

Employment rights information



for workers in the building services,
cleaning and security sectors

VULNERABLE WORKERS PROJECT 020 7377 0773

DEPARTMENT FOR BUSINESS
ENTERPRISE & REGULATORY REFORM



INTRODUCTION

This booklet has been produced by the Vulnerable Workers Project at the TUC and provides information on basic employment rights for workers.



The TUC estimate that one in five workers in the UK are vulnerable and insecure in their employment as they are not in a position to secure their statutory employment rights.

The Vulnerable Workers Project is delivered by the TUC and aims to demonstrate good practice in ensuring that workers receive their full entitlements to their legal employment rights and are also provided with opportunities to fulfil their full potential and progress in employment.

As a pilot, the project will focus on workers in the Building Services sector (mainly cleaners and security guards) working in the City of London and Tower Hamlet areas.

This booklet informs workers of their basic employment rights. However, being aware of your employment rights does not mean that you will receive those rights – it is important that workers are in a position to be able to enforce their rights.

You can contact the Vulnerable Workers Project on **020 7377 0773** to obtain information on who to contact to give you assistance to enforce your employment rights.

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EMPLOYMENT AGENCY WORKERS

Employment agencies provide workers to hirers on a short-term basis or to perform a specific piece of work. There is no limit on the number of employment agencies that you can register with.

Your rights as a worker for an employment agency

As an employment agency worker you have rights from the first day that you start work. These include:

- ➔ Being paid the **National Minimum Wage**
- ➔ **Working Time Rights** – including breaks and holidays and a limit on the working week
- ➔ **Health and Safety Protection**
- ➔ The right to join a **trade union**
- ➔ Protection against **discrimination** on the grounds of gender, race (includes nationality), disability, age, religion, sexual orientation and being, or not being, a trade union member.

Getting Paid

Employment agencies cannot withhold your pay, even if they have not been paid by the hirer. It is the agency's responsibility to ensure that you are paid for all the hours that you have worked. If a hirer refuses to sign a timesheet, it is the responsibility of the employment agency to find out how many hours you worked and pay you.

We strongly recommend that you record the hours that you have worked including start time, finish time and any breaks. The

Vulnerable Workers project can provide Time Record Notebooks to assist you in this.

If a labour provider is refusing to pay you for work you have done you should seek advice from your trade union or an advice agency. You can contact the **Vulnerable Workers Project** to find out who best to contact.

Rights for Employees

Often the employer that your employment agency places you with will assess your performance with them. If they are happy with your performance, they may offer you the opportunity to apply for a vacancy when one arises. If you are successful in getting the job you will move from being a temporary worker to an employee. Your employment agency cannot stop you doing this.

Employment agencies can charge a fee to the hirer that you work for if the hirer makes you permanent. This charge should only be paid by the hirer.

It is illegal for a labour provider to charge you for finding you work. If this happens you should report it to the Vulnerable Workers Project, your trade union or the **Employment Agencies Standards Inspectorate** – see useful contacts.

As an employee you will be entitled to more rights including

- ➔ The right to claim **unfair dismissal** after a year
- ➔ The right to **redundancy pay**
- ➔ The right to take **maternity, paternity** and **parental leave** and request **flexible working**
- ➔ Paid time off for **antenatal** checks

Some useful things to remember

Always check your contract and any other documents that you are given from your employer. Make sure that you understand these documents before you agree to anything. Do not be afraid to ask the labour provider if you do not understand something or are unsure about anything at work

Never give your passport to anyone else. The labour provider will want to look at it to confirm your identity and to check that you are able to work in the UK. They will need to copy it, but make sure you do not leave it with the labour provider.

You can find out more about the above employment rights elsewhere in this information pack.



MIGRANT WORKERS

If you are a British citizen, or from a country that is a member of the **European Economic Area** (EEA), you have the right to work in the United Kingdom. If you have entered the UK as a dependant, you will also have the right to work.

No documents required

If you are a national of one of the countries on the right you have full freedom to work in the UK and you are not required to provide any documents

COUNTRIES WITH NO REQUIREMENT TO PRODUCE DOCUMENTS

Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, UK

Documents needed for employment

If you are from one of the new A8 EU member states, to work in the UK, you need to be registered with the Home Office or have a visa. You also need to have a **National Insurance Number** and, most likely, you will have to pay tax.

A8 COUNTRIES – DOCUMENTS REQUIRED

Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia

You must register with the Home Office on the **Worker Registration Scheme** within 30 days of starting work. To register you will need to contact the Worker Registration Team. You will need to complete **Form WRS** giving details of your name, address, date of birth, nationality, and your employment details.

There is a **fee of £90** that you will have to pay when sending the WRS form in. If you are successful, you will be given a registration card and certificate.

