



**Scottish Women's Convention response to:**

## **The Low Pay Commission Consultation 2021**

**June 2021**

### **Premise**

The Low Pay Commission (LPC) is the independent body that advises the Government on the level of the minimum wage. The Commission has been asked to recommend in October this year the National Minimum Wage (NMW) and National Living Wage (NLW) rates to apply from April 2022.

From 1 April 2021, the NLW has increased by 19 pence to £8.91. This increase comes in the context of the largest economic shock in modern history and reflected the need to balance minimising significant risk to employment prospects while protecting low-paid workers' living standards.

The Government has now asked the LPC to increase the NLW towards a target of two-thirds of median earnings by 2024. In addition, the Government intends to move the age threshold for the NLW to 21 by 2024 (the planned reduction from 25 to 23 has already come into effect this April).

### **The Scottish Women's Convention (SWC)**

The Scottish Women's Convention (SWC) is funded to engage with women throughout Scotland in order that their views might influence public policy. The SWC uses the views of women to respond to a variety of Parliamentary, Governmental and organisational consultation papers at both a Scottish and UK level.

The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission provides the views of women and reflects their opinions and experiences in a number of key areas relevant to women's equality.

The SWC is currently engaging with women through digital roadshows, online surveys, asking women to comment by email and by telephoning those who want to talk. We are also using our wide network to ask women to collate views in their local communities and forward these to us on a regular basis. We are continuing to review innovative ways of engaging with women throughout Scotland using whichever medium is appropriate to them.

## Economic Outlook

### **2. What are your views on the economic and business conditions in the UK for the period up to April 2022?**

The unpredictability of the future for the UK coming out of the pandemic is extremely concerning for women at both an organisational and individual level. Women, especially those with additional protected characteristics, have been disproportionately hit by the current situation.

- Women, especially young women, predominate in service sectors such as hospitality, retail and tourism which have taken an enormous economic hit during the pandemic. While we have seen the easing of restrictions in recent weeks, there is still much uncertainty and there will not be enough jobs for women to go back to as the economy starts to recover.
- In these sectors, there were large numbers of layoffs prior to the announcement of the UK Coronavirus Job Retention Scheme, meaning no qualification for furlough.
- These sectors rarely pay more than the statutory minimum and offer little job security. During the pandemic, women have been worst hit by losses of income this has meant wages dropping below the NMW/NLW for many women in these sectors, and women have been worst hit by loss of income.
- Women with children are at a heightened risk of job loss due to a lack of childcare and adequate employment rights in regard to self-isolation for themselves or their children.
- Women from all walks of life have been affected by the economic conditions of the pandemic. For instance, one woman explained *'naïvely, claiming benefits and redundancy weren't things I'd ever expected for myself.'*

### **3. To what extent have employers been affected by other major trends in the economy and labour market: for example, Brexit, the shift to homeworking or any changes in the numbers of migrant workers in the UK?**

In sectors which have adopted working from home during the pandemic, there are now many employers who intend on continuing with its use after the pandemic. We have heard that many employers will permanently adopt 'hybrid' working or are even moving to all homeworking and closing down offices completely to save on overheads. The SWC advocates the benefits of homeworking in terms of the fact it can be more flexible for women with caring responsibilities and enables disabled women in particular to take on employment that might not otherwise be accessible to them. However, we would recommend caution about moving to an entirely home-working model. The pandemic has seen cases of domestic violence increase drastically and, for many women in these circumstances, going out to work is one of the few instances of respite from abuse and a chance to potentially seek help.

Many of the legislative and policy measures that have long protected women against workplace inequality were implemented through the EU. Post-Brexit, employers are no longer obliged to uphold these standards and we need to make certain that measures are in place

to ensure women remain protected. The fact that employers will now have to sponsor visas for certain workers could be prone to exploitation as workers will be less likely to speak out against bad conditions or being paid less than minimum wage when their employer holds the power to have them removed from the country.

#### 4. What is your experience over the past year in the following areas?

##### Productivity:

The effects of home-schooling have disproportionately negatively affected women.

- Women make up more than 90% of single parents, and even in heterosexual two-parent households, women have reported that they have taken on more of the increased childcare and domestic labour than their partners.
- The reduction in care and other support services, along with the ill-health directly caused by COVID, have led to an increase in women's caring responsibilities for other family members.
- As one woman noted, *"For me, caregiver burnout was brought to a head by the pandemic,"* and the increased stresses of the pandemic have had a negative impact on women's mental and physical health.

