

# Dignity and Fairness

Your Rights and Responsibilities in the Workplace

## 2013



**BEMIS**  
Empowering Scotland's Ethnic and  
Cultural Minority Communities

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# Introduction

## How to use this Guide

This guide aims to signpost information on a range of employment rights and accompanying responsibilities in the workplace.

Each section provides a snapshot of essential information to raise awareness on rights and responsibilities for all workers. Each section also provides information for employers to ensure good practice and promote an inclusive workplace.

Please note that employment law changes regularly in the UK. At the time of printing all the information in this booklet was up to date. Check regularly for updates on websites referenced in each section and in the Further Support section.

The guide also attempts to build a bridge between employment rights and promoting equality through fairness in the workplace. Fair treatment is a legal and moral duty and also a business imperative. This involves looking at how you can create a workplace with dignity and respect for different people.

This information is for guidance only and is not intended to be a full statement of the law. Only a court or tribunal can give authoritative interpretations of the law. You should always take further advice from your trade union, a solicitor, or an advice centre before taking action.



## The role of the union in the modern workplace

Whatever your job or your industry there is a union for you that can provide support to you in your workplace.

By joining with other workers in a union you are much better placed to improve your working conditions and secure your employment rights. Most employers and unions work in partnership to secure the best deal for both the workforce and the organisation - this is called partnership working.

### Your Rights at Work

The surest way of realising your rights at work is by joining a union. You will find the union best suited to your job and industry at

**[www.worksmart.org.uk](http://www.worksmart.org.uk)** You can also call Support@Work free on **0800 0283 280** to discuss issues relating to unions. Workers form unions so they can have a collective voice in their workplace to improve their lives, those of their families and their communities.

### Pay and Conditions

For comparable jobs, workers in unions are paid more than non-union workers in all sectors due to having better bargaining power. Unions have also secured improvements in working conditions over the last decade especially in the voluntary and public sector. Unions collectively negotiate on behalf of workers during redundancy consultations - in Aberdeen, Glencraft, who employ a large proportion of disabled workers, was scheduled for closure, but due to the extreme pressure by community members, union officials, MPs, MSPs and Councillors, the plant has remained open and there will be no redundancies.

### Representation

Unions have different reps to address issues in the workplace, these include: Shop Stewards, Health and Safety Reps, Union Learning Reps, Equality Reps and Environmental Reps. Below is a brief description of their roles. All reps are elected through union elections where members have the opportunity to vote.



## Shop Stewards

The Union Shop Steward or local rep normally negotiates on local issues affecting pay and conditions and deals with representation on grievance and discipline issues.

## Health and Safety

Across Scotland, a network of over 10,000 union appointed Safety Representatives ensure that health and safety in the workplace is monitored, evaluated and improved. These representatives are highly trained and supported by other union specialists.

## Learning and Development Funds

Both the Learning Fund and the Development Fund offered by Scottish Union Learning provide access to resources for unions to support their members' personal and professional development. Across Scotland unions are working with employers, universities, colleges and others to provide courses for members, and to get them course fees and leave to attend. For more information visit [www.scottishunionlearning.com](http://www.scottishunionlearning.com)

## Equality Reps

Equality Reps can promote fairness in the workplace by raising equality issues and help provide fair treatment for vulnerable workers. They can also help employers incorporate an equality perspective into every part of an organisation's work.

## Environmental Reps

The Environmental Rep is the most recent addition to the roster of trade union support - often Health and Safety reps cover this role to some degree. Reps will work with the employer to address issues such as waste education, power consumption and corporate social responsibility.



## **Fair Treatment**

Unions also represent members when they have a problem at work. If an employee feels they are being unfairly treated, he or she can ask the union rep to resolve the difficulty with the manager or employer - unions seek to resolve issues with managers at the earliest opportunity. If the problem cannot be resolved amicably, the matter may need to use the employers' grievance procedure or an employment tribunal. Members can ask their union to represent them at tribunals. Most cases that go to tribunals are about pay, unfair dismissal, redundancy or discrimination at work. Unions also offer their members legal representation. Normally this is to help people get financial compensation for work-related injuries or to assist people who have to take their employer to court. Unions are campaigning for this to change. By joining a union you can help everyone get fairness at work.

## **Unions and Employers working together**

Partnership working is now the established method of union and management negotiation. Many large and small employers will actively seek the assistance and advice of the union on a whole range of issues that will impact on union members and the company or organisation as a whole. Unions and employers often have common interests with regard to staff training, job design, diversity in the workforce and retaining a healthy and safe working environment. On issues where there is agreement, both partners can promote positive working relationships and thus build a more successful organisation.

For more information about your rights at work and unions go to:

[www.worksmart.org.uk/rights/](http://www.worksmart.org.uk/rights/)

Also see links to TUC, STUC and other trade unions in Further Support section.



