

Report

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“So I decided to carry on...”: The continuum of exploitation in practice



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LEAG is a coalition of frontline, research and policy organisations which promotes discussion, information-sharing and collaboration among organisations working directly with people who have experienced or are at risk of labour exploitation in the UK. LEAG members include Focus on Labour Exploitation, Latin American Women’s Rights Service, Unite the Union, East European Resource Centre, British Red Cross, Kalayaan, Kanlungan Filipino Consortium, Work Rights Centre, and Glass Door Homeless Charity.

Focus on Labour Exploitation (FLEX) works to end human trafficking for labour exploitation.

Indoamerican Refugee and Migrant Organization (IRMO) works to enable the development, agency, and participation of Latin Americans and other Spanish and Portuguese speakers, by responding to both immediate needs and structural inequalities.

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**“So I decided
to carry on...”:
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Foreword

It is well established that if workers are unable to access rights or to challenge poor employment conditions at 'earlier stages' or 'lower levels' of exploitation this will mean an increase in more severe exploitation including trafficking.

This is clearly demonstrated with the example of the UK's Overseas Domestic Worker (ODW) visa. The visa was introduced in 1998 following a sustained campaign by domestic workers and their allies for recognition of domestic workers as workers within the immigration rules. While there continued to be issues with the working conditions of domestic workers in private households, workers on the ODW visa between 1998 and 2012 were able to challenge these, and in many instances access their rights. This was in no small part possible due to the fact that both the workers and the employers at this time knew that the workers were able to leave and find a better job. This ability to change employers (meaning that domestic workers could withdraw their labour) went some way towards addressing the power imbalance between workers and employers.

Conversely, when rights were removed from ODW visa holders in 2012 - restricting the visas so that workers could no longer change employers or apply to renew their visas - reports of severe exploitation, including trafficking, increased. While small changes were made to the visa in 2016 it remains the case today that due to restrictions on the visa most workers on the ODW visa cannot access practical assistance for employment abuses in practice unless their treatment reaches the threshold of trafficking and they are formally identified as a victim of trafficking through the National Referral Mechanism (NRM).

As well as being a tragedy and abuse of human rights for those individual workers, the lack of options for workers to challenge labour abuses early on creates an environment where exploitation can thrive. Workers cannot be expected to wait and remain in exploitation until it reaches the trafficking threshold.

This report is a reminder that exploitation must be prevented and that access to rights and options is key to this. Workers cannot wait any longer. The time for policy change in this direction is long overdue.

Marissa Beognia
Founding Member and Director of The Voice of Domestic Workers

“
The lack of options for workers to challenge labour abuses early on creates an environment where exploitation can thrive.”

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Abbreviation/Acronym

Acas	Advisory, Conciliation and Arbitration Service
ATLEU	Anti-trafficking and Labour Exploitation Unit
DLME	Director of Labour Market Enforcement
DtN	Duty to Notify
EASI	Employment Agency Standards Inspectorate
ECAT	Europe Convention on Action Against Trafficking in Human Beings
EEA	European Economic Area
EHRC	Equality and Human Rights Commission
ESOL	English for Speakers of Other Languages
EU	European Union
FCDO	Foreign, Commonwealth and Development Office
FLEX	Focus on Labour Exploitation
GLAA	Gangmasters and Labour Abuse Authority
GRETA	Group of Experts on Action against Trafficking in Human Beings
HMRC	HM Revenue and Customs
HSE	Health and Safety Executive
IASC	Independent Anti-Slavery Commissioner
ILO	International Labour Organisation
LEAG	Labour Exploitation Advisory Group
NRM	National Referral Mechanism
NRPF	No Recourse to Public Funds
ODW	Overseas Domestic Worker
OSCE	Organization for Security and Co-operation in Europe
SEB	Single Enforcement Body
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations

1. Introduction

This report seeks to suggest solutions to labour exploitation in the UK through an approach based on the ‘continuum of exploitation’ (Steinfeld, R., 2009; Skrivankova, K., 2010). That is, that labour exploitation should be recognised as part of a continuum of experiences which range from decent work through to minor and major labour law violations, all the way to severe exploitation, including human trafficking. In applying this understanding, this report examines the current UK anti-trafficking approach and its shortcomings, for instance, its largely reactive nature focusing only on exploitation which reaches the trafficking threshold, the inaccurate framing of trafficking as an immigration issue (Duggan, E., 2022b; Home Office, 2023; Office of the High Commissioner of Human Rights (OHCHR), 2022), and the lack of protections that it provides to migrant workers, including victims and survivors of trafficking.

Utilising the continuum of exploitation framework, we are able to see how areas such as employment rights and immigration policy are central considerations when understanding labour exploitation. In the context of recent regressive legislation such as the Illegal Migration Act 2023, this report outlines the need for a proactive and preventative approach to labour exploitation that addresses the drivers of risk and builds in resilience to labour exploitation. It draws on the reflections of migrant workers themselves, as well as wider literature, to outline the causal drivers of vulnerability to trafficking. The report puts forward recommendations to mitigate against the risks of exploitation, and prevent it from occurring in the first instance, as well as recommendations to ensure that where it does occur workers have better practical options than just ‘carrying on’.

Chapter Two unpacks the ‘modern slavery’ approach to labour exploitation particularly in the context of recent regressive legislation such as the Illegal Migration Act 2023. It then goes on to examine the current approach to labour exploitation in the UK, including the limits of the anti-trafficking approach.

Chapter Three provides an overview of the continuum of exploitation concept and sets out a definition for labour exploitation.

Chapter Four sets out the drivers of risk and resilience to labour exploitation by analysing a number of interviews conducted with migrant workers. It examines the intersecting factors that must be addressed in countering labour exploitation, as well as how workers understand and articulate their exploitation.

Chapter Five puts forward a number of recommendations for a preventive approach to labour exploitation that seeks to support and protect migrant workers along the continuum of exploitation as a whole.

1.1 Methodology

This report is based on engagement with a total of 12 migrant workers. Caseworkers from the Kanlungan Filipino Consortium, Indoamerican Refugee and Migrant Organization, Latin American Women’s Rights Service and Work Rights Centre conducted semi-structured qualitative interviews with service users. These interviews took place between July and November 2022. Caseworkers from these organisations were trained on conducting interviews and research ethics in June 2022, and participated in devising the research and interview questions. Caseworkers identified research participants through previous case work (snowball sampling technique) and through calls to engage in research. This enabled caseworkers

to reach workers who are traditionally less likely to participate in research, including people who do not speak English, are undocumented, or are working long and unsociable hours. Following the interviews, the caseworkers provided an anonymised transcript of the interview and produced a case study. Interviewee's names have been changed for the purposes of this report. The transcripts were analysed using a process of inductive coding. The risk analysis matrix that was developed by FLEX (Focus on Labour Exploitation (FLEX), 2017, p.6) was used as the starting point for coding and thematic analysis. This coding was then augmented based on the themes which emerged in the interview transcripts. These themes also reflect the themes identified by the caseworkers during a collaborative training event. The qualitative analysis software, NVivo, was used to code the interview transcripts. The findings have been complemented by desk-based research on existing literature.

The research participants come from outside the UK – from a range of European Economic Area (EEA) countries, or from outside the EEA. One participant is from the Caribbean, four are from Latin America, three are from Southeast Asia and four from East Europe. Three of the interviewees are male, and nine are female. They are engaged in work in the care, construction, cleaning and hospitality sectors.

A roundtable event was held with the organisations that had participated in conducting interviews on 29 August 2023 to collectively decide upon the project recommendations for the report. These recommendations were also informed by answers provided by workers themselves during the qualitative interviews described above.

The decision to engage with migrant workers through caseworkers from frontline organisations involves its own limitations. This means that the workers that participated in this research are drawn from the community groups that these organisations work with, and exclusively involves workers who were willing and able to approach civil society organisations. This report does not purport to provide a fully representative picture of the experience of all migrant workers in these sectors. Rather, it attempts to highlight the types of issues that workers are experiencing and the factors that produce risks or resilience to labour exploitation. Linked to this, this report does not focus on issues pertaining to disability, gender identity, sexual orientation, age and religion as they relate to risks and resilience to labour exploitation. While we are aware that these factors may interact with such risks and resilience, interviews conducted for this report did not contain sufficient reference to these factors to allow for meaningful analysis, and their coverage in literature is limited. This is an area that would benefit from future research.

2. The limits of the modern slavery approach to trafficking in the UK

2.1 The ‘modern slavery’ approach to labour exploitation

In the UK, recent understanding of labour exploitation has been heavily influenced by the legal frameworks and conversations surrounding the term ‘modern slavery’. This has acted as an umbrella term, encompassing human trafficking, slavery and slavery-like practices such as forced marriage and debt bondage (Home Office, 2024).

Spearheaded by then Home Secretary Theresa May, the ‘modern slavery’ approach to trafficking was driven by Government, parliamentarians, and a select number of academics and civil society organisations. Its defining legislation, the Modern Slavery Act 2015 ran parallel to the entrenchment of ‘hostile environment’ policies which sought to make life as difficult as possible for people without leave to remain, in order to coerce them into ‘voluntarily’ leaving the UK (Griffiths, M. and Yeo, C., 2021, p.522). Such policies, first introduced in 2012, included preventing undocumented migrants from using fundamental services including the NHS, making it illegal to work, for a landlord to rent them a property or even to open a bank account (Taylor, R., 2018). It is well recognised that the ‘hostile environment’ actively drives people into exploitation, and impedes their ability to exit this mistreatment (GRETA, 2021, p.19).

The Modern Slavery Act places a disproportionate focus on consolidating criminal justice measures with much less emphasis on victim support (Work and Pensions Committee, 2017, p.3). This in turn allowed for such services to be chipped away through underfunding, policy change and subsequent legislation (Home Affairs Committee, 2023, pp.41 and 46). As such, the UK is currently seen to be in breach of its international obligations for victim support regarding trafficking (Joint Committee on Human Rights, 2023, para.2). Developed in the context of a strong anti-immigration agenda, the Modern Slavery Act failed to adopt a meaningful preventative approach capable of addressing the structural drivers of trafficking, or provide for early intervention against abuse.

The Modern Slavery Act was previously highlighted by the Government as a symbol of the UK’s ‘world leading’ efforts to combat modern slavery (The Guardian, 2016). Instead, it failed to deliver even on its own terms as demonstrated by the low prosecution and conviction rates in the UK (Centre for Social Justice (CSJ) and Justice and Care, 2022, p.8; US State Department, 2023). Rather than being planned for and addressed, the predictable increase in the numbers of people identified as victims has been used to justify the rapid scale back of already limited provision through the introduction of legislation and policies that drive people into exploitation (Home Office, 2023). In July 2023, the Government released a fact sheet suggesting that the success of the Modern Slavery Act (namely the increase in the number of people receiving support and protection) was a key reason for limiting access to the NRM and that ‘the system was not designed for this volume of referrals’ (Home Office, 2023). In a move that civil society voices have seen as a deliberate attempt to avoid accountability, the Government failed to appoint an Independent Anti Slavery Commissioner (established through the Modern Slavery Act) for over a year during the passage of the Illegal Migration Bill, and enactment of the Nationality and Borders Act (Organization for Security and Co-operation in Europe (OSCE), p.2; Boffey, D., 2022).¹ Further, the

¹ It is also of note that the office of the Director of Labour Market Enforcement was vacant between from January 2021 to November 2021. In January 2023, the Home Secretary discontinued the standing commission for the Independent Chief Inspector for Borders and Immigration (ICIBI) to carry out annual reviews on the effectiveness of the Home Office’s practices and policies towards adults at risk in immigration detention.

