

Improving housing outcomes for women and children experiencing domestic abuse

Scottish Government working group report

December 2020



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Introduction

‘I just thought, “No, why should we have to move everywhere and everything because of him?” and I knew back then that he’d find us. He would just never stop, he would never stop. So I was like, “No, if he doesn’t like it and can’t cope with the fact that I am no longer willing to be abused and the kids are no wanting it, then he could move”.’¹

‘I JUST THOUGHT, “NO, WHY SHOULD WE HAVE TO MOVE EVERYWHERE AND EVERYTHING BECAUSE OF HIM?” AND I KNEW BACK THEN THAT HE’D FIND US. HE WOULD JUST NEVER STOP, HE WOULD JUST NEVER STOP.’

In August 2019 the Cabinet Secretary for Communities and Local Government, Aileen Campbell MSP, announced a Scottish Government working group to consider how Scotland could improve housing outcomes for women and children experiencing domestic abuse.

The group is co-chaired by the Chartered Institute of Housing (CIH) Scotland and Scottish Women’s Aid (SWA) and comprises:

- ▶ Pauline Brice, Scottish Government
- ▶ Sandra Brown, WHIR Improving the Way We Work, Fife Council
- ▶ Tony Cain, Association of Local Authority Chief Housing Officers
- ▶ Laura Cavens, COSLA
- ▶ Callum Chomczuk, Chartered Institute of Housing Scotland (co-chair)
- ▶ Jessica Husbands, Shelter Scotland
- ▶ Fiona McLeod, Brodies LLP
- ▶ Jo Ozga, Scottish Women’s Aid (co-chair)
- ▶ Emma Ritch, Engender
- ▶ Paul Short, Fife Council
- ▶ Julie Stuart, Scottish Government
- ▶ Katey Tabner, COSLA
- ▶ Sandy Young, Almond Housing Association
- ▶ Ruth Whatling, Scottish Government

¹ Scottish Women’s Aid. 2015. Change, Justice, Fairness: why should we have to move everywhere and everything because of him? Available at: <https://womensaid.scot/wp-content/uploads/2017/07/Change-Justice-Fairness.pdf>



The group split its work into two phases: phase one focusing on the work of social landlords; and phase two on the issue of private housing, both the private rented sector and owner occupiers.

This report focuses on phase one, and sets out the analysis and recommendations of the working group. It reflects international human rights commitments including the right to adequate housing for victim-survivors of domestic abuse, and Equally Safe: Scotland's national strategy for preventing and eradicating violence against women and girls.²

The report highlights six areas which, acted on together, could significantly reduce domestic abuse-related homelessness. This is the leading cause of women's homelessness, and, consequently, affects significant numbers of children and their long-term outcomes.

Within the social housing sector, a combination of systemic change, legislation and actions to prevent homelessness for victim-survivors of domestic abuse will make a fundamental difference to improving not only the housing outcomes for women and children in Scotland but also their health and wellbeing, thus upholding the human rights of women and children to live in a home in dignity and security, free from abuse.

The working group makes recommendations in this report which propose how that can be done.

Next steps

We recommend that the Scottish Government convenes an independent monitoring group to develop a plan to implement and review progress of the recommendations set out in this report. This group should be independently chaired, with secretariat support from the Scottish Government. Members of the group should be representative of the domestic abuse, housing, homelessness, equalities and legal sectors in Scotland. The group should be convened once the Scottish Government has formally responded to this report.

Content note

The six topics in this report are based on six briefing papers produced by the working group. Each chapter includes an overview; context; and recommendations.

All URLs were checked and correct at the time of publication.

² <https://www.gov.scot/publications/equally-safe-scotlands-strategy-prevent-eradicate-violence-against-women-girls/>

Terminology

Gender ‘refers to the socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for men and women’ (World Health Organization).

Gender analysis provides the necessary data and information to integrate a gender perspective into policies, programmes and projects. As a starting point for gender mainstreaming, gender analysis identifies the differences between and among women and men in terms of their relative position in society and the distribution of resources, opportunities, constraints and power in a given context. In this way, conducting a gender analysis allows for the development of interventions that address gender inequalities and meet the different needs of women and men.³

Equally Safe, Scotland’s strategy for preventing and eradicating violence against women and girls (VAWG) uses the United Nations definition of gender-based violence (GBV), which recognises that it is a function of gender inequality, that it is an abuse of male power and privilege, and that women and girls experience violence and abuse **because** they are women and girls. The strategy does not exclude men. It condemns all forms of violence and abuse, whilst recognising that particular forms of violence are disproportionately experienced by one gender and require a strong strategic focus. Men have a critical role in challenging violence, breaking down gender norms and in helping to ensure greater gender equality in society – they are also entitled to support when they experience violence and abuse.⁴

The report uses the terms ‘women and children experiencing domestic abuse’ and ‘victim-survivor’ for those affected by domestic abuse; and ‘abusive partner’ and ‘perpetrator’ for those who commit it.

³ European Institute for Gender Equality: <https://eige.europa.eu/gender-mainstreaming/methods-tools/gender-analysis>

⁴ <https://www.gov.scot/publications/equally-safe-scotlands-strategy-prevent-eradicate-violence-against-women-girls/>



Summary of recommendations

Preventing homelessness for women and children experiencing domestic abuse: a human rights approach

‘THE RIGHT TO LIFE DOES NOT ACTUALLY BELONG TO ONE OR THE OTHER CATEGORY OF HUMAN RIGHTS. LIVED EXPERIENCE ILLUSTRATES THAT THE RIGHT TO LIFE CANNOT BE SEPARATED FROM THE RIGHT TO A SECURE PLACE TO LIVE, AND THE RIGHT TO A SECURE PLACE TO LIVE ONLY HAS MEANING IN THE CONTEXT OF A RIGHT TO LIVE IN DIGNITY AND SECURITY, FREE OF VIOLENCE.’

1. Human rights

The Scottish Government should incorporate all elements of the right to adequate housing within Scots law. It should ensure that a gender analysis is included in that process and particularly for defining security, peace and dignity in the home.

2. Homelessness prevention duty

The Scottish Government, in developing a homelessness prevention duty for domestic abuse, should:

- ▶ Include a range of public sector partners. Housing services cannot prevent domestic abuse-related homelessness without support from health, social services, education, police and the wider public sector. All are involved in identifying and referring those at risk of domestic abuse and homelessness. Women experiencing domestic abuse are most likely to come into contact with school staff, health visitors, housing officers and maintenance staff, sexual health services, midwives and GPs
- ▶ Ensure the centrality of women’s rights to make an informed and supported choice about their various housing options, and access to specialist domestic abuse support and legal advocacy
- ▶ Require social landlords to develop and implement domestic abuse housing policies based on CIH/SWA 2019 guidance⁵
- ▶ Place the CIH/SWA 2019 guidance on a statutory footing to ensure that social landlords prioritise domestic abuse within an equality and human rights-based framework

⁵ Domestic abuse: a good practice guide for social landlords. (2019). Available at: <https://womensaid.scot/wp-content/uploads/2019/08/Domestic-abuse-guidance-for-social-landlords-FINAL.pdf>



Making women's homelessness visible: developing a gendered response to domestic abuse and homelessness

1. Gender analysis

The Scottish Government should develop a plan and timetable to implement the action in the Ending Homelessness Together action plan to 'carry out and embed a gendered analysis to actions, ensuring the homelessness system meets the needs of diverse groups of women'.⁶

2. Equality Impact Assessments

In order to apply a gender analysis to its policies, and ensure the homelessness system meets the needs of diverse groups of women, the Homelessness Prevention and Strategy Group's RRTP subgroup should:

- ▶ Review guidance for RRTPs to ensure it reflects a gender analysis
- ▶ Develop an improvement plan for national and local EQIAs of housing strategy and policy

To support the capacity of councils to undertake such analysis, the Scottish Government should invest the necessary resource to embed gender analysis within national and local homelessness policy teams and respective EQIAs.

3. Homelessness data collection

The review of homelessness data collection should describe domestic abuse as 'coercive control' and not 'dispute within a household' to properly reflect the causes of women's homelessness.

The Scottish Government should consult with equalities organisations as part of this review.

The forthcoming guidance from the Scottish Federation of Housing Associations (SFHA) to support social landlords to meet the new requirement in the Scottish Housing Regulatory Framework for equalities data collection, should include a section on gender equality and domestic abuse. To develop this aspect, the SFHA should involve victim-survivors and draw on the expertise of stakeholders such as SWA.

4. Housing First

A Housing First pathway should be developed within RRTPs for women experiencing domestic abuse. This should be in collaboration with VAWG partnerships and specialist support services such as Women's Aid and Rape Crisis. It should integrate the principles of Equally Safe and the Safe & Together Model.

There should be Housing First guidance and training on gender-responsive, trauma-informed and person-centred practice.

In order to ensure that Housing First can support victim-survivors of domestic abuse, local authorities and RRTP partners need to work with equalities and VAW organisations to improve understanding of, and the response to, the causes of women's homelessness and provide the resource required to meet the needs of victim-survivors.

⁶ Ending Homelessness Together action plan: <https://www.gov.scot/publications/ending-homelessness-together-updated-action-plan-october-2020/>

5. Regulation

While recognising the limits within the existing scope of the Social Housing Charter and social housing and domestic abuse law, the Scottish Housing Regulator (SHR) should conduct a thematic review of social landlords' response to domestic abuse and to preventing women's and children's homelessness, and be resourced to undertake such a review.

The SHR should also cooperate with other relevant regulators such as the Scottish Human Rights Commission and the Equality and Human Rights Commission on assessing social landlords' compliance with equalities legislation relating to victim-survivors of domestic abuse.

This includes:

- ▶ Recommendations to social landlords to use the equalities and human rights toolkit being developed by SFHA in order to conduct effective EQIAs
- ▶ Guidance for social landlords on how to consider EQIAs in detail as part of their annual Assurance Statements
- ▶ Making recommendations and requirements if EQIAs have not been used effectively to support victim-survivors

Social landlords should fully consider victim-survivors of domestic abuse within their annual Assurance Statements. The SHR should issue guidance to social landlords which sets out requirements to demonstrate how they have improved housing outcomes for each of the protected characteristics under the Equality Act 2010 in their annual Assurance Statements, and make it clear that any non-specific and under-referenced claims will initiate a request for evidence.

