

Citizens Advice Scotland

Scottish Association of Citizens Advice Bureaux
www.cas.org.uk



Consultation on the National Minimum Wage

Response from Citizens Advice Scotland

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Citizens Advice Scotland (CAS), our 61 member bureaux and the Citizens Advice Consumer Service helpline form Scotland's largest independent advice network. Advice provided by the Scottish CAB Service is free, independent, confidential, impartial and available to everyone. Our website, Adviceguide, also provides the public with up to date information on a range of topics. We are champions for both citizens and consumers and in 2012/13 we helped over 314,000 people deal with over a million issues.

Context of Response

Citizens Advice Scotland (CAS) welcomes the opportunity to respond to this consultation. In 2013/14, citizens advice bureaux in Scotland advised clients on 46,540 new issues relating to employment, including 11,016 on pay and entitlements, a rise of 9.2% on the previous year. In-work poverty is a growing concern, and is rising in Scotland. The National Minimum Wage has a key role in tackling low pay and could play a greater role in ensuring that workers do not face poverty. Additionally, in a number of situations, CAB clients have sought advice because their employer is paying them less than they are entitled to by the Minimum Wage.

Summary of Recommendations

- The National Minimum Wage should have a clearer role in tackling low pay and in-work poverty.
- A transparent process for setting the levels of the National Minimum Wage linked to this aim should be developed.
- The National Minimum Wage should be set strategically with future rises over the next three to five years set out, rather than being set a year at a time.
- The National Minimum Wage should always rise at least in line with the Consumer Prices Index.
- As part of the clearer focus on tackling low pay and in-work poverty through the National Minimum Wage, the Low Pay Commission should study the methods used to calculate the Living Wage to determine whether a similar formula can be developed for NMW uprating.
- The youth rates of the National Minimum Wage should be reviewed to consider their relative value, their ability to tackle in-work poverty amongst young people, and to take into account the limited in-work support available from tax credits and benefits for this age group.
- More should be done to ensure that workers are not inappropriately being paid the Apprentice Rate, whether for longer than is allowed, or when a worker does not meet the criteria for being paid it.
- Clear information needs to be provided to employers paying the Apprentice Rate to ensure it is used appropriately, with greater enforcement against those who pay it incorrectly.
- The UK Government should undertake an awareness-raising campaign to ensure workers know that they are entitled to a National Minimum Wage and how to claim it.

- Recent enforcement initiatives, such as ‘naming and shaming’ employers who pay less than the National Minimum Wage, should be continued
- Financial penalties for employers who are found to have underpaid multiple staff should be increased, as proposed in the Small Business, Enterprise and Employment Bill
- A proactive approach to targeting employers who do not pay their staff the National Minimum Wage should be taken
- In the longer term, a ‘Fair Employment Commission’ should be created with the legal powers and resources both to secure individual vulnerable workers their rights in all areas of employment (including pay), and to root out rogue employers.
- A strategic approach should be taken across Government to ensure that rises in the National Minimum Wage and changes to the tax and benefit systems are complementary, with the aim of ensuring that workers are better off and do not face in-work poverty.

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

There has been a notable increase in in-work poverty in Scotland. According to recent research published by the Scottish Government, 250,000 working age adults were in in-work poverty in 2012/13. This increased by 50,000 compared with the previous year. More working age adults in poverty were working (52%) than those who were not. 59% of children in poverty in Scotland (110,000) were living in families where at least one adult was in employment, an increase of 30,000 children.¹

Key to reversing this worrying trend is action to tackle low pay. According to research by the Resolution Foundation, around 1.2 million workers in the UK are paid the National Minimum Wage, or within 5 pence of it. A further 1.4 million workers earn no more than 50 pence more than the Minimum Wage.² With a significant number of employers using the level of the National Minimum Wage as their ‘base’ for setting pay scales, the level set by the Low Pay Commission will have a crucial role in determining the pay of many workers who are currently in in-work poverty.

In-work benefits and tax credits, changes to the tax system and actions to encourage employers to pay a higher ‘base’ rate of pay than the Minimum Wage – such as the

¹ Poverty and Income Inequality in Scotland: 2012/13 – Scottish Government, July 2014.
<http://www.scotland.gov.uk/Publications/2014/07/9247/4>

² Minimum Wage Act II – Resolution Foundation, February 2014.
<http://www.resolutionfoundation.org/publications/minimum-wage-act-ii/>

Living Wage campaign – all have a part to play. However, with increases in benefits and tax credits for working age people being restricted to a lower-than-inflation 1% from 2013 – 2015³, wages must bear a greater share of the burden if the rise of in-work poverty is to be halted.

