



Homecare Association Response to the Independent Chief Inspector of Borders and Immigration's Call for Evidence regarding:

The interaction between the immigration system and social care

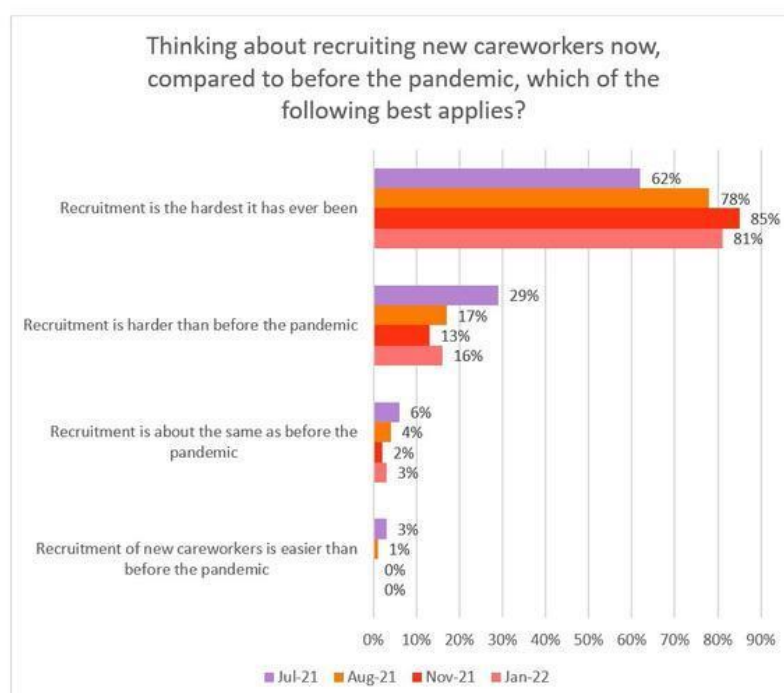
The Independent Chief Inspector of Borders and Immigration (ICIBI) has issued a call for evidence regarding the interaction between the immigration system and social care. They are interested in the extent to which the Home Office's immigration functions support the social care sector. Some specific areas of interest are highlighted, which are addressed below. However, we will begin with a general comment.

General comment and overview

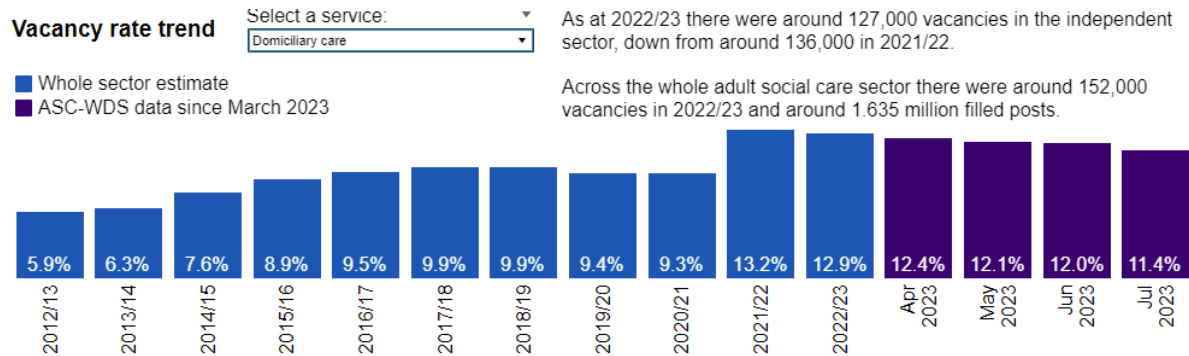
The social care sector needs international recruitment

Under current circumstances, the social care sector needs to be able to recruit internationally to continue to operate. In 2021-2022, Brexit removed the possibility of employing staff from the EU but careworkers were unable to get visas via the Skilled Worker route. Workforce numbers declined, as demand for care services rose, and recruitment and retention became more difficult.

In [a series of member surveys](#) we saw the number of respondents reporting that recruitment was 'the hardest it has ever been' peak at 85% in November 2021.



