

Not Just For The Good Times

The New Imperative for Fair Pay



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Foreword

Baroness Helena Kennedy QC



The current recession could easily be appropriated to provide a smokescreen for legislators and employers to freeze the wages of those in most need, who have played no part in engendering the economic crisis that is hitting them and their families so badly. This would be beyond folly; it would be commercially dangerous and socially short-sighted.

In many ways, the evidence that follows in this publication is a direct challenge to government, political parties and elected representatives of all colours and to all employers not to let the severity of the current economic crisis widen the scandal of low pay in modern Britain.

As well as a rational appeal, this report also serves an empirical study into the problem of low pay and a constructive intervention on how best practice by employers and ethical conduct by elected bodies makes sound business sense. The 14 national organisations that form the fair pay network – who collectively represent millions of members and affiliates nationwide – have consulted their policy teams, researchers and talked directly to those within their sphere of influence who are most negatively impacted by low pay.

It is instructive to note the exclusive interviews with the front bench representatives of each major political party with the remit for fair pay. Now more than ever it is vitally important for the electorate to be clear on what our elected leaders plan to do to help those most vulnerable in our labour market. At the next general election it is incumbent on all political parties to offer clear, coherent manifesto solutions to the issue of low pay within the overall poverty equation.

But perhaps the most important section of what follows is the business case provided by KPMG. Once again, a tested, evidenced and consistent premise for the desirability and sustainability of ethical, fair pay policies is presented, in this instance by a successful

commercial monolith that employs over 136,500 people, spanning over 140 countries. There are vital lessons here for British employers; hackneyed knee jerk rejections of fair pay policies are not just unsubstantiated, they are irrational.

Wider evidence also consolidates the suggestion that to increase the wages of the lowest paid at this time would actually galvanise local economies, as it would place expendable income directly in the hands of employees who for the large part would spend salaries locally, bolstering local economies. In particular, where living wage implementation surveys have been conducted, this has proved emphatically to be the case.

From the urgent necessity to increase, protect and make more robust the apparatus of enforcement around the National Minimum Wage to the growing development of living wage policies – especially within negotiated procurement contracts - the challenge for government and local authorities is crystal clear. For employers, an opportunity is presented to invigorate their businesses, invest in their people, and improve their overall output and quality of service delivery. This is the new imperative for fair pay. ■

Executive Summary

Matthew Pennycook

Fair pay policies are not just for the good times. In fact the opposite is the case. Fairness must be reinforced rather than discarded during challenging economic circumstances. The necessity of fair pay during this recession stems not only from the need to protect those most at risk in the downturn but also from the need to ensure that we emerge from this crisis in the direction of a more successful and sustainable economic model and labour market. A model grounded in the principle that working people have a right to remain free from the blight of poverty and where adequate pay levels play their part in helping us move away from an economy built on the hazardous sands of unsustainable personal debt.

Progress towards such a model is now more perilous than ever. The tentative steps made over the last decade towards a fair pay employment culture are threatened by the unprecedented crisis in the financial system and the economic recession which has followed in its wake. In addition to a more general swelling of the ranks of the unemployed and low-paid workforce the downturn could also endanger the limited protection afforded by the National Minimum Wage (NMW) and the validity of pioneering fair pay best practice initiatives around the country.

Given the scale of the economic downturn we now face there is a clear and present danger that employers will be tempted to apply downward pressure on wages and retain or revert to low cost, low value, low skill business models. Public authorities may be tempted to use the recession as a smokescreen for driving down pay. In some cases irresponsible

employers may even be tempted to flout the NMW and clandestinely drive wages down below the legal minimum. The potential social and economic costs of reflex reactions along one or any one of these lines cannot be underestimated. Not only will widespread wage decreases tear at the social fabric of our communities by impoverishing and marginalising large numbers of working families they will compound falling consumer spending at a time when aggregate demand in our economy must be sustained.

Therefore, as appealing as it may now seem to many we must resist the temptation to scramble towards the comfort zone of traditional economic and labour market orthodoxy. It may seem paradoxical but as National Union of Students Vice President (Welfare) Ama Uzowuru rightly argues in chapter 10 ‘...now is precisely the right time to tackle the culture of vulnerable and low-paid employment, and to put the economy on a surer footing.’

Now, more than ever, we need action to maintain the effectiveness of the NMW by maintaining its ‘bite’¹ and taking action against rogue employers by ensuring compliance and enforcement are adequately coordinated, funded, and resourced. Only then can we be sure that the legal wage-floor sanctioned in the NMW is watertight.

Now, more than ever, we must make the Government recognise, as Deborah Littman argues in chapter 7, that cutting public service jobs, pay, and investment will only make the downturn worse. Only then can we ensure that public services continue to properly protect individuals, families and communities from the worst effects of the downturn and





help public service workers play their part in maintaining demand in the economy.

Now more than ever, we must amplify the case for pioneering best practice living wage models by publicising and sharing the experience of successful organisations that have adopted them, considering new business models, and thinking of innovative ways to avoid economic pressures translating into wage reductions at the bottom end. Only then can we gain the necessary knowledge and experience that will equip us to move towards a sustainable fair pay culture.

All the above are essential if we are to continue to move towards a Britain in which levels of low-paid work in the labour market are drastically reduced, where low pay is transitory, and where pay ensures that working people and their families remain free from poverty.

We must therefore remake, restate, and amplify the case against the social injustice that is low pay. We must ensure that low-paid workers are afforded all the security possible in these challenging times and utilise the space provided by challenging circumstances to rethink the damaging labour market model which has dominated our economy for the last three decades. As New Policy Institute Director Peter Kenway argues in chapter 11, ‘Unfair’ pay, whether in the public or private sector, is not part of the solution.’

Below we restate the case against the social injustice of low pay in the context of the recession and set out recommendations for ensuring we can emerge from the economic downturn with a fairer, more sustainable, and more socially just economy and society.

Key Recommendations

Ensure the National Minimum Wage continues to rise

The Low Pay Commission and the Government must resist calls to hold down any potential uprating of the NMW. The Government must ensure that the NMW continues to increase over time in real terms. Holding down any increase in the NMW this year would not only harm those individuals and families worst affected by the economic downturn but would remove a central plank upon which economic recovery depends: the substantial and immediate economic stimulus that would be gained if low-paid workers feel they have sufficient income to spend in their local economy. It is notable that even during the recession of the early 1990s, despite the absence of any legal wage floor, average pay continued to rise in real terms – there is no reason to treat pay at the bottom end of the labour market any differently in current circumstances.

Provide 21 Year Olds with the adult National Minimum Wage rate

We recommend – as the Low Pay Commission did in their 2008 National Minimum Wage report – that 21 year olds should be entitled to the adult rate of the NMW. Our ultimate aim is to see all age differentials in the minimum wage abolished. Younger workers should not be paid less simply because of their age and irrespective of their capabilities or responsibilities. Employers do not need to wait for the law to change, but should review their pay policies now in order to ensure that younger workers are treated fairly.

Strengthen National Minimum Wage Compliance and Enforcement measures

The Government has enacted a number of proposals to make NMW compliance and enforcement meaningful. Where these have been effective we welcome them. However, our research suggests that significant gaps remain in the floor ostensibly provided by the NMW and that the measures introduced by the Government to remedy instances of NMW law infringement may not be functioning effectively (see below). On this basis we recommend:

- An increase in the number of staff in, and resources provided for, the NMW Compliance Unit across all regions of the United Kingdom.
- The introduction of a clearer and simpler system of employment rights to replace the existing employment status regime. The current framework means that ‘employees’, ‘workers’ and those who are ‘self-employed’ are entitled to different levels of protection at work. The complexity is confusing for workers, unfair for those who lose out on employment rights, and easy for rogue employers to exploit and deny staff fair treatment.
- Better coordination between enforcement agencies. Agencies such as the Employment Agency Standards Inspectorate, the Gangmasters’ Licensing Authority and the Health and Safety Executive all encounter minimum wage violations but have no enforcement powers of their own and no guarantee that HM Revenue and Customs (HMRC) will pursue cases reported by them. We recommend that the Government builds on the Fair Employment Enforcement Board by taking further steps to coordinate the work of these agencies with HMRC, removes all institutional and legal barriers to joint case management, and provides the enforcement regime as a whole with the additional resources required to become more proactive. Work should be done to strengthen the role of Trade Union’s and other stakeholders such as community groups in the employment rights enforcement and intelligence gathering process.
- The introduction of a government subsidised fund to enable workers who have been underpaid or not paid the NMW and who have fought and won wage arrears claims to receive *immediate* payment to help them stave off financial collapse. With the Government taking on the role of intermediary in this way abused workers are guaranteed that the wages they are owed will be repaid immediately and rogue employers can be pursued for repayments by the full resources available to the Government. While most of the estimated £29 million

identified by the Government as being owed to employees who were underpaid or not paid the minimum wage under the National Minimum Wage Regulations 1999 has been repaid, our research suggests that the exact proportion is not accurately known by the Government.² In addition to the introduction of a Government subsidized fund we therefore urge the Government to take immediate action to trace the precise levels of repayment to employees who have suffered minimum wage underpayment.

Tackle Low Pay in the Public Sector

We call on the government to root out low pay in the public sector – in which approximately a quarter of all low-paid jobs reside – in order to guarantee fairness and aid economic recovery by boosting demand. In the Public Sector Government (local, central and across the devolved administrations) is actively allowing the culture of low pay to continue, whilst subsidising it through the tax credit system. We urge leadership to root out low pay in the public sector and show all employers the responsibilities they have to pay a decent wage.

Sustain and Encourage Fair Pay Best Practice

We strongly recommend that the Government encourages and supports living wage initiatives – in the public and private sectors – during the downturn and beyond. The experiences of Living Wage and Fair Pay employers across the country shows that living wages not only make moral sense but bring obvious economic benefits to employers by cutting staff turnover and boosting productivity. Furthermore, increasing pay levels where appropriate is another means of stimulating demand during the recession. By encouraging and supporting those employers who can incorporate fair pay or living wage initiatives into their business models and taking a clear stand against knee-jerk wage cuts the Government can aid economic recovery and lay the foundations for the spread of a more equitable, fair, and sustainable model of business and economic growth.

Low pay

The case against low pay³ is clear, unequivocal and familiar to many. What Chief Executive of Counsel and Care, Stephen Burke describes in chapter 9 as ‘the problems of endemic and enduring low pay’ effect approximately 5.3 million people – over a fifth of all employees in this country.⁴ For this reason since 1997 the Labour Government has sought to ameliorate some of the worst affects of low-paid work for those individuals who receive it. Yet while the National Minimum Wage, basic holiday entitlements, the Working Time Directive, and the use of public funds to subsidise low-paying job sectors through the use of tax credits has benefited millions they have not reversed the trends which began in the late 1970s towards a labour market defined by a high-incidence of low-paid work.

Levels of low pay, taking the commonly used definition, have therefore remained unchanged in the last decade and remain extremely high. International comparisons suggest that its incidence in the United Kingdom is still one of the highest in Europe.⁵ In 2005 an estimated 22.1 percent or 1 in 5 employees in Britain fell below the low-pay threshold. This compares to 17.6 percent in the Netherlands in 2005⁶, 12.7 percent in France in 2002⁷, and 8.5 percent in Denmark in 2005.⁸


The UK labour market remains one defined by its high proportion of low-wage workers, buoyant job growth in most low-wage industries (such as hairdressing, social care, retail, hotels and restaurants, and security), relatively weak employment protection, a low and declining ratio of unemployment benefits to earnings, high wage inequality with a large penalty for working in low-status jobs, relatively low union density, meaning that many workers do not receive protection through collective bargaining, and a culture of households working long hours combined with a high level of work effort.⁹

A labour market of this kind not only stymies economic performance – low pay is associated with low value-added employment and low productivity – but compounds a variety of social injustices by contributing to persistently high levels of relative poverty and inequality. For this reason low pay is a social injustice in its own right and its reduction a crucial step in building a fairer society. Low pay substantially increases the chance of finding oneself in ‘working poverty.’¹⁰ This is why less than a fifth of low-paid adults (19 per cent) earned enough to lift their household out of


poverty through their wages alone, compared to more than three-quarters of non-low-paid workers¹¹ and 57 per cent of households and nearly half of the three million children living below the poverty line have at least one person at work in their household.¹² As Paul Dornan from Child Poverty Action Group argues in chapter 7, ‘Starting a job is not a safe route out of poverty: in one in three cases moving into employment from out of work poverty simply shifts a family into in-work poverty.’

The case is irrefutable: poverty and low pay are entwined over the life course individuals and across generations.¹³ While analysis and statistics flow endlessly from our pens the reality for many of our fellow citizens living in a low-wage households is going without meals, clothing, holidays, educational opportunities, heating, healthcare and medicine, and basic leisure activities that the rest of us take for granted. Yet while the relationship between poverty and low pay has long been recognised, action to tackle those incidence levels has been limited.

This is not due to any insurmountable barriers but is the product of an absence of political will. Even a cursory glance at the above levels of low-paid work in other Western labour market’s prove that the high incidence of low-paid work in the United Kingdom is not the inevitable product of a functioning market economy, technology, efficient organisation, or the pressures faced by states in a globalised world. Rather it is the outcome of a complex mix of policy choices and the social and institutional context specific to the United Kingdom. As a result large numbers of low-paid workers in Britain are not a predetermined fact. We can, through what policy choices we make, significantly affect that most fundamental of economic choices – the division of gains and losses in our economy and labour market.



...we must resist the temptation to scramble towards the comfort zone of traditional economic and labour market orthodoxy.



Despite its commendable record on pay and employment rights the government has not built upon its success by developing an explicit agenda to tackle low pay. Yet paid work is a core element of the government’s anti-poverty strategy and its aim to halve child poverty by 2010 and to eradicate it by 2020. The fundamental assumption of current government policy that paid work is the ‘single most effective means of avoiding poverty, both now and in the future’¹⁴ has underpinned efforts to increase employment rates, to make work possible for individuals who have traditionally existed outside the labour market, and to ‘make work pay’ relative to out-of-work benefits. However, while work may be the surest route out of poverty, it is far from an inevitable one.¹⁵

Therefore in addition to the essential focus on skills the government must actively encourage and support a move away from a labour market defined by a high incidence of low-paid work towards one defined by a higher proportion of adequately paid jobs where fair pay best practice is widely celebrated. Direct Government action can lead the way. As Kate Bell from Gingerbread argues in Chapter 8, ‘We can and must do more and Government can start by setting an example and tackling low pay across the public sector, insisting that companies from whom it procures contracts pay a living wage.’

Low-paid work and the recession

In addition to the probable rise in the proportion of low-paid jobs in the British economy the economic recession we are now entering is likely to have two specific consequences for low pay. Both must be guarded against if we are to maintain fairness for low-paid workers in the downturn, ensure the recession is as brief as possible, and establish the foundations for a more sustainable and equitable labour market and economy.

National Minimum Wage infringement and the exploitation of vulnerable workers

For the last nine years the national minimum wage has lifted pay at the bottom of the wage ladder without – despite widespread predictions – impacting on levels of unemployment. As a result, while it has not served to alter the high proportion of low-

paid jobs in our economy it has helped keep income inequality in check and has narrowed the gender gap amongst the lowest paid.¹⁶

The success of the minimum wage and the 'bite' it provides in relation to median hourly pay may be placed in danger if the Low Pay Commission decides, following its deliberations, to freeze or restrain any increase in the real term value of the NMW for the period October 2009 - October 2010 as the CBI and others are calling for. Not only would such a blunt reaction disproportionately harm low-paid workers but it would paradoxically jeopardise the health of our economy by depressing consumer demand – a mistake the new Obama administration in the US has been determined to avoid. It is therefore imperative that the 'bite' of the NMW is sustained by continued increases over time in real terms. As Richard Excell, Paul Sellers and Nicola Smith from the TUC argue in chapter 5, '...A fairness agenda means a commitment to continuing cost-of-living pay increases for low-paid workers,' an increase which 'would generate a substantial economic stimulus.'

