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**Focus on Labour Exploitation (FLEX)** is a research and policy organisation working towards an end to labour exploitation. FLEX seeks to achieve this vision through the prevention of labour abuses, protection of the rights of those affected or at risk of exploitation and by promoting best practice responses to labour exploitation through research and evidence-based advocacy.

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# **NO VIABLE ALTERNATIVES: SOCIAL (IN)SECURITY AND RISK OF LABOUR EXPLOITATION DURING COVID-19**

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# **EXECUTIVE SUMMARY**

This report examines the risk of labour exploitation experienced by migrant workers in low-paid and insecure work during the Covid-19 pandemic, focusing on access to employment rights and social security. The purpose is to draw attention to and suggest ways of mitigating intersecting vulnerabilities stemming from labour market, immigration, and social security policy to prevent labour exploitation more effectively.

The report is the result of a partnership between Focus on Labour Exploitation (FLEX), a research and advocacy organisation, and the Independent Workers Union of Great Britain (IWGB) and United Voices of the World (UVW), two grassroots trade unions organising and supporting workers in low-paid and insecure sectors of the economy. It is based on data collected between June 2020 and July 2021 by caseworkers at IWGB and UVW through an online survey with their members (337 respondents); by FLEX through interviews and focus groups with union caseworkers and officials (6), other frontline civil society organisations (14) and workers (3); and by Peer Researchers through interviews and focus groups with workers (9).

To understand and analyse the risk of exploitation experienced by migrant workers in low-paid and insecure work during the Covid-19 pandemic, this paper uses the concept of *hyper-precarity*<sup>1</sup>, which describes situations where people experience compounding, multidimensional 'precarity' based on their position in the labour market (being in low-paid and insecure work) and their situation as migrants (having restricted access to work and welfare). The layering of vulnerabilities produced by labour market and immigration systems can restrict people's options to the point of creating 'unfreedom', compelling them into coercive working relationships and eroding their ability to negotiate decent work.

Estimates vary, but between one in nine and one in six UK workers are in insecure work, often facing income insecurity, lower rates of pay and experiencing poor working conditions. Insecurity drives risk of exploitation as workers face financial concerns and, knowing they can easily be dismissed or have their hours cut, are fearful of asserting basic employment rights. In the UK, insecurity is closely linked to employment status, with those classed as workers or as self-employed, as well as employees with less than two years of continuous service, having fewer employment rights, including no unfair dismissal rights. The risk of exploitation stemming from insecure work is compounded by a lack of proactive state enforcement of employment rights and barriers to worker organising. Migrant workers in low-paid and insecure work in the UK face vulnerabilities that can make it even harder for them to assert their rights at work, many of which stem from immigration policy, such as having their labour market mobility and access to welfare support restricted.

An effective social security system is one way in which the layered vulnerabilities stemming from low-pay, insecurity and immigration restrictions could be mitigated. However, it is questionable whether the UK's welfare system, which has in the last decade seen significant cuts and freezes, is up to the task. Pre-pandemic, over half the people living in families receiving key working age benefits were in poverty and many

No viable alternatives: Social (in)security and risk of labour exploitation during Covid-19

**<sup>1</sup>** This concept was developed by Hannah Lewis, Peter Dwyer, Stuart Hodkinson, and Louise Waite in their 2015 article, 'Hyper-precarious lives: Migrants, work and forced labour in the Global North' published in *Progress in Human Geography*, 39(5), pp.580-600.

were relying on borrowing to cover unexpected bills or financial shortfalls. Covid-19 led to a considerable increase in welfare spending, but many of these measures were temporary and not enough to reverse the impacts of previous cuts.

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Our findings show considerable levels of labour abuse and barriers to accessing support, leading to risk of labour exploitation."

# FINDINGS

Our research set out to understand the experiences of migrants in lowpaid and insecure work during the pandemic, including what workplace issues people faced and whether they were able to access social security measures. Our findings show considerable levels of labour abuse and barriers to accessing support, leading to risk of labour exploitation.

# KEY ISSUES EXPERIENCED BY LOW-PAID AND INSECURE WORKERS DURING THE PANDEMIC

Data from this research shows that during the pandemic members of the IWGB and UVW trade unions – the majority of whom are migrants in low-paid and insecure work – experienced issues ranging from not being paid wages owed (44%) to being exposed to Covid-19 through work (17%), being asked to work in ways that felt dangerous, including with poor social distancing or without Personal Protective Equipment (12%), and being forced to work despite being ill (8%). A significant proportion were made redundant (33%), had to accept new terms of employment to retain their job (24%), or were simply not given any work (11%), which intensified existing fears and feelings of insecurity, and further reduced workers' bargaining power. Our qualitative data from case notes, interviews and focus groups shows how this power imbalance was exploited by employers, with issues like excessive workload (11% of union members saw an unpaid increase in their workload) and sexual harassment worsening as a result.

# ACCESS TO KEY SOCIAL SECURITY MEASURES DURING THE PANDEMIC

The data, which focuses on the Coronavirus Job Retention Scheme, Statutory Sick Pay and Universal Credit, shows serious barriers to accessing social security measures that affect workers in low-paid and insecure work, with additional barriers affecting migrants.

# ISSUES WITH THE CORONAVIRUS JOB RETENTION SCHEME (FURLOUGH)

- There was no incentive for employers to furlough workers they could simply stop giving work to, such as agency, zero-hours, and casual workers. Once employers had to start paying for national insurance and pension contributions, and part of furlough pay, this lack of incentive turned into a disincentive, leading to mass redundancies.
- Employers had full discretion over who to furlough, with no role for workers or their representatives to challenge employers' decisions. This blocked access to the scheme for many, forcing people to rely on the much more limited Universal Credit system and leaving anyone with no recourse to public funds without support.
- As furlough only replaced 80% of people's wages (with an optional employer top-up), many saw their income drop by 20% leading to pay well below the minimum wage.

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At £96.35 per week, SSP is one of the least generous sick pay regimes in Europe, replacing only a fraction of people's income. As a result, many are unable to afford to stop working when they are ill or if they need to self-isolate."

### **ISSUES WITH STATUTORY SICK PAY (SSP)**

- At £96.35 per week, SSP is one of the least generous sick pay regimes in Europe, replacing only a fraction of people's income. As a result, many are unable to afford to stop working when they are ill or if they need to self-isolate.
- People are only entitled to SSP if they meet the lower earnings limit of £120 per week per employer. This excludes many on low pay working part-time, on variable hours, or for multiple employers.
- SSP is normally only paid from the fourth day of illness, meaning people must go completely unpaid for the first three days of sick leave. During the pandemic, the government made SSP payable from day one if it was for Covid-related reasons, indicating they are aware that the unpaid waiting days lead to people not taking time off when ill.
- SSP is currently not enforced by any of the UK's labour market enforcement agencies, which is problematic for those in low-paid and insecure work who are less able to assert their employment rights for fear of losing future work.

# **ISSUES WITH UNIVERSAL CREDIT**

- The Universal Credit application system is so complex that many are unable to access it without support. This has put huge pressure on civil society organisations during the pandemic, who saw demand for support with navigating the welfare system skyrocket.
- The five-week wait for payment leaves those already struggling at risk of destitution.
- Many workers in low-paid and insecure workers sublet or live in houses of multiple occupancy, making it difficult to provide evidence for housing support under Universal Credit.
- Universal Credit payments are overall too low to provide effective resilience to exploitation.

In addition to the overall issues with these key social security measures, many migrant workers experience additional barriers to accessing welfare benefits. These include language barriers, lack of knowledge of support available or how to access it, not feeling entitled to support, lacking confidence to seek out support and lack of trust in state systems. Some migrants are completely barred from accessing social security because of immigration restrictions, most notably migrants with no recourse to public funds.

# LINKS BETWEEN ACCESS TO SOCIAL PROTECTIONS AND RISK OF EXPLOITATION

The social security system is meant to provide a safety net so that people can meet their basic needs even if they lose their job or become ill and are not forced to stay in or take on exploitative work to survive. As such, it can provide a powerful tool for securing the rights of workers and preventing modern slavery. When social security is not available, accessible, or enough to cover the cost of living, people become more dependent on their jobs and less able to push back against poor treatment.

Through our research, we saw several examples of people staying in situations that had become exploitative because they could not access welfare support and were afraid of experiencing financial difficulties, destitution, and homelessness if they lost their job or had their hours reduced. Similarly, we heard of cases where people felt they had no option

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We saw several examples of people staying in situations that had become exploitative because they could not access welfare support."

The human and social cost of providing welfare support only once a situation is so severe as to breach human rights or international legal obligations is inconceivably high."

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Many of the vulnerabilities highlighted by this research are not new, but have simply been made more visible by the pandemic as more people have been affected." but to accept work they knew did not meet minimum standards, as the alternative was having no income and becoming destitute. Our data also includes examples of this process in reverse, where gaining access to social protections has helped people avoid or leave exploitative situations.

Unsurprisingly, most of the examples highlighted by our research participants concerned migrants with no recourse to public funds, demonstrating the way in which immigration restrictions can compound risk of exploitation. Though there are some exemptions where people with no recourse can get emergency support – for instance under the Children Act 1989, the Care Act 2014, and the Modern Slavery Act 2015 – this is only provided once people are at the point of destitution, have significant care needs or are experiencing exploitation that meets the threshold for modern slavery. The human and social cost of providing welfare support only once a situation is so severe as to breach human rights or international legal obligations is inconceivably high. If access to social protection was ensured for those in need, more could be done to prevent vulnerability, including vulnerability to labour exploitation.

# **CONCLUSIONS**

Many of the vulnerabilities highlighted by this research are not new, but have simply been made more visible by the pandemic as more people have been affected, including groups who have not previously had to rely on social security measures. It is important to realise that the end of the pandemic does not spell an end to these issues. While some people's situation will improve once the economy and labour market recover, others will remain vulnerable, working at low wages with little income security and only a tattered public safety net that, for many, will provide limited protection and for others, especially for migrants, close to none at all. A commitment to 'build back better' and achieve a fairer post-Covid-19 recovery is to acknowledge and recognise the fact that low-pay, insecurity, and lack of access to social security are not issues exclusive to the Covid-19 context, but already existed and will continue to exist unless we see important changes to labour market, immigration, and social security policies. Addressing these issues will also help build resilience to labour exploitation and support the UK's commitment to tackling modern slavery. The list of recommendations below provides a starting point for government to take steps in this direction.

# RECOMMENDATIONS

# TO ADDRESS LOW-PAY AND INSECURITY AT WORK

- 1. Determine National Minimum Wage/National Living Wage rates based on what workers and their families need to meet the cost of living, as modelled by the Living Wage Foundation.
- 2. Strengthen the enforcement of existing labour standards, focusing on sectors with low-pay and high rates of insecure work. This will require evidence-based resourcing of labour inspectorates, so they have the staff and capacity to proactively enforce workplace standards, as well as a review of their powers and remit.
- 3. Address the insecurity created by zero-hour contracts. The Trades Union Congress recommends workers should have the right to a

contract that reflects their regular working hours, at least four weeks' notice of shifts and compensation for cancelled shifts.

- 4. Make sure employers cannot dismiss workers without a just cause or without following proper procedure.
  - i. Extend protection against unfair dismissal to cover all workers. Currently only employees with two years continuous employment are protected against unfair dismissal.
  - ii. Eliminate the two-year qualifying period for claiming unfair dismissal.
- 5. Enable better trade union access to workplaces and introduce stronger rights to establish collective bargaining so that unions can negotiate secure working conditions, inform workers about their rights and entitlements, and support them to access those rights in practice.

# TO ENSURE KEY SOCIAL SECURITY PROVISIONS PROVIDE SUFFICIENT PROTECTIONS BEYOND THE PANDEMIC

- 6. Reform Statutory Sick Pay so that people can afford to take time off when they are ill.
  - Increase the rate at which SSP is paid so that it is enough to live on and so that being ill does not lead to a significant loss of income.
    IWGB is campaigning for SSP to be paid at the same rate as a person's regular salary.
  - ii. Remove the three unpaid waiting days for all types of illness. Currently workers are not paid SSP until their fourth day of absence from illness unless it is due to Covid-19.
  - iii. Remove the lower earnings limit for SSP. The lower earnings limit of £120 per week per employer penalises those working part-time (a large proportion of whom are women with caring responsibilities) or for multiple employers.
  - iv. SSP should be proactively enforced by the state. Currently there is no labour market enforcement body responsible for enforcing SSP. We welcome the government's plans for the proposed Single Enforcement Body (SEB) to take on responsibility for enforcing SSP and note that to do so effectively the SEB must have sufficient resources to proactively target high-risk sectors. We also call for the government to find an interim solution while the SEB is being established.
- 7. Reform Universal Credit so it effectively protects against poverty and destitution, enabling people to negotiate decent work and leave exploitative jobs in the knowledge that they have a safety net to fall back on. This should include implementing the proposals for reforming Universal Credit published by the House of Lords Economic Affairs Committee (HL, 2020), including the recommendation to make permanent the £20 per week increase to the standard allowance introduced as a temporary measure in March 2020.
- 8. The government should conduct and publish a review of the **furlough scheme** and its implementation, considering its effectiveness for workers in low-paid and insecure work. Lessons from this review should inform any similar future schemes so they are designed to also support the most vulnerable groups of workers.

#### TO ENSURE THAT GOVERNMENT POLICY ON IMMIGRATION DOES NOT BAR PEOPLE IN NEED FROM ACCESSING VITAL SUPPORT

- 9. Repeal the No Recourse to Public Funds policy, which has been shown to create and exacerbate extreme poverty and inequality. People whose circumstances meet the requirement for support must be able to access it when needed and not only once they are at the point of destitution, homeless, or experiencing exploitation so severe that it meets the threshold for modern slavery.
- 10. Provide people with Pre-Settled Status with the same access to welfare support as those with Settled Status.
- 11. Ensure support is available for people to regularise their immigration status and access the social security support they are entitled to:
  - i. Fund civil society organisations, including migrant community organisations, to provide tailored advice, support, and representation to migrants in low-paid and insecure work.
  - ii. Reinstate legal aid for immigration issues.
- 12. Introduce secure reporting so that people can report exploitative employers and exit exploitative situations regardless of their immigration status.

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The report uses the Covid-19 pandemic as a case study to examine how multiple, layered vulnerabilities stemming from the UK's labour market, immigration and social security policies intersect to restrict people's options to the point of creating 'unfreedom'."

# INTRODUCTION

This report examines the links between lack of effective social protections – defined here as the public measures meant to protect people against economic and social distress resulting from loss or reduction of income or ill health – and risk of labour abuse and exploitation. It focuses specifically on the experiences of migrant workers in low-paid and insecure work, because this group faces several overlapping and intersecting vulnerabilities, most notably: immigration-related restrictions to accessing social security; limited personal financial safety nets in the form of savings; fewer protections in employment law against loss or reduction of income; and being overrepresented in sectors with high risk of labour exploitation<sup>2</sup>. In addition, this group is also affected by discrimination linked to their ethnicity, race, and nationality, as well as social attitudes towards migrants in low-paid work.

