

# #SolveSleepIns Alliance

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## #StopSleepInCrisis

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### Sleep-in back pay effect on charities

#### Joint letter from leaders of *Learning Disability Voices, VODG, ARC, Care England & XXX*

Baroness Stowell, Chair  
Charity Commission  
1 Drummond Gate  
London  
SW1V 2QQ

8 June 2018

Dear Baroness Stowell,

We are sure you are aware of the ongoing sleep-in back pay crisis currently threatening the social care sector. This is the biggest single threat to social care that any of us have seen, and charities are at the forefront.

Sleep-in shifts are an integral part of public services which government has a statutory obligation to provide under the Care Act 2014. Overnight, or sleep-in, care services are essential for people with the most severe learning disabilities; allowing them to live a much higher quality of life, enabling people to live in their own homes and be part their local community. In keeping with its *Transforming Care* agenda, Government has a duty to fund these crucial services for our most vulnerable citizens through local authorities.

Due to changing Government guidance, there is now an obligation to pay the National Living Wage for all shifts, sleep-ins included. Previously, sleep-in shifts were paid at a lower flat rate. We, as providers, support this increase in wages for our hard-working staff, so long as it is met by commensurate funding from our only customers – local authorities.

However, Government has not yet made a commitment to increase funding to local authorities in line with this wage increase. Moreover, care staff who worked sleep-in shifts are due back-pay for the last six years from providers under HMRC's Social Care Compliance Scheme (SCCS). Central Government has never given more money to local authorities or providers to pay for sleep-ins at the NMW / NLW rate, or to cover retrospective back pay liabilities. Moreover it has admitted that its own guidance was mistaken, leading to this unintended consequence of the NLW.

At the centre of this is the £400 million bill for back-pay for sleep-ins, which impacts on us all equally, from small not-for-profit providers to large charitable organisations. In fact, a recent independent survey commissioned by the Voluntary Organisations Disability Group (VODG), found that 68 per cent said there would be a threat to the viability of their organisation if they were made to pay six years' back-pay to sleep-in shift workers.

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**If there is no government intervention, charitable reserves and money donated by the public will have to be used to cover the cost.**

We, as charities, have a responsibility to the people we care for, our dedicated staff and our supporters. Furthermore, we feel that it is neither fair, nor financially viable for us to fund these essential Government services for the most vulnerable people in the UK, which we believe are the very measure of how Government functions within a civilised society.

We are writing to you on behalf of the #SolveSleepIns alliance which comprises charities, not-for-profit and independent sector companies who provide learning disability services in the UK - representing approximately half of the entire provision of care services to people with learning disabilities in the UK.

As representatives of the vast majority of not-for profit, charitable provision of care for people with learning disabilities in the UK, we would ask you to raise this matter urgently with Government. This crisis must be solved before the third quarter of this financial year, as the back-pay bill, under HMRC's SCCS becomes due in November. We firmly believe that the Government must immediately intervene to fully fund all back-pay, in order to avoid the catastrophic effect this will have on charitable organisations who provide vital statutory care.

Further worrying figures from the independent survey indicate that:

- **Only half of commissioners of care services are paying NMW for care workers on sleep-in shifts:** The results of this survey show that there has been a significant rise in the number of services the commissioners have agreed to fund at the NMW in the last year from 14% to 49%. However, only 7% have agreed to fund sleep-ins at the NMW together with all on-costs.
- **The sleep-in back pay bill will make the majority of care providers unviable:** 34% of those surveyed said that there would be a threat to the viability of their organisation if there's a requirement from HMRC to back date payments to staff for 2 years, with this figure rising to 68% if the requirement is to back date for 6 years (as is required by current government guidance).
- **Providers have not budgeted for the sleep-in back pay:** Only 6% of providers have budgeted for back pay liability.
- **Due to the sleep-in pay crisis providers will be forced to sell properties which previously housed disabled people requiring care:** 22% of those surveyed said that they would have to sell properties to cover the shortfall.
- **Due to the sleep-in pay crisis providers will be forced to end services in some areas:** Providers have decided not to bid or negotiate for 273 new contracts because of their financial situation.

We would be happy to meet with you in order to discuss further.

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Yours sincerely,

Tim Cooper, Co-Chair LD Voices



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England Director, Association for Real Change (ARC)



Ann Mackay  
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