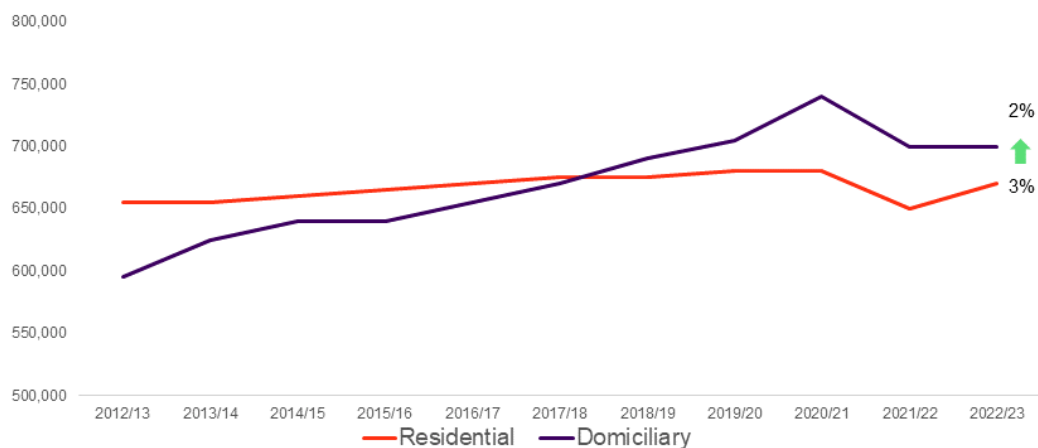
[Skills for Care reported](#) that the vacancy rate in homecare peaked at 13.2% in 2021/22.



International recruitment became available in February 2022. While vacancy rates have come down since they still exceed pre-pandemic levels (even with international recruitment).

Jobs in domiciliary and residential care

Source: Skills for Care 2023



Without sufficient careworkers the waiting times for care in the community rose. In May 2022 [ADASS reported](#) that half a million people were waiting for assessment, reviews or for care/support to begin. This [has come down a little](#) but is still over 430,000. It also [impacted the flow of patients](#) through hospitals, due to difficulties discharging patients that required support at home. This impacts access to healthcare for everyone, not just those with care and support needs.

The recruitment and retention situation in the homecare sector remains difficult, but has eased somewhat due to the ability to recruit internationally. [Skills for Care report \(p.8\)](#) that 70,000 careworkers arrived in the UK and started direct care jobs during the 2022-23 financial year. By [June 2023](#), this had risen to 77,000.

Wider recruitment and retention issues

International recruitment should only ever be part of a wider strategy for ensuring sufficient numbers of care staff with the right skills and experience to meet need. To increase workforce numbers in the medium to long term, it is vital that the Government invests in improving pay and terms and conditions of employment of care workers. We must aim for parity of remuneration and respect with the healthcare sector.

We continue to [call on the Government](#) to develop a workforce strategy for social care, aligned with the NHS People Plan. We also continue to [call for funding](#) for the social care sector, to allow careworkers to be paid at least the same as a Band 3 Healthcare Assistant with 2+ years of experience.

Some but not all of the barriers to international recruitment are related to the Home Office

A [survey of our members](#) (pp. 17-20) about the issues that they were facing in international recruitment highlighted frustrations with the sponsorship and visa application processes run by the Home Office. Concerns include the cost, the length of the process and the complexity of the process. We will return to these points in more detail later.

However, there were also significant barriers to international recruitment which were not directly related to the visa system, such as needing careworkers who had a car and a UK driving licence; supporting new recruits to find suitable housing; or needing recruits to understand UK culture, such as people's expectations around food.

Issues highlighted by the Migration Advisory Committee

In [2022 the Migration Advisory Committee](#) undertook a review of the Adult Social Care sector's immigration position. [We welcomed this report](#). However, the Government appear not to have adequately responded to it. Many of the issues that the MAC highlighted persist and the recommendations they put forward have mostly not been implemented.

Employing refugees

Whilst we don't cover this later in our response, the Care Provider Alliance came together in [some work led by the National Care Forum on employment of refugees](#) in the sector. Whilst the arrangements for employing refugees are different, it is important that there is also clear information on this including topics such as how to do appropriate pre-employment checks for people who are displaced (guidance on this has improved over the last 18 months).

The effectiveness and efficiency of the health and care worker visa route

In the past, it was relatively easy to employ EU workers who arrived in the UK under freedom of movement. International recruitment processes are more complex and costly. There are, however, some benefits to using the Health and Care Visa as a preferred route for careworkers over the Skilled Worker route, for example, exemption from the International Health Surcharge.

As explained above, social care is currently experiencing significant staff shortages. International recruitment is helping to reduce pressures on waiting lists for care, and improving patient flow through hospitals. Consequently, ongoing access to visas is vital.

In our [survey of 419 homecare providers](#) in September 2022 the three most commonly cited barriers to recruiting internationally were:

- International recruits not having the transport required to do the job (61%)
- Affordability or issues with cost of process (61%) and
- Securing accommodation for new arrivals and/or understanding the implications for National Minimum Wage compliance (60%)

Half of respondents said that “complexity of paperwork, not confident on obligations or where to start, worried about consequences if I get something wrong” was a barrier to recruiting internationally. 46% said the length of the process was a barrier.

