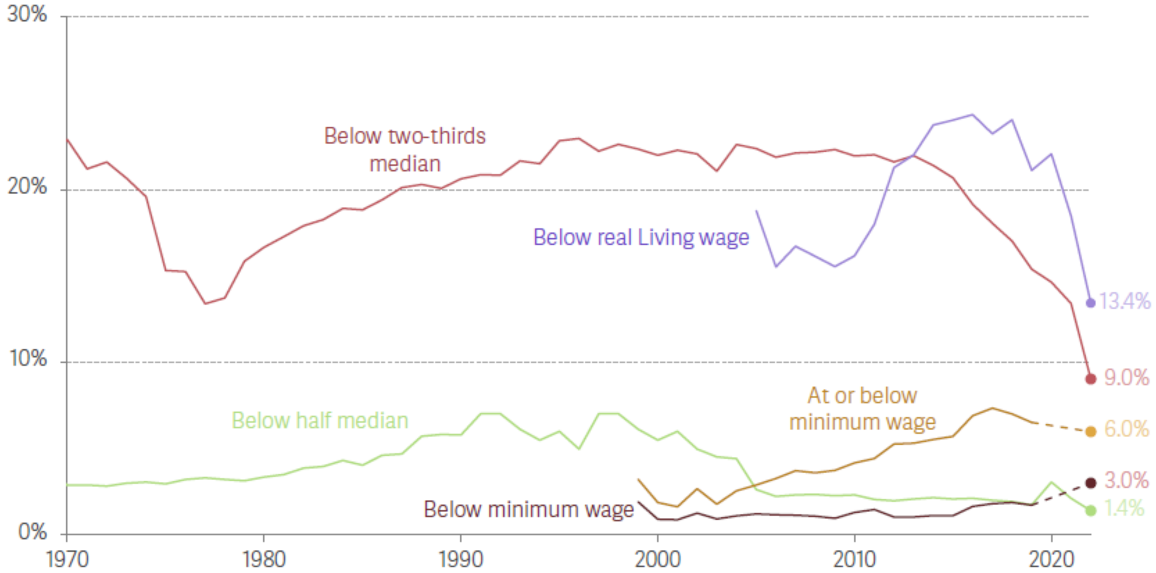
The research found that:

- 9% of employees (2.5 million individuals) are paid less than two-thirds of median gross hourly earnings in Britain.
- 13.4% of employees (3.7 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.

FIGURE 11: **The proportion of workers in low pay has fallen dramatically since 2015, while the number of workers earning the minimum wage has been stable**

Proportion of employees in different measures of low hourly pay: GB



NOTES: 'At or below minimum wage' defined as earning below the age-specific minimum wage plus 5p.
SOURCE: Analysis of ONS, Annual Survey of Hours and Earnings and New Earnings Survey Panel Dataset.

[15] Resolution Foundation, Low Pay Britain, April 2023

The graph shows the disparity between those paid below the two-thirds of median earnings threshold and those paid less than the Living Wage, though both have been in a sustained decline since the introduction of the "national living wage."

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 2023 report included the following data on the proportion of staff falling below the two-thirds of median earnings threshold:

- Men 8% / Women 10%
- 16-to-20-year-olds 57% / 21-to-24-year-olds 16%
- Highest regional rate North East 11% / Lowest regional rate London 5%

And previous years' reports have 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 29% / Firms employing 5,000 staff or more 12%

The Living Wage Foundation suggests that the proportion of jobs paid below the Living Wage has dropped from 17.1% (4.8 million jobs) in April 2021 to 12.2% (3.5 million jobs) in April 2022. However, the foundation forecasts that the figure will rebound to 18.5% (5.1 million jobs) in 2023[16].

Sector analysis by the Living Wage Foundation suggests that 22% of jobs in the private sector pay below the Living Wage, compared to 6% in the public sector and 14% in the third sector (covering charities, community interest companies, social enterprises, pressure groups and universities)[17].

By industry, the accommodation and food services category has the highest proportion of jobs paid below the Living Wage at 49%, followed by arts, entertainment and recreation at 24% and wholesale and retail at 22%, but as the wholesale and retail sector employs far more than the other two industries, it accounts for the largest number of below Living Wage jobs at 822,000.

Analysis by the Joseph Rowntree Foundation in its 2023 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 stands at 11%.

The report also shows the growth of in-work poverty, as 61% of working-age adults in poverty lived in a household where at least one adult was in work, compared to 50% in 1996/97.

[16] Living Wage Foundation, Employee Jobs Paid Below The Living Wage: 2022, Sakinah Abdul Aziz and Joe Richardson, November 2022
[17] Living Wage Foundation, All Work And Low Pay? The Third Sector And The Real Living Wage, Yasmin Mahmoudi, Alice Ollendorff and Joe Richardson, June 2022

As of 2019/20, more than half of those in what the foundation describes as "very deep poverty" lived in working families. Since 2002, "v*ery deep poverty has increased by more than half for couples with a single breadwinner working full-time (their risk up from 7% to 12%), and for those in families with only part-time workers (up from 14% to 20%).*[18]"

The Joseph Rowntree poverty rate also suggests the role of inadequate hours rather than solely the hourly wage rate in driving poverty:

> *"The poverty rate for part-time workers was double that for full-time workers (18% compared with 9%) and self-employed workers were twice as likely to be in poverty than employees (21% compared with 10%)."*

Research published by the Child Poverty Action Group[19] (CPAG) over the last year has shown that "even couple-families with both parents working full-time for the "national living wage" (NLW) can't reach a minimum, socially acceptable living standard – as defined by the public - largely because benefits were uprated far below inflation last April."

Such families were 6% (£34 per week) short of the minimum standard - the biggest annual deterioration in living standards since CPAG's *The Cost of a Child* reports began in 2012.

The report goes on to state that:

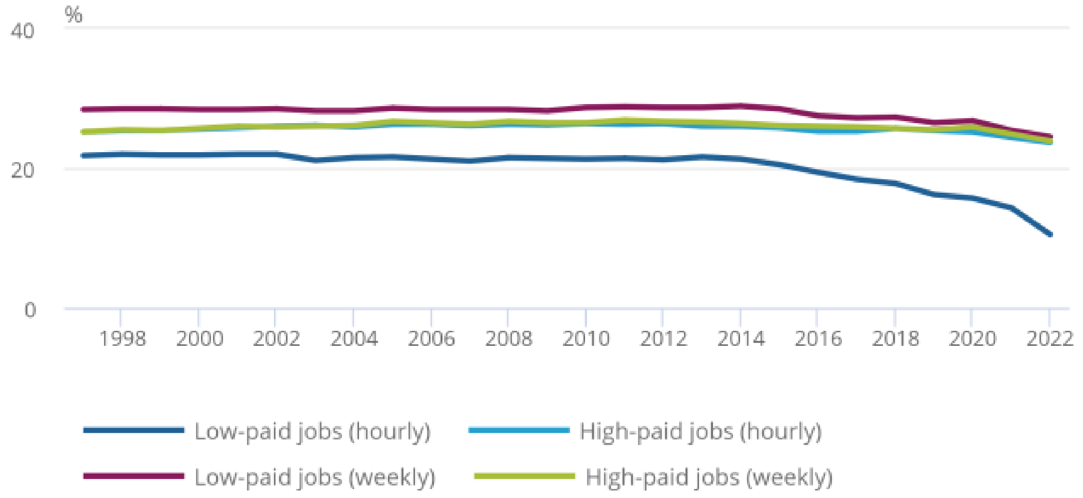
- *Lone parents working full-time for the NLW are £108 short today, compared to £76 in 2016;*
- *The gap for couples where both partners work full-time is similar this year (£34) as in 2016 (£36);*
- *Out-of-work-couples with two children and paying private rent are a full £353 short of what they need each week, compared to £226 in 2016.*

[18] Joseph Rowntree Foundation, Going without: Deepening poverty in the UK, July 2022
[19] Child Poverty Action Group, The Cost of a Child in 2022, Donald Hirsch and Juliet Stone, November 2022

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 10.5% of the workforce are paid less than two-thirds of average earnings in hourly terms, 24.5% 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 10%, while in terms of weekly earnings the decline has been just 4%[20] (as per graph below).

Figure 1: The proportion of low-paid employee jobs for hourly pay and gross weekly pay fell to record lows of 10.5% and 24.5% respectively in 2022

Proportion of high- and low-paid employee jobs for hourly pay and gross weekly pay, whole economy, UK, 1997 to 2022



[20] ONS, Low and High Pay in the UK, 2022

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.

Recent years have 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).

The latest figures from the Office for National Statistics to December 2022 state that the number of zero hours workers has now surged to over 1.1 million – the highest figure ever recorded and an increase of 8.5% on the previous three months. Young workers bear the brunt of this trend, with one in nine workers aged between 16 and 24 (11.7%) now on a zero hours contract.

TUC research[21] has 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."

The Joseph Rowntree Foundation[22] 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.*

[21] TUC, Seven ways platform workers are fighting back, November 2021
[22] 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."

In 2022, the IFS Deaton Review of Labour Market Inequality[23] 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.

