



Immigration: migrant domestic workers

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Significant changes to visas for migrant (“overseas”) domestic workers, which are strongly opposed by domestic worker representatives, will come into effect from 6 April 2012.

There are two types of visa for domestic workers accompanying overseas employers to the UK: one for domestic workers in private households, and one for private staff in diplomatic households. In the past, both types of visa gave the workers temporary permission to stay initially, with a route to permanent settlement after five years.

From 6 April, new domestic workers in private households will only be able to stay in the UK for a maximum of six months. They will not be able to change their employer in the UK, or sponsor dependants. New staff in diplomatic households will be able to stay for up to five years, but not settle permanently. As previously, they will not be able to change employer whilst in the UK.

The Government argues that the changes are necessary to bring the visas in line with its strategy of focussing on the “brightest and best” skilled migrants and restricting eligibility for permanent residence. It believes that preventing foreign nationals from bringing their domestic workers to the UK could deal with the problem of abuse and exploitation of migrant domestic workers “at source”.

It has long been recognised that migrant domestic workers are vulnerable to abuse, exploitation and trafficking. Aspects of the UK’s current visa arrangements have been endorsed as good practice by various international monitors. In 1998, domestic workers in private households were given the right to change employer whilst in the UK, in order to give them some protection from abusive employers. However, abuses have persisted, and other measures for protecting workers have been criticised as ineffective.

Labour considered abolishing the domestic worker visa. However in 2008 it decided to keep the route open for at least two more years, and to conduct research into the problem of abuse. In 2009 the Home Affairs Committee concluded that retaining the existing provisions was the most important factor in preventing forced labour and trafficking of domestic workers.

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1 History of domestic worker visas

There are currently two different visa categories for migrant (or "overseas") domestic workers:

- **Domestic workers in private households:** this visa enables persons overseas to bring their domestic staff with them when they come to the UK. It is not part of the points-based system for immigration.
- **Domestic workers in diplomatic households:** the *Vienna Convention on Diplomatic Relations 1961* requires that signatory states facilitate the entry of diplomats' private domestic staff.¹ They are covered by the terms of the [Tier 5 \(Temporary Worker International Agreement\)](#) category within the points-based system.

In both cases, domestic workers are only eligible to come to work in the UK if their overseas-based employer comes here - there is no independent route of entry for domestic workers.

Before 1998 domestic workers in private households could come to the UK under a concession which tied their immigration status to a specific employer, and did not give them a route to Indefinite Leave to Remain (also known as 'permanent settlement').

In 1998 the then government changed these provisions, to allow domestic workers to change employer after entering the UK and to stay permanently in the UK after a period of qualifying residence. It also offered a route to regularisation for domestic workers who had previously left an abusive employer and did not have a valid immigration status. These changes followed a long campaign by activists within the trade union, church and refugee and migrant sectors, based on reports of abuse and exploitation of migrant domestic workers in the UK. The ability to change employer was seen as a means of providing some protection against

¹ [Vienna Convention on Diplomatic Relations 1961](#)

abusive employers. Initially these provisions operated as a concession outside of the Immigration Rules, but they were incorporated into the Rules in 2002.²

From 6 April 2012, due to changes in the Immigration Rules, domestic workers in private households will be restricted to a maximum stay of six months, and once again will not be allowed to change their employer whilst in the UK.³ The conditions attached to leave as a domestic worker in a diplomatic household will also become more restrictive. The changes (discussed in section 3 below) will only affect new visa applicants - those with applications considered under the pre-6 April rules will not be affected.

1.1 Domestic workers in private households (pre April 2012)

A section on the UK Border Agency (UKBA) website summarises the conditions attached to visas for domestic workers in private households as at 19 March 2012:

The domestic worker category allows overseas employers to bring their domestic workers with them when they visit or move to the United Kingdom. To qualify to come here as a domestic worker, you must be an established member of your employer's staff.

You will only be given permission to stay in the United Kingdom for a fixed period of time. At the end of this period you will need to either return home or apply to extend your stay.

The domestic workers category can be a short- or long-term immigration category. We will not extend your visa unless you are still employed as a domestic worker when your old visa expires. You are allowed to change employers while you are in the United Kingdom, but you must still be employed as a domestic worker. If you change employers, you must notify us, and you will not be allowed to change to a different type of employment.

