

Who Cares?

How best to protect UK care workers employed through agencies and gangmasters from exploitation

More than a million people work in the UK social care sector – in residential care homes, or providing care to people in their own homes. Care workers, particularly those employed through agencies and gangmasters¹, are extremely vulnerable to exploitation in this low-paid, low-status sector – and migrant workers are often the most vulnerable.

In this paper, we examine the nature of exploitation of migrant care workers in the care sector, made possible by the lack of an effective employment rights enforcement regime. We call for the urgent extension of the Gangmasters Licensing Authority (GLA) to cover the regulation of agencies in the sector – as effective regulation of agencies will be a significant step in protecting care workers and ensuring their labour rights are respected.

“They think when you’re working for them 24 hours, you should be working all the time.”

Domestic care worker

“I have to work 60 hours per week. But nobody is counting my breaks because they are not paid.”

Josef, Poland

There are an estimated 1.5 million workers in the adult social care workforce in the UK, working in residential care homes or providing care to people in their own homes. And with an ageing population the number of care workers is set to rise in the next two decades.

The low pay and low status of care workers makes it difficult to attract UK workers to these jobs, and nearly one-fifth of workers in the sector are migrants. Our research has found that care workers, particularly migrant care workers – and even more so those employed through gangmasters and agencies – experience significant abuse and exploitation at work. Their experience typically involves working excessive hours, extreme pressure to work overtime, an expectation that the worker will be constantly on call, spurious deductions taken from pay for petrol and other expenses, and non-payment of holiday and sick pay – all whilst workers are being paid no more than the minimum wage.

Exploitation of migrant care workers is rife due to the lack of an effective employment rights enforcement regime in the sector. Workers must seek redress for their own grievances through an employment tribunal or other enforcement agency; agencies and gangmasters in the care sector are ineffectively regulated by EAS (Employment Agency Standards Inspectorate).

Oxfam and partner organisation Kalayaan (a specialist organisation providing support services to migrant domestic workers) are calling for the care sector to be brought under the remit of the Gangmasters Licensing Authority (GLA), the effective regulation agency which already licenses labour providers in agriculture. Licensing of agencies by the GLA would ensure that only those agencies which respect employment rights, pay the minimum wage, and do not subject workers to debt bondage, harsh treatment or intimidation can employ care workers – thus protecting workers in the care sector from exploitative gangmasters.

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Preface: the research

"I feel pressure to work overtime because we've been living very close [in a house owned by the employer], five minutes from work."

Dominika, Poland

This briefing paper draws on research done by Oxfam and the specialist organisation supporting migrant domestic care workers in the UK, Kalayaan.

Kalayaan, in collaboration with the Centre for Migration, Policy and Society (COMPAS), has undertaken research into the role of migrant workers, particularly migrant domestic workers, employed to care for the elderly in private households (*Migrant Care Workers in Private Households*, October 2009). The research involved a series of in-depth, semi-structured interviews with 50 migrant care workers drawn from a variety of sources.²

Oxfam has also looked at the experience of care workers as part of its research into the exploitation of vulnerable workers by gangmasters, (*Turning the Tide*, July 2009). More than 40 interviews were conducted with migrant worker leaders, union representatives, and organisations supporting migrant and vulnerable workers. The research revealed clear indications of the exploitation of workers by gangmasters in the care, hospitality, and construction sectors. Oxfam has since commissioned a series of 15 semi-structured interviews with care workers (autumn 2009) to learn more about their experiences. Workers were interviewed in Manchester, London, Cumbria, West Sussex, and Hampshire. Excerpts from these interviews are published throughout the report to illustrate the experiences of migrant care workers in the UK. This paper brings together the research of Oxfam and Kalayaan to provide a comprehensive briefing on the experience of migrant care workers in the UK.

Kalayaan

Kalayaan is a registered charity established in 1987 to provide advice, advocacy and support services in the UK for migrant domestic workers. Migrant domestic workers are people who have entered the UK legally with an employer, on a domestic worker visa, to work in a private household. Kalayaan is the only organisation in the UK providing support services to migrant domestic workers.

Oxfam

Oxfam works all over the world to end poverty and suffering, including here in the UK. Our experience shows us that the denial of rights at work – including the minimum wage, holiday and sick pay, and decent and safe working conditions – is a significant cause of poverty in this country. We therefore work with vulnerable and exploited workers to help them claim their rights, and we campaign for increased protection at work.

