

## Employment Rights for Displaced Ukrainians

What can make someone vulnerable to exploitation? A person's immigration status can leave them at risk if there are certain visa conditions, or an undocumented status. They may also have financial obligations such as dependent family or debt which can add pressure to accepting unacceptable conditions. Sometimes an employer may also be providing accommodation for the worker, making it more difficult to challenge the situation. If there is a lack of knowledge of rights, or a person doesn't know how to access the justice system or doesn't have access to a Union, this can also make it harder to get help. And if there is a language barrier or a difference in culture, it can be harder for someone to be heard.

A lot of people from Ukraine used to arrive in the UK with a Seasonal Worker's Scheme (SWS) visa. There are advantages and disadvantages to this type of visa when compared to the Homes for Ukraine Scheme (HFU) visa. A SWS visa is usually restricted to six months, a fee must be paid and there is no access to public funds. However, SWS guarantees at least 32 hours of work per week at the National Living Wage (NLW), regardless of a person's age. If a person arrives in the UK on the HFU Scheme, there is no guarantee of any paid work and there is a chance employers could try and pay a salary under NLW. However, under HFU there is access to public funds and a guarantee of 3 years leave to stay.

After agriculture, most Ukrainian people are employed in the hospitality industry. There can be difficulties here with people often being given zero-hour contracts. A lot of people are afraid of the following issues on a zero-hour contract, as means of losing work or having hours/pay reduced:

- Calling in sick.
- Refusing to do things that are not part of the job.
- Reporting or complaining about bad working conditions or pay.
- Refusing to work overtime.
- Turning down shifts.
- Complaining about or reporting harassment or abuse in the workplace.
- Joining a trade union.

There is legislation in the UK to protect workers. It is important to be aware of these laws:

**Employment Rights Act 1996, Working Time Regulations 1998, Equality Act 2010.** It is also important to be aware of the difference in rights between an Employee, a Worker, and a person who is Self-Employed.

All workers and employees have a right to a statement of "employment particulars" **on or before** day 1 of work.

This statement must at least include:

- Start date.
- Job title or description of job.
- Place of work.
- Rate of pay and when it is paid.
- Working hours.
- Sick pay and leave.
- Notice period required.

A zero-hour contract means that an employer does not guarantee any minimum working hours and the worker does not have to commit to any minimum hours worked. This can be an advantage in certain circumstances. However, the risks with this type of contract include:

- having a worker status not an employee status,
- unpredictability of hours which leads to an unpredictability in pay, and shifts can be changed or cancelled at very short notice,
- a low income which means a worker is less likely to qualify for sick pay, and a threat of reduced hours if the worker complains.

If a person is on a zero-hour contract, they are still entitled to National Minimum Wage (NMW).

All workers and employees over the age of 23 are entitled to NMW for each hour worked, from April 2023 this is £10.42 per hour. It is important to keep your own records of the hours you have worked so that you can notice any discrepancies. It is also very important to keep other relevant evidence safe such as bank statements, written employment terms, your National Insurance Number, agency registration or relevant photos. Workers can make an employment tribunal claim for the wages they are owed, **up to a limit of 2 years back pay**.

The Anti Trafficking and Labour Exploitation Unit is an organisation that offers legal advice and support and has a helpful website which includes a spreadsheet that can be used to calculate wage entitlement. You can find their website [here](#).

An employer cannot make deductions from a worker's pay, except for tax, if it is not specified in the contract and agreed beforehand. Employers must give the worker an itemised payslip specifying:

- Gross wages (before tax)
- Any deductions and the reasons for those deductions
- Net wages (after tax)

A worker can check their tax records online on the [Government website](#), or by [contacting HMRC](#).

An employer is entitled to reduce a worker's pay if they provide accommodation for them. But **no pay can be deducted for food or anything else**. The accommodation provided must meet a minimum standard, for example, it must be a private room (not shared), be habitable and available to the worker in practice.

- Any charge for accommodation up to the accommodation offset rate is not counted in the National Minimum Wage calculations: £9.10/day or £63.70/week.
- Any charge above the accommodation offset rate will reduce the worker's NMW calculation but it must not bring pay below £10.42 per hour.

There is an exception to the above rule, which is the Family Worker Exemption. This allows families to pay live-in workers less than NMW if they are considered part of the family. It is argued that this rule is indirectly discriminatory as women workers are most likely to be affected by it. There is work being done to try and scrap this exemption, but this hasn't happened yet.

Information about rest breaks, holidays and sick pay are very important to know:

- Full time workers and employees are entitled to 28 days paid holiday per year which includes public and bank holidays (this can be worked out pro rata for other contracts).
- They should be entitled to 11 hours rest in every 24-hour period and 24 hours rest in every 7-day period.

- In a shift that is longer than 6 hours, there should be at least a 20-minute rest break.
- Statutory sick pay should be £109.40 per week from 4<sup>th</sup> day of absence for up to 28 weeks.

In the UK there are characteristics that are protected and cannot be discriminated against in the workplace. These include:

- Age
- Disability
- Gender reassignment /confirmation
- Marriage/civil partnership
- Pregnancy/maternity
- Race
- Religion or belief
- Sex
- Sexual Orientation

If you believe that you have unfair practice in your workplace, please seek advice. Here are some useful resources:

- Equality advice support services - Telephone: 0808 800 0082 / Text relay: 0808 800 0084
- Citizen's Advice Bureau: <https://www.citizensadvice.org.uk/>
- ACAS (Impartial advice to employers or workers) telephone: 0300 123 1100 or visit their website: <https://www.acas.org.uk/>
- Law Centre's Network (defending the rights of people who cannot afford a lawyer): <https://www.lawcentres.org.uk/>

You can also contact the Warwickshire Homes for Ukraine helpline: 0800 408 1447 or email: [ukraine@warwickshire.gov.uk](mailto:ukraine@warwickshire.gov.uk) for further advice and support.