Consequently, women have largely felt that their productivity at work has been reduced.

- For women forced to work from home, continually meeting the demands of children and other family members has meant less capacity for their paid employment or having to make time for it during unsociable hours to the detriment of their health.
- However, many of the sectors in which women predominate (e.g. retail, cleaning, health) cannot be done from home and many women have had to balance increased responsibilities at home with still going out to work.
- For instance, nearly twice as many mothers report believing they would have to take time off work with no pay due to school closures or a self-isolating/sick child compared to fathers.

However, there is a more systemic issue that women largely have to be more productive than their male counterparts in order to get the same recognition.

- Women have reported feeling that they have to work harder than men, and there is a recognised sense of *'imposter syndrome'*.
- The pandemic has led many women to re-evaluate the impractical expectations put on them at home and at work, with one woman saying, *'it has made me reflect on whether how much I take on is sustainable.'*

##### Pay structures and differentials/progression and job moves/training:

A further effect of the aforementioned increase in care responsibilities faced by women during the pandemic has been a lack of opportunity for progression and job moves.

- Women have missed opportunities because they have often had to work more flexible hours than their male counterparts and this is, unfairly, given by employers as a reason not to progress women.
- Many of the low-income sectors where women predominate offer little training and opportunities for job progression anyway, but these opportunities have been reduced even further by companies losing so much money during the pandemic.

#### Quality of work, including contract types, flexibility and work intensification:

While the furlough scheme did have positives, protecting many workers from losing their income completely, it did lead to instances of work intensification. In order to gain the maximum benefit from the furlough scheme, many employers tried to keep the number of working employees as low as possible. We have heard of examples of small pubs and bars where women were expected to work shifts alone, not only greatly increasing their workload but also risking their personal safety.

Women predominate in sectors where precarious employment is highest, and they experience many issues with their contracts.

- We know that many women in precarious employment have to work unpaid overtime that means their real-term income is less than the NMW.
- For women on zero-hours contracts who rely on being given a certain number of hours, the pandemic has seen their hours reduced significantly, putting their income at a level that is not enough to live on.
- During the pandemic, there have been many instances of worker displacement where those on permanent/full-time contracts have been reallocated within companies, side-lining those on fewer hours completely.

#### **5. Apart from the minimum wage, what other factors affect workers in low-paying sectors and occupations?**

Many women work on zero or low-hour contracts, meaning that their shift patterns often change from month to month. As a result, incomes can be very unpredictable for those women on Universal Credit.

- Since Universal Credit works by a process of back-payments, there are often times when women are left without enough money to get through the month, and this is a large factor in the increase in child poverty and in-work poverty.
- Looking more broadly at the issues of social security for those in low-paying sectors, one woman expressed that *“Often low paid jobs don’t give you enough to live on. The government has to give you money through credits, thus saving bad employers’ cash. It’s ridiculous!”*
- Furthermore, there is definitely a sense that women’s work as carers is undervalued and the current benefits are insufficient in recompensing women for their indispensable contributions to society. *“Having benefits like Universal Credit and Carer’s Allowance require a financial assessment - it’s like measuring the caring you give. It takes out the human being aspect.”*

- Many young women do not qualify for aspects of social security because of their age, further compounding the issues of low pay and age band discrimination.

In addition, workers in low-paying sectors face issues of work-related expenses.

- Many workers are required to buy their own uniforms which can be incredibly difficult if they have to spend money they do not have before even being paid. Although it is illegal for employers to charge uniform costs that cause wages to drop below the minimum wage, there are still many employers that find ways round this, and the current tax relief does not do enough to support low-income workers, not least because so few know about it. This is especially notable in sectors where bogus self-employment is rife, such as fast-food delivery and care work.
- Over the past year, we have also seen many people having to pay for their own PPE, despite this being a legal obligation of employers.
- It is already a well-known fact that it is expensive to live on a low income as people can only afford cheaper, low-quality items; shoes being the infamous example. Continuing with this, a carer or cleaner, for example, who is on her feet all day will go through shoes a lot more quickly than someone sat at a desk, yet there is no onus on employers to account for this and recompense workers. This especially affects women as they are more likely to be in low-paying sectors, and women's clothing and footwear is notoriously less durable.
- During the pandemic, homeworking has meant increased costs for workers in the home. Many low-paid workers have had to pay out for higher electricity bills, office furniture, technology and broadband. Although tax relief can be claimed for working at home, for many workers this has not been enough to offset the extra costs.
- As a result of school closures during the pandemic, many of the provisions in place to help parents in low-paid jobs have been lost. Where children would normally get a free school meal, parents have had to find money for extra food, and many families have had to pay out for technology so children could participate in home-schooling.

