Union of Shop, Distributive and Allied Workers

2019 LOW PAY COMMISSION CONSULTATION

USDAW RESPONSE

Executive Summary

1. There has been steady economic growth, despite the continued uncertainty created by the Brexit negotiations, and employment is at record levels. However, there is a creeping squeeze on earnings which needs to be addressed.

2. There is a mixed picture of performance across the Retail Sector. While some businesses are struggling to adapt to current market pressures, there is a range of businesses that are delivering improved financial figures.

3. Usdaw's experience is that the trend towards consolidation of pay settlements is slowing down, and more straightforward pay increases have been awarded in most cases.

4. There has been no indication of cuts to jobs as a result of the National Living Wage, and hours have remained largely the same.

5. The cost of living and the impact of cuts to in-work benefits are a major concern for Usdaw and for low paid workers more generally.

6. The National Living Wage should be increased at least in line with the planned target of 60% of median earnings. Usdaw is campaigning for a National Living Wage of £10 per hour.

7. Usdaw maintains that the National Living Wage should be paid to all workers; as an immediate step it should be paid from the age of 21. There is no justification for the current 25 year old threshold.

8. The rates for 16–17 year olds and 18–20 year olds must be increased at least in line with the percentage to the National Living Wage to make up ground lost in previous years.

9. The Apprenticeship Rate should be immediately raised to the same level as the Youth Rate, and abolished in the longer term, to reduce the risk of exploitation.

10. There is a need for continued targeted enforcement and awareness, particularly in the Retail Sector. Fines should be enforceable in any case of late payment or under-payment. A rigorous prosecution strategy should be pursued to deal with the worst employers.

1. ABOUT US

Usdaw is the UK's fifth largest Union, with more than 420,000 members. The majority of our members are employed in the Retail Sector, but we also have significant membership in road transport, warehousing, food manufacturing, pharmaceuticals, call centres and home shopping.

Usdaw holds national agreements with four of the UK's biggest food retailers – the Co-op, Morrisons, Tesco and Sainsbury's, and we are also the recognised trade union for Asda stores in Northern Ireland. In the non-food sector we negotiate pay with Argos, Next Distribution and Poundland nationally, as well as Primark in Northern Ireland. We also hold a range of agreements covering food manufacturing and distribution sites at national and local level. Usdaw conducts around 180 separate pay negotiations each year, mainly in low paying industries, giving us an incredibly valuable insight into the state of the labour market.

As a Union representing workers in low paying sectors, the National Living Wage is a key issue for Usdaw and we have consistently been engaged with the process of setting the National Minimum and Living Wages. Usdaw wholeheartedly supports an increase in the National Minimum Wage to £10 per hour, to cover all workers.

2. WHAT ARE YOUR VIEWS ON THE OUTLOOK FOR THE UK ECONOMY, INCLUDING EMPLOYMENT AND UNEMPLOYMENT LEVELS FOR THE PERIOD UP TO APRIL 2020?

Economic Overview and Outlook

Despite the uncertainty created by Brexit, the UK economy has continued to grow. UK Gross Domestic Product grew by 1.4% in 2018. Between Quarter 4 (October to December) 2018 and Quarter 1 (January to March) 2019, GDP grew by 0.5%. Compared to a year ago, GDP has increased by 1.8%.

At 76.1%, the employment rate is the joint highest on record. There are 32.70 million people in work, an increase of 354,000 from last year. The unemployment rate for 16–17 year olds has dropped from 26.4% to 19.2% over the past year and the unemployment rate for 18-24 year olds has dropped from 10.3% to 9.9%.

There were 5.7 million private sector businesses at the start of 2018, which is a slight fall of 27,000 from the previous year. In 2018, there were 2.2 million more businesses than in 2000, an increase of 63% of the whole period.

The net rate of return for private, non-financial corporations was at 12.2% in the final quarter of 2018, roughly in line with 12.4% a year earlier. This reflects a general trend of steady growth since the financial crisis. Ernst and Young reported that UK companies issued 89 profit warnings in Quarter 1 of 2019 and 287 over the course of 2018. This included 12 profit warnings from General Retailers in the quarter, one less than the previous quarter. In the last 12 months, 34% of the sector has issued profit warnings, which is a fall from the 41% warning in the year to Q1 2018.

Employment is predicted to continue its pattern of growth over the next two years, rising to 32.8 million in 2020 and 33.0 million in 2021. The OBR's latest estimate is for GDP growth of 1.2% in 2019, 1.4% in 2020 and 1.6% in 2021.

Despite the overall picture of steady growth, wages are still not making up lost ground in real terms. Using RPI as the inflation measure, real terms earnings grew by 0.9% in the year to March, however, earnings are still behind pre-crisis figures.

The latest earnings forecasts (total pay) collated by XpertHR average 3.3% across 2019. The Treasury is currently forecasting increases of 3.2% in 2019 and 3.2% in 2020. XpertHR's RPI inflation forecasts for 2019 average 2.6%, falling to 2.9% in 2020.

Real terms average earnings continue to lag behind their pre-recession levels, which makes this trend particularly concerning. Analysis by the TUC which was published in May 2019 has shown that average wages are still £17 per week lower than ten years ago across the whole economy. This long-term squeeze on earnings could have an adverse impact on consumer confidence and business investment, creating a potential risk to the economy.

The Cost of Living for Low Paid Workers

One of the most notable developments after the Brexit referendum has been the move to a higher continued rate of inflation over a sustained period. Retail Price Inflation in May 2016, prior to the referendum, was 1.4%. The figure for the year to May 2017 was 3.7%, May 2018 was 3.3% and then in the 12 months to April 2019 has been 3.0%. These have been rates of inflation not seen since 2012.

The cost of fuel has been one of the highest contributors to rising inflation over the past 12 months, rising by 10.2%. The cost of electricity has gone up 14.1% according to the RPI analysis.

The cost of going to work in itself is spiralling, with bus and coach fares up 8.9%, and rail fares up 6.6% in the most recent inflation report.

ONS does not record separate figures on childcare costs, but a report from the Family Childcare Trust released in February 2019 showed that British parents are now spending an average of £127 a week for a part-time nursery place for a child under two. This is double the average weekly household spending on food and drink and a 3% increase on the previous year.

