

Submission to the Low Pay Commission Consultation Process 2016

Name	John Douglas	
Organisation	Mandate Trade Union	
Are you (Please tick)	Employer	<input type="checkbox"/>
	Employee	<input type="checkbox"/>
	NGO	<input type="checkbox"/>
	Union	<input checked="" type="checkbox"/>
	Other (please specify) _____	
Size of Organisation (Number of Employees)	0-10	<input type="checkbox"/>
	11-25	<input type="checkbox"/>
	26-50	<input type="checkbox"/>
	51-100	<input type="checkbox"/>
	100+	<input checked="" type="checkbox"/>
Submission Topic (Please tick all that apply)	The appropriateness of the current sub-minima rates with regard to their impact on youth unemployment rates and participation in education	<input checked="" type="checkbox"/>
	The National Minimum Wage	<input type="checkbox"/>
	The underlying reasons for the preponderance of women on minimum wage	<input type="checkbox"/>



MANDATE
TRADE UNION

**SUBMISSION BY MANDATE TRADE
UNION TO THE LOW PAY COMMISSION
WITH REGARD TO SUB-MINIMUM RATES**

January 2016

Introduction

Since the 1st January 2016 the National Minimum Wage Act provides the following sub-minimum rates. The concept of these rates have been an integral part of the Irish minimum wage structure since the introduction of the relevant legislation in 2001

- An employee who is under 18 is entitled to €6.41 per hour (this is 70% of the minimum wage)
- An employee who is in the first year of employment since the age of 18 is entitled to €7.32 per hour (80% of minimum wage)
- An employee who is in the second year of employment since the date of first employment over the age of 18 is entitled to €8.24 per hour (90% of the minimum wage)

The National Minimum Wage Act also provides sub-minimum rates which apply to employees who are over 18 and undergoing a course of structured training or directed study that is authorised or approved of by the employer.

Since 1 January 2016 the trainee rates provided by the Act are as follows

First one-third of training course €6.86 per hour (75% of national minimum wage rate)

- Second one-third of training course €7.32 per hour (80% of national minimum wage rate)
- Final one third of the training course €8.24 per hour (90% of national minimum wage rate)

Note: each one third period must be at least one month and no more than one year.

The Act provides certain criteria which the training course must meet if the trainee rates are to apply. For example, the training or study must be for the purposes of improving the work performance of the employee; the employee's participation on the training or study must be directed or approved by the employer; at least 10% of the training must occur away from the employee's ordinary operational duties; there must be an assessment and certification procedure or written confirmation on the completion of the training course.

It is the opinion of Mandate Trade Union that all of the current sub-minimum rates are a dated concept and provision should be made for their removal at the earliest opportunity. To support this contention we will now deal with the various rates that currently exist.

Age Related Rate

Age discrimination is one of the nine grounds covered by current Irish equality discrimination. Whilst this legislation surprisingly and some would argue remarkably does not include young people under the age of 18 years it's fundamentally important that the spirit and basic intention of the law is supported particularly in the workplace. It would be totally unacceptable in Irish society for an upper age limit to be imposed in a similar fashion and if it was, it would unquestionably be robustly challenged by, amongst others, relevant lobby groups.

The preservation of this rate essentially "constitutes unjust discrimination". This description is not ours it's the opinion of the Government's special rapporteur on child protection Mr Geoffery Shannon who in his latest report has recommended from a welfare perspective that the minimum wage should be paid to all workers aged under the age of 18. This is not a view that can be easily ignored and must be given serious consideration.

One of the justifications for the under-age rate back in 2001 was that it reflected similar rates contained in many collective agreements particularly those in the retail sector. Since then these rates have been through negotiation, totally removed.

Another justification was if the full rate was paid it would in some way serve as an incentive for young people to leave the formal education system at an unacceptable early age. There is no evidence to support this argument and recent research shows that record levels are not only completing secondary stage education but also moving into third level. In fact money earned by young people whilst they are active in the education system serves as an invaluable financial support in meeting ever increasing associated costs thus encouraging them to stay rather than leave the system. This is particularly true of students who come from disadvantaged families. An upward correction of the rate of pay would in some way remove the degree of disadvantage. Similarly the earnings of young people in these social circumstances can also make a significant contribution to the households in which they live particularly those that experience generational unemployment.

Mandate has experience of employers exploiting the age related rate for young workers. In some instances employers have used “if and when” contracts and Fixed Term Specific Purpose contracts to maintain a sub-minimum wage workforce. They hire young workers for a 12 month period and then do not renew their contracts, replacing them with more young workers on sub-minimum rates – gaining a competitive advantage over employers who do not abuse the original intentions of the Act.

The value of a person’s work cannot and should not be determined by their age. The products sold or the services provided by young people do not come with a reduced price to the consumer or a lesser financial return to the employer. Therefore, there is no justification for discriminatory age related rates to be maintained any further and they should be removed at the earliest possible opportunity.

First Employment Rate

Essentially the maintenance of this rate constitutes unfair practice and effective discrimination, particularly for those adults who through no fault of their own have failed to attain a job particularly during the recent years of economic recession. Even though the economy is showing signs of a meaningful recovery those who have been unemployed for many years cannot even hope to be paid the full minimum wage rate when they enter the workforce. Instead they must face the reality that the form of social and economic exclusion they have endured in some cases for years must continue for a further two years before they establishment an entitlement to €9.15 an hour.

One of the key policies of the current Government is job creation and encouraging people back into the workforce. In fact the commonly used mantra of “work must pay” is often cited by Government representatives particularly in their efforts to move people from welfare to work. Clearly the retention of this rate of pay does little to bring the fulfilment of this policy aspiration to reality instead it acts as a clear disincentive. Again it is totally unjust to unnecessarily under reward the work of those who have taken the initiative to enter the workforce. Similar to the points made in relation to the underage rate the earnings of these adult workers in many cases make a valuable contribution to their lives and their dependents. The value of their labour should be no less when compared to the price of the commodity they are selling and the ultimate financial return to their employer.

Training Rate

The continuation of this rate can only be justified if the criteria laid out in the original legislation are fully met and can be proven to exist. The reality is that many of the jobs which offer minimum wage do not require the level and intensity of training envisaged in the founding Act. The situation in the retail sector for example is that sufficient training to do many of the core tasks is delivered in a matter of hours and not days or weeks. This has largely come about through the deskilling of many roles through the introduction of technology. In fact in some cases the need for workers has been removed entirely through the introduction of self-scanning registers, for example.

To devalue the work of an employee based on the pretence that they are going through a non-existent structured training programme necessary for them to do their job is fundamentally unfair and the burden of proof that such a programme exists rests solely and heavily with the employer. Once a worker reaches a point where they can do meaningful and productive work which is equal in value to their fellow workers in the enterprise they should at the very least be paid the same full minimum hourly rate applicable to the role. It is clear that in the past it has been difficult if not impossible to distinguish between training which is absolutely necessary to allow the core tasks to be carried out and the normal and typical ongoing training and development which is given to most employees. Where such doubt and difficulties exist they should be removed in favour of the low paid employees concerned and the best way of achieving this is by the removal of the training in its entirety.

Conclusion

Mandate Trade Union believes that all of the current sub-minimum rates are a dated concept. They are discriminatory, unnecessary and open to exploitation at the expense of workers. Provision should be made for their removal at the earliest opportunity in the interests of fairness, equality and decent work.