Cost

When we asked our members via [survey in September 2022](#) how the Government could make international recruitment work better for them 159 responded, and around a third said that costs needed to be reduced.

An estimated 70% of homecare delivered in the UK is commissioned by the public sector. For regular visiting homecare, many councils use framework contracts and purchase on a zero-hours basis at low fee rates. In this type of commissioning environment, there is no guarantee of number or continuity of hours, and thus of income. To meet the requirements of a sponsorship licence, employers must offer international recruits full-time permanent salaries of a minimum of £20,960 p.a. Recruiting internationally at scale in regular homecare thus creates substantial liabilities for providers, as they may have high employment costs without sufficient security or amount of income to cover these costs.

Risks are exacerbated by the monopsony purchasing power of public bodies, who can drive prices down below sustainable levels. Our previous research suggests that a majority of public sector commissioners are paying rates which are insufficient to cover the costs of homecare delivery at minimum wage, meeting all compliance requirements and covering overheads (we cover this in our [Homecare Deficit](#) report, an updated version will be due out this autumn). International recruitment increases costs but fee rates have mostly not increased proportionate to these costs. In addition to the typically higher wage bill for international recruits, it is necessary to cover the Skills Surcharge and Sponsorship Licence Fees, for example. This can add extra expense to what may already be a risky and costly process for a business or social enterprise.

Length of process

Concerns have been raised with us by members about the length of the process and lack of responsiveness of the Home Office to enquiries.

A particular area of concern has been the amount of time that it takes to process Certificates of Sponsorship. In some cases we have had reports of people having lost recruits due to the length of time it takes to process an application. This includes for applications for Certificates of Sponsorship from people who are already in the UK, such as graduates or people who have already come to the UK and are working for a different employer. We do not have sufficient data to note whether this has fluctuated over the last year or has improved.

Complexity

Our survey last September revealed some concerns about the Sponsor Management System not being very user-friendly (some changes to it have been made since). Some providers have also struggled to understand requirements and the impact of making errors. Useful guidance is available from Skills for Care but many providers have found they needed bespoke assistance from lawyers or agents, which is costly.

The extent and quality of communication and engagement between the Home Office and the social care sector

We are grateful to the Home Office for running webinars targeted at the social care sector, including one specifically for homecare providers. These webinars helped to explain the current situation to our members at key points. The [guidance available from Skills for Care](#) (which we understand that the Home Office has had some involvement in producing) has helped providers to understand what is required in a sector specific way.

We are disappointed that the Government has not responded fully to the MAC report.

The Home Office appears to be slightly less proactive than some other Government Departments about engaging with industry bodies when changes are happening. For example, the Homecare Association would typically receive an email, phone call or be told in a meeting, when policy guidance is changing relating to healthcare, public health, infection control or similar where this will impact social care by DHSC. We then communicate this to our membership through our regular emails, website and meetings.

We were pleased to see the opening hours of the Home Office telephone helpline were extended. However, some individual providers find it difficult to navigate and continue to experience challenges in obtaining timely responses to queries.

Many care providers are small or medium enterprises (SMEs) and find the sponsorship and visa application processes quite difficult. The [International Recruitment Fund for the Adult Social Care Sector](#) provided funding that was made available regionally in England. In some regions proposals were put forward which involved support with navigating the process or advice about it. Whilst we are pleased to see the funding made available, we do have some concerns about regional variability in the level and types of support available.

The current suitability of the Home Office's licensing system for health and care worker visa sponsorship

We understand that the process can still take 12+ weeks from initial application to employing the first worker. Feedback suggests that the process may speed up when an employer is established and the Home Office/UKVI has more confidence in them.

The Immigration Rules were amended earlier this year to allow some clarity and flexibility in irregular working hours and what counted towards the salary threshold; this was welcomed. Many homecare providers take on work from the NHS and Local Authorities, which is commissioned and purchased on a zero-hour basis. Typically, this means they must then employ staff on a zero-hour basis. Some employers may offer a proportion of guaranteed

hours, but are rarely able to offer full-time contracts without significant risk. Employers working for Local Authorities on zero-hour contracts will likely struggle with the salary threshold required for visas. We appreciate that the answer to this is not necessarily a change in the visa licensing system. We would like to see the NHS and Local Authorities move away from zero-hour time-and-task commissioning arrangements towards outcome focused models. In the current funding environment, this is however, unlikely in the short-term.

