# Health & Care Focus

GUIDING YOU TO LIFELONG PROSPERITY

Autumn 2015

## SPOTLIGHT ON RATES FOR ELDERLY HOMECARE SERVICES

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DRIVING LIFELONG PROSPERITY

# The Homecare Deficit – The Story Continues

**During 2014 Hazlewoods and the United Kingdom Home Care Association (UKHCA) each carried out Freedom of Information requests to assess the lowest and average hourly rates paid by Local Authorities for elderly homecare services.**

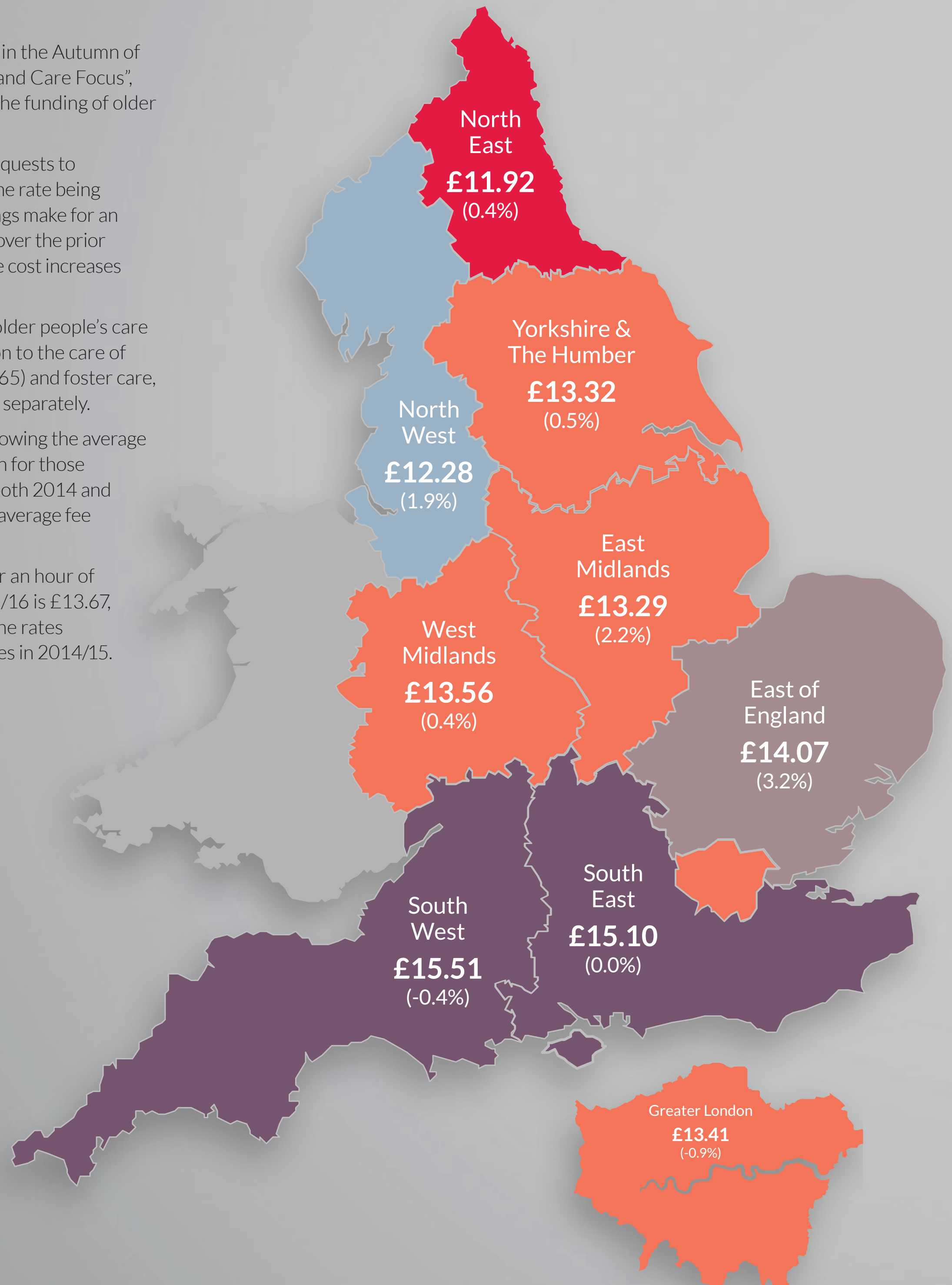
This data was widely reported in the Autumn of 2014 in Hazlewoods, "Health and Care Focus", and the UKHCA's report into the funding of older people's care.