Kalayaan and Oxfam are longstanding partners, and the organisations have worked together on a number of issues affecting migrant domestic workers.

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The UK care sector

There are an estimated 1.5 million workers in the adult social care workforce in the UK.³ The UK care sector consists of two main kinds of care provision:

- Home care – the provision of care in a client’s own home, including domiciliary care provided by a live-in care worker.
- Residential care – care provided by residential nursing homes.

The care sector historically has had high staff turnover and low rates of pay. As a result, increasing numbers of agencies are looking to employ migrant workers in care work, in addition to the local workforce. With many independent organisations reliant upon public funding, budgetary constraints make it difficult to raise wages to a level needed to attract more UK workers.⁴ For many migrants, however, the remittances earned through care work, no matter how low the wages, are essential to support family back home.

Women are estimated to constitute around 88 per cent of the social care workforce, with this significant gender imbalance rooted in the traditional perception of care jobs as low status, low paid and ‘women’s work’.⁵ Indeed, low pay of the care workforce can be seen as a reflection of the historical undervaluing of women’s work.⁶ Labour Force Survey estimates suggest that one in five care workers is paid below the national minimum wage, with one in ten paid below £4.95.⁷

The Centre on Migration, Policy and Society (COMPAS) recently found that migrant workers accounted for nearly one-fifth of all care workers looking after older people. Crucially, there has been a significant rise in the number of new migrants (those who have arrived since 1998) employed in care work, with migrants constituting 28 per cent of care workers hired in 2007.⁸

Though official figures estimate that only five per cent of care workers (roughly 75,000) are employed through employment agencies or gangmasters, this figure does not account for the large number of workers that may be designated ‘self-employed’ but are still working through generalist agencies that are not seen as ‘care’ agencies.

The care sector is set to undergo a significant expansion in the near future, due to the UK’s ageing population. It is estimated that the number of people aged 80 years and above will double to around eight per cent of the population by 2030.⁹ The number of care workers, including migrant workers, is therefore likely to increase over the next two decades.

The ‘personalisation of care’ is also encouraging the use of more self-employed care workers to deliver care in a client’s own home, and increasing the vulnerability of care workers.

The policy of 'personalisation'¹⁰ aims to transform care users from passive recipients of care into agents with choice and control over the care they receive. The policy includes the provision of direct payments and individual budgets from local authorities to older people, to enable them to purchase the care they feel is most appropriate to their needs. Individuals who have a personal budget can continue to purchase traditional domiciliary care through an accredited care agency. But many prefer to have one or two personal assistants who are self-employed, as this provides continuity and flexibility of support.

The government has told local authorities that it expects 'significant progress' in rolling out personal care budgets by 2011, and has set a minimum target for 30 per cent of local authority-funded adult social care service users to be on an individual budget or direct payment by April 2011. Many local authorities have gone further, with a number of 2008 Local Area Agreements setting targets higher than 60 per cent for 2011.¹¹ Further measures, including plans in the current session of Parliament¹² to extend free personal care at home to a further 280,000 people¹³ with the highest needs, regardless of means, will result in an even greater demand for care workers – a demand that is likely to be met by employment agencies providing carers directly to individual clients.

Dominika, from Poland

Dominika arrived in the UK in September 2006. She was recruited to work in a care home by a Polish agency, which failed to give her sufficient information about the job — for example its location, and how heavy her workload would be.

Her first employer provided accommodation very close to the job, and she was therefore pressured to be constantly on call and to take on overtime when British colleagues were not available for work. She felt discriminated against by British colleagues who made her feel like an outsider, and she was not allowed to speak Polish with her colleagues.

Dominika is now working for another employer but still reports an excessive workload, with a small number of Polish staff dealing with up to 24 vulnerable (mentally ill) patients on each night shift. She is concerned about the wellbeing of the elderly residents, whom she considers are not being properly cared for.

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Exploitation in the care sector

"We always have that fear that they can take it away from us and send us home."

Joy, Philippines

"They tell us... 'You can't leave us because we brought you into this country, so you can't work for anybody else apart from us.'"

Domestic care worker

Research by Kalayaan and Oxfam has revealed a wide range of employment rights abuses perpetrated by employers and agencies operating in the care sector in the UK. There are clear similarities in the abuses experienced by both residential and domestic care workers – with agencies playing on workers' insecurities to retain workers in this environment of gross exploitation. Furthermore, some workers interviewed were subject to an intricate web of exploitation involving collusion between overseas recruitment agencies, sister or contact agencies in the UK, training agencies, and the care home.

