



Equal pay and pay discrimination

Executive summary

The Homecare Association supports the principle that people doing equal work should receive equal pay, whatever their sex, race or disability. Our members want to reward careworkers fairly. We also welcome the government's aim to make pay discrimination law work better for workers, employers and tribunals. Underfunding does not justify unlawful pay discrimination. Our point is that government, as the main purchaser of homecare, must fund the lawful cost of equal pay.

Homecare, however, is not a typical labour market. Public bodies fund around 80% of homecare, set the price and decide how they buy it. Staff costs make up more than 75% of the cost of delivering care, and sometimes 90%. In 2026-27 councils in England report paying an average of £25.05 per hour for homecare¹, while our Minimum Price for Homecare in England (which sets out minimum costs for sustainable and legally compliant care) for 2026-27 stands at £34.42. Almost three in ten councils and Health and Social Care Trusts paid less than the direct cost of employing a careworker at the minimum wage in 2025-26². Any change to pay law therefore lands on a workforce whose pay the state already controls (and effectively depresses) through the fee rates it sets.

We tested the proposals with homecare providers through our Employment Rights Special Interest Group. Providers backed the principle of equal pay but warned that parts of the package would prove unworkable in homecare and would damage the government's own reforms. Five points stand out.

The outsourcing duty would undermine the Fair Pay Agreement. In July 2026, the government confirmed a Fair Pay Agreement process to set pay and terms for adult social care through collective bargaining, within a funding envelope that it controls, starting in April 2028. It deliberately left council and NHS employees out of the first agreement because they already have national bargaining arrangements, and respondents warned that bringing them in would create equal pay risks. The proposed duty to uphold pay equality in outsourced contracts would reopen that door. It would allow the new Unit to press providers and commissioners to align outsourced careworkers' pay with council and NHS staff doing equal work, bypassing the negotiating body, the remit letter and the funding envelope. Two pay-setting

¹ ADASS (2026) [Spring Survey 2026](#)

² Homecare Association (2025) [The Homecare Deficit 2025](#)

systems would pull in different directions, and the Fair Pay Agreement would lose its authority before it starts.

It would cost the government billions of pounds. Paying homecare workers in England the equivalent of NHS Band 3 (2+ years' experience) and keeping services sustainable would cost around £3 billion in 2026-27. Our indicative estimate adds between £0.85 billion and £1.3 billion a year in England for public sector-equivalent employer pension contributions alone, before enhanced sick pay, annual leave and unsocial hours payments. In total, parity for homecare in England alone would cost around £3.92 billion a year. These figures cover homecare only, not residential care, supported living, or the many other public services that councils and the NHS outsource. The first Fair Pay Agreement has £500 million for the whole adult social care sector. Councils and the NHS buy most homecare, so the bill would fall back on the public purse through fee rates, provider failure or longer hospital stays. We support this level of investment in social care and would welcome better employment conditions for careworkers, but government must fund it.

Immigration rules can require pay differences linked to nationality. Home Office rules require homecare providers to pay sponsored careworkers at least a salary threshold (currently £25,000 a year or £12.82 an hour, whichever is higher; although the threshold could rise substantially) regardless of how many hours commissioners purchase. Although new overseas recruitment of careworkers closed in July 2025, many sponsored careworkers remain in the workforce, they can extend their visas, and in-country switching into care roles continues until July 2028. Domestic careworkers doing the same job can receive the National Living Wage of £12.71 an hour on flexible hours. The salary floor on each worker's Certificate of Sponsorship varies with when the Home Office issued it. Nationality and national origins fall within the protected characteristic of race. Extending the full equal pay machinery to race, with equality clauses, equal value claims and hypothetical comparators, would increase the likelihood of providers facing claims for meeting Home Office requirements where they cannot afford to offer equivalent terms across the whole workforce. Government cannot require employers by law to pay one group more, fund them at fee rates too low to extend those terms to the whole workforce, and then penalise them for the resulting pay differences. It must resolve this conflict before it legislates, either by funding fee rates so that employers can offer all careworkers terms at Home Office standards, and/or by clarifying more clearly in guidance when differences related to the Immigration Rules can found an equal pay claim and what an employer defence may look like.

The proposals for race and disability raise practical and legal questions that the consultation does not answer. The consultation imports equal pay remedies into race and disability claims. We assume that both material factor defences and objective justification defences would apply and request confirmation of this before the Government implements any changes. The consultation proposes race and disability pay audits without explaining which groups employers should compare, when race covers colour, nationality and ethnic or national origins, and disability covers a wide range of conditions. Many employers hold equality data separately from payroll. Small and medium-sized employers, which make up more than 85% of the homecare

market, would struggle most. Government should clarify defences, data and methods, and consult employers before legislating.

Pay transparency in homecare means more than an hourly rate in a job advert. We support pay transparency in recruitment, and our members want to stop misleading adverts. Around 72% of homecare workers receive pay for contact time only³, and gaps between visits make up about 27% of a typical run. A headline rate for contact time and a rate for all working time look similar in an advert but deliver very different earnings. A simple duty to publish a single rate could reward the least transparent employers. Any duty should therefore include a simple, homecare-specific standard that requires employers to state whether the rate is for contact time only or all hours worked.

We urge the government to remove adult social care from the scope of the outsourcing duty, to align any equal pay reform with the Fair Pay Agreement, to settle the conflict with sponsorship rules in legislation, and to design pay transparency around how homecare pay actually works. Above all, fair pay in homecare depends on fair prices. Government must fund commissioners to pay rates that cover the lawful cost of care, through a National Contract for Care Services.

As a UK-wide body, we note that these proposals would apply in England, Wales and Scotland, and that the commissioning practices we describe affect homecare across the UK (including Northern Ireland).

Recommendations

Outsourcing and the Fair Pay Agreement

1. **Exclude publicly funded adult social care** from the proposed duty to uphold pay equality in contractual arrangements. Confirm that the Fair Pay Agreement, negotiated through the ASC Negotiating Body and funded through the government's envelope, sets the terms that providers must meet.
2. If government applies any outsourcing duty to public services, place **responsibility on the principal that sets the price and terms**. Require councils, the NHS and other public commissioners to fund contracts at a level that allows the pay equality they expect, and give providers no liability for gaps that commissioner pricing creates.
3. Publish a **full impact assessment** before legislating, with costs for councils, the NHS and HM Treasury. Include the cost of aligning outsourced care pay, pensions and terms with council and NHS staff, and recognise that council and NHS pay systems do not align with each other.

Funding

4. **Fund the Fair Pay Agreement** at a level that allows careworkers to receive pay equivalent to NHS Band 3 for all hours worked. That means around £3 billion

³ Homecare Voices (2026) [Behind closed doors | a report by Homecare Voices](#)

for homecare in England in 2026-27, with equivalent provision for residential care and the devolved nations.

5. Introduce a National Contract for Care Services with a **fee-rate floor** based on a transparent cost method, such as the Minimum Price for Homecare, so that commissioners pay enough for providers to comply with pay law.

Sponsorship and race

6. Resolve the **conflict between the Immigration Rules and race pay equality** before legislating. Either confirm in legislation or guidance when paying the salary and guaranteed hours a Certificate of Sponsorship requires counts as a material factor and cannot found a race pay claim, or fund fee rates so that employers can offer all careworkers terms at Home Office standards.
7. Confirm that a genuine, non-discriminatory **material factor defence** applies to race and disability pay claims on the same basis as for sex.

Audits, data and small employers

8. **Clarify what data is required.** Before extending equal pay audits to race and disability, set out which categories employers should compare, what data they need and how audits would work, and consult employers. Publish guidance agreed with the Information Commissioner's Office, aligned with ethnicity and disability pay gap reporting, before any duty begins.
9. **Set a presumption that tribunals do not require a full equal pay audit or job evaluation scheme from employers with fewer than 50 employees.** Allow a proportionate pay review instead, in line with the EHRC's three-step model. Keep the tribunal's discretion to decline an audit where the disadvantages outweigh the benefits.
10. Develop job evaluation and a **career structure for careworkers** at sector level, including delegated healthcare activities, through a properly funded social care job structure, rather than through equal pay structures.

Pay transparency

11. Support pay transparency in recruitment through a light-touch, homecare-specific standard that requires employers to publish a basic pay range and state **whether the rate covers contact time only** or all hours worked, including pay for travel, waiting and training time. Align the standard with Fair Pay Agreement definitions and avoid prescriptive detail, such as annual uplifts that depend on commissioner decisions.

Guidance, enforcement and process

12. Develop **statutory guidance on the material factor defence** with the sector and DHSC. It should cover TUPE transfers, different commissioner pay requirements, changes to immigration rules, different settings, unsocial hours, labour market scarcity, experience, contract type and reasonable adjustments.
13. If government reintroduces a statutory questionnaire, provide **plain-English guidance**, limit the number of questions, set a realistic reply period and give clear data protection guidance for race and disability claims.
14. Give enforcement to the **Fair Work Agency** rather than a new body. Keep pre-investigation information requests proportionate and secure, and do not request the same information twice.
15. Keep clear time limits for equal pay claims, with discretion to extend **only in limited circumstances, such as where an employer concealed information**.