However, the effectiveness of the NMW is also at risk from disreputable employers who might be tempted in recessionary circumstances to drive down wages below the legal floor and flout employment protections. Migrant workers are especially vulnerable and, as Don Flynn, Director of Migrants Rights Network puts it in chapter 14, their survival strategy during the recession is likely to involve a forced acceptance of 'downward pressure on wages and conditions and hence a rise in remuneration at below fair pay levels.' For vulnerable migrant and indigenous workers exploited by such employers – whose positions are insecure and who are often not even aware of the rights they are legally accorded – the result is often a wage far below that of the legally mandated national minimum. As has been well documented rogue employers bypass NMW provisions through a variety of surreptitious techniques including mandated uniform and transport costs, denial of maternity or paternity leave, non-payment for sickness or holiday entitlement, and the use of bogus self-employment status to circumvent legal protections.¹⁷

Prior to the introduction of the current Government's employment protection measures such practices were completely within the letter of the law. In that respect the NMW along with the Gangmasters (Licensing) Act 2004 and other regulation has

done much to stem the tide of abuse by providing legal standards below which individual workers should not fall. However, the success of the NMW and other employment rights depends almost entirely upon their enforcement. In this respect their effectiveness is often found wanting.

The government has recognised the problem, increasing the budget for minimum wage enforcement to £9 million a year in the 2006 pre-budget report while government ministers continually affirm the need for stronger enforcement. New measures to come into force in April 2009 require rogue employers to make up wage arrears if they pay below the minimum wage and faced with a possible fine of up to 50 per cent of the total underpayment.¹⁸ This is a good start but the deterrent value in such measures for those continually infringing the law is still inadequate. In any case, penalties are meaningless if rogue employers cannot be identified and apprehended. The lack of resources accorded to regional enforcement teams and Customer Response Outreach Workers (CROW) makes this a task difficult. Evidence shows only 125 compliance team staff in the entire United Kingdom¹⁹ and the government minister responsible has stated that 'there are no plans to increase the capacity of this team as current demand is being met.'²⁰ According to a study produced in 2006 a typical employer will only get inspected once every 330 years.²¹

The economic downturn will only serve to increase the incentives for these employers to flout national minimum wage legislation and contravene employment rights. Some employers may be tempted to alter staff terms and conditions, transfer employees to 'worker' contracts, or falsely categorize workers as self-employed as a means of saving outgoings.

There is therefore a renewed urgency for extra resources to be given to enforcement agencies to ensure potential rogue employers are properly deterred from flouting the law in the downturn. As Krisnah Poinasamy from Oxfam argues in chapter 4, '...enforcement of the national minimum wage requires urgent attention to ensure that employers do not cut corners and force the most vulnerable workers into poverty.' The government must therefore rapidly roll out a far more rigorous enforcement agenda which would provide for better funding and coordination of enforcement agencies and substantially increased penalties for non-compliance with employment rights through fines and negative publicity. As Jack Dromey puts it in chapter

8, 'enforcement without teeth, is little use to the millions of vulnerable workers in modern day Britain.'

The threat to fair pay best practice

While the introduction of the National Minimum Wage has had a substantial impact on the wages of the lowest paid it is very far from a watertight means of avoiding working poverty. Recent research funded by the Joseph Rowntree Foundation shows that a single person with no dependents, living in council housing, needs £13, 400 a year before tax to afford a basic, but acceptable standard of living²² a figure well above the £11, 173.50 a minimum wage worker will earn per year.

For this reason the last decade has witnessed the introduction of a number of diverse living wage initiatives across the country. Grassroots initiatives were initially at the forefront with the establishment of living wage pioneers TELCO (The East London Communities Organisation) in 1996 and later the broader London Citizens movement established in 2002 which has brought Living Wage status, holiday pay and sick pay to thousands of Londoners.

In 2004 the then Mayor of London, Ken Livingstone built on this grassroots work by fulfilling an election pledge to combat poverty pay in London by establishing the London Living Wage Unit within GLA Economics. The conclusions of the unit's first report led to the introduction of the London Living Wage – set initially at £6.70 per hour, a figure falling just below two-thirds of median income in the capital. In the Living Wage Unit's most recent upgrading of the living wage a 15 per cent top-up margin was added to the rate leaving the rate standing at £7.45 per hour. The new Mayor of London, Boris Johnson, continues to encourage all public and private sector employers in London to pay their workers the London Living Wage as a moral imperative and a sound business investment.²³

The example and model provided by London has found its echo in initiatives in other parts of the country. Oxford City Council has committed itself to becoming a 'Living Wage' employer by April 2009 setting a living wage rate of £7 per hour for all staff, permanent and temporary, and sub-contracted. In April of this year Manchester City Council and a coalition of unions including Unison, GMB, and Unite/T&GWU signed the 'Manchester Agreement,' a core component of which was provision for Manchester City Council to

examine the feasibility of introducing a 'Manchester Minimum Wage on the GLA model. Lastly, in December 2008 Preston City Council passed a living wage motion which will guarantee every employee at the council a wage of £7.45 per hour. Most recently, in March of this year Glasgow City Council introduced a Living Wage for all council employees increasing the basic salary of the lowest paid Council workers by over £1100 a year. In addition, the Council aims to encourage its suppliers to also pay staff working on Council business a Living Wage and is developing a Glasgow Living Wage Employer Award to encourage wider uptake by employers in the public, private and voluntary sector.

Public sector initiatives have been matched by those in the private sector. Campaigning by London Citizens led to the transformation of Canary Wharf into a Living Wage Zone and a number of other employers have also incorporated the living wage into their procurement policies. The list of living wage employers now includes HSBC, Barclays, Morgan Stanley, Royal Bank of Scotland, KPMG, Lovells, Macquerie, London Fire Brigade, four East London health trusts, Queen Mary University, the London School of Economics, The Big Issue, Child Poverty Action Group, ACEVO, and Westway Development Trust.

Every one of these pioneering examples of fair pay best practice has benefited those low-paid workers who have gained living wage status. Moreover, in addition to the obvious benefits to employers in terms of ethical employer status living wage initiatives also make hard-headed business sense in terms of staff turnover savings and boosted productivity. As Guy Stallard, Director of Facilities – KPMG Europe, argues in chapter 2 below, 'This isn't just about altruism... It is possible to behave ethically, and pay the Living Wage, while working to earn a profit.'

Fair pay best practice along the lines of these numerous living wage initiatives described above clearly makes moral and economic sense. Moreover, fears that recent European Court of Justice judgments call into question living wage initiatives – an issue that lay at the very heart of the wildcat strikes over foreign workers three months ago – may be overblown. As Professor Keith Ewing argues in chapter 3: the precise implications of the ECJ judgments are far from clear, the nature and substance of living wage policies and obligations are variable and neither the Posted Workers Directive or the decision prohibit

local authorities from imposing living wage agreements on contractors. In short, as he makes clear, 'these decisions do NOT prevent such policies being pursued.'

These combined reasons should convince employers not to fall into the trap of reacting to the economic pressures of the recession by running down or scrapping the pioneering steps that have already been taken to foster a fair pay culture in this country. For those employers who can afford it paying wages above the legally mandated minimum provides a wider contribution to economic recovery. Wherever fair pay initiatives are enacted they will help provide a fiscal stimulus by furnishing low-income employees with the means to spend money on their families within their local economy.

In the private sector as in the public, we must avoid the likely knee-jerk calls to cut wage rates as a way of surviving the recession. AS KPMG make clear, there are far more innovative and beneficial means of riding out the economic storm organizations and businesses across the country now face. We must maintain those examples of fair pay best practice that are already in existence and use the lessons gained from them to foster a culture of fairer pay.

Conclusion: Our vision

The Fair Pay Network's vision is a Britain in which working people and their families remain free of the scars of poverty. To this end we wish to see a labour market in which the proportion of low-paid jobs is reduced and where every individual is given a chance to acquire the skills they need to make sure their time on low pay is as short as possible.

Ending the social injustice of low pay is and remains an urgent moral and practical imperative. We cannot let the undoubtedly severe pressures caused by the economic downturn undermine that obligation or the tentative progress that has been made over the last ten years towards fairer pay. Instead, we must use the space provided by the crisis to rethink how we look at and approach labour markets in the United Kingdom by making it a priority to reduce the incidence of low pay in our economy, making sure legal wage minimums are real and meaningful, and sustaining those examples of fair pay best practice where we find them. In doing so we can make sure we come out of this recession more quickly and with the foundations for a fairer, more sustainable, and more socially just economy and society in place. ■

NOTES

1 The value of the hourly minimum wage in relation to median hourly pay

2 <http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090319/text/90319w0001.htm#09031956000164>

3 Commonly defined as hourly gross pay less than two-thirds of median hourly earnings, see, Jane Millar and Karen Gardiner, *Low Pay, Household Resources and Poverty* (JRF, 2001)

4 Graeme Cooke and Kayte Lawton, *Working out of Poverty: A study of the low-paid and the 'working poor'* (IPPR, 2007)

5 Caroline Lloyd, Geoff Mason, and Ken Mayhew, eds., *Low-Wage Work in the United Kingdom* (New York: Russell Sage Foundation, 2008), p. 15

6 Wiemer Salverda, 'Low-Wage Work and the Economy' in Wiemer Salverda, Maarten van Klaveren and Marc van der Meer, eds., *Low-Wage Work in the Netherlands* (New York: Russell Sage Foundation, 1998)

7 Ève Caroli, Jérôme Gautié and Philippe Askenazy, 'Low-Wage Work and Labour Market Institutions in France,' in Ève Caroli and , Jérôme Gautié, eds., *Low-Wage Work in France* (New York: Russell Sage Foundation, 2008)

8 Niels Westergaard-Nielsen, 'Low-Wage Work in Denmark,' in Niels Westergaard-Nielsen, ed., *Low-Wage Work in Denmark* (New York: Russell Sage Foundation, 2008)

9 Caroline Lloyd, Geoff Mason, and Ken Mayhew, *Low-Wage Work in the United Kingdom* (Russell Sage Foundation, 2008), p. 298-9

10 An individual faces 'working poverty' when they live in a household with someone in work but the household income is nevertheless below the poverty line

11 Graeme Cooke and Kayte Lawton, *Working out of Poverty: A study of the low-paid and the 'working poor'* (IPPR, 2007)

12 Lisa Harker, *Delivering on Child Poverty* (London: HMSO, 2006)

13 Abigail McKnight, 'Low-paid work: drip-feeding the poor,' in John Hills, Julian Le Grand, and David Piachaud eds., *Understanding Social Exclusion* (Oxford: OUP, 2002)

14 E. Balls, J. Grice and G. O'Donnell, *Microeconomic Reform in Britain: Delivering Economic Opportunity for All* (London: Palgrave Macmillan, 2004), p. 188

15 Graeme Cooke and Kayte Lawton, *Working out of Poverty: A study of the low-paid and the 'working poor'* (IPPR, 2007)

16 Graeme Cooke and Kayte Lawton, *Working out of Poverty: A study of the low-paid and the 'working poor'* (IPPR, 2007)

17 TUC Commission on Vulnerable Employment (COVE), *Hard Work, Hidden Lives* (TUC, 2008)

18 For periods starting on or after 6 April 2009

19 <http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090319/text/90319w0001.htm#09031956000164>

20 <http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090324/text/90324w0038.htm#09032470005145>

21 D Metcalf, *On the impact of the British national minimum wage and employment* (London: LSE Centre for Economic Performance, 2006)

22 www.minimumincomestandard.org

23 http://www.fairpaynetwork.org/uploadedPDF/GLA_Living_Wage_2008.pdf

The Business Case Behind Fair Pay

Guy Stallard, Director of Facilities, KPMG Europe



At the heart of KPMG's people's strategy is our commitment to a strong set of values. This we believe lies at the heart of our success in is our people strategy as shown by us being named Best Big Company to work for, by the Sunday Times, three times in the last four years. KPMG is a people business and therefore it is not possible it is impossible to separate employees from 'the a business'. Understanding and aligning employees and business values with those of the business is critical to our success.

KPMG's commitment to our communities, and to corporate social responsibility in general, is a key one of these values. Paying the Living Wage, and related employment benefits, to our contract cleaners and caterers is part of this commitment.

This isn't just about altruism. Corporate Responsibility contributes to more efficient business. It offers a means by which companies can manage and influence the attitudes and perceptions of their stakeholders, building their trust and enabling the benefits of positive relationships to deliver business advantage.

Research suggests that most people want to work for a company whose values are consistent with their own and that a majority of young people believe in the power of responsible business practice to improve long term sustainable profitability. Thus corporate responsibility is increasingly a key factor in

attracting and retaining a talented and diverse workforce.

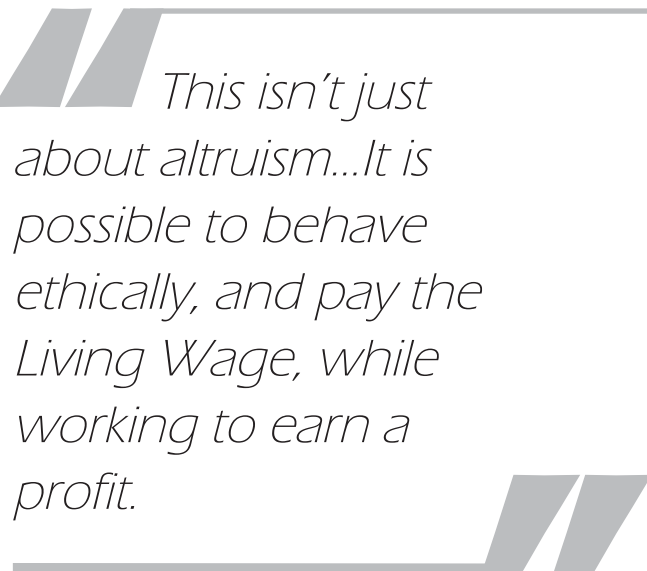
For KPMG, paying the Living Wage is not just an important part of our values, our people strategy and our award winning corporate responsibility agenda, it is about sound economic management.

We employ 700 (mainly part time) in-house and outsourced Facilities staff in our UK offices, many of whom are directly serving our clients. So, their calibre, motivation and loyalty of this team are extremely important to us. Paying the Living Wage and improving other benefits, like holidays, sick pay and insurance have contributed significantly to our success. Here's how:

- Turnover amongst our cleaning staff has more than halved.
- Morale has been raised.
- Despite improved sick pay potential abuse has not materialised
- Productivity has improved; attitudes are more flexible and positive
- Service has improved: our help desk gets far fewer complaints

On top of this our suppliers, the cleaning and catering companies, have reduced training and other overhead costs as employee loyalty has grown.

By taking an output based and 'whole life costing' perspective we've incorporated economic, social and environmental factors



This isn't just about altruism...It is possible to behave ethically, and pay the Living Wage, while working to earn a profit.

into the decision making process. We focus on achieving a clean workplace at best value, not on how little we can get away with paying the cleaners. For instance by encouraging staff to recycle their own waste in central repositories we (i) reduce the amount of cleaning required, (ii) make cleaning less unpleasant for our cleaners and (iii) reduce the charges made for sending waste to landfill sites.

