1st June 2018

**CWU Submission to the Low Pay Commission Consultation on the National Minimum Wage (including National Living Wage)**

**Introduction**

1. The Communication Workers Union (CWU) is the largest union in the communications sector in the UK, representing approximately 192,000 employees in the postal, telecoms, financial services and related industries.

2. The majority of CWU members work in well-unionised workplaces and receive basic rates of pay well above the statutory minimum. However, we have around 4,000 members who are currently paid the Government’s so-called National Living Wage (NLW) rate of £7.83 per hour; the National Minimum Wage (NMW) rates for those aged under 24 years; or who earn below the Living Wage Foundation’s rate of £10.20 for workers in London and £8.75 for workers in the rest of the UK.

3. The CWU’s low paid members are largely employed in cleaning, security, catering and call centre roles by a number of different companies and employment agencies including Quadrant, Capita and Manpower. The evidence shows that these companies are successful businesses that could afford to pay their workers at least a real living wage. However, they choose not to do so in order to maximise profit and to remain competitive with other low wage employers in their sectors.

4. The NLW and the NMW do not reflect the cost of a basic acceptable standard of living. The low rates at which they are set is contributing towards ever greater levels of in-work poverty. The CWU calls on the Low Pay Commission (LPC) to recommend a substantial increase in the legal minimum wage to a level that workers can genuinely live on. It is a shameful indictment of Britain’s low wage economy that there are now 8 million people, including 2.7 million children, living in poverty despite being in a working family. In line with TUC and Labour party policy, we support raising the minimum wage to £10 per hour. We also call for the abolition of age-related pay rates and the introduction of one minimum rate of pay for all workers regardless of their age.

**Impact of the National Living Wage and National Minimum Wage**

**Impact on employers**

5. As we reported to the LPC last year, the CWU’s experience of the introduction of the National Living Wage is that it has had minimal impact on employers. There have been no job losses as a result of increasing the minimum pay rates in any of the companies where the CWU has members.
6. Many of the companies who claim they can’t afford increases in minimum pay are large companies who could certainly absorb the outlay. Manpower is a multi-million dollar global company which made £5.8 million in UK profits in 2016.¹ It provides agency workers for BT, a company that made £2.3 billion in pre-tax profit last year. Quadrant provides catering services to Royal Mail and is joint owned by Royal Mail and Compass Group plc, both of which are highly successful businesses, making profits of £565 million and £1.7 billion respectively in their latest financial year.

7. In our experience, suppressing the statutory minimum wage can pose a competitive threat to employers who pay above the minimum rate, creating a race to the bottom on pay as providers seek to compete on cost. Some companies that recognise the CWU, particularly in the facilities and catering sectors, have expressed concerns that they will lose contracts to cheaper rivals if they do not pay at or near the minimum rate. In other cases, we have seen businesses making adjustments to contracts in order to remain competitive. For example, as we reported last year, Romec was forced to reduce the hours it charged to Royal Mail for cleaning services in order to keep its contract. Although cleaning staff did not see a reduction in their hourly pay rate and no jobs were lost, they did suffer a drop in hours.

8. A race to the bottom approach on pay and costs is ultimately damaging for employers because, whilst it may help them win contracts in the short term, it risks them becoming unsustainable and unable to deliver on their promises over the long term. The recent demise of Carillion is a stark example of the dangers of this approach. Capita, another aggressively low cost, low wage outsourcing business, has also run into difficulties because of its business strategy, issuing a major profit warning earlier this year.

Impact on workers and families

9. The introduction of the National Minimum Wage in 1999 was a welcome mechanism for addressing in-work poverty and it certainly made a significant difference to household incomes initially. However, in recent years, the increase in minimum levels has fallen behind the rate of inflation. The impact of several consecutive years of rises below the rate of RPI has caused real difficulties for low-paid workers.

10. In a survey conducted by the CWU of low paid members in June last year, some members reported that they depleted their savings during those tough years and are still not earning enough to be able to save. Others revealed that they borrowed using credit cards and pay day lenders which led to a spiralling debt problem that they have been unable to escape ever since. Recent increases in minimum pay rates have failed to alleviate these problems.

11. These concerns are reflected in the wider body of research into low pay. Of the 14 million Britons who are currently in a state of poverty, the Joseph Rowntree Foundation reports that more than half (57%) live in families where at least one person is in work.² Meanwhile, Cardiff University research has found that in the past decade the risk of poverty for adults in working

¹ (Latest year available) Source: Manpower UK Limited, Annual Report and Financial Statements, year ended 31 December 2016, Companies House, filed on 5th September 2017
² Joseph Rowntree Foundation, UK Poverty 2017 (December, 2017)
families grew by a quarter. The CWU believes that this is a shameful indictment of Britain’s low wage economy.

