

IMPROVING RIGHTS FOR DOMESTIC WORKERS IN THE UNITED KINGDOM

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Executive Summary

Domestic work is defined by the ILO as services conducted by “employees of the household” and “mainly for the consumption by the household members.” (ILO, 2018) Questions have been raised with regard to the lack of regulatory protection for the UK’s fragmented and informal domestic work sector. These issues have perpetuated a lack of recognition for domestic work, leading to the sector’s inability to organise and collectively bargain and its workers being exploited and abused. This policy brief examines three main legal areas in need of reform within the domestic work sector:

1. The lack of worker status and blurred boundaries for domestic workers,
2. The informality of employment contracts resulting in poor working conditions,
3. The visa regime that diminishes migrant workers' ability to collectively organise.

There are 16,000 domestic workers in the UK

(Chapman & Begonia, 2022)





1. Lack of worker status for domestic workers

Under labour law, domestic workers receive little to no statutory protection as a result of their blurred boundaries between being defined as ‘workers’ or ‘self-employed’. Domestic workers may be considered as operating under a contract for service and able to bargain with anyone who wishes to use their services. There is no mutuality of obligation or obligation to “perform personally any work”. These blurred boundaries subject domestic workers to precarious and uncertain working conditions regarding wages, working time, dismissals, discrimination, health and safety, etc.

For example, section 1(2) of the National Minimum Wage Act 1998 explicitly excludes live-in nannies from the minimum wage. Regulation 19 of the Working Time Regulations 1998 excludes domestic workers from provisions on maximum weekly working time, length of night work, health assessment, and pattern of work. The regulation of dismissals in common law and statutory legislation was also developed around a standard employment contract, excluding domestic workers altogether from rights regarding their security of employment.

Proposals:

1. **For the UK to ratify the C189** — The international convention was adopted by the International Labour Conference in 2011 after advocacy by domestic workers’ unions and associations worldwide. C189 recognises domestic workers’ right to decent working conditions, including rest periods, minimum wage, and the right to clear terms of employment.
2. **Inclusion of domestic workers in the legal definition of ‘workers’** — whether by statute (Employment Rights Act 1996) or purposive interpretation in common law (as in *Uber BV v Aslam* [2021] UKSC 5)

2. Informality of contracts resulting in poor working conditions

Current UK legislation fails to grant domestic workers rights, in regard to working rights highlighted by the failure of the UK to ratify any key ILO conventions on working time. Under current legislation working time is regulated by the Working Times Regulations 1998 but Regulation 19 excludes domestic workers. Regulations 4(1,2), 6(1,2,7), 7(1,2,6) and 8 do not include private household-based domestic servants essentially excluding domestic workers from provisions on maximum weekly working time, length of work, health assessment & transfer of night workers to day work and pattern of work.

The informality of employment contracts means that the terms of a domestic worker and employer relationship are not typically regulated, denying domestic workers contractual protections (Weigo). The private nature of the work of domestic workers grants employers an avenue to disregard labour standards.

Proposals:

1. **Regulation of contractual relations** between employers and domestic workers by providing a template that must be followed by employers.
2. **Ratify key ILO Conventions on working time**, e.g. Hours of Work Convention 1919 and Domestic Workers Convention 2011.

3. Inability to organise and collectively bargain resulting from an overbearing visa regime

A large surplus of the UK domestic workforce are vulnerable migrant workers, with the Voice of Domestic Worker Organisation estimating 23,000 migrant workers (VODW, 2012) entering the UK yearly under the Overseas Domestic Worker (ODW) visa. In its post 2012 reform, the ODW saw regressive amendments which stripped away fundamental rights for migrant workers, such as rejecting the right to renew their work visa after the 6 month work period, alongside a concession which tied the domestic worker to their respective employer beyond the 6 months.

As a result, this perpetuated two main obstacles which prevented domestic workers from organising and collectively bargaining. Firstly, without the right for visa-extension, workers often found their short term stays do not allow them the opportunity to join a collective union and push for a tangible change. Secondly, the post 2012 visa regime consequently led to migrant workers becoming overdependent on their employers to stay and work in the UK. As workers rely on their employer for their visa, workers were disincentivized to join unions and organise, out of the fear of deportation, and lack of interaction with other workers due constant work abuse and exploitation.

Proposals:

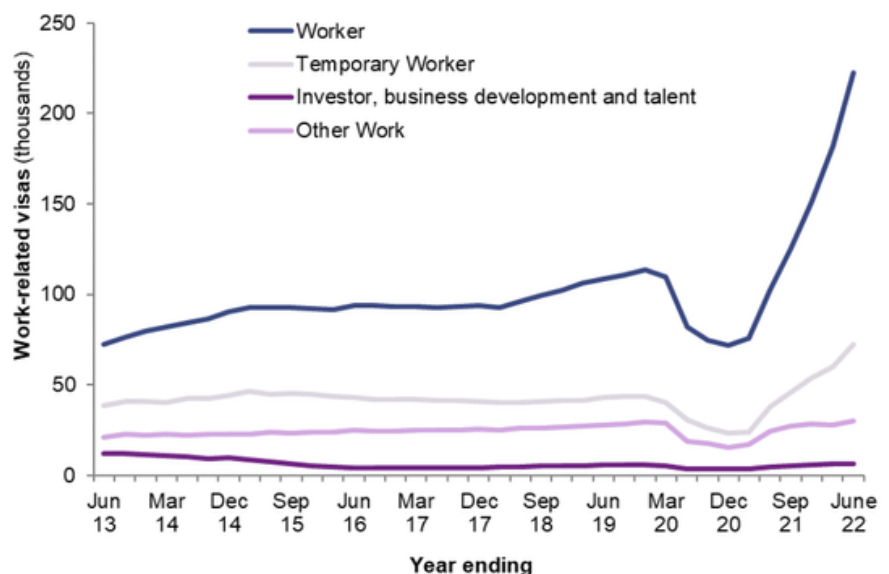
1. For the UK to reform the ODW visa to include –

- The removal of the concession which ties domestic workers to their employers beyond 6 months of work, thus allowing them to escape situations of abuse and so freely organise without fear of deportation.
- The ability to extend a visa beyond the period 6 months.. A possible consideration may be a maximum period where workers may leave to remain, where the maximum period can extend to 2.5 years, subject to home office considerations. This allows workers the ability to find a union and collectively organise.

2. For UK workers union such as the VODW – to spearhead a recurring awareness campaign, alongside domestic workers associations such as the Filipino Domestic Workers Association, on International Domestic Workers' Day (16/6). This would collectively bring together domestic workers, and allow them a platform to organise and be represented.

“Why do people come to the UK?”

The 331,233 work-related visas granted in the year ending June 2022 were the highest number in any 12-month period since 2005. (GOV UK, 2022) This leads to an increased need for reform of the ODW visa.



Recommendations

1. The legal definition of “worker” under the Employment Rights Act 1996 should be expanded to cover domestic workers that work for private households.
2. A purposive approach (such as that in *Uber BV v Aslam* [2021] UKSC 5) should be adopted to take into consideration the realities of the relationship between domestic workers and their “employers” when determining their legal status as workers.
3. The UK should ratify the Domestic Workers Convention No. 189 (C189) to recognise domestic workers’ right to decent working conditions and include them in the key labour rights applying to workers in other sectors.

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- Working Time Regulations 1998

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