

# The Low Pay Commission After Eight Years

*William Brown*

October 2005

CWPE 0544

**Not to be quoted without permission**

# The Low Pay Commission After Eight Years<sup>1</sup>

William Brown<sup>2</sup>

Faculty of Economics, University of Cambridge

Contact address: Darwin College, Silver Street, Cambridge, CB3 9EU  
wab10@econ.cam.ac.uk

## Abstract

The Low Pay Commission is the institution created in 1997 to introduce Britain's first National Minimum Wage. The paper places the Commission in historical perspective and provides a summary assessment of the initial impact of the Minimum Wage. It describes and analyses the development of the Commission and its concerns, conduct and advice. Central to its performance has been its independent, 'social partnership' constitution. The conclusion emphasises the centrality of the Commission's use of widespread consultation and academic research, and the unique asset of firm enforcement of the National Minimum Wage by HM Revenue and Customs.

Keywords: minimum wage; social partnership; labour market regulation

JEL Classification: I3, J3, J8, K3, L5

---

<sup>1</sup> This is a draft chapter for *The Changing Institutional Face of UK Employment Relations*, forthcoming, edited by L. Dickens and A. Neal, Kluwer.

<sup>2</sup> The author is grateful for the comments of fellow Commissioners, past and present, the Secretariat, and Jon Clark. All opinions expressed and any factual errors are his sole responsibility.

The Low Pay Commission appears to have settled into the institutional landscape of the British labour market remarkably smoothly. Created in the immediate wake of the 'New' Labour victory at the 1997 election, the single purpose of the Commission has been to advise on the introduction and maintenance of a National Minimum Wage. The political anticipation of this had been highly contentious. But the issue dropped out of controversy almost as soon as the Wage was implemented. Despite the fact that the Low Pay Commission manages what is arguably Britain's most intrusive labour market intervention, it has come to do this with little public criticism. A newspaper headline that had greeted the introduction of the Wage in 1999 continues to apply: 'Minimum Wage; minimum fuss'.

This paper discusses the context and conduct of the Low Pay Commission. Other accounts are available of the early life of the Commission and of the National Minimum Wage.<sup>3</sup> This focuses on the, at time of writing in 2005, comparatively mature operation of the Commission, and discusses the ways in which it has come to deal with an ever-changing labour market. In particular, it discusses how a very self-consciously 'social partnership' institution has developed its own way of operating, with an 'arm's length' relationship with government. The health warning is that the paper is written by a founding member of the Commission; it can make no claims to objectivity.

### Background

There is nothing new about statutory regulation of wages in Britain. For centuries magistrates had been empowered to fix the wages of certain occupations. This had petered out by the early 19<sup>th</sup> century. But the years that followed were ones of rapid economic change and of new forms of exploitation. It became increasingly evident that, when there is almost unlimited supply of labour, unregulated wages could be driven down to levels that supported neither common decency nor minimal nutrition. By the end of the 19<sup>th</sup> century, Charles Booth estimated that over a third of school age children in London were living below what he calculated to be the physically and nutritionally necessary poverty line. Encouraged by the experience of the Australian state of Victoria, pressure grew to tackle the problem directly through statutory minimum wages. In 1909 Winston Churchill brought in his Trade Boards Act, permitting minima to be established on a national but sectoral basis.<sup>4</sup> Renamed 'wages councils' in 1945, these comprised equal numbers of employer and worker representatives, with a small number of 'independents' to break deadlocks and represent wider interests.<sup>5</sup> The councils had a small inspectorate with authority to enforce their wages orders, the breaching of which was a criminal offence.

At their peak in 1953 there were 66 wages councils providing a safety net for around 3.5 million employees - about 17 per cent of the employed workforce - and supported by a couple of hundred inspectors. They covered sectors ranging from the more

---

<sup>3</sup> Bain, G. (1999), 'The National Minimum Wage: further reflections', *Employee Relations*, 21:1, 15-28; Metcalf, D. (1999), 'The British National Minimum Wage', *British Journal of Industrial Relations*, 37:2, 172-201; Metcalf, D. (1999), 'The Low Pay Commission and the National Minimum Wage', *Economic Journal*, 109 (453), 46 - 66; Brown, W. (2000) 'Putting Partnership into Practice in Britain', *British Journal of Industrial Relations*, 38:2, 299-316; Brown, W. (2002), 'The Operation of the Low Pay Commission', *Employee Relations Journal*, Vol 24 (6), 595-605.

<sup>4</sup> Phelps Brown, E. H. (1965), *The Growth of British Industrial Relations*, London: Macmillan, p 309.

