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Research Report

The national minimum wage in the United Kingdom

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The National Minimum Wage in the United Kingdom

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Zusammenfassung

Diese Studie bewertet den Hintergrund und die Entwicklung des gesetzlichen Mindestlohns in Großbritannien und die Belege für seine Wirkungen. Das vorausgegangene System der Entlohnungsbeiräte, 1993 im Rahmen der Deregulierungspolitik der konservativen Regierung abgeschafft, wird kurz skizziert. Es wird dann erklärt, wie sich die Bewegung für einen gesetzlichen Mindestlohn entwickelte und Unterstützung bei den Gewerkschaften und der Labour Party fand. Die Debatten über die zu erwartenden Wirkungen eines Mindestlohns und das Für und Wider seiner Einführungen werden analysiert. Die Studie beschreibt dann die 1998 eingeführte Gesetzgebung zum Mindestlohn und ihren Stellenwert in der Strategie der Regierung von „New Labour“ zur Verbesserung der Arbeitsanreize. Sie fasst die Berichte der unabhängigen Niedriglohn-Kommission zusammen, die in Ansehung der wirtschaftlichen Lage und nach Beratung mit den betroffenen gesellschaftlichen Gruppen Empfehlungen an die Regierung über die Höhe und den Geltungsbereich des Mindestlohns erarbeitet. Die Studie fasst auch die verfügbaren Daten zum Einfluss der Mindestlohngesetzgebung auf Verdienste, Lohnunterschiede, Beschäftigungsniveaus und Armut zusammen. Sie erklärt außerdem, wie der Mindestlohn durchgesetzt wird, und geht auf verwandte Probleme bezüglich der Position von Geringverdienenden ein, deren Lohn geringer ist als der Mindestlohn. Schließlich erläutert sie die aktuelle Debatte über die künftige Höhe und Durchsetzung des Mindestlohns.

Abstract

This study assesses the context and development of the British NMW and the evidence of its impact. The study outlines the earlier system of Wages Councils, abolished in 1993 as part of the British Conservative Government's policy that, from the early 1980s, had deregulated much of the British labour market. It explains how the campaign for a National Minimum Wage developed and attracted support from the trade union movement and Labour Party. It details the debate that took place in Britain about the impact of a minimum wage and the arguments for and against its implementation. It then describes the NMW legislation that was introduced in 1998 and the role the minimum wage plays in the New Labour Government's 'make work pay' strategy. It reviews the reports produced by the independent Low Pay Commission that makes recommendations to Government about the rate and coverage of the minimum wage in light of prevailing economic circumstances and the representations of interested groups. This study also outlines the impact of the NMW on earnings, wage differentials, employment levels and poverty. It further explains how the NMW is enforced and considers related issues concerning the position of low paid workers earning less than the minimum wage. Finally it explains about a continuing debate on the rate at which the NMW should be set and enforced.

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List of Abbreviations

| | |
|------|------------------------------------|
| ASHE | Annual Survey of Hours and Earning |
| BCC | British Chamber of Commerce |
| CBI | Confederation of British Industry |
| CPAG | Child Poverty Action Group |
| CSJ | Commission of Social Justice |
| DTI | Development of Trade and Industry |
| EU | European Union |
| ILO | International Labour Organisation |
| IoD | Institute of Directors |
| IR | Inland Revenue |
| LPC | Low Pay Commission |
| LPU | Low Pay Unit |
| LFS | Labour Force Survey |
| LPN | Low Pay Network |
| LP | Labour Party |
| NMW | National Minimum Wage |

| | |
|---------|---|
| NES | New Earning Survey |
| NPI | New Policy Institute |
| ONS | Officers for National Statistics |
| TUC | Trade Union Congress |
| TUPE | Transition of Undertakings Protection of Employment |
| T & GWU | Transport & General Workers Union |
| TIGER | Tailored Interactive Guidance on Employment Rights |
| USDAW | Union of Shops Distribution and Allied Workers |
| WFTC | Working Families Tax Credit |
| WTC | Working Tax Credit |

Introduction

In 1997 the New Labour Government was elected with a pledge to introduce a National Minimum Wage (NMW). Its key purpose has been to provide “an effective labour market floor that protects workers from exploitative pay levels and businesses from unfair competition” (LPC3, vol 1).

The NMW first was implemented in April 1999 and since has been increased five times. From October 2004 it has been £4.85 (€7.13) per hour for adults and £4.10 (€6.02) for young people aged between 18 and 21 years and for ‘trainees’ (see Table 1). At that time a NMW of £3 (€4.41) per hour was introduced for 16 and 17 years olds who previously were excluded from coverage. The Government has announced that the minimum rates will be increased to £5.05 (€7.42) for adults and £4.25 (€6.25) for 18 to 21 year olds from October 2005; and to £5.35 (€7.86) and £4.85 (€6.54) respectively in October 2006. The rate for 16 and 17 year olds will be subject to review in February 2006.

Table 1: National Minimum Hourly Wage Rates in Britain: 1999 to 2006 (in Sterling and Euros at May 2005 exchange rate of £1 = €1.47)¹

| With effect from | Adult worker aged over 25 years | Worker aged 18 to 21, and ‘Development Rate’* for adults | Worker aged 16 or 17 |
|------------------|---------------------------------|--|----------------------|
| 1 April 1999 | £3.60 €5.29 | £3.00 €4.41 | none |
| 1 October 2000 | £3.70 €5.44 | £3.20 €4.70 | none |
| 1 October 2001 | £4.10 €6.02 | £3.50 €5.15 | none |
| 1 October 2002 | £4.20 €6.17 | £3.60 €5.29 | none |
| 1 October 2003 | £4.50 €6.62 | £3.80 €5.59 | none |
| 1 October 2004 | £4.85 €7.13 | £4.10 €6.02 | £3.00 €4.41 |
| 1 October 2005 | £5.05 €7.42 | £4.25 €6.25 | £3.00 €4.41 |
| 1 October 2006 | £5.35 €7.86 | £4.45 €6.54 | £3.00 €4.41 |

•The development rate can apply to workers aged 22 and over during their first six months in a new job with a new employer if they are receiving ‘accredited training’ approved by UK Government. In April 1999 the development rate for those aged over 22 was £3.20 (€4.70).

Increases in the NMW are not automatic. The Government has appointed an independent Low Pay Commission (LPC) that carries out regular reviews of the impact of the NMW on employment, productivity and earnings and makes a recommendation to the Government about any future increase. The LPC estimates how many low paid workers are likely to benefit from each increase. In a context of sustained employment growth,

¹ There is a maximum ‘Accommodation Offset’ (for accommodation provided by an employer) that, from October 2004, has been set at £3.75 (€5.51) per day. This will be increased to £3.90 (€5.73) and £4.15 (€6.10) per day respectively in October 2005 and October 2006.

even in low paid sectors, and no other evidence of adverse economic effects, the Government has increased the NMW faster than average earnings since 2003. The October 2004 increase benefited more than 1.1 million low paid workers, with many more estimated to have received an anticipatory wage increase before April of that year (LPC5 2005: 15).

In 2003 the LPC concluded that, within four years, the NMW had “become an accepted part of our working life and has largely ceased to be controversial” (LPC4 2003: vii).

1 History of Minimum Wage Legislation in Britain: the Wages Councils

Minimum wage legislation in Britain can be traced to the ‘Fair Wages Resolution’ of 1891 and the Trade Boards Act of 1909. The former required employers engaged on government contracts to pay at least the wage level generally recognised by the sector or locality concerned. This ‘Resolution’ applied throughout Britain, to all levels of Government, and was designed to prevent subcontractors competing for public sector contracts by paying less than the rates set through collective or local wage agreements.

Trade Boards were established to regulate the pay in industries notorious for the employment of cheap labour. In his often-quoted speech proposing the legislation, Winston Churchill, then President of the Board of Trade explained that the Boards were necessary to ensure that workers received a living wage in industries where the bargaining strength of employers greatly outweighed that of employees (House of Commons Debate 28 April 1909: col. 388).

Where in the great staple trades in the country you have a powerful organisation on both sides, where you have responsible leaders able to bind their constituents to their decision, where that organisation is conjoint with an automatic scale of wages or arrangements for avoiding a deadlock by means of arbitration, there you have a healthy bargaining which increases the competitive power of the industry, enforces a progressive standard of life and the productive scale, and continually weaves capital and labour more closely together. But where you have what we call sweated trades, you have no organisation, no parity of bargaining, the good employer is undercut by the bad, and the bad employer is undercut by the worst.

The Government encouraged the formation of voluntary Joint Industrial Councils in employment sectors that already had effective collective bargaining and the Trade Boards were intended to provide ‘surrogate’ collective agreements for those workers too weak to engage in collective bargaining. The long-term aim was that the Boards would be replaced by voluntary collective bargaining between employers and unions at industry level. This aim was never realised. By the 1920s Government reports proposed that no new boards be established.

Major changes occurred following the Labour Party’s election victory in 1945. The Wages Act (1945) empowered the Minister of Labour to establish Wages Councils (as opposed to Trade Boards) if existing voluntary collective bargaining arrangements were considered at risk. It also allowed employers and unions to seek jointly the abolition of a Wages Council where collective bargaining had been established. The most important element, however, was the Councils’ increased powers to settle all aspects of pay, hours and holidays in contrast to the more restricted scope of Trade Boards.

Wages Councils consisted of representatives from both sides of industry, together with independent members. The role of the independent members was to conciliate between the two sides and, when agreement could not be reached, to vote in favour of one side or

the other. Employer associations and relevant trade unions nominated members but all were appointed by the Minister of Labour who also had the legal authority to decide the scope of the industry to be covered by each Council. The Councils had the power to set detailed minimum rates of pay, including shift premia, for different age groups and types of worker as well as complex holiday entitlements relating to length of service. At their peak, in 1953, there were 66 Wages Councils, covering about 3.5 million workers. The major sectors covered were retail distribution, catering and hotels, clothing, laundries and road haulage.

During the 1960s and 1970s attitudes towards the Wages Councils changed considerably. There was concern about the effectiveness of the Councils in tackling low pay, the resistance of employers to any real improvement in wage levels for those within their scope and the increasing complexity of the Wages Orders (the regulations issued by each Wage Council). Trade unions favoured voluntary collective bargaining as a more effective way to help the low paid reflecting in part a period when membership was increasing and national Government was creating corporate tripartite arrangements in key areas of economic policy. The trade union perspective was endorsed in 1968 by the Royal Commission on Trade Unions and Employers' Associations (also known as the Donovan Report) and the report on low pay by the National Board for Prices and Incomes. The Donovan Report portrayed the Wages Councils as both ineffective in remedying low pay and an obstacle to the development of collective bargaining.² In 1969 the Labour Government established an inquiry into the idea of a NMW. Whilst a report was published no legislation was forthcoming (Department of Employment and Productivity, 1969, cited by Lourie 1995).

The Industrial Relations Act (1971) made it easier to abolish Wages Councils and encouraged the establishment of collective bargaining machinery. The Commission on Industrial Relations, established by the Act, recommended the elimination of five Wages Councils, and between 1974 and 1979 the Labour Government abolished or merged a number of Councils. The 1975 Employment Protection Act enabled Councils to fix, in addition to minimum pay and holidays, 'any other terms and conditions'. The Act also

² The Donovan Commission assessed the tensions in the fragmented British industrial relations system which at this time were seen to be exacerbating unofficial industrial conflict and impeding productivity and economic growth. In summary, the Commission argued that there were two systems of industrial relations in Britain: on the one hand, there was the 'formal' system of national agreements and conciliation procedures arranged between officials of unions and employers' associations; on the other, there was the 'informal' system of 'factory' agreements concluded by bargaining between managements and individual workplace groups. The Commission suggested that the central defect of the system was the conflict between the two systems with actual wages and earnings largely determined through the informal system of bargaining between 'shop stewards' and management. The majority report of Commission favoured processes of voluntary collective bargaining and urged management to understand the nature of pluralism and to create the necessary organisational culture, mechanisms and environment to enable this to be effective. Trade Union recognition and representation with agreed methods of resolving disputes between employer and unions were identified as the key mechanisms to resolve the worst effects of conflicts of interest that arise between employers and employees. In the 1970s subsequent Governments introduced legislation aimed at restricting unofficial industrial action and increasing the effectiveness of official collective bargaining.

gave the Secretary of State power to convert Wages Councils into Statutory Joint Industrial Councils as a move towards fully fledged collective bargaining.

1.1 Conservative governments and the abolition of the fair wages resolution and Wages Councils

The election of the first ‘Thatcher’ Government in 1979 marked a fundamental change in approach. During the 1980s successive Conservative Governments deregulated much of the British labour market, reduced the powers of trade unions, privatised nationalised industries, and enabled the contracting out of services across much of the public sector. Simultaneously manufacturing employment declined, the service sector grew and the labour market was characterised by more part time and temporary employment contracts. The coverage of organised collective bargaining fell from its peak of 73 % of British employees in 1973 to around 47 % by 1990 (Milner 1994).

