David Massey
Head of Policy, Low Pay Commission
8 th Floor, Fleetbank House
2-6 Salisbury Square
London
EC4Y 8JX

June 2018

Dear Mr Massey,

Re: FSB response to the Low Pay Commission's Consultation on the National Minimum Wage Rates (including National Living Wage) to apply from April 2019

The Federation of Small Businesses (FSB) is pleased to respond to the above named consultation. FSB is the UK's leading business organisation. Established over 40 years ago to help our members succeed in business, we are a non-profit making and non-party political organisation that's led by our members, for our members.

Our mission is to help smaller businesses achieve their ambitions. As experts in business, we offer our members a wide range of vital business services, including advice, financial expertise, support and a powerful voice in government.

FSB is also the UK's leading business campaigner, focused on delivering change which supports smaller businesses to grow and succeed. Our lobbying arm starts with the work of our team in Westminster which focuses on UK and English policy issues. Further to this, our expert teams in Glasgow, Cardiff and Belfast work with governments, elected members and decision-makers in Scotland, Wales and Northern Ireland.

FSB has always supported the National Minimum Wage (NMW) and continues to do so provided the level set does not harm employment or business conditions. We believe that the Low Pay Commission plays a critical role in setting the wage floor by taking an independent view that reflects on wider economic and labour market changes. The majority of small employers recognise the wage floor ought to reflect improvements in the growth of the UK economy and real term increases in average wages, we therefore support gradual increases in the NMW.

To inform their deliberations, Commissioners will be interested in the impact of National Living Wage (NLW) on businesses to date. Our submission presents new evidence from a recent FSB survey conducted at the beginning of May 2018.

- 8 per cent of small businesses were paying all staff under £7.83 prior to the increase in the NMW/NLW in April 2018.
- 60 per cent reported that all their staff are were being paid over £7.83 per hour at that time.
- 14per cent report that the increase in the NLW in April 2018 has increased their wage bill by "by a large extent".
- 34 per cent report that the increase in the NLW in April 2018 has increased their wage bill by "to some extent".

- Of those whose wage bills have been affected, 71 per cent reduced profitability or absorbed the costs – which is up from 7 per cent of respondents from the previous year.
- Forty one per cent of respondents raised their prices in response to the 2018 increase in the NLW.

Additionally, only 8 per cent looked to improve efficiency or raise productivity, which could be linked to the fact that one in four employers (30%) also said that they cancelled or scaled down plans to invest in the business, an increase of 6 per cent from last year.

Businesses impacted by the rises to the NLW have been absorbing costs, reducing investments and to some extent reducing hours worked. Smaller employers are also facing additional financial challenges due to the increase in minimum employer pension contributions. Retail, childcare, construction and hospitality sectors are particularly impacted by rising wage costs. The HM Treasury panel and Bank of England forecasts, which imply a NLW within an interquartile of £8.17 to £8.24, falls in line with our 2017 prediction. However, we would encourage LPC to reflect on all the challenges faced by smaller firms in our response – in particular the costs of doing business and the uncertainty of Brexit when determining rates for 2019 and beyond.

Yours sincerely,

Michael Mealing
Chairman, Employment and Pensions Committee
Federation of Small Businesses

Experts in Business

FSB submission to the Low Pay Commission's consultation on the National Minimum Wage Rates

June 2018

Small business, Government policy and economic outlook

In April 2018, the National Living Wage (NLW) and National Minimum Wage (NMW) rose by 4.4 percent. This increase coincided with an increase in employer pension contributions, rising from 1 percent to 2 percent of an employee's qualifying earnings. Pension contributions are set to rise again in April 2019, with employer contributions increasing to 3 percent of qualifying earnings. In February 2018, the Pensions Regulator (TPR) recorded a milestone, with one million employers meeting their workplace pension duties, leading to 9.3 million people saving into a workplace pension. This is fantastic achievement for policymakers, TPR and for the 5.7 million small businesses in the UK. However, these changes mean small businesses face a steep rising cost of employment, a significant issue in sectors, such as childcare, retail, hospitality and construction. Small business owners are committed to helping their staff save for retirement, but there should be a recognition that small businesses are absorbing the increase in pension contributions alongside other governmental policy changes, with four in ten small business owners citing rising labour costs as the cause of rising operating expenditure. The Low Pay Commission (LPC) should take the recent and forthcoming pension contribution increases into account when considering future NMW and NLW rates.

The [1]latest Small Business Index (SBI) – our quarterly measure of small business performance and future outlook – showed that after declining for three consecutive quarters, and falling into negative territory in the final quarter of 2017, small business confidence rebounded in Q1 2018. The FSB Small Business Index now stands at +6.0 compared to -2.5 at the end of last year. **The proportion of firms planning to increase investment has hit a two-year high (33%) and half (50%) of small businesses expect to expand operations over the coming 12 months.** The latest SBI also shows small firms are continuing to hire, with the proportion reporting a steady or increased headcount at its highest since summer 2016. **Despite this level of optimism our recent SBI also showed that the domestic economy remains the main barrier to small business growth aspirations, cited as a concern by 54.6% of small businesses.**

Small businesses in the accommodation, food services and retail sectors registered a substantial decline in confidence over the past year. Meanwhile, manufacturing confidence remains healthy. However, the LPC should recognise that small businesses still have concerns surrounding trade and access to labour from the EU.

