

The Process of Fixing the British National Minimum Wage, 1997-2007

William Brown

Abstract

The British National Minimum Wage was introduced in 1999 under the guidance of a Low Pay Commission constructed on a basis of 'social partnership'. The paper analyses its conduct over its first ten years from diary data. Key challenges were for it to be independent of government, to have its advice accepted by government, and to maintain internal unanimity. The changing internal dynamics of the Commission, and its major negotiations over the level of the Minimum Wage, are described and analysed. Conclusions are drawn for the social partnership process.

Key words: minimum wage; social partnership; bargaining relationship; mediation.

To be published in *The British Journal of Industrial Relations* during 2009

All enquiries to William Brown, (william.brown@econ.cam.ac.uk), Faculty of Economics, Cambridge University

The Process of Fixing the British National Minimum Wage, 1997-2007

William Brown

When introduced in 1999 the National Minimum Wage (NMW) was a massive and politically controversial intervention in the British labour market. By 2007 it had raised the pay of something approaching 10 per cent of the workforce by, on average, around 20 per cent more than would otherwise have been the case. The mechanism for its introduction was explicitly one of ‘social partnership’, conducted by means of the Low Pay Commission (LPC). Although it was designed to be at arm’s length from government, all the Commission’s major recommendations have been accepted. The minimum wage quickly won all-party support and became, in principle, politically uncontroversial.

This study analyses the process whereby the Commission made its decisions. It does so in terms of the three main challenges that confronted the Commission. These were: first, maintaining independence of government; second, making recommendations the government would accept; and third, achieving unanimity within the Commission itself. The study concludes with a discussion of what the process implies for the concept of ‘social partnership’. The focus is deliberately narrow. Associated issues such as the determinants and impact of the minimum wage, and the broader role of the Commission, have been discussed elsewhere (Metcalf, 1999; 2008; Brown, 2002; 2006). This paper draws in large part on the author’s diary notes written, as a commissioner, during the first ten years of the Low Pay Commission’s existence.

The Commission was established rapidly in the summer of 1997 as a relatively small body of nine people, three from a trade union background (including the then chief economist of the TUC), three from an employer background (including the then head of social affairs of the CBI), two academics as independents, and a Chair, who initially was another academic industrial relations specialist but whose successors came from the financial world. The Commission was to be backed by strong legislation, influenced by its own early advice, which determined issues such as the definitions relating to the minimum wage, the manner of its enforcement, and the choice of the then Inland Revenue as the proactive enforcer. But the Commission's own terms of reference were minimal, beyond a requirement to make recommendations on the definition and level of the minimum wage while paying heed to various constraints. The government's (usually annual) submissions of evidence to the Commission were factual and non-directive. How did the Commission manage this apparent comparative freedom?

Three challenges

The minimum wage was not an emergency measure introduced, as past incomes policies had been, to meet 'a real and present crisis'. It was a presumed permanent tool of economic policy intended to mitigate a number of deepening problems developing from Britain's increasing inequality of income. These included growing numbers of families and children in poverty, the escalating cost of combating that through social security support, and the consequential discouragements to move from welfare to work. The minimum wage had to be palatable both to the employers who would have to pay it directly, and to the wider society that might pay for it indirectly. To achieve this, it was important that it was fixed by a process that was both sensitive to economic circumstances and distanced from party politics.

Whether or not the Commission was sensitive to economic circumstances would become evident with the passage of time. There were, however, three immediate challenges facing the Commission that, if not met, would jeopardise the acceptability and consequential effectiveness of the minimum wage. The first was that of reaching agreement among its own members. A divided Commission would weaken the

minimum wage by forcing the government to decide its level unilaterally. The second challenge was that of making recommendations that would be acceptable to government. Spurned advice would undermine the Commission's economic authority and threaten to turn the minimum wage into a political pawn. The third challenge was to be independent of government. If the Commission were perceived to be otherwise, the interested parties would question the independence of its economic judgement, they would have less incentive to provide evidence, and enforcement would become more difficult. Let us consider these challenges in reverse order.