<sup>5</sup> Bayliss, F. J. (1962), *British Wages Councils*, Oxford: Blackwell.

obvious such as Road Haulage, Baking, and Retail Food Trades, to the more esoteric concerned with, for example, Drift Nets Mending, Corsets, and Ostrich and Fancy Feathers and Artificial Flowers. But for various reasons, not the least being trade union suspicions that statutory minimum wages undermined collective bargaining, the system went into decline. By 1993, when John Major's government abolished all but the Agricultural Wages Board, the coverage was no more than 2.5 million employees. Some sectors that were emerging with large numbers of often highly vulnerable workers, such as industrial cleaning, security, and care homes, were not covered at all. Even for those that were covered, the average 'bite' of the wages councils' statutory rates, expressed as a percentage of sectoral average earnings, had fallen from 50 per cent in 1980 to 43 per cent in 1993. There was evidence of substantial underpayment, perhaps partly because there were derisory penalties in the very rare event of prosecutions.<sup>6</sup>

In 1974, contrary to prevailing trade union opinion, dissatisfaction with this position developed in the public service union NUPE, with the publication of a carefully argued case for what was called a National Minimum Wage by its authors, the general secretary, Alan Fisher and research officer, Bernard Dix.<sup>7</sup> But it was to take twenty years before Rodney Bickerstaff (successor to Fisher as general secretary of the expanded and renamed Unison) managed to get the proposal onto the Labour Party's electoral platform, with important backing from the M.P. Ian McCartney. Two substantial changes had facilitated this acceptance. One was a greater awareness by a weakened trade union movement that statutory minimum labour standards might actually support, rather than undermine, the floor on which collective bargaining was based. The second was the substantial recent increase in inequality in Britain. In particular, as had been the case a hundred years earlier, there was growing concern that there had been a sharp increase in the proportion of children growing up in poverty.

There have been many factors contributing to the rising inequality of pay in Britain since around 1980. Some are global changes, such as the declining relative demand for less skilled labour: as a result of technological change, and as a result of the increased openness, and increased size, of the international economy. Some are more particular to Britain, such as the decline in trade union membership, the contraction in the coverage of collective agreements, and the abolition of wages councils. Chart 1 shows how the wages of British employees over 22 years of age fared across the pay distribution in the five years 1992 to 1997, running up to the introduction of the National Minimum Wage.<sup>89</sup> It divides the whole employed workforce into hundredths, ranked from the lowest paid to the highest paid, and shows the extent to which the average pay increases received by each of those hundredths differs from the average pay increase of the middle, fiftieth one. It is apparent that the lower a

---

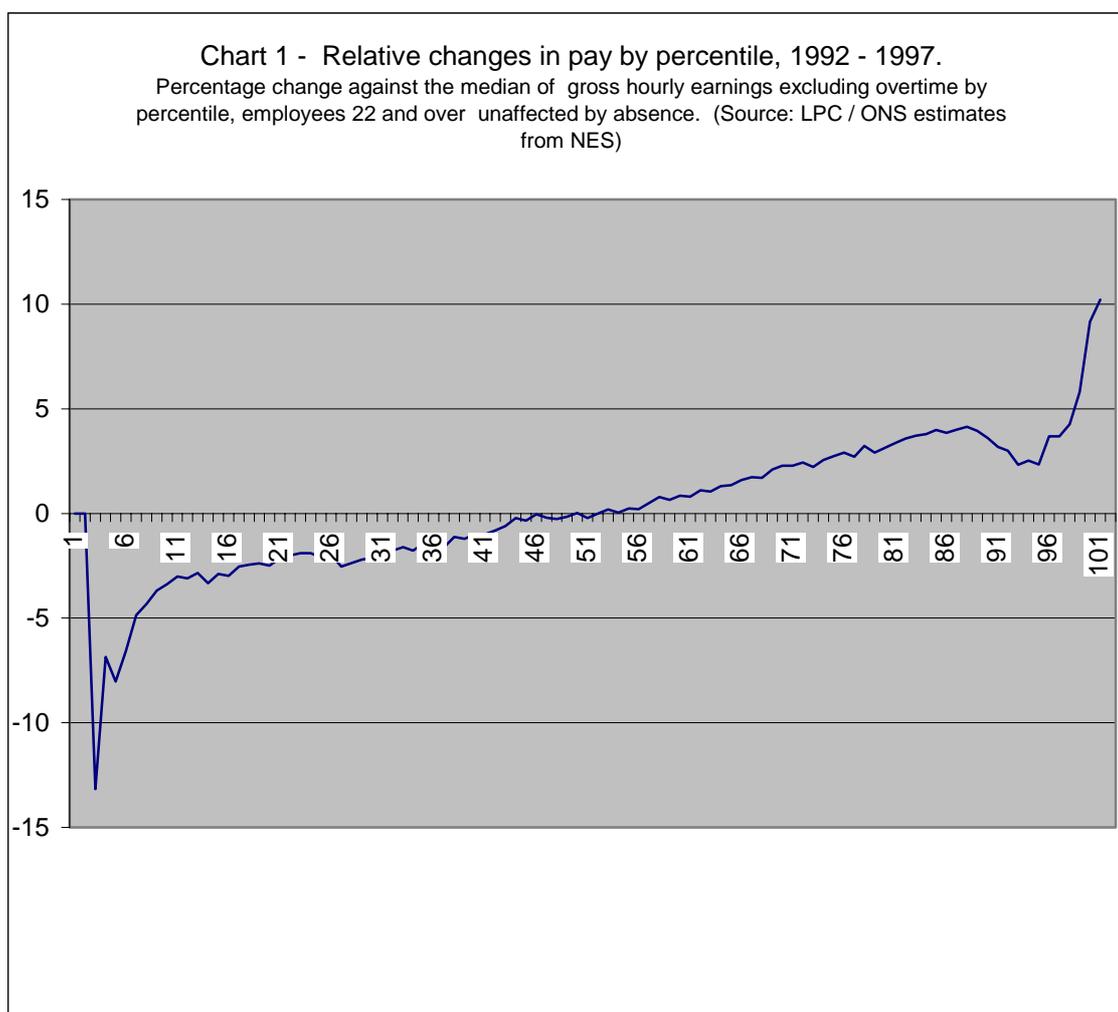
<sup>6</sup> Craig, C., Rubery, J., Tarling, R. and Wilkinson, F. (1982), *Labour Market Structure, Industrial Organisation and Low Pay*, Cambridge: CUP; Low Pay Commission, *First Report*, Appendix 5: 'A Century of Statutory Wage Legislation in the UK', Cm 3976, London: the Stationery Office, 1998.