[1] FSB, Q1 Small Business Index, retrieved from, https://www.fsb.org.uk/docs/default-source/fsb-org-uk/fsb-sbi-q1-2018-v03.pdf?sfvrsn=0

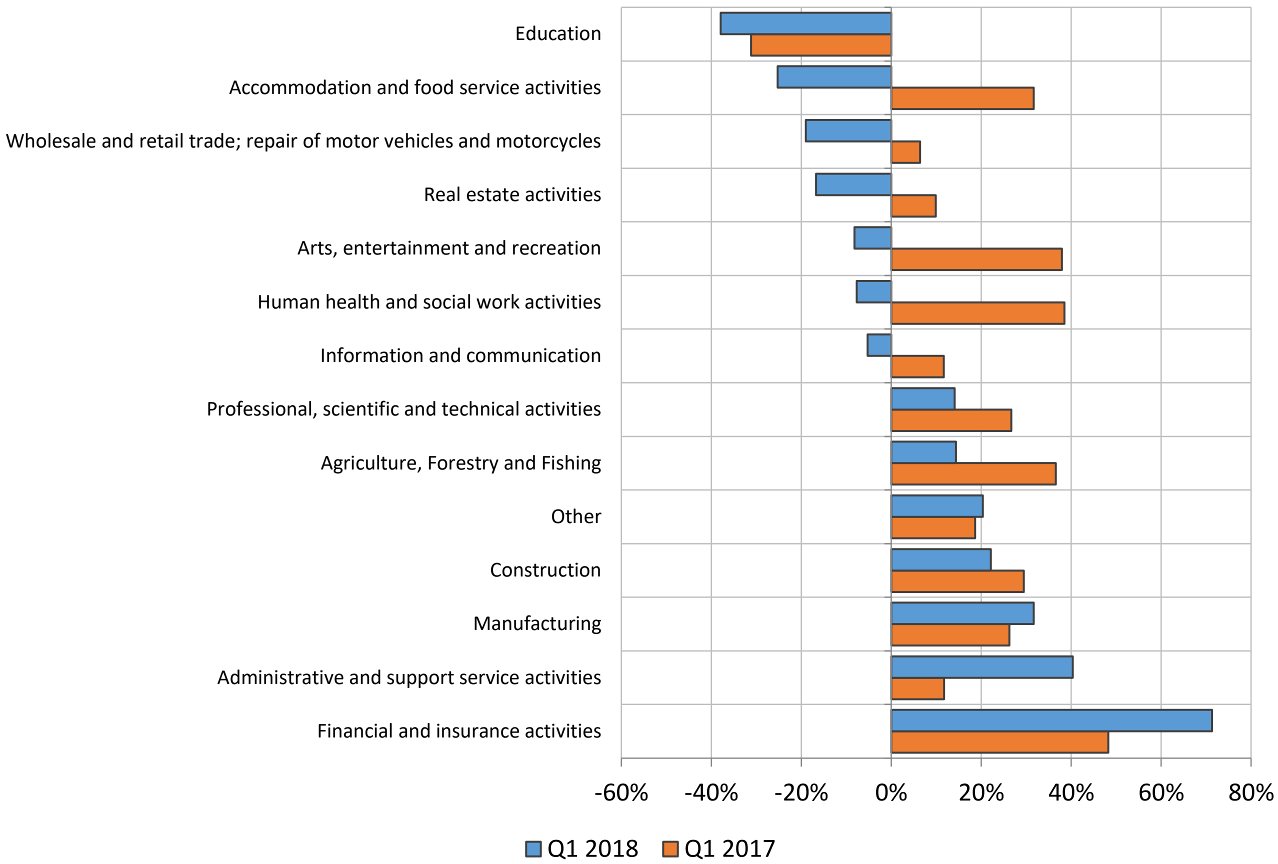

Figure one: FSB Small Business Index by sector – small business prospects for coming three months

In April 2018, FSB published new research into the childcare sector, our 'Handle with Care' report found that staff wages weighed particularly heavily on small childcare providers.[2] Among all the small childcare providers interviewed by FSB, staffing costs were said to have the biggest cause on the impact on overall operating costs. Not only do staffing costs take up a large percentage of overall costs, but ongoing wage increases mean that there is a constant and increasing pressure on providers.

Impact of the National Living Wage and National Minimum Wage

In May 2018, FSB surveyed our members on the impact of the NLW. A total of 559 small business owners responded to the survey. Respondent businesses represented a broad range of sectors, and came from all regions and nations of the UK. The survey was sent to FSB employer members only (i.e. excluding non-employing, one person businesses).

Question One: Prior to the recent increase in the National Living Wage to £7.83 an hour in April 2018, what were the pay levels in your business?

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[2] FSB, Childcare report, 'Handle with Care', https://www.fsb.org.uk/docs/default-source/fsb-org-uk/fsb-childcare-providers-report--final.pdf?sfvrsn=0

All interviews (561 responses)	Total
All of my employees were paid £7.83 or more per hour	**60%**
Some of my employees were paid £7.83 or more per hour	**27%**
All of my employees were paid less than £7.83 per hour	**8%**

Our evidence suggests that there were few businesses which were paying all employees below £7.83 prior to April 2018, and that over half (60%) of businesses were already paying all employees above the new NLW threshold. Small employers in London and the South East were more likely to pay their staff above the NLW prior to the April 2018 change (70% and 64%, respectively). Small employers in the North East were 25% more likely to pay all their staff under the NLW prior to the April 2018 change.