Strengthening the role of social landlords in responding to domestic abuse

1. Rapid Rehousing Transition Plans

The next iteration of RRTPs should include a gender analysis of homelessness, including specific measures to prevent women's and children's homelessness as a result of domestic abuse.

Recognising the voluntary nature of RRTPs, new guidance should be commissioned by the Homelessness Prevention and Strategy Group's RRTP subgroup. This should be updated to:

- ▶ Reinforce requirements to mainstream equalities in local authority planning processes
- ▶ Reflect the differential circumstances and needs of women and men in housing and homelessness
- ▶ Show how plans meet these differential needs
- ▶ Show the benefits of doing so to customers and overall spend



While the Equality and Human Rights Commission is the regulator of local authority action in response to the Public Sector Equality Duty, the Scottish Government is required to conduct an EQIA of the funding allocation it makes in response to RRTPs. The EQIA should use local authority EQIAs submitted with their RRTPs as an information source. The Scottish Government should publish this EQIA.

When awarding future funding for RRTPs the Scottish Government should require inclusion of an effective response to domestic abuse and an associated EQIA. This will ensure that social landlords consider equalities, including gender, when developing housing and homelessness policies, and also signal that the Scottish Government is taking a lead and prioritising this.

2. Homelessness code of guidance

The next review of the homelessness code of guidance should consider how it can incorporate the CIH/SWA 2019 guidance for social landlords and ensure that statutory duties are developed for local authorities. This should reflect the fact that:

- ▶ Domestic abuse is the major cause of homelessness for women
- ▶ All social landlords must develop protocols and policies so that victim-survivors have a range of options
- ▶ The victim-survivor's choice informs a landlord's response

The guidance should include how and why all social landlords should mainstream equalities within policy development.

3. National fund

The Scottish Government should integrate Equally Safe within Scotland's homelessness and housing strategy, and require social landlords to prevent and respond to domestic abuse.

To support this, the Scottish Government should provide national funding to support social landlords to make the required changes. The Scottish Government has already allocated £50m of support as part of its Ending Homelessness Together action plan. We suggest some of the money not yet allocated is used for a national domestic abuse and social housing innovation fund. This would enable social landlords to develop effective domestic abuse strategies, based on the CIH/SWA 2019 guidance.

4. Social Housing Charter

The next review of the Social Housing Charter is likely to take place in 2021/22. This review should use an equalities and human rights perspective and set new outcomes for social landlords. It should support victim-survivors' rights to choose where they live, and align with the SHR's approach to equalities and human rights. The charter should draw on the CIH/SWA 2019 guidance to support social landlords to achieve positive housing outcomes for victim-survivors.

5. Housing Options

The Housing Options toolkit should inform practitioners' knowledge and understanding of the causes and consequences of women's homelessness.

Practitioners should understand structural gender inequality; the intersectional experiences of women; and barriers and access to resources and safety.

The section on domestic abuse should be based on a gender analysis and should reflect Equally Safe and the CIH/SWA 2019 guidance for social landlords, and include:

- ▶ Preventing homelessness for women and children experiencing domestic abuse
- ▶ Supporting women to remain in the home they are in
- ▶ Managed transfers
- ▶ Rehousing the perpetrator
- ▶ Additional security measures
- ▶ Partnership working
- ▶ Consideration of practicalities such as flexibility on arrears, providing furniture/white goods, specialist support, access to legal advocacy, assistance for maximising income

6. Involvement of service users

Social landlords should be required to consult with victim-survivors and service user groups to ensure that policies and services are relevant.

7. Training

A national training resource on domestic abuse and housing should be developed. This can be drawn from organisations such as SWA and Shelter Scotland and adapted to suit all social landlords.

All social landlords should be required to ensure that staff are trained to understand the dynamics of domestic abuse and receive housing-related domestic abuse training.

8. Access to expert legal advice

Social landlords should establish referral systems with law centres and lawyers with expertise in family law and domestic abuse in order to help victim-survivors get the legal advice and assistance they need to make informed decisions.

This should include referral to suitably qualified immigration specialists if someone's status may be a barrier to refuge or other support because of no recourse to public funds (NRPF) or if victim-survivors are concerned about the impact on their status if they leave an abusive partner.



Protecting women's and children's rights to remain in their home

1. Guidance

The Scottish Government should provide guidance for social landlords for implementing the Domestic Abuse (Protection) (Scotland) Bill. It should develop the guidance in partnership with stakeholders.

2. Scottish secure tenancy agreement

The Scottish Government should revise the model agreement for Scottish secure tenancies to reflect the provisions in the Bill for social landlords to raise proceedings in court to end the tenancy rights of someone who has abused their partner or ex-partner.

3. Training and resources

The Scottish Government should develop a programme of specific training in partnership with stakeholders to be delivered to social landlords in order to develop their knowledge, competence and confidence in implementing the Bill's provisions and to reduce service-generated risk.

4. Legal advice

The Scottish Government should ensure that women and children who experience domestic abuse are able to easily access free domestic abuse-competent legal advice and representation.

5. Rent arrears

The Housing (Scotland) Act 2001 and 2010 statutory repossession guidance for social landlords should include a new pre-action requirement for social landlords to ensure that they have fully considered domestic abuse before commencing legal action to recover possession of a property.

A similar requirement could be placed on the court to be satisfied that social landlords have fulfilled this pre-action requirement.

Guidance should specify what constitutes full consideration of domestic abuse and the actions required by a social landlord to investigate, and to respond to and support victim-survivors of domestic abuse.

Providing housing that meets women's and children's needs

1. Refuges

The Scottish Government should review specialist refuge provision and develop this to meet international standards for the number of spaces, distribution and suitability. This includes specific provision for BME women and women with NRPF.

This would remove the need for the Unsuitable Accommodation Order exemption and acceptance of substandard accommodation for women and children who have experienced domestic abuse.

This review should include an assessment of a programme of sustainable funding for refuge support services for women and children.

2. Temporary accommodation

Local authorities and partners should review their provision of temporary accommodation to provide suitable single-sex temporary accommodation for women.

All staff working in homeless services and relevant support services should receive specialist training on domestic abuse and other forms of VAWG.

Temporary accommodation standards should be based on gender analysis; reflect the needs of diverse groups of women; and respond to women's experience of GBV. The working group developing these standards should include representatives of women's and children's rights organisations.

3. Unsuitable Accommodation Order

The Scottish Government should provide additional funding for local authorities to provide enough high quality temporary accommodation and support services to meet the needs of women and children.

Women's and children's rights organisations should contribute to new guidance so that women and children do not face additional barriers to safe and suitable housing. When published, the statutory guidance from COSLA and the Scottish Government should make it clear that shared tenancies, community hosting and rapid access accommodation are never suitable accommodation options for women who have experienced domestic abuse.

4. Permanent housing

At least 53,000 new social and affordable homes are vital for landlords to have sufficient housing stock to ensure victim-survivors have a safe, affordable home. The Scottish Government should urgently review affordable housing subsidy rates to ensure that high quality, accessible homes can be provided without passing on the costs to existing tenants.



5. Social security

The Scottish Government should strongly pursue its commitment to introducing split payments of the Universal Credit award in Scotland to ensure everyone has access to an independent income.

6. Financial support for women experiencing domestic abuse

The Scottish Government should explore options for a dedicated support fund, or entitlements with clear guidance and capable of delivering short-term recurring payments, to support women leaving an abusive partner. This should include essential crisis costs to enable a woman to leave and to bridge the gap between leaving and the first Universal Credit payment.

Protecting all women's rights: domestic abuse, homelessness and no recourse to public funds

1. Human rights-based accommodation pathways

Human rights-based accommodation pathways should be developed and implemented for victim-survivors with NRPF and EEA nationals. This recommendation has now been included within the updated Ending Homelessness Together action plan. A working group is developing more detailed recommendations for these pathways.

Implementing the recommendations

We recommend that the Scottish Government convenes an independent monitoring group to develop a plan to implement and review progress of the recommendations set out in this report. This group should be independently chaired, with secretariat support from the Scottish Government. Members of the group should be representative of the domestic abuse, housing, homelessness, equalities and legal sectors in Scotland. The group should be convened once the Scottish Government has formally responded to this report.

Preventing homelessness for women and children experiencing domestic abuse: a human rights approach

‘DOMESTIC ABUSE VIOLATES WOMEN’S HUMAN RIGHTS UNDER INTERNATIONAL LAW.

WOMEN’S RIGHTS ARE UNDERMINED WHEN HOMELESS POLICY AND SERVICE RESPONSES FAIL TO PREVENT HOMELESSNESS, AND EXPECT WOMEN AND CHILDREN TO LEAVE THEIR HOME.’

UNITED NATIONS

1. THE ISSUE

Overview

Domestic abuse violates women’s human rights under international law. This includes the right not to be treated in an inhuman and degrading way; the right to respect for private and family life (including the right to physical and psychological integrity); and the right to life. Human rights are further denied if public services do not respond to domestic abuse; if laws do not protect women from it; and if policies do not prevent it.

Women’s rights are undermined when homeless policy and service responses fail to prevent homelessness, and expect women and children to leave their home.

Ahead of leaving the EU, the Scottish Government has considered what is needed to embed social, cultural and economic rights, including the right to adequate housing, in the Scottish legal system.⁷

The Scottish Government established the National Taskforce for Human Rights Leadership, which aims to develop a statutory framework for human rights in order to bring human rights into domestic law, including the right to adequate housing.⁸ This sits alongside a parallel process to incorporate the UN Convention on the Rights of the Child (UNCRC) in this parliamentary term. The UNCRC upholds the best interests of children; helps them to be safe and secure at home; and recognises the impact of domestic abuse on other rights, in particular the right to life and the right to be protected from violence and abuse while in the care of parents.

⁷ <https://www.gov.scot/news/new-national-taskforce-to-lead-on-human-rights-in-scotland/#:~:text=Shirley%20Anne%20Somerville%2C%20Cabinet%20Secretary,putting%20human%20rights%20into%20practice>

⁸ <https://www.gov.scot/groups/national-taskforce-for-human-rights-leadership/>



The Scottish Government has accepted recommendations to incorporate the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). CEDAW is the UN's human rights treaty detailing women's human right to equality and non-discrimination.

