



Fair Pay Agreement Consultation – Care England Response

Negotiating Body

What option for delivering the secretariat function do you believe is best suited to the Fair Pay Agreement process?

Option 1.

Please explain your position and provide any supporting evidence

Our initial preference is for Option 1, with the secretariat function delivered by civil servants. We feel it is important to retain government-held expertise, ensuring continuity and a strong understanding of DHSC processes. It is our opinion that maintaining this expertise within government will help navigate what is a new and complex system.

That said, Care England agreed there should be flexibility to move to Option 2 if necessary. If the civil service-led model proves ineffective or fails to deliver, then tendering the secretariat to a third party could be considered as a fallback. However, we are concerned that outsourcing from the outset would risk losing the depth of knowledge and experience held within government, which would in turn make the process more difficult for providers to engage with effectively.

We are proposing to establish the Negotiating Body as a non-departmental public body, operating at arms-length from DHSC, overseen by an independent chair and supported by a secretariat function. If you have further comments on the proposed approach to establishing the ASC Negotiating Body, please include them here (Max 250 Words)

Care England believes employers should be supported by an independent, professional negotiator to strengthen their ability to engage effectively in the process. Importantly, this negotiator does not need to come from within the sector, and in fact an out-of-sector perspective would bring additional objectivity and expertise.

At the same time, Care England has raised concern that the Negotiating Body could risk becoming overly large and unwieldy. If its structure is not carefully managed, it may develop into “a beast” that is difficult to coordinate, slowing decision-making and undermining efficiency. We therefore believe the need for proportionality, balance, and clarity on representation should be reflected in the Government’s proposals.

Worker Representation

We propose that UNISON, GMB, Unite and the Royal College of Nursing, working with the Trades Union Congress as the convener, will form an adult social care Fair Pay Agreements trade union group. This group will represent workers on the ASC Negotiating Body and will manage how worker representatives are coordinated and selected. Do you agree or disagree with this proposal?

Agree.



Please explain your position and provide any supporting evidence

Care England agrees that the TUC is the only practical convener for worker representation and that no credible alternative structure currently exists to coordinate multiple unions at national level. A framework that reflects the breadth of the adult social care workforce and includes space for multiple unions is essential to ensuring legitimacy and balanced input.

However, only around 15% of the sector is currently unionised. Without appropriate safeguards, there is a risk that union-only representation could be perceived as unrepresentative of the entire social care workforce. To mitigate this, Care England believes there must also be a clear mechanism to include non-union worker voices. Organisations such as the Care Workers' Charity (CWC), which can bring insight from the workforce it supports, or NACAS, as a membership body, could help ensure broader workforce perspectives are heard, particularly from individuals without established union structures.

We also note emerging proposals regarding elected worker representatives. While still in development, there is a need to ensure any mandated model does not inadvertently alter employer-employee dynamics, duplicate existing consultation structures, or create disproportionate administrative burdens, particularly for small and medium-sized providers that do not operate formal union recognition arrangements. As highlighted by wider business commentary, including caution raised by the CBI, it will be important that worker-representation mechanisms remain balanced and do not risk marginalising employers' interests or operational realities.

Care England therefore supports TUC coordination, on the basis that the model includes space for non-union representation and is designed to avoid unnecessary complexity or rigidity in employer-employee relations.

Members also noted that trade unions are likely to take a maximalist approach during negotiations, pressing for the inclusion of a broad range of pay and non-pay elements. To ensure a balanced process, the Employers' Representative Body will require clear negotiation parameters and a structured evidential framework to demonstrate why certain proposals fall outside the scope of the Fair Pay Agreement or cannot be delivered within available funding. This safeguard is essential to maintain proportionality and to prevent the Agreement from becoming over-engineered or financially unworkable.

Employer Representation

The consultation document outlines our proposal for employer representatives on the ASC Negotiating Body, including how representatives could be coordinated and selected. Do you agree or disagree with our proposal for coordinating and selecting employer representatives?

Agree.

Please explain your position and provide any supporting evidence



Care England is broadly supportive of the proposal and welcomes efforts to ensure employers are fairly represented within the process. To maintain confidence in the system, it will be important that the coordination and selection mechanism is transparent and balanced.

In practice, we expect that employer representatives will largely be sector-wide representative bodies rather than individual employers, given the time and capacity required to participate meaningfully in national negotiations. This should be made clear within the proposals so that expectations are realistic and consistent.

We suggest reviewing the current CPA trustee mechanism to confirm it remains appropriate and proportionate, and that it incorporates clear accountability measures back to the wider sector. Establishing clear and open safeguards will help ensure all participants feel confident that the process reflects the diversity and breadth of the sector.

Role of Local Government

Do you agree or disagree with our proposed approach for involving local government in the Fair Pay Agreements process

Agree

Please explain your position and provide any supporting evidence. If there are other ways you think that local government should be involved, please state that here.