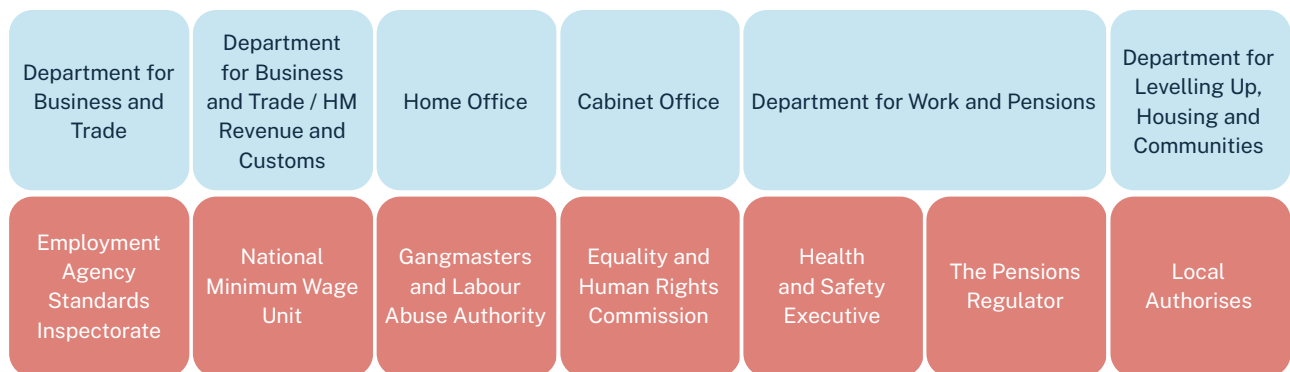
Home Office has come under increasing criticism for its lack of engagement with civil society, with opportunities for dialogue being curtailed (US Department of State, 2023), and if they do take place, being tokenistic or after the event. The increasingly hostile and inflammatory Government rhetoric against victims and survivors of trafficking, as well as the misuse of data, that has been deployed in the reduction of access to protection and support has come under considerable national and international condemnation, including from a number of UN Special Rapporteurs (OHCHR, 2022; Office for Statistics Regulation (OSR), 2022; Duggan, E., 2022; Thompson, F., 2022). Similarly, the Transparency in Supply Chain provisions in the Act have not led to tangible, positive changes to exploitation in supply chains and for the workers businesses employ (Business and Human Rights Resource Centre, 2021. p.11).

2.2 Limits of the trafficking focus - learning from the UK

As highlighted above, the UK’s approach to labour exploitation has a disproportionate focus on (increasingly limited) anti-trafficking support and protections, with less focus and resources given to lower-level labour abuses or to addressing the structural causes of exploitation. The resulting lop-sided system takes a largely ‘after-the-fact’ approach that fails to remove or mitigate the structural drivers of exploitation, or even effectively prevent re-exploitation.²

The current labour inspectorate landscape in the UK is highly fragmented. There are currently seven bodies playing a role in labour market enforcement in the UK. Whilst not an inspectorate itself, from a worker-centred perspective, one could also add Advisory, Conciliation and Arbitration Service (Acas) to this list as another body to which a worker might go when experiencing abuse. This fragmented oversight landscape can be difficult for both workers and employers to navigate. For example, workers experiencing underpayment of wages could find it logical to contact Acas for advice, the Gangmasters and Labour Abuse Authority (GLAA) if it is a sector licensed by them, or HM Revenue and Customs (HMRC).

Fig 1: Responsibility for enforcing labour market rights is spread across several government departments.



Government departments responsible for enforcing labour market law: England and Wales/GB/UK, March 2023

Note: Blue boxes are Government departments; red boxes are enforcement agencies. Each enforcement agency is part of, funded by, and/or has its strategic framework set by ministers from the department(s) above it. The Equality and Human Rights Commission (EHRC) and Health and Safety Executive (HSE) are Great Britain only, but have direct counterparts in Northern Ireland; the Employment Agency Standards Inspectorate (EASI) is Great Britain only; the GLAA covers England and Wales with respect to modern slavery and the UK for Gangmaster licencing; all other bodies cover UK. Chart originally contained in Judge, L., and Slaughter, H. (2023), Enforce for Good. Reproduced with permission.

² The UK government does record any data regarding re-trafficking rates. (University of Nottingham Rights Lab and Independent Anti-Slavery Commissioner (IASC), 2021, p. 12).

This complexity is compounded by how labour inspectorates' remits are split: they are not only split according to the specific labour abuse issue, but also according to i) severity (e.g., the GLAA's remit for severe exploitation that may contain within it instances of lower level abuses that would be dealt with by other bodies) and ii) sector (e.g., the GLAA's three licensed areas, in which infractions may be present that would otherwise be addressed by other bodies). This complexity creates confusion about responsibility as well as reporting with a resulting risk that issues are not seen as clearly within any one body's remit and, as a result, are not addressed.

Thresholds in practice

Case study: the horticultural Seasonal Worker Scheme

The issues faced by workers on the Seasonal Worker Scheme provide an illustration of how the modern slavery approach to workplace abuses can act to exclude workers from protection and support and hinder a preventative approach. Research points to the presence of International Labour Organisation indicators such as deception in recruitment, degrading living conditions and dependency on employers (among other such risks) (FLEX and Fife Migrants Forum, 2021, p.32) and serious concerns as to how the scheme is operating in practice. The GLAA have confirmed that they do not proactively inspect farms, and instead will only conduct a visit where there are allegations of modern slavery having occurred.

Nor does the GLAA conduct in-country licence or compliance inspections of overseas labour providers. This limited oversight of overseas labour providers and their activities in workers' country of origin, combined with a lack of clarity around recruitment processes and costs or adherence to the Employer Pays Principle (FLEX and Fife Migrants Forum, 2021, p.9) poses a range of recruitment-related risks for workers including deception and debts which they may not earn enough to repay.

Despite government commitments to the creation of a Single Enforcement Body (SEB) in July 2021 following extensive consultation, this is now on hold (Director of Labour Market Enforcement (DLME), 2023, p.2). The suggested SEB would have combined functions of the HMRC, EASI and GLAA to address National Minimum Wage enforcement, holiday pay for vulnerable workers, employment agency regulations, umbrella companies; licences to supply temporary labour in high-risk sectors, and labour exploitation and could have provided impetus to revisit the reach and functionality of labour market enforcement in the UK.

In this context, FLEX research has called attention to the continued lack of resources for labour market enforcement authorities, which fall well below international recommendations (FLEX, 2017, p.24). FLEX has found that the lack of resources has also meant that labour market inspectorates conduct an extremely limited number of proactive inspections, rely on 'spot-the-signs' and 'know your rights' trainings, and limited after-the-fact enforcement. In this reactive system, the onus is placed on the worker to report violations, but a host of factors (explored below) mean that the workers that are the most vulnerable to exploitation are often the least likely to come forward (FLEX, 2017, p.17). As recognised by the Council of Europe Group of Experts Against Trafficking in Human Beings (GRETA), there is a need for 'workplace inspections, including on health and safety, compliance with labour standards and revenue laws, in deterring instances of human trafficking for forced labour and identifying possible victims' of trafficking (GRETA, 2016, p.26; GRETA, 2021, p.61).

Moreover, the labour market enforcement authority system sits within a range of hostile environment policies that create significant trust issues and barriers for vulnerable workers who may otherwise

engage with labour market enforcement. Indeed, Labour Exploitation Advisory Group (LEAG) research has shown that the absence of secure reporting pathways³ and the practice of joint investigations is impeding the ability to address labour abuse and exploitation (despite the fact that no labour market enforcement agency has a legal duty to report workers with insecure status to the Home Office). The focus on immigration offences as a priority is resulting in the arrest, detention, and removal of victims and survivors of exploitation from the UK without any access to support. This situation is leading to re-traumatisation of these individuals and is worsening their physical and mental health conditions. Additionally, it is causing mistrust of the systems that should be offering protection. The emphasis on immigration is also impeding the UK’s ability to tackle labour exploitation. The experiences of the workers interviewed for this report demonstrates that workers are experiencing prolonged periods of exploitation because they fear that raising a complaint would mean their personal information being shared with immigration authorities and fear the effects of this would worsen their situation.

2.3 Limits of the National Referral Mechanism for identifying victims of trafficking (NRM)

Even where victims and survivors of exploitation meet the threshold for protection and support under the anti-trafficking system, the gaps in support may impede recovery, re-traumatise survivors and often create vulnerabilities to exploitation and abuse. LEAG is finding that the system is failing to meet victims’ and survivors’ needs (LEAG *et al*, 2023, pp.10-14).

The National Referral Mechanism (NRM) is the UK’s framework for identifying and referring potential victims of modern slavery and providing access to government funded support. However, it has significant shortcomings – the already limited system worsened further as a result of the Nationality and Borders Act 2022 and the resulting Modern Slavery Statutory Guidance (Home Office, 2024). The Illegal Migration Act 2023, if implemented, will mean that those who enter or have entered the UK irregularly are excluded from support and protection under the NRM,⁴ with the removal obligations acting to exacerbate victims’ fear of coming forward.⁵

The year 2022 marked a 43.57% increase from 2021 in the documented number of people actively refusing their consent to enter the NRM.⁶ This is likely due to the already limited support and protection available magnified by the hostility shown to potential victims in government rhetoric and legislative changes. This was the highest annual recorded number of potential victims not consenting to a referral since the NRM began in 2009. Moreover, this figure is an underestimate as it does not take into account people who were identified by non-statutory First Responders who do not report instances where consent was not given for a referral or those who were unable to access a First Responder in the first place (Kalayaan, 2023, p.6).

³ Organisations working in the immigration, women and labour rights sectors use both safe reporting and secure reporting to describe a mechanism to ensure that victims and workers with insecure immigration status can report crime without facing negative consequences in regards to their legal status.

⁴ There is a narrow exception outlined in Section 21(3) for some individuals whose stay in the UK is deemed necessary by the Home Secretary for investigations or criminal proceedings relating to their exploitation. This is likely to apply to an extraordinarily limited number of people. Section 22(5) contains a presumption that it is not necessary for a person to be in the UK in order to cooperate with an investigation and/or prosecution unless there are ‘compelling circumstances.’

⁵ Section 2 of the Act places a new duty on the Home Secretary to take steps to remove anyone who entered the UK by means the Home Office deems irregular; did not travel directly from a country in which their life and liberty was threatened for a Refugee Convention reason; and requires leave to remain in the UK but does not have it. The Act also removes almost all protections and support for survivors of trafficking who have received a positive Reasonable Grounds decision and are subject to the duty to remove under Section 2.

⁶ Public authorities have a statutory duty to notify the Home Office when they come across potential victims of modern slavery. When individuals refuse to be entered into the NRM, public authorities record this in a Duty to Notify report (DtN).

Referrals into the NRM by some statutory institutions remain surprisingly low; although they report identifying 6,024 victims of exploitation in their 2021 to 2022 end of year performance summary (Gangmasters and Labour Abuse Authority (GLAA), 2022, p.2), the GLAA made a mere five referrals in the year 2022 (0.02% of total NRM referrals) and 70 Duty to Notify referrals (2.24% of total Duty to Notify referrals) (Home Office, 2023b). This is despite being the main intelligence and investigative agency for labour exploitation in the UK. This may be due to individuals who are in exploitation not meeting the threshold for modern slavery.

