

ILPA supplementary briefing for House of Lords Second Reading of the Immigration Bill on 22 December 2015: Overseas domestic workers

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Further to the publication of ILPA's second reading briefing, the Government has published James Ewins' Independent Review of the Overseas Domestic Worker Visa. This is available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/486532/ODWV_Review_-_Final_Report_6_11_15_.pdf

Mr Ewins takes as his fundamental question

"...whether the current arrangements for the overseas domestic workers visa are sufficient to protect overseas domestic workers from abuse of their fundamental rights while they are working in the UK, which includes protecting them from abuse that amounts to modern slavery and human trafficking."

Thus his focus is on the minimum required to achieve this. He concludes that that minimum is

10. On the balance of the evidence currently available, this review finds that the existence of a tie to a specific employer and the absence of a universal right to change employer and apply for extensions of the visa are incompatible with the reasonable protection of overseas domestic workers while in the UK (see paragraphs 65 - 87).

In particular:

10.1. The review recommends that all overseas domestic workers be granted the right to change employer (paragraph 90) and apply for annual extensions, provided they are in work as domestic workers in a private home (paragraph 93).

10.2. The review finds that such extensions do not need to be indefinite, and that overseas domestic workers should not have a right to apply for settlement in the UK in order to be adequately protected..

10.3. The review recommends that after extensions totalling up to 2 ½ years, overseas domestic workers are required to leave the UK (paragraphs 99 - 106).....11... this extension is the minimum required to give effective protection to those overseas domestic workers who are being abused while in the UK

He emphasizes

12. Since this review finds that, in granting that right, it is both impractical and invidious to discriminate between seriously abused, mildly abused and non-abused workers, the consequence is that it must be granted to all overseas domestic workers.

Mr Ewins goes on to say

13. ... such essential changes to the terms of the visa referred to above can only be of practical help to overseas domestic workers if those workers are empowered and enabled to avail themselves of these and other rights. Therefore, overseas domestic workers must be given a real opportunity to receive information, advice and support concerning their rights while at work in the UK. ...

To this end:

13.1. This review recommends the introduction of mandatory group information meetings for all overseas domestic workers who remain in the UK for more than 42 days (paragraphs 122 - 132).

13.2. These meetings should be funded by an increase in the visa fee (paragraphs 133 - 134 and Appendix 5)

He acknowledges a concern raised by ILPA and others

134. The review has heard concern that a £50 fee increase may well be visited indirectly upon the overseas domestic workers themselves. However, if the improved provision of information, advice and assistance are effective, then such a consequence is but one of the abuses that the overseas domestic worker will be empowered to prevent. Furthermore, it is considered that the relative benefit of the meeting outweighs this risk and sum involved. ILPA is concerned that fee increases might be passed on to workers and should welcome

Finally he holds

15. ... with the introduction of entry/exit data from UKVI, it should be possible to collate such data with information drawn from overseas domestic workers visa applications, as well as applications to change employer and renew the visa as well as data from overseas domestic workers who enter the NRM. This review strongly urges the Government to collate and analyse such data to provide a clearer quantitative understanding of how the visa operates. 16. Further, implementation of this review's recommendations will provide data, information and intelligence which will enable the police, Immigration Enforcement or the proposed Director of Labour Market Enforcement, to take intelligence-led steps to investigate and pursue those who abuse overseas domestic workers with criminal, civil or immigration sanctions. Tasking such entities to take active steps to initiate enquiries into such abuse will require other measures beyond the scope of this report. However, it is the clear finding of this review that none of the basic protections of overseas domestic workers' fundamental rights should be conditional upon the worker initiating any such enquiry themselves, especially where the Home Office will have sufficient data to do so

ILPA considers that Mr Ewins' recommendations, which he identifies as the minimum necessary to protect overseas domestic workers, should be implemented without delay as an essential first step toward comprehensive protection. It keen to see amendments tabled to the Bill to help to achieve this and further to promote the rights of overseas domestic workers. ILPA recommends that the following points be raised at second reading

- **Does the Government intend to implement all Mr Ewins' recommendations?**
- **If not, which ones does it intend to implement?**
- **By when?**