



Model policy for the recruitment, support and retention of migrant workers

Migrant workers are people who come from other countries to work in the UK. Working in the UK can be a rewarding experience for migrant workers, but it also brings challenges.

As the UK's largest trade union, UNISON has a unique insight into the crucial role migrant workers play in maintaining and delivering essential public services.

Lots of our members and activists are workers from overseas. They make up a large and vital proportion of the health and social care workforce. As UNISON's general secretary, [Christina McAnea highlighted](#): "The government has let social care get into such a dire state that the sector can no longer function without overseas workers to fill the huge gaps in staffing. Instead of grappling with the real problems by funding social care properly and tackling the exploitation of migrant staff, ministers now want to make matters even worse by stopping potential carers from bringing their children here with them."

UNISON believes that migrants have the same rights as all other workers: to be treated fairly, with dignity and with respect.

Migrant workers are protected by UK employment laws, have the right to be paid annual leave and statutory sick pay, and must pay tax and national insurance. They should receive equal pay to British workers doing the same work. Yet migrant workers are often unfairly exploited by unscrupulous employers.

In July 2023, [UNISON wrote to the care minister Helen Whately](#) warning of a 'significant rise' in reports of unacceptable treatment by unscrupulous employers towards workers from overseas.

Social care employers often demand migrants pay large fees of up to £15,000 upfront for finding them a job and housing in the UK. But many end up in poor accommodation, then have rent deducted from their wages.

Some have been paid for just a fraction of the hours they have worked or subjected to racist remarks, harassment, and intimidation if they complain about the treatment of the people they care for.

Others have worked for several months without being paid by their employers, who claim this is to recoup fees towards the cost of the migrant workers' training or accommodation.

Care staff have told UNISON they're expected to share bedrooms and, in some cases, even beds. They are also directed by their employers not to discuss the circumstances of how they came to be in the UK with anyone.

More information:

The [UNISON migrant worker network](#) is an informal network of UNISON members with a first-generation immigrant background including overseas and migrant workers, EU settled status workers and workers who have subsequently naturalised as British citizens or who have indefinite leave to remain.

www.unison.org.uk/unison-migrant-worker-network

UNISON information for migrant workers

www.unison.org.uk/get-help/knowledge/vulnerable-workers/migrant-workers/

Tackling prejudice and xenophobia - information and resources to support activities by UNISON branches and members to challenge the toxic debate around immigration.

www.unison.org.uk/get-help/knowledge/discrimination/tackling-prejudice-and-xenophobia/

Eligibility to work in the UK

Migrant workers' rights to work are subject to their immigration status.

There are a number of different categories of migrant workers who have varying rights to work in the UK. With the move to digital-only immigration status and checks, we are aware that many migrant workers have been wrongfully dismissed or suspended while right to work checks were conducted or visas renewed, and it is having devastating consequences for them.

Immigration advice for UNISON members

UNISON provides free immigration telephone advice to UNISON members who have come to work here from a country outside the UK. We work with the Joint Council for the Welfare of Immigrants (JCWI) to provide this support.

Members of UNISON (with more than four weeks' membership) who need immigration advice and information can call UNISON Direct on 0800 0 857 857. Their contact details will be passed on to a JCWI adviser who will call them back (on Tuesdays, between 10am and 4pm.)

When calling UNISON Direct, members should be ready to give their full name, contact phone numbers and UNISON membership number.

Employers are not required by law to check their workers' eligibility to work in the UK but it is illegal for an employer to employ someone who does not have the right to

work in the UK. The UK government has also increased the fines for employers who employ illegal immigrants.

Employers must follow the revised version of the statutory [Code of practice on preventing illegal working: Right to Work Scheme for employers](#) that came into force on 13 February 2024. It covers all employers in England, Scotland, Wales and Northern Ireland.
www.gov.uk/government/publications/illegal-working-penalties-codes-of-practice-for-employers

If an employer conducts a right to work check on an individual such as by checking their passport or the appropriate immigration certificates and work permits etc. in line with [the code](#), it will have a **statutory excuse** against a civil penalty for employing a person illegally unless the employer knew at any time during the period of employment that the person was working illegally.

The [code of practice](#) lists **the acceptable documents** for the purposes of checking an individual's right to work in the UK, and further guidance on the process is available to employers in the '[Employer's guide to right to work checks](#)'.