Response

Pay transparency

1. Do you agree or disagree with the proposal to require employers to publish pay information either in job adverts, or in writing to the candidate before the interview (if there is no job advert)?
 - Strongly agree
 - **Somewhat agree**
 - Neither agree or disagree
 - Somewhat disagree
 - Strongly disagreeOr
 - Don't know or unsure
2. Please explain your answer

We support pay transparency in recruitment in principle, provided the requirement is light-touch and designed around how homecare pay works. Our members want to compete on a level playing field. They tell us that some employers advertise a contact-time-only rate, sometimes the weekend or bank holiday rate, as if it were the rate for all hours worked. This undercuts employers that pay for travel and waiting time and misleads candidates. A simple, sector-specific disclosure standard would help careworkers compare

offers and reward fair employers, without government setting what employers pay.

Most employers already publish some information about pay in job adverts.

However, employers may adjust advertised pay rates based on qualifications, the level of unsocial hours the candidate is willing to work, skills, length of experience and other fair and relevant factors, and wish to continue being able to do so. Small businesses and start-ups may struggle to set out these reasons for salary variation in documented policies, in abstract and in advance of actual pay negotiations. Members would therefore oppose overly prescriptive pay transparency requirements.

We would not support a generic requirement that is not sector-specific, because a single published hourly rate (most homecare work is not salaried) would not necessarily tell a careworker what they will earn.

Most homecare pay does not follow a simple hourly model. Homecare Voices found that 72% of homecare workers receive pay for contact time only⁴. Employers must top up pay to the National Minimum Wage across each pay reference period, but the top-up only reaches the minimum wage, not the advertised rate for contact time.

A headline rate may do little for a worker. What matters is whether the employer pays for travel and waiting time and whether the commissioner buys care in a way that makes it possible for employers to arrange runs of visits so that working time is continuous and not broken.

Our members believe that:

- Few providers set out contact time, travel time and waiting time separately in adverts, which makes it hard for candidates, and even for other employers, to compare offers.
- Some employers advertise their best hourly rate, such as a bank holiday or weekend rate (with unsocial hours enhancements), as the headline figure in job adverts.

A duty to publish one number without detail on what that covers could therefore reward the employers that advertise the highest contact-time rate, not those that pay fairly for all working time. Government should therefore design a standard that requires transparency about whether pay is for contact time only or not (see our answers to questions 3 and 4).

We do not defend misleading adverts. However, it is important to understand why they occur. Providers compete for staff with hospitality, retail, cleaning and other sectors in local labour markets, and care budgets are too low to offer competitive pay for all hours worked. A high contact-time rate is one of the few levers providers have left.

⁴ Homecare Voices (2026) [Behind closed doors](#)

Local authorities and the NHS do not pay fee rates that reflect the cost of care delivery. Our 2025 research⁵ found only one local authority in the UK paid the rate we believe is required for sustainable care delivery and 29% of councils and Health and Social Care (HSC) Trusts paid average rates below the direct employment costs of careworkers at the minimum wage. Care work is skilled and responsible – involving lone working, emotional intelligence, confidentiality, negotiation, knowledge of laws around safeguarding and mental capacity, and delivery of clinical tasks such as medication administration and sometimes delegated healthcare tasks such as catheter management. This level of skill should command more than the minimum wage, but stretched NHS and local authority budgets have depressed wages.

It is vital that the Government address the root cause of pay transparency issues in the sector, namely the underfunding of the sector and the undervaluing of care work. In our Minimum Price for Homecare, we estimated that the homecare sector required an additional £3bn if careworkers were to receive pay equivalent to NHS Band 3 for all hours worked. Although the case for this investment rests on social care resilience and minimum wage compliance rather than pay discrimination, government needs to join up policy across departments.

3. What pay information or conditions would be proportionate for this requirement? *Examples might include salary, collective bargaining provisions, annual adjustments, or other financial benefits.*

Were a requirement introduced, the two most important factors to include in information as a starting point would be a) the basic pay range and b) a clarification about what hours the rate applies to (i.e. whether or not this is for contact time only, and, if not, what pay for training, waiting and travel time applies, if any).

Once the Fair Pay Agreement takes effect in April 2028, adverts should confirm that the role falls within scope. If pay information is required, Government should align any requirement with the definitions the ASC Negotiating Body adopts, rather than create a second, inconsistent definition of pay in the sector.

Overly prescriptive or detailed advertising requirements would add burden without improving transparency.

Annual adjustments (particularly annual uplift agreements) can change unpredictably from year to year because, in homecare, they often depend on fee decisions that providers have to wait for local commissioners to make (often at the last minute). We therefore think it is not practical to publish these.

⁵ Homecare Association (2025) [The Homecare Deficit 2025](#)

4. What level of pay information should employers be required to publish in job adverts or disclose before an interview? For example, should a pay range, specific salary or benchmark rate be required?

We think the most important elements would be a basic pay range alongside details about what hours that pay applies to.

Most homecare roles have unpredictable hours and are not salaried roles. Due to the way the public sector commissions homecare (largely by the hour or minute on a time and task basis) an employer may not be in a position to know how many hours of work will be available. This makes it very difficult to give a salary.

If, by benchmark rate, the Government means an advert that says 'typical pay for this role is £XX.XX per hour', we feel employers may find this more complicated to calculate and therefore harder than providing a basic pay range; depending on which other workers the benchmark rate is based upon, what hours comparators work, and whether their roles are equivalent. Smaller businesses may also struggle to find benchmarks for some roles.

Calculating average effective hourly rates becomes extremely complicated for companies with complex pay structures because the mix of work the careworker undertakes affects the calculation, and the company and the careworker may not know the mix of work in advance.

As outlined in our answer to 2 and 3 we believe the key issue for transparency in homecare pay is what hours the rate applies to. If one provider advertises that they pay the statutory minimum wage for all hours worked and another that they pay a higher rate for contact-time only, then the former will likely be at a disadvantage for attracting job applicants. In reality, they may both end up paying the statutory minimum wage, the latter by top-ups.

We would like to see a move towards clear pay rates for all hours worked. However, this requires accompanying funding to recognise the true value of care work. The £500m allocated to the Fair Pay Agreement falls far short of what is needed; as explained above, we believe the UK homecare sector needs at least £3bn⁶ to improve basic pay to levels comparable with NHS Band 3 roles with 2 years or more experience.

5. Do you agree or disagree with the proposal to reduce the list of current exceptions of when an Employment Tribunal must order an equal pay audit after finding an equal pay breach?

- Strongly agree

⁶ Homecare Association (2026) Minimum Price for Homecare in England

- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree

Or

- Don't know or unsure

6. Please explain your answer

We support tribunals ordering an equal pay audit where they find a breach that points to wider problems. We oppose removing the exception that allows a tribunal to decline an audit where the disadvantages would outweigh the benefits, and the exception where the breach gives no reason to think there may be other breaches.

More than 85% of the homecare market consists of small and medium-sized enterprises, and only 1.8% of non-residential CQC-registered organisations employ more than 250 staff⁷. A typical small homecare provider has a registered manager, a small office team and no HR department. An audit takes those managers away from running a safe service. Where a tribunal finds a single breach with an obvious cause, such as one worker on a legacy rate after a TUPE transfer, a full audit adds cost without adding insight. Tribunals need discretion to match the remedy to the problem.

7. Do you agree or disagree with the proposal that an Employment Tribunal must also order the implementation of a non-discriminatory job evaluation scheme alongside an equal pay audit, where it has found an equal pay breach?

- Strongly agree
- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree

Or

- Don't know or unsure

⁷ Skills for Care (2025). The state of the adult social care sector and workforce in England, 2025.

8. Please explain your answer

Job evaluation schemes can be important in large organisations with many different roles. Most homecare providers are small to medium size organisations and have a small number of roles, and the frontline careworker role accounts for most of the workforce. Pay differences within that role usually reflect commissioner fee rates, contract type, shift patterns, experience, unsocial hours, and not the protected characteristics of workers. A formal job evaluation scheme would not explain or fix those differences.

A non-discriminatory job evaluation scheme also needs specialist support, which small to medium providers would have to buy in and which commissioners do not pay fee rates high enough to fund. We suggest that tribunals keep the power to order a job evaluation scheme where the evidence shows a structural problem with how an employer values different roles, rather than as an automatic consequence of any breach.

9. Do you agree or disagree with introducing a new statutory questionnaire for pay discrimination claims only?

- Strongly agree
- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree

Or

- Don't know or unsure

10. Please explain your answer

It is unclear how much a statutory questionnaire will change behaviour. Employees can already request information from their employer and use this (or a failure to respond) as evidence in a case and/or to help resolve issues early.

It is possible that a standard format could help regularise requests and provide appropriate and clear accompanying guidance.

If this facilitated early resolution, this could be especially important, given the long waits we are seeing in the Tribunal system.

Members often have clear policies on pay, enhancements, and bonuses so that they can explain differences, and in these cases a questionnaire might help explain and resolve problems by working through details.

However, there were previous concerns that there was a significant economic cost in responding to questionnaires. Employees might also use questionnaires as ways to access information, and there were concerns that employees used questionnaires to ‘fish’ information even when they did not have a complaint⁸.

Tribunals could draw adverse inferences from late or incomplete replies. That could place a heavy burden on small employers without HR or legal staff.

If the Government introduces a questionnaire, it is important it comes with clear guidance in plain English, limits the number of questions and gives employers a realistic time to reply.