The report uses the Covid-19 pandemic as a case study to examine how multiple, layered vulnerabilities stemming from the UK's labour market, immigration and social security policies intersect to restrict people's options to the point of creating 'unfreedom', compelling them into coercive working relationships and eroding their ability to negotiate decent work. Though the relevance of this report extends beyond present political, social, and economic circumstances, its findings are especially important in the current context where the Covid-19 pandemic has led to a surge in the number of people in need of social security, and where Britain's exit (Brexit) from the European Union has led to a seismic overhaul of the UK's immigration system, increasing the number of migrants with no or limited access to social security. It provides a basis for understanding why a well-functioning social security system is crucial for preventing labour exploitation and outlines key changes needed to ensure the UK's social safety net does not fail the growing number of people in low-paid and insecure work.

This report is the result of a partnership between Focus on Labour Exploitation (FLEX), a research and advocacy organisation, and the Independent Workers Union of Great Britain (IWGB) and United Voices of the World (UVW), two grassroots trade unions organising and supporting workers in low-paid and insecure sectors of the economy. Informed by FLEX's rapid research on the immediate impact of COVID-19 on labour exploitation, this partnership responded to the increased need for support and advice by funding additional hours of union caseworkers' time. It also responded to the need to better understand and document the impact of the pandemic on workers by collecting data as part of the unions' casework and through interviews and focus groups conducted by FLEX.

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Trustee, Kanlungan Filipino Consortium, Interview, 17 May 2021



In total, this report is based on 337 survey responses, 297 of which were completed by case workers and 40 by members themselves."

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Further qualitative data was collected through approximately hourlong semi-structured interviews with three caseworkers, one branch chair, one branch support officer and one organisers."

# METHODOLOGY

This report is based on data collected between June 2020 and July 2021 through a mixed methods approach. Quantitative data was collected by IWGB and UVW through their casework using an online survey, which included questions about access to employment rights and social protections in the context of Covid-19. Qualitative data was also collected through this survey via short 'case notes' providing additional information to supplement or clarify the quantitative data. Each survey response is a separate case. The survey was also shared by the unions with their broader membership, allowing for responses from participants who are less likely to meet with caseworkers, such as those classed as selfemployed. In total, this report is based on 337 survey responses, 297 of which were completed by case workers and 40 by members themselves. Of these responses, 296 were from non-UK nationals, 37 were from UK nationals and four were from dual UK and non-UK nationals. The majority (68%) of UK national respondents were from a Black, Asian, or Minority Ethnic (BAME) background, including Black (57%), Asian (25%), mixed/ multiple ethnic groups (14%) or from another minority ethnic group (4%). Further qualitative data was collected through approximately hour-long semi-structured interviews with three caseworkers, one branch chair, one branch support officer and one organiser. The aim of these interviews was to understand the general trends that caseworkers and other union officials were seeing during the pandemic. The interviews were conducted between December 2020 and April 2021.

As with any methodology, there are some limitations affecting our quantitative data that should be noted for an appropriate interpretation of the findings. First, because most of the survey respondents were union members seeking advice, the sample should not be seen as representative of all IWGB and UVW members' experiences. The data will have a skew towards those members who have experienced issues at work. On the other hand, as trade union members, the respondents are more likely to have access to information about their rights at work and mechanisms by which to exercise those rights than others in low-paid and insecure jobs. In 2020, only 16.5% of employees in elementary occupations were trade union members (BEIS, 2021a). This percentage is even lower in many of the sectors represented in our sample, such as Administrative and Support Service Activities (which covers cleaning), where only 11.8% of the workforce are union members, and in Accommodation and Food Service Activities, where only 4.3% are (Ibid.). The level of unionisation among individuals that end up in exploitation in the UK is extremely low (FLEX, 2017: 7), indicating that though our sample has experienced high levels of labour abuses, they are less likely to be experiencing severe labour exploitation<sup>3</sup>, such as offences that fall under the Modern Slavery Act 2015.

Finally, trade union members, especially those who can be supported through the casework service, are also more likely to be 'employees' with the full spectrum of employment rights under UK labour law, rather than 'workers' or self-employed, who have considerably fewer rights (UK

**<sup>3</sup>** The European Union Agency for Fundamental Rights (FRA, <u>2015</u>: 10) defines labour exploitation as "work situations that deviate significantly from standard working conditions as defined by legislation or other binding legal regulations, concerning in particular remuneration, working hours, leave entitlements, health and safety standards and decent treatment". Severe labour exploitation refers work situations that are criminal under the legislation of the country where the exploitation occurs, and therefore includes "coercive forms of exploitation, such as slavery, servitude, forced or compulsory labour and trafficking".

Government, 2018). This also explains the high representation of cleaners in this sample (63.1%), with the next largest sectors being security (6.8% of respondents) and hospitality (5.3%), as cleaners are more likely to be classed as 'employees'. Employees, as opposed to workers and the selfemployed, face fewer barriers to organising and seeking out support, which explains their prevalence in our sample but also has implications for our findings as those with few or no rights and higher levels of insecurity are less represented.

To mitigate these limitations, we carried out semi-structured interviews with 14 representatives of frontline organisations representing a broad cohort of migrants and people in low-paid and insecure work, including people with no recourse to public funds (NRPF), undocumented migrants, and those experiencing homelessness and/or severe labour exploitation. In addition to these interviews, we carried out a literature review focusing on reports by frontline organisations on the impact of Covid-19 on their beneficiaries.

We also conducted two three-hour focus groups with workers on their experiences at work during Covid-19. The first focus group was held in English close to the start of the pandemic in June 2020 with three participants, two of whom were Romanian and one who was an English-Italian dual national. The second focus group was held a year later in June 2021 in Spanish with seven participants, all of whom were migrants working in cleaning. Six of the seven participants were from Latin America, and one was from Spain. Two were trade union members. The first focus group was facilitated by a FLEX staff member, while the second was facilitated by a Peer Researcher<sup>4</sup> who also works in cleaning, with support from FLEX. Finally, we carried out three interviews with app-based couriers, two of whom were Algerian and one of whom was Bulgarian.

For further information on our methods, please refer to Appendix 1.

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We carried out semi-structured interviews with 14 representatives of frontline organisations representing a broad cohort of migrants and people in lowpaid and insecure work."

**<sup>4</sup>** Peer Researchers are workers from high-risk sectors who, with training and support from FLEX, are carrying out interviews and focus groups with their peers and colleagues. Read more about this research approach in FLEX's 2021 report *Experts by Experience: Conducting Feminist Participatory Action Research with Workers in High-risk Sectors* 

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Director of Operations, Human trafficking prevention charity, Interview, 30 April 2021



# UNDERSTANDING MULTIPLE VULNERABILITIES TO LABOUR EXPLOITATION: LABOUR MARKET, IMMIGRATION, AND SOCIAL SECURITY POLICIES IN THE UK CONTEXT

# HYPER-PRECARITY: A TOOL FOR UNDERSTANDING LAYERED VULNERABILITIES TO EXPLOITATION

To understand and analyse the multiple vulnerabilities experienced by migrant workers in low-paid and insecure work during the Covid-19 pandemic, this paper uses the concept of *'hyper-precarity'* developed by Hannah Lewis *et al.* (2015). The idea behind the concept is that certain migrants experience compounding, multidimensional 'precarity' based on their position in the labour market, namely being in low-paid and insecure work in high-risk sectors, and their status and circumstances as migrants, for instance facing language barriers or having restricted access to work and welfare. This layering of vulnerabilities produced by labour market and immigration systems can restrict people's options to the point of creating 'unfreedom', compelling them into coercive working relationships and eroding their ability to negotiate decent work (Lewis *et al.*, 2015). Intersectional discrimination, linked to gender and racial inequalities, and experienced both at the individual and institutional levels, are also key factors compounding risk of exploitation.

In other words, migrants in low-paid and insecure work are at risk of having no real and acceptable alternative but to either enter work that they know is abusive or exploitative, or to stay in work situations despite worsening pay, conditions, and/or treatment. Depending on their situation and circumstances, which can change over time, migrant workers in insecure jobs may be less or more able to negotiate decent work. For instance, if there are readily available and easily accessible alternative jobs, then having limited job security will be less of a problem than if the labour market is tight or if access to it is restricted through immigration policy. Similarly, having no recourse to public funds will be more of a risk factor in contexts where health and safety measures are lacking or poorly enforced, compared to contexts where workers are protected against illness and injury from work.

Understanding labour exploitation in this way, as something that a person becomes more vulnerable to as their perceived options narrow and acceptable alternatives are reduced, is important because it shapes the way in which we seek to address the problem. Instead of seeing exploitation as driven solely by criminally coercive and deceptive behaviour, it requires us to see the circumstances where people might find entering or remaining in exploitative situations as the more viable or only available option, and to frame efforts to tackle exploitation accordingly. It uncovers the more subtle forms of unfreedom and shows that we cannot separate the most severe forms of exploitation from the social and economic context in which they happen, pushing us to consider how government policy – especially around migration and the labour market – can act as drivers of exploitation.

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Certain migrants experience compounding, multidimensional 'precarity' based on their position in the labour market [...] and their status and circumstances as migrants."

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We cannot separate the most severe forms of exploitation from the social and economic context in which they happens."

Insecure work puts people at risk of labour abuse and exploitation because of the power imbalance it creates in the employment relationships."

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Even 'employees' only have full employment rights, like protection against unfair dismissal, after two years of continuous service."

# LOW-PAY AND INSECURITY AS DRIVERS OF EXPLOITATION

Precarity, which in the UK (and in this report) is often referred to as insecurity or vulnerability (see e.g. TUC Commission on Vulnerable Employment, 2008), is a concept used to describe work situations where people lack income security, face lower rates of pay and experience poor working conditions. Insecure work puts people at risk of labour abuse and exploitation because of the power imbalance it creates in the employment relationship. Workers may find it harder to leave bad jobs due to financial concerns and, knowing they can be easily replaced or have their hours cut, face greater pressure to maintain their existing employment relationship.

The Taylor Review (Taylor, 2017: 43) found that insecure workers often experience one-sided flexibility, leading to unreasonable requirements around their availability; difficulties managing finances due to unpredictability; and an overarching fear of losing future work if they express legitimate concerns about conditions or make reasonable requests. The Low Pay Commission (2018) goes further to say that the "misuse by some employers of flexible working arrangements creates unpredictability, insecurity of income and a reluctance among some workers to assert basic employment rights" (Low Pay Commission, 2018). There is also broad agreement about the negative impacts of low-paid and insecure work on health, finances, personal life, and rights, creating a compounding effect where workers who are already marginalised are further disempowered (Green, 2015; Adams and Prassl, 2018; Low Pay Commission, 2018; Martin, 2019; Maternity Action, 2020).

Insecurity often stems from the fact that certain types of workers have fewer rights than people in conventional employment (see table below), including missing out on safeguards against sudden losses of income, like protection against unfair dismissal, minimum notice periods, and redundancy pay. However, even 'employees' only have full employment rights, namely protection against unfair dismissal, after two years of continuous service and many face barriers to enforcing this right through the Employment Tribunal system (McCloskey and Senegri, 2020).

Insecurity is made worse by low pay and lack of personal or public financial safety nets: as one of our research participants put it, if workers cannot afford to lose even a week's income, their dependence on their employer increases dangerously:

We are getting exploited basically because they [employers] feel that we rely more on them. We rely financially on them. So then the abuse starts. [...] They can cut off our finances so easily and so we're back in square one, back in the same cycle of interviews and panicking for two or three weeks, trying to find a job with payment that does not exploit you. [...] Even a week off work is quite disastrous for a normal person. We cannot afford to be a week off work, especially in London. We cannot afford it, so we have to keep working, and keep finding solutions on the way.

# Irina, Romanian waitress, Focus group, 5 June 2020

While 'flexibility' can be and is welcomed by some workers, it does not work for everyone or in all contexts. Where workers' options are reduced by low pay, limited alternative employment options, and ineffective social security measures, flexibility can facilitate labour exploitation. This is further compounded in contexts where usual methods of correcting workplace power imbalances, such as state labour market enforcement and worker organising, are limited or not working.

	Conventional employee	Zero-hours contract* or agency worker	Self-employed
Holiday pay	Yes	Yes	No
Sick pay	Yes	Yes	No
Redundancy pay	Yes, after two years of continuous employment	No	No
Minimum wage	Yes	Yes	No
Protection from unfair dismissal	Yes, after two years of continuous employment	No	No
Protection from unlawful discrimination	Yes	Yes	Yes
Minimum notice periods	Yes	No	No

This table has been adapted from Citizens Advice, 2020a. Note that some rights are subject to meeting certain requirements, e.g., the minimum income threshold for sick pay. \*In some cases, people on zero-hours contracts may meet the legal definition of employee.

It can be difficult to estimate the number of people in insecure work, because there is no simple or agreed metric (O'Conner, 2021). Estimates range from one in nine (TUC, 2020a: 5) to one in six UK workers (Living Wage Foundation, 2019), or 3.6 and 5.1 million people.<sup>5</sup> Nonetheless, the consensus is that the groups most impacted by insecure work are young people and BAME workers (Living Wage Foundation, 2019; Citizens Advice, 2020a). They also find that, while women and men experience roughly similar levels of low paid and insecure work, the kinds of insecurity they face are different: more women are insecure employees, while more men are among the low-paid self-employed (Living Wage Foundation, 2019; TUC, 2020a). These analyses do not include data on migrant workers, but other sources note that migrants are more likely to be on temporary contracts, with an estimated 6% of foreign-born workers in this situation compared to 4% of UK-born, but are equally likely to be on zero-hours contracts as UK-born workers (Fernández-Reino and McNeil, 2020).

There is an intrinsic link between insecurity and low pay. According to Citizens Advice's analysis of Labour Force Survey data (2020), insecure workers on average earn less than half as much as the average worker per week, while TUC's analysis (2020a) shows that median gross hourly pay for all categories of insecure workers is significantly (between £2.56 and £4.22) less than the average for all employees. Insecure workers are not spread evenly across sectors. They are concentrated in elementary occupations like food preparation, agriculture, and cleaning (32%); service occupations like caring and leisure (19%); and sales and customer service

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It can be difficult to estimate the number of people in insecure work, because there is no simple or agreed metric ."

**<sup>5</sup>** The TUC's estimate is made up of those on zero-hours contracts; agency, casual and seasonal workers (but not those on fixed-term contracts); and the low-paid self-employed. The Living Wage Foundation uses a different metric, which includes most of the same groups as the TUC with some additions, such as those with self-reported volatility in pay and hours.

There is a significant overlap between sectors with high levels of low-paid insecure work and sectors classed as being at risk of labour exploitation."

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The different rights and entitlements provided to different groups of migrants based on immigration status creates what has been called a "hierarchy of vulnerability"."

occupations (11%), many of which have been either at the frontline of the pandemic or forced to close (Citizens Advice, 2020a). There is a significant overlap between sectors with high levels of low-paid insecure work and sectors classed as being at risk of labour exploitation by the Gangmasters and Labour Abuse Authority (GLAA, n.d.).

# HOW MIGRATION-RELATED FACTORS ADD ADDITIONAL LAYERS **OF RISK**

When the vulnerability created by insecure work is layered with vulnerability stemming from migration-related factors, people become even less able to negotiate decent work. Migrant workers may be at higher risk of experiencing exploitation or unfree labour for reasons including, but not limited to, recruitment debt; deception in recruitment; the need to remit money; low expectations of treatment at work; language barriers; lack of networks, knowledge of rights or where to get help in the destination country; and mode of entry into the destination country (Lewis et al., 2015: 589). This last factor, the way in which a person has entered the destination country, refers to the fact that immigration status - the way in which a person is present in a country – is a key determinant of what a person can or cannot do, the rights and entitlements they have, and under what conditions. As such, it is central for understanding how government policy on immigration can determine risk of exploitation for migrant workers.