The effectiveness of the Home Office's compliance requirements on sponsors, including how these safeguard employees from exploitation

There is potentially scope for more communication to providers via major routes, such as the Care Quality Commission, Skills for Care, and trade associations, about some of the key compliance requirements. These include how to avoid making mistakes unintentionally; the consequences of making mistakes; and how to report concerns about potential unethical employment practices in the market.

The care sector is highly regulated and it's important that regulatory and enforcement authorities work together to ensure compliance. For example, the Care Quality Commission registers and inspects providers, and both CQC and DHSC (via Capacity Tracker) collect routine data and intelligence on activity. If a provider fails to report routine data to Capacity Tracker or CQC, having been granted a large numbers of visas, this ought to trigger a warning flag. Similarly, HMRC ought to be able to cross-check PAYE submissions with UKVI data on visas issued.

The Home Office and UKVI have suggested that some criminal elements may be exploiting the care sector visa system. Our members are puzzled about how this can be possible at scale in a highly regulated sector. Some providers feel they have practically had to beg for five visas, whilst UKVI claims it has issued 1200 visas to some individual companies. Requests for high numbers of visas from a single employer in the care sector ought to trigger a warning flag in itself. CQC maintains market oversight of the largest care providers and could cross-check data submitted about total employee numbers. If visa applications form a high percentage of total employee numbers, this should also trigger a warning flag.

We are surprised at suggestions from some agencies and commissioners that UKVI has granted relatively large numbers of visas, e.g., 100+ to relatively small homecare employers, without robust evidence of availability of work or ability to meet the salary requirements. It is unclear whether local authorities, which have a statutory responsibility for market shaping and safeguarding, are consulted about applications before visas are granted. In some areas, too much international recruitment has led to both international recruits and local staff not having enough work. This risks destabilising local care markets.

Concerns can be raised with CQC or local authority safeguarding teams about alleged unethical or potentially criminal treatment of international recruits, or risks to the safety of people drawing on services.

Ensuring that employers are aware of, and can avoid, rogue international recruitment agencies is important. In our view, the Government could do more to work with counterparts overseas to prevent criminal activity.

Providing people coming to the UK to work in the care sector with key information, including who to contact with concerns is important as part of this. We are pleased that some [information has been produced by DHSC](#). We are aware, for example, that in some countries, care workers have paid £4K each to a local agent to work for a UK provider. The local agent has used the logo, branding, fonts etc of the UK provider to design their communications with care workers. They then share the link of licensed sponsors on gov.uk to “validate” who they work for. It is hard for UK providers to protect themselves and potential recruits against nefarious activity of this nature.

Some discussions have been held about using the International Recruitment Fund to provide pastoral support on a regional basis. This could allow international recruits to connect with people working for different health and social care employers and this could, indirectly, act as a safeguard.

We have participated in DHSC’s International Recruitment Taskforce and are aware that a wide range of policy measures to safeguard employees has been considered.

The Home Office’s progress towards delivery of their transformation plan, ‘The UK’s Points-Based Immigration System Sponsorship Roadmap’ (published in August 2021) and the effectiveness of any implemented changes.

We believe the aims of the programme move the system in the right direction. However, we have no specific comments on the implemented changes.

Conclusion

International recruitment remains of importance to the social care sector at present, as the size of the domestic workforce has continued to decrease at a time of rising demand. Risks of international recruitment are lower in some settings of care than others. For example, international recruitment can work well in live-in care, supported living, 24/7 complex care and care homes. In such services, peer support is available on site, hours of work are continuous in shifts, and fee rates are higher, particularly when serving the private pay market. Recruits are generally well-qualified, skilled and have added real value to services struggling with local labour shortages.

For regular visiting homecare, especially in areas where councils use framework contracts and purchase on a zero-hours basis at low fee rates, we have significant concerns about risk. In this type of commissioning environment, there is no guarantee of number or continuity of hours, and thus of income. In some parts of the country, there isn’t enough work for international recruits to fulfil the conditions of a sponsorship licence. In one case, a council experiencing a surge in requests from providers for more work, wrote to all providers to tell them only to hire if they have guaranteed work, emphasising that a council has no obligation to find work for international recruits. Inadequate availability of work is obviously unsustainable for international recruits or providers.

We believe the Home Office and UKVI should consider:

1. Type of care provider and the nature of services they are providing.
2. As a minimum, a check with the relevant local authority about local demand and supply.
3. Number of visas requested in relation to size of operation, bearing in mind that 85% of the care sector are SMEs with fewer than 50 employees.
4. CQC/HMRC cross-checks on provider activity before and after visas are granted.

Clear communication and explanation of the process in sector-specific terms is vital. Previous work undertaken in this area, such as the MAC report, highlights important points and should be responded to.