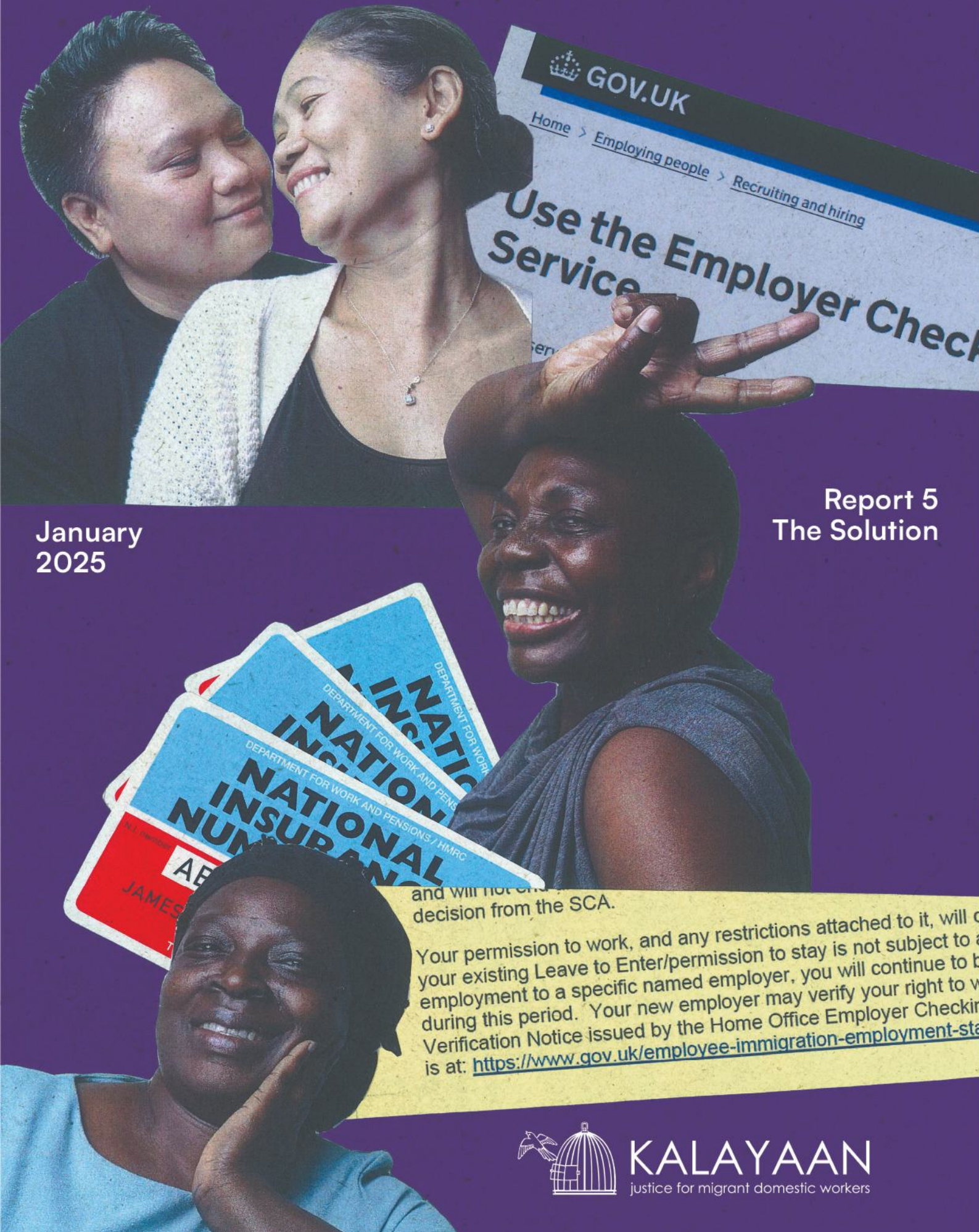


READY, WILLING & ABLE

The cost of not allowing survivors in the NRM to work



January
2025

Report 5
The Solution

and will not end
decision from the SCA.