These conventions are mutually reinforcing. There is a critical relationship between women's and children's human rights. In the context of domestic abuse and other forms of violence against women (VAW), ensuring that women are safe supports children's safety.

2. THE ANALYSIS

Context

To date, the human rights of women and children experiencing domestic abuse, particularly rights to a private and family life, have taken second place to those of perpetrators. This is evidenced by the high incidence of women and children's homelessness because of domestic abuse, and the loss of their right to remain in the family home.

Domestic abuse remains the main cause of women's homelessness in Scotland. 'For female main applicants, the most common reason for making a homelessness application is a violent or abusive dispute within the household – 22% compared to 5% of applications from male main applicants.'⁹

Despite the prevalence of domestic abuse-related homelessness, few social landlords have policies which might prevent or respond to this.

In June 2018 CIH launched its Make a Stand campaign.¹⁰ This two-year campaign centred on tackling domestic abuse. It contained a pledge for social housing providers to sign to show their commitment to ending domestic abuse. In August 2019 CIH Scotland, the Association of Local Authority Chief Housing Officers (ALACHO), the Scottish Federation of Housing Associations (SFHA), Shelter Scotland and SWA published good practice guidance for social landlords on responding to domestic abuse (CIH/SWA 2019 guidance).¹¹ This guidance provides an equality and human rights-based framework that puts victim-survivors' needs, choice and control at the forefront. Despite stated support from social landlords and encouragement from the Scottish Government, progress has been limited and victim-survivors across Scotland continue to receive an inconsistent response that fails to meet their needs.

⁹ <https://www.gov.scot/publications/homelessness-scotland-2018-19-equalities-breakdowns/>

¹⁰ <https://www.cih.org/policy/make-a-stand>

¹¹ Domestic abuse: a good practice guide for social landlords. (2019). Available at: <https://womensaid.scot/wp-content/uploads/2019/08/Domestic-abuse-guidance-for-social-landlords-FINAL.pdf>

The Domestic Abuse Protection (Scotland) Bill

Currently going through parliament, the Domestic Abuse Protection (Scotland) Bill closes a gap in protection for women and children. It places conditions on domestic abuse perpetrators, including removing suspected perpetrators from households and prohibiting them from contacting or abusing the person at risk while a protective order is in place. It provides the space and support for women to consider their future options. Providing integrated support and protection measures will meet the requirements and obligations of the Council of Europe Convention on combating violence against women and domestic violence.¹²

Following recommendations from this working group, the Bill also creates a ground on which a social landlord can apply to the court to end the tenancy of the perpetrator with a view to transferring it to the victim-survivor of domestic abuse, or end the perpetrator's interest in the tenancy if the perpetrator and victim are joint tenants, and enable the victim to remain in the family home.

Right to adequate housing

Scotland is considering how it will incorporate human rights laws into domestic legislation. This will have a bearing on the housing rights of victim-survivors of domestic abuse, and any prevention duties. Ahead of this, the next review and update of the Social Housing Charter due in 2021/22 provides the opportunity to strengthen the housing rights of victim-survivors and to place human rights at the centre of social housing.

Housing standards and women's economic inequality are linked.¹³ The UN special rapporteur notes: 'gender as a social construct fundamentally impacts the ways in which women and men experience their housing situations, and that in order for women to enjoy adequate housing on the basis of equality their needs must be understood and made visible within the framework of the right to adequate housing.'¹⁴

The United Nations Committee on Economic, Social and Cultural Rights has emphasised that the right to adequate housing should not be interpreted narrowly. Rather the right to housing should be seen as the right to live somewhere in security, peace and dignity.¹⁵

Developing a gendered understanding, and defining what security, peace and dignity in the home means, will be critical to incorporating this right for women. A new legal framework for housing rights should ensure that every victim-survivor of domestic abuse, regardless of tenure or circumstance, lives in a good quality home that meets their needs. Homes must be affordable: taking account of women's circumstances: precarious employment, low pay, low pensions, occupational segregation, inflexible working, child and other caring responsibilities, dependence on social security, and the gender pay gap.

¹² Council of Europe Convention on preventing and combating violence against women and domestic violence: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210>

¹³ Engender. (February 2020). A woman's place: gender, housing and homelessness in Scotland. Available at: <https://www.engender.org.uk/content/publications/A-WOMANS-PLACE---GENDER-HOUSING-AND-HOMELESSNESS-IN-SCOTLAND.pdf>

¹⁴ UN General Assembly. (2011). Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context. Available at: https://www.ohchr.org/documents/issues/housing/A-HRC-19-53_en.pdf

¹⁵ United Nations. (2014). The right to adequate housing. Fact sheet no 21. Available at: https://www.ohchr.org/documents/publications/fs21_rev_1_housing_en.pdf



Homelessness prevention duty

Following the recommendation in the Homelessness and rough sleeping action group (HARSAG) report in 2018,¹⁶ the Scottish Government is exploring how a prevention duty could be placed on the public sector in order to prevent homelessness. This is in addition to existing duties on local authorities to offer advice, assistance and temporary accommodation to all homeless households and those at risk of homelessness. As outlined in the CIH/SWA 2019 guidance,¹⁷ preventing domestic abuse and homelessness requires a collaborative approach.

Incorporating human rights within domestic legislation and introducing new legislation in the form of a homelessness prevention duty will take some time. It will involve consulting with the public and voluntary sectors, and considering whether these two legislative approaches will work together in practice.

While we incorporate a human rights approach to housing in law, we need other urgent measures to prevent women and children's homelessness. These include ensuring women's and children's rights to:

- ▶ Remain in the home are protected, realised and supported
- ▶ Choice and control in deciding their housing options
- ▶ Support, advocacy and legal advice in order to have protection, housing, specialist support and a social security safety net
- ▶ Safe refuge, suitable temporary accommodation and permanent housing that meets their needs

These rights should be available to all women, regardless of their immigration status.

3. THE RECOMMENDATIONS

Recommendations

1. Human rights

The Scottish Government should incorporate all elements of the right to adequate housing within Scots law. It should ensure that a gender analysis is included in that process and particularly for defining security, peace and dignity in the home.

¹⁶ HARSAG. (2018). Ending homelessness. The report on the final recommendations of the Homelessness and Rough Sleeping Action Group. Available at: <https://www.gov.scot/binaries/content/documents/govscot/publications/factsheet/2018/06/homelessness-and-rough-sleeping-action-group-final-report/documents/hrsag-final-report-june-2018-pdf/hrsag-final-report-june-2018-pdf/govscot%3Adocument/HRSAG%2BFinal%2BReport%2BJune%2B2018.pdf>

¹⁷ Domestic abuse: a good practice guide for social landlords. (2019). Available at: <https://womensaid.scot/wp-content/uploads/2019/08/Domestic-abuse-guidance-for-social-landlords-FINAL.pdf>

2. Homelessness prevention duty

The Scottish Government, in developing a homelessness prevention duty for domestic abuse, should:

- ▶ Include a range of public sector partners. Housing services cannot prevent domestic abuse-related homelessness without support from health, social services, education, police and the wider public sector. All are involved in identifying and referring those at risk of domestic abuse and homelessness. Women experiencing domestic abuse are most likely to come into contact with school staff, health visitors, housing officers and maintenance staff, sexual health services, midwives and GPs
- ▶ Ensure the centrality of women's rights to make an informed and supported choice about their various housing options, and to access to specialist domestic abuse support and legal advocacy
- ▶ Require social landlords to develop and implement domestic abuse housing policies based on the CIH/SWA 2019 guidance
- ▶ Place the CIH/SWA 2019 guidance on a statutory footing to ensure that social landlords prioritise domestic abuse within an equality and human rights-based framework



Making women's homelessness visible: a gendered response to domestic abuse and homelessness

WOMEN'S AND MEN'S INTERACTIONS WITH HOUSING AND HOMELESSNESS SERVICES ARE DIFFERENT, AND THESE DIFFERENCES ARE UNACKNOWLEDGED AND UNEXPLORED.

1. THE ISSUE

Overview

Women's and men's interactions with housing and homelessness services are different, and these differences are unacknowledged and unexplored.¹⁸

Women's access to and ability to retain housing; their risk of homelessness; and routes in and out of it are affected by domestic abuse, economic instability, caring responsibilities and so on.

Domestic abuse and other forms of VAW prevent women from living in safe and adequate housing. Women's experiences of domestic abuse and homelessness are distinct from men's. Research by SWA found that the lack of 'gendered' national and local policy and practice responses to domestic abuse-related homelessness means that the inequalities experienced by women are repeated and reinforced.¹⁹

Significant recent initiatives to prevent homelessness and end rough sleeping include:

- ▶ Homelessness and rough sleeping action group (HARSAG)
- ▶ Scottish Government/COSLA Ending Homelessness Together action plan
- ▶ Housing First Pathfinders

¹⁸ For a detailed analysis of the key issues for women's equality across housing and homelessness see Engender. (February 2020). A woman's place: gender, housing and homelessness in Scotland. Available at: <https://www.engender.org.uk/content/publications/A-WOMANS-PLACE---GENDER-HOUSING-AND-HOMELESSNESS-IN-SCOTLAND.pdf>

¹⁹ Scottish Women's Aid. (2015). Change, Justice, Fairness: why should we have to move everywhere and everything because of him? Available at: <https://womensaid.scot/wp-content/uploads/2017/07/Change-Justice-Fairness.pdf>



However, within these and other initiatives, the specific nature of women's homelessness has not been sufficiently considered and, therefore, interventions have not been adequately specified or targeted.

Under Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls,²⁰ preventing VAWG should be included in other relevant policy areas: homelessness is one such.

Additional vulnerabilities increase the risk and the nature of VAWG. These are equalities issues which are protected characteristics under the Equality Act 2010. For example:

- ▶ Lesbian, bisexual and transgender women and girls experience abuse on the basis of sexual orientation, gender identity or both
- ▶ Cultural practices in some BME communities are forms of VAW, such as female genital mutilation and forced marriage
- ▶ Disabled women and girls are vulnerable to exploitation and coercion
- ▶ Older women may have to care for, or be cared for by, an abusive partner²¹

The Ending Homelessness Together Annual Report includes a commitment to 'apply a gendered analysis to actions, ensuring the homelessness system meets the needs of diverse groups of women'.²² While welcome, this commitment requires significant time, expertise and resources to mainstream gender equality within policy.