Citizens advice bureaux in Scotland have advised clients working full time earning the National Minimum Wage who are struggling to pay essential living costs and accumulating debt.

- *A South of Scotland CAB reports of a client who has worked full-time in shops, earning the National Minimum Wage for over ten years. He has accrued rent arrears, and is struggling to keep up his repayments because of his low income. His Housing Association has now started eviction proceedings against him.*
- *A West of Scotland CAB reports of a client who works 30 hours per week. The client also used to work a second job in the evenings, but has had to give this up. She has now accrued rent and energy arrears totalling around £5,800 and is struggling to keep up her agreed rent payments.*

In recent months, the rise of in-work poverty has coincided with the rise in the number of zero hours contracts, with an estimated 1.4 million workers in the UK whose contracts do not guarantee a minimum number of hours. Workers in this position are more likely to be under 25 or over 65, work fewer hours than the average (25 compared to 37 for other contractors), are more likely to be female (55%), and are more likely to want to work more hours (35% compared to 12% on other contracts). Zero hour contracts are particularly prevalent in in the tourism, catering, food and care industries.⁴

Citizens Advice Scotland is particularly concerned about misuse of zero hours contracts, such as where a full-time or part-time contract may be better suited, with a number of employers now appearing to use zero hours contracts as the norm for the bulk of their staff. CAB clients in Scotland have reported a lack of work causing destitution, serious debt and budgeting difficulties due to a fluctuating income, difficulty accessing support from the benefits system, together with infringements of basic employment rights.⁵ The insecurity of income caused to workers in this situation is an important consideration when considering future changes to the National Minimum Wage, particularly as zero hours contract workers can have difficulty securing support from the benefits system as their working hours are not guaranteed and unpredictable, making them particularly reliant on wages.

³ 2014 Benefit Up-rating – Commons Library Standard Note – House of Commons Library, December 2013 <http://www.parliament.uk/business/publications/research/briefing-papers/SN06774/2014-benefit-uprating>

⁴ Analysis of Employee Contracts that do not Guarantee a Minimum Number of Hours – Office for National Statistics, April 2014 <http://www.ons.gov.uk/ons/rel/lmac/contracts-with-no-guaranteed-hours/zero-hours-contracts/art-zero-hours.html>

⁵ Working at the Edge: Zero Hours Contracts – Citizens Advice Scotland, July 2014 <http://www.cas.org.uk/publications/working-edge-zero-hours-contracts>

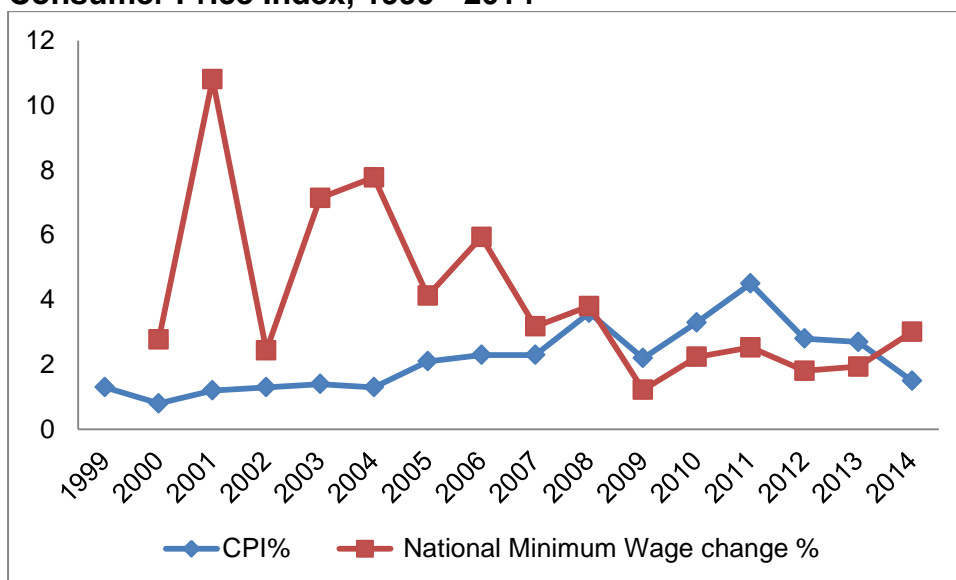
What do you estimate will be the impact of the 3 per cent increase in the adult rate of the NMW and 2 per cent increase in the youth and apprentice rates in October 2014?

The rise in the adult, youth and apprentice rates in October 2014 represents the first above-inflation National Minimum Wage rise since 2008 and as such is welcome and an encouraging step in the right direction. This has the potential to benefit over one million workers across the UK, but more must be done to ensure the value of the Minimum Wage is maximised and the level of in-work poverty is reduced.