12. Furthermore, the pay disparity between those aged over 25 and those below has widened. In 2010, there was no difference in minimum pay between a worker aged 25 and a worker aged 24. However, a worker aged 24 and a worker aged 18-20 now earn 5.7% and 24.6% less respectively than their colleagues aged 25. For many job roles, this inequality cannot be justified. Experience undoubtedly enhances the contribution a worker can make and therefore improves productivity. However, for jobs where there are few entry requirements in terms of qualifications and specialised skills and little additional training delivered after the initial induction period, then creating a further category of pay for workers aged 21 – 24 is fundamentally unfair. This false distinction devalues the contribution of younger workers. It is not linked to training outcomes and it reduces their comparative pay yet they do not benefit from cheaper accommodation or bills.

13. The CWU’s policy, as determined by its annual conference, calls for the adoption of a legal minimum wage that meets people’s needs and is set at a rate that workers can genuinely live on. The CWU also firmly supports equal pay for equal work, campaigning for the abolition of the age-related pay rates and the introduction of one minimum rate of pay for all workers. This rate of pay should be a real living wage, based on a calculation of the cost of living that includes the price of food, household bills and accommodation. In line with current TUC policy and the Labour Party’s 2017 manifesto commitment, the CWU supports raising the minimum rate to £10 per hour.

The Taylor premium and hours/income volatility

The scale and nature of the problem

14. The problem of low paid, unpredictable work described by the Taylor Review is substantial in scale and covers numerous sectors of the economy. The TUC has reported that there are 3.2 million workers, one in ten of those working today, who face significant insecurity at work. There are nearly 5 million self-employed workers in the UK, 45% of whom reportedly earn less than the NLW. An estimated half a million workers are falsely self-employed. There are now over 800,000 agency workers, up by 25% since the financial crash. There are 903,000 people on a zero hours contract in their main job, up from 143,000 in 2008.

15. In the sectors where the CWU is active, we have found that these challenges are particularly acute for delivery workers in the unregulated parcel sector and agency workers in the telecoms sector.

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3 Cardiff University, In Work Poverty in the UK: Problem, policy analysis and platform for action (May, 2017)
4 Living on the edge, the rise of job insecurity in modern Britain, TUC, December 2016
5 Revenue Cracks Down on False Self-Employment, The Financial Times (21 October 2016)
6 Citizens Advice, Neither one thing nor the other, August 2015
7 The UK’s tight labour market and zero hours contracts, Resolution Foundation, 21 February 2018
8 ONS Labour Force Survey, September 2017
Low pay and false self-employment in the unregulated parcel sector

16. As with many areas of the economy, the unregulated parcel sector has suffered from the rise of false self-employment. Unregulated competitors to Royal Mail typically use workers employed as independent contractors to maintain low costs and flexibility, and circumvent workplace rights. This poses a threat to jobs and labour standards in the regulated postal sector, undermining secure jobs in Royal Mail with a living wage and pension security.

17. There are at least 30,000 self-declared ‘self-employed’ workers in Hermes, Yodel and Amazon alone, with thousands more engaged by other operators. Although these workers are treated as self-employed, they have all the characteristics of employees, working long and regular hours for the same company with little or no control over their work.

18. The largest reported operator that uses bogusly self-employed workers is Hermes, which has 15,000 couriers on its books according to the company. Hermes delivers over 250 million parcels each year and is contracted to some of the biggest high street retailers, including John Lewis and Debenhams. In a sign of how rapidly the ‘gig economy’ is growing, the company’s turnover has risen by 78% from £317 million in 2013 to £564 million in 2017. Its gross profit grew by 45% from £53 million to £77 million over the same period.

19. Despite its growing profitability, Hermes has failed to raise standards for its workforce. Couriers are paid a rate of up to 80 pence per parcel successfully delivered to the customer. They are also responsible for meeting their own expenses including fuel, car insurance and maintenance. Numerous investigative reports have found that after expenses, couriers often take home significantly less than the statutory minimum wage. For example, a report by Frank Field MP found that some couriers working for Hermes earn less than £3 per hour.9 Yodel reportedly pays as little as 60 pence per parcel delivered, and its couriers have been known to earn below £4.50 per hour during a 6-day week.

20. Not only are falsely self-employed workers losing out on the right to a minimum wage, they also have no right to a workplace pension. Matthew Taylor notes that only 13% of self-employed people save for their pensions, and this falls to just 4.2% for those under age 34. By comparison, some 50% of employees are saving for retirement.10 These figures indicate the retirement challenge faced by the self-employed generally, which is exacerbated by low pay at the bottom of the employment market. The Work and Pensions Select Committee have drawn similar conclusions arguing that “current structures are not encouraging sufficient pension saving by the self-employed.”11

Agency workers

21. The CWU has campaigned over more than a decade for equal treatment for agency workers. We are currently running a campaign - ‘Close the Gap!’ – to demand a real living wage for 2,000 CWU represented agency workers in Manpower who work on a contract for BT. The campaign

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9 Wild West Workplace, Self-employment in Britain’s ‘gig economy’, Frank Field and Andrew Forsey, September 2016  
11 Work and Pensions Select Committee, Self-Employment and the Gig Economy (29 April 2017)
also calls for the repeal of the ‘Swedish derogation’ in the Agency Workers Regulations which allows workers on Pay Between Assignment (PBA) contracts to be paid a lower rate for the job.  