The ‘Fair Wages Resolution’ had required companies contracting with public authorities to pay the ‘going rate’ for the trade or industry, based on terms agreed in national collective agreements. The UK also was a signatory to the International Labour Organisation (ILO) Convention 94 stipulating that public contracts should include clauses ensuring that the wages and other conditions of the workers concerned were “no less favourable than those established for work of the same character”. In preparation for extensive privatisation the ‘Thatcher’ Government renounced the ILO Convention and abolished the Fair Wages Resolution in 1983. Subsequently ‘market testing’, contracting out and privatisation resulted in tens of thousands of public sector employees being transferred to private contractors. The Government however, was obliged by European law to introduce TUPE (the Transfer of Undertakings Protection of Employment) Regulations in 1981, and these ensured that most existing employees were transferred to a new service provider on the same terms and conditions of employment. Over time, however, the terms and conditions of many of those involved were to deteriorate, and the TUPE regulations gave no protection to new employees. Thus there emerged what public sector unions later termed the ‘two-tier workforce’ (Unison 2004).

The parallel reform of the Wages Councils commenced in March 1985 when the Conservative Government published a Consultation Paper proposing either abolition or radical change. By this time the number of Councils had been reduced to 26 although they still covered 2.75 million employees, about 11 % of the Labour Force (HMSO 1985: iii). The Government Paper cited the findings of two Departmental research reports which suggested minimum wages had negative employment impacts. Morgan et al. (1986), for example, examined trends in the clothing industry between 1950 and 1979, and concluded that for male workers ‘real’ minimum wage rates had “exerted a small but nevertheless clear cut negative influence on employment”. Still more prominence was given to the earlier findings of Wells (1983) into the relative pay and employment of young people. This research did not assess the impact of minimum wages specifically but revised previous Departmental conclusions by finding that an increase in the average earnings of young people below 18, relative to adult average ear-

nings, had led to a fall in employment. These findings were contested, and other official research gave more mixed results (e.g. Craig / Wilson 1986).

The House of Commons Employment Committee held an independent inquiry into the case for reform of the Wages Councils (HMSO, 1985). It found that most of those organisations that submitted evidence advocated reform but there was considerable opposition to outright abolition. Some employers and trade unions argued strongly for the retention or strengthening of particular Councils while others, in different circumstances, suggested their restriction or abandonment. Those most in favour of abolition included the Department of Employment, the Institute of Directors, the National Federation of the Self Employed and Small Businesses and in a more qualified way the Confederation of British Industry (see Table 2 on relevant employer organisations). The Committee recommended that there should be reform but not abolition (*ibid.* p. xi). Subsequently the Government opted for less radical reform.

Table 2: Employer Organisations in the UK

There are is an extensive network of employer and business organisations that lobby the British Government and European Union on behalf of their members. The most significant groups that have lobbied in debates on minimum wage legislation include:

Confederation of British Industry (www.cbi.org.uk): The largest and best known employers' confederation in Britain. The CBI represents the interests of its member companies at local, national and international level. It also provides information and research services. It does not carry out collective bargaining on behalf of its members. Its membership includes some 250,000 public and private companies, half of them smaller firms with less than 200 employees, and most trade and employers' associations. It nominates representatives to a wide range of public bodies in the United Kingdom and abroad, such as the Low Pay Commission and Employment Tribunals. The CBI has a President and a full-time Director General who frequently acts as its main spokesperson. It is governed by a Council of some four hundred members. It may be regarded as the employers' equivalent of the Trades Union Congress. It has no formal relationship with any political party.

Institute of Directors (www.iod.com): The IoD is a non-party political organisation with upwards of 54,000 individual business directors in the UK. Members include Chief Executive Officers of large corporations as well as entrepreneurial directors of start-up companies from a wide variety of sectors. The IoD represents the interests of its members to government and key opinion-formers at the highest levels. The IoD is a noted supporter of deregulated labour markets, a more limited role for the state and reductions in public expenditure.

British Chambers of Commerce (www.chamberonline.co.uk): The BCC is a non-political, non profit making organisation, owned and directed by its members. They represent the views of an accredited national network of local Chambers of Commerce that include 135,000 businesses of all sizes and sectors representing over 30 % of the country's workforce. Accredited Chambers are the single largest provider of government funded training. Accredited Chambers are local, independent, non-profit making and non party-political organisations, funded by membership subscriptions, that seek to represent the interests and support the competitiveness and growth of all businesses in their communities and regions. The Chambers provide a wide range of membership services and the national organisation lobbies Government and other organisations on employment policies, EU directives and other related issues.

The Wages Act 1986 preserved the 26 Councils then in existence but prevented any more from being established. It removed young workers under the age of 21 from the scope of the Wages Councils and ended the Councils' power to set minimum holiday

entitlements, separate pay rates for different occupations, and premium rates for unsocial hours or shift work. Consequently, Wages Councils were able only to set a minimum hourly basic rate; a minimum overtime rate; the number of hours after which overtime must be paid; and a daily limit on the amount an employer could charge for any living accommodation provided. Employers who failed to pay these rates were liable to a fine and for arrears of wages underpaid. The law was enforced by Wages Inspectors employed by the Department of Employment. In the 1980s and early 1990s the number of inspectors was reduced and they adopted a policy of ensuring that minimum rates were paid by persuasion rather than enforcement. Prosecution was rare, despite many instances of underpayment.

In December 1988, the Government again issued a Consultation Paper which suggested the abolition of the Councils. In response there was no widespread support for abolition even from employers' organisations; and, in March 1990, Michael Howard, then Secretary of State for Employment, announced his decision not to proceed with abolition "for the present" (House of Commons Debate, 6 March 1990: col. 543).

The Conservatives did not propose abolition during the 1992 General Election but the Trade Union Reform and Employment Rights Act that came into effect in August 1993 abolished the Councils. The Government argued that they had no purpose in a modern economy and that they were riddled with anomalies, for example, there was a Council setting minimum wages in the 'Ostrich and Fancy Feather and Artificial Flower' industry, but none in the private security industry. In reality, however, the Councils covered about 2.5 million workers, over three quarters of whom were women, mainly in low paid industries such as clothing manufacture, hotels and catering, retail and hairdressing. Immediately prior to abolition the minimum rates they had set ranged from £2.66 to £3.20 per hour.

Agriculture was unaffected by abolition as its Agricultural Wages Board had been established under separate legislation. Whilst the Government had considered its abolition, opposition from both sides of the agricultural industry led it to back down.

Following abolition there was growing evidence of jobs being offered below the old minimum rates and little evidence of increased employment in the deregulated industries. For example, a Low Pay Network study analysed almost 6,000 jobs offered at Jobcentres in the catering, retailing, clothing manufacturing and hairdressing sectors in April and May 1994. Over a third of the jobs on offer paid less than the old Wages Council rate uprated by inflation. In retailing, the figure was over 50 %. The network also found a net loss of 18,000 jobs recorded in the retail and catering sectors between September 1993 and March 1994, despite the removal of minimum wages (LPN 1994).

2 The Campaign for a National Minimum Wage

The initial impetus behind the campaign for a NMW came from those organisations founded in response to what was called the ‘rediscovery of poverty’ in post-1945 Britain. In the 1960s there was concern about the limitations of the National Insurance and National Assistance system that provided income support for the unemployed, the sick and the elderly. Systematic research established that significant groups of children and older people were living in poverty. One consequence was the creation of a number of important ‘pressure groups’ that campaigned for increases in the level of publicly financed income benefits and their coverage. In particular, the ‘Child Poverty Action Group’ (CPAG) was established in 1968. Within a few years it was drawing attention to the connection between low wages and child poverty and to the limitations of the Wages Councils in providing protection for low paid workers, especially in the growing industries that fell outside their wage setting powers. The first Director of CPAG subsequently helped create an independent Low Pay Unit (LPU) whose purpose was specifically to campaign for the introduction of a NMW.

The campaign for a NMW attracted support from welfare organisations and charitable trusts but in the 1970s the British trade union and labour movement regarded the extension of collective bargaining and industrial democracy as the key vehicle for securing adequate living wages for all workers. Indeed, many viewed the system of Wages Councils as an impediment to collective mobilisation that institutionalised low pay rather than challenged it.

The situation changed dramatically after 1979 and with diminishing trade union power and increasing Government deregulation of the labour market there was an increase in labour movement support for the introduction of a NMW. The most significant figure was Rodney Bickerstaff, the General Secretary initially of the National Union of Public Employees and then the merged union ‘Unison’ that brought together all local government workers into Britain’s largest public sector trade union. Bickerstaff gave financial and organisational support to the campaign of the Low Pay Unit and there was growing support from those unions whose members were most affected by the changes to Wage Councils, such as, the Transport and General Workers Union (T&GWU) and the Union of Shop, Distribution and Allied Workers (USDAW). Labour controlled municipal authorities also helped establish a network of independent regional Low Pay Units (including one for Scotland).

By the late 1980s the Low Pay Unit had established a ‘Low Pay Forum’ bringing together trade unionists, parliamentarians, academics and representatives of the voluntary and business sectors, to establish the rate at which a NMW should be set and how it should be implemented (LPU 1998). The Forum argued for a target level of a NMW of

“two-thirds of average male full-time earnings”, deciding on this particular level by reference to the Council of Europe’s ‘decency threshold’.³

Successive Trades Union Congress (TUC) and Labour Party Conferences were to debate the NMW and, as trade union membership contracted and low paid jobs multiplied, opposition declined, although some trade unions representing skilled workers continued to express concern about the possible impact of the NMW on wage differentials and collective bargaining.

By the 1990s the Labour Party was committed to the introduction of a NMW “starting at a level of 50% of median men’s earnings” and rising “over time” to “two-thirds of the median hourly rate” (LP 1991). In the 1992 General Election, Labour’s Manifesto promised that “we will end poverty pay and bring Britain into line with the rest of Europe by introducing a statutory minimum wage of £3.40 an hour (a reform) which will benefit around four million low paid people, 80 % of whom are women” (LP, 1992).

Following Labour’s defeat in 1992, when the Conservative Party had campaigned strongly against the NMW, Labour reviewed its position. This review was given additional impetus by the Government’s decision to abolish Wages Councils. The most influential report was that from the independent Commission on Social Justice established by the Labour Party leadership, under the auspices of the Institute for Public Policy Research, to “develop a practical vision of economic and social reform for the 21st century” (CSJ 1994). The report outlined a radical strategy to develop an ‘intelligent welfare state’ and proposed that “welfare must be reformed to make work pay” because “paid work for a fair wage is the most secure route out of poverty” (ibid p. 223). It argued that a NMW was “essential to social security benefits reform to set a wages floor at the bottom of the labour market” (ibid p. 201). It also called for ‘intelligent’ labour market regulation where a NMW would, amongst other things, “encourage employers to invest in people” and stop low pay being used to subsidise inefficient producers and obsolescent technologies (ibid p. 205). The Commission did not, however, advocate linking the NMW to a set level of average earnings. It argued that there were “good reasons” for setting the initial rate “with some caution” and that a future Government “should set the minimum wage in relation to the state of the labour market” (ibid p. 205).

³ The Council of Europe’s Social Charter, in Article 4, established a “right to fair remuneration” that will give workers and their families “a decent standard of living”. This right is to be secured by “freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions”. The Charter itself does not spell out how to calculate the level of remuneration that would yield a “decent standard of living”, but the Council commissioned a report in 1977 that proposed that the “decent” wage level should be set at “68 % of the average wage”. The Committee of Independent Experts (which has the task of assessing how far the Charter’s signatories comply with its terms) adopted this “decency threshold” of 68 % as a working benchmark, although it recognised that other factors such as substantial social payments and family and housing subsidies could be taken into account (Lourie 1995: 13).

By the time it came to write its manifesto for the 1997 General Election, the Labour Party had dropped its support for the “half male median earnings” formula in favour of a “sensibly set minimum wage” based on consultation with industry (LP 1997: 17):

There should be a statutory level below which pay should not fall - with the minimum wage decided not on the basis of a rigid formula but according to the economic circumstances of the time and with the advice of an independent low pay commission, whose membership will include representatives of employers, including small business, and employees.

In contrast the TUC remained committed to the wage-related formula and at its 1996 Congress argued that “the NMW must be based on some benchmark of social justice-a generally accepted notion of what constitutes a fair wage. That is why the Congress has consistently expressed support for the formula of half male median earnings”. Individual unions, in particular, Unison and the T&GWU indicated also that they would continue to campaign for a NMW based on the formula.⁴

⁴ It is important to note that there was much debate about how this precise figure should be calculated. The two resolutions carried at the 1996 Congress recognised that the formula could be interpreted in different ways using different datasets. Congress endorsed the interpretation of the formula which generated the figure of £4.42 an hour. This was produced using the 1996 New Earnings Survey (NES) by taking male median weekly earnings (including overtime), dividing by the average number of hours worked per week by men and women (excluding overtime) and then dividing by two. Congress also recognised that a calculation of half male median hourly earnings using the 1995 NES produced a figure of £3.80 and that a similar calculation using the Labour Force Survey (LFS) produced a figure of £3.58 (Lourie 1997: 22). The discrepancy between the results of these two main indicators of earnings in the UK was to impact also on the subsequent work of the LPC, resulting in 2004 in the introduction of a new ‘Annual Survey of Hours and Earnings’.