<sup>7</sup> Fisher, A. and Dix, B. (1974), *Low Pay, and How to End It*, Bath: Pitman.

<sup>8</sup> The choice of 1997 (April) rather than 1998 (April) allows for the fact that 1998, following the establishment of the Commission, saw significant anticipation by employers of the introduction of the Wage in the following April; many gave unusually large pay rises to their lowest paid employees in order to soften the expected impact of the Minimum Wage in the following year.

<sup>9</sup> For the full analysis see T. Butcher (2005), 'The hourly earnings distribution before and after the National Minimum Wage' in *Labour Market Trends*, ONS, October 2005.

worker's earnings were, the poorer the pay increases they received over the five-year period – and that the reverse applied for the relatively well-paid. The bottom and top five or so per cent had the most extreme experience of this.



The implications for child poverty have been substantial. The percentage of children living in households with incomes below 50 per cent of mean income (before housing costs), which had remained fairly steady at around 10 per cent throughout the 1960s and 1970s, rose sharply to above 25 per cent by the late 1990s.<sup>10</sup> Child poverty in Britain, expressed in these relative terms, had become worse than at any time since, at least, the Second World War. Politically this was seen to be important because a major policy objective of Gordon Brown's Chancellorship was the reduction of the many adverse social and economic consequences of child poverty.

The government also had a strong financial incentive. As the preceding Conservative administration had discovered, the payment of in-work benefits to working parents on low pay is necessary both to mitigate the effects of child poverty and to encourage parents to move into work who might otherwise become dependent on out-of-work benefits. If, however, there is no floor to wages, there are many employers who are

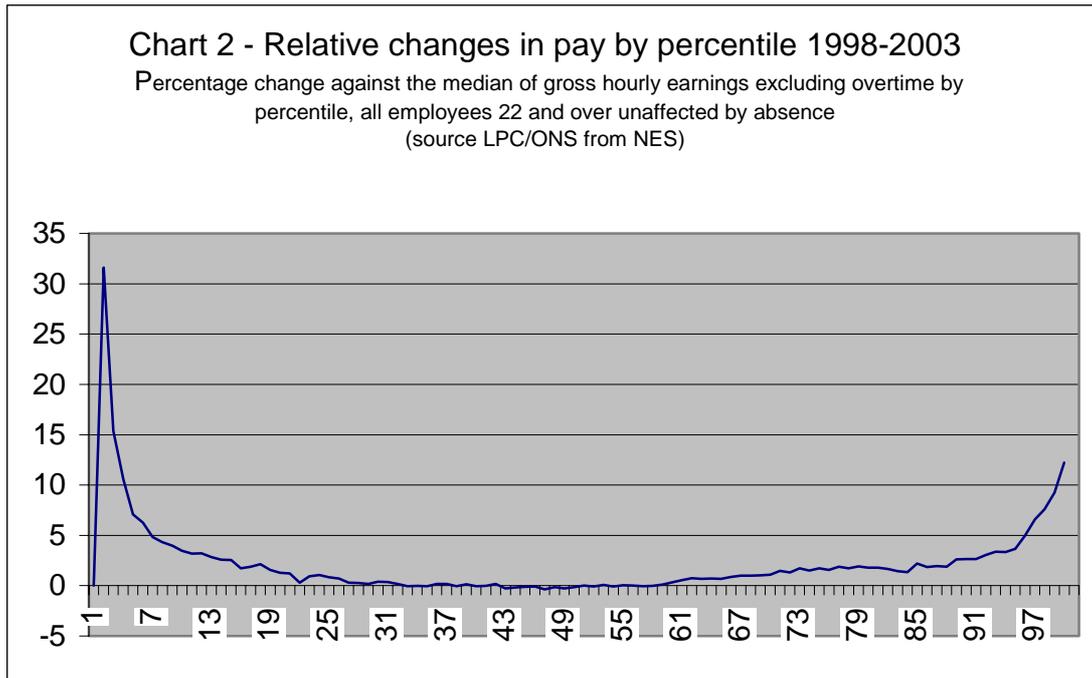
<sup>10</sup> Glennerster, H., Hills, J., Piachaud, D., and Webb, J. (2004), York: Joseph Rowntree Foundation, p46.

only too happy to offer very low rates of pay and to encourage their employees to maximise their in-work benefits payments. The consequences of the Exchequer in effect subsidising unscrupulous employers as a result of this behaviour were becoming extremely expensive. Between 1988 and 1997 the number of families on in-work benefits rose from around 50,000 to 700,000 and the annual cost to the Exchequer from £200 million to £2,100 million. A statutory minimum wage would force employers to shoulder some of the cost of propping up the finances of low income families.

