

March 2025

### *About LEAG*

The Labour Exploitation Advisory Group (LEAG) is a group of experts from eight front line and research organisations<sup>1</sup> supporting people in, or at risk of, severe forms of labour exploitation, such as human trafficking, forced labour and slavery.

### **Overview**

1. The Border Security, Asylum and Immigration Bill, in its current form, risks harming victims and survivors of trafficking. While, we welcome the repeal of certain sections of the Illegal Migration Act (IMA) 2023, we believe that the Bill does not go far enough to dismantle the architecture of the hostile environment or the counterproductive immigration enforcement-centred approach to trafficking, which acts as a key driver of labour exploitation in the UK. This Bill is a missed opportunity to drive a positive agenda which ensures that all victims of exploitation are protected, whatever their immigration status.
2. Worryingly, the IMA 2023 and the Nationality and Borders Act (NABA) 2022 have not been fully repealed. Section 29 of the IMA remains, potentially leaving many victims and survivors of modern slavery without protections. The modern slavery provisions of NABA have had detrimental effects on victims of labour exploitation, shutting out many from accessing support. Additionally, the new powers contained in Clause 41 of this Bill also further strengthen the immigration enforcement-centered approach, and risk further punishing victims.
3. LEAG believes that in order for the Government to make progress on its commitments to tackle modern slavery and labour exploitation, positive amendments must be made to this legislation to protect victims and survivors of exploitation and ensure that they are able to speak up about the abuse they have faced.

### **Restrictive Visas**

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<sup>1</sup> List active members: FLEX (founder and secretariat); Latin American Women's Rights; Service (chair); Unite the Union; East European Resource Centre; British Red Cross; Kalayaan; Work Rights Centre; Glass Door Homeless Charity

4. Examples of short term restrictive visas which create risks of exploitation are the Overseas Domestic Worker (ODW) visa for work in a private household and the Seasonal Worker visa (SWV) for work in agriculture. Both visas are six months long and cannot be renewed.<sup>2</sup> Exploitation of workers on both routes is prevalent for reasons including the workers' multiple dependencies on employers; their ability to remain in the UK, work, for information, and often for their accommodation. The short term nature of these visas increases these dependencies as workers, who have often paid large amounts to migrate, know that their best option is to not complain or to challenge poor working conditions, but to focus on earning what they can during the short time they are in the UK.
  
5. The exploitation of workers on the Health and Social Care Worker visa is also well documented. Despite persistent labour shortages in the sector, care workers continue to face low-pay and poor working conditions. This is exacerbated for migrant workers who have arrived with migration debts and with repayment clauses in the event they leave a job before their contract ends. A recent Unison survey of migrant care workers found that the threat of being sacked or reported to the Home Office meant workers did not report issues such as being paid below the minimum wage.<sup>3</sup> More than a third (36%) said they or their fellow migrant worker colleagues had been threatened with dismissal or redundancy for raising issues about their treatment. The sponsorship system creates barriers to workers moving out of exploitative situations.<sup>4</sup> Work Rights Centre have previously found that a majority of workers they surveyed who tried to find a new sponsor were unable to do so, demonstrating a tension with Article 6 of the International Covenant on Economic Social and Cultural Rights (free choice of employment).<sup>5</sup> Where enforcement action against rogue employers results in removal of sponsor licences, workers can be doubly punished and left scrambling to find new work with a visa sponsor in a race against destitution, debt and the 60 day visa cancellation period. Fair Pay Agreements in the social care sector are not enough in-and-of-themselves to ameliorate the risks of exploitation caused by the visa itself.
  