Once you have been working legally for 12 months without a break you will have full rights of free movement and will no longer need to register on the **Worker Registration Scheme**.

If you are a Bulgarian or Romanian national you are also required to complete a work authorisation document before starting work.

See useful contacts for further details.

From a Non EU Country

If you are from a non-EU country, and want to work in the UK, you should check that your status allows you to do so before taking up employment and that the type of work that you intend to do is permitted. Within the Cleaning and Security sectors work as a domestic worker in private households is permitted.

Employment rights

All workers in the UK, including new arrivals to the UK and migrant workers are legally entitled to certain employment rights. These include

- ➔ to be paid, at least the **National Minimum Wage**
- ➔ **paid holidays**
- ➔ **rest breaks** during a working day
- ➔ protection against conditions that are detrimental to workers' **health and safety at work**
- ➔ the right to join a **trade union**

➔ **protection against discrimination** on the grounds of gender, race, disability, age, religion, sexual orientation or being, or not being, a trade union member.

Details of the above rights are given in other sections of this booklet.

Some useful things to remember

Always check your contract and any other documents that you are given from your employer. Make sure that you understand these documents before you agree to anything. Do not be afraid to ask your employer or employment agency if you do not understand something or are unsure about anything at work.

Never give your passport to anyone else. Your employer or employment agency will want to look at it to confirm your identity and to check that you are able to work in the UK. They will need to copy it, but make sure you do not leave it with them. If they refuse to return it to you should seek advice immediately. You can contact the **Vulnerable Workers Project** and we will put you in touch with the most appropriate advice.

DISCRIMINATION

All workers are protected against discrimination. Discrimination is where you are treated less favourably than others and the treatment cannot be justified. Under legislation there are specific areas under which workers are protected against discrimination. These are:

- ➔ Race/nationality
- ➔ Religion
- ➔ Sex/gender
- ➔ Disability
- ➔ Age
- ➔ Sexual orientation
- ➔ Being a member, or not being a member, of a trade union.

There are two forms of discrimination – direct discrimination and indirect discrimination.

Direct discrimination is when unfavourable treatment is being directed against you. Examples of unfavourable treatment can include:

- ➔ Not being given the job because of one of the above reasons
- ➔ Bullying, harassment, intimidation due to the above
- ➔ Being sworn at or called derogatory names
- ➔ Being given the worst jobs to do
- ➔ Being paid less or working under less favourable employment terms
- ➔ Being denied training or access to services.

WE HAVE NO DISCRIMINATION
HERE WE TREAT ALL
WORKERS EQUALLY BADLY.



Indirect discrimination can occur when an employer follows a policy or practice that disproportionately affects one group. Examples could be:

- Not allowing time off for religious holidays
- Asking a woman if she intends to start a family
- A requirement to be mobile
- Failing to make reasonable adjustments to allow easy access to buildings.

You should remember that even if you are being treated less favourably than other workers it does not automatically mean that you are being discriminated against – the employer or labour provider may be able to give a perfectly good reason for their policy or behaviour.

However, if you feel that you have been treated unfairly you should contact your trade union or seek advice – see ‘Useful Contacts’ (page 47).

WAGES AND GETTING PAID

The National Minimum Wage

All workers aged 16 years or over are entitled to be paid, at least, the **National Minimum Wage**.

From October 2007:

- ➔ If you are 16 or 17 years old you are entitled to £3.40 an hour (£3.30 an hour before October 2007).
- ➔ If you are 18, 19, 20 or 21 years old you are entitled to £4.60 an hour (£4.45 an hour before October 2007).
- ➔ If you are aged 22 or over you are entitled to £5.52 an hour (£5.35 an hour before October 2007).

Piece rate

Some people (especially homeworkers) are not paid by the hour but by what they produce (their output), or are paid on completion of a specific job. This is called being paid by piece rate. You are still entitled to the minimum wage if you are paid by piece rate.

Deductions from wages

Employers can only make deductions from your wages if:

- ➔ **you have agreed in writing** beforehand to the deductions being made
- ➔ your **contract or written agreement** with your employer **allows the employer** to make the deductions
- ➔ the deductions are **required by law**.



- ➔ You can expect your employer to make the following deductions:
- **Tax and National Insurance:** In most cases your employer will deduct money from your wages for tax and national insurance contributions
 - **Accommodation:** If accommodation is provided for you, the maximum that can be taken from your pay is £4.30 per day or £30.10 per week from October 2007 (Before October 2007 the rates were £4.15 per day, £29.05 per week).
 - This does not mean that you cannot be charged more, but this amount only can be taken off your pay before working out whether you are getting the minimum wage.

- **Payments for Goods and Services:** If you choose to use any goods like meals or transport, which is provided from the agency then deductions can be made from your wages. If, however, you are not given a choice, the deductions made cannot result in your hourly rate of pay falling below the rate of minimum wage.

