



**Low Pay Commission Consultation on the National
Minimum Wage**

British Youth Council response

27th September 2007

The British Youth Council (BYC) is the national youth council of the United Kingdom. We represent a unique coalition of young people who've joined together through national, regional and/or local youth organisations. Our membership and network numbers over 170 organisations and 400 youth councils. BYC promotes the active citizenship of young people and works to ensure that they are more involved in decisions about their lives.

We aim to do four things:

- Provide a voice for young people;
- Promote equality for young people;
- Help young people be more involved in decisions that affect their lives;
- Advance young people's participation in society and civil life.

We bring young people together to agree on issues of common concern and encourage them to bring about change through taking collective action.

BYC is run by young people for young people. Young people shape our work at all levels through participation in our projects, and regular consultations on policy. Young people also control our governance as a member of BYC's board of 13 annually elected trustees all between the ages of 18 and 24.

BYC encourages young people to become engaged and active through a number of mechanisms:

Publications: BYC produces a range of publications to help youth organisations realise their plans for development.

Supporting youth councils: BYC also actively promotes local youth councils as a model for young people to come together to discuss issues that are important to them and to use their collective resources to lobby effectively for local action.

Policy and Parliament: BYC facilitates young people's involvement in national governance through regular consultations that feed into the Westminster policy making process.

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Key Points

- Young people want the government to introduce greater equality in employment by creating an equal National Minimum Wage (NMW) for all aged 16 and over.
- The age-tiered NMW system is deeply discriminatory and contravenes the spirit, if not the letter of the Employment Equality (Age) Regulations 2006, which makes it unlawful to discriminate against employees because of their age.
- The NMW exemption on the grounds of a legitimate employment policy aim is not tenable.
- An equal NMW would not lead young people away from their studies. But it would prevent young people from jeopardising their education and damaging their health by working longer hours in order to support themselves.
- The government's new 10 year youth strategy recognises that young people are perceived negatively within today's society. We urge the Low Pay Commission to recommend the government to take a positive step towards tackling negative stereotypes; by demonstrating that young people have equal worth and delivering an equal NMW.

“With society’s current strive for equality for all races, abilities, genders and cultures it is with ignorance that equality through age is overlooked. The current situation fails to acknowledge young people’s worth, and denies them true credit for their work.”

- Ruby, 17

Executive Summary

BYC welcomes this opportunity to submit evidence to the Low Pay Commission (LPC)'s annual consultation on minimum wage rates. This submission contains 6 main arguments:

- 1) Young people want the government to introduce greater equality in employment by creating an equal National Minimum Wage (NMW) for all aged 16 and over.
- 2) The age-tiered NMW system is deeply discriminatory and contravenes the spirit, if not the letter of the Employment Equality (Age) Regulations 2006, which makes it unlawful to discriminate against employees because of their age.
- 3) BYC believes the NMW exemption on the grounds of a legitimate employment policy aim is not tenable.
- 4) An equal NMW would not lead young people away from their studies. But it would prevent young people from jeopardising their education and damaging their health by working longer hours in order to support themselves.
- 5) The government's new 10 year youth strategy¹ recognises that young people are perceived negatively within today's society. We urge the Low Pay Commission to advise the government to take a positive step towards tackling negative stereotypes by demonstrating that young people have equal worth by delivering an equal NMW.
- 6) BYC acknowledges that the Terms of Reference for this inquiry exclude reviewing the apprenticeship and pre-apprenticeship exemptions at this time. However, BYC would like it to be noted that it believes apprenticeships should be included within the NMW.

Introduction

In its call for evidence, the Commission asked to hear the views of those who have been affected by the minimum wage. The Commission also stated a desire to hear responses which provide information not already in the public domain and which might not otherwise be available. To this end, BYC has carried out research amongst a small pilot group of 50 young people, aged 16 to 21, from across the UK to present an updated account of young people's experience with the minimum wage. These results are interim findings and BYC would be happy to present its final results with a greater sample size at a later date.

¹ *Aiming high for young people: a ten year strategy for positive activities* (2007), HM Treasury and DCSF

BYC has also collated letters from 600 young people addressed to the Chair of the Low Pay Commission, expressing their dissatisfaction with the current minimum wage system and calling for an equal NMW.

BYC provides this evidence within its response, together with current academic opinion to support its position. This submission will conclude that young people are being discriminated against under the current NMW system and BYC will recommend the current wage tiers be removed and an equal NMW for all aged 16 and above be created in its place.

