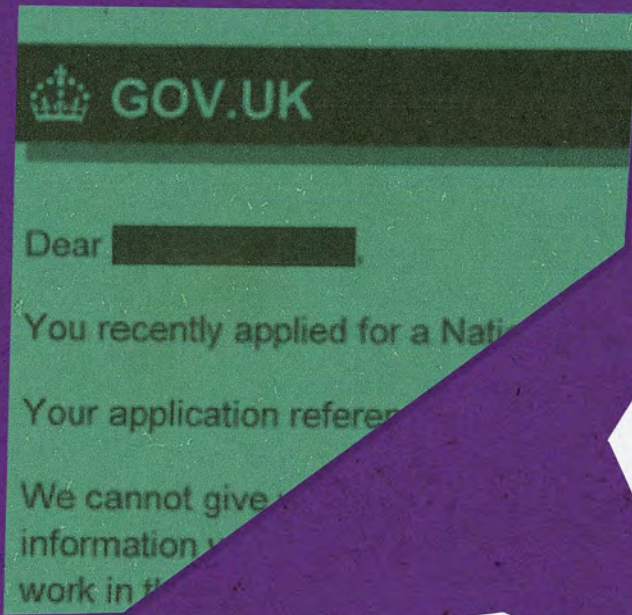


READY, WILLING & ABLE

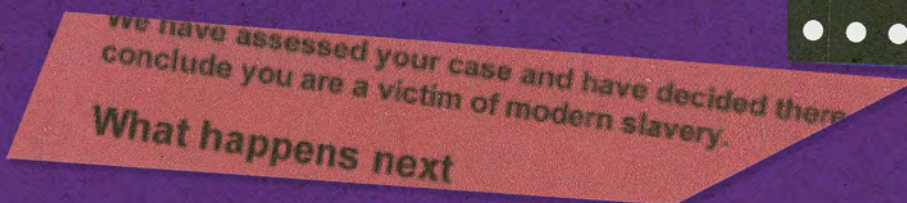
The cost of not allowing survivors in the NRM to work



October
2024



Report 1
Granting the right to work
for all in the NRM



KALAYAAN
justice for migrant domestic workers

Why we have decided to focus on those in the NRM who are prevented from working



Sophie Levack
Immigration Lawyer & Policy Officer
Kalayaan



Caroline Lewis
Employment Lawyer
Saltworks Law

Issues of immigration are top of the current government's agenda.

This series of reports does not aim to answer those larger political questions; instead, they focus on those potential victims of trafficking and modern slavery languishing in the National Referral Mechanism (NRM) who cannot work. We have chosen to look into the plight of these individuals, because not allowing them to work during such extensive wait times in the NRM is tortuous, pointless and a waste of human resources. Yet the issue is often overlooked by policymakers who determine that once in the NRM these survivors' needs are being adequately met.

They are not.

We hope that these reports will show how just a small change in legal policy allowing survivors of trafficking and modern slavery to work while in the NRM could have a huge positive impact on them, the economy and the country more generally.

Moreover, this policy change would **cost nothing** and take up very little of parliamentarians' time.

We acknowledge that the NRM system has its flaws (for example, one criticism is that it fails to address and prevent the causes of labour exploitation) and that other migrants and refugees in the UK (such as asylum seekers) also languish without work and purpose due to excessively long wait times. We congratulate all those who have already worked so hard to highlight these problems, and we encourage many more to continue to raise such issues and call for change.

In this series, however, we have chosen to give a voice to survivors waiting for years, essentially stuck in the NRM, who can often be overlooked among the wider discourse.

Acknowledgements

Thanks to the **International Organization for Migration (IOM)** for their support with analysis of data from the National Referral Mechanism. IOM's NRM data briefings are available at <https://unitedkingdom.iom.int/national-referral-mechanism-analysis-briefs>.

Thanks to **Matt Reynolds** for his support with analysing Kalayaan's data.

Thanks to **Edward Davies** for the creation and donation of the beautiful artwork on the covers of this series of reports.

Thanks to **Giulia V. Azzoni** for designing this series of reports.

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

This report is the first in the series, examining the current “state of play” for those potential victims of trafficking and modern slavery in the NRM who do not have the right to work while awaiting their Conclusive Grounds decision.

Who has the right to work while in the NRM?

An individual enters the NRM by being referred into it by a First Responder organisation and receiving a positive Reasonable Grounds (RG) decision from the Single Competent Authority (SCA) or the Immigration Enforcement Competent Authority (IECA). At this stage, the individual is recognised as a *potential* victim of trafficking and modern slavery and must wait for the SCA or IECA to make a Conclusive Grounds (CG) decision as to whether or not they are a *confirmed* victim. All potential victims have the right to remain in the UK and cannot be removed until 28 days after they receive a CG decision.

