

## Consultation Letter & Attachments

# Low Pay Commission

8th Floor  
Fleetbank House  
2-6 Salisbury Square  
London  
EC4Y 8JX

**From: The Secretary**

Tel: 020 7211 8119

E-mail: [lpc@lowpay.gov.uk](mailto:lpc@lowpay.gov.uk)  
Website: [www.lowpay.gov.uk](http://www.lowpay.gov.uk)

29 July 2015

## CONSULTATION ON THE NATIONAL MINIMUM WAGE

The Government is making major changes to the National Minimum Wage and has asked the Low Pay Commission (LPC) to report to it twice in relation to the new arrangements. Firstly, it has asked the LPC to report on the future level of the existing National Minimum Wage (NMW) rates, by as early as possible in February 2016. Secondly it has asked the LPC to report on the future level of the new National Living Wage (NLW), which will be introduced in April 2016 and applies to workers aged 25 and over. On this, the LPC has been asked to make recommendations by October 2016 for the rate in April 2017.

I am writing to invite you to submit evidence to our consultation, which runs until 25 September 2015. We seek views on the existing rates and initial evidence on the potential impact of the National Living Wage. (We will consult further during next spring on the future rate of the National Living Wage).

### Background

There are currently four National Minimum Wage rates, which change annually for all workers on an October cycle: the adult rate (for those aged 21 and over), the 16-17 Year Old Rate, the Youth Development Rate (for those aged 18-20) and the Apprentice Rate. The main, adult rate, will be £6.70 from October 2015.

The Government is introducing the National Living Wage: a mandatory new rate for all workers aged 25 and above comprised of the adult rate and an initial 50 pence Living Wage Premium. The National Living Wage will apply from April 2016, at a rate of £7.20 an hour. Once introduced this will become the rate for workers aged 25 and over. Only 21-24 year olds will be paid at the adult rate of the National Minimum Wage.

The Government has set out an ambition that the National Living Wage should continue to increase each April to reach 60 per cent of median earnings by 2020, with an objective to have a National Living Wage of over £9 an hour by 2020.

Against this backdrop, the LPC's Remit from the Government (the full text is attached at the end of the document) asks the Commission to:

- Monitor, evaluate and review the levels of the adult, youth and apprentice rates and, in February 2016, make recommendations on the increase it believes should apply from October 2016.
- By October 2016, provide a recommendation on the level of the National Living Wage which it believes should apply from April 2017.
- For both the existing rates and the new rate provide indicative recommendations for the following year, not just rates for one year.

Alongside this, the Government is undertaking a review into the NMW cycle, with the intention of aligning the timetable for all NMW changes. (Subject to the review, the earliest alignment could happen is April 2017).

In making recommendations in relation to the NLW, the Commission is required to reflect the growth in median earnings. We are also asked to take into account the state of the economy, employment and unemployment levels, and relevant policy changes.

This consultation's main focus is reaching recommendations for the future level of the existing rates, not on the future level of the National Living Wage. Nonetheless, we are interested in initial views on the National Living Wage and its likely impact.<sup>1</sup>

We would welcome any evidence you may wish to submit on these matters. In order to assist with this, we have attached a number of questions. You can respond to our consultation questions either via email (to [lpc@lowpay.gov.uk](mailto:lpc@lowpay.gov.uk)), or send it by post (to the address at the top of this letter). A questionnaire will also be available to complete online in August.

**The deadline for responses to the consultation is 25 September 2015.**

Our policy is to make responses to our consultation available publicly and list names unless respondents request otherwise. We may also quote from responses in our reports. **If you do not wish all or part of your response (including your identity) to be made public, then please make that clear in your submission. Otherwise, we will assume that by responding to our consultation you have given consent to us publishing your name and content of your submission.**

An important part of our consultation process is the programme of visits our Commissioners make around the UK. This provides an opportunity to listen directly to the views of those affected by the NMW. The locations and dates for this year's visits are on our website [www.gov.uk/government/organisations/low-pay-commission](http://www.gov.uk/government/organisations/low-pay-commission). Please use the website contact details if you would like to meet our Commissioners during any of these visits.