Similarly, workers in low-paying sectors often have to spend a higher proportion of their wages on travel expenses commuting to and from work.

- When people do not have the money for the upfront costs of season tickets, for example, they have to rely on cheaper alternatives that end up more expensive in the long-term.
- Many workers in low-paying sectors such as hospitality have to work unsociable hours. As the tragic death of Sarah Everard has brought to the fore, many women feel unsafe having to take public transport or walk home from work late at night but are forced to put themselves at risk because they cannot afford an alternative. While the Get Home Safe campaign and trade unions are doing great work, more needs to be done. Employers need to be encouraged and supported to put provisions in place for their workers, without this leading to workers being penalised (e.g. having shifts reduced).

## The National Living Wage

### **6. What has been the impact of the NLW in the past year? Our critical interest is in its effects on employment, hours and earnings.**

The majority of women support there being a legislative remit for a national base wage, but it needs to be just that: a minimum.

One issue that has been noted is that some employers cut workers' hours in order to offset the increase in minimum wage. This means stagnation of wages and in real-terms, workers face wage cuts because living costs are increasing at a higher rate than wages. A knock-on effect of employers reducing working hours to cut costs, is an intensification of workload. This adds unnecessary stress for workers, and also there is the added pressure that if they cannot meet the increased demands, they face the risk of losing their job. This leads to a further issue which is that some employers will simply scale back the number of workers on lower hour contracts in the first instance as a means of keeping costs low.

### **7. To what extent has the NLW affected different groups of workers, particularly those with protected characteristics (for example women, ethnic minorities) and migrant workers?**

As is demonstrated throughout this response, the evidence we have gathered from the lived experiences of women shows that women are disproportionately affected by low wages and precarious employment. Not enough is being done to remedy the engrained gendered division of labour that means sectors where women predominate are chronically undervalued. Where other protected characteristics are present, the effects are further compounded.

### **8. How has the NLW's impact varied across different areas of the UK?**

- In 2019, Dundee became the first Living Wage City in the UK and Glenrothes was the first Living Wage Town. In partnership with the Living Wage Scotland campaign, the councils in these areas are working together with a range of other local employers to commit to paying workers the real living wage. Measures such as these can help to tackle in-work poverty and boost the local economy, driving up wages and therefore increasing spending in the community.
- The difference in hours of free childcare offered in Scotland is higher than that in England and is due to go up to 1,140 hours per year in August 2021. For women in particular, this has a huge effect on whether or not they are able to return to work after having children. When there is not enough affordable childcare, women are often worse off going out to work because the hourly rates charged by childcare services are significantly higher than those of a minimum wage job.
- The Highlands and Islands have been hit very hard by the pandemic. The economy relies very heavily on tourism and hospitality, meaning that many women have lost their jobs during the pandemic. Alongside this, the cost of living is higher in these areas which has made life very difficult for women in these communities. Women have shared with us that they feel the pandemic has been a chance to reset the local economy, encouraging people to support local businesses. This is likely to result in an

increase in jobs, but they will likely be minimum wage jobs due to the nature of the work.

**9. The Government's remit for the NLW is based on achieving a target of two-thirds of median earnings by 2024. Based on forecasts, our current central projection for the April 2024 NLW rate is £10.33. What are your views on this target? 11. At what level should the NLW be set from April 2022? Our current central projection for the on-course rate is £9.42, with a likely range of 7 pence above or below this figure.**

While the SWC supports any plans to increase the NLW, we believe that these proposals do not go far enough. The system by which wages are calculated is broken and determining wages by comparison with other jobs in a flawed system is futile. As has become apparent in the lockdown, much of the work that brings the most value to our society (retail, health, cleaning) is chronically undervalued. Women, especially those with additional protected characteristics, are most likely to be in these lowest paid sectors. Coupled with the fact that much of their domestic labour is completely unpaid, women are chronically underpaid for their contributions to society.