If the Government extends equal pay law to disability and race it is also unclear how this will work if employees do not want their health, immigration status or their ethnicity to be disclosed to colleagues who choose them as a comparator. This could include special category data from a data protection perspective. Employers lack clarity on how it would be appropriate to manage requests of that nature (we return to this question below).

11. What questions do you think should be included in a statutory questionnaire to facilitate the early resolution of cases?

If the Government reintroduces a questionnaire, it should focus on the facts a tribunal needs. This would be similar to the previous questions, namely:

- Whether the employer agrees the work is equal and why.
- Whether the pay is equal if the work is equal and why.

These would need to be framed broadly so that employers have a genuine opportunity to explain their pay structures.

As highlighted in question 10, we are concerned about questions being asked about the health/disability and ethnicity of specific colleagues. The previous questionnaire also had the possibility of additional questions being added, which could lengthen the process. However, if the statutory questionnaire did not cover additional questions, it would still be possible for someone to ask for additional information in a pre-action notification separately from the statutory questionnaire.

12. What steps would you recommend taking to ensure the questionnaire procedure is as efficient as possible?

- Publish a standard form online, with worked examples, including one from a small employer.
- Set a clear reply period of at least 28 days, with a short extension for small employers.
- Limit the number of questions.

⁸ The HR Director (2013) [The end of statutory discrimination questionnaires](#)

- Provide very clear data protection guidance – particularly around questions relating to race and disability claims.
- For larger organisations, provide a secure way to share aggregated pay data that protects other workers' identities.

13. If the proposals set out in this chapter were implemented, how might employers change how they operate? For example, regarding recruitment practices or pay and conditions.

Most homecare providers would publish a pay rate or range in every advert, as many already do. The risk lies in how they respond to the details.

Legislation might prompt some providers to write more detailed pay policies and keep more records to support the material factor defence (this would divert time away from care business operations).

If pay transparency provisions clarify whether or not pay is contact time only, this could push more providers towards simpler pay structures. However, it could also reduce recruitment into the sector if work then appears less competitive with comparative sectors unless the Government allocates sufficient funding to local authorities and the NHS to commission work at a rate that supports fair pay.

14. If the proposals set out in this chapter were implemented, what costs do you think employers would face, if any? For example, wage, administrative or legal costs.

Employers would face administrative costs to change adverts, templates and policies, and management time to handle queries and questionnaires. They would face legal costs to review pay structures and defend claims, and the costs of any audits or job evaluation schemes that tribunals order. For a small provider, a single audit or evaluation exercise would mean paying external advisers and diverting scarce management time from care in a way that could significantly impact the business's sustainability under current operating conditions.

Providers cannot pass these costs on. Councils and the NHS purchase around 80% of homecare at fixed prices, and in 2026-27 the average council fee was £25.05⁹ an hour. We calculate a Minimum Price for Homecare that looks at the minimum fee rate required to meet all regulatory and legal requirements and operate a business sustainably. £25.05 sits more than £9 below our Minimum Price, which is £34.42 for 2026-27. Until commissioners pay fee rates that cover full operating costs and allow providers to hold reasonable reserves for pay audits and other unplanned expenses, every new cost competes with pay, training, compliance and quality.

⁹ ADASS (2026) [Spring Survey 2026](#)

15. Are there any proposals set out in this chapter that may take employers more than a year to implement?

- Yes
- **No**
- Don't know

16. Please explain your answer, including how long you think any proposal may take to implement?

Providers would need to train staff involved in recruitment about the updated provisions in this section. A year should be sufficient for this. They may also need to review how they explain pay to job applicants. The complexity of this would depend on the legislative requirements and what level of detail is required in adverts on pay.

The Government should also plan timing to fit with the Employment Rights Act 2025 reforms and the first Fair Pay Agreement in April 2028; taking into consideration other changes employers are managing.

17. Are there other changes to pay transparency that you would recommend the government considers?

Yes. The biggest barrier to transparent pay in homecare lies with insufficient fee rates. Government should:

- Introduce a National Contract for Care Services with a transparent fee-rate floor to ensure that employers have sufficient funds to comply with pay legislation.
- Provide at least £3bn¹⁰ in funding for homecare in the Fair Pay Agreement with additional funding for the residential care sector in order to enable more competitive pay rates and reduce the use of contact-time only rates as headlines in job adverts.
- Ensure that if it introduces pay transparency provisions in homecare, these distinguish between contact-time-only pay and pay for all hours worked.

¹⁰ Homecare Association (2026) Minimum Price for Homecare in England

Pay discrimination enforcement

18. What specific steps or guidance should be taken to improve clarity about when an employer can lawfully pay people differently for equal work, particularly regarding the application of the material factor defence?

Government should publish statutory guidance, with sector specific examples, on factors that can justify pay differences. The Government should prepare this in dialogue with the sector and address the current live issues that generate pay differences in the workforce today.

The guidance should also show generally acceptable factors (e.g. unsocial hours) and outline clearly how an employer might evidence these material factors.

19. Please explain your answer, including any specific elements, examples or guidance you think the government should consider.

The guidance should clearly confirm how employers should manage the following factors that create pay differences within workforces in the care sector currently:

- **TUPE transfers** where a worker has legacy terms and conditions associated with a contract transfer that is different from the wider workforce.
- **Pay requirements from commissioners** – for example, positions where a care provider delivers services to two separate local authorities which pay different rates and/or specify different requirements on careworker pay (for example one specifies the Real Living Wage and another the London Living Wage) and the impacts this has if employers then pay careworkers according to the service contract (between the employer and Council) that they are working on (assuming the provider cannot afford to pay the higher rate for all staff).
- **Immigration rules changes** and the implications that these can have for pay, terms and conditions changes within a workforce.
- **Different settings.** Councils often pay lower fee rates for care in extra care housing than for care in the community.
- **Unsocial hours, weekend and on-call enhancements**, applied through a written policy.
- **Labour market scarcity**, for example a premium to fill rural runs or weekend rotas that the provider cannot otherwise staff.
- **Experience, qualifications and length of service**, through transparent pay steps.

- **Guaranteed hours and zero-hours contracts**, where the contract type carries different risks and rewards, terms and conditions could vary.
- **Reasonable adjustments** – when and how to disclose if a pay difference is due to a reasonable adjustment (e.g. if an employer is paying for taxis for a staff member as an adjustment)

Guidance should also explain how employers can document these factors simply, for example through a short written pay policy, so that small employers can defend a claim without specialist advice.

The Government should develop any guidance on this in dialogue with the sector and with social care policy leads in DHSC. It is possible that guidance issued in this area could demand changes to work practices that would significantly affect social care costs, and the Government needs joined up thinking to ensure policy coherence.

20. Where do you think the Equal Pay Regulatory and Enforcement Unit should be based?

- EHRC
- Fair Work Agency
- Other government agency
- New, independent body
- Other (please specify):

21. Please explain your answer

The Fair Work Agency already enforces the National Minimum Wage and, under the government's Fair Pay Agreement plans, will enforce the pay terms of fair pay agreements in adult social care. We believe equal pay enforcement sits naturally alongside these functions, provided the Unit has the equality law expertise it needs and clear joint working arrangements with the Equality and Human Rights Commission, and could mean that part of the team develops an understanding of pay structures in homecare that would enable them to interpret data with greater ease than someone lacking this experience.

Our members oppose the creation of a new, independent body. It would add a layer of management and cost, and it would overlap with the Fair Work Agency and the Equality and Human Rights Commission. If government chooses the Equality and Human Rights Commission, it must set out clear boundaries and information-sharing arrangements with the Fair Work Agency.

Employers as well as trade unions should have a formal role in shaping the Unit's approach and guidance.

22. Do you agree or disagree that the Unit should have the ability to require the disclosure of evidence before triggering a formal investigation process?
For example, verbal evidence, pay data and information.

- Strongly agree
- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree

Or

- Don't know or unsure

23. Please explain your answer

We accept that the Unit needs information to decide whether to investigate. This should be proportionate.

If government grants this power, it should limit requests to information the employer already holds, such as pay data by role, and should give employers a reasonable time to respond. If the Unit then launches a formal investigation, it should not request the same information again.

The data related to this type of investigation is likely to be highly confidential, and it is important that any routes for electronic data submission are fully secure.

24. Do you agree or disagree that the existing investigation powers should be strengthened to enable the Unit to require that a job evaluation scheme and/or equal pay audit be undertaken as part of the investigation process, where this would help to establish whether pay discrimination has occurred?

- Strongly agree
- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree

Or

- Don't know or unsure

25. Please explain your answer

An equal pay audit or job evaluation scheme costs time and money, and for a small employer it can consume a large share of management capacity.

We would suggest that the Government consider:

- Limiting pay audit and job evaluation requirements to larger employers. In particular, using pay reviews rather than audits for employers with up to 50 staff, as EHRC guidance currently recommends.
- Providing expert support or signposting to affordable services to support with job evaluation and pay audits to relieve the unplanned cost to employers.

The Unit should use this power only where it has evidence of a systemic problem that simpler steps cannot resolve, and it should scale the requirement to the size of the employer and the number of roles. For a homecare provider with one main frontline role, a targeted pay review might tell the Unit more than a full job evaluation.

26. Do you agree or disagree that the Unit should have the ability to require those subject to inquiry recommendations to respond to them and provide updates on implementation?