#### The Wage settles in

The Low Pay Commission had pitched its recommendation of the initial level of the National Minimum Wage cautiously, and on the basis of a variety of sources of information, all of which were very imperfect. There were unavoidably contentious projections of what might have been prevailing rates of wages councils, had they not been abolished in 1993. There was the experience of other countries in terms of the relative position in their wage distributions of their own statutory minimum wages - these spanned an unhelpfully wide range. There were data on rates actually paid in the key low wage sectors. Important, if not disinterested, were the views of the trade associations of the most affected sectors on what was affordable. There were also economic modellers' estimates of the effect of different rates on pay differentials and on the macro-economy, all highly dependent upon their models' unavoidably heroic assumptions.

There were also two well-established national sample pay surveys. Unfortunately, for this purpose, they turned out to be seriously flawed. The multi-purpose door-step interviews of individual citizens used by the Labour Force Survey (LFS) proved to be an unreliable source of information both on what people earned and, as important from the point of view of estimating hourly rates, on the number of hours they worked. The LFS tended to underestimate hourly wages. The New Earnings Survey (NES), on the other hand, conceived in the 1960s to monitor incomes policies, used unimpeachable pay-roll data from employers, but was defective in failing to pick up many employees who were not earning enough in a week to meet the threshold which triggers Pay As You Earn income tax payments. These were typically just those low-paid, part-time workers for whom the Minimum Wage was intended. The result was two surveys whose estimates of the incidence of low pay differed substantially. This mattered a great deal since, in the relevant part of the hourly wage distribution, 10p difference encompassed around a quarter of a million employees. The Office of National Statistics tackled the problem robustly. As a stop-gap it produced a compromise estimate. But by 2004 it was ready to improve the NES radically, replacing it with the Annual Survey of Hours and Earnings (ASHE). This increased the coverage of the survey of employers and dealt with missing data by imputation and weighting. The bottom end of the labour market will always be characterised by murkiness - cash in hand payments, misrecording of hours, and scrappy records ensure that - but at least those statistics that are available are now providing a more reliable guide.



The initial impact of the National Minimum Wage for the low paid has been substantial. Chart 2 indicates, again by percentile, how pay rises differed from the median over the five years up to 2003, after the initial impact of the Wage. The contrast with Chart 1 is notable. Although the top percentiles have continued to do relatively well, those at the very bottom have seen their relative experience transformed. For the lowest ten or so per cent, pay rises have been substantially better than the median. Although there have been other changes in the context of low pay, this transformation is likely to be substantially attributable to the National Minimum Wage. It is also evident that the relative improvement is quite tightly confined to the lowest percentiles, which implies that there has not been a substantial ‘knock-on’ effect on pay differentials, which had been an early concern.

There have also been substantial consequences for gender equality, since women have been the main beneficiaries of the Minimum Wage. If we take the lowest decile, women’s hourly pay as a percentage of men’s (aged 22 and over) rose from 80 per cent in 1998 to 85 per cent in 2004. While other factors will have contributed to this, the Commission’s own analysis concluded that the Minimum Wage ‘...has exerted a major influence in narrowing the pay gap at the lower end of the earnings distribution.’<sup>11</sup> In summary, the Minimum Wage thus far appears to have been working well in the direction intended.

The law and its enforcement

How are the institutions underpinning the Wage settling in? Let us start with the 1998 National Minimum Wage Act. This was strong legislation, vastly more so than previous measures supporting wages councils. It had, for example, a broad definition of eligible workers, a requirement of reversal of proof on employers, and it threatened those in breach with substantial penalties. There have been some minor adjustments to

<sup>11</sup> Low Pay Commission (2005), *National Minimum Wage: Low Pay Commission Report 2005*, CM6745, London:TSO, p108, para 4.24.

the initial legislation, to cover loopholes and inadequate definitions. For example, regulations have been tightened on the payment of arrears by offending employers to workers no longer in employment, as have those concerning the complex matter of piecework pay. The Commission has called for more financially penal treatment of errant employers who delay reparation payments to employees they have been caught under-paying. But the general impression is that the legislation is felt by most of those who are affected by it to be effective and appropriate.

The agency responsible for Minimum Wage enforcement, what is now called HM Revenue and Customs, has entered into its new role with characteristic investigative energy. In 2002-03, for example, the Revenue's Helpline received around 53,000 enquiries, carried out about 6000 compliance investigations (many initiated proactively), as a result of which 24 cases were heard by an employment tribunal, and £3.6 million in wage arrears were identified<sup>12</sup>. The Revenue's experience with small employers who take chances on tax matters has proved to be valuable.

This is not to say that the Act has never been breached. Far from it. The black economy, cash payment, under-recording of hours worked and collusive illegal behaviour by employers and employees remain very much a feature of the low paid end of the labour market. At time of writing, no criminal prosecutions had been pursued. But, in July 2005, Gerry Sutcliffe, the junior minister responsible, announced that there would a new policy under which particular sectors (initially hairdressing) would be targeted for enforcement and that, separately, efforts would be made '...to identify cases with the aim of identifying a small number of employers for prosecution'.<sup>13</sup> It was felt that some more conspicuous enforcement was called for, *pour encourager les autres*. However imperfect the enforcement process, it is hard to imagine that it could be pursued with more investigative experience, or command more employer respect, than this policing by the Revenue.