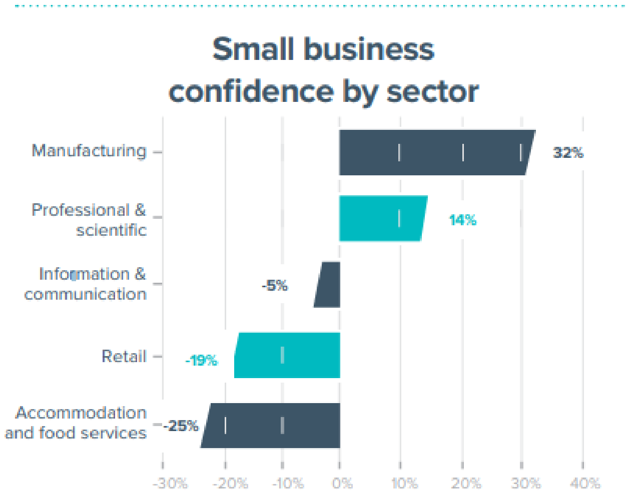
Question Two: Has the increase of the National Living Wage to £7.83 this April increased your organisation's wage bill?

All interviews (561 responses)	Total
Yes, to a large extent	**14%**
Yes, to some extent	**34%**
No	**51%**

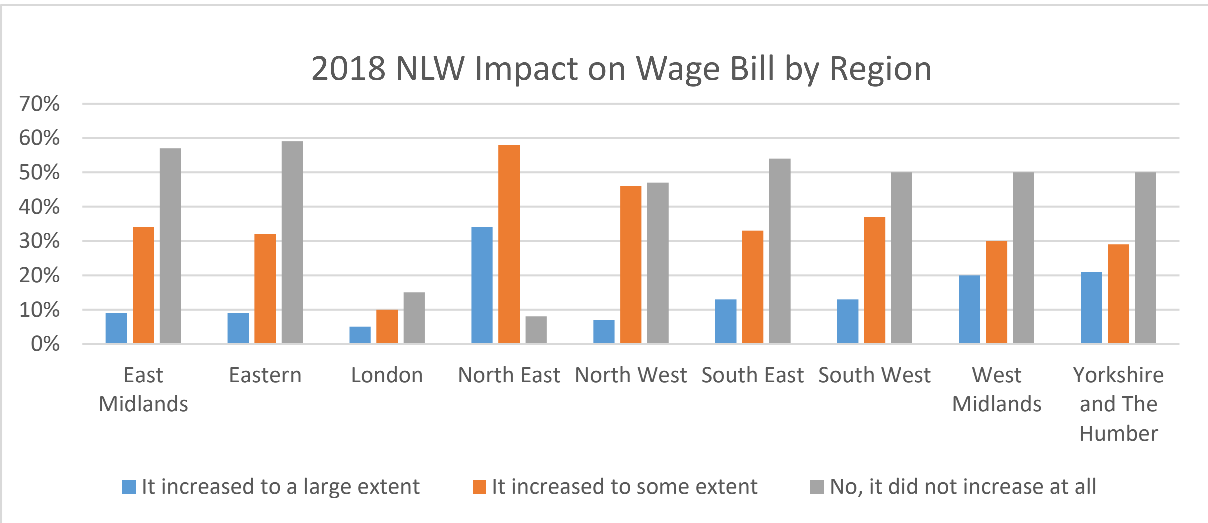
Reflecting the fact that many small businesses were already paying all staff above £7.83 before the increase of the NLW, 51% of all small businesses said that they had not needed to increase their overall wage bill. However, a significant proportion of businesses reported an increase in their wage bill, with 34 per cent of businesses reporting that the increase of the NLW had had some impact on their wage bill.

About 60 per cent of small employers in the Wholesale and Retail sector were impacted by the 2018 NLW increase and 71 per cent of small employers in Accommodation and Food Services reported an increase in their wage bill. We can also see that while a majority (60%) of employers paid all of their staff more than £7.83 per hour before April 2018, there are specific sectors facing considerable increases in labour costs. FSB's latest SBI data showed that businesses in the retail sector registered a substantial decline in confidence over the past year[3]. Data from the Office for National Statistics show retail volumes grew by 1.6 percent year on year in January, well below consensus expectation of 2.6%. The figures follow a slew of announcements from many major retailers of slumping sales and, in some cases, job cuts and shop closures, these challenges are also faced by small retailers. Many retailers are also exposed to rising business rates and price increases, further affecting their profitability.

[3] ONS, Retail sales, Great Britain: January 2018, retrieved from https://www.ons.gov.uk/businessindustryandtrade/retailindustry/bulletins/retailsales/january2018



The survey results also show regional variation in the impact of the recent increase in the NLW to £7.83. The below graph includes all of the statistically significant regions surveyed in May 2018. The North East, West Midlands, Yorkshire and The Humber reported the greatest level of increase to their businesses wage bills following the last increase of the NMW/NLW. It is important that the LPC consider the varied regional and sectoral impact of the NLW, where there appears to be targeted areas of significant impact.