Your permission to work, and any restrictions attached to it, will continue to be subject to your existing Leave to Enter/permission to stay is not subject to a new permission to enter employment to a specific named employer, you will continue to be subject to a new permission to enter during this period. Your new employer may verify your right to work by checking the Home Office Employer Checking Service. The Home Office Employer Checking Service is at: <https://www.gov.uk/employee-immigration-employment-status>



KALAYAAN
justice for migrant domestic workers

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



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

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Thanks to **Anti Trafficking and Labour Exploitation Unit (ATLEU)** for their support.

ATLEU

ANTI TRAFFICKING AND
LABOUR EXPLOITATION UNIT

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

This report is the fifth and final report in the series, providing an overview of the measures that could be taken to allow all those in the NRM to work whilst they await a Conclusive Grounds decision.

The status quo

The Modern Slavery Statutory Guidance already states that victims are entitled to support to access the labour market, vocational training and education, provided that they have the immigration status that allows for this.¹ In addition, support providers should signpost information regarding education, training or accessing the labour market, provided the victim has the right to work.² The Guidance also states that local anti-slavery partnerships should have up to date information and advice on pathways into work.³

Therefore, survivors eligible to work in the UK may be assisted to seek employment, but those who are not currently eligible to seek work will not be offered such support. The situation thus arises, where **two very similar individuals who are both potential victims of slavery and trafficking, e.g. as a result of labour exploitation, are left in a position where one can work and the other cannot.** The only difference between the two is likely to relate to the dates they escaped their exploitation, were referred into the NRM, and received their initial Reasonable Grounds (RG) decision.

MIA*

- Left home to find work that could support her family
- Her family continues to rely on her for financial support
- Worked overseas as a domestic worker and entered the UK on the Overseas Domestic Worker visa
- Was exploited by the employer who brought her to the UK
- Escaped her employer and sought help from Kalayaan
- Kalayaan determined that she was likely a victim of human trafficking and modern slavery, she received a positive Reasonable Grounds decision, and is currently in the NRM
- Entered the NRM before her visa expired, and as allowed to work by virtue of The Immigration (Variation of Leave) Order 2016
- Has found a new employer and sends money home to her family
- **Feels that the sacrifice she made by leaving her family behind to provide for them may save them**

CLAIRE*

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- Kalayaan determined that she was likely a victim of human trafficking and modern slavery, she received a positive Reasonable Grounds decision, and is currently in the NRM
- Entered the NRM ~~before~~ **after** her visa expired, and ~~is allowed to work by virtue of The Immigration (Variation of Leave) Order 2016~~ **is not allowed to work**
- ~~Has found a new employer and sends money home to her family~~ **Is not able to send money home to support her family**
- **Is stressed and anxious, has sleepless nights and tension headaches, and feels that her poor mental health is deteriorating further**
- **Feels that the sacrifice she made by leaving her family behind to provide for them may save them was futile**

¹ See paragraph 15.109 of the 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 See paragraph 15.112, *ibid.*

³ *Ibid.*

*Names have been replaced by pseudonyms to protect the individuals' identities.

Change is needed

For years, calls have been made by organisations in the anti-slavery sector to grant all survivors in the NRM a form of temporary permission to stay, following a positive RG decision, in order to enable access to work. Support workers under the Modern Slavery Victim Care Contract (MSVCC) are well placed to assist a survivor's transition into work as well as to help manage any issues associated with starting work.⁴ For example, support to address issues which trigger trauma, as well as ensure a clear understanding around conditions of employment and practical issues like securing a National Insurance number, opening a bank account and providing information around work entitlements. A support worker could make sure that the work is not exploitative and would support the survivor in their life after trafficking. Through the MSVCC, the UK government could also develop an evidence base to better understand the skills, qualifications, work interests and histories of survivors in the NRM.

Previous reports, including this series of reports, have cited research suggesting that survivors' mental and physical health (and therefore their recovery) would hugely benefit from being able to work whilst they are waiting for their Conclusive Grounds decision.