Workers who are UK nationals, have settled status or a valid working visa while in the NRM, will be allowed to work while they await their CG decision.¹ If their visa expires while they are in the NRM and they cannot renew it, then **they can no longer work**. The exception is for holders of the Overseas Domestic Worker (ODW) visa whose right to work under the terms of that visa is extended until 28 days after they receive a CG decision, only if they receive a positive RG decision before the expiration of their visa (by virtue of the Immigration (Variation of Leave) Order 2016²).

Many potential victims of trafficking or modern slavery, however, enter the NRM as migrants with an expired working visa, or having arrived in the UK on a visitor visa. These individuals may be in this situation for many reasons, often through no fault of their own. For example, because they were promised a legitimate job in the UK but were deceived by their recruiter and entered the UK on a visitor visa (or in some cases through illegal channels); because their employer deceived them into believing that their visa had been renewed; because their employer has psychologically or physically coerced them into staying in the UK after their visa has expired; or because the worker ran away and, based on practices in other countries, they were so scared of the retribution they might face that they were afraid to seek help and their visas have subsequently expired. **All these workers are not allowed to work in the NRM.**

Largely, these individuals came to the UK hoping for an opportunity to work and support their families back home. **They did not come here expecting to live off hand-outs and they are motivated to work, regardless of their immigration status.** One might wonder whether it is not only irrational, therefore, but somewhat immoral to prevent these individuals from working while they are legally allowed to remain in the UK, arguably punishing them for being exploited.

¹ See paragraph 15.109, Modern Slavery: Statutory Guidance (version 3.10, May 2024) (available at: https://assets.publishing.service.gov.uk/media/6659a22316cf36f4d63ebcc3/Modern+Slavery+Statutory+Guidance+_EW_+and+Non-Statutory+Guidance+_SNI_+v3.10.pdf)

² Available at: https://www.legislation.gov.uk/ukxi/2016/948/pdfs/ukxi_20160948_en.pdf

Excessively long wait times in the NRM

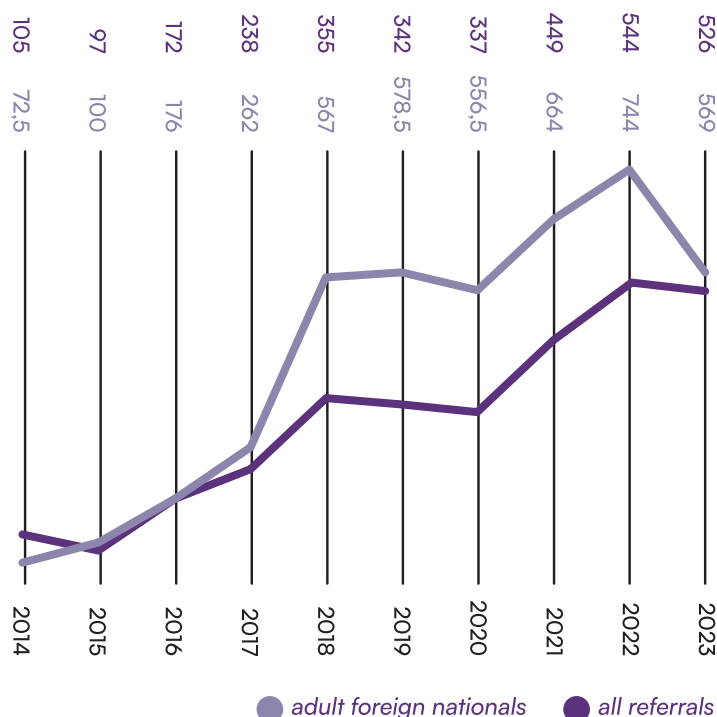
The Home Office's analysis of NRM data finds that the median waiting time for a CG decision made in 2023 was 526 days (17.53 months or 1.44 years).³ Analysis of the disaggregated NRM data shows that for an adult foreign national, the wait was 569 days (18.97 months or 1.56 years).⁴

This is an excessive amount of time for someone to be prohibited from working. Not only is the time that adult foreign nationals awaiting a CG decision longer than the overall median waiting time for all those in the NRM, but the overall trend is that these waiting times are getting longer year-on-year. Waiting times are also longer for women. The Home Office data shows that in 2023, men waited a median 532 days (17.7 months, 1.45 years) for a CG decision while women waited a median 904 days (30.1 months, 2.48 years).⁶