Governments distribute divergent sets of rights to different groups of people, defined by their immigration status, to regulate who can enter the country, how much mobility they have within the labour market, and which public services and welfare support measures they can access. In the UK and elsewhere in the Global North, immigration policies have increasingly been designed to distinguish between 'desirable' and 'undesirable' migrants, conferring more rights to some groups over others (Lewis et al., 2015). In the context of labour migration, this distinction is mainly made based on earnings, with migrants in low-paid work having fewer rights compared to those in higher paid work. In the UK, this can be seen in the sharply divergent rights afforded to migrants on temporary short-term visas in sectors like domestic work and agriculture, and those afforded to people migrating under the new Points-Based System. This differentiation in rights based on immigration status compounds the vulnerabilities experienced by migrant workers in low-paid and insecure work compared to those in higher-paid jobs, who are already less vulnerable due to their better paid and more secure position in the labour market.

The different rights and entitlements provided to different groups of migrants based on immigration status creates what has been called a "hierarchy of vulnerability" (Dwyer et al., 2011) – those groups with the fewest rights and entitlements, especially in the realm of work and welfare, are regularly the most vulnerable to labour exploitation because their options are so limited. This is most clearly the case for irregular migrants who have no right to work (in fact, working while undocumented is a criminal offence in the UK) or access welfare support, leading to a globally recognised risk of exploitation (FRA, 2015). However, even migrants with the legal right to work and reside are affected by immigration restrictions, as status can determine everything from which benefits a person can access (if any) and under what conditions, to the

type of work a person can do, the sector they can work in, their maximum weekly hours of work, the minimum they must earn, and sometimes even the maximum they *can* earn. By limiting the options available, immigration restrictions can prevent people from accessing their rights and entitlements, including employment protections, in practice (Anderson, 2008). The Overseas Domestic Worker (ODW) visa is a well-documented example of this issue: though overseas domestic workers are entitled to a variety of employment rights and protections, many are denied them in practice as their visa effectively ties them to their employer due to being short-term and non-renewable, only valid for domestic work in a private household, and providing no recourse to public funds (Kalayaan, 2021).

It is not within the scope of this paper to outline all the different UK immigration statuses and their associated rights, as they are manifold and complex. However, the table below builds on the work of Dwyer *et al.* (2011) to group some key immigration statuses roughly by the work and welfare rights they confer, with overall more rights available to those in the columns to the right.

Right to work	No right to work (or highly limited right)				Right to work	
Welfare rights	No recourse to public funds	Limited or conditional welfare access	No recourse to public funds	No recourse to public funds	Limited or conditional welfare access	Access to benefits on the same basis as UK citizens
Immigration status	Irregular migrants	Asylum seeker (limited welfare, can apply to work if initial claim takes more than a year) Refused asylum seeker (basic 'Section 4' support only if taking steps to leave UK) Potential Victim of Trafficking (National Referral Mechanism support for 45 days with possible extension)	Skilled Worker visa Health and Care Worker visa Tier 5 Seasonal Workers visa for agriculture Overseas Domestic Worker visa	Family joiners and dependents International students (can only work up to 20 hours per week) Youth Mobility Scheme visa UK Ancestry visa	Pre-Settled status British National (Overseas) visa	Refugees Indefinite Leave to Enter or Remain Discretionary Leave Settled Status

\*This table has been adapted to the post-Brexit context from Dwyer et al, 2011. It does not include all possible immigration statuses or attached rights and entitlements. For a comprehensive list of all immigration statuses and attached rights and entitlements, see: <a href="https://www.gov.uk/browse/visas-immigration">https://www.gov.uk/browse/visas-immigration</a>

Though the concept of *hyper-precarity* focuses specifically on the 'unfreedoms' created by labour market and immigration policy, there are a multitude of other factors that can limit a person's ability to negotiate decent work. These include, for instance, factors stemming from gender and racial inequality, which can 'trap' certain groups of workers in low-paid and insecure work. Where possible, this report will also point to these factors.

# **MITIGATING INSECURITY THROUGH SOCIAL SECURITY**

# WHAT IS SOCIAL SECURITY?

Social security, also variously called social protection or social welfare, is a type of government support meant to reduce social and economic vulnerability and help people who are struggling to meet their subsistence needs. Social security measures are crucial for mitigating risk of labour abuse and exploitation. They provide an additional or alternative source of income – topping up low pay or replacing earnings in times of crisis - that can enable people to refuse and/or leave poor employment situations in the knowledge that they have a financial safety net to fall back on. An effective and functioning social security system is particularly important for workers in low-paid and insecure work, who tend to have less financial security because they do not earn enough to cover expenses while also saving, and who are less protected against sudden losses of income. An appropriate social security system should, at a minimum, provide sufficient safeguards against unfree labour by providing a viable alternative source of income that allows people to say no to exploitative work.

Social security is generally understood to include all the "public measures that a society provides for its members to protect them against economic and social distress caused by the absence or a substantial reduction of income from work as a result of various contingencies (sickness, maternity, employment injury, unemployment, invalidity, old age or death of the breadwinner), the provision of healthcare, and the provision of benefits for families with children" (ILO, 2004: 2). These measures can be contributory or non-contributory, or a mix, and paid in cash or in kind (ILO, 2021: 12).

The focus of this report is on working-age benefits i.e. social security measures aimed at protecting adults under the state pension age against the distress caused by the absence or substantial reduction of income from work. Specifically, this report focuses on the absence or reduction of earnings resulting from a sudden change in circumstances, such as illness, unemployment or changes to circumstances at work. Healthcare and benefits for families with children, though clearly important, largely fall outside of the scope of this study, as does loss or reduction of income due to maternity, employment injury, old age, disability, or the death of the breadwinner. The UK social security measures most relevant for our study are Universal Credit, Statutory Sick Pay (SSP), homelessness assistance and social housing provided by local authorities and housing associations, and the support measures introduced during the pandemic, specifically the Coronavirus Job Retention scheme (furlough). Other social security measures, namely 'new style' Job Seeker's Allowance (JSA), Employment and Support Allowance (ESA) and the Self-Employment Income Support Scheme (SEISS), are also important, but not discussed in detail in this report.

An appropriate social security system should, at a minimum, provide sufficient safeguards against unfree labour by providing a viable alternative source of income."

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Working-age benefits are providing less and less protection, leaving people at risk of being pulled deeper into poverty."

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In this context of wage stagnation, increasing living costs and reduced realterm spending on working-age benefits, being in low-paid and insecure work is increasingly risky."

# SOCIAL SECURITY IN THE UK: TRENDS IN SPENDING AND NEED

In the last decade, the UK welfare system has seen significant cuts and freezes, with benefits for working-age adults particularly affected (McNeil *et al.*, 2019). For three years from 2012, increases to benefits were limited to 1%, followed by a four-year freeze, significantly eroding the value of many working-age benefits (JRF, 2021). In addition, new conditions have been introduced to incentivise work, such as the benefits cap, which restricts the total amount of benefit income a household is entitled to. As a result of these measures, working-age benefits are providing less and less protection, leaving people at risk of being pulled deeper into poverty. Pre-pandemic, over half the people living in families receiving key working-age benefits were in poverty and many were relying on borrowing to cover unexpected bills or financial shortfalls (*Ibid.*)

At the same time as social security measures have been cut, the need for support has grown. Pre-pandemic, one in five people in the UK were in poverty, with some groups disproportionately represented, such as part-time and low-paid workers, BAME households, lone parents (mostly women), and private renters (JRF, 2021). Though unemployment has been low, wage growth has stagnated, leading to record levels of in-work poverty before the start of the pandemic in 2020 at 17% of working households (McNeil et al., 2021). In-work poverty has been exacerbated by rising living, especially housing, costs which in the private rented sector have increased by 48% in real terms over the past 25 years (Ibid.). As the availability of council housing has decreased, more people are now renting privately which, together with the climbing cost of rent, has led to a doubling of real-term government spending on housing benefits since the 1990s (Joyce, 2019). Demand for incapacity and disability benefits has also gone up, despite the government making it harder to claim for them (Ibid.). In this context of wage stagnation, increasing living costs and reduced real-term spending on working-age benefits, being in low-paid and insecure work is increasingly risky.

The Covid-19 pandemic has led to some significant changes in welfare spending. Pre-pandemic, in 2019/20, total UK welfare spending was £228 billion, with £104.9 billion directed towards working-age benefits (OBR, 2021: 6). Most of the latter budget was spent on tackling the three key issues outlined above: low pay, high housing costs, and ill health (Joyce, 2019). In response to the pandemic, in the 2020/21 tax year, welfare spending increased by about £20.1 billion, the majority of which (£15.1 billion) was spent on Universal Credit and its legacy benefit predecessors (OBR, 2021: 6). This is the largest welfare spending increase since 2009/10 (after the financial crisis) and does not include the £79.7 billion spent on furlough and SEISS in the same year (*Ibid.*: 4). It reflects the increased number of people applying for social protections because of the pandemic, as well as uplifts in certain benefits, such as the temporary £20 per week increase to Universal Credit which applied from March 2020 to October 2021.

Though the increase in welfare spending on both pre-existing and Covid-19-specific support measures is welcome and represents an unprecedented range of labour market support and benefits change, it is not enough to address pre-pandemic levels of poverty let alone the negative impacts of Covid-19 (JRF, 2021). For instance, the rate at which Universal Credit – the UK's main welfare benefit for working-age adults – is paid does not meet the government's own measure of poverty, even with the temporary £20 per week uplift (Brewer and Hanscombe, 2021). Furthermore, many of the measures introduced in response to Covid-19 are temporary, creating a cliff-edge drop in support once they end (Machin, 2021).

Significant gaps in and barriers to accessing both general and Covid-19specific social security measures also remain. The gaps and barriers that affect workers, including migrants, in low-paid work will be discussed in more detail in section 5, but can broadly be understood to arise from a social security system that is overly complex, hard to access and does not reflect the realities of people in insecure work, and an immigration system that has over time increasingly restricted migrants' access to social security measures (Bertolini and Clegg, 2020).

What also deserves attention is the context in which social security measures are applied. There are several factors that could reduce the overall need for social security measures, including better regulation of the labour market or removing barriers to accessing social security, such as freely and widely available access to advice and support. Being aware of these issues is crucial for any thorough understanding of the adequacy and effectiveness of social security measures. Considering other social policy issues, such as poverty and discrimination, helps reveal the systemic inequalities that leave certain groups more vulnerable to losses of income and therefore more in need of a social safety net, as well as the structural barriers to accessing support, which is why they are a crucial part of our analysis. Unfortunately, as this report finds, it is often those most vulnerable and most in need who are left least protected.

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There are several factors that could reduce the overall need for social security measures, including better regulation of the labour market."

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Angela, Colombian cleaner, Focus group, 5 June 2021



Most of the problems experienced by workers during the pandemic were not new, but rather pre-existing issues happening on a much larger scale than before."

# "

The single largest issue reported by union members was not being paid the full or correct wages."

# KEY ISSUES EXPERIENCED BY LOW-PAID AND INSECURE WORKERS DURING THE PANDEMIC

Through our survey we were able to identify key workplace issues experienced by workers in low-paid and insecure work during the pandemic. This section focuses on five of these issues: not being paid wages owed; physical and mental health risks; redundancy and general loss of work; excessive workload; and sexual harassment. Issues related specifically to social security, such as not being able to take sick leave or access the furlough scheme, are discussed in the following section.

As all our quantitative data was collected during the pandemic, we do not have a pre-pandemic baseline to compare it to. However, where relevant, our survey asked whether workers had experienced certain issues as a direct result of Covid-19. In addition, from our qualitative data, we are able to build up a nuanced picture of how the pandemic affected workers, including the issues which were new or different. Overall, research respondents agreed that most of the problems experienced by workers during the pandemic were not new, but rather pre-existing issues happening on a much larger scale than before. This section also discusses why the pandemic made certain workplace issues worse, especially for people in low-paid and insecure work.

# **NOT BEING PAID WAGES OWED**

The single largest issue reported by union members was not being paid the full or correct wages, which 44% of survey participants had experienced at least once since March 2020. This is consistent with analysis by Citizens Advice (2020b), which found that during the first year of the pandemic, insecure workers were three times more likely to not have been paid the wages they were owed compared to the rest of the working population. In their case notes and interviews with FLEX, union caseworkers noted how pervasive issues with pay are for their members:

The member had to leave the company as a result of the multiple failures that it committed. Frequent unlawful deduction from wages due to bad calculations regarding holiday payments. This is a regular practice.

# Case notes

The member's hourly pay was reduced by pennies on certain days, so that a substantial debt was accrued by the company to the member. In addition, he was not paid for one week of the previous year's holiday. The case is currently being pursued for unlawful deduction of wages and claiming holiday pay.

# Case notes

Small company that employed people for a few weeks and then dismissed them without pay. Report to the government made on this company.

# Case notes

The first and most immediate health impact was being exposed to the virus through work, which affected 17% of participants."

# "

A significant proportion of people who had the virus were unable to stay home and selfisolate."

# **PHYSICAL AND MENTAL HEALTH RISKS**

Health and safety violations was another key issue experienced by union members during the pandemic. The first and most immediate health impact was being exposed to the virus through work, which affected 17% of participants. This was exacerbated by a lack of clarity and compliance with safety measures, such as social distancing and the provisions of Personal Protective Equipment (PPE), which was especially scarce at the start of the pandemic. Of our respondents, 12% said they had been asked to work in ways that felt dangerous to their health during the pandemic, such as with poor social distancing or insufficient PPE. This affected both directly employed workers as well as those who are classed as selfemployed, such as app-based couriers.

We were meant to receive protection, like the gel and the masks from them [the company]. They didn't send it to everyone. I think they sent a few, or maybe no. For me, I didn't receive anything, only the letters, only the message from the app.

# Amine, Algerian app-based courier, Interview, 1 December 2020

There was a lack of consciousness of the seriousness of the virus. [...] The only precaution was for everyone to take their temperature when getting to work; everyone with the same thermometer. Not even the one you put on your forehead, the one under the armpit! You would clean it with a little wipe and give it to the next person.

### Denise, Colombian-Spanish cleaner, Focus group, 5 June 2021

Another key factor that exacerbated the risk of workers catching Covid-19 at work is that a significant proportion of people who had the virus were unable to stay home and self-isolate. Of our respondents, 11% said they could not afford to take time off sick or to self-isolate – an issue discussed further in the section on SSP in section 5.1. This also came up regularly in our focus groups and interviews, with participants saying they felt they had no choice but to keep working despite the risk of catching Covid-19 or passing it on to others, both at work and at home.

To be honest, you need to work, so I'm working. I have to work. I have to do my job. I know it's unsafe or maybe it's very difficult, but I have to do it. Protect myself and do the job.

# Amine, Algerian app-based courier, Interview, 1 December 2020

[I]f you felt sick and wanted to go home to get tested, or you just wanted to be safe, you wouldn't get paid. We were having to decide between getting paid and taking time off [to isolate], while having people to feed.

# Greta, Bolivian cleaner, Focus group, 5 June 2021

Particularly concerning were cases where employers knew of infections at the workplace but did not act to safeguard their staff, in some cases even compelling those with symptoms to continue working. Of our survey respondents, 8% said they had not been allowed to take time off sick or to self-isolate during the pandemic. This had deadly consequences for at least one union member:

No viable alternatives: Social (in)security and risk of labour exploitation during Covid-19

Employers knew of infections at the workplace but did not act to safeguard their staff, in some cases even compelling those with symptoms to continue working."