It should be no surprise that many people do not consent to enter an identification system which does not appear to work in their best interests. Between 2020 and 2022, only 6.5% of confirmed adult victims of trafficking subjected to immigration control were granted leave to remain via the NRM (Helen Bamber Foundation, 2023, p.3). Identification decisions are intended to take around 6 weeks; in fact it is not unusual to meet people who have been waiting in the system, in limbo, for years. Those who do not have a certain immigration status are not given permission to work during this time (Kalayaan, 2021, p.5). The majority of people in the NRM only access outreach support, so are dependent on asylum or other accommodation. Those who are housed in safe house accommodation are often moved to where accommodation is available, uprooting them from any support networks they may have developed or even away from services and legal support. The system expects people who may be in debt bondage or who have been pushed into exploitation due to poverty to put their lives on hold indefinitely, compounding the impact of their trafficking and their trauma. Survivors describe being housed in distant areas where they have no community and being unable to work, with little to do and no ability to move on and rebuild their lives after exploitation.

The Government's approach to labour exploitation ignores the real drivers of vulnerability. This report seeks to explore workers' experiences of abuse and exploitation as well as how they engage with protection and support providers and provides recommendations that seek to build a continuum of exploitation lens into policy.

3. What is the continuum of exploitation?

Workers' experiences can be understood as existing on a "continuum". At one end there is decent and well-paid work, with bad practices such as breaches of employment rights (e.g., unpaid wages, discrimination etc.) situated along the continuum, culminating at the opposite end in severe labour exploitation, such as human trafficking and forced labour. Where minor breaches of rights occur and are not sufficiently addressed, it increases the risk of more severe exploitation along the continuum.

One of the consequences of the UK's focus on 'modern slavery' has been that the UK has primarily viewed labour exploitation as a criminal law matter, rather than focusing on the structural drivers that produce the conditions in which forced labour occurs in the first place (Mantouvalou, V., 2018, p.1018; Chuang, J., 2015). If we look towards areas such as employment rights and immigration policy as central to the question of labour exploitation, a fuller array of policy levers become visible.

Labour exploitation has been recognised as part of a continuum of experiences that ranges from decent work through minor and major labour law violations to extreme exploitation (LEAG, 2020, p.13). This approach has been referred to as the 'continuum of exploitation.' The factors that produce vulnerabilities at the shallow end of the continuum create risks across the continuum as a whole. For instance, the inability to challenge wage theft from an employer may make someone financially precarious, and therefore less able to leave exploitative employment. Similarly, a failure to have proactive monitoring of a workplace may facilitate a culture of impunity, with employers feeling emboldened to exploit their staff without repercussion.



Fig: Graphic produced by Focus on Labour Exploitation (2022) -continuum of exploitation

At one end of the continuum there is decent and well-paid work,⁷ with bad practices such as breaches of employment rights (such as unpaid wages, discrimination etc.) situated along the continuum, culminating at the opposite end of the continuum in severe exploitation, such as human trafficking and forced labour.⁸ The purpose of the continuum of exploitation approach is not to give a precise legal analysis of specific situations, but rather to understand the structural causes and fundamental problems that allow exploitation to take place in order that these can be addressed (Skrivankova, K., 2010, p.21).

The interventions and remedies available to each worker may vary across the continuum of exploitation. For instance, in some instances criminal law might be the applicable legal framework, such as when an employer has stolen the employee's passport. In other situations, employment law may be the relevant framework, such as in the case of discrimination, or non-payment of wages.

An approach which focuses only on intervention or the provision of assistance when exploitation reaches the trafficking or modern slavery threshold places a significant focus on the act of exploitation as an exception to the norm. Instead, adopting a graduated understanding of exploitation can also allow us to appreciate how 'external or indirect coercion' are able to drive people into exploitation, for instance through the need to work in order to earn one's living, even if that work is exploitative (Le Baron, *et al*, 2018, p.10). External constraints and indirect coercion limits the ability to 'freely' make choices, and those decisions and actions that appear to be uncoerced, may take place against a backdrop of indirect coercion. For instance, many undocumented workers report that as a result of the illegal working offence, they are forced to accept any work that they are able to get and therefore accept practices they may not otherwise accept (LEAG, 2020, p.7). When the choice is between destitution or abusive work, this is not really a choice.

Analysing the presence and severity of ILO forced labour indicators has been suggested as one way to identify when a situation amounts to a case of forced labour (ILO, 2012), which divides the dimensions of forced labour into three.

1. Unfree recruitment;
2. Work and life under duress; and
3. Impossibility of leaving an employer.

The ILO has developed operational indicators of forced labour (ILO, 2012, p.21) which are used to assess risk at each of these three dimensions and which are split across the two core elements of the forced labour definition highlighted above: a) involuntariness; and b) penalty or menace of a penalty. A case will constitute both human trafficking and forced labour where there is one of the listed "actions" for trafficking *and* there is either work or life under duress or impossibility of leaving the employer (ILO, 2015, p.21).

The question of whether these indicators are present often does not have a simple 'yes' or 'no' answer. Instead, the complex dynamics of the real-world situation prevents straightforward identification. As the testimonies collected for this report (see Chapter Four) show, many workers have restricted or even

⁷ Decent work is work that respects the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety and remuneration. It also respects the physical and mental integrity of the worker in the exercise of their employment. (UN Committee on Economic, Social and Cultural Rights (CESCR), 2006., para. 7).

⁸ Severe labour exploitation takes place when a work situation deviates significantly from standard working conditions as defined by legislation or other binding legal instruments, concerning in particular remuneration, working hours, leave entitlements, health and safety standards and decent treatment, and is criminal where the exploitation occurs. Severe labour exploitation includes as a minimum coercive forms of exploitation, such as slavery, servitude, forced or compulsory labour, and trafficking. (European Union Agency for Fundamental Rights (FRA), 2019., p. 10)

no options to challenge, or to leave, exploitation. Unscrupulous employers are, in this sense, enabled by the wider social context. For instance, the absence of options available to migrants restricted by the immigration rules to a particular employer or sector limits the decisions open to them, often compelling them to continue exploitative work. In this sense, even where an employer is not actively and deliberately taking advantage of an individual's immigration status, workers may still experience indirect structural coercion by which an individual with limited options is forced into, or to continue, exploitative labour. The penalty of immigration detention or removal to another country by the state may be viewed by the exploited worker as more severe than any penalty an individual unscrupulous employer could deploy (LEAG, 2020, p.39). This dynamic is being exacerbated by recent legislation such as the Nationality and Borders Act 2022, as well as the Illegal Migration Act 2023. In addition to denying access to UK employment law, these instruments act to freeze victims and survivors of trafficking out of protection and support under the modern slavery system, increasing their risk of harm and re-trafficking, while also amplifying rhetoric against migrants more generally (OSCE, 2023, p.8).

4. Building a preventative approach informed by workers' experiences

4.1 Understanding workers' experiences

This report sets out to understand the experiences of workers along the continuum of exploitation. The findings show that a range of often intersecting factors determine an individual's vulnerability to labour exploitation. In order to develop a holistic and preventative response to labour exploitation, it is essential that we distil the individual factors that produce risk and resilience, and understand how they impact workers, as well as how workers understand and articulate them. In looking at these drivers, this report also examines how they exist across the continuum of exploitation, recognising that they contribute to where an individual's experience is situated along this gradient. As highlighted in the methodology section, the risk analysis matrix that was developed by FLEX (FLEX, 2017, p.6) was used as the starting point, and was then augmented based on the themes which emerged in the interview transcripts.

The interviews conducted with workers to inform this report highlighted a number of issues that can impact workers' experiences of labour abuse and exploitation, that can be broadly clustered under the following themes:

1. Pay
2. Immigration status
3. Language barriers
4. Knowledge of rights
5. Oversight and Labour Market Enforcement
6. Community and Unionisation
7. Treatment and Violence at Work
8. Gender
9. Contracts and Terms of Employment
10. Racism
11. Welfare

Each of these themes can be either an element of risk or resilience depending on circumstances and can help to illustrate the ways in which vulnerability manifests as well as workers' experiences along the continuum of exploitation.

These issues are often interlinked and cross-cutting, with risks and resiliences under one theme informing how they manifest under another. Rather than understanding the themes as siloed and separate categories, these intersections must be borne in mind when examining the drivers of risk and resilience as a whole.

4.2. Drivers of risk and resilience to labour exploitation

4.2.1 Pay

Endemic low pay, withholding wages and unlawful deductions can create considerable risks of exploitation. As well as this, types of employment such as self-employment or zero-hour contracts can mean that workers are not able to predict their income and plan their budgets (Gable, O., and Florisson, R., 2023, p.18).

I'm only getting maybe around £60 [a day] more or less for a 24 hour stay-in job. That's how low they are giving me, it's really really frustrating especially that I just found out that they can just buy a house right away, just with their father. They've managed to do it right away.

David, Male, Southeast Asian live-in care worker

Verbally she would throw it back in our faces, 'in the end I don't pay you what it is because I pay more, because I give you food, I give you the room'. She would say that verbally, but she didn't. What she did do, at the beginning, [...] she was very stingy with the food. Stingy because she didn't want us to touch her water. Or sometimes we would ask for things, and she would say 'why do we ask for so much food', things like that.

Mariana, Female, Latin American domestic worker

[Asked why she continued in exploitative work] At the beginning it was economic, I had a debt, and I wanted to pay it off more than anything.

Mariana, Female, Latin American domestic worker

I don't have any other job to go to, so I feel like I'm trapped somehow. But just like what others said, 'oh, you can just leave them, don't worry just leave them you will find a job.' But it's not the wise thing. If I leave them, I will spend my savings paying for the rent while I was looking for a job, it's wasted.

David, Male, Southeast Asian live-in care worker

Frequently, business models are developed in order to keep workers in precarious employment. For instance, the shift towards temporary agency staff and zero-hour contracts means that workers' precarity is further entrenched. Small fluctuations in working time or unexpected deductions in pay can be devastating for workers who are often on the borderline of poverty, with severe knock-on effects such as the loss of accommodation or the inability to pay off accruing debts. Low pay can prevent workers from being able to afford any gaps in work, making it harder to leave and increasing reliance on existing employment even if it is abusive or exploitative (FLEX, 2017, p.8). Similarly not paying workers for their travel time and charging them for equipment produces similar vulnerabilities.



She was exploiting us. She would make us work many hours and wouldn't pay us”.

[Asked whether they have to pay for their work clothing] We have to buy it. Sometimes we work in places where the houses were built a long time ago, so there's things like asbestos and times like that when we know we are working in places such as these. We have to make sure we are dressed appropriately but we have to get it, like masks and stuff. [My employer] only provides the big tools but the rest we have to provide.

Javier, Male, Latin American construction worker

The failure to effectively regulate such practices has created a pool of precarious workers who are unable to avail of their rights and are prone to abuse and exploitation.

[My employer] said to me 'if you want to appeal [your dismissal], then appeal, but I will win them all. You will come out with no money, without holiday pay, you won't get anything and I will deduct the uniforms'.

Andrea, Female, Latin American cleaner

I was not paid my salary; I kept calling and leaving messages until I was blocked.

Ana, Female, Roma East European chef

Moreover, expectations of poor pay and deceptive practices may result in workers being forced to accept a degree of labour exploitation, or failing to recognise when the situation has degraded to a level that would be considered severe exploitation. Workers interviewed for this report referred to a belief that such practices could be expected in any position they would find themselves in, particularly for undocumented workers.