# Rights and Responsibilities at Work

## Basic Guide to Employment

From day one of starting your employment, you are entitled, by law, to the following:

- An itemised pay statement
- A limit of 48 hours on the maximum average hours in your working week, unless you choose to work longer hours and give your written consent to your employer
- Paid leave, or holiday pay, every year (this is pro-rata for part-time workers)
- No discrimination on the basis of sex, race, gender, sexual orientation, religious beliefs, age or any other protected characteristic
- Maternity/Paternity Leave

**After** one month's service, you are entitled, by law, to the following:

- One week's notice of dismissal - although you may be contractually entitled to this notice from day one of your employment.

**After** two months' service, you are entitled, by law, to the following:

- A written statement of your terms of employment (a contract of employment legally exists as soon as you have received payment for work). Most employees will be given a written contract either upon starting work or soon after.





## Rights and Responsibilities at Work

**After** six months' service, you are entitled, by law, to the following:

- The right to apply for flexible working if you have parental responsibilities for a child 16 or under, or a disabled child 17 or under

**After** one year's service, you are entitled, by law, to the following:

- The right to 13 weeks unpaid parental leave
- Protection against unfair dismissal. (Now 2 years for those employed on or after 6 April 2012). If you are dismissed you should be provided with a written statement from your employer stating the reasons for your dismissal. Your employer must provide this within 14 days of your request for the document

**After** two years' service, you are entitled, by law, to the following:

- Statutory redundancy pay if your post is made redundant

For more information, please visit

[www.acas.org.uk](http://www.acas.org.uk)



# Contracts of Employment

## Written Terms and Conditions

If your new employer has agreed that you will be in your new job for longer than a four week period, then you should receive a written Contract of Employment. You should receive this Contract within two months of starting your job. The Contract should include information of your Terms and Conditions of employment and should include all of the information below.

- Your name and the name of your Employer
- Your Employer's address
- Your job title (what you are employed as) and a brief description of the work you are required to do
- The address of your place of work, and of any other locations where you will be required to work in your job if this is relevant
- The date your employment started and date of continuous employment, if that is earlier
- Your hours of work (including 'normal' working hours)
- Details of your pay
  - Amount
  - Method of payment
  - Intervals of payment (weekly, monthly, etc)
  - Holiday Entitlement
- Sick pay provisions and what the reporting procedures are if you are absent from work due to illness
- Details of your Pension Scheme(s) if relevant plus information on new pension rights
- Notice required should you wish to leave your job, or if your Employer decides to terminate your contract



## Contracts of Employment

### Written Terms and Conditions

- Details of any collective agreements
- When the work is temporary / fixed term, either the period for which it will continue, or the exact date it will end
- Procedures for working outside the UK if relevant
- Copy of the Employer's Discipline and Grievance Procedures (this may be a larger, separate document)
- Whether a contracting out certificate is in force i.e. contracting out of earnings related elements or state pensions
- A written statement of particulars does not constitute a 'contract of employment' as this also includes other policies that an employer will operate e.g. staff handbook, collective agreements, dress code etc.



## Flexible & Family Friendly Working Practices

Flexible working arrangements can help you balance your working life with your family commitments or care responsibilities. Being aware of your rights at work when it comes to flexible and family-friendly working practices is important. These rights can include hours of work which work to suit your family's needs, maternity and paternity leave and pay, adoption leave and pay, parental leave to care for children and time off to help other dependants.

### The benefits of flexible working

Many employers are willing to enter into flexible working arrangements provided they are clearly laid out and both parties work responsibly. You can expect:

#### The right to time off for family emergencies

All employees have a right to a reasonable amount of unpaid time off from work to deal with certain unexpected or sudden emergencies involving the people who depend on them. You have this right regardless of your length of service in your job. An emergency is:

- When a dependant falls ill or has been injured
- A dependant needs longer term care as result of injury/illness
- If there is an unexpected breakdown in regular care arrangements
- If there is an incident involving employee's child during school hours
- If a dependant dies and the employee has to make funeral arrangements

You must TELL your employer as soon as possible the reason for absence and how long you expect to be off. There is no law stating that your employers have to pay you for any time taken off - it is entirely at your employer's discretion.

#### Right to request flexible working

You can apply to change the hours you work, change the times when your hours must be worked or, if it is practical for you and your employer, you can apply to work from home.



Certain employees have the right to request flexible working. As an employer, if you receive such a request, you have a legal duty to give it serious consideration.

**Other forms of flexible working are:**

- Flexitime
- Job sharing
- Compressed hours (working your agreed hours over 4 days instead of 5)
- Working from home (although a risk assessment must be done)
- Shift working
- Shift swapping
- Annualised hours (over the year)
- Self rostering (employees work out their own shifts together)
- Staggered hours
- Term time working (for those with school age children)
- Voluntary reduced working time (reduced hours for an agreed specific period, for example for a bereavement, temporary breakdown of childcare arrangements, etc.)