Giving young people a voice on the NMW

The United Nations Convention on the Rights of the Child (UNCRC) article 12 gives children and young people the right to have a say in decisions that affect their lives. BYC has obtained evidence from young people, which demonstrates their feelings of injustice and fundamental unfairness towards the current tiered NMW system.

Young people's opinions were gained via an online survey, which is currently ongoing. Alongside the evidence contained herein, BYC is presenting the Low Pay Commission with 600 letters signed by young people who want an equal NMW.

A large number of our young members and volunteers have expressed dissatisfaction with the current NMW system and so we advised them to write to the chair or Low Pay Commission to express their concerns. By providing young people with a template letter to sign, BYC has made it simpler for them to express their opinions; which is our duty as an organisation which works to give young people a voice.

The correspondence articulates the disillusionment felt by many young people who feel discriminated against by employment laws which legally entitle them to less pay than their older colleagues. These letters represent just a small indication of the large groundswell of support that BYC has encountered for an Equal NMW for All.

The voices of young people are loud and clear. BYC urges the Low Pay Commission to recommend that the government deliver equal pay for equal work. Young people say they have to pay the same amount for food, clothing, housing and heating as their older colleagues. It is not true that young people are working to have 'going out' money, the money they earn is essential to living and to saving money for future studies.

It is often assumed that young people don't want this change or do not feel strongly about discrimination. But young people believe this is more a sad reflection on our society where young people don't believe that they have a voice or that anyone is listening to them; which is totally contrary to the rights afforded under UNCRC.

Discrimination in the workplace is something that the government is fighting against, yet an unequal NMW is letting young people down. Young people feel powerless and discriminated against; and feel frustrated that they are not being listened to by the government or by the Commission that is meant to protect workers who receive low pay.

One young worker commented:

"I have been working as a 17 year old for over 6 months in my current job, where I face consistent discrimination. My wage is menial when compared to my older colleges. As a young person I am overlooked and given unwanted shifts. I feel that I am valued less than other staff, and I think the low wages of under 18 year olds contributes to this attitude. For example employees are supposed to receive a pay rise after 4 months, which was overlooked in my case. I am given the worst jobs consistently and have had no change in my position, even less experienced older employees are put ahead of me. It is assumed that as I am a young person I need the money less, but this just is not true. I have digs to pay! Even our tips are tiered by age so older workers get more. The low minimum wage for under 18s seriously affects my quality of life!" – Josie, 17

As the Commission is aware, BYC arranged for a group of young people from Scotland to meet with Low Pay Commission representatives in Aviemore. The arrangement of this meeting was co-facilitated by the Scottish Youth Parliament and Young Scot. BYC recognises that the Commission will have the minutes² from this session on record, but we would like to highlight some key points from the young people's evidence.

The young people present thought it inconceivable that any young person could live independently on the development wage rates. They also thought the Education Maintenance Allowance was insufficient. BYC's own study concurs with this, with almost one third of respondents disagreeing that the EMA was sufficient. All the young people present at the meeting were in favour of an equal minimum wage across all age groups from 16 years.

² Notes of Low Pay Commission visit to Scotland, 07 August 2007

The minutes of meeting state that the young people believe apprenticeship trainees should be paid the same as their co-workers and that there should be more information for young people on what to do if they are under paid. The findings from BYC's own survey are consistent with the need for more information, as just over one quarter of respondents did not know what the current minimum wage rates are. Young people think they are more likely to be exploited but point out that it is a very daunting prospect for a young person to ask their employer for the correct wage. BYC believes young people would be offered greater protection from exploitation by an equal minimum wage. Indeed, our preliminary research findings show that 80% of young people surveyed either disagree or strongly disagree with the current system of differential minimum wage rates based on age.

Comments from young workers include:

"We should be paid for the work we do, not because of our age when we do it."

"Same work, same pay, simple!"

"Everyone should be paid equally regardless of their age if they are doing the same job"

"It effectively alludes to age discrimination and actively encourages businesses to look unfavourably on young people."

