

READY, WILLING & ABLE

The cost of not allowing survivors in the NRM to work

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Annex
Summary of previous reports



KALAYAAN
justice for migrant domestic workers

Kalayaan is producing a series of five ‘mini reports’, highlighting the benefits to be gained and costs saved in allowing those in the National Referral Mechanism (NRM) who do not currently have the right to work, to do so.

This is a summary of reports that have previously covered the issue. Part of the motivation for Kalayaan to spearhead this project was to bring attention back to an issue which is the top concern of Kalayaan’s clients and other survivors in the NRM, and to remind policymakers of all the work that has already been done in the sector to highlight the urgent need for change in policy, and the notable benefits such change would result in.

Below, we summarise these recent reports in order to provide context to Kalayaan’s current initiative.

Underground Lives: Aspirational Britain: Survivors of Modern Slavery Want to Work Too

Hestia and Pro Bono Economics, October 2022 ¹

Hestia and Pro Bono Economics (PBE)'s collaboration for this report, found that of the 228 survivors they surveyed in the NRM, 96% wanted to work and many were highly skilled – 1 in 4 had qualifications at university level or above. But they were caught up in a system where bureaucracy and red tape prevented them from unlocking their potential, with 1 in 3 waiting more than three years for a Conclusive Grounds decision. During that time, the report noted that survivors were reliant on subsistence payments, donations and food banks. Analysis by PBE estimated that allowing survivors to work during this time in the NRM could generate a net economic benefit to society of £10m to £41m per year. This approach was backed by employers who, with the right support, were keen to make use of those skills. According to one employer: "We currently have more job vacancies in the country than we have unemployed people. The idea that we are stopping people from working who want to work and to build a life seems to me to be absolutely bizarre. It's such a waste of human capital, such a waste of talent." One of the report's recommendations was that the Home Office grant all survivors entering the NRM the right to apply for a temporary right to work on receipt of a Reasonable Grounds decision.

Those who needed to seek asylum as a consequence of their enslavement also could not work, unless they were one of the very few who met the requirements of the government's Shortage Occupation List, mostly at university graduate level or above and only then after they had been seeking asylum for over a year. Those survivors originally arriving in the UK on work visas (such as the Overseas Domestic Worker visa) usually found that these had often expired during their enslavement and could not be renewed.

The report noted that while previous research had looked at the economic benefits for survivors after they had left the NRM, there had been no estimate of the economic benefits generated to society, if the right to work were extended to all survivors of modern slavery whilst within the NRM. Using Hestia's survey data from this research, PBE conducted an independent analysis of the economic costs and benefits of reforming the current system.

PBE found that of an estimated 24,000 adults and children stuck waiting for a Conclusive Grounds decision to be made at the end of 2021, 12,000 were adults and of those, an estimated 7000 did not currently have the right to work in the UK. Giving the right to work to those 7000 adult survivors while they waited in the NRM, could generate net benefits to society of £10m-£41m per year which could be broken down into benefits of £8m-£32m to the individuals via take-home pay and £2-£8m to the taxpayer through reduced subsistence payments and increased tax revenue.

Survivors of modern slavery who do not have the right to work were (at the time the report was written) entitled to a support payment from the government of £40.85 per week, increasing to £65 per week if they were also seeking asylum in the UK. However, according to the report's research, survivors saw this financial dependence on the state as a double punishment – being punished for escaping exploitation and being punished by the system for the crimes of others. Achieving financial independence was therefore the most important positive impact for survivors who wanted to work, even if they were doing work well below their skill/ qualification level. Any paid work was well worth doing as it freed them from financial dependence on the state and what they saw as charity handouts; it gave them self-agency and autonomy which was fundamental to their recovery. Survivors felt very strongly about wanting to play active roles as contributors to, rather than dependants on the public purse and wanted to pay their fair share.

In turn, employers highlighted that enabling more survivors to work would contribute positively to the workforce and to the economy. As well as contributing towards addressing recruitment shortages, businesses would also be able to meet other targets including corporate social responsibility, diversity and inclusion objectives; demonstrate proactive modern slavery response activity; enhance brand profile and support wider recruitment and retention. Many employers expressed a level of frustration at the potential waste of unused labour and skill available in the UK, especially while employers in many sectors were simultaneously having to recruit from abroad at additional cost.