Unsurprisingly, Kalayaan clients, who are adult foreign nationals and mainly women, experience even longer waiting times than the national average. Based on Kalayaan's data from 6 October 2016⁷ until 1 October 2024, **the median wait time between an RG decision and a CG decision was 973 days (32.6 months, 2.68 years).**

The longest wait for a CG decision was experienced by a service user who entered the NRM on 4 May 2018 and to date still has not received a CG decision. As at 1 October 2024 she has been waiting over 2,342 days: 6 years and 5 months. Indeed, the median waiting times do not take into account service users who have still not received CG decisions. For example, **over 79% of Kalayaan's clients who received positive RG decisions in 2021 have yet to receive a CG decision, thus waiting for over 45 months (3.75 years) and counting.**

These excessively long wait times result in many people languishing **without purpose** for years on end, thus impeding their recovery, and preventing them from becoming financially more independent. The evident negative effect of this lack of agency over such a long period, cannot be ignored.



Graph 1: Comparison of median wait times in days for all referrals and for adult foreign nationals in the NRM ⁵

³ Home Office, Modern Slavery Research & Analysis. (2024). National Referral Mechanism and Duty to Notify Statistics, 2014-2024. [data collection]. 13th Edition. UK Data Service. SN: 8910, DOI: <http://doi.org/10.5255/UKDA-SN-8910-13>

⁴ Ibid.

⁵ Ibid.

⁶ IOM, April 2024, *UK National Referral mechanism, Data Analysis Briefing, 2023 Annual Review* (available at: <https://unitedkingdom.iom.int/sites/g/files/tmzbd11381/files/documents/2024-04/iom-uk-nrm-2023-annual-review.pdf>).

⁷ When the right to work was first granted to migrant domestic workers in the NRM with the coming into force of the Immigration (Variation of Leave) Order 2016 (available at: https://www.legislation.gov.uk/uksi/2016/948/pdfs/uksi_20160948_en.pdf)

How many people does this affect?

The Home Office does not disclose how many individuals in the NRM have the right to work, and how many do not. We do know from the Home Office’s statistics that adult foreign nationals have consistently represented the majority of referrals into the NRM. In 2023, for example, 58% of all referrals into the NRM were adult foreign nationals (see Graph 2 below).

At Kalayaan, based on our clients referred into the NRM, since October 2016, when the right to work was first granted to migrant domestic workers in the NRM, **about 46% of Kalayaan’s clients in the NRM had the right to work, and 49% did not** (with 5% whose status was unclear).

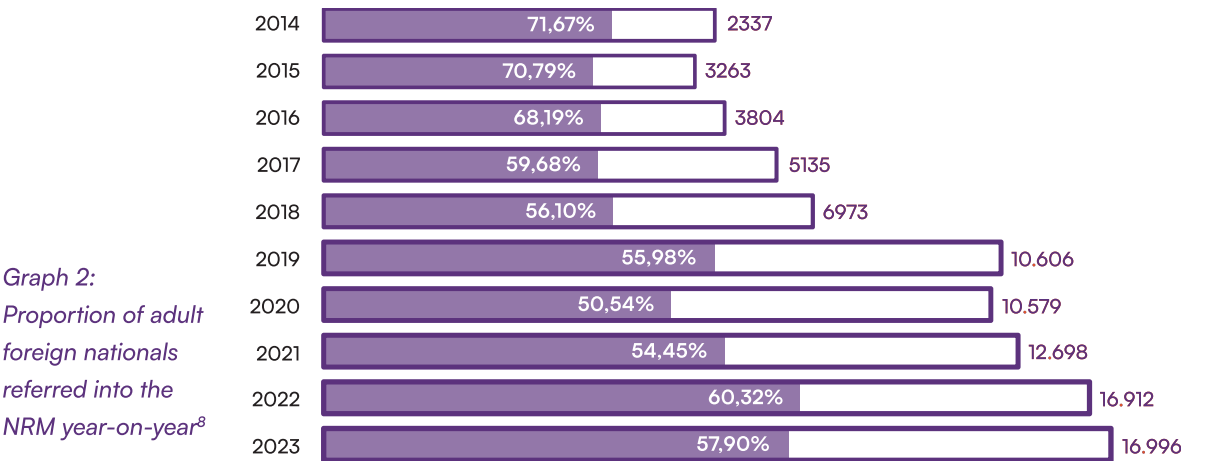
Kalayaan clients will generally have entered the UK on the ODW visa and therefore will not be representative of other adult foreign nationals in the NRM. Many of the latter group might not have entered the UK on a working visa or would have entered the UK on another working visa which does not enable them to extend their right to work while they are in the NRM, such as the Seasonal Worker visa which is 6-months’ long and non-renewable.