Care England strongly believes that commissioners must be directly involved in the process, as their role is essential to ensuring the flow of money through to providers. Without their engagement, there would be no guarantee that the outcomes of the Fair Pay Agreement could be implemented in practice.

As outlined in the supporting documents, the Local Government Association (LGA) will be responsible for producing a feasibility report for the Secretary of State on the agreed outcome. While this contribution will be valuable, it is critical that such a report cannot, and must not, be treated as a veto of the negotiated settlement. Its purpose should be to confirm affordability and support smooth implementation, ensuring that local authorities are able to plan effectively and deliver the Agreement in full.

Care England is clear that funding hypothecation must be statutory and explicit, preventing Fair Pay Agreement funding from being absorbed into pooled budgets or subsumed within general inflationary uplifts. However, ring-fencing alone is insufficient if Fair Pay Agreement funding is offset by reductions elsewhere in the system.

Past experience demonstrates that ring-fenced funding can be undermined where local authorities repurpose existing funding pots or reduce baseline uplifts, resulting in no net gain for adult social care. In such circumstances, the sector is left in effectively the same position as if no additional funding had been provided.

To avoid this outcome, Fair Pay Agreement funding must be **additional** to, and not a substitute for, funding required to meet existing and unavoidable cost pressures, including National Living Wage increases, CPI inflation, Statutory Sick Pay changes, employer-side cost increases, and the



cumulative impact of frozen tax and National Insurance thresholds on the workforce. These pressures must be addressed separately through baseline funding settlements.

To protect the integrity and intent of the Fair Pay Agreement, the FPA funding envelope must therefore be:

- Ring-fenced for pay purposes, **and**
- Additional to funding provided to meet underlying cost pressures and baseline uplifts.

Without this distinction, the intended impact of the Agreement will be diluted, and the sector will see little meaningful improvement in sustainability or workforce outcomes.

Other Organisations

Do you think that there are any other organisations who should be members of the Negotiating Body, in addition to the proposed worker and employer representatives?

No.

Which other organisations should be members of the ASC Negotiating Body, and why?

Whilst Care England does not believe that they should necessarily hold formal membership of the Negotiating Body, we do believe there could be scope for their involvement on a case-by-case basis, ensuring that the Negotiating Body is informed by organisations able to add real value. Those able to provide independent data and evidence could strengthen the process and support balanced decision-making.

Examples include Skills for Care, which could contribute valuable workforce data and insights, and the King's Fund, which may also have a useful role to play. The Care Workers' Charity could also bring a perspective on the lived experiences and needs of the workforce.

Others' Interests

How should the interests of people who pay for their own care be considered as part of the negotiation process?

At present, there is no established organisation representing self-funders, meaning this group does not currently have a clear or structured route through which its interests can be reflected in national negotiations, despite self-funders contributing substantially to the overall funding and cross-subsidisation of care.

Care England strongly emphasises that this represents a significant gap that should be addressed within the design of the Fair Pay Agreement. There should be a clear and proportionate mechanism to ensure that the perspectives of those who fund their own care are represented and heard as part of the process, even where this does not take the form of direct participation in the Negotiating Body itself.

A particular concern is that providers cannot retrospectively adjust self-funder fees if implementation of the Agreement is delayed beyond 1 April. In such circumstances, providers may



be required to backdate staff pay without any corresponding mechanism to recover additional costs from self-funders. While this links to the wider issue of timelines addressed elsewhere in the consultation, it underscores the importance of ensuring that self-funders' interests are properly reflected in the design and implementation of the Fair Pay Agreement.

Care England also recommends that any outcomes of the Fair Pay Agreement are considered through the Competition and Markets Authority's (CMA) framework, to ensure that no terms, conditions, or implementation measures undermine the principles set out in the CMA's Care Homes Market Study (2017), particularly in relation to transparency, fairness, and the treatment of self-funding residents.

How should the interests of NHS commissioners be considered as part of the negotiation process

NHS commissioners will also need to be included in the process, at a minimum in the same capacity as local government commissioners. Just as local authorities must acknowledge the agreed wage and reflect this in their commissioning budgets, so too must NHS commissioners ensure that the outcomes of the Fair Pay Agreement are recognised and built into the funding and contracts they manage. Without this parallel inclusion, the Agreement risks creating inconsistencies across health and social care commissioning, undermining its overall effectiveness.

Membership Criteria

Are there any specific criteria that you think the Secretary of State for Health and Social Care should consider when appointing members to the ASC Negotiating Body?

Yes

Please explain your position and provide any supporting evidence. If you answered yes, please also state the criteria you think should be considered

Care England recognises that trade unions bring extensive experience in collective bargaining, which may not yet be mirrored on the employer side within the adult social care sector. To ensure balance, the Employers' Representative Body should be supported by an independent specialist negotiator who can guide and strengthen the employer position throughout what will be a complex and technical process. This will help ensure employers are able to engage with trade unions and government on an equal footing.