Many people see paying Living Wages as only something to worry about only when the economic cycle is buoyant. Such a perspective is extremely short term. A really motivated workforce is in many ways even more important when businesses are facing really challenging times. The focussed sensible business saves costs by changing service levels (for instance how often carpets are cleaned) rather than reducing wages.

It is possible to behave ethically, and pay the Living Wage, while working to earn a profit. It makes sense as a business strategy since it creates goodwill among customers, employees and the community. Trying to increase profits by being unethical or ignoring such concerns will eventually hurt not only those directly impacted, but the business and all its stakeholders.

KPMG's support of the Living Wage from the very outset is one of the reasons our employees regard the business and its leadership so highly and that contributes to why the Sunday Times has given us a lifetime achievement award as being the Best Place to Work. ■

The Living Wage and EU Law



Professor Keith Ewing

Introduction

When the European Social Model was in its full pomp, the Community Social Charter of the Fundamental Rights of Workers declared that ‘all employment shall be fairly remunerated’. This declaration made in 1989 – against the wishes of the then British government – was amplified to mean that workers were to be guaranteed an ‘equitable wage’, defined in turn to mean ‘a wage sufficient to enable them to have a decent standard of living’.

The equitable wage principle was repeated a few years later in a Commission Opinion, where it is proclaimed that ‘all workers should receive a reward for work done which in the context of the society in which they live and work is fair and sufficient to enable them to have a decent standard of living’. Although important, these principles were not legally binding, while the forward trajectory of EU Labour Law has come to a dead end, at least for the time being.

Thus, in four notorious decisions since 11 December 2007, the European Court of Justice (ECJ) has triumphantly placed the economic interests of business over the social rights of workers. In so helping the EU to re-discover its neo-liberal origins, the ECJ has thus moved almost overnight from being a progressive body on social questions widely admired, to being an extremely conservative body just as widely despised outside the business world.

The Posted Workers’ Directive

At the heart of the current controversy is the Posted Workers’ Directive of 1996. This is binding on the United Kingdom, and ostensibly requires us to ensure that workers posted here from other member states are not

exploited while working in this country. The Directive does not apply to all terms and conditions of employment; but it does apply to pay, so that employers posting workers to this country must observe at least the statutory minimum wage, though this falls some way short of a living wage, never mind the prevailing wage that may be applicable in any sector.

In some cases (notably construction), the Directive also says that member states shall require contractors to pay the minimum rates laid down in collective agreements negotiated between trade unions and employers. But under Article 3(8) of the Directive this applies only where these collective agreements have been declared *universally applicable* to all undertakings in the geographical area and in the profession or industry concerned. Where, however, there is (as in the United Kingdom) no system for declaring collective agreements universally applicable, Member States may, if they so decide, base themselves on collective agreements that

- are *generally applicable* to all similar undertakings in the geographical area and in the profession or industry concerned; or
- have been concluded by the most representative employers’ organisations and trade unions at national level and which are applied throughout the country.

The British government has not taken the power in legislation to use collective agreements for this purpose, even where appropriate agreements do exist. As a result the statutory minimum wage is the binding reference point for employers posting workers here. It is true that the enterprise-based system of collective bargaining we now operate in much of United Kingdom is not readily compatible with the arrangements for the application of

collective agreements anticipated by the Directive. There are, however, sectors where multi-employer collective bargaining still operates, and where it might be possible to argue that compliance with collective agreements could be made mandatory. This is particularly true of the construction sector, all the more poignant for the fact that it is construction that is singled out in the Directive as the sector in which collective agreements are – or may be – used as the reference point for minimum standards to be followed by posting employers.

The European Court of Justice

Having lain dormant and largely neglected in this country for the best part of 10 years (despite the best efforts of GMB, UCATT and UNITE which predicted the current problems as long ago as 2005), the Posted Workers' Directive has been brought to life by three recent high profile decisions of the ECJ, and has exploded onto the domestic political scene as a result of the dispute at the East Lindsey oil refinery in January 2009. So far as the ECJ cases are concerned, the Directive has been read alongside article 49 of the EC Treaty, which contains one of the so-called fundamental freedoms guaranteed by the Treaty, namely the freedom to provide services throughout the Union. The cases developing principles derived from Article 49 of the Treaty and the PWD, are as follows:

■ **Case C-341/05, Laval v Svenska Byggnadsarbetareförbundet (18 December 2007)**

The ECJ held that although protected by Swedish national law (i) industrial action by Swedish unions, (ii) designed to compel a Latvian contractor to pay Swedish rates determined by a Swedish collective agreement to his Latvian workers employed on Swedish building sites, (iii) was precluded by the EC Treaty, article 49 and the PWD, article 3. Swedish law implementing the PWD deliberately did not require posting employers to observe prescribed wage rates. Under Swedish law this was a matter for collective bargaining and collective action by trade unions, if necessary (as happened here). In the course of its decision, the Court addressed article 3(7) of the Directive which provides that the key provisions of the PWD 'shall not prevent the application of terms and conditions of employment which are more favourable to workers'. According to the ECJ, however, this provision could not be interpreted 'as allowing the host Member State to make the provision



of services in its territory conditional on the observance of terms and conditions of employment which go beyond the mandatory rules for minimum protection'.

■ **Case C 346/06, Ruffert v Land Niedersachsen (3 April 2008)**

The Court held that a Polish sub-contractor: (i) could not be required by the law of Lower Saxony, (ii) to pay his workers posted from Poland, (iii) the terms of a collective agreement in force at a site where the work was being carried out. Such a requirement (even though prescribed by law) was held not to be authorised by the provisions of the Posted Workers' Directive. The collective agreement in question had not been declared universally applicable under German federal law and there was nothing to suggest that it was otherwise capable of being treated as universally applicable. Moreover, it was possible to rely on a generally applicable collective agreement only where there was no system for declaring agreements universally applicable, which was not the case here. In any event, the agreement in this case could not be said to be generally applicable, as the binding effect of the agreement applied only to public and not also to private construction contracts

these [ECJ Rulings] decisions do NOT prevent such policies being pursued.

■ Case C-319/06, *Commission v Luxembourg* (19 June 2008)

The Court held that the government of Luxembourg had acted in breach of EC Treaty, Article 49, and the Posted Workers' Directive, on a number of grounds by requiring posting employers to comply with standards beyond those laid down in the Directive (including a procedure for the automatic indexation of wages). The case is important for limiting the scope of article 3(10) of the Directive which permits measures beyond the minimum set out in the Directive 'in the case of public policy provisions'. But having already read down article 3(10) in the *Laval* case, the ECJ in *Luxembourg* held that 'the classification of national provisions by a Member State as public-order legislation applies to national provisions compliance with which has been deemed to be so crucial for the protection of the political, social or economic order in the Member State concerned as to require compliance therewith by all persons present on the national territory of that Member State and all legal relationships within that State'.

Despite the fact that these decisions deal with issues at some remove from the United Kingdom (and with issues other than the living wage), they clearly have potential implications for the wages payable to workers posted here (with implications for all workers employed in the United Kingdom). Although it cannot be assumed that employers posting workers will want to pay (i) a minimum wage, rather than (ii) a living wage, or (iii) a prevailing wage in the host country (wherever that may be), it is also the case nevertheless that these decisions would empower those employers who sought to resist any obligation to comply with undertakings other than those relating to the minimum wage. But equally, despite the deep bites they inflict, these decisions do NOT prevent such policies being pursued.

The Living Wage

There are three important points to be made about these decisions so far as they have implications for the living wage. The first and most important is that it is always important fully to take into account the nature and substance of existing living wage policies and obligations. At the present time these are variable: they often exhort rather than require, though in many cases the ambition may be greater. But there is nothing in these ECJ decisions to stop local authorities, trade unions and other activists developing living wage policies or in seeking to persuade or shame suppliers and customers (and indeed anyone else in the local authority area) into applying them. Promotional activity and corporate campaigning for the adoption of living wage arrangements of the kind to be found in a number of local authorities remain unaffected.

Secondly, neither the Posted Workers' Directive nor the four ECJ decisions discussed above unequivocally prohibit local authorities or others from imposing living wage agreements on contractors. The contested collectively agreed terms in *Laval* and *Ruffert* were challenged by the companies (or those acting in their stead) in circumstances where an attempt was made to impose them on foreign contractors (from Latvia and Poland respectively). It does not follow – and it is highly improbable – that a domestic contractor could bring a similar challenge under the PWD in such circumstances. That, however, may not be the end of it, and it remains to be seen to what extent a challenge by a domestic employer to mandatory terms beyond those laid down in the PWD could be brought using other principles of EU law (as some EC lawyers now predict).

Thirdly, although employers posting workers to this country may be required as a matter of law to pay only the minimum wage rather than a living wage, as already pointed out above the ECJ in the *Laval* case made clear that there was nothing to stop such employers from agreeing to observe a prevailing wage or a living wage. Without 'depriving the [PWD] of its effectiveness', the Court acknowledged the 'right of undertakings established in other Member States to sign of their own accord a collective labour agreement in the host Member State [establishing terms and conditions of employment more favourable than the statutory minimum and higher than the rate otherwise applicable in the contract of

employment]'. As the East Lindsey oil refinery dispute revealed, however, there may be problems in ensuring that posting employers fully live up to commitments of this kind, when they are not legally binding and when their employment contracts are not fully transparent.

What is to be Done?

The recent dispute at East Lindsey confirms that the political problems caused by the PWD will be impossible to ignore, while the campaign for a living wage provides further evidence of the need to address the ECJ decisions rather than simply to work round them. This could be done in one of two ways. The first would be to change domestic law to ensure that the Posted Workers' Directive is implemented to the fullest extent possible, that is to say to require the minimum wage payable by contractors to be higher than the minimum set down in the National Minimum Wage Act 1998, with its discrimination against young workers, and its lack of an overtime rate. This could be done by requiring posting employers to comply with the wages set by appropriate collective agreements, which apply to a particular sector within a given geographical area.

Where – as in the construction sector – there are collective agreements which are widely applicable, legislation should require all employers (including posting employers) to comply with these agreements. Under EC law, this has to be done in a way that does not discriminate against employers from other Member States. In order to protect collective agreements from being undercut by non – UK based employers, it may thus be necessary to provide by legislation that collective agreements that apply to the bulk of employers in an industry must be observed by them all, in the sense that the terms of the relevant collective agreements become mandatory terms of the contracts of employment of the workers in the sector in question. A proposal of this kind (to give **legal effect** to collective agreements without making them **legally binding**) was first made by the TUC in 1931.

Otherwise, there is a need for an amendment to the Posted Workers' Directive itself, as part of the renewal of the European Social Dimension that saw the introduction of measures like the Commission's Opinion on an Equitable Wage already referred to. One step in particular that needs to be taken is to require posting employers to observe the

prevailing rates operating in the countries to which they post workers, rather than the minimum rates. The prevailing rates could be those rates established by collective agreements (at whatever level the agreement may be set) or the market rate (where this is higher than the minimum set down in a relevant collective agreement, or where there is no collectively agreed rate). For these purposes an indication of the prevailing rate could be given by appropriate public authorities, though ultimately this would be a matter for a court (or a body like the Central Arbitration Committee) to determine.

Conclusion

Now is the time to support such initiatives at domestic and EU level, as governments try desperately to pump money into national economies to help overcome the banking crisis: there is little point in making money available if there are no corresponding means to enable it to circulate. The obvious way to do this would be to promote living wage initiatives, in order to increase wages, in order in turn to increase purchasing power, in order in turn to stimulate demand. The living wage is one of the keys to economic recovery, and should be promoted as such. It is socially just and economically rational.

In the meantime, however, there is nothing in the recent case law of the ECJ (*Laval*, *Ruffert* or *Luxembourg*) that would prevent local authorities from adopting living wage policies and in seeking to apply these to contractors. There is a possible risk that a building contractor could challenge a contractual obligation to comply with such arrangements. But public policy cannot operate on the speculative basis that such a contractor would be willing to challenge a living wage or a prevailing wage commitment, voluntarily undertaken.

It is true that a mandatory living wage obligation would thus be conditional on the consent of the contractor, where the contractor is based in another member state posting workers to this country to perform the work. But the rejection of living wage commitments is not something that public hostility would allow many businesses readily to contemplate, especially in the context of high profile public works contracts, where compliance with legal standards would be demanded not by legal remedies, but by a combination of political pressure and popular expectation. ■

Coalition member contributions



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Chapter 13: New Policy Institute
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Chapter 14: Migrants Rights Network
Migrant workers in a period of recession

... A fairness agenda means a commitment to continuing cost-of-living pay increases for low-paid workers, an increase which 'would generate a substantial economic stimulus.'



Maintaining fair employment in recession

Richard Excell, Paul Sellers and Nicola Smith

The TUC is the voice of Britain at Work, representing nearly 6.5 million workers in 59 unions. One worker in every four belongs to a TUC affiliated union; wherever people work there are union members. Our overall objective is to raise the quality of working life and promote equality for all – and ensuring a progressive response to the current economic crisis will be central to achieving these aims. We believe that as we move out of recession creating a more sustainable basis for growth will be an economic as well as a moral necessity.

Today both main political parties in the UK still argue that Britain's flexible labour market is the route to increasing productivity, output and job creation. But national and international evidence challenges these presumptions. France and Germany, with less flexible structures, enjoy higher productivity and are currently seeing slower rates of increase in unemployment.¹ In addition, higher benefits and greater job protection will mean that workers' incomes do not fall as far or as fast. As well as being fairer, economists have argued that this will reduce the severity of the downturn's impacts in these countries. Furthermore, Britain's strongest period of jobs growth was during the late 1990s and early 2000s, when the labour market was somewhat re-regulated with the introduction of a national minimum wage, rights to union membership and representation, new holiday rights, equal treatment rights for part-time and fixed-term workers and new rights to family-friendly arrangements.

Extreme labour market flexibility is not therefore a necessary prerequisite for economic success and sustainable long-term development. A new focus is needed that will enable us to build our skills base, increase worker retention and improve employee

productivity, particularly given the increased global economic competition the UK will face in future years. In this chapter we discuss the current challenges to ensuring fair pay and conditions, and the changes that we believe will be needed as we rebuild our economy.

Current challenges for low-paid workers

Unemployment

In the course of the recession low-paid workers will be more likely to lose their jobs. Disadvantaged workers are often caught in a 'low pay – no pay cycle', first highlighted in a groundbreaking report by the Treasury in 1999.² It found that:

- in the mid 1990s, 50 percent of people leaving unemployment were unemployed again within a year;
- the proportion of men stuck in a cycle of unemployment and low pay or in a long-term low-paid job had doubled since the early 1980s from one in 14 to one in seven.

During a recession, this process is exacerbated. The people stuck in this cycle tend to be those with low levels of human capital, members of groups subject to discrimination or those with problems that make them unattractive to employers.

However, much of the media coverage of the recession has focused on individuals who have lost well-paid jobs, especially in finance. Although there will be occasional people in this group who fall into long-term unemployment, and others who have to shift to worse jobs than they would have hoped for, most will have qualifications and experience that will make them attractive to recruiters; there is a strong chance that they

Coalition member contributions

will get new jobs quickly. The longer the recovery takes (and this may be a long drawn-out recovery) the more likely it is that they will be displacing other slightly less well-qualified jobseekers. They in turn will displace less qualified jobs, and the displacement will ripple out, leaving the lowest qualified with the longest wait in the queue for employment, and at the greatest risk of having to settle for insecure and badly-paid jobs.

Vulnerable employment

During a downturn the risk of vulnerable employment is greater – people may be more prepared to put up with bad treatment as they are scared of losing their jobs, and employers may use the insecure economic climate to justify poor treatment, seeing working conditions as easier to trim than pay rates. Work life balance measures are particularly under threat, even though they are often associated with improvements in staff retention and productivity and can provide a means of providing businesses with the flexibility to come through recession.