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

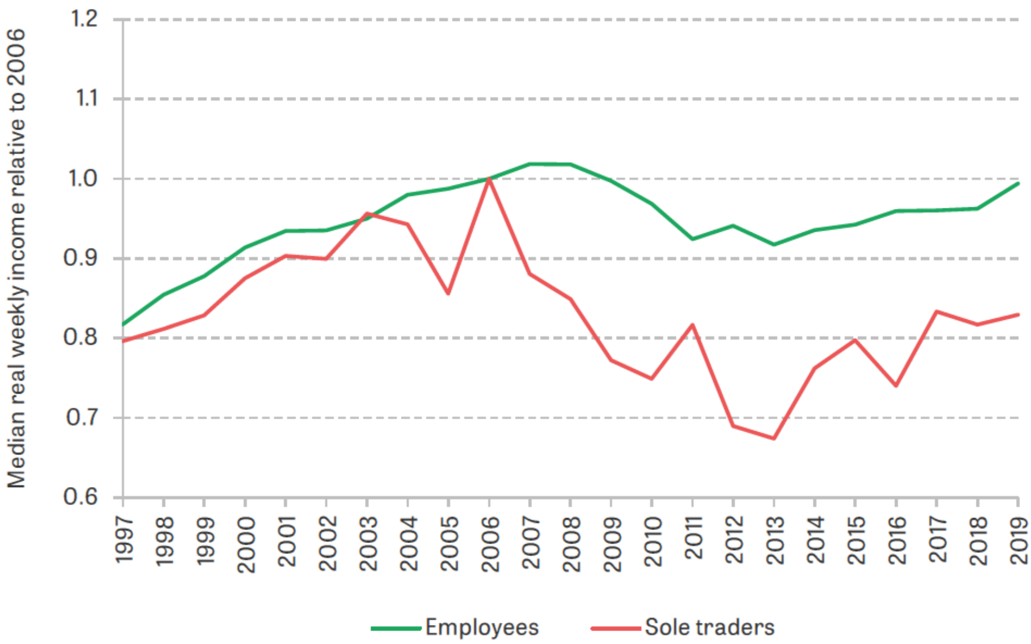
[23] Giulia Giupponi and Stephen Machin, The IFS Deaton Review on Labour Market Inequality, March 2022

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[24], 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."

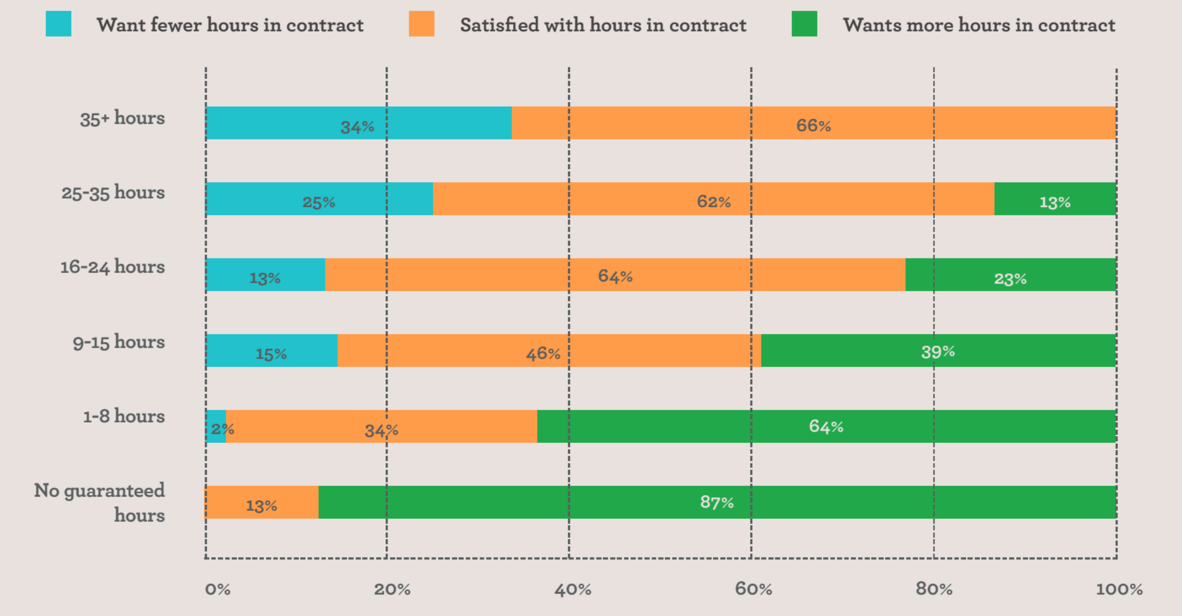
The extent to which such workers are falling outside of minimum wage protections has been revealed by a University of Bristol study released in May 2023. Based on a survey of 510 "gig economy" workers (the largest ever UK survey of such workers), it concluded the following:

> *"52% of gig workers doing jobs ranging from data entry to food delivery were earning below the minimum wage. On average respondents were earning £8.97 per hour – around 15% below the current UK minimum wage, which rose to £10.42 this month.*
>
> *More than three-quarters (76%) of survey respondents also experienced work-related insecurity and anxiety."*

Research published by the Living Wage Foundation in 2022 found that, contrary to some claims that short-hour contracts reflect the preferences of the workers' employed, contracts that guarantee less than 16 hours a week contain enormous proportions of staff who want more contracted hours per week. As the graph below shows, 87% of zero-hour contract workers wanted contracted hours and 64% of staff contracted for between one and eight hours wanted more contracted hours.

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

Graph 12: Weekly hours guaranteed in contract and whether workers want more, fewer or the same hours in contract, UK, 2021:



Source, Living Wage Foundation, The Living Hours Index, Joe Richardson, March 2022

And the 2023 Low Pay Britain report by the Resolution Foundation found that:

> *“Workers with hourly pay in the bottom quintile of the distribution are more than twice as likely as workers in the highest paid quintile (38 per cent compared to 15 per cent) to say they have little or no autonomy at work; four times as likely to experience volatility in their hours and pay (22 per cent compared to 6 per cent); and four times as likely to be working fewer hours than they would like (17 per cent compared to 4 per cent).”*

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 2022 figure at £25,500 for a single person at a time when the highest tier of the minimum wage meant £18,575 for a 37.5 hour week[25].

The MIS means that a single person on the top rate of the minimum wage working full time is still around 30% short of the required income, a couple with two children, one working full time and one working part time, falls 13% short and a lone parent with two children, working part time, falls 30% 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 2022, the rate for outside of London was set at £10.90 and the rate for London was set at £11.95 an hour.

The £10.90 figure is a weighted composite of the wage needed by a variety of different household types. The hourly wage for different households ranges from £7.67 for a couple to £32.53 for a lone parent with three children.

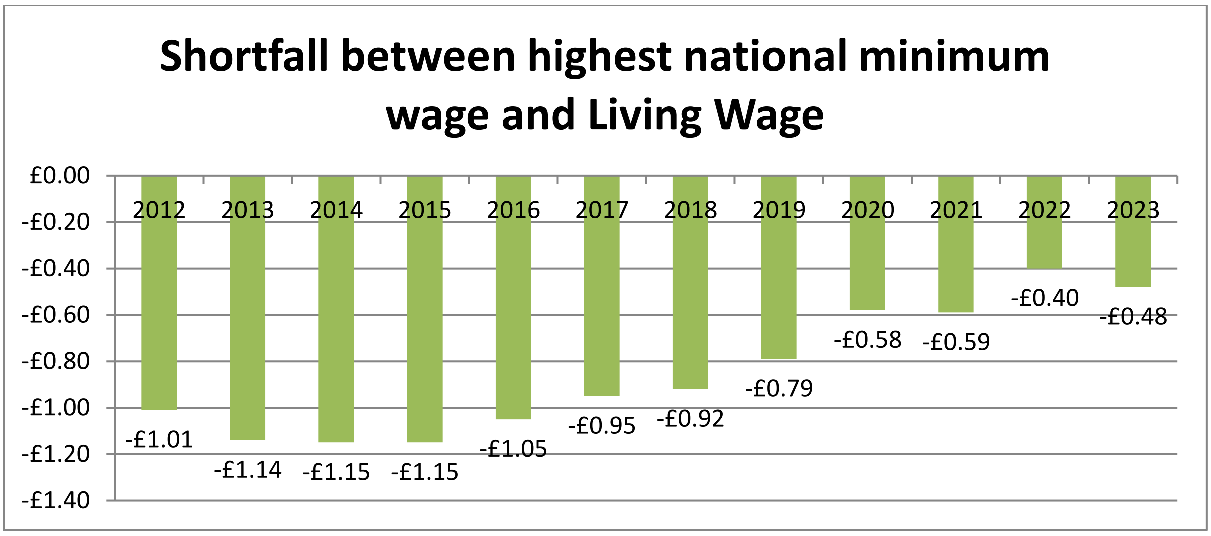
Adoption of the Living Wage has expanded with astonishing speed to become a widely quoted benchmark of the minimum earnings needed for low-paid staff to have a "basic but acceptable" standard of living.

There are now over 12,000 employers accredited as Living Wage employers by the Living Wage Foundation, a figure that has grown from around 200 just over 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.

[25] Joseph Rowntree Foundation, A Minimum Income Standard for the United Kingdom in 2022, July 2022

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 generally 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 £926 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 230 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.”