---

<sup>1</sup> Note: The NLW will remain £7.20 until April 2017. Officials have advised the LPC that the any increase in the adult rate in October 2016 will not affect it.

Yours sincerely



Simon Blake  
Secretary to the Low Pay Commission

<b>Structure of minimum wage (main focus of this consultation in bold)</b>		
Current system	Future system	
16-17 Year Old Rate	<b>16-17 Year Old Rate</b>	
18-20 Year Old Rate	<b>18-20 Year Old Rate</b>	
Adult rate (21+)	<b>Adult rate (from April 2016, in effect received only by 21-24 year olds)</b>	National Living Wage (from April 2016, received by 25 year olds and over)
	Premium (25+)	
Apprentice Rate*	<b>Exact arrangement to be confirmed</b>	
All rates change in October	The minimum wage for workers aged 25 and over will change in April from 2016; for other workers it remains in October pending government review	

\*applicable to all apprentices in year 1 of their apprenticeship, and for 16-18 in any year of their apprenticeship. Otherwise normal NMW rates apply.

## QUESTIONS FOR LOW PAY COMMISSION CONSULTATION

ATLEU is a registered charity specialising in providing advice and representation to victims of trafficking, with a historic focus on victims of domestic servitude. ATLEU's six lawyers provide a specialist, holistic and high quality representation to victims in 75 cases annually, representing victims with immigration, housing compensation and public law claims.

Through representing many workers trafficked for domestic servitude across a range of different areas over several years, ATLEU has developed a unique understanding of the complexity of victims' legal problems. ATLEU has represented victims in a number of significant precedent setting cases, as set out in the appendix.

As a specialist we have only replied to those questions on which we have relevant data. The other questions have been omitted.

### Impact of NMW

- What has been the impact of the National Minimum Wage (NMW), such as on employment, hours, pay structures, contract type, and profits, in particular over the last twelve months? Has this impact varied, and if so how (for example, by sector, type and size of business, nation and region, or groups of workers – including women, ethnic minorities, migrant workers, disabled people, older workers, and those who are unqualified)?

The National Minimum Wage "(NMW") has had a very significant impact on individual victims of trafficking but, due to lack of resources and shortcomings in existing legislation (as we set out below), it has not yet achieved its potential impact in this field.

The UK is obliged under article 15 of the Council of Europe Anti Trafficking Convention ("CAAT") to provide legal means by which victims may recover compensation from their traffickers. However, the Government objected to an amendment to the Modern Slavery Act 2015 to introduce a specific tort of trafficking, on the grounds that current remedies were sufficient to comply with the UK's international obligations. The Supreme Court in *Hounga v Allen* [2014] UKSC 47 has held that these obligations are directly binding on UK courts and tribunals and held that English law, which is incompatible with Article 15, should be dis-applied.

Accordingly, NMW legislation will remain one of, if not the most important, means by which victims of trafficking recover compensation from their traffickers. Any amendments to the law must be carefully scrutinised to ensure compatibility with Article 15 of CAAT, in order to ensure that the UK complies with its obligations, to ensure that the law is certain and to avoid test cases being brought to correct any shortcomings in the law.

Historically, the NWM has accounted for the great majority of compensation recovered for victims of trafficking from their traffickers in civil proceedings. ATLEU has acted in the majority of these cases. In our experience, the relative simplicity of the NWM legislation, the lack of complex case law and the record-keeping duties on employers are significant factors in this. The burden of proof is on the Respondent both as to the NMW having been paid and the entitlement of the Claimant to the NMW; this makes this jurisdiction highly unusual – and effective - in claims brought on behalf of victims of human trafficking.

Accordingly we are greatly concerned that when bringing in reforms to NMW legislation, victims of trafficking are not overlooked and their interests inadvertently adversely affected. We explain below where this has already occurred, during the very passage of the Modern Slavery Act 2015 through Parliament.