It should be noted that right to work checks involving EEA (European Economic Area) citizens and their non-EEA family members, including those who are identified without lawful immigration status have changed. If an EEA citizen, or a non-EEA family member, applies for a job but has not applied to the EUSS (European Union Settlement Scheme) and has no alternative immigration status in the UK, then they will not now be able to pass a right to work check.

- Does the employer treat all candidates in the same way with regard to checking on eligibility to work in the UK? Do they ask everyone they are considering employing to provide them with eligibility documents?
- Conduct a survey of all workers in the workplace to find out on whom the employer has conducted right to work checks. This should be on ALL workers and not only on individuals it believes do not have the right to work in the UK. The employer should not assume that someone does not have the right to work in the UK based on their colour, nationality, ethnic or national origins, accent or length of time spent living in the UK.
- Help members to compile relevant documents to evidence their right to work in the UK.
- Following a TUPE transfer, confirm if the employer has conducted a new right to work check on the transferred employees within the 60-day grace period.

The UK government has also produced [a code of practice](#) to provide practical guidance on what employers should or should not do, **to avoid unlawful discrimination** when complying with their duty as an employer to conduct 'right to work' checks. It also applies where a repeat check on an existing worker is required to be carried out.

It covers all employers in England, Scotland, Wales and Northern Ireland.

Examples of direct discrimination provided by the UK government where there is no statutory exception are:

- rejecting all job applicants because they do not have British nationality or another specified nationality
- refusing to consider any non-British /Irish job applicants.
- where the assumption is made that people from certain nationalities or ethnic groups cannot work as a team
- where individuals are intentionally only recruited from one nationality or ethnic group
- where it is assumed without foundation that overseas qualifications and experience are inferior.

In the context of right to work checks, examples of direct discrimination might include:

- not interviewing someone from a certain nationality or ethnic group because it is assumed that they will not have the right to work in the UK
- carrying out right to work checks for a Black employee but not for his white colleague.

An example of indirect discrimination:

- to require that an employee has been resident in the UK for over 5 years prior to starting employment is likely to be indirectly discriminatory since some migrants who have the right to work will not have been resident in the UK for that period of time.

Employers should:

- be consistent in how they conduct right to work checks on all prospective employees, including British citizens
- ensure job selections are made on the basis of suitability for the post
- ensure that no prospective job applicants are discouraged or excluded, either directly or indirectly, because of known or perceived protected characteristics.

Employers should not:

- discriminate when conducting right to work checks
- only check the status of those who appear to the employer likely to be migrants
- make assumptions about a person's right to work in the UK or their immigration status on the basis of their colour, nationality, ethnic or national origins, accent, surname or the length of time they have been resident in the UK.

More information:

UK government's 'Right to work checks: employer guidance'

www.gov.uk/government/publications/right-to-work-checks-employers-guide

and 'Checking a job applicant's right to work'

www.gov.uk/check-job-applicant-right-to-work

and 'Code of practice for employers: avoiding unlawful discrimination while preventing illegal working: 6 April 2022'

www.gov.uk/government/publications/right-to-work-checks-code-of-practice-on-avoiding-discrimination/code-of-practice-for-employers-avoiding-unlawful-discrimination-while-preventing-illegal-working-in-force-from-6-april-2022-accessible-version

TUC and Migrant Rights Networks' 'Right to work checks: a guide for trade union reps' (October 2022)

<https://migrantsrights.org.uk/resources/right-to-work-checks-guide/>

Pre-employment vetting

Eligibility to work in the UK checks are part of pre-employment vetting. It will involve different from standard data collection because employers will be asking for 'special category personal data' about the individual's racial or ethnic origin.

The UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA 2018) recognise this type of data is more sensitive, and so needs more protection.

- Does the employer have a recruitment policy? Is it based on equal and fair treatment for all applicants?
- Has the recruitment policy and procedure been equality proofed? Is the trade union involved in the equality impact assessment?
- Does it make appropriate reference to the UK General Data Protection Regulation and the Data Protection Act 2018, and relevant workplace policies on data protection and equality?
- Has the employer carried out a data impact assessment and an equality impact assessment covering recruitment practices?
- Is the recruitment policy clear for applicants, candidates and newly appointed staff members about what personal information is collected and why this information is needed? Ensure that the employer is complying with its obligations under the data protection legislation by determining and documenting the lawful basis for processing the workers' personal data before it begins the right to work checking process.
- Are job applicants provided with a privacy policy containing information on the purposes for which all the data they provide will be processed and by whom, the legal basis for processing and how long the data will be kept?