Hazlewoods have made new requests to Local Authorities to establish the rate being paid for 2015/16 and the findings make for an interesting read. The increase over the prior year is significantly less than the cost increases experienced by agencies.

This analysis relates solely to older people's care but we also hold data in relation to the care of young adults (under the age of 65) and foster care, both of which we will report on separately.

Set out on this page is a map showing the average fee rates by Government region for those authorities who responded in both 2014 and 2015. The map also shows the average fee increase/(decrease).

The weighted average price for an hour of homecare in England for 2015/16 is £13.67, an increase of just 0.7% over the rates reported by the same authorities in 2014/15.




£12 / hour
£13 / hour
£14 / hour
£15 / hour
£16 / hour

(x% – increase/(decrease) in average weekly fee rate 2014/2015 to 2015/2016 for respondent authorities).

## DURING THE LAST YEAR WE HAVE SEEN:

- The commencement of pension auto-enrolment for many agencies increasing wage costs.
- The increase in the main rate of National Minimum Wage (NMW) from £6.31 pre October 2014 to today's rate of £6.70, an increase of 6.5%. This is before the planned increase to £7.20 in April 2016 for workers aged 25 and older (a further 7.5% increase).
- Whilst the Consumer Prices Index was static in the year to August 2015 this was largely held at nil due to the reduction in food prices (2.8%) and motor fuels (12.9%). Given most operators have not reduced mileage payments to their employees, the full impact on social care costs has almost certainly been an upward trend in this period.
- An ever increasing number of employment appeal tribunal decisions generally in favour of employees on travel time, holiday pay, minimum wage calculations and sleep-ins.
- Insurance costs rise dramatically with some insurers exiting the market.
- Increased recruitment, retention and training costs as demand for good quality care staff increases nationwide.

Our research highlighted four authorities paying £11.00 or less per hour and 11 paying less than £11.50 per hour. UKHCA calculate that the cost of wages for one hour alone to be £11.01 before the National Minimum Wage increase in October 2015 and pension auto-enrolment.

In the Summer Budget of July 2015, George Osborne proposed that the National Living Wage would replace the £6.50 minimum wage, rising to £9 an hour by 2020. This does not take into account any increase in wages for staff currently earning more than this rate. If a 38% increase were applied to the £11.01 average wage cost, calculated by UKHCA this equates to a rate of £15.25 per hour.

Of the authorities that responded, only 18 currently pay more than £15.25 per hour and none of these pay enough to cover overheads let alone produce a profit.

## WE SUGGEST THAT PROVIDERS SHOULD:

- Review their position to assess their costs and compare this to the data above, evaluating what differences arise.
- Put forward their views to authorities now in readiness for the next financial year.
- Ensure that well thought through evidence is presented to authorities in advance of April 2016 to justify a need for fee increases.
- Engage in discussions with authorities to ensure increases in costs are adequately funded and that changes in employment legislation/interpretation can be funded.
- Consider your costs and business structure to ensure it is in good shape.
- Investigate, if not already doing so, what guidance your local care providers association and UKHCA can provide in your discussions with local authorities.

If you would like to discuss any of the above or consider the individual responses from authorities please contact, Andrew Brookes, Head of Healthcare, on 01242 237661. We would be delighted to help you with your costs and business structure.

# AWARD WINNERS

Hazlewoods are proud to announce that we have won a major national award for our provision of high quality independent advice to the health and care sector.

There were 187 finalists in various categories on the night and we were presented with the Management Consultancy Award at the 2015 LaingBuisson Awards.

