

The Secretary  
The Low Pay Commission  
6<sup>th</sup> Floor  
Victoria House  
Southampton Row  
London  
WC1B 4AD

22 September 2011

Dear Sirs

**Consultation on the National Minimum Wage**

Thank you for the opportunity to respond to the above consultation.

UKHCA is the professional association of homecare providers from the independent, voluntary, not-for-profit and statutory sectors. The Association represents over 1,900 member organisations across the United Kingdom.

UKHCA continues to support the work of the Low Pay Commission and the principle of a National Minimum Wage (NMW). We commend the Commission for consistently drawing Government's attention, most recently in the 2011 report, to the interrelationship between public sector commissioning and social care workforce pay, and recommending that the commissioning policies of local authorities and the NHS should reflect the actual costs of care, including the NMW.

As we said in our response to last year's consultation, we were delighted that Government accepted this recommendation. We pressed Government for details of its plans to ensure that commissioners in both local authorities and the NHS recognise the true costs of service provision and advised that we had not received a considered response from Government. This still remains the case, and we see no evidence to suggest that Government is moving to implement the Commission's recommendation.

We also said last year said that we believed that focus of Government had become the need to make economic efficiencies. Indeed, our general impression was that Department of Health regards the matter of wages as being one solely for employers, and which Government will not become involved. We see no reason to change our opinion.

Last year, we mentioned that the Welsh Assembly Government had brought relevant parties together to agree a way forward for the care sector in Wales, and that a Memorandum of Understanding had been signed in February 2009, to which UKHCA is a signatory. The memorandum set out some principles for a way forward, recognising the pressures and obligations on all parties.<sup>1</sup>

Unfortunately, the Memorandum of Understanding is now under considerable stress following disputes over care fees between councils and providers. For example, Pembrokeshire Council was forced to raise the fees it paid care home providers after four care homes won a judicial review against its decision to freeze fees in 2010-11, and at least two other councils in Wales are being challenged by providers on decisions concerning fees with applications for judicial reviews.<sup>2</sup>

As in previous years, the focus of our evidence is on the current state of the homecare sector in the UK. Please therefore note that we are not responding to the questions on young people, apprentices and interns, simplification of National Minimum Wage Regulations and whether business could be given greater clarity on future levels of the minimum wage, as we have insufficient evidence to make a meaningful response.

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<sup>1</sup> WLGA, ADSS Cymru, UKHCA, RNHA, Care Forum Wales. Memorandum of Understanding, Securing Strong Partnerships in Care (2009), paragraph 27. [www.wlga.gov.uk/english/press-releases/securing-strong-partnerships-in-care/](http://www.wlga.gov.uk/english/press-releases/securing-strong-partnerships-in-care/).

<sup>2</sup> Welsh government bids to cool social care fee row, Community Care, 22 June 2011. <http://www.communitycare.co.uk/Articles/2011/06/22/117058/Welsh-government-bids-to-cool-social-care-fee-row.htm>.

## Public sector finances

A survey by the Association of Directors of Adult Social Services (ADASS) found that adult social care departments in England have made cuts to their budgets of nearly £1 billion in 2011/12.<sup>3</sup> The £1 billion savings have come despite the additional £648 million for adult care through the NHS this year. The findings also show that councils expect to make 70% of the savings through efficiencies and service redesign, including shifting spending into prevention and reablement services, integrating services with the NHS and working with independent providers.

However, a quarter of the reductions are expected to come from the frontline.<sup>4</sup> In 13% of councils these would be at least met by increasing the Fair Access to Care Services (FACS) eligibility criteria. 82% of councils have at least a "substantial" threshold for care, with six of these having a "critical" threshold. 61% of councils have also frozen their fees to the independent sector, 18% have reduced fees, 18% report an increase in fees and 3% are still awaiting a final decision.<sup>5</sup>

The cuts to adult social care are set to get worse next year according to ADASS. A straw poll of adult social services directors in England revealed that cuts to adult care next year would be slightly more than the £1 billion taken out of budgets this year.<sup>6</sup>

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<sup>3</sup> ADASS Budget Survey 2011, May 2011.

[http://www.adass.org.uk/index.php?option=com\\_content&view=article&id=285&Itemid=190](http://www.adass.org.uk/index.php?option=com_content&view=article&id=285&Itemid=190)

<sup>4</sup> Councils to make £1bn cuts to adult care this year, Community Care, 18 April 2011.