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 2023 minimum wage rate before it came into force.

UNISON bargaining groups	From	Rate (£)	Hourly (£)*
Local government (England, Northern Ireland & Wales)	01/04/2022	20258	10.50
Local government (Scotland)	01/04/2022	20932	10.85
Youth and Community Workers	01/04/2022	21571	11.18
NHS Agenda for Change (England and Northern Ireland)	01/04/2022	20270	10.37
NHS Agenda for Change (Scotland)	01/04/2022	21692	11.09
NHS Agenda for Change (Wales)	01/04/2022	20758	10.62
Higher education	01/08/2022	18898	9.80
Further education (Wales)	01/08/2022	21029	10.90
Sixth Form Colleges	01/03/2023	20173	10.46
Police staff (England & Wales)	01/04/2022	20490	10.62
Police staff (Scotland)	01/04/2022	21628	11.21
Probation Service	01/04/2022	19087	9.89

* 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.

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.

The Welsh Government's initiative was based on recognition that it needed to act because many care workers in the private and third sector are trapped in in-work poverty. The government provided £48m to employers to pay for the uplift to the Living Wage in 2022/23 and £70m for the uplift in 2023/24.

The Welsh Government also intervened in April 2022 to provide a £1,000 one-off payment to care workers and topped up their sick pay to the level of normal pay if they had to self-isolate during the pandemic. This recognised the absence of sick pay in private and third sector companies meant care workers would have been forced to choose if they had Covid between isolating to keep people safe and then not being able to afford to put food on the table for their families, or going into work infectious.

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 around 80% of employment is now in private hands across England[26]. 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 2022 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 14.7% increase in employment between 2012/13 and 2021/22, taking the number of jobs up 230,000 to 1.79 million workers. The minimum wage has not halted this growth, with employment expanding by 8.5% (140,000 jobs) since 2015/16, before the introduction of the "national living wage."

However, the terms of this employment are reflected in the fact that almost a quarter of all jobs across social care are zero-hours contracts. The rates are even higher among care workers at 34%, domiciliary care at 42% and care workers in domiciliary care at 54%.

Median pay of care workers was £9.50 in 2021/22 (when the highest tier of the minimum wage was £8.91) and 12% of care workers were on the minimum wage.

Consequently, the vacancy rate is well above the economy average at 10.7% (165,000 vacancies), having leapt from 7% in the space of just a year to the highest level since Skills for Care started collecting records.

And the turnover rate stands at 29%, meaning that 400,000 social care staff left their jobs over the year (for care workers the turnover rate is even higher at 36%).

Yet against this background, it is estimated that an extra 480,000 social care workers will be required by 2035 to keep pace with demand – an increase of 27%, taking the total workforce to 2.27m staff.

The impact of better wages and improved terms and conditions can be seen in the contrast between figures for local authority and "independent" social care staff. The mean hourly pay of local authority staff was £11.03, compared to £9.66 in the independent sector. Consequently, the care worker vacancy rate was 7.1% among local authorities but 10.7% among the independent sector, while turnover was 12.6% among local authorities but 31.6% among the independent sector,

[26] Skills for Care, The State of the Adult and Social Care Workforce in England, October 2022

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[27].

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 2023, Scotland has established a £10.85 minimum in adult social care, underpinned by the Scottish government.

To uncover the impact of the cost-of living crisis on our lowest-paid members, UNISON conducted a survey during June 2022 which drew more than 3,000 responses from public service workers earning £20,000 or less.

The survey found that:

- 84% report rising bills and pressures on their household budgets are taking a toll on their health.;
- Strategies to make ends meet include switching off heating (80%), limiting car journeys to reduce petrol costs (64%), keeping lights turned off (60%) and avoiding visits to the dentist (30%);
- Nearly a third are skipping meals (31%), with some doing this in order to allow their children to eat (11%);
- A small proportion are avoiding – or planning to avoid – cooking hot food (13%), and some aim to find a smaller or less expensive home (8%);
- More than a third (37%) are relying on credit cards to cover everyday spending;
- A similar proportion are asking friends or family for financial support (33%) while others are using a foodbank (12%), taking out bank or building society loans (13%) or pay day loans (8%);
- The mental toll of the cost-of-living crisis on low-paid workers has been significant, with four in five (80%) affected by anxiety, three-quarters (75%) feeling down and more than two-thirds (67%) having difficulty sleeping.

[27] Hft, Sector Pulse Check, 2018

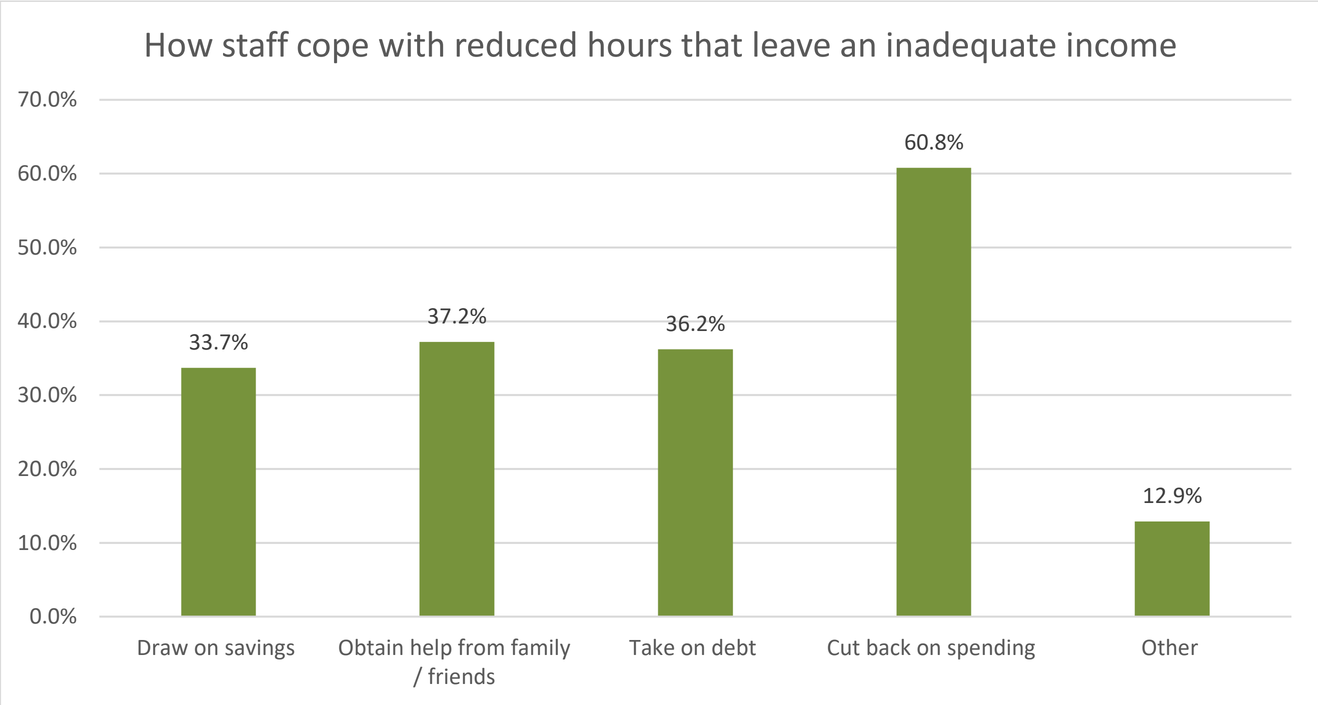
In Wales, UNISON conducted a similar survey in the autumn 2022 on the impact of the cost-of living crisis, which drew 6,000 responses from members across all sectors and wage bands. The results included the following:

- When asked which about how they had responded to the cost-of-living crisis:
    - 17% stated that they had gone without meals;
    - 33% stated that they had worked more hours;
    - 20% stated that they had asked for a loan from family or friends;
    - 5% stated that they had used a food bank;
    - 7% stated that they had pawned possessions;
    - 85% stated that they had reduced their supermarket shop.
- 47% stated that they saw themselves or their family having to make enquiries or applying for in-work benefits in the near future to be able to meet their family living costs;
- 29% stated that the cost-of-living crisis had negatively impacted their mental health.

Building on these general surveys, UNISON conducted a Care Worker Survey over February and March 2023 on their specific experience of variable hour contracts and its impact on their standard of living.

Based on 496 responses, the survey found that:

- The typical number of hours worked was 35 hours a week, though 9% of staff had a typical working week of 16 hours or less;
- However, contracted hours varied from week to week for three quarters of staff;
- Around 7% of staff had experienced zero hours in a week and a quarter had experienced having to get by on 10 hours or less;
- In weeks where reduced hours had left staff with an inadequate income, staff had had to turn to the following strategies to cope.



- 77% of staff said that they would take more hours if they were available;
- 73% of staff said that they would prefer a typical full-time working week of approximately 37 hours if it were available;
- In comments on their working hours, the most dominant issue was the stress and worry that inadequate hours cause in being able to meet bills on time, while many also referred to the high fixed costs of rent and energy bills leaving them to juggle the frequently inadequate remaining income on food for them and their families.