i) Independence of government

The speed with which the Commission was established and the associated legislation was drafted were important in giving it early independence. It helped to distance it from a Treasury that was necessarily jealous of economic control and anxious lest minimum wages might subvert a major government policy objective of reducing youth unemployment. Relations with the Treasury remained delicate for some years. Despite this, the only significant component of Commission advice that was rejected by the government in the first ten years was that the full adult minimum wage should apply from the age of 21, as opposed to the age of 22. Rejected for at least seven successive reports, this became in effect a symbol both of the government's discretion over Commission advice, and of the Commission's own independence. Apart from this, there were intermittent efforts by government 'special advisers' to get across particular preferences, by various routes. While these were not welcome, because they operated as perverse constraints on commissioners who were all determined to demonstrate their independence, they were largely neutralised by the process whereby the Commission made its decisions. Nor was the Commission simply reactive in avoiding party political influence. For example, during the General Election campaigns of 2001 and 2005, considerable thought was given to judging the timing and content of reports, to ensure that its work did not fall hostage to partisan claims.

ii) Acceptability to government

The second challenge was to produce recommendations that the government would accept. Here a great deal depended on the Commission's research and consultation activity. Both Commission staff and Treasury officials had access to the standard survey data of the Labour Force Survey (LFS) and New Earnings Survey (NES), but

the Commission had in addition the results of its consultative enquiries and, increasingly after the first couple of years, of the research it commissioned. Early on it became evident that the standard surveys were deeply flawed as measures of low pay – by 2005 the NES had been scrapped and replaced by a superior Annual Survey of Hours and Earnings (ASHE) – and the Treasury was understandably risk averse in its interpretation of them. The Commission obtained directly through its consultations useful if not statistically representative information from the low payers themselves. This included what relatively good employers found affordable and, more impressionistically, how they differed in management competence from poorer employers.

Both the Treasury and the Low Pay Commission were initially acutely anxious about the potentially adverse consequences of the minimum wage on inflation and on employment. Some macro-economic models, including those raising anxieties during the 1997 General Election campaign, assumed that a general increase in wages at the bottom of the income distribution would have ‘knock on’ effects on incomes far beyond the low paid. Such assumptions generated dire predictions for both inflation and unemployment. In contrast with these, the Commission’s research suggested that the low-paid tended to work in small firms, or firms with flat hierarchies, and that both they and those working in close proximity with them were rarely members of trade unions. The implication was that ‘knock-on’ effects of the minimum wage further up the income distribution would be slight, and that the inflationary consequences would be slight as a result. An early meeting between the Commission and the equally youthful Monetary Policy Committee of the Bank of England allowed this prediction to be discussed where it mattered in terms of interest rate policy. The first NES survey findings after the introduction of the minimum wage in 1999 provided reassuring confirmation. The initial inflationary impact of the minimum wage had indeed been slight, and the impact of subsequent increases would necessarily be far smaller.

The possible adverse consequences of the minimum wage for unemployment quickly eclipsed all other concerns for both the Commission and the Treasury. There was intense anxiety about whether any signs of damage would emerge and, if so, how fast and where - among young people? in retail? in Northern Ireland? among ethnic

minorities? Unemployment has never ceased to be the prime focus of concern. Two circumstances favoured the Commission in its efforts to carry the government with it, one fortuitous and the other intended. The fortuitous one was simply that, until 2008, the British economy was growing. Employment also continued to grow, and grew in those large sectors most affected by the minimum wage, notably retail and hospitality. Most importantly, employment in these sectors was growing as a share of total employment. Unemployment, which had been falling, levelled out and showed no signs of rising until 2006. Paradoxically, it appeared to be more of a problem among the 16 and 17 year-olds *not* initially covered by the minimum wage.

The intended circumstance that won government acceptance was that the Commission's ambitious commissioned research programme quickly brought to play the expertise of (among others) some outstanding academic labour market economists, the quality of whose work the Treasury specialists respected. Apart from a continuing programme of research 'in-house', the Commission funded over seventy substantial research projects over the period. Almost every adverse consequence of the minimum wage that was empirically accessible was investigated as rigorously as data permitted. Indeed, it is arguable that, in its defensive anxiety to be seen to be cautious, the Commission neglected to study the positive consequences of the minimum wage. As more data became available over the first five years and beyond, there was increasing evidence that the early employment effects had been benign (Metcalf, 2008). With the development of these authoritative research credentials, government confidence in the Commission's judgement grew.

iii) Reaching consensus

The third challenge facing the Commission was that of reaching agreement among its own members. Two factors were critical here. The first was the external intra-organisational pressures bearing upon the individual commissioners from their 'constituents'. The second was the quality of the bargaining relationship among the commissioners.