I think that the same issues of unpaid wages, holiday, unfair dismissal can easily happen within the industries.

Ana, Female, Roma East European chef

The ILO have listed the withholding of wages as one of the forced labour indicators. This was a common experience among the migrant workers interviewed for this research. Though irregular or late payments are not tantamount to forced labour in and of itself, the systematic and deliberate withholding of wages, or where workers are afraid to leave their employment out of concern that they will never receive these wages, this demonstrates a significant risk of forced labour. One live-in care worker interviewed as part of this research noted that they were not given their wages directly, with the money being given to the driver to transfer to the worker's family abroad on their behalf.

[Asked whether she was paid any wages in the UK] Not a pound. She never gave me any. Not even clothes.

Colette, Female, Southeast Asian live-in care worker

They've sent me out to work, and if the neighbours complain about the noise and say it's bank holiday, you can't be doing work on a bank holiday, we would have to leave the job, and we wouldn't get paid for it.

Javier, Male, Latin American construction worker

Similarly to this, where pay slips are not provided, the ability to scrutinise and identify the withholding of wages is hindered. One worker highlighted that they were not provided with payslips despite requesting them, in a context where the worker was being paid considerably under what they were owed. This strategy can be used by unscrupulous employers to insulate themselves from challenges or to hide underpayment.

So I started at 10am and finish[ed] around 1:30pm. Around 1[pm] they would say 'No, don't worry, I'll pay you to work until 2[pm].' So I worked all week covering, supposedly but when pay day came, and it was obvious that the pay for the week I covered was missing, I told them 'the week I covered isn't included.' 'What week?' they would say. 'The week I covered that girl who didn't come into work, you told me that you would pay me' and when he said to me 'no, I am checking, but I can't see any cover, it doesn't show you worked extra'.

Andrea, Female, Latin American cleaner

4.2.2 Immigration Status

As immigration status has a direct bearing on workers' ability to access formal work in the UK and their employment rights, it can create vulnerabilities to labour exploitation. It should be noted that this vulnerability is not inherent to migrant workers but rather, is created by the immigration and labour policies that negatively affect them (FLEX, 2022, p.2).

I think it's a general perception that the employer has. 'He's Latino, and has no documents, and he needs work. I set the conditions.' And it is under those conditions that you have to work.

Javier, Male, Latin American construction worker

As previous LEAG research has shown, victim and survivor support and protection has been subordinate to immigration enforcement (LEAG, 2020, p.6). This is despite the UK having made international commitments to upholding the rights of all migrants regardless of status (UN General Assembly, 2016, para. 5 and 41). As a result of this approach, officials attribute an individual's exploitation to their immigration status as opposed to addressing the labour market structures and hostile environment that create a conducive environment for their exploitation. Where the immigration enforcement is the key consideration, individuals may be left unable to negotiate oppressive labour market structures due to lack of options, knowing that immigration irregularities will trump any attempt to obtain restitution or redress.

But if I will be given a chance to leave them and find a better job then, of course, I'll choose. But the problem is, if they find out that I don't have paper[s], the tendency or the possibilities that you will get abused is really high. Definitely they will abuse you if they find out that you don't have [papers]. If you are undocumented, if you are an illegal immigrant. They will really, really abuse you.

David, Male, Southeast Asian live-in care worker

But in ours, in my place, in my part, I cannot just say no, because I need to earn, I need to have money. So whatever job it is, I'm doing it even though they are abusing us. So I think that's the main problem, they find out that I'm undocumented, and they will start, you know, taking advantage of you. So your question is, if I will be able to avoid this in the future? Maybe, if I have a paper already. As long as I don't have a paper? I don't think so. It should happen again and again.

David, Male, Southeast Asian live-in care worker

Some people [with my undocumented] status, like always, everyday getting mugged. Like you see everyday struggle.

Mariana, Female, Latin American domestic worker

Restrictive visas

Restrictive visas (particularly where they make it difficult to change employer or sponsor) are also known to produce vulnerability to exploitation and abuse, as the multiple dependencies created on the employer leaves workers unable to challenge abuse and

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We were told to to be careful, in case the police came. They could ask for your documents, and we don't have any, so they could end up taking us in, and with the possibility of deporting us. So things like this stop you asking for better work conditions, to be paid on time.”

mistreatment (Åhlberg, M., and Granada, L. (2020), p.126). For instance, the restrictions in the UK's Overseas Domestic Worker (ODW) visa, introduced in April 2012, increase the vulnerability of migrant domestic workers to abuse, exploitation and trafficking (Kalayaan, 2013, p.1). Since 2016 ODW visa holders can theoretically change employer to another full time job within the domestic work sector. However, they cannot apply to renew their six-month visa, even if they have an offer of ongoing new employment.⁹ As both workers and employers realise, it is not realistic to find a new job in a private household, an area of work which usually requires care and trust, with only a few months left on their visa (Mantouvalou, V., 2023, p.39). This makes the right to change employers ineffective for increasing the bargaining power of workers in practice. Nor does the visa allow for access to public funds, meaning that they do not have support while looking for new employment. Other short-term visas create a similar challenge, for instance where the need to recoup the costs spent to obtain the position means they cannot leave exploitative work for fear of not making up the lost income (FLEX and Fife Migrant Forum, 2021, p.58).

Undocumented workers

Undocumented workers are one of the community groups most vulnerable to exploitation, particularly where restrictive immigration enforcement systems criminalise and severely punish undocumented work (European Union Agency for Fundamental Rights (FRA), 2015, p.14). This is the case in the UK, where those who are caught working without authorisation can be subject to an unlimited fine, a six-month custodial sentence, the confiscation of their earnings and removal from the UK.¹⁰ These hostile environment policies act as a cudgel gifted to unscrupulous employers, letting victims of exploitation know (explicitly or implicitly) that if they come forward to the authorities or seek to improve their conditions, they will face punishment from the State. Further, unable to work in most positions where employers comply with the law, many undocumented workers are forced to accept low-wages, poor conditions and treatment, and limited oversight.

Well, they know that I am an overstayer. They are aware of it. That's why I think, and I strongly feel, that's the main reason why they are doing these things to me.

David, Male, Southeast Asian live-in care worker

I should have left them a long time ago. But of course, because I cannot just do that because I don't have papers.

David, Male, Southeast Asian live-in care worker

For us, like with the same [undocumented] status, I think it's very hard to work like that. Like you're in one cage only. You cannot come out.

Jacob, Male, Filipino painter and decorator

Additionally, an individual's immigration status may change over time, for instance where their visa has expired. As such, an individual's situation may travel along the continuum of exploitation as their reliance on exploitative work may increase due to their reduced ability to access alternative work or support such as welfare. A potentially significant number of workers may fall into an irregular status due

⁹ The exception to this is ODW visa holders who are referred into the UK's National Referral Mechanism for identifying victims of trafficking while their visa is still valid. Under these circumstances the visa is extended until a final stage decision is made. Workers with a positive final NRM decision can apply for a two year ODW visa. For more information see Kalayaan. (2019) *Destitution not Dignity: the impact of differential rights of work for migrant domestic workers referred to the National Referral Mechanism*.

¹⁰ Under Section 34 of the Immigration Act 2016, it is an offence to work without permission if a person knows or has a reasonable cause to believe that they do not have permission to work and for an employer to employ a person who does not have the right to work in the UK. Such employers can be sent to jail for 5 years and pay an unlimited fine if they're found guilty of employing someone who they knew or had 'reasonable cause to believe' did not have the right to work in the UK.

to difficulties in applying to the EU Settlement Scheme (EUSS), whether because they are vulnerable, struggle to navigate the application system, or cannot provide proof of citizenship or residence (Work Rights Centre (WORC), 2021, pp.2 and 8; Gower, 2021, p.4). Restrictive visas may also push people out of status. For instance, many visas lack pathways to settlement or renewal for those who have built a life in the UK. The high cost of immigration fees, such as those required for visa renewal, are also known to push regular migrants out of status and increase their vulnerability to exploitation (Joint Council for the Welfare of Immigrants (JCWI), 2021, p.20).

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.

If they gave a work visa here, I think [there would be] less exploitation, less racism and everything. Then they can treat it as fair.

David, Male, Southeast Asian live-in care worker

I didn't want to leave at first because my employer threatened me with imprisonment for a long time if I did escape and she would have me deported.

Colette, Female, Southeast Asian live-in care worker

4.2.3 Language barriers

Language barriers were raised by a number of participants and were referred to as a major impediment, with one worker referring to it as the 'first factor' of vulnerability. Unscrupulous employers were seen as actively taking advantage of language barriers and workers' resulting alienation from oversight mechanisms. Poor English language abilities was seen as limiting workers' ability to raise complaints or concerns, engage with colleagues, understand their contracts, and resulting in them being given worse tasks. As highlighted by one interviewee:

Employers are taking advantage of us not knowing the language and how to complain, seek support from authorities. Employers have taken advantage of me not speaking the languages. For example, at the factory I was given more physically demanding tasks because I did not speak of English.

Vanya, Female, East European Cleaner

One worker highlighted that clients took advantage of her limited English language abilities, including to avoid payment.

Further, language barriers also acted to disempower workers and deprive them of agency as they then required an intermediary to advocate for themselves and for others. One interviewee commented:

"I didn't [speak to anyone in the company] because of not knowing the language. Had I known the language, I can assure you I would not have kept my mouth shut". [...] I've suffered with the language barrier, not being able to defend myself with the person above me. That person tells what they want, and what is in their interest. So you feel powerless, you can't defend yourself and go to the person above your supervisor to clarify things. The fact that you don't speak the language,

keeps you from knocking on their door. So not speaking the language leads to mistreatment. [...] I don't know if it's this country, but I feel like employees here are not protected. There are laws, rules, rights and responsibilities, but because of the language, for people in cleaning, by not having someone to translate, we do not know, and we allow people to mistreat us."

Claudia, Female, Caribbean cleaner

Additionally, it impedes workers' ability to gain information, for instance, one worker mentioned the fact that they had had to use Google Translate to assist them and reading information on employment rights online, with another explaining they had to rely on Google to translate a request for reasonable adjustments, namely the provision of a cane.

Poor English language abilities were also seen as a barrier to better employment. With the overwhelming majority of jobs unavailable to them as a result, workers are often forced to rely on poorly paid and precarious work where the risks of labour abuse and exploitation are higher and make it difficult to find new work.

This manipulation extends to other areas. For instance, one worker, Ana, challenged their employer for the non-payment of wages under the coronavirus furlough scheme. Despite this, the employer continued to evade questions on the furlough scheme during the pandemic, by attempting to convince Ana that she simply did not understand the furlough scheme because her English was not good enough.

Unscrupulous employers also utilise this lack of English language abilities to keep workers in the dark, and pressure workers into signing contracts that they do not understand. One interviewee referred to an employer not allowing them to have someone accompany them in order to translate while signing their contract. The worker asked if she could take the contract home to read beforehand, and was told that she needed to sign there and then. She did not understand what she was signing, nor was she provided with a copy.

Language barriers were seen as one area that would help workers to improve their situation against their employer:

I do feel that the language is a way to improve, not 100%, but an acceptable percentage for things to improve or change the conditions.

Javier, Male, Latin American construction worker

“
You are being used and taken advantage [of] by the clients relying on the fact that I did not speak [or] understand the language well.”

4.2.4 Knowledge of rights

Power imbalances are also entrenched by the disparity in workers' knowledge of their rights. Where workers have a limited knowledge of their rights and ability to seek recourse, unscrupulous employers are better able to take advantage of workers and it is harder for workers to advocate for themselves. Moreover, it acts as a barrier to advocating for their rights. Regardless, merely being aware of rights does not remove the barriers in accessing them in the first place.