- Confirm where the employer securely stores copies of the right to work documents for the duration of the employment and confirm they are destroyed two years after the employment has ended.
- Have all staff involved in the recruitment process been trained to operate the recruitment policy fairly and non-discriminately? Is this training mandatory?
- If the employer uses a recruitment agency, are they confident that they also comply fully with the equality laws and the employer's equality and diversity policies and procedures?

For help in drafting and negotiating a migrant workers' policy, contact your [regional organiser](#).

If negotiators have any comments on this guidance or any experience of negotiations that could be usefully incorporated in the guidance, please contact Bargaining Support at bsg@unison.co.uk

Further guidance is available from bargaining support for branches and workplace reps www.unison.org.uk/bargaining-guides

Migrant workers have a place in the union.

Key tasks for the branch committee to consider when organising and increasing migrant workers' visibility and participation within their branch:

1. Establish a position on the branch committee for someone who has responsibility for co-ordinating branch organising and recruitment work with migrant workers. (This may initially be held by an existing committee member, but the ultimate aim must be for this position to be held by a migrant worker.) Advise the regional office of this member's contact details and publish them in branch communications.
2. Begin the process of ensuring branch mapping includes migrant workers and build this into the branch development and organising plan with appropriate resources, identifying key migrant worker communities, social, and faith groups.
3. Develop a network of key contacts in the workplace and in the community. Establish a directory, which is available to branch activists for the purpose of creating organising plans.
4. Establish a migrant workers' network in the branch.
5. Work with migrant worker members to identify key opportunities and issues for bargaining and campaigning.
6. Identify key migrant worker activists and encourage their participation in all branch decision-making processes and forums.

The **UNISON migrant worker network** is an informal network of UNISON members with a first-generation immigrant background including overseas and migrant

workers, EU settled status workers and workers who have subsequently naturalised as British citizens or who have indefinite leave to remain.

www.unison.org.uk/unison-migrant-worker-network

Speak to the [Regional Organiser](#) attached to your branch to be put in contact with the **lead for migrant worker organising in your region.**

Organising to Win

The outcome of any negotiation is in large part determined by the relative bargaining power of the parties involved. The most skilled, experienced, and informed UNISON officer, representative or organiser will only get so far without the backing of an organised and engaged membership and a readiness to deploy tactics designed to influence and persuade the employer.

Ultimately bargaining power is the ability to get an employer to do something they would not otherwise do – in this case, reach collective agreement with terms more favourable to UNISON members than would otherwise have been the case.

Bargaining on its own is not organising, until there is active engagement with members as a collective. Every bargaining aim must be seen as an organising opportunity, to build the union and achieve better bargaining outcomes.

The UNISON 5 Phase Plan to Win sets out the 5 phases of successful strategic organising campaigns to support a bargaining aim:

1. Research and development
2. Union base building
3. Launch issue-based campaign
4. Resolve the issue (and go to 5) or escalate and create a crisis (for the employer or ultimate decision maker).
5. Win, celebrate, review and sustain

A resourced and credible plan to win shifts the balance of power in negotiations in favour of UNISON. It enables the bargaining team to negotiate with confidence and win for members.

Where the plan requires member participation and supports the identification and development of activists, significant organising outcomes can be achieved to build the long-term strength of the Branch.

Ideally, bargaining goals can be achieved without the need to escalate campaigns to dispute. Where there is member support for escalation to deal with employer intransigence, further advice must be sought from the [regional centre](#).

Further detail is outlined in the **5 Phase Plan to Win guide and template**, which is available as one of the resources of the Organising to Win series.

UNISON activists can access the resources via the [Organising Space](#) – UNISON's online space for activists. Visit the Organising to Win tile at [OrganisingSpace.unison.co.uk](https://organisingspace.unison.co.uk) or contact your [Regional Organiser](#) for guidance and support.

UNISON staff can access the resources via the Organising to Win page on Pearl and can contact the National Strategic Organising Unit for guidance and support.

Had an organising win? Let's learn the lessons and celebrate! Send a summary to WIN@unison.org.uk and we'll be in touch.

The following model policy can be used in the workplace as the basis for negotiations over the fair recruitment and support provided to migrant workers.

Please note that the text in square brackets [...] indicates where you need to complete information specific to your workplace, or else are notes for you to consider in relation to your negotiations.

