



Fair Work in Scotland's Social Care Sector 2019

Prepared by the Fair Work Convention



FAIR WORK CONVENTION

The Fair Work Convention's role is to:

- provide advice on Fair Work to Scottish Government, policy makers and wider Scotland and
- advocate for Fair Work across Scotland.

This report makes recommendations about how to realise fair work for social care workers by setting out what policy makers, commissioners and leaders in Scotland's social care sector can and should do.

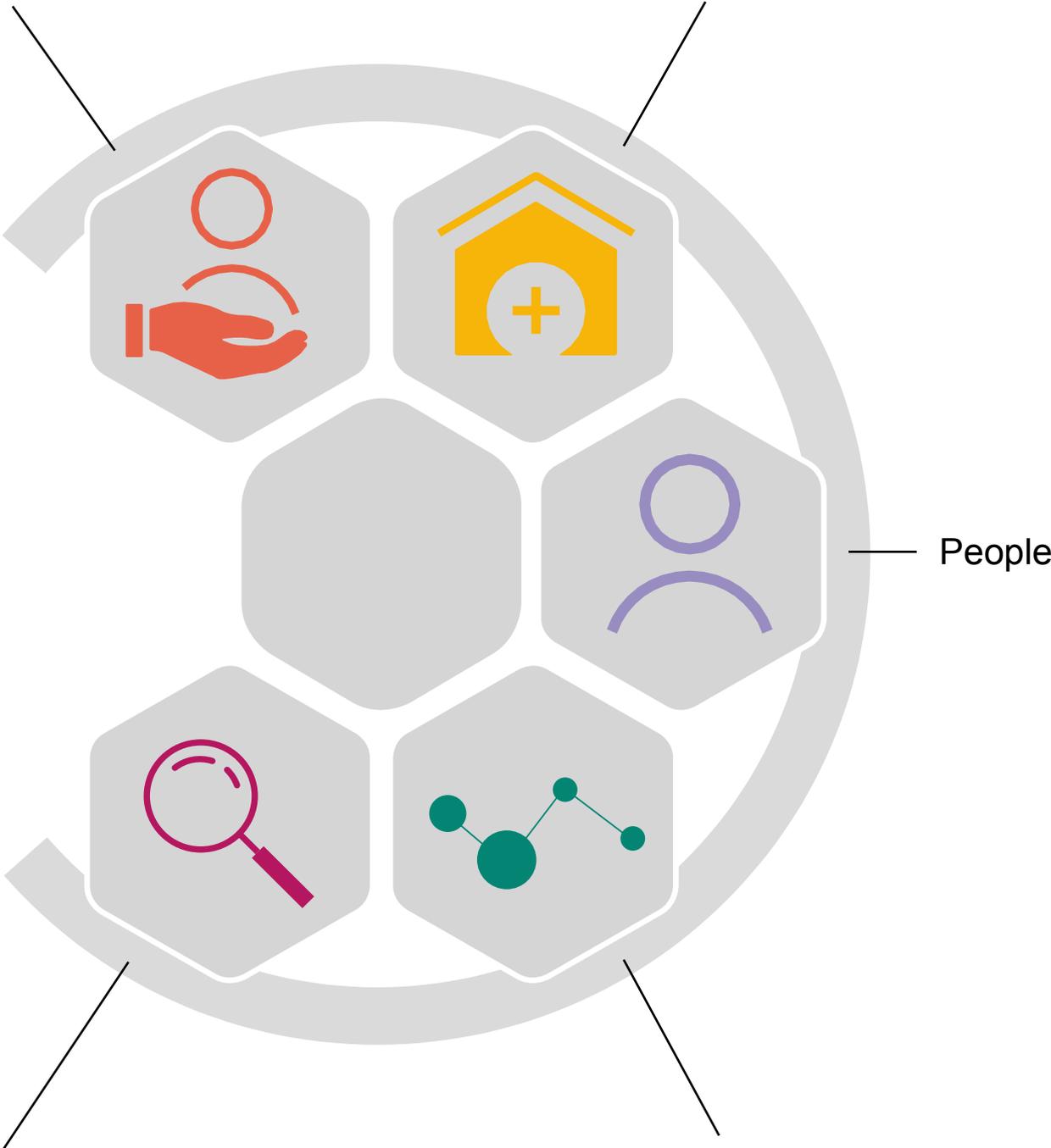
You can find out more about the work of the Fair Work Convention on our website:

www.fairworkconvention.scot



Social care

Home care



Evidence

Interconnections

People



“It’s nice to be involved in people’s lives and to walk away at the end of the day thinking you have made a positive difference.”

“There isn’t enough money and that’s a lot to do with the value of the profession, the way the profession is considered in society.”

Key Facts



202,090

Whole time equivalent staff employed in the Social Care Sector - 83% are women

£3,92 billion

of economic value from the adult social care sector¹

13% of the workforce work over 50 hours a week

20% of the workforce are not on permanent contracts

15% of social care workers work unpaid overtime

11% of the workforce are on zero hours contracts

£9.79 average hourly pay

¹ Figure for Adult social care only. Skills for Care and Development, ICF Consulting. The Economic Value of the Adult Social Care sector in Scotland, June 2018

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Introduction

This is the first report by the Fair Work Convention (FWC) since the Fair Work Framework was published. As Co-chairs of the FWC Social Care Inquiry, it has been a great privilege to lead this work on the Convention's behalf.

In January 2017 the FWC established our inquiry because of concerns raised over the social care workforce during the consultation on the Fair Work Framework. The Convention chose to prioritise social care and to set up an inquiry to explore whether fair work is being delivered in the sector.

To support the inquiry, we established an expert Social Care Working Group. Group members provided expert advice on the current landscape and social care policy initiatives, and helped consider the insights received from many stakeholders consulted during the eighteen months of the project. We are very grateful to the individuals and organisations who engaged with us and to the FWC Secretariat for their organisation and facilitation.

We commissioned research from the University of Strathclyde on how frontline workers and their managers feel about their day to day work. We also commissioned research on Personal Assistants working for employers using Self Directed Support. Scottish Care and CCPS helpfully agreed to include focus group sessions within their existing engagement events and they and other organisations shared relevant research with us.

Evidence and stakeholder views underpin our conclusions and recommendations, though we emphasise that the Review conclusions and recommendations are those of the FWC alone.

Our overarching finding is that fair work is not being consistently delivered in the social care sector. Despite some good practice and efforts by individual employers, the wider funding and commissioning system makes it almost impossible for providers to offer fair work. We found that this mainly female workforce has limited meaningful collective voice. Effective voice is highlighted in the Fair Work Framework as vital to delivering fair work, providing the mechanism for workers to pursue other dimensions of fair work, such as security, fulfilment and respect. Without an effective voice mechanism, workers are less able to convey their concerns effectively, challenge employers on poor practice or make the reality of their situation visible to policy makers.

That is why the first recommendation of this Inquiry is that a new sector-level body be established in Scotland with representation from across key sector stakeholders to 1) establish standard minimum fair work terms and conditions for the social care workforce and 2) provide the opportunity for ongoing dialogue and agreement on workforce matters. The first task of this body should be to develop Fair Work First criteria for inclusion in commissioning.

Several positive policy initiatives in recent years have aimed to improve the situation in the sector for this committed and dedicated workforce, notably the Living Wage initiative.

However, we conclude that low pay is a symptom of wider structural problems arising from the commissioning system for social care itself. Furthermore, protections for workers in the sector are simply not strong enough to counteract a system that frames and constrains what employers in the sector can offer to their workforces.

The current method of competitive tendering based on non-committal framework agreements has created a model of employment that transfers the burden of risk of unpredictable social care demand and cost almost entirely onto the workforce. We have deliberated carefully over the nature of the contractual frameworks, and it is our belief that this method of procurement creates a situation that is untenable. We found that the significant use of zero-hours, low-hours and sessional contracts in the social care sector is largely an outcome of the way care is purchased. Too often care provider organisations do not know how many support hours are required on a day to day basis. This type of commissioning in turn impacts on the type of contracts offered to staff, with flexibility benefitting the employer and burdening the social care worker with unpredictable working hours and unstable earnings. Commissioning agencies under budget constraints are only willing to pay for the actual amount of time that direct care services are delivered (rather than paying for a sufficient number of people to be engaged to deliver the service). Employers then pass this risk on to staff by placing them on contracts that maximise employer flexibility. This can mean workers having their shifts cancelled where demand falls, or being asked to do extra hours at a moment's notice where demand increases, leading to feelings of being always 'on-call'. Workers struggle to manage their lives around frequently changing and/or unpredictable work schedules, while many managers report spending most of their time managing rotas, covering gaps and meeting new requests, rather than supporting and developing their teams.

Ultimately this commissioning process results in poor employment practices that are not consistent with fair work. We found many people wanting to work fewer hours, alongside others needing additional hours or juggling multiple jobs to ensure a decent income. For many, contracted and actual working hours were not well aligned. This impacts negatively on personal and family life and ultimately on their wellbeing.

Many care providers also reported increasing difficulties in recruiting and retaining staff and being unable to compete for staff with employers in sectors offering better pay and more stable working arrangements. We also heard from front line staff that the requirements to obtain qualifications while working – and the lack of support for obtaining these qualifications - are creating an additional barrier to joining the sector and to retaining staff in the sector.

Therefore, we recommend treating the problem at source. We recommend that the current commissioning practice of hourly rate based non-committal competitive tenders and framework agreements should end. Social care providers should be commissioned based on their level of skill, expertise, understanding and application of the Fair Work Framework, and on costs based on the right numbers of staffing required and a satisfactory and fair income level for each member of staff. Commissioners should be responsible for assessing and predicting the level of demand and commissioning the right levels of staff from the provider organisation, with no expectation that the provider or worker carry the risk for working time not being required.

We also considered the impact of Self-Directed Support (SDS) policy on fair work practices within the sector. Drawing on research evidence, we extend our recommendations to all social care workers, including Personal Assistants, and to include the commissioning of social care services through SDS. Those commissioning SDS services will need to be funded and supported to deliver fair work and to deliver on our recommendations as relevant to them.