# "

Lack of effective enforcement of Covid-19 regulations by the state was a key factor enabling employers to ignore the rules." One of the cleaners passed away because of Covid-19. We know that their company was outsourcing, and we know that the agency forced this person to work despite having Covid symptoms. They didn't give proper PPE. It was the beginning of the pandemic. Those cases really affect us. Someone left this world because of Covid and because the employer didn't care about their health.

# Caseworker, UVW, Interview, 7 December 2020

My colleague had Covid and to her replacement they said she was on holiday, not that she was sick with Covid. I didn't like that. Thank God I didn't get sick, but I don't know how.

# Angela, Colombian cleaner, Focus group, 5 June 2021

I had Covid. I don't know if I got it at work or from outside. When I tested positive, I reported it, but nothing at work changed; none of my colleagues were made to isolate. It wasn't taken seriously.

# Denise, Colombian-Spanish cleaner, Focus group, 5 June 2021

Lack of effective enforcement of Covid-19 regulations by the state was a key factor enabling employers to ignore the rules. A comprehensive review of the Health and Safety Executive's (HSE) role during the pandemic found that it failed in its duties to protect workers, promote relevant health and safety laws, and prosecute non-compliant employers (Ewing et al., 2021). This is not surprising considering HSE has seen a 58% real term reduction in central government funding between 2009/10 to 2019/20 and a 35% reduction in frontline staff, including all inspectors (Ibid.: 28). In response to the pandemic, the government allocated £14 million in extra funding to the HSE, which was used to carry out 'spot checks' on employers. These were, however, conducted by telephone calls and largely made by outsourced, private providers (Ibid.). Many of the UK's other labour market enforcement agencies also reduced face-to-face inspections in response to the pandemic and moved their operations online (FLEX, 2020). In addition, the Advisory, Conciliation and Arbitration Service (Acas) - the independent public body funded by the government to provide services to workers and employers – stopped their online support services due to excessively high demand (FLEX, 2020) and only accepted calls through their helpline, which experienced a four-fold increase in daily calls (Acas, 2021). In the quote below, a trade union caseworker describes how, in the absence of effective state enforcement, the union had to step in to enforce basic Covid-19-protections for hospital cleaners, who had not been provided with the same protections as others working in the same central London hospital.

Hospital cleaners are considered key workers in name only. They haven't increased their salaries, same with shop and supermarket cleaners. They are on the frontline of the pandemic but haven't received any economic reward for risking their lives. At the moment we have a case in the hospital in [central London - hospital name redacted]; we had to force them to give health and safety protection to workers and to vaccinate them. They [cleaners] weren't considered in the vaccination plan, and we had to demand that they vaccinate them and protect them, give them PPE and gloves. This has been the case in a lot of places, because there are rules and regulations around health and safety and both workers and employers have to comply with them, but the government doesn't enforce laws or rules and regulations, doesn't oblige companies to comply with them. This is not a new issue. In my nine years of being involved in this struggle, I've seen that we as workers matter very little to companies, if at all. They want us to do the work and nothing more. They don't consider us as people, as human beings.

#### Cleaners and Facilities Branch Chair, IWGB, Interview, 28 April 2021

Finally, in addition to the physical impacts of the pandemic on workers in low-paid and insecure work, our research also showed significant mental health impacts. Of the survey respondents, 23% reported deteriorated mental health and wellbeing because of the pandemic. Mental health was also raised as an important concern by union caseworkers and frontline organisations, who highlighted multiple stressors including financial troubles and concerns, fear of getting Covid-19 or passing it to others, and – especially for migrants – feeling isolated and being far from family and friends.

Covid-19 was when we as a migrant sector, as a vulnerable, precarious sector, have become doubly affected. Being far from your family, being alone or without work – there have been a lot of cases of stress, of psychological and mental health problems caused by the pandemic.

#### Cleaners and Facilities Branch Chair, IWGB, Interview, 28 April 2021

One of the things we're really worried about is the mental health of our members, people being super sad, depressed saying, "I don't want to live anymore".

#### Caseworker, UVW, Interview, 7 December 2020

The knowledge that you don't have a safety net is something that I think creates a constant base level anxiety. And I think that it contributes to making people more vulnerable to more serious mental health issues. Just to have that low-level constant worry. [...] And when people are facing exploitation in the workplace, like they can't demand their wages even though they know they're being underpaid, the impact that that has on self-worth, and then, contributing again, to issues around depression. People's sense of self is very impacted by that kind of experience.

Policy and Advocacy Manager, Joint Council for the Welfare of Immigrants, Interview, 5 May 2021

# "

Of the survey respondents, 23% reported deteriorated mental health and wellbeing because of the pandemic."

Workers in lowpaid insecure work, including the selfemployed, lost their jobs and had their hours reduced at far higher rates compared to other working-age adults."

# **REDUNDANCIES AND LOSS OF WORK**

The third major issue, and one which had severe knock-on effects on all other employment conditions, was redundancy and reductions in hours. Workers in low-paid insecure work, including the self-employed, lost their jobs and had their hours reduced at far higher rates compared to other working-age adults (Adams *et al.*, 2020; Şandor, 2021). From our survey respondents, 33% reported having their employment contract terminated as a direct result of Covid-19, while 11% reported being given no work/not being put on the rota. Almost a quarter (24%) said they had to accept new terms of employment to retain their job.

According to union case workers, workers with fewer than two years of continuous employment were particularly at risk of being made redundant, as employers could do so without having to pay redundancy pay. In the UK, only employees (not workers) who have worked continuously for the same employer for two or more years are entitled to redundancy pay (UK Government, 2012a). The same qualifying period applies to protection against unfair dismissal (UK Government, 2012b). The quote below demonstrates how significant the consequences of not having these protections can be.

Because of the law, if you've been working for a company for less than two years, you're more vulnerable to being made redundant. With more than two years, you're guaranteed redundancy pay. The most financially viable option for companies was to make those who had been working for less than two years redundant, because they didn't have to pay them anything, so that is what they did. [...] Those that had been working more than two years got put on furlough or they changed their place of work, they moved people around, so they got rid of someone who'd been working for less than two years and put someone in who'd been there for three to not make them redundant. It would have been best if they'd put workers who'd been there for less than two years on furlough, but because they weren't obliged to, they opted for the easiest route – making them redundant. The decision was left in the hands of the companies.

# Cleaners and Facilities Branch Chair, IWGB, Interview, 28 April 2021

As the threat of losing work or being made redundant grew exponentially and alternative employment options all but disappeared, those still in employment were more likely to accept poor treatment at work to avoid losing their jobs, while people who had lost work were more likely to take on exploitative jobs due to lack of alternative options. A significant proportion of our respondents reported being afraid of losing work or having their hours reduced if they asserted their rights or complained about treatment at work during the pandemic, for instance by calling in sick (20%); refusing to do things outside their job description (17%); reporting or complaining about bad working conditions or pay (14%); or turning down shifts (12%). Table 3. Responses to the question: 'Since March 2020, have you been afraid of losing work/having your hours reduced if you did any of the following?'

Responses	Ν	%
Called in sick	69	20%
Refused to do things that are not in your job description/ not part of your job	57	17%
Reported/complained about bad working conditions or		
рау	47	14%
Turned down shifts	41	12%
Reported/complained about harassment or abuse at work	30	9%
Refused to work overtime	30	9%
Joined a trade union	22	7%
Asked for time off to care for your children or other dependents	13	4%
Other	4	1%
No, I have not been afraid of losing work/having my hours reduced for any of the listed reasons	167	50%

N = 334. Note, several participants selected more than one option.

The main drivers of this fear are the financial consequences of losing work, which in severe cases can lead to destitution and homelessness. The financial risks are likely to be particularly severe for migrants in low-paid work: low pay prevents people from building up personal financial safety nets and, as the following section will explore, migrants are often shut out from public safety nets provided by the benefits system. Of our survey respondents, 24% had experienced financial difficulties such as not being able to pay rent or bills as a direct result of the pandemic. At least four trade union members who participated in the survey had been made homeless as a result of the pandemic, and interviews with trade union caseworkers and other frontline organisations revealed further cases of homelessness.

[The member] had to leave home because he had no money for rent. He was working full time his whole time here, but he could not apply for benefits. He didn't know where to apply, how to apply, language barrier – he didn't know. He's in his 60s. It's not easy for him to go out and find a new job. He also had type two diabetes. He had to leave his house, go live with someone else, go to a foodbank as well.

#### Caseworker, UVW, Interview, 7 December 2020

The member came to the UK in January [2020] with her partner and was working for [a hotel – name redacted]. The hotel is refusing to show up for its employees and explain them their employment situation. Her case is in the court as the company owes her wages from March, August, September and the running one, October. She has no contract on her room and Universal Credit [the Department for Work and Pensions] is refusing to give her access to Housing Benefits. She could potentially face homelessness as her landlady doesn't seem to be willing to help her out.

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Of our survey respondents, 24% had experienced financial difficulties such as not being able to pay rent or bills as a direct result of the pandemic." Many of our live-in care workers and domestic workers were dismissed without any notice, without any pay. Without any consideration for what's going to happen to them in the middle of the pandemic. Some of them told me they'd been working for their employer for more than five years, and suddenly they were just told, "you have to leave with nothing". Suddenly employers were panicking that they might get Covid from their employees, from domestic workers, from live-in carers who care for them. So many people lost their jobs, became homeless.

# Trustee, Kanlungan Filipino Consortium, Interview, 17 May 2021

Accepting abusive or exploitative conditions at work is not a new issue for many in low-paid and insecure work, as the risk of losing work is everpresent even outside of the pandemic. However, the Covid-19 crisis has pushed the number of redundancies and, as a result, the fear of losing work, to new magnitudes. Anyone highly dependent on their job for survival, especially anyone with dependents, became even more afraid.

The fear of losing the job; as they have made 20 people redundant, will they make me redundant as well? Can I raise issues? It's an emotional conflict. If people are problematic, they get made redundant. If you want to fight for your rights its good but there are individual situations where you can't do this and just need to buckle down and work.

# Angela, Colombian cleaner, Focus group, 5 June 2021

If companies wanted to get rid of employees, they could. They only did what was beneficial to them and there was room for a lot of abuse. After my first three months finished, they did not give me an indefinite contract, but just another three-month contract. Why did I put up with all these things? Because my mother is dependent on me. So whenever one of these unjust things happened at work I thought of my mum and calmed down. Until I reached breaking point at six months and handed them my resignation and then changed area. If it wasn't for my mum, I would have left after the first day.

# Carolina, Ecuadorian cleaner, Focus group, 5 June 2021

For those who lost their jobs or had their hours reduced, lack of alternative employment opportunities meant people were forced to accept work, even if they knew it was exploitative.

What we saw during Covid was even more opportunity for employers to exploit because the alternative options got even narrower. [...] We saw a lot of employers saying, "If you don't show up, Covid or not, you'll be fired". We saw people made homeless. We saw some who were in one form of exploitation, such as in forced labour in the hospitality industry, mainly in hotels, made homeless and who felt their only option was sexual exploitation. There were no other jobs.

> Director of Operations, Human trafficking prevention charity, Interview, 30 April 2021

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# EXCESSIVE WORKLOAD AND SEXUAL HARASSMENT

A significant proportion (16%) of our survey respondents saw their workloads increase during the pandemic, the majority of whom (63%) were not paid for this additional works." Two direct examples of labour rights violations that intensified during the pandemic because of people feeling less able to assert their rights or report issues are unpaid work and sexual harassment. A sixth (16%) of our survey respondents saw their workloads increase during the pandemic, the majority of whom (63%) were not paid for this additional work. Our qualitative data shows how employers used people's fear of losing employment to impose this additional work, threatening them with dismissal if they refused.

- Carolina: I experienced an excess of work. The company was not ready for it – they had reduced capacity of staff, but the work increased, so I faced a huge increase in work. There was a lot of abuse of authority. [...] Four people remained of the original 26 and ended up sharing the work of 26 people among four.
- Angela: I worked all through the pandemic. I was only furloughed for one month. As Carolina mentioned, I also experienced excess of work and abuse of authority. [I was told,] "If you don't like it, just find something else".

### Carolina, Ecuadorian cleaner, and Angela, Colombian cleaner, Focus group, 5 June 2021

Companies are making people redundant and giving their work to the ones that remain. So, a company has ten cleaners, fires five and gives their work to the remaining five. There's abuse there too, in terms of the volume of work. And the companies threaten the workers, saying they will make them redundant if they don't do the work.

#### Cleaners and Facilities Branch Chair, IWGB, Interview, 28 April 2021

One of the consequences [of the pandemic] is that people are being given more work. Employees feel scared of refusing to do certain kinds of work. They are pushed to do more work within the same number of hours and within the same time – work that wasn't in their duties before. Employers are saying, "If you don't do the work, you are not fulfilling your responsibilities".

#### Caseworker, UVW, Interview, 7 December 2020

The member is experiencing stress at work and fear of being dismissed for raising her voice and making a complaint about excessive work.

#### **Case notes**

For workers with multiple dependencies on their employers, such as live-in care and domestic workers who are dependent on their employer for both income and housing, employers' power to impose conditions during the pandemic was further compounded.

And then those who allow their people to stay in their work were very strict. You know, they become almost 24-hour workers, seven days a week. They couldn't get out. They couldn't have a break. Normally they would have one day break. Many of them told me they're just living there 24-hours a day, working seven days a week during the whole of the pandemic. Because they were told, "If you leave, you lose your job. If you go out, you lose your job". So, they stayed put, and it was terrible in terms of their mental health and physical health.

### Trustee, Kanlungan Filipino Consortium, Interview, 17 May 2021

In the same way that employers increase people's workload without paying them during the pandemic, those in managerial or supervisor positions within companies used workers' fear of losing work to sexually harass them. The power imbalances between employers and insecure workers were perpetuated by the pandemic, further enabling harassment.

[Sexual harassment] has doubled, tripled during the pandemic because supervisors and managers threaten workers with firing them and to avoid this, they [workers] have to go out with them [supervisors and managers], have a coffee, visit them at home. This is happening a lot. We're concerned about it. They are demanding sexual favours in particular from female workers, taking advantage of the crisis, in exchange for not firing her or reducing her hours, or for providing a better working environment.

# Cleaners and Facilities Branch Chair, IWGB, Interview, 28 April 2021

This member works in a barracks and has been sexually harassed by her line manager. He brought her to his office with lies. She had a problem with her two team leaders, and he took the opportunity to harass her and tell her that things will be better and change if she accepts being sweet to him and if she allows him to touch her. [He said] that the industry is like that and that all the Latinas are whores, that it is how it works. He explained to her that there are many rooms that can be used, and nobody would say anything because there are no cameras and people can use them to have sex in them. He also told her that he is the boss and that he can do whatever he wants. He kept her in the room for over two hours persuading her. Horrible! She has complained [to her employer] and no response has been given to her.

#### **Case notes**

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Workers who experienced sexual harassment were even more reluctant to report it during the pandemic for fear of being victimised and losing work." Workers who experienced sexual harassment were even more reluctant to report it during the pandemic for fear of being victimised and losing work. This fear is not new or specific to the pandemic (EHRC, 2018), but has been exacerbated by it in an economic and social context where too many workers feel they have no viable alternative but to put up with abusive treatment.

And then with Covid just more generally, you've got women telling us they don't want to raise sexual harassment in the workplace because they're worried that they'll lose their jobs. And they just can't afford to do that in this kind of economic climate. So, a lot more reluctance to report, a lot more reluctance to call anything out.

