



Scottish Care: Update to the Health, Social Care and Sport Committee on the Supplementary Legislative Consent Memorandum for the Employment Rights Bill

Introduction

Scottish Care welcomes the chance to update the Health, Social Care and Sport Committee on the third Supplementary Legislative Consent Memorandum (LCM) for the Employment Rights Bill, particularly amendments related to Scotland's Social Care Negotiating Body that may need Scottish Parliament's consent. We understand the Bill's importance for the social care sector and its workforce and value the Scottish Government's efforts to ensure fair treatment for social care workers.

General Position

Scottish Care recognises the Employment Rights Bill as a potentially important step forward in harmonising and strengthening employment rights across the United Kingdom. The introduction of a statutory Social Care Negotiating Body for Scotland has the potential to deliver meaningful improvements in pay, terms, and working conditions for social care workers if supported by a structure and constitution which enables implementation. We note the Scottish Government's support for the Bill's amendments and share the aspiration for a sector built on fairness, sustainability, and respect for staff.

Opinion on the Amendments

Scottish Care is supportive of the specific amendments to clauses 44, 45, 46, and 49 of the Employment Rights Bill, as outlined in the LCM:

- **Protection of Terms and Conditions:** Amendments to clauses 44 and 45 establish vital safeguards, ensuring that neither agreements reached by the Social Care Negotiating Body nor regulations set by Scottish Ministers will result in social care workers receiving less favorable terms and conditions than those currently in place. This principle is supported by Scottish Care, as it maintains workforce rights and security, while permitting providers to offer enhanced terms where possible. We do have concern however over the consideration at clause 45, whereby an agreement is

not met with the negotiating body. If no agreement is reached, care providers risk financial instability due to possible unethical commissioning by local authorities and delayed budget decisions. This uncertainty makes it difficult for providers to set budgets, determine staff pay increases, or establish rates for private clients, potentially compromising their sustainability if later agreed funding fails to cover costs.

- **Parliamentary Scrutiny:** The amendments to clause 46, which require any guidance or code of practice made under these regulations to be laid before the Scottish Parliament, are an important step. Transparency and scrutiny are vital if the sector is to retain the confidence of workers, providers, and the wider public. Scottish Care welcomes these provisions, which will help ensure proper oversight.
- **Consequential Amendments:** The amendment to clause 49, which removes now-redundant subsections, is a logical and necessary housekeeping measure following changes to clause 45.

Sector Implications

Scottish Care acknowledges that the Bill and these amendments provide a legal framework for enhanced negotiation and agreement on pay and conditions. These reforms offer Scottish Ministers a clear and unequivocal power to act in support of fair work for social care.

Scottish Care notes, however, that there remains a need for careful implementation and ongoing consultation with sector partners. This includes ensuring that increased obligations or rapid changes do not destabilise a sector already under financial pressure. Feedback from our members is that they wish to be able to pay their workforce more, but their local government commissioned rates do not allow them to. The absence of a UK-wide impact assessment is a concern, and we urge both governments to undertake such an assessment. In Scotland, it would require a BRIA.

Conclusion

In summary, Scottish Care supports the amendments to the Employment Rights Bill as described in the Supplementary Legislative Consent Memorandum. We agree that these measures represent an opportunity to strengthen employment rights and protections for social care workers in Scotland. We agree that the Committee should support the LCM while continuing to press for thorough impact assessment and ongoing engagement with all parties as implementation proceeds.

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