Let us take the external pressures first. The commissioners were appointed as individuals, and not formally bound as delegates. But their professional esteem was necessarily closely attuned to the concerns and prejudices of their every-day work

colleagues. Especially in the early years they frequently appeared on platforms at trade union, trade association, academic and other events. Defending the decisions of the Commission could be a chastening experience. Most large trade unions, for example, were bound by conference policy to oppose any special 'youth rate'. Some had committed themselves to mechanical formulae for the minimum wage of the 'half male median earnings' variety. Small businesses were often not happy with the bruising initial impact of the minimum wage, nor with subsequent rises. Any cosy consensus formed by commissioners in Commission meetings came under threat as soon as they returned to their day jobs.

There were some things that the Commission could do to protect its individual members from undue pressures from outside. One was to invite lobbying and argument to be focussed formally on the Commission as a body, rather than channelled through commissioners. To this end there was an annual process of seeking evidence, and of holding formal hearings with some of the more salient institutions giving such evidence. The Commission also conducted periodic postal surveys of individual low-paying employers, often in conjunction with their trade associations. This was less for the statistical data, because response rates were low, but for qualitative feed-back, and to be seen to be listening. Another important strategy was to fit in with pressure groups' intra-organisational bargaining needs. For example, the Commission often took guidance from pressure groups in the choice of firms for regional site visits, which might result in commissioners meeting some of the pressure groups' 'awkward squad' activists on their home ground.

One of the Low Pay Commission's most important tasks in reassuring external pressure groups was to give serious attention to the issue of enforcement. The great majority of employers affected by the minimum wage were in service industries – retail, hospitality, care homes, hairdressers, cleaners, and so on - usually with their competitors nearby. Often of greater concern for small employers than the level of the minimum wage was that competitors 'down the road' might be cheating on it. In response to this, the Commission had regular annual meetings with representatives of HM Revenue and Customs enforcement staff, at which monitoring and enforcement strategies were discussed. The Commission was sensitive to rumours of evasion that came to it. By 2007, despite the apparent energy of the Revenue staff, who were

carrying out around 5000 investigations a year which were resulting in around £3 million of arrears being paid to wronged workers, the Commission was urging that some cases should be taken through to prosecution, *pour encourager les autres* (Low Pay Commission, 2007: 232).

From the individual commissioners' point of view, the most difficult external pressures to manage were on the issues on which their 'constituents' adopted set positions, by conference mandate or some comparably visible statement. Two of these were important: whether there should be a lesser 'youth rate'; and what the level of the main minimum wage for the following year should be. Perhaps inevitably, these were the issues over which the Commission polarised; they threatened dead-lock between employers and unions. Early disagreement over the principle of the youth rate in 1997 and 1998 was the biggest obstacle the Commission had to confront but, that resolved, it ceased to be divisive. The technically messy issue of compensation for the enforcement of payment of statutory bank holidays briefly threatened a much paler version of deadlock in 2006, until it was agreed to side-line it as one of several exogenous factors encouraging prudence (Low Pay Commission, 2007: 254). Changing the actual level of the minimum wage, however, was always an issue of polarisation.

Table 1 – Issues polarising the Low Pay Commission between employer and union backgrounds

Issues that polarised the LPC	Issues that did not polarise the LPC
Level of NMW Separate NMW for young people Treatment of statutory bank holidays	Definition of NMW (period, add-ons etc) Offset for subsidised accommodation Paid therapeutic work Level of young people's NMW Tips 'Salary sacrifice' tax breaks on crèches Voluntary workers' honoraria Treatment of trainees and apprentices Homeworkers Piecework earnings Agency workers NMW for 16-17 year olds

Beyond those, however, as Table 1 shows, there were numerous other matters, of which those listed were some of the more prominent, on which the commissioners did not adopt predictable positions. Discussion of these issues, some of which were technically and conceptually complex, actually took the bulk of the Commission's

meeting time. Many of them recurred, sometimes in different guises. Some were difficult because the Commission was in no position to control the conditions under which exceptions to the minimum wage might be made. How could they make allowances for subsidised accommodation when they had no confidence in the enforcement of multiple-occupancy housing standards, or for training when the same applied to training standards? On issues such as these, although the commissioners often initially disagreed, they did not polarise according to employer or union background. An outside observer would have found it hard to identify their underlying allegiance from the arguments they deployed. Indeed, on some issues, such as the treatment of employer-provided accommodation, several individual members changed ‘sides’ more than once in the light of changing evidence.

