



Step Up Migrant Women

Latin American Women's Rights Service (LAWRS)

Amendment 107 “Victims of specified offences: data-sharing for immigration purposes” to the Victims and Prisoners Bill

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Introduction

The Victims and Prisoners Bill purports to improve victims' experiences and access to support and justice. However, the Bill, as drafted, leaves victims with insecure immigration status behind by excluding them from accessing said support and avenues to justice.

Evidence suggests that migrant victims are more vulnerable to experiencing serious crimes whilst also being less likely to receive redress. One of the most significant barriers migrant victims face in accessing support and justice is low confidence in approaching the police and other statutory agencies to report crime and ask for help.

This briefing outlines why we support an amendment to introduce a firewall as part of the Victims and Prisoners Bill. This firewall amendment would cover victims of serious crimes (including domestic abuse, sexual violence, and modern slavery, amongst others) and aims to stop data sharing between statutory agencies (including the police) and Immigration Enforcement to enable these victims to come forward to report abuse and exploitation and be supported.

The harms of data sharing

As recognised by the Government, immigration status can be a risk factor for becoming a victim of serious crime, including violence against women and girls (VAWG)¹ and modern slavery². Having control over someone's immigration status and their right to live and work in the UK allows abusers and employers to control, threaten and trap victims in abuse or exploitation.

A wealth of evidence has shown that migrant victims of crime are prevented from reporting a crime to the police and other statutory agencies due to the fear of facing immigration control

¹ Home Office, 2022, Domestic Abuse Statutory Guidance. Online:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1089015/Domestic_Abuse_Act_2021_Statutory_Guidance.pdf

² Home Office, 2023, Modern Slavery Statutory Guidance
https://assets.publishing.service.gov.uk/media/651e9cf17309a1000db0a8af/Modern_Slavery_Statutory_Guidance_EW_and_Non-Statutory_Guidance_SNI_v3-5_.pdf

action.³ For victims with insecure immigration status, data sharing between the police and other statutory services and the Home Office constitutes one of the most severe barriers to accessing the Criminal Justice System.

Abusers and exploiters often weaponise women's insecure status, telling them that if they approach the police, they will not be supported and will instead be placed at risk of detention or removal because of their legal status. Research by the Latin American Women's Rights Service (LAWRS) and the Step Up Migrant Women campaign found that 62% of migrant women had specifically been threatened in this manner by their abusers. The same research shows that 1 in 2 migrant victims with insecure immigration status do not report abuse to the police for fear of disbelief, destitution, detention and deportation. The case of David Carrick is a high-profile example of how perpetrators weaponise victims' immigration status to trap them in an abusive relationship.⁴

Migrant victims' fear of immigration control is not unjustified. Recent data obtained by the Domestic Abuse Commissioner's Office showed that all police forces in England and Wales have shared victims' data with Immigration Enforcement over three years.⁵ In 2022, a Freedom of Information (FOI) request revealed that between May 2020 and September 2022, the police shared the details of over 2,000 victims of crime with Immigration Enforcement after victims approached them to report a crime and access support. Some of these victims have been served with enforcement papers, putting them at risk of deportation.⁶

Luciana's* story

Luciana met her perpetrator in 2016, and three years later, they married. Luciana is from Latin America, and the perpetrator is from an EU country. Luciana arrived in the UK in 2021. As a partner of an EU citizen, she has pre-settled status under the EU settlement scheme. Luciana's perpetrator physically, verbally, and emotionally abused her for an extensive period. He coerced her and sexually assaulted Luciana on multiple occasions. As part of the abuse, Luciana was unaware of all her rights in the UK; the perpetrator used slurs to verbally abuse and threaten Luciana with deportation if she ever reported him to the police. He manipulated her to believe she was dependent on him and without any recourse to public funds when, in fact, she had access to welfare benefits. The perpetrator would try to be tactful in his abuse. He would physically abuse her without leaving any marks or bruises, so Luciana wouldn't have any proof of the abuse if she tried to call the police. The perpetrator also strangled Luciana, threatened to kill her and committed suicide. Luciana tried defending herself. On one occasion, the perpetrator called the police and told her she would have him deported. When the police arrived, they arrested Luciana. It wasn't until Luciana showed a bruise that was left

³ C. Mclwaine, et al., 2019. The Right to be Believed: Migrant women facing Violence against Women and Girls (VAWG) in the 'hostile environment' in London. London: King's College London and Latin American Women's Rights Service. Online: <https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-key-findings-final-1.pdf>

⁴ P. Hill, E. Scully, 2023, Victim of police rapist David Carrick says he set SNAKES on her in twisted punishment. Online: <https://www.mirror.co.uk/news/uk-news/victim-police-rapist-david-carrick-29134439>

⁵ Domestic Abuse Commissioner's Office, 2023, Safety Before Status: How to ensure the Victims and Prisoners Bill meets the needs of all victims. Online: https://domesticabusecommissioner.uk/wp-content/uploads/2023/11/FINAL-DOC_Firewall-Report_2023_V2.pdf

⁶ L. Butterfly, 2023, UK police referred sexually exploited children and victims of domestic abuse to immigration authorities. Online: <https://www.thedetail.tv/articles/uk-police-forces-referred-thousands-of-migrant-victims-of-crime-to-immigration-authorities>

that the police realised their mistake.

