Low Pay Commission 2013

TUC response

Introduction

The TUC is the voice of Britain at work. With 54 affiliated unions representing over six million working people from all walks of life, we campaign to improve working life.

Broadly expressed, the Low Pay Commission's goal should be to deliver the highest minimum wage rates that can be sustained without causing serious economic side-effects such as net job losses. In our response to the LPC's inquiry, we set out to help the Commission to achieve this goal, recommending increases to the National Minimum Wage (NMW) next year which will enable the lowest paid workers to share in our long-awaited and strengthening recovery, and which will support sustainable economic growth in the future.

There can be no doubt that the need for the LPC to pursue this goal has become even more pressing. With growth forecasts being revised up rather than down for the first time in years now is the time for bold action to begin to close the historically large living standards gap which economic stagnation has created.

In considering the case for further rises in the NMW for 2014/2015 our submission makes the following key points:

- The consensus of opinion is that growth will continue to strengthen throughout next year, and is likely to return towards trend during 2015. Forecasts for future economic growth are becoming more optimistic by the day.
- Economic commentators also foresee employment increasing during the coming period, whilst inflation is predicted to fall.
- The number of employee jobs in the low paying sectors as a whole has increased since the economic downturn began. This contrasts with the broader economy, where employee numbers have still not recovered.
- Crucially, average earnings and settlements are expected to grow quite strongly year-on-year over the coming period.
- While recent falls in productivity have been a cause of concern for some commentators, rates of productivity are recovering and should continue to grow more strongly as the recovery takes hold. At present productivity rises are necessarily lagging the strong recovery in hours worked in many of the low paying sectors (which will increase output per job). Growth in output in the second quarter of 2013 was twice as fast as the growth in hours worked, suggesting that productivity per hour will also soon be rising more strongly.
- These trends support the view that the labour market currently faces a problem of reduced demand rather than a permanent drop in capacity, further suggesting that as the recovery strengthens labour market

prospects will improve and that there will be ample scope for generous pay rises without negative economic effects.

- In recent years young people's employment rates have been a significant worry. But while their labour market prospects have not fully recovered, there are some modest signs that improvements are on the way. In addition when those in education are excluded from the analysis unemployment rates, while still high, are well below the frequently reported headline rates. In sum, the employment position has now largely stabilised for young people, and we expect further improvements throughout the next two years.
- Corporate profitability has risen with the rate of return for non-financial companies in the service sector (14.5 per cent) rising 0.6 per cent on the year meaning the rate is now 1.4 percentage points higher than was the case at beginning of the recession.
- Whilst we recognise that the Low Pay Commission's remit does not include consideration of the macroeconomic impacts of the NMW, we must note that household consumption is responsible for a very significant proportion of GDP[1]. Thus boosting household spending power is a necessary condition for building a sustainable recovery. Too low an increase in the NMW would unnecessarily limit demand and put more strain than is necessary on the hard-pressed public finances.
- At a time of significant government spending constraints, it also makes macroeconomic sense to ensure that employers pay as much as they can afford. When employers pay their proper share expenditure on in-work benefits and tax credits falls and income tax and national insurance receipts are maximised.
- It is therefore in everyone's economic interests to ensure that the NMW rises by the maximum possible amount. New evidence from the IPPR, based on modelling carried out by the NIESR, also indicates that there is much more head room to increase the minimum wage without negative impacts than most employers would be willing to admit, further strengthening the case for a significant rise in 2014.

We therefore conclude that a larger increase in the minimum wage than was set for 2013 would be both sustainable and economically beneficial. This increase should surpass both growth in inflation and average earnings. It should go as far as it can in restoring what has been lost in recent years.

The TUC's view is that the long overdue economic recovery will strengthen in future years, despite the depressive effect of government policy. It follows that the

[1] Consumer spending currently accounts for 61.8 per cent of the UK economy. Source: UK National Accounts table c2, "GDP by categories of expenditure. "

LPC should be entering a new phase of more generous and ambitious recommendations.

The TUC also continues to have significant concerns about the application and enforcement of the minimum wage, including:

- the misuse of interns, work experience and bogus “volunteers”;
- the continued abuse of workers providing social care;
- the rapid growth in use of zero hours contracts as a means to evade paying the NMW;
- the proliferation of adverts for jobs paying below the NMW;
- that awareness of the details of the NMW appears to be falling, for employers and workers alike;
- that the resources available for enforcement are not sufficient to deal with the greater part of NMW abuse; and
- that the number of prosecutions and the resultant penalties are both far too low.

We are also concerned that some groups of workers are still excluded from the NMW.

The LPC will be aware that the TUC has consistently argued that more must be done to protect seafarers. Some welcome progress has been made during recent years, but we still do not consider that the law has been extended to all seafarers who could be covered, and dysfunctions remain in the enforcement regime.

We also argue that the persistent abuse of domestic workers warrants both strengthening the law and the use of targeted enforcement in this sector.

We must remember that the rationale for the NMW goes far beyond the purely economic. It is also about the very nature of our society, the proper responsibilities of employers and what an individual can expect as a citizen. The NMW must be set at the very highest sustainable level not just for economic efficiency, but also in order to raise standards of living, combat child poverty, increase social mobility and tackle inequalities.

Sustainable increases in the minimum wage also have a beneficial effect on the government's balance sheet, since increased earnings mean more income tax and a fall in the bill for tax credits and in work benefits[2]. This is good public policy even in economic boom times, since it frees up government money to invest in other socially useful areas. It is also a very high priority in difficult economic times, when public funding is under pressure. The 1.9 per cent in the adult rate that the

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[2] Indeed, the IPPR calculates that if every employee were paid the living wage and was still in work, the Exchequers would gain £3.6 billion, K. Lawton and M. Pennycook op cit, pps 40-43.

LPC recommended for October 2103 is expected to generate a net benefit to the Exchequer of £183 million[3], and stronger increases would bring even more substantial gains.

Low Pay Commission Remit 2013/2014

The Government has given the LPC the following remit for its 2013/2014 inquiry. They are asked to:

- "monitor, evaluate, and review the levels of the different NMW rates and make recommendations on the levels from October 2014; and
- review the contribution the NMW could make to the employment prospects of young people."

In making recommendations in these areas the Commission is asked to take account of the state of the economy, including employment and unemployment levels.

Prospects for the UK economy

As the Low Pay Commission is currently concerned with the task of recommending the NMW rates that will apply from autumn 2014 to 2015, their deliberations are likely to be heavily influenced by their view of how the UK economy will perform during the next two years.

One of the most notable features of the last five years has been the length of time that the economy has taken to recover from the shocks of 2008. A number of factors have held back recovery, including economic difficulties elsewhere in the world, the depressive nature of the UK government's policy, which has affected many private sector businesses as well as disadvantaging public sector employees, the negative signalling inherent in the Government's "Austerity Britain" discourse and the resultant fall in real average earnings.

Given poor performance against predicted growth forecasts in recent years the TUC has therefore been forced to take economic predictions with a bigger pinch of salt than usual. Nevertheless, despite the recovery remaining the slowest on recent record, and the scale of the economic challenge still ahead of us, the economic news in early 2013 has been much better than a year earlier. For the first time since the OBR's inception it seems likely that its forthcoming growth forecasts will be revised up rather than down, and a number of independent economic forecasters have recently improved their analysis of our future economic prospects with the average of new forecasts currently anticipating growth of 1.2 per cent in 2013, double the OBR's current estimate.

[3] LPC report 2013, p170.

It has often been noted that what investors, directors and consumers feel is going to happen to the economy has very important implications for how they behave. At the moment, there are many signs that the general feeling is that things have started to get somewhat better, and no serious economic commentator doubts that will see further improvements across the key economic indicators. The London Stock Exchange hit its highest point for a year on 6 August 2013[4]; and it is reported that UK manufactures are growing in confidence and are starting to "dip into cash piles to fund expansion"[5].

There are also some signs that the public mood may also be starting to change. One indicator of confidence is the revival of house prices across most of the country[6] with mortgage lending also increasing, rising by 30 per cent in the past year[7]. The vast majority of forecasts predict that this shift is sustainable, as it will be supported by the return of GDP growth, investment and, after a short lag, growth in jobs and earnings.

Economic forecasts 2013-2015

	2013 indep. forecast	*2013 OBR forecast*		*2014 indep. forecast*	*2014 OBR forecast*		*2015 indep. forecast*	*2015 OBR forecast*
Employment growth	+0.8%	+0.9%		+0.6%	+0.3%		Not available	+0.7% (+200 thousand jobs)
Claimant unemp. (millions - q4)	1.54	1.61		1.48	1.62		1.50	1.59
Average weekly earnings	+1.5%	+1.4%		+2.35	+2.8%		Not available	+3.6%
GDP growth (whole year)	+1.0%	+0.6%		+1.7%	+1.8%		+2.1%	+2.3%
Domestic demand	+0.9%	+0.5%		+1.5%	+1.6%		+1.8%	+2.2%
CPI	+2.6%	+2.7%		+2.4%	+2.1%		+2.1%	+2.0%

[4] http://www.lse.co.uk/shareprice.asp?shareprice=lse

[5] Henry Foy, "Confident manufacturers begin to tap into cash piles", FT, august 21, p2.

