

Living Wage (Scotland) Bill

This response is from the Scottish Social Services Council (SSSC). The SSSC is a Non Departmental Public Body (NDPB) and was established in 2001 by the Regulation of Care (Scotland) Act. We are responsible for registering people who work in social services, regulating their education and training and the collation and publication of data on the size and nature of the sector's workforce.

Our work increases the protection of people who use services by ensuring that the workforce is properly trained, appropriately qualified and effectively regulated. We aim to protect people who use services, raise standards of practice, strengthen and support the professionalism of the workforce and improve the outcomes and experience of people who use social services. The social service workforce provides care and support for some of the most vulnerable people in Scottish society. These workers often deal with complex care needs and have the potential to make a real difference to individuals' lives.

Our vision is that our work means the people of Scotland can count on social services being provided by a trusted, skilled and confident workforce. Our purpose is to raise standards and protect the public through regulation, innovation and continuous improvement in workforce planning and development for the social services workforce.

Questions

1: Do you support the general aims of the proposed Bill? (as outlined in paragraphs 32 to 39 above). Please indicate "yes/no/undecided" and explain the reasons for your response.

Yes. We welcome the general aim of increasing the numbers of workers who are paid the Living Wage. There are particular issues which will hinder the introduction of the Living Wage for many services. We touch upon these in our response to question 9. We agree with the principle that workers employed by the private and voluntary sector should be paid a Living Wage if they are not currently entitled to it. One point we would make is that the aims of the proposed Bill (as outlined in paragraphs 32 to 39) makes no specific reference to the voluntary sector which employs a quarter of the social services workforce.

The characteristics of the social service workforce have changed considerably in recent years. The SSSC publishes official statistics on the social services workforce in Scotland. The latest statistics were published in October 2012 and reflects the workforce at December 2011. These statistics indicate that the sector employs approximately 195,000 workers in Scotland. The private sector forms 42 per cent of the sector's workforce while the public and voluntary sector's share is 33 per cent and 25 per cent respectively. Many of the social

service workers paid below the current definition of a Living Wage will be employed by the private and voluntary sector.

One of the areas of the social service workforce not referred to within the proposal for a Living Wage Bill are Personal Assistants (PAs) employed by individuals in receipt of a Direct Payment (DP). A growing number of individuals are taking control of their own budget and many choose to employ one or more Personal Assistants to deliver their care and support needs. A survey conducted by The Scottish Government in 2010 noted that none of the PAs reported that they were paid below National Minimum Wage. However, the ability to pay higher wages was a concern for many employers contacted as part of this research and is explored in our answer to question 9.

2: Do you envisage any issues for public sector bodies when including the Living Wage as a contract performance condition of a contract? Please explain the reasons for your answer.

We make no comment on the legalities of the payment of a Living Wage through the public procurement processes. In our response to the Procurement Reform Bill consultation we noted the workforce data outlined in our response to question 1 and we highlighted the lack of data on the proportion of private or voluntary sector social service workers currently receiving a Living Wage.

One further point that we make in relation to this question is that it is unclear how this provision would be policed or enforced.

3: What do you consider will be the advantages or disadvantages for employers and employees if public sector performance clauses stipulate the payment of the Living Wage?

One major advantage would be that a private or voluntary sector social service worker would know that they are entitled to the same level of Living Wage as that paid by many local authorities in Scotland.

4: Which public sector bodies should use contract performance clauses to deliver the Living Wage? Please include the reasons for your choice.

We have no comment on this question.

5: Which bodies should be mandatory consultees? Please include the reasons for your choice.

We have no comment on this question.

6: What information must be included in the Scottish Ministers' report to the Scottish Parliament? Please explain the reasons for your answer.

We agree with the categories outlined in section 77 as an appropriate minimum standard.

7: What is your assessment of the likely financial implications of the proposed Bill to you or your organisation; if possible please provide evidence to support your view? What (if any) other significant financial implications are likely to arise?

The Bill would have no implications for the SSSC as all of our employees are paid more than the Living Wage. The Bill is likely to have implications for many social service employers but we are unable to quantify that at this stage.

8: Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

We welcome any moves to address the inequality issues identified in the consultation paper. The latest report on the social service workforce indicates that approximately 15 per cent of the workforce is male while 80 per cent are employed on permanent contracts. The SSSC's data also notes that most workers are employed in full-time roles.

9: Do you have any other comments on or suggestions relevant to the proposal?

Many voluntary and private sector employers note that their ability to pay a Living Wage is largely determined by service commissioners (usually local authorities). A substantial number of social service employers have reported a tightening of budgets in recent years. For example, a study of voluntary sector social service employers commissioned by the Coalition of Care and Support Providers in Scotland (CCPS) in 2010/11 notes:

- 68 per cent of respondents had reported no cost of living increases in their contracts in the last financial year
- 79 per cent of respondents had been unable to award a salary increase that covered the cost of living at some point during the last three years.
- 57 per cent of respondents had implemented a pay freeze. Many of these freezes were targeted on increments but did allow a cost of living increase. Some respondents had placed a freeze on both measures.