To ensure cost effectiveness whilst delivering fair work, commissioners and providers should jointly address working arrangements, work organisation and working practices that can better align demand and supply. We have looked at all of the evidence and found that unlike other community health and social work employees, the majority of the social care workforce have no or limited autonomy to organise their own work schedules and decide on the support they provide to users at the front-line. This too is driven largely by commissioning processes. Their work is timetabled, and task-focused and they are not able to use their judgement to improve or adapt the support they provide. Yet this is a skilled and highly regulated workforce, expected in other ways to act in a professional manner in undertaking what is undeniably a highly responsible role.

The lack of status and chronic undervaluing of social care is not unconnected to perceptions of care as ‘women’s work’. Failure to address the gendered dynamics of the care sector and to challenge its significant voice deficit, low pay and one sided-flexibility contributes significantly to women’s poorer quality of work and to Scotland’s gender pay gap.

There is no simple way of tackling structural gender and other inequalities in society other than tackling them head-on where we find them. Given the nature of the social care sector, with over 1,000 employers and multiple methods of commissioning services, the challenges facing social care workers are not easy to address in a coherent and consistent way. This stands in sharp contrast to how other health care services are delivered, yet health and social care integration in Scotland recognises the inextricable connection between the two. There is an urgent need for the explicit and direct interventions as recommended in this report to improve the quality of work and employment in social care in Scotland. Enhancing fair work for social care workers is crucial to ensuring a workforce for the future and to delivering high quality social care services to some of our most vulnerable citizens.

Henry Simmons and Lilian Macer

Chairs of the Fair Work Convention Social Care Inquiry
Members of the Fair Work Convention

Background and Context

The Fair Work Agenda in Scotland

As Scotland's Fair Work Framework² highlights, work is crucial to the prosperity, health and wellbeing of most people and every society. What happens at work and the characteristics of work are of huge significance to individuals and policy makers. Both the quantity of work and its quality are increasingly recognised in national and international debates and policy.

Scotland's employment statistics – the numbers of people in employment and those unemployed – have improved significantly over recent years. There are, however, concerns over the quality of work and employment. This includes rising levels of economic inactivity, disparity in access to jobs and the rise of more flexible, but less secure forms of work such as zero hours contracts, temporary work and so called 'sham' self-employment. For a significant minority of people, the labour market is not delivering the decent wages or stability they need and there are a number of structural factors which negatively impact peoples' actual experience of work, such as power imbalances in the work place and lack of representation and voice, lack of investment in training and general job insecurity.³

The impacts of bad jobs are most evident for individual workers; if a person has a poor-quality job they are more likely to live in poverty, in working life and beyond, their children are more likely to live in poverty, and their chances of accessing training or development are lower. However, it is not just workers in bad jobs that lose out, employers also miss out on the benefits that good work brings: more engaged, committed and adaptable workers who identify challenges, solve problems and are able to offer insight and ideas for business or service improvement. At the level of the economy too, fair work matters; many of the practices associated with high quality work are more prevalent in societies with higher productivity and higher rates of business and service innovation than Scotland or the UK.⁴ Unfortunately, however, Scotland's economy is made up of too many poor jobs with poor working conditions, which undermine peoples' potential and sustain inequality.

Scotland's aspiration is to be a leading fair work nation. Fair work means that workers are paid and treated fairly, with opportunities to progress, learn and have a voice on what matters to them. It includes fair pay, safe and healthy workplaces, respectful treatment, sufficient hours, opportunities to progress and access to effective voice mechanisms to deal with problems and conflicts, but also to ensure a channel through which to

² Fair Work Convention (2016) Fair Work Framework, Edinburgh: Scottish Government.

³ Fair Work Convention's evidence to the Scottish Affairs Committee Inquiry into the Sustainable Employment in Scotland, 24 Jan 2017.

⁴ Professor Patricia Findlay, FWC Co-Chair speaking at Scotland's Inclusive Growth Conference, Glasgow University, October 2017.

communicate and influence.

The growing importance of fair work is recognised by the Scottish Government. It is central to Scotland's Economic Strategy and is underpinned by measurable indicators in the National Performance Framework. While some levers to influence fair work are not available to Scotland (such as employment law powers), government has other ways of influencing practice through policy, procurement, leadership and investment in fair work infrastructure that can drive change. Scotland's approach to fair work illustrates the range of areas that need to be addressed to enhance work and employment quality, well-being, labour market and economic outcomes.

Why has the FWC prioritised Social Care?

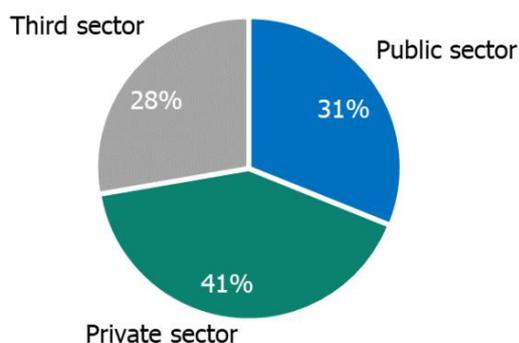
The role of the Fair Work Convention is to advise Scottish Government on fair work and to advocate for fair work in Scotland, creating benefits for individuals and their families, businesses and society. Challenges in delivering the various dimensions of fair work differ across firms and sectors. The social care sector is often depicted as being a sector in crisis as a result of rising demand, severe funding pressures and high staff turnover. People are waiting longer than previously for services and unpaid care is filling some of the gaps. It is well documented that care work is low-paid, female-dominated and undervalued, with pay rates in the voluntary and private sector close to the minimum wage despite the complexity of the roles and the skills and qualifications required. There have been many reports about care providers struggling financially, with examples of contracts being handed back and services closing.⁵ The sector is also finding it difficult to recruit and retain its workforce and concerns are growing that vital employees from the European Union are leaving the workforce due to Brexit.⁶

The Social Care Sector in Scotland

The social care sector employs 7.7% of the Scottish labour force, and is a diversified market in terms of provision (See Figure 1).

Figure 1: Social care workforce by employer type, 2017

Source: Scottish Social Service Council, 2017

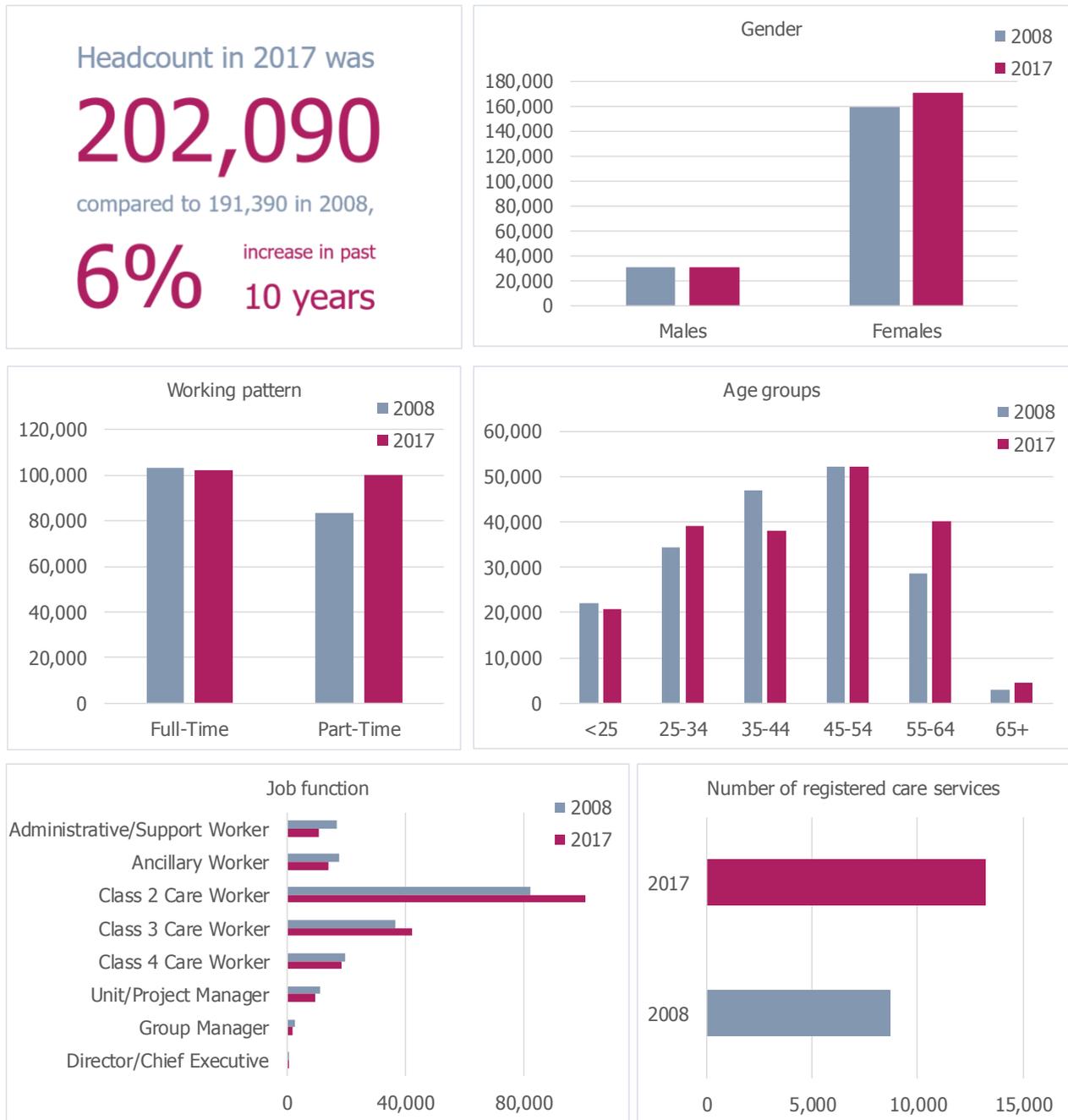


⁵ Coalition of Care and Support Providers in Scotland (CCPS), (2017). Business Resilience Survey

⁶ <https://vhscotland.org.uk/wp-content/uploads/2018/11/Briefing-paper-8-November-2018-1.pdf>

Figure 2: Scottish Social Services Workforce Data

Source: Scottish Social Services Council, 2008 – 2017 data



Note: 'Don't know' responses were excluded

Context and Recurring Themes

Scotland has a number of strategies for reforming and improving care services to meet changing patterns of need and to face a cost-constrained environment. This includes work to develop an integrated health and social care system to plan accordingly for its workforce. Many interventions are about redesigning the system towards a more outcomes - and human rights - focused agenda, driven by the desire to support older people, disabled people and other service users to participate actively in their communities and to lead good lives, such as Self-Directed Support and developing innovative neighbourhood-based models of care. Policy continues to support the development of care standards and qualification requirements alongside payment of the Living Wage for care workers. Most recently, the Scottish Government and COSLA has begun to discuss reforming adult social care.⁷

In this broad policy context, the following themes came up repeatedly during discussions of the Social Care Working Group (see Appendix B for membership) when reflecting on the fair work experiences of the social care workforce:

- The undervaluing of social care work
- Gender and undervaluation and the lack of voice and visibility of this workforce
- Health and social care disparities: how the care sector is treated relative to the health sector and the differences with how the workforces are treated and supported
- Personalisation, Self-Directed Support and the balance between the rights of users and the rights of workers
- Accessing training in an increasingly professionalised service
- Challenges from downward pressures on funding and budgets
- Recruitment and retention challenges
- Low pay in the sector and issues around Living Wage implementation
- Commissioning practices and the ongoing legacy of the purchaser-provider split.