[6] Land Registry for England and Wales: "June Market trend data from the land registry", July 2013. http://www.landregistry.gov.uk/media/all-releases/press-releases/2013/market-trend-data-june-2013

[7] Council of Mortgage Lenders, "First time buyers at highest level since 2007", August 2013: http://www.cml.org.uk/cml/media/press/3620

Inflation (q4)								
RPI inflation (all items – q4)	+3.0%	+2.9%		+2.9%	+2.9%		+3.2%	+3.2%

HMT round up of independent forecasts August 2013 for 2013 and 2014 predictions, May 2013 for 2015 predictions (mean averages). Only forecasts made in last 3 months), Office of Budget Responsibility economic forecasts, March 2013.

While most commentators still expect recovery to be slow relative to past recessions, economic prospects do appear set to see significant improvements from their current low base. As the table above reports, city forecasters expect economic growth to increase from 1.0 percent this year to 1.8 per cent next year and to 2.1 per cent in 2015. The current Office of Budget Responsibility (OBR) forecasts are slightly more optimistic, and they predict a return to near long-run average growth by 2015, which is the later part of the period that the LPC is considering. The OECD have just increased their forecast for the UK for 2013, saying that, "growth is expected to pick up gradually through 2013 and 2014 as gross fixed investment and exports gain momentum"[8].

Similarly, although the general consensus is that net jobs growth will be relatively slow (compared to previous recoveries), employment levels are predicted to increase from around 100,000 extra jobs in 2014 to 200,000 in 2015. Early evidence suggests that improvements may be even stronger. In the last quarter alone employment rose by 69,000 with a far greater increase in employee jobs. Total hours worked across the economy saw a corresponding rise, suggesting that under-employment may finally also be starting to fall. This is shown in full in the table below.

Recent trends in employment and unemployment

	April-June 2013	Change since previous quarter
Employment	29,777	+69
Employees	25,329	+40
Employee jobs	27,906	+149
ILO unemployment	2,488	-12
Claimant count	1,422	-75
Inactive – not students	6,679	-77
Total hours worked	953,089	+2,820

Source: ONS

[8] OECD Outlook, 3 September 2012. http://www.oecd.org/eco/outlook/unitedkingdomeconomicforecastsummary.htm

Turning to the growth of average earnings, the OBR predicts that this will increase by 2.5 per cent during the next two years, rising from 1.4 per cent this year to 2.8 per cent next year and 3.6 per cent in 2015.

The TUC is aware that predicting earnings growth is not always the top priority for city forecasters, which means that it tends to be understudied and pushes predictions towards pessimism at this point in the economic cycle. However, even these low end predictions anticipate average weekly earnings rising by 2.35 per cent next year, a significant improvement on recent trends.

These predictions are entirely consistent with the hypothesis that poor wages growth in recent years has partly been a result of the economy being stuck at the bottom of the business cycle for longer than usual. The TUC does not see any evidence that there has been a paradigm shift in wage setting, as some commentators have elected to believe. As stronger growth returns to the economy, we fully expect rates of wage growth to start to rise, and with inflation expected to fall, real earnings growth is expected to return in 2014. This will obviously be a welcome development that will start to take a little pressure off working people who have been squeezed in recent years. The corollary will be that people will have somewhat more money to spend, thus boosting consumer demand and the broader economy, creating a climate where even more generous settlements can well be afforded.

It is clear that investors have adopted a "wait and see" policy during the economic downturn. For example, in recent years, the currency and deposit reserves held by private non-financial corporations has risen to record levels, growing from £394 billion in 2007 to £477 billion by 2012[9] (+20.8 per cent). This growth continued in 2012, when a double dip recession was accompanied by an increase in reserves to the tune of £36 billion, but is predicted to fall in 2013 as corporations begin to scale up their investment programmes. There is plenty of capital to fund the recovery once confidence improves.

There is also, of course, even some chance that the government may decide that it needs to signal more clearly that recovery is underway and, with a judicious eye on the May 2015 general election, perhaps even take some further steps to stimulate the economy in the last year of their term. Whilst such a course cannot be relied upon, it would be entirely consistent with the history of the UK political

[9] UK National Accounts 2013, table 3.3.9 Private non-financial corporations, line AF2 total currency and deposits.

Note that ONS has revised these figures drastically downwards since last year, after discovering that their methodology wrongly attributed £27 billion worth of deposits made by UK financial institutions to UK non-financial corporations. The revised figures are still very substantial and still increasing, but they are much nearer to the relative amounts held in other major north-European countries.

economy, and indeed that of many other democratic countries

As a result of this and other reasons set out above, the TUC believes that current forecasts are likely to be towards the low end of potential growth over the Autumn 2014/15 period, and that there may therefore be scope for earnings to rise even more quickly than current economic forecasts anticipate.

Of course it is true that the share of GDP going to wages has declined over the medium term. TUC analysis shows that this trend is driven by complex economic causes, most significantly shifts in the sectoral composition of the UK labour market as middle level employment levels in skilled manual sectors like manufacturing have declined.

But the TUC is also concerned that to some degree this shift has also resulted from the exercise of growing power by employers, who in a fair number of sectors have been able to become "price-makers" for wages, dictating pay in an autonomous way. In other words, falling collective bargaining coverage has allowed the growth of monopsony-like wage setting by employers. In terms of confirmation of this outcome, a recent report by the IPPR used the National Institute for Economic and Social Work to model employers' ability to pay the Living Wage. This modelling found that employers had a much greater ability to pay than most commentators would have thought[10].

As many businesses rely either directly or indirectly on a mass customer base, sustained future growth will rely to a strong extent on the revival of consumer demand across the economy, which in turn will rely on stronger real earnings growth in the medium as well as immediate term. While the TUC recognises that strengthening the wage share of GDP is a task which will require action beyond an increase in the NMW, we also believe that the LPC has an important role to play in ensuring we build a sustainable basis for maintaining consumer demand in the years ahead. Particularly as the recovery begins to take hold, it is important that low paid workers, who have now endured several years of real wage falls, are able to secure a fair share of the proceeds of growth.

The low paying sectors

<u>Employment</u>

In the course of the past five years, replicating as far as possible the LPC's methodology concerning the incidence of NMW jobs, the number of employees in low paying industries as a whole has increased by 3.5 per cent (240,000). In

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[10] K. Lawton and M. Pennycook, "Beyond the bottom line: the challenges and opportunities of the Living Wage, IPPR (2013). http://www.ippr.org/publication/55/10162/beyond-the-bottom-line-the-challenges-and-opportunities-of-a-living-wage

contrast, the number of employees in the whole economy has fallen by 158,000 (0.6 per cent). This is shown in the table below.

Employees in low paying industries (thousands)

Industry	*Employees March 2008 (thousands)*	*Employees March 2013 (thousands)*	*Change since March 2008 (thousands)*	*change since March 2008 (Per cent)*
Agriculture, hunting and forestry	209	127	-82	-39.3%
Textile, clothing and leather goods manufacture	122	98	-24	-19.7%
Retail trade (not motor vehicle)	2,755	2,576	-179	-6.5%
Hotels & restaurants	1,164	1,345	+181	+15.5%
Residential care	420	812	+392	+93.3%
Social work without accommodation	904	842	-62	-6.9%
Employment agencies	175	196	+21	+12.0%
Security	165	174	+9	+5.4%
Cleaning	200	227	+27	+13.5%
Leisure, travel and sport	549	449	-145	-18.2%
Food processing	84	117	+33	+39.3%
Hairdressing & other beauty treatment	139	163	+24	+17.3%
All low pay sectors	6886	7,126	+240	+3.5%
Total employees	25,317	25,159	-158	-0.6%

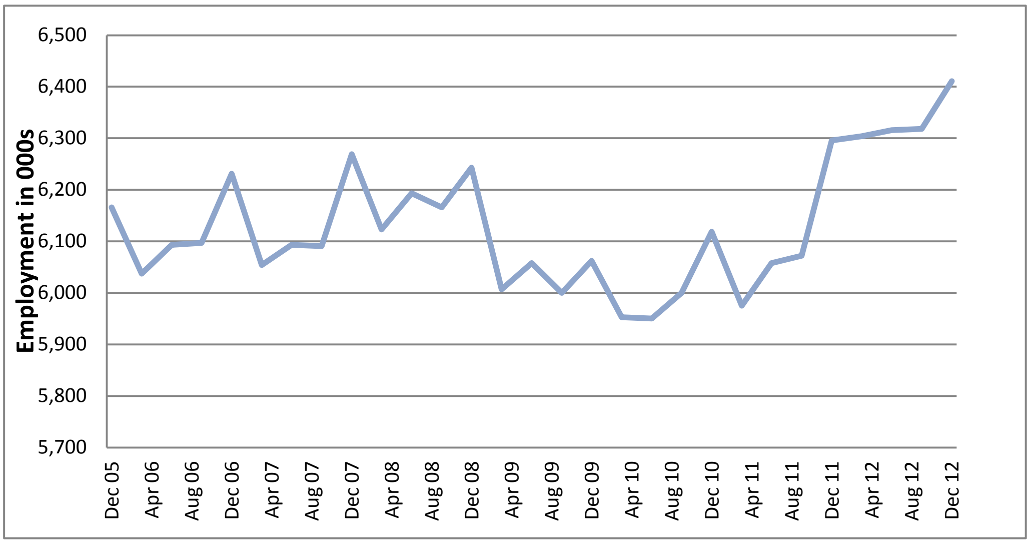
Source: ONS LFS spring 2013- employees in main job (excludes second jobs, self employed, those on government training schemes and family workers). Results of less than 10,000 (italicised) are not statistically robust and should not be cited. Industries with a relatively high incidence of NMW jobs.