At the moment we only have anecdotal evidence of how this may be affecting workers, but have received reports including:

- directly employed construction workers bring moved to self-employed contracts, as a way to enable employers to avoid their legal obligations;
- cleaners being told that they have to undertake more jobs per day for the same wages, as a result of redundancies;
- pregnant women being made redundant as a means to enable employers to avoid the costs of maternity pay and cover;
- migrant workers being told that they no longer qualify for employment rights at work.

In addition, we have already seen employers calling for pay freezes³, which would lead to effective pay cuts for those who are already worse off.

During the recession low-paid workers therefore face threats to their employment, pay and conditions. But we believe that it will be possible to emerge from the recession with both fairer working practices and a stronger economy – and that there are both moral and economic necessities for doing so.

The case for protecting pay and conditions

It is likely that inflation will be very low during this recession, and the Retail Price Index (RPI) may even turn negative during 2009. But the goods and services bought by people on low incomes are not the same as those bought by better paid workers, and the inflation rates they face are not the same. The RPI is based on a “basket” of goods, effectively an average produced by increases for some items and decreases for others, and it is very likely that inflation is going to be higher for the items bought by poorer people. At present, while overall inflation is well below one per cent, the prices of food and heating (which form a large part of low-paid workers’ budgets) are rising at an annual rate of more than 10 per cent. Housing costs are falling, and so are the costs of leisure and motoring, but these items make up a smaller proportion of what poorer workers spend.

The significance of different rates of inflation for the poor and the rich has been underlined by the Institute for Fiscal Studies⁴, who have pointed out that increases in the prices of food and fuel have led to higher inflation rates among poorer households than among richer ones. Households in the poorest 10 per cent of the population had an average inflation rate of 7.9 per cent in September compared to rate of 5.1 per cent for those in the richest 10 per cent. The average across all households was 6.7 per cent. *A fairness agenda means a commitment to continuing cost-of-living pay increases for low-paid workers.*

There are also economic benefits to maintaining wage growth: the current constraints on credit have been depressing consumer demand; depressing pay levels as well would lead the UK more deeply into a vicious cycle of economic problems. In particular, increasing the minimum wage would generate a substantial economic stimulus: a recent study by the Federal Reserve Bank of Chicago⁵ found that US low-paid workers spend the whole of their minimum wage increases in the local economy, thus providing a very efficient economic stimulus.

While there may be some cases where union negotiators will have to balance preserving jobs against pay increases, these will be the exception rather than the rule. Employers must therefore continue to agree pay rises that are at

least three per cent, preserving staff morale and productivity and ensuring the welfare of their staff. This would be consistent with the experience of the recession of the early 1990s, when average pay increases consistently remained above the rate of inflation.

Good employers will also recognise that reducing rights at work is no way to build a skilled and productive workforce, and that the costs of mistreatment are higher than those of fair standards. If workers do not feel that their pay schemes are fair, or that they are being cheated, then they will be strongly demotivated and productivity will be affected. Fair pay must also therefore include reasonable terms and conditions – holiday pay, sick pay, flexible working and so on. Upskilling is also a necessary condition for economic recovery as well as improving job quality, so access to training will be important to improve prospects both for low-paid workers and the wider economy.

What action should be taken?

We believe that there is a strong case for acting now to improve pay and conditions for those who are already the worst off.

The minimum wage must continue to rise. The Low Pay Commission should take proper account of the current recession but should recommend the highest increase that can be sustained while preserving employment, which the TUC believes would lead to an adult rate of about £6.10 per hour in October 2009.

Unions must continue to build membership among low-paid workers. While research shows that both pay and compliance with employment rights legislation are higher where trade unions are recognised⁶, union membership is low among the lowest paid and most vulnerable workers.⁷

Investing in enforcing employment rights needs to be at the top of the Government's agenda. The Government has made some important changes that will improve enforcement systems, including the establishment of the Fair Employment Enforcement Board and a commitment to set up a single hotline for workers to report employment rights problems to. However, state enforcement agencies remain grossly under-resourced. For example, the National Minimum Wage Compliance Unit still only has around 105 inspectors nationally – and the Employment Agency Standards Inspectorate only has 26. The TUC believes that Government needs to commit to significant increases in numbers in the immediate future.

We also need to make sure that everyone has access to a fair set of employment rights. Employment status is a confusing and contentious issue in the UK, and assignment to a particular category has implications for employment protection. This means that groups including casual workers, agency workers and home-workers seldom qualify as 'employees' and lose out on job security and employment rights. A particular concern is that growing numbers of workers (particularly in construction and homeworking) are being classified as self-employed, but are in reality dependent workers. A simplified, clearer system of employment rights would be fairer for workers and their families, and improve retention and productivity.

It is therefore within the Government's means to ensure that we leave this recession with a fairer economy – and it is also vital to our economic sustainability that they do. ■

NOTES

1 Evidence from Eurostat (www.ec.europa.eu/eurostat) shows that the unemployment rate in the UK is rising faster than the EU average. And the OECD has found the impact of employment protection legislation on employment rates is fairly neutral, making it slightly easier to hire but also easier to fire: OECD (2004) *OECD Employment Outlook 2004 Employment Protection Legislation and Labour Market Performance Paris*: OECD.

2 HMT (1999) *Tackling Poverty and Extending Opportunity* London: HMT.

3 For example, Institute of Directors, IoD condemns Government over £1 billion regulation 'bombshell', Press Release, 19th January 2009.

4 Institute for Fiscal Studies, Poorest households face highest average inflation rates, Press Release, 14th

October 2008.

5 Aaronson D, Agarwal S and French E (2008) *The Spending and Debt Response to Minimum Wage Hikes* Chicago: Federal Bank of Chicago.

6 For example see Goos D and Adam-Smith D (2001) Pragmatism and Compliance: Employer Responses to the Working Time Regulations *Industrial Relations Journal*, Volume 32, Issue 3, p195-208 or Reilly, Paci and Holl Unions, Safety Committees and Workplace Injuries *British Journal of Industrial Relations*, Volume 33, No. 2, p276-88.

7 The Commission on Vulnerable Employment found that among vulnerable workers union membership is only ten per cent: TUC (2008) *Hard Work Hidden Lives: The Full Report of the Commission on Vulnerable Employment* London: TUC

Coalition member contributions

OXFAM

Low pay in the economic downturn



Addressing national minimum wage violation and enforcement

Krisnah Poinasamy

In 1998, the new Labour government enacted its flagship employment rights policy, the national minimum wage (NMW). This was to ensure that every worker – British and foreign national alike – was entitled to a minimum remuneration for their labour, seemingly signalling the end of shamefully low wages at the bottom end of the labour market.

Yet while it is clear that the national minimum wage has benefited millions over the past ten years, the government has struggled to guarantee and enforce it for the most vulnerable in the workforce. As the recession takes its toll, enforcement of the national minimum wage requires urgent attention to ensure that employers do not cut corners and force the most vulnerable workers into poverty.

In an increasingly competitive global economy, businesses are seeking to reduce costs to the minimum, often by reducing the compensation and benefits available to the workers who produce their goods and services. This situation is exacerbated by the changing nature of work, with lower-skilled sectors demanding flexible labour with low wages and few rights for the workers. In the UK the workers that are most affected by this climate are those on the margins of the formal economy (for example men and women in precarious employment, working

in the 'cash' economy) and those who are vulnerable for other reasons, such as because they are migrant workers or have insecure immigration status.

A vulnerable worker is someone working in an environment where the risk of being denied employment rights is high and who does not have the capacity or means to protect themselves from that abuse.¹ In 2008, the TUC estimated that more than two million people in the UK are in vulnerable employment, though it should be noted that is based on a conservative estimate of just 500,000 undocumented migrants and informal workers.² Vulnerable work causes and perpetuates poverty, as the employers exploit their power over the worker to ensure the work remains insecure, low-paid and with little prospect of promotion or training.³ This insecurity takes many forms, including low pay and non-adherence to the national minimum wage.

Certain groups of people working in certain sectors are less likely to be paid the national minimum wage: temporary employees, agency workers, migrant workers, workers in the informal sector, homeworkers, women and BME workers,⁴ and those working in care, cleaning and hospitality.⁵ London Citizens found that people working in the hotel and catering sector were the lowest paid of all the low paid workers they surveyed,

with almost one in five were paid below national minimum wage, with the rate doubling for BME and migrant workers.⁶ Likewise, women are often more vulnerable at work: three-fifths of low-paid workers in the hotel and catering sector are women.⁷ Migrant workers are three times more likely to seek advice about wage and NMW issues than other employment issues⁸ and more calls are made from the hospitality sector than from any other sector.⁹ Those working in sectors where union representation is low are also at risk of not being paid the national minimum wage.¹⁰ It is thought that about 300,000 workers are paid below the agreed rates of national minimum wage, though this is likely to be an underestimate, as many working informally may not show up in surveys.¹¹ One respondent to the London Citizens survey demonstrates the exploitation of workers in the hotel and catering industry: she worked weekends and beyond her shift with no extra pay, and recently had two hours' worth of wages docked when she was late for work due to a medical appointment¹².

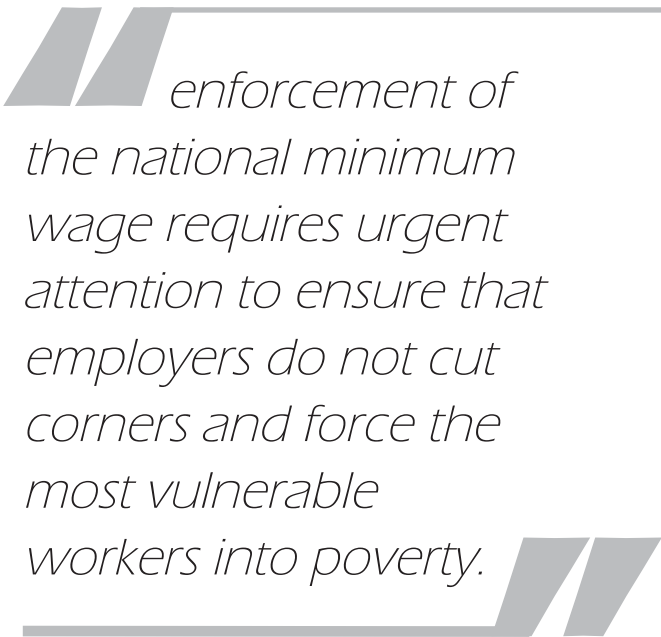
Despite the Government's attempt to introduce a minimum rate of pay for all workers, this has not prevented unscrupulous employers from circumventing the national minimum wage through piece-rate pay. Sectors in which vulnerable work is common are especially prone to payment by piece-rate. In the hospitality sector, for example, chambermaids may be paid per room and then asked to clean a varying quota of rooms each day.¹³ Homeworkers – predominantly women working from home doing jobs such as sewing, packing and print finishing – are also at risk¹⁴. In a recent study of homeworkers, 48 per cent said they were not paid the national minimum wage, with two-thirds paid by piece-rate.¹⁵ Of those working at a piece-rate, the average wage was £4.41 – well below the national minimum wage.¹⁶ In one case, a homeworker was earning just £1 per hour. This exploitation persists despite the specific inclusion of homeworkers within the National Minimum Wage Act 1998.¹⁷

Payment of the national minimum wage is further circumvented through the employment status regime and the use of false (or 'bogus') self-employment. This is where workers may be told that they are self-employed, even if in practice they do not have the independence or control over their work patterns that would enable them to genuinely negotiate terms. False self-employment is

common amongst homeworkers and particularly rife in the construction industry, with estimates that 375,000-425,000 workers are falsely self-employed in construction in the UK.¹⁸ Though it is not suggested that all falsely self-employed workers are paid under the minimum wage, their self-employment status means that there is no obligation for the construction companies to meet the national minimum wage.

To a large extent, non-payment of the national minimum wage is due to insufficient enforcement from Her Majesty's Revenue & Customs (HMRC). Many employers and employment agencies know that they could get away with flouting the law and that, even if caught, they are unlikely to face more than minimal punishment.¹⁹ HMRC have fewer than one hundred inspectors, five per cent of those available to the DWP's benefit fraud unit.²⁰ Indeed, it has been estimated that the average employer could expect a visit from HMRC once every 320 years.²¹

In addition, those who are least likely to be paid the national minimum wage are also those least likely to know about their rights at work and know how to seek help and advice. For example, migrant workers are often unaware of their employment rights due to language issues. Though HMRC does respond to complaints made about employers suspected of not paying the minimum wage, these complaints are unlikely to come from the most exploited workers, who may be concerned about being penalised or victimised by their employer. As the economic climate worsens, those unwilling to risk the loss of



enforcement of the national minimum wage requires urgent attention to ensure that employers do not cut corners and force the most vulnerable workers into poverty.

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their job or the exposure of their immigration status are even less likely to take action against their employer.

Crucial to the system of enforcement is the confidence of those who are not being paid the NMW to come forward and report violations. In particular, many migrant workers often do not report violations because they fear that doing so will result in either the loss of their job or deportation. Irregular migrants, of which there are approximately 700,000 in the UK,²² are extremely vulnerable to violations of NMW as they do not have a legal status in the UK. Though it is impossible to tell how many of these migrants are working or indeed underpaid, it is clear that the risk of deportation would be too great for any to report a violation of the minimum wage. Though calls made to the NMW helpline can be anonymous, this policy is defunct given that there is an agreement to exchange information between HMRC and the UK Border Agency.²³ The very requirement to report any use of irregular migrant labour thwarts the ability of HMRC to reach those least likely to be paid the national minimum wage. Elsewhere in the world, systems exist to ensure rights at work are separated from immigration control; it is clear here that enforcing a fundamental employment right should not be hampered by concerns about immigration.

Yet better enforcement is not simply about more information and a larger number of inspectors, but requires a coordinated effort that is targeted at sectors in which vulnerable employment predominantly occurs. The current enforcement regime is characterised by its fragmented nature. The Employment Agency Standards Inspectorate, the Gangmasters Licensing Authority and the Health and Safety Executive are all likely to come across violations of the national minimum wage when investigating violations of employment law in their specific areas of competence. However, they have no enforcement power in this regard and there is no guarantee that violations found by other enforcement agencies will be pursued by HMRC once reported. The government has attempted to address this issue through the Fair Employment Board, which had its first meeting in November 2008. However, this board falls far short of a

single, well-resourced enforcement body which could utilise expertise in specific to sectors and pursue violations as they are uncovered.

Conclusion and recommendations

Addressing the violations of the national minimum wage requires a fundamental reshaping of the government's approach to employment status and enforcement. Self-employment, far from enabling autonomy, has become a route through which unscrupulous employers, holding clear control over the employment of the worker, can legally pay them less than the national minimum wage. Self-employment and the employer-employee relationship must be redefined through legislation to root out the use of 'bogus' self-employment. Furthermore, ways in which piece-rate pay that often results in a failure to meet the minimum wage must be examined. There should exist, as the government intended, a minimum pay floor for all workers.

The fragmented nature of the current enforcement regime is largely to blame for allowing employers to violate the national minimum wage. Investment in HMRC's proactive resources would be a significant and timely first-step towards enforcing the national minimum wage in a time when those most vulnerable would be reluctant to report violations. Yet this must be accompanied by an overhauling of the enforcement regime. In absence of a single enforcement body, the failure to allow other agencies to enforce violations when found is a wasteful use of resources. The government's approach should recognise that violations are more likely to occur in certain sectors and to certain workers. Despite efforts to improve awareness of the national minimum wage amongst migrant workers, the government must recognise that linking enforcement and immigration fundamentally thwarts the effectiveness of their pay policy. The agreement to share information between HMRC and UKBA severely hampers enforcement and should be reassessed.