In terms of membership, Care England believes that individuals should be appointed based on their ability to demonstrate a strong understanding of the sector's needs, financial context, and workforce realities. Members should also be able to represent a broad range of providers and care settings. To uphold fairness and credibility, negotiators should be professional, impartial, and independent, bringing objectivity and expertise to the process while not holding a vote themselves.

Any additional criteria – for example expectations around having “a collaborative approach” – should be objective, transparent and applied consistently, with published reasons for appointments, and should be framed in a way that is capable of being evidenced in practice and applied even-handedly across both employer and worker representatives.



Negotiation Process

Is there anything else that you think a letter from the Secretary of State should set out?

Yes.

Please explain your position and provide any supporting evidence

Establishing a Fair Pay Agreement and setting an agreed Care Wage is a momentous task, with significant implications for the workforce and for the sustainability of the sector. Care England believes it is therefore essential that the Government manages the process in a measured and achievable way.

There is a clear risk that, if the process is over-extended or over-engineered, it could become unworkable and ultimately fail to deliver on its objectives. A focused, proportionate approach is needed to ensure that the Agreement can be implemented effectively and deliver meaningful change for care workers and providers alike.

To support this, the letter from the Secretary of State should make clear that the Fair Pay Agreement process must be simple, realistic, enforceable, and measurable. Setting out these principles explicitly from the outset will help to keep the process practical, transparent, and outcome-driven; ensuring it delivers genuine and sustainable improvements across the adult social care sector.

The remit letter must also set out several other additional principles that are essential for a workable Fair Pay Agreement.

First, it should require parallel accountability for commissioners, including local authorities and NHS commissioning bodies, to ensure that FPA funding is cascaded in full and on time. Without mirrored enforcement obligations, providers could face penalties for non-compliance while commissioners face none, despite holding statutory responsibility for ensuring a sustainable fee rate under the Care Act.

Second, the remit must include a clear requirement that the Agreement actively supports workforce retention. Retention is consistently more cost-effective than recruitment, and members strongly emphasised that retention should be a cross-cutting guiding principle throughout the FPA process.

Third, the remit letter should provide a degree of forward signalling, like the Low Pay Commission approach, giving providers an indicative range for potential wage outcomes. This would reduce financial uncertainty, particularly in the first negotiation cycle, where the process will likely take longer due to unfamiliarity among negotiation participants.

Fourth, the remit should instruct the Negotiating Body to operate in a way that avoids siloed decision-making, especially in relation to local government, ensuring alignment across commissioning, funding flows, and national workforce policy.

Finally, the Negotiating Body should be required to publish, alongside any proposed agreement, a clear and accessible assessment of the implications for employer and commissioner costs. This will support transparency, enable commissioners to plan effectively, and ensure that the financial consequences of each settlement are fully understood by all parties.



How negotiations would work

Do you agree or disagree with our proposal for how negotiations will work?

Neither agree nor disagree.

Please explain your position and provide any supporting evidence

Care England believes providers will need a minimum of six months' notice to implement the outcomes of any Fair Pay Agreement effectively. This time is essential to update budgets, adjust fee levels, and prepare operational systems so that the agreed wage can be delivered from 1 April each year.

It is absolutely essential that all uplifts (across all models and types of care, including FNC, CHC, local authority, and ICB contracts) are announced and implemented from 1 April. The system simply cannot function effectively if this alignment is not achieved. Without simultaneous implementation, funding flows would be disrupted, cashflow uncertainty would increase, and providers would face the risk of being required to pay staff in advance of receiving the corresponding income.

To make this possible, negotiations and ministerial approval must conclude well in advance, allowing sufficient time for planning and local implementation. Providers also require early clarity to align self-funder fees, which are often reviewed at the start of the calendar year.

Care England therefore urges that the timetable for negotiations and sign-off is structured to guarantee a clear, nationally consistent 1 April implementation date for all commissioning and funding models. The Secretary of State's remit letter should set this out explicitly to ensure the Fair Pay Agreement is delivered in a timely, coordinated, and sustainable way. The process must explicitly recognise the likelihood that year one negotiations will take longer than future cycles, as all parties will be navigating a new system. The timetable should therefore allow additional contingency in the initial phase.

It is also important to note that providers cannot retrospectively increase fees for self-funders if agreements are implemented late. While the CMA's *Care Homes Market Study* (2017/18) allows for exceptional mid-year uplifts, this approach should be avoided wherever possible, as it creates significant financial and reputational challenges for providers.

Therefore, providers must receive indicative wage or funding ranges at the beginning of each negotiation cycle, allowing realistic financial planning. Without this, organisations would be forced to commit to staffing costs without line of sight on income, heightening the risk of unfunded obligations.

Providers cannot responsibly absorb unfunded back pay. If negotiations or Secretary of State approval are delayed beyond 1 April, providers must not be required to backdate wages without receiving corresponding uplifted income from local authorities, ICBs, CHC commissioners, or self-funders. The process must therefore ensure funding clarity and alignment well before the start of the financial year.

