

### **ACS Submission: Low Pay Commission 2018**

- There are just under 50,000 convenience stores in Britain, providing 370,000 jobs and representing over one fifth of the total grocery market.
- Work in the sector remains valued and secure, with 73% of colleagues either satisfied or very satisfied with their current employment and 60% expecting to remain with their current employer in five years' time in a similar or more senior role.
- Convenience retailers are operating in a context of stringent competition, high business rates bills, and rising employment costs from the National Living Wage and non-wage costs such as the apprenticeship levy and auto-enrolment pension contributions.
- The £7.83 National Living Wage rate is a 4.4% increase on the £7.50 rate. Retailers have responded to this increase by reducing employee working hours, taking less profits from the business, and for independent retailers, taking on more hours themselves.
- The National Living Wage has not delivered positive associated benefits to the convenience sector. 88% of retailers report they have not experienced reduced staff turnover, reduced absenteeism or increased productivity or worker effort since the National Living Wage was introduced.
- ACS recommends that the Low Pay Commission approaches setting the National Living Wage rate for 2018/19 with caution. 77% of convenience retailers indicate that wages rates should not increase more than the rate of inflation and 74% would like to see a freeze in the National Living Wage rate for next year.
- The youth rates are used by some retailers in the sector, with independents typically using the minimum and multiples a slightly higher rate, although most retailers do not feel they can justify using the youth rates to pay colleagues at different rates for the same position.
- ACS does not support a premium wage rate for non-guaranteed hours. Retailers are concerned about a premium wage rate for non-contracted working hours, which would complicate forecasting employment budgets and payroll administration and be detrimental to flexibility in working hours for colleagues.
- HMRC should consider its NMW enforcement activity and provide clarity on their interpretation of the Regulations to strengthen retailer confidence in their compliance procedures. There is no evidence of poor compliance with holiday pay, sick pay or NMW as the basic employment rights for employees.

## **Introduction**

ACS (the Association of Convenience Stores) welcomes the opportunity to provide evidence to the Low Pay Commission (LPC). ACS represents over 33,500 local shops and petrol forecourt sites including Co-op, BP, McColls and thousands of independent retailers, many of which trade under brands such as Spar, Budgens and Bestway. We support the remit of the LPC to recommend, monitor and evaluate minimum wage rates based on thorough economic deliberation and believe all statutory wage rates should be set at the highest level possible without damaging the employment prospects of low-paid workers.

ACS has completed a bespoke survey of members to inform the LPC's call for evidence. The ACS National Living Wage Survey 2018 collected information from 63 businesses representing 3,005 stores and employing 40,444 staff. The data from this survey has been weighted to be nationally representative for the UK convenience sector<sup>1</sup>.

The data for the NLW survey, was collected via an online survey<sup>2</sup> and was distributed via email to ACS members and via the ACS website. The data is based on a non-random sample and it should be noted that the sample is likely to be biased towards those who have been particularly affected by the NLW policy. The sample have a higher than average number of staff per store compared to the overall sector<sup>3</sup> and a large majority have seen their wage bills increase by a large extent<sup>4</sup>.

However, the LPC employer survey guidance states they are interested in those who have seen an increase in their wage bill and therefore we think that this data plays a valuable role in highlighting how retailers have been responding to the NLW increases. The convenience sector is predominantly a minimum wage paying sector and therefore we think that the data will still reflect the views of the sector more widely.

The submission also incorporates data from a range of other sources to corroborate and strengthen the data from the NLW survey. This includes data from the ACS Local Shop Report featuring both primary ACS research and secondary information about the convenience store sector. Primary ACS data from the Local Shop Report is based on a random sample of 2240 independent retailers combined with data from ACS multiple members and weighted to represent the market.

Data has also been included from ACS' Voice of Local Shops Survey (VOLS) which is a quarterly survey of a random sample of 1,210 symbol and independent retailers. The survey tracks data relating to retailer optimism, sales, staff hours and investment decisions, in addition to ad hoc questions which are used to inform submissions.

ACS' Colleague Survey 2018, a sample of nearly 4000 colleagues working in the convenience sector, has also been valuable in providing us with an understanding of the staff that are employed in the convenience sector. The survey, which was available for colleagues to complete confidentially and anonymously online or via hard copy, provides the perspective of employees within the sector on their employment and opinions on minimum wage rates. The questionnaire used can be found at Appendix B.

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<sup>1</sup> Data comes from ACS Local Shop Report which stipulates independents make up 74% of the market and the remaining 26% are multiple businesses (including co-operatives)

<sup>2</sup> Conducted via SurveyMonkey – For questionnaire see Appendix A

<sup>3</sup> ACS LSR stipulates that the average staff per store is 7.43 compared to 13.77 from the NLW survey

<sup>4</sup> ACS National Living Wage Survey 2018

ACS organised a roundtable meeting of convenience retailers to discuss the impact of wage rates on their businesses. Retailer delegates included a mix of independent and multiple retailers from across the country. Low Pay Commissioners and members of the LPC executive attended the meeting and questioned the group. The minutes of the meeting are available in full at Appendix C.

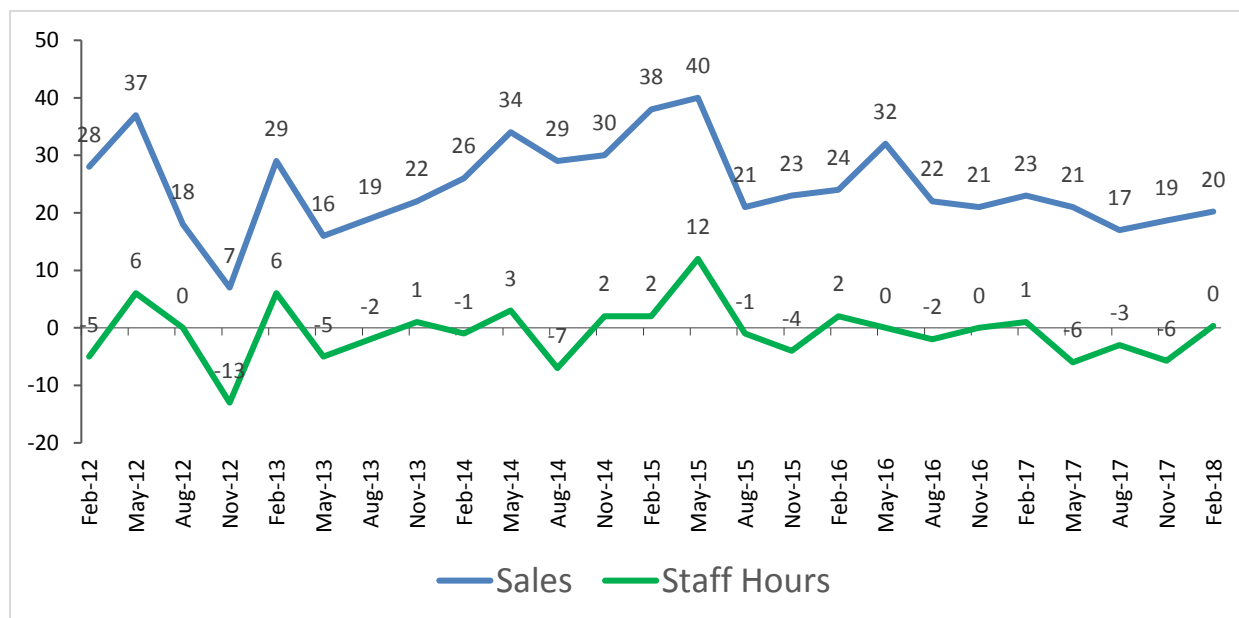
### **Economic Outlook**

The convenience sector is comprised of just under 50,000 stores, employing 370,000 people in communities across the country. 66% of colleagues in the convenience sector are female and 64% of employees work less than 30 hours per week<sup>5</sup>. Comparing 2015 to 2017 there has been a 9% drop in the total level of employment in the convenience sector from 407,000 to 370,000<sup>6</sup>.

Convenience stores are operating in a trading environment characterised by rising operating costs and declining profit margins. However, GlobalData report that the convenience sector is set to grow by 22% between 2017 and 2022<sup>7</sup>. They suggest this will be driven by food to go and meal for tonight shopping missions and an increased proportion of fresh produce as convenience retailers respond to changing consumer demands. Growth in the sector does not necessarily translate into greater profit margins for retailers, due to extensive competition in the grocery market and sustained price sensitivity from consumers.

Growth in the convenience sector has been driven by numerous social trends, such as the increase in single person households and atypical working patterns. Consumers increasingly turn to convenience stores to shop little, often and locally. Despite these positive consumer trends, Figure A indicates that since the announcement of the National Living Wage (NLW) policy in July 2015, optimism for both sales and paid staff hours has remained consistently low.

**Figure A: ACS Voice of Local Shops Survey: Optimism Index**



<sup>5</sup> ACS Local Shop Report 2017

<sup>6</sup> ACS Local Shop Report 2015 - 2017

<sup>7</sup> [The UK food and grocery convenience market will grow by 22.0% by 2022](#) GlobalData. 8 January 2018.

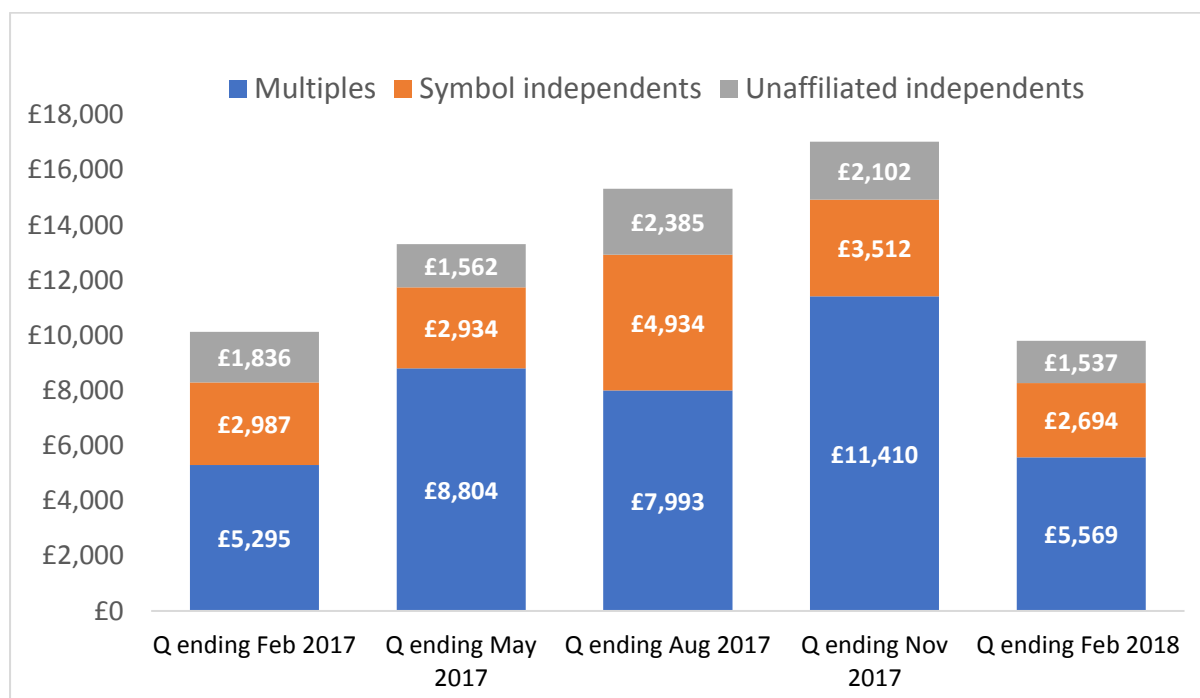
Since we last submitted evidence to the LPC, we have not seen a quarter in which retailers have stated that they intend to increase paid staff hours in their business. Rising non-wage employment costs caused by the apprenticeship levy and rising pension contributions as well as increased business rates bills being phased in since the revaluation have also had a bearing on retailer optimism levels as well as wider consumer confidence.

Retailer optimism has an impact on investment in the sector. ACS' Investment Tracker shows that convenience retailers have invested a total of £812 million in their businesses over the last year<sup>8</sup>. Retailers invested £146 million in the last quarter, which is down 5% year-on-year<sup>9</sup>. Typical items of investment for retailers include cost saving measures such as installing energy efficient refrigeration (32%) and LED lighting (12%)<sup>10</sup>.

There is no indication that convenience retailers have invested significantly in technology to automate procedures in stores and reduce labour costs, for example self-scan tills or electronic shelf edge labels. Investments in these technologies remain cost prohibitive for many retailers, with the productivity savings slow to deliver return on investment. Instead, investments are often made to respond to changing consumer demands. For example, greater consumer demands for fresh produce has encouraged retailers to invest in refrigeration, while growth in the 'food to go' category has preceded unprecedented investment in food service equipment such as customer-operated coffee machines.

Figure B provides a breakdown of how this investment has been made by different types of retailers in the sector, showing there has been consistently higher levels of investment from multiple retailers as they diversify their offer to consumers and expand their property portfolio in the sector.