There is thus no sign that the NMW is choking off the creation of new jobs. Indeed, employment in the sectors with a high incidence of low pay has grown faster than employment in the economy as a whole. While the short-lived economic slowdown last year slowed the trend of improved employment, rates are expected to recover as economic growth accelerates. As discussed earlier in this submission, employment growth in recent quarters has been strong.

The medium term trend set out in the graph below is consistent with the findings of the TUC's recent report "the UK's low pay recovery[11], which found that four in five jobs created since June 2010 had been in low-paid industries. In this report,

[1111] The UK's low pay recovery, TUC, July 2013, p11, chart 5 http://www.tuc.org.uk/economy/tuc-22364-f0.cfm, low paid industries are defined as those where the average hourly wage is £7.95 or lower, taking the bottom quartile of earnings as the relevant marker. Overall, the low paid sectors have been doing well as a whole, and have accounted for the greater part of job creation during recent years. The graph below illustrates this point.

Employee jobs in industries where average pay is below bottom quartile



Hours worked

Total hours worked provides another measure of the health of the labour market. As the table below shows, total hours are now broadly back to pre-recession levels, following a 1.2 per cent increase in the past year.

But this has played out very differently across the various sectors of the economy. Some of the traditional leading sectors, such as finance, construction and manufacturing are all still working about 10 per cent fewer total hours than in 2008, and only manufacturing has shown positive growth in the past year (+2.5 per cent).

Amongst the lower paying industries, wholesale, retail, transport and hospitality as a group are still 2.0 per cent lower than 2008, although total hours worked did recover quite strongly across these sectors during the past year (+4.1 per cent). In addition, total hours worked in the broad group of jobs that ONS calls "other services" have increased by 3 per cent since 2008 (and by 2 per cent since last year). It appears that while there is still slack to be taken up in the low paid industries, meaning that employment levels may rise more slowly than in previous recoveries. However, increased demand is already feeding through into labour market improvements.

Total hours worked (thousands)

	Whole economy.	Wholesale, retail, transport and accommodation (GHI)	Manuf. (C)	Construct. (F)	Finance and insurance (K)	Other services (RU)
2008	949,300	253,073	101,544	76,194	39,129	44,637
2010	908,300	231,961	90,102	70,141	35.917	42,378
2012	930,010	23,8384	88,496	68,589	37,463	45,099
2013	950,300	248,226	90,693	68,035	35,541	45,984
Change since 2008	+1,000 (+0.1%)	-484 (-2.0%)	-10,851 (-10.7%)	-8,159 (-10.7%)	-3,588 (-9.2%)	+1,347 (+3.0%)
Change since 2012	+20,290 (+1.2%)	+985 (+4.1%)	+2,197 (+2.5%)	-554 (-0.8%)	-1,922 (-9.8%)	+885 (+2.0%)

Source: ONS Labour Productivity statistics published August 2103. (Data for Q1)
http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-317312

Retail

While retail has seen a fall in employment over recent years, sales and total hours worked are now recovering this sector.

One growing trend to note is that the growth of online shopping has resulted in some movement from jobs like shop assistant to employment in warehouses, which obviously has a negative effect on the employment figures for parts of the retail sector.

But the various sales indicators have all turned upwards to some degree. The value of retail spend increased by 4.9 per cent, the volume of retail sales increased by 3 per cent and the value of retail sales increased by 1.8 per cent in the year to spring 2013[12].

Commenting on their own survey of retail sales, which recorded a boost in summer 2013, the CBI said that “A return to even modest spending is welcome news but the bottom line is that confidence will not bounce back fully until family finances improve significantly.[13]” This is a sentiment that the TUC fully agrees with.

[12] ONS Retail sales figs July 2013 http://www.ons.gov.uk/ons/rel/rsi/retail-sales/july-2013/stb-rsi-july-2013.html

[13] CBI Press Release “Retail sales rise for the first time in five months”, 29 July 2013 http://www.cbi.org.uk/media-centre/press-releases/2013/07/retail-sales-rise-for-the-first-time-in-five-months-cbi/

Hotels

London hotels benefited from the Jubilee and the Olympics last year, and there was some spin-off in other areas of the UK, thus the latest figures available show revenue per room up by 3.4 per cent in London in 2012, whilst RevPAR[14] increased by 2.8 per cent in Wales, 1.9 per cent in Scotland but only 1.0 per cent for the England outside of the capital[15].

Unsurprisingly, London is not expected to do so well in terms of RevPAR growth in 2013[16], but other parts of the UK are likely to have benefitted from the tendency of hard-pressed workers choosing to holiday at home and the late, but welcome, onset of a hot summer.

Total hours worked have recovered quickly in the hospitality sector. The sum of hours in the industry fell from 50.8 million in spring 2008 to 47.4 million in 2011, before recovering to a new high of 51.9 million in spring 2013.

Security

The security industry has continued to move strongly towards high-tech working, with IT security in particular playing a strong role in driving the 8.8 per cent increase in the total value of the sector reported by the analysts Garner.

The LPC will be most concerned with the traditional security sector, where NMW jobs are more common. However, even here, the growing use of high tech monitoring equipment is gradually moving the sector away from reliance on the NMW.

The growing level of skills needed in the industry is reflected by the launch of the first apprentice programme in the sector three years ago, and a number of employers in the sector have found places for a further 100 apprentices this summer[17].

Profitability

Profitability is an important issue for the LPC to consider, although the Commission will also be wary of the methods sometimes used by corporations to

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[14] REVPAR – Revenue per available room. The formula is Occupancy x ADR = RevPAR. (ADR = Room Revenue / Rooms Sold)

[15] "Hotel statistics 2013 –UK, Europe and MENA hotel industry report", hotstats.com, 2013.

[16] PWC, "UK hotels forecasts 2013 – after the party", 2013.

[17] Skills for Security website: http://ssaib.org/news/ssaib-backs-latest-100-in-100-security-apprenticeships-drive./

conceal profits. All things being equal, rising profitability improves employers' ability to pay higher rates of NMW.

We are most interested in non-financial companies in the service sector, since they are most likely to have a high concentration of low paid workers. Although the average net rate of return for these companies is still below the pre-recession high point, the rate is still healthy at 15.0 per cent, which is the best result since 2008[18].

Service sector profitability is now close to full recovery, and the 15.0 per cent net profit in the service sector certainly compares very favourably with the return on cash deposits, as the Bank of England base rate is just 0.5 per cent.

Productivity in the service sector

Productivity certainly fell in the service sector during the recession, as overtime was cut and some workers accepted short-time working and reduced hours in order to preserve jobs.

However, both productivity per job and productivity per hour have now grown beyond pre-recession levels. Productivity has grown faster in the service sector than across the whole economy.

Table productivity indices 2008-2013

	2008	2012	2013	Change since 2008 (per cent)	Change since 2012 (per cent)
Whole economy per job	101.6	101.2	102.3	+2.3%	+1.0%
Whole economy per hour	102.0	101.6	103.8	+1.8%	+3.2%
Service sector per job	100.8	102.6	104.0	+3.2%	+1.4%
Service sector per hour	101.6	102.6	105.3	+3.6%	+2.6%

Source: ONS productivity statistics Q1 2013[19]

Productivity per job grew by 1 per cent across the whole economy in the year to Q1 2013, whilst productivity per hour increased by a solid 3.2 per cent, which

[18] Source: ONS profitability statistics. Figs for Quarter 1, 2013. http://www.ons.gov.uk/ons/rel/pnfc2/profitability-of-uk-companies/q1-2013/stb-profitability-of-uk-companies-2013q1.html

[19] Tables DK2, DK56, LZVA and LNNM

http://www.ons.gov.uk/ons/datasets-and-tables/data-selector.html?table-id=10&dataset=prdy

reversed a fall in the previous year.

Productivity in the service sector increased by 1.4 per cent per job and 2.6 per hour last year.

Measuring from the onset of the recession in 2008, productivity growth in the service sector has outstripped the increase in the whole economy on both the per-job and per-hour measures.

As reported in the section on the retail section (above), it may be that the rapid growth in total hours worked could be holding back productivity growth (on an output per hour basis) to some extent, as employers increase their utilisation of their existing workforce. But as the recovery strengthens there is every reason to presume that output will continue to increase at a faster rate than hours and employment, as was the case over the recent period, and that productivity will start to see more rapid growth.

Some commentators have argued that the effect of the recession on productivity may mean that there will be more job losses to come. But as the figures reported above indicate these analysts are likely to have misread the situation. It now seems certain that overcapacity was shed by reducing working hours which many employers are starting to restore. As the recovery takes a firmer hold we would expect the growth in both hours and productivity to strengthen.

The UK economy is suffering from a lack of credit and consumer demand. Since 2008 it is has not seen the structural upheavals that we saw in the early 1980s recession, and has not led to irreversible decline in specific sectors. Rather the recession has temporarily reduced the demand for labour hours.

Although there are no grounds for complacency and much more could be done to modernise certain industries and improve their productivity, much of the current effect is cyclical, and the UK has clearly not moved to a sustained low productivity economy with a lower employment equilibrium as productivity is already recovering. Current trends suggest that as the recovery progresses, productivity will strengthen and employment growth will follow. In this context of strengthening demand, there is no reason to suggest that increasingly generous pay rises will not be easily affordable.