The Government launched their 30 hour extended entitlement in September 2017. Across England, only 62% of councils report having enough childcare places for working parents to access their free 30 hours places. The Childcare Trust survey has also cited reports of parents unable to truly access this free childcare as providers are charging above cost price for extras such as lunches, which may not always appear optional along with providers being restrictive over the days and periods that families can access the free provision.

Research from the Joseph Rowntree Foundation, released in 2017, found that the 'poverty premium' costs low income households on average £490 a year. They give an example of a single earner couple with one child who had an income of £16,500 per year, but were incurring a poverty premium of £1,860 because they had a pre-payment meter for both electric and gas, paper billing for telecoms, monthly payments to spread the cost of home contents and car insurance and several forms of high cost credit. Only an estimated 1% of low income households were not incurring any sort of 'poverty premium'.

Although the cost of living does not currently feature within the remit of the Low Pay Commission for setting the National Living Wage or Minimum Wage rates, Usdaw is of the firm view that it should be a key consideration. The overwhelming majority (98%) of Usdaw members have told us that the National Living Wage should take into account the cost of living for low paid workers.

It should also be noted that whilst low paid workers were previously able to rely on in-work benefits to top up low pay, this vital safety net has been undermined in recent years as a result of the following:

- A 'two-child policy' for support through tax credits, Universal Credit (UC) and Housing Benefit meaning that the child elements of UC and Child Tax Credits will not include a third or subsequent child born after 6 April 2017 (with limited exceptions).

- The 'first child premium' within UC and the equivalent family element within tax credits (worth £545 per year) are abolished for new claimants.

- Parents claiming UC, including lone parents, will be expected to have work focused interviews when their youngest child turns one, start work preparation when they are two and look for work when they turn three.

- 18 to 21 year olds who have been claiming UC for six months will have to apply for either training or apprenticeships or attend a work placement (unless they are exempt because they are considered to be vulnerable).

- The withdrawal of Housing Benefit entitlement for some 18 to 21 year olds.

Retail Sector Performance and Prospects

- In the three months to April 2019, the quantity of goods bought (volume) in retail sales increased by 1.8% when compared with the previous three months, with strong growth in non-store retailing, which reached a record high of 9.4%. Online retailers selling clothing items were the driver to this growth, with the warm weather helping to boost sales.

- When compared with the previous year, the quantity bought in April 2019 increased by 5.2%, with growth across all sectors except household goods, which fell by 4.5%. The quantity bought was flat (0%) in April 2019 when compared with the previous month, with growths in clothing, non-store retailing and fuel offset by falls in all other main sectors.

The Retail Sector is facing continued pressure due to the weakness of the pound and the consequent increase in prices. However, a number of major retailers have announced positive trading results in recent months:

- For the 52 weeks to 23 February 2019, **Tesco** UK and RoI reported a 2.9% increase in like-for-like sales, with group operating profit, before exceptional items, up 33.5%.

- **Co-op Group,** in the year to 5 January 2019, reported profit before tax of £92 million; this was a 27% increase on the previous year.

- **Morrisons** in the year to 3 February 2019, Morrisons delivered an 8.5% increase in profit before exceptional items and taxation. In their Q1 trading statement, for the 13 week period to 5 May, the company delivered an impressive 2.3% increase in like-for-like sales.

- In the 52 weeks to 9 March 2019, underlying profits at **Sainsbury's** grew by 7.8% on the basis of a 2.1% increase in sales.

- **Ocado** has released results for the 13 weeks up to 3 March 2019. These results showed an 11.1% increase in the value of retail sales.

- **Primark** owner Associated British Foods said sales at the retailer jumped 4.4% in the 24 weeks to 2 March 2019.

- The **John Lewis Partnership** has reported sales growth of 0.9% in the 12 months to 26 January 2019.

- **B&M** stores has recently reported that sales rose by 0.7% at its UK established stores in the year to 31 March 2018. This included a 5.8% growth in the fourth quarter.

A number of retailers have also recently announced expansion plans, including:

- The new discounter **Bargain World** has opened the first of its 25 planned stores this week. It is thought that the company is aiming to open up to 80 stores in the coming years.

- **The Co-op** has secured planning permission for a new distribution centre in Biggleswade, Bedfordshire. The site will create up to 1,200 new jobs once it opens in 2022, and will support the company's expansion in London, the South and South East.

- **Amazon** have announced a new fulfilment centre in Kegworth, East Midlands. The site will create 500 new jobs initially and up to 1,000 in the future. It will be Amazon's fifth site in the East Midlands, with the company already running sites at Coalville, Daventry, Rugeley, and Rugby.

- **Lidl** will be opening its biggest UK warehouse later this year in Motherwell, Scotland. The new warehouse will provide 600 jobs, however the firm will be relocating operations from its current Livingston warehouse.

The High Street and overall Retail Sector has been experiencing some high profile challenges in recent times. These issues are caused by a range of structural issues. However, where closures have taken place, these have usually been related to changes in customer behaviour, company performance and market competition. Usdaw has not dealt with any closures or job losses that have been attributed to the National Living Wage since it was introduced. The relationship between higher wages and improved productivity is long established and organisations across a variety of sectors that pay the Living Wage Foundation-accredited Living Wage, have reported improvements in staff loyalty, engagement, productivity, staff turnover, absenteeism and stronger corporate reputation.

There is clearly a need for retailers and Government to engage with the retail workforce to find a variety of solutions to the current issues that are affecting the sector, ranging from business rates to skills investment. Usdaw has recently launched an Industrial Strategy for the Retail Sector which looks at some of these issues. In it, we promote the need for a £10 per hour minimum wage, along with backing the Low Pay Commission's own call for workers to have contracts based on their normal working hours. Through improving terms and conditions in retail, and across the economy, it is clear that we will be able to deliver improvements to overall productivity.

Concerns have been expressed about the future prospects of the Retail Sector, due to the rise in online shopping and developments in technology. Joint research by Usdaw and the Future of Work Commission in 2017 found that four in ten retail workers were concerned that technology could threaten their employment. However, we do not believe that this is inevitable, and there is a need for retailers to consult properly with their workforce over the introduction of new technology, rather than taking a short-term cost cutting approach. The Retail Sector needs to adapt so that technology can be used to enhance the customer experience and enrich jobs.