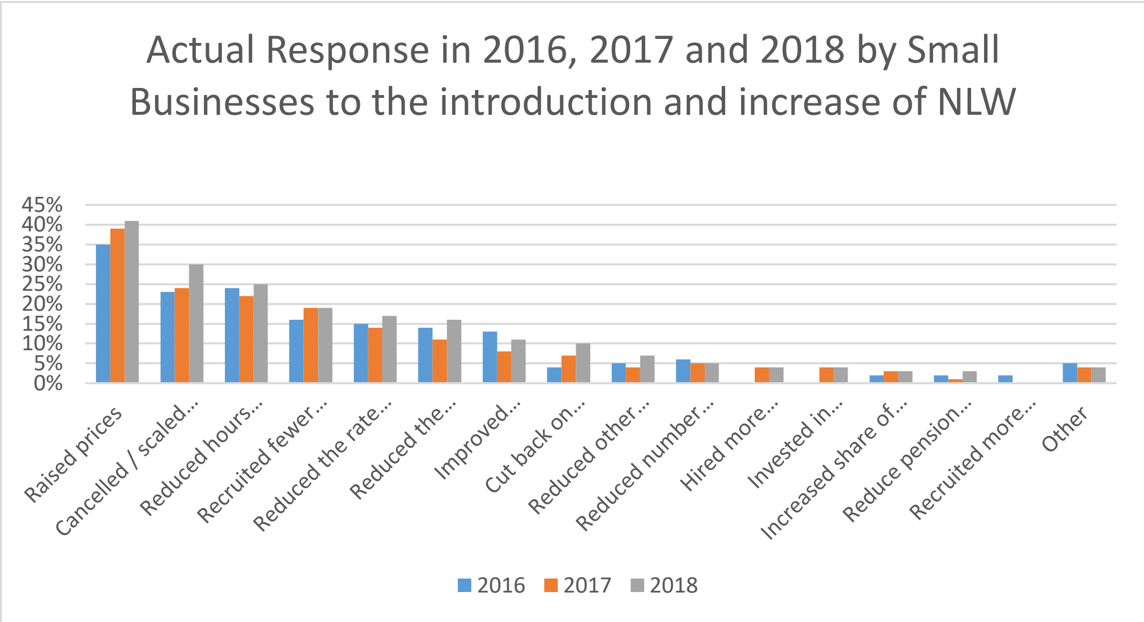


Question Three: You've said that the National Living Wage has increased your organisation's wage bill. How is your organisation managing these additional wage costs? (Select up to three)

All with increased wage bill after NLW (272 responses)	Total
Improved efficiency/raised productivity	**11%**
Taken lower profits/absorbed costs	**71%**
Reduced the amount of overtime/bonuses	**16%**
Reduced other aspects of the reward package (such as paid breaks or premium pay rates)	**7%**
Raised prices	**41%**
Reduced number of employees through redundancies	**5%**
Recruited fewer workers	**19%**
Reduced hours worked by staff	**25%**
Reduced the rate of basic pay growth for the rest of the workforce	**17%**
Hired more workers aged 24 and under (excluding apprentices)	**4%**
Recruited more apprentices	**0%**
Cancelled/scaled down plans for investing in/expanding the business	**30%**
Cut back on training expenditure	**10%**
Increased share of workforce on non-guaranteed hours contracts, e.g. zero hour contracts	**3%**
Reduced pension contributions to a minimum two per cent for employers (April 2018)	**3%**
Invested in machinery / automated certain processes	**4%**
Other	**4%**

Comparing the NLW surveys from June 2016, June 2017 and May 2018 shows that there has been a further concentration in the number of small businesses that are absorbing the cost of the NLW, which now stands at 71 percent of small businesses. 39% have also raised their prices.

Small businesses have continued to make changes to their labour force as result of wage increases, either reducing headcount or hours. The survey also showed a slight increase in the number of small businesses scaling down plans for future investment and cutting back on training expenditure for their staff. There was no real change in the number of businesses choosing to hire more workers aged under 24 or increasing the use of atypical employment contracts.



Question Four: How is your organisation improving efficiency/productivity?

All who have increased productivity / efficiency (31 responses)	Total
Job / work redesign	**45%**
Additional investment in technology	**39%**
Additional investment in training	**10%**
Changes to the reward strategy/employee benefits package	**16%**
We expect morale to be lifted and productivity to improve as a result of the NLW increase	**19%**
Greater emphasis on in-work progression and career ladders	**3%**

Only 31 small businesses owners reported that they had taken steps to increase productivity following the introduction of the NLW (representing 11% of all businesses whose wage bills had increased). The data in Table Four is therefore below the level we would generally rely on for statistical significance.

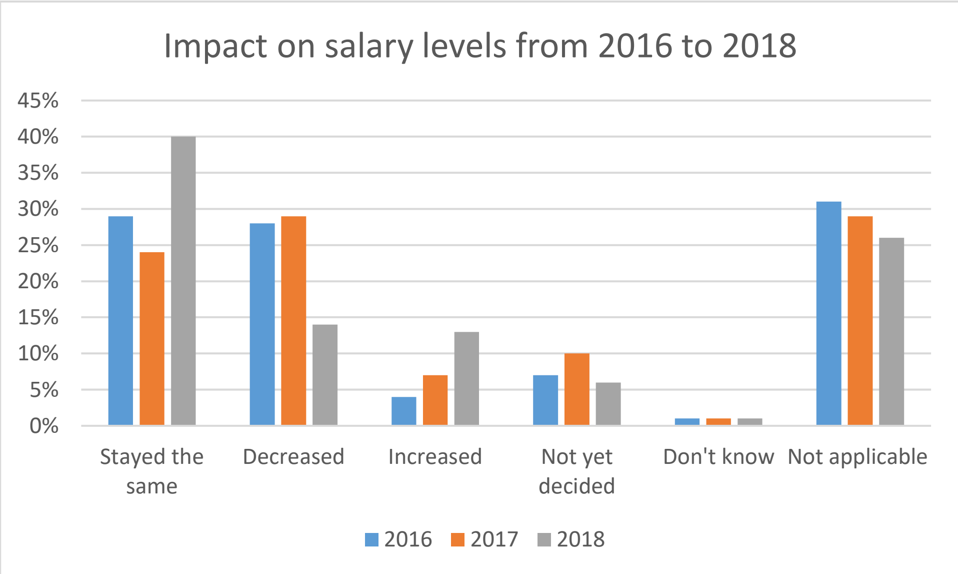
The limited evidence we have from this data does, however, suggest that job/work redesign continues to be the preferred option for improving productivity.

