Penrose Care, the UK’s pioneer in ethical home care

Penrose Care which is a young, fast growing home care provider here in London has been the UK’s leading innovator in ethical practices in home care in the UK. These innovations, which include being one of the UK’s first Accredited Living Wage Employers in the home care sector, has led to improved working conditions for our mostly female care workers and what our home care users consistently consider to be excellent home care.

Combating low pay in social care is

1) a pro-women initiative as about 82% of England’s adult social care workforce is female\(^1\), and

2) addresses a wider OECD-wide challenge\(^2\): how to provide high-standards of social care in the context of an ageing society in a sector that has become mired by poor working conditions, leading to high staff turnover that puts vulnerable persons’ human rights at risk\(^3\).

As social care is a person-to-person service, Penrose Care’s co-founders, myself, a former healthcare analyst, and Dr. Matthew Knight, a hospital consultant physician, believed that instilling ethics into everything we do, would lead to high standards of care. And indeed, we have confirmed that to promote a caring workforce, the organisation itself must be caring.

Penrose Care’s caring and ethical approach to home care is summarised in Citizens UK’s landmark ethical charter, the Social Care Charter, for which we believe we are the only independent sector home care provider to comply. The charter calls for:

- A Living Wage for care workers
- Payment for travel time between home care visits
- An occupational sickpay scheme
- Consistency of teams
- And proper training

Via our pioneering ethical approach to home care outlined in Citizens UK’s Social Care Charter and innovative infrastructure\(^4\), Penrose Care has already largely solved the core issues surrounding home care outlined by the Care Quality Commission in its 2013 report “Not just a number”: 1) Late and missed visits, 2) lack of consistency of workers, 3) Lack of support for staff to carry out their work.

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\(^4\) “Home care head named UK’s Most Outstanding Leader in Care”*: Nov. 18, 2014 (Homecare.co.uk), available online: http://www.homecare.co.uk/news/article.cfm/id/1565993/home-care-head-named
and failure to address the ongoing issues around travel time, 4) poor care planning and a lack of
regular review, and 5) staff understanding of their safeguarding and whistleblowing responsibilities.\(^5\)

Now, the innovations we have undertaken cost money. Making good moral choices in business often
does. At Penrose Care we therefore setup our business model to support ethical operations rather
than setting up yet another care provider that flouts important labour laws, such as the National
Minimum Wage.

There are things that you as legislators, can do to support ethics in care, and therefore support
organisations like Penrose Care, that are really working against a tide of poor practice.:

**Recommendation 1)** Formally professionalise the home care profession that formalises training
requirements and signals to the existing workforce and new entrants that home care is a career,
not an occupational last-resort or a “stop-gap”

**Recommendation 2)** Promote the financial integrity of the home care sector by enforcing the
national minimum wage, penalising the mis-classification of employees and regulating personal
assistants

**Recommendation 3)** Explore more innovative society-wide ways to improve funding of the sector
such as promoting employer-led funding

**Opinion 1)** The committee staff has asked for our view on recommending to Government
to adopt an industrial policy for the care sector within the BIS as a means for the
Government to examine care sector market failures, productivity issues and finding means
to address them. Penrose Care supports this view provided any implementations of new
rules are guidance are combined with learning courses via the UK Home Care Association
to ensure care managers are given fair and effective means to actually learn any new rules
or guidance issued, given that our general view is that the care sector is already
“drowning in paper work.”

**Penrose Care’s recommendations to the Women & Equalities Select Committee**

An overarching concern of Penrose Care with respect to the wider social care sector (including care
and nursing home staff as well as home care workers) in England is the high staff turnover rates.
**February 2014 data from the NMDS-SC puts the staff turnover rate of care workers in England at
30.6%. (London: 26.0%)**\(^6\) We believe this is a central issue that must be tackled as it inhibits home
care providers from being able to properly invest in the training and development of their staff (as
high staff turnover can make this economically unviable) and has a direct impact on care by
inhibiting providers from providing care recipient’s continuity in their care staff.\(^7\) We believe that if

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\(^5\) *Not just a number*: February 2013 (Care Quality Commission), pg 6, available online:


home care workers were provided a professional career they could aspire to and decent working conditions, workforce stability would improve.