- Strongly agree
- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree

Or

- Don't know or unsure

27. Please explain your answer

It is reasonable to expect an employer to respond to recommendations made by a statutory body and report on progress. The Unit should set realistic timescales and expect a response proportionate to organisation size.

28. Do you think the Unit should have additional new powers or capabilities to help secure remedies for workers beyond our proposal?

- Yes
- **No**
- Don't know

29. Please explain your answer

The proposed powers go far enough. The Unit's priority should be clear guidance and practical support, particularly for small and medium employers. In homecare, the most effective remedy for low pay and the financial pressures that can cause pay complexity and disparities lies in fair fee rates and the Fair Pay Agreement.

30. If the proposals set out in this chapter were implemented, how might employers change how they operate? For example, regarding recruitment practices or pay and conditions.

Employers may invest more in written pay policies and record-keeping.

If the Government publishes guidance on the factors outlined in question 19 (such as sponsored workers and TUPE transfers) new guidance could have implications for existing pay practices in the sector that could be complex or costly to implement. It is difficult to understand exactly what the position would be until the details of that guidance are available. The Government should develop guidance in dialogue with the sector and social care policy colleagues to avoid unintended consequences.

Giving a new pay equality unit powers to undertake investigations could also see an increase in enforcement activity that could increase business costs and reduce business confidence.

31. If the proposals set out in this chapter were implemented, what costs do you think employers would face, if any? For example, wage, administrative or legal costs.

The main costs would come from management time, legal and HR advice, and any audits or job evaluation schemes. For a provider with a small management team, a single investigation could take a registered manager away from supervising care for days. Providers cannot recover these costs through fee rates, which already fall below the cost of sustainable delivery in almost every area.

32. Are there any proposals set out in this chapter that may take employers more than a year to implement?

- Yes
- No
- Don't know

33. Please explain your answer, including how long you think any proposal may take to implement.

The factor that could take a long time to implement would be any new guidance on the material factor defence; and how long this would take would depend on what it said. In some cases it may require adjustments to existing working practices, and this could take significant time to plan and implement.

The existence of a new unit in itself will require some training time and time to adapt policies, but this should not take more than a year.

34. Are there other changes to improve the enforcement of pay discrimination that the government should consider?

As explained in question 17, the Government should fund commissioners properly and require them to pay rates that allow providers to comply with pay law and ensure that the care sector has sufficient funding.

Making the right to equal pay effective for ethnic minority and disabled people

35. Do you agree or disagree that the Equality Act 2010's protections against pay discrimination on the basis of race and disability, and those it provides under the equal pay scheme against pay discrimination on the basis of sex, should be broadly levelled-up to provide equal protection as far as possible?

- Strongly agree
- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree

Or

- Don't know or unsure

36. Please explain your answer

We support pay equality for disabled people and on the basis of race. However, we wish to highlight one key point on the principle – namely the question of salary requirements and sponsorship – and some questions around the proposal to treat race and disability as pay discrimination rather than as equal pay claims.

Sponsorship and pay

The Home Office requires sponsors to pay sponsored careworkers the salary specified on their Certificates of Sponsorship (CoS), which at present is at least £25,000 a year or £12.82 an hour, whichever is higher. The annual figure equates to around 37.5 hours a week at the hourly rate.

New overseas recruitment into care worker and senior care worker roles closed in July 2025. However, many sponsored careworkers remain in the workforce and can extend their visas, and switching into sponsored care roles from within the UK continues until July 2028. The issues we describe below will therefore affect providers for several years.

Domestic careworkers doing the same job can receive the National Living Wage of £12.71 an hour, often on zero-hours or low-hours contracts. At present the discrepancy between the wage rates is relatively low, but it has been higher and could increase again with short notice. Providers must pay sponsored workers the salary on their Certificate of Sponsorship (e.g. £25,000 p.a. at present) even when commissioners reduce hours, which can mean sponsored staff are on guaranteed hour or salaried contracts when locally recruited staff are not (as the provider cannot afford to operate in this way across the whole workforce and/or requires flexibility in hours). This can mean different pay structures.

As well as the guarantee of hours, we have heard of cases where sponsored staff have had pay increased to retain them under salary requirements at CoS allocation or renewal when local staff are on lower pay rates (this has been less of an issue as the minimum wage has come closer to the salary threshold, but the Home Office could revise the salary threshold at any time). Other sponsored staff with earlier CoS may also have different salary requirements to colleagues.

While for most sponsored Skilled Worker jobs, the Government has set salary thresholds at the median level,¹¹ care work has tended to be subject to the general salary threshold (which sets a salary floor for sponsored workers). The general salary threshold is higher than the median pay in the sector (median pay is currently £12.60¹² and was closer to £12 when the Home Office announced the £12.82 general salary threshold). In effect, government policy sets sponsored careworker pay above average careworker pay. This

¹¹ MAC (2025) [Review of salary requirements](#)

¹² Skills for Care (2025) [Pay in the adult social care sector in England as at December 2025](#)

incentivises recruitment of UK settled staff and British nationals over sponsored staff. Due to the low fee rates in the sector as a whole, some care employers cannot afford to pay salary rates that match those on CoS to all staff; this means some employers pay sponsored staff more than local staff in certain contexts to meet the Home Office requirements.

Under the Equality Act 2010, race includes nationality and national origins. The Immigration Rules therefore can create pay differences that track a protected characteristic. If government introduces an equality clause, equal value claims and hypothetical comparators for race, a domestic careworker could compare their pay with a sponsored colleague's guaranteed salary, and sponsored workers could compare their salary requirements with each other. Employers could then face claims for meeting Home Office requirements unless they employ all of their staff on terms above market rate (which most cannot afford to). Schedule 23, paragraph 1 of the Equality Act 2010 already provides that a person does not contravene the work provisions of the Act by discriminating because of nationality when acting to comply with a requirement or condition imposed by a Minister. This may cover some sponsorship-related pay decisions. However, it does not extend to colour or to ethnic or national origins, and it is unclear whether it covers decisions that go beyond the minimum the Home Office requires, such as guaranteed hours, or how it would interact with any new equality clause and audit regime for race. We don't believe that schedule 23, paragraph 1 resolves the possibility of claims based on the different pay rates the Home Office sets or how to take these into account, but would appreciate clarification from the Government.

The government cannot require employers to pay one group more than the market rate and then penalise them for unequal pay between groups when employers do this. The Migration Advisory Committee has reviewed salary requirements, and any rise in the threshold would widen the gap. Government must resolve this conflict in the legislation, either by confirming that paying the salary the Immigration Rules require counts as a material factor and cannot found a race pay claim or by paying employers high enough fee rates to employ all careworkers on Home Office employment standards.

Disability raises different issues. Employers should continue to pay disabled workers the same as others for the same work, with reasonable adjustments and Access to Work support. We have not seen evidence of systemic disability pay gaps within homecare roles.

Pay discrimination vs equal pay

The consultation proposes to keep race and disability pay claims within the discrimination provisions of the Equality Act 2010 while importing key features of the equal pay scheme. These include equal value comparisons, contract modification and equal pay audits. It does not say which employer defences would come with them. We assume that both material factors defences and

objective justification defences would be possible. However, we would appreciate confirmation of this.

We ask the government to:

- confirm that a genuine, non-discriminatory material factor defence applies to race and disability pay claims, on the same basis as for sex
- confirm in legislation that paying the salary the Immigration Rules require cannot found a race pay claim

37. Do you agree or disagree that Employment Tribunals should be able to require the modification of the terms of a claimant's contract in successful discrimination claims relating to pay on the grounds of race or disability?

- Strongly agree
- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree

Or

- Don't know or unsure

38. Please explain your answer

Contract modification would turn a single tribunal finding into a permanent change to terms. In homecare, the terms in question often reflect the requirements of a particular commissioner or the requirements of the Immigration Rules. A tribunal that modifies one worker's contract to match a sponsored comparator's guaranteed salary, or a comparator on a different commissioned contract, would create new disparities and knock-on claims across the workforce. We could support this power only with the safeguards set out in our answer to question 39.

39. What limitations or safeguards should be considered for this power, if any?

- Tribunals should not modify terms where the difference arises from a legal requirement, including the Immigration Rules and the Certificate of Sponsorship salary.
- Tribunals should take account of differences that arise from commissioner fee rates, settings and contract types (or if not, the Government may need to support the sector to adjust by creating more standard fee rates and commissioning practices)
- Any modification should apply prospectively, with a reasonable implementation period.

- Tribunals should consider the employer's ability to pay where public bodies fix the price, and should be able to direct findings to the commissioner.
- The Government and the Adult Social Care Negotiating Body must consider how the Fair Pay Agreement will relate to the Home Office salary requirements in the social care sector and how both of these relate to equal pay.

40. Do you agree or disagree that existing requirements should be widened so that employers found to have discriminated in terms of pay on the basis of race or disability can be required to undertake an equal pay audit and job evaluation scheme?

- Strongly agree
- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree

Or

- Don't know or unsure

41. Please explain your answer

We support the principle of employers investigating race and disability pay equality issues when there are legitimate concerns, but have significant questions about the practicalities of doing this via equal pay audits.

A mandatory audit covering race and disability requires employers to hold and link sensitive data that many do not currently connect to payroll.