The experience of care workers, particularly migrant care workers, typically involves working excessive hours, extreme pressure to work overtime, an expectation that the worker will be constantly on call, spurious deductions from pay for petrol and other expenses, and non-payment of holiday and sick pay – all whilst workers are being paid no more, and sometimes less than, the minimum wage.

All too often, workers continue to suffer abuse – with their only hope of improving their situation being to find a job with another, less exploitative, employer.

Joy, from the Philippines

Joy arrived in the UK in September 2006 and secured a job in a private nursing home through a Filipino-owned agency in England. She paid the agency £3,000, but did not receive any support from them. She was pressured to work more than 60 hours a week as the home was short-staffed. Living in the nursing home made her even more susceptible to exploitation – she was often woken early to work, even if she had worked a late shift the night before. When Joy resigned from this post, her employer refused to pay her final month's salary. Her next employer increased her pay to £7.02 as a senior carer, but refused to pay her for the 11th hour of each 12-hour shift.

"We are really pressured. We are doing the laundry. We do the washing up. A few times I refused, and I've been questioned why. Even when I refused to do extra hours [the reply was] 'You come here for money, why do you refuse?' It's hard. We get tired as well. Even if you were sick, they would come and knock on your door."

"The agency in Poland was collecting people for this work that nobody wanted to do in the UK: care assistant, with the lowest wage."

Josef, Poland

“They gave me ten days, 15 hours. I couldn’t manage. They said that I should be happy – that I come from a poor country.”

Josef, Poland

“Even if we had worked the night shift, there was pressure to work during the day.”

Dominika, Poland

“After some time they gave us something to sign... [saying] that it is our responsibility to work more than 48 hours a week. I was not aware of what I was signing.”

Tekla, Poland

The principal violations of employment rights which the research revealed, were:

1. Coercion and intimidation

The fact that workers were migrants was used to intimidate them and to encourage them to accept an exploitative situation. Many workers felt compelled, or were even explicitly told, to accept their appalling working conditions simply because they came from ‘a poor country’. Certain routes of migration meant that some workers were unable to complain against their treatment, as losing their job might impact on their immigration status – and could result in them being returned to their country of origin. It should be noted that all agency workers, including British workers, face pressure to take on additional shifts, but that recently-arrived workers face increased difficulties in negotiating with employers and are more likely to feel intimidated.¹⁴ Indeed, the links between employment rights enforcement agencies and immigration authorities is felt to deter workers from reporting abuses, even when they have every legal right to work in the UK. The risk of deportation is one which most migrant workers are unwilling to take.

2. Excessive hours with no breaks and/or pressure to work overtime

Excessive hours of work were particularly prevalent, with some employees working nearly 100 hours per week¹⁵, and an expectation – because of the need for carers to be on call all the time – that workers would not take holiday¹⁶. Staff were often not given the option to refuse overtime, or were intimidated into taking on additional hours at short notice for fear of not getting more work in future.¹⁷ Live-in care workers, in particular, highlighted the 24-hour nature of the job, with the employer believing that the carer should be available to work at all times, often without extra pay.

3. Problems with wages

Whilst Oxfam’s research did not uncover direct breaches of the National Minimum Wage (NMW), it showed that workers who are paid the minimum wage may not be fully recompensed for expenses they incur during their work – for example, for the petrol they use to travel to clients’ homes, uniforms, and other materials needed for work. Research from COMPAS has estimated that nearly one in five care workers is paid less than the NMW¹⁸, whilst Kalayaan’s experience is that for migrant domestic workers in private households, failure to pay NMW is common.

Furthermore, many workers on zero-hour contracts (where the worker must be available for work each week, but where no hours are guaranteed each week) were not fully paid for the time they spent travelling between jobs – losing as much as 15 minutes’ pay per hour, which effectively reduces a worker’s pay to under the minimum wage. We also found evidence of employers deliberately underpaying workers, for instance by paying for 11 hours’ work per shift rather than for the 12 hours worked.

"I am concerned that I will not be able to claim back my fuel from the tax office..."