Pay Statements

Employers should give you a pay statement with your wages. At a minimum this should include

- ➔ the **name of the employer** or hirer that is responsible for paying your wages
- ➔ the **gross amount that you have earned** together with information on how this sum has been calculated (for weekly wages usually the hourly rate and the number of hours worked)
- ➔ **deductions made** for tax and National Insurance purposes
- ➔ any **other deductions made** with the reasons for making the deductions
- ➔ the **net amount of wages**, that is, your gross wage minus all the deductions made – this is sometimes referred to as your ‘take-home pay’.

You should keep all of your pay statements as these can be very useful as evidence should you have any dispute about whether you are being paid your full wages.

National Insurance and Tax

In order to work legally you will require a **National Insurance Number**. To get a National Insurance Number you will need to contact your nearest **Job Centre Plus** by calling 0845 6000 643. You will need proof of your identity, such as a passport, as well as evidence that you are working.

If you work in the UK you will, most likely, have to pay **National Insurance and Tax contributions**. Your employer should make the arrangements to deduct the appropriate amount of tax and National Insurance from your wages (see page on deductions allowed from your wages). Your employer should give you pay statements which include the amount of tax and National Insurance that has been deducted from your wages.

Some employers may offer you a job without paying National Insurance or tax. This is also known as cash in hand, and is against the law. It will be hard for you to enforce any of your legal rights if you are not working legally.

KEEPING RECORDS

Disputes over whether your employer has paid you the correct wage, or even the minimum wage, often centre around the number of hours that you have worked, the employer claiming that you have not worked as many as you actually have. **We strongly advise you, therefore, to keep a written record of all the hours that you work on a daily basis – record your start time, finish time and any breaks that you have.** The Vulnerable Workers Project can supply you with booklets to help you do this.



Bank Accounts

A lot of employers and employment agencies pay wages to their workers through bank accounts. Your employer or employment agency will require your bank details if they pay by this method. To open a bank account you will need identification to prove who you are and where you live. This can be a driving licence and a bill (gas, electricity or telephone).

BENEFITS

You may be entitled to extra financial help when you are in employment. Whether you qualify and how much you get will depend on how much you earn and your personal circumstances.

Some people do not qualify for tax credits and child benefits because they are subject to immigration control. You may be subject to immigration control if

- ➔ you require leave to enter or remain in the UK
- ➔ your leave to enter or remain in the UK is subject to the condition that you must not have recourse to public funds.

Claiming benefits if you are a migrant worker

To claim **Child Tax Credit** and **Working Tax Credit**, you must be aged 16 or over and live in the UK. Short absences abroad for holidays or on business will not affect eligibility.

Working Tax Credit

Working Tax Credit is a payment to top up your earnings if you are working on a low income. Extra amounts are payable if you have a disability, if you work 30 hours or more a week, and where you have childcare costs.

Tax credits are usually calculated on a yearly basis and paid as part of your wages. The amount that you get can vary if your circumstances change during the year i.e. if you have another child. If you are a couple and are living together then you will need to make a joint claim.

Child Tax Credit

This is available if you are responsible for a child or a young person, and have an income below a certain amount. The amount you get will depend on how many children you have, and whether they have any disabilities.

Child Tax Credit is available whether or not you are in work and is paid to the main carer in a household.

Council Tax and Housing Benefit

This is available to help pay for your rent and Council Tax. You will be eligible for this if you have low income and low capital.

If you are from overseas or have recently come to live in the UK you may have difficulty claiming the benefit, depending on your immigration status.

Child Benefit

This is a benefit for people bringing up children and is paid for each child. You can get this if your child is under 16 years, or 19 years if they are in full time education.

If you have recently come from abroad then you will need to satisfy further rules.

WORKING TIME RIGHTS

These cover rest breaks, holidays and holiday pay, night work and how many hours you can work each week. They apply to all workers including employment agency, casual and part-time workers as well as employees.

Holidays

From the first day that you start work, you start to accumulate holidays. You are, prior to October 2007, entitled to a minimum of four weeks paid holiday in a year.

From October 2007, however, you will be entitled to 4.8 weeks paid holidays rising to 5.6 weeks from April 2009. Employers are being encouraged to give you the full entitlement of 5.6 weeks paid holiday from October 2007 but are not legally obliged to do so. However, if they do not give you the full entitlement, they will have to pay you an additional 0.8 weeks, the difference between 5.6 weeks and 4.8 weeks to compensate for not giving you your full entitlement.

If you have a contract for a year's work and you work five days a week you are entitled to a minimum of 20 days paid holiday. If your contract is for six months then you are entitled to a minimum of 10 days paid holidays.

If you leave part way through your holiday year your holiday entitlement will be calculated on a proportionate basis minus any holidays that you have taken.