How the Negotiating Body reaches a decision



Do you agree or disagree with our proposal that each of the bargaining sides manages their own voting system, with a requirement that each side simply informs the chair whether they can support a proposed settlement?

Agree

Please explain your position and provide any supporting evidence

Care England agrees that this approach is both pragmatic and workable, as it allows each side to manage its own internal process before reporting back to the chair. By doing so, it avoids introducing unnecessary complexity into the voting procedure, while still ensuring transparency and clarity. The chair is provided with a clear indication of whether a settlement can proceed, without being drawn into the detail of each side's internal decision-making.

On the employer side, representatives are likely to be sector-wide bodies rather than individual employers. Their internal voting and mandate-setting should therefore be determined through their own governance arrangements, provided these are transparent and accountable to the organisations and providers they represent.

Timelines

Do you think 6 months is enough time for an agreement to be reached in negotiations?

No.

Please explain your position and provide any supporting evidence

Care England believes providers need at least six months to prepare for implementation, not only to adjust budgets and contracts but also to align with self-funder billing cycles, which typically run from Christmas through to April. If outcomes are not confirmed in good time, providers cannot pass on costs to self-funders, leaving them exposed to absorbing unfunded back pay.

There is also concern that the Secretary of State's review process could reduce the effective time available to providers, shrinking the six-month implementation window to something much shorter in practice. To mitigate this, negotiations should begin earlier in the cycle to guarantee outcomes are finalised well ahead of 1 April. Without this certainty, providers face a serious risk of cashflow shocks, which could undermine their ability to deliver services sustainably.

Do you think 6 months is enough time for the sector to prepare for implementation of the pay agreement?

Yes.

Please explain your position and provide any supporting information on what would be needed to make this possible.



Six months represents the absolute minimum preparation time required for providers to implement the outcomes of a Fair Pay Agreement. In practice, a longer lead-in period would be preferable, particularly in the early years of the process when both providers and commissioners will still be adapting to new systems and requirements. Care England believes that allowing additional time would reduce the risk of disruption and give providers greater confidence in planning for implementation.

It must be stated again that it is vital that all funding uplifts take effect from 1 April each year. Consistent timing across every funding stream is central to making the Fair Pay Agreement work in practice. If uplifts are introduced at different points, the system would quickly become unmanageable, leaving providers exposed to significant cashflow pressures and uncertainty. The Agreement can only succeed if providers receive the corresponding funding at the same time as they are required to deliver pay increases.

Care England also notes that, should elements of the Agreement involve technological or data-based systems to support implementation or monitoring, additional time may be required to ensure these are properly designed, tested, and rolled out across different provider settings.

Coverage and remit

Are there any roles, either in your organisation or that you employ, that you are concerned do or do not fall within the definition of an adult social care worker to be within coverage of the Negotiating Body?

Yes.

Please explain your position and provide any supporting evidence.

The Ministerial letter explicitly refers to the 1.59 million adult social care workforce, including ancillary and support roles, which creates the expectation that these staff will be brought within scope. Many ancillary and administrative roles, while not providing direct care, make an essential contribution to the overall delivery of care; for example, catering, housekeeping, and maintenance staff who directly support residents' wellbeing. For this reason, Care England believes it would be difficult to exclude them entirely.

Members also emphasised the need for clearer categorisation of different types of care staff within scope, particularly the distinctions between untrained, trained and qualified workers. Current Government documentation and impact modelling do not adequately reflect these differences, creating a risk of inconsistent implementation and inaccurate cost projections. Care England therefore recommends that DHSC develops clear principles for defining these categories to ensure national consistency and more reliable financial modelling.

However, this raises important questions about how providers would maintain appropriate pay differentials between care and non-care staff if all roles are covered. Without clear guidance, this could create financial pressures and morale challenges within organisations. The Welsh model, which links coverage to the registration of care workers, could offer a useful precedent for defining scope with greater clarity and consistency.

Care England also notes that, depending on how the definition is drawn, it could technically extend to certain senior leadership roles whose responsibilities are more strategic than operational. Care



England believes the primary focus of the Fair Pay Agreement should be on frontline and immediate supervisory roles and recommends that DHSC clarify how senior leadership posts are treated to avoid unintended consequences.

Care England also cautions against the unintended consequence that the Fair Pay Agreement could drive growth in unregulated care provision. If certain models of care fall outside the scope of the Agreement, some actors within the sector may be incentivised to move towards unregulated services that are not bound by its terms. This would present a serious risk to quality, safety, and public confidence, undermining the very objectives of the Fair Pay Agreement and the wider regulation of adult social care.

Similarly, bringing agency workers into scope from day one would risk making agency work more attractive, directly undermining the purpose of the Fair Pay Agreement, which is to build and sustain a permanent, stable care workforce.

How can the Department of Health and Social Care support you or your organisation to determine whether your workers will be within coverage of the ASC Negotiating Body?

