

Press release: Minimum wage underpayment on the rise, Low Pay Commission finds

In April 2018 439,000 people were paid less than the hourly minimum wage they are entitled to, a new report from the Low Pay Commission (LPC) finds. Of these, 369,000 were workers aged 25 and over paid less than the National Living Wage (NLW): this equates to 23% of those paid at or below the rate. This is an increase of around 30,000 on the previous year's level of underpayment of the NLW, or a 2 percentage point rise in the share of workers entitled to the rate. 135,000 people were paid below £7.20 per hour (the 2016 introductory NLW rate). These estimates are subject to several caveats (see notes 1-3 below) but are consistent with a trend of increasing underpayment since the introduction of the NLW in 2016.

LPC Chair Bryan Sanderson said:

Our analysis reveals that a worrying number of people are being paid less than the minimum wage. We recently celebrated 20 years of the minimum wage – it has raised pay for millions of workers, but it is essential that people receive what they are entitled to. It is also vital for businesses to be able to operate on a level playing field and not be illegally undercut on wages.

The Government has made real progress with its enforcement of the minimum wage, but more needs to be done to ensure employers comply in the first place and workers know how to enforce their rights.

The LPC's new report looks at the most up to date statistical evidence on the extent of non-compliance with the minimum wage and uses evidence from stakeholders and the Government to reflect on the policy responses to non-compliance.

Women are more likely than men to be paid less than the minimum wage. Underpayment is also higher for the youngest and oldest workers. The largest numbers of underpaid individuals work in hospitality, retail and cleaning and maintenance; childcare is the occupation with the highest proportion of underpaid workers.

Enforcement of the minimum wage by HM Revenue and Customs has benefited from increased funding, with a record number of workers identified as underpaid, arrears repaid, and fines levied on non-compliant employers in 2017/18. But other important measures – for example, the numbers of cases opened and closed – stood still, and the overall figures were driven by a relatively small number of cases. The LPC welcomes the Government's continued focus on minimum wage enforcement, but we note the continuing challenge in making sure

resources are targeted as effectively as possible.

The LPC recommends that the Government continues to invest strongly in communications to both workers and employers around minimum wage compliance and enforcement. The report makes specific recommendations around information for workers and trade unions, guidance for employers and publicity around the enforcement regime.

Measuring the full extent of minimum wage non-compliance remains a significant challenge. The LPC urges the Government to use all available opportunities to improve the measurement of underpayment, and to investigate new methodologies for assessing the scale of non-compliance.

Notes:

1. The estimate of 439,000 workers paid less than the minimum wage is derived from analysis of the Annual Survey of Hours and Earnings (ASHE). It is not a true estimate of non-compliance for a number of reasons. Some cases of underpayment can be legitimate: for example, because of the Accommodation Offset; commission and bonuses; piece rates; and because the data may fail to identify workers as apprentices.
2. Equally, some underpayment – for example, resulting from deductions to pay through salary sacrifice – will not be shown in ASHE. In addition, employers who are knowingly non-compliant are unlikely to admit this in the survey. And importantly when discussing estimates of underpayment, ASHE is unlikely to include data on the informal economy, where we would expect to find a large share of non-compliance.
3. Analysis of Labour Force Survey (LFS) data also shows an increase in underpayment. This is an unreliable measure of absolute levels of minimum wage pay or non-compliance but does show the pattern of underpayment across the year. Nevertheless, LFS measures of underpayment were higher in 2018 than previous years, and did not fall by as much over the 6 months following the minimum wage uprating.
4. Chart data available on request.
5. The National Living Wage is the statutory minimum wage for workers aged 25 and over. It was introduced in April 2016 and has a target of 60% of median earnings by 2020, subject to sustained economic growth.
6. Different minimum wage rates apply to 21-24 year olds, 18-20 year olds, 16-17 year olds and apprentices aged under 19 or in the first year of an apprenticeship. Rates for workers aged under 25, and apprentices, are lower than the NLW to reflect lower average earnings and higher unemployment rates. International evidence also suggests that younger workers are more exposed to employment risks arising from the pay floor than older workers. Unlike the NLW (where the possibility of some consequences for employment have been accepted by the Government), the LPC's remit requires us to set the rates for younger workers and apprentices as high as possible without causing damage to jobs and hours.
7. The Accommodation Offset is an allowable deduction from wages for accommodation, applicable for each day of the week. In April 2019 it will increase to £7.55 per day.
8. The National Living Wage is different from the UK Living Wage and the

London Living Wage. Differences include that: the UK Living Wage and the London Living Wage are voluntary pay benchmarks that employers can sign up to if they wish, not legally binding requirements; the hourly rate of the UK Living Wage and London Living Wage is based on an attempt to measure need, whereas the National Living Wage is based on a target relationship between its level and average pay; the UK Living Wage and London Living Wage apply to workers aged 18 and over, the National Living Wage to workers aged 25 and over. The Low Pay Commission has no role in the UK Living Wage or the London Living Wage.

9. The Low Pay Commission is an independent body made up of employers, trade unions and experts whose role is to advise the Government on the minimum wage. The rate recommendations contained in the 2018 Report were agreed unanimously by the Commission.

10. The nine Low Pay Commissioners are:

- Bryan Sanderson (Chair)
- Professor Sarah Brown
- Professor Richard Dickens
- Kate Bell
- Kay Carberry
- Simon Sapper
- Neil Carberry
- Clare Chapman
- Martin McTague

National Minimum Wage rates

Minimum wage rate	Rate 1 April 2018-31 March 2019	Rate from 1 April 2019
National Living Wage	£7.83	£8.21
21-24 Year Old Rate	£7.38	£7.70
18-20 Year Old Rate	£5.90	£6.15
16-17 Year Old Rate	£4.20	£4.35
Apprentice Rate	£3.70	£3.90
Accommodation Offset	£7.00	£7.55