Moreover, the calculation does not give any consideration to the actual cost of living. Living expenses are continuing to rise, but people's pay is not rising at the same rate to meet them. In addition, the calculation of an hourly rate is premised on the assumption that a certain number of hours paid at this rate are required for someone to be able to live on it. For many women, on zero-hour, minimum hour, or part-time contracts, this is not the case. Rising in-work poverty is testament to the fact this wage is by no means enough to live on, and those in working poverty are most likely to be ethnic minority women with children. As such, the continued use of the term 'National *Living Wage*' is inherently deceitful, and it should be called what it actually is: a National *Minimum Wage*.

**10. How have employers responded to the lowering of the NLW age threshold to 23?**

Some small businesses have relied on employing young workers as a means of keeping costs low. As has been discussed elsewhere in this response, there is a systemic undervaluing of the work typically done by women. For this reason, it is often small businesses run by women such as private childcare services, hair and beauty salons, and small cafes that have small margins and are therefore struggling to pay workers. These sectors have also been hit especially badly during the pandemic, and more needs to be done to ensure that the effects of the pandemic are not increasing gender inequality.

## Young People

**12. What do you think has been the effect of the minimum wage on young people and on their employment prospects?**

The fact that young people can be paid less is often used as a means of exploiting them.

- In the childcare industry, for example, women being taken on incredibly young and then being laid off when they reach a certain age is a quite common issue. This is often disguised as ‘training’ that comes to an end when they reach a certain age so that new, younger women can then be brought in. However, the reality is that it is exploitation, and young workers are seen as dispensable.
- Moreover, many young people have not been taught about their workers’ rights and feel powerless to challenge their employers if they are not given the wage to which they are entitled.

There is definitely a likelihood that the poor rates of minimum wage for young people contributes to high levels of youth unemployment.

- Young people, especially young mothers, are often better off taking the benefits they receive when out of work as they are unable to live on the pitiful minimum wage for their age bracket.

**13/14. This year sees the creation of a new 21-22 Year Old Rate, which will remain in place until the NLW age threshold is lowered again to 21. To what extent will employers use the new 21-22 Year Old Rate? At what level should it be set from April 2022? When do you think the NLW age threshold should be lowered to 21? What factors should we consider in making this decision? At what level should each of the other NMW youth rates (the 18-20 Year Old Rate and the 16-17 Year Old Rate) be set from April 2022?**

Having consulted with many young women, our main recommendation is getting rid of the different brackets, paying all workers the same minimum wage, and ending age bracket discrimination.

- Many young people have the same responsibilities and outgoings as those over the age of 23. The minimum rate for under 18s has gone up by less than a pound in the last decade which in no way reflects the increase to living costs over that period.
- When workers do the same job and work just as hard as their colleagues there is no reason why they should be paid less. There is a fundamental injustice in the current system and this should be rectified as soon as possible.

In addition, there needs to be a cohesive strategy around the employment and education prospects for young people.

- We know that there are high dropout rates in further and higher education among those from low-income backgrounds. One of the main reasons for this is that they are having to juggle work (sometimes more than one job at a time because the wages for their age are so low) alongside their studies.
- For this reason, the low rates of pay for young people can have an impact on lifelong employment prospects, and they perpetuate inequality.

## Compliance and Enforcement

### **18. What issues are there with compliance with the minimum wage and what could be done to address these?**

In many of the sectors where women predominate, such as hospitality, cleaning and retail, there tends to be high levels of precarity and a lack of trade union representation.

- This means that many women do not know their rights at work and, without the strength of collective bargaining, they are powerless to enforce compliance.
- This could be addressed by repealing all of the anti-trade union legislation. By guaranteeing unions the right to enter workplaces, awareness of workers' rights around the minimum wage could be improved. Furthermore, employers could be more duly held to account if there was proper enforcement of regulations around discriminating against workers based on their trade union membership.

Even women who do know their rights are still often fearful of losing their job.

- While the economy is so unstable and so many people have lost their jobs completely during the pandemic, many women are forced into a situation where they feel a job earning less than the minimum wage is still better than no job at all.
- Although it is not lawful for an employer to sack someone who speaks out against being paid less than the minimum wage, unscrupulous employers will always find ways round this, such as bullying or performance-managing people out of the job.
- Until we have more suitable social security measures in place to ensure women do not end up in poverty if they become unemployed, it is hard to see how they can be expected to take compliance into their own hands.