The undervaluing of social care work

*“There isn’t enough money and that’s a lot to do with the value of the profession, the way the profession is considered by society”.*⁸

Frontline workers feel respected for the work they do by their colleagues, those they care for and their employers, but they do not feel particularly valued by Scottish Government or the

⁷ “Scottish Government and COSLA recognise the significant challenges within adult social care in Scotland” Scottish Government, Adult Social Care Reform discussion paper, October 2018. Available at: <http://www.ccpscotland.org/resources/adult-social-care-reform-paper-scottish-government/>

⁸ SCER, Fair, Innovative and Transformative Work in Social Care, February 2019. Available at: <https://www.fairworkconvention.scot/news/>

wider public.⁹ Many stakeholders perceived the dominant narrative in Scotland as focusing on the importance of the NHS and health. Social care, although an important service, was perceived as a *poor relation* in wider policy and political debates, with perceptions of widespread under-appreciation of social care by the public, particularly when compared to Health. Social care employees' terms and of conditions fall short of their counterparts in the health sector. Yet as the health and social care integration agenda recognises, social care is important to society and to the economy, affecting the lives and life chances of people needing care and support, their families, the social care workforce, care providers and the NHS. Social care is important to health prevention, citizens' well-being and social inclusion. The social care sector provides 200,000 jobs and contributes over £4 billion to the economy.¹⁰ The sector plays an important role in initial training and skills development for thousands new to employment every year and, is becoming increasingly qualified and professional. It is a particularly important labour market for women, especially older women, as women in their later working lives move into social care employment, providing an important avenue for women's economic empowerment and security.

Gender and under-valuation

The evidence suggests that the undervaluing of care work is, to a significant extent, linked to the predominance of women workers in the sector.¹¹ The view of the Social Care Working Group was that part of the failure to value social care comprehensively is due to its status as women's work (see Figure 2). Women face systematic labour market disadvantage, including occupational segregation, workplace discrimination and lack of flexible working. Institutionalised undervaluation is common in highly feminised jobs and occupations, contributing to the gender pay gap (of 15% in Scotland). Social care work is also less visible than other work, taking place in service user's homes rather than workplaces, with implications for skills recognition and for collective organising.

Evidence suggests that care work is rewarding and fulfilling,¹² yet this is not a replacement for pay and other material rewards of work. The choice to engage in care work is not a choice to earn low wages or face variable work patterns. Social care work is often locally based, which is attractive to women who may need to juggle paid work with unpaid care work at home. Addressing how the sector and its workforce is valued is, therefore, important to delivering on the opportunity dimension of fair work.

⁹ Scottish Care, *Voices from the Frontline*, exploring Recruitment and Retention of Social Care Support Workers, January 2016 at <http://www.scottishcare.org/wp-content/uploads/2016/06/Voices-from-the-Front-Line.pdf>

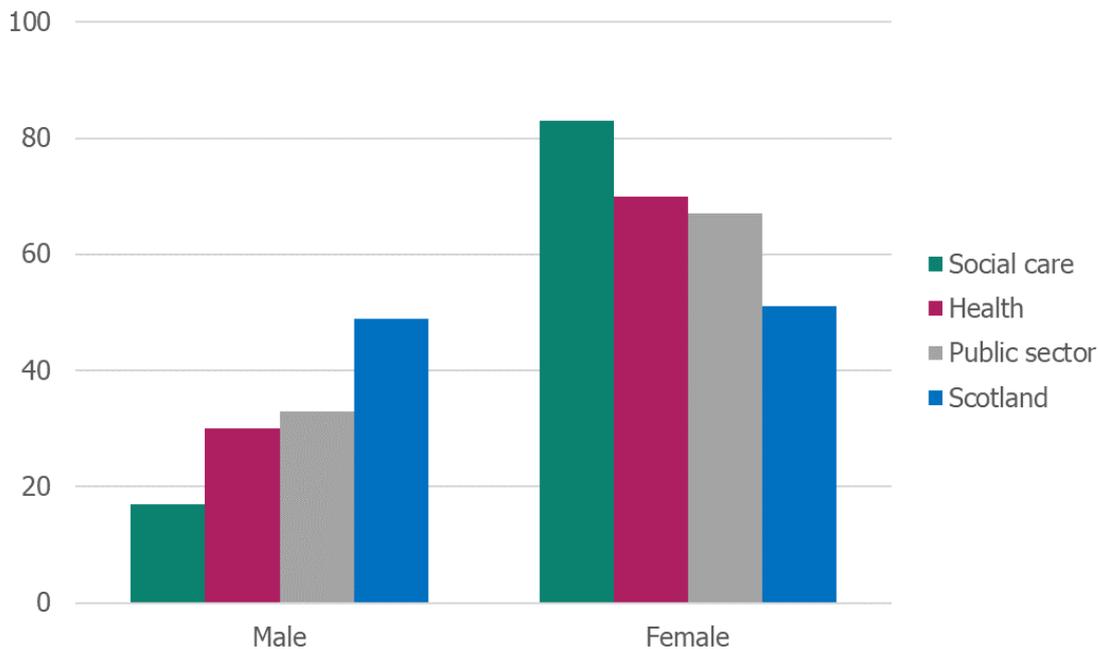
¹⁰ Skills for Care and Development, ICF Consulting, *The Economic Value of the Adult Social Care Sector – Scotland*, June 2018

¹¹ J. Rubery. Oxfam Discussion Papers. *Why is Women's Work Low-Paid? Establishing a framework for understanding the causes of low pay among professions traditionally dominated by women*. Oxfam GB November 2017

¹² N. Folbre (2001), *The Invisible Heart: Economics and family values*, New York: New Press

Figure 3: Gender split in the social care sector

Source: Labour Force Survey 2017, ONS



Health and social care disparities

The social care workforce is split across a mixed economy of providers in the public, private/independent and third sectors. Workers in local authority services generally have relatively better terms and conditions.

Notwithstanding moves towards health and social care integration, terms and conditions in social care fall far short of those in comparable jobs in the health sector. Health employees have higher levels of union membership and more powerful professional bodies, while NHS Scotland workers have well developed partnership working and collective bargaining mechanisms. The social care sector lacks crucial infrastructure vital for the comprehensive embedding and delivery of fair work outcomes for workers. Union penetration in this sector is limited. Due to the nature of the work – not in conventional workplaces - social care is a challenging environment for unions to operate in and for workers to engage collectively. This undermines effective employee voice, and the fragmented nature of the sector exacerbates this problem. This includes voice mechanisms which would allow the workforce to engage collectively and negotiate better terms and conditions.

19% of social care workers have their pay and conditions affected by agreements between employer and trade unions



Source: Labour Force Survey 2017, ONS

Yet care is a skilled and increasingly professionalised sector with many features shared with the health sector: workers often dispense medicine and care for people with complex conditions; they provide intense emotional support to those they care for and their families; and they liaise with other health professionals. All social care workers are formally registered with the Scottish Social Services Council (SSSC);¹³ qualifications are now a sector norm and broader occupational classifications within the sector reflect the growing complexity of care. However, pay and rewards have not increased in line with the increasing demands of the job.

Personalisation and Self-Directed Support

Workforce issues have also been raised in the context of personalisation and Self-Directed Support (SDS). The policy environment rightly places the user at the heart of service design, but this has led to the design and delivery of services occurring in isolation, with little or no cognisance of the strain this has placed on the system or on workforce capacity to absorb new policy initiatives or respond to user need.

The move to SDS has been transformational for the sector. SDS represents a significant transfer of choice, power and control to the citizen, while at the same time asking more from care workers in terms of their flexibility, skills and experience to provide a more personalised and responsive service. SDS has huge potential for positive change in how jobs and the sector as a whole are organised and designed. However, Audit Scotland has recently said that SDS is not yet embedded as Scotland's approach to care. Reports from Scottish Care and the Coalition of Care Providers Scotland (CCPS)¹⁴ show that implementation has been challenging,¹⁵ with commissioning processes not changing quick enough and 'hours of support' and 'hourly rates' continuing to be used to cost services.

This policy agenda has also raised difficult issues on the balance between the rights of users and workers' rights.¹⁶ In addition, SDS requires considerable workforce flexibility to deliver new and more responsive models of care, but workers find it hard to fulfil the Codes of Practice and access the right training and supervision to meet the new demands being placed on them. This works to restrict the autonomy of the worker to deliver individualised care and reduces much of the creativity and innovation that improves

¹³ The SSSC is the regulator for the Social Care Work Force in Scotland

¹⁴ A body representing the interests of third sector and not-for-profit social care and support providers in Scotland

¹⁵ CCPS and University of Strathclyde Business School. Implementing the Scottish Living Wage in adult social care: an evaluation of the experiences of social care partners, and usefulness of Joint Guidance. November 2018

¹⁶ Self-Directed Support: You're Choice, Your Right – 2017: Dalrymple, Macaskill, and Simmons

services on the ground.