In our 2014 Report, we made an additional assessment of the future path of the NMW. This looked at what economic and business conditions needed to be in place to allow a faster increase in the minimum wage rates taking into account the implications on employment. Do you have any comments on that assessment? What economic and business conditions do you think need to be in place for faster increases in the NMW?

Until the imminent rise in the adult rate of the National Minimum Wage from £6.31 to £6.50 per hour in October 2014, the Minimum Wage had risen at a lower rate than inflation, as measured by the Consumer Prices Index (CPI), for five consecutive years from 2009 to 2013, as illustrated in Figure 1 below. Until 2008, uprating had comfortably exceeded CPI each year.

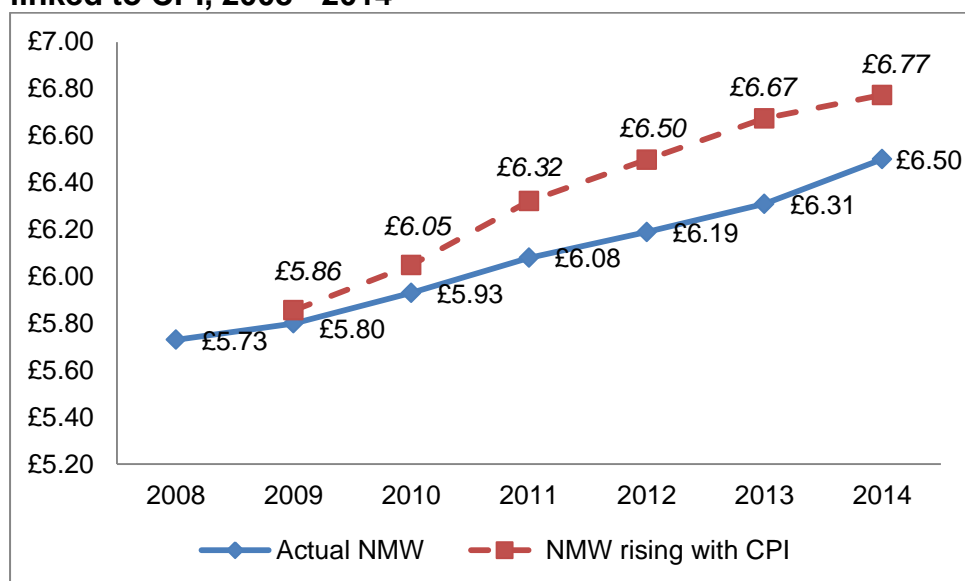
Figure 1 – Uprating of the National Minimum Wage (adult rate) compared to the Consumer Price Index, 1999 - 2014



Sources - <http://www.theguardian.com/news/datablog/2013/apr/15/minimum-wage-increases-versus-inflation> and <http://www.bbc.co.uk/news/10612209> (May figures).

This has led to a situation where the real-terms value of the National Minimum Wage has become depressed. If the Minimum Wage had been uprated in line with CPI during that period, then the impending uprating would be lifting the adult rate to £6.77 per hour, as shown in figure 2 below. This equates to a difference of over £490 per year for a full time worker (35 hours per week).

Figure 2 – Actual National Minimum Wage rises, compared to a Minimum Wage linked to CPI, 2008 - 2014



Calculated based on sources in Figure 1.

This underscores the impact of low rises in the National Minimum Wage and illustrates why working clients are struggling to afford essentials and contributes to the rise in in-work poverty in Scotland.

- *An East of Scotland CAB reports of a client who works 16 hours per week at the National Minimum Wage. She gets partial Housing Benefit, but no other benefits or additional earnings. She has rent and Council Tax arrears and is struggling to pay her essential expenditure. The client has tried to increase her hours at work, and tried to apply for a different role with her employer, but her boss told her she could not apply for it. As most of the staff only work 16 hours, it is unlikely her employer will give her any more hours.*
- *A North of Scotland CAB reports of a client who worked part-time and was paid the National Minimum Wage earning £101 per week. The client is a single parent and requires childcare over the summer holidays. The costs would be £96 per week and although the client would be able to claim 70% of the costs through tax credits, the client would not be able to afford to pay the remaining 30%. There appeared to be no help with these costs and the client had no relatives in the local area that could help.*

Even with inflation level increases, the value of the NMW would fall below what the Joseph Rowntree Foundation (JRF) assesses as a minimum standard of living. The JRF's Minimum Income Standard (MIS) is based on the cost of items and services households need to reach an acceptable standard of living, as determined by members of the public. In 2014, it calculated that single people needed to earn £16,300 per year before tax to afford a minimum acceptable standard of living, with couples with two children requiring £20,300 each.⁶ This is well in excess of the

⁶ A Minimum Income Standard for the UK in 2014 – Joseph Rowntree Foundation, June 2014
<http://www.jrf.org.uk/publications/minimum-income-standard-2014>

£11,830 per year that a full-time⁷ National Minimum Wage worker would earn before tax from 1 October 2014 (previously £11,484).