¹ Available at: <https://www.hestia.org/Handlers/Download.ashx?IDMF=8d6b66d0-3224-440e-a50f-9d69278570eb>

Benefits & barriers to employment: Considerations for modern slavery survivors

University of Nottingham's Right Lab, May 2021 ²

This report noted that only a minority of survivors, primarily UK nationals, are able to work whilst being supported in the NRM; the majority are prevented from accessing the labour market due to their immigration status. This highlighted a pressing issue that due to significant delays experienced in NRM decision-making, survivors could have a gap of many months or even years before they re-entered the labour market, experiencing a significant loss of work-related skills and confidence in the meantime. The report called for the government to grant people in the NRM a residence permit or a temporary form of leave to remain following a positive Reasonable Grounds decision, to enable access to work. During the NRM, as survivors are not subject to immigration removal, such temporary grants to work could be given.

The report cited research showing that work can play a vital role in all survivors' lives, adding meaning and purpose, routine and stability and offering financial independence. Employment provides a route out of poverty, prevents social exclusion and is generally good for physical and mental health and well being. Conversely, unemployment can be detrimental to an individual's mental and physical health, leading to lower self-esteem and higher rates of anxiety, depression and even mortality. In the case of those in the NRM, being unable to work can be a significant factor in their re-exploitation, forcing them to work illegally in order to be able to subsist and in some cases, send remittances back to their families.

The authors considered that time in the NRM should be used more productively to develop skills, prepare for employment, financial independence and economic resilience and agency. Yet there is currently no standard approach to assessing survivors' work history, ambitions and talents, nor is there a curriculum to build skills and support survivors into employment. Pathways to employment for survivors of modern slavery are based on the individual's immigration status rather than their status as a recognised victim. The support survivors are entitled to under the NRM is standardised and yet their ability to re-enter employment is not.

NRM statistics show that most referrals are for potential victims of forced labour, which indicates that people can work and want to work (albeit not necessarily in the sector they were exploited in). Whilst survivors may not have been afforded the opportunity of having decent work during exploitation that has allowed them to sustain themselves, contribute to society or benefit from the physical, psychological or financial advantages that work can provide, these benefits were likely what they were hoping for when they agreed to the work offered.

The report found in terms of getting victims of human trafficking or slavery (VTS) and potential victims of human trafficking or slavery (PVT) ready to work, all six sub-contractor organisations considered that over 75% (three-quarters) of the survivors they had supported would be in the position to re-enter employment. Yet, all the programmes offering employment opportunities were only able to offer support to survivors who had the right to remain and work in the UK, it being assumed that survivors with no right to work in the NRM would have little or no access to work and so it would not be identified as a support need.

The report concluded that this indicates that the period in which survivors are being supported in the NRM is not being used effectively to assist them to prepare and develop the skills needed to enter employment in the future and that this needs to change if the UK is to meet its objectives set out in the Home Office Modern Slavery Strategy, to assist survivors to reintegrate effectively.

² Available at: <https://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/resources/reports-and-briefings/2021/may/rights-lab-access-to-work-pathways-final.pdf>

Access to Work for Survivors of slavery to enable independence and sustainable freedom

Kalayaan, Anti-Slavery International, ATLEU, Anti-Trafficking Monitoring Group, Coop, FLEX, The Sophie Hayes Foundation and Survivor Alliance, March 2021 ³

This report produced by a coalition of organisations who either provide direct services and advocacy to survivors or work on relevant policy noted that the system does not currently work in the best interests of survivors. Without access to work, time spent in the NRM can feel like a time of limbo, leading to practical difficulties and a deterioration in the mental health of survivors. Workers who need to provide for their families do not feel able to consent to a referral into a system which could leave them in limbo for years.

The report considered that morally, economically and practically the UK needs to make sure the NRM works for all survivors. Providing access to work during this time would transform the NRM, meaning that survivors could use this time, when they are supported by caseworkers, to access decent work and begin to prepare for independence. Enabling people in the NRM to access work would be a simple process which could be achieved by changing the Immigration Rules and without the need to amend primary legislation.

Survivors interviewed for the report, described their time spent in the NRM as a time of deep anxiety, uncertainty and limbo and some reported feeling punished by the system designed to protect them. Without access to work, they were unable to move on with their lives and described spending most of their waking hours with little to do, which aggravated mental distress. Long periods without work and lack of control over their personal finances led to a loss of confidence and skills. Long delays in NRM decision-making was described by survivors as an extension of their experience of slavery, impacting on their recovery and resilience.

As with the other reports summarised above, organisations supporting survivors, highlighted that access to work helped strengthen a sense of purpose, allowing them to maintain and develop skills, providing pathways out of exploitation, improving mental well-being and equipping them with relevant work experience to make up for the employment gaps which could be difficult to explain to prospective employers. Access to work empowered survivors to become financially independent.

