**The Overseas Domestic Worker visa- time to build on what works**

The original Overseas Domestic Worker visa was introduced in 1998 to recognise migrant domestic workers as workers and provide a basis for accessing rights.

The visa provided migrant domestic workers with the following key entitlements. Without these, it is impossible for domestic workers to have any level of negotiating power or to access employment law redress:

* Recognition as a worker in the UK
* The right to change employer (for any reason) and find another full-time job as a domestic worker in a private household
* The right to apply to renew their visa, as long as they were in full-time employment as a domestic worker in a private household
* The right to apply to bring dependents to the UK
* A pathway to apply for settlement

Although domestic work remained an underregulated sector and domestic workers were at risk of exploitation, these rights meant that ultimately workers on the ODW visa had options to leave exploitative employment. This gave workers vital bargaining power and allowed them to begin to redress the imbalance between themselves and the employer on whom they generally relied for employment, visa, and accommodation as well as information about the UK.

Devastatingly, in April 2012, changes were made to the immigration rules which removed many of these rights at the stroke of a pen. The reason for this change has never been clearly explained.

ODW visa holders became tied to their employers on a visa which expired after 6 months and could not be renewed. While theoretically, ODW visa holders continued to be recognised as workers during this time, in practice these circumstances meant that rights were inaccessible.

As the Modern Slavery Bill passed through parliament, amendments were tabled to reinstate the rights contained within the original ODW visa. While voted into the Bill in the Lords, the amendment was struck out in the Commons with the government commissioning an independent review into the visa. With the then Minister asserting that:

“We have asked for this review to take place and we look forward to the recommendations. I cannot commit to a future Government, but the intention is that whoever is in government—… —will implement the review’s recommendations.”[[1]](#footnote-1)

The recommendations in the review, carried out by James Ewins QC, were not implemented in full, despite the review explaining the importance of domestic workers being able to change employer for any reason, in order to prevent exploitation and exploitative situations from worsening. Instead, in

2016 the visa was changed so that domestic workers on the ODW visa could change employers but not extend their 6-month visa, except if they were referred to the UK’s National Referral Mechanism as trafficked.

**Time to reinstate rights**

 Migrant domestic workers are predominantly female workers working in private households, the majority live in the house in which they work. As migrant workers with multiple dependencies on one private employer, working in a private household and often lone working, it is well established that migrant domestic workers are at high risk of exploitation. The reasons for removing the basic rights of the original Overseas Domestic Worker visa have never been clear or made sense. Assertions that trafficking protections could justify the removal of workers’ rights fail to address the reality of exploitation, which occurs on a spectrum. It is wrong on many levels to prevent someone from challenging or leaving exploitation early on on the basis that they can later be identified as trafficked. This is without considering the failure of the UK’s anti-trafficking systems to work in the interests of victims.

Twelve years on from the removal of rights from the original Overseas Domestic Worker visa it is time that these are reinstated. Migrant domestic workers have been failed by the UK immigration rules for too long.

**About Wahyuni with pre-2012 ODW Visa**

In 2004, Wahyuni arrived in the UK and experienced maltreatment, including non-payment of salary, lack of days off, and being constantly on duty for almost 24 hours as the child she cared for slept with her even at night. Moreover, she was a victim of sexual assault by her male employer, who threatened to kill her if she reported the abuse to her female employer or her own family.

While accompanying her female employer on a shopping trip, Wahyuni was approached by a concerned woman offering assistance, to which Wahyuni immediately agreed.

Before the expiration of her 6-month Overseas Domestic Worker (ODW) Visa, Wahyuni successfully secured a new employer, enabling her to renew her visa. While being fully aware of her option to report the sexual abuse she endured, Wahyuni chose to move past the ordeal.

Having obtained British citizenship, Wahyuni continues to support herself as a domestic worker and dutifully pays her taxes and National Insurance contributions. Furthermore, she is now able to regularly visit her family in Indonesia. Against all odds, Wahyuni has been able to reconstruct her life.

**About Lala with post-2012 ODW Visa**

Lala, a Filipino domestic worker, accompanied her employer to the UK and found herself trapped during the 2021 pandemic. Throughout this period, she faced appalling conditions: she was not paid, overworked for 16 hours a day, denied any days off, and subjected to sexual abuse.

Additionally, her employer held her passport and threatened her with police action if she tried to escape. After the lockdown was lifted, Lala managed to seek help through Facebook and Messenger, and ultimately, she was rescued. However, due to fear of her employer, she refused to report the abuse to the police.

Despite receiving a 'Positive Reasonable Ground Decision', her right to work was compromised, as her ODW Visa had expired while waiting in the National Referral Mechanism (NRM) for over two years without a conclusive decision. Lala's persistent anxiety regarding her job status highlights the profound effects of these traumatic experiences on her life and also reveals the ongoing systemic deficiencies she is confronted with.

1. https://hansard.parliament.uk/commons/2015-03-17/debates/15031750000002/ModernSlaveryBill [↑](#footnote-ref-1)