Example

If your holiday year runs from January to December and you leave after April, that is three months into your holiday year, and you have taken three days holiday then you will be entitled to

➔ $20/4 \text{ days} = 5 - 3 = 2 \text{ days paid holiday due.}$

If you have taken more than your holiday entitlement due when you leave, your employer can subtract the amount of extra holidays taken from your wages. For instance, in the above example if you had taken seven days holiday rather than three you would have taken an additional two days holiday than you were actually entitled

to. Your employer can, therefore, deduct two days from your final wages.

Your hours and pay may vary over time. If this is the case your earnings over the most recent 12-week period are divided by the hours that you have worked over the same 12-week period to give you an average hourly rate and this is used to determine your holiday pay.

Rest Breaks

If your working day is longer than six hours then you are entitled to a 20-minute break. If you are under the age of 18 then you are entitled to a 30-minute break for every four hours that you work.

Working Week limit

You have the right not to work more than an average of 48 hours a week. This limit is averaged over a 17 week period. You can choose to work more than this, and if you do choose to then your employer should ask you to sign a document. This is classed as opting out of the working time agreement. However, it should be your free choice – your employer should not put pressure on you to opt-out.

You should be wary of the employer presenting you with a document or contract that says that you are willing to work more than 48 hours a week or opt-out. You should remember that it is your choice whether you work longer hours – the employer cannot order you.

You can choose to opt back into having this rights, however you may have to wait some time to gain protection.

Night Work

If you regularly work during the night, then you should not work more than eight hours in each 24 hour period. The **Working Time Regulations** allow for night work to be averaged over 17 weeks in the same way as weekly hours of work. If you do work during the night, your employers should provide you with free health assessments.

Enforcement

Your right to paid holidays is enforced through employment tribunals. Your right to rest breaks is enforced by the **Health and Safety Executive (HSE)**.

If you have any problems with your working time rights you should contact your trade union or an advice agency.

You can contact the Vulnerable Workers Project and we can put you in touch with the relevant trade union or advice agency.



PREGNANCY AND MATERNITY

The law gives special protection to pregnant women at work. If you are pregnant you have the right to:

- ➔ **paid time off** for ante-natal care
- ➔ **maternity leave** of at least 26 weeks and, possibly, up to 52 weeks
- ➔ maternity pay benefits, usually **Statutory Maternity Pay** or **Maternity Allowance**, and in some cases a **Sure Start Maternity Grant** provided you meet certain conditions
- ➔ **protection against unfair treatment** or dismissal.

Employers also have certain obligations to ensure the health and safety of pregnant employees.

Telling your employer that you are pregnant

You must tell your employer that you are pregnant at least 15 weeks before the beginning of the week when your baby is due. You should also tell them when you want to start your maternity leave and receive Statutory Maternity Pay.

However, it is a good idea to tell your employer earlier, because it will let them plan around your maternity leave and carry out their legal obligations to you. This is particularly important if there are any health and safety issues. You cannot take paid time off for ante-natal appointments until you have told your employer you are pregnant.

Maternity leave

If you are a mother who is an employee, you have the statutory right to a minimum amount of maternity leave. Your employer may also offer their own maternity leave scheme.

Maternity leave is for 26 weeks. If you have been with the same employer for 26 weeks by the end of the 15th week before the beginning of the week when your baby is due, you also have the right to an extra 26 weeks of '**Additional Maternity Leave**' so you can take up to one year in total. You may be entitled to receive **Statutory Maternity Pay** for up to 39 weeks of the leave. It is your choice how much Maternity Leave you take.

Statutory Maternity Pay (SMP)

If you are entitled to SMP, your employer will pay you 90 per cent of your average weekly earnings for the first six weeks, then up to the standard rate for SMP for the remaining 33 weeks.

If you are entitled to SMP, you will receive it even if you decide to leave your job before you start receiving SMP. You do not have to repay it if you decide not to go back to work or leave your job whilst getting SMP.

If you are employed you can choose when you want your SMP to start. Unless your baby is born sooner, the earliest SMP can start is 11 weeks before the week your baby is due.

How much SMP you will get

Your employer will pay you 90 per cent of your average weekly earnings for the first six weeks, then up to £112.75 for the remaining 33 weeks. You pay tax and National Insurance on SMP.

MATERNITY ALLOWANCE

If you cannot get SMP from your employer, you might get **Maternity Allowance (MA)** if you:

- ➔ are self-employed and pay **Class 2 National Insurance** contributions or
- ➔ have a **Small Earnings Exemption** certificate
- ➔ are **not employed but have worked** close to or during your pregnancy

The conditions are that you worked (either on an employed or self employed basis) for at least 26 of the 66 weeks before the week your baby was due (a part week counts as a full week) and earned an average of £30 over any 13 of those 66 weeks.