3. **WHAT ARE YOUR VIEWS ON THE CURRENT STATE OF THE LABOUR MARKET? HAS THE LABOUR MARKET TIGHTENED OVER THE PAST YEAR? IF YOU ARE AN EMPLOYER, WHAT HAS BEEN YOUR EXPERIENCE OF FILLING VACANCIES?**

Quarter	All Aged 16 & Over		All Aged 16 - 64			
	Total in Employment (Thousands)	Unemployed (Thousands)	Employment Rate (%)	Unemployment Rate (%)	Economically Inactive (Thousands)	Economic Inactivity (%)
Jan-Mar 2018	32,343	1,417	75.6	4.3	8,679	21.1
Apr-Jun 2018	32,386	1,362	75.5	4.1	8,739	21.2
Jul-Sep 2018	32,431	1,377	75.6	4.2	8,726	21.1
Oct-Dec 2018	32,597	1,363	75.8	4.1	8,632	20.9
Jan-Mar 2019	32,687	1,298	76.1	3.9	8,609	20.8

Source: ONS Labour Market Statistics, May 2019 Release

From January to March 2019, there were 32.7 million in work, 354,000 more than for a year earlier. The employment rate (the proportion of people aged from 16 to 64 years who were in work) was estimated at 76.1%, higher than for a year earlier (75.6%) and the joint highest figure on record.

There were an estimated 1.3 million unemployed people (people not in work but seeking and available to work), 119,000 fewer than for a year earlier and 914,000 fewer than for five years earlier. The unemployment rate (the number of unemployed people as a proportion of all employed and unemployed people) was estimated at 3.8% - this is the lowest official unemployment figure since 1974.

AVERAGE HOURS AND UNDEREMPLOYMENT

From January to March 2019, people worked on average 32.2 hours per week, up from 31.9 hours a year earlier.

Full-time workers worked 37.5 hours per week in their main job on average, up slightly from 31.9 hours a year earlier. On average, part-time workers worked 16.3 hours per week in their main job, down from 16.4 a year earlier.

From January to March, there were 2.45 million underemployed people (willing to work more hours, available to do so and worked less than the specified hours of work threshold) in the economy, which is down 63,000 from the same period last year. The underemployment rate (the proportion of people aged from 16 to 64 years who were underemployed) lies at 7.5%. This time last year the rate was 7.8%.

Usdaw believes that all figures on the above analysis show that the labour market has continued to tighten over the last 12 months.

4. **WHAT HAS BEEN YOUR EXPERIENCE OF WAGE GROWTH AND INFLATION IN THE LAST YEAR AND WHAT DO YOU FORECAST FOR THE NEXT COUPLE OF YEARS?**

Pay Settlements

The XpertHR median basic award in the three months to the end of April 2019 was 2.5%. The median has now equalled 2.5% in seven of the previous 12 months. The quartile range lay between 2.1% and 3%. Almost two-thirds of settlements have been higher than the equivalent settlement last year.

The median Usdaw pay settlement remained at 2.45% in the 12 months to May. The weighted average, which takes into account the number of members covered by each settlement, stood at 3.83%.

The Co-operative Group increased its new starter rate by 4.8%, to £8.38 with the established rate increasing by the same percentage to £8.57. The pay rise was effective from 1 April 2018 in line with the National Living Wage/National Minimum Wage uprating date.

Morrisons Following negotiations, an offer was put to the membership which would have seen pay rates increase by 3.45% to £9 per hour. This offer was rejected by members in a ballot and negotiations are ongoing.

Sainsbury's have increased their basic rate by 9.3% in September 2018 lifting the basic rate to £9.20 and £9.80 for those in inner London. Although there will be some phased removal of certain premiums and historical rates, Sainsbury's are investing an additional £110 million as part of the increase. Discussions on the 2019 Pay Review have not yet commenced.

Tesco, the outcome of the 2019 Tesco Pay Review will be announced on 10 June 2019. Usdaw is happy to provide the Low Pay Commission with a copy of the deal when it is announced.

Poundland the following increases were applied from 1 April 2019.

Bandings	Current Pay Rates (per hour)	Proposed Basic Rate (per hour)	% Increase
Supervisors/PPC's	**£8.33**	**£8.51**	**2.2**
Over 25 years	**£7.83**	**£8.21**	**4.8**
21- 24 years	**£7.49**	**£7.77**	**3.7**
18 – 20 years	**£6.18**	**£6.32**	**2.2**
16 – 17 years	**£5.15**	**£5.26**	**2.2**

As a result of the profile of employees within the business, the average employee received an increase of 3.8%.

Argos have increased rates by between 4.9% and 6.3%. 90% of employees received an increase of at least 6.3% and 82% of employees on an Under 21 received an increase of at least 12.5%.

Primark (Northern Ireland) from 1 April, the basic rate was increased by 5.14% to £8.59

Booker increased their basic Branch Assistant hourly rate to £8.35 in April 2019 a percentage increase of 4.9%. Other rates were increased by 2.5%.

In most of our pay negotiations, employers have continued to pay increases on a year-by-year basis, however, we have seen some cases of longer term settlements, most notably in Tesco. In some cases employers have expressed uncertainty about the trajectory of the National Living Wage after previously seeing the figures revised downwards, and are reluctant to commit to a longer term deal.

5. **WHAT HAS BEEN THE IMPACT OF THE NLW SINCE APRIL 2016? THE RATE IS CURRENTLY £7.83 AND WILL RISE TO £8.21 IN APRIL 2019. OUR CRITICAL INTEREST IS VIEWS OR DATA ON THE EFFECTS ON EMPLOYMENT, HOURS AND EARNINGS. WE ARE ALSO VERY INTERESTED IN EVIDENCE ON PAY STRUCTURES (INCLUDING PREMIUM PAY) AND BENEFITS, OUTSOURCING, DIFFERENTIALS, PROGRESSION, JOB MOVES, TRAINING, CONTRACT TYPE, BUSINESS MODELS, PRODUCTIVITY, PRICES OR PROFITS.**

In April 2017, Usdaw published the findings of a membership survey looking into how the implementation of the National Living Wage had affected our members. The survey received nearly 4,500 responses, providing an in-depth analysis of the implementation of the National Living Wage. Since then, the Union has continued to track wage settlements across the industries in which we represent as well as keeping our eye on the experience of our members.

