

Purpose

To respond to the Scottish Government's request for independent social care sector views on the impact and outcomes of amendments proposed during [Stage 2 of the Care Reform \(Scotland\) Bill](#).

Background

During Stage 2 Committee Sessions, the Minister for Social Care, Mental Wellbeing and Sport agreed to work with opposition MSPs on a number of non-Government amendments in advance of Stage 3, including a number relating to Fair Work.

On 4 April 2025, Scottish Care was invited by the Scottish Government to provide a response to such amendments, assessing the anticipated impact and outcomes regarding the potential burden on the independent social care sector. Scottish Care has compiled this response based on engagement with our [Strategic Workforce Group](#), wider membership, and other member organisations. We thank the Scottish Government for the opportunity to provide this response and stress our willingness to provide further information during the Bill process if required.

Response

1. Do you anticipate these proposed amendments would require additional capacity within your organisation or those who you represent in order to fulfil the requirements on data collection and reporting? If yes, please provide details.

Yes, Scottish Care anticipates that the proposed amendments—particularly those related to the establishment of annual 'Fair Work in Care' reports (Amendment 112), qualitative data collection through workforce engagement, and the requirement for contracting authorities to report against Fair Work indicators—would require significant additional capacity from providers. Many social care organisations, especially smaller ones, are already operating under intense resource and workforce pressures.

The requirement to gather new and detailed workforce data—both quantitative and qualitative—would place added administrative and financial burdens on providers. Additionally, the lack of clarity around who would fund or support this reporting risks creating inequities in the ability to comply across provider types. While the aim of improving Fair Work outcomes is welcomed, any data or reporting requirements must be proportionate, sector-informed, and adequately resourced to avoid unintended consequences, such as reduced service capacity or provider withdrawal.

2. Do existing reporting practices on Fair Work within your organisation or those who you represent already cover the matters set out in the proposed amendments, i.e. data collection and/or reporting against Fair Work guidance? If yes, please provide details.

Reporting on Fair Work across the sector remains inconsistent and fragmented. While some local commissioning arrangements include contractual clauses encouraging adherence to Fair Work principles these typically lack structured mechanisms for monitoring or enforcement. In various formats, providers are sometimes required to report pay rates, but this is not standardised or uniformly implemented across Local Authorities, Health Boards or bodies working on their behalf (e.g. Scotland Excel).

Furthermore, current reporting practices are largely limited to managed workforces within local authority or NHS settings. There is no sector-wide, mandated reporting structure for independent and third-sector providers, meaning the proposed amendments would introduce new obligations for many organisations and/or duplicate existing reporting. These would go beyond existing practice and require new data infrastructure and staff capacity that most providers currently do not have.

There is a sense within the sector that statutory bodies are unwilling to collect further data in relation to Fair Work at present, or to utilise existing data, as it would serve to highlight failures in contracting processes to appropriately fund or prioritise Fair Work practices and resources.

Effective data collection would require a stronger and shared understanding of the adult social care sector and its workforce. It also requires an ability on the part of those who implement the legislation to understand appropriate methodologies, means and processes for gathering data that acknowledge existing methods and requirements. This includes those used within independent care organisations as well as considering new digital capabilities and workforce skills in a changing interdisciplinary landscape.

A robust research infrastructure is required to support this, with clear and consistent governance arrangements. Scottish Care's report, ['Seeing the Diamond in Social Care Data: A Human Rights-Based Perspective on Creating Value in Social Care Data'](#), details a best practice, co-designed approach that ensures fit-for-purpose data. This notably includes the need for a feedback loop, to support providers ongoing involvement in data collection efforts and advancements towards fairer working practices.

3. Are there aspects of these proposed amendments where you consider their introduction would have a positive impact on advancing outcomes for Fair Work in social care? Please provide details.

Yes, there is potential for some of the proposed amendments—if implemented effectively and with appropriate support—to positively impact Fair Work outcomes in the sector. In particular:

- Amendment 112, which proposes the establishment of standardised Fair Work indicators and annual reporting, could increase transparency and accountability but this needs to encompass national and local funding and commissioning and procurement decision-making. This is where many of the barriers to achieving Fair Work sit. Data also needs to be collected from purchasing bodies to evidence their financial commitment to enabling Fair Work through contracted services.
- Mandating workforce engagement in the development and analysis of these reports may strengthen the 'effective voice' component of Fair Work, which remains underdeveloped in social care despite ongoing work. This has to incorporate broad mechanisms for 'effective voice' and be resourced appropriately. There is also a question of recognition for any staff involved in this work – it needs to be their choice to do so, and they should be appropriately recompensed.
- A more structured national approach could help highlight areas of good practice and drive more consistent commissioning standards, potentially addressing long-standing inequalities around pay, terms and conditions, and employment security.

However, the positive impact will only be realised if these measures are not overly burdensome and are accompanied by investment, guidance, and partnership working. Without addressing the core issue of funding, even the best-intentioned amendments would fail to deliver real improvements and would exacerbate existing pressures.

When considering positive impact, Scottish Care also draws attention to Recommendation 44 of the [Feeley Review](#):

"Putting in place national minimum terms and conditions as a key component of new requirements for commissioning and procurement by Integration Joint Boards. Specific priority should be given to pay, travel time, sick pay arrangements, training and development, maternity leave, progression pathways, flexible pathways and pension provision. The national evaluation of terms and conditions should be undertaken to inform these minimum standards, and these should be reviewed as required".

The proposed amendments represent progression towards this recommendation but there remains the opportunity (notably through the Care Reform (Scotland) Bill) to further such progress by actively addressing resource allocation and decision-making processes across the whole social care sector. Reporting on a system which currently fails to provide the

scope for employers to improve pay, terms and conditions would result in additional reporting burdens without addressing the required actions and solutions.

The ability of independent sector care providers to deliver fair work in the context of delivering commissioned services is dependent on a fair rate. The sector feels that whilst providers are absolutely committed to Fair Work practices in order to value, recruit and retain the workforce, attempts to progress this remain futile until funding for the sector is addressed comprehensively. The sector is bound by tight funding and commissioning constraints which set pay rates for workers, don't allow for differentials and don't recognise the wider care workforce beyond those in direct care roles. The absence of this sufficient rate will remain a key barrier to the implementation of improved terms and conditions. Therefore, unless Fair Work is addressed as a funding and commissioning issue as part of wider scale sector reform, the focus is on the wrong end of the process and won't achieve the fundamental shift in workforce value. In addition, it needs to be recognised that workforce costs already comprise the majority of expenditure for care providers – with no margin from which to draw additional funds.

Finally, the disparity that exists between statutory colleagues and independent sector workers, whether in in-house social care services or in the NHS, in both pay and terms and conditions, remains stark and transparency on these differences is difficult to obtain. As such, key to the independent sector achieving Fair Work is the shared responsibility over accountability and reporting procedures. Commissioning and procurement bodies must share responsibility with independent service providers for achieving parity in minimum terms and conditions across sectors. Inclusion of relevant data within publicly available annual reporting mechanisms (including ethical commissioning and procurement strategies) is vital to ensure oversight and address disparity.

Get in Contact

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