Our partner Andrew Brookes, who in 1992, was involved in setting up what is now our 36-strong health and care team, was presented with the award by the former MP and broadcaster, Michael Portillo, in London on 11 November.

Andrew said of his team: "*It was absolutely amazing to win this award and I am delighted for everyone in our hard working health and care team.*

*"We were up against some very strong finalists and I think this is recognition of Hazlewoods outstanding national reputation for knowledge and expertise in the health and care sector."*

Andrew Brookes leads the team with partners David Main, John Lucas and Rachael Anstee. Last year Andrew was also listed as one of the 50 most influential people in the UK's health and care industry in the HealthInvestor Power Fifty awards.

With clients all over the UK the team has a deep knowledge of the health and care sector.

Andrew Brookes & Michael Portillo

# FURTHER TIGHTENING OF ENTREPRENEURS RELIEF RULES

**As covered in our last Health & Care Focus, the December 2014 Autumn Statement included the unexpected announcement that the disposal of goodwill to a company related to the vendor would no longer qualify for capital gains tax entrepreneurs' relief.**

The Chancellor surprised again in the March Budget with two new measures, effective immediately, to further restrict the availability of entrepreneurs' relief on disposals of business assets. This will have the effect of increasing the capital gains tax payable on certain disposals from 10% to the main rate of 28%.

We consider one of these new measures in detail below which would apply to the disposal of assets held outside of the care business.

The rules on claims to entrepreneurs' relief have been tightened in respect of disposals of assets, held personally by an individual, but used in the trade of their partnership or company. An example of this would be a care operator trading via a company structure but with the care home property held personally.

Subject to certain conditions, it is possible to claim the 10% entrepreneurs' relief rate of tax on such disposals, where they are associated with a full or partial withdrawal from the care business itself. Withdrawal from the business was not previously defined, leaving open the possibility of a claim to entrepreneurs' relief on asset disposals at the same time as a very small reduction to an individual's shareholding or partnership share.

To ensure that entrepreneurs' relief is only available where an individual has genuinely withdrawn from a business, it is now only available on disposals of personally held assets where they accompany a disposal of at least a 5% shareholding in a company or at least a 5% share in the assets of a partnership.

As the rules have started to bed in we have found that this change could adversely impact some genuine commercial deals. Anti-avoidance rules have also been introduced alongside the change such that there can be no arrangements for the purchase of connected shares following the disposal. Therefore, if shares were issued by an unconnected purchaser of the care business to the vendor as part of a commercial deal they would be within the new rules.

In the example above, the sale of the shares themselves would still be eligible for entrepreneurs' relief, but if any disposals of assets such as a property held outside of the company or partnership are planned at the same time, relief may not be available and the capital gains tax liability could be up to 18% higher.

Although HMRC have confirmed that the rules had not been drafted to catch such commercial transactions, the rules as they stand are unchanged. There may, however, be ways to plan around these unintended consequences and we can provide further advice on this if you think you could be affected.

In summary, if you are looking to sell a business or assets associated with it, we would recommend that the tax implications are considered early on.

# Dividends taxation reform

**The Conservative government committed to no rises in income tax, national insurance or VAT during the current parliament in their election manifesto. This was welcome news for care operators and workers and provides some certainty for the next five years, or so we thought...**