Accessing training in an increasingly professionalised service

Policy development has supported an increasingly professionalised social care service, with an emphasis on improving its qualifications profile. There are concerns, however, as to whether policy development has fully recognised the potential impacts on the workforce. The Social Care Working Group heard evidence from care providers that many social care staff take up care posts with no formal qualifications and little or no experience. They are then required to undertake mandatory training and to commit to gaining a professional qualification within a specified period of time. There is no national provision and minimal coordination to support this. Often these new recruits are older women.¹⁷ Wider research identifies this group as particularly vulnerable to poverty as a result of state pension changes. Many are returning to the workplace after breaks in working due to raising a family and may be attracted to the possibility of working flexibly around school hours or other commitments, though research suggests that these entrants to the sector tend not to have prior qualifications in social-care.¹⁸ This places a predominantly older, female workforce under huge pressure. Stakeholders reported on the challenges for workers moving to a qualification-focused system, identifying negative impact on older women workers, some of whom were leaving the sector as a result of the pressure to obtain qualifications. With cuts in funding and tighter contracts, employers are finding it challenging to fund this training, so staff are often expected to pay for their training and SSSC registration themselves. The Social Care Working Group concluded that taking into account the data available on the social barriers and obstacles many workers face in terms of access to information and technology, poor prior experience of education/learning and existing poverty and literacy levels challenges, and recognising the range of health conditions the homecare workforce is supporting, this is particularly demanding.¹⁹ Research suggests, however, that workers did speak highly of the training that they did receive but that there were practical challenges in accessing it, preventing them from benefitting from what was on offer.²⁰

In health, where training is crucial for health policy and the NHS overall service quality, government takes on a more proactive role in workforce development and planning. This is not the case in social care. Other than setting standards through Codes of Practice and outlining qualification expectations, there is no intervention by the state in the capacity and capability of the workforce and in the provision of training costs to achieve SSSC recognition.

Downward pressure on funding and budgets

The sector faces real and significant challenges. This includes financial pressures, demands due to changing demographics, the push to design services that meet changing patterns of need and responding to government reforms and demands to maintain higher

¹⁷ Scottish Care, (undated) The 4 Rs: the open doors of recruitment and retention in social care

¹⁸ Scottish Care *ibid*.

¹⁹ Cunningham, N Cowie, J., Watchman, K. & Methven, K. Understanding the training and education needs of homecare workers supporting people with dementia and cancer: A systematic review of reviews: CSO Catalytic Research report <https://www.cso.scot.nhs.uk/outputs/cso-funded-research/catalytic-grants-2018/>

²⁰ SCER Fair, Innovative and Transformative Work in Social Care, February 2019. Available at: <https://www.fairworkconvention.scot/news/>

quality and standards of service.

It is widely accepted that the social care sector is facing severe challenges due to austerity. It is also working to meet the needs of an ageing population that is living longer, but with more complex needs. Evidence taken by the social care working group was that 200,000 people receive adult social care services annually, with 100,000 people receiving half of the total health and social care budget: most are accessing many different aspects of the health and social care system.²¹ A balance has to be achieved in terms of eligibility, charging and assessment, how to provide flexibility in the system, how to support those providing informal care and how to support people to stay at home with maximum independence for as long as possible. However, with no significant injection of new money, managing change is a growing burden on the sector.

Most significantly, the social care working group learnt that the pressure to contain costs is driving forms of commissioning that, as discussed below, significantly constrain employers in the sector in delivering fair work to their staff.

Recruitment and Retention challenges

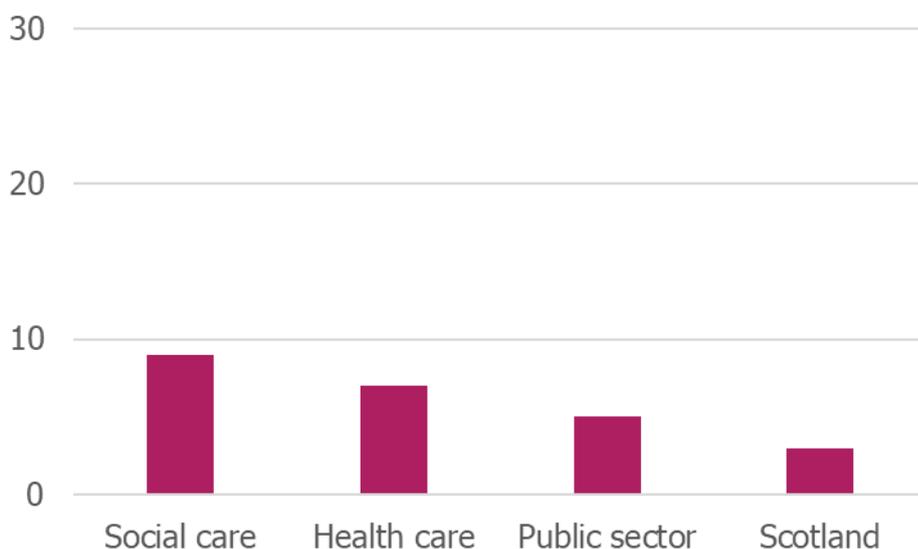
Providers are increasingly finding it harder to fill vacancies, and retain staff once they join. They see these as their biggest challenges, raising concerns over the sustainability of the sector. The Care Inspectorate's recent report found "more than a third of social care services have reported unfilled staff vacancies" in the past 18 months. Currently women workers over fifty years account for forty-five percent of care workers. Although retention and recruitment issues have long been a problem in the sector,²² providers are also being challenged by Brexit. 12,000 EU nationals work in health and social care in Scotland, representing around 3% of employment in this sector.

²¹ Oral evidence given by Scottish Government officials to the Social Care Working Group

²² CCPS Business Resilience Survey in 2017 recorded that 95% respondents reported they were having some or a lot of difficulty with recruitment, increasing 20% since 2016

Figure 4: Percentage of social care workers looking for different or additional paid jobs in 2017

Source: Labour Force Survey 2017, ONS



The inability of care providers to attract a workforce relates to pay, terms and conditions and the lack of value placed on a career in social care. Stakeholders perceive that this scenario is driven by current commissioning practices that make jobs less attractive, less secure and less flexible; zero hours contracts, challenges around rota predictability, long hours and requirements to acquire qualifications for registration and unreasonable expectations around availability and overtime.²³ The social care working group heard evidence that contracts are also being affected by budget cuts. This has resulted in decreasing available hours per client, increasing need for part-time contracts to respond to Working Time Directive challenges and night time provision changes. Retrospective cuts and reduced budgets mean that providers are continuously having to look into ‘at risk of redundancy scenarios’. All of this is taking place in circumstances when there is growing demand for social care, and impacts not just on staff experience, but on the attractiveness of the sector to potential recruits. Drawing on the voice and experience of existing care workers to help address some of these challenges in employment and work in the sector may prove to be a significant asset in addressing perceptions of social care and aiding recruitment to the sector.

Low pay and Living Wage implementation

The recent introduction of the Living Wage, while welcome, has faced significant operational challenges causing financial difficulties for providers. Implementation in workplaces has resulted in pay compression with workers in supervisory positions or with greater experience finding themselves paid almost exactly at the same level as new starts.

²³ Timewise (2017) *Caring by Design: How care providers can improve recruitment and retention by redesigning care jobs to be more compatible with carers' non-work lives*, Timewise Foundation, 2017

Although the wage floor has been increased as a result of introducing the Living Wage in care, no mechanism has been devised for undertaking job evaluation and for upgrading the wages for those with greater skills and experience. This has caused difficulties in recruiting and retaining senior posts and managers, with existing workers reluctant to take on additional responsibility for limited financial reward.

Commissioning practices and the ongoing legacy of the purchaser-provider split

Another recurring theme among stakeholders was how the sector as a whole is organised and structured and the problems associated with having a market-led system of tendering. In recent years Scotland Excel has developed more progressive models of Social Care Frameworks, recognised for the Living Wage and fair work ethos, however as described by the organisations providing evidence to this Inquiry, Framework Agreements lead to providers being accepted onto the framework with no agreed level of work. This appears to play a substantial role in passing the risk of adjusting to variable demand onto the provider and subsequently to the worker. This non-committal type of framework arrangement appears to impact directly on the nature and security of employment for a substantial component of the workforce.

Social Care currently operates in a mixed market economy. This was not always the case. Nationally-agreed terms and conditions were once the norm, until legislation in the 1990s²⁴ opened up market-led provision. Central to the then Conservative Government's commitment to increasing efficiency through the development of markets was giving local authorities responsibility for assessing needs and commissioning care services, ensuring resources were used effectively, enhancing choice and personalisation and stimulating a mixed economy or a market of care.²⁵ By 2009, over two thirds of adult social care jobs had moved to the independent sector, with a significant percentage of council provision being delivered by arm's length bodies. Local authorities were expected to bring budgets under control, which they did by introducing eligibility criteria.

These reforms transformed UK social care practice and provision and caused new problems. As national and local government withdrew from actual service provision, they also withdrew from their role with the workforce (other than for those in the statutory sector who they continued to employ directly), leaving it for the market and providers to manage with little or no support from national government. This has created inequality, not only for workers' terms and conditions but also in service provision. Local authorities developed different criteria of eligibility, intensified the division between health and social care and weakened the state's responsibility to the social care worker.²⁶

While there are real challenges in how to pay for social care, stakeholders identified an urgent need to address the extent to which the resulting commissioning and contracting system is placing most of the risk and burdens of tight finances and significant policy reform onto the workforce. Both voluntary and private care providers reported downward pressure on budgets as a direct result of procurement processes.

²⁴ The National Health Service and Community Care Act 1990

²⁵ K Scales & J Schneider " Social Care" in J Baldock, L Mitton, N Manning, S Vickerstaff (2012) Social Policy (fourth edition)

²⁶ K Scales & J Schneider (2012) *ibid.*

Challenges in commissioning of care services problems identified included:

- Disconnect between strategic planning, service commissioning and procurement approaches
- Failure to provide sufficient resourcing within contracts to allow the delivery of fair work ambitions
- Contracts in which employers struggle to sustain decent pay and conditions (including sick leave and holidays)
- Contracts that do not cover travel costs, especially challenging in rural Scotland
- Difficulties in recruiting and getting existing staff to travel
- High costs of recruiting, particularly in remote areas, where competition is fierce
- Non-funding of management costs
- Growth of split shifts and reductions in paid sleepovers

The market-led system, which creates and relies upon competition has, according to some stakeholders, accelerated a “race to the bottom” as providers compete to win contracts. Alarming, there are examples of online auctioning of contracts which were shared in the Working Group – where providers compete to win contracts at the lowest cost. These types of practices have impacted pay and conditions and undermine fair working practices. Care contracts are often falling short in terms of providing for the full costs of providing fair work.²⁷ The resulting lack of job security, low pay and expectations of ever-increasing flexibility by workers delivers a workforce at risk of experiencing in-work poverty, inequality and poor health outcomes.