**Remember:**

- Your employer can refuse the request where there is a clear business reason for doing so
- Any change in working pattern will be a permanent change to your contract. It can take up to 14 weeks to put the new working patterns in place
- If you reduce your hours your pay is likely to reduce too



- Employers must consider your application/request and there is a set procedure to deal with such requests. Your employer should meet you within 28 days of your request. Have someone with you at the meeting. Your employer should write back to you within 14 days of the meeting with a decision
- 9 out of 10 minor arrangements are agreed informally to the benefit of both the worker and the organisation

## Maternity Leave and Pay

### Ante-Natal Care

All women who are pregnant are entitled to time off work, with pay, for ante-natal appointments (anything from health to relaxation classes), that are recommended by a medical professional. An employer can ask for a medical certificate confirming the pregnancy and written proof of appointments.

Employers have a legal obligation to protect via a risk assessment, the health of women who are pregnant, breast-feeding or who have given birth in the last six months. This includes women who have miscarried after 24 weeks of pregnancy.

Women should not be dismissed or suffer unfair treatment on the grounds of pregnancy or childbirth, irrespective of length of service or hours worked.

### Maternity Leave

You are entitled to up to 39 weeks maternity leave regardless of length of service, hours worked and whether you are a permanent or temporary employee, along with 13 weeks unpaid leave. In unionised workplaces workers can be paid above and beyond this minimum legal requirement.

You must:

- Give your employer notice that you are pregnant by the end of the 15th week before the expected birth
- If you have 26 weeks service with your employer, you can apply for additional unpaid maternity leave

### Statutory Maternity Pay (SMP)

SMP (Of £150.50) is payable for up to 39 weeks when on ordinary maternity leave and additional maternity leave:



- If you worked for the same employer for at least 26 weeks by the qualifying week (15th before the expected week of childbirth)
- If you have weekly earnings in the eight weeks prior to the 15th week before expected week of childbirth, not less than lower earnings limit for national insurance contributions
- If you have given employer appropriate notice
- If you have stopped work

### **Maternity Allowance**

If you do not meet the conditions for SMP as outlined above, then you may be eligible for Maternity Allowance. Seek advice on rates in Further Support Section.

### **Paternity Leave and Pay**

You may be entitled up to two weeks paid paternity leave, if you are a child's biological or adoptive father, or same sex partner of mother; and you have worked for your employer for at least 26 weeks by the 15th week before the baby is due (or matched for adoption). You can take this either as one week or two consecutive weeks (you cannot take two separate weeks or individual days. Leave must be taken within eight weeks of the birth or adoption). Paternity leave is specifically to provide support for the mother. Statutory Paternity Pay is paid by the employer at the same rate as SMP.

New regulations give parents of children due, or matched for adoption greater flexibility in how they use maternity/paternity provisions through the introduction of Additional Paternity Pay and Leave.

Additional Paternity Leave allows employed fathers who are eligible to take up to an extra 26 weeks leave to care for their baby, if the mother returns to work before the end of her maternity leave. Additional statutory paternity pay is paid at the same rate as ordinary statutory paternity pay and is a standard rate set by the government (£135.45) or at 90% of the employee's average weekly earnings if that is less.

### **Parental Leave**

The Maternity and Parental Leave Act 1999 gives employees the right to unpaid leave from work for parental leave and for time off to deal with family emergencies. As long as you have one year's continuous service with an employer, you can apply for a maximum of 13 weeks' parental leave, if you fit the criteria:



- You are the parent of a child under 5 and are named on the birth certificate
- You have adopted a child who is under the age of 18
- You have acquired formal parental responsibility under the Children (Scotland) Act 1995 for a child under 5 years of age

## Flexible & Family Friendly Working Practices

- If a child is disabled, up to 18 weeks' leave can be taken up to the time of the child's 18th birthday

This Statutory Entitlement is unpaid. An employer will only give paid leave if it forms part of the employment contract.

### Summary

This is a basic introduction to a range of measures that support flexible and family-friendly working practices. However, every worker's situation and circumstances are different, just as every employer's understanding of their employees, and what they expect from those employees, can vary. Here are some points to consider if you think flexible working is for you:

- Think about your own situation and whether or not some of the above arrangements might help you deal with your care/dependant responsibilities. If you think they do, then seek advice on how to raise this with your employer. You can check out your application for flexible working on the [www.direct.gov.uk](http://www.direct.gov.uk) website.
- Check [www.acas.org.uk](http://www.acas.org.uk) for information on maternity/paternity pay and leave.
- When you have the necessary information together, plan your approach and raise the issue with your employers.
- Apply in writing and keep a written record of all correspondence with your employer about the matter. State that the application is being made under the Statutory Right. Confirm your eligibility to apply and the type of flexible working you are applying for. Explain how you think the proposed change would impact on your employer and your work.
- Call the Support@Work Helpline on **0800 0283 280** for further advice.