A targeted response from social landlords which acknowledges the gendered nature of homelessness and domestic abuse, and women's other protected characteristics, would significantly improve housing outcomes for women and children experiencing domestic abuse.

2. THE ANALYSIS

Policy approach

Since devolution, Scotland has prioritised ending homelessness and rough sleeping through policy, guidance and legislation. The Scottish Government has passed ten housing and homelessness laws over the last 21 years, with separate strategies and guidance.

The following acknowledge domestic abuse as a cause of women's homelessness:

- ▶ The Prevention of Homelessness Guidance (2009) emphasises the need for local multi-agency joint action to meet the needs of those affected by domestic abuse and homelessness
- ▶ The Housing (Scotland) Act 2010 requires local authorities to provide housing support to homeless households, with triggers for housing support including risk from domestic abuse

²⁰ <https://www.gov.scot/publications/equally-safe-scotlands-strategy-prevent-eradicate-violence-against-women-girls/>

²¹ Ibid.

²² Scottish Government. (January 2020). Ending homelessness action plan: annual report. Available at: <https://www.gov.scot/publications/ending-homelessness-together-action-plan-annual-report-parliament/>

- ▶ The 2018 and 2020²³ Ending Homelessness Together Action Plans both include preventing homelessness for women and children experiencing domestic abuse with the 2018 plan stating: 'We will seek to adopt housing advice, Housing Options and housing management actions to avoid homelessness for families in this situation'²⁴

However, the gendered nature of homelessness is largely overlooked in other policies and studies. For example:

- ▶ The 2018 Scottish Parliament local government and communities committee enquiry into homelessness failed to consider the difference in homelessness between men and women or to recommend how to prevent women's homelessness
- ▶ Guidance for the development of rapid rehousing transition plans (RRTPs) does not discuss the gendered nature of homelessness
- ▶ A 2020 report by Crisis report notes the patchy adoption of domestic abuse policies within local RRTPs²⁵

Hidden homelessness

The extent of women's and children's homelessness because of domestic abuse is unknown. The official homeless statistics are likely to significantly underestimate the scale of the problem, as women may not disclose that they are experiencing domestic abuse when making a homeless application.²⁶

Women who experience domestic abuse often find homeless accommodation and the response from housing services unsafe and unsuitable. This means that they move between family and friends or return to an abusive partner.²⁷ Such hidden homelessness, which includes all those who would prefer to or expect to live separately and are living in insecure, unstable situations, is not captured by standard homelessness data nor used to inform policy. A 2019 report into the scale of hidden homelessness in Scotland estimates that nearly 10% of households (236,000) contain hidden homelessness and individuals who would prefer, or expect, to live separately.²⁸ Research from the University of York in 2018 concluded that, when the definition of homelessness is broader and incorporates hidden homelessness, women are much more evident in homeless figures.²⁹

²³ Scottish Government. (2020). Ending homelessness and rough sleeping: action plan. Available at: <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2018/11/ending-homelessness-together-high-level-action-plan/documents/00543359-pdf/00543359-pdf/govscot%3Adocument/00543359.pdf>

²⁴ Scottish Government. (2018). Ending homelessness and rough sleeping: action plan. Available at: <https://www.gov.scot/publications/ending-homelessness-together-high-level-action-plan/>

²⁵ Crisis. (2020). Rapid Rehousing Transition Plans: Scottish overview. Available at: https://www.crisis.org.uk/media/241640/crisis_rapid-rehousing-report_web_spreads_v2.pdf

²⁶ Netto, G., Pawson, H. and Sharp, C. (2009). 'Preventing homelessness due to domestic violence: providing a safe space or closing the door to new possibilities?'. *Social Policy & Administration*, 43: 719–735.

²⁷ Scottish Women's Aid. (2015). Change, Justice, Fairness: why should we have to move everywhere and everything because of him? Available at: <https://womensaid.scot/wp-content/uploads/2017/07/Change-Justice-Fairness.pdf>

²⁸ Crisis. (2019). The Homelessness Monitor: Scotland 2019. Available at: <https://www.crisis.org.uk/ending-homelessness/homelessness-knowledge-hub/homelessness-monitor/scotland/the-homelessness-monitor-scotland-2019/>

²⁹ Bretherton, J. and Pleace, N. (2018). Women and rough sleeping. University of York. Available at: <https://www.mungos.org/app/uploads/2018/10/Women-and-Rough-Sleeping-Report-2018.pdf>



The legal definition of homelessness in Scotland recognises homelessness to mean that it is unreasonable to continue to live in your home if you are at risk of abuse from a partner or ex-partner.

Rights to life and housing

The coronavirus pandemic has highlighted a ‘shadow pandemic’ of VAW with the UN reporting that, ‘since the outbreak of Covid-19, emerging data and reports have shown that all types of violence against women and girls, particularly domestic violence, has intensified’.³⁰

Lockdown measures have emphasised the entrapment of women and children who live with a domestic abuse perpetrator. Lockdown enabled perpetrators to enforce control, and also highlighted that, even in normal circumstances, many women and children do not feel safe or secure at home. They are, to all intents, homeless but housed. The UN has emphasised that the ‘Right to life and right to housing are interconnected and indivisible’. The special rapporteur states:

‘The right to life does not actually belong to one or the other category of human rights. Lived experience illustrates that the right to life cannot be separated from the right to a secure place to live, and the right to a secure place to live only has meaning in the context of a right to live in dignity and security, free of violence.’³¹

Taking a human rights-based approach to preventing homelessness is critical to how women’s homelessness is understood and defined. Applying an interconnected human rights analysis creates opportunities for an integrated strategic response that addresses the complexities of women’s and children’s lives.

Women’s economic inequality

Women’s disadvantaged position in the labour market, including part-time, insecure and/or low-paid employment and unpaid care work, has a direct impact on their housing.³²

Domestic abuse is a major cause of lone parenthood in women. Households made up of single women or lone mothers are overrepresented in poor housing circumstances, with almost half of single mothers in the UK falling below the poverty threshold after housing costs.³³ Women’s caring responsibilities, interrupted employment patterns, lower incomes and lower pay make them more reliant on social security.³⁴ Nearly 63% of adults in households claiming housing benefit are women, reflecting women’s lower incomes.³⁵

³⁰ <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19>

³¹ UN General Assembly. (2016). Adequate housing as a component of the right to an adequate standard of living. Available at: <http://www.unhousingrapp.org/user/pages/04.resources/Thematic-Report-4-The-Right-to-Life-and-the-Right-to-Housing.pdf>

³² Engender. (February 2020). A woman’s place: gender, housing and homelessness in Scotland. Available at: <https://www.engender.org.uk/content/publications/A-WOMANS-PLACE---GENDER-HOUSING-AND-HOMELESSNESS-IN-SCOTLAND.pdf>

³³ Sara Reis. (2019). A home of her own: housing and women. UK Women’s Budget Group. Available at: <https://wbg.org.uk/wp-content/uploads/2019/07/WBG19-Housing-Report-full-digital.pdf>

³⁴ Howard, M. (2019). Benefits or barriers? Making social security work for survivors of violence and abuse across the UK’s four nations. Women’s Budget Group. Available at: <https://wbg.org.uk/wp-content/uploads/2019/06/Benefits-or-barriers-4-nations-report.pdf>

³⁵ Tunstall, B. (2017). Housing and gender: briefing from the Women’s Budget Group. Available at: <https://wbg.org.uk/wp-content/uploads/2017/11/housing-pre-budget-nov-2017-final.pdf>

Since 2010, changes to the benefits system have had a profound impact on women. These include the benefit cap, which particularly affects single parents, (92% women); the two-child limit; freezing of child benefit; and the single household payment of Universal Credit (UC). As a result of these changes, women have been put at greater risk of deeper and sustained poverty. As one example of this, female lone parents (92% of lone parents) are most affected overall, with an estimated £4,000 annual average loss in 2020, a huge 17% cut as a proportion of their disposable income.³⁶ From 2010 to 2013, the gap in poverty rates between lone mothers and other single working-age adults narrowed, but in recent years it has widened again. Between 2015 and 2018, the relative poverty rate was higher for lone mothers (39%, 60,000 lone mothers each year) than for other single working-age adults. The poverty rate for single working-age women without dependent children was 28% (130,000 women), and for single working-age men it was 26% (150,000 men).³⁷ The UN rapporteur on extreme poverty and human rights reported that these changes have perpetuated the gendered aspects of poverty, taking a greater toll on women than men.³⁸

A 2018 report by the Child Poverty Action Group's Early Warning System highlights how the social security system is failing women who have experienced domestic abuse. Changes in the social security system and the way the system is administered mean women are not guaranteed to have the financial means to survive. This can also jeopardise their having a safe place to go and can result in women returning to an abusive partner.³⁹

Homelessness data

The methodology for collecting data on homelessness has not been updated since the legal definition of domestic abuse was expanded to include coercive control (2018). Currently, homelessness staff select from the following options:⁴⁰

- ▶ Dispute within household: violent or abusive
- ▶ Dispute within household/relationship breakdown: non-violent
- ▶ Fleeing non-domestic violence
- ▶ Harassment
- ▶ Overcrowding
- ▶ Asked to leave
- ▶ Other reason for leaving accommodation/household

³⁶ Women's Budget Group. (2016). A cumulative gender impact assessment of ten years of austerity policies. https://wbg.org.uk/wp-content/uploads/2016/03/De_HenauReed_WBG_GIAtaxben_briefing_2016_03_06.pdf

³⁷ Poverty and inequality in Scotland 2015-2018: <https://www.gov.scot/publications/poverty-income-inequality-scotland-2015-18/pages/7/>

³⁸ UN General Assembly. (2019). Visit to the United Kingdom of Great Britain and Northern Ireland: Report of the Special Rapporteur on extreme poverty and human rights. UN Human Rights Council. Available at: <https://undocs.org/A/HRC/41/39/Add.1>

³⁹ Social security and domestic abuse: <https://cpag.org.uk/welfare-rights/resources/article/social-security-and-domestic-abuse>

⁴⁰ HL1 user information: <https://www.gov.scot/publications/hl1-user-information/>



A housing officer might interpret coercive control as ‘dispute within household: violent or abusive’ or ‘non-violent relationship breakdown’ or ‘harassment’ or ‘other reason for leaving accommodation’. This means that the resulting data is unclear.

