

December 2024

Business and Trade Committee
House of Commons
London
SW1A 0AA

Care England Response to the [Business and Trade Committee Inquiry into Make Work Pay: Employment Rights Bill](#)

Dear The Business and Trade Committee,

Care England, the leading voice of adult social care providers in England, is a non-for-profit organisation representing care providers. As a representative of care providers and the social care sector, this response focuses on highlighting the potential effects of the Employment Rights Bill on the sustainability of care providers' businesses.

The majority of independent social care services are delivered to individuals on publicly funded packages. However, over successive years, public funding has failed to keep pace with the rising costs of care. Time and again, government policies have introduced significant additional costs to the sector without providing the necessary support to offset them. This leaves providers with no choice but to absorb these costs, rely on cross-subsidisation, or scale back services. Without meaningful intervention, the sector is being pushed into an unsustainable and precarious position. Research shows that many providers are now considering reducing capacity or exiting the market entirely. If workforce reforms are introduced without proper funding, they will only accelerate this trend. The government and NHS will soon face a critical shortage of capacity to meet rising demand, undermining the Chancellor's plans for increased NHS funding and its intended outcomes.

It is essential that every new government initiative recognises this reality: as the principal funder of social care, the government must fully cover any additional costs its policies impose on the sector. Without this commitment, the vision for integration between health and social care will fail, leaving both systems unable to deliver the outcomes the public needs.

Social care has consistently reported workforce-related costs as a top cost pressure. In 2023, 81% of providers identified it as such in our annual Sector Pulse Check report. With the care workforce growing to 1.705m filled posts¹ in 2024 – even larger than the NHS's 1.5m² - any changes to staff procedures or terms and conditions, as outlined in the Employment Rights Bill, would come with high cost and create financial pressure on care providers to implement.

The social care sector needs to recruit and retain as many care workers as possible, in order to fill the high rates of existing vacancies but also to increase their level of staff which is needed to keep up with the growing demand on services due to the ageing population.³ International recruitment was used as a prop to fill vacancies, after years of the social care sector's efforts in making the profession more attractive to domestic workers⁴, but recent migration changes, including a ban on dependents for care workers⁵ – one that was not extended to NHS workers - have led to a severing of this lifeline.

¹ Skills for Care, [The State of the Adult Social Care Sector and Workforce in England](#), 2024.

² NHS, [NHS Workforce Statistics](#), January 2024

³ Skills for Care, [The State of the Adult Social Care Sector and Workforce in England](#), 2024.

⁴ Sky News, ['International recruitment was our only hope': The plight of the care sector and the row over visas](#), 2023

⁵ Nursing Times, [New visa rules dubbed 'cruel' and a risk to health and care](#), 2023.

In order to ease recruitment and retention struggles, and strengthen the number of domestic workers in permanent positions, providers have been calling for years for a variety of measures to be implemented, including to increase the minimum wage for care workers, to give them terms and conditions more closely aligned to the NHS, and to give them greater respect for the profession. But calls for support to fulfil this have largely been ignored and little measurable change has been demonstrated by Government.

Care England advocates for strengthening the workforce, and supports the Employment Rights Bill to do this; however, we warn that without adequate funding and support for care providers to implement it, the Bill will have unintended consequences.

Day-One Rights

The introduction of day-one rights, although positive for worker protection, will significantly increase administrative complexity and costs for providers. Many providers will have to lengthen their recruitment process and they may further extend probationary periods to evaluate employee suitability under the new requirements, balancing compliance with financial constraints. Combined, these changes will only lead to further burden on a sector already stretched thin.

Flexible Working and Zero-Hour Contracts

Flexible working arrangements, while beneficial for employee well-being, pose logistical challenges for care providers, who must maintain 24/7 service coverage. Already reliant on costly agency and international recruitment to fill essential posts, alongside implementation of the bill, providers will struggle to balance staff flexibility with operational demands, leading to potential disruptions in service delivery.