The Scottish Government has acknowledged that workers in the care sector are suffering in the competitive market for care. It is particularly significant that the Scottish Government has felt the need to intervene to correct untenable levels of low pay in the sector by providing additional central funds to pay all social care workers the Living Wage. Whilst welcome, the Living Wage initiative addresses only the hourly rate paid and consequently falls far short of being an effective remedy for the significant structural problems that plague the social care system and act as an impediment to fair work.

Stakeholders agreed that fair work needs to be mainstreamed into social care to turn the tide on recruitment and retention issues in the sector, enhance worker well-being and improve equality. This is inconsistent with procurement contracts which place all the burden of flexibility and adaptation to policy on the care workforce. Some efforts have been made to influence commissioning. The Scottish Government’s statutory procurement guidance (published in 2015) requires all public bodies to have regard to fair work practices in contracts and to abide by best practice Fair Work procurement guidelines. The best practice guidelines and toolkit should be applied at every level – by commissioners and by employers.

²⁷ SCER, Fair, Innovative and Transformative Work in Social Care, February 2019. Available at: <https://www.fairworkconvention.scot/news/>

The Evidence

What Social Care Workers told us

Introduction

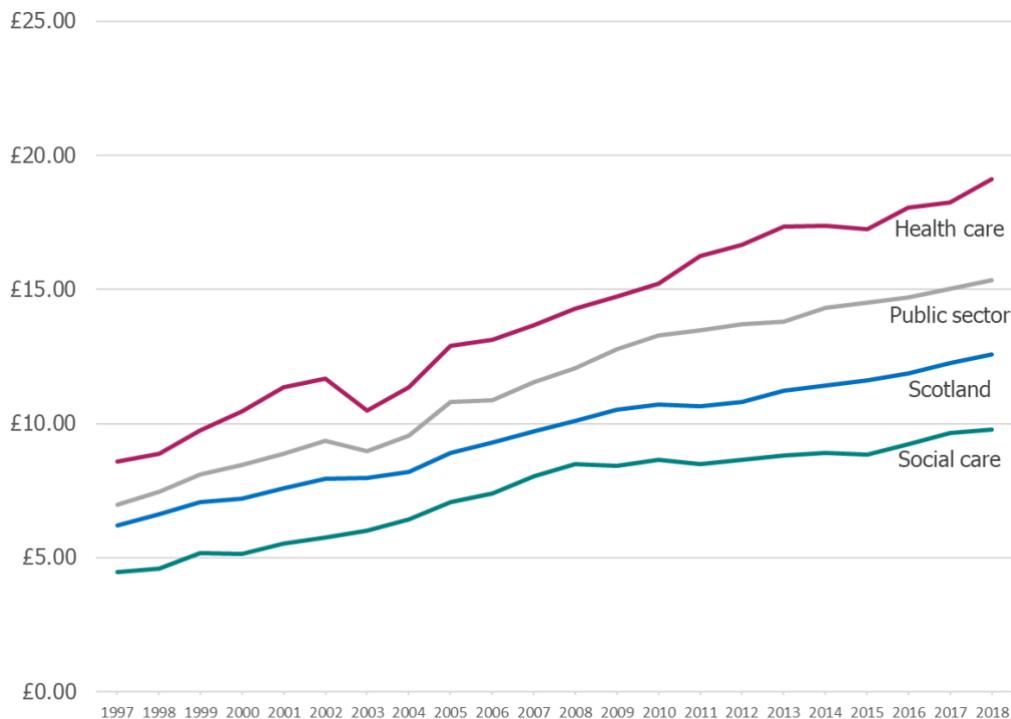
Below is a summary of the University of Strathclyde's Scottish Centre for Employment (SCER) research findings²⁸ on how care workers and their employers understand the five dimensions of Fair Work. The following sections provide insights that connect with each of the five dimensions of fair work identified within the Fair Work Framework.

Evidence: security of income and employment

Predictable patterns and guaranteed hours of employment and income are fundamental to the provision of fair work. Low pay and income insecurity can lead to in-work poverty, child poverty and poverty beyond working life.²⁹ As Figure 3 indicates, median hourly pay in the social care sector lags equivalent pay in Scotland, in the public sector and in the health sector.

Figure 5: Median of hourly pay, (not adjusted for inflation)

Source: Annual Survey of Hours and Earnings (ASHE), ONS



²⁸ All quotes throughout are drawn from research commissioned for this report and conducted by the Scottish Centre for Employment Research (SCER). These can also be found in the accompanying research report SCER, Fair, Innovative and Transformative Work in Social Care, February 2019

²⁹ Fair Work Convention (2016) Fair Work Framework, Edinburgh: Scottish Government. Available at: <https://www.fairworkconvention.scot/wp-content/uploads/2018/12/Fair-Work-Convention-Framework-PDF-Full-Version.pdf>

In the SCER research, less than half of care workers reported always having sufficient hours of work or income to meet basic household requirements:

“I don’t think anyone’s fairly rewarded in care at the moment. The minimum wage seems like an excuse for people to pay the minimum wages. I don’t think it was designed for that. I know we don’t get the minimum wage here, but it is just a few pence more. I think people are worth more than that. But I’m not doing this for the money.”

“To me fair work in practice is about paying a fair salary for the type of job that we do and we are still (one) some of the poorest paid... people can go and earn quite literally ten pounds an hour stacking shelves... you’re not going to get the staff... give them fair salary because that’s the future.. It’s as simple as that.”

Care workers spoke about the need to work long hours to have any chance of making ends meet. They spoke of the need to take on full time hours and/or overtime to achieve a reasonable income. Leaders participating from the independent care sector spoke about the link between low pay, long working hours, stress and other health problems in the workforce:

“You need to work. You can’t afford to be unwell.”

“Workers have to accumulate hours to receive good enough pay [and this means] stress of long shifts with high levels of responsibility.”

Almost half (46%) of care employees viewed their pay as unfair compared with other jobs in their local labour market. They expressed frustration that their skilled work was not recognised by better pay. In addition to low pay, some reported not being fully reimbursed for travel costs, work-related phone use, internet use, uniforms, and meals with those they care for when out with them. National data also highlights that more than 16% of care workers deliver unpaid overtime weekly.

1 in 6 social care
workers do **unpaid**
overtime each week



Source: The Labour Force Survey 2017, ONS

Leadership teams spoke about the need to establish a more level playing field in terms of pay, terms and conditions between directly-employed local government care workers and those employed in the third and independent sectors. Respondents leading independent firms responding to the SCER research spoke about the low hourly rates offered by local authorities for contracted-out care to independent providers compared to the higher rates for in-house provision.

Low pay is also often accompanied by relatively flat pay hierarchies. Some care workers raised concerns about the limited pay increases available for taking on more senior or team leader roles, particularly as payment of the Living Wage in Scotland has compressed pay differentials further:³⁰

“I’m not taking on the extra responsibility of doing medications, going to people’s houses, assessing them. Getting involved with care plans. Social workers, doctors for nothing. There’s no way....Everybody needs to be decently paid.”

Managers agreed that more money needs to be made available to offer additional pay increments to employees adopting more senior roles, both to reflect their roles and responsibilities and to encourage progression and recruitment into these positions.

Low pay is not the only challenge for some care workers. While the care workers in the SCER survey did not express immediate worries about their own job security, almost three-quarters of care workers reported that at least **some** colleagues were worried about job security (more than 40% reported that **most** colleagues worried about job security). In part, these concerns arose from perceptions of the wider financial stability of the sector and the challenges of regular re-tendering:

“If we don’t get the contract awarded to us then everybody will be made redundant.”

“There is a system of tendering... people are aware of that, contracts come up for retendering, and it is unsettling. We could resolve it by not having short term tendering situations. Essentially, that would give people more security.”

However, although workers feel insecure, in reality some work many more hours than they want to,³¹ suggesting that there are enough hours of work in the context of a growing need for social care services.

³⁰ CCPS and the University of Strathclyde (2018) Implementing the Living Wage in Adult Social Care: of the experiences of social care partners, and usefulness of Joint Guidance

³¹ SCER, Fair, Innovative and Transformative Work in Social Care, February 2019. Available at: <https://www.fairworkconvention.scot/news/>

1 in 3 social care
workers work at least
5 hours of paid
overtime a week



Source: The Labour Force Survey 2017, ONS

Some managers agreed that short-term commissioning practices contributed to job insecurity (and to problems of recruitment, turnover and retention). Some organisations reported that they had refused to engage in specific types of tendering because of the limited resources that could be provided for frontline staff under these tenders.

All organisations participating in the research delivered services across numerous local authority areas and therefore engaged in a range of local commissioning arrangements. There was an awareness of wide variations in commissioning with good examples built on collaborative principles, as well as more short-term, market-led forms of contracting-out. The former were seen as offering potential benefits in terms of security of funding for organisations and security of employment for staff.

While regular re-tendering appears to undermine employment security, staffing practices within care providers undermines the need for stable and predictable hours. In an environment which is challenging, where budgets are limited and there are frequent changes in the delivery care packages required, employers need to have a flexible labour supply which allows them to provide care at a sustainable cost. Zero hours and low hour contracts offer employers this flexibility, allowing employers to vary rotas and hours each week. Flexibility is predominantly employer-focused. Risks (in terms of hours available) are passed to the worker and managed through strict scheduling around users' preferred hours. This means care workers often don't know their rota, or how much work they have week to week. This makes planning their finances and their home life challenging. Although less than one in ten of the sample responding to the SCER survey were on non-fixed hours contracts, the statistic for the care sector as a whole is one in five.

Managers spoke about keeping a small number of workers in 'relief' banks of non-fixed hours' staff. Managers also spoke about the need to use non-fixed hours contracts because of the flexibility demanded by the organisation to respond to changes in contracts and to fit around the personal needs of the client (such as dealing with cancelled hours if the client goes on holiday or has an unexpected hospital admission). This can lead to very long days with unpaid 'down time' in the middle of the day and unpredictable schedules.