### **19. What comments do you have on HMRC's enforcement work and the guidance available to employers?**

While the furlough scheme was welcomed by the majority of women as a necessary measure to protect income, there were gaps in the guidance and enforcement.

- When the 80% of wages meant workers were on less than the minimum wage because employers were not topping it up, this was not considered a legal breach.
- Employers should not have been excused for this, and the fact there were no repercussions demonstrates a broader issue with the state's disregard for low-paid workers.
- Although some have argued that people on furlough were not working, this attitude points towards the fundamental misunderstanding about the relationship between wages and the cost of living. People's bills did not decrease during the lockdown; as discussed earlier, many people's expenses actually increased.
- The state and employers alike need to understand that there is a moral responsibility to ensure the welfare of workers. Low pay and in-work poverty put people's lives at risk, and therefore sanctions for uncompliant employers should match the severity of their actions' consequences.

## Live-in Domestic Workers

**21. Under section 57(3) of the National Minimum Wage Regulations 2015, work done by a worker in relation to an employee's family household is exempt from the NMW if the worker lives with the employer and is treated as a member of the family. What evidence do you have on the use of this exemption? We are particularly interested in evidence on the characteristics of workers affected, and the prevalence of its use.**

Since live-in domestic workers tend to be carers, au-pairs, nannies and maids, they are much more likely to be women.

- The nature of caring work such as this means that the good nature of workers is often exploited. There is an expectation that they are available to work at any time of the day or night, often taking on a lot more work than has been agreed.
- During the pandemic, conditions for live-in domestic workers has been especially tough as they have had to bubble up with their host family. When lockdowns were especially stringent, this often meant that they could go long periods of time without seeing their own family and friends, and this undoubtedly had an impact on their mental health.
- Due to the circumstances around this type of work, contracts are often informal. This means that these women are less likely to speak out and have little or no formal recourse when they are being treated unfairly or underpaid.

Moreover, the nature of the work means that it is often especially young women or migrant workers in these situations.

- Post-Brexit especially, there is a real concern that this type of work and this exemption will be used as a means of exploiting migrant women who do not know their rights and feel indebted to their employer, especially if it is their employer who has arranged their visa.
- There is an inherent power imbalance in hiring young or migrant women. Although there is the argument that these workers are exempt from the minimum wage because they are having many of their living expenses paid for, they still have a need for some level of financial freedom. As is the case in domestic abuse situations, these women need access to their own source of money or they can become stuck in these situations indefinitely. This can especially be difficult for migrant workers who may have to send remittances to family or friends in their home country.
- The work of these women still needs to be valued so there definitely needs to be a minimum amount that should be paid.

## Miscellaneous

### **22. Is there any other evidence, not touched on in the questions above, which you wish to share on issues relating to the NLW/NMW?**

The pandemic has seen increased levels of volunteering. There have been many factors contributing to this, some positive like the increased sense of community spirit that has come with these difficult times, but some of them are more adverse like the fact that people have had to step in where services have been reduced or cancelled during the pandemic. As an organisation with many volunteers, the SWC acknowledges the benefits of volunteering to the individual and the community. However, the goodwill of volunteers can easily be exploited by unscrupulous employers who take on volunteers in order to undercut workers and minimise costs. This is especially prevalent among young workers, women with young children and older women, and is indicative of the systemic undervaluing of women and the viability of their contributions to the labour market.

Further to this, there is a systematic undervaluing of women's work, both in and out of the workplace. As has been discussed throughout this response, women take on disproportionate amounts of caring responsibilities and domestic labour, and this has been exacerbated further by the pandemic. Discussion of NLW/NMW needs to be ambitious and take into consideration the way in which we value all work. As one woman remarked, *"One of the most inspiring campaigns for me was the 'Wages for Housework' campaign that demanded women be paid for their work in the home, as it is exactly that - work. UBI would give women the financial recognition that they deserve for their unpaid work at home and in the community that contributes billions to both the Scottish and UK economies."* Another woman commented, *"What's wrong with being a carer? It is one of the most rewarding jobs you can have. We need to start rewarding people for doing these jobs and valuing them through a system like UBI."*

## Conclusion

The SWC is grateful for the opportunity to respond to the Low Pay Commission's Consultation on the effects of the National Living Wage and National Minimum Wage. As an organisation, we will continue to work with women from across Scotland to gather voices and experiences relating to such legislation and the effect of this on women's equality.

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