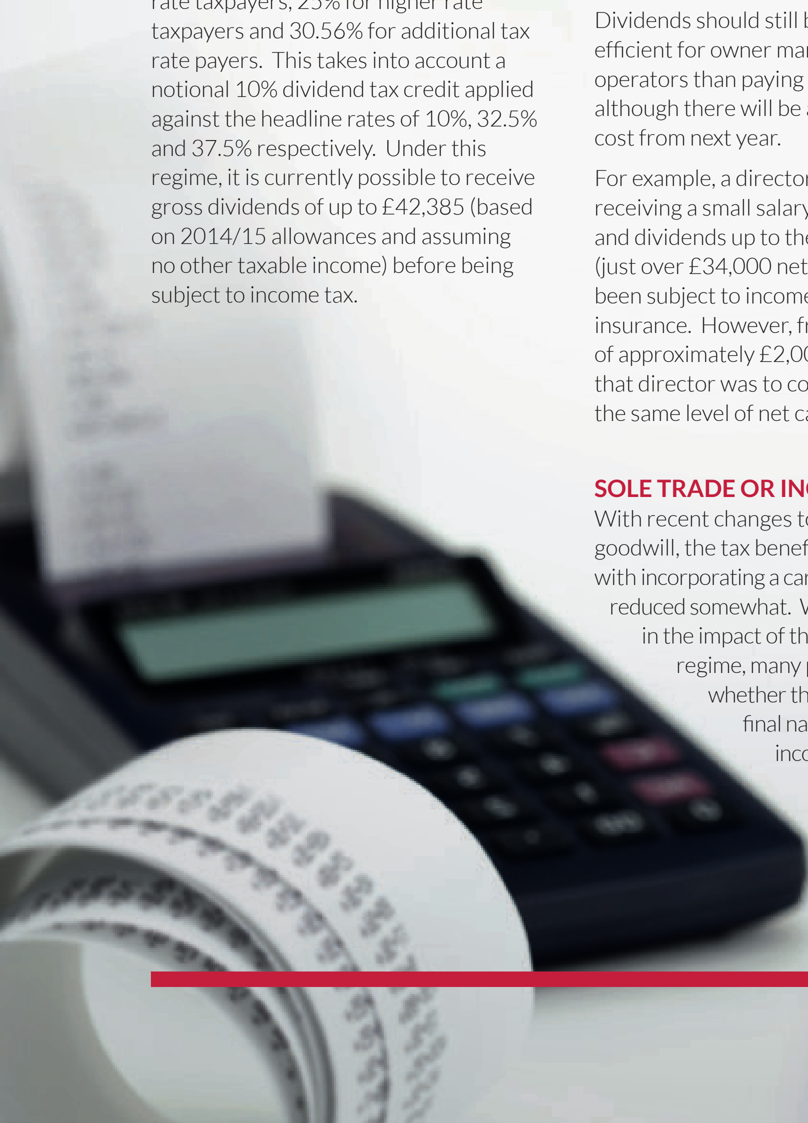
What the Tories didn't share, however, was that from April 2016 they would be introducing a new National Living Wage (NLW) for all workers aged over 25 and overhauling the taxation of dividends.

Both of these announcements could adversely impact care operators as salary costs are likely to significantly increase with the introduction of the NLW and extraction of profits for owner managed care businesses will come at a higher tax cost.

Below, we look at how the changes to the dividend regime in particular could impact care operators and what action needs to be taken prior to April 2016, when the new rules come in.

## OUT WITH THE OLD...

Under the current regime, the effective rate of tax for dividends is 0% for basic rate taxpayers, 25% for higher rate taxpayers and 30.56% for additional tax rate payers. This takes into account a notional 10% dividend tax credit applied against the headline rates of 10%, 32.5% and 37.5% respectively. Under this regime, it is currently possible to receive gross dividends of up to £42,385 (based on 2014/15 allowances and assuming no other taxable income) before being subject to income tax.



## ...AND IN WITH THE NEW

From April 2016 the dividend tax credit will be abolished and all individuals will be able to receive £5,000 dividend income tax free under the new Dividend Allowance. As each person will be entitled to the allowance, regardless of whether they are basic, higher or additional rate taxpayers, owner managed businesses should look to utilise both spouse's £5,000 allowance. HMRC have recently confirmed that this allowance will be taken into account when calculating taxable income and that it will still utilise the basic/higher rate bands.

The tax rates on dividends in excess of this amount will be 7.5% for basic rate tax payers, 32.5% for higher rate taxpayers and 38.1% for additional rate tax payers.

## SALARY OR DIVIDENDS

Dividends should still be more tax efficient for owner managed care operators than paying a large salary although there will be an increased tax cost from next year.

For example, a director previously receiving a small salary of, say, £8,000 and dividends up to the basic rate band (just over £34,000 net) would not have been subject to income tax or national insurance. However, from April 2016, tax of approximately £2,000 would be due if that director was to continue to receive the same level of net cash.

