



PHS-QUALITY Project

Job Quality and Industrial Relations in the Personal and Household Services Sector -
VS/2018/0041



POLICY PAPER: UNITED KINGDOM

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1. Introduction

The present policy paper includes the major findings of the national report from the United Kingdom (UK) as part of the EU-funded project entitled Job Quality and Industrial Relations in the Personal and Household Services Sector (PHS-Quality project), project number VP/2017/004/0049, coordinated by the University of Amsterdam (AIAS-HIS). This project studies the existing public policies and social partners' strategies towards personal and household services in ten EU countries, namely, Belgium, Czech Republic, Denmark, Finland, France, Germany, the Netherlands, Slovakia, Spain and the UK, from a comparative and multidisciplinary perspective. Personal and household services (PHS) cover a range of activities that contribute to the well-being at home of individuals and families and include childcare, care for dependent older people and persons with disabilities, housework services (such as cleaning, ironing and gardening), home repairs, etc.

The main research question of the PHS-Quality project is to examine how legal regulation, public policy and social partners' action can improve job quality and fight informality in PHS sector. The projects aims are, first, to provide insights into the experiences of implementing legislation and public policies aimed to improve rights, reduce informality and enhance service quality; and, second, to analyze the challenges social partners face in improving conditions and rights through collective bargaining /social dialogue. The data for the analysis are based on desk research of academic and policy literature and statistical sources as well as 11 interviews with a range of respondents, such as academics, trade unions, homecare organisations and as well as some who have worked in the home care and domestic sector, employed home carers and conducted inspections for the Care Quality Commission.

2. The home care sector in the UK

In the UK, the term Personal and Household Services is not commonly used and there is no conceptualization of the sector as a whole in relation to employment within the household, nor are there any specific policies to develop this sector to promote and expand employment. There are many different forms of contracts and domiciliary care workers are employed in a number of different ways: some are employed directly by Local Authorities, although this is less and less the case since this type of work has been privatized and contracted out to private care providers or what is categorized as the independent sector. Home care workers can thus be employed through private care companies, trading charities or care cooperatives; they can be employed as personal assistants directly by the person in

need of care or their families; and, they can be self-employed. Home care workers are also very often not part of unions, as became clear from our interviews.

Home or domiciliary care is seen in the reports used for this UK report and by many of our interviewees to be dysfunctional and a sector in crisis due to high turnover of workers, insufficient workers in relation to demand, low pay, lack of career trajectory, inadequate time to undertake care for individuals and insufficient training and recognition of the skills that are increasingly required, with many care workers now doing the, often skilled, work that used to be done by district nurses. The low pay and lack of career trajectory is linked to the fact that the workforce in this sector is predominantly female and that care tends to be seen as an innate and embodied quality of those providing it, and thus undervalued and unskilled.

Domiciliary care is a growing employment sector. Between 2012/13 and 2018/9 the number of jobs in domiciliary care services increased from 425,000 to 520,000, an overall increase of around 23%. The rate of increase appears to have slowed between since 2014. There has been a tendency to present this sector as a migrant- dominated one but the national average demonstrates quite clearly that this is not the case although many migrants work in the sector and their geographical distribution is very uneven : 84% of domiciliary care workers were British, 7% had an EU (non-British) nationality and 9% had a non-EU nationality. In London, however, migrants constitute a large proportion of the care workforce. It is also a sector with British-born ethnic minority workers. The proportion of EU nationality workers in this sector has continued to increase over the last years, from 5% in 2012/13 to 8% in 2018/19. However, the influence of Brexit and the proposed, more stringent immigration rules applying to EU citizens after this date, are likely to significantly affect this. Most migrant care workers would not meet the proposed salary threshold and would thus not qualify. Whether the current COVID-19 crisis might lead to pressure on the government to change its hard line stance towards less skilled EU worker flows remains to be seen.

3. Labour protection of workers in the PHS sector

It should be noted that employment legislation applies to all four countries of the UK: England, Scotland, Wales and Northern Ireland. However, in relation to health and social care, powers are devolved to the regional parliaments and they can pass laws in this area. This means that Scotland and Wales can legislate for health and social care, but they cannot legislate for improvements to care workers labour conditions and standards. Some of our interviewees mentioned that improving care through, for example, the compulsory registration and training of care workers can ultimately lead to improved conditions and better pay for care workers. So legislation adopted by the devolved parliaments can indirectly lead to improving domiciliary care workers' employment rights. A different regime applies to Northern Ireland for health and social services.