**Recommendation 1) Formally professionalise the home care profession that formalises training requirements and signals to the existing workforce and new entrants that home care is a career, not an occupational last-resort or a “stop-gap”**

A joint Guardian Social Care Network and Department of Health survey into home care held in 2013 found that 56% of respondents cited insufficient training as a major challenge for home care workers. Although funding situations and high staff turnover also contribute to insufficient training, we predominantly view an important underlying issue being that there are currently no compulsory training requirements for care workers. Robert Francis QC also cited this as an issue in his inquiry into the Mid Staffordshire Foundation Trust.

There is however recommended guidance issued jointly in March 2013 by the sector skills councils of adult social care workers and hospital-based health care assistants, Skills for Care and Skills for Health, respectively. Interestingly however, whereas the regulated activity carried out by these workers is generally “personal care” which includes: eating or drinking, toileting, washing or bathing, dressing, oral care, or the care of skin, hair and nails; none of these activities are included in the minimum training recommendations. The new Care Certificate suffers from similar inadequacies, especially as it is a paper-based workbook system where organisations such as ours typically fulfilled the previous National Minimum Training Standards with courses, which we believe are a more effective way of training.

We strongly believe that if training standards were set and managed by experienced home care practitioners via a statutorily compulsory registration process for adult social care workers and healthcare assistants – two occupations which should probably for all intensive purposes be combined into a single regulated profession – the issues regarding insufficient training in terms of the law would be solved. Importantly, there appears to be support for such a process by practitioners – a 2013 survey by the British Journal of Healthcare Assistants found that 93% of respondents backed compulsory registration. We also believe that if social care work received the

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9 Ross, Tim, “Care home staff to have compulsory training under government plans to protect elderly”: 08 Mar 2013 (The Telegraph, 2013), available online: [http://www.telegraph.co.uk/health/elderhealth/9919194/Care-home-staff-to-have-compulsory-training-under-government-plans-to-protect-elderly.html](http://www.telegraph.co.uk/health/elderhealth/9919194/Care-home-staff-to-have-compulsory-training-under-government-plans-to-protect-elderly.html)


prestige of being a statutory profession, over time, prospective entrants may grow to increasingly view it as a long-term career rather than short-term employment.

In rejecting this particular proposal by the Francis Report (Recommendation 209), HM Government gave this response: “There is no solid evidence that demonstrates that healthcare and care support workers should be subject to compulsory statutory regulation, given the safeguards that are already in the system.”

However, a 2008 World Health Organisation report on home care in Europe found that “Better training and accreditation programmes can guarantee a constant supply of qualified caregivers” and that “Training of home care personnel is largely inadequate and should be improved if home care is to remain viable with increasing demand, increasing complexity of care and diminishing informal support networks.”

The actual implementation however of mandatory training standards enforced via a compulsory register may require an improvement of the financial integrity of the sector, which is our next recommendation.

Recommendation 2) Promote the financial integrity of the home care sector by enforcing the national minimum wage, combating the mis-classification of employees as independent contractors, and regulating personal assistants

With public budgets under significant pressures, improving the financial integrity of the home care sector should not come from the public sector alone. Our ageing populations’ challenges towards our long-term care system are a society-wide problem and policy makers should actively pursue society-wide solutions.

However, there are a variety of bad practices currently common in the home care sector that undermine both the self-funded market and the publicly-funded market. Distortions of the self-funded market are particularly harmful to the sector as a whole, as if healthy, the self-funded market could be used to mitigate the sector’s headwinds from the publicly-funded market. For the fiscal year 2013/14, the UK Home Care Associated estimated the UK-wide domiciliary care or home care market at £5.2 billion, with the private market accounting for 23%.

The primary distortion in the home care market is there are a large number of operators that can charge rates to customers in the self-funded market that are “below market”, mainly because they are violating certain laws, thus undermining the financial viability of operators who comply with laws. As complying with such requirements such as the national minimum wage, holiday pay, and employer’s national insurance, raise the cost of operating.

When we say violating certain laws, we refer specifically to the following:

- Non-compliance with the National Minimum Wage, usually due to non-payment of travel time between client visits, non-payment for staff training time, and deductions for things

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16 An Overview of the Domiciliary Care Market (UK Home Care Association, 2015), pg 10, available online: http://www.ukhca.co.uk/pdfs/DomiciliaryCareMarketOverview2015.pdf
such as uniforms and criminal checks. Non-compliance with this requirement is widely known and researched. However we also have found through interviewing care worker candidates and speaking to other care workers in the conduct over our operations other issues:

- The mis-classification of employees as independent contractors to avoid paying Employer National Insurance and Holiday Pay. Operators who avoid paying their workers’ holiday pay save 12.07\%\textsuperscript{17} off the gross cost of employment. Avoidance of Employer National Insurance Rates could save an employer 13.8\% off of an individual employee’s gross cost of employment of their monthly earnings above £676/month\textsuperscript{18}.
- The non-payment of holiday pay to workers who are correctly classified as employees.