#### **Rights of Women**

Those in managerial or supervisor positions within companies used workers' fear of losing work to sexually harass them."

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Cleaners and Facilities Branch Chair, IWGB, Interview, 28 April 2021
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# ACCESS TO SOCIAL SECURITY FOR LOW-PAID AND INSECURE WORKERS DURING THE PANDEMIC

# INSECURITY AND ACCESS TO SPECIFIC SOCIAL PROTECTIONS MEASURES

This section focuses on how labour market position, specifically being in low-paid and insecure work, can lead to people being excluded from social security protections. It focuses on three social security measures that were particularly important during the pandemic: furlough, Statutory Sick Pay, and Universal Credit.

### THE CORONAVIRUS JOB RETENTION SCHEME (FURLOUGH)

The furlough scheme was, from the outset, criticised by employment law experts for not fitting well with the circumstances of people in insecure work and therefore leaving many vulnerable groups without the protection afforded to those in more secure or traditional employment (Ford and Bogg, 2020). Specifically, the scheme did not work well for those with no guaranteed hours, such as agency workers and people on zero-hours contracts, as there was no financial incentive for employers to furlough workers that they could simply stop giving work to (Şandor, 2021).

[I]f we were paid by hour, the minute when everything was shutdown, we had no work anymore. And there was no obligation from the side of the employer, no need to give us work. No eighty percent [furlough pay].

#### Irina, Romanian waitress, Focus group, 5 June 2020

People with worker status could be easily dismissed because that's kind of ingrained into the status. They were told, "the shop is going to close, goodbye", and in that scenario they thought the government was trying to incentivise people not to be dismissed, but that wasn't happening. A lot of people were asking why they had to lose their jobs when other people were also not working but were on furlough.

#### Dr. Dora-Olivia Vicol, Executive Director, Work Rights Centre, Interview, 6 May 2021

This lack of incentive turned into a disincentive once employers had to start paying national insurance and pension contributions and, later in 2020, a proportion of people's furlough pay.

Many have been made redundant because their employers say they can't afford to pay the 20% of wages under new furlough regulation. [...] We are of the opinion that the government should provide 100% support under furlough. The government is unrealistic in thinking that companies that are losing work and losing profit will support workers and be able to afford to pay 20% of their wages. They will just make people redundant, as we are seeing.

#### Caseworker, IWGB, Interview, 8 December 2020

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The furlough scheme was, from the outset, criticised by employment law experts for not fitting well with the circumstances of people in insecure work."

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There was no financial incentive for employers to furlough workers that they could simply stop giving work to." Even those workers with guaranteed hours were not guaranteed access to furlough, as the scheme gave employers the exclusive power to decide who to furlough, giving no role to workers or unions in the process (Ford and Bogg, 2020). As a result, workers with the least bargaining power within an organisation – for instance those with no protection against unfair dismissal or those considered easily replaceable – had little to no recourse if their employer chose not to furlough them.

What was not reported as much, but was very significant, was people realising that furlough is not for everyone. Even though there was so much attention being given to it in the media, people were realising that furlough was not an employment right. It was a privilege for some employees and workers who were lucky to work for companies who applied for the scheme, but at the same time workers themselves had no power. There were lots of questions about "How can I get furloughed?" and the answer was that they couldn't.

#### Dr. Dora-Olivia Vicol, Executive Director, Work Rights Centre, Interview, 6 May 2021

Some employers don't want to put workers on the scheme and there is no legal support for us to make the employer support their employees. That's the challenge we're having now. [...] Because we don't have any laws to protect members, we have to just try to appeal to the emotions of the case, saying the employee doesn't have money to pay rent or buy food. But we don't have any law to protect the workers.

#### Caseworker, UVW, Interview, 7 December 2020

Workers feel excluded from social support. The government didn't oblige companies to be part of the furlough scheme, it was left up to them to decide whether to take this support or not. Companies [...] took the easy route and made a lot of people redundant, leaving a lot of families in a situation of social exclusion in economic terms as well as exacerbating psychological and mental problems for workers.

#### Cleaners and Facilities Branch Chair, IWGB, Interview, 28 April 2021

The fact that there was no way for workers or their representatives to effectively challenge an employer's decision not to furlough their staff meant that many more workers, especially those who already lack bargaining power because of their socio-economic position, were left unsupported. One focus group participant managed to get himself and his colleagues, all of whom were on zero-hours contracts, furloughed by calling his employer out on social media. He was, however, only able to do so because he worked in a small student town and was well-known amongst the clientele.

I'm friends with a lot of students. [The owner of the business] is very aware of that and she immediately – it took her less than twentyfour hours – found a way to furlough all her zero-hour contract staff after we had this exchange on Facebook. But prior to that, me and some of the other staff members had been saying to her and her brother, who is the co-owner, "Look, there are ways that you can furlough us". They were like, "Oh but it's not very much [money]". And we went, "It's not a lot to you, but for us that's a month's rent".

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There was no way for workers or their representatives to effectively challenge an employer's decision not to furlough their staff."

#### Luca, English-Italian bartender, Focus group, 5 June 2020

Granting employers full discretion over who to furlough also left the door open to discrimination and victimisation (Cook and Grimshaw, 2020). Case notes, focus groups with workers and interviews with frontline organisations all raised this as an issue, citing cases of pregnancy discrimination, trade union victimisation, and dismissal of people who had raised grievances.

As soon as the company knew she was pregnant, her work situation worsened. In less than two months, she was put on furlough and in July [2020] the company started the process of redundancy, and she was one of the employees who was dismissed. The company said that women who started maternity leave in September would be in the group of those who were dismisseds.

#### **Case notes**

We were made redundant because we were unionised, and we were [seen as] ungrateful workers.

#### Linda, Ecuadorian cleaner, Focus group, 5 June 2021

We're seeing members being dismissed for being part of the union, seeing cases related to union representation. We've also seen those cases before Covid, but because [of the pandemic] we're now fighting all the time. We're seeing workers face consequences for raising their voice, for speaking up and for companies not liking that.

#### Caseworker, UVW, Interview, 7 December 2020

The member had a previous case related to a grievance she had raised against her supervisor. During the process of the grievance, the pandemic started. She was furloughed with 100% of her wage. However, a redundancy process started a month before the first reduction to the scheme (in August). Sadly, she was made redundant. I consider that the company took advantage of the pandemic to dismiss her, as she had raised her voice against the abuse of power she was experiencing.

#### **Case notes**

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This incentivised some employers to furlough as many people as possible, while increasing the workload of their remaining staff." A further issue with the scheme is that, until July 2020, it did not allow workers whose hours had been reduced due to the pandemic to be paid under the scheme. Instead, it created a steep division between those who were not working and could therefore be furloughed, and those who continued to work and could therefore not access the scheme. This incentivised some employers to furlough as many people as possible, while increasing the workload of their remaining staff.

Some of them were doing, or being asked to do, extra hours to cover for workers who were either put on furlough or who couldn't come to work. But they were not being paid for the extra hours that they were being asked to do.

#### Policy and Communications Coordinator on Employment Rights, LAWRS, Interview, 29 April 2021

The furlough scheme could have been designed to better protect those in low-paid and insecure work, for example by making it possible for workers or their representatives to apply to the scheme if an employer

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The furlough scheme could have been designed to better protect those in lowpaid and insecure work." refused to do so, or by making furlough flexible from the start. Instead, those workers with the least financial resilience were shut out and forced to rely on Universal Credit and other much less generous social protection measures. As we will see in the next section, this was not an option for many of the workers represented in this study.

To me there was a big discrepancy between the logic behind furlough, the self-employment scheme, and Universal Credit. If you think about it, with furlough, the more you earn the more you get, up until a limit. Whereas with Universal Credit, every inch of earning more means deductions towards your Universal Credit. And even in terms of what people earn every month, that was a huge discrepancy which I think reproduced this inequality of income and security more generally between good and secure jobs in relatively big businesses who were equipped to apply for this sort of government support, and precarious jobs where employers just found it easier to fire people than to furlough them. Even though the government spending plan had a role – it did prevent a crisis of unemployment – I'm not sure it addressed the crisis of precarious employment. And even though it was presented as something without precedents, and it was, I do think there's more to be done for precarious workers.

#### Dr. Dora-Olivia Vicol, Executive Director, Work Rights Centre, Interview, 6 May 2021

Even where workers were able to access furlough, the fact that it was only paid at 80% of wages with an optional employer top-up meant that many workers saw a 20% reduction in their income. For a person aged 23 or older working 40 hours per week and earning the National Living Wage, being furloughed on 80% earnings would mean having to live on approximately £348 less in gross pay per month. The Office for National Statistics (ONS, 2020) estimates that approximately half of furloughed employees did not have their pay topped up and highlights that employees on the lowest hourly wage rate were five times more likely to be furloughed on reduced pay compared to higher earners.

Under the terms of the furlough scheme, workers were not entitled to the minimum wage, leading to dangerously low levels of income for already low-paid workers, pushing some into poverty and worsening it for others. Of our respondents who reported experiencing financial difficulties because of Covid-19, 71% had been furloughed.

I don't think the furlough is enough, at least in London. London is super expensive. Transport, rent... 80% is not enough.

#### Caseworker, UVW, Interview, 7 December 2020

You can imagine if you're working five hours a week and you are put on furlough, but now you're making 80% of whatever you are making for five hours a week, that's too low.

#### Policy and Communications Coordinator on Employment Rights, LAWRS, Interview, 29 April 2021

The government could have taken steps to prevent the income of furloughed workers from falling below the nationally agreed wage floor but chose not to. Several other countries designed their Covid-19 income protection schemes to protect low-paid workers, either replacing a higher proportion of their income or setting the minimum wage as the lower limit for replacement income (Müller and Schulten, 2020: 5).

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#### **STATUTORY SICK PAY (SSP)**

As with furlough, the UK system for supporting workers experiencing illness and injury at work also disadvantages those in low-paid and insecure work. According to the TUC (2021a), insecure workers are nearly ten times more likely than secure workers not to receive any sick pay, at 67% compared to 7%. While workers in higher paying roles tend to have access to more generous occupational sick pay schemes, those in low-paid jobs must generally rely on SSP (TUC, 2021b), which is currently paid at £96.35 per week for up to 28 weeks. Those who are self-employed have no sick pay entitlements, regardless of their income levels, as the UK is one of only four European countries not to extend sick pay protections to the self-employed (Council of Europe, 2018).

Of our sample, the majority (87% of respondents, excluding the selfemployed) were entitled to SSP. Only 3% had access to an alternative occupational sick pay policy from their employer, while 3% had no access to any kind of sick pay and 6% were unsure.

#### Table 4. Sick pay entitlement of respondents

Type of entitlement	N	%
Statutory Sick Pay	273	87
Not sure/Don't know	20	6
None	10	3
Occupational Sick Pay	8	3
No response	2	1
Total	313	100

\*Note - Self-employed workers have no sick pay entitlements, which is why they have been excluded from this table.

This is quite a high level of entitlement considering our recent research with cleaners (FLEX, 2021) found that 47% had no access to any kind of sick pay (34% when excluding the self-employed). However, because of how SSP is designed, being entitled to it does not mean workers are able to take time off when they are ill. First, it is widely agreed that SSP is not sufficient to cover basic expenses, such as rent, bills and food (CIPD, 2020; HC Deb 2 March 2021; TUC 2021b). It is one of the lowest sick pay rates in Europe and has been described by the Council of Europe (2018) as "manifestly inadequate" and "not in conformity" with the European Social Charter. In a report by the Organisation for Economic Co-operation and Development (OECD, 2020) the UK's mandatory paid sick leave compares poorly to those of other OECD countries, replacing only a fraction of earnings.

The low rate at which SSP is paid means that many workers simply cannot afford to call in sick. This reflects a considerable failure by the state to protect workers, one which has had a much-needed spotlight thrown on it by the pandemic. As a result of the inadequate protection provided by the state, workers face the stark choice between working when ill, potentially infecting others, and being pushed into debt and destitution.

How do you ever live on £90 per week from statutory sick pay? You know you cannot pay your rent. You cannot pay for your utilities and it's not even enough to pay for your food. That's why they [workers] don't stay at home, they go to work. [..] They go to work, and then therefore the spread of Covid is not properly monitored. Because they will say, "Oh, I'm okay now I'm going back to work", even though

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Because of how SSP is designed, being entitled to it does not mean workers are able to take time off when they are ill."

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The low rate at which SSP is paid means that many workers simply cannot afford to call in sick." they're not okay. It's because they haven't got the money to live on. So, they go to work. I know a lot of people who did that, and I couldn't blame them because they need to survive.

#### Trustee, Kanlungan Filipino Consortium, Interview, 17 May 2021

Again, for people in low paid work, the possibility of taking time off work to isolate on statutory sick pay, or on no sick pay – because plenty of them would just not get sick pay – there was just no question of isolating at all, even if they could have done it with their housing situations, which again, would have been difficult. There is just no possibility of taking two weeks off work, it's just... people would starve. It's just not going to happen.

#### Policy and Advocacy Manager, Joint Council for the Welfare of Immigrants, Interview, 5 May 2021

Another reason why SSP leaves low-paid and insecure workers unprotected is the lower earnings limit, currently set at £120 per week per employer, which workers must meet if they are to qualify. This disadvantages anyone on low pay working part-time, on variable hours, or for multiple employers, as is common in the cleaning sector. Workers with multiple employers might meet the lower earnings limit for one employer, but not for others, often meaning they must continue working those jobs despite being ill. The TUC (2020b) estimates that 1.9 million workers are unable to claim SSP because they earn less than the lower earnings limit from their main job, with women making up 70% of this group. Of those on zero-hour contracts, 34% do not meet the lower earning limit compared to 6% of permanent employees (*Ibid*.).

I was sick with Covid-19 for three weeks and was not paid SSP despite being eligible (earning £10 above the threshold). I informed my manager (English-speaking) by sending him screenshots of my test results. I asked my union for help when my payslip salary came back very low. The company first told my union that I was not eligible for SSP due to low earnings but did not provide any breakdown of how they had determined this. Contractually, I am eligible for sick pay. If I earned less than the threshold in the last eight weeks this was due to furlough or absences. The company also told me they had sent me an SSP form to claim sick pay with benefits however I did not receive this and with my language barrier it is very difficult and time-consuming for me to access this. Now they are saying my sick leave was paid at furlough amount and are not providing a payslip to demonstrate this.

#### Case notes

The third feature of SSP that disadvantages those in low-paid and insecure work is the fact that SSP is only paid from the fourth day of illness, meaning workers must go unpaid for three days before receiving support. For those on low earnings this is not always an option. Of our survey respondents who had access to SSP, 25% said they had gone to work when ill due to SSP only being paid from the fourth day of absence from illness. During the pandemic, the government decided to remove the three unpaid waiting days for those who are ill or self-isolating due to Covid-19, which indicates an awareness of the inadequate protection provided by SSP and the public health risk it creates.

Finally, the fact that enforcing SSP is not within the remit of any of the UK's multiple labour inspectorates means that workers are left to enforce

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The fact that enforcing SSP is not within the remit of any of the UK's multiple labour inspectorates means that workers are left to enforce this key protection on their own." this key protection on their own. Once again, workers on low pay, with no guaranteed hours or protection against unfair dismissal, face the highest barriers to enforcing their rights. One fifth (20%) of our respondents said they had been afraid of losing work or having their hours cut if they called in sick during the pandemic.