According to the government's statistics in 2014 from the National Referral Mechanism, adult victims for trafficking are overwhelmingly migrants (only 56 out of 1669 adults referrals were British) and mostly from ethnic minorities. Those trafficked into domestic servitude are overwhelmingly, although not exclusively, female (200 out of 234).

- What do you estimate will be the effect of the 3.0 per cent increase to the adult rate of the NMW, the 3.3 per cent increase to the Youth Development Rate, the 2.2 per cent increase to the 16-17 Year Old Rate, and the 20.9 per cent increase to the Apprentice Rate in October 2015?

The effect in the domestic worker sector will depend almost entirely on effective enforcement, see below. Without this, there is no reason to believe that it will have any effect on the rate actually paid to workers.

#### Future Rates

- At what level should the NMW be set in October 2016? (only 21-24 year olds will receive this rate; it will not change the NLW for the period October 2016-April 2017)

We have acted for a number of victims who were trafficked (commonly but not exclusively from West Africa) as children and kept in domestic servitude for lengthy periods of up to ten years. The younger the age of entitlement to the NMW, and the higher the rate, the less motivation there is to exploit young people and the greater compensation can be achieved for victims.

- At what level should each of the other rates of the minimum wage be set in October 2016 - that is, for 16-17 year olds, the Youth Development Rate (18-20 year olds), apprentices, and the accommodation offset?

We here repeat our answer to the previous question.

We have acted for a number of victims who were trafficked (commonly but not exclusively from West Africa) as children and kept in domestic servitude for lengthy periods of up to ten years. The younger the age of entitlement to the NMW, and the higher the rate, the less motivation there is to exploit young people and the greater compensation can be achieved for victims.

- At what level should each of the rates of the minimum wage be set in 2017? (Note: the exact applicable period depends on the outcome of the government's review of the NMW and NLW wage cycles. The next rate recommendations could be in October 2017, or in April, if the cycles are aligned). How valuable will you find indicative future rates of the NMW?

We here repeat our answer to the previous question.

We have acted for a number of victims who were trafficked (commonly but not exclusively from West Africa) as children and kept in domestic servitude for lengthy periods of up to ten years. The younger the age of entitlement to the NMW, and the higher the rate, the less motivation there is to exploit young people and the greater compensation can be achieved for victims.

- If specifying percentage increases, it is helpful if you can make clear what assumptions you are making about inflation and wage growth.

N/A

### National Living Wage (NLW)

- What are your views on the likely impact of the introductory level of £7.20 an hour for workers aged 25 and over (from April 2016), such as on employment, hours, earnings, pay structures, differentials, progression, contract type, or profits?

The effect in the domestic worker sector will depend almost entirely on effective enforcement, see below. With this, there is no reason to believe that it will have any effect on the rate actually paid to workers.

- Do you think the impact of the introductory rate of the NLW will vary, and if so how (for example, by sector, type and size of business, nation and region, or groups of workers – including women, ethnic minorities, migrant workers, disabled people, older workers, and those who are unqualified)?

The effect in the domestic worker sector will depend almost entirely on effective enforcement, see below. With this, there is no reason to believe that it will have any effect on the rate actually paid to workers.

Any impact will primarily affect women who make up the great majority of domestic workers and on ethnic minorities and migrants who make up almost all of those working on an overseas domestic worker visa.

Domestic workers are usually isolated both physically in private households and culturally and socially. They are rarely unionised. Those on the current visa are tied to their employers and therefore have very limited, if any ability, to enforce their right to the NMW. If they lose their job they cannot obtain alternative employment and are liable to deportation; accordingly their employers have little to fear if they fail to pay. Enforcement is therefore key.

- What are your views on the differential between the National Living Wage and the other National Minimum Wage rates? How should the NLW affect the other rates, if at all?

In our experience of enforcing the NWM, the simpler the system, including rates, the more likely it is to be obeyed and the easier it is to enforce

- Do you have any other comments on the NLW?

We strongly welcome this initiative. However, it will require effective enforcement and well-drafted legislation to have the desired effect.