The UK legal framework in relation to labour standards for domestic workers and home care workers, which applies to all four parts of the UK, does not fully conform to the ILO Domestic

Workers Convention 189 (2011), and the UK has not signed or ratified this Convention. The UK opposed the ILO Convention on grounds that this category was already covered by the national legislation. However, it can be said that the legal framework does not adequately recognise paid care work as employment in relation to pay and working time. There is sufficient legislation relating to the protection of workers' rights, minimum wage and rights to social security benefits, but to qualify for these rights one has to be classified as either an employee or a worker, with the former having more rights than the latter. However, establishing whether someone is a worker/employee or a self-employed person is not easy and domiciliary care workers are employed in a number of different ways. Many are engaged on highly individualized contracts and both zero-hours contracts and self-employment are on the rise.

A factor that compounds the difficulty here is that domiciliary care work takes place within the private home and that there is a great reluctance of the government to regulate in this private space, as some interviewees pointed out. Work in the private space is exempted from certain legislation, for example, the Health and Safety at Work Act 1974. Another factor that complicates issues in this area is the fact that enforcement in labour law can be problematic as it is often based on an individual claimant taking a case to a tribunal. This is aggravated by the fact that many workers are not aware of their employment rights and that enforcement is even more complicated if the employment relationship or employment status is unclear, as it is for many domiciliary care workers.

At the moment it is not clear what the impact of Brexit will be after 31 December 2021 on worker and employee rights and on their legal protection against, for example, discrimination, as these areas of law have been strongly influenced by EU law and by the decisions of the Court of Justice of the European Union. The government is supposed to pass an Employment Bill setting out workers' rights post Brexit but with the current COVID-19, it is not clear when legislation will be brought before Parliament.

4. Examples of good practice

The research showed examples of good practice, like the introduction of a registration scheme for domiciliary care workers in Wales, which is linked to training of these workers. The reasons for introducing registration are that it provides recognition and support for care workers and that it gives people receiving care, and their families, the confidence that a worker has the skills and qualifications to do their job in a professional, compassionate manner. A registered domiciliary care worker will have to follow the Code of Professional Practice in Social Care. Workers, if they are not fit to practice, can be removed from the Register by the Fitness for Practice team and this would mean that they will no longer be able to practice anywhere in Wales. A person cannot work as a domiciliary care worker if they are not registered and they will need to renew their registration every three years. To do this, they have to show that they have completed at least 90 hours of Post Registration Training and Learning. UNISON, the public service union, polled its members in the social care sector and 94% were in favour of a professional register for care workers. This would

lead to more respect and more status for care workers and might, in the long run, lead to improvement of working conditions and pay. Northern Ireland has a registration scheme and Scotland is in the process of extending their scheme to domiciliary care workers

Sectoral collective bargaining - a system for setting terms and conditions of employment across industries - might also improve the employment situation, create decent work and raise care quality in the home care sector. Sectoral collective bargaining in this sector was supported by some of our interviewees as this has had a positive effect in other industries. However, as some interviewees pointed out, home care workers are not often members of a union, especially those employed in the private sector and those who are directly employed by the service user. There is also no right to collective bargaining in the UK.

One of our interviewees mentioned that, in relation to the National Health Service, there has been, since 2006, a good social partnership forum, a tripartite dialogue between unions, employer organizations and the government, which is functioning very well. This could be an example of good practice that could be extended to become a health and social care forum or a separate, similar forum could be set up for the social care sector.

UNISON, the largest public services union, has an Ethical Care Charter which is their main tool to improve things for people working in the home care sector. This Charter aims to provide support for both workers and for service providers and set minimum guarantees. UNISON asks local authorities to sign up to this charter and more than 40 have done so.

Another example of good practice might be the establishment of care cooperatives: groups of care workers with a linear structure with everyone on equal footing and without a hierarchy. There is often one registered manager who is a mentor and trains others. These cooperatives cut out the middle management and all carers are equal. Sometimes there are micro-enterprises which work in the same way.

5. Recommendations

Based on the above and especially the examples of good practice mentioned, the following recommendations can be made:

- i. The UK should sign and ratify ILO Convention concerning decent work for domestic workers, 2011 (Convention No 189) as soon as possible.
- ii. Stronger enforcement of the national minimum/living wage legislation is needed.
- iii. England should introduce a registration scheme for home care workers, linked to training and to a code or charter of professional practice, similar to the schemes in Wales, Northern Ireland and Scotland.
- iv. Sectoral collective bargaining should be introduced for the whole social care sector.
- v. A tripartite social care forum should be established, or, as an alternative, the present NHS Health forum should be extended to include social care
- vi. New forms of organizing domiciliary care should be explored, like care workers cooperatives or micro-enterprises.

- vii. There should be an increase in labour inspections in order to protect workers from being exploited. This would increase the protection of all workers and would thus also help domiciliary care workers.

For all of the above, it is important that funding should be made available. The poor conditions of employment and low pay contribute to the fact that the sector is experiencing shortages of staff and a very high turnover rate which need to be urgently addressed, especially at a time when the ending of free movement of labour working in less skilled sectors will lead to further shortages. The value of its crucial role to societal well-being has become clear through the Covid-19 crisis and should now be recognized and acted upon.