



University of Warwick

# IMPROVING WORKING RIGHTS FOR LIVE-IN DOMESTIC WORKERS IN THE UK

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998 words



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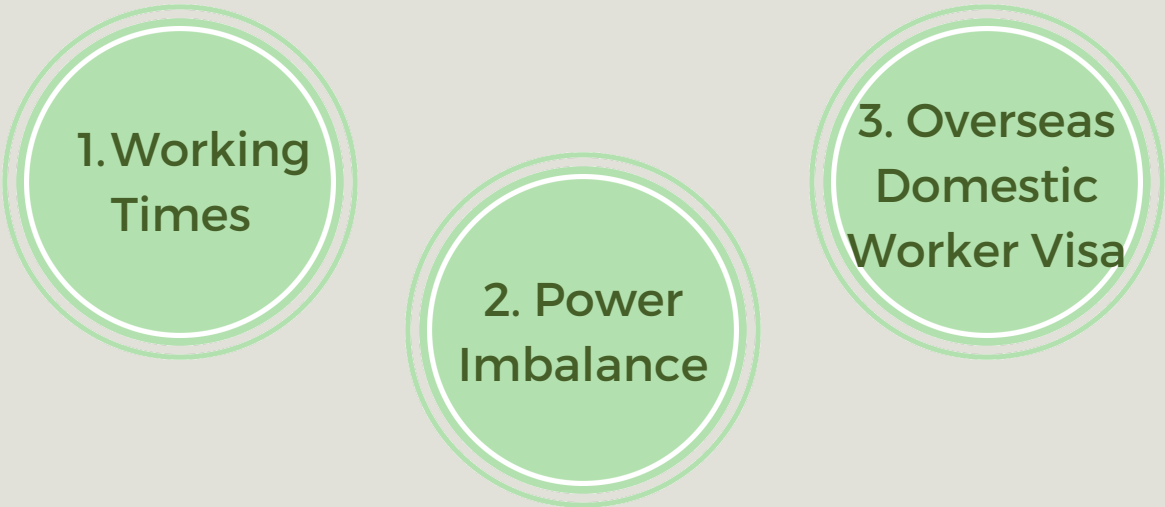
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# EXECUTIVE SUMMARY

**Live-in domestic workers (LIDW) play a vital role in sustaining households, yet they remain marginalised within the UK labour landscape and face exploitation due to gaps in labour law protections. Historically rooted in the commodification of social reproduction work, these workers operate within blurred boundaries of the private sphere, where state regulation of labour is limited.**

**In light of these challenges, this policy brief calls upon the UK government to recognise and address the legal precarity faced by LIDW.**

## Key Issues



**1. Working Times**

**2. Power Imbalance**

**3. Overseas Domestic Worker Visa**

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# WORKING TIME

## LEGAL FRAMEWORK

Regulation 19 under The Working Time Regulations 1988 (WTR) doesn't protect LIDW regarding maximum weekly hours, maximum working hours for younger workers, night shift hours, night shift hours for younger workers, health assessment, transfer of night workers to day work, and sufficient rest breaks. [2]

## ISSUES

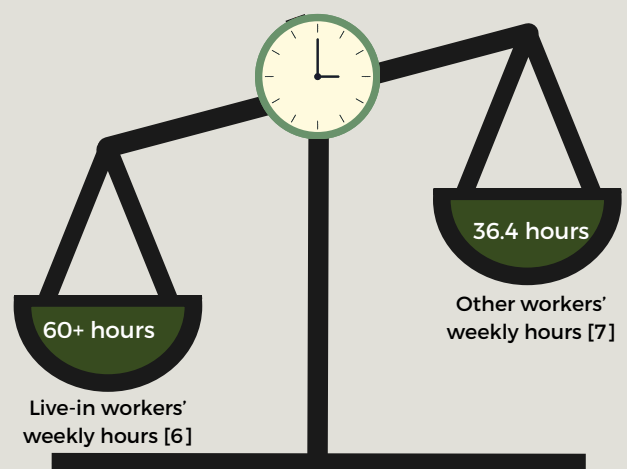
The role of a LIDW revolves around living in the same accommodation as their employer. Due to the parental nature of the job being constantly on-call throughout the night, this raises issues regarding long working hours and unpredictable breaks granting unpromising salaries in reflection of their working times.