6. In fishing, FLEX research has shown the use of a loophole created by the misuse of the seafarers' transit stamp (Code 7 leave), designed to allow migrant fishers to transfer onto a vessel to work outside of UK waters, and can leave exploited migrant fishers with few options and unable to access employment law protections.<sup>6</sup> If migrant fishers on Code 7 are working more than 12 nautical miles from the UK coast

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2 Other than in the instance of a positive NRM trafficking decision for an ODW visa holder

3 Unison (2024): Caring at a Cost: A survey of migrant care staff working in the UK. Available at: <https://www.unison.org.uk/content/uploads/2025/02/Migrant-care-worker-report-2025.pdf>

4 See for example: [https://labourexploitation.org/app/uploads/2022/12/FAIR\\_UK\\_IMMIGRATION\\_POLICY\\_FINAL.pdf](https://labourexploitation.org/app/uploads/2022/12/FAIR_UK_IMMIGRATION_POLICY_FINAL.pdf)

5 Sehic, A., Vicol, D., Savitski, A. (2024) The forgotten third: migrant care workers' views on improving conditions in England's adult social care sector. [Available online] Work Rights Centre.

6 Focus on Labour Exploitation (2024): Closing the Loophole: Exploitation of Migrant Fishing Workers. Available at: <https://labourexploitation.org/app/uploads/2024/10/24.10.15-Fishing-Loophole-Briefing.pdf>

they are outside of jurisdiction. If they are closer, even if for a limited period, they are breaching the immigration rules. This means that migrant fishers who have little control over the work they do or where they do it can be in breach of immigration rules due to their own exploitation and workers who are injured at work or who need advice or information can be prevented from accessing this by employers citing the immigration rules. Contacting the authorities for help will more likely lead to an immigration enforcement response than support to access rights. The immigration restrictions on Code 7 leave restrict access to external support and to rest opportunities as well as access to medical support. This means that unscrupulous employers can use the limitations of the 'transit loophole' in the context of priority being given to Immigration Enforcement over workers' rights and access to justice, to control workers and prevent exploited workers from seeking assistance.

7. Despite the UK having ratified ILO Convention 190 (on violence and harassment at work) no UK authority holds responsibility for its application on fishing vessels. Nevertheless, even with stronger coordination across regulatory bodies, migrant fishing workers will face difficulties in reporting violations given the fact that only skilled workers are able to leave the fishing vessel and port freely without prior approval. Moreover, threshold issues remain, with few authorities having the ability to board a vessel unless the case is both reported and deemed to be sufficiently severe.
8. **In order to address the significant power imbalance that creates risks of exploitation and abuse, all work visas in the UK need to provide sufficient flexibility to the workers who have migrated to the UK to enable them to challenge poor or exploitative employment, and to withdraw their labour and find better employment.** Not only would this protect individual workers, it also maintains working standards more generally, ensures compliance with UK employment law and takes a preventative approach which stops a situation from deteriorating to the level of modern slavery.
9. **To allow for this flexibility all work visas should be renewable subject to ongoing employment and should have a pathway to settlement.** The use of restrictive visas and absence of bridging visas in the UK combined with limited switching options on many routes means that workers who are unable to comply with their immigration status or who have their visa cancelled for any reason, including exploitation, may become undocumented. This undocumented status in turn increases the risk of exploitation, particularly as 'hostile environment' policies such as the Illegal Working Offence and associated right to work checks, mean that workers are often pushed into exploitative work.<sup>7</sup> While there is no evidence that the Illegal Working Offence and other 'hostile immigration' policies are effective at preventing irregularity in the UK, there is significant evidence showing how these policies prevent people from reporting crimes and unsafe working conditions to the authorities, which further

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<sup>7</sup> Labour Exploitation Advisory Group (LEAG). (2020) Opportunity Knocks: improving responses to labour exploitation with secure reporting. FLEX: London. p.16.

drives risks of exploitation.<sup>8</sup> Instead, the UK's previous good practice should be replicated to protect all migrant workers including in the adult social care sector, the Seasonal Worker visa and on the Overseas Domestic Worker visa. The pre-2012 Overseas Domestic Worker visa's portability provision was noted as playing a crucial role in facilitating migrant domestic workers' ability to exit exploitative employment and pursue legal remedies against their employer.<sup>9</sup> The UK's Ukraine Extension Scheme provided an option for eligible Ukrainian nationals in the UK to regularise or switch immigration status and has been recognised as preventing exploitation.<sup>10</sup>