22. Low pay is a serious problem for many of our members in Manpower. There are a number of BT sites where our members are only paid the Government’s so-called National Living Wage. Of the 73 BT work areas where there are Manpower employees, there are 31 areas where workers are being paid less than the real Living Wage of £8.75 an hour. There is no automatic annual review of Manpower pay rates and many members have not received a pay increase for a number of years.

23. Our Manpower members have told us of the serious difficulties they face as a result of being on poverty pay, including:

“I have had to reduce my hours to part-time in order to reduce my childcare costs as that is where a significant part of my wage had gone.”

“The minimum wage is barely enough for the basic necessities of life”

“There is no room for the niceties of life on minimum wage”

“I live on my overdraft. I go without new clothes and holidays.”

“I recently just moved back with family to cut paying bills.”

24. Not only are our Manpower agency members on low pay, but they are denied pay equality with permanent BT employees. Since the Agency Workers Regulations were introduced in 2011, PBA contracts have been standard for Manpower workers in BT. As a result of their contract status they are paid up to £3.26 per hour (£529 per month) less than their directly employed colleagues in identical roles.

The Taylor Premium

25. We are sceptical that there will be any significant benefits for workers from Matthew Taylor’s idea of a higher minimum wage for hours that are not guaranteed as part of the contract if this is the only means for addressing the insecurities of zero-hours and short-hours contracts. We are concerned that, without additional protections, this will simply serve as an excuse for employers to continue engaging workers on a precarious basis and paying them poverty wages.

26. We believe the Government should go further by cracking down on false self-employment; banning zero hours contracts to ensure every worker gets a guaranteed number of hours each week; and introducing the right to a permanent contract for agency workers after doing the same job for a period of 12 weeks. It is also vital that trade union rights are strengthened to enable unions to freely organise workers and bargain with employers.

Compliance and enforcement

27. Competitor companies to Royal Mail in parcel delivery are using false self-employment as a way of circumnavigating minimum wage legislation, as outlined in paragraphs 16 - 19. This is a major concern, because it threatens to accelerate a race to the bottom on pay and conditions across the postal sector as a whole.

12 Close the Gap! CWU Campaign web page, accessible at: https://www.cwu.org/campaign/close-the-gap/
28. Last year, the Director of Labour Market Enforcement’s introductory strategy identified false self-employment as an area of labour market non-compliance.\textsuperscript{13} However, it offered no clear solutions to address this problem. Where employers and intermediaries deliberately push workers towards false self-employment we believe that HMRC should be empowered and properly resourced to take strong action to reflect the reality of the relationship between the worker and the employer.

29. Too few companies who have failed to comply with minimum wage legislation are prosecuted. In March this year, the Government named nearly 180 employers for underpaying more than 9,000 minimum wage workers by 1.1 million, but not one company was prosecuted.\textsuperscript{14} Of 700 companies named for underpaying workers in the two years to 2016, only three were prosecuted.\textsuperscript{15} There have been just thirteen successful prosecution cases since 2007.\textsuperscript{16}

30. The CWU joins the TUC in calling for more prosecutions and higher fines for the most serious offenders, especially those who deliberately flout the law.\textsuperscript{17} However, enforcing the law will require substantially more funding and resources for the HMRC NMW enforcement team. The introduction of the NLW in 2016 raised the number of workers covered by the minimum wage sharply from 1 million to 1.6 million, and the number of underpaid workers over age 25 roughly doubled. The fact there are an estimated 305,000 to 580,000 people who are currently being paid below statutory minimum wage levels indicates that the HMRC NMW team’s budget of £25.3 million for 2017/18 is insufficient to carry out its role effectively.\textsuperscript{18}

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\textsuperscript{13} UK Labour Market Enforcement Strategy – Introductory report, HM Government, Director of Labour Market Enforcement, July 2017
\textsuperscript{14} Nearly 180 employers named and shamed for underpaying thousands of minimum wage workers, BEIS, 9\textsuperscript{th} March 2018, accessed at: \url{https://www.gov.uk/government/news/nearly-200-employers-named-and-shamed-for-underpaying-thousands-of-minimum-wage-workers}
\textsuperscript{15} Only three out of 700 firms prosecuted for paying below minimum wage, Guardian, 28 September 2016, accessed at: \url{https://www.theguardian.com/society/2016/sep/28/only-three-out-of-700-firms-prosecuted-for-paying-below-minimum-wage}
\textsuperscript{16} Non-compliance and enforcement of the National Minimum Wage, Low Pay Commission, 17 September 2017
\textsuperscript{17} Time to prosecute minimum wage cheats, says TUC, TUC news, 15\textsuperscript{th} February 2017, accessed at: \url{https://www.tuc.org.uk/news/time-prosecute-minimum-wage-cheats-says-tuc}
\textsuperscript{18} Non-compliance and enforcement of the National Minimum Wage, Low Pay Commission, 17 September 2017