

KALAYAAN

justice for migrant domestic workers

FAO David Bolt

Independent Chief Inspector of Borders and Immigration

By email to: Andrew.Ould@icinspector.gsi.gov.uk

22/08/2016

Dear Mr Ould,

Kalayaan's contribution to the ICIBI's inspection of the identification of potential victims of trafficking at the UK Border

Thank you for your invitation to contribute towards the ICIBI's inspection for potential victims of trafficking identified at the UK Border. We have structured our contribution using the 6 areas you requested our views on in your invitation letter.

- The role your organisation plays in the identification and support of potential victims of trafficking

Kalayaan was established in 1987 and is the leading UK charity (registered under number 1146596) offering advice, advocacy and support services to overseas domestic workers. Kalayaan has been recognised as having expertise in this area and has been called to give evidence on the issue to the All Party Parliamentary Group on Trafficking's Inquiry into Data collection, the Modern Day Slavery Bill evidence review and the Joint Committee and Public Bill Committee on the Draft Modern Slavery Bill.

Kalayaan is a government designated 'First Responder' in terms of the National Referral Mechanism, the framework used in the UK to identify and support victims of human trafficking. We have extensive experience of identifying victims of trafficking for domestic servitude having held this status since the NRM was established in 2009. Previous to this we participated in the Home Office pilot for identifying victims of trafficking for forced labour ('Operation Tolerance').

Kalayaan provides long term support to victims long after they have escaped an initial trafficking situation. Unlike other first responders or agencies providing support services, Kalayaan does not have a fixed term for the length of time we support victims. We support victims to engage with legal professionals for their immigration, employment, compensation and housing matters as well as other professionals able to provide specialist support to our client group.

Kalayaan is aware that the Home Office shall be implementing a number of practical and policy changes in line with amendments made to the Immigration Rules for domestic workers in April 2016. The changes made are a result of the independent review by James Ewins QC which examined how far the then existing arrangements for Overseas Domestic Workers were effective in protecting workers from abuse.¹ Kalayaan is keen to work with the Home Office and the Independent Anti Slavery Commissioner to lend its expertise, knowledge and experience to ensure these changes leave domestic workers informed of their rights and empowered to take practical steps to leave abusive employers.

- How effective Border Force is at identifying potential victims of trafficking at the border and how it could be improved

Kalayaan is not aware of any routine checks that are carried out at the border in order to identify domestic workers as potential victims of trafficking exploited in domestic servitude. This is in breach of the UK's international obligations under Article 7 of the Council of Europe Convention on Action Against Trafficking in Human Beings to prevent and detect trafficking in human beings.

The National Crime Agency's Strategic Assessment on the Nature and Scale of Human Trafficking in 2014 records 30 potential victims (out of 3309) were encountered on entry to the UK and subsequent exploitation within the UK suspected. 17 of these were refused entry to the UK due to these suspicions and (alarming) returned to the country from where they had travelled.² There is no breakdown given, out of either the 30 or 17 potential victims, if any of those identified were potential victims suspected of being exploited in domestic servitude.

¹ <https://www.gov.uk/government/publications/overseas-domestic-workers-visa-independent-review>

² <http://www.nationalcrimeagency.gov.uk/publications/656-nca-strategic-assessment-the-nature-and-scale-of-human-trafficking-in-2014/file>

Exploitation prior to arriving in the UK

Overseas Domestic Workers wanting to come to the UK must be sponsored by their employer and have been employed by them for a minimum period of 12 months immediately before their application for entry clearance. Evidence of the period of previous employment must be provided by the employer. The guidance to Home Office staff on domestic workers states the purpose of the minimum period of previous employment with the employer (or with the employer's spouse or minor child forming part of the same household as the employer) is to make sure there is a *genuine existing relationship between employer and employee*.³ In several cases observed at Kalayaan, domestic workers describe abusive and exploitative conditions in the country they worked in before accompanying their employer to the UK. Their work and how they are treated in the UK is often an extension of their previous employment outside of the UK.