Once you have been in the United Kingdom for five years as a domestic worker, you can apply to stay here permanently.⁴

To be eligible, the domestic worker had to have been for working in their employer's household for at least one year immediately before their visa application, and been intending to work full-time as a domestic worker in their employer's household in the UK.⁵

Domestic workers could sponsor their dependants (spouse/partner or children under 18) to join them in the UK, subject to being able to support them without recourse to public funds.⁶ Their dependants could work in the UK.

As part of the supporting evidence for the worker's visa application, employers were required to provide their employee with written confirmation of the terms and conditions of employment, and sign an undertaking that they would adequately accommodate and maintain their employee in the UK. Employers were requested to produce a statement

² HC 395 of 1993-4 as amended by Cm 5597 of 22 August 2002

³ Statement of Changes in Immigration Rules [HC1888 of 2010-12](#)

⁴ UKBA website, [Domestic workers](#) (accessed on 19 March 2012)

⁵ UKBA website, [Domestic workers eligibility](#) (accessed on 19 March 2012)

⁶ Further information about how applications from domestic workers are handled is set out in the UK Border Agency's instructions to caseworkers: *Immigration Directorates' Instructions*, [chapter 5 section 12](#), 'Domestic workers in private households' Dec 06 (accessed on 13 February 2012)

indicating that they would comply with the UK's minimum wage legislation, but visa applications could not be refused if employers did not respond to this request.⁷

If the employer entered the UK as a visitor, the domestic worker may have been given permission to enter as a visitor with permission to work as a domestic worker in a private household.⁸

1.2 Private servants in diplomatic households (pre April 2012)

Persons employed as private servants in diplomatic households were covered by the Tier 5 (Temporary Worker International Agreements) category of the points-based system.⁹ The employer could be a member of staff of a diplomatic or consular mission who had diplomatic privileges and immunity under the Vienna Convention on Diplomatic Relations, or an official employed by an international organisation who enjoyed certain privileges under UK or international law. The sponsoring employer was required to guarantee that the worker was aged over 18; would be employed full-time as a private servant in their household and would not take up any other form of employment for them; and would leave the UK when their visa expired.¹⁰

Diplomats' domestic staff could bring their dependent family members to live (and work) in the UK. As with domestic workers in private households, diplomats' staff would be given temporary leave to remain initially. This could be extended for further periods of twelve months at a time, up to a maximum of six years. After five years' continuous employment as a domestic worker they could apply for permanent settlement. However, unlike domestic workers in private households, private servants in diplomatic households were not allowed to change employer (i.e. diplomatic mission) whilst in the UK.¹¹

2 The risk of exploitation, abuse and trafficking

It has long been recognised that migrant domestic workers are vulnerable to abuse, exploitation, and more recently, trafficking. Although the pre-April 2012 visas for domestic workers in private households were designed to incorporate some protections, abuses have continued and there have been concerns that mechanisms to protect vulnerable workers have not been effectively implemented.

Research published in 2011 by [Kalayaan](#), a charity that provides advice and support services to migrant domestic workers, considers some of the underlying causes of abuse:

Why are migrant domestic workers vulnerable to abuse and exploitation?

MDWs are highly vulnerable to abuse and exploitation by their employers. Such vulnerability is related to MDWs' structural dependency on employers for their work, their accommodation and their immigration status. It is also due to the invisible and isolated nature of their work in a private household.

⁷ UKBA *Immigration Directorates' Instructions*, [chapter 5 section 12](#), 'Domestic workers in private households', paras 2.6 – 2.7, 3.3 and *Entry Clearance Guidance WRK2.1.9* (accessed on 13 February 2012)

⁸ UKBA, *Immigration Directorate Instructions chapter 5, section 12* 'Domestic workers in private households' paras 3 - 4 (accessed on 13 February 2012)

⁹ See also the separate guidance for sponsors: UKBA website, [Tier 5 International Agreement How do I sponsor a migrant?](#) (accessed on 11 March 2010)

¹⁰ UKBA website, [Tier 5 \(Temporary Worker international agreements\)](#) (accessed on 19 March 2012)

¹¹ UKBA, *Modernised guidance 'Tier 5 (Temporary Worker)'* (accessed on 13 February 2012)

As a result, many MDWs experience poor living and working conditions. They work extremely long hours; the majority are required to be 'on call' and available to work 24 hours a day. Few are paid what they are promised let alone what they are legally entitled to under the National Minimum Wage. Others are not given a bed or allowed regular meals. Many employers withhold the passport of the MDW in order to exercise further control over them.

