

Summary

The gross underpayment and mistreatment of the au pair worker has emerged in recent years as a significant issue in Irish society. The lack of affordable and accessible childcare is driving the demand for flexible and cheap labour, which has led to increased numbers of au pairs being recruited as child-minders and domestic workers. This has created a 'grey' area where workers are experiencing exploitation and are unaware they have rights and where employers are not aware they have responsibilities under Irish labour law.

MRCI estimate more than 10,000 au pairs are placed here per year. In law, all workers are protected by Irish employment legislation including workers classed as au pairs. In reality, au pairs are one of the most vulnerable groups of workers and are denied access to their rights and entitlements.

The distortion of the au pair concept has facilitated a supply of exposed workers increasingly used as a cheap form of childcare. Tackling this type of exploitation requires a concerted effort by Department of Jobs Enterprise and Innovation (DJEI) and the National Employment Rights Authority (NERA) to ensure migration and employment policies are integrated to meet demand and to ensure full enforcement of employment law.

Background

The au pair concept emerged in the late 1960s as a cultural exchange programme intended to facilitate young people to travel to another European country, to broaden their horizons and to learn a language. By international standards au pairs should be treated as a family member and included in family activities. They are given pocket money, food and board from the host family in return for providing an 'extra pair of hands' in the family home, assisting with child-minding and light housekeeping duties¹. Ireland has not signed the international au pair treaty. There is no legal recognition or framework for the au pair in Ireland. Under Irish law a person is a worker if s/he:

- is under the control of another person who directs as to how, when and where the work is to be carried out
- supplies labour only
- receives a fixed hourly/weekly/monthly wage

- works set hours or a given number of hours per week or month²

The au pair landscape has changed fundamentally. Agencies still place au pairs as cultural exchange participants but in reality the cultural exchange aspect is fast becoming outdated. The internet is now used by many employers to recruit au pairs directly, replacing the traditional role of agencies. No longer reserved for Europeans many of the au pairs are non EU citizens, particularly Brazilian students. Research conducted by MRCI (2012) with fifty-three au pairs shows almost half of those interviewed were non EU citizens (42%). 58% were EU citizens, 38% held student visas and the remainder were undocumented. Trends show demand for workers in childcare and care services in the private home will continue to grow. Alongside this, the cost of private crèches continues to be inaccessible for many. In 2009, DJEI ceased issuing new work permits for carers, childminders and housekeepers employed in private homes, effectively closing legal channels of migration into this sector, making it difficult to legally recruit workers from outside the EU.

Maki, 25, Korea

I got the position on the Internet. I was working for a single father taking care of one girl. I was doing more than 50 hours a week for €120. He worked as a security man. He came back late most nights and never gave me notice of this. I worked every Sunday without extra pay. The man was aggressive and he would yell at me. My grandma was ill and I wanted to go home but he didn't care. He said I had to wait to see her. I tried complaining to him but he didn't care. I didn't know my rights. I didn't know where to get help. I was worried and desperate so I ran away. I was not the first au pair there. The last au pair lasted two months, I left after three weeks.

Exploitation

Research shows a spectrum of exploitation experienced by au pairs in the workplace including low wages, long working hours and poor treatment. MRCI's 2012 study showed:

- 42% received no written contract
- 36% reported exploitation

¹ European Agreement on Au Pair Placement, Council of Europe Treaty Series No. 068
<http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=068&CM=1&CL=ENG>

² Code of Practice for Determining Employment or Self-Employment Status of Individuals:
<http://www.revenue.ie/en/practitioner/codes-practice.html>

- 51% claimed the situation was worse than they expected
- 15% had to be on call at night
- 13% reported not being free to leave the house after duties were done
- 21% worked more than 8 hours a day, 26% worked between 40 and 60 hours weekly
- 8% worked in excess of 60 hours weekly
- 17% were paid less than €100 per week
- 49% were paid between €100 and €119 per week
- 21% did not receive regular breaks
- 27% worked Sunday – 83% of these did not receive extra payment
- 41% worked Bank Holidays – 76% of these did not receive extra payment
- 30% reported not getting any holidays

Au pair workers can experience isolation, health and safety risks, a lack of privacy, physical and emotional stress, negligent agency practices, precarious online recruitment, and poor access to supports and information on rights.

Au pair workers from outside the EU face increased vulnerability due to complexities with their immigration status. Most au pairs from outside the EU hold student visas and are forced to use online and informal recruitment due to the lack of alternative options.

Au pair workers using online and informal recruitment were found to be at greater risk due to the absence of a third party to monitor conditions, vet host families for suitability or to provide assistance in cases of emergency. In these situations au pair workers are completely isolated with no knowledge of where to get help. If they leave they risk becoming homeless and without money. They cannot access social welfare supports and low wages limit options to secure expensive private accommodation. Many feel they have no option but to stay in the situation. Due to their vulnerability, repeat exploitation is common. Many au pairs leave one bad situation only to find themselves in another.

Conclusion

Au pairs have become synonymous with a cheap supply of childcare, domestic work and increasingly other forms of care work. The pattern of exploitation, neglect and precariousness experienced by this group of vulnerable workers is a matter of serious concern.

Website Advert

Thinking of hiring an au pair or nanny for in-home childcare? You're not the only one! The rising cost of childcare is causing families to take a better look at the au-pair programme. In the past, having an au pair may have been too costly. However, rising day care rates are levelling the playing field. When initially determining if an au pair is a smart financial move for your family... look at the number of children you need care for. If you only have one child, then traditional day care will probably be more economical than an au pair. If you have two children, the cost of au pair will be more or less the same. But if you have three or more children, you will actually find it more economical to have an au pair than to use other forms of childcare.

This issue requires an immediate and coordinated response by the DJEI and NERA to ensure that the employment rights of au pairs workers are upheld and enforced.

Key Recommendations

- A public awareness campaign should be developed by DJEI and implemented by NERA to inform recruitment agencies and employers of the responsibilities involved in the employment of au pair workers under Irish employment law.
- NERA should continue labour inspections in the private home sector to ensure labour law compliance and support au pairs in claiming their employment rights and compensation where employment rights are breached.
- DJEI should establish a work permit category for workers who provide Personal and Household Services in the private home to facilitate labour market demand.
- Public funds should be available to resource civil society organisations to support au pair workers to access their rights.
- Publicly-funded care systems should be established to ensure affordable, accessible and quality care for all.