#### The role of the Commission

If one test of the durability of an institution is its capacity to function effectively despite changes in personnel, then that test has so far been passed. The full-time secretariat has seen, in normal Civil Service style, fairly continuous staff turnover without any deterioration of the high quality of support. In 2005, none of the nine secretariat had been with the Commission for more than three years and the Secretary was the fifth in post. Of the nine Commissioners, there had been seven departures and only four of the original members were still present in mid-2005. Adair (now Lord) Turner had replaced Sir George Bain as Chair in 2002. But, so far as these things can be judged, the ethos and sense of common cause among Commissioners seems unchanged after eight years.

It is, perhaps, surprising, that this relatively small body should be able to cope with fairly frequent changes in personnel without changing its character and conduct. Part of the explanation probably lies in its very deliberate 'social partnership' construction, with broadly implied roles and 'balance'. There is an implicit expectation that the distinctive employer and trade union backgrounds of six Commissioners will

---

<sup>12</sup> DTI in association with Inland Revenue (2003), *National Minimum Wage – Annual Report 2002/03*, London: DTI

<sup>13</sup> House of Commons Tenth Standing Committee on Delegated Legislation, 12 July 2005, Draft Minimum Wage Regulations 1999 (Amendment) Regulations 2005.

sometimes be evident when it comes to asking awkward questions and testing weak arguments. If they are not to challenge arguments on behalf of their notional constituents, who will? Similarly, the three independents are expected, at least, to ensure that research and its use are rigorous. But all Commissioners act as individuals, drawing on their background experience but not mandated in any way by the organisations they come from. Certainly this is how they behave. Individual positions adopted in arguments on the many issues that come before the Commission are rarely clearly role-related, and it is only on the periodic debate on the recommended level of the Minimum Wage that there is predictable polarisation. Although straw polls sometimes help move discussions along, decisions of the Commission have always been unanimous.

The Commission's work has come to be geared every two years around a major report, which assesses the recent impact of the Minimum Wage and makes a recommendation for the next two years. Usually there has been an interim report on a particular issue – in 2004 it was concerned with the recommendation that there should be a statutory rate for 16 and 17 year olds. As will be discussed below, so far there has been a steady stream of new policy issues, reflecting changes in the labour market, and also of matters raised by government and by particular interest groups. Each year there have been up to ten half-day Commission meetings, one or two over-night 'retreats', and sometimes *ad hoc* meetings or conferences on research. Each year there have been up to ten consultative trips to different parts of the U.K. – typically with three Commissioners and a couple of secretariat – to meet people from three or four different affected sectors at their place of work to discuss their perceptions of current Commission concerns. Finally, as part of the process of preparing for the major reports it has been necessary to have formal hearings in London with the main interest groups.

The most demanding task facing the Commission is that of periodically agreeing on a recommendation for the actual level of the Minimum Wage. As well as the evidence that comes in from interested parties, and from commissioned research, the secretariat carry out a substantial amount of their own investigation, analysis, consultation or other background work that they and Commissioners consider might be relevant. This leads up to the Commission occupying a country hotel for a weekend for structured discussion of key issues. When the proposal of new rates is the main subject, these 'retreats' take the form of initial briefings followed by a series of short meetings both as a whole Commission and in sub-groups. During these the Chair in effect plays the role of an industrial relations mediator. Supported by the other two independents he explores the priorities and options of the employer and union members and cajoles them gradually into converging on an outcome everyone can live with. So far Commissioners have emerged from these rate-fixing weekends in weary agreement, but it has never been an easy process.

The outcomes are set out in Table 1. All rates recommended by the Commission have been accepted by the government, although the timing was altered somewhat in the first couple of years. Two years' recommendations have been made at a time, initially to facilitate agreement within the Commission, but later in response to employer requests for adequate notice of Minimum Wage changes. Thus 1999 and 2000 were decided as a package, as were 2001 and 2002, 2003 and 2004, and, most recently, 2005 and 2006. The 2001 and 2002 recommendations were, as can be seen, quite

heavily ‘front-loaded’, with that for 2001 being substantially larger than that in 2002, but subsequently the loading has been more even.

The initial level of the Wage was set cautiously, partly because of the uncertainties already mentioned about the statistical facts, and also because the Commissioners were aware that the initial shock of the Wage on employers in the unregulated labour market of 1999 would be far greater than that of any subsequent increase. It would never have made sense to fix a long-term rate in relative terms straight away. Both finding an acceptable relative position and allowing the labour market to adjust to it can only be gradual processes. But the Commission were determined that the Wage should ‘make a difference’ and, with the exception of the increase in October 2002, the recommended increases have been greater than increases in average earnings as a whole. As a result, thus far the Minimum Wage has been gradually moving up the national earnings distribution, thereby increasing the number of workers benefiting.