By not complying with these employment requirements, non-compliant operators are able to undercut those that do, what we would expect to naturally drive out compliant operators. Due to the high-levels of non-compliance with the National Minimum Wage in the home care sector, as we discuss below, we expect this severe market distortion – of the market being over-taken by operators with below market expenses due to non-compliant activities – has actually already largely developed. News reports alleging national minimum wage violations at one of the UK’s top five home care operators further supports this view.\textsuperscript{19}

As care operators are engaged in a noble service that should be characterised by high levels of ethics and morals, operators who strive to comply with applicable laws and indeed go over and above them, should be supported, not undermined.

It is therefore vital that policy makers step up enforcement of the National Minimum Wage and step-up deterrents against operators mis-classifying their employees as independent contractors.

**National Minimum Wage non-compliance is widespread in the home care sector**

While making training for care workers formalised and mandatory via a compulsory register may in theory improve care quality in England, such a system could be largely ineffective if there is widespread non-compliance with the National Minimum Wage. This is a real concern as the National Minimum Wage (NMW) is mandatory in England and yet there is evidence of potentially high non-compliance in the home care sector.\textsuperscript{20}

\textsuperscript{17} Holidays and holiday pay (ACAS, 2012), pg 6, available online: 

\textsuperscript{18} National Insurance rates and categories (Gov.uk, accessed 11 Jan 2016), available online: 
https://www.gov.uk/national-insurance-rates-letters/contribution-rates

\textsuperscript{19} Conway, Zoe, “Mitie faces new minimum wage claims”: 13 May 2015 (BBC News, 2015), available online: 
http://www.bbc.co.uk/news/business-32715728; Carter, Rachel, “Suspected minimum wage breaches at 100 care firms ‘tip of the iceberg’, says minister”: 24 Feb 2015 (Community Care, 2015), available online: 
http://www.communitycare.co.uk/2015/02/24/suspected-minimum-wage-breaches-100-care-firms-tip-iceberg-says-minister/

\textsuperscript{20} Ramesh, Randeep, “Social care providers flouting minimum wage rules, tax inspectors find”: 25 Nov 2013 (The Guardian, 2013), available online: 
The extent of the national minimum wage violations in home care can be derived from readily available market data. According to the NMDS-SC, as of December 2015, the median hourly wage for a frontline care worker in England was £7.10/hour. A Unison survey of 700 care workers published in October 2013 by Unison found that the average care worker spent 6.82 hours per week traveling between clients and a October 2012 survey by Unison found that 81.1% of independent sector home care providers were NOT paying for this travel time. The independent sector delivers 92.1% of state-funded hours of home care in England.\(^{22}\)

Data from Lang and Buisson suggest that average travel time for care workers in England is 19% of their work time, implying that a typical home care worker in England receives an effective gross wage of \(\text{\euro}5.75/\text{hour}\), below the National Minimum Wage of £6.70/hour\(^{24}\) for persons 21 and over.

In 2011, Dr. Shereen Hussein estimated that 156,673 to 219,241 direct care workers in the UK are likely paid below the National Minimum Wage.

\textit{Poor enforcement of the National Minimum Wage in home care has led to unduly low rates paid by Local Authorities, which has exacerbated the sector's ability to comply}

Data from 2009 suggested that 55% of the independent home care sector derive 80% or more of their revenues from Local Authorities.\(^{26}\) More recently in November 2015, the UK Home Care Association (UKHCA), the professional association representing England’s home care sector (of which Penrose Care is a member), estimated that home care providers must be paid a minimum of £16.17/hour\(^{27}\) to cover wages at the National Minimum Wage, training and travel. However, the UKHCA found in a 2014 study Local Authority payment rates met this minimum price floor in only 4 out of 101 cases.\(^{28}\)