The needs of victims of trafficking and modern slavery have to be mainstreamed into the initiative. Otherwise, as we have set out below, reforms can do far more harm than good. We strongly urge BIS to liaise with the Modern Slavery Unit at the Home Office and those working against human trafficking and modern slavery to ensure that the legislation introducing the living wage does not repeat the mistakes of the NMW legislation.

Human trafficking and modern slavery are, as the government has recognised with its championing of the Modern Slavery Act 2015, repellent activities. Victims need support. However, the negative effects go beyond immediate victims. Trafficking and slavery, from an economic point of view, represent unacceptable and illegal distortions of the market. For example, those producing goods at factories relied on trafficked labour (ATLEU is currently bringing claims for compensation against just such companies) are able to undercut producers reliant on lawful labour. Combatting modern slavery and trafficking is as relevant to those working with business as to those working in the humanitarian and law enforcement fields.

Legislation, which takes into account the need to control human trafficking, and modern slavery will bring economic benefit and thus the matter falls squarely within BIS's area of responsibility.

### Compliance & Enforcement

- What issues are there with compliance with the NMW? Do particular groups experience problems with NMW compliance (for example apprentices, those working in the social care sector, migrant workers or interns/others undertaking work experience)? What is the extent and trend?

Despite the reliance on the NMW by victims in claims for redress against their employers, the right to claim the national minimum wage or indeed any payment at all – is for victims of trafficking into domestic servitude highly problematic for a number of reasons.

### The Family Worker Exemption

The Family Worker Exemption (“the exemption”) at reg 57(3) National Minimum Wage Regulations 2015. It should be noted that the exemption disentitles the worker not only to payment of the national minimum wage, but also to any payment at all. In ATLEU's experience it is rare for Respondents not to seek to rely on the exemption in litigation, even in cases involving the most extreme forms of abuse.

The Courts have interpreted the exemption very widely. In the leading case on overseas domestic workers and the minimum wage (*Nambalat v Taher & Anor: Udin v Pasha & Ors* [2012] EWCA Civ 1249) the Court of Appeal found that a worker who worked 14 hours a day and slept on a mattress on the dining room floor was treated as a “member of the family”, thereby bringing her within the “family worker exemption” to the national minimum wage.

Following ATLEU's and other's representations, the Home Office now seeks to require that all employers agree not to seek to take advantage of the Exemption when applying for a visa. Whilst this is very welcome, it is not regrettably a complete solution. Firstly, the wording is complex and not easily comprehensible to employers, many of whom do not have English as a first language. Secondly, whilst the exemption remains on the statute books, traffickers will seek to continue to take advantage of it, thus making access to the NMW more difficult.

Victims who have been in servitude for long periods continue to come forward, partly thanks to increasing efforts to seek out victims, as reflected in the Modern Slavery Act 2015. To illustrate, ATLEU was last week referred a victim who had been paid less than 50p a day for over ten years (and this is not an unusual case). The Exemption will potentially apply to all her past wages because all past drafts of entry clearance guidance allowed for entry where the family worker exemption was invoked or where there was no undertaking to pay the national minimum wage. This makes the litigation complex and lengthy; she will require specialist legal help. The harm done by the Exemption will continue to make itself felt for years to come and make victims reliant on expert legal assistance to access justice.

ATLEU believes that the Exemption is unlawful under EU equality law and would be vulnerable to a judicial review; however, this would be lengthy and be a burden on the public purse.

ATLEU contends that the exemption should be removed from the statute book forthwith. It serves no present purpose. Its original intention was to exempt those present on an au pair visa from the NWM. This visa no longer exists.

#### Evidencing an entitlement to the national minimum wage

The use of the family worker exemption as a litigation tool by traffickers and other employers substantially weakens the position of domestic workers seeking to enforce their entitlements. Evidencing an entitlement to the national minimum wage becomes a matter of considerable skill: due to drafting of the "family worker exemption", a determination of this question will always turn on oral evidence presented in court or tribunal, requiring skilled counsel to be available to cross examine respondents. Trafficked domestic workers who lack confidence, have limited English and are often traumatised, have an obvious disadvantage when it comes to giving compelling oral evidence.