Internal bargaining relationships

The second factor affecting the capacity of the Commission to reach agreement was the quality of the bargaining relationship between the commissioners themselves. For these purposes we can define the quality of the bargaining relationship as the extent to which the negotiators are able to make each other aware of the constraints under which they operate and to make appropriate allowances. An improved bargaining relationship does not only mean a more efficient exchange of information. It also permits greater risk-taking. For example, individuals feel more able to ‘fly kites’ and engage in lateral thinking without being punished if those kites crash. It also permits easier adjustment of position, because the protagonists are more likely to be willing to protect each other by, for example, arranging small victories to mask concessions. This is important in terms of the external world, for instance in protecting individual bargainers’ backs from possible criticism of them from their ‘constituents’. But it is also important for bargainers themselves, in terms of protecting personal self-esteem and ‘face’ in the ongoing relationship between the bargaining opponents.

Within the nine person Commission, maintaining a good bargaining relationship overall became important most clearly when employer and union members polarised over negotiating the next increase of the minimum wage. But it was also important more generally between all nine individual members. Their varied backgrounds gave rise to considerable diversity of personal sensitivities between, for example, large and

small employers, or private and public sector unions, or analytic and anecdotal forms of argument.

The general feeling of commissioners was that, compared to other contexts they had worked in, the Commission was consistently characterised by a very good overall bargaining relationship. And this was despite substantial turnover - seventeen individuals occupied the nine commissioner slots over the first ten years, including three chairs. It facilitated a 'problem solving' approach to new issues. When argument polarised and serious negotiation took over, the good bargaining relationship also permitted a professional separation of the affective relations between commissioners as individuals, from the cut-and-thrust, ploys, hyperbole, and necessary rhetoric of the bargaining table. Once consensus was achieved on an issue, there were never significant incidents of residual acrimony between commissioners that might have affected its subsequent decision-making.

Several features of the Commission's work contributed to its preserving strong bargaining relationships. One was that the majority of commissioners were professional negotiators for whom moving to compromise from a defended position was bread-and-butter. Another was the amount of time commissioners spent with each other trying to understand the issues. From the start, the Commission decided to consult, in the field, employers and workers affected by the minimum wage, visiting each region each year for a day or so of site visits. Many of these were memorable; some were emotionally tough. Taking part in around four visits each year, working in different small combinations, commissioners built up a substantial network of shared insights and understandings.

A less obvious reinforcement for strong internal bargaining relationships was the Commission's heavy use of research. There were many issues on which commissioners' initial positions were divergent, but for which obtaining some new facts, or arranging a visit, achieved consensus. Myths flourish in the world of work as much as in any other aspect of society, and can often be dispelled by relative simple enquiry. Research findings also provide perhaps the most acceptable ladder whereby negotiators can climb down from barricaded positions. Probably the most important instance of this for the Commission was the build-up of research on young people's

pay - youth unemployment, sector choice, employment trajectories among other aspects - that eventually allowed a consensus to be reached on the initially intractable issue of recommending a lower minimum wage for young workers.

Reaching agreement on increases in the minimum wage

A good bargaining relationship among commissioners can do much to change confrontational arguments into co-operative problem solving. But, on the core issue of the level of the minimum wage, confrontation was unavoidable. The secretariat put considerable investment into narrowing the range of disagreement. Planning for the decisive minimum wage fixing meeting would start months in advance, with commissioners being encouraged to suggest topics that might be relevant for in-depth research and briefing documents. A retreat to discuss these would be held two months before the (at least) two-day retreat that tried to reach a decision.

There were five major retreats primarily dedicated to determining the level of the wage, most for two years ahead. For each of them the Commission and its staff were in exclusive occupancy of one of several of small country hotels. After an opening briefing with the most up-to-date economic data, the discussion of the future rate would commence. Each time the union and employer 'sides' polarised, adopting initial positions that were respectively above and below the final agreement point. Within these, individual commissioners generally argued for different positions in the early stages of discussions. Table 2 provides some details. It indicates the range of the initial 'bids', and the number of 'rounds' of bids, for which commissioners would meet in plenary session to indicate movements from their previous positions. It also indicates the number of hours over which meetings took place, from first bids to agreement, either as plenaries or as parallel sessions in adjournments. All negotiations went through three or more rounds, spread over a day or more. In between, the Chair would act as an active conciliator, seeing commissioners either individually or as one of a 'side', often using the two independents in various ways to encourage convergence. Perhaps the main points to be drawn from Table 2 are that the negotiations involved a lot of talking, that the parties converged slowly, and that the process did not get easier with experience.