Information leaflets at visa application centres

All checks and requirements for visa applications for domestic workers are made during the paper application process. Unless called for interview as part of their application, the first contact a worker has is when they attend the British Embassy post abroad. They should be issued an information leaflet however Kalayaan is still registering clients who instruct they were not given any information informing them of their rights as workers in the UK. Kalayaan understands that the information leaflet will be reviewed following the changes made in April 2016. Currently, the information leaflet is handed over during the visa application at a visa application centre (VACs) while the applicant is providing their biometric data. VACs are outsourced to private companies. UKVI do not oversee the provision of the information leaflet or check that it has been understood by the worker.

Arriving in the UK

Domestic workers are admitted to the UK on the basis they will work for the employer who sponsored their application for a visa. Kalayaan is not aware of any standardised procedure carried out at the border to ascertain whether domestic workers have been given the information leaflet and that they understand and are aware of their rights in the UK.

Kalayaan would recommend that UK border officials issue an information leaflet to domestic workers. This leaflet should be produced in a variety of languages. Kalayaan has in the past

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/529329/Domestic-workers-in-private-households-v16.0.pdf - page 18

produced information cards in 20 languages to ensure our clients are able to understand the services we provide and how they can get in touch with us.

The information on the leaflet needs to include the following:

1. That domestic workers have the right to change employer in the UK if they are not happy with them / their treatment
2. That they should be paid the National Minimum Wage at £7.20 p/hour
3. They should have possession of their passport at all times
4. Details of Kalayaan – including our telephone number and address – and a brief description of the services we provide, including that we offer employment and immigration advice and services
5. Emergency numbers to call – including 999 and 101

In providing information leaflets at the border in a format and language domestic workers can understand, this will help to ensure they are aware of some of their basic rights as workers in the UK which they may previously have been unaware of if they were not issued an information leaflet at the visa application centre. Such information can prove vital if the domestic worker is too scared or distrustful of the border authorities to reveal they are being exploited or abused. This is especially true for domestic workers who travel with their employer to the UK or where they have been threatened by their employer if they do not say or act as instructed by them.

- Your views on how potential victims of trafficking are treated at ports of arrival into the UK

The government accepts that domestic workers are a vulnerable group of people in need of protection against unscrupulous and exploitative employers. Despite this, Kalayaan is unaware of any checks carried out at the border to ensure domestic workers are protected against their employers when they enter the UK.

A large number of our clients report that they did not have possession of their passport when they passed through immigration control. This is a strong indicator of a potential trafficking case and is listed on the NRM referral form. In cases where indicators are there when a domestic worker presents at the border these are either missed or not acted upon by immigration officials. This is also true for workers who present with physical or psychological symptoms who appear distrustful of authorities and submissive to their employer.

- Whether the treatment of potential victims of trafficking is consistent at all ports of arrival

As indicated above, Kalayaan is unaware of any procedure carried out at any port of arrival to the UK for domestic workers. Kalayaan would advocate one system is in place for domestic workers arriving at international and regional airports as well as sea ports and international train stations.

- Your views on the process of referral to the National Referral Mechanism


Any referral made to the NRM by an immigration officer at the border should only be done with the domestic worker's informed consent. Workers should have all of their options (including the right to change employer) clearly explained to them, in a language they can understand and given immigration advice.

In the case of live-in workers, if a domestic worker elects to go for a referral to the NRM, the immigration official should make contact with the Salvation Army to ensure they have a place to stay whilst their trafficking claim is being determined.

- The extent of your engagement with Border Force and what more they could be doing

Kalayaan supports clients who entered the UK on an Overseas Domestic Worker visa. We do not have any engagement with Border Force but would welcome any opportunity to work with them to increase awareness and identification offered to victims.

If you require further information, please do not hesitate to contact me.



Avril Sharp
Policy and Casework Officer
Kalayaan