In ATLEU's experience domestic workers face similar difficulties endeavouring to give oral evidence of the number of hours worked.

#### Home Office policy, procedures and record keeping

Although the Immigration Rules now require a contract to be provided at entry clearance confirming compliance with national minimum wage legislation, ATLEU's experience is that Home Office record keeping is unreliable. This means that even where a written contract entitling a worker to the national minimum wage has been provided it cannot be relied upon in litigation. This enables respondents to invoke the family worker exemption even where they have confirmed that the national minimum wage will be paid.

### Two years limitation on NWM back pay

From July 2015 the Deduction from Wages (Limitation) Regulations 2014 (which came into force on 9 January 2015) prevents anyone from claiming more than two years National Minimum Wage owed. The dramatic impact of this on victims of trafficking is shown by ATLEU's past cases.

Prior to the Regulations coming into force on 9 January 2015, there was no time limit on the Employment Tribunal jurisdiction under section 23 ERA, provided the claim was presented within three months of the last of a series of deductions. Claims could therefore be brought going back to the introduction of the Wages Act in 1982. In practice, instructing solicitors obtained judgments from Tribunals for over ten years of unauthorised deductions in respect of victims of human trafficking.

To illustrate, a worker who has been held in servitude for over 10 years, working seven days a week would, prior to this change in the law, have obtained over £100,000 compensation in National Minimum Wage back pay in the Employment Tribunal. This will no longer be possible and she would be limited to recovery of only the last two years.

This new restriction, whilst not aimed at victims of trafficking, is likely to impact overwhelmingly or even exclusively upon them. It will affect only those who are not paid the National Minimum Wage (or indeed not paid at all) for a period of more than two years. We would contend that by definition someone who has worked without pay for over two years is very likely to be a victim of modern slavery.

The Regulations are stated to have been introduced to answer concerns expressed by business over holiday pay claims following the recent decision in *Bear Scotland Ltd & Others v Fulton & Others* UKEATS/0047/13. ALTEU, for the avoidance of doubt, is not concerned with the Regulations in respect of holiday pay. However, the Regulations limited the jurisdiction of the Employment Tribunal in respect of all unauthorised deduction from wages claims under section 23, to the past two years. Thus the government went considerably further than merely restricting claims for holiday pay; claims for the NMW were restricted as well.

We were particularly concerned that there was no reference in the BIS impact assessment to the effect on victims of trafficking and modern slavery. Accordingly we have no reason to believe that BIS addressed its mind to victims of trafficking.

The BIS impact assessment asserts that HMRC are currently enforcing National minimum wage claims so, in effect, the right of the victim to bring a claim in the Tribunal is otiose. It is however, very difficult to understand on what basis BIS came to this conclusion and no evidence was provided. (Please see answer to HMRC question below).

In our view, this restriction on NMW back pay needs to be removed forthwith; this could be done with any effect on the Rules in respect of holiday back pay.

### The six-month visa and enforcing rights

Employment tribunal and High and County court NMW claims for victims of trafficking are lengthy and complex. They often take well in excess of a year to reach a full trial. Workers who do not have immigration status are unable to pursue such claims to full hearing.

In ATLEU's experience, for a victim to take their trafficker to court or tribunal requires very considerable tenacity and courage. These cases are exceptionally hard fought by traffickers.

Threats against victims (and their families back home) are common. Under the current visa system it is extremely hard to provide the support necessary to enable victims to enforce their employment rights.

Where a residence permit is sought to enable a civil claim to be pursued, delays in Home Office decision-making and unlawful refusals mean that residence permits are not available until late in proceedings. In cases where a residence permit is obtained, the application for that permit will be disclosable in the course of legal proceedings. In ATLEU's experience such application is regularly used by traffickers to attack the credibility of claimants who are said to have made up fraudulent allegations against their trafficker only to obtain immigration status.