You get the standard rate of MA or 90 per cent of your average weekly earnings, whichever is less, and it is paid for up to 39 weeks. If your expected week of childbirth was earlier than this then it is paid for up to 26 weeks. MA is not liable to income tax or NI contributions.

PATERNITY LEAVE

If you are a father-to-be, or you will be responsible with the mother for bringing up the child, you have the right to paid paternity leave providing you meet certain conditions.

You can take either one or two weeks. You cannot take odd days off, and if you take two weeks they must be taken together.

You can choose to start the leave:

- ➔ on the day the baby is born
- ➔ a number of days or weeks after the baby is born

- ➔ from a specific date after the first day of the week in which the baby is expected to be born

Your leave can start on any day of the week (but not before the baby is born), but has to finish within 56 days of the baby being born or, if the baby is born before the week it was due, within 56 days of the first day of that week. If your partner has a multiple birth, you are only allowed one period of paternity leave.

Discrimination

It is unlawful sex discrimination for employers to treat women less favourably because of their pregnancy or because they take maternity leave, or a man for taking paternity leave. Such treatment includes things like:

- ➔ trying to cut your hours without your permission
- ➔ suddenly giving you poor staff reports
- ➔ giving you unsuitable work
- ➔ making you redundant because of your pregnancy (you might still be made redundant for other reasons)
- ➔ treating days off sick due to pregnancy as a disciplinary issue

Your employer cannot change your terms and conditions of employment while you are pregnant without your agreement. If they do, they will be in breach of contract.

HEALTH AND SAFETY PROTECTION

All workers are entitled to work in an environment that is healthy and safe. This includes workers for employment agencies and casual workers as well as employees. It does not matter what your immigration status is, **you are entitled to health and safety protection** at work.

All workers should also receive training on the health and safety issues in the workplace.

Employment agencies are responsible for ensuring that they do not place you in a job that you are not appropriately qualified for. They should also check that the hirer has carried out a health and safety risk assessment and ensure that you are made aware of the situation before placing you with the organisation. The hirer that you are placed with is responsible for making sure that it is safe and provide you with appropriate health and safety training.

Examples

Common breaches of health and safety include:

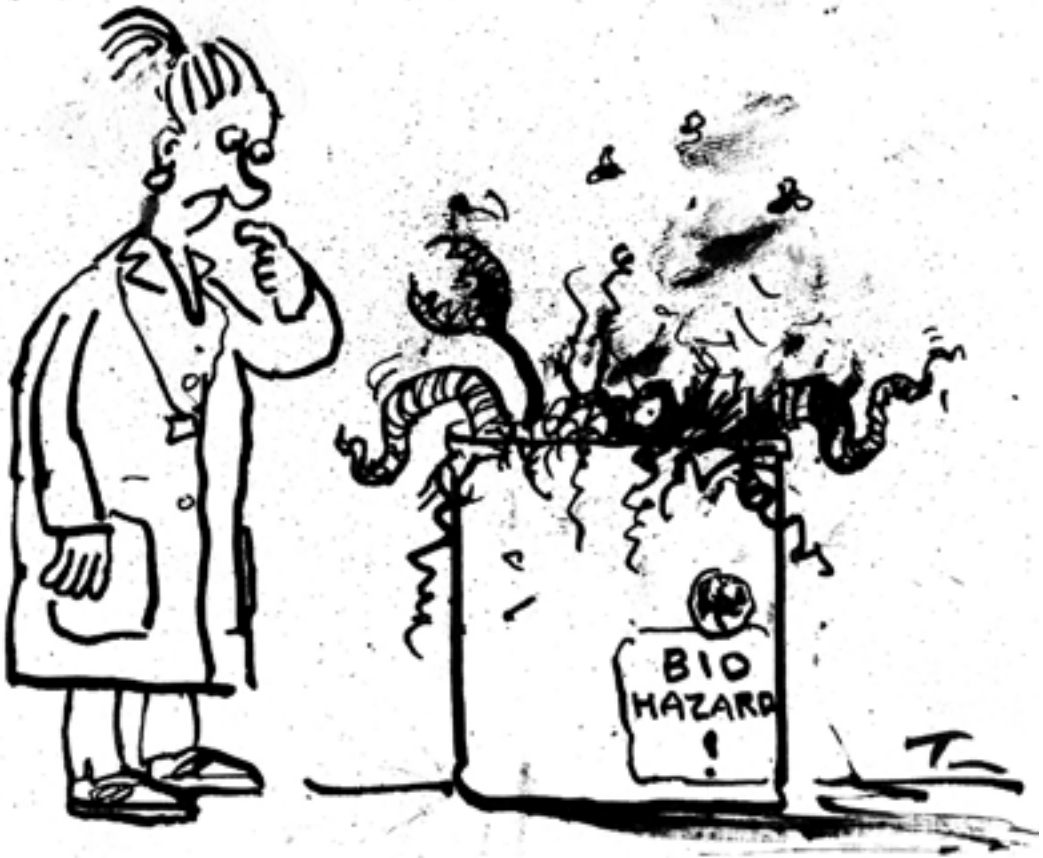
- ➔ workers not receiving any training or induction
- ➔ workers having to work when ill due to the employer not paying sick pay
- ➔ having to work excessively long hours
- ➔ lack of adequate protective clothing
- ➔ working with defective machinery or toxic substances
- ➔ working alone or without adequate back up.