Employment Equality

BYC welcomed the introduction of the national minimum wage on 1 April 1999. We further welcomed the introduction of a minimum wage for 16 and 17 year olds in 2005. Last year BYC advised the Low Pay Commission to recommend that government introduce an equal NMW. BYC was disappointed that the LPC failed to take on board our advice and instead concluded that "there continues to be a need for lower National Minimum Wage rates for younger workers as a protective measure."³

BYC believes the age-tiered NMW system is deeply discriminatory and contravenes the spirit, if not the letter of the Employment Equality (Age) Regulations 2006, which approaches its first anniversary at this time. Regulation 3 stipulates it is unlawful to discriminate against employees because of their age unless A can objectively justify discriminatory treatment of B⁴. BYC acknowledges that there is an exception for the

³ *National Minimum Wage*, Low Pay Commission report 2007

⁴ *The Employment Equality (Age) Regulations 2006* Statutory Instrument 2006 No. 1031, Part 1 General, Regulation 3 <http://www.opsi.gov.uk/si/si2006/20061031.htm#3>

NMW in the regulations⁵ but as we shall argue below, this is not legitimate. We would also argue that discrimination on the grounds of age in minimum wage provision is not a proportionate means of achieving a legitimate employment policy aim (i.e. avoiding damage to youth employment⁶) but is in fact contravening young people's human rights enshrined in UNCRC⁷ and the Covenant on Economic, Social and Cultural Rights (CESCR)⁸.

The Low Pay Commission states in its 2007 report that the employment rate of 16-20 year olds has declined in recent years, which in part is due to an increase in young people participating in full time education; but is to a large extent difficult to explain. This leads to the Commission's conclusion that younger workers need a lower NMW in order to protect their employment prospects⁹, i.e. inferring this to be a legitimate social policy aim.

However BYC would contend that the reasons for higher unemployment amongst young people without post 16 qualifications, and the rise in so called NEETs, is an effect of inter-related multiple deprivation factors, of which poverty and a low sense of self-worth are two aspects. Introducing an equal NMW for these young people would arguably increase rather than reduce labour market activity.

The Annual Survey of Hours and Earning (ASHE) 2006 shows the most common hourly rate for 16 and 17 year olds to be £4.84 per hour¹⁰, which is well above the minimum rate. BYC's own study also shows that over half of respondents were being paid more than NMW for someone of their age. It seems therefore that equalising the minimum wage would not substantially weaken the labour market position of this age group.

Moreover, evidence suggests that some companies feel uncomfortable about paying their staff different rates based on age. For example, the British Pub and Beer Association told the LPC that it was common practice to pay adult rates from age 18 as they did not see the justification in paying 18 -21 year old staff lower rates than their older colleagues for doing the same job¹¹. This signal from the labour market suggests that scrapping the lower wage floors would not substantially weaken the position of this group.

⁵ *The Employment Equality (Age) Regulations 2006* Statutory Instrument 2006 No. 1031, Part 4 General exceptions from parts 2 and 3: Exception for the national minimum wage

⁶ Low Pay Commission Report, 2007 p.p. 204

⁷ http://www.everychildmatters.gov.uk/_files/589DD6D3A29C929ACB148DB3F13B01E7.pdf

⁸ Unison survey, 2002

⁸ CESCR - <http://www.ohchr.org/english/law/cescr.htm#art10>

⁹ Low Pay Commission Report, 2007 p.p. 213

¹⁰ ASHE 2006, http://www.statistics.gov.uk/downloads/theme_labour/ASHE_2006/tab6_5a.xls

¹¹ Low Pay Commission Report 2007, p.p 203

Moreover, the Low Pay Commission asserts that “young workers should receive a fair rate of pay, otherwise they may feel undervalued as members of the workforce and become disillusioned with the world of work”¹², which would actually seem to support the argument for an equal NMW. Almost 60% of respondents to BYC survey work either part time or have a low paid full time income. Overwhelmingly the feeling from them is that disadvantaged young people need to feel they are valued members of society and introducing an equal minimum wage is one way of doing this.

Furthermore, the unequal NMW can lead to younger workers being exploited as the Commission has itself acknowledged. Research commissioned by the LPC, carried out by the Institute of Employment Studies shows that some companies are more likely to employ younger, inexperienced workers as they can be paid lower wages¹³.