3 The Conservative Government's Strategy and Opposition to a NMW

The Conservative Party, prior to 1999, was firmly opposed to any form of minimum wage. This reflected its conviction that deregulated, flexible labour markets are more efficient and that a minimum wage would “destroy jobs”. As its 1992 Election manifesto expounded (Lourie 1995: 4):

Over the last 13 years, we have legislated to lift regulatory burdens from the shoulders of those who create jobs in Britain. To industry's relief, we shunned the job-destroying European Social Charter. And we reject Labour's job-destroying notion of a national minimum wage.

Labour's proposals for a NMW became a major political issue in the run-up to the 1992 election. Frequently, Conservative spokespeople claimed that Labour's proposals could lead to the loss of up to 2 million jobs.

In the 1980s and 1990s the Conservative strategy for tackling unemployment was to deregulate wages and encourage the unemployed to be flexible and accept low paid jobs. The purchasing power of ‘out of work benefits’ was reduced and this was supplemented for the unemployed by the introduction of a ‘stricter benefit regime’ that put more pressure on individuals to accept available jobs. In 1989, for example, legislation was introduced that stipulated that after three months unemployment a person could no longer reject a job because it did not pay ‘the going rate’. A person could not reject a job either because it would make them worse off than on benefits, only directly incurred work expenses were relevant. In order to improve work incentives means tested support for rent and local taxes could be claimed by the low paid and the Conservatives expanded a small ‘Family Income Supplement’ that was paid to poor working parents. In 1986 this was changed to ‘Family Credit’ which was paid directly to low wage families with dependent children (see later section on ‘Making Work Pay’).

In the UK employment levels increased but so too did earnings inequality, leading to a substantial degree of in-work poverty, particularly among families with young children, and a consequential increase in dependence on ‘in work’ social security benefits. Between 1987 / 88 and 1996 / 97 expenditure on Family Credit (and its predecessor Family Income Supplement) rose, in cash terms, from nearly £200 million to just over £2 billion. About three-quarters of a million families received Family Credit in May 1997 (LPC1 1998: 31). In addition, ‘means tested’ Housing Benefit and Council Tax Benefit were paid by Local Authorities to almost a quarter of a million working families and single people.

The Government's position was supported by a range of employer led bodies, including the Institute of Directors and the Confederation of British Industry (CBI). In 1995 the CBI published a report, ‘A National Minimum Wage: the employers' perspective’ and concluded:

The key determinant of the impact is the level at which a minimum wage is set, but the overwhelming conclusion is that even a low minimum wage would reduce job opportunities and create major problems for wage structures in a wide range of companies... It is also an inefficient way to tackle poverty ... Much of the benefits of a minimum wage would go to households which are not actually in poverty.

Employers were concerned too that the impact of the NMW would be amplified because of the industrial relations trend in the UK where national collective bargaining had largely disappeared and been replaced by a very decentralised system. A paper prepared by David Yeandle of the Engineering Employers' Federation identified four issues of concern (Lourie 1997: 32):

1. **Pay Differentials:** In many organisations, pay structures, particularly at the lower end, were relatively tight. The introduction of a NMW could lead to the consolidation of pay into fewer pay bands, but pressure to re-introduce differentials would be likely not only from trade unions but also from managers eager to encourage employees to take on more responsibilities.
2. **The 'Going Rate':** Many employers had been able to persuade their employees that pay increases should be determined more by the success of the individual company than by any external factors such as the inflation rate or pay increases elsewhere. Annual increases in the NMW could re-establish the importance of the 'going rate'.
3. **Pay Structures:** There had been a move away from basic rates to more incentive payments, bonuses, and fringe benefits (such as pension contributions). If the NMW was set as an hourly rate, employers would be encouraged to consolidate incentive payments into the hourly rate.
4. **Contracted Out Services:** The impetus behind the extensive contracting out of non-core services, in both private and public sectors, had come from the fact that such services (typically cleaning, catering and security) could be provided more cheaply in this way as the workers tended to be paid less. The introduction of a NMW could remove this cost differential and encourage a move back to the provision of services in-house.

3.1 The research evidence about the employment impacts of a NMW and the influence on the Labour Government's policy

By the General Election of 1997 the arguments for and against the introduction of a NMW had been clearly established (for clarification they are outlined in Table 3). Whilst the claims reflected different political perspectives, they all drew on research evidence. In doing so they relied on a body of British literature that by 1997 included macroeconomic and applied research studies, as well as literature reviews that cited evidence from the extensive and diverse range of national and international studies about the impact that minimum wage regulation had on employment levels (e.g. Walsh 1991, Dolado et al. 1996).

Much of the econometric literature reflected conventional wisdom from price theory which suggests that a minimum wage causes fewer jobs to exist than would otherwise be the case. A range of empirical studies gave support to this thesis, claiming that a NMW may have negative impacts on particular groups, especially young workers, and in particular sectors, such as the clothing industry. Other analysts suggested that higher minimum wages may encourage employers to cut back on training, thereby depriving low paid workers of an important means of long term advancement, in return for a small increase in current income. Other studies, many published by the OECD, indicated that inflexible and high minimum wage rates, relative to average earnings, also had negative employment effects.

The evidence from other applied research evidence suggested, however, a more complex reality. Some studies suggested that any negative impacts of a NMW would be offset by improved work incentives, a redistribution of purchasing power, and a reduction in poverty. Others suggested that minimum wage rates would encourage employers to invest in training to improve the productivity of low paid workers. Econometric studies found that employment in low-paying sectors declined as a result of the decreasing effectiveness of the Wages Councils (Machin and Manning 1994, Dickens et al. 1993). In a similar vein, studies of the UK Equal Pay Act 1970 found that while the legislation was responsible for a considerable improvement in female relative pay levels female employment increased by some 17 % (Zalzaba and Tzannatos 1985).

By the early 1990s the work of a new group of economists in the USA was to further challenge prevailing assumptions. In a study of the fast food industry, for example, Card and Krueger found that after a raise in the minimum wage in New Jersey employment actually increased by about 13 % relative to stores in nearby eastern Pennsylvania that continued to pay a lower rate. The authors suggested that stores paying low wages often were plagued by high turnover and job vacancy rates and that the higher minimum wage may have ameliorated such problems and led to an increase in employment. In a comprehensive assessment of minimum wage increases in New Jersey, Texas and California, Card and Krueger concluded also that “some of the new evidence points towards a positive effect of the minimum wage on employment; most shows none at all”. They pointed out that in the USA, the debate over the minimum wage had shifted from the question of whether increases in the minimum wage caused small or large job losses to the question of whether such increases caused any loss of jobs at all (1994: 236):

The consistent finding of weak or negligible employment effects in both the United States and elsewhere suggests that the problem may lie in the textbook model, rather than with the evidence.

Despite being heavily criticised, Card and Krueger’s work was influential in the approach adopted by the Clinton Administration that coupled increases in the minimum wage with extensive tax credits paid to low paid employees to help ‘make work pay’. This combination was to assist in the formation of a distinctively New Labour strategy for the NMW that was to be increasingly viewed as an adjunct to its emerging ‘welfare to work’ strategy, rather than a tool for reducing wage inequalities.

Table 3: The Case For and Against the National Minimum Wage.**For:**

1. Protection of vulnerable workers from exploitation by employers hoping to undercut competitors.
2. A minimum wage could encourage the efficient use of labour through additional training and productivity measures. Employers would have to compete on the quality not the price of their labour force. Employees would be more committed if they were paid and valued more.
3. Low pay often reflects an undervaluation of employees' skills. A NMW would help low-paid women workers, particularly in occupations such as cleaning, catering and caring where their skills are unrecognised and paid below their marginal value.
4. It would help tackle poverty, reduce dependence on social security and increase Government revenue from tax and national insurance contributions.
5. It is wrong in principle that a full time worker should not earn enough from his or her work to provide a reasonable basic standard of living.
6. It can increase consumer purchasing power through raising the income of low wage workers who spend their income more rapidly in the purchase of goods (for example, food and clothing) which are produced by traditional low wage industries.

Against:

1. It would lead to job losses, both directly among those paid less than the minimum and indirectly through knock-on effects on the higher paid.
2. It would lead to an erosion of differentials and so to incentives to acquire new skills.
3. It takes no account of the circumstances of individual workers or employers.
4. Companies need flexibility in their pay structures.
5. It would not help the poorest groups as most of them are unemployed, retired, disabled or young.
6. Many of those who benefit would be part-time married women workers or young casual workers (such as students) in relatively well off two earner households.
7. It would increase inflationary pressures as higher labour costs feed through into prices.
8. It would undermine international competitiveness.

3.2 The national minimum wage and the Low Pay Commission

Following its election in May 1997, the New Labour Government included the NMW in its programme for its first Parliamentary session. During the summer, a preliminary non-statutory Low Pay Commission (LPC) was established to start taking evidence on the level of the NMW and in November, the National Minimum Wage Bill was introduced in Parliament, and subsequently enacted in 1998.

The legislation made clear that a NMW “cannot and does not deal with all the problems associated with low pay, low productivity and associated low income”. Its aim was to “alter the balance in the labour market by giving workers the right to a basic minimum level of earnings from employment”.

The NMW Bill outlined provisions to establish the legislative framework for a NMW and establish the LPC on a statutory basis. It made it clear that there would be a single

national hourly rate of pay to cover all workers, except the genuinely self employed.⁵ There had been much debate about whether variations would be allowed in the NMW, but the only exception indicated was for a lower rate or exclusion for young people aged below 26. Variation based on industries, geography, or size of firm, were all rejected because they would create undue complexity, confusion about coverage, hamper enforcement and create the potential for unfair competition.

The Bill provided for a range of enforcement mechanisms. Key issues such as the level of the NMW and the elements of pay to be included in its definition were, however, to be left to statutory regulations that would be placed before Parliament after the LPC had reported.⁶

The Commission's terms of reference were to (LPC1 1998: 13):

- Recommend the initial level at which the NMW might be introduced;
- Make recommendations on lower rates or exemptions for those aged 16–25; and
- Consider and report on any matters referred to it by Ministers.

In making its recommendations, the Commission was instructed to “have regard to the wider economic and social implications; the likely effect on the level of employment and inflation; the impact on the competitiveness of business, particularly the small firms sector; and the potential impact on the costs to industry and the Exchequer”. The Commission was asked to report to the Prime Minister on these matters by the end of May 1998.

3.2.1 Making work pay: from family credit to tax credits

At this time the NMW was also linked explicitly with the Government’s review of the tax and benefit system that New Labour had committed itself to undertaking in its 1997 Manifesto. A task force was established to review how the tax and benefit system could be modernised to ‘make work pay’ by reducing the disincentive effects of the ‘poverty’ and ‘unemployment’ traps.⁷ The structure of in-work benefits that had been inherited from Conservative Governments was seen to be too limited. The maximum financial support available, the level at which support began to be withdrawn and the high withdrawal rate combined to ensure that only those with very low in-work incomes could benefit. In-work benefits were only increased in line with prices, there was little as-

⁵ The genuinely self employed are defined as those individuals who are in business on their own account; control their own time; raise invoices; and work for more than one client.

⁶ In Britain the primary legislation outlined in Acts of Parliament frequently gives the relevant Secretary of State the powers to subsequently introduce secondary legislation in the form of detailed regulations. These regulations must be approved by Parliament but are not subject to the full process of Parliamentary debate and scrutiny applied to initial primary legislation. Many detailed issues of implementation and subsequent amendment to the NMW have been approved through such secondary legislation.

⁷ The concept of ‘traps’ distinguishes the two ways in which the interaction of the tax and benefit system with wages impacts on work incentives. First, the incentive to move off benefits into work can be weak, because the difference between in-work and out-of-work income is too small - *the unemployment trap*. Second, when those in work have limited incentives to increase their hours or to move up the earnings ladder because it may leave them little better off - *the poverty trap*.

sistance with child care, and the credits were paid through the benefit system blunting the association with employment.

The distinctive role that the NMW was given in New Labour's 'make work pay' strategy was linked with the way in which it interacts with the social security and benefits system. The difference with the Conservative Government's approach to in-work benefits reflects a choice between a system based on a wage-substitute or the combination of a minimum wage in conjunction with social security benefits to provide incentives for the non-employed to re-enter the labour market at a wage level which makes it worth their while to work. Under the Conservatives, between 1986 and 1997, social security benefits were targeted on low-paid earners with families at the same time as minimum wage regulation was withdrawn. Because these benefits were means tested they were progressively withdrawn as earnings from wages increased, so extending the 'poverty trap'. Since employers could reduce wages or at least avoid increasing them in the knowledge that the difference would be met by social security, the Government was in the position of subsidising low-paying firms which were often among the least efficient in terms of productivity.