Table 1 – Increases in National Minimum Wage, Average Earnings and Prices

Date of NMW increase	NMW adult rate per hour (workers aged 22+)	Increase in NMW since previous NMW setting	Increase in average earnings index since previous setting	Increase in retail price index since previous setting
	£	%	%	%
1 Apr 1999	3.60	-	-	-
1 Oct 2000	3.70	2.8	3.1	2.7
1 Oct 2001	4.10	10.8	4.3	2.3
1 Oct 2002	4.20	2.4	3.7	2.3
1 Oct 2003	4.50	7.1	3.6	2.7
1 Oct 2004	4.85	7.8	4.2	2.1
1 Oct 2005	5.05	4.1	n.a.	n.a.
1 Oct 2006	5.35	5.9	n.a.	n.a.

What has determined these increases? Or rather, what have been the issues at the front of Commissioners’ minds as they have edged towards agreement? From the start, the dominant anxiety has been employment. At what position in the national wage distribution might the Minimum Wage start to cause significant job loss, or frustrate job creation? This has been, and continues to be, the central concern during consultations and in the commissioning of research. It was also the prime issue in deciding on the lower ‘Development Rate’ that was, with considerable internal difficulty, agreed primarily for younger workers. The Commission recommended this lower rate from the 18<sup>th</sup> to the 21<sup>st</sup> birthday, but the government has consistently required it to be the 22<sup>nd</sup> birthday, justifying this variation in terms of vulnerability to unemployment. Employability arose yet again as the main consideration when, in 2004, a minimum rate was recommended for 16- and 17-year-olds. Whatever other issues enter the Commissioners’ internal debates, their prime constraint has always been, and continues to be, anxiety about causing job loss.

Considerations other than employment effects have waxed and waned in salience. At the start, when some economic modellers predicted substantial knock-on effects, the

potentially inflationary macro-economic impact of the Wage was an issue. Commissioners had two meetings with the Monetary Policy Committee to explain their reasoning on this. But in practice knock-on consequences for the macro-economy proved to be insignificant. International comparisons seemed relevant at first, but as the Wage settled in and experience of it made the Commission more confident, these waned. Close comparison of aspects of statutory minimum wages of different countries is, in any case, made difficult by their diverse labour market institutions and data sources.

The view that the Minimum Wage should reflect the income needs of workers, which has dominated past minimum wage debates in some countries, and features in terms of a 'living wage' in the arguments of some British pressure groups, has never become a major issue for the Commission. This is largely because actual disposable income is so highly determined by family circumstances and the tax and benefit regime. The Commission has had research conducted on the impact of the wage on net family income, but that has not been translatable into discussions of the Wage level. Another concern that loomed large at first but has diminished in the light of experience is whether the Wage might discourage investment in training, especially for young people. The Commission's informed judgement has been that, if anything, having to pay people more may encourage rather than discourage employers to train them, but that, in any case, Britain's training inadequacies have deeper roots.

Considerations that have become more significant as the Wage has settled in, and as anxieties about adverse employment effects have not been realised, have been very practical. Most important has been a concern that compressed differentials may weaken incentives for those paid just above the Minimum Wage. Certainly many employers have argued this with regard to their ability to reward skill, effort, experience, and responsibility. Another emerging concern is enforcement. The higher the Minimum Wage edges in relative terms, the greater the incentive for employers to cheat in some way – by paying in cash 'off the books', or by under-recording working time, and so on. Reflecting another source of concern, the Commission has increasingly kept a keen eye on trends in profit levels, and in company start-ups and bankruptcies. At time of writing, these have shown no adverse signals.

The number of beneficiaries from the Minimum Wage is a question that has always taxed the Commission, not least because it is a natural statistic-of-choice for politicians. Initial estimates were substantially too high, largely because of the problems with the LFS and NES already mentioned. But this does not mean that the Commission ever had an initial target in terms of the number of beneficiaries. The initial estimate was simply the number of beneficiaries implied by the flawed survey statistics once the proposed cautious initial level of the Wage had been decided.

As time has gone on it has become increasingly evident that any estimate of beneficiaries is unavoidably subject to controversial assumptions. For example, it may be that, in the absence of the Wage, the relative position of the low paid would have continued to decline, as it had up to 1998. But how far and how fast? Then again, many employers have got into the habit of anticipating the announcement of Minimum Wage increases due in October by giving earlier increases according to their normal pay round calendar. But the muted response to the relatively small increase of October 2002 suggests that such anticipatory pay increases are, indeed,

anticipatory, and would not have been as large without the announcement of the forthcoming Wage. And although knock-on effects are evidently relatively limited, employers undoubtedly raise pay of some employees who are already above the Minimum Wage in order to preserve both internal and external differentials. Indeed, there is good evidence that, for many employers in many industries (and not least the Agricultural Wages Board), the Minimum Wage has become the driving force behind increases in their lowest rates. In brief, any estimate of the number of beneficiaries is unavoidably rough. But, in this spirit, a reasonable estimate might be that, if the Wage were frozen in 2005, then within a year at very least one and a half million employees would suffer a consequential deterioration in pay relative to all employees. Over a longer period, because the Minimum Wage is being used as a guiding light much more widely, the number would be substantially greater.