Setting the NMW at the highest sustainable level ensures would ensure that employers always play their proper part in the fight against low pay.

The position of young people

The TUC is still concerned about the disproportionately low employment rates of young people. After the sharpest downturn since the 1920s it is however no surprise that youth employment rates fell and unemployment rates for this group rose sharply.

In fact, the position of young people in the labour market is strongly related to the performance of the economy as a whole. A significant evidence base demonstrates that young people are disproportionately affected by recessions for a range of factors, including firms reduced tendency to invest during downturns and young people's likelihood of having less work experience than the general adult population.[20] As Petrongolo and Van Reenen concluded: "the data do not suggest that there is a special problem of youth unemployment in this recession compared with past experience".[21]

Research evidence also shows us what works best in tackling youth unemployment: well-funded, demand-led welfare to work programmes which provide young people with experience of real work paid at least the NMW.[22] The previous Government's Future Jobs Fund provided a good example of such a scheme, and the TUC continues to express concern that its replacement, an unpaid work experience programme with limited access to job search support or training, is poorly funded and less effective. More widely, we also continue to argue for a more interventionist and reflationary economic strategy.

However, the economy is now recovering despite government policy, which allows greater scope to fund additional measures to enable young people to engage in education. [23]

As a result, there has been some modest improvement to the position of younger people in the labour market.

16 and 17 year olds

The position of 16 and 17 year-olds is always difficult to read because so many in this age group are in education, and may or may not be seeking work as well.

Thus between spring 2012 and 2013, unemployment in this age group fell by 7,000, down to 196,000, yet the ILO unemployment rate rose from 35.5 to 38.1 per cent.

At the same time, the percentage of this age group who were economically active fell by 2.7 per cent, down to 35.0 per cent.

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[20] For example see Bell and Blanchflower (2010) Young people and recession. A lost generation? CEP.

[21] http://cep.lse.ac.uk/pubs/download/cp338.pdf

[22] For example, see Gregg, P (2009) Job Guarantee: Evidence and Design.

[23] One area where the Government is giving welcome support to young people is in funding the expansion of the apprenticeships programme. Many other aspects of Government policy have been unhelpful, such as ending the Educational Maintenance Allowance and the Future Jobs Fund.

Our view of these figures is always moderated by the degree of involvement in full-time education in this age group, which at the moment stands at 83.5 per cent of 16 and 17 year-olds[24].

There are currently 1,223,000 young people in education, up marginally from last year (+11,000), but slightly fewer 16/17 years-olds in education seeking employment (-13,000)[25].

It follows that fewer 16 and 17 years olds are in the labour market and not in full-time education. This figure now stands at 242,000, which is 16,000 fewer than in the previous year.

It should also be noted that the government is committed to raising the participation age in England, so that young people must continue in education or training, requiring them to continue until the end of the academic year in which they turn 17 from 2013 and until their 18th birthday from 2015.

Although these plans are relatively weak, in that participation is optional and that education and training will not give a student any entitlement to an allowance[26], they are still expected to have some positive effect on participation and training.

This effect is likely to reduce both unemployment and labour supply to a modest degree. The result is likely to be that this measure will take a little of the pressure away from wage constraint for this age group, making an increase to the youth rate that much more sustainable.

18-24 year-olds

Turning to 18 to 24 year-olds, unemployment decline in the past year by 31,000, down to 778,000. The unemployment rate for this age group fell by 3 percentage points to 19.2 per cent.

At the same time, the percentage of this age group who were economically active fell by 1.2 per cent, down to 70.2 per cent[27].

In this age group, 31.9 per cent are in full-time education (1,837,000 people). This figure has declined slightly during the past year, perhaps because of the rising

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[24] ONS table AO5. "Labour market status by age group" Figs for April-June. http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-273723

[25] ONS table AO6. "Educational status, economic activity and inactivity of young people". Figs for 3 month period Feb-April. www.ons.gov.uk/ons/rel/lms/labour-market-statistics

[26] Unlike the Educational Maintenance Allowance paid by the previous government (and still paid in Wales, Scotland and Northern Ireland).

[27] ONS table AO5 op cit.

cost of further education (-20,000)[28].

NEETS

In addition, there are tentative signs that the incidence of young people not in employment, education or training (NEETS) may be falling again, after a reverse during the double-dip difficulties of 2012. As the table below shows, the incidence is now lower than in 2012, although the decline is still relatively small.

NEETS as a percent of young people, by age cohort

Age group	2011	2012	2013
Age 16	5.9%	6.6%	5.0%
Age 17	9.7%	9.1%	8.0%
Age 18	15.9%	14.5%	14.4%
Age 16-18	10.5%	10.1%	9.1%
Age 19-24	18.8%	19.3%	18.3%
Age 16-24	16.3%	16.4%	15.5%

Source: NEET statistics quarterly brief: April to June 2013[29].

We are therefore absolutely clear that it is not the NMW that has caused, or exacerbated, the weakness of the youth labour market. Indeed, while a cause for significant concern, relative to the fall in GDP the impact of this recession on young people has been less severe than in the 1980s (a less severe downturn than the most recent recession), particularly when young people who are in education are excluded from the unemployment rates. The problem of youth unemployment will be best solved by a growing economy where demand is strong, an outcome that a reasonable increase in the NMW will not prohibit, and indeed could help to secure. All the signs are that such a new economic dawning may be very close.

There are still grounds for due caution, but there is no evidence to suggest that the NMW for young workers must fall behind to secure jobs growth. Our aspiration is that the threshold for the adult rate should be phased down to age 18 and that the 16-17 year old rate and, as we explain in the next section, the apprentice rates should be significantly improved.

Apprentices

There is evidence from around the world that offering higher pay rates for apprentices attracts a broader filed of applicants and leads to improved completion rates.

The introduction of the NMW apprentice rate in 2010 was accompanied by a massive growth in apprenticeship starts. Although the figures rose much more sharply for adult apprentices, figures for younger starters also increased, for

[28] ONS table AO6 op cit.

[29] https://www.gov.uk/government/publications/neet-statistics-quarterly-brief-april-to-june-2013

example from 157,000 to 218,000 starts for 18-24 year olds between 2009/10 and 2011/12[30], as did apprenticeship completions.

Thus there is thus no evidence that the rate has had any negative effect on employment. Indeed, the focus of concern is now much more on whether the rate is too low. This is discussed in more detail below.

Yet the general success of the programme has been accompanied by some problems, which include:

- apprentice courses being used a substitute for other training in some adult jobs;
- the introduction of very short apprenticeships in some sectors;
- the introduction of the £80 per week apprentice in some sectors (facilitated by restricting apprentices to 30 hours per week);
- employers not complying with the relevant NMW rates; and
- Some sharp questions about whether the apprentice rate should be allowed at all for older workers.

To look at these issues in more detail:

First, there is plainly a degree of reassignment of training going on in the case of older apprentices. Thus, existing employees are given apprenticeships as a perk. Such apprentices tend to remains on the same pay rates before, during and after the apprenticeship. One clear motive for the employer is that the government funds such training.

Although older apprentices are paid above the NMW, we are aware that a small number are employed on the apprentice rate. We address this in the rate recommendations in the next section.

Second, the average length of apprenticeships has been falling for a number of years as they have been adopted by lower paid industries. The co-called apprentice pay bargain may have once been justified for a trade such as precision engineering, where the apprentice was relatively unproductive in the first year but enjoyed substantial pay rises in subsequent years. However, it is much less appropriate for an apprenticeship that lasts for a single year and does not deliver any significant pay increase on completion, such as is the case in social care and

[30] Data Service release,, 27 June 2013: http://www.thedataservice.org.uk/Statistics/fe_data_library/Apprenticeships/

childcare.

The NMW rate is also much too low for older apprentices, many of whom are employed with the same employer in exactly the same role as they were before their Apprenticeship commenced. Therefore, the first year exemption needs looking at again.

Second, the current NMW apprentice rate of £2.68 per hour is simply too low, and may be seen as exploitative, even when employers operate it in a way that fully complies with the current law. This rate now needs to be raised quite strongly. Indeed, it is now quite hard to see why any apprentice should be paid less than the youth rate, which is more at £3.72 per hour, is itself very far from generous.

Third, some employers are taking maximum advantage of a loophole in the current arrangements that now allow apprentices to be employed for just 30 hours per week. An apprentice working 30 hours at £2.68 per hour would earn just £80.40 per week before deductions. This is less than the pre-2010 £95 per week Minimum Income Guarantee (MIG) for apprentices.

This is certainly not what the Low Pay Commission intended when they introduced the apprentice rate. Indeed, Commissioners will recall that they worked on the assumption that apprentices worked 39 hours per week.

As the last MIG uprating was now more than five years ago a fair assumption is that it would have risen by at least 10 per cent during the intervening period (an increase which would be below the CPI measure of inflation)[31], which would yield a figure of about £105 per week.

Assuming a 39 hour working week, this equates to £3.71 per hour, which is a figure that is almost identical to the current youth rate and equates to a modest wage of £105 per week.

Turning next to compliance, anecdotal evidence from union learning representatives suggests that apprentice employers' compliance with the NMW has declined quite sharply in the past two years.