As we approach the tenth anniversary of the National Minimum Wage Act entering into force and as the UK enters recession, the government must redouble its efforts and ensure that all can benefit, including the most vulnerable. ■



Oxfam works with poor and marginalised workers to get better labour rights all over the world.

Oxfam's been involved in many successful campaigns – such as increasing the minimum wage in South Africa; winning safer factory standards in Central America; fighting off threats to make permanent workers 'temporary' in Indonesia and Honduras; supporting migrants to successfully negotiate a contract for eight thousand workers in the US. Here in the UK, Oxfam's Migrant Workers Project works with migrants, often agency workers, who've experienced exploitation in the workplace. We also have a longstanding partnership with the National Group on Homeworking (now Homeworkers Worldwide) supporting them to advocate for the rights of homeworkers.

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Coalition member contributions

UNISON



The impact of the economic crisis on low pay in the public services

Deborah Littman

As we witness the spectacle of bank chiefs apologising for their greed and dubious practices, it is easy to ignore the less spectacular impact that the economic downturn is having on the public services.

Less money coming in

Public finances were tight even before the economy started to nosedive last September. In January 2008

the government announced that public service pay rises would be held to the government's 2% inflation target. UNISON and other public service unions warned that workers' salaries were falling far behind the soaring increases in basic living costs. Moreover, we argued that this short-sighted policy was destined to undermine Labour's broader policy agenda. "The government has set itself ambitious targets for eradicating child poverty by 2020, for combating ill health and social exclusion and for getting people into work. All of these goals will be undermined if public service workers are not paid incomes that allow them to adequately support themselves and their families."¹

Now local authorities, health trusts and other public service employers are facing severe budgetary pressures that are likely to get worse over the next few years as a result of the deepening recession. The economic slowdown will have the effect of reducing the amount of

money coming in to government through taxation raised on earnings (such as income tax), profits (such as corporation tax), or spending (such as VAT or stamp duty). The slow-down is already having a negative impact on tax revenues and the resources available for public spending, squeezing central and local government budgets and adding pressure for further pay cuts.

Collapse of private finance

The public sector has been left deeply exposed to the crisis by the government's privatisation policies which have made many services and investment projects heavily dependent upon private finance. The credit crisis is already resulting in services failing and projects being abandoned – and increased costs to the government forced to pick up the tab. In the London Borough of Newham, for example, new schools due to be financed privately under Building Schools for the Future have been postponed due to "unforeseen circumstances, including the credit crunch." And Newham is not alone. The £45 billion Building Schools for the Future programme, half of which is under PFI, is also facing serious problems finding finance to rebuild or refurbish 3,500 secondary schools. According to the Times, 60 projects worth more than £2.3 billion, and involving more than 100 schools, colleges and hospitals, have also been delayed or are on hold due to financial and planning difficulties.²

Less money, fewer jobs

Many public service employers are announcing redundancies as a result of tight spending settlements. By the end of 2008, 13 per cent of local authorities said they had made redundancies as a direct result of the economic slowdown, and 22 percent had introduced a recruitment freeze.³ Surveys indicate that planned council job losses could total more than 70,000⁴. Housing Associations and voluntary organisations are also shedding jobs and leaving vacancies unfilled.

As fears about job security become more urgent, there will have less leverage to push up pay rates for public service workers, already struggling to meet rising food, energy and transport costs. Minimum pay rates across the whole of the public services average £13,026 per annum. Minimum rates in the NHS and Local Government are £12,182 and £11,577 respectively. Recent research funded by the Joseph Rountree Foundation has confirmed that even a single person with no dependents, living in council housing, needs £13,400 a year before tax to afford a basic, but acceptable standard of living.⁵ That means that many thousands of public service workers – especially those with families to support – are living far below the level needed for an adequate living standard.

In addition, many public service workers, including 3.5 million members of the local government pension scheme, are dependent on pension funds whose viability is now threatened by the destruction of the value of their asset base. Contrary to common perception, pension entitlements for the largely female, frequently part-time public service work force were not lavish to begin with. The average pension pay out for a female local government employee stands at £1,600 a year, and for a man £3,600 — little enough to live on at the best of times.⁶

Wider impact of low pay and job losses in public services

Public service job losses and pay cuts will further deepen the recession by taking demand out of the economy. Research has shown that every pound spent on local public services generates an additional 64 pence of spending in local businesses, helping regeneration⁷.

Economists have warned that “for some cities and regions public sector employment will play a very important stabilising role in the downturn. Reductions in public expenditure

will make it more difficult for these cities to weather the economic storm”.⁸

Other experts have cautioned that job cuts are a “false economy” for employers – every redundancy generates an extra £16,000 in average additional costs, as well as hitting the morale, motivation and productivity of remaining staff.⁹ Public service job losses also have an adverse affect on the government’s finances – public service employees pay tax on their earnings, while any made redundant will simply add to the numbers needing unemployment benefits.

Ironically, the downward pressure on public service pay and employment is coming just at a time when public services are urgently needed to protect individuals, families and communities from the worst effects of the downturn. Local authorities are reporting a rise in demand for debt counselling, housing advice, employment guidance, community finance and business support. Voluntary organisations are also needed to respond to greater incidence of mental illness, relationship breakdown, domestic violence and homelessness. The NHS will need to ensure that loss of income or employment does not lead to a lack of access to high quality healthcare. And public service workers will play a key role in providing employment advice and enforcing current minimum wage laws and other labour regulations.

Impact on fair pay

Prior to the downturn, attempts to convince employers to implement living wage and fair pay regimes were gaining ground. UNISON has long had a policy of negotiating higher increases for the lowest paid and restructuring pay and grading systems to eliminate gender discrimination and reward the skills of those at the bottom of the pay ladder. Progress had also been made in eliminating the two-tier workforce where workers on private contracts were paid less than those still on public service rates. In the NHS, police and local government, statutory codes of practice required pay rates for staff on private contracts to match those negotiated for the public sector. A number of universities and voluntary organisations had also agreed to include ‘living wage’ clauses in their procurement regimes, and some had taken low-paid contract workers back in-house.

The downturn threatens to slow this process as public service employers re-examine their finances. While campaigners have argued that the cost of ensuring a living wage to all

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the government must recognise that cutting public service jobs, pay and investment will only make the downturn worse



directly and indirectly employed staff is more than offset by the benefits reaped in lower turnover, absenteeism and training costs, employers may well be unwilling to take risks with their current employment practices.

There is also the danger that public authorities will use the recession as a smokescreen for driving down pay. The National Auditor's report "Crunch Time?" questioned whether local authorities were as financially stressed as they claimed. "The expenditure that has seen the highest level of inflation – gas, electricity, fuel and food – make up less than 2 percent of total local authority spending."

What can we do?

Public service workers should receive pay increases based on the real needs of families and communities. There is no point saving money from one Treasury 'pocket' only to have it paid out in higher benefits for those pushed below the poverty line. And where work has been contracted out to the private sector, public authorities should insist that pay and conditions match those of public service workers.

The government must commit the necessary increases in public funding to meet growing public service needs. Currently there are plans for a further sharp slowdown in public spending growth from 2010 to reduce deficits created by the collapse of the financial sector – and others are arguing for even bigger cuts. This will be bad for our public services, bad for our economy and bad for our society. Public debt should be paid off by taxing those

best able to pay, not cutting services upon which the majority depend.

We should also accelerate public investment in affordable housing, schools and health facilities, and environmental projects such as flood protection measures, to create jobs and boost demand. This cannot be dependent upon private finance and private developers – councils and other public bodies must be empowered to invest directly.

Ultimately, the government must recognise that cutting public service jobs, pay and investment will only make the downturn worse. ■

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UNITE

Fair pay needs teeth



Jack Dromey

Fair pay needs enforcement with teeth that will fight for the rights of vulnerable workers to be honoured.

The best guarantee for the respect of rights is strong trade union organisation in the world of work. That is why we are organising the most vulnerable and hard-to-reach. Key also is that those charged with enforcing the law operate more effectively in future. If it is true that real progress has been made from the National Minimum Wage through protection against discrimination to action to end modern day slavery in the twilight world of temporary and agency work, it is also true that the enforcement culture has failed to keep pace with challenges facing workers today.

Unite has been a champion of vulnerable workers, combating abuse in what is a three-tier workforce, the newly arrived who time and again are exploited, workers here for generations who are undercut and the most vulnerable, those 800,000 undocumented workers. Organising at the sharp end, we have encountered migrant workers being underpaid and, at its most obscene, trafficked. Trafficking in law is also holding out to migrants in their country of origin when recruited that they will be treated well and then confronting them with a grim and very different reality upon their arrival.

We have encountered a “flexible labour market” which forces many workers into “self-employment” so that employers can dodge their responsibilities. We have encountered a “flexible labour market” which fosters a lowering of wages and a growth in insecurity, as seen in the treatment of agency workers in the food and agriculture sector and contract cleaners in the City of London.

Yet the five enforcement agencies have yet to rise to the challenge of eliminating abuse, enforcing workers’ rights and ensuring that there is no place in the marketplace for rogue

employers who undercut the reputable. Yes, some progress has been made but only now as a consequence of the work of the Government’s Vulnerable Workers Forum and the TUC Commission on Vulnerable Employees is there action underway on co-ordinated and effective enforcement.

I sat on both the Forum and the Commission and now represent the union on the Fair Employment Enforcement Board established as a result of the proposals from both. At last, we are meeting together with the five enforcement agencies determined to drive up enforcement standards.

The Board is driven by a joint determination to enforce the law to end exploitation and undercutting. Key will be:

- Political will, with enforcing workers rights given top priority.
- The resources necessary.
- A major awareness campaign so that workers know their rights and employers know the consequences of flouting their rights.
- The enforcement agencies working together, sharing intelligence and clamping down on bad employers, putting the worst in the dock.

Of course as trade unions we want the law strengthened and extended. The sooner strong law is introduced honoring the commitment on equal treatment of agency workers and the directly employed, the better. Likewise, the extension of the remit of the Gangmasters Licensing Authority, the most effective of the enforcement agencies, to cover Construction is essential. Government and some employers may not agree but our campaign for stronger rights will go on.

But rights without redress, enforcement without teeth, is little use to the millions of vulnerable workers in modern day Britain. The Fair Employment Enforcement Board can, if we get it right, make a real difference. ■

Coalition member contributions

CPAG

Low pay and child poverty

Paul Dornan

The UK Government has committed itself to eradicating child poverty by 2020. There is much consensus over this objective at UK level and within devolved Government. To deliver on its vision to eradicate child poverty, Government has:

- sought to get more parents into work (especially lone parents and disabled people);
- developed policies to try to 'make work pay' (through national minimum wage and working tax credit);
- redistributed towards families with children (through child benefit and child tax credit); and
- introduced long term policies like sure start to improve long term child outcomes.

Getting more parents into employment has been central to child poverty ambitions. Poverty has often been run together with worklessness in public or media debates; but most poor children live in households where one or more parent is in employment.

The causes of in-work poverty are three-fold (1) inadequate pay; (2) parents unable to work sufficient hours to get above the poverty line; and (3) larger family size. The solutions are, the support for parents to work longer hours where this fits with their family circumstances, additional help for those for whom wages are unlikely to meet additional needs (for instance larger families or those affected by disability) and in particular, decent pay.

The rest of this chapter explores what needs to be done to help employment support anti-child poverty policies. It argues that though the current economic situation is difficult, the UK should be plotting a course out of

recession which reverses current the economic inequality gulf. Tackling low pay is a key part of ending in-work poverty and is central to delivering a fairer society, it should be 'everybody's business'.¹

Work as a route out of poverty?

Children in households without a parent in employment are at a very high risk of poverty, around four times the risk of children who have a parent in paid work (see table 1). There are however many more children living in families where one or more parents work and so despite this lower risk, 59% of poor children are in in-work poverty.² Starting a job is not a safe route out of poverty: in one in three cases moving into employment from out of work poverty simply shifts a family into in-work poverty.³ In comparative terms, the UK combines a high employment rate (highest of the large countries of the European Union) and a high rate of child poverty: for these children parental employment has not provided a route out of poverty.

The table shows the different risks of poverty and material deprivation using three measures, two of which (the first two columns: low income and material deprivation and relative low incomes, before housing costs) are part of the official measure of child poverty. The third column providing a measure (relative low incomes after housing costs) which CPAG believes is a better indicator of disposable incomes.

The key point to draw from the table is that though the rate of poverty and of material deprivation is much higher for families where parents do not work, poverty rates remain high in all households without full time work or two employed parents.

One solution is therefore to increase parental hours, and though policy should support parents to work longer hours where they wish to do so, longer hours come at a price of less time to parent. One study, for instance, estimated a couple, paid at the minimum wage level, with two children would need to work 58 hours a week to lift the family above the poverty line:⁵ a minimum of one full time and one part time worker, just to get above the line let alone beyond it. For lone parents, unable to work such long hours, even full time employment still leaves more about one in fifteen children in poverty in these families. Better pay is needed not just parents working longer hours.

Making work pay?

Alongside seeking higher employment rates, Government has tried to improve gains from work. The national minimum wage (NWM) has been introduced as a wage floor; working tax credit provides a more generous tax credit subsidy for low wages; and policy has sought to provide more help with some of the costs of employment (especially childcare, both through increased supply side investment, through a payment within the working tax credit and through support via employers).

The national minimum wage has provided a welcome floor for wages, its introduction was not followed by the unemployment predicted by its opponents and overtime the rate has

been increased somewhat. The principle of the minimum wage has been proven and more should be done to increase it and to increase the lower rates (in particular lowering the age for the adult rate of the NMW to cover 21 year olds as the Low Pay Commission has urged⁶). For families with children, however, entitlement to working tax credit on top of low wages increases the real minimum level, though with the downside that this is not guaranteed (not all entitled to the working tax credit get it, whereas the vast majority get the national minimum wage or better) and this draws people into the tax credit system.

The working tax credit (WTC) is more generous and has wider eligibility criteria than previous provision. There are two central tax credit payments, the child tax credit which directs support to families with children and which can be claimed out of work and in low and moderately paid employment⁷ and the working tax credit which subsidises low pay work, the WTC also contains a child-care payment. It is welcome that low wages are increased through the tax credit system to recognise how inadequate these often are to meeting family needs.

However the difficulty of wage subsidy is both that parents are likely to prefer income to derive from employment, rather than a subsidy

Table 1: Risk of poverty by employment type

	Relative low incomes and material deprivation	Key Government measure Relative low incomes (before housing costs)	CPAG preferred measure Relative low incomes (after housing costs)
Lone parent			
In full-time work	5	7	16
In part-time work	19	19	33
Not working	58	58	77
Couple with children			
Both in full-time work	0	2	4
One in full-time work, one in part-time work	1	3	6
One in full-time work, one not working	10	20	30
One or more in part-time work	25	47	54
Neither in work	56	68	77
Average risk	16	22	30

Source.⁴ There is a low income measure in each indicator, for the first column this is living in households with incomes below 70% of median income (adjusted for family size), in the second and third is 60% of median income (adjusted for family size).

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from government to low paying employers, and that this enmeshes families in the tax credit system. The current tax credit system, introduced in 2003, has been improved after significant implementation problems, with early problems of high overpayment and error rates reduced if not solved,⁸ non-take up of support remains a key problem,⁹ the system remains complex to understand and error prone and early evidence suggested tax credits actually increased, not decreased, income instability.¹⁰ Recognising the need for higher take home income is necessary for tackling poverty, but CPAG would like to see moves to increase not only income levels but the proportion provided through wages.