## SOLE TRADE OR INCORPORATION

With recent changes to the taxation of goodwill, the tax benefits associated with incorporating a care business have reduced somewhat. When also factoring in the impact of the new dividends regime, many people are asking whether this could be the final nail in the coffin for incorporation.

After running some initial calculations, and based on our understanding of the new rules, we can conclude that incorporation should not be discounted altogether by care businesses; however, the potential tax benefits are likely to be increasingly marginal.

Incorporating a care business could continue to be a viable way to save or defer tax, especially when profits are retained in the business to fund growth or to pay down any bank debt. Reducing corporation tax rates to 18% by 2020 may also tip the balance in favour of a company structure. Of course, other non-tax commercial factors should also be considered, including the limited liability of a company structure.

## DO I NEED TO TAKE ANY ACTION NOW?

As the new regime will only affect dividends paid after 5 April 2016, and with detailed rules yet to be released, there may be no reason to immediately alter your remuneration for the 2015/16 tax year. Before the start of the new tax year, however, you should give some consideration to the following:

- acceleration of dividend payments into the current tax year;
- a full review of your remuneration strategy for the 2016/17 tax year to determine whether your tax liability could be reduced by altering your existing approach;
- a review of your business operating structure.

If you would like any advice on how these changes could affect you and/or assistance with a review of your remuneration strategy or operating structure please do get in touch with us.

# CHOOSING THE RIGHT PENSION SCHEME PROVIDER

In 2015 some 45,000 private sector employers have reached their staging date for auto-enrolment. So far the new rules have mostly affected the UK's larger employers, however the next couple of years will see the UK's smaller companies expected to meet their auto-enrolment obligations.

With so many employers staging for auto-enrolment over the coming years the auto-enrolment provider marketplace is becoming ever more complex and competitive.

Whilst many providers are desperately trying to encourage new schemes to be set up through them, others are not so interested, with some even choosing to leave the auto-enrolment space altogether.

So with so many workplace pension scheme providers available, how do you, as an employer, choose the right one for your employees?

**1. AN OCCUPATIONAL PENSION SCHEME**

An Occupational Pension Scheme is a straightforward, cost effective scheme which is available to all employers irrespective of their size or contribution amounts. Providers of such arrangements include NEST, The People's Pension and NOW Pensions. Their focus is on offering a simplistic solution to help employers meet their auto-enrolment obligations. Whilst this has many benefits, none more so than the guaranteed acceptance of your scheme and low charging structure, this does come with some drawbacks, such as a degree of inflexibility, and limited options for your employees.

**2. A GROUP PERSONAL PENSION SCHEME**

The other option is to look into a Group Personal Pension Scheme through a mainstream provider, such as Royal London, Scottish Widows or Standard Life. These types of arrangements offer far greater flexibility and many additional benefits to employees, such as a far greater fund choice. The costs of providing such schemes is higher, and for that reason these providers do not deal with all employers. Often they will require employers to meet certain criteria in order to consider offering them a scheme. This will typically include the total number of eligible employees to be enrolled into the scheme and total monthly contributions.

**THERE IS NO RIGHT OR WRONG CHOICE, AND EACH EMPLOYER'S REQUIREMENTS AND WISHES WILL BE DIFFERENT.**

Hazlewoods Financial Planning LLP can help you make the best decision for your business. We focus on making the whole process as simple as possible to ensure the best possible outcomes for your employees. We offer support throughout the journey: from advice on your auto-enrolment strategy and researching the best provider for you, to setting up your pension scheme and ensuring it remains compliant.

Please contact Gary Cook on **01242 680000** or **gary.cook@hazlewoods.co.uk** for more information.

# FREEDOM OF INFORMATION ACT – INDEPENDENT FOSTER CARE

As part of our annual information gathering exercise through the Freedom of Information Act, we contacted all of the UK local authorities with a number of questions regarding the Independent Fostering Agency (IFA) sector.