The planned Scottish Government review of homelessness data collection should:

- ▶ Reflect the definition of domestic abuse as coercive control
- ▶ Ensure that data collection and analysis take account of the differential aspects of women’s homelessness as part of a wider equalities-competent strategy to gather and analyse data

Equality impact assessment

EQIAs are not being used effectively to advance equality when new homelessness policies are being developed. Not all local authorities are taking the required measures to address women’s homelessness.

A report from the Equality and Human Rights Commission (EHRC) in 2018 reviewed the impact of the Public Sector Equality Duty (PSED) (under the Equality Act 2010) and concluded that there had been limited evidence of improved outcomes between 2013 and 2017 for people with protected characteristics.⁴¹

However, presence of a EQIA does not in itself lead to a policy change. EQIAs must be applied as a policy is developed and not retrospectively.

Housing First

Despite the national focus on homelessness, the causes and consequences of women’s homelessness have mostly been overlooked, including with Housing First.

Those benefiting from the current Housing First Pathfinder are more likely to be male, (69% male, 30% female, 1% transgender), White Scottish (90+%) and aged 26 to 49. While recognising the genuine need among this cohort, a gendered approach to Housing First is necessary to ensure that women with multiple and complex needs, including those overlooked as hidden homeless, receive suitable gender-specific support. An evaluation of the Housing First pilot for women with an offending history, found that domestic abuse was a near universal experience for women taking part:⁴²

‘Among single women with high and complex needs who experience homelessness, there is strong evidence that experience of domestic abuse or gender-based violence is extremely high, both in the sense of the factors directly associated with causing their homelessness and in their experience of abuse and violence through their lives. Women’s homelessness cannot be assumed to simply replicate male experience. The routes women take into and through homelessness, their needs, their characteristics and their experiences are not the same as for men.’

⁴¹ EHRC. (2018). Effectiveness of the PSED specific duties in Scotland. Available at: <https://www.equalityhumanrights.com/sites/default/files/effectiveness-of-psed-specific-duties-scotland.pdf>

⁴² Quilgars, D. and Pleace, N. (2017). The Threshold Housing First pilot for women with an offending history. The first two years: final report. University of York. Available at: [https://www.york.ac.uk/media/chp/documents/Threshold%20Housing%20First%20Evaluation%20Report%20-%20FINAL%20\(14-3-18\).pdf](https://www.york.ac.uk/media/chp/documents/Threshold%20Housing%20First%20Evaluation%20Report%20-%20FINAL%20(14-3-18).pdf)

In order to ensure that Housing First can support victim-survivors of domestic abuse as it is rolled out nationally, all local authorities and RRTP partners need to work with equalities and VAW organisations to improve understanding of, and the response to, women's homelessness. This includes providing the resource required to meet the needs of women and children affected by domestic abuse.

Scottish Housing Regulator

The Scottish Housing Regulator (SHR) assesses social landlords' compliance with equalities legislation. The regulatory framework published in April 2019 emphasised equalities and human rights, requiring a social landlord to:

- ▶ Have assurance and evidence that it considers equality and human rights issues properly when making all its decisions, in the design and review of internal and external policies, and in its day-to-day service delivery
- ▶ Collect data relating to each of the protected characteristics for existing tenants, new tenants, people on waiting lists, governing body members and staff. Local authorities must also collect data on protected characteristics for people who apply to them as homeless. Social landlords who provide gypsy/traveller sites must collect data on protected characteristics for these service users⁴³

Assessment of social landlords' compliance with the requirements on equalities and human rights, due to start in April 2021, is delayed until October 2021 because of Covid-19. Assessment of compliance is through an annual self-assurance statement. The SHR may ask for more information about how a social landlord has self-assured or seek verification of their statement.

However, the SHR does not assess nor report on social landlords' response to domestic abuse specifically. The Social Housing Charter, updated in 2017 and to be next updated in 2022, does not explicitly mention domestic abuse nor the gendered nature of homelessness and so does not provide an indicator. However, the SHR can conduct a thematic inquiry if they choose and make objective recommendations on good practice for the sector. For example, in 2018 the SHR reported on social landlords' response to gypsy/travellers, noting which were meeting Scottish Government standards, and requiring compliance on others.⁴⁴

The SFHA is developing a toolkit on equalities and human rights to help social landlords meet new requirements on equalities and human rights. The timetable for this, and whether there will be a specific focus on gender equality and domestic abuse, are not known.

⁴³ Scottish Housing Regulator, regulatory framework section 3: <https://www.housingregulator.gov.scot/for-landlords/regulatory-framework#section-3>

⁴⁴ Scottish Housing Regulator. (2018). Improving Gypsy/Travellers' sites: landlords' compliance with minimum site standards. Available at: <https://www.housingregulator.gov.scot/media/1094/thematic-improving-gypsy-travellers-sites-october-2018.pdf>



3. THE RECOMMENDATIONS

Recommendations

1. Gender analysis

The Scottish Government should develop a plan and timetable to implement the action in the Ending Homelessness Together action plan to ‘carry out and embed a gendered analysis to actions, ensuring the homelessness system meets the needs of diverse groups of women’.⁴⁵

2. Equality Impact Assessment

The Equality Act 2010 requires public bodies to conduct an EQIA of new policies and strategies as they are developed. However, research from the EHRC, coupled with our own findings, suggests that this is not consistently done.

There is a lack of resource and competence, linked to a lack of understanding and priority, at national and local levels, to conduct gender analyses across policy and service development.

Although not underpinned by a legal framework, RRTPs are the mechanism by which local authorities and their partners will address and end homelessness in Scotland and receive funding to do so.

In order to apply a gender analysis to its policies, and ensure the homelessness system meets the needs of diverse groups of women, the Homelessness Prevention and Strategy Group’s RRTP subgroup should:

- Review guidance for RRTPs to ensure it reflects a gender analysis
- Develop an improvement plan for national and local EQIAs of housing strategy and policy

To support the capacity of councils to undertake such analysis, the Scottish Government should invest the necessary resource to embed gender analysis within national and local homelessness policy teams and respective EQIAs.

3. Homelessness data collection

There are significant gaps in homelessness data, including under-estimates of the number of people sofa surfing, living with friends and family, and/or in precarious and unsafe circumstances. This undermines policy and action to prevent women’s homelessness. The Scottish Government should review data collection methods and analysis to fill these gaps in hidden homelessness.

The review of homelessness data collection should describe domestic abuse as ‘coercive control’ and not ‘dispute within a household’ to properly reflect the causes of women’s homelessness.

The Scottish Government should consult with equalities organisations as part of this review.

⁴⁵ Ending Homelessness Together action plan: <https://www.gov.scot/publications/ending-homelessness-together-updated-action-plan-october-2020/>

In addition, the forthcoming guidance from the SFHA to support social landlords to meet the new requirement in the Scottish Housing Regulatory Framework for equalities data collection, should include a section on gender equality and domestic abuse. To develop this aspect, the SFHA should involve victim-survivors and draw on the expertise of stakeholders such as SWA.

4. Housing First

The July 2020 HARSAG report recommends establishing a Housing First pathway for women with complex needs.⁴⁶ In order to do so, services need to understand gender differences in life experiences and to integrate this difference into service provision.⁴⁷

A Housing First pathway should be developed within RRTPs for women experiencing domestic abuse. This should be in collaboration with VAWG partnerships and specialist support services such as Women's Aid and Rape Crisis. It should integrate the principles of Equally Safe⁴⁸ and the Safe & Together Model.⁴⁹

There should be Housing First guidance and training on gender-responsive, trauma-informed and person-centred practice.

In order to ensure that Housing First can support victim-survivors of domestic abuse, local authorities and RRTP partners need to work with equalities and VAW organisations to improve understanding of, and the response to, the causes of women's homelessness and provide the resource required to meet the needs of victim-survivors.

5. Regulation

The SHR conducts in-depth thematic work to raise awareness of issues and risks, focusing on topics highlighted as important by tenants, service users and people who are homeless, and exploring these from an equalities and human rights perspective.⁵⁰

While recognising the limits within the existing scope of the Social Housing Charter and social housing and domestic abuse law, we recommend that the SHR conducts a thematic review of social landlords' response to domestic abuse and to preventing women's and children's homelessness, and is resourced to undertake such a review.

The passing of the Domestic Abuse (Protective Orders) Bill alongside the development of new statutory guidance will provide a framework for the SHR to undertake a review. This will help ensure the visibility of domestic abuse as a cause of women's homelessness.

⁴⁶ Scottish Government. (July 2020). Homelessness and Rough Sleeping Action Group: tackling homelessness following coronavirus: <https://www.gov.scot/publications/homelessness-and-rough-sleeping-action-group-final-report-tackling-coronavirus/>

⁴⁷ Lopez, M. and Smith, F.M. (2019). Gendered approaches to service provision: research report. University of Dundee/Dundee Women's Aid. Available at: <http://www.dundeeomensaid.co.uk/uploads/genderedapproachestoserviceprovision.pdf>

⁴⁸ <https://www.gov.scot/publications/equally-safe-scotlands-strategy-prevent-eradicate-violence-against-women-girls/>

⁴⁹ <https://safeandtogetherinstitute.com/about-us/about-the-model/>

⁵⁰ Scottish Housing Regulator, regulatory framework section 7: <https://www.housingregulator.gov.scot/for-landlords/regulatory-framework#section-7>



The SHR should also cooperate with other relevant regulators such as the Scottish Human Rights Commission and the Equality and Human Rights Commission on assessing social landlords' compliance with equalities legislation relating to victim-survivors of domestic abuse.

This includes:

- ▶ Recommendations to social landlords to use the equalities and human rights toolkit being developed by the Scottish Federation of Housing Associations (SFHA) in order to conduct effective EQIAs
- ▶ Guidance for social landlords on how to consider EQIAs in detail as part of their annual Assurance Statements
- ▶ Making recommendations and requirements if EQIAs have not been used effectively to support victim-survivors

Social landlords should fully consider victim-survivors of domestic abuse within their annual Assurance Statements. The SHR should issue guidance to social landlords which sets out requirements to demonstrate how they have improved housing outcomes for each of the protected characteristics under the Equality Act 2010 in their annual Assurance Statements, and make it clear that any non-specific and under-referenced claims will initiate a request for evidence.