While many workers have some understanding of their rights, this is often quite vague and focused on

general concepts such as the National Minimum Wage, annual leave and sick leave, but not the specific provisions and processes or how they may apply to their situations.

Where workers did have knowledge of their rights, some felt better able to challenge their employer. One research participant commented that after attending sessions on his rights:

Little by little, [I] build my confidence. I think I know my rights now. I know a little bit right for now. So I think I can stand on my own.

Jacob, Male, Southeast Asian painter and decorator

If a worker's employer is their visa sponsor, they may face repercussions regarding their immigration status, if they raise a complaint, and potentially face destitution if they rely on their employer for their accommodation, or they cannot risk losing a job as other work options are not available to them (FLEX *et al.*, 2023, pp.6-8).

Interviewed workers recognised that knowledge of rights is not sufficient where structural issues forced them into abusive and exploitative work. As put by one research participant:

I'll be honest with you, the knowledge will help me a lot, but the reality is that whilst my immigration status is still as it is, I will still be exposed to this.

Javier, Male, Latin American construction worker

In this context, awareness raising, and training sessions are insufficient and do little to enable workers to enforce their rights. Rather, the structural drivers of abuse and exploitation must be addressed.

4.2.5 Oversight and labour market enforcement

As highlighted above, the lack of enforcement of employment rights is a central barrier for addressing labour abuse and exploitation. Despite commitments to a Single Enforcement Body (SEB) to address the fractured enforcement system, this has not been established in the UK (University of Nottingham Rights Lab and IASC., 2023, p.5). In the absence of a simple labour market enforcement system, workers are left to navigate a confusing and poorly-resourced set of enforcement bodies (Judge, L., and Slaughter, H., 2023, pp. 30 and 41), including HMRC National Minimum Wage Unit, GLAA, Equalities and Human Rights Commission, Health and Safety Executive, and Employment Agency Standards Inspectorate. Whilst not an inspectorate itself, from a worker-centred perspective, one could also add Acas to this list as another 'brand' to which a worker might go when experiencing abuse. This leaves many workers unaware of, unsure about, or unable to enforce their rights (FLEX, 2017, p. 11).

I have not been in touch with HMRC. I don't even know how. I raised the workplace issues but this only made the relationship worse. In my case, this was the first time something like that happened. I do not know any other institutions in the United Kingdom. I was hesitating and worried as I have never experienced [taking a claim through] Employment Tribunals and the UK courts. I do not know how long it will take to resolve the claim and what the final decision will be. If something happens, something similar, I would engage again with Acas, Employment Tribunals and non-profit organisations. I would not leave anyone to use my work, time and efforts in such a manner anymore. First, migrants need to overcome their fear of institutions, to find the right people to help them to navigate the system.

Tatyana, Female, East European domestic cleaner

Modern Slavery threshold

As outlined in Section 2.2 above, where workers do escape severely exploitative employment, the majority are not in a position to access the limited protection and assistance provided through the NRM. The net result is that workers who experience other violations of their labour rights which do not meet the threshold and legal definition of modern slavery are left without status in the UK, are unable to access reporting mechanisms, and may have no accessible option other than to remain in exploitative employment while their employers go unpunished. As such, victims and survivors of trafficking are frozen out of the limited protections that allow them to exit exploitation.

Weak labour market enforcement

Interviewed workers were very aware of the structural dynamics that produce and perpetuate vulnerability. The combination of a lack of observable positive outcomes for workers and the fact that many workers find themselves reliant on informal and often exploitative work means that they are often reluctant to jeopardise their income for a marginal chance of improving their situation. Even where workers are aware of their rights, workers may feel unable to challenge abuses out of the fear of retaliation and a lack of available support, oversight or mechanisms to access justice. Where workers remain reliant on their immediate income, but enforcement of employment rights remains poor, they will ultimately feel tethered to that position, particularly where their precarity means that they are likely to experience similar abuse in future positions.

A reactive system that relies on workers to raise concerns is unable to address the power imbalance, and the fact that workers without the right to work will face challenges in relying on employment law. As one worker put it:

Many places like these exploit us, and you feel like you can't say anything, you can't complain, because otherwise it could end up with a warning or disciplinary action.

Andrea, Female, Latin American cleaner

I cannot complain because maybe if I complain, maybe then they [will ask] me, '[...] Did you pay insurance? Did you pay tax?', and everything. So I keep quiet for a long time.

Jacob, Male, Southeast Asian painter and decorator

As highlighted at Chapter Two, the labour market enforcement system in the UK remains incredibly fissured (Judge, L., and Slaughter, H., 2023, p.30). A lack of funding and difficulties in engaging with certain communities means that they have a limited ability to engage with at-risk workers.

Secure reporting

The lack of separation between law enforcement (as well as other public bodies such as the Gangmasters and Labour Abuse Authority) and immigration enforcement dissuades people (including the wider public) from reporting potential cases of modern slavery out of concern that it will result in negative immigration consequences for victims (Birks, J., and Gardner, A., 2019, p.70). Recommendations made by the previous Director of Labour Market Enforcement, Matthew Taylor, sought to address a number of the drivers that leave migrant workers vulnerable to labour abuse and exploitation, and ultimately recognised that it is '*vitaly important to maintain a clear dividing line between labour market enforcement and immigration enforcement*' (DLME, 2021, p.104). In this context, the sharing of information on a potential victim of trafficking's migration status with immigration enforcement and the use of joint or simultaneous inspections with both immigration enforcement accompanying law enforcement or labour market enforcement authorities risks undermining trust in the community and putting people at risk.

LEAG notes that secure reporting pathways and procedures that prohibit this sharing of immigration status when victims of trafficking come forward have not been embedded within labour market enforcement or law enforcement activity (LEAG, 2020, pp.6-7). Such pathways would separate immigration enforcement activities, such as sharing workers' undocumented status with the Home Office, from labour market enforcement. As a result, undocumented victims of labour abuse and exploitation would be more able to come forward without fear of immigration-related repercussions, such as arrest, detention and removal from the UK.

Given the precarity of undocumented workers, compounded by isolation and lack of social protections, secure reporting is an important tool to ensure workers have meaningful access to protection and support.

LEAG research has highlighted that simultaneous or joint operations, where labour market enforcement and law enforcement conduct investigations with immigration enforcement, undermine trust in enforcement mechanisms among migrant workers thereby impeding operational effectiveness at identifying and addressing exploitation (LEAG, 2020, pp.20-23). For instance, in 2022 the Low Pay Commission found that joint inspections stopped workers from reporting the non-payment of wages (Low Pay Commission, 2022, p.32).

Seeking redress

There are significant barriers to taking a case, for instance, to an Employment Tribunal, including time limits, a lack of legal aid or access to qualified representatives, and knowing where to go (McCloskey, S., and Senegri, L., 2020; Kirk, E., 2018). As one worker reported, in response to a worker with secure status who threatened to take a case against their employer, an employer stated, 'you go and complain about me when you want, doesn't make a difference to me'. Analysing this response, the worker stated,

I think he knows deep down, like I mentioned before, if you don't work, you don't earn money, and he knows that [making a complaint] takes too much time. You lose time and money. So he knows very well, but at the same time he doesn't care.

Javier, Male, Latin American construction worker

In this space, a civil society support network takes on an outsized role, often outpacing their resources and capacity, as highlighted above in the Community section.

Given the potential repercussions of challenging poor practices, for instance retaliation from the employer or immigration enforcement action, workers may determine that on the balance of probabilities, the likelihood of a negative outcome is higher than the chance of success. The worker quoted above highlighted how seeing the fact that a colleague with secure status was unable to effectively challenge poor treatment dissuaded them from seeking to challenge their own conditions.

It was that that made me think, if he has papers, who says he will go and report him, and our boss was still not fazed by this, how would he treat me, someone who basically doesn't have any papers. [...] That's what really stuck with me, that even someone with papers didn't even seem to have much of a say.

Javier, Male, Latin American construction worker

As such, the improvement of labour market enforcement mechanisms can help to create a culture where workers know that they can access their rights, and that the costs of seeking to improve their conditions are not outweighed by the potential repercussions. As one worker said.

I'm afraid because maybe I lose my job. [...] If you say something and they found out everything, [you] just have to leave your job and you don't know where to go, don't know where to start again.

David, Male, Southeast Asian live-in care worker

Some workers highlighted that they felt better able to raise issues when organisations had internal human resources departments. Put simply by one worker:

Where I work now, it's forbidden to bully, to question someone because of their sexual orientation, to raise your voice. Why? Because there is a department where you can go and complain.

Claudia, Female, Caribbean cleaner

Nevertheless, some workers pointed to the fact that internal processes would not always result in action, and that they did not prioritise workers' wellbeing.

Additionally, the conflict of interest that is inherent in internal processes may also result in the failure to properly deal with the issue. For instance, one worker reported that:

I hadn't spoken to [my employer], because everytime I tried to, to talk to sort out what was happening, he would always respond with 'Ok, I'm coming', 'Ok, later...tomorrow', 'let me just go upstairs, I'll be back in a second'. But it never happened.

Andrea, Female, Latin American cleaner

In explaining why they decided to engage with charities to support in relation to their employment rights, the absence of adequate oversight within the organisation, low union density and a labour market enforcement system that was seen as inaccessible, charities often appeared as the best resort.

Financially, workers cannot afford even a consultation so you rely on charities and communities.

Ana, Female, Roma East European chef

Workers must have confidence in oversight mechanisms. In this sense, they must feel confident that oversight mechanisms are effective, provide a quality service and that workers' wellbeing is prioritised. Trust is therefore a vital component:

I did not have any concerns when raising any issues with charities or accountants. For those seven years the main issues I had with that initial family, I would have called you as I trust you.

Elena, Female, East European nanny and housekeeper

“
In the beginning,
I used to raise
any issues with
clients to the
agencies but they
never cared.”

4.2.6 Community and unionisation

a) Community

Migrant workers in the UK may not have local support networks and experience issues such as language barriers and a lack of familiarity with UK employment law, avenues for recourse and the civil society support landscape, all of which influences vulnerability to labour exploitation. As recounted through the interviews, many migrant workers depend on support and assistance (both materially and in-terms of advice and information) from others in their community. This is particularly the case where workers feel that they cannot bring an issue to their employer or are unaware of, or distrust, Government and civil society organisations.

Workers often rely on informal networks of support and assistance within their community to find out about specialised community organisations in order to be sure that they can trust them and the quality of their services. A lack of confidence may also stop them from seeking help, as the same interviewed worker stated:

I didn't know how much actual pressure [the support organisation] would be able to put on my last employer to actually pay me. So those are kind of the [...] limitations that stopped me looking for that kind of support or help.

Javier, Male, Latin American construction worker

Social media also becomes a channel for sharing advice and information. Though this information may be useful, for instance sharing information about a charity who may be able to assist, LEAG members have also pointed to the fact that erroneous advice may be provided. There is also concern regarding the number of 'advice sharks' who step into this support gap via informal networks and charge high fees for unregulated and often incorrect advice, thereby heightening vulnerability (Johnston, F., 2022; Vicol, D., and Makovicky, N., 2022, p.14). For example, in one LEAG member's experience, the high fees charged undermined their clients ability to pay rent. They also highlighted that poor quality immigration applications completed by such 'advice sharks' commonly contain significant errors that take time for civil society organisations to resolve and can ultimately damage their clients' position.