Disparities between contracted and actual working hours not only affect care workers' direct pay, but can also impact negatively on entitlement to sick pay and holiday pay. Contractual variability can also undermine their integration into their teams and opportunities for learning and development.

“It’s helped me a lot to learn, because when I was just like relief, you were just coming and doing the basics and that but now I’ve got the contract you actually feel you’re somebody. I feel quite important actually, you know... all the different stages of learning that I’m doing.”

Nearly 20% of social care workers are **not on permanent contracts**



Source: Scottish Social Services Workforce 2017 Data

Employers in the care sector face scarce (mainly public) resources and commissioning arrangements are often beyond employer influence or control. Stable, long-term and sufficient funding for the care sector is required to underpin a secure employment environment for care workers. But there is also a need for better organisation-level management of demand to deliver fair work, where contracts more closely reflect hours actually worked and where there is more and better planning to provide more predictability in work rotas and scheduling.

Opportunity

Fair work is work that is open to all without discrimination and which embeds training, learning and career development, thus supporting social mobility. Key questions for the sector, therefore, related to opportunities for training and career development.

Care workers interviewed for the research were often very positive about the learning and training on offer from employers. Care workers spoke about the extensive training on both care delivery and broader organisational skills, such as shift organisation. They also spoke about the necessity to undertake vocational training and of the considerable investments (time and money) being made in training to meet SSSC registration requirements.

The SCER research identified examples of fair work practice, with employers offering a range of training and e-learning options. However, there was some evidence from participants that work pressures could mean that staff struggled to balance work and learning commitments. Understaffing, caused by recruitment and absence problems was seen by some care workers as a barrier to their own learning. There was also evidence that work pressures could mean that staff struggled to balance work and learning commitments.

“You’re having to do your SVQs, and then there’s all this learning, there’s just so much getting piled on...you’re staying up that bit later at night to get it done.”

1 in 5 female
social care workers have
higher education,
degrees or equivalent.
Only 6% have no qualifications.



Source: *The Labour Force Survey 2017, ONS*

There were also examples of workers being involved in a variety of specialist tasks.

“I’ve learned an awful lot since I’ve been here in the dementia unit. I’ve been doing as much studying as I can, so I can enhance my role. I’m doing an enhanced dementia course now, so I can do the job better and understand... It’s not just about the person with dementia, it’s the whole family and their friends that feel it too, and you want to give them support. And day-to-day care and everything.”

The SCER research found only a minority of workers felt that most or all colleagues’ skills were used effectively, which adds to existing evidence that skills under-utilisation might be a problem. Only two-fifths of employees surveyed reported that, for most or all of their colleagues, their employer developed people’s skills for the future as well as the present or that their employer used people’s skills and talents effectively. This suggests significant untapped potential within this workforce but also raises a question about the suitability and relevance of the training provided.

While care leaders highlighted some interesting examples of groups of smaller independent organisations collaborating to share the costs of running training, there remains a need to maintain and share existing good practice on training and development in the sector, while seeking to ensure that staffing and other resources are in place, so that care workers can balance work and learning commitments. There is also a need for sufficient resources to assist care organisations to fully resource both training and time off for training. It is important that care organisations have the resources to help to free up staff time and reduce pressures associated with losing staff to training.

Most care workers in the survey were keen to continue in the sector but did not know how their career would progress, perceiving that opportunities for progression were limited. Some leaders acknowledged the challenge associated with encouraging staff to see social care as a career. There may be benefits in strengthening practice-sharing in career planning and development, as well as in identifying how organisations can articulate the range of specific skillsets and roles required by the sector and support staff to progress towards those roles.

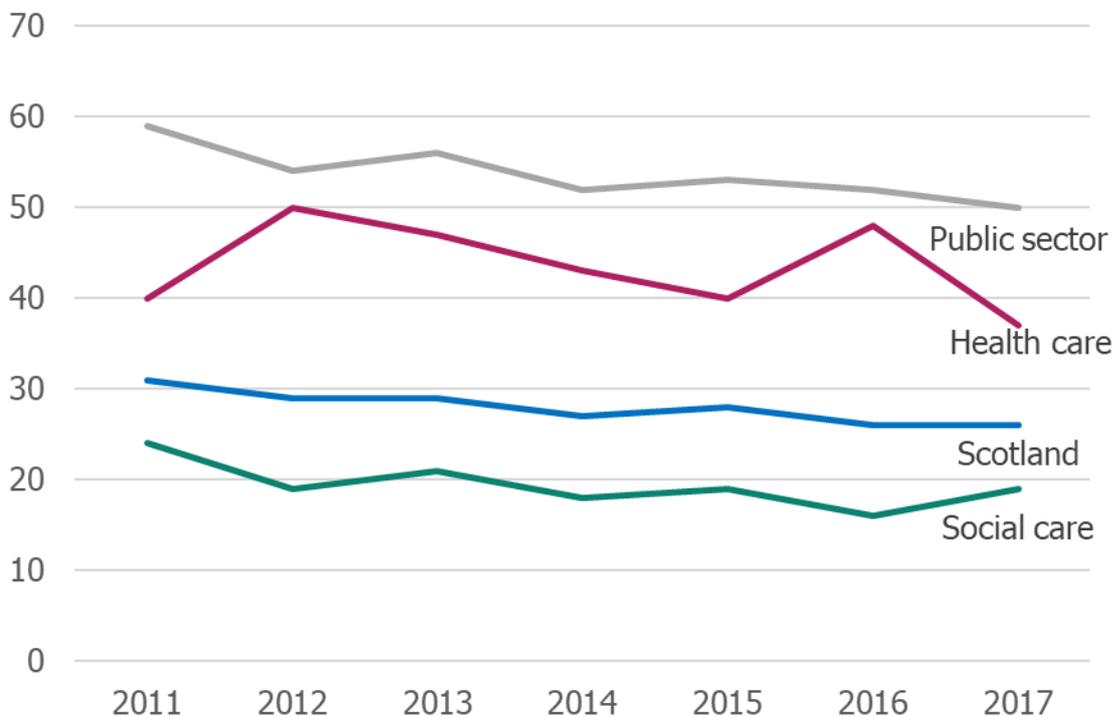
Effective voice

Fair work requires that organisations have practices allowing for employees' views to be sought out and for employees to be listened to, to influence and to be able to make a difference. Key questions focused on the presence of trade unions; whether care workers had opportunities to use their voice and contribute their ideas; and specifically whether opportunities existed to engage in co-producing personalised care in collaboration with services users?

In a social care context, care workers' views and voice are particularly important at a time when they are being challenged to co-produce personalised care in collaboration with service users. However, opportunities for contributing to decisions and effecting change were limited according to many care workers participating in the research.

Figure 6: Percentage of workers in workplaces where agreements with trade union affect pay & conditions

Source: Labour Force Survey, ONS



Only three in ten care workers in the SCER survey agreed that most or all employees had a strong collective voice. Only a minority thought their organisations actively sought to negotiate changes in pay and conditions with employees, or that employees had an active role in the introduction of new ways of working. While both care workers and leadership team members acknowledged a range of strategies for employee voice within care providers, there was sometimes a sense that opportunities for staff to be 'heard' and influence management decision-making were limited.

Leadership teams acknowledged that there was a constant need to invest in and maintain relationships between employees and trade unions:

“We work in very close partnership with UNISON. They are driving the Fair Work Framework in terms of working practices in terms of terms and conditions and rights of workers, so everything that we do is hopefully for the benefit of the people that work for us.”

Interviewees acknowledged that there were challenges in ensuring employees could feedback ideas and concerns on a day-to-day basis, given the dispersed nature of the workforce and heavy workloads.

Workers criticised some of the practices of their organisations: sometimes mechanisms were seen as one-sided and about imparting information, rather than about consulting and engaging the workforce.

There is a need to ensure that employee voice mechanisms engage with a workforce that is often dispersed and faces considerable work demands; and it is important that, where trade unions represent care workers, there is the fullest possible dialogue and partnership with employers.

Fulfilment

The Fair Work Framework highlights that “fulfilling work can be an important source of job satisfaction individually and collectively” and it is often rooted in the opportunities to learn, to use talents and skills, to engage in challenging activities, to solve problems, to take responsibilities and to make decisions. Key questions, therefore, focused on whether jobs were felt to be meaningful and aligned with the workers values; the pace of work and work pressures; autonomy and monitoring; and the role of supervision and support.

Among survey respondents, 71% thought that their workplace provided jobs that are meaningful. More than three-quarters described themselves as satisfied or very satisfied in their work. More than four-fifths of workers in the SCER research agreed that sharing the values of their care organisation was an important personal motivator.

When asked about the best feature of their work, care workers referred to specific examples of fulfilment linked to feeling that they had delivered excellent care for service users.

“I work in supported living accommodation with six adults, all completely different. And basically, we support them to have a normal life. It’s so very rewarding... It’s a really good job, really good.”

“It’s nice to be involved in people’s lives and to walk away at the end of the day thinking you have made a positive difference.”

“All the people [service users] praise me for what a good job I did and that just made me feel like I was right up there. That was such a good feeling, to know that I am appreciated.”

Care workers gain considerable self-worth from the sense that their work was valuable and that they were making a difference to service users' lives. Yet there was an acknowledgment in some of the SCER interviews that work pressures, especially having insufficient time to engage with service users, could undermine feelings of fulfilment. The stress involved in having to curtail time with service users can undermine their sense of meaning and fulfilment and may impact negatively on care workers' wellbeing.

"We're a bit short-staffed. It's been that people have found other jobs or are on maternity leave or are on holiday. You find yourselves very poorly staffed, and it is really difficult... I can't remember the last time we had too many staff, or even the right number. Sometimes you're so busy trying to get things done for them that you don't have time to speak with them (service users), or just take an interest in them."

Much of the care delivered by most of the participating organisations was based on commissioning that allocates a set number of hours of care. This approach to delivering defined by hours of care sometimes contributed to a sense of frustration, undermining the fulfilment of care workers who were concerned that they were not spending enough time with service users:

"Some folk only get allocated a certain amount of time and we go in and say 'we can't possibly do it in that time', and we're running over our time with them. We'll keep phoning and saying that 'they need more time', so (our team leader) phones social work, and hopefully it gets allocated. If we don't say anything, it won't get changed. Other service users get upset because they think you have forgotten about them and it can take the rest of the day to catch up."