Summary

- Despite the success of the "national living wage" in driving down most measures of low pay derived from the hourly rate, the year ahead is expected to see a resurgence of jobs falling below the Living Wage
- Employers' ability to circumvent higher wages through more exploitative forms of contract appear to have contributed toward much more modest falls in low pay measured on a weekly basis
- 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 over £900 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.
- 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.
- UNISON's care worker survey has shown the immense strain placed on workers by contracts that can slash hours from week to week, causing income to dip below a basic weekly living wage despite improvements to hourly rates.

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, by building on its 2018 recommendations to contracts offering zero or minimal hours.
- 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 the initiative for social care workers in Scotland and Wales.

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.

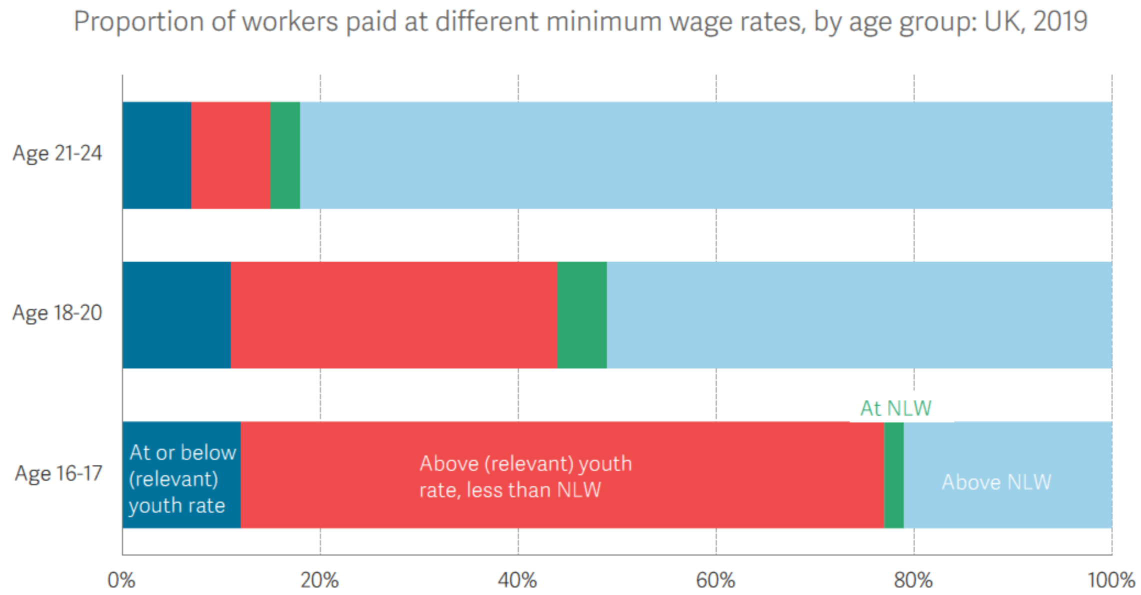
Though recognising the positive steps taken by the commission, UNISON believes that the lower National Minimum Wage rates that continue to apply to young workers and apprentices remain a fundamentally unfair and discriminatory feature of the minimum wage system. To have a young employee working alongside 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 recent years. 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.[28]"*

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[29]

[28] Care Home Professional, Hull care home operator calls for age equality in living wage, November 2021
[29] 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[30]. 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.

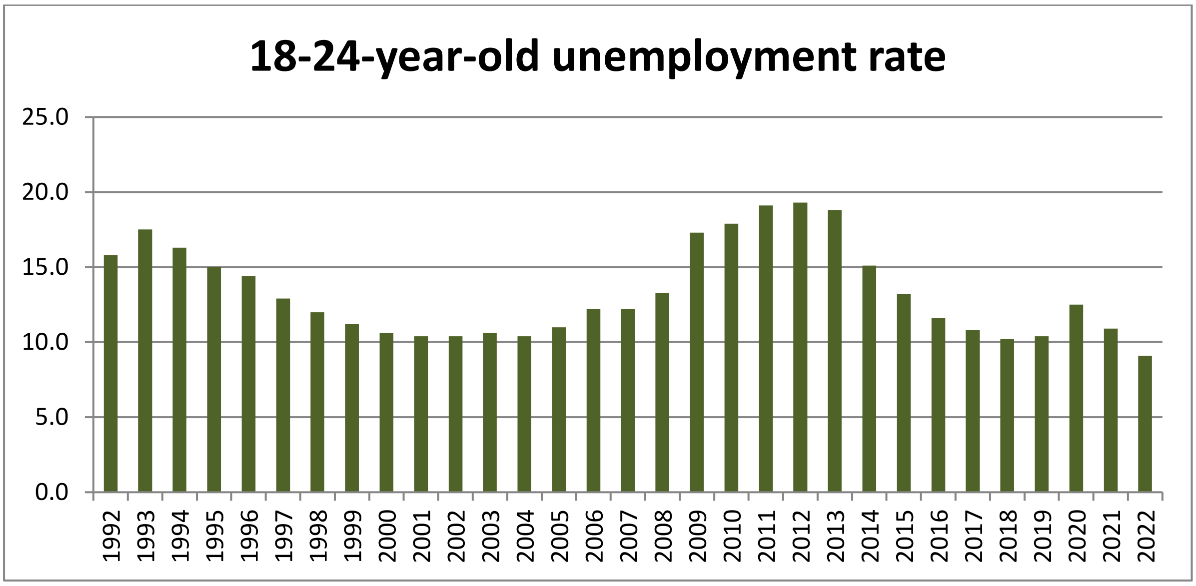
The Young Women's Trust confirmed this picture in 2018, when it published the results of a survey which found that 79% of employers believe that young people should be paid the same as older people for the same work – a figure that only dropped to 77% among small and medium sized organisations.

Over the last year, the TUC has published new analysis which revealed that 900,000 under-21s across the UK faced a minimum wage pay penalty worth an estimated £2.5 billion, which works out at an average of £2,800 in lost in wages for every worker under-21 paid less than the full minimum wage.

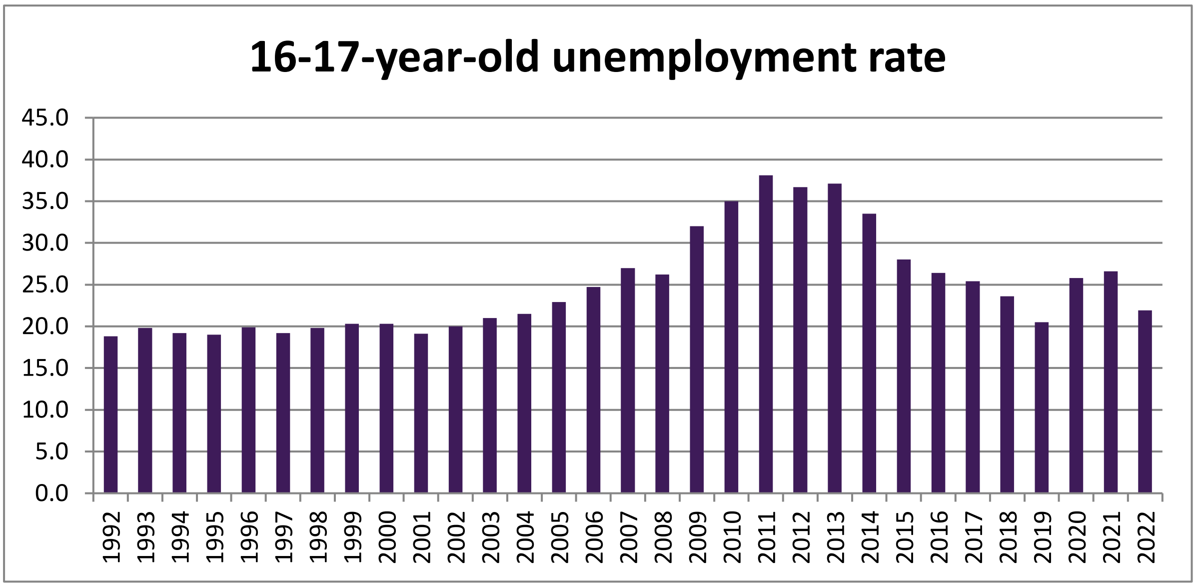
[30] Incomes Data Research, The National Living Wage, October 2017

5.2 Employment rates among young workers

The unemployment rate for younger groups over 2022 continued a general trend of major improvement over the last decade. The rate for 18–24-year-olds hit the lowest level in the 30 years since the Office for National Statistics records for the age group began. Similarly, the rate for 16-17-year-olds has only been lower once in the last 18 years, as reflected by the graphs below.



