

**WRITTEN QUESTION TO THE MINISTER FOR SOCIAL SECURITY
BY DEPUTY G.P. SOUTHERN OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 19th JANUARY 2016**

Question

Will the Minister advise who is responsible for the means by which domestic care agencies tender for the delivery of care and outline what safeguards, if any, are in place to ensure that agencies do not reduce the terms and conditions for their employees in order to ensure low bids?

In the context of ensuring that the terms and conditions for domestic agency workers meet the protective measures laid out in employment law, will the Minister –

- (a) inform members of the extent of the protection;
- (b) state the number of inspections conducted by the department's compliance section on domestic care agencies over the past year;
- (c) agree to investigate the employment practices of agencies in cases where:
 - (i) only contact time with clients counts as time in work;
 - (ii) no payment/compensation is made for travel time or use of employee vehicle (petrol/insurance/service) costs;and outline the extent to which these terms lead to rates of hourly pay falling below the statutory minimum.

Could the Minister also advise whether the use of zero hours contracts for such employees is considered appropriate, and, if not, state whether consideration will be given to introducing regulation to eliminate such practices?

Answer

In the great majority of cases, individuals are responsible for contracting with domestic care agencies for the delivery of their own care. In July 2014, in parallel to the introduction of the Long Term Care (LTC) Scheme, the Health and Social Services Department (HSS) developed the Approved Provider Framework (APF) for home care and outreach short break services. Any client who receives funding from HSS or LTC may only choose from the list of Approved Providers to deliver their care or support needs.

To establish the APF, interested providers were required to complete a rigorous application process, demonstrating adherence to quality standards and processes. In 2014, 18 providers were fully approved, 3 were provisionally approved and 2 were not approved due to concerns surrounding safety and quality. Since then, other providers have developed their standards of quality and safety and 22 providers are currently included on the APF.

The Minister for Health and Social Services has confirmed that, during 2015, all approved providers were subject to an assessment inspection by the Quality Assurance Officer. Providers are required to implement an individualised action plan to maintain their approved status. Subsequent inspections and visits were carried out by the Quality Assurance Officer to monitor the completion of actions. Providers will continue to be subject to 2 inspections per year, with additional inspections if concerns are raised.

Where a person is employed to work for a domestic care agency, the protection of the Employment (Jersey) Law 2003 will apply in the same way that it does for any other employee in Jersey.

Social Security enforcement officers conducted six inspections of care agencies during 2015. Officers undertake both pro-active and re-active surveys across all employer types. If an employee has concerns,

officers will conduct a visit and will ensure that any particular questions are addressed. In a routine survey, officers will ensure that the minimum wage is being paid and that terms and conditions of employment are inspected. Officers are aware of agency carers being paid on a shift basis, rather than on a 'per client' basis. No further information is available based on those investigations and there are no recorded instances of the circumstances that are envisaged by this question in 2015.

The Jersey Advisory and Conciliation Service (JACS) provides an independent and publicly funded service, that is well used by employers and employees alike, to obtain confidential advice and guidance on their employment rights and obligations. JACS can provide advice as to whether zero-hours contracts are appropriate for domestic care work which will depend on the specific circumstances in any case; in particular, the care or nursing requirements of the client. Of the 9,469 client queries received by JACS during 2015, no client queries or complaints were received relating to the issues raised in this question.

If the Deputy is aware of individual cases where employees are not receiving the correct minimum wage or their other entitlements under the Employment Law, he should advise the affected individuals to seek advice from the Jersey Advisory and Conciliation Service, or to contact the Social Security Department.