# Young People

## Employment of 15 to 18 year olds (Young Workers)

A young person, over compulsory school leaving age and under the age of 18, must not :

- Work more than 8 hours per day
- Work more than 40 hours per week

### Young Workers must have:

- 12 consecutive hours rest between each working day **plus . . .**
- 2 days rest per working week **and . . .**
- 30 minutes rest break when working longer than 4 1/2 hours

### Night Work

A young person, over compulsory school leaving age and under the age of 18, is prohibited from doing night work between:

- 10:00 pm and 06:00 am  
or if she/he is contracted to work after 10:00 pm, between 11:00 pm and 07:00 am. There are some exceptions.\*
- 12.00am and 04:00 am

### These rules do not apply when

- The young worker's employer requires them to undertake work which is necessary either to maintain continuity of service or production **and/or...**
- To respond to a surge in demand **and/or...**
- No adult worker is available to do the work **and/or...**
- Doing the work would not adversely affect the young worker's education or training.



### Hours of Work

In addition to rest breaks, young night workers can only be required to work an average of 8 hours in each 24 hour period. A local education authority can impose restrictions on the type of work and hours of work a young person aged 16 or 17 can do if he/she stays on at school.

### Holiday for Young Workers

Young workers aged between school leaving age and 18 years are entitled to 4 weeks' statutory annual paid holiday in the same way as other workers. This is pro-rata for part-time workers.

### Selling Alcohol in a Bar or a Shop

- A licensee must not employ a person under 18 in a bar at a time when it is open for the sale or consumption of alcohol
- If the licensee does so, then it is they who are committing an offence, not the young worker involved
- A young person over 16 and under 18 can work as part of the waiting staff in a hotel or a restaurant, but cannot serve alcohol
- A person can apply for a licence to sell alcohol at the age of 18
- A person under the age of 18 working in a shop that sells alcohol (i.e. a local grocers or supermarket) should request supervision for the sale of alcohol if it is part of a larger set of purchases
- It is the employer's responsibility to ensure that the young person has had sufficient training to know how, and when, to ask for supervision

***\*Exceptions: Hospitals, agriculture, retail trading, hotels, catering, bakeries, post/newspaper delivering, cultural, artistic, sporting or advertising activities.***



## Equality in the Workplace

Equality in the workplace means that everyone should have the same chances and opportunities when applying for jobs, promotion, training etc. and that no one is disadvantaged by policies, procedures, practices etc, because of, for example, their gender, ethnic background, or because of a disability.

Discrimination in the workplace mainly relates to being treated less favorably than others due to perceived difference. Anything that puts someone at a disadvantage can result in dispute and may well be illegal.

As organised representatives of workers, union representatives (reps) play a central and unique role in promoting equality and tackling discrimination because of the trust and confidence attached to the position. Union reps are often the first point of contact if members want to make a complaint or sometimes just to talk something over that is worrying them at work.

The information below provides a brief introduction to your rights under the Act. However, the law is constantly evolving in this area and you are advised to check the suggested links and speak to your union rep before taking action.

### Equality Act 2010

While there are many differences between individuals and groups of people, anti-discrimination laws in the workplace exist to fairness at work and apply to all employers. In October 2010, all the previous equality laws were replaced by a new law called the Equality Act 2010. The Equality Act brings together for the first time all the legal requirements on equality that the private, public and voluntary sectors need to follow. It affects equality law at work and in the delivery of services. There are also a limited set of human rights that apply to everybody.



## Who the law protects

Whether at work as an employee or in using a service, the message (or purpose) of the Equality Act is that everyone has the right to be treated fairly at work or when using services. It protects people from discrimination on the basis of the following characteristics:

- Age;
- Disability;
- Gender reassignment (a person changing sex);
- Race;
- Religion or belief;
- Sex;
- Sexual orientation;
- Marriage and civil partnership;
- Pregnancy and maternity.

These are known as protected characteristics

## What the law protects against:

Overall, the Equality Act means that employers must not recruit, promote, dismiss or pay workers less or unfavourably on the basis of a protected characteristic. In addition, access to training and other work related benefits should not be denied to protected groups. All employers and service providers have a responsibility under the law to treat their employees and service users fairly.

The main form of prohibited conduct is discrimination. This covers:

- Treating a person worse than someone else because of a protected characteristic (known as **direct discrimination**). Although in the case of pregnancy and maternity, direct discrimination can occur if they have protected characteristic without needing to compare treatment to someone else.



- Putting in place a rule or way of doing things that has a worse impact on someone with a protected characteristic than someone without one, when this cannot be objectively justified (known as **indirect discrimination**)
- Treating a disabled person unfavourably because of something connected with their disability when this cannot be justified (known as **discrimination arising from disability**).
- Failing to make reasonable adjustments for disabled workers in employment practices and work premises to accommodate a worker's disability.
- Mental health problems (which have a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities) are covered under the Equality Act, and they also require the employer to make reasonable adjustments.

