About CCPS

CCPS is the Coalition of care and support providers in Scotland. Its membership comprises more than 70 of the most substantial providers of care and support in Scotland’s third sector, supporting approximately 300,000 people and their families, employing around 45,000 staff and managing a combined total income of over £1.2bn, of which an average of 73% per member organisation relates to publicly funded service provision subject to procurement regulations.

CCPS members provide services right across the spectrum of care and support, including services for older people as well as for children and families, adults with physical and learning disabilities and people facing a range of challenges in their lives, including mental health problems, addictions and involvement in the criminal justice system.

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

Yes. Our care and support provider members in the voluntary sector value their workforce highly, and are committed to offering appropriate reward packages to staff. For many providers, workforce costs account for up to 85% of the total cost of the support they provide. In recent years, severe downward pressure has been applied by local authorities to the cost of social care services in the voluntary sector, through a combination of competitive tendering and (more recently) the unilateral imposition of cuts. The result is that pay and conditions packages for workers in this sector have not kept pace with those of comparable workers in the public sector, creating in effect a two-tier workforce in social care.

Until relatively recently, very few voluntary sector care providers offered rates of pay that fell below the Living Wage threshold. Pay for some workers in some organisations has however now slipped below that threshold, at least partly because of the failure of local authorities over successive years to apply inflationary uplifts to care budgets in the voluntary sector which would enable employers to keep pace with increases to the Living Wage. Other voluntary organisations have had to take steps to reduce rates of pay to a level below the Living Wage either indirectly, by extending the working week, or directly,
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3 December 2012
Written submission from CCPS

by cutting rates of pay, in order to remain ‘in business’ supporting vulnerable and disabled people within available funding limits.

It is our contention that this deterioration in pay and conditions for voluntary sector care and support staff is likely to have consequences for recruitment and retention, workforce development standards and, ultimately, the quality of care and support; and that therefore government support for the Living Wage should not be limited to those workers employed by the public sector but extended to the whole public services workforce.

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

We anticipate that a requirement for contractors to pay the Living Wage will have financial implications for public bodies and indeed, for public expenditure generally, given that many contractors do not pay it currently. Given the severe downward pressures on public expenditure, we perceive a significant risk that public bodies, placed under new duties by the proposed bill, will require contractors to pay the Living Wage within existing contract prices. In our view, this will mean contractors having to find the resources for the Living Wage from elsewhere within their budgets, which will potentially mean making cuts to other employment conditions (e.g. sick pay, holiday pay, etc); training budgets; management and supervision; administrative support, etc, which may also have a detrimental effect on quality. In our view there is an absolutely crucial link between a public body requiring a contractor to pay the Living Wage, and them paying a contract price which is sufficient to enable a contractor to do so without sacrificing something else. It is for this reason that in our response to the recent consultation on the Procurement Reform Bill 2012 we proposed at Q44 that public bodies are placed under a duty to take account of the employment conditions of staff assigned to performing the contract, and/or to ensure that providers bidding for social care contracts cost their bids in such a way as to enable them to offer appropriate pay, terms and conditions to staff.

A further related point concerns the enforcement of the proposed contract performance condition. The whole point of using procurement in relation to the Living Wage is to level the playing field all round. In care and support, where the workforce accounts for up to 85% of the cost of non-residential services, there is likely to be a significant competitive advantage for contractors in not paying the Living Wage: indeed, cost-driven competitive tendering can in itself “encourage” contractors not to pay it. Hence, including the Living Wage as a contract performance condition will require robust monitoring and enforcement action for it to have any teeth. In our experience to date, the imperative for

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many public sector commissioning authorities to make savings has overridden appropriate consideration of a link between staff pay and conditions and the quality of care they provide. This leads us to conclude that the motivation may not always be present to ensure enforcement of such a contract performance condition. In care and support services there can be considerable complexity in unravelling, for example, sleepover payments, travel time, and basic contractual hours to establish whether or not an employee is being paid the Living Wage. Resources will be required to do this. This issue could be addressed by charging the Care Inspectorate with an enhanced enforcement role, something which CCPS has previously put forward as a way of providing a higher level of scrutiny and clearer monitoring of commissioning and procurement of care and support services than is currently available.

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

Please see our answer to question 1 above. As employers our members have always been committed to offering appropriate reward packages to staff but have been forced by tendering and unilateral funding cuts to reduce pay and terms and conditions in order to remain ‘in business’. We believe that employers paying the Living Wage will see positive effects on recruitment, retention, absenteeism and staff morale, which in turn will enhance the quality of the services they provide. For employees, the advantages will be the reduction of in work poverty and reduced reliance on in-work benefits, which is the direction of travel of benefit reform in any case.

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

We support the intention to seek as broad a definition of public authorities as possible.

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

We do not consider it wise to specify mandatory consultees in legislation. We would prefer to see a general clause requiring the Scottish Government to consult as widely as possible, ensuring all relevant voices are heard.
QUESTION 6: What information must be included in the Scottish Ministers’ report to the Scottish Parliament? Please explain the reasons for your answer.

In addition to the minimum information set out in the consultation document, we would like to see included details of the scrutiny and enforcement activity undertaken by the Care Inspectorate and commissioning and procuring authorities into compliance with the Living Wage contract performance condition.

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

Whether the proposed Bill has positive financial implications for our members will depend on two key factors:

1. The robustness of any monitoring and enforcement activity around the contract performance condition, and

2. The degree to which commissioning and procuring authorities recognise and pay for the essential costs over and above staff wages that are required to deliver quality care and support. These include employers’ NI, pensions; training, qualifications and workforce development; management and supervision; regulatory and compliance fees; and organisational overheads.

The danger is that the Living Wage is enforced but inadequate recognition is made of these other essential costs in the values of contracts awarded. It is for this reason that in our response to the recent consultation on the Procurement Reform Bill 2012 we proposed at Q44 that public bodies are placed under a duty to take account of the employment conditions of staff assigned to performing the contract, and/or to ensure that providers bidding for social care contracts cost their bids in such a way as to enable them to offer appropriate pay, terms and conditions to staff.

Another issue is whether the proposed legislation requires public bodies to require contractors to be Living Wage employers – that is, they must pay all their staff Living Wage before they can be considered for a public contract – or whether the requirement only relates to those employees who are employed to
perform public contracts, and not the rest of the workforce. For our members the former would require them to pay the Living Wage to everyone, even those whose jobs are not funded by public bodies but through charitable donations and the like.

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

We anticipate substantial positive implications for equality given that a higher percentage of female workers than male workers (22% to 14.6%) are currently earning less than the Living Wage.

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

We would refer you to our Submission on Living Wage to Local Government Committee Inquiry in which we set out our position in detail on this issue.

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