Question Five: What effect has the increase in the National Living Wage (NLW) had on the salary levels of staff who were already earning above the NLW (e.g. managers/supervisors/other staff on higher wages)?

Some or all staff already earning above NLW (561 responses)	Total
The difference in pay between those earning the NLW and their managers/supervisors/other staff on higher wages has ***stayed the same***	**40%**

The difference in pay between those earning the NLW and their managers/supervisors/other staff on higher wages has ***decreased***	**14%**
The difference in pay between those earning the NLW and their managers/supervisors/other staff on higher wages has ***increased***	**13%**
Not decided yet – pay review yet to be held	**6%**
Don't know	**1%**
Not applicable	**26%**

The evidence suggests that there has been an improvement in pay differentials from last year with an increase to 13% of employers stating there had been a rise in the difference in pay between those earning the NLW and their managers on higher wages. At the same time, 40% of small businesses said there had been no closing of the gap between those on the NLW and those on higher wage brackets.



<u>FSB Recommendations for the National Living Wage and National Minimum Wage</u>

The LPC reviews economic forecasts from the Office for Budget Responsibility (OBR), the HM Treasury panel and the Bank of England (BofE) in their assessment of future sustained economic growth. Last year we noted that a case had begun to form that sustained economic growth will not continue to 2020 and the LPC should consider this when setting rates for 2018. The UK labour market continues to perform well, with record high levels of employment currently at 32.34 million people, however, the Office for National Statistics (ONS) confirmed in May 2018 that UK growth slowed to 0.1 percent in the first three months of 2018, a five year low. ONS identified that '[4]when comparing GDP growth in the most recent quarter to the same quarter a year ago, we see a continuation of a pattern of slowing growth, in part reflecting a slowing in the growth of consumer-facing industries'.

[4] ONS, Second estimate of GDP: January to March 2018, https://www.ons.gov.uk/economy/grossdomesticproductgdp/bulletins/secondestimateofgdp/januarytomarch2018

Alongside the economic indicators set out above, the LPC's 2017 National Living Wage publication recognised that businesses have adapted to increases in the NLW/NMW by '[5]accepting lower profits, squeezing differentials and, where possible, increasing prices, we recognise that most will still find it a continuing challenge to accommodate the NLW'. These factors and others have had an impact on the UK's productivity rate, the LPC identified the productivity slowdown as 'unprecedented'. Although [6]productivity increased for a second quarter in a row at the end of last year; 2019 will mark a historic year as the UK leaves the European Union and economic growth and productivity could experience negative growth leading to further challenges for small businesses. Despite progress being made in the EU negotiations there is still much to be decided, [7]this makes it increasingly difficult for the OBR to provide forecasts with a lack of clarity about future Government policy with so much still to be decided.

Businesses impacted by the rises of to the NLW have been absorbing costs, reducing investments and to some extent reducing hours worked. Smaller employers are also facing additional financial challenges due to the increase in minimum employer pension contributions. Retail, childcare, construction and hospitality sectors are particularly impacted by rising wage costs. The HM Treasury panel and Bank of England forecasts, which imply a NLW within an interquartile of £8.17 to £8.24, falls in line with our 2017 prediction. However, we would encourage LPC to reflect on all the challenges faced by smaller firms in our response – in particular the costs of doing business and the uncertainty of Brexit when determining rates for 2019 and beyond.

<u>FSB Recommendations for April Young people and apprentices</u>

Youth rates

Our data showed that less than four per cent of small businesses that had seen an increase in their wage bill responded by hiring more workers under the age of 24 (excluding apprentices). This suggests that the faster rising NLW is not increasing the demand for younger workers. Furthermore, less than one per cent of survey respondents that reported an increase in their wage bill responded by hiring additional apprentices. As discussed above, both these figures only relate to the 48 per cent of businesses which reported that they had seen an increase in their wage bill rather than across all small businesses.

Business engagement with young people can have a positive influence on the employability and future success. Young people who experience four or more employer contacts are five times less likely to be Not in Education, Employment, or Training (NEET). The previous Government abolished compulsory work experience in schools which has meant less business engagement with young people. Developing employability skills while in education is key to helping young people prepare for work. Soft skills dominate the skills small firms need to grow including teamwork, communication and self-management, but over 70 per cent of small firms said that school and college leavers were the most ill prepared for the workplace. Therefore the time a small business invests to train a young person may have a bearing on their decision to employ a young person.