Lack of knowledge about their employment rights and the pressure to send remittances home can cause MDWs to remain with their employers even if they mistreat them.¹²

In May 2009 the Home Affairs Committee considered the experiences of migrant domestic workers as part of its inquiry into *The Trade in Human Beings: Human Trafficking in the UK*.¹³ The Committee noted that the term 'human trafficking' covers a wide range of criminal activity, but that "what the victims have in common is that they are, in effect, 'owned' by the traffickers".¹⁴ It also noted the variety of ways in which trafficking can manifest itself:

19. There is a fine line between those who voluntarily take a job that may be unpleasant or low status or where the wages and conditions are worse than normal for that type of occupation and those who are victims of trafficking. However, there are indicators that point to trafficking: the use of violence or threats of violence by employers; debt bondage; confinement to a workplace; removal of identity documents; requirements to live in accommodation or to use transport provided by the employer, especially if the accommodation is overcrowded and the means of transport unsafe, coupled with exorbitant charges for these compulsorily docked from wages; below average wages for that type of work or no wages; little or no time off; no sick pay.(...)

The domestic worker visa requirements and application processes were intended to incorporate some protections for migrant domestic workers. However, the Committee noted that opportunities were being missed during the visa application process to ensure that migrant domestic workers were travelling of their own free will and were informed of their employment rights in the UK. For example, workers were not being interviewed during the visa application process or when passing through immigration control.¹⁵ Also, domestic worker visas could be issued even if an employer had not confirmed that the UK minimum wage would be paid.¹⁶

The Committee made several recommendations relating to the treatment of migrant domestic workers in the UK, including that police forces receive greater awareness training of their vulnerability to trafficking.¹⁷ It concluded that the protections offered by the visa for domestic workers in private households (particularly the right to change employer) were the "single most important issue" in preventing the forced labour and trafficking of migrant domestic workers.¹⁸ At the time, the visa's long-term future was under review. However, the Committee concluded that it was likely that migrant domestic workers would need the protections offered by the visa provisions for "much longer than two years".¹⁹

The pre-April 2012 rules for domestic workers in private households were recognised as representing good practice by the International Labour Organization and the UN Special

¹² Kalayaan, *Ending the Abuse: Policies that work to protect migrant domestic workers* - briefing, 2011, p.2

¹³ Home Affairs Committee, *The Trade in Human Beings: Human Trafficking in the UK*, HC 23-I, 14 May 2009

¹⁴ Ibid, para 14

¹⁵ Ibid, paras 118-9

¹⁶ Ibid, para 53

¹⁷ Ibid, para 72-5, 135-8

¹⁸ Ibid, para 59

¹⁹ Ibid, para 59

Rapporteur on the Human Rights of Migrants.²⁰ The UN Special Rapporteur on contemporary forms of slavery has recommended that visas linked to sponsorship by a single employer (including diplomats) should be abolished, and that states consider creating a special immigration status for domestic workers who substantiate allegations of abuse or exploitation.²¹ The OSCE Special Representative on Trafficking has recommended a visa regime for domestic workers that allows them to change employer and leads on to permanent settlement.²²

Concerns have been raised (for example by the US Department of State) that domestic workers in diplomatic households in the UK have been particularly vulnerable to abuse and exploitation, since their visa conditions have not allowed them to change employer, and those abusing them may have diplomatic immunity.²³

In April 2011 the Government gave some details of how allegations of abuse of private servants in diplomatic households are handled:

Asked by Baroness Cox: To ask Her Majesty's Government what measures have been taken to protect the human rights of migrant domestic workers brought to the United Kingdom by foreign diplomats.

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): In accordance with the Vienna Convention on Diplomatic Relations 1961 (VCDR) foreign diplomats accredited in the UK are entitled to employ domestic workers (foreign or British). Under Article 41(1) of the Vienna Convention on Diplomatic Relations it is the duty of all diplomats "to respect the laws and regulations of the receiving state". This applies to the terms and conditions of employment for all domestic staff. The Foreign and Commonwealth Office (FCO) reminded all foreign missions based in the UK of their obligations in February 2011.

