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## **REVIEW OF THE OVERSEAS DOMESTIC WORKERS VISA: COMMISSIONER'S RECOMMENDATIONS**

### **INTRODUCTION**

The protection of all victims and potential victims of modern slavery is one of my core priorities as Commissioner. Any factors that are thought to heighten vulnerabilities to such abuse are of utmost concern.

Domestic work within private households is globally recognised to be a sector where workers have heightened vulnerability to the risk of abuse and exploitation. The protection of overseas domestic workers, on account of the specific nature of their work in private households, is complex and their working conditions are less visible, making any kind of abuse more difficult to detect. Sometimes overseas domestic workers fall prey to deceptive job offers whilst still in their own country, and it is often not until they reach a transit or destination country, such as the UK, that coercion and exploitation begins.

I highly commend the work of the NGOs who have been working hard to support domestic workers who have suffered from exploitation, and to help make their voices heard.

I welcomed the Home Secretary's commissioning of an independent review of the overseas domestic workers visa, carried out by James Ewins QC, and I fed in my recommendations to James Ewins during the review's consultation process. Since its publication in December 2015 I have been engaging with Home Office Ministers and officials to discuss how they intended to respond to the review and have shared my recommendations, which I laid out in a recent formal letter to Lord Bates, Minister of State for the Home Office (and which I have set out later in this letter).

I am pleased the Minister for Immigration's parliamentary statement made on Monday 7<sup>th</sup> March included many of my recommendations. Notably the decision to allow those on overseas domestic worker visas to change employer during the six month stay and the decision to allow

those who have received a positive conclusive grounds decision as victims of modern slavery to stay in the UK for up to two years beyond the initial six month visa, with a right to work in private households. It is essential that those who have suffered abuse and exploitation are afforded the support they need and deserve to help them rebuild their lives.

I am also pleased the Government agrees that more is needed and should be done to ensure that overseas domestic workers and their employers are informed of the entitlements and obligations in the UK, including considering my recommendation that the first advice and support meeting for overseas domestic workers should be held sooner than 42 days after their arrival to the UK, as suggested in the review.

I also welcome the Government's intention to tighten the obligations of employers who want to bring a domestic worker into their household for the duration of their stay in the UK by introducing a compulsory registration with UK Visa and Immigration. This will not only send a clear message to the employers that the UK will not tolerate abuse and exploitation, but will also shift the focus to the employer, rather than laying the responsibility on the vulnerable domestic worker.

I will of course continue to monitor the situation and to engage with the Government as they put further consideration into developing a more proactive approach to preventing the exploitation of domestic workers both prior to their arrival and during their stay in the UK.

## **RECOMMENDATIONS**

The well-being of the victim, prevention of any form of exploitation, and the conviction of perpetrators are at the heart of the recommendations I made to the Government, which are the following:

### **1. Abolishing the "tied" visa and granting a right to change employer**

I do believe that having a "tied" visa to a single employer increases the risk of exploitation and restricts a worker's freedom to report, and that therefore the current system must be revised.

In my opinion overseas domestic workers should be given a right to change employer during their stay in the UK, which will empower those who are abused to come forward and report the crimes committed against them, whether it is exploitation that equates to modern slavery or other types of abuse. This will also hopefully enable the NGOs working to protect domestic workers' rights to encourage victims of abuse to come forward, as it is suggested that the fear of immediate deportation from the UK is the main obstacle for the domestic workers to do so.

### **2. Duration of visa**

I believe that overseas domestic workers who are issued a visa to work in private households should have a right to change employer within the sector for the entire 6 months duration. I wish to re-iterate that I believe that an overseas domestic worker who is identified as a victim

of modern slavery should be allowed to remain and work in the UK for up to two and a half years and beyond in cases where the risk to the individual justifies protection by the UK.

I believe that a provision allowing annual extensions to all overseas domestic workers will increase the risk of exploitation significantly, and possibly create an environment for criminals to operate in. Such cases had been happening prior to the 2012 change in visa rules. In my previous role, I dealt with cases where victims were exchanged between the criminals for a fee and exploitation continued whilst the domestic worker had a right to legally reside in the UK. One case allowed for a woman to be sold twice and a criminal family had, on at least two more occasions, replaced victims with other domestic workers and the cycle of exploitation continued unreported for a long period of time. There is also a risk that those overseas domestic workers, who would escape abuse and exploitation from one employer, would not report the crime and simply look for another job. For victims this would potentially mean higher levels of vulnerability and risk of further exploitation as their needs would not be addressed. For criminals this could mean no punishment and a continuous supply of overseas domestic workers which could potentially facilitate a low risk enterprise with high financial returns for them. In such a situation there is a high risk of unintentionally creating favourable conditions for criminals to develop a lucrative illicit business of exploiting overseas domestic workers in the UK.

### **3. More robust prevention and protection measures**

Modern slavery of any kind, in any sector, is abhorrent and can occur in a number of environments, regardless of worker's immigration status. All types of exploitation have to be addressed equally through advanced prevention approaches, effective support services to protect victims, and tough measures to prosecute criminals. I believe that more robust prevention measures should be put in place for overseas domestic workers pre-departure to the UK, and that in-country awareness is also essential. Both the sponsor and the employer should have to fill in and sign a questionnaire as part of the visa application process which will assess their knowledge of the UK laws, including those relating to modern slavery. Hence committing an offence outlined in such questionnaires would also mean breaching immigration law.

#### **3.1 In-country advice and support meetings**

As I have stated previously, including during my meeting with James Ewins as part of the consultation period for the review, it is vitally important to introduce advice and support meetings with domestic workers once they arrive to the UK. However, I believe that having the first in-country meeting after 42 days, as suggested by James Ewins in his report, is too long and that such meetings should happen sooner, for example no later than the first 21-28 days, to ensure that domestic workers are informed and equipped sooner rather than later. The biometrics of both the sponsor and the domestic worker should be gathered and linked as part of the visa application process, and checked against the database at later stage, if necessary, for example, if a domestic worker does not attend the first advice and support meeting in the UK.

When offences are disclosed, it will provide irrefutable evidence of who is responsible for the visa application and the well-being of the domestic worker. This could then serve as an evidence base to demonstrate that a person “knows or ought to know” that another person is in exploitation as is stipulated in Section 1 of the Modern Slavery Act.

### 3.2 Pre-departure education programme

Other prevention and protection mechanisms could be developed and put in place. I have recently met with Pacific Links, an NGO operating in Vietnam, who have developed a pre-travel education model for use in Vietnam that I believe could be tailored and utilised by those travelling to the UK. For example, one of the requirements during the visa application process could be for overseas domestic workers to complete a pre-travel education programme that continues whilst in the UK. This could be an on-line module, and when they leave the UK it should generate a certificate (which could be accredited) showing completion of the awareness and best practice scheme. The overseas domestic workers could then act as ambassadors in their countries of origin or where they work, explaining the rights of domestic workers when they travel to the UK. It will also mean that every domestic worker who comes to the UK will get some degree of training and could act as ambassadors sharing the information and knowledge upon their return to their home country.

## CONCLUSION

The ultimate aim, which many of the recommendations above work towards creating, is to have a system that significantly mitigates the risks of overseas domestic workers being exploited when they come to work in the UK. It is important that NGOs and statutory agencies work together to ensure that all those who do end up subject to the horrors of modern slavery have sufficient confidence in the system to come forward and that they are properly informed about the support mechanisms that are available to them. We must continue to work and improve our systems so that timely support and care is provided to victims of modern slavery to help them rebuild their lives; that perpetrators are punished and put behind bars; and that robust prevention measures are actively working both in countries of origin and in the UK.



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