Risk assessment

A **risk assessment** should be conducted in all workplaces and this should include taking action to counter any risks notified. **Safety Representatives**, appointed from the workforce, have legal powers and play a vital role in ensuring, maintaining and improving health and safety in the workplace.

Often managers, themselves, are unaware of how to conduct a risk assessment. The guidance produced by the **Health and Safety Commission** (HSC) 'Five steps to risk assessment' is a good starting point for safety representatives assisting managers to meet their legal Health and Safety responsibilities.



Pregnancy

Your health and safety requirements can change according to your personal circumstances. One of the most important is women in the workforce who become pregnant.

A risk assessment should include actions that the employer will take, including finding alternative work, to avoid pregnant women putting themselves, or their baby, at risk.

If your job involves any physical activity such as heavy lifting, continual standing or bending or any other activity that causes you distress or if you are exposed to toxic substances or other risks then you should ask your employer to show you a copy of the risk assessment. If your employer cannot show you one, or if it does not take pregnancy into account, then you should request that your employer conducts a risk assessment that also includes actions around pregnancy.

Bullying and harassment

Health and Safety protection also covers protection from bullying, harassment, threats or intimidation. If this occurs you should report it to your supervisor or manager and ask that they take measures to prevent it occurring.

If your manager or supervisor is involved you should report the matter to the HSE or the appropriate enforcement agencies.

Enforcement

If you think that Health and Safety is an issue, in the first instance raise the issue with your safety representative if there is one, if not, with your supervisor or manager. If you work for an employment agency you may also wish to speak to your

agency. They may be able to speak to the hirer on your behalf or raise it as an issue.

If no action is taken or you are unhappy with the action taken, then you should approach your trade union, through your safety representative, or an advice agency. You can also contact the Health and Safety Executive on their helpline number. However, you have a better chance of getting the matter resolved in the workplace and your trade union is, therefore, your strongest option.

You can contact the Vulnerable Workers Project about training to become a safety representative and we can also put you in touch with the relevant trade union.

RESOLVING DISPUTES

It is usually better to try to resolve issues that you have with your employer at work and at the earliest stage possible.

Grievance and disciplinary procedures are important as they are intended to enable complaints and disputes to be settled fairly and consistently.

There are now legal requirements for both employers and employees to follow a standard procedure in resolving disputes in the workplace. Good employers have, however, been using these procedures for years.

Although the legislation only applies to employers and employees, and not to employment agency workers or employment agencies, those working for employment agencies are recommended to follow the principles of the statutory grievance procedures if you want to raise a complaint with your agency or employer that you are carrying out the work for.

RAISING A GRIEVANCE

A grievance is a complaint by an employee about an action that his/her employer has taken or is thinking of taking. There can be any number of potential issues, such as

- ➔ you are **asked to do something that is not within your contract** of employment or that seems unreasonable;
- ➔ **concerns about workplace practices** – such as health and safety;
- ➔ **how you are treated** by your manager and/or colleagues;
- ➔ **not being paid** your full wages.

You should, first, try to raise the matter informally with your employer by speaking to them about the issue. If, however, the matter is not addressed or if you are not able to talk informally to your manager, or if the complaint is serious, for example blatant discrimination or criminal activity, then you should follow the more formal standard procedure.

The standard procedure is:

Stage 1

You should **write a letter** to your employer about the issue that you are complaining about.

Stage 2

The employer should then **arrange a meeting** with you to discuss your grievance. After discussion your employer should inform you of their decision.

You may want to consider some of the following to support your case:

- ➔ Exactly what is the issue?
- ➔ What evidence is there to support what you are saying?
- ➔ Are there any witnesses who might support what you are saying?
- ➔ What affect the issue has upon yourself and the business?
- ➔ What actions you think should be taken to resolve the issue?

HOW TO WRITE YOUR GRIEVANCE LETTER

- *Keep your statement brief, unemotional and to the point*
- *Keep your points brief – using bullet points is a good way of setting the details of your grievance out*

• *If possible, type your statement.*
What to include in your grievance statement

- *Say that you are making a grievance in line with the statutory dispute resolution procedures*
- *Describe what has happened in date order with the most recent event last*
- *Include the names and job titles of any witnesses or people involved*
- *Say what you have done to try to resolve matters before making a formal grievance.*

Stage 3

If, after the grievance hearing, you think that the matter has not been resolved satisfactorily, or if you have additional information that it was not possible to present at the grievance hearing, you should **inform your employer that you wish to appeal**.