<http://www.communitycare.co.uk/Articles/2011/04/18/116702/Councils-to-make-1631bn-cuts-to-adult-care-this-year.htm>

<sup>5</sup> ADASS Budget Survey 2011, May 2011.

[http://www.adass.org.uk/index.php?option=com\\_content&view=article&id=285&Itemid=190](http://www.adass.org.uk/index.php?option=com_content&view=article&id=285&Itemid=190)

<sup>6</sup> Cuts to adult social care to worsen next year, warns Adass, Community Care, 7 July 2011.

<http://www.communitycare.co.uk/Articles/2011/07/07/117136/Cuts-to-adult-social-care-to-worsen-next-year-warns.htm>

## **UKHCA's commissioning survey**

In autumn 2011, UKHCA undertook a study of the commissioning practices of local authorities to understand the impact of local authority commissioning decisions in the context of stringent public spending cuts.<sup>7</sup> The survey was an online exercise completed by member organisations of UKHCA.<sup>8</sup>

Findings show that the dignity, quality and safety of elderly and disabled service users could be placed at risk sector from the cut backs that councils are making. For example, 82% of councils and health and social care trusts were reducing how much care they would pay for, and reducing the number of homecare visits people receive. 76% were reducing the number of visits that people receive by careworkers, with the average visit length (calculated from 50 case studies in the survey) falling by around 10 minutes, from 48 to 38 minutes.

The survey also found that 58% of councils have cut the price they pay independent and voluntary sector providers for homecare. Half have removed workers' unsocial hours' premium and around a fifth were reducing payments for workers' travel time between appointments.

We heard repeatedly about careworkers leaving the sector and a difficulty of recruiting because of pay rates providers could offer. Providers cited short visits with long travel time as causing difficulties in staff retention. We heard from at least 4 providers (3%), who had already cut wages in order to remain in business, and 12 providers (8%) considering ceasing trading with councils or stopping provision in the local area.

The Commission will appreciate that, given the majority of homecare services generate income solely on "contact time" (the time spent in the service user's home), shortened visit times have a direct impact on the financial viability of homecare services, and employers ability to set competitive terms and conditions for their workforce. The majority of state-funded purchase of homecare services means that the homecare sector

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<sup>7</sup> United Kingdom Homecare Association Commissioning Survey 2011.

<sup>8</sup> In total, 158 providers responded to the survey, supplying 206 individual reports about 111 different councils or trusts.

does not operate in a free market. Local authorities exercise a near monopsony purchasing power in their local area. We continue to see examples of new and retendered contracts where maximum process are set, and where councils also attempt to constrain prices in contracts between providers and individual service users in receipt of state funded cash benefits (direct payments).

### **Vulnerability to public sector purchasing**

In our evidence for the Low Pay Commission's 2009, 2010 and 2011 reports, we highlighted evidence that independent homecare providers and their staff are highly vulnerable to the purchasing decisions of the public sector. For example, Laing and Buisson's figures for 2009 show that 55% of independent domiciliary care agencies delivered 80% or more of their hours for councils, and one in eight only have councils as hourly paying clients.<sup>9</sup>

Even before the current economic downturn, providers were already coming under increasing pressure from local authority commissioners exercised by efficiency savings and reducing costs of services. Local authorities' annual contract price reviews barely recognised homecare providers' additional statutory costs.

Other "cost saving" mechanisms used by local authority commissioners include only paying for contact time – sometimes only by the minute - or using short care episodes of 15 minutes for personal care. Our commissioning survey found evidence that visits of 15 minutes were increasing rapidly despite being widely discredited as poor practice. This will inevitable impact on the wellbeing and job satisfaction of the workforce, and satisfaction with care received. These cost saving approaches also limit the ability of the workforce to adopt a more proactive and enabling role.