Source: ONS, Labour Market Overview, February 2023



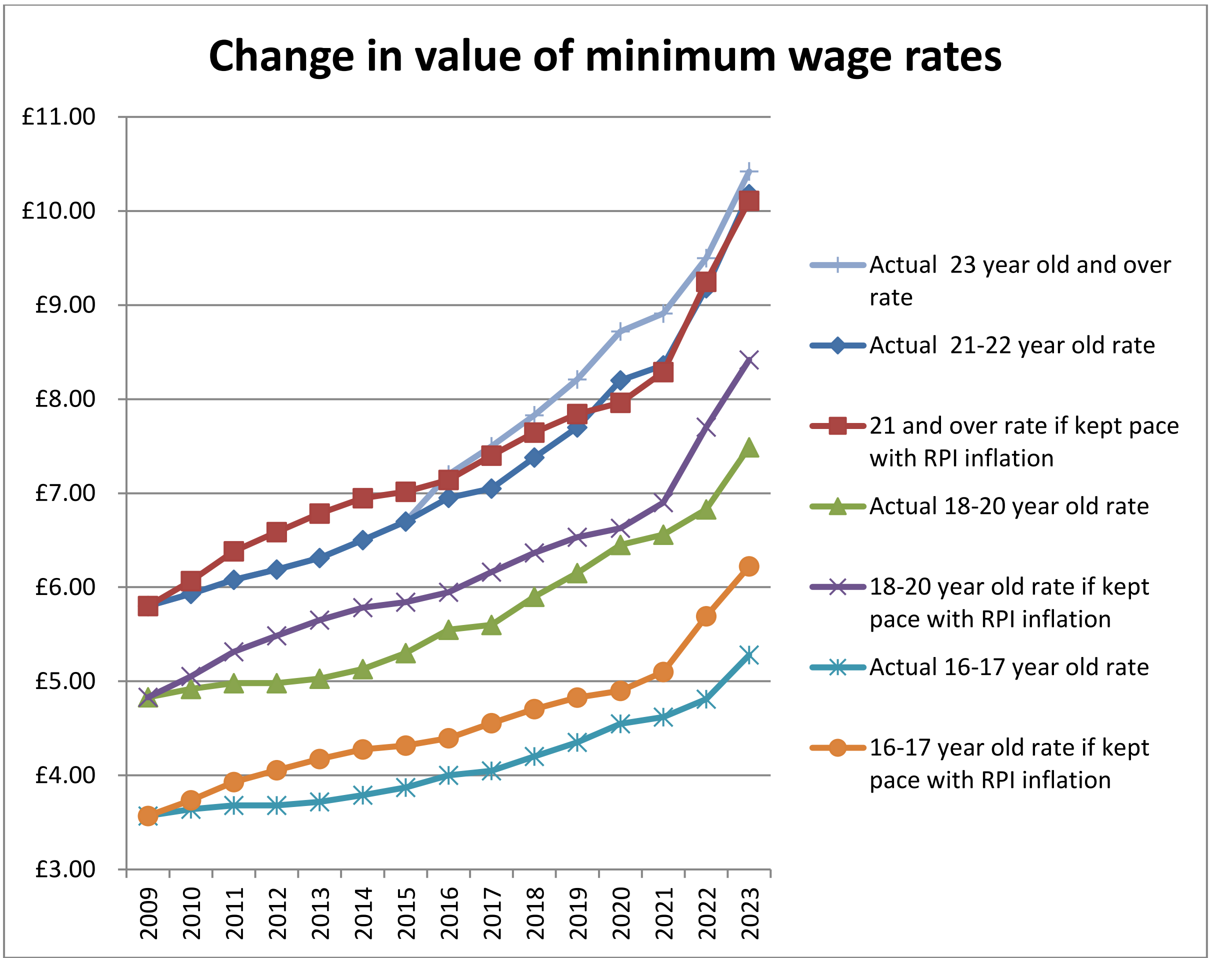
Source: ONS, Labour Market Overview, February 2023

The 18-24-year-old unemployment rate has more than halved since its 2012 peak, while the 16-17-year-old unemployment rate shows a similar patter, running close to half its 2011 peak.

The latest rates[31] to March 2023 show a similar trend. At 16.8%, the 16-17 unemployment rate was lower than at any point in the last three decades, while the 18-24 rate had edged up to 10.5%, but remained at the bottom end of rates over the last thirty 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.



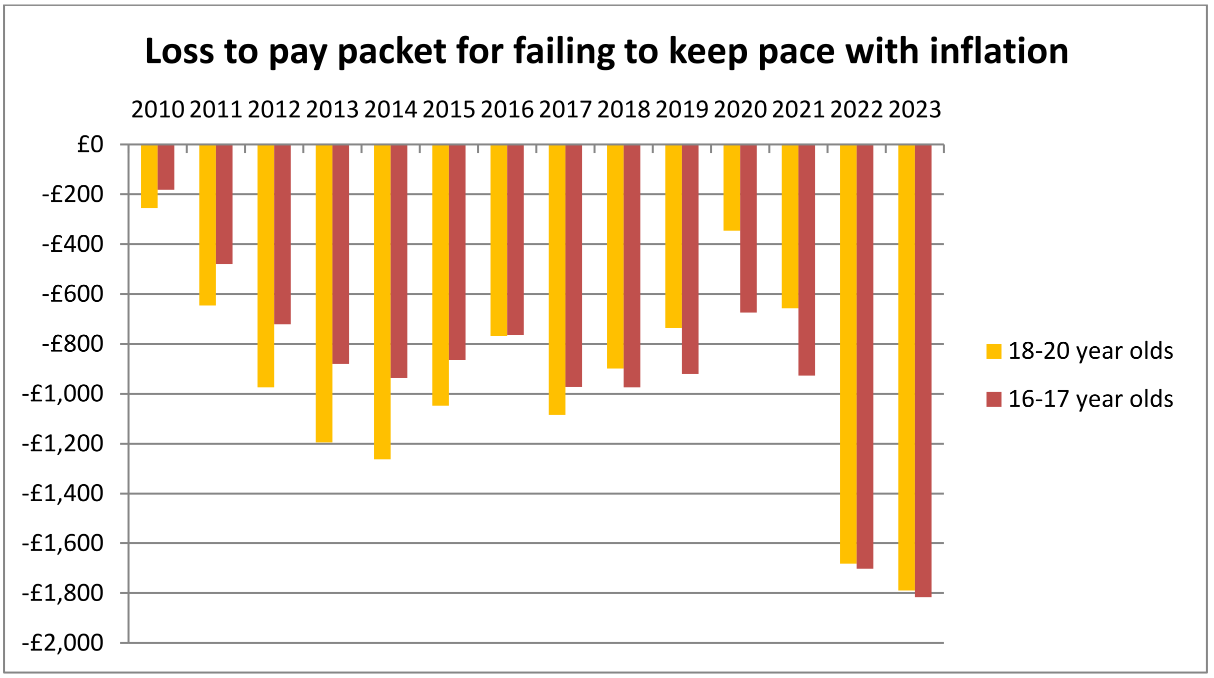
The graph shows that the real value of both rates for workers aged 21 or over has overtaken their value more than a decade ago in 2009, following the accelerated increases since 2016.

However, both rates for those aged under 21 have fallen well behind their 2009 value – the rate for 18-20-year-olds is still worth 12.4% less and the rate for 16-17-year-olds is still worth 17.8% less.

[31] Office for National Statistics, Labour Market Outlook, May 2023

Although the percentage increase in these rates in 2023 matched that of the NLW, the cumulative impact of inflation was to sharply widen the gap with the value of the rates if they had kept pace with inflation since 2009.

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.



With inflation surging, the annual value of the rate applicable to workers under 21 is now around £1,800 less in real terms than it was in 2009. The cumulative impact of this devaluation since 2010 has been a loss of earnings of around £13,000 for young workers.

5.4 UNISON research 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[32], 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.

[32] 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.

We note that research commissioned by the Low Pay Commission in 2022 backs up these findings, with the commission acknowledging that “23- and 24-year-olds have continued to do well since becoming entitled to the National Living Wage in April 2021. Research we commissioned did not find negative effects on their employment.”

5.5 Apprentice rate latest developments

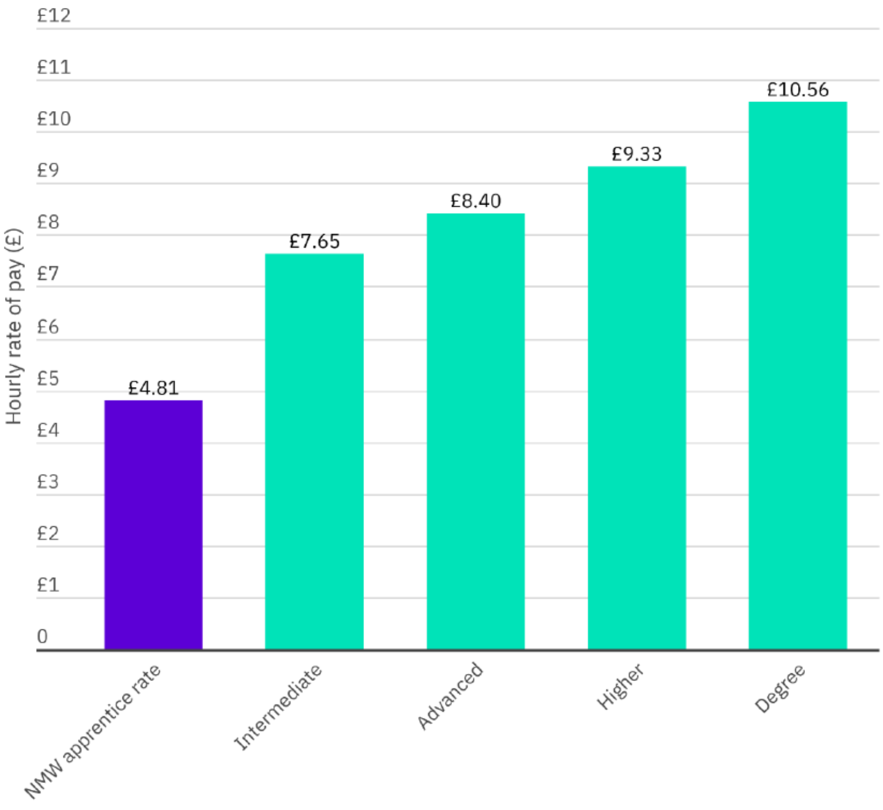
Particularly as the Department for Business, Energy and Industrial Strategy apprenticeship pay report has not been updated since 2018/19, the Incomes Data Research (IDR) report on Graduate and Apprentice Pay published in May 2022 offers some of the best data available on latest trends in apprentice salaries.

