

Written evidence submitted by Migrants at Work and Migrants' Rights Network

Contents

1. Migrants at Work and Migrants' Rights Network
2. Introduction
3. How policy enables trafficking and exploitation
4. Issues around safe-reporting for migrant workers
5. Case studies
6. Recommendations

1. Migrants at Work

[Migrants at Work](#) is a Self-Organised Lived Experience (SOLEX) advocate organisation which exists to understand and tackle the root causes of human trafficking. Since 2009, Migrants at Work have been researching how the legal rules empowers employers and alleged criminals¹ to traffick workers through legal migration routes into exploitation.

Migrants' Rights Network

The [Migrants' Rights Network](#) is a UK charity that stands in solidarity with migrants in their fights for rights and justice. MRN uses collaborative activism and legal avenues to create societal change, extending beyond the individual impact on migrants' lives, to tackle oppression at its source.

2. Introduction

Human trafficking is being enabled through the visa sponsorship system, particularly within the care and agricultural sectors but not exclusive to these sectors. Sponsorship schemes and bilateral agreements have created and enabled 'legal' pathways to be utilised by exploitative employers and potential criminals. The UK's anti-slavery policies are centred on crime prevention strategies which fail to address the vulnerabilities to trafficking created through visa sponsorship routes and rooted in immigration laws.

Widespread interventions and research on human trafficking and modern slavery address emerging trends. In other words, current approaches to tackling human trafficking focus on the symptom rather than the cause. Furthermore, the expertise and lived experience of migrant workers on visa sponsorship schemes are largely omitted from policy research and recommendations.

3. How policy enables trafficking and exploitation

State regulated immigration pathways (the visa sponsorship system) is being used to traffick migrant workers. Employers with sponsorship licences in the UK, and recruiters in home

¹ Sponsors who commit immigration offences

countries, are using deception, coercion of payments, and sometimes threats to visa-holders e.g. Skilled Worker visa holders and Seasonal Agricultural Workers which leads to forced labour and debt bondage.

The Immigration Act 1971 provides the framework for immigration control and decides who is subject to immigration control and who is not. The immigration rules are rules by which people subject to immigration control can be granted status subject to conditions. These can include a condition prohibiting or restricting work and the general grounds for cancelling sponsored workers' entry clearance or permission to stay. Together, the Act and the rules create the labour migration control framework that enables trafficking.

Migrants at Work and Migrants' Rights Network have evidence of how employers with sponsorship licences are breaching their existing compliance terms and are becoming embroiled in trafficking situations. We have heard of sponsored migrant workers being charged illegal recruitment fees, as well as being forced to pay for the employer's sponsorship licence and Immigration Skills Surcharge. There are several occasions where employers are breaching pay and employment conditions (protected under immigration rules) by not paying the National Minimum Wage or meeting their obligations as stated in the certificate of sponsorship. Furthermore, these employers are not being investigated for compliance of employment law, as breaches of employment law are considered low priorities by the Home Office. This is compounded by low human resources in Home Office compliance teams who are unable to undertake effective and regular follow-up compliance investigations and visits to ensure licence holders are meeting their responsibilities. There are very few repercussions for the employer if they breach sponsorship rules or labour rights as set out in immigration rules.

Migrants at Work and Migrants' Rights Network worked with the Observer on the case of a Zimbabwean national who confidentially disclosed details of exploitation to Home Office compliance officers for an investigation into illegal recruitment practices. The care worker told the Home Office she paid a fee of £1,500 to an agent for finding them work. Despite assurances by the compliance team that her identity would not be disclosed, details of the investigation were disclosed to the employer. This meant that not only was her job and visa were at risk as a result of the employer losing its sponsorship licence, but she was exposed to harassment and abuse.

The current anti-trafficking strategy in the UK is based on compliance. The UK's modern slavery strategy aims to break the business model of criminals. The intention behind the policy is to tackle the people smugglers using irregular routes. However, this strategy does not address the problem of trafficking where exploitative employers or recruiters use state-sanctioned migration routes to the UK. In order to tackle deep-rooted exploitation and trafficking, the focus needs to move away from compliance and rescue to prevention. At present, the emphasis is on enforcement and will lead to more sponsorship licences. While this would be a reasonable measure to take, the revocation of an employer's sponsorship licence has immediate ramifications for the sponsored migrant workers who will have their visa curtailed, leaving them vulnerable to destitution, deportation or further harm.

Migrants at Work has had several cases of sponsored migrant workers attempting to take their own lives after their employer's sponsorship licence was revoked. Specifically, three care workers who died by suicide because they had no work, no recourse to public funds, no way of returning home and were forced to go to a foodbank.