The shortening of visit lengths in homecare is supported by an analysis of visit lengths undertaken for 35 local authorities during one week in September 2010 by the private company CM2000. Comparison with similar data from September 2009 shows an increase in both 15-minute and 30-minute visits and a decrease in 60-minute ones. The analysis also found

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<sup>9</sup> Domiciliary Care UK Market Report 2010, Laing & Buisson 2010, p8. The report is not available to download.

that 19% of a homecare worker's time was spent travelling compared with 17 per cent in 2009.<sup>10</sup>

There is a pattern emerging of e-tendering processes, employing a "Dutch auction" approach, where care contracts are won by the lowest price bid submitted in real time. E-auctions are a particular problem for small and medium enterprise homecare providers who may feel that their survival is based entirely on the public sector purchaser and that they are effectively forced into winning the contract at any price however low. This then impacts on pay levels and exacerbates recruitment and retention difficulties. The Scottish Parliament's Local Government and Communities Committee investigated E-auctions in June 2009 and now no council in Scotland uses E-auctions for social care.

### **Average unit costs**

These reports correlate with central government returns made by local authorities in England. UKHCA's analysis of personal social services expenditure returns found that in 2009-10 the average unit cost of "in house" local authority homecare had increased to £30.85, while the average unit cost of homecare to authorities from using independent providers was £15.20, i.e. more than double the cost of services purchased from the private and voluntary sector.<sup>11</sup>

Laing & Buisson's analysis of the same data shows that the difference in cost has increased since 2007/08 when it was 180% and 2005 when it was 157%. The changes they believe may be attributed to the reduction in the in-house workload not being matched by a reduction in in-house overheads. But also local authorities' in-house homecare staff generally have better terms and conditions than those engaged by private sector homecare

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<sup>10</sup> Domiciliary Care UK Market Report 2011, Laing & Buisson, 2011, p35. The report is not available to download from the web.

<sup>11</sup> Personal Social Services Expenditure and Unit Costs 2009-2010, NHS Health and Social Care Information Centre (2011). See summary bulletin, p.17 and Table 6.1.  
[http://www.ic.nhs.uk/webfiles/publications/009\\_Social\\_Care/pss0910expfinal/Personal\\_Social\\_Services\\_Expenditure\\_Report%202009-10\\_v2.pdf](http://www.ic.nhs.uk/webfiles/publications/009_Social_Care/pss0910expfinal/Personal_Social_Services_Expenditure_Report%202009-10_v2.pdf)

businesses and most voluntary sector ones. These differences are more marked in the conditions and enhancements than in basic wages.<sup>12</sup>

Unfortunately, there is no equivalent unit cost data for the three other UK administrations. Carmarthenshire County Council in Wales has, however, developed a set of unit costs. This shows that the cost of in-house domiciliary care is 49% higher than comparative quality services run by the independent sector (£21.91 per hour compared with £14.71).<sup>13</sup>

### **Implications for the workforce**

The continued downward pressure on costs, which can only get more severe as councils attempt to grapple with cuts of £1billion in their adult social care budgets, is clearly not sustainable, given the demands being placed on the social care workforce and the need to retain and adequately reward care staff for the vital work they do. It also limits providers' ability to pass on higher wage costs for care workers undergoing training as they are only able to derive fees for billing for services provided.

The result is a workforce which is typically pay sensitive, characterised by an undesirable "churn" as workers change employers for relatively small increases. This is costly in terms of the recruitment and induction costs for care staff, and fails to provide the continuity of care which is so valued by service users. It also prejudices the completion of the Health and Social Care Diplomas on the new Qualifications and Credit Framework (QCF), thereby reducing the effectiveness of training funding.

Moreover, hourly wage rates achievable through local authority commissioning are not sufficient to attract adequate numbers of indigenous workers and the migrant workforce has become a significant part of the sector. Labour Force Survey data show that the proportion of foreign born

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<sup>12</sup> Domiciliary Care UK Market Report 2011, Laing & Buisson, 2011, p48. The report is not available to download from the web.