**Figure B: ACS Investment Tracker: Average Quarterly Investment by Store Type**



<sup>8</sup> ACS Investment Tracker: May 2017 – February 2018

<sup>9</sup> ACS Investment Tracker: February 2018

<sup>10</sup> ACS Voice of Local Shops Survey: February 2018

## **Costs and Issues Faced by the Sector**

### **The Changing Grocery Market**

Convenience retailers are having to contend with some of the biggest changes in the grocery sector for a number of years, through high profile mergers and acquisitions and many high street businesses going into administration. Most recently, Asda and Sainsbury's have announced that they are undergoing merger talks, potentially creating a new leader in the grocery market. More directly relevant to the convenience sector is Tesco and Booker, the UK's biggest wholesaler and retailer, merging and the Co-op and Nisa Retail also merging. There are numerous reasons why these mergers have taken place but in part the mergers are about reducing operating costs and negotiating better terms with suppliers to increase profit margins.

Wholesale consolidation has been a key topic in the past year for the grocery sector, changing the market structure and increasing competition while major UK grocers turn to the convenience sector in search of growth. For some retailers these changes could mean that they access better wholesale prices, if the cost savings are passed down the supply chain. Other retailers may be concerned about their ability to compete with retailers supplied by the newly merged wholesalers. These changes in the market will have great bearing on retailers' views on their ability to invest in their businesses and the people that work for them.

### **Operating Costs**

Numerous regulatory interventions have increased the cost base for convenience retail businesses over the last year, impacting investment and recruitment decisions. Although the NLW is the most important employment policy for the sector, larger retailers are struggling to recoup their apprenticeship levy payments due to low demand and employer contributions into workplace pensions as a proportion of wages has doubled to coincide with the new £7.83 rate. We urge the LPC to consider the collective cost of employment to retailers when setting its wage rate recommendations.

In addition to employment costs, property costs have also risen significantly for retailers. The business rates revaluation in 2017 increased rateable values for one-in-three convenience stores, leading to increased bills particularly for large format convenience stores in prime locations and forecourt sites that receive disproportionately high bills due to their turnover-based rating methodology<sup>11</sup>.

Separate transitional relief schemes in England and Wales were established alongside the revaluation to phase in increases in rates bills for those with increased rateable values over a three-year period, meaning some retailers are seeing above-inflation rises to their bills for 2018/19. Rates bills for 2018/19 have also risen by the September CPI rate of 3%<sup>12</sup>, higher than the March 2018 2.5%<sup>13</sup> figure. Despite offering piecemeal concessions such as the business rates revaluation support fund<sup>14</sup>, the Government has failed to address some of the largest increases in rates bills for the sector.

As part of ACS' NLW Survey we asked retailers to indicate what business costs they found most concerning. Figure C shows wage costs as the primary concern, followed by utility bills, non-wage employment costs and business rates.

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<sup>11</sup> ACS Voice of Local Shops Survey: November 2016

<sup>12</sup> [UK inflation at highest level since 2012](#) BBC. 17 October 2017

<sup>13</sup> [Consumer price inflation, UK: March 2018](#) ONS. 18 April 2018

<sup>14</sup> [Discretionary business rates relief scheme](#) MHCLG. 9 March 2017

**Figure C: ACS National Living Wage Survey 2018: Which, if any, of the following costs to your business concern you? (rated from 1 - not at all concerning, to 10 - extremely concerning)**

Wage Costs	9.53
Utility Bills (electricity, gas, waste disposal)	7.88
Holiday Pay	7.81
Auto-Enrolment Pensions	7.56
Business Rates	7.29
Statutory Sick Pay	7.12
Business Banking Costs	7.08
Waste	6.95
National Insurance Contributions	6.94
Cost of Rent/ Leasing	6.52
Corporation Tax	6.35
VAT	6.20

The LPC will be most interested in retailers' views on other non-wage employment costs:

### **Auto-Enrolment**

All convenience stores have now passed their staging date for auto-enrolment, meaning they are responsible for making employer contributions to workplace pensions. Tracking these responsibilities is an administrative difficulty for many retailers, due to the tendency for staff working hours to vary on a weekly basis, which impacts their contribution entitlements. This difficulty is enhanced for smaller retailers that do not have centralised administrative functions.

The costs of auto-enrolment will rise as a direct result of the direction of the NLW. Based on the 2018/19 NLW rate of £7.83 per hour, a convenience store employee would need to work 14.8 hours per week to reach the lower level of qualifying earnings (£6,032), and 24.5 hours per week to be automatically-enrolled (£10,000).

Employer contributions to auto-enrolment pensions doubled from 1% to 2% in April 2018 and will increase further to 3% in 2019. ACS' NLW Survey has found that opt-out rates for the sector remain relatively low at 18%, although this opt-out rate has increased from 7% before the rise in employee contributions from 1% to 3% in April<sup>15</sup>.

Retailer contributions to pensions are increasing in line with rules on minimum employer contributions but also as the wage rates they pay increase as the NLW rises. Retailers are paying into workplace pensions for a larger proportion of staff than anticipated, with lower opt-out rates across the sector relative to the Department for Work and Pensions' original prediction of 30% opt-out rates before the policy was introduced<sup>16</sup>.

<sup>15</sup> ACS National Living Wage Survey 2018

<sup>16</sup> [DWP halves auto-enrolment opt-out rate prediction](#) New Model Adviser. 11 April 2014

## Statutory Sick Pay

Statutory Sick Pay is currently paid at £92.05 per week<sup>17</sup>, the cost of which must be met in full by employers of all sizes. According to ACS' NLW Survey, Statutory Sick Pay costs on average £722 per convenience store or £36 million across the sector, without accounting for the additional finance a retailer must find to fund another wage to cover employee absence<sup>18</sup>. For smaller businesses, full liability for Statutory Sick Pay can markedly increase expenditure on staff. ACS supports the recommendation of the Taylor Review for the Statutory Sick Pay system to facilitate phased returns to work and ongoing conversations between employers and employees to reduce repeat sick leave absences.

## Apprenticeship Levy

The new apprenticeships system means larger convenience retailers are now liable to make monthly apprenticeship levy payments equivalent to 0.5% PAYE. Although this fund may be reinvested by retailers into apprenticeship training, low demand for retail apprenticeships means retailers are struggling to recoup the costs of the levy and only 5% of independent and symbol group retailers currently employ an apprentice<sup>19</sup>.

Low demand for retail apprenticeships in the sector is driven by the working hours and commitments of staff. 64%<sup>20</sup> of colleagues work less than 30 hours per week, while 70%<sup>21</sup> of colleagues have caring, voluntary or study commitments outside of work which affect the number of working hours they can undertake. Possibly as a result, 85% of shop floor colleagues are not interested in becoming an apprentice, meaning retailers are using their Apprenticeship Levy funds for training mid-level employees working in head office functions<sup>22</sup>.

## Taylor Review

ACS has responded to the Government's consultations and calls to evidence on the Taylor Review. There are many proposals included in the Taylor Review recommendations that will affect convenience retailers, for example; the extension of state-led enforcement of more employment rights, changes to written statements offered to employees and the clarification of employment status. However, most of these proposals will have a secondary impact on convenience stores given that most people working in the sector are employees with employment contracts that clearly stipulate their rights, benefits and hours. These measures are proportionate to account for the changing nature of employment.

Retailers are concerned about proposals for a premium wage rate for non-guaranteed hours, which the LPC is exploring. The introduction of this policy would create significant difficulty for retailers by complicating payroll administration and retailers' ability to project employment budgets. Moreover, it could have perverse outcomes for employees, with employers looking to reduce paid work hours in their business, reduce staff on short term contracts or move to annual pay reference periods to avoid the premium wage rates. We discuss working hours and flexibility in more detail later.

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<sup>17</sup> [statutory payment rates for 2018-19](#) CIPP. 28 November 2017

<sup>18</sup> ACS National Living Wage Survey 2018: "In total, over the last 12 months how much have you paid your staff in statutory sick pay?"

<sup>19</sup> ACS Voice of Local Shops Survey: February 2016

<sup>20</sup> ACS Local Shop Report 2017

<sup>21</sup> ACS Colleague Survey 2018

<sup>22</sup> ACS Colleague Survey 2018

## **Brexit**

The impact of the UK's exit from the EU is causing concern across the business community, including the convenience sector. However, only 2% of colleagues in the convenience sector are non-UK EU nationals<sup>23</sup>. Retailers typically recruit staff from within their local trading communities, meaning they are not reliant on labour from the EU.

This means changes to the immigration system will have limited direct impact on the convenience sector. Retailers report that they expect changes to the immigration system would instead have an impact by increasing competition amongst employers for staff, potentially pushing up wage costs to retain staff where possible or preceding colleagues moving to alternative employment.

Other impacts of Brexit on the sector will be through changes to food tariffs, food inflation and the fluctuation in the value of sterling, which all influence in-store prices for consumers. However, larger retailers are better able to negotiate the prices they pay for goods<sup>24</sup> relative to smaller retailers, meaning price increases may be more evident in the convenience sector.

### **Impact of the National Living Wage**

ACS has completed a bespoke survey of members to inform the LPC's call for evidence. The ACS NLW Survey 2018 collected information from 63 businesses representing 3,005 stores and employing 40,444 staff. The data from this survey has been weighted to be nationally representative of the UK convenience sector<sup>25</sup>. The full survey design is available at Appendix A.

The vast majority of respondents to the survey stated that their wage bill had increased because of the introduction of the NLW, with 74% of retailers saying the NLW has increased their wage bill to a large extent and 19% saying it has increased their wage bill to some extent<sup>26</sup>. We recognise that ACS' NLW survey is a self-selecting sample, meaning those affected by NLW increases are more likely to respond. However, most convenience retailers are now NLW employers, meaning their wage bills increase in parallel with rises in the NLW. This can and does have a damaging impact on retailers' recruitment and investments plans as they attempt to balance staffing and investment levels to provide positive customer service while retaining business profitability.

The NLW remains the biggest cost challenge for retailers and has impacted staff numbers, staff hours and the structure of employment within many convenience stores. Figure E below compares how retailers that have seen an increase in their wage bill from the NLW responded to the 2017 and 2018 rates.

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<sup>23</sup> ACS Colleague Survey 2017

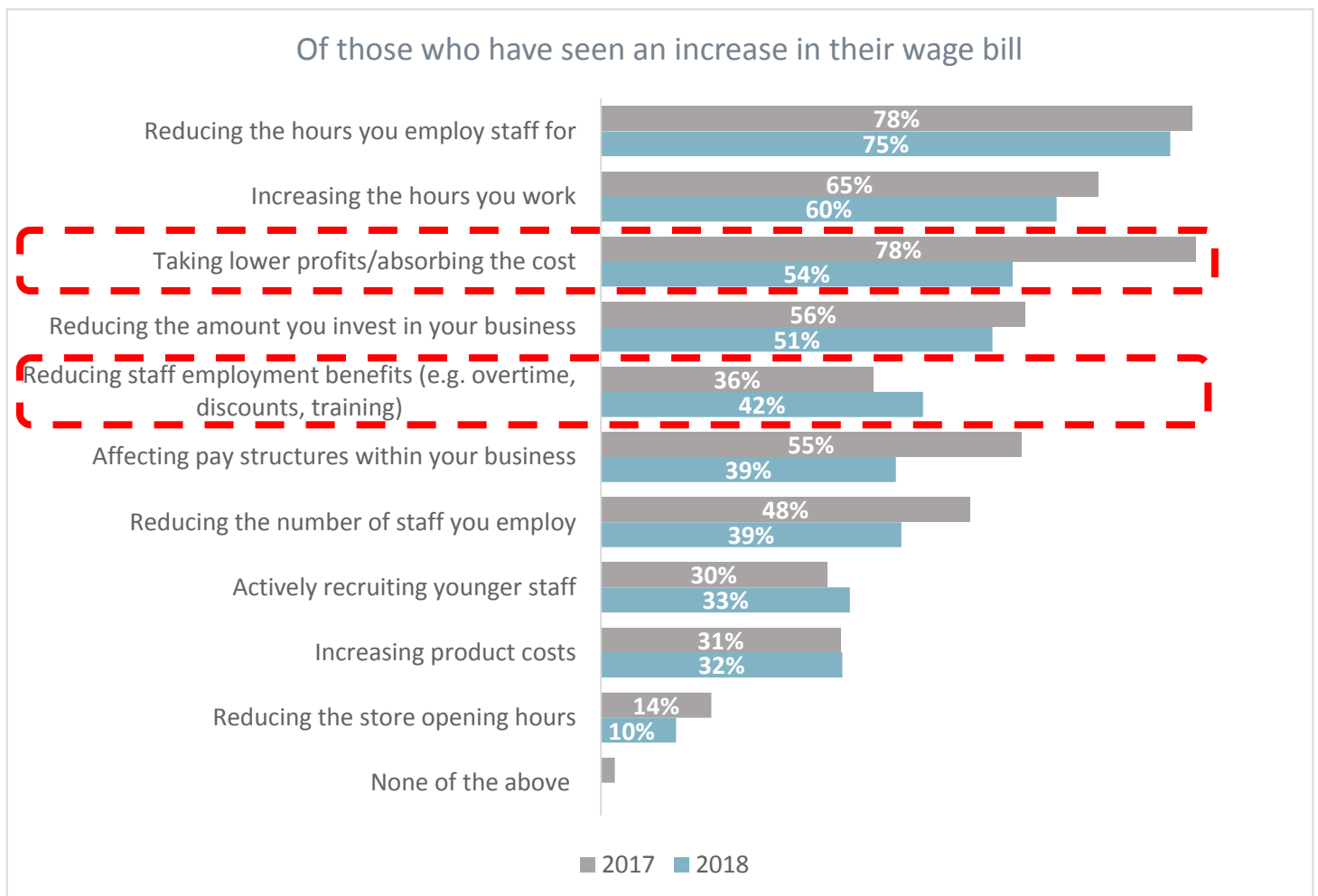
<sup>24</sup> For an example, see [Tesco and Unilever settle Marmite dispute](#)

<sup>25</sup> Data comes from ACS Local Shop Report which stipulates independents make up 74% of the market and the remaining 26% are multiple businesses (including co-operatives)

<sup>26</sup> ACS National Living Wage Survey 2018



**Figure E: ACS National Living Wage Survey 2018: Thinking about how you are responding to the April 2018 National Living Wage increase, which if any, of the following actions are you taking?... (Select all that apply)**



Retailers have primarily responded to the 2018/19 rate by reducing paid working hours in the business (75%). Where retailers can they have increased the hours they work in the business themselves (60%) and retailers have taken lower profits/absorbed costs (54%). Overall, the number of retailers reducing paid staff hours and increasing the hours they work themselves in the business, the two most common responses, have declined since 2017. This may reflect that retailers have exhausted these options, with stores already working at minimum staffing levels and retailers working as many additional hours as possible.