The study was conducted between February and March 2022, mostly covering large private sector employers (78% of respondents were from the private sector).

The study revealed the scale on which employers exceed the apprentice National Minimum Wage rate:

- Median wage of first year apprentices at intermediate level £7.65 an hour – 59% above the then prevailing NMW of £4.81;
- Median wage of first year apprentices at advanced level £8.40 an hour - 75% above then prevailing NMW of £4.81;
- Median wage of first year apprentices at degree level £9.33 an hour - 94% above then prevailing NMW of £4.81;

Figure 10 Median hourly rate for first-year apprentices, compared to the apprentice NMW



Source: IDR

The results prompted IDR to state that "the statutory minimum rate for apprentices has little influence on actual pay rates, particularly for those working towards a higher- or degree-level apprenticeship. **Just one participant in our survey pays an hourly rate equal to the current statutory minimum rate of £4.81 for apprentices**."

Other notable dimensions of the report were that a "fifth of employers reported that they were unable to fill apprentice vacancies" and "only around half (54%) of apprentices completed their training in full."

IDR's 2023 report went on to state that "recruitment difficulties have worsened for apprentice roles, with the proportion of employers citing problems recruiting apprentices increasing considerably, from 28% in 2022, to 42% this year. Furthermore, some 17% of firms saw a drop in apprentice intake over the last 12 months."

These figures could surely only deteriorate even further if employers lowered pay to that of the apprentice National Minimum Wage.

These figures chimed with 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 welcomed 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 2018, the Commons Education Select Committee expressed concerns about the paltry rate that currently prevails by recommending[33] 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 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[34].

[33] Commons Education Select Committee, The Apprenticeships Ladder of Opportunity, October 2018
[34] All-Party Parliamentary Group on Apprenticeships, Annual Report for 2020- 2021

- In 2022, the Low Pay Commission's own National Minimum Wage report stated the position of the Federation of Small Businesses that "most of their members would support an increase in the rate with many of them already paying well above the minimum requirements." While the "Federation of Wholesale Distributors found that 86% of members believe the apprentice rate was too low and did not use it" and the British Chambers of Commerce observed that "small firms advertising at the apprentice rate have not been very successful in attracting applicants."
- In 2022, the Centre for Vocational Education Research published a report[35] showing that "unlike in most other countries, apprenticeships in England are not predominantly used to facilitate the transition from school to work … individuals over 25 years of age account for 40 per cent of all apprentices and are more strongly represented among those starting higher or degree apprenticeships."

These facts are backed up by the "bite" of the apprentice minimum wage rate against the median apprentice wage, which at 58% is lower than any other minimum wage rate. We believe that these findings adds weight to the argument that the 16-17-year-old minimum wage rate is a wholly inadequate alignment for the apprentice rate.

Therefore, we view it as a positive development that the commission is considering abolishing the apprentice minimum wage and believe that this represents a minimum next step in improving apprenticeship pay.

[35] The Centre for Vocational Education Research, The Recent Evolution of Apprenticeships: Participation and Pathways, Chiara Cavaglia Sandra McNally Guglielmo Ventura, December 2022

5.6 UNISON 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.

In January 2022, UNISON conducted a Freedom of Information survey of universities which found that the median lowest apprentice rate stood at £8.91, at a time when the apprentice rate was £4.30 – therefore, the rates paid were more than double the apprentice minimum wage and in line with the then prevailing highest tier of the NMW.

As part of UNISON's 2018 evidence, UNISON submitted research entitled "Apprentices and the Minimum Wage" by the New Policy Institute[36].

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.

[36] New Policy Institute, Apprentices and the Minimum Wage, May 2018

- 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.

The argument that higher wages improve completion rates gained further weight from the Centre for Vocational Education Research report[37] published last year, which found that across all ages, the highest dropout rate is for Level 2 apprenticeships (26%) and the lowest for Degree apprenticeships (15%).

[37] The Centre for Vocational Education Research, The Recent Evolution of Apprenticeships: Participation and Pathways, Chiara Cavaglia Sandra McNally Guglielmo Ventura, December 2022

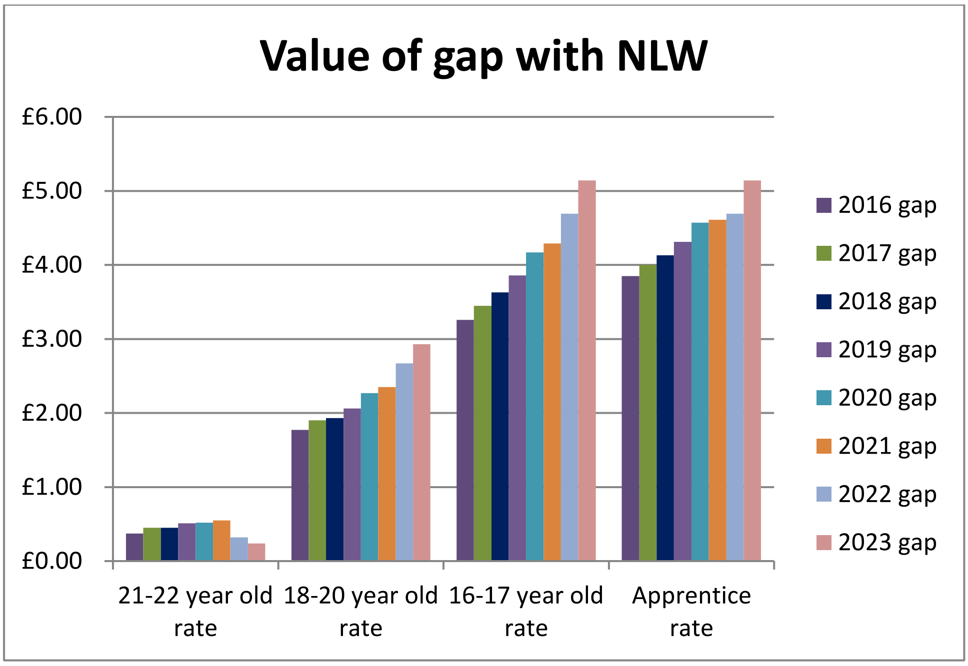
5.7 Undermining of the "national living wage"

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.

The cash value of the gap has increased relentlessly 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.

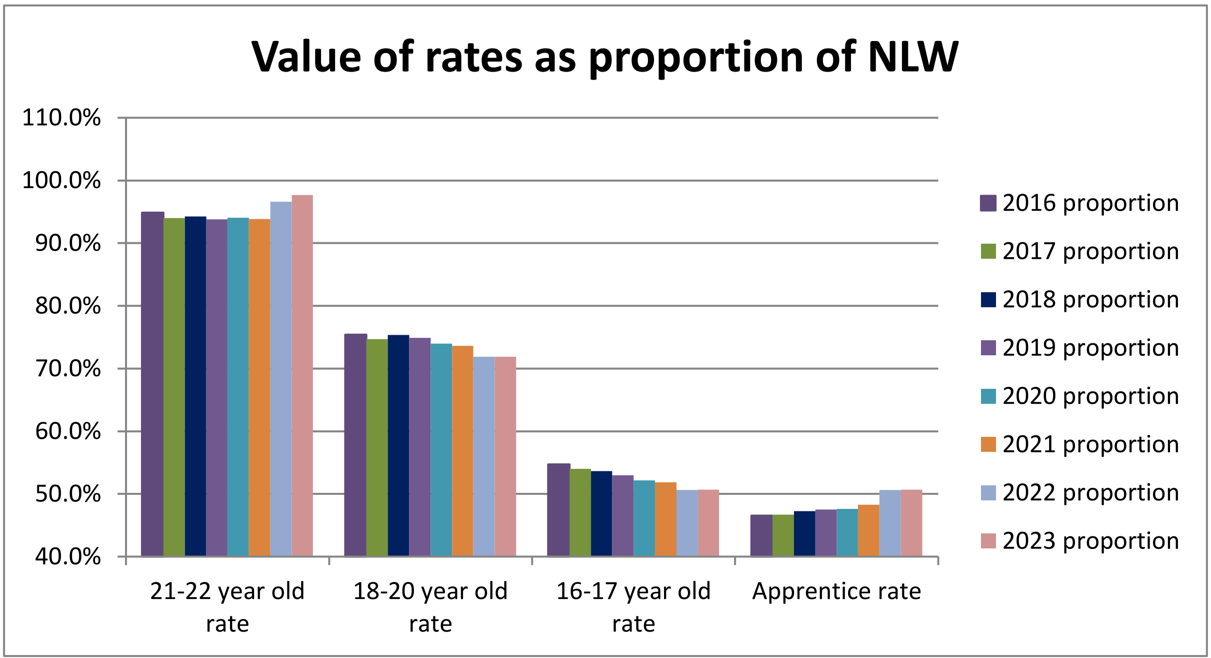
Cost savings to an employer have surged beyond £5 an hour for apprentices and 16-17-year-old, and are now almost £3 an hour for an 18-20-year-old.