[S]ick pay is also a huge issue. We see women who say that if they're ill, either they can't take any sick leave and they have to go to work anyway, or they have to find a replacement themselves and pay out of their own pocket. There's a lot of abuse with sick leave.

#### Policy and Communications Coordinator on Employment Rights, LAWRS, Interview, 29 April 2021

We welcome the government's plans for the proposed Single Enforcement Body (SEB) to take on responsibility for enforcing SSP (BEIS, <u>2021b</u>) and note that to do so effectively the SEB must have sufficient resources to proactively target high-risk sectors. We also call for the government to find an interim solution while the SEB is being established.

#### **UNIVERSAL CREDIT**

Those workers who could not access the furlough scheme and were made redundant or had their hours reduced because of the pandemic were expected to rely on Universal Credit. In total, 17% of our survey respondents had accessed Universal Credit during the pandemic. As mentioned in a previous section, Universal Credit performs a very different function to furlough; instead of replacing lost income, it is intended to provide households with the very minimum needed to keep them out of poverty. There are multiple reports (Joseph Rowntree Foundation, 2019; House of Lords Economics Select Committee, 2020; Machin, 2021) that provide more detailed overviews of the problems with Universal Credit and the reforms needed than we have scope for in this report. Instead, we will focus on some of the key barriers to accessing Universal Credit affecting people in low-paid and insecure work raised by our research participants.

A key barrier to accessing Universal Credit raised by union caseworkers and frontline organisations is the complexity of the application system, which many are unable to navigate without guidance.

For a lot of people, they don't know where to begin and how to get access. And unless you've got an advocate, or somebody who knows about the system, it's super tough to navigate the paperwork you need to get to the appointments.

#### Director of Operations, Human trafficking prevention charity, Interview, 20 April 2021

Even if they are entitled to Universal Credit, it's a hell of a job to apply for it. We have been trying to support many people in terms of their universal credit application, and the bureaucracy, the paperwork, all the things that they need to produce to be able to get it, is enough to make them give up.

#### Trustee, Kanlungan Filipino Consortium, Interview, 17 May 2021

Those with digital or functional illiteracy, and anyone lacking access to the internet or other necessary technology, are especially in need of support as Universal Credit must be applied for online. Roma Support Group, who

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Universal Credit performs a very different function to furlough; instead of replacing lost income, it is intended to provide households with the very minimum needed to keep them out of poverty."

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Roma Support Group [...] said that the majority of the 2,500 people they see each year are unable to go through the application process on their own." spoke to us for this research, said that the majority of the 2,500 people they see each year are unable to go through the application process on their own.

We also see high rates of digital exclusion and another thing which is called functional illiteracy. We see that very, very often among our clients, who may know how to read and write but they simply don't understand the text of a letter. Because of the words and the vocabulary, it's just complex, and they can't understand it. So, this means that even if they have a laptop or internet, and they want to go online on the council website and check for information, it's very likely they'll simply not understand what is written there. The majority of our clients have this. They get letters, sometimes even in their own languages, and they need those letters to explained to them so they can understand. And then, obviously, the lack of information in general is another issue. In terms of digital exclusion, just from our own experience we've seen that more than 20% of families that we work with have no equipment in their house, be that a smart phone, laptop, or tablet.

#### Campaigning and Policy Worker, Roma Support Group, Interview, 30 April 2021

The digitalisation of welfare has thrown up difficulties for homeless and insecurely housed people in particular. People who do not have access to smartphones or computers, or who lack the computer or language skills to use such technology, are being told that everything has to be submitted online, and that they need to log in to their Universal Credit journal in order to communicate with the DWP.

#### Benjamin Morgan, Research and Communications Coordinator, Public Interest Law Centre, Interview, 11 May 2021

The huge demand for assistance with accessing benefits like Universal Credit during the pandemic led to many organisations that had previously not provided support with accessing welfare to start doing so. Those already providing this support had to increase their provision.

Covid-19 had a huge impact on what people asked for. For example, we've seen a hugely increased number of people that needed support with the Universal Credit or the Self-Employment Income Support Scheme. People who we've never seen before, who don't usually engage with charities.

#### Campaigning and Policy Worker, Roma Support Group, Interview, 30 April 2021

They have been having issues accessing benefits and they don't know what they are entitled to. We've been trying to create a support group around this. [...] We spent the last three months supporting people applying for Universal Credit. From July to September [2020]. It was an effort at the whole union level. That had to stop because there was no capacity to deal with that.

#### Caseworker, IWGB, Interview, 9 December 2020

A further challenge is the minimum five-week wait for Universal Credit payments, which can leave those without access to redundancy payments or without a financial safety net destitute and at risk of being pushed into exploitative work.

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The huge demand for assistance with accessing benefits like Universal Credit during the pandemic led to many organisations that had previously not provided support with accessing welfare to start doing so." redundant, unless you've had some sort of pay-out with it, your immediate thought is, "How am I going to get money this week?". And if you've been in an industry where the work is fairly low paid, or you don't have many savings, you almost don't have the time to pause, claim benefits, wait for the benefits to be paid out. What do you do in the meantime? I think that has been really ignored in the benefit system. We saw that with a lot of survivors [of modern slavery] where they wouldn't get the money for five, six weeks. And, yes, they'd get it backdated, but in that five, six weeks, how does somebody survive unless they have a support network?

It's a whole brand-new system at a point where, if you've been made

#### Director of Operations, Human trafficking prevention charity, Interview, 30 April 2021

Many people in low-paid and insecure work, especially those in urban centres where living costs are higher, either live in or sublet houses of multiple occupancy. As a result, they may not have a rental contract and so are unable to claim for housing benefit as part of Universal Credit. Of our total respondents, 7% said they had been unable to apply for benefits because they could not provide the necessary documents, such as a rental contract.

[A] lot of people struggle to demonstrate their housing costs because they were actually subletting, and in a way they were the poorest and that's why they were subletting, so they don't have a contract and can't prove to the Department for Work and Pensions that they had housing costs, so they only ended up getting the 'living costs' of Universal Credit, which is puny.

#### Dr. Dora-Olivia Vicol, Executive Director, Work Rights Centre, Interview, 6 May 2021

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Even where people are able to access Universal Credit, the payments they receive can be so low [...] that it is not enough to live on." Finally, even where people are able to access Universal Credit, the payments they receive can be so low, especially if they are unable to get support for housing costs, that it is not enough to live on. As previously noted, Universal Credit payments – as calculated for a single adult over the age of 25 – are significantly below the government's own measure of absolute poverty, even with the temporary £20 per week uplift (Brewer and Hanscombe, 2021). Social security payments must be enough to provide a viable alternative to exploitative work – under current measures it is not clear that this is the case.

[...] even those who are on benefits are accepting work even if it is exploitative. We've got clients who have Universal Credit and so on, but the money is so little that they've said: "Well, I can't be on benefits, I can't stay just on benefits. I need to work". So, they will go to work anyway.

> Campaigning and Policy Worker, Roma Support Group, Interview, 30 April 2021

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7% said they had been unable to apply for benefits because they could not provide the necessary documents, such as a rental contract."

# IMMIGRATION-RELATED BARRIERS TO ACCESSING SOCIAL PROTECTIONS

Once we have understood how the benefits system, including Covid-19 support, is designed in a way that creates barriers to access and gaps in support for those in low-paid and insecure work, we can then turn to look at the additional layer of vulnerabilities created for those in this group who are also migrants. These factors can be divided into two groups – those that can affect all migrants, regardless of their immigration status, and those that affect specific groups of migrants based on their immigration status.

#### BARRIERS AFFECTING MIGRANTS REGARDLESS OF IMMIGRATION STATUS

The issues that can affect all migrants, including those who are entitled to benefits, include language barriers; lack of knowledge about rights and where to get support; discrimination and prejudice, for instance in the form of gatekeeping by authorities; and low expectations about rights and entitlements, for instance due to differences in country of origin and destination. From our data, overwhelmingly the main barrier to accessing social security measures faced by respondents was language, with more than half (58%) saying they had experience language as a barrier. Language also came up in all our focus groups with workers and interviews with stakeholders.

For personal circumstances [pre-pandemic] I had to apply for Universal Credit. If I hadn't spoken some English or had the support of an external organisation, I couldn't have done anything because all the documentation is in English. Imagine someone who does not speak English and has to rely on what other people say. I did not have an interpreter when I applied.

#### Denise, Colombian-Spanish cleaner, Focus group, 5 June 2021

It can be easy to dismiss language barriers as a problem for individuals to fix on their own but doing so risks leaving significant societal issues unresolved. If the state were to take a preventative approach to resolving labour abuse and exploitation, including offences that fall under the Modern Slavery Act 2015, it would consider the proactive steps needed to mitigate risks for workers. One of these steps would be to provide tailored information and support in multiple languages. As one respondent noted, having information about universal credit or the furlough scheme in multiple languages – as was done with the Covid-19 vaccination drive – would have helped her and her colleagues access the scheme and ensure they were being paid correctly:

When I received my vaccination card, it was translated in all the different languages. They could have done the same thing with information about furlough.

#### Greta, Bolivian cleaner, Focus group, 5 June 2021

Frontline organisations also called for more information to be available in multiple languages, noting examples of where this was being done and how it could be done better by collaborating with community organisations that have expertise and experience engaging with specific target groups:

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Overwhelmingly the main barrier to accessing social security measures faced by respondents was language, with more than half (58%) saying they had experience language as a barrier."

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It can be easy to dismiss language barriers as a problem for individuals to fix on their own but doing so risks leaving significant societal issues unresolved." I think having easier access to information in different languages is key. [...] That should be done also working with community organisations who know what the issues are and why people don't have access, and which channels should be used to put this information out there.

#### Policy and Communications Coordinator on Employment Rights, LAWRS, Interview, 29 April 2021

Other key barriers to accessing social security identified through our survey were not knowing what benefits and financial support are available (24%) and not knowing how to apply for benefits and financial support (22%). These are, of course, barriers that can be experienced by people regardless of whether they are migrants or UK nationals, but our qualitative data shows how factors related to a person's experience as a migrant and their position in the labour market can intersect to compound this issue, as is demonstrated in the quote below.

The [welfare] system here is, as you know, very, very complex. [...] people come here, and they don't really know how to deal with the system and the labour market here. In terms of trying to understand the system, it's not just the language that is an issue, but also the lack of time to try and get the right information, to contact organisations, to try and get statutory services to deal with you in the right way. You know, these are women who are sometimes working really anti-social hours, working really hard, going from one job to another in different ends of the city. And there's another issue, which is that they might not only not have the information, but they might get the wrong information, both from employers who can outright lie, and tell them that they're not entitled to receive certain things when they are, but also colleagues, co-workers, or people they know from the community who give them the wrong information, not with bad intentions, but just because they have the wrong information. The other issue is not having legal access to any of these things because of their immigration status.

#### Policy and Communications Coordinator on Employment Rights, LAWRS, Interview, 29 April 2021

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Further factors that can create barriers to accessing social protections for migrants include not feeling entitled to support, lacking the confidence to seek it out, or lacking trust in state systems." Further factors that can create barriers to accessing social protections for migrants include not feeling entitled to support, lacking the confidence to seek it out, or lacking trust in state systems. These factors can be influenced by experiences from countries of origin, other destination countries, or previous experiences with UK authorities.

Simply asking for support is something that people think is actually not possible. I mean, in countries of origin, Roma are usually used to child benefit. Something that everyone knows, and everyone has, and so on. So, that's not problematic. But accessing all those other sorts of services, it's a lack of confidence, lack of trust, fears of discrimination and so on. Then, there are some practical barriers as well, which is the lack of awareness of English, either spoken or written.

#### Campaigning and Policy Worker, Roma Support Group, Interview, 30 April 2021

When you're a migrant worker it doesn't really matter where you're from, you don't arrive with the highest expectations from the state. People don't start working with a sense of entitlement or

justice. They just want to get by [...] I've been interviewing migrants for a while and it's almost like people normalise the idea that it's going to be hard. It takes a while, a certain degree of confidence and experience for people to start saying, "This is not ok, this is exploitation or a breach of my rights". So you have that element of novelty and [lack of] confidence. There's also the element of trust in the state and in authorities. They're all overlapping. Then you also have the English language issue, and the fact that accessing employment justice is not very visible or generous at the level of the state.

#### Dr. Dora-Olivia Vicol, Executive Director, Work Rights Centre, Interview, 6 May 2021

Finally, many of the frontline organisations we spoke to for this research raised the issue of gatekeeping by statutory services and local authorities. As a result of gatekeeping, people can be prevented from accessing social security even when they are entitled (PILC, 2021). Key factors influencing this behaviour include lack of sufficient resources for statutory services and local authorities; a culture of disbelief towards claimants; and lack of training and knowledge among statutory services about the rights of migrants in the UK (Alden, 2015; LAWRS, 2015).

Those who have approached local authorities, due to gatekeeping behaviour, are being turned away. They're told they're not eligible, that they're someone else's problem, and that they're 'not destitute enough'.

#### Policy Coordinator, Project 17, Interview, 28 April 2021

There are also cases of women who have access and who know what they're entitled to, and then they go to statutory services, they go to the DWP, they go to the council, and they have terrible experiences. They don't get the right support; they don't get interpreters. We see an endless number of Latin American women who had bad experiences.

#### Policy and Communications Coordinator on Employment Rights, LAWRS, Interview, 29 April 2021

I have struggled to refer people for housing assistance myself, being stuck on the phone [calling a local authority homelessness helpline] for an hour and a half and not being able to contact the right person, so that is definitely extremely difficult for people to access on their

own and even with support. There is a lot of gatekeeping.

#### Kasia Makowska, EEA Homeless Rights Advisor, Public Interest Law Centre, Interview, 11 May 20211

On one hand there is legal discrimination based on who has the right to what under the law. On the other hand, there is 'gatekeeping' by local authorities and statutory agencies, whereby they make it so difficult for people to access a service—whether it's housing assistance or universal credit or whatever—that they just give up and go away.

> Benjamin Morgan, Research and Communications Coordinator, Public Interest Law Centre, Interview, 11 May 2021

As a result of gatekeeping, people can be prevented from accessing social security even when

they are entitled."

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Interview participants also noted instances where gatekeeping arises from prejudice and discrimination based on race, ethnicity and nationality.

Usually, it [applying for benefits] is straight-forward, but sometimes it's a bit more problematic. Let's say if we take the case of healthrelated benefits. When the applicant must go for assessments, things can go wrong there because of communications, because of prejudiced opinions. Often people need interpreters, and the interpreters will interpret in, let's say, Slovak or Romanian or Polish or whatever. Many times, they will carry their own prejudice against the Roma themselves, and the communication will be impacted by that.

> Campaigning and Policy Worker, Roma Support Group, Interview, 30 April 2021

#### **BARRIERS RELATED TO IMMIGRATION STATUS**

The second category of migration-related barriers to accessing social protections are those that are linked to a person's immigration status. As Table 2 in Section 3 shows, immigration status determines many of the rights and entitlements available to different groups of migrant workers, with some groups having almost no entitlement to social protections, such as those with a NRPF condition on their visa, and others having only conditional access, such as those with Pre-Settled Status under the EU Settlement Scheme (EUSS).