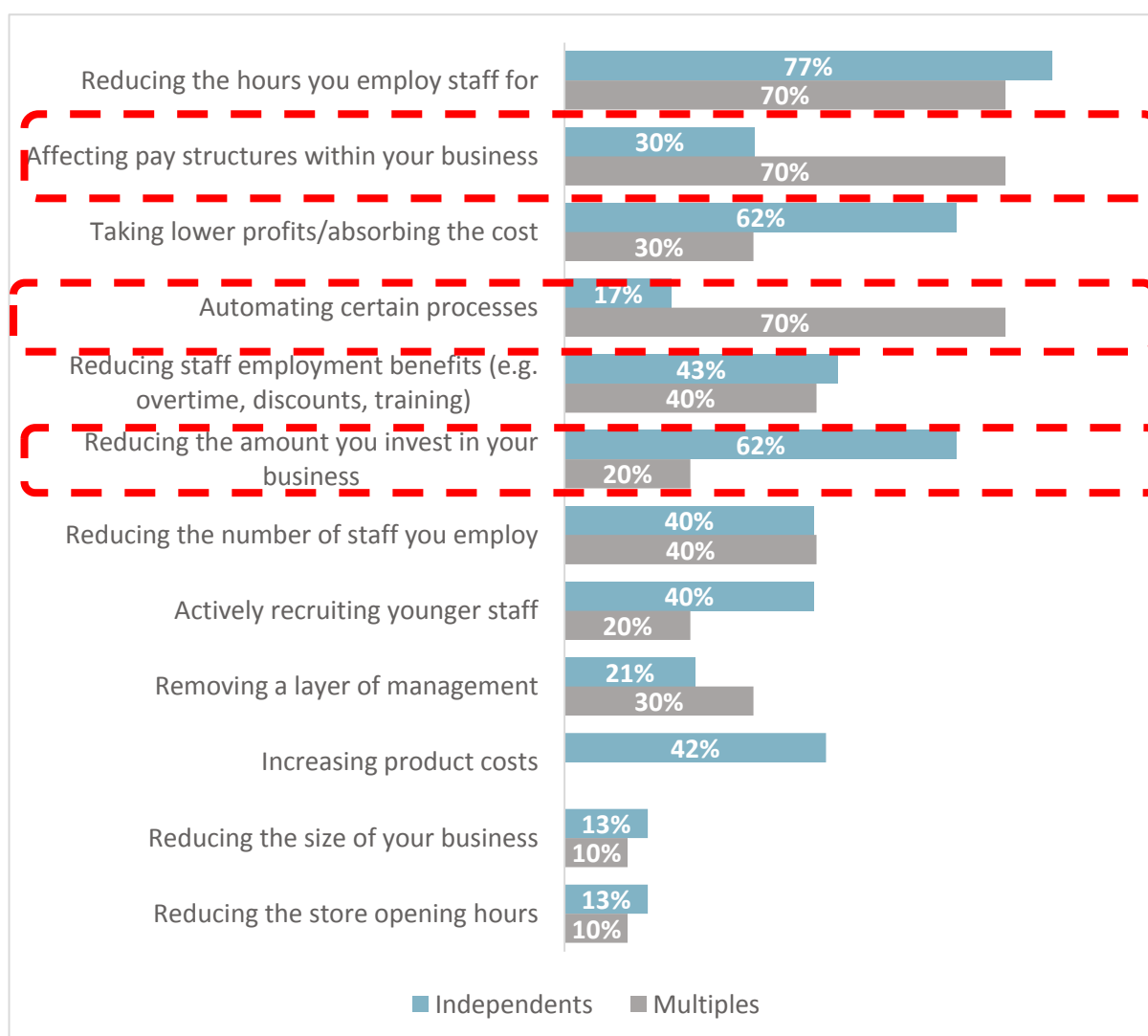
There is a noticeable decline in the number of businesses that have absorbed the cost of the NLW increase from reduced profits. This could be because the NLW survey has been completed very shortly after the introduction of the 2018 NLW wage, meaning retailers have not taken up this option yet. Alternatively, the competitive nature of the grocery market and pressure on margins means there is a limit to which convenience retailers can absorb the costs by reducing profits.

There has been a noticeable increase, from 36% to 42%, of retailers indicating that they have reduced staff employment benefits. This has always been an option considered by retailers, but this year's wage increase has pushed more retailers to consider their overall

employment package. This could be because the increased cost of the NLW is now having a greater impact on multiple convenience retailers that have previously attempted to protect their wider employee benefits to distinguish their employment offer with other market competitors.

We think it is also important to distinguish between the approach taken by independent retailers compared to multiple retailers. Figure F compares independent retailers response to wage increases compared to multiple retailers.

**Figure F: ACS National Living Wage Survey 2018: Thinking about how you are responding to the April 2018 National Living Wage increase, which if any, of the following actions are you taking?**

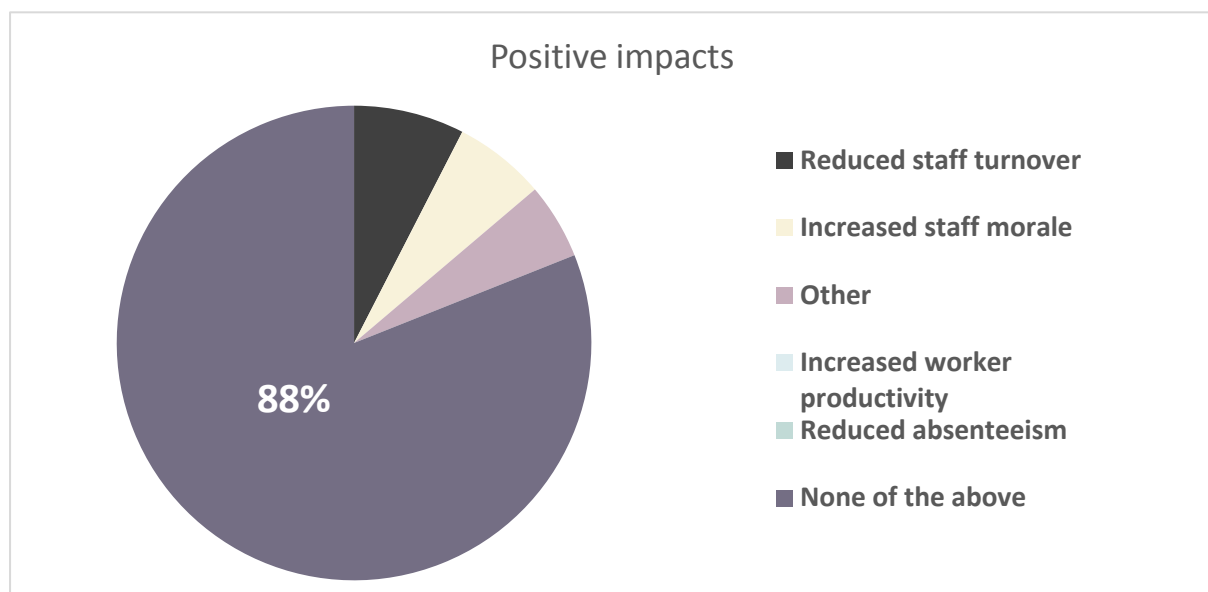


ACS' survey suggests multiple retailers are more inclined to seek to change pay structures or remove layers of management to mitigate wage increases. Multiple retailers also seek to invest more to deal with increased wage rates by attempting to automate certain processes. Independent retailers, however, are more likely to cut back on investment, absorb costs through reduced profit margins or attempt to increase product costs (something no multiple retailer indicated they would do). In part these approaches reflect the options available to

different formats of retail business, but the LPC should consider that wage increases have different, and arguably more negative, impacts on the smallest independent businesses.

The LPC is interested in understanding what benefits employers have seen from the NLW, but very few retailers have reported additional benefits. 88% of retailers indicated they had seen no benefits (see figure G) and no retailers reported an increase in worker productivity from the higher wage rates.

**Figure G: ACS National Living Wage Survey: Have you noticed any of the following positive impacts as a result of the National Living Wage;**



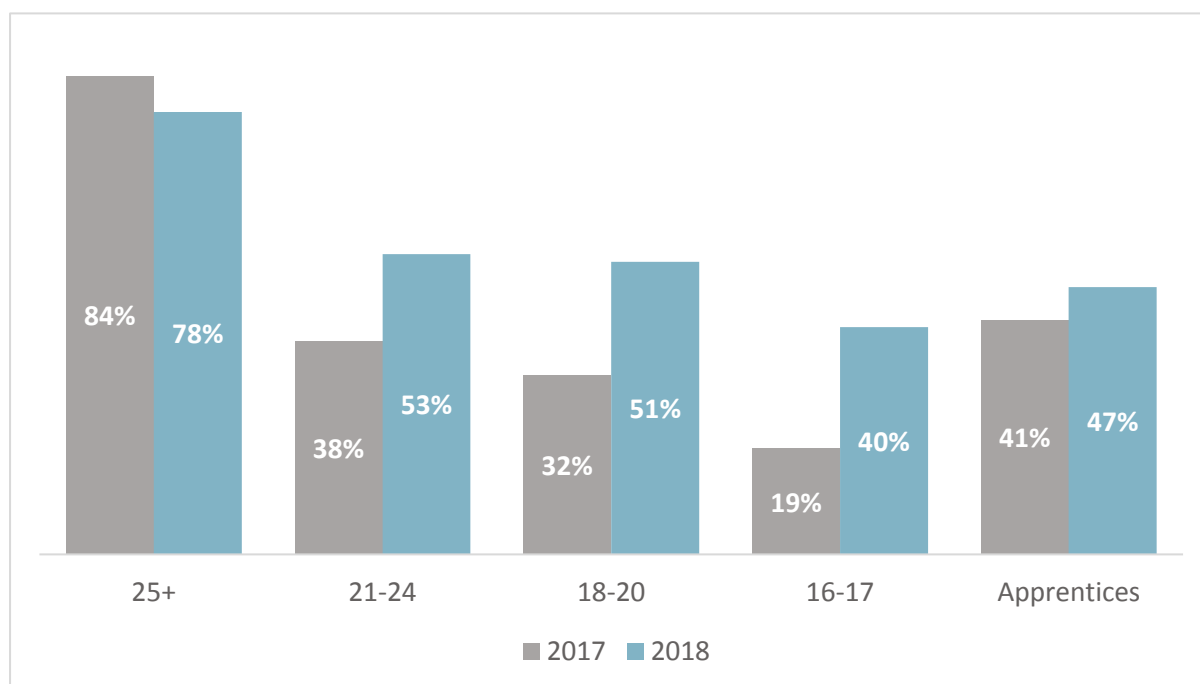
### **Wage Rates**

The most commonly used wage rates in the convenience sector are the NLW rate (78%) and the National Minimum Wage rate for 21 – 24 year olds (53%)<sup>27</sup>. Convenience retailers do not tend to employ staff below the age of 18 because the law requires staff under the age of 18 to be supervised when selling age restricted products. This includes alcohol and tobacco products, which make up on average 29% of convenience store sales<sup>28</sup>. It is not feasible to have staff supervised on tills considering the high costs of employment, which would significantly reduce productivity. There is also limited use of the apprentice rate because there is limited demand for apprenticeship training in the convenience sector.

<sup>27</sup> ACS National Living Wage Survey 2018

<sup>28</sup> ACS Local Shop Report 2017

**Figure H: ACS National Living Wage Survey: Percentage of Retailers Paying the Following Staff £7.83 Per Hour**



From conversations with retailers, including ACS' retailer focus group (see Appendix C), retailers tend to pay employees the NLW once they are over the age of 18. Most retailers do not use the youth rates as they struggle to justify paying colleagues in the same role at different rates according to their age, especially considering these colleagues often work in small working environments.

Therefore, excluding those with no opinion, more than two-thirds (69%) of retailers agree that there should be fewer age-specific wage bands below the NLW, which would increase simplicity in the overall wage rates framework<sup>29</sup>. However, this year's research does show that there is an overall increase in the number of retailers using the youth rates and Figure F suggests that 40% of independent retailers are seeking to employ younger staff, perhaps to take advantage of low wage bands.