The Government is planning to introduce ethnicity and disability pay gap reporting, so some employers may need to do this anyway. However, this will apply only to larger organisations, and only 1.8% of non-residential CQC-registered organisations employ more than 250 staff¹³.

Many homecare employers collect equality monitoring data anonymously at recruitment and store it separately. Linking it to pay records requires a clear, lawful basis and safeguards, raises the risk of disclosing staff characteristics, and may discourage staff from declaring their data

It is also unclear how employers would carry out such an audit.

¹³ Skills for Care (2025). The state of the adult social care sector and workforce in England, 2025.

The practical challenge with audits

In discrimination legislation, disability and race are broad categories including multiple sub-groups that overlap.

- **Race in law covers colour, nationality and ethnic or national origins.** A racial group can also be a combination of these, such as "Black British" or "non-UK national". So a claim or audit could compare Polish against British workers (nationality), Nigerian-born against UK-born workers (national origins) or Black against white workers (colour). These groups overlap, and no single data field captures them. An audit built on self-declared ethnicity would miss nationality-based differences, which in homecare are the ones linked to sponsorship.
- **Disability covers a huge range of conditions.** For direct discrimination the law compares someone with a particular disability against someone without it, and the comparison takes account of the person's abilities. Grouping everyone as "disabled" or "not disabled" does not match how a claim works. Many disabilities are also invisible and undeclared.

This means that:

- a) It is unclear what information employers would need to keep about their employees – is self-declared ethnicity enough, or are nationality and ethnic or national origin also relevant? Is it enough for employers to know that the Equality Act 2010 would classify an employee as disabled, or do employers need to know the type of disability they have?
- b) Pay audits based on self-declared ethnicity or whether someone qualifies as disabled under the Equality Act 2010 could completely miss potential equal pay claims that fall into sub-categories – for example, someone may claim that they receive lower pay because they have a mental health condition (as opposed to because they are 'disabled'). They could compare themselves to a colleague with a different disability.
- c) If a colleague claims pay inequality on the basis of national origin (i.e. that they are a second-generation immigrant) would a Tribunal ordering an audit then expect the employer to review the family origins of their staff or only their self-declared ethnicity? How would an employer audit this?
- d) There are likely to be significant data gaps where employees have not told employers about their health or racial characteristics.

For the ethnicity and disability pay gap reporting, the Government has proposed a simplified categorisation of self-declared ethnicity and a definition of whether someone is disabled or not under the Equality Act 2010 as proxies for statistical analysis.

We recommend that the Government clarify further how race and disability pay audits would work and whether there are other options for employers to investigate claims and then consult with employers before proceeding.

Small and medium-sized employers

As we outlined in question 6, small and medium-sized enterprises make up over 85% of the homecare market, and we are concerned that requirements could be disproportionate and difficult to implement for small organisations. Any pay audit is likely to take the care manager's time away from operational care delivery. There is also greater risk of disclosing personal information in a small organisation, because small numbers make it difficult to anonymise data in reports.

The current regulations exempt only micro-businesses with fewer than 10 employees and new businesses, mirroring a general moratorium on regulation for micro-businesses rather than any assessment of when an audit becomes proportionate. The Equality and Human Rights Commission's own guidance recommends a simpler three-step equal pay review, not a full audit, for organisations with fewer than 50 employees. Government should align the law with that guidance. There should be a presumption that a tribunal will not order a full equal pay audit against an employer with fewer than 50 employees. Where it finds a breach, it should be able to require a proportionate pay review instead, along the lines of the EHRC's three-step model.

42.To support employers with pay audits covering sex, race and/or disability, what main areas should the guidance cover?

- How to collect, store and link equality data lawfully and securely, including where staff decline to disclose.
- What equality data is required and what characteristics within disability and race are to be used for comparison in any audit – for example:
 - Tell employers which racial groupings to compare (colour, ethnicity, nationality or national origins) and how to treat overlapping groups.
 - Explain whether and how employers may use nationality and right-to-work data, which they hold for immigration compliance, without treating it as a proxy for ethnicity.
 - Explain how to compare pay for disabled and non-disabled workers without forcing all disabled workers into a single group.
- How to handle small numbers, where analysis could identify individuals.
- How to treat sponsored workers.
- How to treat pay that varies by commissioner, contract, setting and shift pattern.

- How to account for pay for travel and waiting time, and complex pay structures, not only headline rates.
- How to treat pay enhancements for unsocial hours.
- Simple templates.
- A wider exclusion for small employers (fewer than 50 employees) from full pay audits in line with the EHRC guidance on pay reviews.
- Explain the lawful basis for linking equality data to payroll, the safeguards employers need and how long they may keep the data.

Government should publish this guidance, agreed with the Information Commissioner's Office, before any duty to audit race or disability pay begins.

43. Do you agree or disagree with the proposal to allow claims for race and disability pay discrimination where the work is not materially similar but is of equal value?

- Strongly agree
- Somewhat agree
- **Neither agree or disagree**
- Somewhat disagree
- Strongly disagree

Or

- Don't know or unsure

44. Please explain your answer

We support the principle that work of equal value should receive equal pay, regardless of race or disability. Our concern is not with the principle, but with where liability would fall in a sector whose pay levels public bodies largely set via fee rates.

Equal value claims have proved slow, complex and expensive, and they have produced very large liabilities in the public sector. For example, the BBC reported that Birmingham City Council has paid more than £1 billion in equal pay settlements since the Supreme Court's 2012 ruling¹⁴, with potential further liability which contributed to its section 114 notice in 2023.

This suggests that significant public funding could be required to redress systemic differences in pay.

¹⁴ BBC news (2024) [Birmingham City Council agrees huge equal pay deal with unions](#)

Evidence suggests that carework is, on an economy-wide level, undervalued. Skills for Care's December 2025 pay report¹⁵ put median independent sector care worker pay at £12.60 an hour, just 39p above the National Living Wage of £12.21. 26% of care workers earned within 10p of the floor, and 48% earned below the April 2026 rate of £12.71. This is despite care work involving significant clinical tasks, legal and regulatory duties, and significant responsibility. Government fee-setting practices are a direct cause of this, and the Government could address the issue through a funded Fair Pay Agreement and a National Contract for Care Services.

As things stand, we know that women and people from ethnic minority groups are over-represented in the care sector. 44%¹⁶ of the care workforce are from minority ethnicities, compared to 18% of the total population¹⁷. Women make up 77%¹⁸ of the care workforce where they comprise 51%¹⁹ of the total population.

At present, equal value claims are more likely to happen in larger organisations where there are a broader range of comparators and a wider range of job roles to choose from.

The implications of equal value claims for homecare, as a sector, would depend on what decision the Government makes on extending comparisons to 'outsourced' services. We would have significant concerns about equal value claims on disability or race being made using comparators in different organisations. Individual employers cannot correct economy-wide undervaluation on this scale, particularly when government funding and commissioning decisions created the wage disparities in the first place.

45. Do disabled employees in your organisation mostly work in specific roles? (For example do they work in specific roles within technology and IT).

We answer this question for the homecare and wider adult social care sector, rather than for the Homecare Association's own staff.

No. While there are questions about data quality, disabled people appear to be under-represented in the Adult Social Care workforce, making up only 3% of the workforce²⁰.

Noting that homecare companies do not often employ social workers, occupational therapists, and personal assistants directly, available data (see Figure 1) suggests that disabled employees make up 1 to 4% of staff groups and are not concentrated in any one role.

¹⁵ Skills for Care (2025) [Pay in the adult social care sector in England as at December 2025](#)

¹⁶ Skills for Care (2026) [The state of the adult social care sector and workforce in England 2026](#)

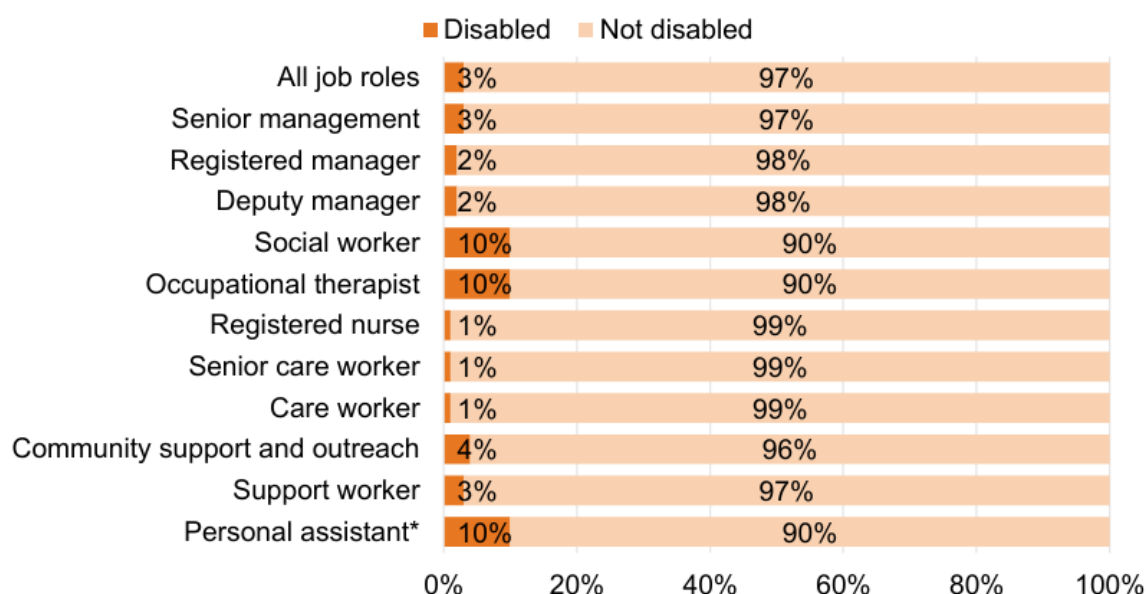
¹⁷ ONS (2024) [Population of England and Wales - GOV.UK Ethnicity facts and figures](#)

¹⁸ Skills for Care (2026) [The state of the adult social care sector and workforce in England 2026](#)

¹⁹ ONS (2024) [Population of the UK by sex - Office for National Statistics](#)

²⁰ Skills for Care (2026) [The state of the adult social care sector and workforce in England 2026](#)

Figure 1: Estimated proportion of the adult social care workforce, England population and economically active population by disability status, 2025/26 (Skills for Care²¹)



46.[If yes to question 45] Which roles do disabled employees work in?