The study also points out that the costs of the MIS 'baskets' of goods and services that households require has risen by up to 28% from 2008 to 2014, greater than the 19% increase in inflation as measured by the CPI. This is due to above-inflation rises in the costs of particular essential items, such as food (26%), domestic energy (45%) and bus travel (37%) in the same period.⁸ This indicates that linking future rises purely to the Consumer Prices Index would likely lead to low income workers being worse off in the long term, due to the price of essential goods and services rising faster than inflation.

Of course, wages alone will not be the sole determinant of whether an individual or family achieves an acceptable minimum income standard, with levels of taxation and in-work support available through the benefits system playing a critical role. However, analysis of the incomes of several different households earning the National Minimum Wage, such as lone parents, single-earner couples and couples with children both working full time, would fall short of the Minimum Income Standard in 2013, even if they were in receipt of their full entitlement of in-work benefits and tax credits. This would not necessarily have been the case in 2008.⁹ As noted above, with uprating of in-work benefits restricted to a below-inflationary 1% increase until at least 2015, ensuring that wages for low income families do not fall in real terms is vital to ensuring that they are prevented from falling into in-work poverty.

The principle behind the Minimum Income Standard is also used to calculate the Living Wage, which is a voluntary scheme promoted by campaigners to ensure that full-time workers earning the lowest rate can afford standard minimum living standard. The campaign is supported by politicians from all parties, and employers such as KPMG, J.P. Morgan, Barclays and Aviva who are accredited as Living Wage employers. It has been particularly successful in the public sector in Scotland, with the Scottish Government, NHS and all 32 local authorities all committed to paying the Scottish Living Wage.¹⁰ As Figure 3 shows, the Scottish Living Wage, which currently matches the rate for the rest of the UK outside London, is considerably higher than the National Minimum Wage. Due to being calculated on the basis of what low paid workers need to earn to achieve an acceptable income standard, it has increased at a faster rate than the Minimum Wage over the past five years, and is currently 21% higher, £7.65 compared with £6.31 (£1.34 per hour).¹¹

⁷ 35 hours per week

⁸ A Minimum Income Standard for the UK in 2014 – Joseph Rowntree Foundation

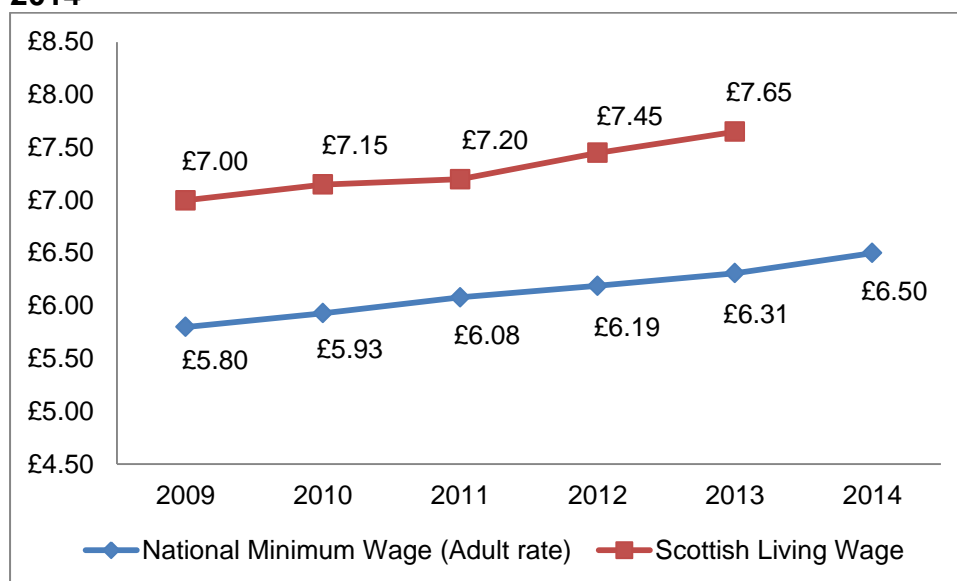
⁹ Wages, Taxes and Top-ups: The Changing Role of the State in Helping Working Families Make Ends Meet - Joseph Rowntree Foundation, June 2014

<http://www.jrf.org.uk/sites/files/jrf/Wages-Taxes-Topups-FINAL1.pdf>

¹⁰ Living Wage Foundation <http://www.livingwage.org.uk/>

¹¹ The Living Wage figure for 2014 is due to be announced in November.