Equal pay for equal work is enshrined in the Equal Pay Act 1970. But the current system endorses younger people being paid less despite carrying out the same duties as their older colleagues. Unison¹⁴ uncovered numerous examples of this and BYC’s own evidence demonstrates this too:

“I have worked in a supermarket for just less than 5 years and I did a similar job throughout my time. My pay did increase when I hit 18 but not to the same level as older people I worked with, even though I was as well trained and did a very similar job. This seems unfair, just because we were different ages why should the pay be any different, as an 18 year old or even a 16 year old, we can be faced with the same out payments as a 21 year old, such as a car, or house or even kids.” – Joe, 20

UNCRC Article 32 and Article 10(3) of the CESCR¹⁵ both grant children and young people the right to be protected from economic exploitation. Yet the three tiered NMW system clearly implies that younger people are less competent, and so deserving of lower rates of pay, according to how old they are – regardless of their actual competence, skills or experience in their job. This is clear discrimination and breach of the government’s duty to protect young people’s rights under these articles. At a time when discrimination law is being modernised with the forthcoming Single Equality Bill, BYC believes the climate is ripe to grant young people the protection from discrimination that is afforded to other groups within society.

¹² Low Pay Commission Report 2007, p.p. 178

¹³ Denvir and Loukas, 2006 in Low Pay Commission Report 2007

¹⁴ Unison survey, 2002

¹⁵ CESCR - <http://www.ohchr.org/english/law/cescr.htm#art10>

The government has acknowledged (in its new 10 year youth strategy¹⁶) that young people today are faced with the added barrier of growing up in a society where there exists widespread negative perceptions of youth. Following this acknowledgement, BYC believes Ministers need to take the next positive step towards tackling negative stereotypes and creating cultural change by sending out the clear message that young people have equal status in society. Introducing an equal NMW would represent a move in the right direction. BYC would urge the Low Pay Commission to act on the evidence contained herein and push the government towards taking this positive step and introducing an equal minimum wage for all aged 16 and over.

Employment and Education

As previously mentioned, the government believes the age tiered minimum wage system is legitimate on the grounds of it achieving a social policy aim of protecting employment opportunities for young people and encouraging them to stay in full time education.

However, in its most recent report, the Low Pay Commission concludes that there is no evidence to suggest that the minimum wage has encouraged young people out of full time education¹⁷.

Around one-sixth of the 50 respondents to BYC's survey said they had left education because they had 'prioritised earning a wage above further qualifications'. So although this could lend support to the Low Pay Commission's argument, the increasing costs of pursuing further education undoubtedly contribute to this also. The introduction of higher tuition fees and the abolition of the grant system means that the average cost of a 3 year degree is £34,740 in tuition and living costs¹⁸. As research shows that the value added across gross lifetime earnings in terms of arts degree is less than £35,000¹⁹, some young people may actually be better off not pursuing a degree course. Moreover, statistics from Push, the UK's independent resource for prospective students shows that students who started at university last year can expect to owe nearly £17,500 by the time they leave²⁰. All of these factors can be said to contribute to a young person's decision to leave education and enter the world of work. BYC would therefore conclude that it would be difficult to base an argument for a tiered minimum wage on the fact it leads young people away from education, as there are too many interacting variables to consider. Moreover, this argument becomes obsolete to a certain extent if the

¹⁶ *Aiming high for young people: a ten year strategy for positive activities*, HM Treasury and DCSF (2007): p.p.4

¹⁷ Low Pay Commission Report 2007, p.p. 179; 180

¹⁸ Natwest Student Money Survey 2007

¹⁹ *Research Report: The economic benefits of a degree* (Universities UK, 2007).

²⁰ Push Student Debt Survey, 2007 <http://www.push.co.uk/press/Survey2007.xls>

government is successful in its plans to raise the education and training participation age to 18, which incidentally BYC does not support.

BYC believes young people are fully aware of the benefits that further education can bring in the long term. Where young people do enter full time employment despite the financial incentives to remain in education, there are usually strong countervailing circumstances such as being a young carer, having to support a low income family, or dependents, or having left home for personal reasons. Young people in all these circumstances require full support, not least in terms of entitlement to a living wage.

40% of the young people in BYC's survey said they worked to support themselves and 30% said they worked to support their studies. Yet the system as it stands prohibits young people from supporting themselves on an equal footing with their older co-workers. Almost half of young people in our study said their main source of income was employment. This shows that many young people, whether working part-time whilst in full-time education or working full-time, rely on their own independent employment to sustain themselves financially.

