

Migrant care workers charter

Most adult social care is commissioned by Local Authorities. The exploitation of migrant care workers in the sector has become more widespread, especially since the extension of the health and care visa to include social care.

This exploitation can reach the level of modern slavery and human trafficking. Workers have been charged illegal fees, made to move across the country, given no hours or told to work excessive hours. UNISON members tell us that when they challenge poor treatment or exploitation, irresponsible employers seek to leverage their position as visa sponsors, threatening them with removal from the country.

Where Local Authorities are commissioning social care providers, they have a responsibility to ensure taxpayer money is not being used to exploit workers. This charter establishes minimum standards which the Local Authority will apply to themselves and the adult social care providers they commission. These standards cover employment rights, modern slavery, relevant immigration considerations and supportive practical elements such as driving licences.

The Care Act 2014 places a number of legal responsibilities onto Local Authorities, including protecting those requiring care from abuse and neglect and to improve the quality of care that is provided in the area. When a contracted care provider is coercing, underpaying, threatening or otherwise poorly treating the staff it employs, it will inevitably be falling short of these standards for those under its care. Local Authorities that sign up to the Charter are committing to take responsibility for addressing these workplace issues and, therefore, ensuring that the care provided by those staff is of the highest quality.

Coercion and modern slavery

The treatment of migrant care workers can reach the threshold of modern slavery, including withholding of passports, unpaid hours, threats of deportation and denial of basic employment rights.

Signatory local authorities will:

1. Ensure no migrant care worker is exploited or subjected to modern day slavery
2. Ensure all contracted care providers and agencies publish an annual modern

slavery statement.

3. Ensure all contracted care providers and agencies have a named person who oversees the modern slavery risk.

Loss of sponsorship and threats of deportation

The threat of deportation and loss of immigration status has been used by some care employers as leverage to break employment law and treat migrant care workers poorly. This risk underlies the majority of the other issues facing migrant care workers.

Signatory local authorities will:

4. Require that contracted care providers inform them when they intend to dismiss a sponsored worker
5. Audit and expand, as possible, which roles directly employed by the Local Authority are eligible for sponsorship
6. Identify sponsors of last resort, or become a sponsor of last resort, for migrant care workers who have been victimised or have had their employment terminated through no fault of their own.

Illegal fees and unfair repayment clauses

Many migrant care workers have been forced to pay exorbitant and unlawful fees, running to thousands of pounds, while being threatened with removal of their visa sponsorship and informing the Home Office. It is illegal to charge for all recruitment costs, including certificates of sponsorship, agency fees and sponsor licence fees. In addition, employment contracts sometimes include exorbitant repayment clauses for items such as training, transport and recruitment fees. These repayment clauses exist in a grey area of legality and can trap workers into working for exploitative employers.

Signatory local authorities will:

7. Ensure contracted care providers, either directly or through an intermediary, do not charge illegal fees
8. Require that repayment clauses in contractor care

providers' employment contracts adhere to the government's standards of being "transparent, proportionate, time-limited and flexible"

9. Support workers who are victims of either illegal fees or unfair repayment clauses, by:
 - a. Arranging or becoming the sponsor of such workers who have been dismissed for not paying
 - b. Supporting these workers in recovering any illegal fees.

Trafficking and change of workplace

Some migrant care workers have been instructed to move between different parts of the country to chase the promise of work, which may or may not materialise. Sometimes this will reach the threshold of human trafficking.

Signatory local authorities will:

10. Ensure contracted care providers do not apply pressure and demand workers move locations.

Insufficient or excessive hours

Some migrant care workers have been given insufficient hours by their sponsor and are, because of their visa, unable to easily work for another employer part-time or, if they do, can be threatened by their sponsor with dismissal and the loss of their visa status.

Signatory local authorities will:

11. Ensure that contracted care providers do not use contracts which outright prohibit secondary employment
12. Work proactively with contracted care providers who do have sponsored workers but do not have sufficient care packages to provide hours by, as appropriate:
 - a. Supporting those providers in securing sufficient care packages to fully employ all their staff, especially those on sponsorship for whom insufficient hours can risk their visa status, and/or
 - b. Facilitating and supporting transfers of those workers to providers who do have sufficient contracts to provide full employment, meeting the terms of the workers' certificates of sponsorship.