The police investigate any allegation that the law has been broken by persons entitled to immunity and report the results to the FCO. Given the number of people entitled to immunity in the UK (around 25,000), the number of serious offences allegedly committed by diplomats has remained proportionately low in recent years; just two cases involved a domestic worker in 2010.

The FCO treats any allegation of mistreatment of domestic workers in diplomatic households very seriously. When an allegation is brought to our attention by the police, we liaise as necessary with the relevant diplomatic mission and the UK Border Agency to work for an appropriate response. If an allegation of mistreatment requires further investigation by the police, the FCO will request from the diplomatic mission concerned, on behalf of the police, a waiver of the diplomat's immunity. Failure to provide a waiver may result in a request to the mission for withdrawal of the diplomat.²⁴

²⁰ ILO, *ILO Multilateral Framework on Labour Migration Non binding principles and guidelines for a rights- based approach to labour migration*, 2006, p.82; Report of the Special Rapporteur on the human rights of migrants, *Mission to the United Kingdom of Great Britain and Northern Ireland*, 16 March 2010, pp.15-16, 19-20

²¹ UN General Assembly, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, A/HRC/15/20, 18 June 2010, p.21

²² OSCE Occasional Paper series no. 4, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, 2010. For an indication of the Government's response, see [HC Deb 15 March 2012 c372W](#).

²³ US Department of State, *Trafficking In Persons Report 2011- UK*, 27 June 2011

²⁴ [HL Deb 26 April 2011 cWA79](#). See also [HL Deb 8 June 2011 GC42-56](#) for related short debate

On 16 June 2011 the International Labour Organization adopted a new Convention on Domestic Workers.²⁵ The Convention states that domestic workers must have the same basic labour rights as other workers on issues including hours of work, weekly rest, a limit on in-kind payment and clear information on terms and conditions of employment. The UK Government said that it did not intend to ratify the Convention, and it did not participate in the vote to adopt it. This was the subject of a [Westminster Hall debate on 29 June 2011](#).²⁶ In defending the Government's position, Ed Davey, then Minister for Employment Relations, argued that the Convention would make little practical difference in the UK, since domestic workers already have basic employment rights protected in law. He argued that the "key question" is one of enforcement and compliance.

3 The Rules with effect from 6 April 2012

The Government consulted on making changes to visas for migrant domestic workers in summer 2011, as part of a wider consultation on restricting various categories of workers' settlement rights.²⁷ The Home Secretary confirmed the Government's plans for change in a [Written Ministerial Statement](#) on 29 February 2012. The Home Office has also published an summary of responses to the summer 2011 consultation, a 'statement of intent' with further details about the reforms, and an impact assessment for the policy changes.²⁸

Statement of Changes in the Immigration Rules [HC 1888](#), laid on 15 March 2012, makes the necessary amendments to the Immigration Rules. The changes come into effect on 6 April 2012. Domestic workers who are already in the UK, or who are granted visas under the Immigration Rules in place prior to 6 April, will not be affected - they remain subject to the previous visa terms and conditions.

In brief, the changes to take effect from 6 April 2012 are as follows:

Domestic workers in private households

Domestic workers will only be allowed to enter the UK whilst accompanying their overseas employer (or the employer's spouse or child) on a visit to the UK. They will be required to leave the UK at the same time as their employer, subject to a maximum stay of six months. They will not be able to extend their leave for longer or apply for permanent settlement in the UK. They will not be able to change their employer whilst in the UK. They will not be able to sponsor their dependants to join them - dependants would have to qualify for entry in their own right (e.g. as a visitor).

Domestic workers will not be allowed to accompany overseas-based employers coming to the UK on a longer-term basis than as a visitor (e.g. employers coming to work in the UK). These employers will be expected to recruit domestic staff from within the resident workforce.

Private staff in diplomatic households

Private staff in diplomatic households will be allowed to stay in the UK for a maximum of five years, or the duration of their employer's posting to the UK (whichever is shorter). They will not be able to apply for permanent settlement in the UK. As previously, they will not be able

²⁵ International Labour Conference, [Text of the Convention concerning decent work for domestic workers](#)

²⁶ [HC Deb 29 June 2011 cc269-293WH](#)

²⁷ UKBA, [Employment-related settlement, Tier 5 and Overseas Domestic Workers A consultation](#), June 2011 para 7.2

²⁸ Home Office website, ['Changes affecting employment-related settlement, Tier 5 and overseas domestic workers'](#) (accessed on 20 March 2012)

to change their employer whilst in the UK, but will be able to sponsor their dependants to join them whilst they are here.