We also recognise that young people are coming of age at a time when the world of work has changed considerably and continues to do so. Arguably, prior to the recession many young people gained their first experience of the world of work in retail, and as our recent SBI identified the slew of announcements from many major retailers of slumping

[5] LPC, National Minimum Wage 2017, retrieved from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/661195/Low_Pay_Commission_2017_report.pdf

[7] OBR, Economic and fiscal outlook –March 2018, retrieved from http://obr.uk/efo/economic-fiscal-outlook-march-2018/

sales and, in some cases, job cuts and shop closures has undoubtedly played an impact on the levels of young people gaining a Saturday job for example. In addition, young people, especially those aged between [8]16 and 18 are less likely to take on a part-time job due to academic pressures.

FSB has favoured gradual rises for each NMW rate in recent years, at the same time, we believe caution needs to be exercised with regards to youth rates. We would encourage LPC to reflect on the wider issues behind youth unemployment. FSB supports LPC work in this area and seeks to conduct further analysis around youth rates in preparation for the LPC wider review.

Apprentice Rate

In 2016, a quarter (24 per cent) of small businesses currently had at least one apprentice in their business, and a further quarter (24 per cent) of firms were considering taking on an apprentice in the future.[9] FSB members believe that apprenticeships make good business sense, providing an effective way of preserving important skills, transferring knowledge and keeping key trades and professions alive and prospering.

Our research has found that the main motivation for taking on apprentices, according to 61 per cent of FSB members, is the business owners' 'commitment to giving young people training opportunities'[10]. A further 50 per cent of firms say they are motivated by the 'positive impact' of apprentices on the business.[11] Our members are creating jobs for largely younger people, with the typical small business apprentice being between 16-19 years old – 79 per cent of which are recruited as a new employee[12]. Above all, many small businesses, we conducted research with, understood the importance of an apprenticeship in providing a skilled training programme for young people that successfully prepares them to have an active role in the labour market in the future.

While the Apprentice Minimum Wage (AMW) will have some bearing on employers' decisions on whether to employ apprentices, ultimately we believe that the majority of small business owners do not see this as a deterrent to taking them on. Indeed, whether small firms are more concerned about the cost of an apprenticeship is where they feel the quality of apprenticeship training does not represent true value for money for both the business and the apprentice. Indeed, 21 per cent of business owners agree that 'having greater confidence that the current apprenticeship training system will produce apprentices of a high quality' would encourage them to increase revisiting their current level of investment[13].

Indeed, many small businesses had chosen to pay above the AMW in order to attract high-quality candidates and to make opportunities as accessible as possible in recognition of the cost of travel, for example. In addition, in instances where business owners did pay their apprentice(s) the AMW, they also said that this was often revised-up within a short period of their starting in order to reflect their attitude, progress and commitment of the apprentice.

FSB believes a higher AMW will help to boost the attractiveness of apprenticeships as a career option among young people and their parents. Increasing the AMW would help to achieve parity of esteem, so that apprenticeships are

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[9] FSB, Make or Break: Getting apprenticeship reform right for small businesses, August 2016. Available at: https://www.fsb.org.uk/docs/default-source/fsb-org-uk/fsb-apprenticeships-report-final.pdf?sfvrsn=1

[10] Ibid

[11] Ibid

[12] Ibid

[13] Ibid

understood to be as viable a career option as the more traditional academic route into work, and improve access to all young people, regardless of personal circumstances. The Government should look to steadily close the gap between the AMW and the National Minimum Wage for individuals aged 16 to 17. The path to close the gap should take account of the wider changes to wages and apprenticeship funding.

Policies can be highly influential in employers' decisions to employ apprentices. To begin, incentives play an important role in ensuring that particularly small firms have the resources to funding and supporting apprentices, and as such their maintenance is essential. The National Insurance break for employers of apprentices under the age of 25, where from employers of apprentices under the age of 25 are no longer required to pay secondary Class 1 (employer) National Insurance contributions (NIC) on earnings up to the Upper Earnings Limit for those employees, is one such incentive. Reducing an employer's tax liability frees up funds, enabling them to invest in higher wages for their apprentice.

We believe that changes to apprenticeship funding for businesses that do not pay the apprenticeship levy could be affecting small employer's behaviour in terms of apprentice recruitment and investment. From May 2017, some small businesses were required to contribute 10% towards the cost of apprenticeship training and assessment. Taken in isolation, a change of this nature may not seem significant, however finding the funds to invest in apprenticeships – which previously were fully-funded - could prove more challenging. One in three small firms that took part in our 2016 research into apprenticeships reported that 'a greater financial incentive' would encourage them to employ an apprentice[14].

Despite these 'small business' incentives the smallest businesses,[15] latest apprenticeship start figures released in May 2018 show yet another drop in in the number of under-19s starting apprenticeships compared to the same quarter last year; down by 16 per cent. This follows figures from October 2017, which found that a 41 per cent reduction in starts compared to the same quarter last year. Arguably, the behaviour of employers paying the levy is partially responsible for this reduction; however it would be remiss not to consider the impact of funding changes on the apprenticeships investment decisions SMEs that aren't eligible for small business support.

It is for this reason that FSB is calling for small business incentives to be extended to firms employing up to 250 employees. We believe that this would lead to a greater number of small and medium-sized businesses being supported to begin or continue their tradition of offering apprenticeships to particularly younger people, thereby facilitating access to high-quality training for the next generation of workers. Maximising the impact and reach of apprenticeships must be the focus of future developments if we are to ensure the pathway is accessible and offers a genuinely high standard of study and experience to apprentices.

