Safety for Migrant Workers: the case for safe reporting mechanisms

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What is safe reporting?[1]

Safe reporting, or a 'firewall', prevents the sharing of data between public bodies – who individuals might approach for support or assistance – and Immigration Enforcement. These public bodies include healthcare, education, housing, the police and labour market inspectorates. Firewalls are established to ensure that everyone can access these fundamental services, establish safe working conditions or report a crime, without fear of arrest, immigration detention, or deportation.

What's the ask?

A firewall, separating the police and labour inspectorates from Immigration Enforcement, would prevent the former from sharing workers' personal information – including their immigration status – with the Home Office. This is essential to ensuring that all workers can access their workplace rights and safely report exploitation, regardless of immigration status. To achieve this, we recommend:

1. At the national level, the Government must separate all labour market and immigration enforcement activity.
2. The Government must adequately resource the work of labour inspectorates and enforce minimum working standards across the whole labour market more rigorously.
3. At the local level, where Local Authorities oversee workplace Health & Safety enforcement, councils must end the practice of sharing workers' personal data with Immigration Enforcement and conducting joint-raids.
4. At the labour market enforcement level, agencies must commit to addressing the issues raised by the worker(s) and not enquiring about workers' immigration status, reporting information to Immigration Enforcement or carrying out joint inspections.

Why do we urgently need safe reporting mechanisms in the UK?

The UK Government's Hostile Environment policies, including the Illegal Working Offence and associated 'right to work' checks, increase the risk of workplace exploitation for migrant workers. These policies make it harder for *all* migrants to challenge unfair conditions, change employers, take time off for sickness or demand fair wages, for fear of being reported to Immigration Enforcement. They enable employers to use workers' insecure immigration status to threaten, silence or trap them in exploitative situations.

Due to the way the Hostile Environment works, data is routinely shared between labour inspectorates/police and Immigration Enforcement, and in some cases joint inspections are carried out. This happens despite the fact that, as FLEX and LEAG note, no labour market enforcement agency has a legal duty to check workers' immigration status, or report workers with insecure immigration status to the Home Office. This makes it almost impossible for migrant workers, particularly those who are undocumented, to cooperate with inspectors, due to fear of being brought to the Home Office's attention.

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[1] Organisations working in the immigration, women and labour rights sectors use 'safe reporting', 'secure reporting' and a 'firewall' to describe a mechanism designed to ensure that victims and workers with insecure immigration status can report crime or exploitation without facing negative consequences. This is relevant for all parties involved in the protection of victims of exploitation or abuse, such as police and labour inspectorates.

This lack of safe reporting mechanisms not only leaves many migrant workers trapped in exploitative situations but makes it much harder for labour inspectors to do their jobs properly, which drives down conditions and pay for *all* workers. We strongly oppose the Home Office's assertion that data sharing is necessary for safeguarding victims of exploitation. In fact, the lack of safe reporting mechanisms undermines efforts to identify and safeguard victims of work exploitation. Without the cooperation of workers, inspectors are less able to identify rogue employers or potential victims of modern slavery, interfering with their goals of preventing exploitation and protecting workers. Indeed, the Low Pay Commission found that joint inspections prevent people from reporting underpayment of the minimum wage.

Migrant workers' vulnerability to exploitation and unlawful pay is exacerbated by the lack of funding for rigorous enforcement of workplace standards. The ILO recommends that Governments employ at least one inspector for every 10,000 workers in the country, to safeguard workers' rights. In the UK, the number of labour inspectors has fallen by a third since 2010, the second biggest cut across Europe during this time, and now has significantly fewer than the recommended minimum number of labour inspectors and inspections.

Widespread support for safe reporting mechanisms

There is strong and increasing international support for establishing firewalls to protect migrant workers and tackle labour exploitation. The EU Fundamental Rights Agency (FRA), the International Labour Organisation (ILO), PICUM (international organisation advocating for undocumented migrants' rights), the UK's expert labour exploitation organisation FLEX and human rights organisation Liberty, have all recommended this approach in recent years. The TUC, national federation of UK trade unions, has called for a firewall, including no joint investigations, as a safeguard for migrant workers. Just last year, the UK's previous Director of Labour Market Enforcement, Matthew Taylor, joined calls for a firewall, recommending the Government 'review the interaction between labour market and Immigration Enforcement to ensure sufficient protections for migrant workers', through establishing safe reporting structures.

Beyond the workplace, it is widely understood that data sharing or the lack of a firewall between Immigration Enforcement and public services put people in danger. Experts at the UN have called on Governments to guarantee access to essential services for all migrants, through implementing firewalls . In 2019, the UK's data watchdog ICO criticised the Department for Education (DfE) for secretly passing on children's personal data to Immigration Enforcement, following legal action by Liberty and ABC. This succeeded in a Government U-turn with the DfE suspending the requirement to collect nationality information. Just this month, GP surgeries in Southwark agreed they would stop demanding people provide ID when registering, after officials found that slavery victims were too scared to visit for fear of being deported.

Feminist organisations and experts in the UK have campaigned tirelessly for a firewall between the police and Immigration Enforcement to protect migrant survivors of domestic abuse. The London Victim's Commissioner has long been calling for a firewall to protect victims of abuse and prevent them from being treated as 'immigration law-breakers'. Research by LAWRS in 2019 found that significant numbers of migrant women were too scared to report abuse due to fear of deportation, and many were denied support or not believed by the police. In April 2020, the National Police Chief's Council published guidance acknowledging that migrant survivors are deterred from reporting because of fear their details will be passed to the Home Office. Further, in December 2020, in response to a Super Complaint brought by Liberty and Southall Black Sisters, HMICFRS, the IOPC and the College of Policing recommended safe reporting pathways for migrant victims of crime. Most recently, in October 2021, the Domestic Abuse Commissioner published a landmark report recommending that a firewall be introduced to ensure victims could report safely.

How would it work?

While the UK's hostile immigration policies put migrant workers at increased risk of exploitation and abuse, other countries take a more flexible, safety-first approach. In Sao Paulo, Brazil, labour inspectors found that separating their work from Immigration Enforcement improved conditions and was essential to preventing severe abuses. A similar approach was successfully introduced by the police force in the Netherlands in 2015. In the United States, there is an MOU in place which aims to ensure that all migrant workers – including those who are undocumented - are protected by labour standards, stating that immigration enforcement officials will not interfere in labour rights enforcement.

The UK Government must learn from these examples and prioritise safety for migrant workers over Immigration Enforcement. To achieve this, it should repeal the illegal working offence and scrap right to work checks. However, while these harmful policies remain in place, decision-makers should end all data sharing between labour inspectorates/the police and Immigration Enforcement. A firewall would enable all workers to safely report mistreatment or abusive employers, which, in turn, would help labour inspectors do their jobs effectively and improve workplace safety and conditions for *all* workers. For these measures to be effective, the Government must also properly resource the work of labour inspectorates and enforce minimum working standards across the whole labour market more rigorously.

For more detail on this proposal, read JCWI's Migrant Workers' rights policy briefing, FLEX's report on improving secure reporting for labour exploitation and LAWRS & FLEX's guide for police and labour inspectors working with migrants.