Magda, Poland

Jula, from Poland

Jula secured a domiciliary care job in the UK through a Polish recruitment agency, but the information provided by the agency was misleading. She was told that she would need to drive a car, but that the employer would cover her expenses. In fact, when making home visits she had to pay for petrol from her wages, which were paid at the minimum wage. She was also asked to pay for her uniform and for the provision of other documents related to work (ie. for photocopying information). She was not given a guaranteed number of hours, and was provided with very expensive accommodation by the employer. Her financial situation was so dire that within three months in the UK she had been forced to spend all her savings, which had taken her ten years to save in Poland.

"My boss gave me 'shadowing' work to do with another girl. This 'shadowing' was paid at half the normal rate. We travelled together in the car but went to different clients. She earned the normal amount and I earned very little. I had to pay the petrol. I was told: 'No, you need the experience. You have to pay.'

"I had a contract for zero hours. It means that my employer can give me different hours – one per week, two per week, 40 per week. There is no security."

"If we were sick for under three days we got no sick pay. If I had sick leave for two days, they didn't pay me. If I had three days sick leave, they paid me just £60 in total."

Silvia, Philippines

4. Denial of holiday pay or sick pay

Our research also found evidence of workers being refused sick pay or holiday pay, which was used as a method of coercing the worker into being constantly on call and available to work. Most workers, already on barely more than the minimum wage, are unable to afford to take time off unpaid; thus the employer ensures the worker is more likely to be available to work.

"We live in accommodation ten minutes walk from the nursing home. If they are short of staff, she [the manager] is going to check if you are sick."

Charie, Philippines

5. Links to accommodation

A number of workers reported that housing was often initially tied in some way to employment, creating a sense of dependence on the employer. Companies might pay for a worker's accommodation upfront, or lend money to the worker for rent, or arrange their accommodation – leaving the worker feeling bonded to the employer.

"When I came here, the agency... found the house for me. But the house was full. For the first few months I lived on the sofa, but I was paying rent every month."

Ana, Philippines

One worker interviewed had been promised a room but had to sleep on a sofa; another reported having to sleep on the floor of a colleague's room. Because the housing is close to the workplace (or is on site), the proximity can also be used to coerce workers in residential homes to work unsocial hours and extra shifts, and domestic care workers to take on other roles within the home including domestic work.

"I didn't know that's what they do when I applied for the job... that you'll be self-employed. I thought it would be like the other agency, they just give you work, you know? Self-employed means sometimes you don't get a job easily. That's the problem now, and you need income."

Domestic care worker

6. Bogus self-employment

Our research showed that agencies were designating care workers 'self-employed', despite the fact that the workers were completely reliant on the agency for work. This status often results in workers having no guaranteed hours, and being denied the rights of regular 'workers' and 'employees'. Self-employment also has implications for tax revenues (of concern to government) and access to benefits (of concern to the worker), particularly for those from the newer EU member states such as Poland.

7. Deception

Several respondents were found to have paid up to £2,000 for a job in the UK to be arranged, and there was considerable deception about the pay promised to workers, both at the time of recruitment and as shown on their work permit. This evidence is supported by recent evidence given to the Home Affairs Committee.¹⁹

Josef, from Poland

Josef came to the UK in 2006 through a Polish recruitment agency in Krakow. When he arrived, he knew that the work wouldn't be easy and the wages wouldn't be high, as the agency had warned him. Yet he wasn't prepared for what he would discover as a worker, initially in a nursing home and subsequently in two domiciliary care-work agencies. The first nursing home pressured him to take on excessive overtime and refused to take no for an answer, saying he should be grateful for extra hours as he comes from 'a poor country'. He was also paid less than had been agreed in his contract, and while the employer had promised to find him accommodation, this turned out to be sleeping on a colleague's floor. When Josef tried to complain, the company became more abusive; they asked his colleagues to monitor him, and asked Josef for an apology.

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The existing protection for care workers

Whilst there is an extensive framework to ensure the *quality* of care provision in the UK, protection of care workers and their employment rights is poor.

The Care Quality Commission (CQC) is responsible for ensuring the quality of care in England – it supervises compliance with standards in the sector, including the induction and training of staff, and the ethos of care homes. However, the CQC is not responsible for the protection of workers' rights.

Currently, care workers who face a breach of their employment rights can take action to file a complaint against their employer. Depending upon the type of breach, an employee's complaint can go to one of three enforcement agencies with responsibility for enforcing labour rights:

- HM Revenue & Customs (HMRC), for National Minimum Wage violations.
- The Health and Safety Executive, for breaches of health and safety.
- The Employment Agency Standards Inspectorate (EAS), which handles grievances reported by agency workers.