Additional measures to prevent abuse

The Home Office Statement of Intent document indicates that further measures are being developed to reduce the possibility of abuse and give assistance to abused workers.²⁹ These would apply:

- *During the application process* - by requesting more evidence of an established employer-employee relationship; requiring written terms and conditions of employment agreed by the employer and the worker; and by providing translated information to domestic workers about their rights in the UK.
- *After entry to the UK* - through assistance from existing bodies such as the National Referral Mechanism for victims of trafficking and the Pay and Work Rights Helpline for persons in need of employment advice; by the Government working with NGOs to provide assistance to abused workers; and by Government efforts to link permission to come to the UK with bilateral returns agreements with workers' home countries.

4 Why has the Government changed the Rules?

The Government made the following points in the consultation paper in support of its proposals to change domestic worker visas:³⁰

- retaining an unrestricted route of entry to the UK labour market for low skilled domestic workers is not in line with its policy of restricting the number of skilled and highly skilled migrants and raising the minimum skills levels required;
- continuing abuses of persons who have entered as domestic workers in private households, and current levels of unemployment in the UK;
- the UK's visa arrangements for domestic workers were more generous than various other EU countries';
- the number of domestic workers in private households granted settlement increased by 34% in 2010. Granting a route to permanent settlement in the UK was not necessarily the "correct" response to domestic workers' vulnerability to abuse, and it was arguably not "logical or fair" to offer permanent settlement to low skilled workers whilst restrictions were being introduced for higher skilled workers;
- other arrangements for protecting workers who experience abuse in the UK have now been established - specifically, the National Referral Mechanism for identifying victims of trafficking;³¹
- allowing domestic workers to sponsor family dependants was not consistent with the nature of entry as a temporary worker.

²⁹ Home Office, *Statement of intent: Changes to Tier 1, Tier 2 and Tier 5 of the points based system; Overseas domestic workers; and visitors*, 29 February 2012, p.16

³⁰ UKBA, *Employment-related settlement, Tier 5 and Overseas Domestic Workers A consultation*, June 2011 para 7.2

³¹ Discussed in Library standard note *SN/4324 Human Trafficking: UK responses*

The Home Office's impact assessment accompanying Immigration Rules changes HC1888 considered how the reforms are likely to affect numbers of migrant domestic workers coming to the UK.³² According to its figures, 16,200 domestic workers in private households were granted visas to enter the UK in 2011. 13% of these were accompanying a Tier 1 or Tier 2 worker. Therefore, by only allowing visitors to bring their domestic staff with them to the UK, the volume of domestic workers in private household visas is expected to fall by just over 2000 per year from April 2012. It is estimated that implementing further measures to prevent potential abuse and exploitation of workers will also reduce the volume of domestic worker visas granted by between 1,400 and 4,300 (10% - 30%). Reducing their right to bring dependants to the UK is expected to have a limited effect on numbers, since currently only 8% of dependants accompany domestic workers coming as short-term visitors.

The impact assessment does not anticipate that the number of domestic staff in diplomatic households coming to the UK will be affected by the changes to their visa conditions. 429 migrants entered the UK with a Tier 5 (International Agreement) visa in 2010/11, but the UKBA does not have data to show how many of these came to work as domestic staff in diplomatic households. It estimates that introducing stronger pre-entry checks may reduce numbers of domestic staff in diplomatic households coming to the UK by between 0 and 10 per year from 2012 onwards. Removing their rights to stay permanently in the UK is expected to reduce settlement grants by around 60 per year from 2017 onwards.

5 Reaction to the Rules changes

5.1 Kalayaan's objections

Kalayaan is calling on its supporters to lobby their Members of Parliament about the April 2012 Immigration Rules changes, which it believes will "facilitate slavery and trafficking". It has issued a joint press release with Anti Slavery International detailing its concerns:

Migrant domestic workers are vulnerable to horrific abuse and exploitation as has come to light in a number of recent high profile cases in the criminal courts. Of the 326 individuals who registered with Kalayaan in 2011, 54% experienced psychological abuse, 18% physical and 7% sexual abuse. Exploitation was also rife, with 76% not allowed a day off, 53% working 16 hours-a-day and 60% paid under £50 per week.

