



# Supporting nurses from overseas

**Branch guide**

Tens of thousands of nurses are being recruited annually from overseas to work in the UK. Many are also going into roles in social care organisations as senior care workers.

For a number of reasons, nurses from overseas are potentially vulnerable to exploitation. UNISON has supported many who have been treated poorly by their employers.

This guide is intended to support UNISON branches who may be unfamiliar with some of the issues that arise when supporting nurses from overseas. The information is relevant for nurses working in social care, private companies and the NHS.

If you encounter overseas nurses who are being exploited, please contact the UNISON Health team at **[h.group@unison.co.uk](mailto:h.group@unison.co.uk)** to share your information and get further support.

### Particular vulnerabilities for overseas nurses practicing in the UK

- They may be unaware of their contractual and employment rights under UK law
- Employers and recruitment agencies may have given them misleading information
- They may be fearful of losing their VISA and right to live in the UK. This fear may be exacerbated by employers who may threaten individuals with deportation.
- They may be isolated from family, friends and community support groups
- They may be unaware that they can join a trade union

### Common challenges overseas nurses are encountering

- Being given inadequate training and supervision in their clinical roles. This potentially puts their NMC registration and their patients or clients at risk.
- Racism and victimisation
- Contracts and terms and conditions being changed without consent and poor terms and conditions
- 'Repayment clauses' which may act to prevent or discourage them from leaving their employment (see Box 1)

## Steps in supporting nurses from overseas

Many of the steps you would take to support and represent these nurses are similar to those you would take in representing any other member. Listening and giving them a safe space to share their experience is vital, as is understanding what would be their ideal outcome.

Below is some advice summarising some of the key issues that may come up and how you can help them.

### Gathering and sharing information

Some key points of information will be really helpful for the UNISON Health team and will be very relevant in supporting your nurse members. Gathering this information along with copies of the contracts and information that was supplied to nurses will be very helpful.

- Were they recruited directly from overseas?
- What was the name of the recruitment agency that hired them?
- Are they working as registered nurses or in an unregistered role?
- Are they working in unsafe or exploitative conditions?
- Does their contract contain a repayment clause, requiring them to repay certain sums if they leave within a specified period in breach of contract? (See Box 1)

### Organising and recruiting

As with any case it is useful to ask whether there are other employees in a similar situation. If possible, it would be helpful for them to be recruited to act together in a collective grievance. Other nurses or carers working for the company may not be aware of their ability to join and seek support from a union.

Not all employers recognise trade unions or negotiate terms and conditions in good faith. If at all possible, gathering comprehensive information and seeking support before raising a grievance is strongly advised.

### Immigration advice and support

Nurses recruited from overseas will most likely be working under a Health and Care Worker Visa. This VISA, and their right to remain in the UK, is linked to their employer. Because of this, some employers have threatened that any attempt by their workers to leave their job will result in their deportation from the UK.

This is not necessarily the case.

Overseas nurses have the option of joining another employer in a health and care role who can become their sponsor. Even if they lose their job, they have 60 days to find another within health and care before their VISA expires. The NHS is recruiting many nurses from overseas and with support they should be able to find another role.

### Get up to date immigration advice

Up to date information on the Health and Care Worker VISA can be read here

**<https://www.gov.uk/health-care-worker-visa/update-your-visa-if-you-change-job-or-employer>**

Members of UNISON also have access to immigration advice and support through the JCWI. They should call UNISON Direct and ask for an appointment with an advisor from the JCWI which will be provided free of charge. If you have concerns about immigration issues you should contact UNISON Health nationally who will be able to provide guidance.

### Signposting to other useful organisations

There are a number of other organisations who can offer support and advice to these nurses. This may help to connect them with others from their country and may support their mental health. They may also offer advice and advocacy which is beyond the remit of what UNISON can offer. Make sure your members are aware they can get in touch with these organisations.

**Kanlungan** – Kanlungan UK is a charity which aims to support migrant communities in the UK. While they have a specific focus on Filipino and other South East Asian migrant communities in particular they do provide advice and information which can be helpful to all. They also run many support and outreach activities in the community which can be accessed by all migrants. **<https://www.kanlungan.org.uk/>**

**Migrants Rights Network** – This is an organisation that lobbies for migrants in the UK and which produces resources and information to support migrants to understand and uphold their rights. Your nurses may find their resources helpful <https://migrantsrights.org.uk/about/who-we-are/>

**Nursing and Midwifery Diaspora Organisations** – There are a number of diaspora organisations which represent nurses and midwives in the UK of their particular heritage. A number of these have links with their own Governments and UK embassies who may be able to offer official support.