When in the NRM, survivors are not liable to immigration removal for the many years it takes the NRM to process their cases, but are prevented from working to support themselves and their families and to aid their recovery. Their lives are therefore put on hold. **Morally, economically, and practically the UK needs to make sure the NRM works for survivors.** Providing access to work during this period would transform the experience of the NRM for them, meaning that survivors could use the time to access decent work and begin to prepare for independence. **Enabling people in the NRM to access work is a simple process which could be achieved by a single change in policy and without the need to amend primary legislation.**

The Solution

By the time a positive RG decision is made, a survivor has already gone through two stages of identification; first, identification by a government designated First Responder at the referral stage and second, identification by the Single Competent Authority or the Immigration Enforcement

Competent Authority (both part of the Home Office) who issue the first stage RG decision. **Any concerns therefore about access to work acting as a ‘pull factor’ would be unlikely to materialise, since each survivor would already have passed through the government’s own vetting system.** Although the previous government brought in statutory provisions to bar from the NRM, those who claim to be victims of trafficking in bad faith, there was never any evidence that this was or is happening to any real extent.

Bail

Practically, permission to work can be given to those on bail. ‘Bail’ is the status held by those in the UK who are awaiting decisions from the Home Office but who do not currently have permission to stay. In the NRM there are individuals who are on immigration bail, usually because they have claimed asylum, and those who are not (usually because they have not claimed asylum).

Just as with those asylum seekers granted permission to work who initially entered the country not being allowed to work, the position was reversed by simply removing the condition from their bail that prohibited them from working. The government could extend immigration bail in the same way to those in the NRM who do not currently have the right to work, and **allow them an unrestricted and immediate right to work.**

We do not see that there is any sense, as currently happens with asylum seekers, in limiting the work that they can do here, for example, only skilled work or jobs on the Immigration Salary List (formerly known as the Shortage Occupation List), as this bars most from working. If those in the NRM were granted immigration bail to allow them to work, we would also urge the Home Office to remove any restriction on the kind of work they could perform.

To effect this change, no provision needs to be put into statute, nor any amendment made to the Immigration Rules. **The change could be dealt with by policy alone.** Section 24B(9) Immigration Act 1971, which criminalises working in the UK without permission, caters for those entitled to work whilst on bail at section 24B(9).

⁴ Kalayaan, Anti-Slavery International, ATLEU, Anti-Trafficking Monitoring Group, Coop, FLEX, The Sophie Hayes Foundation and Survivor Alliance, ‘Access to Work for Survivors of slavery to enable independence and sustainable freedom’ (March 2021) (available at: http://www.kalayaan.org.uk/wp-content/uploads/2021/03/Coalition_AccessToWork_report_v3.pdf)

Conclusion

There is an immediate opportunity here for the government to act now to support the recovery of survivors of modern slavery and trafficking, by opening up access to employment **to all** whilst in the NRM. This change in approach could **tap into a rich supply of labour and skills that these survivors possess**. Although numbers are small, it would provide a contribution to meeting current UK labour shortages.

While a few survivors in the NRM, who have claimed asylum, can benefit from the inclusion of care workers and home carers on the Immigration Salary List, this is limited to trafficking survivors who have made an asylum claim that is more than 12 months outstanding, and to the few who have the skills and experience and ability to take up these specific roles. Being a victim of trafficking and being an asylum seeker are distinct issues, and the fact that some overlap exists does not mean that it is an adequate solution for all survivors in the NRM.

Unrestricted access to work for all would create more employment options for survivors of trafficking and would enable them to recover and contribute to the UK economy. The escalating time taken in processing cases in the NRM is causing years of delays for many survivors, making this a matter of urgency for the government and one that should be a priority for policy and practice change. **Whilst we acknowledge that the current government wants to accelerate the time for processing individuals in the NRM, we are still a long way from reducing the many years it currently takes for victims to receive their Conclusive Grounds decision and to be able to leave the NRM. It is simply common sense that while they wait for this decision, while they are in the NRM, they be given the chance to provide for themselves and preserve their dignity and are allowed to work.**



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