

Fair Pay Agreement

Consultation Response – A Summary



Introduction

The Fair Pay Agreement (FPA) represents one of the most significant reforms to adult social care in a generation. The Association of Mental Health Providers strongly supports the ambition to improve pay, retention and workforce stability across the sector. However, our response to the consultation was clear: for mental health and VCSE providers, success depends on realism, adequate funding, enforceable commissioner accountability, and explicit recognition of sector diversity.

This document brings together the full substance of our consultation response in a form that is accessible to members and robust enough for policy and system leaders. It sets out what we told government, why it matters for mental health and VCSE providers, and what must happen next.

1. Mental Health and VCSE Services Must Be Designed In, Not Added On

What we told government:

Mental health social care and VCSE provision are core components of adult social care and must be explicitly reflected in the design of the Fair Pay Agreement.

Mental health VCSE providers deliver supported accommodation, crisis alternatives, community recovery services and specialist provision for people with multiple disadvantage. These services operate across regulated and unregulated models, span health and social care boundaries, and are delivered through diverse employment arrangements.

Unless this diversity is explicitly accounted for, there is a serious risk that the FPA will be designed primarily around older people's residential and domiciliary care models. That would unintentionally marginalise mental health social care, despite its central role in prevention, hospital avoidance and long-term recovery.

Why this matters:

Mental health social care already operates across multiple systems and funding routes. Treating it as peripheral or exceptional will create gaps in coverage, inconsistent application of pay requirements, and unintended workforce displacement.

What must happen next:

- Mental health and VCSE services must be explicitly modelled in FPA design and implementation.
- DHSC must undertake specific impact modelling for mental health social care.
- Guidance must clearly apply to both regulated and unregulated mental health provision.

2. Funding Must Be Additional, Adequate, and Flow in Practice

What we told government:

A Fair Pay Agreement is only credible if it is fully funded and deliverable for providers in practice.

VCSE mental health providers typically operate on thin margins, have limited access to capital, and are disproportionately exposed to commissioning volatility. Many rely on short-term contracts, grants, or block arrangements that do not flex automatically in response to cost pressures.

Our members report:

- 57% say contracted income does not cover expenditure
- 50% received no National Insurance relief in fee negotiations
- One in five charities nationally have already reduced services due to rising costs

Why this matters:

Ringfencing alone is not enough. FPA funding must be additional to baseline funding needed to meet National Living Wage increases, National Insurance changes, inflation and rising demand. Without additionality, the FPA risks redistributing existing scarcity rather than improving pay or retention.

What must happen next:

- FPA funding must be new, additional funding.
- Pay uplifts must be fully funded, including on-costs and differentials.
- Funding must reach providers in full and on time.

3. Commissioner Accountability Is a Red Line

What we told government:

Providers cannot be expected to carry the financial risk of national pay decisions without guaranteed commissioner funding.

Providers face enforcement action if they fail to comply with employment requirements. There is currently no equivalent enforcement where commissioners fail to cascade funding or amend contracts accordingly. This asymmetry disproportionately affects VCSE and specialist mental health providers with limited local bargaining power.

Why this matters:

Without mirrored accountability, providers risk being placed in an impossible position: legally required to pay higher wages without receiving the funding necessary to do so. This creates instability, increases provider failure risk, and undermines the intent of the FPA.

What must happen next:

- Explicit duties on local authorities and NHS commissioners to cascade FPA funding in full and on time.
- Clear national oversight of commissioner compliance.
- Transparent reporting and assurance on funding flows.
- A clear escalation route where national commitments are not reflected locally.

4. Adult Social Care Is Commissioned by Local Government and the NHS

What we told government:

The Fair Pay Agreement must reflect the full commissioning reality of adult social care, including NHS and ICB commissioning.

Mental health social care is commissioned through local authorities, the NHS and Integrated Care Boards, including via Section 117 aftercare, pooled budgets, Section 75 arrangements, crisis alternatives, supported accommodation and community services.

Why this matters:

Limiting the FPA framework to local government alone risks fragmented decision-making, inconsistent funding behaviour and uneven market outcomes. NHS commissioning plays a substantial and growing role in mental health social care and must be part of the same accountability framework.

What must happen next:

- All commissioners of adult social care, including the NHS, must be formally recognised in the FPA framework.
- The Negotiating Body must consult commissioners beyond local government.