You can find an up to date list of these associations and their contact details here - <https://www.england.nhs.uk/nursingmidwifery/international-recruitment/> - under 'International Nursing Associations'

### Negotiation and bargaining

Many employers may refuse to recognise Trade Unions and negotiate with union representatives. UNISON organisers have, however, had success in supporting overseas nurses to leave their employers with the minimum of cost.

You should attempt to gather as much information on the working conditions and exploitation being experienced by the nurses.

Attempts by employers to deduct recruitment, induction and training costs from wages should be resisted strongly. If the employer seeks to reclaim these costs, whether from wages or from the nurse repaying them, you should refuse until you get further advice. These claims may violate the UK Code of Practice (see Box 2).

Employers may threaten to begin legal proceedings or use other threats to try to force payment or to prevent the nurses leaving their employment (i.e. deportation or referral to the NMC).

Seeking early legal advice is important. If an employer is trying to reclaim costs from an individual or threatening legal proceedings, you should also contact the UNISON Health team as a matter of urgency.

We have a number of options for reporting and shaming exploitative employers, including;

- Reporting poor working conditions or care to the CQC (or other relevant regulatory body) or Health and Safety Executive
- Reporting breaches of the Code of Practice on Ethical International Recruitment (see Box 2) to the Department of Health and Social Care
- Sharing information on the exploitation with the media and local councils who fund the employers
- Identifying potential illegality to relevant Government enforcement agencies (ie. the GLA or Employment Agency Standards Inspectorate)
- Reporting them to the Home Office and having their licence for sponsoring workers from overseas revoked

Faced with these possibilities, some employers may look to negotiate or agree not to reclaim costs from individual nurses. Some nurses in this position have agreed in good faith to pay back some costs which they may not be liable for. See Box 1 for advice on how to deal with these cases.

### In the NHS?

Most of the cases of exploitation UNISON are identifying are in social care and private providers. However, issues can occur in the NHS also.

These nurses should be easier to represent as you can make use of official recognition agreements and relationships with local management. Most NHS organisations receive central funding to support overseas recruitment and are obliged to abide by the UK Code of Practice (see Box 2) which sets out standards of treatment for overseas recruits.

If you believe an NHS organisation is exploiting overseas nurses or is not addressing your concerns please communicate this to the UNISON Health Team who can escalate them.

## Box 1.

### What are 'Repayment clauses'?

'Repayment clauses' are contractual clauses, inserted into employment contracts, which require the employee to repay a sum, often described as costs incurred through their recruitment and training, if they leave the job before a certain period of time and they have acted in breach of contract in some way.

In many cases, these clauses are not unlawful. Many employers use them fairly to protect their investment in staff recruitment, education and training. However, they may be problematic where an employer uses them to penalise an overseas nurse if they decide to leave their job.

These clauses may violate the UK Code of Practice on Ethical International Recruitment (Box 2) if they seek to pass on certain costs to the employee. For example, costs which should be borne by the employer such as the Certificate of Sponsorship.

They may also be unlawful and open to legal challenge depending on the specific facts of the case. If members you represent are affected by a repayment clause you should seek legal advice from the Region (who will contact our lawyers) as soon as possible and ideally before the member resigns.

## Box 2.

### The UK Code of Practice on Ethical International Recruitment

This code sets out the standards to which all UK health and care employers and recruitment agencies should work by when recruiting healthcare workers from overseas. Several of these relate specifically to their treatment of individual workers. For example it states that:

- 'All international recruitment by health and social care employers and contracting bodies will follow good recruitment practice and demonstrate a sound ethical approach'
- 'International health and social care personnel will not be charged fees for recruitment services in relation to gaining employment in the UK'
- 'To enable the health or social care personnel to provide safe and effective care they will be appropriately supervised, and the employer will take active steps to ensure the workplace environment is one in which all staff can demonstrate their competence'
- 'All newly appointed international health and social care personnel will be offered appropriate support and induction'

Each Government administration of the UK has a code of practice with the appropriate terminology and organisations involved. The standards are near identical.

If your members and overseas nurses are being treated in ways which violate this code you should report to the UNISON Health team so they can raise the case with those who monitor it.

Read the full code here: <https://www.gov.uk/government/publications/code-of-practice-for-the-international-recruitment-of-health-and-social-care-personnel>