Compliance and enforcement

FSB has supported efforts to strengthen the enforcement regime for the NMW. We have consistently highlighted to our members that all employers have a duty to meet their legal obligations, and those firms that advertently fail to, for example, pay their staff the minimum wage will be undercutting others and damaging trust in the business community, the vast majority of who abide with the NMW legislation.

[14] FSB, Make or Break: Getting apprenticeship reform right for small businesses, August 2016. Available at: https://www.fsb.org.uk/docs/default-source/fsb-org-uk/fsb-apprenticeships-report-final.pdf?sfvrsn=1

Nevertheless, we are concerned that many small businesses may still inadvertently find themselves noncompliant with the minimum wage legislation due to lack of awareness of the changes. It is often the additional features of minimum wage legislation, such as the accommodation offset or application of sleeping rates, which can cause confusion for small businesses. To ensure firms do not unintentionally fall foul of the rules, we have called on the Government to enact a campaign of targeted communication along with the publication of appropriate guidance. We also recommended that HMRC take extra efforts to facilitate compliance through clear communication when making changes to the minimum wage rates. This guidance should hopefully reduce the numbers of non-compliant businesses.

FSB's view is that most of the main rates are easily understood by employers, but other features can be more challenging – such as the accommodation offset. Our view is that the accommodation offset is often not well understood by small firms, due in part to its complexities, and while the vast majority of employers will be aware of the different age-specific NMW rates, awareness of the accommodation offset is relatively low among small employers. This is an example of an area where providing clear guidance and support would be welcome, before enforcement bodies make use of their other powers.

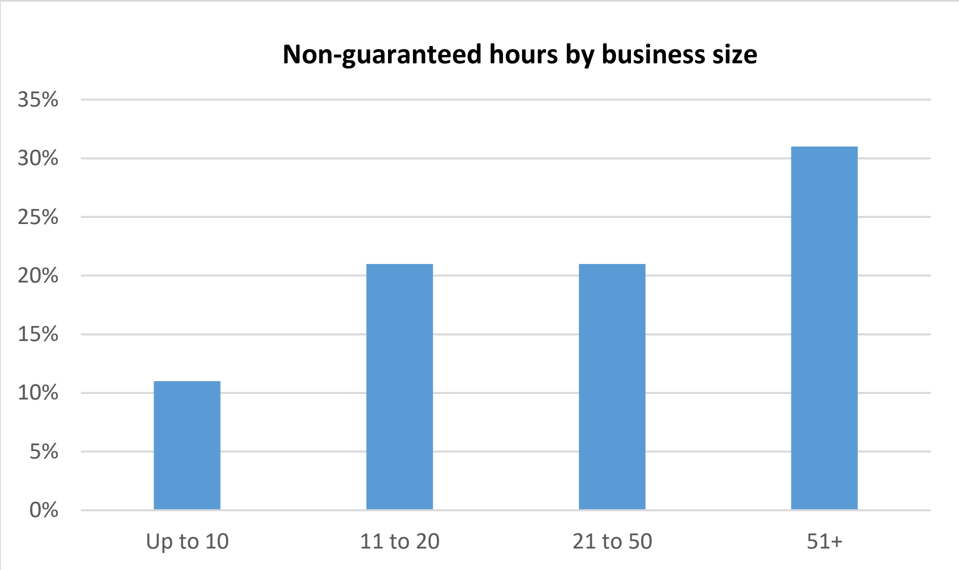
It is FSB's view that HMRC's current 'naming and shaming' scheme is ineffective. The lists are long, diluting the value of a public list, and the £100 threshold is too low. The best practice in exercising reputational penalties has been demonstrated by TPR, which names and shames only the most egregious non-compliant employers. This adds to the effectiveness of the list and does not punish employers that unintentionally fail to meet a particular test. The priority needs to be helping employers do the right thing and highlight the clear decisions not to comply by some businesses, not setting a low-threshold to join a very long name and shame list. Enforcement bodies should recognise the lack of HR and legal support available to small businesses and Government should seek to support small business employers through proportionate enforcement that prioritises informing businesses about their responsibilities.

The Taylor premium and hours/income volatility

Question Six: In the last 12 months have you taken on staff on non-guaranteed hour contracts (NGHCs)?
In our survey to members we provided the following definition on non-guaranteed hour contracts: Non-guaranteed hours contracts are contracts in which an employer for example may guarantee between zero to two hours of work per week, but may request an individual to commit to more working hours per week. These contracts are sometimes referred to as zero hours contracts, nominal hours contracts, short-hour contracts, on-demand contracts or on-call contracts.

In the last 12 months have you taken on staff on non-guaranteed hour contracts? **All interviews (561 responses)**	**Total**
Yes	**15%**
No	**84%**
Don't know/not sure	**1%**

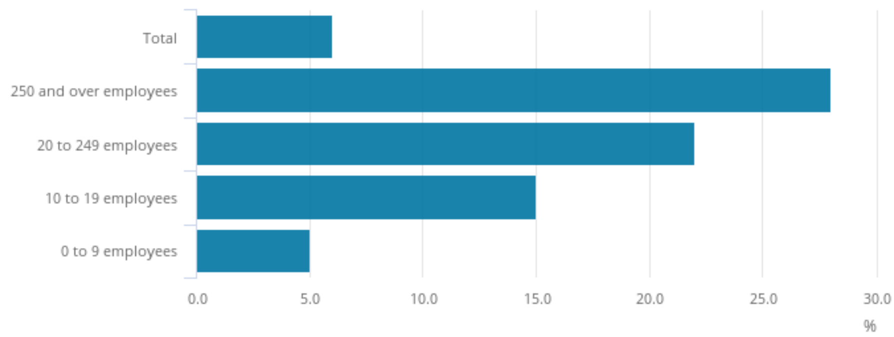
Our evidence found that in the last twelve months 15 per cent of small businesses have employed people on non-guaranteed hours contracts. This evidence supports are previous findings that zero hours contracts are less common in small firms than large companies or the public sector, and that [16]zero-hours arrangements account for a relatively small share of overall employment for most groups.