Furthermore, there is plenty of evidence to show that young people who remain in education are being forced to work longer hours in order to support themselves:

"I'm really passionate about the Equal National Minimum Wage campaign in particular as I believe strongly in the whole idea of equality, especially in circumstances where there is no just reasoning as to why unfairness is happening. I really cannot understand why two people with the same job should receive two completely different sums of money, especially in low skilled employment where there is no difference whatsoever in the job at hand, or the skills and qualifications required. This inequality cannot continue to happen, and although I have never experienced receiving a wage that is significantly lower than those who are over 22 have to legally be paid, I want to ensure that my friends, and their friends don't have to work for such ridiculous amounts of money. Also, it appalls me that some employers take advantage of the fact that a young person is willing to work for such ridiculous amounts of money. I myself am a student, so it amazes me how much time some people spend at their workplaces, and still manage to make time for their studies. Although, sadly I cannot say I know many people who gain the grades which they should have done, or would have done should they have not needed to work so many hours." - Sadie, 20

Evidence shows that for students working 15 hours a week (the limit generally prescribed by academic institutions), the chances of gaining a first class degree or upper second class is only 62% compared to their colleagues²¹.

Worryingly, almost one third of young people in our survey said that they were already in debt. More worrying still, 20% of respondents said that their debt was between £2500 and £5000, a potentially crippling amount considering that most of the respondents to this survey were in full-time education, with the majority also earning less than £150 per month! The introduction of an equal NMW will help students to avoid accumulating huge debts and prevent them from jeopardising their health and their education by working long hours whilst maintaining a course of study.

NMW and Apprenticeships

BYC acknowledges that the Terms of Reference for this inquiry exclude reviewing the apprenticeship and pre-apprenticeship exemptions. We are aware that the Government is currently consulting on plans to raise the education and training participation age to 18, which includes plans to expand apprenticeships. However, BYC would like its concerns in this regard to be noted. We believe compulsory participation to 18 will add an additional facet in that many 16 and 17 year olds will be plunged into real financial hardship by being forced onto apprenticeship schemes. BYC believes NMW regulations must be extended to include apprenticeships. If the government chooses to retain the apprenticeship exemption, there is a danger that 16 and 17 year olds forced into apprenticeships by the new education legislation will face worse financial hardship than they would currently. The NMW for 16 and 17 year olds is clearly not enough for those 16 and 17 year olds who currently choose to leave school and enter employment. However, a low NMW is better than no NMW at all. For young people on apprenticeships, very low wages can have a devastating psychological and physical impact. Lack of a decent wage brings feelings of frustration and powerlessness. Low pay can lead to problems around health, educational failure and social exclusion. This is completely inconsistent with the government's rationale behind raising the education participation age.

²¹ 2005 Higher Education Council for England Survey

Conclusion

BYC has provided evidence from 650 young people in total. Overwhelmingly, young people want the government to introduce greater equality in employment by creating an equal National Minimum Wage (NMW) for all aged 16 and over.

Within this submission, BYC has outlined how we believe the age-tiered NMW system is deeply discriminatory and contravenes the spirit, if not the letter of the Employment Equality (Age) Regulations 2006. We also believe the NMW exemption on the grounds of a legitimate employment policy aim is not tenable.

An equal NMW would not lead young people away from their studies. But it would prevent them from jeopardising their education and damaging their health by working longer hours in order to support themselves. Lack of a decent wage brings feelings of frustration and powerlessness. Low pay can lead to problems around health, educational failure and social exclusion. The impact of this can be even more damaging for younger workers whose future may be at least partially determined by their first experiences of work.

Public policy should not discriminate against young people. Discrimination on the grounds of age is just as objectionable as discrimination on the basis of gender, race or sexuality. Moreover, the tiered NMW system contradicts other government initiatives to tackle discrimination in the work place. Pay must be based on competency not age, a truth that the labour market seems more responsive to than the government.

Ministers have recently expressed positive intentions towards engaging young people and giving them a fuller role in society, as evidenced by the new 10-year youth strategy. The strategy also acknowledges that young people are perceived negatively, which acts as an added barrier to participation. However, retention of a tiered national minimum wage system clearly contradicts the government's own philosophy. It is unrealistic to expect young people to play a full role in society when the law discriminates against them and reinforces negative images youth. BYC urges the Low Pay Commission to recommend the government to take a positive step towards tackling negative stereotypes; by demonstrating that young people have equal worth and delivering an equal NMW.

The British Youth Council, 27 September 2007