#### PRE-SETTLED STATUS AND CONDITIONAL ACCESS TO SOCIAL **PROTECTIONS**

Before Brexit, EEA nationals and their family members' access to social protections in the UK was governed by EEA free movement regulations. Eligibility for support was dependent on whether EEA nationals could pass the Habitual Residence Test, proving they had a 'right to reside' for example because they were working (Citizens Advice, 2021; Barnard and Costello, 2020). In 2014, the UK government introduced a succession of reforms aimed at restricting EU nationals' access to social protections, including a minimum earnings threshold used to assess whether the work activities of EU nationals constituted 'genuine and effective' employment and subsequently determine whether they were entitled to certain benefits (Department for Work and Pensions, 2014). Anyone earning below the threshold, set at £184 per week in 2021/22, had to pass a second test to show their work was not in fact 'marginal and ancillary'.

These reforms made it harder for migrant workers in low-paid and insecure employment to access benefits by creating a negative presumption among DWP officials that anyone earning below the threshold was not entitled to support, despite this not automatically being the case. Many migrants in low-paid and insecure work have been wrongly denied access to benefits as a result (FEANTSA and PRODEC, 2019). Decisions to deny people benefits based on the earning threshold are regularly overturned after reconsideration requests backed by legal advice (*Ibid*.: 11), but unfortunately not everyone will have known to appeal or had access to legal advice or representation.

This conditional access to welfare support has been maintained post-Brexit as part of the EUSS. EU nationals and their family members with Pre-Settled Status are being denied access to support like Universal Credit unless they can prove another qualifying right to reside in addition to their EUSS status (PILC, 2021). There is a legal challenge brought by the Child

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In 2014, the UK government introduced a succession of reforms aimed at restricting EU nationals' access to social protections."

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Many migrants in low-paid and insecure work have been wrongly denied access to benefits as a result."

Poverty Action Group on behalf of two EU citizens with Pre-Settled Status who have been refused benefits, which should be concluded in 2021 (*lbid*.). In the meantime, some EU nationals and their family members with Pre-Settled Status continue being denied access to support. Wrongful decisions can be overturned, but this requires applicants knowing their rights and entitlements and having access to specialised advice and support.

We had a client who had an accident at work in July [2020], and he had to claim Universal Credit. He's quite good with the internet and with going online, so he's done it on his own, input the details and so on, but he was refused on the Habitual Residence Test. Then I helped and I spoke with people from the Universal Credit - I explained the situation, I followed up with letters. We've had mandatory reconsiderations in place, letters, details, and so on. And again, he was refused. So, we started a second claim, and the second claim was refused under the same reason as well, until we went to the courts. And then before the courts, the Universal Credit people reach out to the client and say, "Well, we actually realised that we were wrong and you have enough evidence and you meet all the thresholds and everything else", and they granted him the benefit. But it took someone in a high position with more experience to go through the documents and actually understand that this person has retained his rights, in that he worked in the UK for more than a year before he had the accident. He also had Pre-Settled Status.

#### Campaigning and Policy Worker, Roma Support Group, Interview, 30 April 2021

The pre-settled status question is massive in terms of EU citizens' access to social protection after Brexit. A huge number of people have Pre-Settled Status and their right to receive welfare benefits remains up in the air. As a side note, some of these people should have been granted Settled Status as a result of having lived in the UK for more than five years. Many, including homeless people, have found it difficult to evidence this, and may have been granted an 'inferior' form of status as a result. Others are unaware of the difference between Settled and Pre-Settled Status.

#### Benjamin Morgan, Research and Communications Coordinator, Public Interest Law Centre, Interview, 11 May 2021

The government's decisions to continue to prevent EU nationals and their family members from accessing welfare support based on the minimum earnings threshold has led to a flawed system where those most in need of support are denied access to it because they are not earning 'enough'. This system is not up to speed with current labour market trends and also needs to respond better to gendered social inequalities. Women are more likely than men to work part-time, often because they are providing free or minimally compensated reproductive labour in the home, which is not counted towards assessments of 'genuine and effective' work. As a result, they are more likely to be denied access to welfare benefits based on earnings thresholds.

Women's relationship with the labour market is more likely to be disrupted by caring responsibilities, and women are also more likely to experience issues demonstrating that their work is 'genuine and effective' [...] This has to do with women being more likely to do certain kinds of work than men: casualised, irregular, informal and

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No viable alternatives: Social (in)security and risk of labour exploitation during Covid-19

This system is not up to speed with current labour market trends and also needs to respond better to gendered social inequalities." unpaid [...] socially reproductive labour – caring for children, family members.

#### Benjamin Morgan, Research and Communications Coordinator, Public Interest Law Centre, Interview, 11 May 2021

#### NO RECOURSE TO PUBLIC FUNDS (NRPF)

NRPF is a condition applied to all migrants in the UK with limited leave to remain, as well as anyone with an irregular immigration status, denying them access to most welfare benefits, including Universal Credit and housing assistance. Pre-Brexit, NRPF only applied to non-EEA migrants because EEA nationals were exempt under free movement, but now EEA nationals are subject to it on the same basis as non-EEA nationals unless they have an immigration status under the EUSS. In 2019, close to 1.4 million people in the UK held visas that would usually have the NRPF condition attached to them, the majority of whom were people with BAME backgrounds (Migration Observatory, 2020). There are currently no reliable estimates on the irregular migrant population in the UK.

The aim of NRPF is to ensure immigration does not create an excessive burden on public finances (Home Office, 2020). The expectation is that people with NRPF are financially secure enough not to need benefits, yet in reality anyone can be vulnerable to economic shocks, as the pandemic has shown. Numerous studies have documented the harm that NRPF does to migrants by denying them access to support, forcing people into destitution, debt, and preventing them from leaving exploitative and abusive situations (Citizens Advice, 2020b; Dickson and Rosen, 2020; Jolly *et al.*, 2020). Much attention has rightly been paid to the impact of NRPF on women experiencing domestic violence (Rights of Women, 2008; Southall Black Sisters and LAWRS, 2020; El-Atrash, 2020), but less has been written about its impact on those in low-paid and insecure work (Gardner, 2021; Kanlungan Filipino Consortium *et al.*, 2020).

There are very few limited exceptions where people can access public funds if they have NRPF, including if they are destitute, at imminent risk of destitution, or if there are compelling reason relating to the welfare of their child on account of very low income. However, there are strong disincentives for this as anyone with limited leave to remain applying for an NRPF exemption will have to start at the beginning of the ten-year route to permanent residence, including those who had previously been on the five-year route. They can apply again under the five-year route but will need to complete a new five-year period before they can apply for settlement. This adds to already high immigration costs and extends the period during which a person will have no recourse.

[I]n most cases, if you access benefits, you're again on the longer route and have to pay again and again. [...] That's the calculation that people have to make; if you're in sight of indefinite leave to remain, then maybe you stick it out in this terrible situation for a bit longer.

#### Policy and Advocacy Manager, Joint Council for the Welfare of Immigrants, Interview, 5 May 2021

The process of applying for an exemption can also be debilitatingly complex, as is described by an interviewee from Kanlungan Filipino Consortium below. The complexity of the process also means that applicants must have access to support, which is not always readily available due to the lack of funding for and over-reliance on the third sector.

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The expectation is that people with NRPF are financially secure enough not to need benefits, yet in reality anyone can be vulnerable to economic shocks, as the pandemic has shown." They said, "Of course you can apply for an exemption, because it [not having recourse] will impoverish you and your child". My God, applying for the exemption. We tried with this family who have a limited visa because they lost their jobs. They were in low-paid work and applied for Section 17 [of the Children Act 1989] to waive the no recourse to public funds condition, because of impoverishment. It's very difficult. And we're trying to get them the support from the organisation that's doing it, but they have an overload of cases. He [the caseworker] said, "I can't support them until maybe six or eight months from now". I don't blame the organisation who are overloaded, but they can't support the family. So, what happened to the family? They had to beg, borrow, and hopefully not steal, but we had to support them in the community. We supported them through giving them food vouchers and, you know, signposting them to food banks in the council. But it's a very dehumanising experience.

#### Trustee, Kanlungan Filipino Consortium, Interview, 17 May 2021

Those with an irregular immigration status face an even greater barrier to applying for NRPF exemptions, as coming to the attention of the authorities will mean having to eventually leave the UK. The policy of excluding anyone with irregular immigration status from accessing public funds can seem justifiable on the basis that without an immigration status, a person has no legal right to remain in the UK. However, it is important to note that people can end up with an irregular immigration status for a multitude of reasons, including the UK government's own decision-making and inefficiencies. Frontline organisations interviewed for this research highlighted factors including the cost of visa applications and extensions, which are set exponentially higher than the administrative cost (Yeo, 2021), and the complexity of the system as key reasons for why someone might end up becoming irregular.

The pathways to settlement are so long, expensive, and onerous that people often fall off them, not renewing in time or not having the funds. [...] The average cost of a ten-year route to settlement per person is on average £10,000. Every two and a half years you have to renew your visa and pay the health surcharge, which comes up to roughly £2,500. With legal fees that comes up to more than £10,000 per person [at the end of the ten-year route]. So that's an additional expense that people have in addition to what other workers might have.

#### Policy Coordinator, Project 17, Interview, 28 April 2021

A person can try their utmost to follow the rules only to find out they have been given the wrong advice by someone they trusted, such as a statutory service provider, as is the case in the quote below.

We have a case of a family who are on no recourse to public funds. When the woman gave birth, the social worker said, "Okay, complete this form for your child benefit". So, she completed it, and then the child benefit was processed, and then they paid them the child benefit. And then, when the family applied for indefinite leave to remain, the Home Office saw that they were receiving child benefits, so they got refused and they were issued with a deportation order for breaking their immigration requirements. [...] They're both nurses and we had to come and take their stuff for deportation, which is crazy because the Home Office doesn't care. They said, "Well, they made a mistake, they didn't know, but it's not an excuse".

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A person can try their utmost to follow the rules only to find out they have been given the wrong advice by someone they trusted."

Trustee, Kanlungan Filipino Consortium, Interview, 17 May 2021

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Those with an irregular immigration status face an even greater barrier to applying for NRPF exemptions."

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Legal advice is often crucial for people to regularise or even maintain their immigration status and subsequently access welfare support." Our data also highlights the poor availability of good quality, free immigration advice and representation as another important reason for why people may end up with an irregular immigration status. Legal advice is often crucial for people to regularise or even maintain their immigration status and subsequently access welfare support, as can be seen from the many EEA nationals and their family members needing support to secure Settled Status under the EUSS. Yet, legal aid is not available for immigration issues except in some very specific circumstances and representation can be very difficult to find (York, 2013).

The lack of legal aid for immigration issues is a very serious one, both in terms of just people being supported to maintain their immigration status, but also in terms of another exploitation risk, which is bogus lawyers. The immigration system is so complex, that you really, really do need legal assistance to navigate it.

#### Policy and Advocacy Manager, Joint Council for the Welfare of Immigrants, Interview, 5 May 2021

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Though immigrationrelated restrictions like NRPF and cuts to legal aid for immigration issues are meant to reduce costs, they effectively only shift them from central government to under-funded local authorities." Though immigration-related restrictions like NRPF and cuts to legal aid for immigration issues are meant to reduce costs, they effectively only shift them from central government to under-funded local authorities, who are in some cases legally obliged to support destitute non-UK nationals (PILC, 2021; Price and Fellas, 2008).

NRPF doesn't achieve what it sets out to achieve, except feeding into the political narrative about 'benefit scroungers' and 'dirty migrants'. That narrative. You can then say, "Well, we give them NRPF, so we are protecting our society from being sucked dry by these leeches" – that is very much what it says, but actually people who are here, we still have a duty in circumstances where people require support, so that responsibility then falls on local authorities who are again largely underfunded. It just feels tragic that, as with so many of these policies, so much hurt and so much damage is being done in the name of a political narrative and a policy that doesn't work. Because it doesn't work. It's not saving money; that money is just being spent by a different authority.

#### Policy Coordinator, Project 17, Interview, 28 April 2021

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Caseworker, Glass Door, Interview, 18 May 2021



# LACK OF ACCESS TO SOCIAL PROTECTIONS AND RISK OF EXPLOITATION

The findings presented in the previous sections can help distil some of the key mechanisms by which lack of access to social security drives risk of labour abuse and exploitation, especially in the context of low-paid and insecure work. Social security is meant to reduce social and economic vulnerability and help people who are struggling to meet their subsistence needs. When social security is not available, accessible, or enough to cover the cost of living, people become more dependent on their jobs and less able to push back against poor treatment.

If you can't access benefits, then you are more in need of whichever job you have. And you are less empowered to leave an employer who underpays or exploits or abuses. And that's both true in the sense that you won't be able to get Universal Credit if you are unemployed, but it also is true in the sense that the same low salary for someone who can have it topped up with housing benefit and child benefit and disability benefit or whatever, is lower. Therefore, for the person who is not getting their wages topped up with those things and is therefore more likely to be living hand to mouth, more likely to be or to feel absolutely unable to challenge their boss if there are issues at work. They are more likely to have to get into relationships of support, and potentially transactional relationships as well.

#### Policy and Advocacy Manager, Joint Council for the Welfare of Immigrants, Interview, 5 May 2021

As the above quote explains, lack of access to social security contributes to the erosion of workers' bargaining power by increasing financial hardship and leaving them without a safety net in times of crisis, which in the worst cases can lead to labour exploitation. The pandemic has made this dynamic harder to ignore, as people have lost their jobs on a mass scale. It has especially affected people in low-paid and insecure work, as not only do they face more barriers to accessing protections, but they also have less financial and job security.

Through our research we saw several examples of people staying in situations that had become exploitative because they could not access welfare support and were afraid of experiencing financial difficulties, destitution, and homelessness if they lost their job or had their hours reduced.

The member was afraid of becoming homeless. Having to stay in an exploitative job due to lack of access to benefits.

#### Case notes

Similarly, we heard of cases where people felt they had no option but to accept work they knew did not meet minimum standards, as the alternative was having no income and becoming destitute.

[M]any of our live-in domestic workers and carers are being paid below the minimum wage, and they take it because the alternative is lack of work and destitution. So, they will accept pay below the minimum wage. "Better than nothing", they always say, "It's better than nothing". [...] They will accept work without rest, without

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Lack of access to social security contributes to the erosion of workers' bargaining power by increasing financial hardship and leaving them without a safety net in times of crisis." breaks, 24-hours of being on-call. "It's better than nothing", they would say, because it's better than nothing, really, isn't it? Those are expectations that many employers would take advantage of because they know that many of these people have no choice.

#### Trustee, Kanlungan Filipino Consortium, Interview, 17 May 2021

Unsurprisingly, most of the examples highlighted by our research participants concerned migrants with NRPF, demonstrating the way in which immigration restrictions can compound risk of exploitation. While other groups can usually gain access to social security with external support, migrants with NRPF are deliberately excluded from accessing most public support measures, creating a significant level of unfreedom.

In terms of labour exploitation, what NRPF means for people is that they have no choice. You are faced with a kind of Sophie's choice: you can either engage in labour situations that you probably know are unsafe and illegal and exploitative, or you can choose not to feed your children. There aren't other options available to people.

#### Policy Coordinator, Project 17, Interview, 28 April 2021

One of our case workers the other day literally said to me, "Immigration status is everything". And yeah, it is. If you're British – or European and got here before December last year – you have access to all sorts of support. You can lose your job, you can lose your home, and in general, you will get support. But, if you have a status which includes the no recourse to public funds condition, then you might have employment rights, you can get a job and be paid the national minimum wage, but if you lose that job, you're on your own.