1. General principles

- 1.1 For the purpose of this policy, migrant workers are defined as workers from overseas who are not citizens of the UK or Ireland.
- 1.2 Both *[name of employer]* and *[UNISON branch]* recognise that our migrant workers make an immensely valuable contribution to the success of *[name of employer]*'s work in delivering services.
- 1.3 *[Name of employer]* has a vital interest in retaining the skills and experience of such employees, and supporting them during their employment, recognising that any uncertainty about the right to live and work in the UK places extra stresses and demands on workers affected.
- 1.4 *[Name of employer]* will ensure they keep fully informed and comply with their responsibilities under immigration legislation, following best practice recruitment processes in line with [UK government's code of practice on avoiding unlawful discrimination while preventing illegal working](#), to ensure all job applicants and workers are treated fairly and without discrimination.
- 1.5 *[Name of employer]* will ensure that staff are not subject to any form of discrimination arising from their citizenship or residency status.
- 1.6 *[Name of employer]* will ensure ethical international recruitment practices operate within health and social care and adherence to the WHO Global Code of Practice and comply with the [UK government's code of practice for the international recruitment of health and social care personnel](#). *[amend or delete as appropriate to your workplace]*
- 1.7 Whenever *[name of employer]* engages workers via a third party such as a recruitment agency, *[name of employer]* will ensure that they comply with this policy, as well as the recruitment policy *[provide link]* and equality and diversity policy *[provide link]*.
- 1.8 In conducting this policy, *[name of employer]* will work with union reps in all phases of implementation and recognises that the important role of union reps in articulating the collective view of affected staff will assist in monitoring and adjusting the policy over time.

2. Compliance with data protection

- 2.1 **[Name of employer]** processes personal data collected during the recruitment process in line with the data protection policy **[provide link]**. This covers the processing of special categories of personal data.
- 2.2 **[Name of employer]** holds data collected as part of the recruitment process securely and in line with the data protection policy **[provide link]**. It is only accessed by, and disclosed to, individuals involved in managing the recruitment exercise.
- 2.3 No pre-employment checks will be undertaken without the explicit consent of the candidate and their agreement that **[name of employer]** is allowed to access their data upon request.
- 2.4 Inappropriate access or disclosure of job applicant data constitutes a data breach. It should be reported immediately in line with the data protection policy. It may also constitute a disciplinary offence and would be dealt with under our disciplinary policy.

3. Right to work checks

- 3.1 Both **[name of employer]** and **[UNISON branch]** recognise that before appointing any new employee, **[name of employer]** will undertake pre-employment checks, including checking on their right to work in the UK. All offers of employment will be made on a conditional basis, subject to these and other checks, defined fully in the recruitment policy **[provide link]**.
- 3.2 All checks made will be done in a non-discriminatory manner, following [government guidance on avoiding unlawful discrimination while seeking to prevent illegal working](#).
- 3.3 All job applicants will be treated in the same way and undergo right-to-work checks. No assumptions about an individual's right to work in the UK will be made and no prospective job applicants will be discouraged or excluded, either directly or indirectly, because of known or perceived protected characteristics.
- 3.4 What needs to be checked and the method of these checks can vary. **[Name of employer]** can carry out a right to work check manually or online. **[Name of employer]** may also need to carry out repeat checks for employees with time-limited immigration status or when workers have joined **[name of employer]** following a TUPE transfer.
- 3.5 In line with UK anti-discrimination legislation, **[name of employer]** commits to ensuring that any decisions over new and continued employment, or any other term of employment, will not be made contingent on a worker's immigration status.
- 3.6 **[Name of employer]** will not treat job applicants and workers based upon the type of right to work check (such as distinguishing between those who can or cannot use the Home Office online service or provide digital evidence) nor those job applicants and workers with time-limited immigration status any less favourably than others when it comes to the terms and conditions of

employment and any other opportunities such as training, promotion or transfer, benefits, facilities or services, or by dismissing the worker or subjecting them to some other detriment, other than further right to work checks as prescribed in the guidance and '[Code of practice on preventing illegal working: right to work scheme for employers](#)'.

- 3.7 **[Name of employer]** is also a licensed sponsor **[if applicable for your workplace, otherwise delete]**. This allows us, under restricted circumstances, to sponsor a migrant worker if the job they're going to do has a suitable rate of pay and skill level, or meets the other criteria needed for their visa.
- 3.8 **[Name of employer]** will ensure that sponsorship responsibilities are conducted in line with legislation and best practice, and will be done in a non-discriminatory manner.

