

10 December 2021 – Human Rights Day

The Rt. Hon Priti Patel MP  
Secretary of State for the Home Department

Kevin Foster MP  
Minister for Future Borders and Immigration

Rachel Maclean MP  
Minister for Safeguarding

By email: [public.enquiries@homeoffice.gov.uk](mailto:public.enquiries@homeoffice.gov.uk), [kevin.foster.mp@parliament.uk](mailto:kevin.foster.mp@parliament.uk) and [rachel.maclean.mp@parliament.uk](mailto:rachel.maclean.mp@parliament.uk)

**Re: Reforming the Overseas Domestic Worker visa**  
**DECS Reference: MIN/0140910/21**

Thank you for your letter dated 10 June 2021 in which you confirm the government does not intend to reinstate the pre-2012 Overseas Domestic Worker in a Private Household visa route.

We welcome that the government recognises the vulnerabilities of migrant domestic workers and is committed to ensuring that the legislative and administrative framework protecting them from trafficking is effective.

In this spirit, we would like to provide some clarifications with regard to the legal and policy framework for migrant domestic workers in the UK, and gaps in mechanisms of protection and remedy for them.

1. Your letter states that the pre 2012 domestic worker visa permitted UK based employers to recruit domestic labour directly from overseas. This is incorrect: the terms of the visa have always required that workers accompany their employers from abroad where they have worked for them for at least 12 months prior, so the UK labour market was not undercut by this visa.
2. Migrant domestic workers are not subject to all of the responsibilities and protections offered by UK employment law. Domestic workers are explicitly excluded from a number of statutory provisions including health and safety legislation and the Working Time Regulations which limits the maximum hours worked each week at 48. The short term nature of the visa also means that workers are effectively excluded from bringing claims before employment tribunals as well.
3. The dedicated process you refer to, the National Referral Mechanism (NRM), is for those cases where treatment has deteriorated to the point of slavery. It therefore does not protect or safeguard workers who have experienced labour abuse but who do not meet the threshold for a referral to the NRM. It also does not prevent labour abuse from escalating to such severe forms of abuse as slavery. In not allowing migrant domestic workers the right to renew their visa on the basis of their continued employment, the government is compounding the vulnerabilities that workers already face which is then used by unscrupulous employers or others looking to exploit their insecure status in the UK.
4. The NRM is also not, as suggested in your letter, a dedicated process for victims of modern slavery who entered the UK as a domestic worker. It is a NRM for identifying and offering limited support to

all victims of slavery or trafficking and has not been specially developed for victims of domestic servitude. The NRM is limited in what it offers Overseas Domestic Worker visa holders; it offers no way to prevent exploitation or to stop it escalating. It does not offer any protection to workers who have been exploited but whose exploitation is not found to equate to slavery or trafficking. The NRM only offers permission to stay in the UK for up to 2 additional years in cases where a worker is conclusively recognised as a survivor of trafficking or slavery.

5. The support provided by the Single Competent Authority through the NRM is limited. Unless a worker has a valid visa when they enter the NRM and receive an initial positive decision at the reasonable grounds stage, they are denied the right to work so are forced to become dependent on subsistence provided by the Modern Slavery Victim Care Contract (for outreach purposes, this is £39.60 a week). Every worker supported by domestic worker charity Kalayaan says this is not enough to live on with them having to resort to foodbanks and in some cases exploitative and abusive work to get by. In Kalayaan's experience, it takes 2 years on average to complete the NRM process during which time there has been a marked deterioration in the mental health of workers who have not had the right to work. Knowing that the NRM and its associated limbo, delays and uncertainty is the only option open to them, many ODW visa holders have no option to leave exploitative work due to the need to continue to work and remit earnings (however limited) to dependent family members or to repay debts.

6. We are not aware of any continued monitoring being carried out by the government to ensure that workers both receive and understand where to seek advice should they need it. Data collected by Kalayaan has consistently demonstrated for years that workers are not receiving information prior to their arrival in the UK. We would be grateful if you can explain how the government is monitoring to ensure this is taking place and that they are satisfied workers are receiving *and* understanding the necessary information.

As you will be aware, three United Nations human rights experts sent a communication to the UK government earlier this year setting out the concerns they have with the current visa regime for migrant domestic workers. The Special Rapporteur on contemporary forms of slavery, the Special Rapporteur on trafficking in persons and the Special Rapporteur on the human rights of migrants sent a joint communication in May 2021 which concluded that workers should be granted the right to change employer at any point in time and for any reason while being able to apply for an extension of their visa / residency status. This, in their view, would contribute directly and significantly to the prevention and protection from exploitation and abuse of migrant workers. A copy of the full text can be found here:

<http://www.kalayaan.org.uk/wp-content/uploads/2021/07/SR-letter-to-UK-govt-27-05-2021.pdf>

We would also like to remind the government that the Low Pay Commission recently acknowledged the exploitation many migrant domestic workers face in the form of low pay and excessive hours and recommended the government end the exemption for migrant domestic workers from National Minimum Wage laws:

[http://www.kalayaan.org.uk/wp-content/uploads/2021/10/LPC\\_summary\\_of\\_findings\\_2021\\_A.pdf](http://www.kalayaan.org.uk/wp-content/uploads/2021/10/LPC_summary_of_findings_2021_A.pdf)

In light of the above and the government's upcoming review of their Modern Slavery strategy, **we urge you to reconsider your position not to reinstate the pre-2012 visa category for domestic workers.** This is the only model which affected workers say enables them to prevent exploitation and access justice.

We believe it important to meet to clarify these issues and find a way to move forward.

Yours sincerely,

- Rita Gava, Director, Kalayaan
- Marissa Begonia, Director, The Voice of Domestic Workers
- Jasmine O'Connor OBE, CEO, Anti-Slavery International
- Lucila Granada, Chief Executive, FLEX (Focus on Labour Exploitation)
- Urmila Bhoola, former United Nations Special Rapporteur on Contemporary Forms of Slavery, its causes and consequences (2014-2020)
- Professor Parosha Chandran, barrister and Professor of Modern Slavery Law, King's College London
- Diana Holland, Assistant General Secretary, Unite the Union
- Frances O'Grady, General Secretary, TUC (Trades Union Congress)
- Sue Longley, General Secretary, IUF (International Union of Food and Allied Workers Association, including domestic workers)
- Kristjan Bragason, General Secretary, EFFAT (European Federation of Food, Agriculture and Tourism, including domestic workers)

Please send your response to this letter to Rita Gava, Director at Kalayaan who is acting as Secretariat: [rita@kalayaan.org.uk](mailto:rita@kalayaan.org.uk)