Four challenges to help employment support tackling child poverty

This section makes four specific suggestions to help tackle low pay, and ensure employers support tackling child poverty.

1). Increase the national minimum wage: ending child poverty is everybody's business, low pay shifts the responsibility and burden of child poverty from employers to families and to children. The national minimum wage provides a popular floor to wages which can counter-balance the high pay inequality at the top of the pay scale. Increasing the minimum wage over time in real terms, and especially once the UK begins its economic recovery is a vital tool to offset damaging pay inequality.

2). Put more emphasis on job quality and pay progression to end the 'revolving door': low pay work and poor employment conditions are closely linked. Often low job quality (including inflexibility and low pay) means that work cannot be sustained and a family is caught in a 'revolving door' between employment and benefits. The solution to this churn in and out of work which undermines child well-being and which particularly affects lone parent families¹¹ means more support for parents with the costs of employment, but it also means decent pay to ensure families are genuinely better off in work. As well as better pay, Jobcentre Plus and employment agencies should shift from merely measuring job starts to ensuring that employment is sustained over a longer period and that pay progression occurs.

3). Public sector leadership on low pay: a quarter of low paid jobs are in the public sector.¹² Here Government (local, central and across the devolved administrations) is actively allowing the culture of low pay to continue, whilst subsidising it through the tax credit system. We urge leadership to root out low pay in the public sector and show all employers the responsibilities they have to pay a decent wage. Tackling low pay in the public sector could provide a powerful fiscal stimulus given that low paid workers need to spend more of their incomes than other employees.

4). Employer pay audits to reduce discrimination: CPAG urges wider use of pay audits to uncover patterns of differential pay. It is unacceptable that vulnerable groups such as lone parents (usually women), disabled people and black and minority ethnic groups often receive lower pay than the majority, we urge use of pay audits as a tool to highlight where differential treatment is occurring and to help tackle this problem.

Conclusion

This chapter has a simple conclusion: high rates of in-work poverty are a standing reproach to a child poverty strategy so reliant on getting parents into work. More must be done to go beyond the so-called 'work-first' approach of increasing the employment rate, to ensuring parents earn more and progress through employment, quality needs to be valued alongside quantity.

... Starting a job is not a safe route out of poverty: in one in three cases moving into employment from out of work poverty simply shifts a family into in-work poverty.

The economic situation is undoubtedly difficult, and highlights how vulnerable work first policies are. Rising unemployment is a major threat to tackling poverty, especially as groups such as disabled adults, the low skilled and lone parents may be at particular risk of losing work. For 30 years the UK has suffered high inequality, with unacceptable child poverty rates and with the opportunities which decent incomes afford, denied to a significant minority. The route out of the recession should be a fairer society, and CPAG urge putting in place policies to ensure both that those weakest in the labour market now are protected and that when the economy begins to recover it is these groups – not the highest paid – who gain the most, narrowing gaps and ensuring that low pay does not continue to undermine anti-poverty policy.

The Low Pay Commission will undoubtedly face a formidable balancing act in proposing changes in the National Minimum Wage, given difficult economic circumstances, rising unemployment and pressure on businesses. At the same time, though everything must be done to protect jobs in the downturn it would be wrong to enforce the toughest restraint on the lowest paid workers: we urge the National Minimum Wage should be used as a vehicle to narrow pay inequalities, this should happen particularly aggressively once the economy begins to recover. The UK has lived with the harm caused by high pay inequality for far too long, it is time to begin to reset the scales by increasing pay at the bottom. ■



NOTES

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Coalition member contributions

Gingerbread

Single parents, low pay and poverty

Kate Bell

Gingerbread
Single parents, equal families

Tackling low pay and in-work poverty for single parents must not be seen as a luxury during a recession, but a necessity. The experience of single parents all over the country demonstrates that in-work poverty cannot simply be tackled by greater working hours—families need an income from employment that enables them to combine paid work with their caring responsibilities.

Tackling low pay should be seen as part of an anti-poverty strategy that simultaneously offers a stimulus to aid economic recovery by putting money in the hands of the poor who are most likely to spend it. As Jason Furman, Economic Adviser to President Obama has put it, *“Putting money in the hands of the poor can help reduce the severity of a recession. And reducing the severity of the recession is the most important step we can take to mitigate any increase in poverty”*¹ The government can start now by setting an example and tackling low pay across the public sector, insisting that companies from whom it procures services pay a living wage, and by resisting calls to hold down potential annual increases in the National Minimum Wage.

Why care about single parents?

‘In work, better off’ was the title of the Government Green paper aimed at increasing the number of single parents in paid work in order, in part, to reduce child poverty rates.² This consultation kicked off a legislative process that will see all single parents with children aged seven and upwards subject to full work search conditions from 2010, and the current Welfare Reform Bill will ask those

with children aged three and upwards to prepare for work.

However, while most single parent families will be better off in work due to the below poverty line levels of benefit payments too many will still not earn enough to escape poverty; this is why 16 per cent of children with a single parent working full time are poor, as are 33 per cent of those whose single parent works in a part time job.³ This means that 393,000 children with a working single parent live below the poverty line.

The fact that single parents are a major target of welfare reform, and that so many of the children of working single parents live below poverty, should be enough to provoke concern about the consequences of low pay for this group. Single parents demonstrate that in work poverty cannot simply be tackled by greater working hours – families need an income from employment that enables them to combine paid work with their caring responsibilities.

Lastly, single parents deserve our attention because nine out of ten of them are women, and their employment is often concentrated in those sectors dominated by women, and hence by low pay. Single parents entering work following participation in the Government’s New Deal for Lone Parents predominantly entered jobs such as catering, cleaning, care, retail, clerical, and hair and beauty therapy.⁴ Tackling the gender pay gap and tackling low pay therefore go hand in hand; focusing on single parents again highlights the urgent need for this action.

The impact of low pay on families

Working in a low paid job means having to make difficult choices between employment and caring for children—a dilemma particularly acute for single parents. A recent study has examined how this trade off was managed in the lives of a group of single parents who moved into work between 2003 and 2007.

Whilst these women did feel that they were better off in work, many were still struggling financially, with half feeling insecure in this respect. For many of the parents, their incomes from employment had been insufficient to avoid them having to go into debt, with around half in this situation. These (and other) concerns had knock on effects on women's health, with thirteen out of nineteen women in the third wave of interviews conducted by the researchers experiencing stress or depression.

And while children were generally positive about their mothers' moves into employment, they were often concerned about continued financial instability, as well as the time they lost with their parent:

*“For children whose mothers had entered unstable employment or who had had difficulties sustaining employment the benefits [from work] were less evident, and the children, at that time, were very concerned about their financial well being and debt and anxious about the process of employment generally...positive outcomes [from mothers' paid work] were qualified by other concerns including time poverty and unease about their mothers' health and well-being”.*⁵

Moving on up?

The conventional solution to dilemmas such as these is often seen as contained in the concept of 'advancement'; women moving from low paid jobs to better paid jobs, or alternatively working longer hours. In this scenario low pay is not seen as an insurmountable problem providing it acts as a stepping stone to a better-paid job.

However, for many parents, and particularly for many single parents, advancement is often difficult to achieve. Evidence that does exist suggests that earnings increases for single was only achieved through parents working longer hours. There was little sign of parents moving into better paid jobs.⁶


This may partly have been due to the limited time for parents to take part in activities that would help them advance in work but, as Millar and Ridge's research shows, the

opportunities to advance within low wage jobs are often extremely constrained.⁷ Moreover, attempting the most effective strategy in this circumstance of changing job rather than waiting for promotion opportunities⁸ is often difficult as job security is particularly important to single parents, and this may be a trade off that many are unwilling to make.


The problem of in-work poverty for parents cannot be tackled simply by asking them to work more or longer hours, or to upskill in order to take higher paying jobs. As the evaluation of the Employment Retention and Advancement Project found, *“Lone parents' concerns about their children's well-being were always paramount.”*⁹ These concerns lead them to prioritise time with their children alongside paid work. A Government equally concerned with the wellbeing of children must ensure that all jobs, not just those which require high skills, pay enough for families to give their children time as well as financial support.

Falling back down?

If the type of jobs that single parents enter restrict their ability to improve their wages, low wages themselves hamper their chances of holding onto jobs. Single parents are more likely to have problems retaining jobs than other employees, and research has consistently shown that low pay is associated with moving back from work onto benefits in a low-pay-no-pay cycle.¹⁰



We can and must do more and Government can start by setting an example and tackling low pay across the public sector, insisting that companies from whom it procures contracts pay a living wage.



Coalition member contributions

Moves between employment and benefits can be particularly damaging for families: research into Britain's poorest children found that those in most hardship lived in families which had experienced one or more transitions between work and benefits.¹¹ There are serious concerns that the impact of the recession may be to see many more children experiencing this downward transition. Childcare responsibilities may make it harder for single parents to compete in a difficult job market, and those facing the new obligations to look for work are likely to be especially hard hit.

Online research with over 700 single parents conducted by Gingerbread before Christmas found that many were already struggling in the downturn. 83% who answered the survey said it was harder to make ends meet this year than last, 79% had had to turn down the heating to help manage their finances, and 39% had had to borrow money.¹² Low paid single parents are therefore more likely to lose their jobs, and having experienced low pay, be less likely to have built up savings that may protect them.

Ways forward

The problems linked with low-paid work are often particularly acute for single parents. And as a group vulnerable both to low pay, and the related risk of job exit, the effects of the downturn for low-paid single parents could be severe, with knock on consequences for their children

In normal times taking urgent and active steps to increase the number of single parents in jobs that pay a decent wage should be a priority. In a recession it is a burning necessity in order to offer shelter to those single parent families suffering from low-paid work and working poverty and provide the economy with the demand stimulus that would flow from putting money into the hands of those who are most likely to spend it. We can and must do more and Government can start by setting an example and tackling low pay across the public sector, insisting that companies from whom it procures contracts pay a living wage, and resisting calls to hold down potential annual increases in the National Minimum Wage. ■

NOTES

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Counsel and Care

Who cares?

Low pay and the cost of caring

Stephen Burke

The business of caring provides a perfect case study of the problems of endemic and enduring low pay. These problems will be exacerbated as the recession squeezes care funding and care providers look to reduce costs even further.

The current economic crisis however can't be allowed to disguise the need for long-term, radical solutions. Care is an issue that will dominate our society over the coming decades as our population ages, increasing the demand for care particularly for people living longer with dementia and disabilities. The question of how care is properly funded will attract growing public debate following a green paper due to be published in spring 2009.

The social care workforce in England accounts for about 1.5 million people, working in people's own homes, care homes, day care settings, hospital and the wider community. And it's growing in size.

Eldercare is still mainly a women's issue – carried out by women for other women, with low paid professional carers or unpaid carers looking after other women, many living on low fixed incomes without proper pension provision themselves. The care workforce is not only predominantly female but it is also ageing. Caring is still seen as low status work and surveys consistently suggest it is under-valued as well as under-funded.

Over three-quarters of care staff work for approximately 25,000 employers in the private and voluntary sector. The remainder work in the statutory sector, mainly for local councils.



There is a considerable disparity in pay and conditions between the two groups – those working in local authorities generally experience better wages and pensions and are unionised. In the private and voluntary sectors the workforce is fragmented and under-represented, with the vast majority paid at or just above the minimum wage. There is a high level of staff turnover, particularly in care homes, and many care workers have low levels of qualifications. The sector has relied increasingly on migrant workers to maintain

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for older people, their families and carers

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“ the problems of endemic and enduring low pay ”

services across the country. And there are high levels of vacancies despite rising unemployment because the work is not seen as attractive or properly rewarded.

The demographic shifts will require the care workforce to develop substantially – both in numbers and skills - to grow capacity and competence. At the same time with the advent of direct payments and personal budgets, an increasing number of personal assistants are being employed directly by almost 200,000 service users and are working in new ways.

The Department of Health is currently developing an Adult Social Care Workforce Strategy to tackle these big issues. While the draft strategy is full of plans to develop skills, training, career pathways and ‘workforce remodelling’, it is almost silent on pay and funding.

The current squeeze on funding of care by councils will make these two related issues even more acute. Local authorities are continually tightening their eligibility criteria for home care services, meaning that fewer older people qualify for council help in their own home. At the same time councils are squeezing the fees they pay for care home placements.

As reported to Counsel and Care’s advice service, these pressures mean more older people are having to find and pay for their own care themselves, increasingly purchasing support from private providers. This is a recipe for further downward pressure on wages which are already set at or just above the minimum wage.

Alternatively, more and more older people will rely on family carers for support. Many of these carers are also women on lower incomes, aged 45-65, and they may be forced to give

up work or retire early to be a full-time carer with inadequate financial support themselves.

The forthcoming green paper on care funding therefore presents government and society with a huge challenge. The only way to resolve this massive social issue will be a substantial injection of public funding to subsidise the supply of care services and better support for family carers, along with a campaign to raise the public status of the workforce and the value attached to caring. This approach has helped tackle some, if not all, of the low pay issues facing the childcare workforce over the last decade.

It would also help if care providers were to take a lead on raising pay to at least living wage levels. There is anecdotal evidence from mainly voluntary sector providers with better inspection ratings that good quality services are linked to better pay and lower staff turnover. Counsel and Care and the National Care Forum are researching this further to make the case for greater investment.

Our ageing population means we are fast reaching crunch point. It’s time for action on the pay and status of carers working with older and disabled people. This is an issue that affects all of us, either as a user of care services or as a carer ourselves, if not today then very soon. ■

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www.counselandcare.org.uk*

Creating a fair pay culture

Ama Uzowuru, Vice President (Welfare)



national union of students

It remains unclear what will happen to employment opportunities for students as the recession bites and as overall unemployment figures grow. However, our experience at NUS tells us that, even before the credit crunch, students very often found themselves in insecure and vulnerable employment in which they were unfairly treated.

It seems paradoxical but now is precisely the right time to tackle the culture of vulnerable and low-paid employment, and to put the economy on a surer footing to ensure that employment practices and pay are both fair and sustainable as we look, in hope, towards recovery.

Students at work today are engaged in a three way balancing act between work, study and life. Part time work is widespread amongst full-time students in both further education and higher education. Joint NUS and HSBC research on the student experience from 2008 shows 75 per cent of students undertake paid employment while at university¹. 46 per cent of those who work rely on paid employment to fund their basic living expenses². As the costs of accommodation, the costs of living, and the costs of education itself have risen, more and more students have come to rely on part-time employment in order to make ends meet.

Joint NUS and TUC research from 2006 showed nearly two thirds of employed higher education students were employed in, retail, hotels, bars and restaurants³. These are employment sectors which offer employment conditions that often fit in with student study patterns: flexible shift based work, evening and weekend hours and a low skills threshold for recruitment.

For those full-time students employed in other sectors such as health and social care, administration and construction, the majority are employed through employment

agencies, many of whom who specifically target student workers for low-paid roles with limited employment rights. Student employment is principally in sectors that have already been hit hard by the recession, and with few rights to speak of, there is a danger that students are both easily dispensable and vulnerable to exploitation.

Employment while studying is also a necessity for those who study part-time in higher education, which stands at more than 40 per cent of total student numbers; indeed this is often the very reason for individuals opting to pursue this type of study. The rising costs of education have inevitably been a factor in the steady expansion of part-time study, which often leaves students juggling part or full-time jobs and caring responsibilities alongside their studies.

Those studying in further and higher education have also inevitably become rich pickings for employers seeking to expand their

It may seem paradoxical but now is precisely the right time to tackle the culture of vulnerable and low-paid employment, and to put the economy on a surer footing.