Strengthening the role of social landlords in responding to domestic abuse

DOMESTIC ABUSE REMAINS THE LEADING CAUSE OF HOMELESSNESS FOR WOMEN.

THE MOST RECENT STATISTICS FROM THE SCOTTISH GOVERNMENT SHOW THAT THE MOST COMMON REASON FOR WOMEN MAKING A HOMELESS APPLICATION IN 2019/20 REMAINS DOMESTIC ABUSE.

1. THE ISSUE

Overview

Domestic abuse remains the leading cause of homelessness for women.

The most recent statistics from the Scottish Government show that the most common reason for women making a homeless application in 2019/20 remains domestic abuse.

'A dispute within the household violent or abusive' was the reason given by 4,832 people when making a homeless application in 2019/20, with women making 3,783 (78%) of applications in this category, and almost half of these applications including children.⁵¹

Although significant, this statistic likely underestimates the scale of domestic abuse and homelessness. Women may not disclose domestic abuse when making a homeless application or may not present at all.

There has been a recent and welcome focus from the housing sector on improving outcomes for victim-survivors of domestic abuse.

In June 2018 CIH launched its Make a Stand campaign⁵² which centred on tackling domestic abuse. It contained a pledge for social housing providers to sign to show their commitment to ending domestic abuse. 86 social landlords, collectively managing 388,000 social homes across Scotland, signed the pledge, committing to create a policy to support residents who experience domestic abuse.

⁵¹ Scottish Government Homelessness Statistics disaggregated by gender accessed from Scottish Government 14 September 2020.

⁵² <https://www.cih.org/policy/make-a-stand>



In August 2019 CIH Scotland, ALACHO, SFHA, Shelter Scotland and SWA published guidance to help social landlords form their response to domestic abuse (CIH/SWA 2019 guidance).⁵³ This included guidance on how to develop a domestic abuse policy.

However, the extent to which social landlords have subsequently adopted and implemented a domestic abuse policy has been limited. Despite 86 social landlords signing the pledge, only 13 confirmed that they have adopted and implemented a domestic abuse policy. Of those, not all used the Scottish Government definition of domestic abuse, nor liaised with women's equalities organisations, nor used EQIAs to improve their policies to make them relevant, as recommended in the CIH/SWA 2019 guidance.

Feedback indicates that the main barrier to adopting a domestic abuse policy is that there is no requirement to do so. This means that, despite a significant campaign and resources being available to them, many social landlords have yet to follow through on their commitment.

This is understandable. For example, while Fife Council, City of Edinburgh Council and Almond Housing Association have developed effective domestic abuse policies, this has taken time, staff training, and partnership working with VAWG partnerships, Women's Aid groups, the police and other stakeholders. Competing pressures such as building new homes, improving energy efficiency, meeting the indicators measured by the SHR and now responding to Covid-19, have made developing a domestic abuse policy a lesser priority.

Giving landlords the time and resource to develop a domestic abuse policy voluntarily has not been effective. There is now a need for national leadership and direct support.

2. THE ANALYSIS

National policy

Rapid Rehousing Transition Plans

In June 2018 HARSAG called for:

*'All social landlords to have clear policies on domestic abuse, and ensuring that experience of abuse or violence does not lead to someone losing their tenancy – for example, arrangements should be put in place so that tenancies can transfer seamlessly to the person who has experienced abuse, and reciprocal arrangements should be put in place to ensure people who experience domestic abuse can move to a safer place and have continuity of tenancy.'*⁵⁴

⁵³ Domestic abuse: a good practice guide for social landlords. (2019). Available at: <https://womensaid.scot/wp-content/uploads/2019/08/Domestic-abuse-guidance-for-social-landlords-FINAL.pdf>

⁵⁴ HARSAG. (2018). Ending homelessness. The report on the final recommendations of the Homelessness and Rough Sleeping Action Group. Recommendation 23. Available at: <https://www.gov.scot/binaries/content/documents/govscot/publications/factsheet/2018/06/homelessness-and-rough-sleeping-action-group-final-report/documents/hrsag-final-report-june-2018-pdf/hrsag-final-report-june-2018-pdf/govscot%3Adocument/HRSAG%2BFinal%2BReport%2BJune%2B2018.pdf>

Following the 2018 HARSAG report, each local authority agreed to address homelessness through individual RRTPs implemented over the next five years. Social Bite and Indigo House provided guidance to support a transition to rapid rehousing.⁵⁵ This guidance did not describe the gendered nature of homelessness, nor domestic abuse as the principal cause of homelessness for women.

There has been no formal equalities or gender analysis of RRTPs by the Scottish Government, the Homelessness Prevention and Strategy Group nor by any external bodies such as Audit Scotland or the EHRC. A report from Crisis in 2020⁵⁶ noted the patchy adoption of domestic abuse policies by RRTPs at the time, although further progress may have been made in the intervening period.

Nonetheless, a reference to ‘domestic abuse’ in an RRTP does not mean that a local authority has a domestic abuse policy. As noted by Crisis, referring to domestic abuse in a policy may signal the lack of local prioritisation and support, as in Stirling and Falkirk, or promise future reviews of domestic abuse services as in Aberdeen, Angus and North Lanarkshire.⁵⁷

Homelessness code of guidance

The statutory homelessness code of guidance was updated in November 2019. The guidance neither directs local authorities to develop a domestic abuse policy, nor does it suggest that they prioritise keeping victim-survivors in their own homes.

Allocations guidance

The CIH/SWA 2019 guidance states that social landlords should prioritise anyone experiencing domestic abuse, and never discourage people from applying, nor risk not awarding priority, because they require evidence. It suggests that social landlords work with SWA and/or their local Women’s Aid group.

This was reinforced in a joint letter to all social landlords from the Scottish Government minister for local government, housing and planning, Kevin Stewart MSP, and the COSLA community wellbeing spokesperson, Councillor Whitham, on 29 May 2020.⁵⁸ This stated that local authorities and housing associations have responsibilities to prevent and respond to domestic abuse in accordance with Equally Safe, and asked them to ensure that they have a domestic abuse policy, and that it is regularly reviewed so that it is flexible enough to meet the needs of all victim-survivors.

⁵⁵ Social Bite. (2018). Scotland’s transition to rapid rehousing: Rapid Rehousing Transition Plans. Guidance for local authorities and partners. Available at: https://social-bite.co.uk/wp-content/uploads/2018/07/Rapid_Rehousing_Guidance1.1.pdf

⁵⁶ Crisis. (2020). Rapid Rehousing Transition Plans: Scottish overview. Available at: https://www.crisis.org.uk/media/241640/crisis_rapid-rehousing-report_web_spreads_v2.pdf

⁵⁷ Ibid.

⁵⁸ Scottish Government and COSLA. (May 2020). Letter. Importance of bringing empty properties back into use during the pandemic and support for victims of domestic abuse. Available at: <https://www.gov.scot/binaries/content/documents/govscot/publications/correspondence/2020/05/coronavirus-covid-19-joint-letter-to-housing-sector-on-voids-processing/documents/voids-processing-letter/voids-processing-letter/govscot%3Adocument/Joint%2Bletter%2Bto%2BHousing%2BSector%2Bon%2Bvoids%2Bprocessing%2Bby%2BMr%2BStewart%2Band%2BCllr%2BWhitham%2B-%2Bsigned%2Bversion%2B-%2B29%2BMay%2B2020.pdf>



Housing Options toolkit and training support

Research by Dundee University found that staff in some organisations are reluctant to engage with women experiencing GBV. Women are routinely referred to specialist providers, thus delaying their access to support.⁵⁹

The CIH/SWA 2019 guidance for social landlords⁶⁰ emphasises the need for training in order to understand and respond to domestic abuse. It suggests an approach and resources. The Housing Options toolkit for social landlords will be most effective if it reflects the gendered nature of homelessness. Reflecting this will enable it to meet the needs of women and children experiencing domestic abuse and to direct them to suitable support.

Equally Safe

Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls,⁶¹ notes the links between VAWG/GBV and homelessness, and the requirement to link initiatives on VAWG with other Scottish Government strategies, programmes and frameworks.

Development of a domestic abuse policy

CIH surveyed all 86 Scottish signatories to its Make a Stand campaign. 18 responded and 13 reported that their organisation had implemented or updated a domestic abuse policy; five reported that their organisation had not done so but were in various stages of creating a policy. Other findings included:

- ▶ Ten had included the Scottish Government definition of domestic abuse when creating their domestic abuse policy
- ▶ Only three had conducted an EQIA of their policy

SFHA also asked its members if they had produced a new policy in response to the CIH/SWA 2019 guidance or updated an existing policy. Of the 21 responses, 18 replied in the affirmative. Three had made no changes. Because of overlaps in membership, some respondents likely answered the same questions in both the CIH and SFHA survey.

SFHA members said that the guidance was clear and helpful for helping social landlords to develop their own policy. However, they also noted that it did not help social landlords remove perpetrators from the home without unduly affecting victim-survivors. This issue is discussed in the next section.

In response to the above surveys, some social landlords reported that it was too early to measure the impact of any changes.

⁵⁹ Lopez, M. and Smith, F.M. (2019). Gendered approaches to service provision: research report. University of Dundee/Dundee Women's Aid. Available at: <http://www.dundeeomensaid.co.uk/uploads/genderedapproachestoserviceprovision.pdf>

⁶⁰ Domestic abuse: a good practice guide for social landlords. (2019). Available at: <https://womensaid.scot/wp-content/uploads/2019/08/Domestic-abuse-guidance-for-social-landlords-FINAL.pdf>

⁶¹ <https://www.gov.scot/publications/equally-safe-scotlands-strategy-prevent-eradicate-violence-against-women-girls/>

Barriers to developing a domestic abuse policy

When asked about the main barriers to developing and implementing a domestic abuse policy, social landlords, stakeholders and working group members noted:

External barriers

- ▶ No explicit requirement to support victim-survivors of abuse/report against domestic abuse indicators
- ▶ Dealing with perpetrators especially over legal issues with joint tenancies
- ▶ Lack of supply of suitable housing for those who have experienced domestic abuse

Internal barriers

- ▶ Resources and making domestic abuse a priority
- ▶ Lack of staff training
- ▶ Senior staff leadership
- ▶ Lack of communication with tenants
- ▶ Prejudiced/paternalistic attitudes towards victim-survivors of domestic abuse
- ▶ Lack of relationship/partnership with VAWG sector
- ▶ Complexity of cases

3. THE RECOMMENDATIONS

Recommendations

1. Rapid Rehousing Transition Plans

The next iteration of RRTPs should include a gender analysis of homelessness, including specific measures to prevent women's and children's homelessness as a result of domestic abuse.