When comparing the use of the wage bands with median wage rates paid it shows that multiple retailers pay young employees on lower wage bands slightly above the regulated rate, but independents are paying at the legal limit. The response rate from independent retailers to this question declines the further down the wage bands, meaning that less independent retailers employ staff on lower wage bands overall. Although some retailers are open to consolidating the lower wage bands, they remain relevant for other retailers in the sector.

We therefore recommend that the LPC consider the changing use of youth rates when making recommendations on the future of the age-specific wage bands. We are also conscious of the Government's overall objective to reduce youth unemployment and the potential impact consolidation of the wage rates framework or increases in lower wage bands could have on this objective. We note comments from BEIS Minister Andrew Griffiths

<sup>29</sup> ACS National Living Wage Survey 2018

MP, during a recent parliamentary debate on NLW and under 25s: “Academic evidence shows that the youth labour market is much more sensitive to economic shocks than the labour market in general, and that young people can be exposed to longer-term scarring effects from prolonged spells of worklessness than others... Pricing young people out of the labour market by setting their minimum wage too high would be detrimental to the workers whom the policy was intended to benefit<sup>30</sup>.”

## **Taylor Review**

ACS’ NLW Survey included questions on the recommendations of the Taylor Review based on the LPC’s template survey. ACS’ Voice of Local Shops Survey and ACS’ Colleague Survey also contribute towards our data on employment in the convenience sector.

ACS has responded to the Government’s consultations on various elements of the Taylor Review recommendations separately to this submission. Out of all of the Taylor Review recommendations, convenience retailers are most concerned about the introduction of a premium wage rate for non-guaranteed hours which the LPC have been asked to explore. Retailer concerns about premium pay rates are driven by two factors; a premium wage rate would introduce new complexities to payroll budgets and administration, and ‘one-sided flexibility’ is not evident in the sector. The ACS Colleague survey shows that 70% of colleagues have commitments outside of work such as childcare or supporting elderly relatives, which restricts the working hours they can commit to and demonstrates the value of flexible employment in the sector<sup>31</sup>.

## **Flexible Employment in the Convenience Sector**

64% of employees in the convenience sector work on a part-time basis, when defined as less than 30 hours per week<sup>32</sup>. There are very few employees in the convenience sector on flexible employment contracts, defined as zero-hour contracts (3%) or short hour contracts<sup>33</sup> (6%)<sup>34</sup>. The most commonly used band of contracted hours for part-time staff in independent convenience stores is 9 to 16 hours (40%)<sup>35</sup>. This is corroborated by ACS’ Colleague Survey 2018 with 42% of staff reporting they have between 9 and 16 contracted working hours per week<sup>36</sup>.

In terms of the notice period given by retailers that offer flexible employment contracts, 82% of retailers indicate that they give at least 4 days notice to employees about future working hours. This is compared to only 18% that give 3 days notice or less<sup>37</sup>. For convenience retailers that do not provide flexible employment contracts, only 40% of colleagues work similar hours each week. However, the variation in working hours is slight, with 42% of retailers not offering flexible employment contracts indicating staff hours fluctuate between a few and up to 8 hours per week<sup>38</sup>. 17% of these retail respondents also indicated that working hours vary according to season, for example during the Christmas period and summer holidays for shops serving a transient customer base<sup>39</sup>.

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<sup>30</sup> [National Living Wage: Under-25s](#) Hansard. 3 May 2018

<sup>31</sup> ACS Colleague Survey 2018

<sup>32</sup> ACS Local Shop Report 2017

<sup>33</sup> CIPD definition of short hours contract is 4 to 8 hours

<sup>34</sup> ACS Voice of Local Shops Survey: August 2017

<sup>35</sup> ACS Voice of Local Shops Survey: August 2017

<sup>36</sup> ACS Colleague Survey 2018

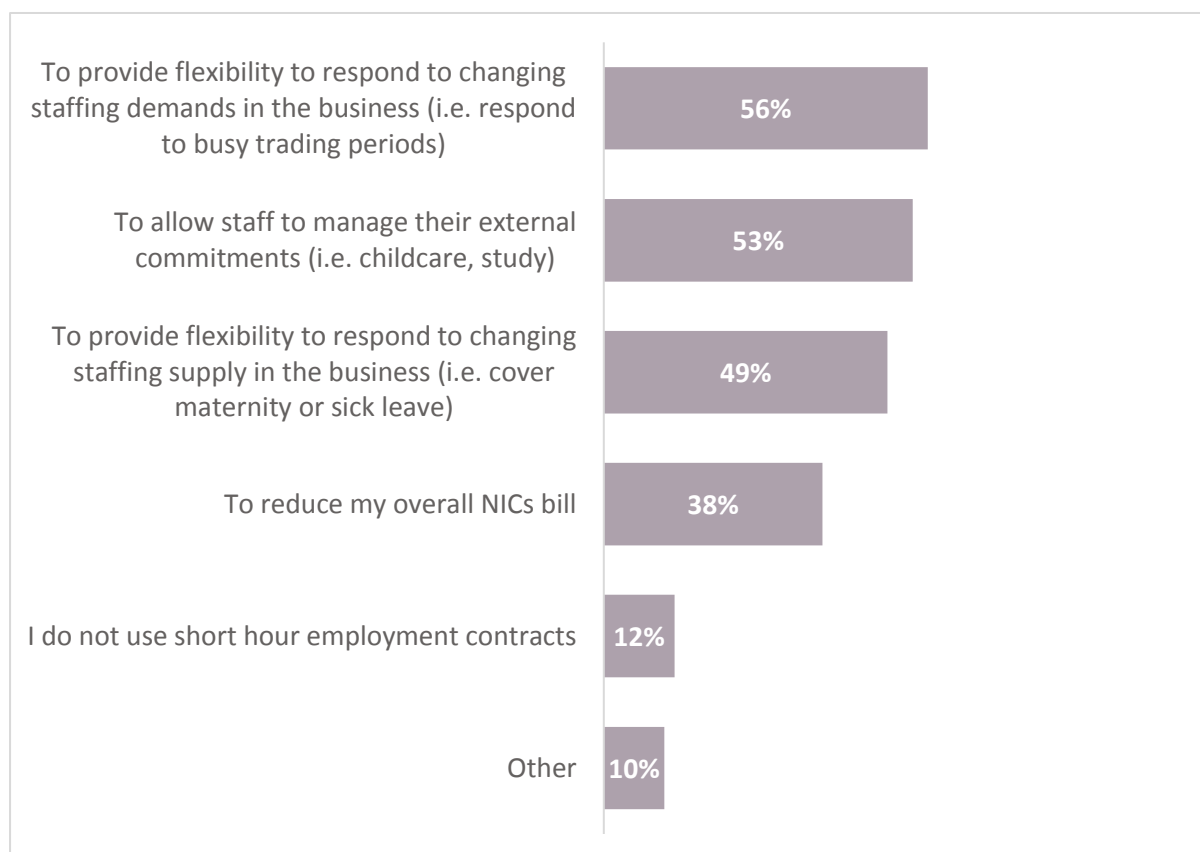
<sup>37</sup> ACS National Living Wage Survey 2018

<sup>38</sup> ACS National Living Wage Survey 2018

<sup>39</sup> ACS National Living Wage Survey 2018

Figure I details the considerations taken by retailers when setting working hours in their business, namely to provide the flexibility to respond to changing staffing demands (56%), allow staff to manage external commitments (53%) and provide flexibility to respond to changing staff supply in the business (49%)<sup>40</sup>.

**Figure I: ACS National Living Wage Survey 2018: Which, if any, of the following statements describes why you use contracts up to 16 hours per week in your business? (Select all that apply)**



### Premium Wage Rates for Non-guaranteed hours

The majority of convenience retailers do not pay a higher wage rate for work completed outside of contracted working hours. Premium wage rates are not widely used in the convenience sector given that most convenience stores are open very long hours, on average 14.4 hours per day on weekdays and 12.7 hours on Sundays<sup>41</sup>.

The use of non-guaranteed working hours is often to manage fluctuations in staffing supply and demand across the year and two-thirds (67%) of retailers proactively agree working hours in collaboration with their staff<sup>42</sup>. As stated above, employees are sometimes asked to work a small number of hours beyond their contracted hours during busy seasonal periods or to cover staff absences or holidays. The benefits of working these additional hours are relative to the circumstances of individual employees, but our evidence suggests retailers

<sup>40</sup> ACS National Living Wage Survey 2018

<sup>41</sup> ACS Local Shop Report 2017

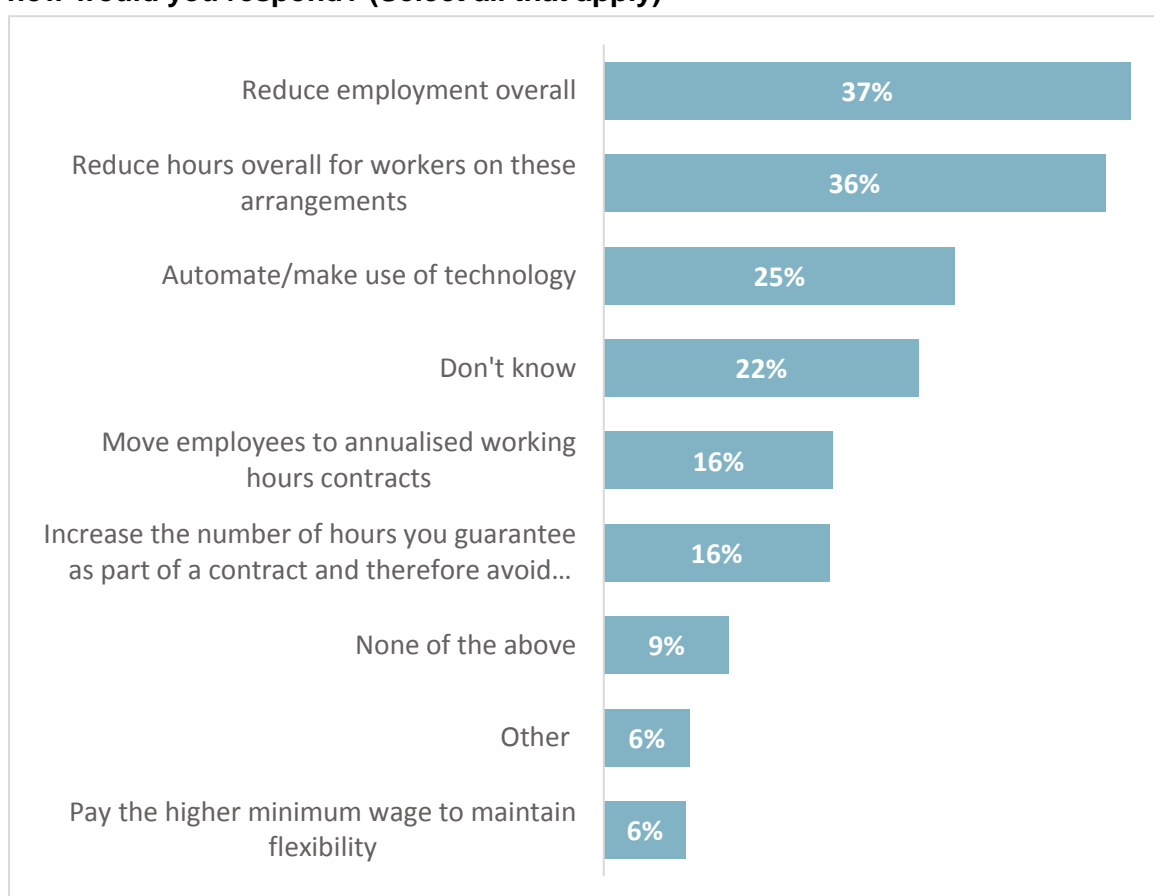
<sup>42</sup> ACS National Living Wage Survey 2018

are working to take employees external commitments into account and that employees value the ability to occasionally work longer hours.

The introduction of a premium wage rate to apply for working hours not guaranteed by an employment contract would have a significant negative impact on convenience retailers. Retailers would seek to avoid paying the premium rate where possible to reduce their wage costs but would not be able to avoid paying the rate due to the nature of changing demands for labour. For example, staffing requirements vary across the year for stores serving tourist areas, seasonal periods such as Easter and Christmas increase the working hours needed to adequately staff the business and unpredictable factors including the weather precede changes in customer footfall. The premium rate would undermine business planning by increasing the uncertainty of employment budgets and cause difficulties for payroll administration to minimise use of the rate between staff.

Retailers asserted that they would respond to a premium wage rate for non-guaranteed hours by; reducing their overall employment levels (37%) and reducing working hours for workers on these arrangements (36%), see Figure J below<sup>43</sup>. A premium wage rate would likely exacerbate some of the responses currently taken by retailers in response to the rising NLW, for example taking lower profits and reducing investment in the business. Retailers have also suggested that they would review their contracts in response to a premium rate to introduce annualised hours or guarantee a higher number of working hours for a smaller number of employees.

