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This communication can be shared with Care Associations, Local Authorities, and MPs, as its themes and impacts are consistent nationwide, benefitting the Home Care sector.

Dear ADASS Leads,

Subject: Safeguarding Home Care and Ensuring Provider Sustainability

In response to Surrey Care Association's prior communication dated August 2, 2023, we highlight critical concerns affecting the UK's Home Care sector. Simultaneous external challenges, such as market dilution, leave providers vulnerable to threats that require immediate collaboration and change. We provide a brief overview of these challenges and recommend reading the attached research papers. This letter speaks for vulnerable individuals reliant on Home Care services at increased risk of abuse with the System failing.

Funding and Quality Oversight

Poor and illegal practices have arisen due to underfunded Local Authorities and inadequate quality oversight. This strains providers, jeopardising care quality and sustainability. Some providers trade quality for low rates, making it extremely hard for others to trade at volumes and/or rates required to pay for quality and compliance with all rules and regulations.

Direct Payments and Ethical Considerations

Whilst some people benefit, Direct Payments (DPs) usage necessitates tax advice for employment classification, imposing unforeseen responsibilities on vulnerable individuals. Converting PAYE Carers into Personal Assistants (PAs) harms wider recruitment and retention, exposes vulnerabilities, and moves care beyond regulatory oversight, benefiting unregulated Introductory Agencies. This impacts the exchequer, hinders regulated providers, and increases abuse risks for those reliant on services. ¹

Market Saturation and Universal Risk

Opportunistic untried providers buoyed by overseas workers oversaturate the market, diluting volume/hours, undermining quality and effective collaborative relationships with Local Authorities. Until relatively recently, carers were finite, so new services simply depleted existing ones. Sector dilution means care packages are now finite, and this is significantly more troublesome. An influx of unregulated providers who circumvent regulation by payment methods depletes privately funded service users and a PAYE workforce from the regulated sector.

1 Decision-makers on DP allocations should read "A Factsheet by the Low Incomes Tax Reform Group" by The Chartered Institute of Taxation, which makes clear PAs are employees and throws doubt on the widespread use of Direct Payments.

Local Authorities' Duty

To protect the vulnerable people who require Personal Care, Local Authorities must ethically commission services whilst ensuring quality and regulatory compliance and fair invoicing practices. They should also consider the broader taxpayer costs, including reduced tax revenues, costs of hospital blockages, and expenses associated with managing poor practices and criminal activity.

Simultaneous Impact on Regulatory Providers - a current and major concern

The growth of self-employed carers, introductory agencies, providers expanding to gain market share, and new untried providers, combined with the consequence of diluted local authority hours, endangers sector sustainability and requires urgent attention.

Historic Bad Practices and Market Manipulation

Undesirable practices within parts of the sector often favour LA budgets. Termed "undercutting," these practices have thrived due to lax oversight, creating unsustainably low charge rates to which LAs are the main beneficiaries via low charge rates. Rates that are considerably lower than Professional Care Associations calculated minimum charge rates; we highlight a few key areas:

- **Boosted Pay:** Call clipping/cramming (overlapping) significantly boosts providers' revenue, leading to lower charge rates and true market rate distortion. Staff multiply pay by completing 30-minute visits in 5, 10, 15 minutes...making the worst providers perversely the most attractive employers. While we label overlapping as fraudulent, it's crucial to understand that providers are often compelled to adopt the practice to some degree due to its prevalence and how travel time, training, management, etc. is wrapped into contact time.
- **Zero-Hour Overseas Workers:** Not meeting salaries due to insignificant work most likely breaches UKVI employment rules and risks MDS slavery issues with sector-wide reputational damage.
- **Company Cars:** Vehicles parked overnight at employees' residences are considered company cars, not pooled vehicles. Wrongfully providing tax-free pooled vehicles increases staff recruitment and retention and lowers charge rates, but it also exposes the individual driver to tax liabilities, which can be backdated if detected.
- **Accommodation Impacting NMW:** Businesses offering staff accommodation gain an edge in the marketplace, but adherence to minimum wage regulations requires scrutiny.
- **Training and facilities** are vital for compliance and quality care. Too many providers lack basics like training rooms, profile beds, and hoists, waiting years for their first CQC inspection yet still accepted onto Frameworks. Streamlining these essential elements reduces costs and the usual employment hurdles, making this section of providers more attractive to join and cheaper to buy from.