#### Lack of provision of specialist representation

There is an acute lack of specialist legal advice for victims of domestic servitude and a demand for ATLEU's services nationally which cannot be met. ATLEU research conducted in early 2014 suggested that there were fewer than 5 advisers nationally with any experience representing victims of trafficking in compensation claims against their traffickers. Although the Legal Aid Sentencing and Punishment of Offenders Act 2012 ("LASPO") expressly provided for victims of trafficking to obtain legal aid for trafficking compensation claims, the Legal Aid Agency (the "LAA") has made no effective provision for this: the LAA's 2013 Standard Civil Contract limits the number of cases that can be taken by any provider to 5 annually, inhibiting the development of expertise amongst providers and preventing ATLEU meeting even a small proportion of the demand for its services.

Where legal aid can be sought on a "one off" basis, for instance in the High Court, ATLEU has experienced extreme and disproportionate difficulties in obtaining legal aid for compensation cases against traffickers, as compared to more "conventional" claims in immigration or housing law. ATLEU has been forced to threaten and/or issue Judicial Review proceedings on many occasions, which represent a manifest waste of its and the Legal Aid Agency's resources. This appears to reflect an urgent training need within the Legal Aid Agency and represent another example of government departments' failure to "mainstream" anti-trafficking.

Accordingly victims suffer an acute shortage of lawyers able to take these cases especially outside London. ATLEU receives, and is unable to assist, many referrals nationwide. We experience grave difficulties in finding any other lawyers who can assist.

#### Enforcement issues

There is no legal aid for enforcement of county court or employment tribunal judgments. Enforcement issues are complex and require specialist representation. In some cases traffickers are internationally mobile and have few assets in the UK. Other traffickers leave the jurisdiction before a claim reaches trial. Some of the high value judgments obtained by trafficked domestic workers with ATLEU lawyers' assistance remain unenforced. In such a context there is no incentive for traffickers to settle claims.

#### Other procedural barriers

The recent introduction of fees in the Employment Tribunal together with the compulsory ACAS conciliation scheme have placed further barriers in the way of victims seeking to enforce the NMW. These are especially damaging for those of limited means but not qualify for remission.

However, victims without English as a first language, or any English at all, find it difficult to obtain remission and to comply with the complexities of the ACAS conciliation scheme. Again, this makes it easier for unscrupulous employers to target migrants and not pay and avoid the NMW. It means that victims are more dependent than ever on skilled legal assistance to access justice.

- What comments do you have regarding the enforcement work of HMRC, and/or the quality and accessibility of official guidance on the NMW? What more could be done to improve compliance? Do workers and employers have enough information on the NMW and what could be done to improve it?

According to HMRC reports on NMW enforcement, the average HMRC recovery for an individual has varied between £147 and £231 over the last five years. This very strongly indicates few or no recoveries are made for victims of human trafficking and modern slavery.

### **Average Arrears Payments for NMW Underpayments**

All data sourced from HMRC End of year Compliance reports, where published.

<b>Financial Year</b>	<b>Number of People</b>	<b>Total Amount Recovered in Back payments</b>	<b>Average per worker</b>
2013-p2014	22,000	£4,600,000	£209.09
2012-2013	26,500	£3,900,000	£147.17
2011-2012	17,000	£3,600,000	£211.76
2010-2011	23,000	£3,800,000	£165.22
2009-2010	19,000	£4,400,000	£231.58

Average arrears for underpayment for last five years - 2009-2014: £192.96  
 Average arrears for underpayment since NMW introduced in 1999: £292.31

ATLEU is not aware of any enforcement by HMRC for victims of trafficking or modern slavery. This should be urgently remedied.

- What are your views on the implications of the possible move to a single enforcement agency for some employment issues, including the NMW?

The performance of HMRC shows that it is vital to ensure that individuals can continue to enforce their right to the NMW through their own civil claims. When ATLEU lawyers started to bring NMW claims and develop the law, victims applied to HMRC for assistance and were informed that overseas domestic workers were not entitled to the NMW. ATLEU took individual claims in the Tribunals and courts to prove otherwise.