Previous research has suggested that these models of care provision can be stressful for care workers, who are sometimes required to rush between times appointments.³²

"We did have a home care contract, a large home care contract which we don't have anymore, and that involved call monitoring by the minute, so we were getting paid literally by the minute. That wasn't fair to colleagues, because of pressure that they were under. It's not helping someone live a valued life."

The contracts and therefore the type of care work delivered by organisations may have the potential to constrain care workers' experiences of fulfilment. However, some care workers gave examples of having substantial autonomy to shape their work to service users' needs and took considerable joy in drawing from their own abilities and interests, as well as

³² Cunningham, I, Lindsay, C and Roy, C (2015) The View from Here: Peoples' Experience of Working in Social Services: A Qualitative Analysis, Glasgow: IRISS

having the capacity and autonomy to connect with service users' needs and interests.

The intrinsic value of care work matters, as finding meaning helps care workers to cope with the pressures associated with the challenging nature of the job. However, these same coping mechanisms can normalise and legitimise overwork and burnout, bringing risks of self-exploitation among care workers that may undermine their wellbeing.³³

During research with the independent sector, some care leaders spoke about the increasing use of electronic monitoring, which meant that any time programmed not spent with service users was deducted from payments to the provider. This practice intensified pressure on staff to arrive and leave at exact times, rather than being able to respond flexibly. Reflecting on these issues, many organisational leaders and managers argued for a model of commissioning that focused on outcomes and wellbeing, rather than hours of care, as being important to ensuring fulfilment elements of care work.

“What we want to do is commission on outcomes so... then the whole point is that you've got this upskilled workforce that can work with that individual and look at creative ways of meeting those outcomes for that person without saying ‘it needs to be done within 15 hours a week’ or whatever it is.”

“It's a commitment-based job, but the organisation of work is being done through ‘time and task’.”

The SCER survey research and interviews found that care workers valued supervision as a source of support and an opportunity to reflect on practice. This was seen as particularly important given the challenging nature of care work particularly for those who experience long periods of lone working. Concerns were raised regarding the pressures in undertaking complex and emotionally challenging work, with one in ten care workers reporting that their colleagues experienced a sense of isolation.

There were some concerns among survey respondents about the time and resources available for regular supervision. While most care workers are positive about the supervision they received, some concerns were raised that time pressures meant that supervision sessions were sometimes not able to explore career development or how well employees were coping.

“What makes this sector really different, I think, is that the level of responsibility... I mean, it can be life and death... I feel that as a responsible employer we have a duty of care... There's a lot of lone working as well... so for us, it's really important that those supervisions take place, and they have team meetings and that staff feel part of something.”

Supervision and support is important to the delivery of fulfilling work in the social care sector. Yet supervision is perhaps easier to reduce as a cost than front line service

³³ Cunningham et al, *ibid.*

delivery. Given its importance, however, the need to resource and support supervision should be 'locked in' to considerations of funding and commissioning. Funders, key stakeholders and care organisations should work together to ensure that high-quality supervision is fully costed and supported in contracts to deliver care. There may be value in further research on what best practice in supervision looks like and identify a unit cost that can be incorporated into contracts.

Respect

The Fair Work Framework document notes that “respect involves recognising others as dignified human beings and recognising their standing and personal worth”, consistent with international Human Rights obligations in relation to just and favourable conditions of work.³⁴

The issue of respect spans respect for health and well-being, for family life, for status and for contribution. Crucial questions focused on whether social care as a profession is respected by society; whether workers feel respected by their colleagues and their employers; and whether work-life balance was respected.

Findings on the respect dimension of Fair Work were broadly positive. Most of the survey respondents (72%) thought that colleagues treated each other with respect and reported high levels of job satisfaction. Survey respondents were also broadly positive that their organisation would deal with bullying effectively and were able to identify fair work practices promoting respect and combating inappropriate behaviour.

However, most of the survey respondents also identified problems of stress and overwork among colleagues. Interviewees spoke of the pressures associated with having to cover colleagues as a result of absence or staffing shortages. Although interviewees reported a range of fair work practices in the form of wellbeing interventions, there were significant concerns around stress and overwork.

The vast majority of respondents thought that at least some colleagues found work stressful; with almost half reporting that most or all employees experience stress. In addition, two-fifths of respondents thought that most or all of their colleagues were overworked. This corresponds with national statistics for the sector.

In interviews, care workers described a range of factors contributing to stress: the demanding nature of care work, the desire of care workers to do their job well, the (sometimes) limited time available to deliver care, and (in some cases) understaffing and the need to take on additional hours for financial reasons, both of which fed into overwork.

“The weekends are more stressful, because obviously you’ve got less staff... if someone phones in sick on a Thursday (team leaders) have to still get cover, and make sure everybody still gets their care. Sometimes pushing people in to cover, that can be stressful.”

There was a sense that sporadic experiences of overwork and tiredness were accepted as

³⁴ Workers' rights at the international level are laid out in a number of human rights conventions and treaties including the Universal Declaration on Human Rights (Articles 23 and 24, 1948) and the International Covenant on Economic, Social, and Cultural Rights (1966)

‘part of the job’.

“There’s always extra hours going, because there’s always someone phoning in sick, or an extra care package that they need ASAP. There’s loads of overtime if you want it. Sometimes too much! I’m on a zero hour’s contract... I’ve got no complaints, just that sometimes it’s a long day.”

“I ask for 20 [hours]. They were very short-staffed for a while and some weeks I was doing 30, 32, 37 in one week.”

Some workers delivering care at home services described the stress involved in their constant worry about running late during their run of home visits. Given their workload, their reliance on colleagues to deliver care, and the complexity of the services being provided, the risk of running late loomed large in some care workers’ minds and was a significant source of stress and worry.

1 in 4 social care workers **would prefer** to work **shorter** hours.



Source: *The Labour Force Survey 2017, ONS*

Care workers thought that many of their colleagues experienced stress and overwork and told of how their commitment to service users would often result in workers accepting additional hours. This chimes with national statistics showing that, in 2017, 27% of Scotland’s female social care workforce worked for over 41 hours a week (including overtime) and an additional 11% of the female care workforce worked for over 50 hours weekly.³⁵

Many of the dimensions of Fair Work are connected in the social care sector. How care is seen by outsiders – as a low paying sector – feeds into recruitment and retention problems that impact other dimensions of Fair Work: from opportunities to access supervision and training, to the opportunity to gain fulfilment from work. Staffing problems and work intensification may also directly impact negatively on the wellbeing of some workers.

³⁵ The Labour Force Survey 2017, ONS

Conclusions



Is Fair Work being delivered in Social Care?

Our assessment – fulfilling, but not always fair

For many thousands of care workers, care is a meaningful and fulfilling job. However, social care as a sector does not systematically give workers access to jobs characterised by all the dimensions that make up Fair Work. In particular, the level of wages for frontline support staff in social care is drastically low despite the work being complex and demanding.

Although there have been efforts to address the issues of low pay through adoption of the Living Wage, progress on pay is too slow. This can be perceived as an indication that care work and care workers are not sufficiently valued.

One of the strongest conclusions from the Working Group related the undervaluing of care work to the fact that it is largely undertaken by women. Women make up the majority of those who are cared for and they are also the majority of the workforce. Investing in the care sector, opening up opportunities and designing quality jobs that are fair could bring many people (especially women) into the workforce, helping to respond to the challenges of Brexit and working to reduce Scotland's gender pay gap.

Social care is increasingly professionalised. However as productivity, skills and qualifications have increased, care work has not been additionally rewarded. Unlike social work or health, social care staff have limited access to adequate training and support, placing a predominantly female workforce under pressure in a sector which requires formal qualifications with little or no central funding for training. Too many staff are required to cover their own training costs and, due to work pressures, undertake training in their own time.

The systematic erosion in the working experiences of care workers has not happened overnight. The market-led care system creates competition, commissioning and tendering practices that together depress hourly rates, and generate low pay as well as limited job security and hours sufficiency for some.

In the wider context of health and social care integration, social care stakeholders perceive their sector as secondary and at a disadvantage, not least because it is more exposed to markets and competition, unlike health. A number of other stark contrasts with NHS Scotland were prominent in these discussions, notably on support for training and professional development for NHS workers, effective voice and partnership working structures at every level of the NHS, and greater investment in appropriate terms and conditions for NHS workers. In this context, if health and social integration is to work, priority should be given to building the necessary Fair Work infrastructure – in the sector and within the Scottish Government - to support the voice of the social care sector. Collaboration in delivering this infrastructure by employers, unions, government and other relevant stakeholders is crucial.

High quality social care is vital for the quality of our society. Retaining and recruiting a high quality workforce is crucial to delivering high quality care. To compete with other employment, and to face labour supply challenges as a possible result of Brexit, care work needs to be attractive in terms of pay and the other dimensions of Fair Work. Failure to retain and recruit will lead to understaffing and additional work intensification.

A choice to invest in the workforce

Social care is an essential part of our public services and investing in frontline workers ensures the quality of care provided. While significant resources and time have been invested over the years into the present system of care, the funding, regulation, design and delivery of services have taken insufficient account of impacts on the workforce and its capacity to respond. The core of this vital service is delivered by frontline staff. Their ability to innovate and deliver personalised care depends fundamentally on their wellbeing and ability, as well as willingness, to make a difference in the work that they do. This report calls for a greater focus on investing in fair work for social care workers. Such a shift in perspective, energy and resource will not only improve the lives of the workforce, but can also deliver improved service outcomes.

Addressing problems in how the sector is organised and managed

Fair work aims to raise the bar on working conditions. Employers face constraints, however, which impact on terms and conditions. The complexity of the landscape, with thousands of care providers operating on extremely tight margins, suggests that individual employers acting by themselves are limited in how much they can do to provide fair work for their employees. During this Inquiry, both social care workers and employers described how the barriers to accessing fair work were created by the wider care system.