New Labour's combination of a NMW and tax credits by contrast changed the emphasis with social security expenditure now building on the level set by the minimum wage rather than directly substituting for it. In the Labour Government's first 'welfare to work' budget in July 1997 the Chancellor of the Exchequer announced that Family Credit would be replaced by a new Working Families Tax Credit (WFTC) and that there would be reductions in income tax and national insurance contributions for low paid workers. The WFTC was more generous than Family Credit with a higher earnings threshold, gentler taper at which benefit is withdrawn and more generous assistance with childcare costs (see Table 4). The new tax credit was to reach 1.4 million families and cost around £5 billion a year, in comparison with the 757,000 families that had been helped by Family Credit at a cost of £2.35 billion in 1997 / 98. This 'make work pay' strategy was to be implemented alongside New Deal employment programmes that would provide assistance for the long term unemployed, lone parents and people with disabilities to get jobs.

Table 4: Main Characteristics of Family Credit and Working Families Tax Credit 1998 / 99

| Family Credit | Working Families Tax Credit |
|---|--|
| Administered and assessed by the Benefits Agency | Administered and assessed by the Inland Revenue |
| Claimed by woman in a couple | Claimed by man or woman according to couple's choice |
| Paid by direct debit to bank account or a BA order book (cashable at a Post Office) | Paid through wage packet by employer or direct from Inland Revenue |
| Main earner must be working 16 hours per week or more | Main earner must be working 16 hours per week or more |
| | Extra credit for those working 30 hours or |

| | |
|--|--|
| <p>Extra credit for those working 30 hours or more per week</p> <p>Paid over a six month period</p> <p>Started to be withdrawn once net income reached £79 per week</p> <p>Withdrawn at the rate of 70 pence for each extra £1 over threshold</p> <p>One adult credit per household, plus age related credit for each child</p> <p>Contained some help with childcare costs</p> <p>Capital over £8,000 disqualified from benefit; capital between £3,000 and £8,000, assumed investment income reduces benefit proportionately</p> | <p>more per week</p> <p>Paid over a six month period</p> <p>Started to be withdrawn once net income reached £90 per week</p> <p>Withdrawn at the rate of 55 pence for each extra £1 over threshold</p> <p>One adult credit per household, plus age related credit for each child</p> <p>More generous help with childcare costs</p> <p>Capital over £8,000 disqualified from benefit; capital between £3,000 and £8,000, assumed investment income reduces benefit proportionately</p> |
|--|--|

Subsequently New Labour has further extended the scope and generosity of tax credits and in April 2003 a new Working Tax Credit was introduced with support for children now paid through a separate Child Tax Credit (paid direct to the main carer). Eligibility for the WTC was also extended to childless low paid workers aged over 25 years. By January 2004 2.3 million families and low income households were benefiting from the WTC, with 300,000 benefiting from the additional component that subsidises childcare costs (Budget 2004: 96). In this context the NMW acts as a “foundation for tax credits” as well as establishing a “decent” minimum rate of pay (HMT 2005: para 4.3):

The NMW and tax credits complement each other in achieving fairness combined with flexibility in the labour market. The NMW underpins in-work tax credits by ensuring a minimum rate of pay but it does not respond to household needs or the income of other workers in the household. By contrast, tax credits provide flexible support that can be tailored to an individual household's needs, for example, reflecting the number of children in a family. They can also help parents balance work and family life by providing more support to those working fewer hours.

Amongst other things the combination of a NMW with tax credits has enabled the Government to identify ‘guaranteed minimum incomes’ that apply to particular groups of low paid workers and to use this as a tool with which to individualise ‘better off in work calculations’ for unemployed claimants.⁸ This would not have been possible without the NMW.

⁸ There remain many issues about the interaction between the tax and benefit system, especially the interaction with Housing Benefit paid to low income people in rented accommodation. There have, however, been many related incremental reforms and these and the evidence base on their impacts are contained in a continuing series of reports produced by Her Majesty's Treasury ([see: http://www.hm-treasury.gov.uk/documents/taxation_work_and_welfare/work_and_welfare/tax_workwel_index.cfm](http://www.hm-treasury.gov.uk/documents/taxation_work_and_welfare/work_and_welfare/tax_workwel_index.cfm))

3.3 The first report of the Low Pay Commission

The Low Pay Commission started work in July 1997. It comprised a Chair, Professor George Bain, Principal of the London Business School and a former Professor of Industrial Relations at the University of Warwick, and nine other members. The members were appointed on a personal basis and so were not representatives. Three had employer based credentials; three were from trade unions; and there were three academics. The members were unpaid, but received travel and subsistence expenses at the standard civil service rate.

The Commission initiated the process of widespread consultation and analysis of research and official data that has since characterised the methodology it has employed in every report that it has been asked to submit. It embarked on the “major task” of assimilating and analysing the existing research evidence, and, from a number of sources, commissioned studies of data on low pay alongside econometric studies of existing pay systems and the likely impact of a NMW. It received nearly five hundred written submissions from employers, trade unions and other organisations, and undertook a substantial programme of visits to over sixty towns and cities throughout the UK. This enabled it to hear directly from small firms, rural businesses, local outlets of national companies, low-paid workers, the unemployed, and those people on the fringes of the formal economy.

The Commission found that there was no standard definition of low pay. Commonly it was considered as hourly rates falling within the lowest 10 % of earnings (the lowest deciles). But the level of the lowest deciles was not straightforward: it could range from little more than £3.00 per hour to more than £4.00 per hour (at 1997 levels) according to the source of the data and how they were interpreted.⁹ Similarly, it could be judged relative to the mid-point of earnings (the median), but variations also occurred in the definition of the median. The Commission instead decided to demonstrate the prevalence of low pay by considering the widening distribution of earnings in the UK where, for the previous twenty years, “workers on median earnings and those in the highest deciles had seen a much more rapid increase in earnings than the lowest-paid workers” (LPC2 2000: para 3.2).

The LPC research established that widening earnings inequality had been associated with a significant increase of in work poverty. Low pay was more prevalent for certain

⁹ The LPC pointed out that these definitions were complicated also by the discrepancies that flowed when using data from the two regular primary sources on actual pay rates in the UK: the New Earnings Survey (NES) and the Labour Force Survey (LFS). The NES was an annual survey conducted in April of 1 % of employees in the ‘Pay-As-You-Earn’ tax system which asked employers for earnings information about its employees. The LFS, in contrast, is a random sample of about 57,000 households carried out four times a year. There were methodological issues with each survey but in general the former overstated the extent of low pay and the latter significantly understated it. The Office for National Statistics (ONS) provided estimates each year to reconcile these differences but in 2004 a new ‘Annual Survey of Hours and Earnings’ (ASHE) replaced the NES. ASHE now ‘over samples’ in certain sectors to improve coverage at the low end of the pay distribution, so “that ASHE can appropriately be used as the sole basis for low pay estimates”. The discussion paper on the ‘New methodology for low pay estimates’ can be found at http://www.statistics.gov.uk/articles/nojournal/Final_low_pay_.pdf.

groups of workers: women, young people, people with disabilities and minority ethnic groups. Its incidence was influenced by working patterns, because part-time and some casual workers were disproportionately low paid. Low pay also was more concentrated in certain regions and business sectors and in smaller firms. The pattern of low pay was not straightforward: the extent of low pay, and to whom it applied, was affected by a complex interaction of the above factors. In addition, the situation of low paid workers was “frequently complicated by the intricately interrelated systems of (income) tax, National Insurance and in-work benefits” (ibid para. 3).

During the consultation process the following key themes emerged (ibid para. 2.24):

- Both employers and workers recognised that a NMW could bring business benefits. It could halt competition based on a damaging downward spiral of wages made possible by state subsidies to low-paid workers. It also could reduce staff turnover and enhance productivity.
- Employers and workers overwhelmingly advocated a simple structure for the NMW that could be easily understood, managed and enforced.
- Some businesses were facing “great difficulties” and were “genuinely concerned” about the rate at which a NMW would be set.
- Although the incidence of low pay varied within and between regions, it was prevalent throughout the UK, and therefore a NMW had national relevance.
- Pay varied considerably within and between business sectors and this would shape the impact of the NMW.
- Many low-paid people felt undervalued, exploited and powerless to break out of the poverty trap.
- A lack of affordable childcare caused significant barriers to work for many parents.
- Further reform of the tax and benefits system was required so that increased earnings from a NMW were not offset by significant cuts to in-work benefits.
- Employers and workers generally supported a training rate for the NMW, but there was greater uncertainty about age-related rates for younger workers.
- The informal economy posed a threat to reputable businesses and their staff: workers might not feel able to enforce their rights to the NMW, and disreputable employers could seek to evade the legislation.

3.4 Low Pay Commission: first report recommendations

The first report of the Low Pay Commission was published in June 1998, although its conclusions had been extensively ‘leaked’ in the media. The main recommendation was that the NMW should be £3.60 per hour from April 1999, rising to £3.70 per hour from June 2000. It was proposed also that there should be a ‘Development Rate’ of £3.20 per hour introduced in April 1999, rising to £3.30 an hour in June 2000. This was to apply to 18–20 year olds and to those aged 21 or over during the first six months of a new job,

provided they received accredited training. All those aged 16 and 17 and all those on apprenticeships were to be exempt from the NMW.

The Commission had assessed the more complex pay structures that applied to a significant minority of low-paid workers that could include, for example, payment by results, commission, bonuses, and tips and gratuities paid through the payroll. It concluded that the definition of pay “should be simple and fair, easy to comply with and straightforward to enforce”, and that in “whatever way workers’ pay is defined or whatever hours they work, only pay for ‘standard’ working should count”. Hence employers should not be able to satisfy their obligation to pay the NMW by including benefits and premium payments, such as overtime and shift premia. The only benefit-in-kind that was to be taken into account was accommodation provided by the employer, for which an ‘offset’ would be allowed. The Commission concluded also that all actual working time should be covered by the NMW. Compliance was to be measured by averaging pay over the worker’s normal pay period up to a maximum of one calendar month.

In addition to their legal obligation to pay the NMW the Commission proposed that all employers should display details of the NMW on pay slips. It proposed too that an existing Government agency should assume responsibility for verifying employers’ compliance with the NMW.

The Commission made clear that it did not regard the NMW as an implicit pay policy, or as an instrument for defining the ‘going rate’ for pay. Its introduction instead would ensure fairness for the low paid and be a “key element of the Government’s wider reforms, which aim to make work pay and help move people from welfare to work” (ibid para. 27).

3.5 The National Minimum Wage

The Government’s draft Regulations were published for consultation in September 1998 with the final version - the National Minimum Wage Regulations 1999 - approved by both Houses of Parliament before coming into effect.

The main features of the NMW were that it was to come into force on 1 April 1999; the rate for adults aged 22 and over was to be £3.60 per hour; the rate for 18–21 year olds was to be £3.00 per hour; and there was to be a ‘trainee’ rate of £3.20 per hour for workers aged 22 and over who were in the first six months of a new job and receiving accredited training. Apprentices aged below 26 were to be exempt in the first 12 months of their apprenticeship and the NMW was not to apply to 16 and 17 year olds.

The NMW was to apply to all other workers, including homeworkers, employment agency workers, pieceworkers and commission workers, but not to the genuinely self-employed. Certain family workers and those employed to live as members of the family were to be exempt, as were certain participants in Government training schemes, work experience, and schemes for the homeless.

Pay for NMW purposes was to be gross pay, including tax and national insurance contributions, and service charges distributed through the payroll. There was to be a maximum ‘offset’ for those workers who were provided with living accommoda-

tion (initially set at £19.95 a week). Employers were not required to set out details of the minimum wage on regular pay slips but employers were required to keep sufficient records to prove they had paid the NMW. In the event of a dispute about whether the NMW has been paid, the burden of proof rests with the employer. ¹⁰

Hours worked for NMW purposes essentially were to be contracted hours, actual hours or agreed estimated hours depending on circumstances and whether a worker was performing time-work, salaried hours work, output work or unmeasured hours work.

The NMW was to be enforced by the Inland Revenue (the operational tax raising agency of HM Treasury) or by individual application to an employment tribunal or court (see Table 5).

Table 5: Employment Tribunals and Dispute Conciliation in the UK

Employment Tribunals (www.employmenttribunals.gov.uk): Employment Tribunals are judicial bodies established to resolve all disputes arising between employers and employees from their contracts of employment or from any statutory claims they may have against each other. These include unfair dismissal, redundancy payments, discrimination and the National Minimum Wage. Tribunals are made up of a High Court judge and two or more lay members who have experience of employment law. Lay members are nominated by employer organisations and trade unions.

Tribunals aim to provide an easily accessible, speedy, informal and inexpensive procedure for the settlement of claims. Before hearing a claim an individual is expected to try to resolve any dispute through conciliation and make use of the service provided by 'Acas' (see below). Individual applicants can be represented by third parties, such as trade unions or lawyers. The decision of one Tribunal is not binding on another. Individuals can appeal decisions to an Employment Appeal Tribunal, but only on points of law. When cases go to higher courts then decisions may become binding and many key cases have established landmark judgements on the application of employment law that affect the rights of large groups of workers.