### THE QUESTIONS INCLUDED:

- details of highest, lowest and average weekly fees for Independent Foster Care Agencies;
- details of the highest, lowest and average fees paid to local authority carers;
- percentage increases in fee rates compared to the previous year;
- details of the rate in each tier; and
- the number of looked after children in foster care as at March 2015 and the percentage looked after by Independent Foster Care Agencies.

It came as no surprise that we received a huge amount of information, particularly surrounding the rates per tier for each of the local authorities.

We will be sending further email updates on the results of some of our analysis and if you wish to be included on the database for these bulletins, please do let us know.

One of the areas of interest was the number of looked after children and the percentage of those in local authority care compared to IFAs.

Although a small number of local authorities declined to answer, we did receive responses from 132 local authorities, with a total number of 46,927 looked after children being cared for by foster carers at 31 March 2015.

The average number of children looked after by IFAs at that time was a shade under 32% – 14,800 children.

Clearly, there was a huge range of local authority versus private provision. The lowest end of the scale with IFA provision less than 5% were Bolton, West Berkshire, Bradford and North Yorkshire. At the other end of scale with between 60% and 70% of children placed with IFA's were Lambeth, Wolverhampton, Coventry, Slough, Greenwich and Waltham Forest.

At Hazlewoods, we use this third party data to assist our clients in planning for the future of their businesses. If there are any specific queries or questions where we may be able to help you in your business planning strategy, or you simply want to understand the tier rates in your area, please do not hesitate to contact Andrew Brookes or John Lucas to discuss this information further.

# TO AUDIT OR NOT TO AUDIT?

The recent change in audit thresholds (the level at which a company or group is required to have a statutory audit of its' annual accounts) could impact care operators.

For accounting periods commencing on or after 1 January 2016, companies will qualify as small sized and exempt from audit if they meet 2 out of 3 criteria being:

- Turnover less than £10.2m (or 12.2m for groups);
- Gross assets (fixed assets plus current assets) less than 5.1m (or 6.1m for groups); and
- Average employee numbers of less than 50 (also 50 for groups).

The 2 out of 3 criteria must be met for 2 of the last 3 financial periods based on the new size limits.

Up to this point, comparatively small care businesses in terms of turnover (fee income) have been required to have an audit as a result of property cost and other assets and number of employees (the average employee limits are based on all employees under a contract of employment rather than full time equivalents).

The new size criteria will mean that some care businesses will now be able to claim an audit exemption should they so choose (provided that an audit is not required by other interested parties e.g. the bank or a minority shareholder).

A company or group qualifying as small is also be able to file abbreviated accounts at Companies House, which greatly reduces the information available on public record.

There may be opportunities to dispense with the audit requirement by changing the Company year end – if you would like to discuss this with us, please contact Andrew Brookes or Simon Worsley.

# Travelling to and from work

In a recent ruling the European Court of Justice has clarified that for workers with no fixed or habitual place of work, time spent travelling from home to their first appointment and from their last appointment back home does count as working time under the Working Time Regulations. This means that this time must be taken into account in ensuring that the maximum 48 hour average working week is not exceeded, and is also taken into account in calculating entitlement to rest breaks and night working limits.

This ruling has caused some confusion, because such travel time is NOT directly relevant to working time for National Minimum Wage ("NMW") calculations. Employers therefore do not need to start taking into account travel to and from work for the purposes of ensuring compliance with the NMW. The NMW regulations are however clear that travel time between calls must be taken into account.

This latest ruling adds yet another layer of complication for care operators many of who feel under siege with constantly moving goalposts in employment law, not to mention the impact of the new Living Wage.

# THE SERVICES WE PROVIDE

Our Health and Social Care Team is happy to discuss matters arising from this newsletter, as well as any other issues relating to your business or personal financial affairs.

- Accountancy and bookkeeping
- Taxation planning
- Management accounts
- Strategic planning
- Audit
- Raising finance
- Acquisition searches and advice
- Financial and taxation due diligence
- Confidential business disposals
- Sage advice and training
- Financial planning
- Payroll assistance to include bureau service
- Benchmarking and profitability advice
- Incorporation

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