- **Coverage**

The majority of Usdaw members currently earn above the National Living Wage. The four major supermarkets with which Usdaw negotiates, pay all staff a basic rate which is higher than the National Living Wage and seek to maintain a gap above the statutory minimum. The table below shows pay rates across a number of major retailers.

Employer	Hourly Rate	London
Aldi	£9.10	£10.55
M&S	£8.75	£9.90
Morrisons	£8.70 (under review)	+£0.50–£0.75 p/h
Asda	£9.00	unavailable
Ikea (Living Wage Accredited)	£9.00	£10.55
Lidl	£9.00	£10.55
Sainsbury's	£9.20	+£0.60 p/h
Argos	£8.50	+£0.75 p/h
Tesco	£8.42 (under review)	Up to £0.68 p/h
Co-op (Co-op Group)	£8.57	+£0.50 p/h
Waitrose	£8.93	

Usdaw's National Living Wage survey found that 62% of respondents had already been earning £7.20 per hour or more before the National Living Wage was first implemented in April 2016. However, three-quarters of our members expected to be directly affected by the rate of the National Living Wage over the following four years (up to 2020/2021).

During the summer of 2018, Usdaw ran a further survey of our membership looking at low pay, insecure work and underemployment. This survey received over 10,500 responses. At a time where the National Living Wage was at £7.83, we found that 55% of respondents earned between £7.83 and £8.50 per hour. 42% earned above this rate with 3% reporting earning below £7.83.

From the above, it can be seen that whilst the National Living Wage has had an impact on a number of retailers, many are still electing to pay significantly above the statutory rate, especially in London.

Usdaw's aim is to negotiate a real Living Wage for all our members, in line with the Living Wage Foundation rates which take into account the amount needed to maintain a decent standard of living. We are campaigning for a £10 per hour National Minimum Wage for all ages.

- **Pay Structures**

It is clear that the impact from the introduction of the National Living Wage was not felt in take-home pay for all, or even most of our members. Our survey in 2017 found that 38% of Usdaw members saw their take-home pay increase after their most recent pay review. 46% said that it was about the same, and 10% said that it was lower. Within the 10% who saw pay reduced, one-third worked for non-unionised employers, and 58% worked for employers where Usdaw had negotiated temporary pay protection.

Last year, within Tesco, Sunday premiums were reduced from time-and-a-half to time-and-a-quarter, with an 18 month transition payment. This was to be offset by the established rate being paid from three months' service, down from nine. The only other major agreement where there was some consolidation of premiums is Sainsbury's retail. Here some longstanding premiums, which were removed from general terms and conditions over 10 years ago, were consolidated into the basic rate. This was a longstanding issue unrelated to the National Living Wage and negatively affecting approximately 7% of the workforce. It was agreed that these individuals would receive a minimum 18 months' protection.

So far during the 2019 pay round, we have seen pay structures remaining unchanged.

- **Differentials**

Usdaw negotiates wages at all levels in the Retail Sector, and we always urge employers to reward staff fairly for their skills and responsibilities. In the 2017 Argos negotiations, we agreed a 6.8% increase for supervisors to increase differentials which have been eroded in recent years. As part of the 2018 pay negotiations, all differentials were maintained on a percentage basis meaning that most supervisors received a 4.4% increase. In 2019, there was a small reduction in differentials with Team Leaders receiving a 3% increase as opposed to an increase of 4.9% on the standard rate.

Following negotiations, Tesco has now implemented a skills payment to reflect the requirements of particular job roles. These skills payments can be worth up to an additional £2.74 per hour. This new scheme ensures that the pay structure within Tesco is fully transparent and that members clearly understand the benefits of progressing in the workplace. It also gives our members the opportunity to pick up hours in different job roles if they wish to, and to ensure that they are fairly compensated when they take on extra responsibilities for any part of their working week.

There have been concerns expressed that the National Living Wage would suppress pay differentials and therefore make it difficult for employers to recruit staff into supervisory and skilled roles, and discourage workers from progressing. While there is a deficit in progression opportunities in the Retail Sector, we do not believe that this has emerged as a result of increasing pay rates at the lower grades.

There has been a general trend towards flatter pay structures in the Retail Sector over the past 5–10 years, and the vast majority of retailers have cut back supervisory roles at various points, most of which preceded the introduction of the National Living Wage. This has generally been done in pursuit of efficiency savings, but Usdaw's experience is that this streamlining of structures can be counter-productive as it reduces the quality and quantity of contact between staff and their line manager, leading to poor engagement. We would welcome any move from the Low Pay Commission or Government to look into issues around progression in retail.

- **Productivity**

UK labour productivity, as measured by output per hour, is estimated to have grown by 0.3% from Quarter 3 (July to September) 2018 to Quarter 4 (October to December) 2018. This is still below the level of productivity growth that should be expected across the economy. The ongoing 'productivity puzzle' needs to be addressed, and decent pay and conditions play a key role in this. There is evidence that paying the real Living Wage enhances productivity, improving employee retention and engagement.

Usdaw believes that low paying sectors such as retail need more Government support to enhance skills and maximise productivity. Retail is the largest source of private sector employment in the UK, and as such it deserves to feature high on the Government's industrial strategy agenda. Usdaw remains keen to engage with all stakeholders to devise clear strategies that will deliver higher productivity for our members in the Retail Sector. A key part of this is delivering significant increases in the National Living Wage and associated statutory rates.

- **Hours**

The availability of hours is always an issue of concern for Usdaw and its members. The latest figures from ONS showed that average hours worked in the Retail and Wholesale Sector stand at 30.4 for the three months to March 2019, which is slightly up on the same time last year, when average hours were 30.2. Average hours in the sector have consistently hovered close to the 30 hour mark since they were first recorded in 1997.

Our 2018 survey showed that there is a clear link between short-hours contracts and low pay, indicating that people employed on these contracts are facing a lack of opportunity and are not progressing up pay scales. 80% of people employed on a contract of less than 16 hours per week earn £8.50 or under – well above the average for the whole sample of 58%.