The limited evidence we have suggests that the larger the business the more likely they are to use non-guaranteed hour contracts, with 31% of respondents with 51 or more employees using non-guaranteed hour contracts in the last twelve months, as opposed to 11% of small businesses with up to ten members of staff. The data in the above table is below the level in which we would rely on for statistical significance; however, the Office for National Statistics Business Survey supports our findings that the share of businesses using NGHCs varies between industries and business size. The ONS found in relation to business size that 28 percent of businesses with 250 or more workers make some use of NGHCs, compared with 5 percent of businesses with less than 10 workers, see Figure 3 below.

Figure 3: Percentage (%) of businesses making some use of contracts that do not guarantee a minimum number of hours (NGHCs) by size of business, November 2017

UK



Source: Office for National Statistics

87% of small firms in the retail sector and 57% of small firms in accommodation and food service activities sector reported that they have not used NGHCs in the last twelve months. Small businesses are by their nature flexible, and the kind of contracts their staff are on depends on the nature of the business. However, staff in small firms are typically on permanent contracts, working full or part time. NGHCs are often not appropriate for small firms because the business has an established workforce and/or the business is sufficiently predictable.

However, we recognise that for a certain type of business, there are benefits to NGHCs. They can enable businesses to better manage labour costs when business is sporadic and when businesses experience seasonal peaks and troughs. This flexibility is often crucial to keeping these businesses viable.

While many small businesses understand the cost of doing business includes paying staff in line with budgetary forecasts, the introduction of a premium NMW/NLW on sectors, such as health and social care will have a significant impact. The introduction of a premium may not only remove flexibility within the labour market, but lead to businesses further absorbing wage costs into their business.

Question seven: If a compulsory premium National Minimum Wage in excess of £7.38 and National Living Wage in excess of £7.83 were introduced for hours worked that are not guaranteed, how likely would you be to...?

If a compulsory premium National Minimum Wage in excess of £7.38 and National Living Wage in excess of £7.83 were introduced for hours worked that are not guaranteed, how likely would you be to...?

All interviews (561 responses)

	Likely	**Neither likely nor unlikely**	**Unlikely**

Pay the higher minimum wage to maintain flexibility	34%	44%	22%
Increase the number of hours you guarantee as part of a contract (and therefore avoid the higher minimum wage)	18%	45%	37%
Reduce hours overall for workers on these arrangements	31%	38%	31%
Reduce your workforce overall	27%	35%	38%
Recruit fewer workers	39%	31%	30%
Reduce hours worked by staff	30%	35%	35%
Reduce the rate of basic wage growth for the workforce	35%	36%	29%
Outsource	16%	35%	49%
Reduce business investment	33%	36%	31%
Automate / make use of technology	21%	40%	39%

Only 34% of respondents stated they would pay a higher minimum wage to maintain flexibility and 37% stating it would be unlikely for them to increase the number of hours they guarantee as part of a contract (and therefore avoid the higher minimum wage). It is concerning that 39 percent may reduce the size of their overall workforce if a premium was to be introduced.

FSB recommendation for Taylor premium

FSB respects that there are wider issues concerning NGHCs, as evidenced in the Taylor Review and by many other stakeholders. For a section of the labour market, NGHCs provide one-sided flexibility leading to many issues for working people and their families. It quite right where employers are found to be genuinely exploiting their workers they should be reprimanded.

NGHCs are not a new phenomenon they have existed in some form since the 1970s hence why the terminology has evolved over time. Many of our members state NGHCs arrangements allow workers to control when and how much they work, this is relevant in certain sectors such as health and social care and for students. The demand for homecare is time and location specific, with peaks and troughs over the course of a day.

Our survey found that only 18 percent of employers would increase the number of guaranteed hours and therefore avoid the higher minimum wage, we suggest that this is because the hours provided to staff are acceptable for both the employer and the worker. A similar fact was identified in a CIPD study, which found that[17] the majority (59%) of zero-hours contract employees do not want to work more hours, compared with 88% of all those in employment.

[17] CIPD, Policy report, December 2015, retrieved from https://www.cipd.co.uk/Images/zero-hours-and-short-hours-contracts-in-the-uk_2015-employer-employee-perspectives_tcm18-10713.pdf

We are also concerned as to how this proposal would be enforced and whether such a proposal will place further bureaucratic burdens on small businesses in administering what pay rates applied to which hours of work. This may create problems for small businesses and for HMRC in enforcing such a policy. Therefore we suggest that a premium for non-guaranteed hour contracts is not the best solution to tackle the problem of one sided flexibility within the labour market.

It is our view that the main problem in the use of NGHCs is around the extent of the notice period provided to workers from their employer. Where workers receive an extremely short notice of work, or receive no notice of further work, this leads to individuals finding it difficult to budget and lack security of future income. Therefore FSB would encourage LPC to consider including a notice period of seven days when assessing the issues surrounding NGHCs.

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