This finding chimes with the Government's 2012 evidence to the Low Pay Commission, which stated that HMRC's NMW inspectors identified the apprenticeships as the biggest single source of non-compliance. Apprentices make up just under 2 per cent of the employee work-force but account for 25 per cent of HMRC's NMW cases[32].

[31] Given that CPI rose by 11 per cent between 2008 and 2012.

[32] DBIS, "National Minimum Wage: final evidence to the Low Pay Commission", 2012, p73.

In addition TUC fears that the publication of the 2012 BIS apprentice pay survey may have been delayed largely because it contains bad news. The LPC have seen this document, and said earlier this year that “the pay survey indicates levels of non-compliance with the Apprentice Rate which undermine the principle of the minimum wage for apprentices and are very disturbing[33].”

The government has promised to take action to address this problem, but has not yet managed to do so at the time of writing.

It seems likely that some non-compliance may result from careless mistakes on the part of the employer, such as not realising that the apprentice had reached a birthday. There may be more work to be done in educating employers, but we should not forget that such matters are really part of the basic competencies that we expect of employers and that such non-compliance should be taken seriously.

It would also make the regime easier for employers to understand if the structure of the rates were simplified. This would necessarily imply that some apprentices must be paid more, as discussed below.

However, we should also remember that in many other cases non-compliance is caused by deliberate cheating by the employer. This is simply not acceptable and should lead to penalties, fines, naming and shaming and, after due consideration, exclusion from the Apprenticeship programme, which relies on public money to fund training.

There is an enforcement problem in this sector. The government should invest more in ensuring that employers understand the regulations, and in catching employers who choose to ignore them.

The LPC should urge government to ensure that the various ministries and agencies responsible for apprentices and their rights all work together effectively.

Contact with the various key parts of government suggests that BIS might want to move to a position where compliance with the NMW should be a condition of an apprenticeship being recognised, which seems reasonable, particularly as government money is funding apprentice training.

However, the National Apprenticeship Service might be inclined to resist such a measure, since it might be expected to reduce the overall number of starts, which is a key performance indicator for the service, simply by frightening off some of the worst employers.

[33] NMW LPC Report 2012, p102, para 3.68

The TUC's view is that government urgently needs to act to maintain quality control, otherwise there is a real danger that exploitation will become rife and the quality of the Apprenticeship brand will be seriously undermined.

We are also concerned about the position of women apprentices, who now make up slightly more than half of the total[34]. The rigid gendering of apprentice jobs means that, on the latest figures available the gender pay gap is still wider for apprentices than for employees as a whole. A properly enforced NMW should be one of several instruments deployed to address this problem.

Setting new TUC targets for the 2013 LPC review

The TUC's new targets for the rates to apply from 2014 rest on our assessment of the direction of the economy and employers ability to pay in 2014/2015.

Our view is that the minimum wage should always be set at the highest level that can be sustained, otherwise workers will be left in poverty unnecessarily, the Exchequer will have to play too great a part in supporting low paid employment, and the economy will miss out on the extra consumer spending generated by NMW increases.

Although economic forecasts suggest that jobs growth will continue to be slower than in previous recent recession, they also suggest a significant strengthening in our economic performance over the coming period, resulting in stronger wages growth.

The UK's experience of the NMW has been that employers have been able to absorb increases without generating any significant side effects – a trend that has held true throughout the recent recession and our emerging recovery. As growth strengthens, demand rises and profitability increases there is even less reason to assume that a generous NMW rise would have detrimental labour market impacts.

It is also vital to recognise that the consequences of undershooting the highest sustainable rate are almost as serious as those which would stem from overshooting it.

We know that the economy is recovering, and that corporations are therefore likely to use some of their record reserves soon, thus improving the prospects for pay growth and the ability of the economy to sustain a higher NMW.

We also note that the IPPR report mentioned above found that 89 per cent of employees currently paid less than the Living Wage could see their pay

[34] Data Service, op cit

increased to that level without any risk of suffering job displacement[35]. This type of employer behaviour can be explained using a variant of the neo-classical economic model, using the concept of neo-monopsony postulated by the US economists Card and Krueger in the 1990s[36]. This theory holds that monopsonist employers are able to dictate terms to their staff as a result of lack of wider labour market opportunities for them to pursue. The TUC is concerned that this analysis provides an accurate description of some low-paid weakly unionised sectors of the UK economy, where employers can effectively set wage levels unilaterally.

In a welcome development, the Government Economic Service is currently working on a report on similar grounds to that published by the IPPR. We anticipate that the LPC will want to examine the methodology of both reports very carefully, so as to consider the extent to which they suggest there is greater scope for employers to absorb more generous minimum wage increases than may have previously been assumed.

TUC rate recommendations for 2014

In a climate of strengthening economic growth, employment and pay, economic indicators increasingly point towards more robust increases in the NMW during the coming period. It is against this background that the TUC makes the following recommendations.

- ***We argue that the recovering economy will be able to support a considerably more substantial increase by October 2014. This would provide some of the help needed by hard pressed low paid workers, who have seen the real value of their wages fall significantly in recent years. At the very minimum we would expect the NMW to rise by more than inflation and average earnings, whichever is the higher.***

- ***We also believe that the LPC should be entering a new phase of recommendations, where the caution of recession progressively gives way to a series of recommendations that increase the generosity of the NMW.***

- ***The position of young people is discussed in detail above. Whilst there is clearly no room for complacency, neither is there any persuasive evidence that young people should not continue to see their rates increase, especially if the Government were willing to take measures to help the***

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[35] IPPR op cit, pps 27 & 28

[36] See D. Card and A. Krueger, "Myth and Measurement: The New Economics of the Minimum Wage", Princeton University Press (1995). In the microeconomics of imperfect competition, the monopsonist is assumed to be able to dictate terms to its suppliers, as the only purchaser of a good or service, including labour. The classic example of a monopsonist employer is the company town.

relatively small number of 16 and 17 year olds who are unemployed. The TUC argues that the rate for 18-21 year olds should increase in 2014 by at least the same percentage as the adult rate. In the coming period we aim to see the adult rate phased down to be paid at the age of 18 and a significant narrowing of the gap between the remaining rates and the adult rate.

- *The LPC should raise the apprentice rate to the level of the current youth rates soon as possible. At the moment it is far lower than is necessary, and as the economy recovers it will become even more unattractive.*

- *The major part of the growth in apprentice numbers has come from existing employees, the vast majority of whom are paid at the adult rate of the NMW or above. The LPC should review the application of the apprentice rates as a whole, but with particular reference to the possibility of removing the apprentice rate for those over the age of 24, since the TUC's view is that the current arrangements are doing more harm than good.*

The Agricultural Wages Boards

The TUC deeply regrets the abolition of the Agricultural Wages Board (AWB) for England and Wales, which by the government own estimation will lead to farm wages falling by £131 million less over a 10 year period following abolition[37]

The TUC believes this will lead to skilled and premium rates in agriculture drifting down over a period of time, which will worsen rural poverty.

Central government has blocked a proposal to by the Wales Assembly government to launch a similar successor body, even though both farmers and farm-workers there are united in wanting to keep the protection of the AWB.

We recall that in the early 1990s farmers were keen to keep the Wage Boards, as they feared that they would otherwise not be able attract and retain sufficient labour. This concern may return quite quickly if, as is feared, the government chooses to impose tighter limits on the Seasonal Agricultural Workers Scheme.

The LPC needs to be prepared for the fall-out from abolition in England and Wales. The estimate of 12,000 agricultural employees on the NMW based on official surveys is likely to be a considerable underestimate, as these sources excludes some agricultural accommodation and systematically undercount migrant workers.

[37] DEFRA Regulatory Impact Assessment, p4. Net Present Value.

TUC recommendation

The TUC continues to support the AWBs. The LPC should argue that that the expertise and funding from the DEFRA inspectorate should be transferred across to HMRC. It should also continue to commission research and monitor the impact on wages and conditions, jobs and apprenticeships in the sector. In addition the LPC should foster close link with the Gangmasters Licensing Authority and consider whether that authority should have a greater role in enforcement in the sector.

Seafarers

Despite the progress made in extending the Equality Act to seafarers, and the action taken by the government to extend the NMW to seafarers with a connection to the UK on an in personam basis, it is still not clear that all seafarers who could be protected by the NMW are actually covered by the legislation or that it can be fully enforced in practice.

In addition, it is not clear that HMRC and the Maritime and Coastguard Agency have established a gateway to exchange information about NMW compliance on ships

TUC recommendation

The LPC should press the Government to ensure that as many seafarers as possible are protected.

Interns, unpaid work and bogus volunteering.

The use of unpaid interns and work experience continues to be widespread and gives the TUC great concern.

Our concerns include: the use of interns simply as a way of getting free work; as a way of avoiding equalities duties in recruitment, and as substitutes for employees. Furthermore, the use of interns threatens to undermine the NMW legislation.

There has been some progress though:

- We welcomed the campaign of targeted enforcement that retrieved wages for more than 100 interns, but this represents only a small proportion of the problem.
- The Graduate Talent Pool is now much more tightly moderated than it was in previous years.
- The Government is working to update the “Common Best Practice Code for High Quality Internships”, which came out of the Milburn report on access to the professions.

These are all useful steps, but they will not be enough on their own.