### Consultation

The consultative visits, which had been essential to the process of initially defining and then setting the level of the Wage, continue to be a crucial part of the Commission's functioning. It is rare that some new insight does not come from an hour's discussion at their place of work with people immediately involved with low paid employment – whether they be concerned with domiciliary care, strawberry picking, dry cleaning, corner shops, packing tights, caravan parks, catering, careers advice, adventure holidays, sandwich making, infant nurseries, or whatever. These people deal on a daily basis with the problem of managing, motivating, affording, competing, and surviving with the Minimum Wage. They may not be statistically representative, but their perceptions have the authority that comes from immediate practical experience, and they are very ready to discuss them. For Commissioners, the shared experience of the visits, and of trying to make sense of what they have seen and heard (and sometimes smelled), continues to be important in generating shared understandings and points of reference. It has become routine at the start of normal Commission meetings to discuss any interesting issues raised by the most recent consultative visits.

In this way the Commission has been able to pick up on many labour market developments and particular sectoral problems early. Commissioners were, for example, meeting with gang-masters back in 1997, have talked to more subsequently, and thus had a broad understanding of their role in the labour market long before some gang-masters gained national, criminal notoriety in 2004. Another instance of the visits providing early information has been that they have been yielding powerful insights into the way in which new immigrants (legal and illegal), and more recently those from the new EU member states, have been fitting in at the bottom of the labour market.

Consultative visits have been targeted to help the Commission to gain deeper understanding on which to base their recommendations when new questions have been raised by the Minimum Wage. One example was to do with therapeutic earnings – that is, where people with some sort of disability are encouraged with small incentive payments, when light work is considered to be conducive to their health or recovery. How could such work be defined so that the therapeutic value of it could be protected without denying potentially very vulnerable people the protections of the statutory Minimum Wage? The Commission's definition, derived from discussions with carers and from visits to centres dedicated to the care and rehabilitation of people

with learning difficulties, has in part been reflected in revisions to the Government's guidance notes on what constitutes work for Minimum Wage purposes.

A second example arose from the inadequacy of the Minimum Wage regulations' initial definition of piecework. These were, on the one hand, not robust enough to help many manual home-workers, of whom it has been estimated there are up to a million in the British economy, 90 per cent of them women and up to 50 per cent from ethnic minority groups. But, on the other hand, many employers in the clothing industry deemed the Minimum Wage's application to piecework to be terminally crippling to productivity because it denied adequate cash incentives. It took a series of lively discussions with representatives of affected industries to establish the relevant facts (one of which was that the domestic clothing industry needed far more for its survival than a sharp incentive system for production workers) before a clearer and more down-to-earth definition of a 'fair piece rate' entered the regulations.

Quite apart from the information and understanding gained through consultative visits, they provide political credibility to the whole data-gathering process. Pressure groups such as trade associations, disability groups, and regional chambers of commerce value the opportunity to have their more outspoken activists making their case on their home ground. As a matter of policy, if people affected by the Minimum Wage contact the Commission with an interesting new complaint or problem, an effort is made to fit them into a forthcoming visit. It is partly for this reason that the Commission makes an effort to cover most regions each year – it made, for example, six separate consultative visits to Northern Ireland in its first eight years. It matters a great deal to get out, and to be seen to be getting out, of London.

### Research

However insightful the visits are, and however eloquent are the representatives of particular interest groups, it has been essential for the Commission to have dispassionate, representative evidence as well. For each report it has carried out its own postal surveys, with the assistance of trade associations, to elicit responses from many thousand affected employers about the impact of, and their response to, increases in the Minimum Wage. More important, the Commission has become a major commissioner of research. This has ranged from case study fieldwork, through sampled surveys, to the detailed analysis of existing data sources. In all 74 distinct research projects have been commissioned since 1999, and their findings are summarised in Commission reports. Another round is being competed for at the time of writing. For this work the Commission has been very fortunate in being able to enlist both leading labour market research firms and internationally outstanding industrial sociologists and labour economists. Indeed, it is hard to think of a 'natural experiment' in the social sciences that has received closer academic attention than the introduction of the UK's National Minimum Wage, and our understanding of the low paid end of the labour market has improved substantially as a result.

The nature of the research programme has changed as the Wage has settled in. The initial concern was with the immediate impact. Appropriate 'before and after' studies were necessarily constrained by the recency of the event. But if quantitative time-series analyses were not yet possible, more qualitative case study approaches came into their own, while memories of initial adjustments to the Wage were fresh. Much of this work was by people with industrial relations research backgrounds, with their

familiarity with interview and case study techniques to explore changing power relationships. Studies were carried out on selected affected sectors (clothing, hospitality, charities, retail, hairdressing, and horse racing, for example) and on selected vulnerable groups, such as young workers, ethnic minorities, people with disabilities, students, rural communities, and employees in small firms. A variety of surveys were conducted, some building fruitfully on existing survey vehicles to detect changing behaviour. Of great value at this stage were studies carried out (with secretariat guidance) by pressure groups and voluntary organisations with unique access to their membership. Citizens Advice Bureaux, which deal with hundreds of thousands of employment rights cases each year, carried out valuable studies of their own casebooks on initial awareness and the impact of the Wage. Other groups contributing included local government researchers, local Low Pay Units, and organisations concerned with home-workers, the voluntary sector, and with gender equality. More recently qualitative, case study based approaches have been focussed on very specific policy concerns of the Commission, such as training, enforcement, non-compliance, and the employment of 16 and 17 year olds.