Tribunals now receive over 100,000 cases a year and their ability to deliver an 'easily accessible' service has been undermined by the growing complexity of employment law, which is now a highly technical and specialised field. Various reforms have been introduced and a major review has recommended further significant changes in how they operate (see: www.dti.gov.uk/er/individual/etst-report.pdf)

Advisory Conciliation and Arbitration Service (Acas) (www.acas.org.uk): The British Government has provided a national conciliation and arbitration service for promoting best practice in industrial relations and resolving major industrial disputes for over a century. The organisation was given a defined statutory role in 1976 and operates under the direction of an independent council. Acas is well known for the role it plays in trying to resolve major industrial disputes, such as the miners' strike of 1984, but since the early 1990s much of its work has focused on individual complaints to employment tribunals. Acas has a statutory duty to provide conciliation services to tribunal claimants and about 75% of disputes are settled or withdrawn at this stage. Acas also provides individual advice and guidance and responds to some 750,000 callers each year.

¹⁰ Within two months of the beginning of employment in the UK an employer must generally give employees a written statement of the main particulars of employment. The statement should include details of pay, hours, holiday, notice period and an additional note on disciplinary and grievance procedures. All employees are entitled also to an individual written pay statement, at or before the time of payment. This must show 'gross' pay before deductions; the amounts of any deductions and why they are deducted; 'net' pay; and details of how the individual will be paid (that is, by cash, cheque or direct payment into a bank account). It does not have to include details of the NMW.

A 'Regulatory Impact Assessment', published on 16 February 1999, estimated that the NMW would increase total UK labour costs by about £2.4 (€3.53) billion a year (Lourie 1999). It estimated that some 221,000 employees aged between 18 and 21 years, and 1,683,000 of those aged over 21 years would receive higher pay as a result. This represented 14 % of all employed workers aged between 18 and 21 years, and 7.8 % of all employees aged over 21 years. Detailed forecasts showed that the estimated impact would be felt particularly amongst part-time workers, young workers, workers in the North East of England, Merseyside, and Northern Ireland and workers in the hotel and restaurant sector.

Following publication of the Regulations, the Department of Trade and Industry (DTI) issued guidance on the NMW aimed at workers and employers. Implementation of the minimum wage was accompanied by high-profile publicity. The Government invested £5 million in press, television and radio advertising, and a post-implementation poll revealed that 80 per cent of employers and 72 per cent of workers - an increase from 30 per cent before implementation - knew the principal rate of the NMW (LPC2 2000: 3).

Trade associations, unions and other organisations played an important part in preparing businesses and workers for the implementation of the minimum wage. Trade associations provided extensive guidance and support for members. The National Hairdressers' Federation, for example, held a series of meetings throughout the UK. Articles on the NMW were published in various trade publications. Trade unions raised awareness of workers' entitlement through helplines, promotional material and meetings. Voluntary organisations also helped awareness with, for example, the National Group on Home-working distributing posters, leaflets and advice in a range of languages.

Subsequent evidence found that many employers anticipated the NMW in their wage agreements well before its introduction, although some hospitality employers, typically owners of small single units, were vague about implementation plans, leaving compliance to the last minute.

What was remarkable was the absence of criticism from employer organisations that had, prior to the 1997 General Election, expressed their opposition to the introduction of the NMW. This experience was similar to that in Ireland where a NMW was introduced in 2000 and reflects wider experience reported in an EU survey where in all but one of the 8 pre-accession EU member states with a statutory minimum wage its continued existence was not considered to be a major political issue; the only exception was France (EFLWC 2005: 17)

3.6 Subsequent reports from the Low Pay Commission and changes to the NMW

The National Minimum Wage Act 1998 empowered the non-statutory LPC to make recommendations to the Secretary of State for Trade and Industry on the first set of Regulations to be made under the Act. The Act enabled the Secretary of State then to establish the LPC as a statutory organisation, a status confirmed in October 2001. The membership of the Commission has changed with new appointments following the resignation of several members. The most significant was in 2003 when Adair Turner,

Vice-Chairman of Merrill Lynch Holdings, and former Director General of the Confederation of British Industry (CBI), was appointed Chairman.

The Commission has a full time secretariat with responsibility for monitoring the impact of the NMW and responding to requests from the Government for formal reports. By 2005 there had been five such reports, with an additional one published on the position of young workers.

There have been slight differences in the terms of reference for each of the reports but the primary terms have remained similar and are clear in those issued for the report published in 2005. These asked the Commission to, (LPC PR 2004):

- Continue to monitor and evaluate the impact of the NMW, with particular reference to the effect on pay, employment and competitiveness in low paying sectors and small firms; and the effect on pay structures.
- Review the levels of each of the different minimum wage rates and make recommendations, if appropriate, for change.

In making recommendations for any rate changes, the Commission is instructed to “have regard to the wider social and economic implications; the likely effect on employment levels, especially within low-paying sectors and amongst disadvantaged people in the labour market; the impact on the costs and competitiveness of business; and the potential costs to industry and the Exchequer”.

The LPC has followed a similar pattern of consultation and evidence gathering for each of its reports. After its terms of reference have been published the Commission engages in a formal consultation process involving local visits and the submission of written and oral evidence from employers, workers and their representatives, and other interested organisations. Before considering its recommendations the Commission reviews official earnings data to determine the impact of the NMW, and of any potential increase, and reviews independent research findings. It also reviews developments in the minimum wage systems of other countries and, where necessary, has commissioned new research when responding to the terms of reference given to it by the Government.

The Government is under no legal obligation to implement the recommendations of the LPC but there have been few disagreements. The most significant has been the LPC’s recommendation concerning the exclusion of young people from the full adult rate. The Commission has accumulated considerable evidence that few British employers make use of age-related pay scales and a high proportion of those that do pay the full adult rate to all workers aged 18 and over (Simpson 2004: 26). While endorsing the general justification for a lower minimum rate for younger workers, the LPC has persisted in its view that the full rate should apply from the age of 21. The Government retains its position that the full rate does not and should not apply until age 22.

The Government did, however, accept the LPC’s suggestion, in its fourth report, that it report separately on the desirability of bringing 16 and 17 year-old workers within the scope of the NMW entitlement, and if so the desirable rate. The Commission had been concerned at the significant number of jobs held by 16 and 17 year olds that offered

“very low wages with little or no training and few development prospects”. Its subsequent report explored the available evidence, including any likely impact of a NMW on creating an incentive for young people to leave full time education and training. The independent research it commissioned found that “compared to other factors, wages would appear to have little influence” on the decisions of young people who either leave school or remained in education after age 16 or 17 (IER 2004. i). The Commission concluded “that a wage floor for 16–17 year olds would help prevent exploitation” but that apprentices aged below 19 and 16–17 year old participants on specified pre-apprenticeship programmes should be exempt from the 16–17 year old rate (LPC PR 2004: iv). It suggested that the rate be reviewed periodically but saw “no reason automatically to link its level to that of the youth Development Rate” (ibid para. 13).

A significant feature of the recommendations of the LPC, and their subsequent implementation by Government, has been to give employers advance notice of any proposed increase in the minimum rate. This is evident in Table 6, that briefly outlines the main developments in the NMW following its introduction in 1999. The Commission suggests that the process of consultation and advance notice has been a key factor in the generally successful implementation of the NMW (limitations in the enforcement process are discussed later).

Table 6: Main developments in the NMW after implementation in 1999

| | |
|---------------|--|
| December 1999 | The Government announced an increase in the national minimum wage. The LPC published their Second Report. |
| June 2000 | The young person's rate was increased from £3.00 to £3.20. |
| October 2000 | The NMW Regulations increased the main rate from £3.60 to £3.70 and made a number of minor changes, including how the minimum wage applies to some trainees. |
| January 2001 | The LPC announced that it would produce its third report in two volumes, the first volume to appear in March 2001 and deal with the main adult rate of the minimum wage. The second volume to appear in May 2001 was to address other issues such as the youth rate, the age at which the main rate comes into force and the accommodation offset. |
| March 2001 | The Government published Volume One of the third report and accepted the recommendation that the main rate should increase from £3.70 per hour to £4.10 per hour on 1 October 2001. They also agreed in principle that the rate should increase again to £4.20 per hour on 1 October 2002 subject to economic conditions. |
| June 2001 | The government published Volume Two of the third report and accepted the recommendation that the development rate (including youth rate) should increase from £3.20 per hour to £3.50 per hour on 1 October 2001. They also agreed in principle to a further increase to £3.60 per hour on 1 October 2002 subject to economic conditions. |
| August 2001 | The second Annual Report on the NMW was published. This showed, among other things that despite a fall in the number of complaints of underpayments received, the amount of arrears recovered for workers increased significantly from £1.2m in 1999/2000 to £3m in 2000 / 2001. |
| October 2001 | Main and development rates of the NMW increased to £4.10 and £3.50 respectively. |
| August 2002 | Main and development rates of the NMW increased to £4.20 and £3.60 respectively. |
| March 2003 | The Government published fourth report from LPC and its response. |
| March 2004 | The Government published a report from LPC on rates to be applied to young workers recommending that a rate of £3 per hour be introduced for 16 and 17 year olds. |
| October 2004 | Main and development rates of the NMW increased to £4.20 and £3.60 respectively. £3 rate introduced for 16 and 17 year olds. |
| February 2005 | The Government published fifth report from LPC and announced that it would implement an increase in the adult rate to £5.05 and the youth Development rate to £4.25 in October 2005 and to increase the rates respectively to £5.35 and £4.45 in October 2006. The Commission was asked also to review the operation of the 16–17 year old rate and to report in February 2006, with recommendations adjusted to take account of the absence of any up rating in 2005. |

4 The Impact of the National Minimum Wage on Low Pay, Productivity and Employment

The LPC has adopted an ‘evidence based approach’ in evaluating the impact of the NMW and making recommendations to Government. In doing so it has commissioned a significant body of independent research into the impacts of the NMW, regularly reviewed developments in the minimum wage systems of other countries, and worked with the Office of National Statistics to improve the official databases that inform its decisions. The findings from the commissioned independent research projects are published on the LPC website and each of the LPC reports reviews in detail the statistical and research evidence used to inform its recommendations (www.lowpay.gov.uk). For information, Appendix A summarises the research projects that were commissioned by the LPC for its fourth report in 2003, giving detailed econometric, quantitative and qualitative findings into the impacts of the NMW.

This section briefly reviews the main findings from this literature into the impacts of the NMW on low paid workers, employers, employment levels and inflationary pressures. It considers also some of the other evidence about impacts that has been submitted by groups, such as the Confederation of British Industry.

In its first report the Commission estimated that just under 1.9 million workers would be entitled to higher pay because of the NMW. By the time of the second report the estimate of those who had benefited was revised to “well over 1.5 million” (LPC2 2000: 14). The analysis of those who benefited showed that over two-thirds were women, of whom two-thirds worked part time. One consequence of the initial introduction of the NMW was that the gap between the average hourly pay of women relative to men narrowed by a full percentage point, “the largest amount for almost a decade” (ibid p.16).

The LPC stressed that it would take “several years” to “assess the full effects of the NMW” but its initial finding was that its introduction had “added only around 0.5 % to the national wage bill, with no measurable impact on employment” (ibid p. xi). Employment had continued to grow in low-paying sectors and there were “no signs of a significant minimum wage effect in the unemployment figures”. The Commission suggested that few employers had experienced significant problems (ibid p. xii):

Small businesses have been most affected, yet have successfully managed the transition. Each sector has had to adopt its own strategies to cope with the additional pay costs and, for some sectors or types of businesses within them, the adjustment has been considerable. Nevertheless, for the vast majority of employers, the transition has been successful.

Evidence about the impacts of the NMW has improved in each of the LPC’s reports. By the time of its fifth report the Commission could draw on nearly five years of data (LPC5 2005). This report was able to analyse the findings from a detailed statistical analysis, specially commissioned research projects, consultation and visits, that examined in detail both the aggregate impact and the impact on those groups of workers and sectors of the economy most affected.

An important issue to emerge has been the discrepancy between the projections made by the LPC in each of its reports about the number of low paid workers who would benefit and the numbers who appear to have actually benefited. There are several reasons for this. Firstly, the expansion of the British labour market has seen average wages increase faster than the projections anticipated in each of the reports. Secondly, since the Commission made its first recommendations the low pay statistics prepared by the Office for National Statistics which underpin their analysis have been successively revised (for the latest revisions see www.statistics.gov.uk). One result is that the estimate of the numbers of low paid workers who have benefited from the initial introduction of the NMW has been revised downwards, to 1.3 million in the LPC's third report in 2001 and to 1.2 million in its fourth report in 2003. The initial estimate that between 1.4 and 1.7 million workers would benefit from the most significant subsequent increase in the minimum rate in 2001 also was revised in the 2003 report to between 1.1 and 1.5 million workers. Similarly the 2005 LPC Report revised downwards the original estimate that 1.7 million workers would benefit from the 2004 increases when it found that only 1.1 million jobs had directly benefited from the increase. Further research indicated that one of the factors explaining the discrepancy was that some employers were increasing wages at an earlier stage and 'anticipating' a subsequent increase in the NMW (LPC5 2005: 11–15).