Financially I needed the job, so I decided to carry on, to put up with it, and I put up with a lot."

Mariana, Female,
Latin American domestic worker

Many workers are also dependent on their community in their search for work. Workers often learn of new work through informal networks and contacts, with people being told of or referred to a job by people that they know. One issue that arises from this is that these positions may be informal, without a job description, contract or indeed any meaningful information about the role. In some instances, people are told of conditions that do not resemble the reality. A number of participants referred to a much larger workload than had been originally stated, in one case, an overseas domestic worker became responsible for three to four houses instead of the one house they were originally hired for.

I used to find agencies across Facebook groups. More often [I] see self-employed cleaners misleading others. Making them go to addresses and deducting fees from those women without their knowledge that they are not registered or a company themselves. Some of them would say that the client was not satisfied with the services so the client is not paying us meaning we do not get paid but that same person is holding on to the money.

Elena, Female, East European nanny and housekeeper

It should also be noted that some positions also create a degree of isolation, whether that is an individual working as a live-in domestic worker, possibly in an area far from public transport or community networks or someone in an exploitative situation whose movement is restricted by their employer. As such, these workers are limited in their ability to seek support and advice from wider community groups, and will therefore be more vulnerable to labour exploitation (Mantouvalou, V., 2015, pp.347-348; Mantouvalou, V., 2023, p.33; Kanlungan Filipino Consortium, 2020, p.8).

Civil society organisations

A small number of organisations provide specific support to migrant workers and may have built up trust with certain communities, receiving referrals predominantly through word of mouth (Young Foundation and FLEX, 2023, p.48). However, these organisations are largely concentrated in London, their resources and capacity are limited and knowledge of the existence of these organisations and their remit is rarely commonplace. Even accessing this can be difficult for workers. As one interviewed worker put it:

I did look for organisations online who would be able to help, but like I mentioned, doing that is very time consuming and complicated.

Javier, Male, Latin American construction worker

It may take time for civil society organisations to build their reputation and trust in a community. For instance, one worker, Javier, commented that he did not go to a support organisation that he was recommended because he was ‘unmotivated’. As he did not know anyone in the organisation Javier felt that his ‘situation wouldn’t really be dealt with or taken seriously.’ Given the barriers that impede workers’ desire and ability to come forward once they actively require support, there is a need for effective mechanisms and actions to address the structural issues that produce vulnerability to labour abuse and exploitation.

No, you’re going to go and waste your time, they won’t even look at your case, it’s always the same.

Javier, Male, Latin American construction worker

The real-term cuts to legal aid since 2010 have also impeded workers’ abilities to seek redress (Young Foundation and FLEX, 2023, p.19). With the limited exception of discrimination claims under the Equality Act 2010, civil legal aid is no longer available for either advice or representation in employment law matters as a result of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. This has meant that often already overstretched civil society organisations must step in to support workers, where they are otherwise unable to avail of support from law firms, though may struggle to find staff with the requisite expertise and qualifications to support workers (Young Foundation and FLEX, 2023, p.20). Though the NRM provides support for survivors to obtain legal aid for immigration advice, (Home Office and UK Visas and Immigration, 2022) this does not extend to support for employment law matters, which they may have experienced as part of their exploitation.

In 2022, the Anti-trafficking and Labour Exploitation Unit (ATLEU), surveyed frontline support and advocacy organisations, finding that 90% of respondents had struggled to find a legal aid immigration lawyer in the past year (ATLEU, 2022, p.5). Over half of respondents (55%) highlighted that the lack of access to timely and quality legal advice and representation left survivors they support unable to access appropriate accommodation or destitute. 97% of respondents confirmed that it worsened survivors stress, anxiety, or contributed to poor mental health. 29% of respondents said that it left survivors in a situation of exploitation (ATLEU, 2022, p.26).

b) Unionisation

Trade unions can enable workers to collectively exercise their rights and improve their conditions, as well as providing workers with information, advice and support. Low levels of unionisation, and a lack of awareness of their existence and services, is quite common in low-paid professions and sectors with a high proportion of migrant workers (Young Foundation and FLEX, 2023, p.43). This is worsened by anti-trade union legislation which acts to limit the opportunities for collective action (TUC, 2022, p.2; TUC, 2023b, p.2). The level of unionisation among individuals that end up in exploitation in the UK is extremely low (FLEX, 2017, p.7). Rather, as highlighted above, informal and formal migrant community support is more frequently present.

Workers may also be hesitant to join a trade union or join in collective action due to issues such as the cost of membership dues or fears of being victimised by their employer for trade union membership or activity. In turn this means that workers are less able to address workplace power imbalances. Trade unions' existing models may not work for many migrant workers. For instance, short-term visas pose an issue, where the limited duration of their work in the UK (Horticultural Sector Committee, 2023; FLEX and Fife Migrants Forum, 2021, p.70) and the requirement to be a member for a certain period of time before qualifying for legal support may disincentivise workers from unionising (McAndrew, et al., 2023, p.51). However, campaigning on systemic labour abuses can help raise standards in the sector more broadly, that may have wider benefits for precarious workers, including undocumented workers (European Trade Union Institute (ETUI), 2021, p.10).

Among the workers interviewed for this report, knowledge of unions was limited. Moreover, one interviewee reported that despite having a knowledge of trade unions, there are times when they are unable to pay union fees.

I know there are unions, but there are times when you cannot pay a monthly fee.

Claudia, Female, Caribbean cleaner

Another interviewee stated that they are a member of a union but that the union had not been able to help them in relation to a workplace accident, as they did not have the relevant expertise and ultimately referred them to another organisation.

In this space, workers often learn of their rights from speaking with others. Front line organisations that provide advice on employment rights can be beneficial for workers in this context. Nevertheless, capacity issues and the often individual nature of their support may impact their ability to improve conditions and organise workers more broadly.

4.2.7 Treatment and violence at work

Poor treatment is often commonplace in low-paid and precarious employment. Participants raised concerning examples of conditions at their workplaces. These included instances of domestic workers being denied food and water, video surveillance, being made to work in sub-zero temperatures without heating, verbal abuse, being made to work nearly 24-hours and having their movement restricted. Some workers also felt that there were considerable occupational risks in their workplaces that were unaddressed, including the lack of protective equipment and correct tools and the failure to provide training.

She abused me emotionally and would gaslight me. She would tell me things like “I don’t care if you die” or “I don’t care if you go find work somewhere else. She would embarrass me to her friends,

telling them to not speak to me because I was old and blind and deaf, 'she's better off dead'. When I tripped one time, she told me I deserved it. She wouldn't let me near her child. She would tell my colleagues to ignore me because 'I was playing boss' when I never did. She would shout at me over the smallest things. I couldn't work properly because of her shouting. I would be crying all the time because she kept telling me that I didn't know anything, that I was an idiot.

Colette, Female, Southeast Asian live-in care worker

Concerningly, interviewees largely viewed poor treatment as a given demonstrating the level of indirect coercion that workers experience. In many instances, workers highlighted that they felt unable to challenge such bad treatment, and particularly given the low-likelihood of success, that the risk of repercussions for doing so was too great. When one worker was asked whether things changed after they had raised suggestions to their employer that they could be provided with a bathroom at their workplace, the interviewee answered 'No, not at all. They actually take it as you being too demanding.' This was particularly the case for those who felt unsupported. Some workers felt that they did not have the necessary knowledge to challenge the treatment.

Additionally, when bad treatment becomes normalised, workers may find it difficult to know when they should leave or challenge their situation. Some interviewees expressed regret at not having done something sooner, and that their situation had deteriorated to a level where addressing or exiting the abusive or exploitative employment became much more difficult. Some of the treatment described by interviewees worsened over time. Beginning with poor treatment that the workers' felt was manageable, the situation degraded to levels that they felt that they were not able to exit.

That thing is already stressful to me. But then after we move[d] to the new house, new jobs, new additional assignments added it became more stressful. And it's not nice. And it got worse. [...] I should have left them a long time ago. But of course, because I cannot just do that because I don't have papers, I am undocumented.

David, Male, Southeast Asian live-in care worker

All workers in the UK have the right to a safe work environment, with employers being responsible for providing adequate safety measures for employees during their work hours. Appalling conditions occurred both in situations that would be classified as severe labour exploitation and those that would not. Ultimately, where employers know that workers have a limited ability to challenge conditions or change job, they may feel able to act with impunity.

These abusive practices may stem from a drive to maximise profits or reduce costs, such as forcing workers to work excessive overtime, providing poor quality living spaces or failing to provide proper equipment. This may also be a desire to control the worker, such as the restriction of food and water, the use of surveillance, or verbally abusing the worker to perpetuate a culture of fear. As migrant workers feel insecure and unsupported in their positions, they often then feel less able to speak out about abuse. It can also make it difficult for workers to identify the point at which they should leave, as they have normalised some level of mistreatment. As one worker said, '*The truth is that I got used to it all.*'

Sometimes, [for] work that was done in one day, he would come at 3 pm, and would say this has to be finished today. So we would still be there till 7, 8, 9 pm still working, and we knew that he wouldn't pay us for these extra hours and that's how it was. He wouldn't pay us.

Javier, Male, Latin American Construction worker

I'm working practically 24 hours a day, six days a week.

David, Male, Southeast Asian live-in care worker

I am not a very passive person. I can literally work straight eight hours or twelve hours a day. But asking me to work or to be there all the time, like, literally 24 hours a day. That's too much. Six days a week, that's too much. I wanted to sleep early. Because I'm tired during the day and I wanted to sleep early. I want to rest early, but I cannot. I have to wait for my old man to sleep and he sleeps around 12 o'clock, one o'clock, two o'clock, because he's drinking. And they are socialising every night. I have to wait for them to finish, and then that's the time that I can at least go to my room, but not sleep deeply because I have to be alert and awake. If the old man is going to the toilet, if he's going to wake up, I have to wake up as well. Anytime of the night, whatever time it is, I have to do it. It's very stressful. Lack of sleep. I don't have any complete sleep at all.

David, Male, Southeast Asian live-in care worker

4.2.8 Gender

While a worker's gender does not inherently mean that they are in need of protection, it is often a central consideration when understanding how vulnerabilities might manifest. In sectors traditionally dominated by women workers, such as cleaning, hospitality, care and domestic work (FLEX, 2018, p.1), it is important to understand both women's experiences in the workplace and the particular risks of abuse and exploitation that affect women workers. Care and domestic work, particularly in private households, may be isolated and hidden. Additionally, for live-in workers, there may be unclear boundaries between work and 'free time.' Workers may be expected to be permanently on call, including to share a room with the person they care for, or to sleep in a multi-purpose room in the house, such as the kitchen or living room, resulting in little or no personal space or time off.

“
At work, there
is little help for
employees.
I mean women.
There is no
support.”

Voice of Domestic Workers in London conducted a survey with 539 migrant domestic workers in 2018, many of whom entered the UK with the ODW Visa, and the survey revealed that 76.5% of respondents had experienced abuse at work, including verbal (54.4%) physical (18.9%) and sexual (11.7%) abuse (Voice of Domestic Workers (VODW), 2018, p.6).

Commonly, in feminised industries workers are often paid below the national minimum wage when you consider the actual time worked. Within the hospitality sector, workers are frequently not paid for 'extra' time worked, including time spent completing assigned duties (such as a set number of rooms per shift), waiting to begin work, or joining staff meetings (FLEX, 2017, p.10).

For us as cleaners, we are badly treated, or sometimes they pay us what they want to, they overwork us, and work we can't realistically do.