However, without any data provided by the Home Office, we suggest extrapolating from Kalayaan’s data and making the assumption that about 50% of adult foreign nationals in the NRM will have the right to work and 50% will not.

Data extracted on 4 July 2024 determined that there were 23,300 cases in the NRM that had “positive Reasonable Grounds” recorded as their current decision status.⁹ Analysis of the NRM data published on the UK Data Service finds that those cases included 14,224 foreign nationals who were an adult when they were referred to the NRM.¹⁰

If 50% of those did not have the right to work, then we can assume that **this issue affects 7,112 adult foreign nationals**, with more being referred into the NRM every day.

However, we believe that this number is highly conservative and we understand that actually a vastly higher proportion of adult foreign nationals will not have a valid working visa while in the NRM and will therefore not have the right to work while they await their CG decision. We therefore suspect that **the number of people affected is closer to 10,000**.



⁸ Home Office, Modern Slavery Research & Analysis. (2024). National Referral Mechanism and Duty to Notify Statistics, 2014-2024. [data collection]. 13th Edition. UK Data Service. SN: 8910, DOI: <http://doi.org/10.5255/UKDA-SN-8910-13>

⁹ Ibid.

¹⁰ Ibid.

Why everyone in the NRM ought to be given the right to work

Granting all adults in the NRM the right to work while they await a CG decision would not only prevent thousands from ‘stagnating’ in a system ostensibly designed to support them, but would also provide tangible positive outcomes (financially, emotionally and in terms of health indicators) for survivors, for the UK economy and British society as a whole.

The remaining four of the five Kalayaan ‘mini reports’ will cover different perspectives that make this case:

Report 2: Granting potential victims of trafficking the right to work makes sense economically.

If adult foreign nationals in the NRM were permitted to work between 30 and 40 hours per week, and paid the National Minimum Wage, the potential additional tax revenue would be over £36 million per year.

Moreover, in 2022, PBE and Hestia found that of those survivors interviewed, 96% wanted to work, 23% were educated to university graduate level or above and 50% had experience of paid work in industries currently facing labour shortages in the UK, including health and social work, accommodation and food services, and construction.¹¹

Report 3: Being allowed to work would facilitate recovery and diminish health and mental health issues.

As recognised and accepted by the Department for Work & Pensions and the Department of Health & Social Care, long-term unemployment has serious negative effects on health and mental health.^{12,13} Moreover, the Royal College of Psychiatrists considers work and employment as key areas to be given priority by mental health services, stating that it is “an important part of a person’s recovery journey.”¹⁴

Allowing all potential victims of trafficking the temporary right to work while in NRM, could result in them becoming active participants in the UK economy with subsequent improvements in self-esteem, self confidence and psychological recovery, as well as save healthcare intervention costs further down the line, on an already overstrained NHS.

Report 4: Granting potential victims of trafficking the right to work could reduce their risk of re-exploitation.

There are many workers who cannot sustain a living on the £70 or so a week provided to those in the NRM. This pressure forces individuals into irregular work in order to make up the shortfall, resulting in them more likely to fall back into exploitative conditions, and unable to seek help, even as they are recognised as a potential victim of trafficking, supported under the NRM.

Report 5: The solution is simple and will not cost anything.

A simple amendment of policy would allow this discrete group of individuals to work under a temporary work or resident visa for the period of time that they are in the NRM and vastly improve their predicament.

Survivors in the NRM who have the ‘right’ immigration status can, currently, access the labour market, education and vocational training. The employment support is therefore already in place and standardised, and so no substantial reform needs to be implemented to extend this right to all survivors.

The four remaining Kalayaan reports will be produced this year. **Report 2: The Economic Benefits will be available on Wednesday, 13th November 2024.**

¹¹ Hestia and Pro Bono Economics, October 2022, *Underground Lives: Aspirational Britain: Survivors of Modern Slavery Want to Work Too* (available at: <https://www.hestia.org/Handlers/Download.ashx?IDMF=8d6b66d0-3224-440e-a50f-9d69278570eb>)

¹² DWP research report no. 994: *A study of work and health transitions: analysis of Understanding Society* (2021) (available at: <https://assets.publishing.service.gov.uk/media/60f1891e8fa8f50c7a1b9fbb/a-study-of-work-and-health-transitions-analysis-of-understanding-society.pdf>)

¹³ Wilson H., Finch D., 2021, *Unemployment and mental health: Why both require action for our COVID-19 recovery*. The Health Foundation (available at: <https://www.health.org.uk/sites/default/files/2021-04/2021%20-%20Unemployment%20and%20mental%20health.pdf>)

¹⁴ Ibid.



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