4.1 Statistical analysis in all the LPC reports

The detailed statistical analysis in all the LPC reports illustrate that the prime beneficiaries of successive increases in the NMW have been women, part-time workers, young people, disabled people and some minority ethnic groups, typically employed in low paid sectors and in parts of the country where low pay was more prevalent. The most significant impact has been on those working in elementary occupations, such as waiting staff, bar staff, cleaners and porters, especially in the hotel and restaurant sector where nearly one in four jobs were affected (e.g. LPC4 2003: Figures 2.3 / 2.6). The two other occupational groups most affected have been sales and customer service (including check-out operators and petrol pump attendants) and personal service occupations (such as hairdressers, care assistants, and playgroup assistants who work with pre-school age children).

Another significant group to benefit from the NMW have been those low paid workers covered by what the CBI has described as 'mezzanine pay setting', where some employers have set their pay rates for staff who would otherwise receive the NMW at a slightly higher rate. The advantage for the employers involved is to attract and retain staff especially in high turnover employment sectors, with other employers wishing to be seen to pay above the minimum to enhance the image of their organisation. The CBI estimated that just under one in ten of the member companies surveyed had implemented this strategy for at least some of their workforce, with the average 'mezzanine level' set at "39 pence (9.5 %) above the NMW" (CBI 2002: 3).

4.2 The impact of NMW on employment levels, inflation and productivity

The political debate prior to the introduction of the NMW had focused on its likely impact on employment levels. In its fourth report the Commission reported that between 1999 and 2003 the impact of the NMW on employment levels - which overall had continued to increase in the UK - was negligible. Indeed, employment growth had been “stronger than average” among those groups and sectors most affected by the NMW (LPC4 2003). Consideration previously had been given to the fact that employment may have risen faster in the absence of a minimum wage, but an econometric analysis for the third report concluded that “even after controlling for this and other factors the impact of the minimum wage was broadly neutral” (LPC3 2001: xi). The fourth report found that the only exception was amongst young people where employment rates had fallen. After analysing the trends and related research evidence the Commission concluded that these changes in the youth labour market had been “primarily driven by the economic cycle, and that the minimum wage has had at most a minor impact on young people’s employment” (ibid para. 14).

Although the overall evidence reported by the LPC found few negative employment impacts, there was evidence that some employers had reduced employment as a consequence of the NMW. In 2002 evidence submitted by the CBI reported that in a survey of 380 member employers 12 % of those affected by the NMW reported making unspecified job cuts as a direct result of the increase in the NMW in October 2001, up from 8 % of those who reported job cuts following the introduction of the NMW in 1999 (CBI 2002: 8). Those reporting making job cuts were primarily in the hospitality, leisure, textiles and social care sectors. The LPC acknowledged the difficulties that a small minority, especially amongst the smallest employers, had in adjusting to the NMW. In 2003 it organised focus group research with such employers and found that they experienced problems for a number of reasons. For example, the employers reported that they had less bargaining power with suppliers, and less access to resources to meet the additional wage costs. They also commented that smaller firms employ fewer specialist staff, so when they cut back on staff they lose proportionately more skills; and that small firms were more likely to compete with firms operating in the informal economy (LPC4 2003: 78). The Commission suggested that Government agencies, such as the Small Business Service, and sectoral trade bodies continued to provide advice and consider other ways of promoting best practice amongst those small employers most affected.

A further major concern about the impact of the NMW was about its possible impact on prices and inflation. This concern had been expressed by the Bank of England (1999) but following the introduction of the NMW it had found “a weaker-than-expected initial impact from the NMW (and that) the risk of a more substantial upward effect had been removed”. Subsequently, the CBI reported that competition and growth in low wage sectors had “kept prices lower than they would have been, preventing the rise in the NMW from being passed on despite rising employment costs”. Employers had overall adjusted to the NMW by “squeezing profit margins rather than raising prices” (CBI

2002: 7). The CBI warned, however, that there was “a limit in the extent to which this is possible in the longer term, especially for small and medium enterprises” (ibid p. 7).

In 2003 the LPC itself suggested that overall the impact of a minimum rate on inflationary pressures and the national “wage bill” had “been contained”, and that in particular there had been only a limited restoration of differentials above minimum wage levels. This was significant because the higher up the earnings scale that any NMW “differential effect bites, the greater the number of people gaining from higher wages, but the higher the cost to firms and the greater the danger of cost-push inflation” (2003 para 2.34). The impacts of the NMW on differentials that were identified through different data sources tended to dissipate below £5 (€7.35) an hour. The impacts found below this level followed a “concertina effect”. For example, the effect of the small NMW uprating in 2000 was to produce lower increases at the bottom of the earnings distribution, and higher increases further up; whilst the impact of the 2001 uprating followed the pattern of introduction, with higher increases at the lower end of the distribution. The Commission argued that one effect of the pattern of NMW implementation of a relatively large increase in the minimum wage followed by a much smaller increase had been to drive up earnings at the bottom of the distribution in the year of a significant increase, that was then compensated for in the following year, when wage increases for the low paid fell behind average increases. This pattern of a significant increase followed by a relative ‘pause’ year gave employers “scope to restore differentials” and “time to consolidate previous increases” (CBI 2004: 4).

In 2005 the LPC suggested also that the NMW had not had a direct significant effect on productivity, and that the gains in productivity that had commenced before its introduction had been maintained in most low-paying sectors. There was, however, evidence that some employers at least had absorbed the additional costs of the NMW through increased productivity. For example, in one survey carried out for the LPC in 1999 a hotel manager reported that they had increased pay throughout the organisation by considerably more than was necessary to comply with the NMW, but calculated that the pay bill increase was greatly offset by increased employee effort, morale and commitment and reduced turnover (cited in TUC 2000: 2). In a similar example, Burger King explained its decision to pay adult rates to its workers from age 18 as making it more competitive in a labour market with very high levels of staff turnover (ibid p. 2). Research commissioned for the 2004 review found that “in the service sector there was evidence of a positive one-off effect on labour productivity following the introduction of the minimum wage” but “they found no significant impact on labour productivity in the manufacturing sector” (LPC5 2005: 50).

Overall, the detailed research findings reviewed by the Commission in 2003 revealed that many changes have taken place in pay rates and structures in the UK labour market since 1999. Diverse factors have been involved and many adjustments in low paid sectors had been made in response to competitive pressures as much as in response to regulatory changes, such as the introduction of the NMW, other employment rights, and the EU related Working Time Directive in 1998. It was clear, however, that many low paid

workers in the UK had benefited from the introduction of a NMW and that there had been few, if any, adverse employment effects.

4.3 The NMW and 'making work pay'

The LPC has no remit to assess the interaction between the NMW and tax credits though it has drawn attention to the complexity of the system and to the expenditure savings that the Government accrues from each increase, both from increased tax payments and from reductions in tax credit entitlement. These 'savings', however, have been nominal in that so far the Government has periodically increased the coverage of tax credits and the generosity of the technical rules that determine the rate at which earnings are deducted from credit entitlement. These changes have reduced the number of households who face high 'marginal deduction rates' (the measure of how much of each additional pound in gross earnings is lost through higher taxes and withdrawn benefit or tax credits), with the latest reforms reducing the number of low-income households facing deduction rates in excess of 70 % by nearly half a million (Budget 2004: para 4.67).

As the coverage of tax credits has been extended to more families, at higher incomes, however, there has been growing concern about the impact this has had. A report from the Joseph Rowntree Foundation, for example, points to the paradox that as the Government has extended the support available through means-tested tax credits for low-earning families the result of this increased generosity is that more people face some sort of benefit or tax credit withdrawal if their earnings increase. The very low paid are significantly better off but for many of those with relatively higher pay there has been a "blunting" of the make work pay strategy with recent changes increasing "the number facing an effective marginal tax rate of over 50 % rising by almost 900,000" (Brewer / Shephard 2004: viii). Others have pointed to "a nightmare for any form of collective wage bargaining around low wages" because "it means it is now impossible to say with certainty what a pay increase will be worth to particular employees, since this will depend on what the Chancellor decides to do about tax credit thresholds" (Howarth / Kenway 2004: 18).

Another paradox in the strategy is that when the NMW is increased those who benefit most are those who are not eligible for tax credits. Working families who are being supported through tax credits will have their credits reduced by varying amounts when they renew their claims. The Government suggests that this is an inevitable consequence of income related tax credits, albeit it has designed the system to ensure that work still pays significantly more than out of work benefits for tax credit recipients.

5 The Enforcement of the National Minimum Wage

Table 7 contains official estimates from the ‘Annual Survey of Hours and Earnings’ of the number of jobs held by those aged over 18 that were paid less than the minimum wage. This table shows data from 1998 for comparative and impact purposes, measuring the number of jobs involved in that year using the NMW rates that were actually introduced in 1999. The table illustrates the immediate impact that the NMW had in establishing a ‘wage floor’. Subsequent surveys show that since 2000 the number of jobs paid below the minimum rate has been between 230,000 and 320,000 and in spring 2003 there were 272,000 jobs involved, covering about 1.1 % of the labour force (the data in Table 7 is rounded down).

Table 7: Jobs Paid below the national minimum wage held by those aged 18 or over

| Year | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|-------------------|------|------|------|------|------|------|------|
| Number ('000s) | 1210 | 470 | 230 | 230 | 320 | 250 | 272 |
| % of labour force | 5.2 | 2.0 | 0.9 | 0.9 | 1.3 | 1.0 | 1.1 |

Source: *Annual Survey of Hours and Earnings, 'New methodology for low pay estimates', Table 4, at http://www.statistics.gov.uk/articles/nojournal/Final_low_pay.pdf.*

Official statisticians stress, however, that it is not possible to determine which of these workers may have been eligible for the NMW as it includes the many groups who are exempt from the legislation.¹¹ The TUC has suggested that as many as 60 % of these people should have been paid the minimum wage, but the CBI has argued that there have been only “isolated pockets of non-compliance” (2002: 28).

The TUC has been proactive in providing information about the NMW to the low paid and individual trade unions in the low paid sector have included issues about NMW enforcement within their recruitment strategies. However, with fewer than 15 % of low paid workers in membership trade unions have recognised that many vulnerable low paid workers are beyond their organisational reach. In this context trade unions have supported the operation of an independent and effective enforcement agency. There has in fact been common ground with employers with the CBI arguing that “tough enforcement is good for business” because it reduces unfair competition (CBI 2001).

When introducing the NMW the Government suggested that the most effective strategy would be to ensure high levels of voluntary compliance and it has engaged in publicity campaigns to ensure that both employers and employees are aware of their rights and

¹¹ This includes the self-employed; most company directors, workers under 16 years old, some apprentices and some trainees on government-funded schemes; higher education students on work experience; people living and working within the family; friends and neighbours (jobs done under informal agreements); members of the armed forces; prisoners; voluntary workers; residential members of religious and other communities.

responsibilities.¹² The 1998 National Minimum Wage Act, however, also provides a legal framework through which action can be taken against those employers who seek to evade their obligations. The framework was designed to both be “fair and effective without introducing unnecessary burdens on business” (LPC1 1998: para 8.1).

5.1 Legal contractual right to the NMW

The 1998 legislation gave UK employees a legal contractual right to the NMW, and protects them from unfair dismissal if they seek to ensure that it is paid and / or seek restitution for any underpayment (see Table 8). This prevents employers from simply replacing workers who are entitled to the NMW, with those who might qualify for a lower rate or who are excluded from coverage altogether. There is no qualifying period of employment or upper age limit for such claims. Sections 23 to 26 of the NMW Act specify that dismissal in these circumstances will be automatically unfair and compensated for in the same way as other unfair dismissals. In the case of unfair ‘actions short of a dismissal’ the individual will be compensated with an award which the tribunal considers “just and equitable in all the circumstances” taking into account the infringement complained of and the actual loss suffered. This clause ensures that workers who experience detrimental changes to their terms and conditions of employment from employers who try to evade the NMW can secure redress. This covers changes to, for example, paid holiday entitlement, cuts in overtime rates or hours, and reductions in working hours (LPC4 2003: 168).

An individual employee has the right to examine their employer’s records if they think they are not being paid the correct amount. Employers have a legal obligation to keep adequate records to prove that they are paying the NMW. Requests to see employers’ records must be made in writing, and employers must make the records available within 14 days. A worker has the right to be accompanied by a person of his choice when inspecting the records.

If an employer refuses or fails to make the records available, workers have the right to take the case to an employment tribunal, for an unauthorised deduction from wages under Section 13 of the Employment Rights Act 1996. They may also take a case to a civil court by suing for breach of contract. In proceedings before a tribunal or a civil court the burden of proof is on employers to show that they have complied with the requirements of the NMW legislation.