Recognising the voluntary nature of RRTPs, new guidance should be commissioned by the Homelessness Prevention and Strategy Group's RRTP subgroup. This should be updated to:

- ▶ Reinforce requirements to mainstream equalities in local authority planning processes
- ▶ Reflect the differential circumstances and needs of women and men in housing and homelessness
- ▶ Show how plans meet these differential needs
- ▶ Show the benefits of doing so to customers and overall spend



While the EHRC is the regulator of local authority action in response to the PSED, the Scottish Government is required to conduct an EQIA of the funding allocation it makes in response to RRTPs. The EQIA should use local authority EQIAs submitted with their RRTPs as an information source. The Scottish Government should publish this EQIA.

When awarding future funding for RRTPs the Scottish Government should require inclusion of an effective response to domestic abuse and an associated EQIA. This will ensure that social landlords consider equalities, including gender, when developing housing and homelessness policies, and also signal that the Scottish Government is taking a lead and prioritising this.

2. Homelessness code of guidance

The next review of the homelessness code of guidance should consider how it can incorporate the CIH/SWA 2019 guidance for social landlords and ensure that statutory duties are developed for local authorities. This should reflect the fact that:

- ▶ Domestic abuse is the major cause of homelessness for women
- ▶ All social landlords must develop protocols and policies so that victim-survivors have a range of options
- ▶ The victim-survivor's choice informs a landlord's response

The guidance should include how and why all social landlords should mainstream equalities within policy development.

3. National fund

The Scottish Government should integrate Equally Safe within Scotland's homelessness and housing strategy, and require social landlords to prevent and respond to domestic abuse.

To support this, the Scottish Government should provide national funding to support social landlords to make the required changes. The Scottish Government has already allocated £50m of support as part of its Ending Homelessness Together action plan. We suggest some of the money not yet allocated is used for a national domestic abuse and social housing innovation fund. This would enable social landlords to develop effective domestic abuse strategies, based on the CIH/SWA 2019 guidance.

4. Social Housing Charter

The next review of the Social Housing Charter is likely to take place in 2021/22. This review should use an equalities and human rights perspective and set new outcomes for social landlords. It should support victim-survivors' rights to choose where they live, and align with the SHR's approach to equalities and human rights. The charter should draw on the CIH/SWA 2019 guidance to support social landlords to achieve positive housing outcomes for victim-survivors.

5. Housing Options

The Housing Options toolkit should inform practitioners' knowledge and understanding of the causes and consequences of women's homelessness.

Practitioners should understand structural gender inequality; the intersectional experiences of women; and barriers and access to resources and safety.

The section on domestic abuse should be based on a gender analysis and should reflect Equally Safe and the CIH/SWA 2019 guidance for social landlords, and include:

- ▶ Preventing homelessness for women and children experiencing domestic abuse
- ▶ Supporting women to remain in the home they are in
- ▶ Managed transfers
- ▶ Rehousing the perpetrator
- ▶ Additional security measures
- ▶ Partnership working
- ▶ Consideration of practicalities such as flexibility on arrears, providing furniture/white goods, specialist support, access to legal advocacy, assistance for maximising income

6. Involvement of service users

Social landlords should be required to consult with victim-survivors and service user groups to ensure that policies and services are relevant.

7. Training

A national training resource on domestic abuse and housing should be developed. This can be drawn from organisations such as SWA and Shelter Scotland and adapted to suit all social landlords.

All social landlords should be required to ensure that staff are trained to understand the dynamics of domestic abuse and receive housing-related domestic abuse training.

8. Access to expert legal advice

Social landlords should establish referral systems with law centres and lawyers with expertise in family law and domestic abuse in order to help victim-survivors get the legal advice and assistance they need to make informed decisions.

This should include referral to suitably qualified immigration specialists if someone's status may be a barrier to refuge or other support because of no recourse to public funds (NRPF) or if victim-survivors are concerned about the impact on their status if they leave an abusive partner.



Protecting women's and children's rights to remain in their home

1. THE ISSUE

Overview

The rights of victim-survivors to remain in their own home are not adequately protected. Social landlords cannot transfer a joint tenancy to a sole tenancy for a victim-survivor of domestic abuse, nor rehouse the perpetrator, without taking eviction action against both parties. Existing legal provision is not workable as it may compromise the safety of the victim-survivor or require the social landlord to bring eviction proceedings against both parties.

Victim-survivors of domestic abuse, whether they are the tenant, joint tenant or qualifying occupier, should be able to stay in their home, with the perpetrator removed and rehoused. Providing alternative accommodation for perpetrators is necessary to improve the safety of victim-survivors.

Housing law needs to be amended to allow a landlord to terminate the perpetrator's part of the tenancy while preserving the victim-survivor's privacy and their part of the joint tenancy without requiring them to commence this process themselves.

2. THE ANALYSIS

Domestic abuse and women's and children's homelessness

Research by SWA found that women often have no choice but to leave the family home because their ex-partner refuses to do so. Some women thought that their ex-partner's sense of entitlement to the family home was a legal entitlement because the house was in their ex-partner's name or because it was a joint tenancy, and because his claim was not challenged by the landlord. As a result, the only option left to them was to become homeless.⁶²

THE RIGHTS OF VICTIM-SURVIVORS TO REMAIN IN THEIR OWN HOME ARE NOT ADEQUATELY PROTECTED.

VICTIM-SURVIVORS OF DOMESTIC ABUSE, WHETHER THEY ARE THE TENANT, JOINT TENANT OR QUALIFYING OCCUPIER, SHOULD BE ABLE TO STAY IN THEIR HOME, WITH THE PERPETRATOR REMOVED AND REHOUSED. PROVIDING ALTERNATIVE ACCOMMODATION FOR PERPETRATORS IS NECESSARY TO IMPROVE THE SAFETY OF VICTIM-SURVIVORS.

⁶² Scottish Women's Aid. (2015). Change, Justice, Fairness: why should we have to move everywhere and everything because of him? Available at: <https://womensaid.scot/wp-content/uploads/2017/07/Change-Justice-Fairness.pdf>



A Scottish Government review of domestic abuse, housing and homelessness policy and research published in 2010 concluded: ‘The prevention or cessation of domestic abuse in a family context will almost always require the woman to leave that home’.⁶³

This requirement has remained unchanged despite developments in the legislation and statutory and non-statutory guidance for housing, homelessness and homelessness prevention. As Engender points out in its report on gender, housing and homelessness in Scotland, very little of this properly considers gender or women’s equality.⁶⁴

Matrimonial Homes (Family Protection) (Scotland) Act 1981

Section 13 gives a non-entitled spouse the power to apply to the sheriff court for the transfer of the tenancy to their name in certain circumstances. The court action must be raised by the victim-survivor, with all the attendant difficulties.

The Domestic Abuse (Protection) (Scotland) Bill

The Domestic Abuse (Protection) (Scotland) Bill introduces immediate and short-term protective orders to remove and temporarily bar an abusive partner or ex-partner from the home.⁶⁵ Currently, women and children typically have to leave their home and move to refuge, or temporary accommodation and into the homelessness system. It is an important step in protecting the rights of women and children to remain in their home. The proposed protective orders:

- ▶ Meet state obligations to prevent VAW and protect the human rights of women experiencing domestic abuse⁶⁶
- ▶ Offer a civil and/or criminal response that removes the perpetrator and makes it easier for women to get support and protection
- ▶ Mean that if a woman wants to proceed with further civil protection measures, she does not have to apply for, or pay for, this
- ▶ Give social landlords the legal mechanism to protect and promote the rights of victim-survivors by transferring a tenancy to them if they decide to remain in the home

Following recommendations from this working group, the Bill introduces transfer of tenancy provisions for social housing tenancies, creating a new ground on which a social landlord can apply to the court to end a perpetrator’s interest in a tenancy or joint tenancy, thereby enabling the victim-survivor to remain in the family home if they wish to do so.

⁶³ Scottish Government. (2010). Domestic abuse, housing and homelessness in Scotland: an evidence review. Scottish Government Communities Analytical Services: Scotland. Available at: <http://www.gov.scot/Resource/Doc/328505/0106198.pdf>

⁶⁴ Engender. (February 2020). A woman’s place: gender, housing and homelessness in Scotland. Available at: <https://www.engender.org.uk/content/publications/A-WOMANS-PLACE---GENDER-HOUSING-AND-HOMELESSNESS-IN-SCOTLAND.pdf>

⁶⁵ <https://beta.parliament.scot/bills/domestic-abuse-protection-scotland-bill>

⁶⁶ Council of Europe. Emergency barring orders in situations of domestic violence: Article 52 of the Istanbul Convention. (June 2017). Available at: <https://rm.coe.int/convention-istanbul-article-52/168073e0e7>

The provisions of the Domestic Abuse (Protection) (Scotland) Bill will create a new means for social landlords to actively support women to remain in their home and allow them to take action against perpetrators. For many social landlords, this will be different to their current way of working and a culture change. Guidance and training will be essential to support social landlords to successfully implement this new approach.

There are opportunities to learn from the work carried out by Fife Council to improve their housing response to domestic abuse. The additional funding Fife Council was able to gain to support this work has helped improve outcomes for women and children. Fife Council's activities are consistent with the national direction of the Equally Safe delivery plan.⁶⁷

Access to legal advice

An important aspect of the protective orders under the Domestic Abuse (Protection) (Scotland) Bill is that they incur no financial cost to victim-survivors. To obtain further protective orders, such as non-harassment orders, or for legal advice and representation in child contact cases, requires women to apply and qualify for legal aid or to cover their legal costs.