Andrea, Female, Latin American cleaner

Though unequal power relationships are present within most places of work, in low-paid and insecure work they often intersect and are compounded. There is an overrepresentation of minoritised groups like women, migrants and ethnic minorities who face intersecting vulnerabilities stemming from discrimination to language barriers, restricted labour market mobility and limited access to social security. Low pay and precarious employment acts to further increase these power imbalances. As highlighted by one worker:

Women may also be vulnerable to exploitation due to their need to provide and care for others.

Approximately 68.5% of single parents are in work, the vast majority of whom are women (Office for National Statistics (ONS), 2022). Where a family depends upon a single workers' employment for survival, their ability to leave or challenge abusive working conditions is likely to be significantly reduced. Workers with caring responsibilities, which most frequently are carried out by women, may also be forced to accept poorer working conditions and entitlements in exchange for the flexibility they require to care for children or sick or elderly relatives. For example a woman worker may have to take a part-time job that is low paid or below her skill level in order to fit with her family care demands. In these cases the danger of losing employment, or even the risk of a reduction of hours, may be too significant to risk making a complaint.

Gender discrimination against women workers is particularly prevalent when it comes to pregnancy and maternity leave. This may result in mistreatment, a reduction in pay or hours, and even the termination of employment (Maternity Action, 2020, p.5; Maternity Action, 2017, p.2). One worker recounted the following experience that took place in the context of the coronavirus pandemic:

So I then went to [my boss] and told him, 'Look, I have just found out that I am pregnant, so obviously because of my pregnancy, I am unable to come into work, as I am a vulnerable person. He said to me 'No, no, no, no, it's fine. My wife is also pregnant, and she still went into work. It's fine. She's going to work'. I said 'No, I can't go in, I can't go in, in my condition...' [Boss's response:] 'Ok that's fine, but if you don't come in you won't be paid, find someone to cover you and that's it.' So I told him 'You can't fire me, and you can't not pay me'. He said to me he could because it was his business.

Andrea, Female, Latin American cleaner

Moreover, workplace sexual harassment is often directly connected to unequal power dynamics in society, for instance gender and racial inequalities, and in the workplace, unequal power dynamics between workers and employers and between workers and customers. Perpetrators of sexual harassment often take advantage of these unequal power relationships. Previous FLEX research found that in the heavily feminised sectors of cleaning and hospitality, harassment was mainly perpetrated by direct supervisors and managers and, in the case of outsourced workers, client company employees (FLEX, 2021c, p.11). In the app-based delivery sector, couriers were harassed by mainly restaurant staff and customers. Couriers rely on their tips and positive ratings, and if a complaint was made about the worker their account could be terminated. This creates a power imbalance that impeded workers' ability to challenge sexual harassment (FLEX, 2021c, pp.11-12).

He would say that as a supervisor he could go anywhere, and he would give you no privacy. You would be in the bathroom and he would knock. I'd say that I was using it and he would say 'oh, ok, I wanted to know what you were doing'. I'd say 'but we are on our break'. There were things that have to do with respect as a human, not even as a woman, but as a human being. [...] "You would not feel safe, you say 'what does he want?'. I felt it and others did as well. Sometimes you don't need to talk, you share a look. The women there would share a look. Sometimes you would be on the floor doing something and he would be behind you. And as a woman, you know. He would not be looking at what you are doing, but at the position you are in. And you feel uncomfortable.[...] There are times when you feel violated, without being touched.

Claudia, Female, Caribbean cleaner

It should be noted that gendered expectations around work can also impact people's ability to obtain work. As one interviewed male Southeast Asian worker relayed:

I cannot just get jobs from other people. So it's hard for us, especially for me, especially for us men, because, you know, women, lady workers they are, even though they don't have papers, they are much more preferred by the employers.

David, Southeast Asian live-in care worker

The primary inspectorate for modern slavery, the GLAA (then the GLA) was established in 2004 to safeguard the welfare and interests of workers in agriculture, horticulture, shellfish gathering and any associated processing and packaging. However, in 2016, the Immigration Act 2016 expanded the role and remit of the GLAA to cover labour exploitation. As the GLAA's responsibilities have expanded to include investigating labour market violations in fields like cleaning, care, and hospitality (which are mostly occupied by female workers) it will increasingly come up against a broad range of gender-based discrimination. It is important that the GLAA, or any future Single Enforcement Body is resourced to develop its expertise and experience in this specialist area and is properly funded in line with its enlarged responsibilities (FLEX, 2023, p.2).

4.2.9 Contracts and terms

Power disparities

Power imbalances impact workers' ability to negotiate contracts and in many cases they may be forced (either through direct or indirect coercion) to work without a formal contract or rendered unable to enforce agreements within their contract. One participant highlighted that despite the contract containing clauses around sick leave, days-off, breaks and working hours, these were not met by the employer. Where such clauses are absent (or when there is no formal employment contract) it makes it even more difficult for workers to hold employers to account for breaching their obligations. Ultimately, the absence of a formal contract creates precarity, with workers concerned that their employer may dismiss them at any point. The same worker highlighted the fear deriving from:

The uncertainty of [not] knowing whether the boss will, either at the end of the week or at the end of the agreed time frame, cancel on you. Because there is nothing in writing they can cancel on you. [The employer] can get rid of you at any moment.

Javier, Male, Latin American construction worker

Informal work that includes short notice shift cancellations, irregular working hours or bogus self-employment with low pay, poor conditions and irregular or unsociable hours produce vulnerability and undermine resilience (FLEX, 2017, pp.7-8). Such situations create risks of debt, homelessness and can increase the likelihood of further exploitation as workers look for more work to supplement their income (FLEX, 2017, p.8). Additionally, fear and dependency are heightened where workers can be fired without notice or reason. As a result, it becomes difficult for workers to raise issues of exploitative treatment (Sehic, A., and Vicol, D., 2023, p.11).

Even when formalised in writing and provided to the worker, the nature of a contract may impact workers' resilience across other areas of life, compounding their vulnerability. For instance, zero-hours contracts create precarity, and shore up a power imbalance as workers rely on their employers and managers for the allocation of hours (FLEX, 2021b, p.35). As such, being seen to make excessive demands, challenging poor practices, or even attempting to renegotiate contract terms (FLEX, *et al.*, 2021, p.18) may be detrimental to their ability to secure work. Previous FLEX research found that workers on zero-hour contracts reported being afraid of losing their job or having their hours reduced if they called in sick, refused to do things that were not within the scope of their job, reported or complained about bad working conditions or pay, refused to work overtime, turned down shifts, reported or complained about harassment or abuse at work, asked for time off to care for children or other dependents and if they joined a trade union (FLEX, 2021b, p.7). The absence of a contract, or insecure contracts (such as zero-hour contracts) may bleed into other areas of life, for instance, a contract may be necessary for renting accommodation or to access in-work state benefits.

I think [my salary is] below minimum wage and then there's no annual leave, no holiday leave pay, that people know how they will pay until now it's the same like that.

Jacob, Male, Southeast Asian painter and decorator

Practical difficulties might also exist, for instance language barriers may mean workers require additional support to understand the conditions of their contract (FLEX, 2021b, pp.38 and 39). One of the issues raised during interviews was the fact that workers were not provided with a copy of their contract or the opportunity to read their contract (translated or not) before signing. Where a worker is denied a translator, this power imbalance will be entrenched through being unable to negotiate their terms and conditions or by being kept in the dark about them.

One belief that was reiterated across a number of interviews was that larger and more professionalised companies had better practices in relation to contracts and the ensuing terms. However, many workers felt that such jobs were harder, in some cases impossible, to access.

Bigger companies are specific in their job offer, contracts, handbooks. With smaller companies it is more difficult. They know the employment rights and responsibilities but they do not talk about it with the employees. It is difficult to get specific information on pay, rotas, internal policies.

Ana, Female, Roma East European chef

Employment models and contracts

Workers in bogus self-employment have significantly fewer rights than those employed directly by a company, allowing businesses to avoid the majority of the costs and responsibilities associated with being an employer, leaving workers with few protections and bearing high levels of risk (FLEX, 2017, p.8).

As self-employed we cannot take holiday, so we get no pay, no sick leave. Even as employees, we were not paid holiday [pay]. We took five days off due to [an] emergency back home in [East Europe], but we did not get paid for that time.

Vanya, Female, East European cleaner

With many workers relying on informal work with a much higher likelihood of bad (or solely verbal) contracts and unfavourable terms or policies, they are more likely to face the issues outlined by Ana above.

4.2.10 Racism

There are two primary ways in which racism interacts with vulnerability to labour abuse and exploitation. Firstly, structural racism, as demonstrated through the nature and implementation of the UK's immigration system (see above), as well as how compounding systems of social policy (for instance, in labour policy, housing and healthcare), produce racial discrimination and barriers to substantive equality (UN General Assembly, 2020; Home Office, 2020b; OHCHR, 2023; Rogaly, K. et al., 2021; TUC, 2022b; TUC, 2023). Secondly, individual racism can also create vulnerabilities to labour abuse and exploitation. This section will focus on the latter, though issues of structural racism and other forms of discrimination are outlined in the various sections of this report.

Instances of hate speech and discrimination by colleagues and employers create an environment of fear and misinformation that can leave migrants feeling unsupported and insecure in their employment, making it more difficult for them to report any abuse or exploitation that they experience. Workers

interviewed as part of this research identified issues regarding racist abuse and preferential treatment from colleagues and employers.

There's this perception that 'ah, he's Latin American, he's only coming here for [asylum] help' and all that [...] Actually I've heard from other Latinos [...] for example, even though they say it's a joke, 'oh, there's far too many Hondurans, we should take advantage of this.

Javier, Male, Latin American construction worker

I [...] find racist people, like, bullying me when I first come to the job because [they say you don't belong] to this job because you don't know nothing [sic]. I try to improve myself to show them that I belong to this job and I'm working very hard.

Jacob, Male, Southeast Asian painter and decorator

This quote illustrates the chilling effect that discrimination can have on an individual's perception of their ability to enforce their rights. This kind of discrimination can contribute to a situation of unequal power between workers and increase the power differential between workers and employers, leaving the most vulnerable workers feeling entitled to less, and less able to challenge unfair or abusive treatment.

4.2.11. Welfare

Social security systems are designed to create a safety net that guarantees that people can meet their basic needs even in situations where they lose their jobs or suffer from illness. If such safeguards are non-existent, people may find themselves obliged to continue or accept abusive or exploitative employment just to survive, similar to the dependencies stemming from low pay highlighted above. Ultimately, an effective social security system is one way in which the layered vulnerabilities stemming from low-pay, insecurity and immigration restrictions could be mitigated (FLEX, *et al.*, 2021, p.45).

I get Universal Credit. That's what I'm living on because I wouldn't be able to live on £95 a week.

Rita, Female, Latin American cleaner

So I thought to myself, why am I going to leave this job without knowing what is waiting for me out there. So I stayed here.

Mariana, Female, Latin American domestic worker

One interviewee reported spending sleepless nights crying, in the knowledge that she could not leave her abusive job without having another job in place as she needed to support her children. As such, people are kept in abusive work by the lack of or limited access to welfare.

As an immigrant you suffer. I've left work crying, not been able to sleep. It would take me years to tell you how you feel defeated, not wanting to go to work the next day, knowing you will see that person the next day, that he will continue to humiliate you, that he will continue to take advantage. And you know that you cannot leave your job until you have another one, because others depend on you. Mothers suffer more than someone who is single, because you cannot leave.