There is evidence that attributes this situation to poor commissioning practices by Local Authorities that has promoted a race-to-the-bottom culture.\(^{29}\) A serious issue however, is that due to poor

\begin{enumerate}
\item Time to care (Unison, Oct 2012), pg 12, available online: http://www.unison.org.uk/upload/sharepoint/On%20line%20Catalogue/21049.pdf
\item Samuel, Mithran, “Home care leaders reveal ‘minimum price’ councils should pay for care”: 04 Feb 2014, available online (Community Care, 2014): http://www.communitycare.co.uk/2014/02/04/home-care-leaders-reveal-minimum-price-councils-pay-care/
\item National Minimum Wage rates (Gov.uk, accessed 11 Jan 2016), available online: https://www.gov.uk/national-minimum-wage-rates
\item Where the heart is... a review of older people's home care market in England: Oct 2012 (Oxford Brookes University, 2012), pg 14, available online: http://ipc.brookes.ac.uk/publications/Adults/Where_the_heart_is-IPC_MAC_Review_of_Home_Care.pdf
\end{enumerate}
enforcement of the National Minimum Wage (NMW) by HM Revenue & Customs (HMRC)\textsuperscript{30}, the so-called “bottom” is not the legal lower-bound. This must be halted immediately.

Poor enforcement of the NMW has the practical implication of inducing providers to cut working conditions of home care workers to below legal minimums when bidding for local authority contracts, which can materially financially undermine providers that are complying with the law as it puts them at an unfair cost disadvantage to those providers that do not comply with legal minimums. Such persistent pressures against the legally-compliant operators, could result in their exiting the market, further exacerbating quality issues in the sector.

We expect that enforcing the NMW could potentially bring some sensibility back to Local Authority commissioning rates for home care and this is vital for improving the working conditions of home care workers. There is some concrete evidence why. In the most recent data available from Fiscal Year 2014-15, the average cost of Local Authorities providing home care in-house was £29.00/hour whereas they on average commissioned at £14 /hour to the independent sector.\textsuperscript{31} This should be viewed with a survey of home care workers published by Unison in 2012 which illustrates the stark difference in working conditions of home care workers working for local authorities and those working in the private and voluntary sector.\textsuperscript{32} Notably, in the independent sector, only 18.9% of workers reported being paid for travel time between client visits vs 89.4% for council workers. This is important given that non-payment of travel time contributes to non-compliance with the NMW.

\textit{Unregulated personal assistants further under-mine the sector}

Turning to the portion of the home care sector’s revenues that do not come from Local Authorities but rather from self-funders, there is another serious challenge to the financial integrity of the sector: the active promotion by Local Authorities of unregulated personal assistants (those directly-employed by care recipients) as part of the personalisation agenda. When a self-funder is considering care options, they may find personal assistants to be a compelling option financially. According to PayScale, the average wage for a personal care assistant in the UK is £6.99/hour\textsuperscript{33} which is materially lower than the £16.17/hour the UKHCA estimates a provider must be paid to comply with regulatory minimums.

Although unregulated, directly-employed personal assistants are very widely promoted by Local Authorities. We see this as inconsistent with the goals of providing a social care system that provides high quality care as it directly undermines the formal, regulated sector. In addition, we have found that the lack of an organisational umbrella over personal assistants means that users of them can be thrust into a sudden crisis if a personal assistant becomes ill or abruptly leaves. Such crisis would be avoided if personal assistants were brought into the formal, regulated sector.

\textsuperscript{32} \textit{Time to care} (Unison, Oct 2012), pg 12, available online: \url{http://www.unison.org.uk/upload/sharepoint/On%20line%20Catalogue/21049.pdf}
\textsuperscript{33} \textit{Personal Care Assistant (PCA) Salary (United Kingdom)} (PayScale, accessed 11 Jan 2016), available online: \url{http://www.payscale.com/research/UK/Job=Personal_Care_Assistant_(PCA)/Hourly_Rate}
**Recommendation 3) Explore more innovative society-wide ways to improve funding of the sector such as promoting employer-led funding**

In March 2014, *BBC News* reported that some major British employers including Sainsbury’s, British Gas and NHS England have put in place elderly care services for employees as part of their benefit packages.\(^3\) We see this as a very positive development that could lead to a substantial improvement in the funding of the home care sector from the private sector, and thus providing scope for improving the working conditions of home care workers and indeed, the quality of care delivered by them.

As there seems to be a macro-level political goal of improving working conditions for care workers in the UK without materially increasing the public costs, we strongly encourage the exploration of policies that could encourage the growth of employer-funded elderly care benefit packages that pay over and above average rates for care. We recommend this important element as it would allow care providers to accept lower-margin work say from Local Authorities without sacrificing their overall financial health and therefore not putting at risks quality of care.

February 2016

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