The passage of time since the introduction of the Minimum Wage has brought an ever-growing mass of relevant data from a variety of statistically representative surveys. This has brought leading labour market econometricians into the search, with the means to put 'before and after' studies on a sound statistical footing. A particularly potent technique has been the comparison of some aspect of the experience of workers who have been directly affected by the Wage with that of slightly better paid workers, not directly affected, but statistically matched in all other measured characteristics. Recently commissioned econometric studies have explored, among other things, effects of the Minimum Wage on employment, productivity, profitability, the number of hours worked, second job holding, movements in and out of employment, movements in and out of the Minimum Wage, and also the household characteristics of the beneficiaries.

All this work is building up a picture of the impact of the Minimum Wage of growing reliability. It is one of substantial impact, in terms of the numbers of workers affected directly, intermittently, or indirectly. The beneficiaries may not be their household's main income earner, but they are concentrated in the poorest working-age households. Exhaustive enquiry has still failed to give any evidence of adverse employment effects on either primary or secondary jobs. But there is some evidence that, in the service sector, job creation may have been hampered by the Minimum Wage, and it may have led to a slight reduction in working hours. Steering, as the Commissioners must, in a blizzard of anecdotes and speculation, it is hard to exaggerate the guiding value of this growing body of research.

#### Institutional lessons

What wider lessons for labour market regulation might be learnt from the early years of the Low Pay Commission? The National Minimum Wage is a major and apparently effective labour market intervention that has been established with little resistance. The Commission itself has developed a social partnership approach that has won agreement on all aspects of the Minimum Wage, most notably on its level. Its recommendations have been accepted by government, with the trivial exception of whether entitlement to the full rate should start at 21 or 22 years of age. What might

account for this apparent success? Are there wider lessons for the national regulation of labour standards?

There are six main features of the Commission that have helped its work. One is that it is a single-issue, and in some ways a simple-issue body. The implied aim of the National Minimum Wage is that it should be an intervention that makes a positive difference to low-paid workers' pay up to a point where it still does not jeopardise their jobs. This is an aim with which all Commissioners can readily identify.

Second, the Commission is sufficiently small for the Commissioners to be able to work closely together, especially through the difficult process of achieving agreement on the recommended level for the Minimum Wage. Regular consultative visits have been important in helping them build close working relationships with each other and with their secretariat.

These consultations are a third important feature. Meeting people throughout Britain who have to work with the consequences of the Commission's deliberations is a fruitful and chastening experience. It probably helps the political acceptability of the Minimum Wage. It certainly helps to keep the Commissioners' feet on the sometimes grim and shifting ground.

However rich the insights gained from consultation, they rarely swing arguments. This is why emphasis must be placed on the fourth feature of the Commission's work: research. Time and again disagreements within the Commission have been resolved by some research on a point of controversy, often no more than a simple quantification. The labour market is so variable, so perverse, so confused, and so subject to myth-making, that without the back-up of sound empirical research, neither the Commissioners, nor the Government, could be confident about the Minimum Wage's effects. Research is the best antidote to myth.

Research is also an important buttress of the fifth feature: the Commission's success in keeping the Government at arm's length. The Commission has now steered the Minimum Wage through the political perils of two general election campaigns. Whether or not all politicians respect research, their civil servants generally do, and the Minimum Wage is research led policy *par excellence*. Whatever the temptation for Government to exercise influence other than through formal evidence, no attempt has been made to do so.

Sixth, is the importance of enforcement. Employers comply more willingly if they can be reassured that they will not be undercut by non-compliant competitors. In the Revenue, the Commission has an enforcer with immense relevant experience. It may not be fully successful in the shadows of the black economy, but it is energetic, ingenious, and generally respected.

These features may have wider applicability for labour market regulatory institutions in the twenty-first century: to be small, focused, independent, research active, and to get out and about and talk with, and learn from, the affected public. But uniquely for the British context it is the sixth feature, access to effective enforcement, which is perhaps the most unusual source of strength for the Low Pay Commission.

Over the past thirty years successive British governments have introduced several score statutory labour standards – concerned with equality and fairness of treatment by employers, with parental rights, working hours, working safety, and much else besides. But with the exception of the Minimum Wage, and to some extent health and safety, all these rely on do-it-yourself enforcement. It is up to the aggrieved worker to press for his or her statutory individual employment rights. Indeed, it is the employee's entitlement not only to take such a grievance to an Employment Tribunal, but also to have an Acas conciliator intercede and try to reach a settlement. But in practice these are hollow rights for those with greatest need. For these are the most vulnerable in the workforce, the majority of whom have neither trade union representation nor the self-confidence to challenge their employer.

Almost all other countries have independent labour inspectorates that, to a greater or lesser extent, seek out employers who breach statutory labour standards, and take up cases on behalf of aggrieved employees. Britain's labour market regulation is defective in this respect. The Low Pay Commission's most fundamental lesson for Britain's other regulatory institutions may be the importance of independent enforcement. Can a statutory right be considered truly universal without it? If not, then the National Minimum Wage is arguably Britain's only effective labour standard.

Faculty of Economics  
University of Cambridge