The graph below illustrates this trend.



As a proportion of the NLW, the decision to match or exceed the percentage increase of the NLW caused the youth rates below the age of 21 and the apprentice rate to flatten out in 2023. However, the longer trend since 2016 remains one of continual decline for these groups.

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 18 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.
- Data consistently shows that employers pay well above the apprentice minimum wage in most cases and employer support for dropping the rate is widespread
- 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 minimum wage applicable to workers aged 21 and over from 2024.
- 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 – 12.4% for 18-20-year-olds and 17.8% for 16-17-year-olds.
- Similarly, abolition of the apprentice minimum wage is a positive next step in simplifying the minimum wage structure and tackling low pay.

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.

For well over a decade, UNISON has been highlighting the ongoing scandal of tens of thousands of care workers being paid below the national minimum wage in the face of complete indifference and inaction from the government.

6.1 Non-payment of travel time for homecare workers

In this year's enforcement chapter, we primarily focus on the problem of homecare workers not being paid for their travel time. In February 2023, we carried out a small snapshot survey with 310 homecare workers. We asked if any of them were paid for their work travel time - only 25% of them said that they were.

This result is consistent with the findings featured in previous Low Pay Commission submissions from other surveys of homecare workers that we have carried out over the last decade on the issue. The UK Homecare Association, which represents providers, estimates that staff spend 19% of their working day travelling between homes - almost a fifth of their working day. Given that most homecare workers are paid at or just above the minimum wage, a failure to pay for their travel time, means that their average hourly rate of pay over a pay reference period will often be non-compliant with the minimum wage.

We also asked our homecare members: "Does your pay slip provide any details of how much travel time you have undertaken and how much you've been paid for it?" Only 18% of respondents said that they were provided with details, which highlights the ongoing problems with a lack of pay transparency in the sector that we have reported on at length in recent years.

Both the Low Pay Commission and Director of Labour Market Enforcement have endorsed our findings and made recommendations calling for greater pay transparency in the care sector that have sadly been ignored.

For those respondents who were not paid for their travel time, we asked them to detail what the impact of this is on them and their family life. The following quotes are just a small illustrative selection of the responses we received:

> *"I don't get paid for travel time. This makes it so my life at home gets cut short so that I can be "on time" to see a client. This I do not agree with and should not have to be this way. It makes me feel inadequate and upset."*

> *"I am gone sometimes from 6.20am until 9.45 pm with not enough of a break to go home during this time. It's a very long day, very tiring and sometimes stressful. I don't see my family as much as I would like and usually when I get home from work, I am*

too tired to do anything. I get up, shower, dress and eat breakfast then head to work. On my return I have something to eat, sometimes watch TV for 20 or 30 minutes then go to bed. There is no quality time with my partner. Its draining."

"No travel time puts immense pressure on me. I work in a rural area, often there is a twenty minute or more drive between calls which is never allowed for. Constant pressure from the office and clients because you are running late. Often calls are overlapped too."

"It's stressful and demoralising. I was working 6-8 shifts a week on a full-time, 28-hour contract but not bringing enough money home to cover a single person, single income household. The stress caused a breakdown, and I was signed off sick for two months and I'm now on antidepressants and betablockers looking for new employment in a different sector despite loving being a carer."

"I'm not paid for travel time. When I have calls back-to-back, I need to cut visits short to make sure I make on time to the next client. If I stay shorter than 16 minutes I get paid £2.50 for it's supposed to be 30 min call. This has massive impact on me because it's an extra stress and most of the time I'm just left to deal with it on my own. I have to make it work. Impact on my life - it's I'm constantly worried how to make it all work."

"I struggle with not being paid travel time and full travel expenses. We don't get half of what we should get for traveling expenses and can work a 12 day and only get paid for 9 hours of that time! It's really difficult and also infuriating! And exhausting!"

"I'm not paid travel time. Between low mileage and no travel time I'm effectively paying to go to work. I'm working for nothing. As we only get paid per call. Very low mileage, and zero travel time. I love my job, but I am considering finding something else. Over a four-week period I was out the house for 380 hrs - only receive 210 hrs pay and 168.00 in fuel. I have pay slip to prove it."

"I leave home and start my first call at 3.15pm I finish work at 11pm, I am only paid for time spent in the clients home so I'm out working 8 hours minimum and get paid for 6 hours. This dramatically reduces my hourly wage. I have thought long and hard about going into a different sector to get a fairer wage."

"I leave my house at about 5:37 and get back by 11pm, I hardly have time to be with my family, it's tearing us apart because I don't even have the time to be with my son and go through his school work."

"Family time is robbed. You leave home at 7 am, come back at 9pm and you would have worked a paltry 8 hours."

“We don't get paid travel time and we also don't get any time allowed between calls we finish one call at say 9am and have to be at the next call at 9am ... which sometimes can be 10 minutes away … so we either run late throughout the full day or have to cut calls short.”

“I cannot meet my bills. I am late in paying all my bills and in most cases cannot afford to go to work as I do not have the funds for transport, thus being taken out of the rota and threatened with disciplinary action for not being able to go to work. I am depressed and have lost the will for anything including life.”

“This is my biggest bug bear as a domiciliary care worker. Not being paid for travel/gap time enables employers to get away with illegally paying their staff when they are regularly not paying the minimum wage over the entire shift. I've written to MPs because I can't see this changing unless it is made a legal requirement to pay travel time/gap. Leaving it to care workers to challenge their employers is not good enough. Carers are often overworked and exhausted and cannot take on their employers. As soon as you raise with your employer issues about pay, they are not happy with you and it spoils your relationship. Changes need to come from government. It is wicked to describe the job as good rates of pay, fail to tell people at interview that you are not paid for your travelling time between calls and end up illegally paying less than the equivalent of minimum wage over the course of the shift. I have seen droves of carers leave over this issue.”

We have included so many quotes from our members about the impact of not being paid for their travel time in the hope that they may stir the Low Pay Commission to call for more forceful action on this issue.

The quotes encapsulate the pernicious nature of this scandal. It is not only the care workers themselves, forced into penury and put under enormous levels of stress as their personal lives deteriorate, who are the victims. It is also the people they care for who suffer from having their already rationed care visits cut short or being significantly delayed.

The vacancy rate in the care sector has now risen to 165,000. If we want to attract more people to work in this sector and to provide help and support for disabled and elderly people, then we must tackle these appalling working practices. The final quote from the care worker captures the current inequities of the system where it is primarily being left to low-paid care workers, often employed on zero-hours contracts, to address the systemic and endemic problems of non-compliance with the minimum wage in the sector.

How many more years must care workers be subjected to this appalling treatment until the government take some meaningful action to eradicate non-payment of the minimum wage in the care sector? And what will it take for the Low Pay Commission to be roused into calling for more drastic action to be taken by government in their recommendations?

6.2 HMRC investigations

To complement the experiences of our members, UNISON also submitted the following Freedom of Information requests to HMRC to illustrate the problems regarding how non-compliance with the minimum wage in the care sector is policed.

- How many national minimum wage investigations into care sector employers were carried out during the financial year a) 2018-19 b) 2019-20 c) 2020-21 d) 2021-22 e) 2022-23 to date?
- How many of these investigations in each year were proactive and how many were initiated by worker complaints?
- How many care sector employer were found to be non-compliant with the minimum wage in each of these years?
- Where non-compliance was identified, what level of arrears were identified and how many workers did this relate to?
- How much of the arrears listed above in each year came from employers calculating how much they owed via "self-correction"?
- Employers are legally required to keep sufficient records to show they are meeting minimum wage requirements. It is a criminal offence to fail to keep sufficient records. How many cases have been referred to the Crown Prosecution Service where care employers have failed to keep sufficient minimum wage records to show that they are meeting minimum wage requirements in a) the last five years b) the last ten years?

Their response was provided in table below and covered data relating to the following SIC codes - 86102, 86900, 87100, 87200, 87300, 87900, 88100 and 88990.[38]

[38] 86102 – Medical nursing home activities, 86900 – Other human health activities, 87100 – Residential nursing care facilities, 87200 – Residential care activities for learning difficulties, mental health and substance abuse, 87300 - Residential care activities for the elderly and disabled, 87900 – Other residential care activities n.e.c, 88100 – Social work activities without accommodation for the elderly and disabled, 88990 – other social work activities without accommodation n.e.c.

Financial Year	Closed investigations	Complaint led	Proactive	Non-compliant	Total arrears	Total workers	Self-corrected arrears
2018/19	278	246	32	227	£6,143,669	26796	£5,770,121
2019/20	128	115	13	78	£651,347	3307	£465,462
2020/21	106	94	12	61	£660,419	4573	£280,385
2021/22	101	76	25	45	£255,601	1426	£43,178
2022/23	146	79	67	46	£1,129,923	13251	£52,031

The response also stated that "we can confirm that there have been no care sector employers referred to the Crown Prosecution Service (CPS) for prosecution for failure to keep records in either the last 5 or 10 years."