Usdaw has voiced concerns about short-hours contracts over a number of years, as these unstable working patterns make it extremely difficult for our members to plan their finances and family life, and to provide a decent standard of living.

As Universal Credit is fully rolled out to those currently claiming tax credits, underemployment will become an even more significant issue for many Usdaw members. In order to avoid sanctions, claimants will need to be earning, or seeking to earn, the equivalent of 35 hours at the National Living Wage (depending on their circumstances). Where sufficient hours are not available in their current job, claimants may need to look for a second job. In the Retail Sector, where more than half of our members tell us that they do not work set hours, and one in five say that their hours change from one week to the next, this could prove difficult, or even impossible.

The trend towards short-hours contracts in retail over recent years has largely been a result of employers trying to maximise flexibility within their scheduling systems. Some of our negotiating officials report that this trend seems to have peaked, and that retail employers are increasingly recognising the value of having more stable working patterns in recruiting and retaining staff, and in improving productivity. Usdaw was pleased by the Low Pay Commission's work on this area last year and is keen for all available avenues to be used to convince the Government to take forward the Commission's recommendations.

6. **TO WHAT EXTENT HAS THE NLW PARTICULARLY AFFECTED CERTAIN OCCUPATIONS OR INDUSTRIES, TYPES OF FIRMS (SMALL, LARGE ETC), REGIONS OR GROUPS (FOR EXAMPLE WOMEN, EITHNIC MINORITIES, MIGRANT WORKERS ETC)?**

Usdaw's evidence from our 2018 survey of over 10,500 members shows that gender pay is still a significant problem for low paid workers. Despite women making up 59% of respondents, only 37% of those earning over £10 per hour were women.

It is clear that women are significantly over-represented in low paid jobs. The reasons for this are complex. Work undertaken by women has been traditionally undervalued. In addition, studies continue to show that women spend significantly more time on housework and domestic chores and are more likely to be balancing their work with unpaid childcare and caring responsibilities. This frequently means that women do not get the same opportunities to progress in the workplace.

Our research reveals that the gender pay gap remains a major issue for women in low paid sectors such as retail where the jobs mainly carried by women tend to be lower paid than the jobs traditionally filled by male colleagues. Usdaw's evidence shows that an increase in the National Living Wage to £10 per hour would have a significant positive impact on closing the gender pay gap.

In Usdaw’s experience, black workers are significantly overrepresented in low paid jobs compared to higher paid jobs. The Usdaw survey results show Black workers are much more likely to report struggling to meet essential bills, missing rent and mortgage repayments, accessing food banks and skipping meals to pay bills.

These results reflect findings from organisations showing that Black workers and their families are at the sharp end of austerity. Black workers are over-represented in low paying, insecure, temporary and short-hours jobs and are therefore more likely to rely on a social security system the Government is intent on dismantling.

Black workers face numerous barriers to participation and progression at work. The Government commissioned McGregor Smith review looking at racism at work found the UK economy could benefit by £24 billion if Black workers progressed at work at the same rate as white colleagues.

7. **UNDER OUR LATEST FORECASTS, THE TARGET APRIL 2020 RATE FOR THE NLW WOULD BE £8.67. DO YOU AGREE THAT THE LPC SHOULD SEEK TO MEET THIS TARGET?**

In 2020, the National Living Wage needs to be raised **at least** in line with the planned trajectory towards 60% of median earnings. According to the latest OBR forecast, this would be an increase of £0.46, or 5.6%, to £8.67.

The Governments clear intention when introducing the National Living Wage was to significantly increase the value of the statutory minimum wage. Unfortunately, since the National Living Wage was first introduced, we have seen significant drops in the expected rate of average earnings along with comparatively high rates of inflation. As a result of inflation, the impact of the National Living Wage has been severely diluted.

To resolve this, the Low Pay Commission should explore the possibility of an increase above the planned trajectory, to help address the very real need for an improvement to living standards for low paid workers. The economy is in a strong position, with high employment and profitability levels, and productivity is improving, but workers are not feeling the benefit of this in their pay. There is still a widely held expectation of a £9 National Living Wage by 2020, which is now looking under pressure due to low increases in average earnings. Usdaw supports a National Living Wage of £10 per hour and urges the Low Pay Commission to make progress towards this target at the earliest opportunity.

There is growing support for a minimum wage that takes into account the cost of living, and there is a real need for strong wage growth to deal with the current economic uncertainty. We would like to see a commitment to widening the scope of the National Living Wage, with a view to including all workers irrespective of age, with a minimum two-phased closing of the gap with the full rate paid at the age of 21 in 2019. Our concern is that with every year that goes by, the current age structure is becoming more entrenched and the gap is not being closed.

8. **WHAT DO YOU PREDICT WOULD BE THE EFFECTS OF A RATE OF £8.67 IN 2020 (EARNINGS, EMPLOYMENT, COMPETITIVENESS)?**

Following the initial announcement of the National Living Wage, employers planned for a projection which would lead to £9.35 per hour by 2020. This would have seen a rate of £8.19 in April 2018 and £8.74 in April 2019. As such, budgets from these points were set on the basis of these figures. Therefore, a current rate of £8.20, with a projected increase to £8.67 comes in significantly below these initial budgets. On this basis, Usdaw firmly believes that there is a clear opportunity for the Low Pay Commission to recommend an increase above a rate of £8.67 without affecting employment or competitiveness.

Usdaw's experience in the 2018 pay round, along with the outcome of the 2019 pay round so far, has seen those employers who pay close to the NLW rates apply the increase without looking to offset the costs through changes to terms and conditions elsewhere.

9. **AT WHAT LEVEL SHOULD THE 21–24 YEAR OLD RATE BE SET IN APRIL 2019?**

Usdaw does not see any justification for a separate 21–24 year old rate below the full NLW rate. Usdaw has continued to prevent any spread of youth rates in the workplaces where we organise and we have maintained the full rate for all ages within our food retail agreements.

Whilst Usdaw welcomed the increases to the youth rates in 2019, which roughly matched the increases in the headline rate, we believe that this was a missed opportunity to regain some lost ground in 2017 where the rates were all increased by less than 1.5%.