Figure 3 – National Minimum Wage compared to Scottish Living Wage 2009 – 2014



Source – Scottish Living Wage Campaign

Supporters of the Living Wage¹², together with other analysts^{13 14} do not seek to equalise the National Minimum Wage and the Living Wage, recognising that the sharp rise in the basic rate that would be required could cost jobs, as well as pointing out that that was not the reason for its creation. However, it is worth noting the large and growing gap between the two figures and the large number of employers that have voluntarily chosen to pay at least the Living Wage to all their staff.

Single-year rises in the Living Wage are also capped to ensure that they do not become unacceptable to employers. The limit applied – preventing the level rising at more than 2% above the rise in average earnings (e.g. if earnings rise on average by 3%, the rise in the living wage should be capped at 5%)¹⁵ - may be instructive for calculating future rises in the National Minimum Wage.

It should also be noted that the National Minimum Wage was originally designed cautiously to tackle *extreme* low pay (e.g. £1 per hour), rather than low pay itself¹⁶, which despite some violations detailed elsewhere in this response, has largely been eradicated. The first Chair of the Low Pay Commission has argued that given this change in the context in which it was set, together with the unintended consequence

¹² Work That Pays – The Final Report of the Living Wage Commission - Living Wage Commission, June 2014 http://livingwagecommission.org.uk/wp-content/uploads/2014/06/Work-that-pays-The-Final-Report-of-The-Living-Wage-Commission_w-3.pdf

¹³ Beyond the Bottom Line – The challenges and opportunities of a living wage - Resolution Foundation/IPPR, January 2013 http://www.resolutionfoundation.org/media/media/downloads/Beyond_the_Bottom_Line_FINAL.pdf

¹⁴ The IFS Green Budget: Policies to help the low paid - Institute of Fiscal Studies, February 2014 http://www.ifs.org.uk/budgets/gb2014/gb2014_ch7.pdf

¹⁵ Working paper: uprating the UK Living Wage in 2013 – Centre for Research in Social Policy, November 2013 <http://www.lboro.ac.uk/media/wwwlboroacuk/content/crsp/downloads/Uprating%20the%20out%20of%20London%20Living%20Wage%20in%202013.pdf>

¹⁶ More than a minimum : The review of the minimum wage – Resolution Foundation, March 2014 <http://www.resolutionfoundation.org/publications/minimum-review-minimum-wage-final-report/>

that the National Minimum Wage would become the 'going rate' in some sectors, that the Minimum Wage should evolve and take a greater role in tackling low pay tied to a longer term strategy.¹⁷ The longer term approach would also end the uncertainty of a year-at-a-time rise for employers, potentially making it easier to secure above-inflation rises to enable work – even at Minimum Wage – to be a clear route out of poverty.

Citizens Advice Scotland recommends:

- **The National Minimum Wage should have a clearer role in tackling low pay and in-work poverty.**
- **A transparent process for setting the levels of the National Minimum Wage linked to this aim should be developed.**
- **The National Minimum Wage should be set strategically with future rises over the next three to five years set out, rather than being set a year at a time.**
- **The National Minimum Wage should always rise at least in line with the Consumer Prices Index.**
- **As part of the clearer focus on tackling low pay and in-work poverty through the National Minimum Wage, the Low Pay Commission should study the methods used to calculate the Living Wage to determine whether a similar formula can be developed for NMW uprating.**

What has been the impact of the minimum wage on young people and what effect do you think it has on their employment prospects?

The 'youth rates' of the National Minimum Wage are currently considerably lower than the 'adult rate', and will rise at a lower rate on 1 October 2014 (a rise of 2% compared with 3%) for the adult rate. An individual working 35 hours per week at the 18-20 year old rate (£5.13 per hour) would earn £2,493 per year less than at the adult rate, and at the 16-17 year old rate (£3.79 per hour) would earn £4,932 per year less. Citizens advice bureaux in Scotland have advised young clients who are struggling financially due to a lack of income.

- *A West of Scotland CAB reports of a client aged 20 who works 25 hours per week, with occasional overtime. Aside from a single person Council Tax Reduction, which the client already claims, she is not entitled to any support from the benefits system. Once her housing costs are paid, the client is left with less than £180 per month, less than Jobseeker's Allowance for someone her age.*
- *A North of Scotland CAB reports of a 17 year-old client who works seven hours per week. His current hours do not pay adequately and he has been*

¹⁷ Ibid.

trying to increase his hours without success. The client came into the bureau for advice about claiming Working Tax Credit, but as he is under 25 is ineligible to claim it.