5. Commissioners Must Have a Formal Role in the Negotiating Framework**What we told government:**

Commissioners must be embedded in the Fair Pay Agreement process, not treated as external stakeholders.

Local authorities, the NHS and other significant purchasers of care shape market behaviour, pricing and sustainability. Their decisions directly determine whether agreed pay rates can be implemented.

Why this matters:

Without formal commissioner involvement, the FPA risks producing agreements that are theoretically sound but practically undeliverable. Fragmented commissioning undermines fairness, stability and confidence.

What must happen next:

- The Negotiating Body must consult all commissioners of adult social care.
- Commissioners should be able to submit written assessments of proposed FPAs.
- The Secretary of State must give due regard to commissioner assessments when ratifying agreements.

6. Representation Must Be Inclusive and Legitimate**What we told government:**

We broadly support the proposed structures for worker and employer representation, with critical safeguards.

Worker representation

We support the TUC as convener but highlighted that only around 15% of the adult social care workforce is union-represented. Mechanisms are needed to ensure non-unionised workers can meaningfully feed into negotiations.

Employer representation

Employer representation must reflect the full diversity of the sector, including VCSE and mental health providers. Coordinating via the Care Provider Alliance offers reach and legitimacy, but the employer side must be properly funded.

Why this matters:

Without inclusive and credible representation, negotiated outcomes risk lacking legitimacy and buy-in.

What must happen next:

- Clear mechanisms for non-union worker engagement.
- Transparent employer selection and mandate processes.
- Adequate resourcing for employer-side participation.

7. The Negotiating Body Must Be Credible, Independent and Evidence-Based**What we told government:**

The ASC Negotiating Body must be underpinned by strong governance, shared evidence and sufficient capacity.

We called for:

- An independent Chair agreed by both sides, with deep adult social care and mental health expertise
- Multi-year funding to build research, consultation and digital capability
- The ability to commission independent analysis
- A phased implementation model with annual review

Why this matters:

Robust, shared evidence is essential to understanding the real-world consequences of pay decisions across providers, commissioners, workers and people who draw on services.

8. Scope and Coverage Must Reflect the Real Workforce

What we told government:

The coverage of the Fair Pay Agreement must reflect the true size and shape of the adult social care workforce.

Mental health social care legitimately spans regulated and unregulated provision, often to support recovery, autonomy and community integration.

Why this matters:

Narrow or ambiguous scope risks incentivising informalisation, undermining workforce protections and creating perverse incentives to redesign services or employment models.

What must happen next:

- Explicit inclusion of unregulated mental health social care services.
- Clear guidance on coverage across service models.
- Ongoing monitoring of unintended consequences.

9. Early Focus Must Be on Pay Floors and Retention

What we told government:

Given the current funding envelope, the first Fair Pay Agreement must focus on pay.

Our members were clear that establishing an attractive pay floor above the National Living Wage, with funded differentials and London weighting, should be the priority.

Why this matters:

Retention is consistently more cost-effective than recruitment. Replacing a single care worker costs around £3,500, and turnover remains at 28.5%. Improving retention supports service continuity and workforce wellbeing.

10. Implementation, Guidance and Enforcement Will Determine Success

What we told government:

Even a well-designed Fair Pay Agreement will fail without strong implementation support.

Implementation must align with local government finance settlements, NHS allocation cycles and commissioning timetables. All uplifts must take effect from 1 April.

Why this matters:

Delayed or staggered implementation creates severe cashflow pressures, particularly for VCSE providers. Backdating pay is often not feasible.

What must happen next:

- DHSC and the Negotiating Body should co-author clear, accessible guidance.

- Guidance must support providers, commissioners, personal budget holders and individuals employing personal assistants.
- Enforcement must apply to commissioners as well as providers.

Conclusion

The Fair Pay Agreement is a major opportunity to improve pay, retention and workforce stability across adult social care. For mental health and VCSE providers, its success depends on adequate funding, enforceable commissioner accountability, inclusive representation, and explicit recognition of sector diversity.

Without these elements, there is a serious risk of destabilising the very services that prevent escalation, reduce NHS demand and support people to live independently in their communities. The Association of Mental Health Providers will continue to work with members, government and system partners to ensure the Fair Pay Agreement delivers sustainable, equitable and system-wide benefits.