According to our 2017 survey, 87% of Usdaw members believe that the National Living Wage should be paid to all workers from the age of 18. As an immediate step for 2019, we are calling for it to be paid from the age of 21, with a view to entirely removing the threshold over the next few years

10. **AT WHAT LEVEL SHOULD EACH OF THE OTHER RATES OF THE MINIMUM WAGE BE SET IN APRIL 2020 – THAT IS, FOR 16–17 YEAR OLDS, FOR 18–20 YEAR OLDS, FOR APPRENTICES AND THE ACCOMMODATION OFFSET?**

The 16–17 year old rate, and the 18–20 year old rate, should be increased at least in line with the percentage increase and on a path to meet the £10 per hour target as soon as possible.

Usdaw supports apprenticeships and continues to work with a range of employers to broker new schemes. However, we firmly believe that the apprenticeship rate needs to be addressed. The majority of apprenticeships undertaken by Usdaw members are Level 2, although apprenticeships are available up to and including Level 7, which is the equivalent to a postgraduate qualification.

Providing recognised workplace training is something that is of benefit to workers – both young workers and existing staff. In many of the companies we deal with, apprentices are paid the full rate for the job while they are training. However, there is a risk that the Apprenticeship Levy, coupled with the 52.5% pay gap between the National Living Wage and the apprenticeship wage, and National Insurance exemptions, could encourage employers to deliver low quality sham apprenticeships, or simply rebrand their internal training as apprenticeship training. Young people in particular could be adversely affected, because all apprentices can be paid £3.90 for the first 12 months of their training, but those aged under 19 can remain on that rate as long as they are in an apprenticeship.

A rate of £3.90 an hour is simply unacceptable in 2019, and this needs to be urgently addressed. Furthermore, Usdaw sees the apprenticeship rate as a historical anomaly which no longer belongs in the workplace. The rate was introduced to provide a financial incentive for employers to offer apprenticeship programmes. This financial incentive has now been wholly overtaken by the provision of the Apprenticeship Levy which provides significant funds to encourage employers to offer apprenticeship programmes within England. The allocation of Apprenticeship Levy funding has yet to be determined in Scotland, Wales and Northern Ireland.

Usdaw policy calls for all workers, irrespective of age or apprenticeship status, to be paid a minimum of £10 per hour. As a step towards this, we are calling for an immediate increase to the apprenticeship rate to the same level as the 16–17 year old rate leading to the eventual eradication of the rate. This would go some way towards making the system fairer and ensuring that apprenticeships are seen as a viable option for workers from all walks of life.

11. **WHAT, IF ANY, ARE THE BARRIERS TO LARGER INCREASES IN THE 21-24 YEAR OLD RATE, 18-20 YEAR OLD RATE, 16-17 YEAR OLD RATE AND APPRENTICE RATE?**

Usdaw believes that the general tightening of the labour market we have seen over the past couple of years, something which has been reflected within employment rates for younger age groups, shows that there are no barriers to larger increases for young workers. Our experience shows that many of those companies which employ significant numbers of young people, especially across the Retail Sector, are able to do so whilst paying the full adult rate.

Whilst there has been a continuous belief that higher pay rates for young people may prove a barrier to their employment, there remains very little hard evidence of this and no evidence of a requirement for such a wide gap. Furthermore, where the rate of increase in youth rates has been seen, such as the higher increased provided in 2018 compared to 2017, Usdaw did not notice any negative impact on younger workers. Usdaw does not see any barrier to larger increases for age related rates.

12. **REFLECTING ON YOUR EXPERIENCE OF THE NLW SINCE ITS INTRODUCTION IN 2016, WHAT LESSONS DO YOU THINK SHOULD BE LEARNED FOR THE PERIOD AFTER 2020?**

As previously noted, Usdaw believes that the introduction of the NLW coincided with a structural change in pay structures across the retail industry. As a result, many companies were already in the midst of rationalising their pay structures. This meant that many low paid workers did not receive the full value of the increases in the National Minimum/Living Wage in their pay packets. Usdaw believes that the Government and Low Pay Commission should be prepared to ensure that increases in the National Minimum/Living Wage flow through to the pay packets of individual workers.

To make this happen, the Government should give the Low Pay Commission a remit to track average hourly earnings, inclusive of premiums and other payments, of low paid workers. Where earnings have not risen at the same rate as increases in the National Minimum/Living Wage, the Commission would have scope to recommend a higher increase in the following year.

13. **GIVEN THE CHANCELLOR'S STATEMENTS IN THE 2018 BUDGET, WHAT ARE YOUR VIEWS ON THE FUTURE TRAJECTORY OF THE NLW AND OTHER NMW RATES AFTER 2020? WHAT CONSIDERATIONS SHOULD INFORM THIS?**

As already mentioned, Usdaw believes that both the Government and the Low Pay Commission must target a rate of at least £10 per hour as soon as possible. The financial crisis of 2008 and the Conservative Government's austerity policies have had a lasting impact on the UK economy and people's wages. According to the Institute of Fiscal Studies, annual wages are £760 lower than they were over a decade ago. This has been backed up by official figures from the Office of National Statistics showing that earnings have lagged behind prices for most of the last decade.

As price rises have continued to outstrip increases in pay, low paid workers and their families have found it increasingly difficult to make ends meet. A recent report by the Child Poverty Action Group suggests that two parents working full-time at the National Living Wage earn £49 less per week than the income needed to cover their family's basic weekly needs.

Working people should not have to rely on borrowing to secure a basic standard of living. However 78% of respondents to our survey on or just above the minimum wage rate were relying on borrowing in order to pay everyday bills. Higher wages are needed to stop workers' having to depend on debt and in-work social security just to get by.

Despite the claims of some, there is little evidence of a link between a higher minimum wage rate and an increase in unemployment. A significant pay rise for the lowest paid would enable workers to increase their spending. This in turn would increase businesses sales, creating new jobs. Paying workers a fair amount for their hard work will deliver a better economy for all.

Usdaw is calling for the Government to set a future trajectory that ensures the National Living Wage lives up to its name. Therefore, the rate and trajectory must account for cost of living expenses. We also believe that the Government must following the recommendations of the Low Pay Commission to give workers a right to a contract based on their normal hours of work.