An employee can also seek redress through an Employment Tribunal.

The current enforcement regime is highly dependent upon the determination of the individual worker to seek redress for a particular grievance. Despite there being an estimated two million vulnerable workers in the UK,²⁰ HMRC has fewer than 100 inspectors, just five per cent of the number available to the Department for Work and Pension's benefit fraud unit.²¹ Indeed, it has been estimated that the average employer could expect a visit from HMRC once every 320 years.²² Furthermore, the process of claiming one's rights through an Employment Tribunal can be lengthy and stressful, with employers often failing to pay a monetary award even when the worker's grievance has been upheld.

EAS is responsible for regulating all agencies outside the remit of the GLA – an estimated 17,000 agencies.²³ The UK agency sector is the biggest, and one of the most fragmented, agency sectors in the EU, with just one-fifth of the four million vacancies each year coming from the 20 largest agencies and the remainder from a host of small agencies.²⁴ Despite covering such a vast sector, EAS employs only 24 inspectors to enforce the rights of workers and Oxfam's *Turning the Tide* research showed that few workers have even heard of EAS. More importantly, the enforcement model used by EAS is not effective enough to ensure that unscrupulous agencies will improve the way they treat their workers.

The Hampton Review of EAS highlighted that it is a ‘complaint-led’ regulator, responding to individual complaints that are brought to its attention, rather than proactively investigating where employers may be exploiting their workers.²⁵

Moreover, once a breach of employment law has been found, EAS often only issues a warning and undertakes little work to ensure that it has been heeded.²⁶ Only seven individuals and one company are currently prohibited by EAS from running an employment agency in the UK.²⁷ This low rate of prohibition is surprising, given the high levels of reported abuse of workers at the hands of some agencies operating in the construction, care, and hospitality sectors.

The lack of an effective employment rights enforcement regime which proactively investigates employers to uncover abuse and exploitation, clearly allows unscrupulous employers to exploit vulnerable care workers. Migrant care workers are particularly at risk of abuse and exploitation, given their low level of unionisation and their fears about the consequences of seeking redress.

Magda, from Poland

Magda has worked as a care assistant in the UK since 2005, working for several private residential care homes run by a well-known company. She was recruited in Poland by a representative of the company, but given little information about her role or how hard the work would be. She was made to sign a binding contract for a year, which she could not break unless she paid back £1,000 in travel and accommodation costs – which she could not afford to do.

“I had to do a minimum of 60 hours a week for almost two years. I was doing the night shift five to six days per week, from 8.00pm to 8.00am.” She reports “buzzers going off constantly”, indicating the elderly residents’ need of constant attention, and the carers having to be on their feet most of the day with very limited breaks. At the end of her shift, Magda often felt so exhausted that she was afraid of collapsing on the way home. She also reports working in care homes where most of the residents needed nursing rather than residential care, putting pressure on staff to meet their needs, and endangering the health of both residents and staff.

Magda was too afraid to discuss her excessive workload for fear she would lose her job, and says that employers take advantage of migrants who are “desperate” and will “keep quiet.”

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How to reduce exploitation of care workers

“Even when I refused to do extra hours, [the reply would be] ‘You come here for money, why do you refuse?’”

Joy, Philippines

As we have shown, care workers – particularly those working for agencies – face a range of employment rights abuses in the UK. Yet the current labour rights enforcement regime has been found to be both fragmented and ineffectual.

In the long-term we believe that a single labour rights inspectorate, empowered to proactively protect all rights at work for all workers, and to ensure that victims receive redress, would be the most effective form of labour rights enforcement and would be a significant and vital lever in relieving poverty in the UK. In the absence of the political will to create a single labour rights inspectorate, Oxfam is proposing that agencies operating in the care sector come under the remit of the GLA, the government-sponsored agency which has been found to be extremely effective in reducing exploitation of workers by gangmasters in the agricultural sector.