Several issues stand out from the responses by HMRC. Firstly, that despite the widely recognised problem of poor-quality minimum wage records in the care sector, particularly in the homecare sector (documented in many of UNISON's recent submissions to the Low Pay Commission), there has still not been one single care employer referred to the Crown Prosecution Service for prosecution for failing to keep sufficient records in the last decade.

This again adds weight to the need to the recommendations made by both the Low Pay Commission and the Director of Labour Market Enforcement for regulations to set out the minimum requirements on employers for keeping sufficient NMW records to be properly enacted. To date these recommendations have merely resulted in the BEIS making a minor change to its voluntary guidance on Calculating the National Minimum Wage.

Secondly, the average amounts of arrears per care worker recovered by HMRC are paltry, ranging from £229 in 2018/19 to just £85 in 2022/23. The average arrear of £85 per worker in the most recent financial year equates to just over eight hours of working time per worker.

As we have spelt out in numerous submissions the amount of arrears that HMRC recover for care workers pales into insignificance when compared to the average amount of arrears that UNISON secures when we take forward tribunal cases on the issue. These figures again point to the fact that either HMRC inspectors struggle to decipher the pay records of many care employers and are therefore only identify small amounts of arrears or that they are willing to let care employers off with hardly any punishment.

Thirdly, given that there are approximately 17,900 individual care employers operating in England alone according to Skills for Care, the number of investigations carried out by HMRC each year (in a sector that they themselves recognise as being extremely problematic in terms of non-compliance with the minimum wage) is completely unsatisfactory. Less than 1% of care employers have been subject to an investigation by HMRC each year on average over the last 5 years despite widespread non-compliance with the minimum wage across the care sector.

6.3 Government inaction

The following exchange between the current Care Minister Helen Whately and the backbench MP Paul Blomfield took place on Tuesday the 2nd of May 2023 at an oral evidence session for the Health and Social Care Select Committee. It is worth quoting the exchange in full. This exchange lays bare a fundamental lack of understanding and urgency over an important issue which is damaging the care sector. We believe this demonstrates an unacceptably passive and permissive approach from the minister.

> ***Paul Blomfield:*** *We know that despite intentions to the contrary, there are domiciliary care workers who are still not paid for travel time and, as a consequence, their overall pay from the start of the working day to the end of their working day is de facto less than the minimum wage. What are you going to do about it?*
>
> ***Helen Whately:*** *Clearly, no provider should be paying somebody less than the national living wage.*
>
> ***Paul Blomfield:*** *They shouldn't, but what can you do to ensure that that doesn't happen?*
>
> ***Helen Whately:*** *On the one hand, there are routes for workers who believe they are being paid less than the national living wage to try to get that addressed. On the other hand — I have been looking into it and I have spoken to some providers about what is going on with this model — in part this is because of people being paid for the exact period of care that they provide and sometimes being paid a rate for that which is intended to cover the travel time and waiting time but then actually the travel time turned out to be longer or the wait was longer. Did it really cover that? I think there is a problem with the way that employment works. I do not have an answer here and now for how you fix that, because that is at the moment in the relationship between provider and employee. What I think I have been doing is, first, sending a very clear message that clearly everyone should be paid at least the national living wage — that is only legal — and secondly, making sure that the quantum of funding is going in there, so that the rate should indeed cover the cost of care, including, crucially, the cost of paying the workforce properly.*
>
> ***Paul Blomfield:*** *Couldn't you just require employers to pay people for travel time?*
>
> ***Helen Whately:*** *I don't think it is as simple as that.*
>
> ***Paul Blomfield:*** *There is probably a bigger discussion to have there.*

> ***Helen Whately:*** *There is a complicated model. I want to be clear: people should, of course, be paid for all hours that they are working. There is no question about that. And people should always be paid over the national living wage. There is absolutely no question about that.*
>
> ***Paul Blomfield:*** *I guess it would seem to most people quite simple that you start a day at, let's say, 8 o'clock in the morning and you finish it at 6 o'clock in the evening, and you have chunks of time that you work. You spend a significant amount of time, if you are a domiciliary care worker with 15-minute visits, travelling between those visits. I think everybody would accept that that is effectively part of your working day. Why can't people just be required to be paid for it? Why is it complicated?*
>
> ***Helen Whately:*** *It is. Would you like me to write to you on that? As I say, I started exploring this recently and it did turn out to be more complicated. I started out coming at it exactly the way you said it and saying, "Isn't it as simple as that? Don't you just pay something for the shift?" That is not always the model that is in place, so it is more complicated. I am very happy, separately, to follow up with you with more about how it works.*

As the exchange makes clear, the Care Minister is unable to put forward any answer as to what the government are doing to eradicate the widespread practice of non-payment of the minimum wage in the homecare sector, because they simply are not doing anything. Instead, they continue to rely on individual care workers to contact HMRC if they believe that they are not being paid properly rather than take any meaningful steps. Her answers also inadvertently shine a light on the farcical justifications that have arisen in this sector where care workers undertaking extremely important jobs are not paid for all their working time.

Improving how adult social care services are commissioned by councils and providing them with the resources to do so is one simple step the government can take. Travel time must be a contractual requirement as standard, alongside the need to provide documentary evidence that all homecare workers are being paid for their travel time. Commissioned employers must be required to provide clear and understandable payslips, providing a breakdown of different elements of working time (e.g. contact time, travel time and waiting time) and minimum wage records of their workforce, to help demonstrate minimum wage compliance.

The government's announcement in May that as part of its review of Retained EU law, it is proposing to consult on changes to the records that employers are required to keep on employee's working hours, with a clear view to cutting requirements, raises further alarm bells about the possible impact of any such proposals on care workers.

Given the complete failure of the Westminster Government to engage with and tackle the issue of non-compliance with the minimum wage, it further strengthens the calls made by our Cymru/Wales region in their response to the Independent Commission on the constitutional future of Wales/Welsh government, in August 2022, for the devolution of NMW enforcement.

6.4 Sleep-ins

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 experiencing 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 wrongly used to justify poverty pay for low paid care workers It is imperative that the Low Pay Commission now adds its voice to the need for adequately funded legislative reform on the issue of sleep-in shifts 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 national minimum wage for all of their working hours.

6.5 Use of self-correction by non-compliant employers

UNISON has consistently highlighted the problem of HMRC's approach of allowing non-compliant employers to "self-correct" and identify the level of arrears they must pay to their wider workforce, 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 often systemic.

Given the problems in the care sector where many workers struggle to calculate how much they have been underpaid by, due to the prevalence of poor-quality payslips and minimum wage records, UNISON does not believe that social care employers should 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.

Our Freedom of Information request has uncovered some important information about the scale of self-correction, but the HMRC still does not routinely publish what proportion of the total arrears they recover each year are the result of their 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 on HMRC to provide the headline figures of how many social care employers are found to be non-compliant with the national minimum wage and how many of them have been allowed to self-correct, as well as how many social care employers have failed to comply with the national minimum wage legislation on more than one occasion.

Summary

- A UNISON survey of homecare workers in 2023 found that just a quarter are paid for travel time and just 18% receive any details of their travel time, though travel time constitutes around a fifth of their working day.
- Care workers regularly attest to the immense toll that this places on them and their families, as well as the damage to supporting those under their care.
- Both the Low Pay Commission and Director of Labour Market Enforcement have endorsed our previous findings and made recommendations calling for greater pay transparency in the care sector that have sadly been ignored.
- A UNISON FoI to the HMRC found that:
  - Despite the widely recognised problem of poor-quality minimum wage records in the care sector, particularly in the homecare sector, there has still not been one single care employer referred to the Crown Prosecution Service for prosecution for failing to keep sufficient records in the last decade;
  - The average amounts of arrears per care worker recovered by HMRC are paltry, ranging from £229 in 2018/19 to just £85 in 2022/23;
  - Less than 1% of care employers have been subject to an investigation by HMRC each year on average over the last five years despite widespread non-compliance with the minimum wage across the care sector.
- The “self-correction” system is allowing non-compliant social care employers to act with impunity.
- The government’s announcement in May that as part of its review of Retained EU law, it is proposing to consult on changes to the records that employers are required to keep on employee’s working hours, with a clear view to cutting requirements, raises further alarm bells about the possible impact of any such proposals on care workers.

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 proactive investigations and prosecutions of non-compliant employers.
- The commission should demand legislative reform on sleep-ins so that overnight shifts are counted as working time and care workers receive at least the minimum wage for all of their working hours.
- The commission should recommend that:
    - Social care employers should not be allowed to "self-correct" where non-compliance comes to light. Enforcement across the full workforce should be ensured by the intervention of HMRC (whose investigations would be made easier if improvements are made to regulations around the standards of minimum wage records that must be maintained).
    - HMRC regularly publishes headline figures of how many social care employers are found to be non-compliant with minimum wage legislation and how many of them have subsequently been allowed to "self-correct".
- In light of over a decade of inaction to meaningfully tackle the scandal of non-compliance with the minimum wage in the social care sector, UNISON calls upon the Low Pay Commission to make clear their displeasure at the government's failure in the most vocal possible way.