Care England believes clear and explicit guidance will be essential, particularly for roles that sit outside of direct care delivery but support services at an organisational level. Examples include head-office roles where inclusion is currently ambiguous, such as receptionists, IT help desk staff, and regional personal assistants supporting multiple homes.

Without clarity on whether such posts are in or out of scope, providers will face significant uncertainty when applying the Agreement. Guidance should therefore set out a definitive position on these roles to ensure consistency across the sector.

Excluded sections of the workforce

Are there any settings, services or roles that you think should be excluded from the ASC Negotiating Body's coverage?

Yes.

Please explain who should not be in coverage and why.

Care England believes that roles which sit entirely outside of care settings should not be included within the scope of the Negotiating Body.

There is broad consensus that agency workers should be excluded, at least in the initial stages. Bringing them into scope from day one could make agency work more attractive, undermining the purpose of the Fair Pay Agreement, which is to build and sustain a permanent and stable care workforce. It should also be noted that, under existing legislation, agency workers already qualify for equivalent terms and conditions after 12–13 weeks, so further inclusion may add complexity without clear benefit.

With regard to bank staff, Care England recognises that the treatment of these roles will require further consideration. Extending additional entitlements through the Fair Pay Agreement could have wider consequences for on-costs and pay differentials across other roles, particularly in light



of potential changes introduced through the Employment Rights Bill. These factors must be fully understood before any decision is taken.

Care England therefore believes that flexibility around bank arrangements should be maintained at this stage, allowing time to assess how future policy and legislative changes might interact with the Fair Pay Agreement and affect overall workforce costs and sustainability.

Are there any other settings, services or roles that you think should be brought within the ASC Negotiating Body's coverage, that have not been mentioned?

No.

Please explain who should be in coverage and why.

Care England does not strongly support bringing additional roles into coverage beyond those already outlined. However, there are ambiguities around certain head-office functions — such as receptionists, IT help desk staff, and regional PAs supporting multiple homes — where clarity is required. These roles should be addressed explicitly in guidance to avoid inconsistency, rather than being automatically included.

Please share any thoughts on whether the ASC Negotiating Body could affect those that are self-employed or working under informal arrangements

Care England believes including self-employed or informal arrangements within the scope of the Negotiating Body would risk legitimising practices that are already of concern, particularly in parts of the domiciliary care market where some staff are engaged on a self-employed basis to avoid obligations such as the minimum wage, paid travel time, or other employment protections.

Rather than challenging these models, bringing them into scope would entrench them further. Coverage should therefore be restricted to employed care workers within registered care settings, ensuring that the Fair Pay Agreement strengthens permanent employment and supports the development of care as a long-term career pathway, rather than incentivising fragmented or insecure forms of work.

Areas of the workforce to note

Do you agree or disagree that workers covered by the National Joint Council should be in the Negotiating Body's coverage? This question is specifically in relation to adult social care workers employed by local government.

Disagree.

Please explain your answer and provide any supporting evidence.

They are only in scope when their pay and conditions are closer to the wider sector. At present, workers covered by National Joint Council (NJC) terms typically benefit from more generous pay and conditions than those available in much of the independent sector, and there is no indication



that additional public funding will be provided at a scale sufficient to align the two. Bringing NJC roles into scope without such funding would therefore raise serious questions about fairness and affordability, both for local authorities and for independent providers.

Do you agree or disagree that workers covered by the Agenda for Change contract should be in the Negotiating Body's coverage? This question is specifically in relation to adult social care workers employed by the NHS.

Disagree.

Please explain your answer and provide any supporting evidence.

They are only in scope when their pay and conditions are closer to the wider sector. Workers employed on Agenda for Change contracts similarly benefit from more generous terms and conditions than are typically available in the independent adult social care sector, and the consultation does not set out any credible plan to bridge this gap through additional public funding. Extending the Agreement to these roles without addressing that reality would risk undermining affordability and distorting pay differentials across the wider workforce.

Cross-border workers

Do you currently manage a service across the borders between England and Wales (or England and Scotland)?

N/A

How do you currently manage the differences between the national adult social care systems, for example staff, different pay and training requirements?

Care England does not directly employ staff or manage services, but many of our members operate across borders. Members report that significant and persistent differences in pay and conditions between nations could influence decisions about where to invest, expand services, or focus recruitment efforts. For individual workers, higher pay in neighbouring jurisdictions could become a pull factor, particularly in border regions, with implications for workforce stability and local service resilience.

In principle would having to comply with different legal requirements for pay, terms and conditions in different countries affect how you manage your operations and ensure you provide consistent care?

N/A

Please explain your position and provide any supporting evidence.

Care England recognises that cross-border working within adult social care creates genuine complexity for providers. Managing multiple legal and regulatory frameworks, payroll arrangements, and compliance requirements can increase administrative burden and cost, with potential implications for service delivery.