Coalition member contributions

range of insecure and low-paid work.

For instance, through the exploitation of the current structure of the national minimum wage, employers can employ young people to do the same work for less pay. Those aged between 18 and 21 are eligible only for the development rate of the minimum wage, which at £4.77 per hour is nearly a full pound less than the standard rate. Meanwhile, those aged under-18 are eligible for just £3.53 an hour and those under 18 who are part of the Government's flagship apprenticeship programme do not qualify for the minimum wage. These are the facts but behind them lie many stories of young people trapped in vulnerable employment, struggling to make ends meet.

This unequal minimum wages compounds workplace age discrimination and, in effect, legitimises it. It also provides a disincentive to those more enlightened employers who take a long-term view, cultivating and properly rewarding their employees. Those employees will often reciprocate with loyalty, motivation and career development. In short, the recruitment and retention problems associated with high staff turnover can be tackled by the adoption of a different approach that puts employees on a new footing.

NUS believes that the national minimum wage has made a significant difference to the lives of many thousand low-paid workers. But it is now, during this recession, that we should be looking optimistically about rebuilding a stronger, more sustainable labour market where workers are supported and developed. This would not only be a positive development for those students and graduates who currently face an uncertain future, but would have benefits for employers to develop and motivate their workforce and sew the seeds of economic recovery.

There are other reasons why cultivating employees who are also students is of benefit to employers. When those students complete their courses they are more employable. If their part time employer has treated them well, that individual is more likely to look to further opportunities with that employer. Not only do these enlightened practices benefit the relationship between employer and individual, but they also improve the standing of the employer within their communities and among a wider range of potential future employees. The personal views transmitted from parent to

student, graduate to student, and student to fellow student are significant factors in future choices for those leaving education, not to mention in their future consumer behaviour. Those companies who treat employees well benefit from the associated esteem and find a queue of talented people willing to use their services or to work for them.

There is a strong argument that these changes must begin with and in education. The ages between 16 and 21 are for most the bridge between school education and full-time employment. It is during these stages were good practices should sprout and grow, offering a new deal for the employees of the future rather than a cynical and short-term attitude to employment.

Yet too many current employment practices take a narrow perspective, cultivating an attitude of cynicism and low aspiration among students and young people. Jobs that were once full-time and reasonably paid have increasingly been replaced by casual, temporary posts, working for contractors or agencies, and without union representation. As graduate recruiters slash the number of places on their schemes, there is a danger that a generation of graduates, saddled with debt, will become alienated once they have left education and surveyed the opportunities they are presented with. If employers are not more enlightened about the way in which they treat those in education, it will be those students and graduates who will work together to create the fair and sustainable employment opportunities they have been denied.

It will be the cynical and short-termist employers who will lose out in the end. But those employers who remain ahead of the curve and realise the huge benefits that motivating and developing their workforce will benefit in the long term. ■

NOTES

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Fair Pay: What is positive about the recession?

Peter Kenway, Chief Executive



It is easy to believe that the recession has made it even harder to win the fight for fair pay. At a time when tens of thousands of people a month are joining the dole queues, “you are lucky to have a job at all!” sounds all too reasonable. And the sense of guilt that that phrase can provoke probably does more to deflate a campaign for fair pay than any direct opposition to it ever can.

For sure, high and rising unemployment does nothing for the chances of winning a fight for fair pay. The truth of the matter, though, is that unemployment in the UK has been rising since 2004. Before the recession even began last summer, it had gone up by a third of million from the low point. That the fight for fair pay is hard and getting harder is nothing new.

What the recession is doing is changing the game. That this change contains many threats is not in doubt. Just because the state is going to be much more involved in directing economic activity than it has been for almost a quarter of a century is not in itself any guarantee that things will be better. At the time of the miners’ strike, coal was a nationalised industry.

But the recession also shows things that if grasped can help the fight the fair pay. One of these is that some of the fetters that seemingly bind low paid workers are not real at all. Another is that workers, and pay, are not to blame. Perhaps most important of all, although rising unemployment is a disaster, it is at least a disaster that is now out in the open.

Money is not a problem for the public sector as a whole

The most important fetter binding low paid workers is the simple idea that fair pay cannot be afforded. For certain, if employees are to be paid fairly, more money will be needed. Yet in its response to the recession, central government has shown that when it is deemed necessary, *finding the money is not a problem.*

It is not the eye-watering sums that have been used to recapitalise the banks that are relevant here. In many ways, what is involved here is a kind of funny money, just as the tens or even hundreds of thousands needed to buy the average house seems like funny money compared with earnings.

Instead, it is the huge increase in the amount of money that the government has to start borrowing to balance its books month by month.

So a year ago, before it all went wrong, the government was expecting to borrow around £40 billion in 2008/09. Now, however, the actual figures is expected to top £80 billion. Meanwhile the forecast for next year exceeds £120 billion.

The point about these truly enormous increases is not that we can have however much money we want without any consequences. That obviously cannot be true. There will certainly be consequences for many years to come as a result of these huge increases. But what it does show is

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“Unfair” pay, whether in the public or private sector, is not part of the solution.

that the public sector is not constrained by money in the way that a private individual or firm is.

So if central government says there is no money for something like fair pay, that is a choice it is making, not a hard necessity. Which means that if they were so minded, it could make a different choice.

In the case of fair pay, there is a second point: from the point of view of the public sector as a whole, the amount of money involved is small. So for example, suppose it was decided to increase the pay of one million low paid full time workers by £1 an hour. Over a year, how much would that cost? Answer, about £2 billion pounds. Is that a large sum of money? Given that the government is overshooting its budget at the moment by £3 billion *a month*, obviously not.

And that £2 billion is before deductions for income tax and the like – so the net cost to the public sector as a whole is much less than this.

So in the case of an employee whose family is not receiving tax credits (except perhaps the almost flat family element), the government takes 20 pence in income tax and 11 pence in national insurance from the employee. In addition, it also takes almost 13 pence from the employer. Putting all that together, for every £1 paid out by the employer, 40 pence goes to the Treasury and 60 pence to the employee.

Meanwhile, for someone whose family is receiving tax credits, the government's take is

actually much larger. For the way that tax credits work is that for every extra £1 of gross income, tax credits are reduced by 39 pence. As a result, for every extra £1 paid by the employer for this work, no less than 73% finds its way to the Treasury.

Now as a rule, low paid workers are more likely to be receiving tax credits than others. Without knowing all the details about each employee's family status (especially how much their partner earns and whether they have dependent children), it is impossible to say exactly how much. But a good rule of thumb would be to say that the government, in the shape of the Treasury, gets back about half of what the employer would have to pay out to provide fair pay.

This is the point to impress upon other public sector employers, for example, in local authorities or the health service: if they need more money in their budgets to pay a fair wage, they should be getting a minimum of a half of what is needed from central government since that is how much central government, in the shape of the Treasury, makes from fair pay.

It should be stressed: these are arguments that are true at any time; it is just that the recession helps make it clear that money, after all, is not the problem.

‘High’ wages are not the problem for the private sector

This argument applies no less to private sector employees working for firms who are providing services to the public sector since



their money too ultimately comes from the government. . But for other private sector employees, it does not work. There is no doubt that in general, the recession hits private sector employees much harder than the public sector ones.

In which case, what opportunity does the recession offer here? The answer is that it shows that jobs can be lost for reasons quite other than the fact that wages are 'too high' – and that it would therefore be quite wrong to respond to the recession by agreeing to put off, or even withdraw, fair wage agreements.

It is very understandable that when faced with the threat of losing their job, people should cast around for ways in which they can ward off that evil event. Agreeing to pay cuts is something that employees *are* in a position to do.

But the truth is that in general, that is not going to help. It is true that if one firm can cut pay, and therefore prices, it might be able to steal a march on its rivals by grabbing a bigger share of the market. But if that were to look like a successful strategy for one firm, competitors would surely follow suit. In which case, the net result would be almost as many job losses as before – *and* lower pay all round.

Conclusion

There is little room for optimism about the recession. There were improvements for low paid workers and low income families in the early years of this decade but things soon started to drift away again. Nothing better illustrates this than the fact that 'in-work poverty' as measured by the number of children in working families with disposable incomes below the official poverty line, reached an all time high in 2006/07 (the latest figures). If the gains in the good years were so paltry, the prospects for the lean years are grim indeed.


Yet one good that may come from the recession is if it helps change perceptions. Unemployment is not just something that used to happen in the past. Finding the money for fair pay is not a problem for the public sector as a whole. 'Unfair' pay, whether in the public or private sector, is not part of the solution. If campaigns for fair pay are to have a chance of success in the next few years, they need to find ways of taking the truths on board in their campaigning. And they need to link up: unfair pay is not an isolated problem. ■

Coalition member contributions

MRN

Migrant workers in a period of recession

Don Flynn, Director

 Migrants Rights Network
Working for the rights of all migrants

Over the past decade the presence of migrants has grown to 10% of the UK labour force. Most authorities attribute broadly positive benefits coming from migration over this period, with foreign-born workers offsetting the declining rate of economic active on the part of British citizens as more natives reach retirement age. The government's own calculations suggested that in the period 2001-06 migrants added £6 billion to economic output; around the same as the contribution coming from the UK agriculture and fishery sectorsⁱ.

However, trying to determine the effect of migration on a national economy during a period of recession is proving more difficult. Questions arise as to what trends are being reinforced by the presence of migrants, and what the behaviour is of the migrants themselves as they adjust to difficult times.ⁱⁱ

Economic theory predicts that, just as migrants permit adjustment to conditions of relative labour scarcity during boom years, and allow wage growth to be contained at non-inflationary levels, so during downturns they will withdraw from the labour market to return home and thereby reduce downward pressure on pay and conditions. Using this approach some optimists have argued that return migration will allow unemployment to peak at 2 million rather than rise to dangerously high levels of 3 million and above.

Whilst there is evidence that the levels of migration between countries like the UK and Poland are in decline, people observing trends

much closer to the level of migrant activity are more sceptical that matters will be quite this straightforward. In recent contributions to a 'virtual discussion' on women and migration organised by the United Nation's INSTRAW agency activists working with migrant domestic workers set out trenchant arguments against large-scale return migration based on the fact the current predicament is that of a global recession, with sending countries being hit as hard, or harder, than the regions of destination. Domestic workers, who lose their jobs because of cutbacks to the childcare and housework budgets of cash-strapped middle class professionals, are unlikely to easily contemplate a return to countries like Ukraine or the Philippines in these circumstances.

The example of Spain might provide a good indication of what the UK can expect to happen as the recession bites more deeply. With a higher proportion of non-EU nationals in a labour force which has contributed significantly to high economic growth rates over the past decade, the Spanish authorities have offered grants in the region of €10,000 to its large North African and Latin American to persuade them to return abroad at higher rates. To date the take up on this offer has been modest, with most migrants deciding to hunker down in the expectation of a few bad years rather than return home at this time.

This might not be a wholly irrational way to go about things. From the ground-level view of migrants the recession looks bad, but not unremittingly so. A significant difference between the UK economy in 2009 and the

other periods of downturn is its diversification into a range of niches which subdivide almost every sector of manufacturing and service. Whilst 'big ticket item' retailing has slumped massively over the winter, sectors like the 'pound shop' franchises, where immigrant entrepreneurship has been traditionally strong, are reported to be doing excellent business. Recessions are, after all, periods when firms strive to reduce costs to stay in business, and the use of highly flexible and exploitable migrant labour is certainly one way to put a cap on wages.

But migrants bring more to the labour market than a preparedness to work for lower wage rates. Many studies in recent years have shown migrant communities to contain a higher stock of well-educated and entrepreneurially-minded people than is found amongst the host community. As times become harder for British employers it might be expected that some at least will lower previous prejudices against the employment of people with professional qualifications gained abroad to take on them onto their payrolls. The fact that something of this sort is happening might be behind the statistics which so embarrassed the government in February, showing that the proportion of foreign workers employed in Britain has increased by 175,000 during the early period of the recession, rather than declined as so many had predicted.ⁱⁱⁱ

The general picture then is that, even during a period of severe recession, it will probably be the case that the UK economy will still present opportunities for migrants to find employers who want to employ them and that the option of returning abroad will therefore appear not so greatly attractive. However, we should certainly anticipate that a part of this survival strategy will involve downward pressure on wages and conditions and hence a rise in remuneration at below fair pay levels. But this is not unique to migrants and it can be expected that many British workers will find themselves in jobs in the months ahead working for wages they would not have considered even a year previously. If the prevalence of low pay is greater amongst migrants this is largely due to their great vulnerability in the labour market, rather than an innate predisposition to settle for less.

The important question which therefore needs to be asked is why are migrants in a more vulnerable position in the labour market than their British counterparts, and what can be done to redress this situation? In putting the matter this way there is continuity for the

work commenced by the government's department for Business, Enterprise and Regulatory Reform (BERR) and the Trades Union Congress on the Vulnerable Workers Enforcement Forum and the Commission on Vulnerable Employment (CoVE). The picture that emerged from evidence submitted to CoVE was of workers disproportionately concentrated in sectors which trade unions considered hard to organise, where employers demanded high levels of flexibility, and where the employment contract was more likely to be mediated by gangmasters and other types of employment agency arrangements. A considerable check to the vulnerability of many migrant workers would therefore come from relatively simple measures aimed at better regulation of the sectors where they were present as a sizeable segment of the workforce, and for a strengthening of the role of trade unions in representing their collective interests.^{iv}

If this seems a simple and straightforward approach to the problem of migrants as workers susceptible to being lower paid it is likely to be made more complicated by a lot of the politics which surrounds the business of migration. From the standpoint of the main government department responsible for the issue, the Home Office, the point is not that migrant workers should be better protected from greater exploitation during a period of downturn, but that they should follow the predictions of classical economy theory and go home. The immigration minister, Phil Woolas, has stated that the virtue of the managed migration system the government has put in place since 2002 is that it has the capacity to limit the numbers of migrants entering the UK when the economic indicators suggest there is low demand, and to use greater powers of enforcement to identify and remove those who are now considered surplus to requirements.^v Measures aimed at imposing substantial fines on employers found employing migrants without permission to work in the UK are a key part of this enforcement strategy.^{vi} The effect of squeezing migrants out of the labour market is expected, in the word of a Home Office strategy paper, to create situation in which conditions of life become intolerable and people return abroad voluntarily.^{vii}

This is essentially a vision of a world in which migrants are a tradable resource the supply of which can be increased or reduced in accordance with market demand. It is ironic that this condition is approached most closely in conditions of minimal migration regulation, where the cost of movement across

Coalition member contributions

from frontiers is limited to the expense of the air, train or bus ticket. Consistent with this viewpoint, migration from the countries of the EU probably has proven more sensitive to economic realities of recession, with more Polish, Czech, Lithuanian and other new EU nationals deciding to go home and wait for better times there. Non-EU migrants on the other hand, lumbered with greater costs at the onset of their move and facing a higher price in returning and giving up the residence permits they have worked hard to obtain, will cling on by their fingernails of necessity to the prospect of any sort of a job in the country of destination.

So, without a political intervention designed to redress the disadvantages migrants struggle with in competitive labour markets by guaranteeing equal status in the workforce, we seems safe to predicate that they will suffer during a recession alongside other vulnerable workers. Struggling with the high historic costs of their original migration it is difficult to believe that they will be easily reconciled to the prospect of a return home with very little

to show for their years abroad. But we can expect, if a progressive approach to the amelioration of conditions of poor wages and working conditions to emerge from government and social movements like the trade unions in the near future, that migrants would be as committed as any other section of the workforce to fighting exploitation and unfair wages. ■

NOTES

- 1 DWP submission to HL Inquiry
- 2 Reference IPPR position
- 3 'Statistics chief Karen Durnell inflames row over foreign workers' *The Times* February 12th 2009. <http://www.timesonline.co.uk/tol/news/politics/article5712634.ece>
- 4 Reference the CoVE report.
- 5 Insert suitable quote.
- 6 See 'Papers Please' report
- 7 Reference 'Enforcing the Rules'.