Low pay and challenging working conditions are, at least in part, a direct consequence of the specific organisation of the sector, where a public sector client (local authority/government) offers very low prices to multiple suppliers, resulting in competition on costs that drives both low pay and a need for hyper flexibility on the part of the worker. The resulting unpredictability of rotas, low fixed contractual hours, the absence of slack in the system, unsociable hours, downtime in the middle of the working day and the need in some cases to travel long distances between clients all combine to undermine the likelihood that social care workers experience fair work.

Turning to the need for new thinking on pay, while additional central funding (like that provided for payment of the Living Wage) is much welcomed, more strategic and systematic policy engagement is needed to address both pay development – for example, appropriate job evaluation and pay ladders – and wider terms and conditions.

However union penetration in this sector is limited, which undermines effective employee voice, and the fragmented nature of the sector exacerbates this problem. This is unlikely to change without specific intervention.

A need to rethink the commissioning of services

In this Inquiry, all roads have led back to the constraints imposed on employers by the commissioning system. There are aspects of current commissioning practice – notably non-committal hourly rate-based competitive tenders and framework agreements – that appear to be inconsistent with fair work. Without a significant rethink of the current approach to commissioning, the fair work challenges facing the sector are unlikely to change.

With regards to the auditing and monitoring of care contracts, provider organisations need to follow the Scottish Government's Fair Work procurement guidance and be held to account for the fair work commitments contained in their bids. As yet, there has been no evaluation of how the procurement guidance impacts fair work practices. Scottish Government's recent announcement of Fair Work First increases the need for such an evaluation.

The need for radical change

Although employers have a role to play, the main actions identified in this report are the responsibility of sector leaders, funders and commissioners of care and government.

The scale of the problems facing the social care sector requires radical thinking and whole systems interventions which include ensuring financial sustainability of the sector, fully integrating health and social care services, urgently reforming commissioning processes and addressing the lack of collective representation and collective voice of the workforce. The structure of social care, the invisibility of the workforce and scale of the challenge are such that a significant robust intervention is needed to ensure that fair work practice is applied at every level – by national and local government, by commissioners and by employers. Change needs to come from sector-wide, coordinated, national initiatives, and through systems-wide interventions. Ensuring that fair work is an integral part of health and social care reform will require both leadership from sector bodies, commissioners and government and cross-departmental leadership within the Scottish Government.

Scotland faces a choice; whether to invest in people and their experience of fair work, or continue investing in, while mitigating the impacts of, a profoundly broken commissioning and procurement system. How we procure and commission social care services shapes how we deliver and experience care – and with it, affects the lives of thousands of working people across the country, their families, and those for whom they care.

Recommendations

This report makes five recommendations designed to impact on the drivers of work and employment practices in the social care sector, and to ensure that any burden of flexibility in service provision is not borne disproportionately by workers.

1. Scottish Government should support the establishment of a sector-level body responsible for ensuring that social care workers have effective voice in the design, development and delivery of social care services.
 - This body is required to provide greater coherence of approach in a sector characterised by multiple employers and low levels of unionisation.
 - It should contain as members key actors in the sector including employers, unions, policy makers and other relevant sector representatives.
 - This body should provide leadership on Fair Work; scrutinise work and employment practices in the sector, provide a resource and information hub for the sector and its workforce, influence policy, and may over time become a forum for sectoral bargaining.
 - An initial short-term SG-led sector level group should undertake the preliminary scoping work to co-create a body with a longer term role, function and governance.
2. Key stakeholders should develop and agree appropriate minimum contract standards for the provision of publicly-funded social care services, consistent with the Fair Work Framework and the Scottish Government's Fair Work First initiative. This should provide not only for terms such as pay and hours/income stability, but also for appropriate supervision, training and development.
3. There is a need for a radical overhaul of commissioning practices in social care to ensure that fair work drives high quality service delivery through the adoption of both minimum contract standards (2 above) and through engagement at a sector level between purchasers, providers and deliverers of social care services (1 above). Such an overhaul should end current commissioning practices of non-committal hourly rate-based competitive tenders and framework agreements.
4. Key stakeholders in the social care sector - funders, purchasers, providers (employers) and those with regulatory duties (e.g. Care Commission and HSE) - should apply the Fair Work Framework and commit to improving pay, conditions and opportunities for progression for directly employed care workers and for Personal

Assistants. Stakeholder Fair Work action plans should be developed to underpin this commitment.

5. The Scottish Government should support delivery of the preceding recommendations, and incorporate them into their Fair Work Action Plan and Gender Pay Action plan. A central location within Scottish Government's Health and Social Care Directorate is required to coordinate policy for the social care workforce, integrated with workforce strategies for the health workforce, and to support delivery of these recommendations through its own FW action plan.

Appendix A

Background and Methodology

Social Care Working Group

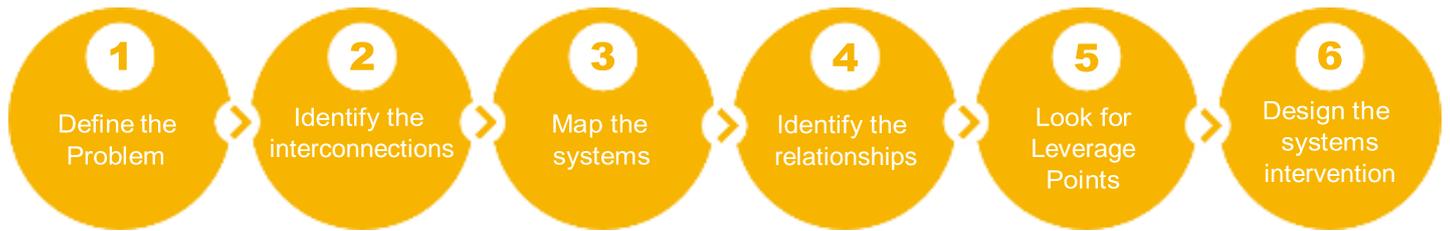
The Social Care Working Group convened over 18 months to re-examine the care system and engage on some critical questions placing the worker at the centre of the system. This group involved representatives from trade unions, the Chief Social Work Office, Scottish Government, SSSC, SCVO, CCPS, Scottish Care, COSLA, Social Work Scotland and the University of Strathclyde. They met every two months for 18 months. Each meeting was themed and invitations were extended to others. The group heard evidence from persons with lived experience of social care services; from union officials representing workers, social care providers delivering care on the frontline; and academic experts with expertise in gender and disability who provided the group with historical context and provided examples of alternative international models of social care. We also heard from Scottish Government policy officials leading on different aspects of current social care policy and members of the group also heard from each other. The group worked through a series of steps to define the issues, understand and map connections with the aim of recommending actions that would help deliver a social care system that would provide fair work.

Social care as a complex system

The aim of the inquiry was to determine what was needed to implement the Fair Work Framework across the whole social care workforce. Because social care sector is a complex system, a systems approach was adopted.

Systems thinking is a holistic approach to analysis that focuses on the way that a system's constituent parts interrelate and how systems work over time and within the context of larger systems. The aim was to better appreciate how the system looked from the perspective of the worker.

Different people, with different points of view and who see different parts of the social care system, were invited to come together and to learn together to collectively see what was happening in the social care sector and the unforeseen results that could be experienced by the worker within the system. Representatives of the key social care infrastructure were asked to join the working group: the leaders and policy makers in social care who were responsible for governance and management of the sector and who, together, could provide a picture of the sector as a whole system from policy development, to funding, commissioning to delivery.



This Inquiry had two main components. The first component was commissioned research from the Scottish Centre for Employment Research at the University of Strathclyde, using the FITwork project methodology, to provide evidence from people working at the frontline of care. This resulted in two research reports by the SCER researchers, which are published separately on Fair Work Convention's [website](#):

1. Personal Assistants working under SDS Option One: experiences of fair work
2. Fair, Innovative and Transformative Work in Social Care

Inquiry Questions:

- What are the arrangements for effective voice? Where voice is weak, what are the barriers to voice and how can that be addressed?
- What is the prevalence of precarious working in the sector, what drives the reliance on precarious work, what are the barriers to improved security and how can they be addressed?
- What is the current role of commissioning bodies? What evidence is there that the commissioning and procurement system tolerates, facilitates and/ or actively promote precarious working in social care?
- Do commissioning bodies use procurement/commissioning and contract compliance systems to embed and maintain fair work standards, have the Fair Work dimensions been written into Integrated Joint Board strategic commissioning plan? If not, why not?
- How do regulators such as the Care Inspectorate, SSSC & others engage with Fair Work objectives currently? How can they better monitor and respond to situations where precarious employment and unfair work undermine care standards and regulatory compliance?
- What whistleblowing arrangements are available to social care clients and employees where precarious employment and unfair work undermine care standards?

Appendix B

SOCIAL CARE WORKING GROUP

The Fair Work Convention invited senior representatives from the following organisations and Scottish Government to become members of the Social Care Working Group. We also were fortunate to have key individuals provide evidence with regards to the current policy context in Scotland as well as individuals and organisations who provided direct evidence.

Co-Chairs

Lilian Macer, Fair Work Convention

Henry Simmons, Fair Work Convention

Members

John Downie, Scottish Council for Voluntary Organisations (SCVO)

Jim Elder-Woodward, Scottish Independent Living Coalition (SILC)

Anna Fowlie and Lorraine Gray, Scottish Social Services Council (SSSC)

Annie Gunner Logan, Coalition of Care Support Providers Scotland (CCPS)

Colin Lindsay, University of Strathclyde

Donald Macaskill, Scottish Care

Michelle Miller, Chief Social Work Officer, Edinburgh Council

Gordon Paterson, Care Inspectorate

Various representatives attended from the following organisations

COSLA

Office of the Chief Social Work Adviser, Scottish Government

Directorate for Health and Social Care Integration, Scottish Government

Unison

Unite

Presentations were delivered by the following individuals to help inform the current policy context and landscape:

Ron Culley, NHS Western Isles

Maggie Dowe, Scotland Work Scotland

Geoff Huggins, Director for Health and Social Care Integration, Scottish Government

Paula McCleary, COSLA

Direct evidence was provided by the following individuals:

Deborah Clarke, Unison

Tricia Donnelly, The Mungo Foundation Mairi Martin, Cornerstone

Stephen Pennington, Highland Home Care

Professor Kirstein Rummery, University of Stirling

Austen Smyth, Richmond Fellowship Scotland

Amy Watson University of Strathclyde

Doug Young, University of Strathclyde

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