In addition to being paid a markedly lower National Minimum Wage, certain in-work support from the benefits system is restricted for those under the age of 25 – they cannot claim Working Tax Credit unless they have a disability, they receive a lower rate of income-based Jobseeker's Allowance (£57.35 per week compared with £72.40) and are not entitled to claim full Housing Benefit (restricted to the value of a bed-sit or a single room in shared accommodation).

Given this, there is a clear danger that those under the age of 21 would find it difficult to avoid in-work poverty and to afford essentials. Whilst there may be an assumption that those of this age would also be in education, or could live with their parents, this is not the reality, or in a number of cases a possibility, for many young people. It needs to be possible for someone under the age of 21 to live independently and earn enough to afford at least an acceptable minimum living standard. In line with our recommendations that the National Minimum Wage play a greater role in tackling low pay and in-work poverty, and that it has regard to in-work support from the benefits system, the youth rates should be reviewed to ensure that they incentivise work and do not result in in-work poverty for young people.

Citizens Advice Scotland recommends:

- **The youth rates of the National Minimum Wage should be reviewed to consider their relative value, their ability to tackle in-work poverty amongst young people, and to take into account the limited in-work support available from tax credits and benefits for this age group.**

What has been the impact of the Apprentice Rate on pay, provision, take up and completion?

Do you think the structure of the Apprentice Rate should change? Could it be made simpler to help improve compliance? Do you think the Apprentice Rate should apply to all levels of apprenticeships?

What do you think might help employers to comply with paying the right pay rate for apprentices?

Do you have any further comments on apprentice pay?

The Apprentice Rate (£2.68 per hour, rising to £2.73 on 1 October 2014) can be paid under certain conditions – that the apprentice is aged 16 to 18 and those aged 19 or over who are in their first year. This should be a worker who has a traditional contract of apprenticeship or is taking part in a particular government training scheme – in Scotland, a Modern Apprenticeship leading to an SVQ or NVQ at level 2 or 3. All other apprentices should receive at least the appropriate National Minimum Wage for their age. The Employment Appeal Tribunal has also held that a trainee

hairdresser in the second year of a Foundation Modern Apprenticeship was a worker and should be paid the age-appropriate National Minimum Wage¹⁸.

However, CAB clients have sought advice because they were being paid the Apprentice Rate for far longer than they should be, when they were older than the age it should apply, or when they were not technically an apprentice.

- *A West of Scotland CAB reports of a client who works for a hairdresser. The client is 23 years old and started work for her employer three years ago being paid £2.68 per hour. She is still receiving this rate per hour and has asked for a rise in wages for some time, but feels she has been fobbed off. [At time of starting she should have earned at least £4.92 and should now be on £6.31]*
- *A West of Scotland CAB reports of a client who has been working for a hairdresser since June 2011. The client is not an apprentice. During that time the client has been paid at a rate of £35 per day. The normal day is 10 or 11 hours with no breaks. [Therefore equivalent to £3.50 per hour]. The client discovered that she should be entitled to the National Minimum Wage when she made an application for Housing Benefit and was told they could not help as her wage rate was illegal. The correct wage would have put her above the level for assistance.*
- *A North of Scotland CAB reports of a 19 year old client who worked for a car valet company. He was told that the 12 hours he worked in his first week were regarded as 'training' and was paid at a rate of £3.00 per hour. The client was advised that this was less than the National Minimum Wage for his age [£5.03].*

This may stem from confusion on the part of the employer, unaware of the restrictions on which the Apprentice Rate can be paid, or through a deliberate attempt to pay less than the Minimum Wage. To ensure that workers are not inadvertently paid the Apprentice Rate when they should receive a higher rate, there should be increased information and promotion targeted at employers of apprentices and individuals undertaking Modern Apprenticeships to clarify their rights and responsibilities. This should help identify employers who are paying it in an attempt to illegally underpay their staff and allow enforcement action to be taken against them.

Citizens Advice Scotland recommends:

- **More should be done to ensure that workers are not inappropriately being paid the Apprentice Rate, whether for longer than is allowed, or when a worker does not meet the criteria for being paid it.**
- **Clear information needs to be provided to employers paying the Apprentice Rate to ensure it is used appropriately, with greater enforcement against those who pay it incorrectly.**

¹⁸ HM Revenue and Customs v Rinaldi-Tranter (2006) UKEAT/0486/06

What issues are there for compliance with the NMW? Do particular groups experience problems with NMW compliance (for example, apprentices, or interns and others undertaking work experience)? Does this non-compliance have implications for the level of the NMW rates, the quality and accessibility of official guidance on the NMW, or for the enforcement work of HMRC?

Individuals are not always aware of how much they should be paid and evidence from CAB shows that in a significant number of cases, employers appear to be ignorant of their duty to pay their staff the National Minimum Wage at the appropriate level. Of even greater concern are reported instances of employers deliberately and illegally paying workers less than the minimum wage.