Further, the measures introduced relating to zero-hour contracts will create further immense administrative burden on providers, in a sector where many care workers already prefer the flexibility associated with zero-hour contracts. Guaranteeing hours, or limiting zero hour contracts, could undermine flexibility to workers, which is a core reason why many care workers prefer agency roles over permanent positions, especially as ‘the CIPD suggested that zero hours contract don’t necessarily lead to insecure work, and if used responsibly, can offer genuine flexibility for both employer and employee’. The research also highlighted that zero-hours contracts provide employment opportunities for those who might otherwise be unable to work because they can’t commit to more regular pre-determined working hours, such as students or those with caring responsibilities⁶. Restricting them would only further press care workers out of permanent positions and into costly agencies, further burdening providers to recruit and retain more staff to replace them.

Agency Staff

The Government must to clarify who is responsible for all these new employment rights when they relate to staff who are secured to fill shifts through agencies. Care England believes that agencies should be responsible for all these employment rights and there needs to be due consideration to what impact this might have on the availability of agency staff. The reason many staff decide to work with agencies is because of the flexibility this gives them in their work patterns, and some of the elements of this new bill could deter people from working through agencies and this may lead to significant gaps in staffing in social care and the NHS.

Wages and Terms of Employment

⁶ House of Commons, [Zero Hours Contracts](#), October 2024.

The Bill's provisions on improving wages and employment terms could enhance staff retention in principle. However, without corresponding funding increases, these changes could lead to financial strain on providers, limiting their capacity to expand or sustain services.

Our 2023 survey found that increases in National Minimum Wage (NMW) were cited as a top workforce cost pressure by 87% of providers.⁷ This is largely because local authority funding does not increase by equivocal amounts, 79% of providers reported that there was a lack of sufficient uplifts to cover increases in National Minimum Wage in 2023⁸, leaving them to find a way to cover the cost.

In order to cope with the financial distress, providers may face difficult decisions, such as reducing pay differentials. Therefore, although all care workers may be paid more, there will be an even further compression of pay differentials, potentially leaving care workers of higher seniority to feel less valued, compromising staff retention.

In addition, currently the competition faced with other sectors, which typically pay higher than NMW will place further strain on the sector's ability to attract staff, as bringing workers into the social care sector becomes a much harder proposition when workers can be paid similar rates for work elsewhere such as hospitality or retail. Moreover, the shortfall of social care pay - in comparison to working in the NHS - further compounds the issue, as the average carer earns £7,617 less, on average, than their NHS counterparts, illustrating a staggering 35.6% pay gap⁹. This highlights the importance of a social care specific pay agreement, that is on par with the NHS, and is fully-funded in order to not further financially distress providers.

Business Sustainability

The Bill's provisions, particularly in accompaniment to the recent increases to the National Minimum Wage and Employers' National Insurance Contributions announced in the Autumn 2024 Budget, add to the financial burdens already faced by care providers. Therefore, without the proper support, measures may result in reduced hiring or layoffs, undermining the stability of the workforce and subsequently even further turmoil for providers and the sector. To cope with cost pressures in 2023, 43% of providers closed parts of their services or handed back contracts to local authorities, 19% made staff redundancies, 41% curbed investment – just to name a few. This is in addition to the 2 in 5 providers reported to have considered exiting the market completely¹⁰. These measures will only grow in numbers, if providers are put into a position where they are forced to implement new procedures without any support to back them.

Therefore, government must adopt a balanced approach, ensuring that the benefits of improved worker protections are matched by adequate financial and operational support for care providers. Only through such measures can the Bill achieve its objectives without compromising the vital services on which millions of people depend.

Without proper support, the Employment Rights Bill risks exacerbating the financial and operational challenges faced by care providers, compromising the quality of care for the country's most vulnerable people.

⁷ Care England and Hft, [Sector Pulse Check](#), 2023.

⁸ Care England and Hft, [Sector Pulse Check](#), 2023.

⁹ Community Integrated Care, *Unfair To Care*, March 2024

¹⁰ Care England and Hft, [Sector Pulse Check](#), 2023.