The following table, based on the results of our 2018 survey of over 10,500 workers shows the difference in people's life experiences based on their contractual provision. The 'typical' contract is based on someone earning between £7.83 and £8.50, a contract of less than 16 hours per week and reliant on non-guaranteed hours for at least 40% of the normal hours. The Time for Better Pay contract is based on someone earning over £10 per hour, a contract of at least 16 hours per week and a contract which reflects their normal hours of work.

Have you missed meals to be able to pay the bills?	%	
	Time for Better Pay Contract	'Typical' Contract
Regularly	6.83	40.69
Very Occasionally	26.42	39.34
Never	65.83	17.86
No Answer	0.91	2.11

Do you receive any in-work benefits/tax credits?	% of group receiving benefit	
	Time for Better Pay Contract	'Typical' Contract
Working Tax Credit	3.64	13.56
Child Tax Credit	10.14	13.23
Housing Benefit	0.68	7.25
Council Tax Support	1.37	5.14
Universal Credit	0.57	5.81

What is your Gender?	%	
	Time for Better Pay Contract	'Typical' Contract
Male	63.44	34.37
Female	34.74	64.20
Another Gender Identity	0.80	0.67
No Answer	1.03	0.76

14. **WHAT DO YOU THINK HAS BEEN THE EFFECT OF RECENT INCREASES IN THE MINIMUM WAGE ON YOUNG PEOPLE, AND ON THEIR EMPLOYMENT PROSPECTS?**

As outlined in our response to question 11, there is no evidence that the recent increases in the minimum wage have had any form of detrimental effect on the employment prospects of young people. In fact, unemployment rates within the age category have continued the contraction we have seen in recent years. Usdaw's experience continues to show that employers see the benefit of employing young people on the full adult rate.

15. **WHAT HAS BEEN THE EFFECT OF THE APPRENTICE RATE ON PAY, PROVISION AND TAKE-UP OF PLACES, AND TRAINING VOLUME AND QUALITY? HOW HAVE CHANGES TO APPRENTICESHIP POLICY AFFECTED THESE ISSUES?**

The biggest factor affecting the provision of apprenticeships over the past two years has been the introduction of the Apprenticeship Levy in April 2017. Usdaw has helped to broker over 1,000 apprenticeships over the past 12 months. While the first year of the Apprenticeship Levy has caused a drop in the total number of apprenticeships offered across the country, Usdaw has seen an increase in the number of apprenticeships we have brokered with our employers. We believe that this is because we were able to encourage employers to start looking at the impact of the Levy earlier on and therefore use it to greater effect.

In terms of the number of apprenticeships completed overall, we expect the recent drop to be a temporary blip and are confident that more programmes will be rolled out over the next 12 months. The extent of the Levy, and associated available funding for apprenticeship schemes, has led more employers to become enthusiastic about offering apprenticeship programmes. However, these apprenticeship programmes continue to be designed primarily for current staff and therefore the employers we deal with are not generally using the Apprenticeship Minimum Wage Rate.

16. **HOW DOES THE LEVEL OF THE YOUTH AND APPRENTICE RATES INFLUENCE EMPLOYERS' DECISIONS ON WHETHER TO EMPLOY YOUNG PEOPLE OR APPRENTICES; OR INFLUENCE YOUNG PEOPLE'S LABOUR MARKET BEHAVIOUR AND DECISION-MAKING?**

As stated above, the Apprenticeship Levy is by far the biggest driver in encouraging employers to offer apprenticeship schemes. We are not aware of any employers that have introduced apprenticeship schemes as a result of the National Minimum Wage Apprenticeship rate.

17. **WHAT ISSUES ARE THERE WITH COMPLIANCE WITH THE MINIMUM WAGE? HAS THE NLW AFFECTED COMPLIANCE AND ENFORCEMENT? ARE THERE ANY OTHER TRENDS, FOR EXAMPLE IN PARTICULAR SECTORS OR GROUPS?**

Compliance and Enforcement

Since the introduction of the National Living Wage, Usdaw's involvement with compliance issues has increased significantly. The gap between pay rates and the legal minimum has been squeezed in a number of cases, resulting in an increase in the risk of non-compliance. There is a growing problem with underpayment of the National Minimum and National Living Wage rates.

Using official ONS data, it is estimated that 439,000 jobs were paid below the hourly minimum wage in 2018. Of these, 369,000 were workers aged 25 and over paid less than the National Living Wage, this equates to nearly one in four workers.

Usdaw's main concerns around compliance are as follows:

- **Short-term lack of compliance**

Usdaw receives numerous queries from members who are facing a short-term underpayment of the National Minimum Wage. Usdaw members report employers, frequently, and typically as a decision of local management, habitually underpaying workers for additional hours in an effort to meet operational budgets. Such underpayments will normally be rectified in the following pay reference period, which for retail workers is typically four weeks. Such issues cause distress and financial hardship for low paid workers who are frequently reliant on such additional hours.

Where employers are able to fix the error in the next pay period there is not enough time to bring enforcement proceedings, and there are no legal penalties imposed. Usdaw believes that employers should face enforcement proceedings where they allow continued payroll processes which regularly result in employees facing an underpayment of the National Minimum Wage and even all wages due. Where an employer fails to implement an immediate, permanent fix to underpayment of the National Minimum Wage, fast-tracked enforcement proceedings should be possible, which should include financial recompense to the individual for the underpayment.

- **Digital Payslips**

Despite moves to increase transparency of the information available on payslips, Usdaw members are increasingly finding it difficult to access and verify information regarding how their wages have been calculated. In recent years, many employers have moved away from paper based payslips and instead provide electronic payslips. As a result of privacy requirements around such a move, electronic payslips typically sit behind a protected system which requires various passwords, identification verification and computer know-how to be able to access.

During 2018, Usdaw provided digital skills training to 3,372 members, mostly as a result of individuals finding it difficult to access their payslips or engage with other processes which their employer has moved online. Where we have recognition, and an organised membership, Usdaw is able to help our members overcome the problems presented through increasing digitalisation.

- **Salary Sacrifice Schemes**

In some cases, employers have failed to allow for the impact of salary sacrifice schemes in calculating the minimum rate. We are concerned that, rather than increasing pay to ensure that salary sacrifice schemes do not result in non-compliance, employers may simply remove their salary sacrifice schemes from the lowest paid workers. This would be extremely unfortunate, since in many cases it is the lowest paid workers who these schemes were designed to benefit.