Citizens Advice Scotland believes that more needs to be done to take a proactive approach to effectively ensure that all employers comply with the law and pay their staff at least the legal minimum wage for the hours they work.

As well as having a NMW it is important that it is also enforced and employers are made aware of their obligations in relation to the NMW and what the financial penalties are for underpaying employees. Whilst we note the UK Government efforts to 'name and shame' rogue employers¹⁹, we believe a twin approach of active encouragement and enforcement is necessary.

In parallel with targeting rogue employers, CAS believes that more needs to be done to ensure that employees are aware of what the legal minimum wage they are entitled to is, and what they can do if they are paid below the National Minimum Wage. CAB clients in financial difficulty are often not aware of their entitlement to the appropriate National Minimum Wage level, which indicates a need for awareness-raising activity.

- *A West of Scotland CAB reports of a client in her late thirties who works for a cleaning company. She has received £6.08 per hour for the last four years, which she had not realised was now below the National Minimum Wage [£6.31 per hour]. The client had accrued Council Tax and rent arrears of £660 and was being pursued by a debt collection agency.*

It is a criminal offence for employers not to pay someone the National Minimum Wage or to falsify payment records. HM Revenue and Customs (HMRC) has responsibility for enforcement of the NMW. In 2012, CAS published 'Fair Employment – Why Scotland's workers need a Fair Employment Commission' reporting on CAB clients who had been systematically underpaid for the hours they worked and a number of employers failing to pay their staff the NMW, with young people and migrant workers particularly affected by this practice.²⁰ Two years on our cases show that little has changed. This must be addressed.

In 2013/2014 HMRC conducted 1,455 investigations into employers who had failed to pay the national minimum wage which led to £4.6 million in unpaid wages being

¹⁹ <https://www.gov.uk/government/news/national-minimum-wage-rogues-to-be-publicly-named-and-shamed-under-new-plans>

²⁰ 'Fair Employment' report, February 2012. <http://www.cas.org.uk/publications/fair-employment>

recovered²¹. The Government has recently introduced a 'name and shame' approach²² and proposes further penalties in the Small Business, Enterprise and Employment Bill. These are welcome moves, but challenging poor employment practices is far from easy for many workers. In many cases, clients are well aware of their entitlements but are unable to enforce them due to a fear of being dismissed or disadvantaged for doing so. In a number of recent cases relating to the misuse of zero hours contracts, poor employment practices are reported by workers engaged on them. Whilst this is not necessarily because of the contract in itself, in practice employers have used their ability to cut their hours to the individual as a 'punishment' to deny them their basic statutory rights, deter them from asserting their rights, or in an attempt to make them resign. This has become known as 'zeroing down'.

The following cases have been reported by bureaux in the last year and highlight how workers who are aware of their right to the NMW are often unable to enforce this right.

- *An East of Scotland CAB reports of a client who works 16 hours per week for a dry cleaning firm. She is 32 years old but is only earning £6.21 per hour. She has no contract of employment. She has mentioned to her employer that she is not earning the minimum wage but at the moment does not want to cause any issues with her employer as she needs the job.*
- *An East of Scotland CAB reports of a client in her early twenties who works for a cleaning company between six and fourteen hours per week. Although her wage slips from her boss's accountant state that she earns the National Minimum Wage, in reality she is paid £6 per hour in cash.*

As highlighted earlier in this response, CAB clients have reported being paid the Apprentice Rate incorrectly – this appears to be a particular problem with hairdressing apprentices, who should in fact be paid the age-appropriate Minimum Wage. Migrant workers are also vulnerable to exploitation by rogue employers who underpay them, sometimes by considerable amounts. In some instances, the migrant worker is well aware of their legal entitlement, but finds it difficult to assert their rights for fear of being dismissed and left homeless.

- *An East of Scotland CAB reports of a Lithuanian client over the age of 25 who had arrived in Scotland to work in a factory. He was accommodated at a hotel, then two different flats in the six months he was working there. During this time he was working 78 hours per week and being paid £2.50 per hour. On several occasions he asked to be paid the National Minimum Wage, but has been put off with excuses such as that he is in training, or that he has to pay for his accommodation [even including the accommodation offset, his wage would be considerably below the National Minimum Wage]. Finally, last week he asked again to be paid the Minimum Wage and this time he was told he was no longer required and to get out of the flat.*

²¹ HMRC secures record £4.6m minimum wage arrears for underpaid workers, June 2014
<https://www.gov.uk/government/news/hmrc-secures-record-46m-minimum-wage-arrears-for-underpaid-workers>