**Name has been changed to protect the woman's identity*

Catalina's* story

Catalina was brought to the UK from Latin America in early 2023 to work as a live-in housekeeper and look after two children. She was paid £850 a month. Catalina would wake up at 5 am to start work and never had an end to her working day, often going without food. Catalina was not allowed to leave the house. The house had camera surveillance in most of the rooms, so she was watched all day. The toilet was the only space with no cameras and this is where she would go to take a break, but even her time there was controlled. Her employer also took her passport away. As a result, Catalina was unaware of her rights in the UK or where to find help. When Catalina said she wanted to leave, her employer said she could not leave until she could go to her home country and bring someone back to replace her. When Catalina threatened to call the police, her employer told her that because she did not speak English, no one would believe her. She was told to remember that she was at the bottom of the pile in the UK. Catalina is undocumented, and this threat made her terrified to try and call the police. Catalina got in touch with LAWRS after a former victim of the employer gave her our number. Catalina did not want us to report to the police as she was undocumented and just wanted help to get back home. LAWRS eventually supported her to make a report to the police so she could escape and be taken to a refuge.

**Name has been changed to protect the woman's identity*

Police super-complaint on data sharing

In December 2020, the findings of the first super-complaint investigation, led by three independent police watchdogs, concluded that data-sharing arrangements significantly harm not only victims of crime but also the public interest, as crimes are not reported and, therefore, remain unpunished. The report also confirmed that in domestic abuse cases, data-sharing with Immigration Enforcement does not constitute any safeguarding and recommended the introduction of a temporary firewall for victims of domestic abuse .⁷

Despite the super-complaint findings and the recommendations, the Government continues to reject the introduction of a firewall. Instead, it proposed the development of an Immigration Enforcement Migrant Victims Protocol, arguing that Immigration Enforcement can perform a function of pursuing enforcement action against migrant victims while simultaneously seeking to safeguard them. The Protocol is still due to be published. We wholeheartedly disagree with the government's response and argue that there remains a conflict of interest at the heart of Immigration Enforcement, given that its overriding role is to enforce immigration rules and not provide a safeguarding function. Several charities working at the frontline with migrant victims of

⁷ Safe to share? Report on Liberty and Southall Black Sisters' super-complaint on policing and immigration status. Online:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945314/safe-to-share-liberty-southall-black-sisters-super-complaint-policing-immigration-status.pdf

domestic abuse have raised concerns about the harms the Protocol will inflict on vulnerable migrant women.⁸

The broader benefits of establishing safe reporting mechanisms

As outlined above, data-sharing with Immigration Enforcement has been established to be harmful both to victims and the public interest, as migrant victims are prevented from reporting to the police, allowing perpetrators to act with impunity and remain free to target other victims, creating a significant threat to public safety.

This practice also fosters further mistrust in the police and harms the relationship between them and the communities they serve. In turn, they are prevented from accessing valuable intelligence that would allow them to identify and prosecute abusers, exploiters and traffickers. A firewall with Immigration Enforcement would ensure that victims feel confident coming forward to seek support, report their perpetrators and collaborate with law enforcement.

The Firewall

Since 2017, the Step Up Migrant Women campaign, led by LAWRS, has called for establishing safe reporting mechanisms in the form of a firewall to ensure the reporting of a crime and access to support is clearly separated from any form of immigration control. Cross-party Parliamentarians and Independent Commissioners such as the Domestic Abuse Commissioner, the newly re-appointed Victims Commissioner and the London Victims Commissioner have supported this recommendation.

The Justice Committee scrutinising the draft of the Victim's Bill called for the introduction of a complete firewall and for the immediate end of data-sharing between the police and the Home Office for immigration enforcement purposes.⁹

Good international practice

Recognising the importance of building trust with all migrants to solve crime and prevent and address serious crime, including VAWG and modern slavery, police abroad have introduced and strengthened safe reporting mechanisms that have led to positive outcomes for their agencies, migrants, and the wider community. In the Netherlands, a firewall was introduced nationally in 2016. The policy called 'free in, free out' allows migrants with insecure status to report crimes without having the police act upon their immigration status.¹⁰

How much would a firewall cost to the government?

Introducing a firewall would represent a minor cost to the government as it would only involve changing guidance and training to interested parties.