We are concerned that these questions may reveal a failure to understand that much NMW enforcement – particularly in difficult cases - is done by individuals via tribunals and courts and not by any government agency.

- What impact, if any, do you envisage the National Living Wage will have on enforcement?

Any effect will be marginal compared to the issues on enforcement set out above.

- What are your views on current arrangements for the accommodation offset? How far is it protecting low-paid workers, or otherwise? What difference, if any, has the increase in the value of the offset since 2013 made to the provision of accommodation?

The accommodation offset, in our experience is working well; its simplicity makes it hard for unscrupulous employers to charge inflated amounts for accommodation as a way of evading payment of the NWM.

The accommodation offset mechanism is simple, and is easy to understand and implement. Employers understand how it works and it can be very easily calculated and applied. There is little room for confusion and abuse. We would very strongly advise, as lawyers, against complicating this part of the regulations, which would lead to abuse by exploiters of victims and, to added complexity and uncertainty for all employers and employees.

#### Other

- Are there any other views or evidence you would like to give us about the operation and impact of the National Minimum Wage or the introduction of the National Living Wage?

#### About You

- If an employer, how many NMW workers do you employ and in which sector and what is your age profile of your NMW workforce (proportions aged 20 and under, ages 21-24, ages 25 and over)?

None

- If a worker, in which occupation/sector do you work?

It may be helpful when responding to these issues to consider that from 1 October 2015: the adult hourly rate of the National Minimum Wage will be £6.70; the hourly rate for the Youth Development Rate (covering 18-20 year olds) will be £5.30; the 16–17 Year Old hourly rate will be £3.87; the Apprentice Rate will be £3.30 per hour; and the daily limit of the accommodation offset will be £5.35 (£37.45 a week).

From April 2016 the National Living Wage will be introduced at £7.20 an hour (for those aged 25 and over).

## **National Minimum Wage – Low Pay Commission Remit 2016**

Over the last 15 years the National Minimum Wage (NMW) has helped eliminate extreme low pay and preserve jobs in the face of recession. We appreciate the role that the Low Pay Commission (LPC) has played in these successes. Against the background of a continuing recovery, the Government would like the LPC to monitor, evaluate and review the levels of each of the different NMW rates (16-17, 18-20 age groups, adult and apprentice rates) and make recommendations on the increase it believes should apply from October 2016. Our aim is to have NMW rates that help as many low-paid workers as possible without damaging their employment prospects.

The Government is building on its strong economic performance that has seen 2 million more people in work in the last five years. A remaining, key economic challenge the Government wants to address is to move away from a low wage, high tax, high welfare society and encourage a model of higher pay and higher productivity – supporting people who work hard and want to get on in life to fulfil their aspirations.

As such, the Government wishes to see a higher wage for more experienced workers and so is introducing a premium for workers aged 25 and over. This will be over and above the NMW which will remain in place. The Government will set the first premium in April at 50p bringing the total National Living Wage to £7.20 in April 2016. The Government asks the LPC to recommend the level of the National Living Wage to apply from April 2017.

The Government estimates that the level of the combined NMW and the premium in April 2016 will be 55% of median earnings and has set out an ambition that this should continue to increase to reach 60% of median earnings by 2020, subject to sustained economic growth. The Government's objective is to have a National Living Wage of over £9 by 2020.

In making recommendations in relation to the premium the LPC is asked to consider the pace of the increase, taking into account the state of the economy, employment and unemployment levels, and relevant policy changes.

Depending on the outcome of the review into bringing forward the NMW cycle, alongside the NMW recommendations in February 2016 the LPC are asked to provide indicative NMW rates for 2017, in order to give more certainty to business. Alongside the premium recommendation in October 2016 the LPC are asked to provide an indicative premium rate for April 2018. Both of these being subject to confirmation in light of economic conditions.

### **Timing**

The LPC is asked to provide a report to the Prime Minister and the Secretary of State for Business, Innovation and Skills on the NMW rates as early as possible in February 2016, and on the premium by October 2016.