**Figure J: ACS National Living Wage Survey 2018: If a higher minimum wage was introduced to apply for working hours not guaranteed by an employment contract, how would you respond? (Select all that apply)**



<sup>43</sup> ACS National Living Wage Survey 2018

Three-quarters (73%) of convenience store employees are satisfied with their job and there is very limited use of zero-hour and short-hour contracts in the sector<sup>44</sup>. Working hours in the convenience sector are typically set to provide flexibility for employer and employee, to respond to fluctuations in customer footfall, manage staff absence and cater to the external colleague commitments outside of work.

We commend the intention of the Taylor Review to address ‘one-sided flexibility’ in some parts of the labour market but do not support a premium wage rate for non-guaranteed working hours. This premium rate would have a detrimental impact on the retail sector, which is one of the biggest employers and providers of secure work. The detriment for employees would come from employers seeking to reduce their overall employment levels and revising contracts to reduce the risk of having to pay the higher wage rates.

We urge the LPC to not recommend the introduction of a premium wage rate for non-guaranteed hours. The LPC could instead take a sector-specific approach by identifying where zero-hour and short-hour contracts are most prevalent and working with these sectors to improve their employment practices.

### **Colleagues Working in Convenience Sector**

ACS conducts an annual survey of shop floor staff in the convenience sector, which provides insights into their employment and opinions on the NLW. The ACS Colleague Survey 2018 collected information from just almost 4,000 employees working in convenience stores across Britain and found that staff value their employment in the convenience sector, with 73% of staff either ‘very satisfied’ or ‘satisfied’ with their current job. Colleagues also feel secure in their positions and two-thirds (60%) perceive they will remain with their current employer in a similar or more senior role in five years’ time<sup>45</sup>.

Convenience stores continue to be a source of local employment, with many colleagues working close to where they live. Figure K shows that over half of convenience store staff walk to work (55%), with an average travel time and cost of 13 minutes and £1.63<sup>46</sup>. This illustrates how convenience stores provide an efficient way of working with low travel costs to work. For example, a person walking five minutes to work a four-hour shift in their local shop at £7.83 per hour would save time and earn more after deducting travel costs than a person travelling half an hour to get to work at a cost of £5.50 for the same shift at £9.20 per hour.

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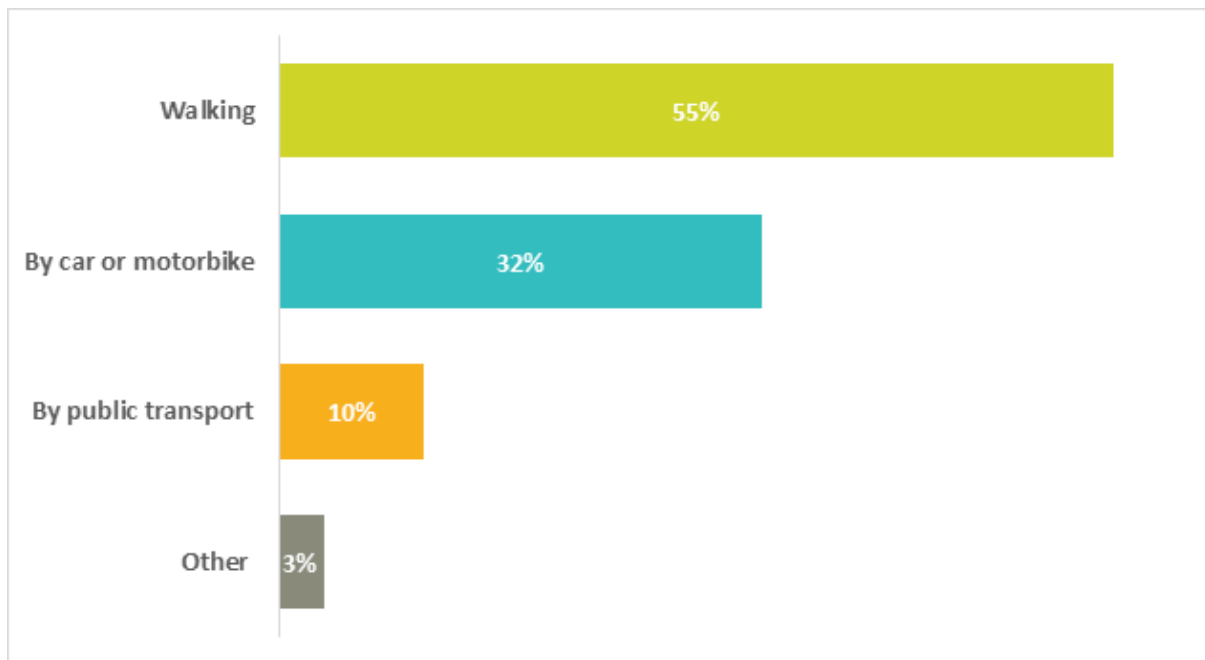
<sup>44</sup> ACS Voice of Local Shops Survey: August 2017

<sup>45</sup> ACS Colleague Survey 2018

<sup>46</sup> ACS Colleague Survey 2018

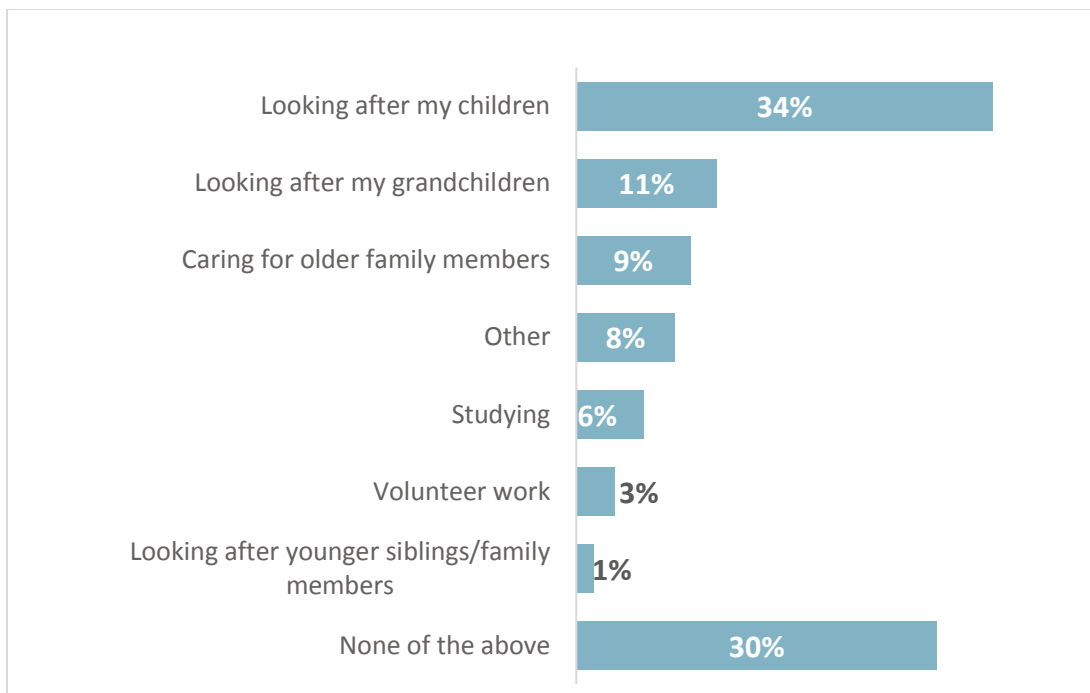


**Figure K: ACS Colleague Survey: What is the main way you travel to your place of work?**



The hyperlocal employment provided in the sector is also valuable for flexing around existing commitments that staff have outside of work. 70% of shop floor staff in the sector have commitments affecting the number of hours they can undertake, which include caring, voluntary and study commitments, as shown by Figure L<sup>47</sup>.

**Figure L: ACS Colleague Survey: Which of the following commitments do you have outside of work?**



<sup>47</sup> ACS Colleague Survey 2018

The ACS Colleague Survey also asked respondents about their attitudes towards the NLW. Figure M shows that half (51%) think that the NLW would benefit them compared to 37% who think the NLW would benefit retailers. However, the strongest response, from 71% of respondents, is that store prices will increase because of the NLW<sup>48</sup>.

**Figure M: ACS Colleague Survey: To what extent do you agree or disagree with each of the following statements?**

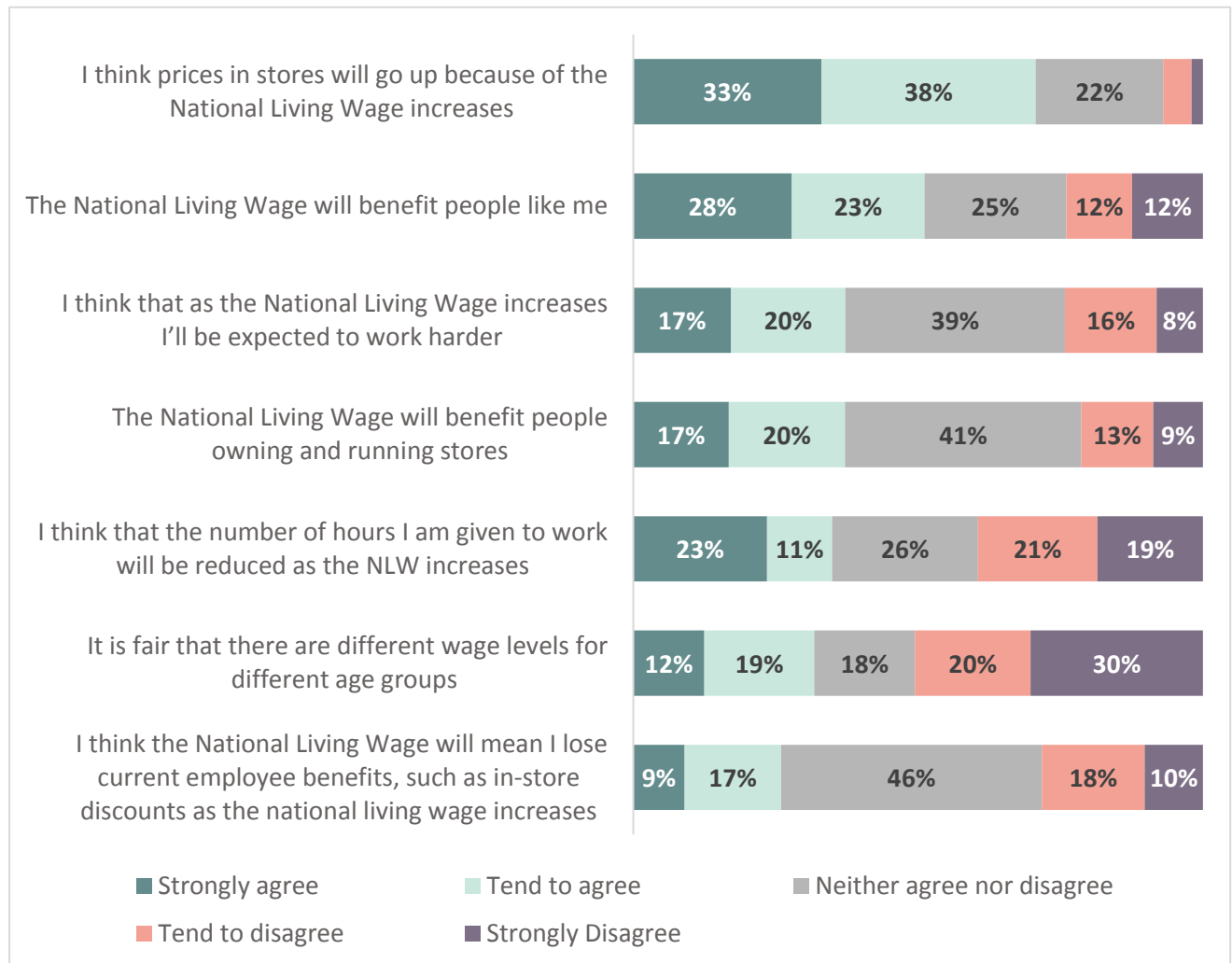


Figure M shows that employees expect the NLW to cause price rises and not impact their working hours. However, this contrasts to retailer reactions (see Figure E), with only 32% increasing product costs and over three-quarters (75%) reducing staff hours in the business<sup>49</sup>.

