



Homecare Association

Homecare Association Response to the Director of Labour Market Enforcement Call for Evidence 2025- 26

Organisation: Homecare Association

Date: 13 December 2024

Contact: Dr Jane Townson OBE, CEO, Homecare Association

Employment Rights Enforcement Priorities and Governance

Q1. Briefly, and in no more than 100 words, what do you believe should be the priorities for employment rights enforcement as we transition to the Fair Work Agency (FWA)?

Homecare workers must receive at least the Minimum Wage for all working time, including travel and training. Employers must pay overseas recruits at least the minimum salary threshold and protect them from modern slavery. Enforcing accurate holiday pay, sick pay, and gender pay parity is vital. Changing the way public bodies buy care is key. Zero-hours commissioning for contact time only at low fee rates leads to zero-hours employment for contact time only at low wage rates. Unregulated care is growing because of a loophole that lets individual care workers avoid oversight. A review of the care regulatory framework is necessary.

Q2. The Fair Work Agency will take some time to be set up. What should priorities be for the enforcement bodies before then? What should be FWA medium to longer-term priorities and why?

Short-term priorities:

- Councils and NHS bodies purchase 79% of homecare and 96% of supported living services. The fee rates they pay must be enough to cover the costs of



Homecare Association

fair pay and other employment rights. The government must implement a National Contract for Care Services with minimum fee rates for homecare. There must be enough funding for this.

- Improve guidance on NMW compliance specific to homecare sector working patterns, including live-in care.
- Establish clear protocols for handling sleep-in shift payment compliance.
- Create sector-specific support for holiday pay calculations.
- Develop mechanisms to monitor employment status compliance. Ensure the responsible agencies act on reports of concerns.
- Reform regulatory framework to focus on care activities rather than employment status.

Medium to long-term priorities:

- Develop integrated approaches to tackle systematic underpayment arising from public sector commissioning practices.
- Establish mechanisms to monitor and enforce employment rights in digital platform-based care provision.
- Create specialised investigation teams with sector-specific expertise.
- Implement activity-based regulation across all forms of care provision.
- Build a framework for comprehensive workforce oversight regardless of employment model. This may include care worker registration, which is already in place in the devolved administrations.
- Consider further development of working time regulation protections.
- Develop recommendations on how to ensure international workers have effective proactive protection and access to justice without facing risk of deportation or destitution.



Homecare Association

3. The FWA will have a statutory duty to publish annual reports and a triannual strategy, overseen by a social partnership board with tripartite representation from business representatives, trade unions, and independent experts. What data and reporting should the FWA publish to ensure good accountability and transparency, via these publications or otherwise? The Fair Work Agency should publish:

- Sector-specific compliance data, particularly for high-risk areas like travel time and sleep-ins.
- Gender-disaggregated data on pay and conditions.
- Analysis of equality impact assessments.
- Geographic distribution of enforcement activities and outcomes.
- Analysis of common non-compliance issues by sector.
- Anonymised reports or case studies of enforcement action. These must outline the key points of the case, the trigger for action, the breaches found, and the recommendations made to support learning.
- Data on worker status disputes and resolutions.
- Statistics on unregulated provider compliance.
- Impact assessments of enforcement actions on worker welfare.
- Statistics on resolution timeframes and outcomes.
- Monitoring of gender pay gap reporting compliance.



Homecare Association

Communication and Engagement

Q1. How do you expect stakeholders to be engaged by the FWA and what do you see as the benefits?

We expect the Fair Work Agency to:

- Establish sector-specific working groups, including provider representatives.
- Regular consultation with national care associations.
- Direct engagement with frontline care workers through representative bodies.
- Coordination with local authority and NHS commissioners.
- Partnership working with the Care Quality Commission, HMRC, and UKVI to align workforce regulation approaches.
- Engagement with digital platforms and unregulated providers.

Q2. By which channels might awareness of the FWA be increased before and once it is established, and why do you recommend them?

- Care sector associations, trade publications and newsletters.
- Communicate directly with registered providers through official channels like the Care Quality Commission and Skills for Care.
- Social media platforms used by care workers.
- Local authority commissioner networks.
- Professional care networks and forums.
- Multi-language information resources.
- Digital platform worker networks.



Homecare Association

Q3. Where can communications around compliance and enforcement be improved such that workers are aware of their rights and their obligations? What evidence do you have that they work?

- Develop simplified guidance in multiple languages.
- Create sector-specific compliance toolkits.
- Use case studies showing good practice.
- Partner with sector bodies for information dissemination.
- Provide template documents and calculation tools.
- Create guidance on employment status and worker rights.