The Gangmasters Licensing Authority

The GLA was created in 2006, after the Morecambe Bay tragedy in which 23 cockle-pickers died because of the negligence of their gangmaster. The GLA enforces workers’ rights in two ways: it only licenses gangmasters who demonstrably meet a range of criteria on labour rights; and it actively investigates and checks up on employers’ labour rights enforcement – rather than solely relying on workers to report abuses. The GLA issues a licence to gangmasters that meet the following criteria:

- Payment of the National Minimum Wage, tax, National Insurance and VAT.
- Workers are not subjected to debt bondage, harsh treatment, or intimidation.
- Provision of suitable accommodation (where accommodation is provided with the job).
- Respect for general employment rights (including no excessive hours, and proper recruitment and contractual arrangements).
- Adherence to health and safety requirements.

These criteria would clearly address the range of abuses that have been uncovered through our research into the care sector. If gangmasters fail to meet the above criteria upon inspection, their licence to operate is revoked. Crucially, the GLA is armed with an effective enforcement team that includes intelligence officers and on-the-ground inspectors based in all parts of the country. The GLA will soon be in receipt of the Macrory penalties,²⁸ which will enable it to impose greater sanctions against those who break the law.

However, the GLA's remit is currently limited to five sectors of the economy: agriculture, shellfishing, horticulture, forestry, and food processing and packaging. All other sectors in which gangmasters or agencies operate, including agencies operating in the care sector, are enforced by EAS.

Similarities between the care sector and the previously unlicensed agricultural sector

As we have seen, care work is characterised by a need for flexible workers able to respond to an unpredictable need for labour. A combination of low wages, unsocial hours, the temporary nature of the work, lack of career opportunities, and low status means that UK jobseekers are far less likely to apply for direct care positions.²⁹ In the absence of a sufficient domestic workforce that is willing and able to undertake care work, the care industry has turned to migrants to fill this gap in the labour market. This echoes the experience of the agricultural industry, which has also become increasingly reliant on flexible, mobile migrant workers who are willing to undertake the jobs that many UK workers avoid.

Prior to the introduction of the licensing regime implemented by the GLA, workers in the agricultural industry faced routine exploitation at the hands of gangmasters. The widespread abuses reported in the agricultural sector – which have become exceptions since the creation of the GLA – included arbitrary deductions for travel, underpayment of wages, and wages below the National Minimum Wage³⁰ – the same types of exploitation that have been uncovered by Oxfam and Kalayaan in the care sector. That the employment rights abuses are similar comes as no surprise, given that employment agencies providing labour to the agricultural sector often operate in several sectors, including social care.³¹

Wilhelm, from Poland

Wilhelm came to the UK in January 2007 to work as a care assistant in a private nursing home – a job he had secured through an employment agency in Poland. The agency did not inform him of the terms and conditions of the job: for instance, that the company he worked for did not pay sick or holiday pay, and that overtime payments for Bank Holidays would be reduced if he was sick before or after the Bank Holiday. Additional payments for overtime and night shifts were very low (only 20 pence an hour). He was told he could not refuse overtime when another employee was sick because he had been employed by the company on 'special conditions': ie they had made all the payments to the agency in Poland, and Wilhelm had not had to pay anything. Wilhelm felt 'bonded' to the job, with no freedom to move from the housing offered by his employer, and a minimum contract of two years before being able to seek employment elsewhere.

The case for extending the GLA to the care industry

It is unfair and inconsistent that a worker employed through an agency or gangmaster in the care sector does not receive the same level of protection as a worker employed by a gangmaster in the agricultural industry. Furthermore, many gangmasters tend to operate across several sectors – including agriculture, care, and construction. It would therefore be logical and efficient for the remit of the GLA to be extended to cover the sectors of social care, construction and hospitality, which also have high levels of gangmaster activity.

The extension of the remit of the GLA would also benefit the economy. The creation of the GLA resulted in a £2 million increase in tax receipts as employers who had been operating ‘informally’ were brought into the formal economy; extension of the GLA’s remit is likely to result in further revenue to the government. It is also important to note that research undertaken by the University of Sheffield and the University of Liverpool found that 79 per cent of gangmasters were actually in favour of licensing, and that only 18 per cent described their contact with the GLA as burdensome.³²

The GLA has great expertise in regulating agencies with links to foreign countries which are supplying migrant labour to the UK – expertise that would be vitally useful in enforcing workers’ rights in the care sector.³³ However, currently both the GLA and EAS have a duty to inspect the immigration status of workers and to share this information with the UK Border Agency. This may prevent workers with concerns about their immigration status, or that of colleagues, from reporting abuses – hampering the ability of the GLA to investigate abuses. The requirement of the GLA to report on workers’ immigration status should therefore be removed.