Interviews



Jonathan Djanogly MP



John Thurso MP



Pat MacFadden MP

Q1) With the UK now formally in recession many individuals and families across the country are facing material hardship. Many households that include one or more low-paid workers face a possible descent below the poverty line as a result of job losses within the household or a decrease in their own hourly earnings? Beyond the floor provided by the National Minimum Wage what is your party's agenda for the low paid?

Jonathan Djanogly MP:

Conservatives support the National Minimum Wage. Attitude, experience and skills are key components of career progression. And with career progression, comes wage progression. The motivation to climb the career ladder and the willingness to learn from experience are two things each and every individual can find in themselves. But the provision of skills is an area of shared responsibility, between individuals and government. That is why Conservatives are focusing on community learning, creating a streamlined funding model where government support for training follows the learner, and have pledged a massive expansion in the provision of real apprenticeships, creating 100,000 additional apprenticeships every year and making it easier for companies to run apprenticeships.

John Thurso MP:

Liberal Democrats believe that those on the lowest income will be hardest hit by the recession. We believe that removing the lowest paid from taxation is the most effective

way both of helping people on modest incomes and on helping to stimulate the economy. This could be done by lowering the basic rate of income tax or by raising personal allowances or a combination of both.

Pat MacFadden MP:

The national minimum wage forms part of the Government's wider strategy for tackling low living standards and, because peoples' circumstances vary, it should be seen in conjunction with other measures for alleviating poverty. The NMW complements tax credits in achieving fairness combined with flexibility in the labour market and together with the Working and Child Tax Credits, from April 2009 the NMW will guarantee that every family with one child and one person working 35 hours a week will receive a minimum income of £304 per week; this is compared to £182 in 1999, when the NMW was first introduced.

The government have also announced further reforms in the last year that will provide support to families both with children and without children. These include:

- A permanent increase to personal tax allowances by £600 above indexation with an increase of a further £130 above indexation in 2009-10 and 2010-11, together worth £145 for a basic rate taxpayer;
- A reduction in VAT of 2.5 percentage points from 1 December 2008, which will benefit families, on average, by £275 a year
- An increase to the support for Mortgage Interest (SMI) to better help people meet the interest payments on their mortgage and reduce the waiting time before help from SMI is available; and

- A new £1 billion package of energy efficiency measures, including at least 50% off a range of energy saving measures for all households.

So as a result of this Government's reforms to personal tax and benefits, on average, a two-earner couple without children both working full-time on half-average male earnings (£16,650 a year) will be better off by £375 a year, in 2009-10 compared with under the tax and benefit system for 1997-98.

Q2) While the National Minimum Wage has been an essential tool in the forging of a fairer labour market it has not affected the actual incidence of low pay in that labour market and consequently has not impacted on the levels of 'working poverty' in Britain. Does your party acknowledge that the high incidence of low-paid work in the UK—affecting approximately 5.3 million people or over a fifth (23 per cent) of all employees in this country—is a problem in itself and a core contributory cause to UK poverty levels?

Jonathan Djanogly MP:

The key underlying drivers of deep, cross-generation poverty are a lack of skills and lack of education. These present barriers to employment, which in turn results in poverty. They contribute to working poverty because they prevent career progression and, in some instances, result in just one half of a couple supporting the entire family if the other is out of work.

John Thurso MP:

Yes.

Pat MacFadden MP:

The NMW complements tax credits in achieving fairness combined with flexibility in the labour market. The minimum wage and tax credits together will mean that someone working full time with one child will actually have a minimum income per hour worked of over £7.45. Furthermore, as a result of direct tax and benefit measures introduced since 1997, in 2009-10, in real terms, those in the bottom quintile are £2,600 a year better off.

Q3) International comparisons suggest that the incidence of low-paid work in the United Kingdom is still one of the highest in Europe. In 2005 an estimated 22.1 percent or 1 in 5 employees in Britain fell below the low-pay threshold. This compares to 17.6 percent in the Netherlands in 2005, 12.7 percent in France in 2002, and 8.5 percent in Denmark in 2005. Does your Party aspire to reduce the comparatively high proportion of low-paid work in the UK labour market?

Jonathan Djanogly MP:

Conservatives are clear that all employees deserve to be remunerated fairly for their hard work and commitment. However, I am wary of damaging British competitiveness, to which our flexible labour market makes such a contribution, especially in these difficult economic times. Competitiveness is a key consideration of the Low Pay Commission, alongside social considerations and the impact of the National Minimum Wage on the wider economy. Ultimately, the provision of greater numbers of better paid jobs can be related to the creation of a competitive environment which attracts companies to provide better paid jobs. The role of government is to maintain such an environment and ensure that the workforce have the appropriate skills to carry it out.

John Thurso MP:

Liberal democracy is based on the core concept of fairness. We believe that the incidence of working poverty in Britain is unacceptably high and we certainly aspire to reduce the proportion of low paid work in the UK, partly through the fair tax policies and partly through investment in education and skills, and investment in higher technology and a greener future.

Pat MacFadden MP:

The Government aspires to combine social justice with economic prosperity, currently providing real help to businesses and individuals in this time of economic hardship. We have improved the quality of work by establishing decent minimum standards in the workplace and tackled unfairness by addressing discrimination and barriers to progression. The Government wants to see people paid a decent wage, which is why the national minimum wage was introduced, and we aim to help individuals achieve their potential through employment.

If your party does aspire to reduce the proportion of low-paid jobs in our economy how would a government formed by your party begin to utilise the space provided by the current economic crisis to build a fairer labour market for the future?

Jonathan Djanogly MP:

In the immediate, by moving away from a culture of rewarding failure at the top, to one of responsibility at all levels. But some of this responsibility falls to those at the lower end of pay scales too. We aspire to successfully upskill our workforce and to help people take themselves up the career ladder. We recently published a Green Paper entitled *The Low Carbon Economy*, setting out our vision for an economy based on high-tech green industry, not just a finance and banking boom. It envisages thousands of new jobs in green industry – which will be challenging, skilled but rewarding. It is also important not to remove existing jobs in the economy by loading further regulation on to companies.

John Thurso MP:

The downturn in the economy offers an opportunity to redirect which is not possible when the economy is growing rapidly. Government undertakes considerable investment. These investments need to be strategically targeted in order to help persuade companies to invest in upskilling and infrastructure, particularly with regard to environmental issues. It also offers an opportunity to move away from a financial services based economy to an economy based on real needs and services and to rebalance reward away from speculative towards wealth creation. In addition it is a time when Government can encourage learning and skills. Taking all of these points together with the tax changes mentioned above will help to create a different culture and labour market that is more just for the lower paid.

Pat MacFadden MP:

As set out in *Ending Child Poverty: everybody's business*, Government is committed to helping parents stay and progress in work. The Government is establishing a universal adult advancement and careers service in England with the potential to help every member of society get on in their learning, work and careers. Key aspects of the new service will be trailed over the next two years and the service will be fully operational from 2010/11. Access to advice on overcoming the full range of potential barriers that people face in taking up

learning and progressing in work will be a key part of the offer to individuals through the service.

The Government is also committed to helping people stay in work and progress in the labour market and the Government has taken steps to promote progression in employment by improving the integration of employment and skills, as outlined in the Leitch Review of Skills, which sets out a framework through which the issues of sustainability and progression in work can be addressed.

If we are to tackle-in-work poverty it is important that we build on our success in getting people into work by helping them stay in work and progress in their jobs.

From autumn 2008 aspects of the new integrated employment and skills service will be tested through Jobcentre Plus and the adult advancement and careers service. This new service will offer employment related skills support to parents and others, helping them to develop the skills they need to positively influence their employment prospects and enable them to actively participate in the labour market.

Would a Government formed by your party at the next election aim to maintain the 'bite' of the national minimum wage i.e. the value of the hourly NMW rate in relation to median hourly pay? Furthermore, do you agree that it would be a mistake—both for general economic demand and for working-families themselves—to hold down or postpone any increases in the national minimum wage as suggested recently by the British Chambers of Commerce?

Jonathan Djanogly MP:

Conservatives certainly have no plans to abandon the National Minimum Wage. To date, the Low Pay Commission has done an admirable job of balancing the many competing factors that influence the actual Minimum Wage rates, and a Conservative Government would continue to be guided by their recommendations.

John Thurso MP:

It would certainly be a mistake to hold down increases in the national minimum wage. Equally it would be a bad time to agree to increase the minimum wage by more than that which the economy can bear.

Pat MacFadden MP:

The Government is not in a position to speculate on what the 2009/2010 national minimum wage rates should be until we have heard from the Low Pay Commission who will make their recommendations in this respect on 1 May 2009. The Government will then consider and respond to the Low Pay Commission's recommendations.

According to a study produced in 2006 a typical employer will only get inspected once every 330 years in regards to compliance with national minimum wage legislation. What would a government formed by your party do to ensure the resources necessary to properly enforce the national minimum wage?

Jonathan Djanogly MP:

The National Minimum Wage makes an important contribution to social justice in the UK. Consequently, we have been calling for better enforcement of the National Minimum Wage for some time, and supported the relevant provisions in the Employment Act 2008. But I am not convinced that excessive inspections, paid for by the taxpayer, are a desirable way forward. Small businesses, in particular, labour under a vast burden of regulation which can harm national competitiveness and stifle job creation. This is not the same as de-regulating banks – there is clearly a big difference between helping small business owners (many of whom are low paid) and preventing excesses in the financial sector. In the first instance, therefore, a combination of education for employers and targeted inspections – towards those who have had complaints made against them or that operate in sectors with high incidences of low pay – offers a sustainable way forward.

John Thurso MP:

It is clear that the majority of employers in the UK obey the national minimum wage. However the evidence shows a significant number of businesses which do not even attempt to stay within the law. These businesses often share common characteristics both in terms of industry sectors and location. A Liberal Democrat government would look to target abuse of the system by specific companies and seek to eliminate as much abuse as possible.

Pat MacFadden MP:

The continued success of the national minimum wage is largely dependent on its effective enforcement. It is important, therefore, that compliance is policed effectively and non-compliance is dealt with rigorously. We do not believe that underpayment of the national minimum wage is acceptable and are therefore seeking to send a strong message which will change the behaviour of potentially non-compliant employers.

The Employment Act 2008 introduces a series of measures which will strengthen the enforcement regime of the national minimum wage.

From 6 April 2009 employers will face an automatic penalty of up to £5,000 if HM Revenue & Customs (HMRC) discover they have failed to comply with national minimum wage law. The most serious cases will be tried in a crown court and will be subject to unlimited fines. In addition to this workers will be entitled to have arrears of wages repaid at current rates. The Act also gives HMRC compliance officers new inspection powers and strengthens the criminal regime for national minimum wage offences.

These new measures send a clear message that non-compliance is not an option.

Since the introduction of the national minimum wage, HMRC have discovered underpayments totalling over £28 million, affecting almost 78,000 of the most vulnerable workers.

Would a government formed by your party use the levers that have been created by the current government to encourage employers to move towards fairer wages for those at the bottom end of the labour market? We are thinking specifically here of the opportunities inherent in initiatives such as Local Employment Partnerships where government, in providing skills training and provision (train to gain, business link etc), could legitimately begin to ask employers to guarantee fairer wages above the national minimum as examples of best practice.

Jonathan Djanogly MP:

We do not agree that the government have helped the bottom end of the labour market on a net basis, and emerging unemployment figures demonstrate this. We are committed to providing the British workforce with the skills needed to succeed in an international labour market, and have announced a number of policies aimed at doing just this – the expansion of real apprenticeships, for instance. These skills are not only designed to help people get jobs, but to keep them and progress in them too. It is natural that, as workers become more experienced and gain additional qualifications they become of greater value to their employer and so command higher levels of pay. Levers like this benefit employer and employee alike and have a valuable contribution to make to tackling poverty.

John Thurso MP:

Liberal Democrats would certainly wish to take advantage of all the levers available to help build a society where all employees receive a fair wage and a reasonable living standard.

Pat MacFadden MP:

The objective of Local Employment Partnerships is to encourage people back into work and off benefits, so they can develop skills and training they need to progress in the workplace. Local Employment Partnerships do not aim to set higher rates of pay within the labour market.

Would your party consider building 'fair pay' commitments into government procurement policies?

Jonathan Djanogly MP:

We continue to explore ways of giving small and medium enterprises a bigger share of the £125 billion annual government procurement budget. Small and medium firms employ over half of Britain's total private sector workforce, so helping them succeed and expand is an important part of creating jobs and providing opportunities for career – and pay – advancement within such organisations. A Conservative Government would certainly expect private sector organisations competing for state contracts to comply with all relevant legislation and aspire to meeting or bettering current best practice.

John Thurso MP:

Yes

Pat MacFadden MP:

The Government wants to see people paid a decent wage and is committed to acting as an exemplary employer in all ways that it can. All Government Departments offer a strong package of measures to support parents including flexible working, childcare, training, parental leave, mentoring and support.

The Government will continue to examine its practices as an employer to ensure that it supports staff who are directly and indirectly employed.

Does your Party support living wage initiatives across the country such the London Living Wage which is now supported by the Conservative Mayor of London, Boris Johnson and other successful examples at organizations such as Barclays and KPMG?

Jonathan Djanogly MP:

Conservatives certainly support measures to raise awareness, particularly among employers, of the true cost of living, which has soared in recent years. Similarly, firms making use of contractors should encourage those contractors to meet their own best practice on pay and conditions. However, we don't think the evidence is clear that region-by-region minimum wage rates will necessarily do what they are supposed to do, that is improve matters for people on lower salaries. One concern is that the additional red tape for some small businesses could discourage them from employing anyone at all.

John Thurso MP:

Yes

Pat MacFadden MP:

When employers are in a position to pay higher wages, the Government very much welcomes this.

Would a government formed by your party follow the example currently set by certain government departments—such as the department of children, schools and families—in implementing an in-house living wage policy for its staff across all government bodies and departments?

Jonathan Djanogly MP:

If elected, an incoming Conservative government would take into account a range of factors when looking at departmental pay structures, including the status quo and, of course, the state of the public finances.

John Thurso MP:

Liberal Democrats are certainly attracted to the concept. We would look to research the implications and seek to bring in such policy as soon as practicably possible.

Pat MacFadden MP:

Decision on public sector pay are for individual departments and agencies. They need to ensure pay wards reflect their own recruitment and retention, are affordable and are value for money. That doesn't mean there is a set target or level for any individual workforce.

Recent pay wards in some areas, for example the health service, Department of Work and Pensions, Department for Children Schools and Families or the coastguards, have specifically targeted pay towards those on lowest income.

NOTES

1 www.conservatives.com, Policy, Universities and Skills.

2 We define 'working poverty' as the conditions pertaining when an individual lives in a household with someone in work but the household income is nevertheless below the poverty line

3 Graeme Cooke and Kayte Lawton, *Working out of Poverty: A study of the low-paid and the 'working poor'* (IPPR, 2007)

4 Caroline Lloyd, Geoff Mason, and Ken Mayhew, eds., *Low-Wage Work in the United Kingdom* (New York: Russell Sage Foundation, 2008), p. 15

5

6 D Metcalf, *On the impact of the British national minimum wage and employment* (London: LSE Centre for Economic Performance, 2006)