Similar issues and trends are reported by a number of private sector providers in this sector. As has already been noted, the wages that services pay their staff may not be entirely within their own gift due to commissioning arrangements. Employers regularly note a number of issues in relation to the recruitment and retention of their workforce where pay rates are one of the outstanding concerns.

The Convention of Scottish Local Authorities (COSLA) has recently put forward a forward a proposal which would ensure all local authority staff are entitled to a minimum of the Living Wage. One of the key challenges will be around the implementation of the Living Wage for the wider social service workforce. Local authorities are the significant commissioners of social services and are likely to see a continued decline in their budgets over the next few years. Delivering a Living Wage for private and voluntary sector providers will mean those commissioners have to make decisions about prioritising resources. Some

commissioners note that they support the principle of the Living Wage for private and voluntary sector employees but indicate that it will take some time before they can deliver this aim. They also note that the offer to deliver a Living Wage for many staff is still fairly recent. For example, they note that the commitment to introduce the Living Wage for some groups, such as the NHS, will not take place until the next financial year. Another consideration to bear in mind is that some commissioners have expressed concerns about whether all private and voluntary sector providers would pass on any fee increase in the form of a Living Wage for their staff. This issue reiterates some of the concerns expressed earlier about the way that the Living Wage would be enforced.

Some social service employers have noted that the introduction of a Living Wage would address some of the recruitment and retention challenges that they face. These providers note that employers in related or non-related sectors are able to pay higher rates to staff. Competition for staff can come from related sectors such as health but it can also come from other areas such as retail or the oil industry.

We noted in our response to the first question that a survey of Personal Assistants (PAs) employed by individuals in receipt of their own Direct Payment (DP) did not identify any individuals that were paid below National Minimum Wage. The DP rates are often determined by market forces or set so that they meet the agency rate for the direct service provided. A survey in 2010 found that they were a number of people in receipt of DPs (namely the employers of Personal Assistants) who reported frustration about the low level wages that they were able to pay their staff. Approximately 16 per cent of employers identified low wages as a difficulty when it came to recruiting PAs. The survey found that there was a wide range of salary levels paid to PAs across Scotland. These differences may reflect the wide range of activities and support service provided by PAs but it is worth noting that some workers were paid below Living Wage levels.

The wage levels for PAs are subject to similar issues to those identified for other areas of the social service workforce. The Scottish Government's National Strategy for Self Directed Support notes:

"Whilst direct payments are mostly used to employ PAs, there is often no relationship between a DP rate, PA wages and an annual uplift for the direct payment rate. As a result over time it becomes more difficult to recruit and retain PAs at a competitive rate."

A key point for the SSSC is that the ability of many providers to pay a Living Wage is largely determined by the resources made available to cover costs. Employers in all areas of the social service sector regularly make the point that being able to pay a higher wage to staff would be a benefit in the longer-term as it would reduce the costs of recruiting, retaining and developing staff. Ultimately this would be of benefit to many people who use services as they would be more likely to receive continuity of care. As noted here, these issues are reported by employers in the public, private and voluntary sectors and individuals in control of their own care budget.

The SSSC is concerned with the image and value of the social service workforce and we believe that, while they are not the whole picture, pay rates are central to it. If as a society we value care and the people who provide it, we must recognise that financially. If we want to achieve a skilled, confident and qualified workforce, we must be able to attract, reward and retain the people working in it. To pay people less than a Living Wage is contrary to that aim and work.

Remuneration is a complex area in this sector. It is made up of a range of employers, including:

- large public and private providers
- small businesses and social enterprises
- individual employers and self-employed people.

One good example of the complexity of the sector relates to childminders. The social service workforce includes approximately 5,760 registered childminders. In our data these workers are defined as private sector employers and the majority will be self-employed. One question that we would raise is whether the drive to promote a Living Wage will apply to this group.

Caring for the most vulnerable people in our society should be seen as worthwhile, vocational and appreciated. Paying a Living Wage helps to achieve this. While it appears to push up costs for some employers, recruitment and training costs for new members of staff are likely to be higher than the costs of paying a Living Wage to existing, valued staff members. Finally, it is crucial to be able to attract and retain the best people for the job to ensure quality and continuity of care, both of which are key for people who use services, carers and families.

References

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University of Strathclyde (2011) Employment conditions in the Scottish Social Care Voluntary Sector, Impact of Public Funding Constraints in the Context of Economic Recession, Edinburgh: CCPS