<sup>13</sup> Better Support at Lower Cost: Improving efficiency and effectiveness in services for older people in Wales, SSIA Improving Social Care in Wales, April 2011, P58.  
[http://www.ssiacymru.org.uk/media/pdf/b/1/8490\\_20\\_E2\\_80\\_A2\\_20\\_28ENGLISH\\_29\\_20WEB.pdf](http://www.ssiacymru.org.uk/media/pdf/b/1/8490_20_E2_80_A2_20_28ENGLISH_29_20WEB.pdf)

workers has more than doubled over the last decade. In London, more than 60% of all care workers are foreign born.<sup>14</sup>

A survey of social care employers employing migrant workers found that the overriding reason for the recruitment of migrants was the difficulty of finding UK born workers. Recruitment difficulties were attributed by employers to low wages and poor working conditions in the sector and associated with low rates paid by local authorities sub-contracting care provision.<sup>15</sup>

The economic downturn may, however, increase recruitment into the care sector and also reduce the incentives for people to leave it. There is some evidence to support this. According to National Minimum Data Set for Social Care (NMDS-SC) data, the sector-wide workforce data collection system for England operated by Skills for Care, the turnover rate among care workers fell from 24.5% in April 2007 to 21.4% in April 2010.<sup>16</sup>

This, however, is not comparing like-with-like because of the inclusion of local authority data. If this is separated out a different picture is revealed: turnover figures for the private sector have fallen from 27.4% in April 2007 to 23.9% in April 2010, but have risen in the voluntary sector from 17.1% to 18.1%. At 20.9%, domiciliary care has the highest turnover rate in the care sector. The corresponding figures for care homes only and care homes with nursing are 16.1% and 18.8%, respectively.<sup>17</sup>

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<sup>14</sup> Cited in A. Cangiano , I. Shutes, S. Spencer and G. Leeson, Migrant Care Workers in Ageing Societies: Research Findings in the United Kingdom, Executive Summary, COMPAS (ESRC Centre on Migration, Policy and Society), University of Oxford (2009), p.3. [www.compas.ox.ac.uk/news/latest/article/date/2009/06/report-launched-migrant-care-workers-in-ageing-societies/](http://www.compas.ox.ac.uk/news/latest/article/date/2009/06/report-launched-migrant-care-workers-in-ageing-societies/)

<sup>15</sup> A. Cangiano , I. Shutes, S. Spencer and G. Leeson, Migrant Care Workers in Ageing Societies: Research Findings in the United Kingdom, Executive Summary, COMPAS (ESRC Centre on Migration, Policy and Society), University of Oxford (2009), p.3. [www.compas.ox.ac.uk/news/latest/article/date/2009/06/report-launched-migrant-care-workers-in-ageing-societies/](http://www.compas.ox.ac.uk/news/latest/article/date/2009/06/report-launched-migrant-care-workers-in-ageing-societies/)

<sup>16</sup> <sup>16</sup> nm ds-sc briefing, issue 12 – vacancy and turnover, Skills for Care, p.2. <https://www.nm ds-sc-online.org.uk/Get.aspx?id=406237>

<sup>17</sup> nm ds-sc briefing, issue 12 – vacancy and turnover, Skills for Care, p.2-3. <https://www.nm ds-sc-online.org.uk/Get.aspx?id=406237>

According to Laing & Buisson, the presence of East European workers has alleviated much of the care worker shortages of the previous few years, at least in the South East. This, however, has been mostly felt in the care home sector, but some migrant workers are in homecare, and some English care home workers may have been displaced into homecare.<sup>18</sup>

### **A low pay sector**

A major reason for low pay in the sector is that local authorities act as a near monopsony (a single buyer) for the purchase of homecare in their local area. Because of this they can exert a downward pressure on independent providers' costs. As we stated above, over half of independent homecare providers are dependent on the statutory sector for 80% or more of their business.

Nevertheless, NMDS-SC data show that the medium gross hourly pay rates for a care worker in England for the last 12 months to June 2011 was £6.50, i.e. £0.57 above the NMW from 1 October 2010 and £0.15 above the NMW from 1 October 2011.<sup>19</sup>

These headline pay rates mask differences between regions, but all were above the NMW, including the NMW from 1 October 2011. The region with the lowest rate of £6.18 per hour was the North East, followed by the North West (£6.30 per hour). By contrast, London has the highest rate at £7.00 per hour.

Median pay rates are higher in domiciliary care settings than in other care settings. The medium hourly pay rate for domiciliary care workers for the last 12 months to June 2011 was £7.00.<sup>20</sup> Again, these rates vary by region. The North East at £6.50 per hour has the lowest domiciliary care pay rate and London at £7.24 the highest rate.

Of the three main sectors in domiciliary care (private, voluntary and statutory) the private sector pays the lowest rates of pay. NMDS-SC data

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<sup>18</sup> Domiciliary Care UK Market Report 2011, Laing & Buisson, 2011, p48. The report is not available to download from the web.