Table 2 – Range of ‘bids’, number of rounds, and duration of main minimum wage rate fixing negotiations of the Low Pay Commission

	Highest lowest bids as % of agreed rate	Number of plenary rounds with fresh bids	Hours of meetings before agreement
1998	10	4	20
2001	9	4	9
2003	14	7	15
2005	9	3	9
2007	6	4	14

Although the three Chairs of the Commission in its first decade had quite different characters and different experience of labour negotiations, the role they played was much the same. They listened, made suggestions, floated compromises, and persuaded. Some of their suggestions loosened log-jams, such as to have a two-phase settlement, or to have a statement of future intent, or to break from having the minimum wage in multiples of 5p. What changed more was the role of the two independents, which shifted to some extent from being on a par with other commissioners in terms of their ‘bids’, to more actively supporting the Chair in pursuit of agreement. Usually the Chair gave them advance notice that he would start by inviting them each to make and justify their initial ‘bids’, as a way of grounding subsequent discussion. The independents were aware from the start that their role required both the expert analysis of economic data and the facilitation of agreement. They dealt with these, in some ways conflicting, objectives differently. In each negotiation they entered the discussions independent of the other and usually with slightly different bids, one of them usually supporting his with a short analytic note. Neither took a consistently ‘harder line’ than the other; there was no pattern as to who of them pitched their initial bid higher.

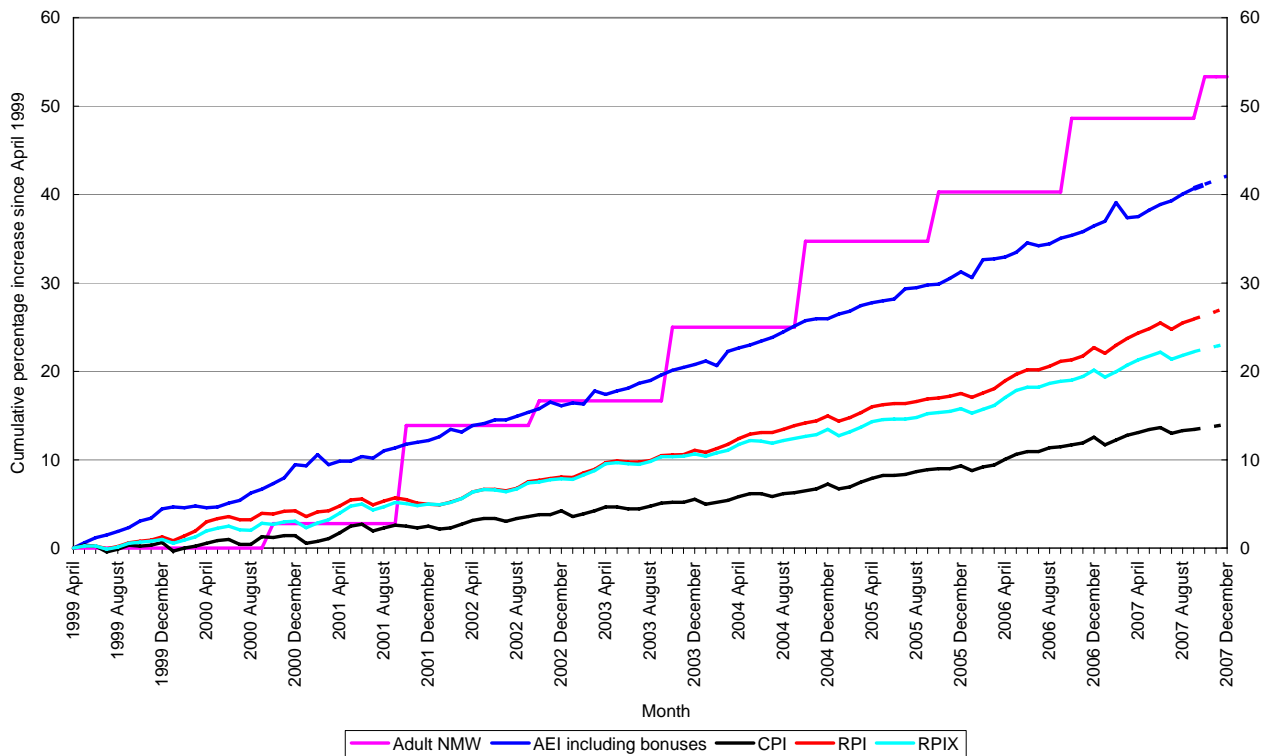
The fact that the independents had full ‘votes’ was of considerable importance in achieving agreement. This was because the whole Commission placed great importance on achieving unanimity. They all felt that the integrity of the minimum wage would be seriously damaged if, in the light of divided advice, the government had to choose its own level of minimum wage. Initially this paramount desire to get agreement was sufficient, albeit after considerable time and anxiety. Once the