It is recommended that you also put this in writing. Give the reasons why you are appealing. It might be useful for you to write down each point in the employer's decision that you disagree with, together with the reasons why you disagree.

Your employer should then arrange an appeal hearing. This should be heard by someone more senior than the person who made the original decision. The appeal hearing is the end of the process within the workplace and the decision made at that meeting is final.

Employment tribunal

If you think that the employer has not met his/her legal obligation and broken your employment rights the only option open to you is to **make a claim at an employment tribunal** (see information sheet on 'Enforcing your rights').

You should remember that you will need to make an application to an employment tribunal **within 3 months** of the date of the incident that you are complaining about. This applies even if you have a grievance hearing that is still running.

Disciplinary Procedures

If your employer is unhappy with your performance or conduct at work they have the power to discipline you. As with



grievances there is a **standard procedure that employers should follow when taking disciplinary action**. Good employers will use the procedures to encourage employees to improve rather than imposing punishment.

Conduct can cover a range of issues – examples of misconduct in your workplace can usually be found in an **Employee Handbook**.

Conduct can cover a range of issues, but can include:

- ➔ **Breach of company rules**, for example, persistently turning up late;
- ➔ **Not following instructions**;
- ➔ **Being dishonest** such as falsifying timesheets or documents;
- ➔ **Swearing** or being abusive

Capability means not doing the job to a sufficient standard. Examples of work duties not performed to a sufficient standard are:

- ➔ Cleaning standards performed in your work are **below the required standard**;
- ➔ **Persistent faults** in using computers or technology;
- ➔ **Making a serious mistake** or one that could cost the company a lot of money.

It is important that the required standards have been made clear to you and that you receive the training and support to help you reach the required standards.

The procedures that should be followed if your employer is taking disciplinary action against you are:

- ➔ **You are informed in writing**;

- ➔ **A meeting is arranged;** allowing you time to prepare what you are going to say and to bring a trade union representative or workplace colleague with you;
- ➔ At the meeting you should be given an **opportunity to explain;**
- ➔ A decision is made;
- ➔ If it is believed that the disciplinary action is at fault, an appeal can be made.

Help and support

It should be in your employer's best interest to have an open and frank meeting about your complaint. However, many employers feel defensive when having to deal with a grievance complaint. It can also be daunting for employees and workers to talk to your employer face to face about the issue especially if this is something that you have not done often.

For these reasons you have the right to bring a colleague (that is someone who works with you) or a trade union representative with you to the meeting. A trade union representative will be trained, and likely to be experienced in, dealing with grievance procedures.

The Vulnerable Workers Project can provide you with information about joining a trade union. **ACAS** also have a useful website on dealing with issues at work – see Useful Contacts.

EXAMPLE OF GRIEVANCE LETTER

Mr A Worker
1 Skivvy Row
Hardtown

Rollinginit Cleaning Company
The Mansion
2 Swish Place
Fairtown
dd/mm/yy

Dear Mr/Ms Manager

I wish to make a complaint under the company's grievance procedure which, I have been advised, is required to comply with the statutory Dispute Resolution Regulations.

The nature of my grievance is:

[list what has happened in date order and include any names of people involved]

I have tried to resolve the matter by

[say who you have spoken to, what you have done about the matter]

However, the matter, to date has not been resolved.

I am, therefore, requesting that you arrange a meeting to resolve my grievance. I understand that under the Dispute Resolution Regulations that I am entitled to be accompanied by a trade union representative or colleague at the meeting.

I hope that we can resolve the grievance satisfactorily and to our mutual benefit.

Yours sincerely

A Worker

TRADE UNIONS

It is usually best if you can resolve any dispute concerning your employment rights at the workplace with your employer. This can help with employment relations (although it might seem fraught at the time), help you continue in your employment and it might lead to an improvement on your minimum employment rights and other conditions of employment.

Trade unions, in the UK, are independent of employers and Government and aim to improve the conditions of working people. As such, they are able to provide expert advice and support in dealing with disputes over employment rights and other issues at work. This support includes providing representation at meetings called by the employer. As explained elsewhere, this is an essential component of resolving disputes. Of all organisations, only trade unions have been given the legal right to represent workers in disciplinary and grievance situations.

Everyone has the right to join a trade union. It is illegal for your employer to treat you worse than others if you join a union. The average cost of being a trade union member is £1.50 a week for part-time workers and £2.50 for those working full-time.