<sup>48</sup> ACS Colleague Survey 2018

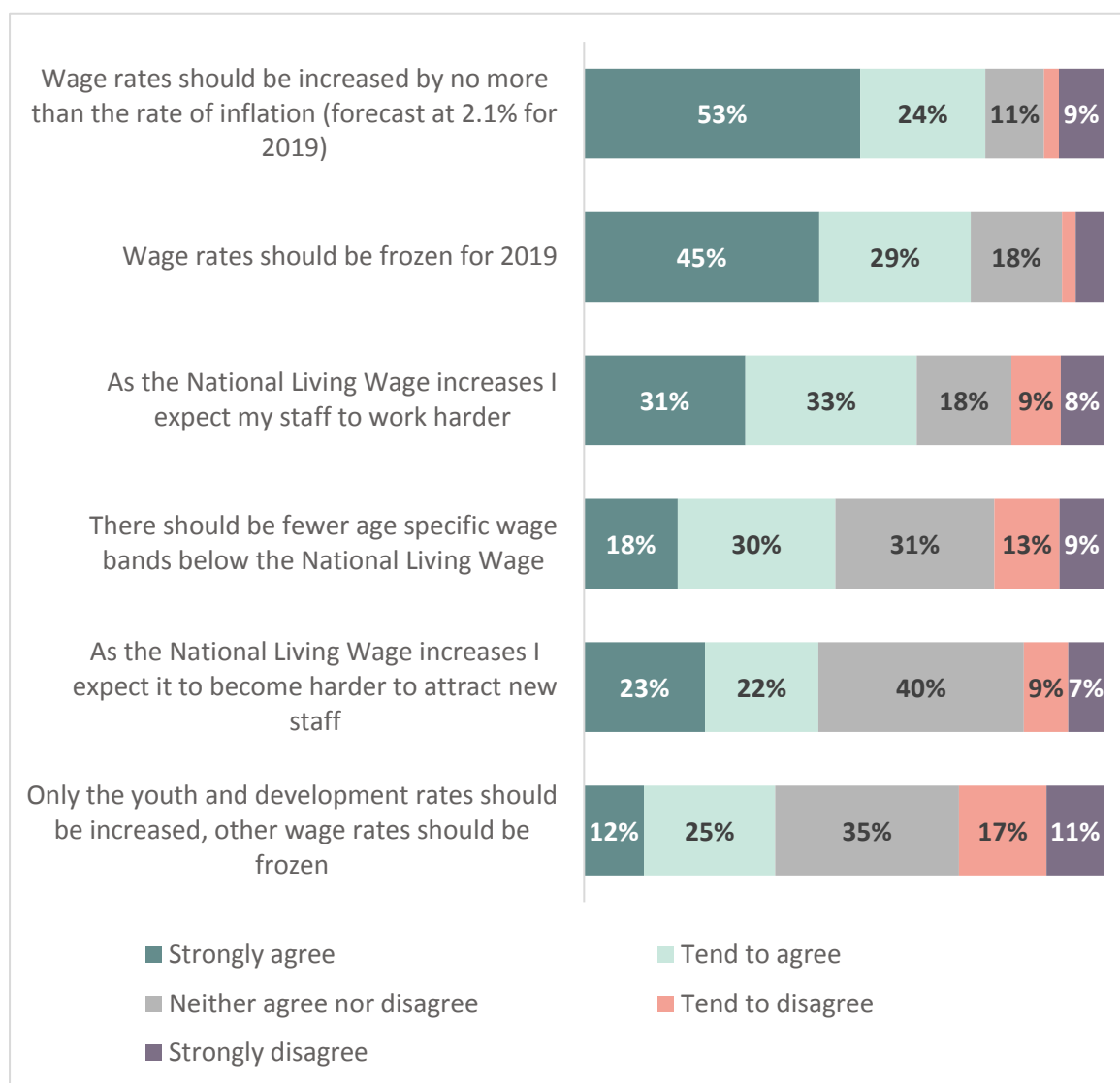
<sup>49</sup> ACS Colleague Survey 2018

## **Wage Rate Recommendations**

Reflecting on the impact that the NLW is having on retailers' profitability and employment structures, it is unsurprising that when asked to make a recommendation for the NLW, 74% of retailers favoured a freeze in the rate<sup>50</sup>. ACS understands that it is unlikely that the LPC will recommend a freeze in the NLW given the Government's existing target of the NLW reaching 60% of median earnings by 2020, but we encourage the Low Pay Commissioners to consider the impact this is having on small retailers' employment practices.

Figure N below sets out retailers' views on future wage rates. Many retailers would also support the LPC considering wider economic factors such as the impact of inflation. We urge the LPC to use the same criteria for raising the NLW as is currently used for assessing National Minimum Wage rates: "increasing the rate as high as possible without causing damage to jobs and hours"<sup>51</sup>.

**Figure N: ACS National Living Wage Survey 2018: To what extent do you agree with the following statements;**

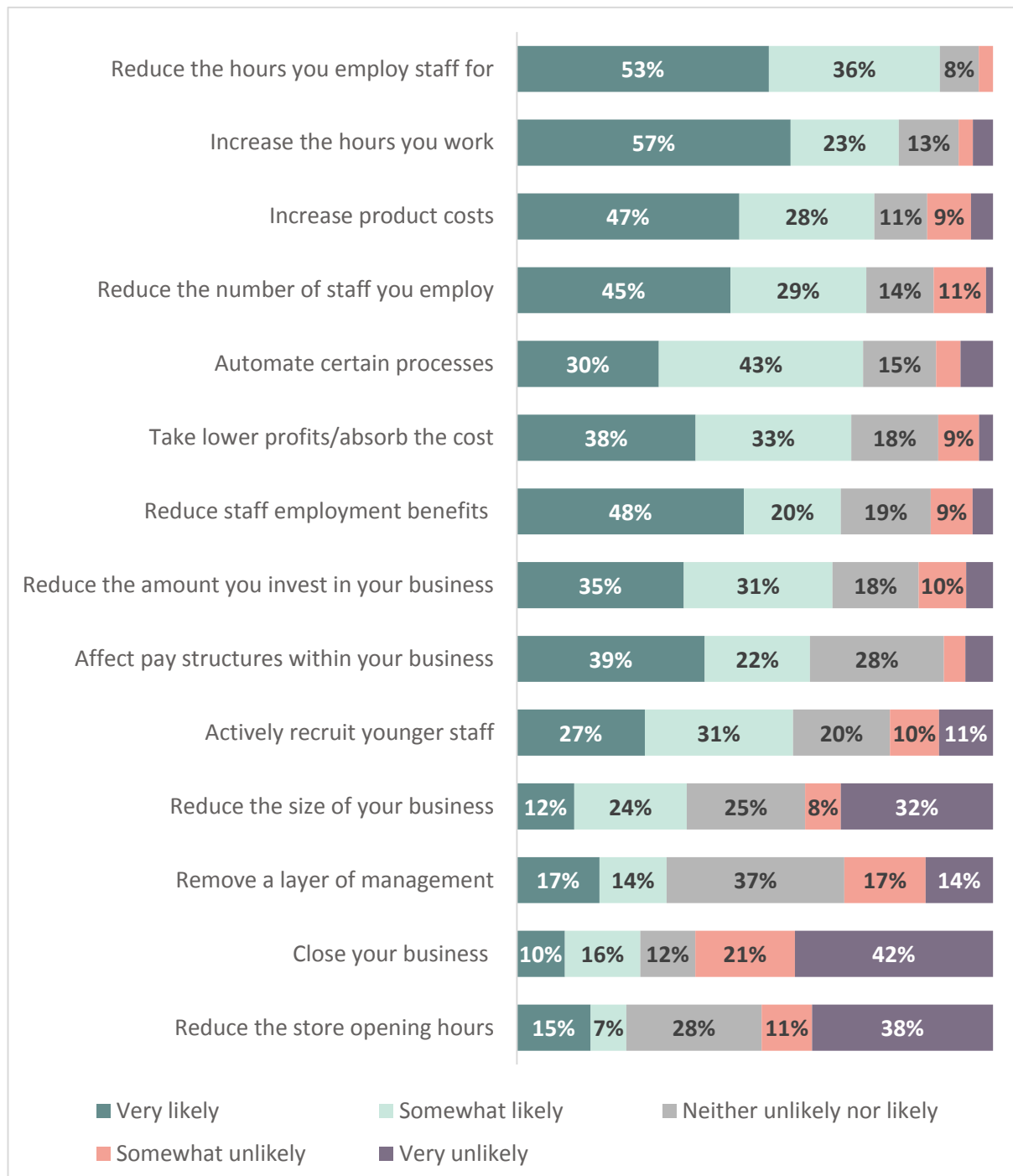


<sup>50</sup> ACS National Living Wage Survey 2018

<sup>51</sup> Low Pay Commission. [Low Pay Commission welcomes acceptance of new minimum wage rates](#) 23 November 2016.

Figure O shows that retailers are concerned about the projected NLW rate for 2019 of £8.20 and the longer-term target of reaching 60% of median earnings by 2020, currently projected to be £8.61<sup>52</sup>.

**Figure O: ACS National Living Wage Survey 2018: In 2019, the NLW is expected to rise to £8.20 an hour. What is the likelihood of the following impacts on your business if this rate is introduced?**



<sup>52</sup> Low Pay Commission. [A rising floor: the latest evidence on the National Living Wage and youth rates of the minimum wage](#) April 2017.

When asked how they would react to future wage rates retailers' responses suggest they would reduce staff numbers and hours further and take less profits from the business.

A higher proportion of retailers also suggested they would increase the price of goods. We know from ACS' NLW focus group (see Appendix C) that retailers are extremely reluctant to increase prices because of consumer sensitivity to price and considerable market competition. However, this view appears to be changing overtime, perhaps because retailers expect higher inflation generally because of the economic uncertainty posed by Britain's exit from the EU, or that price increases will be the only option left available to retailers that are facing increases in their over cost base. The LPC should consider how retailers would respond to higher wage rates when setting the rates for 2019/20.

### **Compliance and Enforcement**

The LPC provides valued recommendations to Government on statutory minimum wage rates with HMRC responsible for enforcing compliance with wage rates on the National Minimum Wage framework. Convenience retailers are responsible employers, which is shown by strong compliance with the National Minimum Wage Regulations.

We support the principle of HMRC enforcement activity to target businesses flouting the Regulations that may otherwise gain a competitive advantage by illegitimately reducing their labour costs. There is no evidence of malpractice in enforcing the wider set of basic employment rights including sick pay and holiday pay and we therefore support the principle of state-led enforcement of these rights as proposed by the 'enforcement of employment rights' consultation issued by the Department for Business, Energy and Industrial Strategy in response to the Taylor Review.

Enhanced state enforcement should only follow a review of existing enforcement of the National Minimum Wage Regulations and 'naming and shaming' policy. The inconsistent enforcement and unclear interpretation of National Minimum Wage Regulations by HMRC officers has caused problems for businesses across sectors, some of whom have been subsequently 'named and shamed' for technical, unintentional payroll errors. Appendix D provides an overview of some of the issues within the Regulations that require clarification.

We believe 'naming and shaming' should target unscrupulous employers and not punish responsible businesses who unwittingly make genuine errors against the regulations and take steps to overturn them. The interpretation of the Regulations should therefore be reviewed, and new guidance published to prevent avoidable breaches and renew business confidence. The Government should consider alongside this reforming the criteria for 'naming and shaming' employers to account for intent when the Regulations are breached.

### **Conclusion**

The LPC should act conservatively when setting the NLW rate for 2019/20, to reflect declines in projections for median earnings and the likely impact of prevailing economic uncertainty on the economy.

## **Appendix A**

### Introduction

Thank you for taking the time to complete the ACS National Living Wage Survey.

ACS is looking to evaluate the impact of the National Living Wage in the convenience sector, including how retailers are responding to the 2018/2019 rates and the possible effects of future increases in wage rates. ACS is also surveying retailers to find out how the sector would respond to a premium wage rate for working hours not guaranteed by an employment contract.

We will use this information to inform ACS' submission to the Low Pay Commission on the wage rates to apply in 2019/20 and our lobbying work with government officials and MPs. All individual responses will be kept strictly confidential.

If you have any questions about the survey please contact Steve Dowling, Public Affairs Executive via email ([steve.dowling@acs.org.uk](mailto:steve.dowling@acs.org.uk)) or telephone (01252 515001).

## Background Information

### 1. Contact information (to be kept confidential)

Name

Company

Postcode

Email Address

### 2. How many stores do you have?

### 3. How many staff do you employ at store level?

## Wage Rates and Auto-Enrolment

4. What is your typical hourly rate for the following staff, which are not on probation or in a supervisory role? (£)

Staff aged 25+	<input type="text"/>
Staff aged 21-24	<input type="text"/>
Staff aged 18-20	<input type="text"/>
Staff aged 16-17	<input type="text"/>
Apprentices	<input type="text"/>

5. How many of your staff have opted out of an auto- enrolment pension?

6. The National Living Wage was introduced in April 2016 requiring all workers aged 25 and over to be paid at least £7.20 an hour, it rose to £7.50 on 1 April 2017 and to £7.83 on 1 April 2018. Has the NLW increased your wage bill?

- Yes, to a large extent
- Yes, to some extent
- Yes, to a small extent
- No, but expect it to do so in the future
- No, and don't expect it to do so
- Don't know



## Business Costs

7. Which, if any, of the following costs to your business concern you?

Please rate the following on a scale of 1 to 10, from 1 (not at all concerned about) to 10 (extremely concerned about)

	1 (not at all concerned)	2	3	4	5	6	7	8	9	10 (extremely concerned)	N/A
Business Rates	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Statutory Sick Pay	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Auto-Enrolment Pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
VAT	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Wage Costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Utility Bills (electricity, gas, waste disposal)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Waste	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Holiday Pay	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Corporation Tax	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
National Insurance Contributions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cost of Rent/ Leasing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Business Banking Costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other (please specify)

8. If you have laid off staff in the past 12 months, what was this due to (select all that apply)

- Increased wage rates
- Increased non-wage employment costs (e.g. NICs, auto-enrolment pensions)
- Increased utility bills
- Increased property costs (including business rates)
- Reduced sales
- Reduced profit margins
- I haven't laid off staff in the past 12 months
- Other (please specify)

9. To what extent do you agree with the following statements?

	Strongly disagree	Tend to disagree	Neither agree nor disagree	Tend to agree	Strongly agree
Wage rates should be frozen for 2019	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Wage rates should be increased by no more than the rate of inflation (forecast at 2.1% for 2019)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Only the youth and development rates should be increased, other wage rates should be frozen	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There should be fewer age specific wage bands below the National Living Wage	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
As the National Living Wage increases I expect my staff to work harder	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
As the National Living Wage increases I expect it to become harder to attract new staff	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

## Responses to NLW Increases

10. The National Living Wage increased on the 1st of April 2018, requiring all workers aged 25+ to be paid at least £7.83 an hour.