The Act restricts the kinds of questions employers can ask about a job applicant's health or disability before offering them a job. Employers are still allowed to ask health or disability related questions before inviting someone for to an interview where they directly relate to making reasonable adjustments to the recruitment or interview procedure for example, or where they directly relate to a person's ability to carry out essential job duties.

For example, if a job applicant applies for a job in a warehouse which involves lifting and handling of manual items, the employer is allowed to ask questions about health to establish whether the applicant is able to do the job. The employer is not permitted to ask other questions until they have offered the job to the candidate.

- **Harassment** is unwanted conduct which has the purpose or effect of violating someone's dignity or which is hostile, degrading, humiliating or offensive to someone with a protected characteristic or in a way that is sexual in nature.
- **Victimisation** is treating someone unfavourably because they have taken (or might be taking) action under the Equality Act or supporting somebody who is doing so.

As well as these characteristics, the law also protects people from being discriminated against:



- By someone who wrongly perceives them to have one of the protected characteristics.
- Because they are associated with someone who has a protected characteristic.
- This includes the parent of a disabled child or adult or someone else who is caring for a disabled person.
- Gender Reassignment: a transgender person (a person who identifies as someone with a different gender from that in which they were born) does not need to be under medical supervision to be protected from discrimination.

Therefore a man who decides to live permanently as a woman is protected under the Act even though she may decide not to undergo any medical procedures at all.

### **Public Sector Equality Duty**

A key measure included within the Act was the introduction of the Public Sector Equality Duty (PSED). Under PSED, public sector employers are responsible for ensuring that they not only eliminate discrimination but that they actively promote equality in the workplace. There are two elements to PSED. The **General Equality Duty** as set out by the Equality Act 2010 and the **Scottish Specific Duties**, which are specific to Scotland, are set out in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012

**The General Equality Duty** applies to all public bodies. The list of bodies which are subject to the General Duty includes key public authorities like local authorities (councils), health, transport and education bodies, the police, the armed forces and central government departments. The General Equality Duty has three aims. It requires public bodies to have due regard to the need to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it; and



- Foster good relations between people who share a protected characteristic and people who do not share it.

**The Scottish Specific Duties** apply to listed public bodies. Details of these “listed” public authorities can be found in Appendix 2 of Essential Guide to the Public Sector Equality Duty: A guide for public authorities (Scotland) published by EHRC Scotland. Listed bodies include Scottish Government; NDPBs located in Scotland; all colleges and universities; all NHS Health Board; all local authorities (councils); and police, fire and prison services.

The purpose of the specific duties in Scotland is to help those authorities listed in the Regulations in their performance of the general equality and involves a legal obligation on them to publish a document or documents on the:

- Duty to report on mainstreaming the equality duty.
- Duty to publish equality outcomes and report progress.
- Duty to assess and review policies and practices.
- Duty to gather and use employee information.
- Duty to publish gender pay gap information.
- Duty to publish statements on equal pay. etc.
- Duty to consider award criteria and conditions in relation to public procurement.
- Duty to publish in a manner that is accessible. etc.
- Duty of the Scottish Ministers to publish proposals to enable better performance.

More information and guidance is available at [www.equalityhumanrights.com](http://www.equalityhumanrights.com) and [www.equalities.gov.uk](http://www.equalities.gov.uk) and [www.oneworkplace.org.uk](http://www.oneworkplace.org.uk)

## Disclaimer

This information is for guidance only and is not intended to be a full statement of the law. Only a court or tribunal can give authoritative interpretations of the law. You should always take further advice from your trade union, its solicitor, or an advice centre before taking action.



## Human Rights and Human Rights Education

### Human Rights Act 1998

Human rights are a list of fundamental rights that we are all entitled to. Human rights are the cornerstone to our society and apply even when everyone is being treated equally badly. These human rights are not absolute, governments have the power to limit or control them in times of severe need or emergency. You also have the responsibility to respect the rights of other people and not exercise yours in a way which is likely to stop them from being able to exercise theirs.