²² Government names employers who fail to pay minimum wage, June 2014
<https://www.gov.uk/government/news/government-names-employers-who-fail-to-pay-minimum-wage>

- *An East of Scotland CAB reports of a Spanish client aged over 25. The client works in a hotel for six hours per day, six days per week. He earns £115.38 per week [an equivalent of £3.20 per hour]. In addition to his regular hours, the client is expected to be constantly 'on call' and is not allowed to leave the hotel in case he is needed for some task, including on his day off. The client has a room in the hotel, but needed to spend his savings cleaning the room and making it habitable, as well as being required to buy smart clothes for work, which he has never worn.*

It is in the interest of good employers, workers, and the wider economy, that rogue employers are prevented from exploiting vulnerable employees. However, the current systems and penalties in place for the enforcement of the National Minimum Wage are not ensuring that all workers are paid what they are legally entitled to. Citizens Advice Scotland believes that a Fair Employment Commission with real teeth could ensure that both employers and their employees are aware of their rights and responsibilities.

Citizens Advice Scotland recommends:

- **The UK Government runs an awareness-raising campaign to ensure workers know that they are entitled to a National Minimum Wage and how to claim it.**
- **Recent enforcement initiatives, such as 'naming and shaming' employers who pay less than the National Minimum Wage should be continued**
- **Financial penalties for employers who are found to have underpaid multiple staff should be increased, as proposed in the Small Business, Enterprise and Employment Bill**
- **A proactive approach to targeting employers who do not pay their staff the National Minimum Wage should be taken**
- **In the longer term, a 'Fair Employment Commission' should be created with the legal powers and resources both to secure individual vulnerable workers their rights in all areas of employment (including pay), and to root out rogue employers.**

At what level should each of the rates of minimum wage (for adults, 16-17 year olds, 18-20 year olds, apprentices, and the accommodation offset) be set in October 2015?

Citizens Advice Scotland does not have a definitive view on the precise level each of the National Minimum Wage rates should be set at, but recommends that they are based on the approach set out earlier in this response – with a clearer aim of tackling low pay and in-work poverty, rising at least in line with the Consumer Prices Index

and should consider developing a similar formula for uprating as is used to calculate the voluntary Living Wage.

In its evidence to the Commission in January 2014, the UK Government considered an illustrative scenario of the increase that would be required to restore the 2007-08 'real value' of the adult rate by NMW year 2015-16, which they estimated to be around £7 per hour.²³

A rise to £7 per hour would represent a year-on-year increase of 7.69%, which whilst higher than in recent years would not be unprecedented – the adult rate of the National Minimum Wage rose by 10.81% in 2001, by 7.78% in 2004 and 7.14% in 2003.

Whilst the UK Government may understandably be reluctant to specify a longer-term ambition for what the Minimum Wage should rise to with a General Election within the next year, political parties have begun to make pledges about what they would like the National Minimum Wage to be in 2020. This long-term strategic approach should be encouraged and based on ensuring that paid work is a route out of poverty.

Do you have any other views or evidence about the operation and impact of the National Minimum Wage?

Rises in the National Minimum Wage will not always see workers with more money in their pockets. Earned wages will be subject to changes in the tax and benefits systems, which can often be complex. Citizens advice bureaux in Scotland have advised clients who may be earning the Minimum Wage, but are struggling to pay for essentials because of a limited entitlement to benefits and tax credits.

- *A West of Scotland CAB reports of a client who works 17.5 hours per week at the National Minimum Wage. He is struggling to pay essential expenditure on his income, with only £6.92 per week remaining after he has paid rent, food, housekeeping, energy costs, telephone and TV licence costs. He is in rent, Council Tax and energy arrears. He is unable to claim Working Tax Credit, or full Housing Benefit and Council Tax Reduction. Two months later, the client returned to the CAB as his situation had not improved. He has been unable to pay his bills or basic expenditure, his health has deteriorated due to stress and he has no money for food.*

As part of an overall strategy to ensure the National Minimum Wage tackles low pay, closer collaboration between the Low Pay Commission, HMRC and the Department for Work and Pensions would be welcome to ensure that increases in the Minimum Wage do not leave workers worse off due to an increase in tax, or a reduced entitlement to support from in-work benefits.

²³ National minimum wage: government evidence for the Low Pay Commission on the additional assessment – Department for Business, Innovation and Skills, January 2014.
<https://www.gov.uk/government/publications/national-minimum-wage-government-evidence-for-the-low-pay-commission-additional-assessment>

Citizens Advice Scotland recommends:

- **A strategic approach should be taken across Government to ensure that rises in the National Minimum Wage and changes to the tax and benefit systems are complementary, with the aim of ensuring that workers are better off and do not face in-work poverty.**