<sup>19</sup> Analysis of National Minimum Data Set for Social Care (NMDS-SC), Skills for Care. <http://www.nmds-sc-online.org.uk/research/researchdocs.aspx?id=9>

to June 2011 show that the median hourly pay rate for a domiciliary care worker working in the private sector in England was £6.95. This compares with £8.01 for those working for a local authority and £7.00 for those working in the voluntary sector. The East Midlands has the lowest hourly rates for private sector domiciliary care workers at £6.50, followed by the North East (£6.56). London at £7.25 has the highest hourly rate.

NMDS-SC data is only available for gross hourly salaries. These may not reflect any salary enhancements for 15-minute and 30-minute visits or for travel time. Consequently, NMDS-SC medium gross hourly pay rates for care workers may underestimate homecare workers rates of pay. Skills for Care would be best placed to advise the Low Pay Commission on this but our impression is that there is a marginal under-reporting of the average hourly rate.

The data on the homecare workforce is much less available elsewhere in the UK and where it exists, is likely to have dated. But, we believe that pay rates in Scotland, Wales and Northern Ireland are likely to follow a similar pattern to that in England with rates of pay above the NMW, but varying by region and lower in some regions than others. The Welsh Assembly Government is planning to put in place arrangements, through the regulatory system, for the gathering of information on the social care workforce.<sup>21</sup>

### **Self-Directed Support**

UKHCA supports the delivery of more personalised health and social care services across the UK. UKHCA was a signatory to Putting People First (a concordat between central government, English local authorities and the social care sector in England), and more recently the new sector-wide agreement transforming adult social care in England, Think Local, Act Personal.<sup>22</sup>

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<sup>21</sup> Sustainable Social Services for Wales: A Framework for Action, Welsh Assembly Government (2011), p.26. <http://wales.gov.uk/docs/dhss/publications/110216frameworken.pdf>

<sup>22</sup> *Think Local, Act Personal*, January 2011  
[http://www.thinklocalactpersonal.org.uk/\\_library/Resources/Personalisation/TLAP/THINK\\_LOCAL\\_ACT\\_PERSONAL\\_5\\_4\\_11.pdf](http://www.thinklocalactpersonal.org.uk/_library/Resources/Personalisation/TLAP/THINK_LOCAL_ACT_PERSONAL_5_4_11.pdf)

However, it is important to recognise that there are significant risks and threats for home care providers from self-directed support. Until now, these have been little acknowledged but could potentially have important unintended consequences for the sector. At its most extreme, it "could spell large-scale destruction of the sector."<sup>23</sup>

Organisations that have been largely dependent on local authority purchasing may, within a relatively short period of time, lose contracts across the board, leading to a rapid reduction in guaranteed volume and therefore income. As stated above, many homecare providers are highly dependent on local authority contracts for their business. For many, this loss of income could lead to closure.

A critical question is the impact that the changes will have on social care capacity. There is no guarantee that staff will remain in the homecare sector if their original employer ceases trading. They may move out of social care altogether, thereby reducing overall capacity. Even where providers survive, some of the planned changes may make staff retention more difficult. Public sector contracts make it possible for providers to guarantee their front-line staff at least some work.

With the possibility of these guarantees gone or reduced there is likely to be more instability in the social care labour market and an increase in the churn of workers between employers. There is also likely to be less overall work on offer and possibly more fluctuation, which may lead to some care workers being lost to the industry.

One consequence of moving to self-directed support is that formal domiciliary care providers may lose staff to direct payment users. Member organisations tell us that the direct payment rates received by service users who have previously been their clients are usually not enough to enable them to continue to purchase their agency's service unless they can afford to "top up" their care, ironic given the principle of direct payments is to extend service user choice.

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<sup>23</sup> L. Sawyer (2008) *The personalisation agenda: Threats and opportunities for domiciliary care providers*, in *Journal of Care Services Management*, Henry Stewart Publications, vol. 3, no.1, pp. 41-63. <http://www.ukhca.co.uk/members/pdfs/personalisationagendaLS.pdf>.