More recently, the negative media focus on unpaid internships, the HMRC sweep and tribunal cases taken by unions have led a fair number of employers to move to bogus "volunteering" instead. It has been clear from talking to people who have become enmeshed in this situation that the purpose of the volunteer tag has been to try to hide their status as workers who should be paid. This is a further area where the TUC believes additional government action is required.

<u>TUC recommendation</u>
The LPC should call on the government to continue to target underpayment of interns and "volunteers".

Advertisements for jobs that pay rates below the NMW
The TUC is aware that trade unions and members of the public often complain about advertisements that advertise jobs that pay below the NMW, yet legally nothing can be done about such advertisements at the moment.

The LPC should consider again whether the law should be changed in order to make those who place such advertisements specify why they believe that they can pay below the NMW.

The LPC should certainly recommend that HM Revenue and Customs should always regard such advertisements as prima facia evidence of intent to break the law, should write to the employer in question in order to let them know what they need to do in order to comply with the NMW and should add such employers to their list of high-risk businesses to be inspected. This would be in line with the BIS NMW Compliance strategy, which stresses the value of intelligence in focusing enforcement[38].

<u>TUC recommendation</u>
The LPC should consider whether the law should be changed in order to make advertising jobs below the NMW dependent on legal for doing so. It should also recommend that HMRC should regard all such adverts as evidence of intent to break the law, and take appropriate action to ensure that the minimum wage is duly paid by the employer.

Domestic workers

The TUC is still deeply concerned about the position of those domestic workers who are exempt from the National Minimum Wage because they are said to be living as part of the family.

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[38] BIS, March 2010, paras 4.1-4.4

In many cases this is completely unwarranted, and amounts to a licence to exploit these workers. This exemption should simply be abolished or at least greatly tightened.

In addition, this sector should be targeted for enforcement in 2012, using a multiagency approach in order to catch out-and-out people-traffickers as well as more moderately bad employers.

TUC recommendation

The exemption for domestic workers who are said to live as part of the family should be abolished or greatly tightened, as it has been subject to wide-spread abuse. The sector should be targeted for enforcement, using a multi-agency approach.

Payment for travel time and during quieter business periods

As in previous years, the issue of payment for care workers travelling between clients continues to be a considerable problem. The complexity of the contractual arrangements and the atomisation of working practices make it hard for workers to understand whether they are being paid the NMW, and even taxes the powers of HMRC's compliance officers.

Nevertheless, these employers must not be allowed to get away with breaking the law and should be targeted for enforcement.

The LPC should also very closely consider the rapid rise in zero-hours contract working and its relationship to the practice of only paying workers for particular parts of their working days. This type of arrangement was extremely rare in the UK during the boom years, but was revived at the onset of the recession, increasing more than five-fold since 2007, according to ONS[39].

Although the implications of the rise of zero hours contracts are very wide indeed, the LPC will want to focus on the extent to which they are used to evade the duty to pay the NMW. Anecdotal reports suggest that in some sectors it is relatively common practice to try to remove part of the working day from the NMW calculation by using a zero hours contract. In practice this means, for example, not paying care workers for travel between clients or standing down waiting staff in restaurants for times when there are no customers.

In most cases, such strategies are simply not legal. However, it can be hard to ensure that the law is fully enforced. If it is found that legislative changes are

[39] Note that the ONS figures are widely considered to be a considerable underestimate. Indeed, the CIPD believe that the true figure may be 1 million. http://www.cipd.co.uk/pm/peoplemanagement/b/weblog/archive/2013/08/05/one-million-workers-on-zero-hours-contracts-finds-cipd-study.aspx

needed to close down such practices, or that more resources are needed to enforce the law, then the necessary action must be taken as a matter of urgency.

TUC recommendation
The TUC believes that non-payment of care workers for travel between clients breaks the existing law and that this sector should be considered for targeted enforcement.

The LPC should investigate the abuse of zero-hours contracts, in order to close any loopholes and ensure that the NMW is strongly enforced.

Awareness and enforcement

Every year employers develop new ways of trying to avoid the minimum wage rules, so the LPC must keep the enforcement regime under constant review and make recommendations for improvements.

Some of the issues for the coming year are discussed above, including the misuse of interns, work experience and bogus volunteering, domestic workers, and the abuse of zero hours contracts, particularly in the case of social care workers who are wrongly not paid for travelling time while employed on such a contract.

Given that there are several sectors that drastically need to be targeted for enforcement, and that some other likely candidates such as retail have yet to be tackled, the LPC need to consider whether the budget for enforcing the NMW is sufficient.

In fact, the budget for enforcement has been frozen for five years, and has thus declined in real terms. There is a close relationship between the resources available for enforcement and the quality of enforcement, so the budget should now be increased in order to ensure that low paid workers can enforce their NMW rights.

There is also concern that awareness of the details of minimum wage is slipping amongst both workers and employers. BIS needs to have a budget that is sufficient to disseminate advertise the NMW rates so that workers can to know their rights and employers their responsibilities.

The TUC welcomes the government's recent decision to revise the "naming and shaming" scheme for employers who fail to pay the NMW. By dropping most of the artificial barriers, it should now be possible to name 100s of cheating employers each year. The LPC will want to monitor the application of the scheme once it takes effect in the autumn, as there should be early results available before the next LPC report is concluded[40].

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[40] BIS PR, 23 august 2013: https://www.gov.uk/government/news/national-minimum-wage-rogues-to-be-publicly-named-and-shamed-under-new-plans

But naming employers who have received civil penalties is not enough on its own. Whilst the TUC recognises that prosecutions are resource intensive, HMRC does need to take more of the aggravated cases to court, including some of the many cases involving repeat offenders.

One significant deterrent to prosecution is that the courts are imposing fines that are very low for the severity of the offence, often less than £2,000. The government should increase the maximum penalty for the aggravated offences set out in the 1998 NMW Act, and find a way to lead magistrates and judges towards imposing higher fines for these offences.

In addition, the TUC is deeply concerned that quality of the NMW guidance fell drastically when it was re-written for the new government website GovUK. The TUC wrote to the Cabinet Office minister and the employment minister in January 2013 outlining a large number of faults with the information, some of which were so serious that they were likely to lead employers to underpay and thus to end up receiving a fine or civil penalty. The minister responded acknowledging this state of affairs in February, but the faults have yet to be rectified.

TUC recommendations

The LPC should recommend that the budget for enforcement should increase so that it does not lose its real value. It should also recommending raising the budget for advertising the key details of the NMW and how workers can enforce their rights. The LPC should monitor the government's "naming" scheme in order to ensure that it delivers what it promises. The LPC should argue for more prosecutions, higher penalties and higher fines in practice. The LPC should also press government to rectify the serious faults in the NMW guidance as a matter of urgency.

Securing wage growth beyond the NMW

The Living Wage is currently £8.55 per hour in London and £7.45 in the rest of the UK[41]. There is too much of a gap between the NMW and the living wage for too many workers. There would therefore be great merit in local and central government adopting the living wage as soon as possible and promoting living wages in the private sector so that government does not have to supplement wages with tax credits and benefits more than is really necessary.

The NMW would give the most help to this process if it were set at the highest level that can be sustained, which the TUC believes to be significantly higher than at present.

[41] http://www.livingwage.org.uk/

More broadly the TUC launched its *Britain needs a pay rise* campaign[42] in June 2013. This campaign includes a number of strands, including increasing the NMW and improving enforcement, promoting the living wage, spreading and deepening collective bargaining and bringing sanity to executive pay setting.

One particular focus is to try to improve some of the low paying sectors. Our view is that what is needed is a tripartite approach, not too dissimilar to the wages councils or indeed to the LPC itself. This must clearly be in addition to the existing NMW. Our aim is both to improve the ability of sectors to pay more and to ensure that low paid workers share fairly in productivity gains.

Conclusion and recommendations

Last year the Low Pay Commission recommended an increase of 1.9 per cent to the adult rate of the NMW (taking effect from October 2013). The TUC believes this was too modest a rise. Over the past year inflation has continued to increase at a significantly stronger rate (with CPI currently up 2.9 per cent on the year to June 2013) meaning that at the point of its introduction the NMW rise is likely to comprise a real terms cut.

Economic forecasters agree that growth will strengthen in 2014 and that the economy will be moving back towards trend growth rates during 2015. We have also recently moved from a period of sustained downward revisions in economic forecasts to a period of emerging improvements. If demand continues to build there is every chance the recovery will strengthen further, particularly given the significant cash reserves and healthy profit margins that currently characterise much of British business.

It follows that employers will be able to sustain a higher rate of increase in October 2014. As trading conditions improve, business opportunities will open up, demand will strengthen and investment will increase which will lead in turn to stronger wages growth.

This will mean that the LPC should be entering a new phase, during which recommendations should be more generous, and over the next few years the NMW rates should move significantly upwards.

Apprentices must be protected from pay abuse. This means not just targeted enforcement in the sector, but also raising the apprentice rate, looking again at the conditions in which it can be used, particularly for older apprentices aged over 25, and ensuring that government agencies can work effectively together.

The LPC should also recommend that enforcing the NMW should be strengthened, that deliberate cheats should face tougher punishments and that the NMW should be extended to cover excluded groups of workers, including some domestic workers and seafarers.