4. Support and retention of migrant workers

- 4.1 **[Name of employer]** will raise awareness among all job applicants and staff about the right to work in the UK pre-employment checks, and the evidence they may need to provide, in particular by highlighting the UK government site www.gov.uk/check-uk-visa
- 4.2 **[Name of employer]** will endeavour to keep a job open for as long as possible within reason, in order to provide an individual with the opportunity to demonstrate their right to work.
- 4.3 Adequate resources will be made available to fulfil the aims of this policy. This policy and the UK government information and sources of external support and advice will be widely promoted. Copies will be translated as appropriate, freely available and displayed in **[name of employer]'s** offices and through the staff intranet **[amend as appropriate for your workplace]**.
- 4.4 UNISON **[or staff side unions]** will assist in the process of awareness-raising through the distribution of explanatory materials and face-to-face discussion.
- 4.5 Particular consideration will be given to ensuring that awareness-raising reaches members of the workforce who follow atypical working patterns, such as shift workers or zero hours workers.
- 4.6 Where staff are in doubt about their eligibility to work in the UK or the evidence they need to provide, they will be signposted to an immigration advice service such as the Joint Council for the Welfare of Immigrants (JCWI) www.jcwi.org.uk
- 4.7 Staff will be made aware that any legal advice must come from registered immigration advisors and it will be highlighted that UNISON members are entitled to free telephone consultation with a lawyer from the Joint Council for the Welfare of Immigrants via UNISON Direct on 0800 0 857 857.
- 4.8 Staff will be allowed reasonable paid time off to seek advice and attend any appointments that are necessary in relation to immigration status.

- 4.9 Staff will be allowed access to IT and telephone facilities that enable them to make enquiries where they would have difficulty accessing the necessary facilities themselves.
- 4.10 Any reasonable additional facility time required by trade union reps to support staff engaged in making applications in relation to immigration status or seeking advice will be permitted.
- 4.11 **[Name of employer]** will offer appropriate induction and training to all newly appointed workers. **[Name of employer]** recognises that training and support can make a real difference for staff and avoid them facing difficulties while on the job.
- 4.12 **[Name of employer]** will support all members of staff who speak another language to attend courses in 'workplace English' (such as English for Speakers of Other Languages (ESOL) classes) within work hours.
- 4.13 **[Name of employer]** will support members of staff in public-facing roles **[if relevant to your workplace]** to reach the necessary standard of spoken English or Welsh fluency by providing suitable training or re-training within work hours including one-to-one support with someone who understands the context of the role.
- 4.14 **[Name of employer]** recognises that some migrant workers may feel isolated and lonely, and that this may have a negative impact on their mental health. If any worker at any point feels anxious, isolated, left out, lacking guidance or support, they should discuss this with their line manager and/or a member of HR **[amend as appropriate]**. The Mental Health Policy covers all staff and is available at **[include a link to where the policy can be viewed.]**
- 4.15 Confidential support is available for individual employees from the employee assistance programme **[amend as appropriate]** and this may include counselling if appropriate, in addition to practical information and advice on matters such as National Insurance, taxation, housing. **[Include a link or signpost to further information and local organisations that provide support.]**

5. Responsibilities of managers

- 5.1 Line managers should ensure that all workers are aware of this policy and understand their own and the employer's responsibilities. All workers must be treated fairly and consistently.
- 5.2 All managers must ensure that fair recruitment processes are adhered to in line with the recruitment policy **[provide link]**, equality and diversity policy **[provide link]** and data protection policy **[provide link]**.
- 5.3 All managers have a responsibility to create a work environment in which bullying or harassing behaviour is unacceptable and are reminded that the Dignity at Work policy **[or refer to the particular anti-harassment and anti-bullying policy at your workplace]** applies to all staff. Line managers have a

particular responsibility to ensure that within their area of control, everyone has the right to be treated with dignity and respect.

- 5.4 **[Name of employer]** will take seriously and investigate any complaints of discrimination, harassment or victimisation, using the agreed procedures and respecting confidentiality.
- 5.5 All line managers should ensure that all workers are provided with a full and thorough induction. Their aim is to help all workers feel confident in their new working environment, and fully understand working standards and practices and any regulatory framework.

6. Review and monitoring

- 6.1 **[Name of employer]** will ensure that all new workers, supervisors and managers will receive induction on the policy.
- 6.2 This policy and its procedure will be reviewed jointly by unions and management, on a regular basis.

7. Signatories

This agreement comes into force on:

Date:.....

This agreement will be reviewed on:

Date:.....

SIGNED for **[Employer’s name]**

DATE

SIGNED for **[UNISON Branch]**

DATE