The changes would mean that any domestic workers able to escape abuse will immediately lose their right to reside in the UK, therefore greatly reduce the likelihood that they would seek help from the authorities for fear of being deported. This policy would lead to the victims becoming 'illegal' and perpetrators going unpunished.

Campaigners believe that the removal of the legal right to escape an abusive situation would result in domestic workers, desperate to earn money for the survival of themselves and their families, to go underground and create an underclass of unprotected and undocumented workers not protected under UK labour laws.

Jenny Moss, Community Advocate from Kalayaan, a London based organisation that supports migrant domestic workers, said: "The decision to remove the right to change employer, and therefore remove an important protection from abuse, turns back the clock 15 years to the days when domestic workers were deported for experiencing abuse. This decision makes no sense, its effects are entirely disproportionate to its aims and runs counter to Prime Minister David Cameron's commitment to fighting slavery, made on Anti-Slavery Day in October last year."

³² Home Office, *Impact Assessment Changes to Tier 5 of the Points Based System and Overseas Domestic Worker routes of entry*, IAHO0053, 15 March 2012, p.13;19-20

Before the right to change employer was introduced, abuse was even higher with, with 39% of domestic workers reporting physical abuse, 12% reporting sexual abuse, 89% having no day off and 100% reporting having worked an average of 17 hours-a-day.

Audrey Guichon, Domestic Work Programme Co-ordinator, Anti-Slavery International, said: "By tying domestic workers to one employer the Government will effectively be licensing slavery, allowing employers to bring workers to the UK without providing those same workers any way of challenging or escaping abuse if it occurs. These proposed changes would give unscrupulous bosses the power to threaten workers with deportation if they do not comply with whatever they demand.

"The UK's treatment of domestic workers will now mirror the situation across the middle east through the internationally condemned kafala system, where the lack of right to change employer without losing the right to residency has led to widespread abuse and high levels of domestic worker suicide."³³

An earlier briefing paper by Kalayaan, published during the consultation period, set out the organisation's concerns about reforms to domestic worker visa conditions in greater detail.³⁴ It argued that the existing visa protections for domestic workers should be retained, and the right to change employer should be extended to domestic servants in diplomatic households.

The briefing criticised the reasoning behind the Government's proposals, making the following points:

- the changes would make little difference to net migration levels - the vast majority of domestic workers only stay in the UK for a short time, and the small numbers that do obtain permanent settlement after five years have a minimal effect on net migration;
- the changes would not enhance resident workers' employment opportunities - migrant domestic workers are filling a gap in the labour market and most resident workers are unable to do live-in domestic work due to their own family responsibilities;
- the alternative arrangements for protecting victims of trafficking - specifically, the National Referral Mechanism - is more costly and is ineffective for abused or exploited domestic workers who do not fit its definition of a trafficked person;³⁵
- plans for stronger controls at UK borders were vague and inappropriate - the interviewing of domestic workers at visa issuing posts is already inconsistent, and workers are unlikely to report abuse by their employer whilst they are still in their employer's country and reliant on them for employment and housing;
- comparisons with visa conditions offered in other EU states were misleading - the countries considered do not have immigration patterns which are comparable to the UK's (i.e. presence of highly skilled workers and wealthy investors who often wish to bring their domestic staff with them).

It warned that if the Government's proposals were implemented, employees would have no bargaining power with their employers. Those who escaped trafficking or exploitation would

³³ Kalayaan/Anti Slavery International *press release*, '[Home Office changes to migrant domestic worker rules will facilitate slavery](#)', 29 February 2012

³⁴ Kalayaan, *Government proposes return to slavery for domestic workers in the UK*, June 2011

³⁵ See Anti-Trafficking Monitoring Group, *Wrong kind of victim? One year on: an analysis of UK measures to protect trafficked persons*, June 2010

become homeless, destitute, and without immigration status, undermining their ability to pursue compensation through an employment tribunal.

It also cast doubt on the assumption that employers would simply stop bringing their domestic workers to the UK if the Immigration Rules no longer permitted this. It noted that most domestic workers do not have control over their own passports or visa applications, and that some employers already evade existing controls, such as by arranging for their workers to enter the UK as visitors, family members, on false passports or without passing through immigration controls.