Finally, whilst the GLA cannot protect workers who are not employed by agencies, extending the GLA’s remit to the care sector would ultimately bring greater efficiency to employment rights enforcement in the sector, and would be a significant step in providing greater protection to care workers.

Recommendations

Kalayaan and Oxfam's research has revealed significant exploitation of migrant care workers employed through agencies in the UK. Migrant care workers play an important role within the social care sector, and the failure to protect these workers' rights through an effective enforcement agency must be urgently addressed.

In the long-term we believe that a single labour rights inspectorate, empowered to proactively protect all rights at work for all workers, and to ensure that victims receive redress, would be the most effective form of labour rights enforcement and would be a significant and vital lever in relieving poverty in the UK. However, in the short-term much can be done to improve the situation of vulnerable care workers:

Kalayaan and Oxfam therefore make the following recommendations:

Extend the remit of the GLA to the social care sector

Extending the GLA's remit to social care will ensure that those who are vulnerable to exploitation are better protected, especially as the use of agencies increases.

End the duty to share information with the UK Border Agency

Neither the GLA nor EAS should have a duty to inspect the immigration status of workers or share information with the UK Border Agency. This duty fundamentally thwarts the enforcement of employment rights, which is heavily reliant upon individual workers reporting breaches by their employer.

Introduce a model contract

The 24-hour nature of the care sector must be recognised in employment contracts, and workers must be adequately remunerated for their time. A model employment contract should be provided to employers. This should include wages (with reference to the minimum wage), hours (including clarifying when workers are expected to be available), holiday and sick pay, days off, and provision for when the care-user dies.

Social care organisations to encompass care workers within their remit

Many of the existing social care organisations currently provide invaluable support to older people, their relatives, and their unpaid carers. This support should be extended to encompass paid care workers, and coordination should increase between unpaid carer organisations and care-worker organisations.

Notes

- 1 The term 'gangmaster' is a generic term to cover any individual or agency whose primary purpose is to organise the supply of labour to employers.
- 2 Kalayaan, *Care and Immigration: Migrant Care Workers in Private Households* by Lourdes Gordolan and Mumtaz Lalani (2007) available at <http://www.kalayaan.org.uk/documents/Kalayaan%20Care%20and%20Immigration%20Report%20280909%20e-version.pdf>
- 3 Department of Health, *Working to Put People First: The Strategy for the Adult Social Care Workforce in England*, p.11, available at http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_098494.pdf
- 4 Cangiano, Shutes, Spencer and Leeson, *Migrant Care Workers in Ageing Societies* (COMPAS: 2009), p.88, available at http://www.compas.ox.ac.uk/fileadmin/files/pdfs/Migrant_Care_Workers/MCW%20report%20-%20final%20-%20website%20version.pdf
- 5 *ibid.* p.20
- 6 *ibid.* p.21
- 7 *ibid.* p.26
- 8 *ibid.* p.59
- 9 *ibid.* p.27
- 10 Department of Health, *Personalisation*, available at <http://www.dh.gov.uk/en/SocialCare/Socialcarereform/Personalisation/index.htm>
- 11 Association of Chief Executives of Voluntary Organisations, *Commission on Personalisation*, <http://fullcostrecovery.3wise-dev.com/uploads/files/Briefing%201.pdf>
- 12 Epolitix, *Personal Care Bill* (18 Nov. 2009), available at <http://www.epolitix.com/legislation/legislation-details/newsarticle/personal-care-bill/>
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- 14 Interview with domiciliary care agency worker, C33
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This briefing is also available at www.oxfam.org.uk/uk

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Oxfam's work in the UK

Oxfam works to overcome poverty in the UK in three ways. We develop projects with people living in poverty to improve their lives and show how things can change. We raise public awareness of poverty to create pressure for change. And we work with policy makers to tackle the causes of poverty. For more information on the issues raised in this paper, or Oxfam's work to end poverty in the UK, email ukpoverty@oxfam.org.uk.

Oxfam has previous experience of working with employers to raise standards within the social care sector. In 2008, as part of our Migrant Workers Project³⁴, we ran a project with Liverpool Social Care Partnership, Migrant Workers North West, and social care³⁵ employers to promote best practice in the employment of migrant workers³⁵. The project had a significant positive impact for workers employed by participating companies, thus indicating that the introduction of licensing in the social care sector might achieve considerable change.