Your human rights are:

- The right to life
- Freedom from torture and degraded treatment
- Freedom from slavery and forced labour
- The right to liberty
- The right to a fair trial
- The right not to be punished for something that was not a crime when you did it
- The right to respect for private and family life
- Freedom of thought, conscience and religion
- Freedom of expression
- Freedom of assembly and association
- The right to marry or form a civil partnership and start a family
- The right not to be discriminated against in respect of these rights and freedoms
- The right to own property
- The right to an education
- The right to participate in free elections





**Human Rights Education** is the awareness about individuals' fundamental rights, freedoms and responsibilities.

Human Rights Education is about learning respect for the dignity of others and the means and methods of ensuring that respect in all societies; it is about equality and sustainable development, preventing human rights violations and enhancing participation and democratic processes. It is a lifelong learning process for individuals and for all sectors of society aimed at “the enabling of all persons to participate effectively in a free society” (UNHRC). Human Rights Education is vital to employment: it involves learning about one’s own rights and those of others. It is about:

- **Knowledge and skills** – learning about human rights and mechanisms for their protection, as well as acquiring skills to apply them in daily life;
- **Values, attitudes and behaviour** – developing values and reinforcing attitudes and behaviour which uphold human rights;
- **Action** – taking action to defend and promote human rights.

Human Rights Education is an important strategy for achieving several principal goals, notably empowerment, participation, transparency, accountability, the prevention of conflict, conflict resolution, peacemaking and peace-building and the more effective protection and realisation of all human rights for all. Human Rights Education allows “people to participate in their communities and society in a constructive and respectful way for themselves and others” (UNESCO).



## Human Rights in the Workplace

### Human Rights at Work

Human rights education is about knowing your rights. Through Active Citizenship everyone can act upon their rights. Trade Unions can support and empower individuals in their workplace; Trade Unions can be about Human Rights Education at work.

Work is about income, individual fulfilment, the constitution of one's identity, about social inclusion, dignity, liberty, autonomy, family, equality. The right to have work is a moral right; and the right to work is inseparable from several other rights. Work is a key component in stimulating participation in economic and social life.

• **Right to Work**<sup>1</sup>: Article 23 of the Universal Declaration of Human Rights says that everyone has the right to work.

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests. (Universal Declaration of Human Rights, 10 December 1948).



## Human Rights in the Workplace

- **Rights at Work:** The human right to work also encompasses rights at work. Your employer has the duty to respect, protect and fulfil all your rights beyond the commonly known rights to: minimum wage, to work maximum number of hours a week, paid holiday, to health and safety protection, parental rights, right to join a trade union and to leave one's employment. Everyone should have the inalienable:

**Right to dignified work:** a culture of working relationships in which everyone is treated with dignity;

**Right to equality:** a workplace where everyone is treated fairly, equally and is free from all forms of discrimination;

**Right to free artistic expression and creation:** the freedom of expression is an inalienable human right and is central to human dignity and critical thought;

**Right to social security:** is everyone's right to be provided with the minimum goods and services required for a dignified life and to achieve self-sufficiency;

**Right to human dignity:** this is the basis of all fundamental rights, the inalienable right to freedom and justice;

**Right to decent work:** it is about meeting individuals' aspirations in their working life; it is about ensuring equal and better prospects for individuals' development;



## Human Rights in the Workplace

### 6

#### SECTION

**Right to work that is productive:** a work that delivers a just financial return, that provides security and social protection;

**Right to fair income:** it is about equality of opportunities for all women and men to receive incomes that accord with their productive work at a secure workplace and under social protection;

**Right to security in the workplace and social protection for families:** these are universal and fundamental human rights that should be championed by each and every employer and government;

**Right to personal development:** it is everyone's right to better opportunities, to continuous learning, further training and skills enhancement;

**Right to social integration:** it is individuals' right to participate in the life of the community;

**Right to express** concerns, organise and participate in the decisions that affect one's life;



## Human Rights in the Workplace

**Right to equality** of opportunity and treatment for all women and men;

**Right to safety and health** at work;

**Right to respect:** all individuals have the right to be treated with respect in the workplace and to work in a safe and supportive environment.

1. The right to work appears in numerous international documents and some state constitutions. Some of these are: the Universal Declaration of Human Rights, 10 December 1948; Declaration on Social Progress and Development, 11 December 1969; International Covenant on Economic, Social and Cultural Rights, 16 December 1966; Constitution of the International Labour Organization, April 1919; Charter of the Fundamental Rights of the European Union, 7 December 2000; European Social Charter, 3 May 1996.



# 7

## SECTION

# Refugees, People Seeking Asylum and Migrant Workers

### Refugees

Anyone who has been granted asylum in the UK (Refugee Status, Humanitarian Protection, Discretionary Leave to Remain or Indefinite Leave to Remain) has the right to work. Further details on these rights can be found at the following link;

[http://www.scottishrefugeecouncil.org.uk/how\\_we\\_can\\_help/i\\_have\\_refugee\\_status/leave\\_to\\_remain\\_in\\_the\\_uk](http://www.scottishrefugeecouncil.org.uk/how_we_can_help/i_have_refugee_status/leave_to_remain_in_the_uk)

Refugees have the same rights at work as any other UK citizen.