However, given the diversity of provider models and the varying ways in which organisations operate across borders, Care England does not believe it is appropriate to set out a single, detailed position at this stage. Instead, we believe this is an area that warrants further consideration by DHSC, informed directly by evidence from providers who are affected by cross-border arrangements in practice.

Engaging with those providers will be essential to understanding the real-world impacts and identifying proportionate, workable approaches that avoid unintended consequences.

If pay and terms and conditions were different between England, Wales and Scotland, would this have any effect on your choice of job, where you work or where you live?

N/A

Please explain how this might affect you and provide any supporting evidence.

N/A

Which would you prefer when it comes to the approach that should be achieved by more than one Fair Pay Agreement?

Option B: A worker follows the one Fair Pay Agreement where they spend the majority of their time working, receiving the same pay and terms and conditions for all the hours worked

Please explain your position and provide any supporting evidence.

Care England recognises that determining how Fair Pay Agreements apply in cross-border contexts is complex and may have different implications depending on provider structure, workforce mobility, and geography. Rather than prescribing a single approach, Care England believes DHSC should work closely with providers operating across borders to assess impacts and consider how different models may function in practice.

This issue would benefit from further evidence-gathering and dialogue before decisions are taken, to ensure that any approach adopted is practical, proportionate, and does not create unnecessary compliance risks or destabilise workforce arrangements in border areas.

Pay priorities

Out of the following areas of pay, which do you think should be prioritised for the Negotiating Body if it sets its next Fair Pay Agreement? Select up to 3 priorities.

Increasing the Pay Floor

Please explain your position and provide any supporting evidence.



Care England believes that establishing a pay floor must be the first priority of the Fair Pay Agreement. This is particularly important in tackling exploitation within the domiciliary care sector, where low base pay and practices such as unpaid travel time have, at times, created risks akin to modern slavery.

Care England recognises that wider pay structures — including the treatment of travel time (particularly in homecare) and pay differentials that reflect responsibility, skills, and complexity — are important issues for the workforce and should be acknowledged within the overall framework of the Fair Pay Agreement. However, Care England believes that detailed prioritisation and design of these elements should be informed by further evidence and experience, rather than being fixed at the outset.

At this stage, Care England cautions against incorporating a broad range of pay-related incentives into the initial Agreement. Elements such as bonuses, progression routes, and unsocial hours payments are currently used by providers as recruitment and retention tools, and flexibility must be retained for organisations to differentiate themselves in a competitive labour market, particularly during the early implementation of the Fair Pay Agreement.

Any new pay floor will also have knock-on implications for pay differentials, particularly for more senior or specialist roles. It will therefore be essential that funding for the Fair Pay Agreement is sufficient and ring-fenced, not only to meet the direct cost of the pay floor but also to maintain appropriate differentials, so that progression, responsibility, and skill continue to be recognised and rewarded.

Terms and conditions priorities

Out of the following terms and conditions, which do you think should be a priority for the Secretary of State to consider as part of their remit letter to the adult social care Negotiating Body? Select up to 3 priorities

None in the initial stage, with the potential to consider 3 and 5.

Please explain your answer and provide any supporting evidence.

Care England believes that, at this stage, only two areas of terms and conditions should be considered within the Fair Pay Agreement: **(3) guaranteed hours / zero-hours contracts** and **(5) sick pay**. Both of these areas are already being addressed through the Employment Rights Bill (ERB), making them the most logical and proportionate elements to align with the Fair Pay Agreement in its initial phase.

Care England recognises that other core terms and conditions — such as paid travel time, holiday entitlement, and parental leave — are important to the workforce and are rightly highlighted by others as areas of concern. However, there is currently **insufficient funding** to address these issues meaningfully within the first round of Fair Pay Agreement negotiations. Introducing additional terms and conditions without significant, match-funded investment would risk creating unfunded obligations that providers and commissioners are unable to deliver in practice.

Given that many of these areas are being substantively reformed through the Employment Rights Bill, Care England believes it is essential that the impact of those reforms is first understood and



embedded before further standardisation is pursued through the Fair Pay Agreement. This will provide a clearer baseline on which future negotiations can build.

Care England therefore considers that wider terms and conditions should be treated as a **future phase** of the Fair Pay Agreement process, aligned with the post-implementation review of the Employment Rights Bill, rather than being brought forward prematurely. This staged approach will support sustainability, avoid duplication, and ensure that any future expansion of scope is properly funded and informed by evidence.

Wider employment matters

Which, if any, of the following areas within training, development and career progression do you think should be included within the Negotiating Body's remit? Select all that apply.

None.

35a. Please explain your position and provide any supporting evidence.

Care England believes that adding requirements beyond establishing a pay floor at this stage would risk destabilising the Fair Pay Agreement and undermining its core purpose. Training, development, and progression are critical elements of workforce sustainability, but they are also areas where provision varies significantly by service type, resident need, and care model, and where providers currently retain flexibility in how they design and deliver support.