Thinking about how you are responding to the April 2018 National Living Wage increase, which if any, of the following actions are you taking?... (Select all that apply)

- Reducing the number of staff you employ
- Reducing the hours you employ staff for
- Reducing staff employment benefits (e.g. overtime, discounts, training)
- Increasing the hours you work
- Reducing the size of your business
- Reducing the amount you invest in your business
- Taking lower profits/absorbing the cost
- Affecting pay structures within your business
- Removing a layer of management
- Increasing product costs
- Automating certain processes
- Reducing the store opening hours
- Actively recruiting younger staff
- None of the above
- Other (please specify)

## Expected Increases in 2019

11. In 2019, the NLW rate is expected to rise to £8.20 an hour. What is the likelihood of the following impacts on your business if this rate is introduced?

	Very unlikely	Somewhat unlikely	Neither likely nor unlikely	Somewhat likely	Very likely
Close your business	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce the number of staff you employ	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce the hours you employ staff for	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce staff employment benefits (e.g. overtime, discounts, training)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase the hours you work	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce the size of your business	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce the amount you invest in your business	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Take lower profits/absorb the cost	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Affect pay structures within your business	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Remove a layer of management	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase product costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Automate certain processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce the store opening hours	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Actively recruit younger staff	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other (please specify)

Expected Increases in 2020

12. In 2020, the NLW rate is expected to rise to £8.61 an hour. What is the likelihood of the following impacts on your business if this rate is introduced?

	Very unlikely	Somewhat unlikely	Neither likely nor unlikely	Somewhat likely	Very likely
Close your business	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce the number of staff you employ	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce the hours you employ staff for	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce staff employment benefits (e.g. overtime, discounts, training)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase the hours you work	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce the size of your business	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce the amount you invest in your business	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Take lower profits/absorb the cost	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Affect pay structures within your business	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Remove a layer of management	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase product costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Automate certain processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduce the store opening hours	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Actively recruit younger staff	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other (please specify)

## Positive Impacts of the NLW

13. Have you noticed any of the following positive impacts as a result of the National Living Wage? (select all that apply)

- Increased worker productivity
- Reduced absenteeism
- Reduced staff turnover
- Increased staff morale
- None of the above
- Other (please specify)

## Compliance

14. How confident are you about compliance with the HMRC National Minimum Wage rules on the following:

	1 (Not at all confident)	2	3	4	5 (Very confident)
Recording working time	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Salary sacrifice arrangements	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Uniform costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Employment contracts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pay reference periods	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Holiday pay	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Statutory payments (sick pay, maternity pay)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Record keeping	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

15. What, if anything would make compliance with the National Living Wage easier?



## Statutory Sick Pay

16. Currently, employers are required to pay Statutory Sick Pay (£89.35 per week) to employees who are off sick between 4 days and 28 weeks.

How many of your employees have taken Statutory Sick Pay over the last 12 months?

17. In total, over the past 12 months how much have you paid your staff in Statutory Sick Pay? (£)

18. Do you currently pay more for hours worked beyond contracted hours, for example staff working on zero hours contracts, overtime or for short notice shifts?

- Yes
- No
- I do not offer any hours beyond contracted hours
- Other (please specify)

19. If a higher minimum wage was introduced to apply for working hours not guaranteed by an employment contract, how would you respond? (Select all that apply)

- Pay the higher minimum wage to maintain flexibility
- Increase the number of hours you guarantee as part of a contract and therefore avoid the higher minimum wage
- Reduce hours overall for workers on these arrangements
- Reduce employment overall
- Move employees to annualised working hours contracts
- Automate/make use of technology
- Don't know
- None of the above
- Other (please specify)

20. Thinking of your workers on flexible employment contracts, how much advance notice of their work/hours schedule is typically provided to them?

- Less than 12 hours,
- Between 12 and 24 hours
- At least 24 hours
- Between 1 and 3 days
- Between 4 and 7 days
- More than 1 week but less than 2,
- Between 2 and four weeks,
- More than 4weeks
- I do not offer flexible employment contracts
- Other (please specify)

21. Thinking of your workers on flexible employment contracts, how variable are their weekly hours?

- They typically work similar hours each week
- Their hours typically fluctuate by a few hours each week
- Their hours typically fluctuate by 4 to 8 hours a week
- Their hours typically fluctuate by more than 8 hours a week
- Their hours are fairly regular week to week but vary seasonally for example regular peaks during the year e.g. Christmas or over the summer months or at other regular predictable periods of high demand
- I do not offer flexible employment contracts
- Other (please specify)

22. Which, if any, of the following statements describes why you use contracts up to 16 hours per week in your business? (Select all that apply)

- To reduce my overall NICs bill
- To provide flexibility to respond to changing staffing demands in the business (i.e. respond to busy trading periods)
- To provide flexibility to respond to changing staffing supply in the business (i.e. cover maternity or sick leave)
- To allow staff to manage their external commitments (i.e. childcare, study)
- I do not use short hour employment contracts
- Other (please specify)

23. To what extent do you agree/disagree with the following statements around flexibility of employment in your business?

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	N/A (I do not offer flexible employment)
I plan shifts to accommodate staff needs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I find it difficult to get staff to work unsociable hours	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Hours in my business are agreed in collaboration with my staff	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It is hard to get staff to change their shifts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

24. If you could recommend one thing to the Low Pay Commission about the National Living Wage what would it be?

25. Do you have any other comments or issues you would like to raise?

## Appendix B

### COLLEAGUE SURVEY 2018



Thank you for agreeing to take part in this survey about your job in a convenience store. This survey should only take 5-10 minutes to complete. All answers you provide will be kept confidential. If you have more than one job, please answer questions only referring to your job in a convenience store.

If you would like to enter a prize draw for one of 20 chances to win a £50 shopping voucher, please provide your name and email address below. Your details will be kept anonymous and used only for the purposes of the prize draw.

Name ..... Email address.....

1. What is your gender?

Male  Female  Prefer not to say

2. What is your age?

Up to 21 years old  21-24 years old  25-44 years old  45-59 years old  60 years old or more

3. What is your nationality? (Please note all answers in this survey will be kept confidential)

.....

4. Which of the following best describes where you work?

Retail store  Retail store on a petrol forecourt

5. Which of the following best describes the location where you work?

Rural area  Suburban area  Urban area  I don't know

6. Which business is your main employer? (e.g. Heron Foods, Blakemore etc)

.....

7. Which of the following best describes your job role?

Sales assistant  Supervisor  Assistant manager  Store manager  Other: .....

8. How long have you been working for your current employer?

Less than 6 months  6-12 months  1-5 years  6-10 years  Over 10 years

9. Overall how satisfied are you with your job?

Very satisfied  Fairly satisfied  Neither satisfied or dissatisfied  Fairly dissatisfied  Very dissatisfied

10. How many guaranteed contracted hours do you work each week?

.....

11. In a typical week, how many additional paid hours do you work outside of your contract (e.g. overtime, extra shifts etc)

.....

12. To what extent do you agree with the following statement:

*"I feel that over the past year I have been given more work to do in the same amount of time"*

Strongly agree  Agree  Neither agree nor disagree  Disagree  Strongly disagree

13. Do you receive Universal Credit?

- Yes     No     I don't know

14. Does receiving Universal Credit affect the amount of hours that you choose to work?

- Yes     No     I don't know     I do not receive Universal Credit

Please give details as to why you chose this response:

.....  
.....

15. Which of the following best describes your current work circumstances?

- This is my only job  
 This is my main job, but I have other employment  
 This is not my main job and I have other employment  
 Other (please specify) .....

16. Which of the following commitments do you have outside of work?  
(Please tick all that apply)

- Looking after my children  
 Looking after my grandchildren  
 Looking after younger siblings / family members  
 Caring for older family members  
 Studying  
 Volunteer work  
 None of the above  
 Other (please specify) .....

17. How would you describe your income in relation to your household earnings?

- I am the only income earner in my household  
 There is more than one earner in my household, I earn the most  
 There is more than one earner in my household, I don't earn the most  
 There is more than one earner in my household, we earn roughly the same

18. Thinking about pensions, which of the following describe your situation? (please tick all that apply)

- I have a workplace pension  
 I opted out of a workplace pension  
 I have my own private pension scheme  
 I do not understand pensions  
 Other (please specify) .....

### TRAVEL TO WORK

19. What is the main way you travel to your place of work?

- Walking  
 Cycling  
 By car or motorbike  
 By public transport  
 Other: .....

20. How long on average does it take you to travel from your home to your workplace? (number of minutes)

.....

21. On average, how much does it cost to travel to work and back per day? (£)

.....

**22. Which of the following best describes how you heard about your current job?**

- A family member / friend told me about the vacancy
- Someone who worked in the store told me about the vacancy
- Saw an advert in the store
- Saw an advert in the newspaper
- Saw an advert online
- Via JobCentre Plus
- Other (please specify) .....

**23. How did you apply for your current job?**

- In-store
- Online application
- Via JobCentre Plus
- Other (please specify) .....

**24. Where do you see yourself working in five years?**

- A more senior role with my current employer
- A more senior role, with a different employer in the same industry
- A similar role with my current employer
- A similar role, with a different employer in the same industry
- A job outside of the sector
- Not working
- Other (please specify) .....

**25. Over the past year have you been promoted or received a pay rise for taking on additional responsibilities at work?**

- Yes
- No
- I don't know

**26. How valuable are the following staff benefits to you?**

	Very valuable	Somewhat valuable	Not very valuable	Not at all valuable	I am not offered this benefit but I would like to receive this	I am not offered this benefit and I am not interested in receiving this
Staff discount	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Free uniform	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Healthcare insurance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Workplace pension	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sunday and bank holiday premium pay	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Paid breaks	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
On the job training	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Are there any other staff benefits that are valuable to you?**

.....



## THE NATIONAL LIVING WAGE

The current rates for the National Living Wage and National Minimum Wage are:

- National Living Wage (workers aged 25 and over) = £7.50
- National Minimum Wage (workers aged 21 to 24) = £7.05
- Youth Development Rate (workers aged 18 to 20) = £5.60
- 16-17 Year Old Rate = £4.05
- Apprentice Rate = £3.50

### 27. To what extent do you agree or disagree with the following statements?

	Strongly agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree	N/A
The National Living Wage benefits people owning and running stores	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The National Living Wage benefits people like me	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I think prices in stores will go up as the National Living Wage increases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I think the number of hours I am given to work will be reduced as the National Living Wage increases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It is fair that there are different wage levels for different age groups	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I think that I will lose current employee benefits, such as in-store discounts, as the National Living Wage increases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I think that as the National Living Wage increases I'll be expected to work harder	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

### 28. How would you rate the training in your workplace in the following areas?

	Very good	Fairly good	Neither good nor poor	Fairly poor	Very poor	My work does not offer this training but I would like it to	My work does not offer this training and I would not be interested
Career development (e.g. management training)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
On the job learning (e.g. tills and stock checks)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Apprenticeships	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Preventing underage sales	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Health and safety	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Food hygiene	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Crime prevention	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Personal safety	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

### 29. If offered to you under your current circumstances, would you be interested in undertaking an apprenticeship?

- Yes
  No
  I am already an apprentice
  I have already completed an apprenticeship

30. In the workplace, roughly how often have you been a victim of the following in the last 12 months?

	Hardly ever	Every few months	Monthly	Weekly	Daily or almost daily	Never
Verbal abuse from customers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Physical violence from customers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

31. On a scale of 1-10, how safe do you feel in your workplace? (Please circle: 1 = not at all safe, 10 = extremely safe)

1      2      3      4      5      6      7      8      9      10

32. Over the past 12 months, what has been the most common trigger for incidents involving aggressive/abusive behaviour from customers? Please rank the following triggers from 1 (most common) to 5 (least common):

*If you have not experienced any aggressive/abusive incidents from customers, please skip this question*

Enforcing an age restricted sales policy	1	2	3	4	5
Feelings of poor customer service	1	2	3	4	5
Queueing	1	2	3	4	5
Refusal to serve drunks	1	2	3	4	5
Challenging shop thieves	1	2	3	4	5

33. How important to you are the following aspects of your job? Please rate the following aspects on a scale of 1-10 (with 10 being extremely important)

Hourly rate or salary	1	2	3	4	5	6	7	8	9	10
Job security	1	2	3	4	5	6	7	8	9	10
Paid leave (paid holidays and paid sick leave)	1	2	3	4	5	6	7	8	9	10
Safety of working environment	1	2	3	4	5	6	7	8	9	10
Working hours	1	2	3	4	5	6	7	8	9	10
Opportunities for progression	1	2	3	4	5	6	7	8	9	10
Supportive colleagues	1	2	3	4	5	6	7	8	9	10
Staff benefits (e.g. discount on products)	1	2	3	4	5	6	7	8	9	10
Training opportunities	1	2	3	4	5	6	7	8	9	10
Convenient location (easy to get to)	1	2	3	4	5	6	7	8	9	10
Flexible working hours	1	2	3	4	5	6	7	8	9	10
Predictable pay	1	2	3	4	5	6	7	8	9	10
Working within the community	1	2	3	4	5	6	7	8	9	10

**Thank you for completing this survey.**

**The address to send completed surveys to is as follows:**

Colleague Survey  
The Association of Convenience Stores  
Federation House  
17 Farnborough St  
Farnborough  
Hampshire  
GU14 8AG

You can also scan and return your survey to [katie.cross@acs.org.uk](mailto:katie.cross@acs.org.uk)



**The deadline to be entered into the prize draw is the 27th February 2018. The winner will be chosen at random from eligible entrants and winners will be notified by the 14th March 2018 by their preferred method of contact. If a winner has not claimed their prize by 28th March 2018, we reserve the right to award the prize to another participant.**

## **Appendix C**

### **National Living Wage Focus Group**

**Minutes of the meeting held on 27<sup>th</sup> March 2018, 12:00 – 13:00**

#### **PURPOSE OF SESSION**

ACS (the Association of Convenience Stores) organised a meeting of convenience retailers to provide evidence to the Low Pay Commission to inform its Autumn Report 2018. The meeting discussed the impact of the National Living Wage and the Taylor Review's proposal for a premium wage rate for non-contracted working hours. Retail delegates ranged from independent single-site operators to multiple-site national retailers.