Issues around safe reporting for migrant workers

There are no ways in which migrants can safely report exploitative practices without experiencing repercussions either by their sponsors or the Home Office. Sponsored migrant workers have no incentives to report sponsors to any statutory agencies, take legal action or get involved in any trade disputes because any of these actions can lead to either the termination of employment or the revocation of the employers' sponsorship licence, which in turn will result in the cancellation of their permission to work. The Home Office offers a reprieve of 60-days to find a new sponsored employer but this is still insufficient time to find a new employer, because it is not straightforward nor easy to find a new sponsor to employ them. During this period, these migrant workers have no access to public funds, and therefore, risk becoming destitute.

After 60 days, if migrant workers have found no sponsor, they are expected to leave the UK voluntarily, or face deportation. This explains why sponsored migrant workers do not come forward, even when they have no issues with their immigration status. Sponsored workers who find themselves trapped in this scenario created by the revocation of their sponsor's licence can end up being forced to work in breach of their immigration conditions to survive.

An individual was put in contact with Migrants at Work whose employer had their sponsorship licence revoked. As a result, the migrant worker had to cease work immediately. The Home Office informed the individual that he had 60 days to leave the UK with their dependents. Prior to their arrival in the UK, they sold assets in order to pay for the skilled worker visa fee so no funds were available to apply for a new visa.

In addition, sponsorship schemes are designed solely on the basis of productivity and business and economic interests, rather than the wellbeing and protection of migrant workers in mind. When an employer holds power over a sponsored migrant worker due to their immigration status, this can easily be abused. We have evidence from individuals being threatened with being reported to the Home Office to have their visa revoked when they have questioned working conditions or pay, or even when they wish to leave the sponsored employer. As a result, exploitation and creating vulnerability for sponsored workers is ingrained in the sponsorship system itself.

John from Kenya (not his real name)

"I sold my possessions and took a loan, back in Kenya, to pay a recruitment agency £12,657.30, and other colleagues paid £24K, to get a work permit as a care worker to work for an employer, who holds a sponsorship licence granted by the government. I travelled through the so-called 'safe and legal' migration routes, but only to find myself enslaved by

*my employer in Birmingham. How safe is that? I blew the whistle to raise my concerns about the health & safety of the residents and my working conditions. In the end, as my employer's sponsorship licence was revoked, the Home Office removed my permission to work. I cannot return home, so I have to work without permission to survive in the UK and support my family in Kenya. I can be deported at any moment by the Home Office. They said they needed skilled workers, so I came. Overnight, my hopes and dreams turned into nightmares. It is like this Hollywood movie, The Terminal, where Tom Hanks is stuck at the airport. For me, it is real-life s**t. I am trapped in the UK. If the Home Office finds me, they will label me as an 'illegal worker', deport me and feel good about themselves. I followed the rules. What did I do wrong? I should have kept quiet. I wished I had never helped the Home Office with their investigation because it is a lose-lose situation."*

6. Recommendations

There are a number of measures we feel would help protect sponsored migrant workers from being exposed or at risk of trafficking. These include:

- Protection: Measures to protect sponsored workers when the sponsor has failed to meet their responsibilities. The Home Office must refrain from revoking the sponsors' licence. Instead, where the threshold is met, they should consider a suspension of the sponsors' licence in order to protect the worker from losing their job and putting them at risk of losing their visa. On each occasion, they must put in an action plan in partnership with SOLEX organisations .
- Prevention: For individuals who are in the process of being granted permission to work or to enter, it must be a legal requirement to enrol on the GLAA level 1 workers' rights and labour migration law course provided by the sponsoring organisation and delivered by SOLEX or relevant third sector independent organisation. The sponsor must supply the certificate of completion as part of their CoS application. They must also go through a six month refresher course after arrival.

August 2023

[1] [Impact of 'Hostile Environment' Policy - House of Lords Library \(parliament.uk\)](#)

[2] [Home Secretary announces new UK points-based immigration system - GOV.UK \(www.gov.uk\)](#)

[3] https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf p47

[4] For the purpose of the Code of practice for the international recruitment of health and social care personnel in England, a 'recruitment collaboration' or 'collaboration' is a group of organisations that have partnered together to pool resources into a central system to recruit candidates for vacant

HUM0117

positions within that collaboration, whether or not it is on a commercial basis. Collaborations also come under the statutory definition of 'employment agency' set out in section 13 (2) of the Employment Agencies Act 1973.