Not applicable.

47.[If yes to question 45] Approximately how many disabled people are employed in these roles?

Not applicable.

48.[If yes to question 45] Do you think any of these roles would require a formal job evaluation to establish if there is equal pay for equal work?

Not applicable.

49.Do employees from ethnic minority groups in your organisation mostly work in specific roles?

As above, we answer for the sector.

Yes.

²¹ Skills for Care (2026) [The state of the adult social care sector and workforce in England 2026](#)

Data suggests that nurses, careworkers and senior careworkers in the social care sector are more likely to be from ethnic minority groups (see table 1) and that they are more likely not to be British nationals (figure 2).

There is significant regional variation (see table 2) with ethnic minority workers making up the majority of the social care workforce in London in particular.

Table 1: Estimated proportion of the adult social care workforce by ethnicity group and selected job roles 2025/26 (Skills for Care²²)

	White ethnicities	Mixed or multiple ethnicities	Asian or Asian British ethnicities	Black, African, Caribbean or Black British ethnicities	Other ethnicities
All job roles	61%	2%	13%	23%	2%
Senior management	78%	2%	8%	11%	1%
Registered manager	75%	1%	8%	15%	1%
Deputy manager	78%	2%	7%	12%	1%
Social worker	67%	3%	7%	21%	1%
Occupational therapist	81%	3%	6%	9%	1%
Registered nurse	44%	2%	26%	25%	3%
Senior care worker	60%	1%	18%	19%	2%
Care worker	51%	2%	17%	28%	2%
Community support and outreach	66%	3%	7%	23%	2%
Support worker	48%	2%	9%	39%	2%
Personal assistant	83%	3%	8%	6%	1%

²² Skills for Care (2026) [The state of the adult social care sector and workforce in England 2026](#)

Figure 2: Estimated proportion of the adult social care workforce by nationality and selected job roles, 2025/26 (Skills for Care²³)

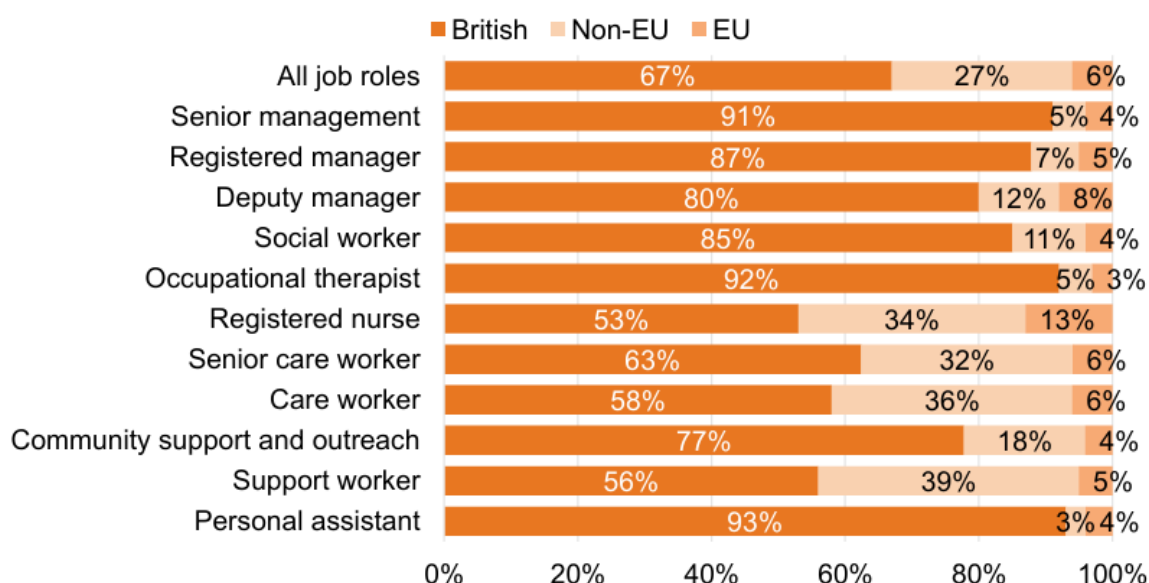


Table 2: Estimated proportion of the adult social care workforce by ethnicity group and region (local authority and independent sectors only), 2025/26 (Skills for Care²⁴)

	White ethnicities	Mixed or multiple ethnicities	Asian or Asian British ethnicities	Black, African, Caribbean or Black British ethnicities	Other ethnicities
England	59%	2%	14%	24%	2%
Eastern	60%	2%	13%	24%	2%
East Midlands	63%	2%	11%	24%	1%
London	20%	3%	24%	49%	4%
North East	80%	1%	5%	13%	1%
North West	71%	2%	11%	16%	1%
South East	57%	2%	17%	23%	2%
South West	71%	1%	11%	15%	2%
West Midlands	57%	2%	15%	25%	1%
Yorkshire and the Humber	70%	1%	10%	18%	1%

²³ Skills for Care (2026) [The state of the adult social care sector and workforce in England 2026](#)

²⁴ Skills for Care (2026) [The state of the adult social care sector and workforce in England 2026](#)

50.[If yes to question 49] Which roles do employees from ethnic minority groups work in?

All roles, but particularly careworkers, senior careworkers and nurses. See Table 1.

51. [If yes to question 49] Approximately how many people from ethnic minority groups are employed in these roles?

- For the whole of the workforce: 44% of 1.59m filled posts are from ethnic minority groups (including 5% from white minority ethnicities not shown in Table 1²⁵). This is 699,600 workers across all roles.
- There are 36,000 filled posts for social care nurses, 66% from ethnic minority groups. This is 23,760 posts filled by nurses from ethnic minority groups.
- There are 925,000 filled posts for careworkers, 54% from ethnic minority groups. This is 499,500 filled careworker posts by people from ethnic minority groups.
- There are 80,000 filled posts for senior careworkers, 45% from ethnic minority groups. This is 36,000 posts filled by senior careworkers from ethnic minority groups.

Further information on other role groups is available from Skills for Care²⁶.

52.[If yes to question 49] Do you think any of these roles would require a formal job evaluation to establish if there is equal pay for equal work?

We do not believe that job evaluation at the level of small, individual employers is the answer in the social care sector. The sector needs a fully funded and recognised career structure, and that requires systemic change. Local authority budget pressures depress careworker wages, at present, and we have seen a flattening of pay structures and pay differentials (the pay differential between careworkers and senior careworkers has almost halved since 2017²⁷). This is for reasons beyond the employer's control as fee rates have covered less and less of general operating costs.

Careworkers increasingly carry out more skilled work, including delegated healthcare tasks such as medication administration, catheter and stoma care and PEG feeding, as well as complex dementia and end-of-life care. Pay has not kept pace. Skills for Care found that in December 2025²⁸, careworkers with

²⁵ Skills for Care (2026) [The state of the adult social care sector and workforce in England 2026](#)

²⁶ Skills for Care (2026) [State of the adult social care workforce, data explorer](#)

²⁷ Skills for Care (2025) [Pay in the adult social care sector in England as at December 2025](#)

²⁸ Skills for Care (2025) [Pay in the adult social care sector in England as at December 2025](#)

five or more years' experience earned only 10p an hour more than new entrants. The sector lacks a career structure that rewards skill and progression.

We support recognising this work, but individual job evaluation schemes are the wrong tool because many small organisations have a flat structure with careworkers in broadly equivalent roles and finding comparators is complex.

Properly implementing a career structure via a provider-level job evaluation and the development of role differentiation could cost small employers money they do not have, unless commissioners change the fee rates that hold pay down. If the Government introduces an outsourcing provision, it could also turn the role undervaluation that commissioners create into equal value claims against providers via employees using comparisons with NHS healthcare assistants whose Band 3 grading rests on the NHS job evaluation scheme or local authority in-house care teams (we discuss this further below).

Government should instead work to develop job evaluation and career structure via a properly funded social care job structure, including delegated healthcare activities. This would give careworkers a career structure, give employers more consistency and put the cost where the pricing decisions sit.

53. Do you agree or disagree with the proposal to allow hypothetical comparators in equal pay claims in the 2 prescribed, limited scenarios described in the consultation document (successor comparisons and improvement in terms)?