[42] http://www.tuc.org.uk/economy/britainneedsapayrise.cfm

The TUC's recommendations

- *We argue that the recovering economy will be able to support a considerably more substantial increase by October 2014. This would provide some of the help needed by hard pressed low paid workers, who have seen the real value of their wages fall in recent years. At the very minimum we would expect the NMW to rise by more than inflation and average earnings, whichever is the higher.*

- *However, we also believe that the LPC should be entering a new phase of recommendations, where the caution of recession progressively gives way to a series of more generous NMW increases which act to offset the cost of living squeeze that the lowest paid workers have now endured for several years.*

- *Whilst there is clearly no room for complacency, neither is there any persuasive evidence that young people should not continue to see their rates increase, especially if the Government were willing to take measures to help the relatively small number of 16 and 17 year olds who are unemployed. The TUC argues that the rate for 18-21 year olds should increase in 2014 by at least the same percentage as the adult rate. In the coming period we aim to see the adult rate phased down to be paid at the age of 18 and a significant narrowing of the gap between the remaining rates and the adult rate.*

- *The LPC should raise the apprentice rate to the level of the current youth rates soon as possible. At the moment it is far lower than is necessary, and as the economy recovers it will become even more unattractive for young people to take up the apprenticeship option.*

- *The major part of the growth in numbers of apprentices has come from existing employees, the vast majority of whom are paid at the adult rate of the NMW or above. The LPC should review the application of the apprentice rates as a whole, but with particular reference to the possibility of removing the apprentice rate for those over the age of 24.*

- *The TUC continues to support the AWBs. The LPC should argue that that the expertise and funding from the DEFRA inspectorate should be transferred across to HMRC. It should also commission research and monitor the impact on wages and conditions, jobs and apprenticeships in the sector. In addition the LPC should foster close link with the Gangmasters Licensing Authority and consider whether that authority should have a greater role in enforcement in the sector.*

- *The LPC should press the Government to ensure that as many seafarers as* *possible are protected.*

- *The LPC should call on the government to continue to target underpayment of interns and "volunteers".*

- *The LPC should consider whether the law should be changed in order to make advertising jobs below the NMW dependent on publishing the legal grounds for doing so. It should also recommend that HMRC should regard all such adverts as evidence of intent to break the law, and take appropriate action to ensure that the minimum wage is duly paid.*

- *The exemption for domestic workers who are said to live as part of the family should be abolished or greatly tightened, as it has been subject to wide-spread abuse. The sector should be targeted for enforcement, using a multi-agency approach.*

- *The TUC believes that non-payment of care workers for travel between clients breaks the existing law and should be considered for targeted enforcement.*
- *The LPC should investigate the abuse of zero-hours contracts, in order to close any loopholes and ensure that the NMW is strongly enforced.*

- *The LPC should recommend that the budget for enforcement should increase so that it does not lose its real value. It should also recommend raising the budget for advertising the key details of the NMW and how workers can enforce their rights. The LPC should monitor the "naming" scheme in order to ensure that it delivers what it promises. The LPC should argue for more prosecutions, higher penalties and higher fines in practice. The LPC must press the government to rectify the serious faults in the NMW guidance as a matter of urgency.*

Annex: Number and proportion of NMW jobs by industry

Industry	Number of NMW jobs (thousands)	Industry	Per cent paid NMW
Hospitality	298	Hairdressing	33%
Non-low paying industries	246	Hospitality	26%
Retail	261	Cleaning	24%
Cleaning	206	childcare	14%
Social care	52	Food processing	14%
childcare	49	Retail	11%
Transport	47	Leisure travel and sport	10%
Food processing	45	Transport	10%
Storage	43	Textiles	9%
Office work	36	Non-food processing	9%
Hairdressing	30	Office work	8%
Non-food processing	30	Storage	8%
Leisure travel and sport	26	Social care	7%
agriculture	12	Agriculture	7%
textiles	5	Non low-paying industries	1%

Derived from LPC report 2012, fig 2, p22.

Additional TUC evidence to the Low Pay Commission

Introduction

In late September 2013 the Secretary of State asked the Low Pay Commission to take a 'longer term view of the minimum wage' and of the 'necessary conditions for higher increases in the National Minimum Wage'. As a result, the LPC has been given an additional remit to 'consider the conditions that would need to be in place in order to allow a faster increase in the minimum wage taking into account the implications on employment'. While the full range of conditions to be considered have not been specified by the Secretary of State, he has asked for particular views from the LPC as to how government policies that affect labour costs and take home pay could impact on the scope for higher future NMW rises. In response the Low Pay Commission has extended the deadline for its consultation, and this short additional submission comprises the TUC's response to this call for additional evidence.

The TUC believes that the time is right for a new national conversation about how further substantial progress can be achieved in increasing the NMW, as part of a strategic cross-Government effort to reduce the prevalence of low pay in the UK economy. The NMW is widely acknowledged to be one of the most successful pieces of social policy over recent years and since its introduction has benefitted many millions of workers. But with the UK economy still characterised by one of the highest rates of low pay in the OECD, further strong action is needed if the working conditions of those in the lowest paid jobs are to be significantly improved. The TUC believes that the LPC will have a vital role to play in achieving this goal, and that this new consultation should form the beginning of a wider discussion as to how the NMW can play a more significant role in a cross-government effort to tackle low pay.

Scope for higher increases in the NMW

A strengthening recovery

As we have already set out in our main submission to the LPC, the TUC believe that given the emerging recovery there is significant scope for the minimum wage to increase more quickly than has been the case in recent years, without any negative employment impacts. As economic output, productivity and employment rise in the months and years ahead we believe that the stage is set for the LPC to enter a new and more ambitious phase in its recommendations where it should seek to secure substantially higher annual NMW increases than have been the case in recent years. These increases should seek both to close the real terms earnings gap that has opened up and to move the NMW beyond previous real terms values to enable it to continue to reduce the prevalence of poverty pay across the UK economy.

Our first submission also set out specific cases where we feel economic evidence already demonstrates that further increases, without employment effects, have been possible for a number of years. In particular, we highlight that with apprentice numbers continuing to surge there is ample scope for an increase in the apprentice rate, to very close to the 16-17 year old youth rate, without negative impacts on apprentice numbers. Indeed, as the economy picks up an increase of this magnitude may well be necessary if apprenticeships are to remain attractive to young people.

Given it would be possible to interpret the Secretary of State's recent request as a restatement of the existing terms of the LPC's brief, we also repeat our previous conclusion here: in the period ahead, given the forecast strength in the economic outlook, economic conditions should allow a far stronger rate of increase in the NMW than has been the case over recent years of recession and stagnation, without any negative implications for employment. In addition, as we have previously argued, ambitious rises in the NMW could even increase employment rates through boosting both labour supply and demand as a result of the rising spending power of lower paid workers.

Wider economic and policy conditions

However, despite the potential for this limited interpretation, the TUC's assessment of the Secretary of State's request to the LPC is that the additional question the Commission has been set does not simply seek to restate the existing terms of the Commission's investigations, but aims to allow the LPC to consider the conditions which would allow a *faster increase than would currently feasible within the current terms of the LPC's remit i.e. than would be possible even as a strong recovery unfolds*. Given this, the TUC has also given thought to whether there are wider economic and policy changes which could enable NMW rates to rise more quickly than we currently assess will be possible in the years ahead.

Raising the capacity of low-paid sectors to pay more

The TUC recognises that in many cases if pay rises in low paid industries are to be affordable for employers they need to be underpinned by productivity increases. We also believe that government has a key role to play in incentivising and enabling employers to make this transition. The TUC would like to see government take a more proactive role in supporting low-paid industries to secure productivity gains, for example through increased support industrial partnerships which take a social partnership approach to development of skills and wider workforce development issues across low-paid sectors and set higher standards for training qualifications and development of vocational pathways. Prioritising increased access to finance (particularly through increased bank lending) among specific sectors where there is scope to invest in productivity enhancing technology or new business models could provide another means of government support.

But the evidence also shows us that in some sectors productivity may already be near its desirable peak, or further productivity gains from enhanced staff skill, better management, increased investment or new technology may not be possible in the absence of new sources of business revenue. For example, in the case of social care tight margins mean it is hard to see where new investment could come from, or how higher skilled staff could significantly boost returns without increased sources of public or private finance for the industry. Productivity rises might be achieved by increasing the number of appointments a worker has to make within a set period of time, which would lead to a significant deterioration in service quality as well as increased pressure for employees. Similarly in nursery care, in the absence of increased sources of funds to pay for services (from either public or private sources) it is hard to see how productivity gains could be achieved or could lead to higher wages without a deterioration in service quality. The key available route towards increased productivity is likely to be increasing childcare ratios, a policy which can increase parental anxiety and harm child development rather than actually leading to improvements in services. In sectors such as these a different approach is therefore likely to be necessary is conditions are to be created in which significant further pay rises (beyond those that could be secured as a result of stronger growth in the years ahead) could be achieved. These might include identifying new sources of public funding, taking new approaches to public sector contracting, moving more staff to direct public sector employment or boosting the incomes of those paying for services to enable them to afford higher costs.

The TUC believes that given the complexity and sector specific nature of the economic changes that would be needed to create conditions in which many low paid industries could afford wage rises above those which are currently feasible without employment effects, that a cross-Government strategic commitment would be required to drive change. We suggest that this could be supported by a widening in the terms of the LPC's role, with the Commission perhaps charged with advising Government on the key drivers of low pay across the low paying sectors and investigating potential solutions to persistent low pay across specific areas of the economy, rather than simply advising on the rate of the NMW. Government could then be required to respond to the LPC's report, and to put in place cross-Government strategies to address the drivers identified.