Member organisations' views are supported by a 2007 UK wide survey of direct payments which found substantial variation in the rates paid to service users, with many local authorities stating that payment rates were lower than the average costs of homecare providers. The researchers found the average hourly direct payment rate to an older person in England was £8.70.<sup>24</sup>

Similarly, a direct payment survey carried out in Wales in 2009/10 found that a personal assistant engaged under direct payment arrangement will typically be employed by a service user at around £10 an hour, whilst a council would pay a domiciliary care agency almost £15 an hour and their in-house services £20 an hour for the same service. The survey also found considerable variation in how much a council was prepared to offer as a direct payment. Gwynedd, for example, offered £11.35 per hour, whilst Caerphilly offered £6.58 per hour.<sup>25</sup>

As a consequence of the low direct payment rates paid by councils, some service users are now directly employing the care worker originally introduced to them by their homecare agency. They are able to do this because they incur none of the agency's overheads for training, registration and regulation. Self-directed employers are not required to provide training for their staff or to carry out security checks.

It seems entirely illogical to UKHCA that government should have brought about a highly regulated sector from 2002, while at the same time, promoting a cash payment system for the engagement of untrained, unqualified, unsupported and unregulated personal assistants.

### **A grey employment market**

The direct employment of personal assistants by service users in social care has many characteristics of a grey employment market. While worker and employer will agree a wage rate that is acceptable to both, there is no guarantee that either will have an understanding of the NMW, and the

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<sup>24</sup> Direct Payments Survey: A national survey of direct payments policy and practice, Personal Social Services Research Unit. (2007), p.57 [www.pssru.ac.uk/pdf/dprla.pdf](http://www.pssru.ac.uk/pdf/dprla.pdf)

<sup>25</sup> Better Support at Lower Cost: Improving efficiency and effectiveness in services for older people in Wales, SSIA Improving Social Care in Wales, April 2011, P55.  
[http://www.ssiacymru.org.uk/media/pdf/b/1/8490\\_20\\_E2\\_80\\_A2\\_20\\_28ENGLISH\\_29\\_20WEB.pdf](http://www.ssiacymru.org.uk/media/pdf/b/1/8490_20_E2_80_A2_20_28ENGLISH_29_20WEB.pdf)

majority of service users, many of whom are extremely frail, may have little or no experience of acting as an employer. This has been confirmed by a number of studies showing that personal assistants are in very vulnerable employment situations:

- A pilot study of Scottish employers of personal assistants by the Scottish Personal Assistants Employers Network (SPAEN) and UNISON found a significant minority of direct payment users failed to comply with one or more areas of employment law such as the issuing of contracts and job descriptions; paying at least the minimum wage; the working time directive; health and safety; statutory leave entitlements, and payment of statutory sick and maternity pay.<sup>26</sup>
- A study prepared for Skills for Care (the employer led authority on the training and development needs of social care staff in England) by IFF Research found that the vast majority of PAs are happy in their current role, reporting that they find the work enjoyable and rewarding. However, sizeable proportions feel that they are not paid enough and are required to work too many hours, including unpaid overtime. The average hourly wage under direct payments was £7.60, one in ten were paid more than £10 per hour, but a significant proportion (8%) were receiving less than £6 per hour. The study also found that a low proportion (39%) of employers issue their personal assistants with formal contractual job descriptions. Pay, hours and tasks were key components.<sup>27</sup>

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<sup>26</sup> Creating and supporting an informed employer and employee relationship within the self-directed support sector, p2, SPAEN and UNISONScotland, Final Report, June 2009. <http://www.unison-scotland.org.uk/socialwork/PAREportfinal.pdf>

<sup>27</sup> Employment Aspects and Workforce Implications of Direct Payments, prepared for Skills for Care by IFF Research, May 2008. [http://www.skillsforcare.org.uk/research/research\\_reports/Direct\\_Payments\\_research.aspx](http://www.skillsforcare.org.uk/research/research_reports/Direct_Payments_research.aspx)

- A Scottish Government social research study found that a significant minority of the PA workforce in Scotland did not have employment documentation such as employment contracts, terms and conditions and job descriptions. There was also a low level of provision of sick pay beyond Statutory Sick Pay and little evidence of pension provision. In addition, there was variation in the uptake of indemnity insurance, and some employers of PAs found the overall experience of being an employer daunting or difficult.<sup>28</sup>
- A small study which compared the experiences of direct payment users and their PAs with homecare users and their workers found:
  - none of the PAs were either members of a pension scheme or a trade union;
  - 25% did not receive compassionate leave;
  - 75% were not paid extra for working unsocial hours;
  - 12.5% did not receive holiday pay;
  - 75% were unaware of their entitlement to sickness pay.<sup>29</sup>