#### Policy and Communications Coordinator on Employment Rights, LAWRS, Interview, 29 April 2021

Exploiters are often aware of how restrictions on access to welfare support increases their power over certain groups of people and will specifically target these groups. This is especially apparent in the context of homelessness, where successive reports have shown how rough sleepers in particular are targeted for exploitation (Tomás, 2020; Parker, 2021).

[W]e definitely see links between lack of access to social protections and vulnerability to labour abuse and exploitation. It's our guests who don't have recourse to benefits who are most likely to be exploited though work. And the people who are doing the exploiting know that as well so they will go after people who are rough sleeping, people who have no source of income, knowing that if they offer them a job, they're going to take it.

#### Caseworker, Glass Door, Interview, 18 May 2021

Our data also includes examples of this process in reverse, where gaining access to social protections has helped people avoid or leave exploitative situations. As the quote below demonstrates, once people know they have alternatives, they can gain the ability and confidence to negotiate decent work.

[N]ot knowing that they can get help with housing benefit, for example, and having the burden of paying a lot of money for

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Exploiters are often aware of how restrictions on access to welfare support increases their power over certain groups of people and will specifically target these groups." rent and bills and so on, people are pushed to accept whatever, just to make sure that they have money to pay the bills, pay the rent, and help their family, and so on. [...] We've seen families, for example, who came and were in a very vulnerable situation, working in precarious conditions, who we helped to get housing benefit in place, Universal Credit, getting children into school and so on. And we've seen how that has completely changed their lives. Because they had the burden on their shoulders taken away, so they continued to work, but they had the confidence of saying no to someone, and going and finding something else, some other job. So, we've seen how that [accessing benefits] makes a huge difference.

#### Campaigning and Policy Worker, Roma Support Group, Interview, 30 April 2021

We know that when people have recourse to public funds, when they have a source of income, they are much less likely to accept these dodgy opportunities that come up where they are likely to have their wages withheld or their identity documents withheld or, in the worst-case scenarios, be subjected to coercive or violent behaviour.

#### Caseworker, Glass Door, Interview, 18 May 2021

Interestingly, this research was carried out at the same time as two significant changes occurred, leading to people who had previously not had recourse to support being able to access certain benefits. This allowed us to see first-hand how improving access to social security can help prevent labour exploitation. First, under the EUSS, EEA nationals and their family members who had previously only had conditional access to key welfare support measures like Universal Credit could – if they were granted Settled Status – suddenly access social protections on the same basis as UK nationals. Though the EUSS has rightly been criticised for not sufficiently accounting for the needs of vulnerable groups, in some cases leading to a loss of rights, (Jablonowski and Pinkowska, 2021), people who were able to evidence their five years of residence and secure Settled rather than Pre-Settled Status have in some cases benefitted from this change to their immigration status.

[T]hroughout the pandemic we have seen quite a few of our clients get access to benefits and to social housing through getting Settled Status which they didn't have or were struggling to prove eligibility beforehand and the situation for them has improved. They are still facing a lot of challenges but gaining that ability has been a very positive change for them.

#### Kasia Makowska, EEA Homeless Rights Advisor, Public Interest Law Centre, Interview, 11 May 2021

They are often told, "You don't have status and you've got no recourse to support", but the minute a person gets status, it's almost like a green light for so many other support systems to come into place, in particularly health, housing and benefits.

#### Migrant Project Manager, Glass Door, Interview, 11 May 2021

The second policy shift was the Greater London Authority's 'Everybody In' campaign, which during the first year of the pandemic sought to accommodate rough sleepers regardless of their immigration status. Caseworkers supporting people experiencing homelessness reported that the campaign, despite its flaws (PILC, 2021: 44), was important because it allowed certain local authorities to provided housing assistance and homelessness support to people who had previously been denied it. For some, this provided an opportunity to change their circumstances, for instance by regularising their immigration status.

It gave people time to find a solicitor to start working on asylum matters. That was a real help and definitely quite a few of our guests who would have struggled to access benefits otherwise, in the two months that they were in the hotels, managed to get themselves into a position where they could claim benefits or could start employment and that was great.

#### Caseworker, Glass Door, Interview, 18 May 2021

Understanding how lack of access to social security leads to an increased risk is crucial for policymakers looking to end labour exploitation. Without this awareness, campaigns to prevent exploitation cannot be effective. As pointed out in the quote below, labour exploitation can only be prevented when people have the option of accessing decent work and effective social protection measures.

There's no point telling somebody, "This is what an exploitative job offer looks like" if you're not also helping them to find legitimate work. And so much of the material is like, "Be cautious of this, be cautious of that", but if it's 'take a job or starve', it doesn't matter if somebody told you to be cautious of it. It can help to guide you, but I think available advice and other holistic options are really important to help people avoid re-exploitation or exploitation in the first place.

#### Director of Operations, Human trafficking prevention charity, Interview, 30 April 2021

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The UK's current social security system leaves millions of people completely unsupported until they are at the point of or at serious risk of destitution." Unfortunately, the UK's current social security system leaves millions of people completely unsupported until they are at the point of or at serious risk of destitution, already experiencing homelessness, or in exploitation that is so severe that it meets the threshold for criminal behaviour under the Modern Slavery Act 2015. For example, under Section 17 of the Children Act 1989, local authorities have the power to provide accommodation and financial support to families in order to avoid children being taken into care, even if the parents have no right to work, no access to welfare benefits and social housing, and no leave to remain in the UK (Project 17, 2021). However, this power only becomes a duty when the failure to provide support would breach human rights under the European Convention of Human Rights, for instance if the family does not have adequate accommodation or enough money to meet basic living needs (Project 17, 2021b: 2). There is also a duty for local authorities to provide housing assistance under the Care Act 2014, but only if a person's care and support needs have arisen due to disability, illness or a mental health condition and the accommodation is necessary for the effective delivery of the care required (NRPF Network, 2021).

Finally, a person can get support, such as emergency accommodation, through the UK's National Referral Mechanism (NRM) if they are recognised by the Home Office as a victim of modern slavery. However, the assistance provided is often so minimal as to leave people at risk of re-exploitation, as noted in the quote below.

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Understanding how lack of access to social security leads to an increased risk is crucial for policymakers looking to end labour exploitation." [T]he government support offered is not enough. It's not feasible for someone to live off that so even those who are in what we recognise as the support system are at really high risk of re-exploitation because of their lack of other options. At [frontline support organisation, name redacted], the average time for someone to get their NRM decision was 650 days and during that time they had to live off £37 per week, so it's extremely difficult.

#### Director of Operations, Human trafficking prevention charity, Interview, 30 April 2021

In addition, those experiencing exploitative conditions but not meeting the threshold for modern slavery are left without support. As the Director of Operations for a human trafficking prevention charity (Interview, 30 April 2021) noted, "people are often trapped in that grey area where perhaps it's not modern slavery, but workers' rights are still being abused because of a lack of alternative options". Without early intervention and support, these grey areas can develop into severe exploitation: "it's a kind of sliding scale where it is rare that [a situation] goes from 'not being exploited at all' to extreme exploitation – what we most commonly see is that journey through it becoming more and more extreme, and an exploitative outcome will have more and more layers on". Only helping those already in exploitation does little to prevent poor employment situations from developing into more severe exploitation in the first place.

The human and social cost of providing welfare support only once a person is destitute, has care needs, or is experiencing modern slavery, is inconceivably high. If access to social protection was ensured for those in need, more could be done to prevent people ending up in these situations in the first place. Acting on the acknowledgement that labour exploitation is part of a continuum would see steps to improve access to social security for those in need.

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Campaigning and Policy Worker, Roma Support Group, Interview, 30 April 2021

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This report has shown that migrants in lowpaid and insecure work experience several intersecting and layered vulnerabilities stemming from their position in the labour market and their immigration status. [...] In the workplace, these layered vulnerabilities result in high levels of labour abuse."

# **CONCLUSIONS AND RECOMMENDATIONS**

This report has shown that migrants in low-paid and insecure work experience several intersecting and layered vulnerabilities stemming from their position in the labour market and their immigration status. These vulnerabilities can restrict people's options to the point of compelling them to accept coercive working relationships and eroding their ability to negotiate decent work. Such experiences of hyper-precarity pre-date Covid-19, but the pandemic has arguably increased the number of people affected and intensified the impacts, as lockdowns and near-closures of multiple sectors led to mass redundancies and a considerable reduction in the number of alternative employment options.

In the workplace, these layered vulnerabilities result in high levels of labour abuse. Our data shows that during the pandemic, IWGB and UVW members – the majority of whom are migrants in low-paid and insecure work – experienced issues ranging from not being paid wages owed (44%) to being exposed to Covid-19 through work (17%), being asked to work in ways that felt dangerous, including with poor social distancing or without PPE (12%), and being forced to work despite being ill (8%). A significant proportion were made redundant (33%), had to accept new terms of employment to retain their job (24%), or were simply not given any work (11%), which intensified existing fears and feelings of insecurity, and further reduced workers' bargaining power. Our qualitative data from case notes, interviews and focus groups shows how this power imbalance was exploited, with issues like excessive workload and sexual harassment worsening as a result.

The social security system is meant to provide a safety net so that people can meet their basic needs even if they lose their job or become ill and are not forced to stay in or take on exploitative work to survive. As such it can provide a powerful tool for securing the rights of workers and preventing modern slavery. Unfortunately, our research shows that in far too many ways the UK's social security system does not work well for those in lowpaid and insecure work, let alone those groups of migrants who are intentionally excluded. Decisions by the government to, for example, set a lower earnings limit for SSP, leave it entirely to the discretion of employers whether to furlough their staff, and make the Universal Credit application system entirely digital, have significant impacts on people's ability to access welfare support. Furthermore, even where people can access support, it is often so limited or late as to offer little effective protection. As a result of the UK's patchy and poorly funded social safety net, people are left vulnerable to labour exploitation.

Many of the issues highlighted by this research are not new but have simply been made more visible by the pandemic as more people have been affected, including groups who have not previously had to rely on social security measures. The fact that temporary changes were introduced, such as the £20 uplift to Universal Credit and the removal of waiting days for SSP for Covid-19-related illness, implies that the government is aware of the system's inadequacies. It is important to recognise that the end of the pandemic does not spell an end to these issues. While some people's situation will improve once the economy and labour market recover, others will remain vulnerable, working at low wages with little income security and only a tattered public safety net that, for many, will provide limited protection and for others, especially for migrants, close to none at all. A commitment to 'build back better'

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A commitment to 'build back better' and achieve a fairer Covid-19 recovery is to acknowledge and recognise the fact that low-pay, insecurity and lack of access to social security are not issues exclusive to the Covid-19 context." and achieve a fairer Covid-19 recovery is to acknowledge and recognise the fact that low-pay, insecurity and lack of access to social security are not issues exclusive to the Covid-19 context, but already existed and will continue to exist unless we see important changes to labour market, immigration, and social security policies. Addressing these issues will also help build resilience to labour exploitation and support the UK's commitment to tackling modern slavery. The list of recommendations below provides a starting point for government to take steps in this direction.

## RECOMMENDATIONS

#### Address low-pay and insecurity at work

- 1. Determine National Minimum Wage/National Living Wage rates based on what workers and their families need to meet the cost of living, as modelled by the Living Wage Foundation.
- 2. Strengthen the enforcement of existing labour standards, focusing on sectors with low-pay and high rates of insecure work. This will require evidence-based resourcing of labour inspectorates, so they have the staff and capacity to proactively enforce workplace standards, as well as a review of their powers and remit. Currently the UK's labour market enforcement landscape is heavily reliant on individuals enforcing their own rights through Acas and the Employment Tribunal system, with inspectorates taking a largely reactive and compliance-focused approach to enforcement, despite evidence that such a system does not work in contexts of low pay and insecure work (Vosko *et al.*, 2017).
- 3. Address the insecurity created by zero-hour contracts. The Trades Union Congress recommends workers should have the right to a contract that reflects their regular working hours, at least four weeks' notice of shifts and compensation for cancelled shifts. In New Zealand, employers must guarantee workers a minimum number of hours each week and cannot cancel shifts unless the contract contains a provision specifying a reasonable notice period and compensation to be paid in the event of cancellation (Hunt and McDaniel, 2018). In the Netherlands, employees must, after six months, be paid at least the average number of hours they have worked in the previous three months for as long as the contract remains active (*Ibid*.).
- 4. Make sure employers cannot dismiss workers without a just cause or without following proper procedure.
  - i. Extend protection against unfair dismissal to cover all workers. Currently only employees with two years continuous employment are protected against unfair dismissal.
  - ii. Eliminate the two-year qualifying period for claiming unfair dismissal.
- 5. Enable better trade union access to workplaces and introduce stronger rights to establish collective bargaining so that unions can negotiate secure working conditions, inform workers about their rights and entitlements, and support them to access those rights in practice.

- 6. Reform Statutory Sick Pay so that people can afford to take time off when they are ill.
  - Increase the rate at which SSP is paid so that it is enough to live on and so that being ill does not lead to a significant loss of income.
    IWGB is campaigning for SSP to be paid at the same rate as a person's regular salary.
  - ii. Remove the three unpaid waiting days for all types of illness. Currently workers are not paid SSP until their fourth day of absence from illness unless it is due to Covid-19.
  - iii. Remove the lower earnings limit for SSP. The lower earnings limit of £120 per week per employer penalises those working part-time (a large proportion of whom are women with caring responsibilities) or for multiple employers.
  - iv. SSP should be proactively enforced by the state. Currently there is no labour market enforcement body responsible for enforcing SSP. We welcome the government's plans for the proposed Single Enforcement Body (SEB) to take on responsibility for enforcing SSP and note that to do so effectively the SEB must have sufficient resources to proactively target high-risk sectors. We also call for the government to find an interim solution while the SEB is being established.
- 7. Reform Universal Credit so it effectively protects against poverty and destitution, enabling people to negotiate decent work and leave exploitative jobs in the knowledge that they have a safety net to fall back on. This should include implementing the proposals for reforming Universal Credit published by the House of Lords Economic Affairs Committee (HL, 2020), including the recommendation to make permanent the £20 per week increase to the standard allowance introduced as a temporary measure in March 2020.
- 8. The government should conduct and publish a review of the **furlough scheme** and its implementation, considering its effectiveness for workers in low-paid and insecure work. Lessons from this review should inform any similar future schemes so they are designed to also support the most vulnerable groups of workers.

# Ensure that government policy on immigration does not bar people in need from accessing vital support

- 9. Repeal the No Recourse to Public Funds policy, which has been shown to create and exacerbate extreme poverty and inequality. People whose circumstances meet the requirement for support must be able to access it when needed and not only once they are at the point of destitution, homeless, or experiencing exploitation so severe that it meets the threshold for modern slavery.
- 10. Provide people with Pre-Settled Status with the same access to welfare support as those with Settled Status.
- 11. Ensure support is available for people to regularise their immigration status and access the social security support they are entitled to:

- i. Fund civil society organisations, including migrant community organisations, to provide tailored advice, support, and representation to migrants in low-paid and insecure work.
- ii. Reinstate legal aid for immigration issues.
- 12. Introduce secure reporting so that people can report exploitative employers and exit exploitative situations regardless of their immigration status.

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Policy Coordinator, Project 17, Interview, 28 April 2021

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# FOCUS ON LABOUR Exploitation

#### FOCUS ON LABOUR EXPLOITATION (FLEX)

The Foundry, 17 Oval Way London SE11 5RR

₩ @FocusOnLabour info@labourexploitation.org

www.labourexploitation.org