Right to Work checks

Employers are required to adhere to immigration law and conduct right-to-work checks. However, flawed

understanding of employees' right-to-work can lead to unnecessary suspensions, dismissals and, ultimately, risk the workers' visa status.

Signatory local authorities will:

13. Ensure, in conjunction with point 4 of this charter, that contracted care providers do not conduct right-to-work checks in a way which is coercive, unnecessary or incorrect
14. Provide basic guidance and signposting on common confusions around right to work including, for example, 3C leave protections.

Provided accommodation

The vulnerabilities of having visa status tied to employment can be magnified when accommodation is also provided by the same employer. Accommodation needs to be provided on a fair, freely-chosen and transparent basis.

The signatory local authorities will:

15. Ensure there are clear rental agreements for all tenants and that the rent does not exceed market rates
16. Ensure that migrant care workers can choose their own accommodation and know how to find information about Registered Social Landlords and other reputable sources of accommodation
17. Ensure that occupancy levels are monitored, that accommodation is safe and suitable and that occupants know how to complain about housing standards to the local authority or the Housing Ombudsman.

Pregnancy, maternity and childcare

Migrant care workers who becoming pregnant are entitled to the same protections as all workers. Employers failing to renew sponsorships for those on maternity leave, or who have recently returned to work, can make those workers especially vulnerable, as they may struggle to find a new sponsor whilst balancing other commitments.

The signatory local authority will:

18. Require contracted care providers to inform the local authority as soon as they become aware of not being able to (or not intending to) renew the sponsorship of a migrant care worker who is:
 - a. pregnant,

- b. on maternity leave, or
- c. who has returned from maternity in the last year.

This is in addition to the requirements under 4, 5 and 6 of this charter.

Recruitment

Recruitment agencies and individual recruiters, whether UK-based or otherwise, are often the first step of the recruitment process of migrant care workers. Recruitment is often the stage at which debt-bondage, illegal fees and other forced-labour and modern-day slavery emerges.

Signatory local authorities will:

- 19. Require all contracted care providers to list all recruiters and recruitment agencies they work with, and the local authority will conduct due diligence investigation into these recruiters as part of both the procurement and contract review process
- 20. Use the NHS's ethical recruiter list in England or work towards an equivalent list.

Driving and licences

Many domiciliary care workers need to drive as a part of their job. Difficulties with changing from an international to a UK driving licence, as well as non or under-payment of travel time can be a risk for migrant care workers and their visa statuses.

Signatory local authorities will:

- 21. Provide information, guides and other support as appropriate, to explain and (as possible) expedite the process for acquiring a UK Driving Licence
- 22. Ensure that contracted care providers calculate and pay travel time as working time
- 23. Ensure contracted care providers do not block staff from viewing rota information or travel time/ mileage break downs on care planning apps, which make it difficult for staff to calculate if they have been paid correctly, unless there is a specific and justifiable reason for doing so.

Employment rights

Knowledge of employment rights and access to trade unions are fundamentally important for all workers.

Signatory local authorities will:

- 24. Ensure contracted care providers provide migrant care workers with a copy of their statement of particulars and/or terms and conditions at the earliest opportunity. These will be in the worker's first language, where requested.
- 25. Provide migrant care workers with details of trade unions operating within the care sector and provide them with the opportunity to meet with union representatives.

Monitoring and implementation

All of the above should be properly monitored and overseen by a senior officer of the local authority. Scrutiny Committees and Cabinet/Executive members must be free to summon senior officers of the local authority and care providers to account for the implementation of this charter.

Signatory local authorities will:

- 26. Have regard to all sections of this charter at all stages of the contracting process – procurement, negotiation, review and renewal
- 27. Make explicit reference to this charter in all newly commissioned contracts
- 28. Identify an individual who will have oversight of the implementation of this charter and who can be addressed for potential breaches.

Signed on behalf of the Local Authority

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Local Authority

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Name

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Job title

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Signature

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Date