Other research has found that a number of direct payment holders avoid some of the responsibilities of being an employer by employing personal assistants for a small number of hours, so that they fall below the national insurance level of eight hours. The advantage of not paying national contributions is that a personal assistant can be paid a higher hourly rate, but this may have a damaging impact effect on their entitlements to benefits in future, particularly a state pension.<sup>30</sup>

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<sup>28</sup> *Study of the Workforce and Employment Issues Surrounding Self-Directed Support*, Scottish Government Social Research, 2010. <http://www.scotland.gov.uk/Publications/2010/04/07112801/0>

<sup>29</sup> Leece, J. Personalisation: Who Cares About Personal Assistants? *Community Care*, 24 November 2008. <http://www.communitycare.co.uk/Articles/2008/11/24/110064/Personalisation-Who-Cares-About-Personal-Assistants.htm>

<sup>30</sup> Land H. and Himmelweit S. Who cares: who pays? A report on personalisation in social care prepared for UNISON, March 2010. <http://www.unison.org.uk/acrobat/19020.pdf>

Research has also found that employers of personal assistants are generally unwilling to fund training for their employees. The IFF study mentioned above found that only 7% of have paid or arranged training for personal assistants. Funding for training appears to be the main barrier, linked to the problem of under-funding of direct payments by councils. However, a number of direct payment holders in the survey felt that the organisation of training and development was not their responsibility, "indicating a failure to fully embrace their role as an employer." <sup>31</sup>

## **Conclusion**

The focus of our evidence to the Commission, as in previous years, is on the homecare sector in the UK. For some time, our member organisations have been telling us that local authorities have been exerting pressure on them to reduce costs and make efficiency savings while, at the same time, annual contract price reviews have barely recognised additional statutory and regulatory costs, thereby limiting providers' ability to reward their staff and develop the workforce. Our recent commissioning survey shows that the outlook for providers has deteriorated rapidly recently as councils attempt to grapple with cuts of £1billion in their adult social care budgets. The result is that homecare staff face worsening pay and conditions.

A major reason for low pay in the sector is that local authorities act as a near monopsony (a single buyer) for the purchase of homecare in their local area. Because of this they can exert a downward pressure on independent providers' costs. NMDS-SC data show that the medium gross hourly pay rates for a domiciliary care worker in England is above the NMW. But we remain concerned about the sectors' ability to maintain these differentials given the changes in commissioning practice. The data on the homecare workforce is much less available elsewhere in the UK. But, we believe that pay rates in Scotland, Wales and Northern Ireland are likely to follow a similar pattern to that in England with rates of pay above the NMW.

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<sup>31</sup> *Employment Aspects and Workforce Implications of Direct Payments*, prepared for Skills for Care by IFF Research, p9, May 2008.

[http://www.skillsforcare.org.uk/research/research\\_reports/Direct\\_Payments\\_research.aspx](http://www.skillsforcare.org.uk/research/research_reports/Direct_Payments_research.aspx)

UKHCA supports the delivery of more personalised health and social care services across the UK. However, the direct employment of personal assistants by service users in social care has many characteristics of a grey employment market. While worker and employer will agree a wage rate that is acceptable to both, there is no guarantee that either will have an understanding of the NMW, and the majority of service users, many of whom are extremely frail, may have little or no experience of acting as an employer. This has been confirmed by a number of studies showing that personal assistants are in very vulnerable employment situations.

We would respectfully suggest that the pay and conditions of personal assistants is something that the Commission could investigate.

It will not surprise the Commission to hear us urge it to make a repeated recommendation to Government to investigate the impact of commissioning practice on pay and conditions of the workforce, and (should the Commission share our view) to remind Government of a lack of tangible evidence of action on the Commission's previous recommendations. The importance of this issue is increasing year on year and we would like to thank the Commission for their reiteration, which we hope will be effective with Government.

Yours sincerely,

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Senior Policy Officer

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