Because individual employees could be deterred from exercising their rights the Act, uniquely in British law, empowers authorised officers from the Inland Revenue (the tax

¹² Despite the apparent simplicity of the national rate there are many complex rules and interpretations of different working conditions and what should be included in calculating wages. The Government, trade unions, employer organisations and other bodies have supplemented general publicity and guidance about the NMW with a variety of more detailed guides, many of them available on the internet. The most comprehensive guidance can be found on the website of the Department of Trade and Industry (www.dti.gov.uk/er/nmw). The DTI site also has an interactive component for establishing individual entitlement known as TIGER or ‘Tailored Interactive Guidance on Employment Rights’

raising agency of the British Treasury) to take cases to tribunal on behalf of workers.¹³ This is a last resort, however, as certain complaints, such as those about access to records or brought by an enforcement officer, are dealt with first by officers from the 'Advisory, Conciliation and Arbitration Service' who attempt to resolve the case before a full tribunal hearing. The enforcement officer in particular may be able to secure compliance through the powers they have to issue formal civil notices with legal force and serve penalties on employers without recourse to a tribunal.

Enforcement officers can act in response either to complaints by workers or others that an employer is not paying the NMW. They can also decide to carry out inspections of employers wage records at any time and have the right to require the employer or his relevant employees to produce and explain their records and provide additional information that is necessary for establishing whether the NMW is being paid. Enforcement officers may also enter an employer's premises at reasonable times to interview them, or require an employer to attend for interview at the Inland Revenue's offices (DTI 2001: 226).

www.tiger.gov.uk). The Inland Revenue also maintains a free telephone helpline for information on enforcement (0845 8450 360).

¹³In the UK, it is up to the individual employee to secure their contractual rights from their employer, with support from a trade union if they belong to one or other organisations that may provide them with support. The employment tribunal system through which this can ultimately be achieved is an adversarial, lengthy and daunting one for individual employees. Not surprisingly it is the workers most at risk of malpractice by employers who are least likely to take a case to a tribunal, and least likely to fully understand what rights at work they have (Howarth / Kenway 2004: 20).

Table 8: Unfair Dismissal in the UK

Most employees in the UK who have completed one years' continuous service have the right to complain to an Employment Tribunal if they are unfairly dismissed. Employers have the right to hire and fire people if they have a good reason. But in all such cases, the employer should have used a fair procedure and behaved reasonably in all the circumstances of the case. For example, they need to act in a transparent way, issuing warnings about someone's behaviour or perhaps even offered counselling if appropriate. They need to have investigated the situation and reached the conclusion that dismissal is justified. If they do not, it could lead to a claim for unfair dismissal. If the employer's actions amount to a fundamental breach of contract, the employee can resign and claim constructive dismissal. There is also an indirect form of dismissal that could lead to a claim, and this happens when an employer treats the employee in a way that means they cannot do their job. For example, the employer could make the employee's circumstances difficult by changing their terms or conditions without consultation, or changing the job location at short notice.

In some circumstances, no qualifying period of service is needed. This includes a wide range of specified circumstance including in particular:

- dismissal for qualifying for the national minimum wage or seeking to enforce a right to it (or because the employer was prosecuted as the result of enforcement action taken by the employee);
- dismissal for reasons relating to the Tax Credit Act of 2002;
- dismissal for having sought, in good faith, to exercise a statutory employment protection right;
- dismissal for taking, or proposing to take, certain specified types of action on health and safety grounds; or
- dismissal for trade union membership or activities or for non-membership of a trade union.

A case for unfair dismissal has to be brought to an Employment Tribunal within three months. The individual is entitled to third party representation but must first make use of the conciliation service. The tribunal will consider the circumstances that led up to the dismissal and the way it was carried out, and it has a number of remedies at its disposal if it decides the process was unfair. It can order the employer to reinstate the employee and treat the individual as if they had never been dismissed, with all rights, privileges and any lost pay restored. It could also tell the company to re-engage the person, in other words order the business to re-employ the individual in a job which is comparable with the old one. Before making such a decision, the tribunal must establish what the applicant wants and whether the order is practicable in the circumstances of the case.

Where neither of these remedies is appropriate, the tribunal can award compensation, and this can take into account any loss of wages, loss of future earnings and any loss of pension rights. In general, it is limited to £50,000, but if the case was brought because of sexual discrimination, the award can be unlimited. However, the individual's conduct and willingness to find another job are taken into account and the compensation has been reduced in some cases as a result.

5.2 Enforcement actions

Section 19 of the NMW Act gives the enforcement officers the power to issue enforcement notices requiring employers to pay their workers the NMW and to make up any arrears. The employer has a right of appeal to an employment tribunal against such notices. If the employer fails to comply with an enforcement notice, the enforcement officer can complain to an employment tribunal on behalf of the underpaid worker or group of

workers, or take their claim for recovery to a County Court.¹⁴ The officer can also issue a penalty notice requiring the defaulting employer to pay a financial penalty to the Secretary of State. There is a right of appeal to an employment tribunal against a penalty notice. This financial penalty is calculated at a rate equal to twice the hourly amount of the NMW in force at the time in respect of each worker to whom the failure to comply relates, for each day during which the failure to comply continues.

Enforcement officers also have the power to prosecute an employer for up to six potential criminal offences, each of which can attract a fine of up to £5,000 (€7,350). These include:

- refusal or wilful neglect to pay NMW;
- failing to keep NMW records;
- keeping false records;
- producing false records or information;
- intentionally obstructing an enforcement officer;
- refusing or neglecting to give information to an enforcement officer

The Government did not anticipate many criminal prosecutions, “except as a last resort” and after other enforcement mechanisms had failed. The main purpose of the enforcement framework has been to ensure compliance rather than exact punishment.

The Inland Revenue has a network of 16 NMW Compliance Teams throughout the UK, each with between 3 to 8 compliance officers (DTI / IR 2003: 12). These teams respond to complaints, and provide information to employers and employees about the minimum wage. This includes proactive strategies to raise awareness amongst low wage workers, for example, through outreach activities with community groups, and for targeting employers who are most unlikely to understand or undertake their obligations to pay the NMW. This activity includes also visiting a sample of employers about whom no complaints have been made to check that they are meeting their obligations under the minimum wage (ibid p. 6).

In 2002 / 03 the compliance teams completed more than 16,000 investigations (ibid p.16). Table 9 shows that between 1999 and 2003 they issued just over 460 enforcement notices¹⁵, and pursued 89 employment tribunal cases (the vast majority of which found in favour of the enforcement officer). Over the same period just fewer than 25,000 em-

¹⁴ The County Courts are the first contact most people have with the civil law process in England and Wales. They deal with most civil cases –those relating to family or property law - such as disputes over property and divorces. The County Courts host the ‘small claims court’ where most minor civil matters can be resolved with an informal arbitration.

¹⁵ The reduction in the number of enforcement notices issued in 2002 / 03 was attributable to an Employment Appeal Tribunal that in 2002 determined that the Inland Revenue did not have the power to take formal enforcement action in respect of workers who were no longer working for the underpaying employer. The Government acted to introduce a Bill into Parliament to restore the position. The National Minimum Wage (Enforcement Notices) Act 2003 became law in May 2003 and ensures that officers can act on behalf of former as well as current employees.

employers were subject to a completed investigation resulting in arrears of nearly £13 (€19) million being recovered for low paid workers. The sector with the most complaints was 'market services' (including car and other repairs, taxi firms and communications) followed by hospitality. As well as obvious cases of non-compliance there were cases involving poor understanding of the more complex areas of the legislation. This included, for example, employers who had misunderstood the rules for apprentices. By 2003 there had not been any criminal prosecutions of employers.

Individuals have the right to take their own case to an Employment Tribunal independently of the Inland Revenue. In 2000 / 01 852 individuals pursued such cases. In 337 cases the NMW was the main issue before the tribunal; in 515 cases it was a subsidiary issue in a case that may have involved, for example, an unfair dismissal (LPC4 2003: Table 5.3). Unfortunately, the LPC gives little detail about the cases involved or their outcome.

Table 9: National Minimum Wage Inland Revenue Enforcement Action and Arrears Recovered 1999-2003

| | Enquiries Received by Helpline | Complaints of under-payment | Employers subjected to completed investigation | Enforcement notices | Arrears identified | Average Arrears Per Worker | Enforcement notices | Employment tribunal cases |
|---------|--------------------------------|-----------------------------|--|---------------------|----------------------------|----------------------------|---------------------|---------------------------|
| 1999/00 | 120,562 | 4,591 | 6,041 | 136 | £1,242,341 €1,826,241 | £200 €294 | 136 | 12 |
| 2000/01 | 77,473 | 1,823 | 7,256 | 213 | £3,034,373 €4,460,528 | £410 €603 | 213 | 26 |
| 2001/02 | 77,610 | 1,813 | 5,368 | 86 | £5,135,799 €7,549,625 | £500 €735 | 86 | 27 |
| 2002/03 | 28,994* | 999* | 6,238 | 26 | £3,585,941 €5,271,333 | £490 €720 | 26 | 24 |
| Total | 304,639 | 9,226 | 24,903 | 461 | £12,998,454 €19,107,727 | n/a | 461 | 89 |

* Enquiries and complaints only for half year April to September 2002

Sterling and Euros at May 2005 exchange rate of £1 = €1.47. Source: DTI and Inland Revenue, National Minimum Wage Annual Report, 2002/03; Low Pay Commission Report, 2003, Table 5.2

The LPC itself has acknowledged the compliance problems faced by some disadvantaged workers, especially pieceworkers, homeworkers and those whose first language is not English or those who may have problems with literacy, and it has pushed for more targeted enforcement action. Other commentators have referred to the inability of some

workers to calculate their entitlement, a problem compounded by an insufficiency of information given on pay slips (Simpson 2004: 36).

The LPC has concluded though that overall compliance with the NMW is high and that the twin-track structure of enforcement, using both the Inland Revenue and the Employment Appeal Tribunal system, has proved successful. By contrast some trade unions and labour lawyers are far more critical of the weaknesses they see in the regulatory regime. Various organisations representing the low paid have argued that the Inland Revenue should have wider powers to enable it to deal with cases of dismissal and detrimental changes in working conditions related to the NMW; a proposal resisted by employers and the LPC (LPC4 2003: 168). This issue is likely to become more contentious. Simpson, for example, suggests that if future up ratings increase the number of workers who should be entitled to benefit from the NMW then “the extent of non-compliance which is effectively beyond the reach of the enforcement activities taking place would also be likely to become greater” (2004: 39).

6 Future Developments in the NMW

Recent increases in the NMW represent a significant change. There has been no 'pause year', and in 2003 the NMW was increased by just over 7 % and in 2004 increased by nearly 8 %; significantly above the rate of inflation or increase in average earnings (DTI 2004). The aim of the Government has been to increase gradually the number of people benefiting from the NMW. The latest increase implemented in October 2004 is now estimated to have benefited 1.1 million low paid workers, with others benefiting from the 'knock on' effect on those employers who set 'mezzanine' pay rates just above the minimum. The LPC has noted that many employers reported they "were finding it a struggle to accommodate two consecutive large increases" but concluded "the up ratings have largely been absorbed without adverse effects" (LPC5 2005: vii). The increases proposed for 2005 and 2006 are more cautious but will still be greater than the expected increase in average earnings.

This strategy has provoked political opposition, with the Conservative Party arguing that jobs are at risk from increases in the NMW and from the cumulative impact of labour market regulation and 'red tape', albeit they are committed to retaining the NMW. The Institute of Directors (2003) has argued that recent NMW increases "jeopardise employment prospects for the low skilled" and the Director-General of the British Chambers of Commerce has stated that "minimum wage rises of 35 per cent over four years are becoming an unmanageable cost on business: it cannot continue to increase at three times the rate of inflation" (BCC 2004). In its submission to the 2005 review the CBI reported employers "expressing concern" about any future increase. The CBI has argued that more of its member companies are being affected by the NMW with nearly one in five of those it surveyed saying they would cut jobs to offset increased costs from the most recent increase. The CBI suggests that the NMW is now "impacting on the overall functioning of the labour market" and its submission argued that a further significant increase in the NMW will add to a 'squeeze' on profitability, represent a threat to investment and put more jobs at risk from international competition, especially where employers can 'out source' jobs to low wage economies or to countries that pay a lower minimum rate (2004: 4). More jobs could also be displaced into the informal economy where NMW regulation is weak.¹⁶

The TUC by contrast has argued that greater increases are needed if the two million low paid workers originally identified by the LPC are to benefit from the NMW. It advocated an increase in the NMW to £5.35 (€7.86) in 2005, and to £6 (€8.82) per hour in 2006, an objective that was echoed by individual trade unions and organisations representing or actively promoting the interests of low paid or low income households.

¹⁶ Employer organisations have complained about tax credit regulations and argued that the actual payment of tax credits should all be transferred to the Inland Revenue, reducing the administrative burden on the 300,000 employers now involved in paying tax credits.