The WTR 1988 exacerbates these issues which are further identified in the case of *Royal Mencap Society v Tomlinson-Blake* and *Shannon & Another* (2022) [3] regarding an inconsistency of pay for "availability for work" and "actual work" during sleeping hours. [4]

An emphasis on tighter contingencies needs to be enforced as we cannot rely on Regulation 19 (WTR) to protect LIDW because they are already in a vulnerable position to be overworked and exploited. [5]

## PROPOSALS

- Adopt **opt-out clauses** with protections in employment contracts → allow individuals to opt-out of certain restrictions, ensuring they do not face undue pressure to work unreasonable hours
- Grant LIDW equal protection to other workers by **removing Regulation 19 of the WTR**



[2] The Working Time Regulations 1988, Regulation 19

[3] *Royal Mencap Society v Tomlinson-Blake; Shannon v Jaikishan and Prithee Rampersad* (trading as Clifton House Residential Home) [2021] UKSC 8, [2022] 1 All ER 497, [2021] IRLR 466, [2021] ICR 758, [2021] All ER (D) 79 (Mar)

[4] Kate Ewing, 'Tomlinson-Blake in the Supreme Court - by Kate Ewing' (UK Labour Law Blog, 28 April 2021) <<https://uklabourlawblog.com/2021/04/28/tomlinson-blake-in-the-supreme-court-by-kate-ewing/>> accessed 7 March 2024

[5] *ibid*

[6] Lumleys G, 'How to Become a Live-in Nanny & Full Job Description' (How To Become A Live-in Nanny & Full Job | Greycoat Lumleys, 24 October 2022) <<https://www.greycoatlumleys.co.uk/looking-for-a-job/career-advice/live-in-nanny-job-description?source=google.com>> accessed 12 March 2024

[7] Leaker D, 'Average Actual Weekly Hours of Work for Full-Time Workers (Seasonally Adjusted)' (Average actual weekly hours of work for full-time workers (seasonally adjusted) - Office for National Statistics, 13 February 2024) <<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/timeseries/ybuy/lms>> accessed 12 March 2024

# POWER IMBALANCE

## LEGAL FRAMEWORK

There are obvious gaps regarding the live-in domestic rights and protections in the UK legal system :

- The UK hasn't signed or ratified the International Labour Organisation Convention no. 189 for domestic workers. [8]
- The Health and Safety at Work Act, 1974 (HASAWA) doesn't apply to domestic workers employed directly by individuals or families within private households [9]

## ISSUES

LIDW, in their close yet unequal relationships with employers, face heightened vulnerability to exploitation due to the personalised nature of their work arrangements [10].

The combination of worker isolation and legal gaps enable employers to find loopholes to disregard the rights of LIDW, highlighting the asymmetrical dynamic of power [11]. This hampers the ability of workers to engage in collective bargaining with employers and heightens the likelihood of abuse.

A research in 2008 by Kalayaan and Oxfam [12] revealed an overwhelming 69% of DW reporting psychological abuse, 24% reporting physical abuse and 9% suffering sexual abuse. This excludes unreported abuse due to the unawareness of their rights. This data remains relevant given the ongoing lack of knowledge and availability of labour rights.

## PROPOSALS

- Give preference to **recruitment** through **agencies** to benefit from a **clearer worker status**.
- Increase **campaign** via trade unions (i.e. Independent Workers Union of Great Britain) to **raise awareness** about challenges faced by LIDW and push for **legislative change** to strengthen their **rights and protections**



[13]

[8] ILO Domestic Workers Convention, 2011 (no. 189)

[9] The Health and Safety At Work Act, 1974 - s 51

[10] Carolina Yoko Furusho, 'Domestic Workers in the UK's Shadows: A Normative Assessment of Modern Slavery'

[11] WIEGO, 'Domestic Workers | WIEGO' (Wiego.org/2015) <<https://www.wiego.org/informal-economy/occupational-groups/domestic-workers>> accessed 12 March 2024.

[12] Krishnah Poinasamy, 'Protecting Migrant Domestic Workers in the UK' (2011) 19 Gender & Development 95.

[13] International Labour Organizations, 'Ratifications of C189 and Law & Policy across the World' (www.ilo.org/13 October 2014) <[https://www.ilo.org/global/topics/domestic-workers/WCMS\\_313678/lang-en/index.htm](https://www.ilo.org/global/topics/domestic-workers/WCMS_313678/lang-en/index.htm)> accessed 12 March 2024.