Claudia, Female, Caribbean cleaner

Most people with limited leave to remain in the UK, as well as those with irregular immigration status, are subject to a condition called No Recourse to Public Funds (NRPF). NRPF conditions mean that these

individuals are not eligible for most welfare benefits, such as Universal Credit and housing assistance. This condition exists to limit public finances going towards migrants (FLEX, *et al.*, 2021; Home Office, 2020).

NRPF is well known for its negative impact on migrants, forcing many into destitution and debt. This, in turn, can prevent workers (especially in low-paid and insecure work) from leaving exploitative and abusive situations due to their dependency on their employer for income and subsistence (FLEX *et al.*, 2021). Access to benefits and support can significantly improve workers' resilience against exploitation and abuse. The benefits of removing the NRPF condition for all visa holders, including those with families, outweigh the costs of granting access to benefits in the short and long term (Benton, E., *et al.*, (2022) p.12). This is due to the savings generated by addressing destitution and poor housing, which local authorities and third-sector services must otherwise handle.

Immigration status does not prevent access to primary healthcare under the NHS, though structural barriers remain¹¹ and charges may be made for secondary healthcare. There are some narrow exceptions to the NRPF policy, such as emergency support under the Children Act 1989, the Care Act 2015, and the Modern Slavery Act 2015. However, this support is only available when individuals are already destitute, have significant care needs, or are experiencing exploitation that meets the modern slavery threshold (FLEX, 2022, p.4). The human and social cost of providing welfare support only in extreme situations that breach human rights or international obligations is extraordinarily high. Providing access to social protection for those in need would help prevent vulnerability, including vulnerability to labour exploitation.

As highlighted within FLEX research (FLEX, 2021, p.34), the application process for Universal Credit is complex. As a result, many people need support to apply, and without such support, may not be able to access it. The five-week wait for payment puts those who are already struggling at risk of destitution while they wait. Further, the amount of money that people receive through Universal Credit is not sufficient to provide adequate protection against exploitation. The charity IRMO has highlighted that workers are often not provided with P45 forms by their employers which in turn makes it very difficult to apply for Universal Credit.¹² Migrant workers who are eligible for public funds are often unaware of the extent of documentation that they will need to have in order to access Universal Credit. In these instances, even where they are able to receive advice and assistance in making their application in their community language, the worker will face a significant barrier in receiving financial support. Often an unequal power dynamic also limits an individual's ability to request the necessary documentation needed to apply for Universal Credit, for example, requesting a copy of an employment contract. Similarly, where workers are not provided with their P45 or P60 forms this makes it difficult to transition from precarious employment to more secure employment with better working conditions, and may impede their ability to hold unscrupulous employers to account where there are missing pension contributions. Unrealistic documentary requirements are also a recognised impediment to securing legal aid support, impeding workers' ability to obtain legal redress (Young Foundation and FLEX, 2023, p.54).



The system expects people who may be in debt bondage or who have been pushed into exploitation due to poverty to put their lives on hold indefinitely.”

¹¹ 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. (Firth, R., 2022).

¹² A P45 form is a certificate that shows how much tax a worker has paid for their salary in the tax year.

The lack of sick leave was also highlighted as an issue faced by some workers, meaning that workers have to go without income or be forced to work while sick or injured. Further, workers also spoke about being put under emotional pressure to stay with clients and being forced to work when they were unwell. One participant with recourse to public funds mentioned that access to Universal Credit has allowed her to take the time for her leg to recover. If this was not the case, she would have been at greater risk of destitution or debt.

It is possible to cut your finger for example but nothing too bad. No one pays sick pay.

Vanya, Female, East European cleaner

They didn't pay for holiday or anything, because they need you. If you're working, they pay you if you're not working [they] didn't pay you. One time my friend, we [were] working on a demolition and the bricks fell down on his one foot and his foot is swelling for one week or like 14 days and he didn't he didn't receive any money for our work.

Jacob, Male, Southeast Asian painter and decorator

Once, I went to Emergency and I had to stay home but I was forced to go back to work the next day.

Ana, Female, Roma East European chef

5. Recommendations

The UK currently lacks a proactive labour market enforcement system which is accessible to and trusted by workers. The lack of trust is compounded by a lack of secure reporting pathways, meaning that workers know that a complaint may be more likely to result in an immigration enforcement response than result in redress or an employment law remedy. As this report has found, many workers do not see contacting the authorities as being in their best interest, a worrying trend which will be compounded by the implementation of the Illegal Migration Act 2023.

The Modern Slavery Act 2015 does not compensate for these shortcomings. Not only does it offer no remedy before exploitation reaches the threshold of trafficking, it also fails to offer security, compensation and a pathway to rebuild lives for victims and survivors of labour exploitation.

LEAG advocates for an approach to labour exploitation which is centred on both prevention through early options as well as a higher threshold response which prioritises victim and survivor wellbeing. This must be focused on identifying the issues that create risks of exploitation and ensuring early access to support where necessary.

As well as different individuals experiencing different levels of exploitation it is important to keep in mind that without wider structures which ensure that workers have early options to negotiate working conditions, enabled by the basic option to leave and find alternative work if needed, an individual's situation may travel along the continuum of exploitation. For example, their reliance on exploitative work is increased if they are unable to access alternative work or support such as welfare or have debts or other responsibilities trapping them in their current situation.

Any response to be effective, at any stage of the continuum, must address the factors which have led to the situation of exploitation, and offer better options.

Moving towards a preventative approach to labour exploitation

Proactive labour market enforcement

To the UK Government:

- The UK's labour market enforcement system must be accessible to workers in practice, and provided with robust enforcement powers. These reforms, which may take the form of a Single Enforcement Body, must be grounded in the principles of protected reporting, evidence-based resourcing, compliance with international standards at a minimum, fair and efficient remediation, gender sensitivity, and meaningful worker participation.
- Resourcing of UK labour market inspection authorities should be greatly increased, at minimum exceeding the ILO target of one inspector for every 10,000 workers in the short term. They must have effective enforcement powers.

To the DLME and labour market enforcement authorities:

- LMEA's should set a goal of at least 40 percent reactive and 60 percent proactive unannounced inspections, whilst ensuring worker complaints receive adequate responses within reasonable timeframes.

Creating a safe and fair immigration system

To the UK Government:

- Repeal section 24B of the Immigration Act 1971 which criminalises the act of working without required documentation in the UK (the illegal working offence).
- Ensure that all migrant work visas meet minimum standards of fairness and safety and do not create risks of exploitation through migration debts.

To the Home Office:

- Ensure that all work visas allow for workers to change employers in practice, are renewable in-country subject to ongoing employment, and have a route to settlement. Visas must not restrict workers to specific employers or workplaces.
- Bridging visas or the ability to apply to renew a visa once expired, (alongside safeguards from any immigration enforcement action and protection from impact on any future visa / citizenship application), should be provided to workers who became undocumented as a result of no longer being in employment.
- Specialist legal advice together with options for regularisation should be available to workers in the UK with irregular status.
- The Home Office should ban or regulate the use of repayment clauses that require workers to pay back the upfront costs that the employer has invested in recruiting staff if they leave employment.
- While short term work visas continue to be used, the Home Office should provide access to specialist independent advice and a 'fast-track' labour abuse reporting channel and resolution mechanism.
- The Home Office should not have a role in monitoring labour market compliance.

Secure reporting pathways for migrant workers

- Labour market and immigration enforcement activity should be separated.
- Labour rights should be at the centre of all inspections conducted by labour inspectorates;
- Labour market enforcement agencies should not report immigration offences to the Home Office, as this is shown to interfere with their primary duties and efficiency;
- Labour market enforcement agencies should not establish bulk data-sharing agreements or make their databases available to the Home Office for immigration enforcement purposes as this undermines trust and prevents workers from reporting exploitation. Combined with a lack of proactive enforcement this creates the conditions for further exploitation to thrive
- Remove responsibility for human trafficking from the Home Office, and place under a more suitable department such as the Ministry of Justice.

Legal frameworks

To Government:

- Fully incorporate the Council of Europe Convention on Action Against Trafficking in Human Beings (ECAT) and the Anti-Trafficking Directive into domestic law
- Ratify ILO Convention 189 on Domestic Workers

To the Ministry of Justice:

- Extend the scope of legal aid to cover employment advice and representation in Employment Tribunals. Improve access to legal aid by making the financial eligibility criteria less stringent and ensuring it is sustainable for legal aid practitioners to continue providing this service. Extend the scope of immigration legal aid to cover independent legal advice and representation for those on restricted visas who meet the legal aid financial thresholds.
- There should be no capital or income tests for eligibility for legal aid for people in the NRM.
- Extend the timeline for bringing all Employment Tribunal claims including unlawful deduction of wages claims and claims under the Equality Act 2010 cases, from three months minus one day to six months, at a minimum. This should be done in recognition of the many barriers workers face, which often delay reporting, including the psychological impact of trauma caused by severe forms of abuse.
- Ensure workers on short-term visas have access to a fast-track complaints mechanism through which workplace grievances may be aired and remedied during their time in the UK.

Enforcing employment rights

To the DLME and Labour Market Enforcement Authorities

- Labour Market Enforcement Authorities need to be aware of racialisation and gendered dynamics within their work. Rather than discrete and siloed teams, it needs to be built into the lens they take to labour exploitation and abuse, including in relation to the higher percentage of women and minoritised groups in precarious and low-paid work, having dependencies.
- Labour Market Enforcement Authorities should have trained hotline respondents who speak the most common native languages of migrant workers and translation services should be available for other languages. Labour market enforcement authorities should ensure that all information is available in the language of migrant callers. This must include any automated messages.

Exercising agency

To Government:

- Repeal anti-trade union legislation and policies such as the Trade Union Act 2016 and Strikes (Minimum Service Levels) Act 2023 and strengthen trade union rights;
- Ensure meaningful access to English for Speakers of Other Languages (ESOL) classes for all migrants with English language needs.

To Trade Unions:

- Consider how trade unions can better engage, represent and organise with migrant workers, including reviewing their membership models.

Social protections and unfair costs

To the Home Office:

- Repeal the No Recourse to Public Funds (NRPF) policy, which has been shown to create and exacerbate risks of exploitation.
- Set immigration fees no higher than their administrative cost in line in line with the principles of fairness and affordability/reasonability
- Scrap the Immigration Health Surcharge.

To the Department for Work and Pensions:

- Extend Statutory Sick Pay to all workers who are currently not entitled to this provision so that people can afford to take time off when they are ill.
- Reform Universal Credit so it effectively protects against poverty and destitution, enabling people to negotiate decent work and leave exploitative jobs in the knowledge that they have a safety net to fall back on.

Community

To funders:

- Invest in long-term unrestricted funding for community support organisations that provide advice and support to migrant workers. This should seek to build capacity for complex case work, including legal advice and representation on employment rights and immigration issues. It should also allow for community-based outreach programmes targeted to migrant communities.

To the Foreign, Commonwealth and Development Office (FCDO) and Home Office:

- While information about employment rights in the UK can only be effective if those rights can be accessed in practice, FCDO, and all visa issuing centres should properly inform workers applying for entry clearance of their rights as workers (and how to enforce them) in the UK.

Pay

To Government:

- Determine National Minimum Wage/National Living Wage rates based on what workers and their families need to meet the cost of living, as modelled by the Living Wage Foundation.
- Remove the current lower rates for young workers, thereby ensuring the same minimum wage for all workers.
- Remove the two-year backstop on national minimum wage claims.

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