Q4. Who do you see as the key partners for the FWA thinking both of other agencies or wider stakeholders (for example, by sector) and why?

- Care Quality Commission (CQC).
- HMRC – NMW compliance and Employment Status Teams.
- UKVI.
- Local authority commissioning teams.
- Skills for Care.
- Care provider associations.
- Care worker representative bodies.
- Trade unions representing care workers.
- NHS workforce planning teams.
- Digital platform operators.
- Equality and Human Rights Commission.



Homecare Association

- Women's rights organisations.
- Gender pay gap reporting team.

Resourcing and Prioritisation

Q1. What should the 3 enforcement bodies be doing now to ensure the FWA achieves sustained and lasting improvements in employer compliance? Develop sector-specific expertise within investigation teams.

- Build understanding of care sector business models.
- Establish relationships with sector stakeholders.
- Create specialised guidance for common sector issues.
- Develop monitoring systems for emerging business models.

Q2. How should the FWA prioritise its resource between compliance measures (helping employers) and enforcement measures (punishing poor practice, deliberate and serious non-compliance)? How might its success in both areas be assessed?

Compliance measures (60% of resources):

- Sector-specific guidance and support.
- Tools and templates for calculations.
- Proactive engagement with providers.
- Employment status guidance.
- Support for emerging care models.

Enforcement measures (40% of resources):

- Investigation of systematic non-compliance.



Homecare Association

- Action against deliberate violations.
- Focus on repeat offenders.
- Address false self-employment cases.
- Monitor unregulated provision.

Q3. What are the key labour market non-compliance risks for which the FWA needs to be ready? What is the evidence for this?

- Travel time payment in domiciliary care.
- Sleep-in shift compensation.
- Holiday pay calculations for variable hours workers.
- Minimum wage compliance in complex working patterns.
- Training time payment.
- Worker status misclassification.
- Non-compliance in unregulated care provision.
- Gender discrimination and equality issues.
- Maternity rights violations.
- Gender pay gap reporting non-compliance.
- Potential discrimination in flexible working arrangements.
- Non-compliant use of repayment clauses for international recruits.
- Modern slavery.



Homecare Association

Q4. Holiday pay will be a new area of enforcement for the FWA. Where are the key priority areas as regards holiday pay non-compliance (for example, by employment model or by sector) and how might these risks be tackled?

- Zero-hours contract workers' entitlement calculations.
- Part-time worker pro rata calculations.
- Payment during prolonged sick leave.
- Agency worker entitlements.
- Rolling holiday year calculations.
- Holiday pay rights for workers with non-standard employment status.

Moving Towards a Fair Work Agency

Q1. What do you value about the present practices of the 3 employment bodies that you want to see continued by the FWA and why?

- HMRC's collaborative approach to achieving compliance.
- GLAA's sector engagement model.
- EAS's guidance on agency worker rights.
- HMRC's employment status guidance.

Q2. What would you like to see done differently?

- More comprehensive inspection and evaluation of systemic issues, as the CQC does with its annual "State of Care" report.
- Faster investigation timeframes.
- More sector-specific guidance.



Homecare Association

- Better data-sharing and coordination between bodies.
- Improved feedback mechanisms.
- Greater transparency in decision-making.
- Enhanced monitoring of emerging care models.
- Implementation of activity-based regulation.
- Removal of individual care worker exemptions.
- Universal application of care quality standards regardless of employment status.

Q3. The enforcement bodies currently use different approaches for compliance and enforcement – which of these do you think are most effective and should therefore be preferred for the FWA and why?

- HMRC’s education-first approach for unintentional non-compliance.
- GLAA’s intelligence-led targeting.
- Combined compliance support and enforcement actions.
- Risk-based approach to provider monitoring.
- Activity-based regulation models from healthcare sector.
- Comprehensive workforce oversight systems.
- Integration of employment and quality standards.

Q4. In establishing the FWA, is there any good practice you would like to highlight from other UK and/or international regulators/enforcement bodies, either in the labour market enforcement space or beyond?

- Australian Fair Work Ombudsman’s sector-specific campaigns¹.

¹ <https://www.fairwork.gov.au/>



Homecare Association

- New Zealand Labour Inspectorate's guidance approach².
- Irish Workplace Relations Commission's integrated model³.
- Dutch Labour Inspectorate's diverse business model approach⁴.

² <https://www.employment.govt.nz/>

³ <https://www.workplacerelations.ie/en/>

⁴ <https://www.nl labourauthority.nl/>