Most people join a trade union because they want representation and protection at work. However, unions are more powerful than their individual members and, as a result, can be in a position to advance the interests of the workforce by negotiating, for example, for:

- ➔ better pay
- ➔ training so that you have the opportunity to progress



- ➔ healthy and safe work places, making sure that employers meet their responsibilities including conducting proper risk assessments
- ➔ equal opportunities ensuring that the workplace is free of discrimination and people are treated fairly.

How to choose a union

It is not always easy working out which union to join. For some jobs there is only one right choice. For others there are a range of unions from which you can choose. But there are some simple principles to help guide you.

Unions are about people working together, so it always makes sense:

- ➔ to join a union that your employer already formally recognises,
- ➔ or if there is no recognition agreement then to join one that has other members already working for your employer,
- ➔ or has members doing similar jobs for a similar employer.

You can use the **SERTUC Directory** to find out the most appropriate union for you to join. Alternatively, you can call the Vulnerable Workers Project.

USEFUL CONTACTS

- ➔ **Vulnerable Workers Project (VWP):** A pilot project that will demonstrate good practice in enabling workers to obtain their full legal employment rights.
020 7377 0773
www.vulnerableworkersproject.org.uk
- ➔ **Commission on Vulnerable Employment (CoVE):** Is run by the TUC and is gathering evidence, including listening to workers, about the impact of vulnerable employment and what the solutions to vulnerable employment might be.
020 7467 1201
www.vulnerableworkers.org.uk
- ➔ **Health and Safety Executive (HSE):** Can provide advice and information on Health and Safety Issues.
08701 545 500
- ➔ **TUC's Know Your Rights Helpline (TUC):** Can provide advice and information on your rights at work as well as information on joining a trade union and which one is right for you.
0870 600 4882
www.worksmart.org.uk
- ➔ **Southern & Eastern Regional Council of the TUC (SERTUC):** represents TUC affiliated trade unions in London, the South East and East of England and works on behalf of all working people and their families.
020 7467 1220

- ➔ **Employment Agency Standards Inspectorate:** Government body, part of the Department of Trade and Industry, that regulates employment agencies to ensure that they are complying with agency law. Provides advice to workers, employers, hirers and agencies.
0845 955 5105
- ➔ **Recruitment and Employment Confederation (REC):** Some agencies join REC, which provides standards for its members.
020 7462 3260
- ➔ **National Minimum Wage Helpline (NMW):** If you are unsure about whether you are receiving minimum wage or if you think unlawful deductions have been made.
0845 600 0678
- ➔ **Advisory, Conciliation and Arbitration Service (ACAS):** Promotes good workplace relations, Helpline provides advice for employees and employers.
08457 47 47 47
www.acas.org.uk
- ➔ **Employment Tribunal Service Enquiry Line:** Information on making a claim and tribunal procedures.
08457 959 775
www.employmenttribunals.gov.uk

- ➔ **Equal Opportunities Commission (EOC):** Promotes equal opportunities focussing on sex discrimination.
0845 601 5901
www.eoc.org.uk
- ➔ **Commission for Racial Equality (CRE):** Advice and statutory enforcement agency for racial discrimination.
020 7939 0000
www.cre.gov.uk
- ➔ **Disability Rights Commission (DRC):**- provides a guide to your rights at work when applying for a job including a step-by-step guide to tackling disability discrimination at work.
08457 622 633
www.drc-gb.org/knowyourrights/employment.asp
- ➔ **Disability Rights Alliance:** improving the living standards of disabled people by breaking the link between poverty and disability.
020 7247 8776
www.disabilityalliance.org
- ➔ **Worker Registration Team (WRT):** Provides Form WRS to work in the UK.
08705 210 224
www.workingintheuk.gov.uk

- ➔ **Business Enterprise and Regulatory Reform (DBERR):** the Government Department working to create the best environment for business success in the UK.
020 7215 5000
www.berr.gov.uk/employment/
- ➔ **Citizens Advice Bureau (CAB):** Provides independent advice on your employment rights in different languages.
www.citizensadvice.org.uk
- ➔ **Direct Gov:** Provides user-friendly information on all employment rights.
www.direct.gov.uk/en/Employment/Employees
- ➔ **Home Office:** Provides information on Work permits and advice on working in the UK.
www.workingintheuk.gov.uk
- ➔ **Connexions:** Advice and help on education, employment and training for young people.
www.cnxnotts.co.uk/fetch/work/rights.html
- ➔ **Commission for Equality and Human Rights (CEHR):** A new commission that will bring together the CRE, DRC and EOC.
www.cehr.org.uk



Vulnerable Workers Project
SERTUC
Congress House
Great Russell Street
London
WC1B 3LS

020 7377 0773
vwp@tuc.org.uk
www.vulnerableworkersproject.org.uk

DEPARTMENT FOR BUSINESS
ENTERPRISE & REGULATORY REFORM