Urgent Actions Needed

The spectre of modern-day slavery casts a dark shadow on the Home Care sector, risking reputational damage. Criminals and bad actors (both malicious and unintentional), threaten everyone's integrity. The harmful elements that blight our sector will negatively impact the sector's outstanding achievements and increase the challenges to deliver quality care to the most vulnerable people in our communities.

The sector requires urgent attention on the following:

1. **Inward Focus:** Harmful practices by providers, facilitated by System failure, must end. A shift towards more robust commissioning practices, prioritising quality and outcomes over “best value,” is essential to supporting and fostering quality service provisions.
2. **Outward Protection:** Regardless of payment method, all care recipients must be safeguarded against avoidable service interruptions. Concentrating hours into quality-driven regulated providers is necessary for financial sustainability and quality.
3. **Direct Payments:** Immediate review of the viability and ethical practice within Direct Payments, considering the potential burdens placed on vulnerable individuals as they register as employers and the lack of regulatory oversight.
4. **System costs:** top-level urgent reviews on the whole costs, regardless of individual budget responsibility, must be reviewed that encompass all government departments, including UKVI, HMRC, and CQC.

We must protect the Home Care sector's sustainability and ethical integrity and place the well-being of the vulnerable people we serve centre stage. We need to ensure all vulnerable people are on that stage. We need all government bodies working together to ensure we set an outstanding stage that is free from fraud, bad practices and undercutting. We can no longer afford to turn a blind eye, expecting another department to address these issues. It is imperative for the greater good of the Home Care market.

Yours Sincerely,



Tim Wilson (Author)

Director, Surrey Care Association



Nicola McLeish

CEO, Surrey Care Association

Reference sources:

[Is your PA employed or self-employed?](#)

The document outlines the distinctions between employed and self-employed PAs, highlighting tax, National Insurance contributions, and contractual differences. It also discusses the implications of incorrect status determination and guides using HMRC's online tool for clarity.

[Personal Assistant \(PA\) working and CQC registration requirements](#)

Introducing care workers without ongoing roles doesn't require registration. However, monitoring services, directing tasks, and continuous charges do.

[False Self Employment](#)

A new report by National Direct Payments Forum explores 'false self-employment' in PA/carerer sector. Many PAs may not be genuinely self-employed; status isn't a choice but based on facts. Key test: unfettered right to substitution. HMRC suggests most PAs in-home care are likely employees. Risks of false self-employment include PAYE and employment rights issues.

[Use of company/pooled cars](#)

According to HMRC, a vehicle is a 'pooled car' if it meets the conditions: used by multiple employees, given due to employment, not exclusively used by one, private use is incidental to business use, and not kept overnight near an employee's residence unless on provider premises.

[Effect on the Minimum Wage](#)

Accommodation rates impact the National Minimum Wage and National Living Wage. Calculations are based on 'pay period' intervals. Even if accommodation is free, an offset rate of £9.10/day applies. Whether the accommodation cost is deducted pre or post salary doesn't matter.

[Reviewing the Accommodation Offset](#)

The Low Pay Commission reviewed the Accommodation Offset, a limit on what employers can charge minimum wage workers for accommodation. The offset includes utilities; additional charges may breach the National Minimum Wage

[Homecare Association Min price 2023-24](#)

The Homecare Association has published its new calculation for the Minimum Price for Homecare of £25.95 per hour in England, effective from April 2023, when the National Living Wage increases to £10.42 per hour.

Full links to reference materials:

<https://www.litrg.org.uk/sites/default/files/files/LITRG-factsheet-PA-employed-self-employed.pdf>

<https://www.skillsforcare.org.uk/resources/documents/Recruitment-support/Support-for-Individual-employers/PA/Working-as-a-PA/1.-What-is-a-PA/PA-working-and-CQC-registration/PA-working-and-CQC-registration.pdf>

<https://www.litrg.org.uk/latest-news/news/230823-are-you-self-employed-pacarer#:~:text=A%20new%20report%20on%20'Personal,employment'%20in%20the%20care%20sector.>

<https://www.gov.uk/guidance/use-of-company-pooled-cars-or-vans-480-chapter-15>

<https://www.gov.uk/national-minimum-wage-accommodation/effect-on-the-minimum-wage>

<https://minimumwage.blog.gov.uk/2023/02/03/reviewing-the-accommodation-offset/>

<https://www.homecareassociation.org.uk/resource/minimum-price-for-homecare-2023-24.html>