We are still awaiting a response from Government following a consultation on this issue and would welcome a move to protect low paid workers from losing access to these schemes, by offering incentives to employers to maintain and extend salary sacrifice schemes.

- **Complex Pay Arrangements**

Across a range of Usdaw agreements, the total rate of pay for an individual is made up of a variety of complex payments for individual factors. For example, individuals may be paid a basic hourly rate along with numerous entitlements to varying bonus payments depending on the specific work done at any time, payments related to unsociable shift patterns, historical 'red-circled' payments based on outdated agreements, consolidated payments in respect of previous bank holiday premium entitlements and one of a number of different overtime rates dependant on the hours at which overtime is worked.

Unfortunately, employees continue to experience difficulties in gaining information on how their wages are calculated. As such, it is incredibly challenging for the employee to determine if they are being paid the National Minimum Wage meaning that the regulations are not entirely enforced. Usdaw welcomes the move that requires employers to list details of paid hours worked on the payslip. In addition to this, we believe that there should be significant promotion of an individual's right under Section 10 of the National Minimum Wage Regulations to access their pay records.

- **Working Unpaid Hours**

There have been some cases of large retail employers expecting their workers to be on-site and engaged in activities outside of their paid hours, which have resulted in non-payment of the National Living Wage or National Minimum Wage. These activities have included security procedures (staff searches), and staff briefings.

There is further risk in retail of under-payment where staff are required to stay behind to 'cash up' or to lock up the premises, and where deductions are made for unpaid breaks which have not actually been taken. Even outside of minimum wage compliance, such behaviour is clearly poor practice and should be dealt with by accurate recording of hours and adequate staffing levels, both of which are issues that we would raise with employers as a matter of course. Our concern is that in non-unionised workplaces there is little monitoring of such practices and vast potential for under-payment. We therefore believe that continued targeted enforcement in the Retail Sector should be made a priority, along with an awareness campaign about the importance of accurately recording hours, aimed at both employers and employees in the Retail Sector.

- **Making a Complaint**

The online facility for making a complaint about non-payment of the National Living Wage is a positive development, which will make it easier for underpaid workers to raise complaints. However, we believe that there are still major gaps around enforcement relating to third party complaints. We are still awaiting guidance on third party enforcement which was recommended by the Low Pay Commission in its Spring 2016 report. While we welcome the development of the Information Hub and the Strategic Co-ordination Group, Usdaw still believes that greater certainty needs to be provided over how HMRC will deal with complaints raised by trade unions.

HMRC's policy of strict confidentiality is entirely appropriate in many cases, but where a trade union raises a complaint on behalf of its members, we believe that the union representative should be able to receive updates and feedback on the case. Currently, this can only happen when an individual member raises a complaint and appoints a union official as their agent.

- **Pay Reference Periods**

In cases where the next pay reference period falls at the end of April, workers are losing out on their pay increase for several weeks. We believe that this is an unfair loophole and needs to be addressed so that workers are entitled to receive the uprated minimum rate backdated to 1 April, regardless of their employer's pay schedule.

- **Prosecutions and Penalties**

Usdaw believes that a clear strategy for prosecution in the worst cases of non-compliance needs to be adopted. The extremely low number of prosecutions may well be motivated by pragmatic reasons (for instance the speed of receiving arrears, and providing value for taxpayers' money), but it does not send out the right message to employers. Where there has been a deliberate failure to pay staff their legal entitlement, and there is a good chance that a prosecution would have a successful outcome, prosecutions ought to be pursued. This would demonstrate to employers and to workers that the rights of low paid workers are to be taken seriously.

Where there has been a clear and deliberate failure to pay an increase on time, Usdaw believes that the employer should face a fine, even if they have self-corrected before the investigation begins. While self-correction could be considered as mitigation, it should not automatically preclude HMRC from imposing any fine.

Usdaw believes that workers who are underpaid should not only be entitled to arrears, but also to compensation. Currently there is no right to any compensation for the delay in receiving the pay that they are legally entitled to. An individual can demand compensation for distress and inconvenience caused by, for example, an unfair bank charge, but would not receive any such payment where their employer has failed in one of its most basic duties towards them. Requiring employers to pay compensation in such cases would go some way to redressing the power imbalance for low paid workers and demonstrate that minimum wage compliance is a serious issue. It would also act as a further incentive for employers to get it right in the first place.

Usdaw would also like to see consideration given to an interim relief provision, similar to that available under s128 (1) of the Employment Rights Act. If an employer is wilfully underpaying the National Minimum Wage, the individual should be entitled to an expedited decision to be granted the correct rate of pay pending the findings of a full investigation. Any full investigation must have the power to levy significant fines and compensation as outlined above.

CONCLUSION

In the 12 months since Usdaw last gave evidence to the Low Pay Commission, we have seen significant increases in the cost of living. Unfortunately, we are still failing to see wage growth increases which make up for previous falls in real term earnings. Usdaw believes that the minimum wage rates need to increase at a significant rate to address the squeeze on living standards.

Usdaw believes that the National Living Wage should increase at least in line with the planned target of 60% of median earnings. Furthermore, we are calling for the future trajectory to take into account both costs of living factors and the overall income of low paid workers.

Usdaw is extremely concerned about the pay gap for young workers, and our members believe that the National Living Wage should be paid to all workers from the age of 18. At our Young Worker event in November, our young worker reps clearly made the case to the Commission for the removal of youth rates. As an immediate step, the age banding for the National Living Wage should be expanded to cover workers aged 21 and over. We also want to see immediate increases at least in line with the National Living Wage increase for workers aged under 21.

Usdaw believes that increases in the minimum wage rates should be accompanied by improvements to the compliance regime and measures to support security of hours and employment, in order to guard against all forms of exploitation of low paid workers.

Paddy Lillis
General Secretary
Usdaw
188 Wilmslow Road
Manchester
M14 6LJ

For further information please contact:

Tony Dale
Head of Research and Economics
Usdaw
188 Wilmslow Road
Manchester
M14 6LJ

Telephone No: 0161 224 2804
Email: tony.dale@usdaw.org.uk