Submission by the Registered Nursing Home Association to the Low Pay Commission October 2014

The Registered Nursing Home Association would request that the Low Pay Commission recognises the pressures outlined below and recommend that the adult national minimum wage be held at the current (October 2014) rate in October 2015.

The Adult Social Care sector, within which the members of the Registered Nursing Home Association operate, will continue to be under severe cost and occupancy pressure in the year 2014/15 as a result of the continuing spending cuts being imposed on the public sector finances during that year.

Since the beginning of the financial difficulties facing the Country, Local Authorities have continued to use the Adult Social Care Sector to make significant savings in their expenditure. The majority have offered a zero percent increase over the past three years, whilst many others have made reductions in the fees they are prepared to pay. It is reported that over that period there has been a 12% reduction in national spending on Adult Social Care.

Although much of the Care Act 2014 will be implemented in April 2015, the financial implications of the Care Act will come into effect from April 2016, part way through the period that the next NMW rate will apply. There are serious, unknown, consequences of implementing the Dilnot proposals, particularly over the increase in the capital limits entry level from £23,500 to £118,000.

At present those who have more than £23,500 capital are not eligible for funding by the Local Authority and, as a consequence, pay for their own care. It is well known, and accepted, by Directors of Adult Social Care that such people pay a higher fee than do those who are funded by the Local Authority. Such cross subsidisation enables the care home to meet the costs of providing care which would not be possible if all of the residents were funded by the Local Authority.

There are two particular consequences of the increase from £23,500 to £118,000, firstly that there isn't any robust quantifiable data which will indicate how many people will be in the band £23,500 - £118,000 and, therefore, who will become eligible for Local Authority funding.

Secondly, that the amount of money transferred from central to local government to pay for this increase will be less than will be required.

In simple terms, from April 2016 each vacancy in a care home which becomes available is most likely to be filled at a weekly fee which will be less than that paid by the outgoing resident. As the year rolls on, this issue will become incremental with serious financial pressures being experienced by care home owners. It would not be an matter of scaremongering to suggest that we can expect to see higher than average closures of care homes in 2015 as a result of the new financial models.

We continue to see Local Authorities using their monopsony power to hold down fees. It is significant to note that those who do still have a provision pay themselves considerably more for that provision than they pay the private sector for comparable care, for example Birmingham charges £600 per week for the residential care it provides, whilst it pays £405 for residential care in the independent sector.

This leaves the independent Adult Social Care sector at a distinct disadvantage of being 'between a rock and a hard place' over the wages paid to its staff. On the one hand the Local Authorities, who purchase 60% of all residential care, have not increased their fees over the past three years whilst the National Minimum Wage has increased each year.

Salaries account for circa 60% of our expected income. Over the past three years the reluctance on the part of Local Authorities to pay a reasonable amount for care in residential and nursing homes has resulted in six Judicial Reviews between groups of providers and their Local Authority. Each has taken a similar line, that Local Authorities have not taken into account that "fee negotiation arrangements that recognise providers' costs and what factors affect them (as well as any scope for improved performance) and ensure that appropriate fees are paid" as required by the Government Guidance, Building Capacity and Partnership in Care.

In each case the Local Authority has lost the Judicial Review, but still Local Authorities are failing to do as the guidance requires, with the result that funding of residential and nursing home care is spiralling downwards.

Privately funded service users are able to pay increases in prices but the regional variation of these service users means that providers outside the South East can rarely make price increases. This is compounded by the fact that most provision of care by the independent sector is a mixture of State funded and privately funded service users. As such, any ability to increase income from private funding is diluted by the greater proportion of state funded patients.

There continues to be a number of factors which have significant impact on the ability of the sector to meet the cost of the National Minimum Wage. These include;

- The sector is unable to make efficiency savings in the costs of staff since the vast majority of the staff, carers, are paid at or just above the national minimum wage and the regulator requires us to maintain those staffing levels at all times. That is to say that staffing is required 24 hours per day, 7 days per week, 52 weeks per year.

- The sector is unable to mechanise or use technology to achieve efficiency savings since personal or nursing care is required to these defined levels.

- The sector currently has a staff turnover of approximately 20% per annum which can be evidenced by data from the National Minimum Dataset (NMDS -SC) maintained by Skills for Care. This staff turnover has regional variances and is most acute in the south east of the country.

- This staff turnover results in a need in certain parts of the country to rely upon overseas staff, the Government proposals to introduce further restriction on such recruitment has added to our difficulties.

  However, the Migration Advisory Committee recognises the Adult Social Care Sector as being a low pay economy, as such, they refuse to list occupations within the sector as being 'shortage occupations' - their justification is that to do so would perpetuate the low pay economy by recruitment from overseas.

- The sector currently fully participates in all recruitment and retention initiatives operated by the Department of Health and other government departments but has been unable to significantly reduce the turnover level in recent years.

- The requirements of the staff employed has grown significantly as a result of the increasing standards required by successive regulators and standards setters over the past years without the consequent increases in the price paid for the service.

- As a consequence of further reductions in Local Authority funding eligibility criteria have increased, in turn, the service users who receive our services have ever more complex needs requiring us to provide ever more complex services and monitoring. Examples of these initiatives include higher standard End of Life Care, Nutritional Care, Diabetic Care, Wound Care, Continence Care, Prevention of Slips Trips and Falls, etc etc. We have been, and continue to be, expected to absorb these additional costs within an already limited budget.

- Whilst Skills for Care plays a very real part in supporting, and to a very limited level, funding training, the sector does not have a strategy to fund all training resulting in many government departments implementing short term and changing grants which do not fully cover the costs of training. This results in providers having to absorb costs for training which vary across the country and across time. These schemes are costly to implement and require constant management time.

- Contrast this with the £5.6 billion budget of Health Education England for the training of NHS staff. HEE has no responsibility for funding training in the Adult Social Care sector other than to ensure that the training of nurses is sufficient to also cover the Adult Social Care sector.

- The sector has had to absorb costs associated with registration of staff in the past and these costs continue to this day for schemes such as DBS (previously CRB) checks.

- The sector has some limited scope for making efficiency savings in direct costs of materials purchased, such as food and energy, but savings in these areas have already been made in previous years and therefore there is limited scope for further savings.

- Providers in the sector have consistently been awarded increases in fees by the Local Authority commissioners which have been below the percentage increases made to the National Minimum Wage with no redress from the commissioners who operate as a monopsony purchaser. The Association recognises that the LPC have access to Laing and Buisson data over the period and are content that the L&B dataset is a comprehensive report of the sector when viewed at a regional level.

- Auto enrolment, as part of the pension reforms introduced in 2012 is now underway and is affecting many care homes. It will bring with it further increases in costs for the sector. In addition to the proposed 3% contribution by Providers (although this is to be implemented over a number of years, some will be caught up from the start), we must expect that employees will seek an increase to cover their contribution as well as any cost of living increase.

The Registered Nursing Home Association would be available to provide additional evidence to the Low Pay Commission should that be necessary,

Yours sincerely,

Frank Ursell
Chief Executive Officer
For Registered Nursing Home Association
24th October 2014