There are more radical criticisms of the Government's strategy. In particular, many of the organisations that campaigned to establish the NMW have been critical of the 'cautious' strategy adopted by the LPC and the Government, and of the impact that tax credits have had on collective bargaining. In a report, commissioned by Unison from the New Policy Institute (NPI), it was argued that in treating "the symptoms of low pay" through the combination of a low NMW and tax credits, the Government was in effect subsidising many large and profitable employers (such as, supermarket chains) and (Howarth / Kenway 2003: 3):

Undermining efforts to tackle the deeper causes of low pay, including low productivity and weak organisation amongst low paid workers. By subsidising the employers of low paid workers, tax credits not only make low pay work economically possible, they create disincentives for employers to do anything about it. While it may make sense to help prop up low paying firms or even industries facing temporary difficulties, it makes no sense to prop up indefinitely firms whose very existence depends on paying poor wages.

Unison and other trade unions continue to campaign for what they call a "living wage" that would be indexed to average earnings and set at a far higher rate than the NMW, and they have made progress also in persuading some public sector employers to recreate something like the 'Fair Wages Resolution' to gain parity and protect the wages of workers employed on public sector contracts (Unison 2004). The NPI has called for a comprehensive approach in what it describes as a 'New Deal for the Low Paid'. This would include a Fair Wages Resolution with coverage for all private contractors delivering public sector projects and services, supplemented by Government pressure on other private sector employers to adopt similar contracting principles. They also make the case for the introduction of stronger enforcement mechanisms around workplace rights and the NMW (Howarth / Kenway 2003).

Conclusion

The Government and the LPC will continue to have to balance the demands of trade unions to increase the NMW further against the pressure from employers to keep costs down.

Despite arguments about future strategy and the level of the NMW the evidence from this review of UK experience illustrates both the strengths and weaknesses of New Labour's strategy for reducing low pay and poverty in Britain. Well over a million low paid workers have benefited from each increase in the NMW and, in combination with tax credits and other changes, child poverty has been reduced and there are 350,000 fewer children under 16 in households where no adult works (Brewer / Shephard 2004: vii). The introduction of the NMW also has not had the dire consequences for employment levels predicted by the Conservative Government in 1992 and New Labour's reforms have increased employment rates. There remain, however, contentious issues around enforcement, coverage and the limited ambitions of the Government's strategy.

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Appendix A: Findings from recent Low Pay Commission Research Projects

| Author and Organisation | Aims and Objectives | Methodology | Results |
|---|--|---|---|
| <p>J. Druker, C. Stanworth and G. White</p> <p>University of Greenwich Business School</p> | <p>To investigate the impact of the minimum wage in the hairdressing sector.</p> | <p>Face-to-face interviews were held with the owner/manager at 48 hairdressing salons throughout the UK. Employee interviews were also conducted in 24 of these salons. In addition training providers in three regions were interviewed. Four focus groups were held with trainees.</p> | <p>The industry has now largely adjusted to the NMW and increases had less impact than the initial introduction. The most common response of salon owners was to increase prices. The strongest impact of the NMW in terms of employment was on the costs and employment opportunities for young workers. Many employers were no longer willing to provide opportunities for those who commence their training above the age of 16 or 17.</p> |
| <p>C. Faichnie</p> <p>Greater Manchester Low Pay Unit</p> | <p>To study the impact of the minimum wage on young people's pay and employment.</p> | <p>Research was based on: analysis of Jobcentre and Career Services data on vacancies; and a short questionnaire to Career Services about their views and experience of the minimum wage.</p> | <p>There was little evidence that employers were limiting jobs to 16 and 17 year olds to avoid paying the minimum wage. In general, jobs that offered formal training offered lower rates of pay than jobs which offered 'in-house' or 'on-the-job' training. The use of age-related pay rates in jobs advertised in Jobcentres was small, and concentrated in retail and hospitality occupations. The experience of Careers Officers was that employers paid the adult minimum wage to younger age groups. The increase in the minimum wage to £4.10 did not lead employers to take advantage of the lower rates for younger ages.</p> |
| <p>J. Forth and M. O'Mahony</p> <p>National Institute of Economic and Social Research</p> | <p>To measure productivity and labour costs in low-paying sectors.</p> | <p>The authors compiled sectoral measures of the levels of labour productivity and unit labour costs on an annual basis over the period 1995-2000. These were used to describe changes in the levels of labour productivity and unit labour costs in seven low-paying sectors, and to compare with the trends in higher-paying sectors unaffected by the minimum wage. A statistical analysis of labour productivity growth was also conducted to assess more robustly whether labour productivity growth could be linked to the introduction of the NMW.</p> | <p>During this period labour productivity rose in six out of seven low-paying sectors - the exception being in clothing and footwear. In three sectors -textiles, security and hairdressing -the average annual growth in labour productivity was higher in the period 1998-2000 than in the previous three years. But the statistical analysis found no robust association between the wage bill impact of the minimum wage and rates of labour productivity growth across a wide range of sectors. There was no evidence of the NMW leading to a general increase in unit labour costs over this period.</p> |

| Author and Organisation | Aims and Objectives | Methodology | Results |
|--|--|--|---|
| <p>D. Grimshaw and M. Carroll</p> <p>University of Manchester, Institute of Science and Technology</p> | <p>To investigate the range of actions taken by small firms in response to the National Minimum Wage.</p> | <p>Interviews with the owner or managing director of 36 small firms drawn from the clothing and footwear, hospitality, residential care, retail, security and cleaning sectors. Firms were chosen from three geographical areas in the North West to reflect differences in labour market conditions. Follow-up interviews were held with a sample of employees at five of the case-study firms.</p> | <p>Half the firms in the sample raised their pay to comply with the National Minimum Wage. Of those affected less than half restored pay differentials. The research reported little evidence of an adverse impact of the NMW on employment, but a reduction in hours was reported by some firms, especially in the care sector. There were a number of constraints, internal and external to the firm, which impacted negatively on firms' ability to adjust prices for a given product or service in response to the National Minimum Wage. The research reported little association between the form of training provision within the firm and its ability to pay. The NMW had generally acted as an instrument enabling positive change in the way firms adapted their product market strategy and approach to managing employment.</p> |
| <p>A. Manning and R. Dickens</p> <p>Centre for Economic Performance, London School of Economics and Political Science</p> | <p>To investigate alternative approaches to estimating the impact of the NMW using the Labour Force Survey (LFS). Then to look at the impact of the NMW on the wage distribution, poverty and the gender pay gap using these alternatives.</p> | <p>Analysis of the LFS data to investigate the robustness of estimates of the impact of the NMW to different methods of solving the 'missing data problem' (i.e. the incomplete data on hourly pay rates).</p> | <p>The hourly rate variable is a better measure of the hourly wage than the hourly pay variable (derived by dividing gross weekly earnings by usual weekly hours). Estimates of the percentage of employees affected by the NMW are sensitive to the precise method used to estimate hourly earnings. The results suggest that using the hourly rate measure of the hourly wage does make the minimum wage appear better targeted on poor working households.</p> |
| <p>L. Miller, J. Hurstfield and N. Stratton</p> <p>IPS Research and Learning Society</p> | <p>To examine the impact of the NMW on firms' training decisions.</p> | <p>Short telephone interviews with 121 mainly small firms in hospitality, retail and hairdressing around Britain. Longer, face-to-face interviews with 26 of these firms.</p> | <p>Changes to training provision were generally in response to changing business circumstances rather than directly due to the NMW. Increases in training were usually to improve productivity or quality of performance. The older workers' Development Rate was not used, mainly because firms were unaware of it. Employers believed the Development Rate would be difficult to implement where training was largely on-the-job, and this lower rate would tend to exacerbate recruitment difficulties. There was some evidence that the minimum wage had made some hairdressing firms reluctant to employ older trainees.</p> |

| Author and Organisation | Aims and Objectives | Methodology | Results |
|--|---|--|--|
| <p>H. Rainbird, L. Holly and R. Leisten</p> <p>University College Northampton</p> | <p>To examine the extent to which the NMW - particularly the youth and older workers' Development Rates and the exemption for apprentices - has given employers incentives to invest in training.</p> | <p>Interviews in 19 small and medium-sized firms in three sectors in an economically depressed resort town and a relatively buoyant county town.</p> | <p>The NMW had had a more significant impact in the resort town than in the county town; all the county town firms surveyed paid above the NMW though some had reviewed employment practices and timing of wage increases. The main drivers for training were firms' wider business strategies in response to regulatory standards in social care, changes in the customer base in hospitality and maintaining retail markets, rather than the NMW. Firms' use of training to recognised standards was also influenced by the local training infrastructure. No firms used the older workers' Development Rate.</p> |
| <p>M. Stewart</p> <p>University of Warwick</p> | <p>To estimate the employment effects of the NMW.</p> | <p>Using data from the LFS and New Earnings Survey (NES), the research drew on previous research commissioned by the LPC, and extended it in several ways. First, it examined the impact of the 2000 and 2001 upratings to the minima. Second, it took account of individuals' position in the earnings distribution relative to the NMW (the 'wage gap') - that is, it distinguished between those whose wage needed to be increased a lot due to the NMW and those who only needed a small increase, and compared them with the control group above the minima. It also took account of factors specific to certain sectors and regions which might affect employment in different labour markets.</p> | <p>The research found little evidence that the introduction of the NMW had an adverse impact on the probability of subsequent employment of those affected. The estimates of the 2000 uprating were more mixed. There was some evidence of a negative effect, mainly for adult women, but it was sensitive to the choice of wage variable and estimation method and was significant only in one of the four specifications. There was evidence that the differential impact of the slowdown in employment growth (which may affect low-paid workers more than those higher up the earnings distribution) biased the estimates. Once this was controlled for the results were insignificant. Analysis of the impact of the 2001 uprating was restricted by the available data, but initial results largely supported the view that there was no adverse impact.</p> |
| <p>M. Stewart</p> <p>University of Warwick</p> | <p>To examine whether there has been a significant difference in the pattern of labour market transitions since the introduction of the NMW.</p> | <p>Labour market transition matrices were constructed from quarterly LFS data (March 1997 to February 2002). The paper examined differences in the transition probabilities before, spanning and after the introduction of the NMW, and looked at the impact of age, gender and region on these differences. Three linear probability models were constructed to examine the change in three particular transition probabilities before and after the NMW, controlling for personal characteris-</p> | <p>Significant changes in the transition probabilities fell into three groups.</p> <p>* Those entering employment from unemployment were found to be doing so at higher wages post NMW, with the proportion moving from unemployment into the bottom wage group falling, and the proportion moving into the top wage group increasing. The fall in the proportion moving to the bottom wage group from unemployment was found to be significant when modelled controlling for other factors. The fall was found to be most significant for women, for those aged below 35, and for those in London and the South East.</p> |

| Author and Organisation | Aims and Objectives | Methodology | Results |
|--|--|---|--|
| | | tics and other factors. | <p>* The probability of remaining in the bottom wage group fell significantly post NMW, and transitions from the bottom real wage group to the next group increased significantly. The fall in the proportion remaining in the bottom group was found to be significant when other factors were taken into account. The changes were predominantly outside the South East, and of the three age groups examined, were more significant for the youngest and oldest age groups, and more significant for men than for women.</p> <p>* The proportion inactive and wanting to work rose significantly post NMW; the proportion moving from inactive and wanting to work, to inactive and not wanting to work, fell significantly. The increase in the proportion inactive and wanting to work was found to be significant. Controlling for other variables, this was found to be primarily for those outside London and the rest of the South East, and for those over 35.</p> |
| <p>M. Stewart and J. Swaffield University of Warwick and University of York</p> | <p>To identify whether the introduction of the NMW in April 1999 and its subsequent upratings have had a significant impact on the number of hours worked by low-paid employees.</p> | <p>The researchers used individual level longitudinal data from three national data sets (NES, LFS and British Household Panel Survey (BHPS) to estimate the impact of the NMW on the hours of work of employees whose wages had been raised to comply with NMW levels. The researchers estimated a model of the individual employee's change in paid working hours as a function of the individual's initial position in the wage distribution. They used a difference-in-difference estimation method to examine whether changes in working hours of employees whose wages were directly affected by the NMW were significantly different from those whose wages were not affected.</p> | <p>NES and LFS data showed a significant negative impact on hours worked of adult males in the period following the introduction of the NMW (April 1999 up to September 2000), suggesting a lagged impact of the introduction of the NMW. No evidence was found of an impact of either the October 2000 or the October 2001 uprating on adult males. These data showed no impact of the introduction, or of subsequent upratings, of the NMW on hours worked of young people.</p> <p>Results from the NES found a slight indication of a negative initial impact on hours worked of adult females, but only when the control group used was varied. No significant impact was found using the LFS. BHPS data indicated a positive and significant impact on hours worked of adult females which was robust to changes in the control groups. However, as the BHPS samples were so much smaller than those from the NES and LFS this evidence was argued to be less persuasive.</p> |

Source: LPC4, 2003, Table A2.1