

Victims of Domestic Violence with No Recourse to Public Funds

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1. Introduction

This report provides information about the situation faced by individuals from abroad who become victims of domestic violence but have no recourse to public funds. It sets out the legal responsibilities of Local Authorities and the difficulties faced by refugees in providing support for this group. In particular, it considers the number and circumstances of individuals who have come to Britain as the spouse or fiancé/e of a British national and who would be eligible to apply for indefinite leave to remain under the Domestic Violence Rule.

The report provides a brief analysis of data gathered regarding numbers and circumstances of people requesting and receiving support from 11 refuge service providers. The report also considers the length of time taken to process an application for indefinite leave to remain under the Domestic Violence Rule and considers good practice responses to victims of domestic violence in terms of risk assessment and risk management.

2. Recommendations

- That immediate action is taken to ensure that victims of domestic violence who have no recourse to public funds are able to access safe accommodation and support services.
- That the Home Office and other government departments explore options to retrospectively fund refuge providers and local authorities if/when an individual is successful in their application for indefinite leave to remain under the Domestic Violence Rule.
- That the Home Office allocate case owners to applications for leave to remain under the Domestic Violence Rule in order to ensure a single point of contact and to improve the efficiency of case resolution.
- That a joint working group be established to include representatives from the Home Office, the voluntary and community sector and local authorities to evaluate whether the Domestic Violence Rule effectively meets the needs of this group and also to consider the wider needs of all victims of domestic violence who have no recourse to public funds.

3. Background

'No Recourse to Public Funds' (NRPF) is a condition imposed by the Border and Immigration Agency (BIA) on:

- a person who is subject to immigration control; and
- has no entitlement to welfare benefits, public housing or Home Office asylum support; and
- does not have the right to work (**with exception of individuals granted leave as spouse or civil partners who are permitted to take up employment*).

The words 'no recourse to public funds' therefore do not determine whether a service might be provided by a local authority, rather they indicate what services will not be available.

Victims of domestic violence who are from abroad and have NRPF will usually have been granted limited leave to enter the United Kingdom as a spouse or a fiancé of a person present and settled in the UK. This leave is granted subject to a condition that the individual has no recourse to public funds, although as stated individuals granted leave as spouse or civil partners are permitted to take up employment.

Under the Immigration Rules there is a Domestic Violence Rule. Under the Rule people who were admitted to the UK with limited leave to remain as spouses, unmarried partners or civil partners may apply for indefinite leave to remain, if they can provide evidence that the relationship broke down permanently before the end of their limited leave (or during the 'marriage or probationary period') as a result of domestic violence.

However, whilst an application is pending at the BIA, the applicant has no entitlement to public housing provision or welfare benefits.

As people with NRPF are not entitled to support from Housing Services or access to Housing Benefits, it falls to Social Services departments to assess if a person's need for care and attention is above and beyond 'mere' destitution¹. Thus a local authority is barred from providing support where the person's need is for accommodation alone.

Where a clear and assessed need for community care or mental health services can be demonstrated, local authorities have a duty to provide support under the National Assistance Act 1948. More complicated however is when people with no clear eligibility for social services have made claims for assistance. Many individuals fleeing domestic violence are caught in this circumstance.

The issue in cases involving domestic violence is the effect that domestic violence has had and continues to have on the individual and/or their children.

¹ Section 21, 1(a), National Assistance Act, 1948

For single adults, the individual needs to demonstrate a need for care and attention arising not only from a lack of accommodation and funds, but also for the prevention of harm or violence or some other circumstance. The test of being in need of care and attention not solely due to destitution is capable of including the effects of domestic violence, although destitution alone is not sufficient.

4. Access to local authority support

Many local authorities are reporting that they are receiving increased requests to support individuals, most of whom are women, who are fleeing domestic violence and have no recourse to public funds. The legal position regarding the assessment and support for victims of domestic violence is particularly unclear.

Although many of those people who request support are lawfully present in the UK and have the right to work, significant numbers lack language and literacy skills to gain employment and many more have child care issues that prevent them from exercising this right.

The situation is more complicated for those who are unlawfully present in the UK, as they have overstayed their visa without regularising their stay within the 2-year period. Individuals in this category, are excluded from local authority support due to the exclusions stated in Schedule 3, section 54 NIAA 2002.

The average cost to an inner London Borough of supporting a family (mother and 2 children) who have NRPF is approximately £17,000 per annum. The Home Office provide no grant to reimburse local authorities for the cost of supporting people with no recourse to public funds.

5. Access to women's refuges

A survey² of 11 London refuge providers found that in the period 2006/07, 223 women with no recourse to public funds requested refuge space however only 19 (8.5%) women were accepted for support. This is just 3% of the total of 585 women who were provided with refuge space by these providers in 2006/07. Of the 19 women accommodated, 16 had children.

² In November 2007 a questionnaire was sent out to all Greater London Domestic Violence Co-ordinators with a request that these be passed on to refuge service providers within the boroughs. 11 (29%) refuge providers responded. The 2006 Gold Book (the national guide to refuges and domestic abuse services) indicates that there are 38 refuge services providers in the London area. Further information on the survey and a copy of the questionnaire can be obtained from the report's authors.

Of the 19 women with NRPF accepted into refuges, 9 of them had made an application under the Domestic Violence Rule and a further 6 had applied for leave to remain in the UK under another category.

The average cost of accommodation for the women who were accepted was £4165. The average length of time in a refuge for each woman was 7.5 months. Of the women supported, 60% were funded by Social Services, 30% by the refuges themselves and 10% by 'other'.

Refuges are dependent upon women receiving Housing Benefit to pay the rent at a refuge. Most refuges are unable to absorb the costs of supporting women with NRPF.

6. Home Office

The Home Office report that on average 1,000 applications are made under the Domestic Violence Rule per annum. Of these approximately 35 – 50% are successful.³

An applicant remains as NRPF while the application is being considered and until such time as the application is successful.

The Home Office also report that applications made under the Domestic Violence Rule are processed within 28 days and there is discussion within the Home Office to streamline this to 10 days.

Evidence from the refuges and anecdotal evidence from local authorities suggests that applications under the Domestic Violence Rule normally take 7 –12 months to be processed in direct contrast to the timelines provided by the Home Office.

7. Good Practice issues

In the document, 'Saving Lives. Reducing Harm. Protecting the Public: An Action Plan for Tackling Violence 2008-11', the Home Secretary acknowledges that "domestic violence has the highest rate of repeat victimisation" (page 36) and that "it is important to have services in place to provide immediate, targeted protection and support, reduce the long-term impact of these crimes, and prevent re-victimisation." (page 45). For many victims of domestic violence access to safe accommodation will be a key part of the risk management plan and yet for victims with no recourse to public funds, particularly those without children, access to safe accommodation is severely limited.

People with NRPF are generally a socially isolated and vulnerable group in our community. Local authorities have a duty to provide a service where a need can be properly established. Local authorities are likely to continue to

³ Figures provided by the Domestic and Sexual Violence Unit, Home Office

have corporate responsibility regardless of any changes that government may make to the regulations on immigration and asylum. However, it is clear that significant numbers of victims of domestic violence are denied access to services which would enhance their safety where there is no clear and assessed need for community care or mental health services

Whilst it is important to work together and have a clear awareness and understanding of each other's roles, local authorities, the voluntary and community sector and the Home Office need to work towards finding resolution to the support needs of victims of domestic violence who have no recourse to public funds.