- Strongly agree
- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree
- Or
- Don't know or unsure

54. Please explain your answer

Provided the Government permits suitable material factor defences (see above our responses to Q19 and Q36), this should not pose a problem. Using successors as a comparator would likely need to account for annual pay uplifts, for example. Material factor defences should cover these.

55. Are there any other scenarios where the use of a hypothetical comparator should be considered?

- Yes

- No

- Don't know

56.If yes, what are those scenarios?

Not applicable.

57.Do you agree or disagree with providing discretion to the judiciary to extend time limits for bringing equal pay claims 'on a just and equitable basis'?

- Strongly agree
- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree
- Or
- Don't know or unsure

58.Please explain your answer

Clear time limits give employers certainty, which matters in a sector where providers change hands, contracts transfer under TUPE, and providers exit the market. An extended, discretionary limit would leave providers exposed to historic claims about contracts they no longer hold and fee rates they did not set. If government proceeds, tribunals should extend time only where it is just and equitable, having regard to the reasons for delay, whether the employer concealed relevant information, and the prejudice to both parties.

59.If the proposals set out in this chapter were implemented, how might employers change how they operate? *For example, regarding recruitment practices or pay and conditions.*

The most significant impact would be to do with whether pay equality on the grounds of race could impact sponsored workers – this is subject to Government clarification. The actual outcome of this depends both on Government decisions about salary thresholds and about how the law views sponsorship-related pay issues in equal pay terms. If the salary threshold remains close to the minimum wage, then we would expect to see pay equalised across the workforce where there are discrepancies in hourly rates.

However, disparities related to the guarantee of hours for sponsored staff are still likely. If the salary threshold increases significantly, this could accelerate the loss of sponsored care staff and exacerbate workforce shortages, which would limit social care capacity and lead to unmet need and pressure on families and hospitals.

Another significant operational question will be around what data Government expects employers to hold on ethnicity and disability and how employers should store this. Again, it is difficult to understand the full implications without further policy detail.

60.If the proposals set out in this chapter were implemented, what costs do you think employers would face, if any? For example, wage, administrative or legal costs.

Costs would include data systems and consent processes, legal advice, audits, job evaluations, and the cost of any pay adjustments. The immediate hourly premium of the sponsored salary floor over the National Living Wage stands at 11p an hour, around £215 a year for a full-time worker at the moment. However, this could significantly increase if salary thresholds rise (the MAC undertook a review of salary thresholds, and we are waiting for a Government decision on this, so changes are possible). The larger cost lies in guaranteed hours. If providers had to extend the guaranteed salary to domestic workers doing the same job, they would need to pay for hours that commissioners do not buy. For a worker whose commissioned hours average 25 a week, topping up to a 37.5-hour guarantee at £12.82 an hour would cost more than £8,000 a year. Commissioning rates generally do not provide for these additional guaranteed-hours costs.

61. Are there any proposals set out in this chapter that may take employers more than a year to implement?

- Yes
- No
- Don't know

62.Please explain your answer, including how long you think any proposal may take to implement.

Employers would need at least 18 months to collect and link equality data to payroll appropriately, review pay across contracts and settings, and respond to any change in how the law treats immigration salary thresholds. Government has said these measures would follow tribunal reform, and we agree they should come later than the first phase.

63.Are there other changes that you think the government should consider?

Government should publish guidance on sponsored workers and pay equality that is realistic and backed with adequate funding if it implies a pay increase for average careworker wages. The public sector purchases 80% of homecare at low cost, and commissioners must be able to meet increased costs through funding allocation from Treasury.

Promoting pay equality in contractual arrangements

64.Do you agree or disagree with the proposal to introduce a new duty on contracting parties to take all reasonable steps to uphold pay equality in contractual arrangements?

- Strongly agree
- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree

Or

- Don't know or unsure

65.Please explain your answer

This proposal causes our members the greatest concern. It would undermine the Fair Pay Agreement, cost billions of pounds, and place liability on providers for pay decisions that public sector commissioners control.

It would undermine the Fair Pay Agreement. In July 2026, the government confirmed that an Adult Social Care Negotiating Body will negotiate pay and terms for adult social care within a funding envelope that the Secretary of State sets, with the first agreement taking effect in April 2028. The government excluded workers whom councils and the NHS employ directly from the initial coverage, noting their established national bargaining frameworks. Some respondents to that consultation warned that bringing those workers in would create equal pay risks²⁹. The outsourcing duty, as framed in this consultation, would bring those risks back by another route. Councils and the NHS

²⁹ Department of Health and Social Care (2026) [Fair pay agreement process in adult social care: government response](#)

commission (“outsource”) most homecare. The Unit could press providers and commissioners to align outsourced careworkers' pay and terms with council or NHS staff doing equal work, such as in-house reablement workers or healthcare assistants. That could override, or at least conflict with, the terms that the negotiating body agrees to and the funding envelope that the government sets.

It would cost billions. Equal pay law treats occupational pension benefits and other contractual terms as pay. Our Homecare Deficit 2025 analysis found that paying homecare workers the same as NHS Band 3 healthcare assistants with two years' experience, while keeping services sustainable, would cost £2.64 billion in England and £3.25 billion across the UK in 2025-26³⁰. Our Minimum Price for 2026-27 puts the England figure at £3 billion. Those figures use a Band 3 rate of £13.60 an hour. The 2026-27 rate for the same point is £14.05, so the true cost is higher. Pensions add more. NHS employers pay 23.78%³¹ of pensionable pay, and the average Local Government Pension Scheme employer rate stands at 16.6%³², compared with 3% of qualifying earnings under auto-enrolment. Applying these rates to the roughly 250 million hours of publicly funded homecare that independent and voluntary providers deliver each year in England, we estimate an additional (on top of existing auto-enrollment pensions at 3% earnings) **£0.92 billion** (see Appendix 1). On this basis, parity for homecare in England alone would cost around £3.92 billion a year, before sick pay, annual leave and unsocial hours terms were equalised, and before including residential care, supported living and the devolved nations.

Providers cannot fund it. Councils and the NHS buy around 80% of homecare. The average council fee for 2026-27 stands at £25.05³³ an hour against our Minimum Price of £34.42. The first Fair Pay Agreement has £500 million for the whole adult social care sector, and the government has not ring-fenced it. Providers cannot pay public sector terms from fees that do not cover the minimum wage.

It would create new disparities. Council and NHS pay systems do not align. Councils grade care roles locally on the NJC spine, while the NHS grades nationally under Agenda for Change, with different hours, pension schemes and terms. A provider working for a council and an Integrated Care Board would face two different, and potentially conflicting, comparators under the outsourcing duty.

It would require unworkable data-sharing. The consultation suggests that reasonable steps could include requesting pay and demographic data from other parties. Sharing individual pay, race, and disability data up and down supply chains raises serious data protection concerns, and small providers

³⁰ Homecare Association (2025) [The Homecare Deficit 2025](#)

³¹ NHS Employers (2025) [NHS pension scheme employer contributions](#)

³² Pensions UK (2025) [LGPS employer contributions ease](#)

³³ ADASS (2026) [Spring Survey 2026](#)

would struggle to manage it. It may also reduce employees' willingness to disclose ethnicity or health/disability information.

The government already has tools to tackle unfair outsourcing in public services. We are calling for a National Contract for Care Services and stronger commissioning standards. We would prefer that the Government use these tools to revalue careworker pay in a planned and funded way rather than introducing an unplanned duty that cuts across pay agreements and holds independent employers accountable for public decisions made in other organisations.

66. Do you agree or disagree that the Equal Pay Regulatory and Enforcement Unit should be able to enforce this duty?

- Strongly agree
- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree

Or

- Don't know or unsure

67. Please explain your answer

We oppose the duty. If government proceeds, enforcement should sit with the Fair Work Agency, which will already enforce Fair Pay Agreement pay terms, so that one body takes a consistent view of pay in adult social care. Any enforcement should focus on the principal that sets the price and terms. The Unit should not pursue providers for gaps that arise from commissioner behaviour.

68. Do you agree or disagree that the duty to take all reasonable steps should apply to all parties involved in the outsourcing arrangement? This would mean that the principal(s), outsourced service provider(s) and intermediaries in more complex chains could be liable for a breach.

- Strongly agree
- Somewhat agree
- Neither agree or disagree
- Somewhat disagree
- Strongly disagree

Or

- Don't know or unsure

69. Please explain your answer

In publicly funded homecare, the principal holds the power. Councils and the NHS set the price, the volume, the contract type and the terms, and providers accept them or exit. The consultation itself recognises that reasonable steps depend on whether a party can dictate the terms. Making all parties liable would place the same duty on a provider with 40 staff as on a county council with a budget of hundreds of millions of pounds.

Members also question why they should police other organisations' compliance when government agencies exist to do so. Each employer should take responsibility for its own compliance, and the Fair Work Agency should enforce it. If government legislates for a duty, it should rest with the principal, and particularly with public sector principals, which should have to fund contracts at a level that allows the pay equality they expect.

70. What specific steps do you think would be reasonable and proportionate for either a small, medium or large employer to take to fulfill this duty?

For homecare providers, whatever their size, reasonable steps should not go beyond complying with pay law for their own staff and responding to reasonable requests for information that does not identify individuals.