Care England recognises the value of a structured care workforce pathway, including clearer links between skills, competence, and pay progression. However, introducing training and development requirements through the Fair Pay Agreement at this stage would require a level of funding and commissioning maturity that does not yet exist. Without sufficient, dedicated funding, and without an established mechanism for commissioning care at different skill and pay levels, there is a significant risk that such requirements would become unfunded mandates.

In the absence of a national Workforce Plan, incorporating training into the initial Fair Pay Agreement risks reducing it to a compliance or "tick-box" exercise, rather than delivering meaningful improvements for staff or residents. Care England therefore believes that training and progression should be addressed in a **later phase** of the Fair Pay Agreement process, once additional funding is available and clearer commissioning structures are in place.

This phased approach would allow the Fair Pay Agreement to establish a stable foundation through a pay floor, while creating the conditions for a more sophisticated skills- and progression-based framework to be developed in future negotiation rounds.

People and Culture

Which, if any, of the following areas within people and culture policy do you think should be included within the Negotiating Body's remit? Select all that apply

None.



Please explain your position and provide any supporting evidence.

Care England recognises that areas such as equality, diversity, wellbeing, and dignity at work are of great importance, but believes the Fair Pay Agreement is not the correct vehicle to address them. These issues require dedicated processes to ensure success.

Care homes present unique challenges, particularly in dementia care where staff may be subject to behaviours such as physical or sexual harassment linked to residents' cognitive impairment. While unions may press for risk allowances in these contexts, this reinforces the need for a separate, specialist process rather than folding such matters into the FPA. To do them justice, Care England believes they must be dealt with independently, not as an adjunct to pay negotiations.

Additional benefits and financial support

Which, if any, of the following areas of additional benefits and financial support do you think should be included within the Negotiating Body's remit? Select all that apply.

None.

Please explain your position and provide any supporting evidence.

Care England believes this area should not be standardised within the Fair Pay Agreement. Many of the benefits and forms of financial support listed are currently used by providers to differentiate themselves in the labour market and to support their own recruitment and retention strategies. Removing this flexibility would reduce providers' ability to compete for staff and to tailor support to the specific needs of their workforce.

Instead, Care England believes there is a strong case for Government- and local authority-enabled, sector-wide solutions that provide a consistent baseline of support without imposing additional costs or obligations on individual providers. One such example is the Care England-supported Vivup Employee Assistance Programme (EAP), which offers confidential wellbeing support, financial advice, counselling, and access to discounts and benefits for care workers.

This model demonstrates how meaningful, practical support can be delivered at scale without being hard-wired into the Fair Pay Agreement. At a relatively low cost — previously estimated at around £4 million for the entire sector — a sector-wide EAP would provide universal access to support, while relieving providers of the administrative and financial burden of delivering such schemes individually.

Care England therefore continues to believe that solutions of this nature, actively championed and supported by Government and local authorities, represent a more effective and proportionate way to extend additional benefits to the workforce than incorporating them into the remit of the Fair Pay Agreement itself.

If there are any additional areas that the ASC Negotiating Body should consider or have in its remit, please outline them here.

No.



Dispute resolution

Do you agree or disagree with our proposed approach to dispute resolution, where disputes are triggered by the chair and referred to Acas for independent resolution?

Agree.

Please explain your position and provide any supporting evidence.

Care England strongly agrees with the proposal to refer unresolved disputes to ACAS. This is the most logical and workable process for independent resolution. ACAS brings the necessary impartiality and expertise to help resolve disputes without undermining the authority of the Negotiating Body.

Implementation

What do you think should be included in guidance and communications to support you to implement Fair Pay Agreements?

Care England believes guidance must provide absolute clarity on:

- **Definition of the care worker** and which roles are in scope.
- **Timelines**, ensuring providers know outcomes well ahead of the 1 April implementation date.
- **Cascade mechanics** — exactly how funding will flow from central government, through local authorities, to providers, with transparent rules that apply consistently across the country.
- **Plain-English communications** so providers of all sizes can understand requirements.
- **Best-practice sharing and learning networks** to support consistent implementation across organisations.

Crucially, funding must reach providers by 1 April each year, otherwise cashflow disruption could undermine the entire process.

Do you agree or disagree that DHSC and the ASC Negotiating Body should co-author and publish guidance?

Agree.

Please explain your answer and provide any supporting evidence.

Joint authorship by DHSC and the Negotiating Body would help ensure guidance is both authoritative and practically grounded.

Compliance and Enforcement



Where do you need guidance on to help you or your organisation to comply with a Fair Pay Agreement?