### People in the asylum process

Following a judgement by the UK Supreme Court persons in the UK asylum process have the right to work under certain circumstances. Permission to work may be granted if an asylum-seeker:

- has been waiting for a year for an initial decision on his or her first asylum claim
- has been waiting for a year for an initial decision on his or her fresh claim for asylum

From the 9 September 2010 an asylum-seeker who is granted permission to work will be subject to the following restrictions:

- He or she will not be permitted to be self-employed
- He or she will not be permitted to set up in business
- He or she will only be permitted to take a job of a type listed on the UK Border Agency's shortage occupation list

Further information can be obtained at the following links:

<http://www.ilpa.org.uk/data/resources/4707/10.08.1165.pdf>

<http://www.ilpa.org.uk/data/resources/4682/10.08.1140.pdf>



# Migrant workers

## EU migrants

The Workers Registration Scheme closed on 30 April 2011. Since 1 May 2011, all European Union country nationals will almost certainly have permission to work in the UK, apart from Bulgaria or Romania.

More information can be found at this link:

<http://www.ukba.homeoffice.gov.uk/eucitizens/rightsandresponsibilities/>

All EEA and Swiss nationals can enter and live in the UK without needing to apply for permission, if they can support themselves and their families in the UK without becoming an unreasonable burden on public funds. But Bulgarian and Romanian nationals may need to apply for permission before they can work here. Information can be found here:

<http://www.ukba.homeoffice.gov.uk/eucitizens/bulgaria-romania/>

## Non EU migrants

For non EU migrants permission to work must be obtained from the UK Border Agency. Since 2008 the UK Government has operated a 'points based system' to determine the eligibility for non EU citizens to work in the UK.

Details of this system are obtainable from the UK Border Agency;

<http://www.ukba.homeoffice.gov.uk/visas-immigration/working/>

<http://www.ukba.homeoffice.gov.uk/business-sponsors/points/quick-guide-pbs/>



## Migrant worker rights

All migrant workers have certain rights in the workplace. These include;

- Right to minimum wage
- Right to work maximum number of hours a week
- Right to paid holiday
- Right to health and safety protection
- Parental rights
- Right to be protected from discrimination
- Right to join a trade union
- The right to leave their employment

Further details on these rights can be obtained from the Citizens Advice Bureaux;

[http://www.adviceguide.org.uk/index/e\\_migrant\\_workers\\_-\\_rights\\_at\\_work.pdf](http://www.adviceguide.org.uk/index/e_migrant_workers_-_rights_at_work.pdf)

Information in this section provided by the Scottish Refugee Council







## Further Support

Some useful sources of information

### Organisational Links

STUC - Scottish Trades Union Congress national affiliation and co-ordinating body for unions in Scotland. [www.stuc.org.uk](http://www.stuc.org.uk)

TUC - Trades Union Congress national affiliation and co-ordinating body in the UK for trade unions. [www.tuc.org.uk](http://www.tuc.org.uk)

TUC workSMART - A TUC site that helps today's working people get the best out of the world of work. [www.worksmart.org.uk](http://www.worksmart.org.uk)

UNISON - Britain's largest public service union. [www.unison.org.uk](http://www.unison.org.uk)

COMMUNITY - the union for life - general union with representation in the voluntary and private sector. [www.community-tu.org](http://www.community-tu.org)

UNITE the Union - Britain's largest manufacturing, technical and skilled and responsibilities workers union. [www.unitetheunion.com](http://www.unitetheunion.com)

One Workplace Equal Rights - Promoting equality and tackling racism by supporting trade unions, employers and employees at work.  
[www.oneworkplace.org.uk](http://www.oneworkplace.org.uk)

Scottish Union Learning – Supports trade unions in accessing skills and lifelong learning. [www.scottishunionlearning.com](http://www.scottishunionlearning.com)



## Further Support

ACAS - The Advisory, Conciliation and Arbitration Service. Expert advisory service preventing and resolving problems between employers and employees.

[www.acas.org.uk](http://www.acas.org.uk) Tel: 08457 474747

Department for Work and Pensions [www.dwp.gov.uk](http://www.dwp.gov.uk)

Chartered Institute of Personnel & Development Articles and information on flexible-working and working-time, amongst others. [www.cipd.co.uk](http://www.cipd.co.uk)

Tel: 020 8612 6200

Equality and Human Rights Commission [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Helpline: 0808 800 0082 - Main number

Tel: 0141 228 5910 (non helpline calls only)

Liberty Guide to Human Rights - An easily understood guide to the Human Rights Act 1998, explaining its relevance and impact in many different areas of law, and has sections on employment rights under current legislation. [www.yourrights.org.uk](http://www.yourrights.org.uk)

GOV.UK - Official Government Website for information on rights at work and public services you can use. [www.gov.uk](http://www.gov.uk)

Age UK - Representing the rights and needs of older people.

[www.ageuk.org.uk](http://www.ageuk.org.uk) Tel: 0800 169 6565



## Further Support

Employers Forum on Age - Independent network of employers.