## Bridging Visas

10. A bridging visa allows for people to maintain secure migration status in situations where they'd otherwise be pushed out of status (for instance, where they're escaping or have had their employment terminated by an exploitative visa sponsor).
11. The importance of bridging visas in preventing exploitation can be seen in their adoption in other countries. While it is vital that the specifics of a bridging visa are tailored for the UK specific context it is helpful to look at other models. For instance, in the Republic of Ireland, the Reactivation Employment Permit permits non-EU citizens who held a work permit but became undocumented through "no fault of their own" and have remained in the country.<sup>11</sup> "No fault of their own" can refer to labour exploitation and abuse, closure of the workplace without previous notice, being made redundant, or failure of the previous employer to submit the redundancy notification on time. Workers can apply for this permit with the formal offer of employment for any post, except for domestic work. Successful applicants receive a temporary residence permit which gives workers a period of temporary stay.
12. Another example of good practice is Australia where recent reforms protect migrant workers on temporary visas from being trapped in exploitative work due to their immigration status through provisions which prevent visa cancellations where there is evidence of exploitation and which provide for a Workplace Justice visa, permitting work in any sector, while the worker seeks redress. Accredited third-parties are able to certify claims of exploitation, allowing workers to come forward in situations where they may otherwise be fearful of approaching state authorities. These measures enable migrant workers in exploitation to leave exploitation without risking

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8 Focus on Labour Exploitation (2024): "So I decided to carry on...": The Continuum of Labour Exploitation in Practice. Available at:

<https://labourexploitation.org/app/uploads/2024/02/The-continuum-of-exploitation-report-2024-.pdf>

9 Kalayaan (2011). Ending the Abuse: policies that work to protect migrant domestic workers, p.3 ; The original ODW visa was cited internationally as good practice. See: International Labour Organization (2006), Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration, p.67.

10 García-Vázquez, O., Cockbain, E., Roberts, K., and Fisher, O. (2024). From exploitation risks to mitigations: looking back locally on the implementation of the UK's Ukraine Schemes. March 2024. London: FLEX (Focus on Labour Exploitation).

11 PICUM (2022), Labour Migration Policy Case Study Series: Ireland. Available at: [https://picum.org/wp-content/uploads/2023/02/Labour-migration-policies\\_Case-study-series\\_Ireland\\_EN.pdf](https://picum.org/wp-content/uploads/2023/02/Labour-migration-policies_Case-study-series_Ireland_EN.pdf)

their immigration status, giving them time to find decent work with a new sponsor, and to work to support themselves in the interim.<sup>12</sup>

13. In Finland, non-EEA workers who have experienced labour exploitation or significant negligence in the workplace can apply for special residence permits due to such exploitation.<sup>13</sup>
14. Similarly, Canada operates an Open Work Permit for victims of abuse. This permit is time limited and cannot be renewed. However, it's designed to give workers enough time to find a new employer and apply for a new work permit.<sup>14</sup>
15. New Zealand also adopted a Migrant Exploitation Protection Work Visa which allows migrant workers to find a job, providing them with a visa with an expiry date that matches their current work visa but not more than 6 months duration. It allows workers to work anywhere in New Zealand for any employer.<sup>15</sup>
16. These examples allow for workers, who would otherwise be at a high risk of exploitation, to regularise their status and access decent work. This ability to address workers on the shallower end of the continuum of exploitation can prevent workers' situation from deteriorating to the level where it might amount to modern slavery. To withhold access to practical assistance till exploitation reaches the modern slavery threshold fails to identify serious deteriorating abuse is deeply unethical, cost intensive and allows exploitation to thrive.
17. People who have been trafficked also need enough time to recover from their exploitation and rebuild their lives, in order to move on from their exploitation and to break the cycle of re-trafficking.<sup>16</sup> However, the majority of identified survivors of trafficking are not granted any leave to remain at all.<sup>17</sup> Granting leave to survivors to allow them to move on from exploitation and begin to rebuild lives also makes economic sense.<sup>18</sup> As well as decreasing risks of re-exploitation, including re-trafficking. A Cost Benefit Analysis shows significant financial benefits from victims being enabled to move on and rebuild lives as well as a great number of