minimum wage had settled in, however, and the uncertainties about its impact had diminished, the independents and the Chair sometimes found it useful to act in a more concerted way during the course of the long negotiation sessions. On one occasion the three of them used the threat to write a minority report to make progress. On two other occasions the independents, in agreement with the Chair, put pressure on one of the 'sides' by saying that, if its position did not move, they were minded to back the other side and thereby open the possibility of a majority report. The implications of being left authoring a minority report, which the government would probably reject, were not attractive. These tactics facilitated the necessary compromises. With the support of the independents, the Chair's mediatory role was potentially enhanced by, in effect, two casting votes. The result was that the process became at times comparable with 'final offer' arbitration, except that it led, not to an arbitrator's award, but to the two sides reconciling their differences in unanimity. A mediation mechanism was, in effect, embedded in the Commission's structure.

Changes over time

Despite a superficial similarity of process, the character and complexity of different year's bargains varied substantially. The early years were difficult partly because there was considerable uncertainty about institutions, facts, and outcomes. For example, until the eve of the first negotiation it was not clear whether the Commission would be wound up after its first report, which had considerable implications for the degree of caution with which it could embark on setting the initial minimum wage. It was known that the available statistical survey data on the low paid were poor, and they subsequently turned out to be considerably poorer than anyone thought at the time. Above all, there was no empirical basis for assessing what the employment consequences might be of introducing the minimum wage any given level. This uncertainty is reflected in the early movements in the minimum wage that are shown, along with average earnings and price movements, in Figure 1. For the first two years it barely kept up with price inflation.

Figure 1 - Growth in Adult NMW Compared with Average Wages and Price Inflation, 1999-2007



Source: LPC estimates based on ONS data, AEI including bonuses (ONS code LNMQ), RPIX (ONS code CHMK), RPI (ONS code CHAW) and CPI (ONS code D7BT), monthly, seasonally adjusted (not seasonally adjusted for RPIX, RPI and CPI), GB (UK for RPIX, RPI AND CPI), 1999-2007

The middle years were easier, with improved understanding of the data and of their short-comings, and solid research indicating no evidence of any adverse consequences. The commissioners in 2003 felt confident enough to spell out their own, revealed terms of reference as: ‘Our aim is to have a minimum wage that helps as many low-paid people as possible without any significant adverse impact on the economy.’ They went on to add, using painstakingly negotiated wording, a passage that started: ‘We therefore believe there is a strong case for a significant step up in the level over the next few years, contingent on economic circumstances’. They elaborated this with the words ‘We therefore believe that there is a case for increasing the effective level of the minimum wage, implying a series of increases for a number of years above average earnings, and increasing gradually the number of people benefiting.’ (Low Pay Commission, 2003:173).

Two years later, in 2005, the Commission’s stated aim had been refined to ‘have a minimum wage that helps as many low-paid employees as possible without any

significant adverse impacts on inflation or employment'. Having noted that none were evident thus far, they went on; 'This suggests that, notwithstanding the significant real increase over the past two years, there is scope for a further increase in the effective level of the minimum wage over the next two years' (Low Pay Commission, 2005: 181). It is evident from Figure 1 that the minimum wage rose faster than average earnings from 2003 until 2006. Coverage of the minimum wage was deliberately if cautiously increased for four years in a row.