In contrast, the gains from implementing a firewall will be considerable, as trust amongst migrant communities to report serious crimes to the police can be built. By having access to evidence collected from crime reporting, police can focus on preventing those crimes from happening. It will also result in women being able to flee situations of abuse and exploitation at early stages, reducing the long-term impacts of living subjected to harm.

⁸ Joint response to the "Home Office and Police data-sharing arrangements on migrant victims and witnesses of crime with insecure immigration status. Online: <https://lawrs.org.uk/wp-content/uploads/2022/02/Joint-Response-to-Home-Office-Review-data-sharing.pdf>

⁹ House of Commons, Justice Committee, 2022. Pre-legislative scrutiny of the draft Victims Bill. Second Report of Session 2022–23. Online: <https://committees.parliament.uk/publications/28831/documents/174248/default/>

¹⁰ L. Ishibashi, et al, 2021, Preventing and addressing abuse and exploitation: a guide for police and labour inspectors working with migrants. Online: https://lawrs.org.uk/wp-content/uploads/2022/02/Preventing_and_addressing_abuse_and_exploitation_FINAL.pdf

Conclusion

Prioritising immigration enforcement over the human rights of migrant women prevents them from reporting serious crimes due to fear of being treated as criminals. The lack of safe reporting mechanisms creates a barrier for migrant women seeking support to flee violence and exploitation, putting their lives at risk and allowing perpetrators to exert exploitation and abuse with impunity. A firewall will enable victims to report abuse without the fear of being arrested, imprisoned, detained and deported.

Amendment text

After Clause 26, insert the following new Clause—

“Victims of specified offences: data-sharing for immigration purposes

- (1) The personal data of a victim of a crime mentioned in subsection (3), which is processed for the purpose of that person requesting or receiving support or assistance related to the crime, must not be used for any immigration control purpose without the consent of that person.
- (2) The personal data of a witness to crime mentioned in subsection (3), which is processed for the purpose of that person giving information or evidence to assist the investigation or prosecution of the crime, must not be used for any immigration control purpose without the consent of that person.
- (3) The crimes referred to in subsections (1) and (2) are—
 - (a) domestic abuse as defined by section 1 of the Domestic Abuse Act 2021;
 - (b) an offence under any of sections 2, 2A, 4 or 4A of the Protection from Harassment Act 1997 or section 42A (1) of the Criminal Justice and Police Act 2001;
 - (c) an offence under any of sections 1, 2 or 4 of the Modern Slavery Act 2015;
 - (d) an offence under Part 1 of the Sexual Offences Act 2003; (e) such other offences as specified in regulations made by the Secretary of State.
- (4) Paragraph 4 of Schedule 2 to the Data Protection Act 2018 does not apply to personal data processed for the purposes of subsection (1) or (2).
- (5) For the purposes of this section, the Secretary of State must publish guidance about the effect of subsections (1) and (2) to—
 - (a) persons who are victims of or witnesses to the crimes in subsection (3),
 - (b) persons from whom support or assistance may be requested or received by a victim of crime in the United Kingdom,
 - (c) persons providing support to, or conducting investigations or prosecutions with the support of, witnesses of crime in the United Kingdom,
 - (d) persons exercising any function of the Secretary of State in relation to immigration, asylum or nationality, and

(e) persons exercising any function conferred by or by virtue of the Immigration Acts on an immigration officer.

(6) The Secretary of State may from time to time revise any guidance issued under this section.

(7) Before issuing or revising guidance under this section, the Secretary of State must consult –

- (a) the Domestic Abuse Commissioner,
- (b) the Commissioner for Victims and Witnesses,
- (c) the Independent Anti-Slavery Commissioner, and
- (d) such other persons as the Secretary of State considers appropriate.

(8) Subsection (7) does not apply in relation to any revisions of the guidance issued under this section if the Secretary of State considers the proposed revisions of the guidance are insubstantial.

(9) A person exercising public functions to whom guidance issued under this section relates must have regard to it in the exercise of those functions.

(10) For the purposes of this section—

“consent” means a freely given, specific, informed and unambiguous indication of the individual’s wishes by which the individual, by a statement, signifies agreement to the processing of the personal data.

“immigration” means the exercise of any functions of the Secretary of State and of immigration officers under the Immigration Acts within the meaning of section 61 of the UK Borders Act 2007.

“support or assistance” includes the provision of accommodation, banking services, education, employment, financial or social assistance, healthcare and policing services and any function of a court or prosecuting authority.

“victim”, in relation to a crime, means the particular person who appears to have been affected by the crime, and their dependent, where that dependent is also affected by the crime.”

Member's explanatory statement

This probing amendment seeks to ensure that the personal data of a victim of a crime is not used for any immigration control purpose without the consent of that person.