[www.efa.org.uk](http://www.efa.org.uk) Tel: 0845 456 2495

Disability

Access to Work - Provides advice and practical support to disabled people and their employers. [www.gov.uk/access-to-work](http://www.gov.uk/access-to-work)

Capability Scotland - Information for disabled people, employers, service providers and the general public. [www.capabilityscotland.org.uk](http://www.capabilityscotland.org.uk)

Tel: 0131 337 9876

Employment Opportunities for People with Disabilities

[www.opportunities.org.uk](http://www.opportunities.org.uk)

Tel: 0141 429 8429 or 0131 229 0627

The Disability Rights Task Force - Advises on civil rights for disabled people.

[www.gov.uk/browse/disabilities](http://www.gov.uk/browse/disabilities)

Disability Employment Advisory Committee - Looking at employment issues for disabled people [www.deac.org.uk](http://www.deac.org.uk)

Inclusion Scotland - working to eradicate barriers that prevent inclusion for disabled people [www.inclusionscotland.org](http://www.inclusionscotland.org)



## Further Support

SAMH - Support for mental health problems in the Workplace

[www.samh.org.uk](http://www.samh.org.uk)

'see me' - Scotland's national campaign to end the stigma and discrimination of mental ill-health.

[www.seemescotland.org](http://www.seemescotland.org)

Scottish Centre for Healthy Working Lives - To help employers, employees and partner agencies come together to create a much healthier and more motivated workforce.

[www.healthyworkinglives.com](http://www.healthyworkinglives.com)

### Equal Pay

Close the Gap - Partnership project working to close the gender pay gap.

[www.closesthegap.org.uk](http://www.closesthegap.org.uk) Tel: 0141 337 8110

### Maternity Rights

Citizens Advice Bureau Advice Guide - This website gives independent advice on a variety of issues, plus contact details for local CAB offices.

[www.adviceguide.org.uk](http://www.adviceguide.org.uk)

Maternity Action - An independent national charity working to improve rights and services for pregnant women, new parents, and their families.

[www.maternityaction.org.uk](http://www.maternityaction.org.uk) Helpline: 020 7253 2288

Employers for Work-Life Balance. [www.theworkfoundation.com](http://www.theworkfoundation.com)

Carers Scotland - Information on support for working carers.

[www.carersuk.org/scotland](http://www.carersuk.org/scotland)

Tel: 0141 445 3070



## Further Support

BEMIS - Empowering Scotland's Ethnic and Cultural Minority Communities.

[www.bemis.org.uk](http://www.bemis.org.uk)

Tel: 0141 548 8047

Support at Work - Provides training and information on employment rights and trade unions for employability projects and their clients in Edinburgh.

[www.etic.org.uk/support@work.html](http://www.etic.org.uk/support@work.html) Tel: 0800 0283 280

Scottish Refugee Council - Offers advice and information to refugees through their comprehensive website. They also offer case work support.

[www.scottishrefugeecouncil.org.uk](http://www.scottishrefugeecouncil.org.uk) Tel: 0141 248 9799

Ethnic Minorities Law Centre - Provides ethnic minority communities, in Glasgow and the West of Scotland, with access to professional services to address legal needs.

[www.emlce.org.uk](http://www.emlce.org.uk) Tel: 0141 204 2888

Interfaith Scotland - collectively represents a major cross section of the faith in the workplace communities in Scotland.

[www.interfaithscotland.org](http://www.interfaithscotland.org) Tel: 0141 420 6982

Engender - Information, research and networking organisation for women in Scotland. [www.engender.org.uk](http://www.engender.org.uk) Tel: 0131 558 9596

Women Returners Network - Research and lobbying organisation for women returning to the workplace. [www.women-returners.co.uk](http://www.women-returners.co.uk)



## Further Support

### ***Sexual orientation***

Stonewall Scotland - Stonewall works to achieve legal equality and social justice for lesbians, gay men and bisexual people.

[www.stonewallscotland.org.uk](http://www.stonewallscotland.org.uk) Tel: 0131 557 3679

The Equality Network - The Equality Network campaigns for human rights for lesbian, gay, bisexual and transgender (LGBT) people in Scotland.

[www.equality-network.org](http://www.equality-network.org)

Tel: 0131 467 6039

LGBT Youth Scotland [www.lgbtyouth.org.uk](http://www.lgbtyouth.org.uk)

### ***Parental Leave***

Flexibility - On-line resource which provides regular updates on the world of flexible work. [www.flexibility.co.uk](http://www.flexibility.co.uk) Tel: 01223 304792

Work Life Balance Centre [www.worklifebalancecentre.org](http://www.worklifebalancecentre.org) Tel: 01530 273056

# Dignity and Fairness

Your Rights and Responsibilities in the Workplace

## 2013



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Empowering Scotland's Ethnic and  
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LET'S STOP THE STIGMA OF MENTAL ILL-HEALTH  
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