From 2006, reaching agreement in the Commission became much tougher. There was still no significant evidence of job loss, but fresh uncertainty arose because recent forecasts of average earnings growth had proved to be overstatements. In addition, large-scale post-May 2004 immigration from the EU accession states was bringing confusing changes to the bottom end of the labour market on which little evidence was available. And, as the minimum wage had continued to creep up the income distribution, increasingly there were large employers who claimed to be troubled by the compression of their internal pay differentials.

Early in 2006 there was a deadlock over confirming the minimum wage that a year earlier had been provisionally recommended for the following October. Eventually the Commission agreed to go ahead with it, but with a carefully worded statement: 'However, we do now consider that the phase in which the Commission is committed to increases in the minimum wage above average earnings growth is complete and, looking forward, we have no presumption that further increases above average earnings are required' (Low Pay Commission, 2006: 44). In the light of this, and of increasing economic uncertainty, the 2007 negotiation was unavoidably hard going. One challenge for the commissioners was how far they should take into account the over-optimistic forecasts of earnings growth that had arguably influenced previous negotiations. An important aspect of a bargaining relationship is inter-temporal; the parties need to take account of baggage from the past. Reluctance of the 'side' whose arguments had benefited from the incorrect forecasts of one year to make due concessions in their arguments of the following year, put the bargaining relationship under strain. Eventually the Commission 'came to the conclusion that the present situation requires a more cautious approach than in recent years' and recommended an increase in the minimum wage 'that is less than the predicted increase in average

earnings' (Low Pay Commission, 2007: 240). No attempt was made at a recommendation for the following year, when economic circumstances were seen to be becoming more challenging.

Social partnership

What does this imply for social partnership? So far this account has discussed how the Low Pay Commission managed the three challenges of maintaining independence of government, of getting its recommendations accepted by government, and of achieving consensus among its commissioners. After ten years the Commission had experienced relatively little public criticism and the minimum wage it managed was generally considered a success. Was this a success for social partnership?

At the level of the European Union, social partnership is generally understood as the means whereby employer and trade union interests are involved in decision-making on labour-related issues. UNICE and ETUC represent the social partners and orchestrate the 'social dialogue' through which national employer and union confederations help to shape national legislation in line with EU directives on matters such as parental leave, part-time workers' rights, and fixed-term contracts. At the level of Britain, the notion is less clear. In the early days of New Labour after 1997, much was made of the involvement of the TUC and CBI as social partners. They were central, for example, to the negotiation of the contents of the 1999 Employment Relations Act with its provisions, *inter alia*, for statutory trade union recognition. The role of Acas, on the Council of which they played key roles, was enhanced. It proved tougher to get agreed social partnership solutions on some other issues, such as intermediate skills training and family-friendly policies. But the Commission has been generally considered to be a successful form of social partnership. What does it amount to?

Social partnership is a misleading phrase. It carries a burden of unspoken assumptions of the 'motherhood' variety: that one cannot but be in favour of it and that it transcends conflict. It is thereby in danger of being associated with the implication that the social partners share a unitary view in a power-free relationship. This is definitely not, it should be added, the position of serious analyses of social partnership in other countries, which dismiss a unitary, non-confrontational view (see, for

example, Visser, 2001: 232; Roche, 2007). Certainly the present discussion should have dispelled any such characterisation of the working of the Low Pay Commission. It is true that on many issues the Commission proved to be a good problem-solver, drawing on the diverse experience and knowledge of the commissioners in a genuinely unpolarised and non-partisan way. But on the central issue of the level of the minimum wage, the Commission was self-consciously polarised. It negotiated increases in a pluralist way, sensitive to the shifting power relations in the product and labour markets in which the payers and the beneficiaries of the minimum wage worked. The consensus around increases in the minimum wage did not emerge simply from discussions of sweet reason. It was hammered out through extended negotiation – albeit carefully orchestrated, well informed, and largely good-humoured negotiation.

This prompts the question of who were the negotiators. Those representing the social partners on the Commission did not have a clear relationship with regard to either the beneficiaries of the minimum wage or to those who have to pay it. Commissioners do not represent them. Their role was to be sympathetic not only to those directly affected, but also those indirectly affected by the minimum wage insofar as it affects prices, employment, and other aspects that impact upon the wider society. They, and the Chair, were selected by a publicly advertised but politically influenced ‘Nolan’ procedure in which senior officials of both the CBI and TUC were centrally involved. It was designed to get a Commission that broadly combined relevant experience and expert knowledge with a balance of regional, industrial and gender interests, as well as including a senior official from both the TUC and CBI. In terms of their professional self-interest, the position of the commissioners was not simple.