A role for the LPC to set sectoral premia for the NMW?

But in addition to action to enable low-paid sectors to pay more, the TUC also believes that there are *already* industries which could well afford NMW rises in excess of those which will be supported across the economy by economic growth. We note the compelling evidence from the Resolution Foundation that since 2003 productivity rises for workers on median incomes have not been accompanied by commensurate increases in real pay, and that there is significant variation across different sectors as to the extent to which higher pay could be afforded, given varying levels of profitability and productivity between industries.[43]

The TUC therefore believe that there may be a case for charging the LPC with overseeing a process for setting additional NMW premia to apply in particular sectors of employment where it can be evidenced that higher pay could already be afforded. It is, for example, hard to imagine that the finance sector could not afford to pay a NMW addition without incurring employment effects. Such an approach would of course take careful development, requiring first an appropriate determination of sectors (including consideration as to how rates would be communicated and enforced across them), and then development and application of an appropriate process for determining the affordable NMW in each, involving relevant union and employer representatives in appropriate structures which enable them to consider the evidence and negotiate a recommended rate. There could also be scope for these negotiations to consider broader sectoral employment practices.

As a first step towards this position the TUC believe that as part of its approach to undertaking better understanding the conditions in different economic sectors the LPC should therefore additionally be charged with determining which sectors could currently pay higher NMW rates without employment effects, and how these sectors could best be defined. The TUC's initial analysis suggests that sectors including finance, food processing and security are potential areas for inclusion. If this 'condition' were put in place the TUC believes that faster NMW wage rises could be secured in the future than would be the case under the current regime.

A role for the LPC to set a London weighting for the NMW?

The TUC are strongly opposed to regional pay, which we believe is inefficient, economically damaging and unfair. But we are aware of important research being undertaken by the Centre for London on whether there is a case for a London weighting to the NMW. If a compelling case can be made that lower paid jobs are already paid more in London than in the rest of the UK, and that a NMW rise in London could be achieved without employment effects, then the TUC believe there may be a case for the LPC to consider consulting with stakeholders on the pros and cons of introducing an appropriate London weighting to the NMW. It may be that given the strength of the London economy, and its distinct position in the UK, this increase could be afforded now by employers in the capital, and that a shift in the LPC's remit would create the conditions for many low paid London workers to benefit from higher rates of pay than would otherwise be the case if a London weighting were not introduced. On the other hand such a consultation could conclude that the risks to employment in the capital would be too great.

The impact of Government policies

The Secretary of State's letter to the LPC also asks how government policies which affect take home pay and labour costs could influence views on the conditions that would allow a faster rise in the minimum wage without effecting

[43] http://www.resolutionfoundation.org/media/media/downloads/Growth_without_gain_-_Web.pdf

employment. We therefore give consideration to each of these issues below.

Take home pay
With respect to take home pay, the TUC understands this to be a question about how wider changes in the tax and benefit system, as set by HM Treasury, should impact on decisions over the level of the NMW. But we have struggled to fully understand the rationale for inclusion of this requirement in the Secretary of State's request, as the two issues seem to us to be very separate – measures which impact upon take home pay are unlikely to have a direct effect on employment as they generally will not impact on employer costs. However, in our response below we have given consideration to recent political arguments as to why take home pay could affect the necessary conditions for a higher NMW rate.
The Chancellor has recently argued that the increase in the personal tax-free allowance since 2010 has been the equivalent of a 10% rise in the NMW. The implication is that cuts in income tax, by boosting take home pay, are a substitute for an increase in the NMW. The TUC strongly believes that this argument should be rejected for several reasons.

Firstly there is a limitation with take home pay as measure of living standards. Take home pay is determined by a combination of earnings and the tax system. It takes no account of the impacts of benefits and tax credits (which have experienced significant recent cuts) or of the role of indirect taxes on real incomes. Whilst workers earning the NMW have benefited from the rise in the personal allowance they have also lost out from the rise in VAT and other indirect taxes, an effect not captured by measures of take home pay.

A recent analysis from the Office of National Statistics[44] found that:
"In 2011/12, the bottom fifth of households paid 29% of their disposable income in indirect taxes, compared with 14% for the richest fifth. "

In other words, a focus on take home pay would miss the wider implications of changes in the tax system on household incomes. The same point can be made as regards tax credits and benefits, where government cuts and below inflation uprating will have a major impact on NMW earners.

Secondly, unless additional complexity is brought into the personal tax system through more tapering or additional rates, then increases in the personal allowance will remain a poorly targeted (and expensive) way of helping NMW earners. The most recent increase in the NMW of 12p an hour is worth £234 a year to someone worker 37.5 hours a week on the NMW, and far less to a part-

[44] The Effects of Taxes and Benefits on Household Income, 2011/12, ONS http://www.ons.gov.uk/ons/rel/household-income/the-effects-of-taxes-and-benefits-on-household-income/2011-2012/etb-stats-bulletin-2011-12.html

time worker. But the HMRC Ready-Reckoner[45] suggests that increasing the personal allowance by £100 will cost the Exchequer £505mn in 2013/14 – a high cost for such significant gains.

Thirdly, by 2014/15 the personal allowance will have reached £10,000. Anyone earning the NMW and working 30 hours a week or less will pay no income tax. Further rises to in the allowance will make no difference to their take home pay. Some NWM workers on part-time hours have already stopped gaining from recent personal allowance increases as they have already been lifted out of tax by previous changes.

Taking into account the role of tax credits and benefits, indirect taxes, the deadweight loss of personal allowance increases and the fact that many people earning the NMW are already (or will soon be) out of the income tax system suggests that there are serious limitations to using a measure of take home pay when considering the real incomes of NMW workers, or considering the need to secure NMW increases.

It is also notable that if income tax were to be raised, or the personal allowance cut, then the government would be unlikely to see this as a case for increasing the NMW. In addition none of the factors above make a difference to the cost of an employer paying a worker and so take home pay is unlikely to have direct read across onto employment. We conclude that take home pay is not a measure that it would be useful or appropriate for the LPC to consider.

It may be that rather than this consideration has been included as the Secretary of State wants to give greater consideration to the interaction between the NMW and wider measures which could increase workers' living standards without the need for NMW rises. But if this is the case the TUC suggests that 'take home pay' is not a good basis on which to assess the realities of change in income for low-paid workers. If the intention is to develop a process which gives wider consideration to how the NMW, along with the tax and benefits systems, impact on real incomes of working people (a laudable and useful aim) the TUC suggests that household income would be a better basis on which to make a judgement, rather than the partial assessment that would be provided by measuring take home pay.

Labour costs

There are two ways to approach the issue of labour costs as a condition in raising the NMW faster than would currently be possible whilst maintaining employment. The first is to consider the role of payroll taxes such as employers' NICS and the second is to look at wider measures of labour costs.

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[45] HMRC Ready Reckoners, http://www.hmrc.gov.uk/statistics/expenditures/table1-6.pdf

National Insurance Contributions

An argument could be made that lowering employer NICS contributions would allow for a faster increase in the NMW as employers could use the money saved in payroll taxes to increase their wage bill. Whilst such a system may be possible, there are complications.

First, the current weekly lower earnings limit (before which no NICS is liable) is set at £109. An employer employing a NMW earner for 17 hours or less is liable for no NICS, so reducing employer NICS would not lower labour costs for many employers of part-time NMW earners (who comprise the majority of NMW workers).

Second, lowering NICS more generally (or increasing the Government's new employment allowance) would carry large deadweight costs not targeted on NMW earners: for example HMRC estimate that a 1% change in employer NICS rates would cost £4.2bn in 2013/14.

It may be possible to get around some of these issues by refining the current NICS thresholds in order to better target cuts on NMW employers. However this could create perverse incentives to employ workers on or near the NMW to avoid an increase in marginal payroll taxes and would also add to the complexity of the system.

While it is the case that cutting employer NICS contributions might allow the NMW to be increased without an impact on employment levels this would lead, in effect, to the government picking up the cost of the rise (through lower NICS receipts) rather than employers. In the TUC's view any government support targeted at employers and aimed at allowing faster rises in the NMW may be better spent on training, skills programmes and other measures designed to raise productivity (as outlined in our submission above) rather than on poorly targeted cost-cutting measures.

Wider labour costs

The passage in the Secretary of State's letter on labour costs could also be interpreted as referring to wider employment costs – potential redundancy payments, sick pay, etc rather than just employment taxes. In other words, some might make a case that further labour market deregulation could create the conditions for faster NMW increases without impacting upon employment.
The TUC strongly rejects this argument. OECD analysis[46] suggest that the UK already has one of the most liberal labour market regimes in the developed world and the case for further deregulation is very weak given the better employment performance of several more regulated markets in recent years.

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[46] OECD Indictors of Employment Protection, http://www.oecd.org/employment/emp/oecdindicatorsofemploymentprotection.htm

Conclusion

In conclusion, the government is right to look again at the National Minimum Wage in order to make sure that it can give as much help to people in low paid jobs as can be afforded. This is an important aim, whose fulfilment relies not just on sound management of the economy in general but also in looking for new ways to extend the NMW to improve its reach. The NMW is a successful and much-loved policy, but government must never rest in the battle against in-work poverty.