For public sector principals, reasonable steps should include:

- A National Contract for Care Services that sets a fee rate floor for the purchase of homecare
- Setting fee rates using a transparent cost method, such as the Minimum Price for Homecare, that covers pay for all working time and any Fair Pay Agreement terms.
- Passing through uplifts in full when the National Living Wage, Fair Pay Agreement or other terms rise.
- Publishing the pay assumptions behind their fee rates.

71. Do you agree or disagree that contracting parties should not be required to pay compensation but should be required to take reasonable steps to ensure ongoing pay equality in their contractual arrangements?

- Strongly agree
- Somewhat agree
- Neither agree or disagree

- Somewhat disagree
- Strongly disagree
- Or
- Don't know or unsure

72. What remedies do you believe should be available to a claimant when a contracting party is found to be in breach of this duty? Please provide details on the types of remedies or corrective actions you would like to see implemented.

We do not support the introduction of this duty. However, if introduced, it should not require compensation and should apply only to future arrangements. Providers could not fund retrospective compensation from current fee rates; future arrangements would need to be negotiated to be financially sustainable.

Remedies should include an ability to focus on the party that controls the price if that is the factor determining pay. Where the Unit finds a breach in a publicly funded contract, the appropriate remedy may be to require the commissioner to review and uplift the contract price so that the provider can meet any required pay terms, with a reasonable implementation period. Remedies should never require providers to share individual workers' protected characteristics with other parties.

73. Does your business act as an external service provider that supplies labour or services to another organisation?

We answer on behalf of our members.

Yes. Most of our members provide homecare services under contracts with councils, the NHS and other public bodies.

74. [If yes to question 73] Do you think your business would need to review the contractual terms of your employees to meet these proposals?

Yes. Providers would need to review contractual terms across every contract, compare them with the terms of each principal's in-house staff and consider pensions, sick pay, holidays and enhancements as well as basic pay. For most providers, this would mean reviewing the terms of their whole frontline workforce and would dramatically increase pay and costs in the care sector.

75. Does your business act as a 'principal' by commissioning and receiving work or services that are fulfilled by outsourced workers through external providers?

Some of our members act as principals. Lead providers in some areas subcontract part of their work to other providers, and some providers use agencies or subcontractors to cover shortages. Some providers may also contract with, for example, cleaners to clean their office – this might fall under this definition of ‘outsourcing’ even if cleaning was never done in house.

76.[If yes to question 75] Do you think your business would need to review the contractual terms of your employees to meet these proposals?

Yes. Lead providers would need to review their own staff terms and their subcontractors' terms, and could face liability for pay in organisations they do not directly control. Providers may also need to review all of their supplier contracts. It is unclear how a provider would evaluate pay in a supplier organisation or what job evaluation could be undertaken in these circumstances.

77.If the proposals set out in this chapter were implemented, how might employers change how they operate? *For example, regarding recruitment practices or pay and conditions.*

- Some providers may hand back public contracts or decline to bid, focusing on people who pay for their own care.
- Providers may stop subcontracting and stop using agencies, which reduces flexibility to cover peaks in demand, end-of-life care, and hospital discharges.
- Some providers may undertake more work currently done by suppliers in-house (e.g. for cleaning contracts)

Councils and the NHS may face pressure to bring services back in-house. People who draw on care would face longer waits and fewer choices. The Government would need to find billions of pounds of additional funding. This approach would raise serious questions about the Fair Pay Agreement and whether workers and employers could negotiate pay in a context where a separate statutory duty could require pay to be aligned across organisations.

78.If the proposals set out in this chapter were implemented, what costs do you think businesses would face, if any? *For example, wage, administrative or legal costs.*

Aligning homecare pay and pensions with council and NHS terms would cost around £3.92 billion a year in England alone, on our estimates set out in

question 65. It may also imply that NHS and local authority terms needed to align with each other. Across all outsourced public services, including residential care, cleaning, catering, and facilities management, the cost would be many times higher. Providers would also face legal costs, data systems, and management time to exchange information across supply chains. Because the public sector buys most homecare, these costs would return to councils, the NHS and HM Treasury.

79. Are there any proposals set out in this chapter that may take businesses more than a year to implement?

- Yes
- No
- Don't know

80. Please explain your answer including how long you think any proposal may take to implement.

No provider could realign its pay and terms with public sector comparators within a year, and no council could fund the cost within one budget cycle. Contracts and frameworks typically run for three to five years. Any change would need to align with the Fair Pay Agreement timetable, multi-year funding settlements and contract renewal dates, and would need several years to implement at best.

81. Are there other changes aimed at promoting pay equality in contractual arrangements that you think the government should consider?

Yes. Government should:

- Introduce a National Contract for Care Services with a transparent fee-rate floor, so that commissioners pay enough for providers to meet pay law.
- Require commissioners to pass through the full cost of the Fair Pay Agreement and the Employment Rights Act 2025 to employers.
- Use the Fair Pay Agreement, not the equal pay framework, with funding behind it, to narrow the gap between independent sector and public sector pay in social care.

82. Do you agree or disagree that the proposed measures should retain the same geographical scope as the discrimination and equal pay provisions of the Equality Act 2010 (applying to England, Wales, and Scotland)?

- Strongly agree
- Somewhat agree

- Neither agree or disagree
- Somewhat disagree
- Strongly disagree
- Or
- Don't know or unsure

Consistency with the Equality Act 2010 makes sense. Government should note, however, that social care policy and funding differ across England, Scotland and Wales. The first Fair Pay Agreement will apply in England only, and the Scottish and Welsh Ministers have powers to establish their own arrangements. Any equal pay reform must take account of these different pay-setting arrangements. Northern Ireland has separate equality legislation, and our members there would need clarity on any parallel reforms.

Information about your organisation

83. Please provide your organisation's name

Homecare Association

84. What type of organisation or network do you mostly represent?

- An employee representative organisation or network
- An employer representative organisation or network
- Both an employee and employer representative organisation or network
- Other (please specify):

85. Approximately how many members does your organisation or network represent?

- 1 to 9 members
- 10 to 49 members
- 50 to 249 members
- 250+ members or more
- Don't know or unsure

86. Where are most of your members located?

- Great Britain (England, Scotland and Wales)
- Northern Ireland
- Outside the UK

87. Which sector does your organisation best fit into?

- Public sector
- Private sector
- Voluntary sector (for example, a charity or not-for-profit organisation)
- Other (please specify): We have members in all sectors

88. What type of organisation are you mainly?

- Disabled people's representative organisation or network
- Ethnic minority representative organisation or network
- Women's representative organisation or network
- Other representative organisation or network
- Trade union
- Other (please specify): Trade Association

89. Which industrial sector does your organisation best fit into?

- Agriculture, forestry and fishing
- Mining and quarrying
- Manufacturing
- Electricity, gas, steam and air conditioning supply
- Water supply, sewerage, waste management and remediation activities
- Construction
- Wholesale and retail trade
- Transportation and storage
- Accommodation and food service activities
- Publishing, broadcasting, and content production and distribution activities
- Telecommunication, computer programming, consulting, computing infrastructure and other information service activities
- Financial and insurance activities
- Real estate activities
- Professional, scientific and technical activities
- Administrative and support service activities
- Public administration and defence, compulsory social security

- Education
- Human health and social work activities
- Arts, sports and recreation
- Other service activities
- Activities of households as employers and undifferentiated goods - and service-producing activities of households for own use
- Activities of extraterritorial organisations and bodies

Appendix 1 – Employer pension estimates

1. Employer pension rates (published)

- **NHS Pension Scheme:** employers pay 23.78% of pensionable pay from 1 April 2024. That is 23.7% plus a 0.08% administration levy ([NHS Employers](#)).
- **Local Government Pension Scheme:** the average employer rate fell to 16.6% at the 2025 valuation, down from 21.3% ([Pensions UK](#)). This is an average, and individual employers' rates vary.
- **What homecare pays now:** our Minimum Price for Homecare 2026-27 assumes the auto-enrolment minimum of 3% on qualifying earnings, which comes to £0.43 per contact hour at the National Living Wage.

2. Pensionable pay per hour of care (derived from the Minimum Price)

If you add the pay elements in the Minimum Price breakdown at the National Living Wage for each contact hour. Those are contact time £12.71, travel time £2.93, waiting time £2.19, holiday pay £2.30, training £0.45, sick pay £0.42 and notice pay £0.02, giving £21.02 pensionable pay.

If you take this at NHS Band 3 level then this is £23.20 of pensionable pay per contact hour and £0.49 of auto-enrolment costs.

- **At the NHS rate:** 23.78% of £23.20, less the existing £0.49 auto-enrolment cost at that pay level, leaves about **£5.03 extra per contact hour**.
- **At the council scheme rate:** 16.6% of £23.20, less £0.49, leaves about **£3.36 extra per contact hour**.

3. Hours of publicly funded homecare in England (estimates))

In our Homecare Deficit 2025, we estimated that for England, there are 210.4 million hours of care delivered for local authorities and 41.5 million for the NHS.

Result

- 210.4 million hours × £3.36 = about **£0.71 billion** (council scheme rate)
- 41.5 million hours × £5.03 = about **£0.21 billion** (NHS rate), which I rounded to £1.3 billion

Together these would amount to around **£0.92 billion**

Caveats

- If there were equal pay claims between the NHS and local authorities it is possible that the local authority pension rate could increase. Some workers could opt-out of certain pension scheme structures, which means the cost could be lower – this assumes all staff would opt in.