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12 <https://www.migrantworkers.org.au/wjv>

13 <https://picum.org/blog/labour-migration-policies-finland/>

14 <https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/permit/temporary/vulnerable-workers.html>

15 PICUM (2024), Labour Migration Policy Case Study Series: New Zealand. Available at: <https://picum.org/wp-content/uploads/2024/12/Labour-Migration-Policies-Case-Study-Series-New-Zealand-EN.pdf>

16 Kalayan (2024). Ready, Willing & Able: The Cost of Not Allowing Survivors in the NRM to Work (Report 4). Available at: <https://www.kalayaan.org.uk/wp-content/uploads/2024/12/Ready-Willing-Able-Report-4-Dec-2024.pdf>

17 Helen Bamber Foundation (2023). Leave in Limbo: Survivors of trafficking with uncertain immigration status. August 2023

18 Kalayaan (2024). Ready, Willing & Able: The Cost of Not Allowing Survivors in the NRM to Work (Report 2). Available at: <https://www.kalayaan.org.uk/wp-content/uploads/2024/11/Ready-Willing-Able-Report-2-Nov-2024.pdf>

unquantifiable benefits.<sup>19</sup> This position was supported by the Labour Party frontbench as recently as 2023<sup>20</sup>, and should be incorporated into the Bill.

## Secure Reporting

18. To effectively deal with Labour exploitation and abuse, workers need to be able to safely report abuse and exploitation without fear of consequence, regardless of their immigration status.
19. Key to this is ensuring that the outcomes of reporting work out well for workers, and facilitate access to justice and improved working conditions. In contrast, a lack of separation between law enforcement (as well as other public bodies such as the Gangmasters and Labour Abuse Authority) and immigration enforcement dissuades people (including the wider public) from reporting potential cases of modern slavery out of concern that it will result in negative immigration consequences for victims.<sup>21</sup> Recommendations made by the former Director of Labour Market Enforcement, Matthew Taylor, sought to address a number of the drivers that leave migrant workers vulnerable to labour abuse and exploitation, and ultimately recognised that it is ‘vitally important to maintain a clear dividing line between labour market enforcement and immigration enforcement’.<sup>22</sup> In this context, the sharing of information on a potential victim of trafficking’s migration status with immigration enforcement and the use of joint or simultaneous inspections with both immigration enforcement accompanying law enforcement or labour market enforcement authorities risks undermining trust in the community and putting people at risk. However, information may need to be provided with meaningful informed consent of the worker in a safeguarded manner, where there is a need to highlight and facilitate the implementation of bridging visas. Nevertheless, information on migration status must never be used for the purposes of the exercise of any immigration control function to any detriment of a potential victim or witness of abuse or exploitation.
20. LEAG have been calling for Secure Reporting for a number of years, however a consensus is now forming in the sector and among experts that Secure Reporting must be part of any strategy to tackle Labour Exploitation. Margaret Beels, the Director of Labour Market Enforcement recently stated, “We need to have arrangements in place where workers are not in fear of losing their right to be in this country as a result of putting their hands up about labour exploitation.”<sup>23</sup>

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19 University of Nottingham Rights Lab (2019). The Modern Slavery (Victim Support) Bill. A Cost-Benefit Analysis.

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[https://bills.parliament.uk/publications/51208/documents/3442#:~:text=%E2%80%9C\(4\)%20Where%20subsection%20\(,\)%20access%20to%20support%20services.%E2%80%9D,p.4](https://bills.parliament.uk/publications/51208/documents/3442#:~:text=%E2%80%9C(4)%20Where%20subsection%20(,)%20access%20to%20support%20services.%E2%80%9D,p.4).