Clare Chapman, Low Pay Commissioner from an employer background, chaired the roundtable meeting to ensure objectivity. The Low Pay Commission executive also asked retail delegates questions. The ACS executive did not participate in the discussion.

#### **DELEGATES**

Edward Woodall	Association of Convenience Stores
Steve Dowling	Association of Convenience Stores
Katie Cross	Association of Convenience Stores
Fuel Retailer	National
Fuel Retailer	National
Independent Retailer	Oxfordshire
Independent Retailer	Wiltshire
Multiple Retailer	Regional
David Massey	Low Pay Commission Executive
Sarah Morgan	Low Pay Commission Executive
Clare Chapman	Low Pay Commissioner

#### **COMPETITION STATEMENT**

The chairperson opened the meeting by reading the competition statement:

*“UK and European competition law prohibits agreements and concerted practices which have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom.*

*The prohibition covers competitors entering into agreements relating to pricing and terms and conditions of supply and seeking to divide up markets between them. It also extends to sharing commercially sensitive information including but not limited to pricing, terms and conditions of supply, business plans and marketing plans.*

*Trade association meetings are very valuable but do put members in a position where it may be possible to break the law if care is not taken. Sanctions for breach include fines of up to 10% of gross group worldwide turnover. Directors and officers involved in such activities risk unlimited fines plus up to 5 years prison and 15 years disqualification from acting as a director.*

*Should the attendees at this or any other meeting make inappropriate disclosures or seek to enter into prohibited arrangements or discuss inappropriate matters that fall outside ACS' remit as a trade association, the Chairperson will close the meeting.*

## **1. ECONOMIC OUTLOOK**

### *Questions*

The retail delegates were asked how the convenience sector was performing and whether they had noticed any changing trends in consumer confidence or prices. Retailers were also asked how the future for the sector appeared relative to previous years.

### *Independents Response*

The economic outlook for the sector is broadly positive but competition within the sector and across wider retail is intense. The sector is evolving rapidly to adapt to changing consumer demands and independent retailers continue to pride themselves on their community credentials.

Operating costs have continued to rise above inflation but retailers do not feel they can pass on these costs to consumers, except in cases of selected products, as consumers remain highly price sensitive.

### *Multiples Response*

Multiple retailers report that footfall is down across their convenience stores, caused partly by changes to high streets and online retailing. Retailers are still investing in new services and food-to-go counters to increase their margins across store and respond to changing consumer demands.

## **2. IMPACT OF THE NATIONAL LIVING WAGE**

### *Questions*

The Low Pay Commission asked retailers how the National Living Wage is impacting their businesses and how they have responded to the higher wage rates. They also asked whether the National Living Wage was causing any positive outcomes for retailers and if retailers were using the youth rates on the wage rates framework.

### *Independents Response*

The independent retailers emphasised their desire to reward staff as much as possible. However, the increasing National Living Wage and costs of statutory sick pay are particularly causing retailers to review their employment structures.

The National Living Wage is increasing other operating costs for retailers, which are calculated from the headline rate. For example, retailers are experiencing higher business insurance bills, auto-enrolment pension costs and HR agency costs. Independent retailers typically do not have in-house HR expertise so are increasingly outsourcing HR due to the complexity of employment law.

Retailers agreed that the youth rates framework could be simplified. Rates for 16-17 and 18-24 were suggested as appropriate before the National Living Wage.

### *Multiples Response*

Retailers responded to the introduction of the National Living Wage by making one-off cuts to operating costs, for example removing mystery shopper programmes, and have streamlined benefits packages as far as they can. For multiple retailers, reducing working hours has been the biggest result of increasing wage costs and some retailers have felt

forced to adopt lone working policies despite the safety opportunity cost. Retailers are also negotiating harder with suppliers to cut their wholesale costs.

Multiple retailers are now re-budgeting and revising down their profit forecasts based on the new National Living Wage rates with staffing a key cost to the business. Most retailers are not using the youth rates because they do not want to discriminate against younger workers who are often doing the same job with the same tasks as older colleagues.

Retailers are not experiencing positive outcomes from rising wage rates such as higher staff retention, skills training, staff morale, productivity or reduced absenteeism. Retailers are competing for staff with larger retail businesses and sectors such as hospitality and cleaning which can often afford higher rates of pay due to their business size.

### **3. EMPLOYMENT INTENTIONS**

#### *Questions*

Retailers were asked how they would respond to the £7.83 National Living Wage rate and a National Living Wage rate set that reaches 60% of median earnings in 2020. Retailers were asked how technological developments could impact employment in the sector and how they forecast the tasks performed by employees and employment numbers may change in the sector.

#### *Independents Response*

Retailers are reducing working hours in the business and removing middle management or supervisory positions to control wage bills. Independent retailers are also trying to provide job enrichment for staff by training on management tasks. Some independent retailers said they have planned for the 2018 National Living Wage but have not fully considered how they can absorb future rises in wage costs.

Independent retailers tend to occupy smaller premises in the sector, typically under 1,000 sq ft, and are not suitable for self-service tills. Self-service tills are also not compatible with retailers who operate 'dementia friendly' stores and retailers do not want to 'design out' the personal service which attracts customers to local shops.

#### *Multiples Response*

Employers continue to consider how to improve productivity in the business but there is limited suitable and cost-effective technology available to facilitate productivity savings.

Retailers have considered installing self-service tills to reduce labour costs, but these are not suitable for all stores. For example, self-service tills can significantly increase theft and customers often prefer personal service from an employee. Some retailers are investing in electronic shelf edge labels to reduce labour costs.

### **4. TAYLOR REVIEW – PREMIUM RATE**

#### *Questions*

The Low Pay Commission asked retailers about their use of zero-hour contracts and the impact of a premium wage rate for working hours not guaranteed by an employment contract. Retailers were also asked about the balance between retailers and employees on flexibility in employment.

#### *Independents Response*

Most retailers do not use zero-hour contracts, although some do to reduce sick pay costs and maintain a flexible labour supply. It was mentioned that older staff tend to be more willing to accept additional shifts and adopt flexible working patterns.

Retailers using zero-hour contracts would likely introduce contracted working hours to avoid paying a premium wage rate for non-contracted working hours.

#### *Multiples Response*

No multiple retailers present use zero-hour contracts with fuel retailers discouraging their use by franchisees. It was raised that some staff do not want to work extra hours, but others such as students value flexible working hours and the opportunity to accept extra shifts.

Multiple retailers said employees have the right to request flexible working and are not compelled to accept shifts when additional work is offered. Most multiple retailers run a fortnightly or monthly rota with staff on short hour contracts.

Introducing a premium wage rate for non-contacted working hours would have a highly negative impact on the sector. The weekly staffing requirement for a convenience store changes in line with daily footfall and seasonal demands, meaning it would be extremely difficult to avoid paying the premium rate during temporary rises in labour demand. Retailers would also have to account for 'unforeseen hour coverage' in their business planning, for example to cover sickness absence.

Retailers highlighted that introducing the premium wage rate could perversely cause people to prefer zero-hour contracts to contracts which reflect their true working hours so that they can be paid at the premium rate.

## **5. COMPLIANCE AND ENFORCEMENT**

### *Questions*

Retailers were asked about their experiences complying with the National Minimum Wage regulations and the wage rates framework.

### *Independents Response*

Independent retailers welcomed the 'naming and shaming' approach to NMW enforcement and called for a simplification of the wage rates framework to strengthen compliance amongst business. The independent retailers present have not had any HMRC enforcement activity.

### *Multiples Response*

Multiple retailers called for a clearer articulation of why employers have been named and shamed on a case-by-case basis. This would help retailers to ensure their payroll practices remain compliant with the regulations. Retailers asked for clarity from government on what must be deducted from pay for National Minimum Wage calculation purposes, such as pensions or uniform costs. Some retailers also asked for a summary explanation of why the wage rates are increasing at different rates to accompany the LPC's final reports.

## Appendix D

Subject	Relevant Legislation	Analysis
Salary Sacrifice	National Minimum Wage Regulations 2015, regulation 9	<p>Lower-paid workers cannot benefit from employer salary sacrifice schemes as the regulations dictate these costs must be deducted from pay for NMW calculations. This means only higher paid workers can benefit from the NI savings associated with a lower headline rate of pay when they opt in to a salary sacrifice arrangement. This is despite the potential for lower-paid workers to benefit most from salary sacrifice schemes and reduced NI costs due to their lower headline pay.</p> <p>As a result, the regulations disincentivise employers from adopting salary sacrifice schemes, for example providing childcare vouchers, due to the administrative difficulties they may cause with ensuring NMW compliance. The regulations can also prevent workers from accessing the full range of their employer's salary sacrifice schemes where the cumulative impact of these schemes may be to reduce pay too far for NMW calculation purposes.</p>
Uniforms	National Minimum Wage Regulations 2015, regulations 12 & 13	<p>When considering payments to be deducted from pay for NMW calculation purposes, the regulations carry a distinction between expenses incurred for a colleague to carry out a job for their employer and expenses incurred to secure the job with their employer. The application of this distinction for uniform expenses is unclear and not clearly split between 'required' and 'voluntary' expenses.</p> <p>For example, it is not clear whether uniform costs should be deducted from pay for NMW calculations and how this should be recorded in the following examples:</p> <ul style="list-style-type: none"> <li>- Where an employment contract specifies a colleague should wear black shoes, whether they may or may not be reasonably expected to already own black shoes</li> <li>- Where an employment contract specifies a colleague should wear 'smart' clothing i.e. smart trousers</li> <li>- Where a worker has more than one job and uses a) existing uniform from another job b) uses new uniform in the other job</li> </ul> <p>Employers would value clear guidance on how to attribute the costs of uniform and reasonably reimburse colleagues for uniform costs when required, for example;</p> <ul style="list-style-type: none"> <li>- whether employers can set a reasonable limit on expenditure incurred they will reimburse</li> <li>- whether they can establish a recommended supplier list for uniform items with or without employer labelling, and</li> <li>- what the process is when a colleague purchases uniform at an unreasonable cost.</li> </ul> <p>It is also unclear how employers can proceed when a colleague cannot provide evidence of their uniform expenditure and how HMRC will view cases where workers do not inform employers that they have incurred expenditure on uniform costs.</p>



		<p>Guidance could also usefully clarify how uniform costs should be practically deducted for payroll procedures. For example, if the uniform costs must be deducted from pay for NMW calculations in the pay reference period they are purchased, this could bring average pay per hour below the NMW if the colleague works a small number of hours in that pay reference period. Employers would welcome clarification whether uniform costs in this example could be reimbursed in the next appropriate pay reference period.</p>
Working Time	National Minimum Wage Regulations 2015, regulations 30 to 35	<p>The regulations state that overall working hours in a pay reference period for time workers is calculated by adding together time spent working and time treated as worked, including training times. This is complicated by the absence of a definition of work.</p> <p>For example, the regulations do not state whether working time should be extended beyond core working hours when a colleague arrives early or leaves late from their shift, whether actively performing their work duties or being at the employer's premises. The regulations also do not state whether time spent changing into work uniform, either on or off the premises, should be counted as time spent working and, if so, how much time employers should designate to uniform changing times.</p> <p>Clarification on the above may also bring forward queries about how employers should record working time. For example, whether employers should record colleague working hours or use a signing in/signing out system filled out directly by colleagues. The regulations do not state whether this should include time spent working which has not been sanctioned by the employer, for example starting early before a given shift or finishing late after the end of a shift.</p>
Time Off In Lieu (TOIL)	N/A	<p>The regulations do not recognise the TOIL concept, whereby an employer gives a colleague time off work instead of payment for overtime hours previously worked. This prevents lower-paid workers from benefitting from TOIL arrangements which some colleagues prefer to additional pay.</p> <p>Not recognising TOIL in the regulations creates a potential for retailers to be caught out when a colleague works extra hours during one pay reference period but takes TOIL in a different pay reference period. This makes it difficult for retailers to offer TOIL to colleagues, particularly for lower-paid staff who typically are on shorter pay reference periods.</p>