# OVERSEAS DOMESTIC WORKER (ODW) VISA

## LEGAL FRAMEWORK

- The ODW Visa scheme reformed in 2012 stipulates that these workers can stay for up to 6 months with the employer they came with, and this visa is non-extendable. [14] In 2016, the worker was allowed to change their employer within these 6 months.
- Section 53 of the Modern Slavery Act (MSA) 2015 states that workers get leave for at least another 6 months to find other employment if they have been a victim of slavery/human trafficking. [15]

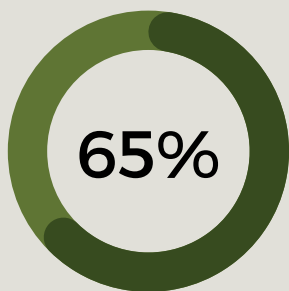
## ISSUES

The new guidelines permit a worker to change their employer within the 6 months of their stay. Seemingly a positive thing, this permission is practically ineffective because it only leaves new employers a couple of weeks with the worker, which is not desirable to most employers. [16] Thus, it is difficult to change employment in the given time frame, and current employers take advantage of that. Consequently, an abusive environment including, but not limited to, physical violence, deprivation of food and sleep, isolation, and threat of deportation is created. [17]

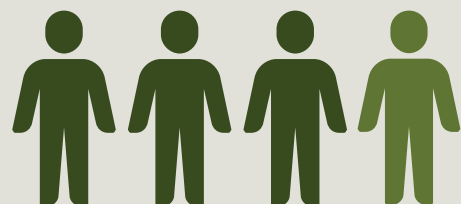
Moreover, if they decide to undergo the section 53 route, the burden of proof falls on them, alongside the risk of losing their job and becoming illegal immigrants if they fail to succeed. [18] Thus, many are unable to identify themselves as victims and are trapped in abusive households.

## PROPOSALS

- Guidelines should be amended to let migrant LIDW extend their stay for **more than 6 months**, in alignment with the pre-2012 guidelines to ensure greater protection.
- Meetings should be held with an authority and other LIDW, which can result in a **support network** where workers feel comfortable to **report abuse** and where they receive sufficient information about their rights and visa processes. [20]



"65% of domestic workers did not have their own rooms" [19]



"3 in 4 workers who were tied to the employer were not allowed to leave the house unsupervised" [21]

[14] Overseas Domestic Worker Visa (2012) <<https://www.gov.uk/overseas-domestic-worker-visa>> Accessed 12th March 2024

[15] Modern Slavery Act 2015, section 53

[16] Melanie Gower 'Briefing Paper - Calls to change overseas domestic worker visa conditions' (May 2016) <<https://researchbriefings.files.parliament.uk/documents/SN04786/SN04786.pdf>> Accessed 12th March 2024

[17] James Ewins 'Independent Review of the Overseas Domestic Workers Visa' (December 2015), <[https://assets.publishing.service.gov.uk/media/5a806ecee5274a2e87db9c85/ODWV\\_Review\\_-\\_Final\\_Report\\_\\_6\\_11\\_15\\_.pdf](https://assets.publishing.service.gov.uk/media/5a806ecee5274a2e87db9c85/ODWV_Review_-_Final_Report__6_11_15_.pdf)> Accessed 11 March 2024

[18] ibid

[19] Virginia Mantouvalou, Natalie Sedacca, 'Trapped in Cycles of Exploitation: The UK Overseas Domestic Worker Visa 10 Years On' (UK Labour Law, 6th April) <<https://uklabourlawblog.com/2022/04/06/trapped-in-cycles-of-exploitation-the-uk-overseas-domestic-worker-visa-10-years-on-by-virginia-mantouvalou-and-natalie-sedacca/#:~:text=The%202012%20visa%20scheme,a%20maximum%20of%20six%20months>> accessed 11 March 2024

[20] ibid n 17

[21] ibid n 19

# RECOMMENDATIONS



The UK should ratify the ILO Convention 189 to signal a commitment to fair treatment, social security, and dignity for LIDW, aligning with broader human rights objectives.



Provide options for flexible hours that are in line with other occupations. Form a supervisory body to ensure private sector activities are regulated more closely to prevent exploitation behind closed doors.



Initiate efforts targeting workers' unique needs through awareness campaigns, social service access, and legislative alignment analysis. For example, agencies working to provide language training.



Requirements for the ODW Visa should be revised to be akin to those before 2012. This would allow for extensions of visa as well as the potential of permanent settlement. Consequently, LIDWs would be able to change employers without fear of deportation.