21 Birks, J. and Gardner, A. (2019) Introducing the Slave Next Door. *Anti-trafficking Review*. (13). 66-81, p.70.

22 Director of Labour Market Enforcement (DLME). (2021), United Kingdom Labour Market Enforcement Strategy 2020/21. HM Government. p.104.

23 <https://committees.parliament.uk/oralevidence/15201/html/>

21. In its response to the House of Lords Modern Slavery Act 2015 committee report, the Government suggested that secure reporting pathways were being considered as part of the implementation of the Fair Work Agency.<sup>24</sup> It is imperative that any implementation of secure reporting procedures is based in actual law and/or policy, so as not to be left to discretionary interpretation or up to the judgement of individuals on how to implement the practice, as this will inevitably fail to encourage trust in migrant communities, and moreover will lead to considerable divergence in practices.
22. Secure reporting procedures and pathways have been adopted in a number of different countries, yielding positive results.
23. **United States of America:** Since the mid-1980s, major cities in the United States, including Chicago, New York City, Seattle, Philadelphia and the whole state of California, have adopted policies aimed at protecting the safety of all its residents. By passing resolutions that limit local civil servants and law enforcement officials' involvement with immigration enforcement actions, these cities aim to promote migrants' engagement as witnesses and allow them to come forward when they are victims of a crime, irrespective of their immigration status. In New York City, for example, the police have developed guidance that prohibits officers from inquiring about immigration status of victims of crime, witnesses or others who approach the police seeking assistance. This has helped to make secure reporting part of their culture, and ensures that officers are held accountable and disciplined if they violate the guidance.<sup>25</sup>
24. **Belgium:** In Belgium, over 300 workers with insecure status have reported cases of unpaid wages to labour inspectors without suffering negative immigration consequences since 2010. Under the Belgian system, if a worker approaches a labour inspector to report cases of labour abuse, the concept of "professional secrecy" removes the labour inspector's duty to report undocumented migrants to immigration authorities.<sup>26</sup>

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24 Government Response to House of Lords Modern Slavery 2015 Committee Report, 'The Modern Slavery Act 2015: becoming world-leading again'. Available at: <https://www.gov.uk/government/publications/modern-slavery-government-response-to-house-of-lords-committee-report/government-response-to-house-of-lords-modern-slavery-act-2015-committee-report-the-modern-slavery-act-2015-becoming-world-leading-again#:~:text=The%20government%20has%20already%20announced,recently%20introduced%20Employment%20Rights%20Bill>.

25 Delvino, N. (2019). Safe reporting of crime for victims and witnesses with irregular migration status in the United States. Oxford: Center for Migration Policy and Society at Oxford University; Wong, Tom. 2017. "The Effects of Sanctuary Policies on Crime and the Economy." Center for American Progress

26 FLEX and LAWRS (2022). Preventing and addressing abuse and exploitation: a guide for police and labour inspectors working with migrants.

25. **Spain:** In Spain, victims of gender-based violence see infringement proceedings and deportations immediately stopped (or not even started) once undocumented migrants have been identified as victims of these crimes; secondly, these victims become eligible for special residence and work permits.<sup>27</sup>

26. **Brazil:** After identifying that Federal Police officers responsible for enforcing immigration were treating labour exploitation of migrant workers with insecure status solely as a violation of immigration policies, Brazilian labour inspectors stopped conducting simultaneous inspections with the Federal Police at a regional level, while advocating nationally for more protective rights for victims of human trafficking.

*“We, the labour inspectors who were dealing with undocumented immigrants in the city of São Paulo, understood that by issuing deportation orders, the Federal Police not only violated human rights treaties ratified by Brazil but also supported the main manipulation tool used by unscrupulous employers to keep migrant workers from seeking assistance: the threat of deportation.” - Brazilian senior labour inspector<sup>28</sup>*

27. Over time, other regions of the country started to identify cases of exploitation of undocumented migrant workers which were followed by immigration action. In light of these cases, labour inspectors and other specialist organisations supported the development of guidelines for interinstitutional use which clearly indicated best practices in supporting undocumented migrant workers.