For those commissioners with a trade union background, very few of their members were likely to benefit directly from increases in the minimum wage. Most members would be on collective agreements paying significantly higher. There was a potential conflict of interest, in that the higher the minimum wage was pushed relative to average earnings, the smaller would be the benefit of union membership (the union ‘mark-up’) that might encourage recruitment. In the early days of the Commission there were some signs that this consideration might have had a slight influence. But there was a strong counter-argument. Private sector unions benefit because a

minimum wage limits the extent to which non-union firms can undermine collective bargaining by using low wages to compete in the same product markets. The minimum wage provides a solid floor on which collective bargaining can build. Public sector unions have an interest in a relatively high minimum wage insofar as they are vulnerable to the outsourcing of some of their members' jobs to non-union firms. What was notable was that, even though their members might not be direct beneficiaries, the commissioners from a trade union background, with its strong egalitarian ethos, provided unwavering upward pressure on the minimum wage. To use Allan Flanders' distinction, in their role as commissioners, the 'sword of justice' face of trade unionism eclipsed that of 'vested interest' (Flanders, 1970:15).

The position of those from an employer background was different. At least one was selected to have some sort of small firm background, and thereby was potentially directly affected by the minimum wage. Employer commissioners from a large enterprise background tended to be from firms paying well above the minimum wage; a higher minimum wage might be expected to enhance their firm's competitive position. Despite these possibly ambivalent interests, employer commissioners were, at first sight, consistent in the downward direction of their influence on the minimum wage. But that is misleading. It would be more accurate to describe their influence as one of restraint on the union commissioners. After its initial settling in, the growth of the minimum wage relative to average earnings reflected the fact that the employer commissioners, no less than their union counterparts, were committed to achieve the highest coverage of workers by the minimum wage that was consistent with the protection of employment.

What social partnership amounts to, in the context of the Low Pay Commission, is very much a process, and one that transcends the individuals who serve as commissioners. The diversity of their backgrounds has made them an effective panel for digesting the data, the research, and the consultation necessary to implement and maintain a functioning minimum wage that is responsive to a changing economic environment. But they have also been sufficiently balanced in sympathies to the low payers on the one hand and the low paid on the other. This has enabled them to negotiate, with embedded mediation, a level of minimum wage that has been not only

acceptable to government but also, at time of writing, overwhelmingly benign in its economic and social impact.

The author is grateful for the comments of David Metcalf, George Bain, Colm McLaughlin, and Andrew Gamble and the assistance of the staff of the Low Pay Commission, none of whom are responsible for any judgements or errors in this paper.

References

Brown, W. A. (2000), 'Putting partnership into practice in Britain', *British Journal of Industrial Relations*, 38:2, 299-316.

Brown, W. A. (2002), 'The operation of the Low Pay Commission', *Employee Relations*, 24:6, December, 595-605.

Brown, W. A. (2006), 'The Low Pay Commission', in Dickens, L. and Neal, A. C. (eds), *The Changing Institutional Face of British Employment Relations*, Alphen aan den Rijn: Kluwer Law International, 63 – 78.

Flanders, A. (1970), *Management and Unions: the Theory and Reform of Industrial Relations*, London: Faber and Faber.

Low Pay Commission (2003), *Fourth Report of the Low Pay Commission*, Norwich: TSO.

Low Pay Commission (2005), *National Minimum Wage: Low Pay Commission Report 2005*, Norwich: TSO.

Low Pay Commission (2006), *National Minimum Wage: Low Pay Commission Report 2006*, Norwich: TSO.

Low Pay Commission (2007), *National Minimum Wage: Low Pay Commission Report 2007*, Norwich: TSO.

Metcalf, D. (1999), 'The Low Pay Commission and the National Minimum Wage', *Economic Journal*, 109 (453), 46 – 66

Metcalf, D. (2008), 'Why has the British National Minimum Wage had little or no impact on employment', *The Journal of Industrial Relations*, 50(3), 489-511.

Roche, W. K. (2007), 'Social partnership in Ireland and new social pacts', *Industrial Relations*, 46(3), 395 – 425

Visser, J. (2001), chapter in Auer, P. (ed.), *Changing Labour Markets in Europe: the Role of Institutions and Policies*, Geneva: International Labour Organisation