Providers will require clear and practical guidance on several fronts:

- **Coverage:** explicit guidance on which roles fall in scope, particularly for ancillary and head-office functions (e.g. reception, IT support, regional PAs).
- **Cascade of funding:** step-by-step detail on how money will flow from central government through local authorities and/or the NHS to providers, with transparency to ensure consistency across the country.
- **Timing:** confirmation that funds will reach providers by 1 April each year, not delayed or linked to local fee uplifts.
- **Provider size considerations:** tailored guidance that recognises the different capacities and challenges faced by large groups versus smaller and single-site providers.
- **Communication with staff:** clarity on union access to the workforce, including whether unions can contact only members or the entire staff body, and how this can be managed without disrupting care in settings that are also residents' homes.
- **Bias and impartiality:** assurance that all guidance, decision-making, and enforcement mechanisms are free from bias — ensuring balanced consideration of both employer and worker perspectives, and that no party is unfairly advantaged or disadvantaged.
- **Business Impact Assessments:** where Business Impact Assessments are used within the process, clarity will be needed on how and when they will be conducted, how their findings will inform the design and implementation of the Fair Pay Agreement, and how providers can contribute evidence to ensure impacts are accurately captured across different service types and organisational sizes.

Without clear and consistent guidance across these areas, providers face uncertainty that could undermine compliance, create inconsistency across the sector, and weaken the overall effectiveness of the Fair Pay Agreement.

Please share any other views or comments about how the department can support providers and commissioners of care to comply with a Fair Pay Agreement.

Care England believes the key requirement is clarity and consistency in how funding is cascaded and reported. Previous experience shows extreme variation: during COVID-19, support grants ranged from approximately £1,500 per worker in some local authorities to just £50 in others, while some passed through nothing at all. Smaller providers also struggled to access funds due to process complexity.

To avoid such inequity, the Fair Pay Agreement funding envelope must be:

- **Separate** from annual fee uplifts and **ring-fenced exclusively for pay.**
- **Guaranteed to reach providers by 1 April**, with clear reporting requirements, and applied **consistently across FNC, CHC, local authority, and ICB contracts** to ensure all uplifts are implemented on the same date.
- **Backed by proportional penalties** for local authorities or NHS commissioners who fail to cascade funds appropriately, just as providers will face enforcement if they do not comply.

Only with transparent, enforceable rules and aligned implementation across all funding streams can the sector have confidence that the Fair Pay Agreement will function as intended.

Care England believes the Fair Pay Agreement body should be placed under a statutory duty to obtain independent expert evidence on the full cost of delivering adult social care. This must include



workforce costs, regulatory compliance, capital investment, operating costs, and the cumulative impact of any proposed agreement on provider viability.

Crucially, this assessment must explicitly account for the need for a reasonable and sustainable surplus, to support ongoing investment, service continuity, quality improvement, and long-term market stability. Without this safeguard, there is a serious risk that recommendations become disconnected from economic reality, creating unfunded obligations and inadvertently destabilising the care market the Fair Pay Agreement is intended to strengthen.

Please share any views or evidence from your perspective about the current process for resolving disputes and concerns about contracts, pay or working conditions. If there are any changes that you would like included then in your responses, please include them in your responses.

Care England believes current dispute resolution mechanisms are overly focused on employment or contractual disputes at provider–employee level. There is no clear mechanism for redress when commissioners fail to cascade mandated funding or implement contractual terms arising from national policy.

The FPA process should therefore include a provider-side appeal route, ensuring disputes with commissioners can be escalated and independently resolved. This would create parity and prevent situations where government-mandated funding fails to reach the frontline due to local inaction.

Equalities impact

Are there any groups of people, such as (but not limited to) those with protected characteristics, who you believe would be positively impacted by the proposals in this consultation?

Yes

If you answered ‘yes’, please select the characteristics of the groups that you think will be positively impacted by the proposals. (Optional)

Age, Race, Sex

If you answered ‘yes’, why do you think these groups will be positively impacted? (Optional, maximum 250 words)

The social care workforce is predominantly female and ethnically diverse. Establishing a Fair Pay Agreement therefore has the potential to raise pay, improve recognition, and promote equity within a sector that has historically been both low-paid and disproportionately reliant on women and workers from minority ethnic backgrounds. Older workers, who make up a significant proportion of the workforce, would also benefit from greater pay stability and clearer employment protections, helping to create a fairer and more sustainable system for all.

Are there any groups of people, such as (but not limited to) those with protected characteristics, who would be negatively impacted by the proposals in this consultation?



Yes

If you answered 'yes', please select the characteristics of the groups that you think will be negatively impacted by the proposals. (Optional)

Other

Why do you think these groups will be negatively impacted?

Those with caring responsibilities may be more affected by any changes to hours or rostering that arise from implementing a national framework, particularly if guaranteed hours or restrictions on zero-hours contracts reduce flexibility, if the Government wishes to include this as part of the Fair Pay Agreement. Care must be taken to ensure the Agreement does not inadvertently disadvantage those who rely on flexible working patterns to balance employment with caring responsibilities.

Care England notes that older workers and some overseas staff may face barriers if requirements are applied too rigidly, for example around training or contractual changes. While these risks were only raised tentatively, they reinforce the need for the FPA to be implemented with flexibility and sensitivity to the profile of the workforce.

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