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# BIBLIOGRAPHY

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## Primary Sources

### Case Law

- Royal Mencap Society v Tomlinson-Blake; Shannon v Jaikishan and Prithee Rampersad (trading as Clifton House Residential Home) [2021] UKSC 8, [2022] 1 All ER 497, [2021] IRLR 466, [2021] ICR 758, [2021] All ER (D) 79 (Mar)

### UK Legislation

- ILO Domestic Workers Convention, 2011 (no. 189)
- Modern Slavery Act 2015, s 53
- Overseas Domestic Worker Visa 2012
- The Health and Safety At Work Act, 1974 - s 51
- The Working Time Regulations 1988, Regulation 19

## Secondary Sources

- British Safety Council, 'The Health and Safety at Work Act Explained | British Safety Council' (British Safety Council 2023) <<https://www.britsafe.org/training-and-learning/informational-resources/the-health-and-safety-at-work-act-explained#:~:text=As%20a%20brief%20overview%2C%20the>> accessed 12 March 2024
- Ewing, Kate, 'Tomlinson-Blake in the Supreme Court - by Kate Ewing' (UK Labour Law Blog, 28 April 2021) <https://uklabourlawblog.com/2021/04/28/tomlinson-blake-in-the-supreme-court-by-kate-ewing/> accessed 7 March 2024.
- Ewins, J 'Independent Review of the Overseas Domestic Workers Visa' (December 2015), <[https://assets.publishing.service.gov.uk/media/5a806ecee5274a2e87db9c85/ODWV\\_Review\\_-\\_Final\\_Report\\_\\_6\\_11\\_15\\_.pdf](https://assets.publishing.service.gov.uk/media/5a806ecee5274a2e87db9c85/ODWV_Review_-_Final_Report__6_11_15_.pdf)> Accessed 11 March 2024
- Furusho CY, 'Domestic Workers in the UK's Shadows: A Normative Assessment of Modern Slavery' (E-International Relations 6 January 2016) <[https://www.e-ir.info/2016/01/06/domestic-workers-in-the-uks-shadows-a-normative-assessment-of-modern-slavery/#\\_ftnref31](https://www.e-ir.info/2016/01/06/domestic-workers-in-the-uks-shadows-a-normative-assessment-of-modern-slavery/#_ftnref31)> accessed 11 March 2024
- Gower, M 'Briefing Paper - Calls to change overseas domestic worker visa conditions' (May 2016) <<https://researchbriefings.files.parliament.uk/documents/SN04786/SN04786.pdf>> Accessed 12th March 2024
- International Labour Organizations, 'Ratifications of C189 and Law & Policy across the World' (www.ilo.org 13 October 2014) <[https://www.ilo.org/global/topics/domestic-workers/WCMS\\_313678/lang-en/index.htm](https://www.ilo.org/global/topics/domestic-workers/WCMS_313678/lang-en/index.htm)> accessed 12 March 2024
- Kalayaan and Oxfam (2008) The New Bonded Labour? The impact of proposed changes to the UK immigration system of migrant domestic workers
- Mantouvalou V, Sedacca N, 'Trapped in Cycles of Exploitation: The UK Overseas Domestic Worker Visa 10 Years On' (UK Labour Law, 6th April) <<https://uklabourlawblog.com/2022/04/06/trapped-in-cycles-of-exploitation-the-uk-overseas-domestic-worker-visa-10-years-on-by-virginia-mantouvalou-and-natalie-sedacca/#:~:text=The%202012%20visa%20scheme,a%20maximum%20of%20six%20months>> accessed 11 March 2024
- Poinasamy K, 'Protecting Migrant Domestic Workers in the UK' (2011) 19 Gender & Development 95
- Seiffarth M, Bonnet F and Hobden C, The road to decent work for domestic workers, Geneva: International Labour Office, 2023.
- Stack M K, 'Cleaning up: The Truth about Living with Nannies and Cleaners' (The Guardian, 13 July 2019) <<https://www.theguardian.com/lifeandstyle/2019/jul/14/cleaning-up-the-truth-about-living-with-nannies-and-cleaners>> accessed 12 March 2024
- WIEGO, 'Domestic Workers | WIEGO' (Wiego.org 2015) <<https://www.wiego.org/informal-economy/occupational-groups/domestic-workers>> accessed 12 March 2024
- Yilmaz, S. and Emberson, C. 2023. Exploring the Nature of Labour Exploitation among Domestic Workers in the UK. Rights Lab, University of Nottingham