## Illegal Working Offence

28. The recent focus on raids targeting so-called ‘illegal working’ represent a worrying trend where the victims of exploitation are the ones punished. Far from tackling labour exploitation, the Illegal Working Offence drives exploitation underground and disincentives victims from reporting abuse.<sup>29</sup> The illegal working offence criminalises working without the correct immigration status and means that any earnings could be confiscated as the ‘proceeds of crime’. As such a worker wishing to complain about non compliance with the National Minimum Wage risks all their earnings as well as immigration detention and removal when complaining. This makes it harder for all migrants to challenge unfair conditions, change employers, take time off for sickness or demand fair wages, for fear of being reported to Immigration Enforcement. The offence prevents migrant workers from reporting exploitation and seeking support

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<sup>27</sup> Domestic Abuse Commissioner, ‘Safety Before Status: How to Ensure the Victims and Prisoners Bill Meets the Needs of All Victims’, 2023, [https://domesticabusecommissioner.uk/wp-content/uploads/2023/11/FINAL-DOC\\_Firewall-Report\\_2023\\_V2.pdf](https://domesticabusecommissioner.uk/wp-content/uploads/2023/11/FINAL-DOC_Firewall-Report_2023_V2.pdf).

<sup>28</sup> Labour Exploitation Advisory Group and Focus on Labour Exploitation. (2020). Opportunity Knocks: Improving responses to labour exploitation with secure reporting. London: Labour Exploitation Advisory Group and Focus on Labour Exploitation

<sup>29</sup> Joint Council for the Welfare of Immigrants (2024): Work It Out: Advancing migrant worker’s rights. Available at: <https://jcwi.org.uk/wp-content/uploads/2024/07/Work-It-Out-Advancing-Migrant-Workers-Rights-July-2024-2.pdf>



from the state agencies meant to address such harm, i.e., police and labour inspection, due to the fear of immigration repercussions. As recently noted by the chief executive of the Gangmasters and Labour Abuse Authority, migrant workers are often coerced into breaking the conditions of their visa by exploiters, who then use these forced breaches as a way of exploiting them further, as the threat of immigration enforcement action will be held against the worker..<sup>30</sup>

## **Consultation with Civil Society**

29. As highlighted by the Minister of State (Home Office), Angela Eagle,<sup>31</sup> there was a considerable lack of consultation with civil society and frontline organisations working on modern slavery and labour exploitation in the formulation of this Bill. Moreover, the ECHR Memorandum fails to consider key areas of concern, including the failure of the ECHR Memorandum to assess Clause 41's compliance with Article 5 of the ECHR, demonstrating the need for robust scrutiny to ensure compliance with international obligations. Given the lack of consultation, it is imperative that Parliament is given ample time to provide robust scrutiny of this legislation, and that Committee members take an active role in challenging the harmful impacts of provisions within this Bill.

## **Recommendations: At a Glance**

- Repeal the Illegal Migration Act 2023 in its entirety and the Modern Slavery Act provisions of Nationality and Borders Act 2022. The UK should no longer prioritise immigration enforcement over workers rights.
- All UK work visas should be renewable subject to ongoing employment. The UK should end the use of short term work visas.
- A UK Workplace Justice visa should be created, providing options for workers to seek redress and support themselves while finding employment with a new sponsor.
- Secure reporting mechanisms should be introduced to allow for victims of Labour Exploitation to report labour exploitation without fear. The sharing of information on a potential victim of trafficking's migration status with immigration enforcement and the use of joint or simultaneous inspections with both immigration enforcement accompanying law enforcement or labour market enforcement authorities must end.

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<sup>30</sup> <https://committees.parliament.uk/oralevidence/13121/pdf/>

<sup>31</sup> <https://www.parliament.co.uk/question/9002/asylum-and-immigration>

- Scrap the Illegal Working Offence. This offence and other facets of the hostile environment pose barriers to migrant workers being able to report exploitation.