5.2 The Government's response to criticisms

The Home Secretary has described the April 2012 visa changes as "restoring [the visas] to their original purpose".³⁶ This rationale was reflected in the Home Office impact assessment explanation for why domestic workers ['ODWs'] in private households have lost the right to change employer:

ODWs will no longer be able to change their employer once they have entered the UK. This has been allowed to give ODWs a degree of protection from abusive employers. However, evidence shows that many ODWs change employer for other reasons and we do not consider that an ability to change employer is the only way to provide protection. Over the period 2005-2009, 60% of ODWs who changed employer, changed for reasons other than abuse. Stakeholders have indicated a desire to change employers for reasons such as widening skills, which is contrary to the original aim of the policy.³⁷

The Government's view is that removal of the right to change employer will not affect the number of undocumented migrants in the UK, or levels of trafficking for domestic servitude.³⁸ It argues that remedies will continue to be available to vulnerable domestic workers in the UK:

Fiona Bruce: To ask the Secretary of State for the Home Department how overseas domestic workers will be able to escape abusive conditions of employment when their right to change employer is removed.

Damian Green: Fewer overseas domestic workers will come here. Those who do will be able, as now, to leave their employer. The National Referral Mechanism for the identification and support of victims of trafficking will remain available, as will support from the domestic workers' embassy and access to the police where the overseas domestic worker may be a victim of a crime. The Home Office will also work with voluntary organisations on support for victims of abuse.³⁹

Fiona Bruce: To ask the Secretary of State for the Home Department how the written terms and conditions of employment agreed by overseas domestic workers and their employers referred to in the statement of intent will be enforced following the removal of the right of such workers to change employer.

Damian Green: The Employment Rights Act 1996 requires that employees in the UK be given a written statement of their particulars of employment. Employees, including overseas domestic workers, who consider that those particulars are not met may make

³⁶ [HC Deb 29 February 2012cc33-36WS](#)

³⁷ Home Office, *Impact Assessment Changes to Tier 5 of the Points Based System and Overseas Domestic Worker routes of entry*, IAHO0053, 15 March 2012

³⁸ [HC Deb 12 March 2012 c15W](#)

³⁹ [HC Deb 12 March 2012 c15W](#)

a claim to an Employment Tribunal, provided they do so within three months of leaving the employment.⁴⁰

6 Labour's similar proposals for reform (2006 - 2010)

Immigration policy since the mid-2000s has been based on the assumption that the UK does not need to recruit low-skilled workers from outside the EEA.⁴¹ The system has therefore been weighted towards migrants with skills.⁴²

In March 2006 the then government proposed abolishing the visa for domestic workers in private households. Instead, employers would have been expected to look to the resident UK workforce or EEA nationals for such staff. The only proposed alternative was to allow domestic workers to come to the UK as 'business visitors' for up to six months, with no entitlement to change employer and no route to permanent settlement.⁴³

Kalayaan opposed these proposals and called on the government to retain the existing arrangements.⁴⁴

On 25 June 2008, the government announced that it had decided against closing the immigration route for domestic workers in private households, at least for the next two years:

4.3. We are committed to ensuring that future arrangements concerning overseas domestic workers minimise any risk of abuse or exploitation. In addition, the current route will be preserved and then reviewed as appropriate after the first two years' operation of the reformed immigration system and when we will have properly road tested our antitrafficking strategy. The results of the research and analysis will inform the development of any future arrangements and we will work closely with stakeholders to develop a package of reform.⁴⁵

Shortly before the 2010 general election, Phil Woolas, then Immigration Minister, confirmed that the government remained undecided about making changes to visa arrangements for domestic workers, but did not intend to stop providing protection to them.⁴⁶ He confirmed that it was also considering how to deal with abuse of private servants in diplomatic households, including whether to allow them to change employer in the UK.⁴⁷

⁴⁰ [HC Deb 12 March 2012 c15W](#)

⁴¹ EEA - European Economic Area. Comprised of EU Member States plus Iceland, Norway and Liechtenstein

⁴² [A Points-Based System: Making Migration Work for Britain](#) Cm 6741: Executive Summary, paras 6-7

⁴³ The proposals were raised in a Westminster Hall debate on Migrant Domestic Workers, [HC Deb 10 May 2006 c101-107WH](#)

⁴⁴ Kalayaan *campaign statement*, January 2007

⁴⁵ UK Border Agency, [Government response to the consultation on visitors](#), June 2008

⁴⁶ [HC Deb 17 March 2010 c271WH](#)

⁴⁷ [HC Deb 17 March 2010 c272-3WH](#)