It also generated benefits to the state through tax contributions from their employment and would likely reduce government expenditure on NRM support costs and later interventions to address re-exploitation.

The report found that workers who needed to send remittances home (for example to pay for school fees or medical care) would have no option but to enter or stay in exploitative work if a referral into the NRM could prevent them from providing for their families, possibly for several years. The Kalayaan report *Dignity not Destitution* (detailed below), in a comparative exercise, showed that survivors with permission to work while in the NRM were financially independent and able to provide for their families (as well as reduce the risk of family members being targeted by debt collectors), whereas those without permission were drawn into destitution and left vulnerable to further harm and exploitation.

This report noted that not only could a temporary leave to remain and work be granted easily to all those in the NRM, but also, during the period between the Reasonable Grounds and Conclusive Grounds decision, survivors had access to a support worker. To be able to re-enter the workforce while this support worker was available would make use of their time to help manage any issues associated with starting work, following exploitation. This would include support to address any issues which triggered trauma, making sure there was a clear understanding around the conditions of the employment and deal with practical issues like securing a National Insurance number, opening a bank account and providing information around work entitlements or negotiating leave to attend court or a doctor's appointment. Ultimately, a support worker would be well placed to ensure that starting work goes as smoothly as possible, would be a positive part of the recovery process and ensure that the work was not exploitative and would support the survivor in their life after trafficking.

³ Available at: http://www.kalayaan.org.uk/wp-content/uploads/2021/03/Coalition_AccessToWork_report_v3.pdf

Dignity not Destitution

Kalayaan, October 2019 ⁴

This report provided a good comparative study, looking at the specific issues facing overseas domestic workers who seek opportunities abroad in the hope they will be able to provide for their relatives who depend on their remittances for essentials including food, shelter, medicines and education. Many workers endure abuse and exploitation if it means they can at least send some money home to their struggling families.

Coming from outside the EU, these migrant domestic workers must be granted an Overseas Domestic Worker ('ODW') visa to accompany or join their employer in the UK. The visa is granted for a maximum of six months with no right to renewal beyond this time. As of 2016, workers on an ODW visa can change employers but only during the six-month period for which they were originally admitted. This right was introduced to safeguard against abuse and provide workers a route out of exploitation although the report considered it was ineffective in practice given workers have little or no time left on their visa to find work. The only exception that allowed for these workers to be granted an extension of their leave and right to work applied to those workers identified as potential victims of trafficking or modern slavery who entered the NRM and were given a Reasonable Grounds Decision. There is a crucial distinction however, depending on their visa status at the date this decision is made, which was key to the issue addressed by this report. If the worker's initial six-month visa was still valid at the date of the Reasonable Grounds decision, they would have the right to work while in the NRM. If the worker's initial six-month visa had expired by the date of the Reasonable Grounds decision, they did not have the right to work whilst they waited for a Conclusive Grounds decision. Kalayaan is a first responder to the NRM. In 2017-2018, Kalayaan identified 72% of workers who registered for advice and support as presenting with indicators of trafficking. Despite suffering abuse at the hands of their initial employer, workers told Kalayaan that they wanted to find another employer who would offer decent work and a workplace free from violence and harassment.

For many, their focus remained on being able to provide for their families and remit money home. This report looked at the experiences of 21 workers who had been identified as potential victims of trafficking and modern slavery and referred into the NRM by Kalayaan since October 2016.

It addressed the impact of their employment status on their lives in the UK and their families back home whilst they awaited a final decision on their trafficking claim. All these workers were, at the time of interview, waiting for a Conclusive Grounds decision to be made. Of the 21 workers interviewed, 10 did not have permission to work in the UK as a result of their ODW visa having expired at the date of their Reasonable Grounds decision..

From Kalayaan's interviews, it emerged that without permission to work, workers in the NRM were drawn back into destitution and left vulnerable to further harm and exploitation. Limited financial assistance was provided by the Salvation Army who run the MSVCC. In contrast, workers with permission to work were financially independent and able to provide for their families. All interviewees in this research told Kalayaan that they wanted to use their skills and work and not be made reliant on government support. The report argued that extending the right to work to all migrant domestic workers in the NRM would allow them to live in dignity as they could support themselves and their families, prevent them falling into destitution and the risk of re-exploitation and improve their mental health.

⁴ Available at: http://www.kalayaan.org.uk/wp-content/uploads/2019/10/Kalayaan_report_October2019.pdf



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