The Council of Europe Convention on preventing and combating violence against women and domestic violence states at Article 57: 'Legal aid – Parties shall provide for the right to legal assistance and to free legal aid for victims under the conditions provided by their internal law'.⁶⁸ However, women face significant difficulties in accessing legal protection. Poverty has a considerable impact on their ability to pay for legal services. They may have little or no access to 'household' income or assets. Leaving an abusive partner often leaves women in financial hardship, which adds further disadvantage and barriers to justice. A dearth of local solicitors competent in understanding domestic abuse and who also provide advice and assistance and civil legal aid also impedes access to justice.⁶⁹

Rent arrears

Financial abuse is a significant element of coercive control in domestic abuse. Research suggests that 89% of women experience financial abuse as part of domestic abuse.⁷⁰ It involves a perpetrator using or misusing money to limit and control their partner. It can include using credit cards without permission, putting contractual obligations in a partner's name, and gambling with family assets. It can leave a woman without money for food and other essentials; without access to her bank account; and with personal debt including rent arrears, which she may not know about.

⁶⁷ Equally Safe delivery plan: <https://www.gov.scot/publications/equally-safe-delivery-plan-scotlands-strategy-prevent-violence-against-women/>

⁶⁸ Council of Europe Convention on preventing and combating violence against women and domestic violence. (2011). Available at: <https://rm.coe.int/168046031c>

⁶⁹ SWA. (2017). Independent strategic review of legal aid call for evidence. Available at: <https://www.gov.scot/binaries/content/documents/govscot/publications/consultation-analysis/2017/06/responses-call-evidence-relation-independent-strategic-review-legal-aid-2017/documents/00521014-pdf/00521014-pdf/govscot%3Adocument/00521014>

⁷⁰ Sharp, N. (2008). What's yours is mine. The different forms of economic abuse and its impact on women and children experiencing domestic violence. Refuge. Available at: <http://www.refuge.org.uk/files/Whats-yours-is-mine-Full-Report.pdf>



Linked to this, a perpetrator might deny his partner the means to improve her economic status (for example, through employment, education or training), which may make her dependent on him and, therefore, make it more difficult for her to end the relationship. The financial abuse can continue after the relationship ends.

Families in which there is domestic abuse are four times more likely to lose their homes because of rent arrears than the general population of tenants.⁷¹ Social landlords may hold women who have lost their home responsible for arrears incurred by a partner's actions and refuse rehousing until there is a repayment arrangement.

3. THE RECOMMENDATIONS

Recommendations

1. Guidance

The Scottish Government should provide guidance for social landlords for implementing the Domestic Abuse (Protection) (Scotland) Bill. It should develop the guidance in partnership with stakeholders.

2. Scottish secure tenancy agreement

The Scottish Government should revise the Model Scottish Secure Tenancy Agreement to reflect the provisions in the Bill for social landlords to raise proceedings in court to end the tenancy rights of someone who has abused their partner or ex-partner.

3. Training and resources

The Scottish Government should develop a programme of specific training in partnership with stakeholders to be delivered to social landlords in order to develop their knowledge, competence and confidence in implementing the Bill's provisions and to reduce service-generated risk.

4. Legal advice

The Scottish Government should ensure that women and children who experience domestic abuse are able to easily access free domestic abuse-competent legal advice and representation.

5. Rent arrears

The Housing (Scotland) Act 2001 and 2010 statutory repossession guidance for social landlords should include a new pre-action requirement for social landlords to ensure that they have fully considered domestic abuse before commencing legal action to recover possession of a property.

A similar requirement could be placed on the court to be satisfied that social landlords have fulfilled this pre-action requirement.

Guidance should specify what constitutes full consideration of domestic abuse and the actions required by a social landlord to investigate, and to respond to and support victim-survivors of domestic abuse.

⁷¹ CIH Cymru. [ND]. Domestic abuse and housing in Wales. Factsheet.

Providing housing that meets women's and children's needs

WOMEN'S AID REFUGES AND OTHER SUITABLE TEMPORARY ACCOMMODATION ARE VITAL FOR WOMEN IN CRISIS AND AS PART OF A PLANNED MOVE.

1. THE ISSUE

Overview

Women's Aid refuges and other suitable temporary accommodation are vital for women in crisis and as part of a planned move.

Women are more likely than men to rely on relatives and others for a place to stay when they become homeless, approaching homelessness and other services only when or if they have no other option.⁷² Research suggests that women's previous bad experiences of services may influence what they do, as well as concerns about safety, confidentiality,⁷³ lack of childcare, fear of losing children, job, or repercussions from abusive partner, stigma about seeking support, misconceptions about services, and lack of trust in services.⁷⁴

Refuge provision in Scotland does not meet international standards for the number of refuge spaces, their distribution or general suitability. Even before the pandemic, provision did not meet the need:

- ▶ SWA's annual Census Day survey (2019) found that Women's Aid groups were unable to accommodate 58% of women and 38% of children and young people who requested refuge, because of lack of space
- ▶ Only one in six women making a homeless application as a result of domestic abuse gets a refuge space when she needs it⁷⁵
- ▶ There has been a stark increase in waiting time for refuge. Over half of Women's Aid groups have waiting lists for what is supposed to be crisis provision

⁷² Bretherton, J. (2017). Reconsidering gender in homelessness. Centre for Housing Policy: University of York. *European Journal of Homelessness* 11(1). Available at: https://www.feantsaresearch.org/download/feantsa-ejh-11-1_a1-v045913941269604492255.pdf

⁷³ Scottish Women's Aid. (2015). *Change, Justice, Fairness: why should we have to move everywhere and everything because of him?* Available at: <https://womensaid.scot/wp-content/uploads/2017/07/Change-Justice-Fairness.pdf>

⁷⁴ Lopez, M. and Smith, F.M. (2019). *Gendered approaches to service provision: research report*. University of Dundee/Dundee Women's Aid. Available at: <http://www.dundeewomensaid.co.uk/uploads/genderedapproachestoeserviceprovision.pdf>

⁷⁵ Scottish Women's Aid. [N.D.]. *Resourcing recovery: what the Domestic Abuse (Scotland) Act 2018 means for women, children and young people*. Available at: <https://womensaid.scot/wp-content/uploads/2020/03/Resourcing-Recovery-March-2020.pdf>



- ▶ While purpose-built refuges are accessible to disabled women, older-style accommodation is typically unsuitable. Disabled women are twice as likely as non-disabled women to experience GBV, including domestic abuse, sexual assault and rape⁷⁶
- ▶ There are only 13 refuge spaces for BME women in Scotland provided by specialist BME domestic abuse services. These are available only in Glasgow and Edinburgh. Research carried out for the Scottish Executive as long ago as 2004 highlighted this shortage and the need for refuge space for BME women⁷⁷
- ▶ Women with NRPF face insurmountable barriers to refuge and other domestic abuse services. They are not eligible for the welfare benefits required to cover housing costs in refuge. Very few Women's Aid groups can cover the costs of a woman's stay without this funding

Local authorities have committed to reducing the use of temporary accommodation such as hostels and bed and breakfasts in favour of mainstream accommodation, wherever possible, as set out in RRTPs. However, without sufficient resources, the deadline to comply with the extension of the Unsuitable Accommodation Order (UAO) will increase pressure on local authorities already dealing with an increase in demand for temporary accommodation because of Covid-19, and will likely lead to breaches. The UAO by itself will not necessarily lead to better outcomes for homeless households.

A lack of affordable, secure social housing means that women and children are waiting longer in refuge and in temporary accommodation before they can move into a home they can call their own. This in turn causes blocking in refuges, preventing access to other women and children in need.

There is a high financial as well as emotional cost for women in ending a relationship with an abusive partner, including moving and setting up home and securing legal protection.⁷⁸ Changes to social security severely undermine women's ability to leave an abusive partner and maintain a new home.⁷⁹

⁷⁶ Inclusion Scotland's briefing for MSPs for the Scottish Government debate on violence against women, 2012: <https://inclusionScotland.org/inclusion-scotland-briefing-for-msps-for-the-scottish-government-debate-on-violence-against-women/>

⁷⁷ Netto, G., Fancy, C., Pawson, H., Lomax, D., Singh, S. and Powers, S. (2004). Black and minority ethnic communities and homelessness in Scotland. Scottish Ethnic Minorities Research Unit/Heriot Watt University.

⁷⁸ Scottish Women's Aid. (2015). Change, Justice, Fairness: why should we have to move everywhere and everything because of him? Available at: <https://womensaid.scot/wp-content/uploads/2017/07/Change-Justice-Fairness.pdf>

⁷⁹ Social security and domestic abuse: <https://cpag.org.uk/welfare-rights/resources/article/social-security-and-domestic-abuse>

2. THE ANALYSIS

Refuges

The Council of Europe Convention on preventing and combating violence against women and domestic violence, of which the UK is a signatory, sets out the requirements for providing shelters (refuges) and support for victim-survivors. It recommends that safe accommodation in specialised women's shelters is available in every region, with one family place per 10,000 head of population. The number of places should depend on actual need and be easily accessible to women and children.⁸⁰ The convention also states that specialist support is best ensured by women's organisations and by support services with specialised and experienced staff with in-depth knowledge of GBV.

Refuges are provided by Women's Aid in Scotland: a network of Women's Aid groups providing support services to women, children and young people. Refuges are direct-access accommodation, with the majority of women self-referring to Women's Aid for support and refuge. Refuges provide women and their children with one-to-one and peer support, which enables them to cope with the trauma they have experienced, and to begin to rebuild safe and independent lives. Women's Aid support goes beyond providing a safe place to stay: it also includes a range of integrated support services responsive to the complexity, and impact on women and children, of domestic abuse. These include: counselling; advocacy; access to legal advice and support through the justice system, including child contact; financial support and access to social security; housing advice and support through the homelessness system; play therapy; group work; and support to rebuild relationships between women and their children. There is an emphasis on support for women by women, in women-only safe accommodation, staffed by women.

There are 477 refuge spaces in Scotland, with a third provided in shared, usually local authority-owned, accommodation. They are exempt from the requirements of the UAO legislation 'to ensure that a barrier does not occur that may prevent a household accessing emergency accommodation when fleeing domestic abuse'.⁸¹ Without this exemption, there would be far fewer spaces, and the Scottish Government would be unable to fulfil its responsibilities under the convention.

The Scottish Executive's National Strategy on Domestic Abuse (2000) included a refuge development programme with £10million capital funds available to develop refuge provision. Under this programme, refuges were designed on a core and cluster model, with individual flats, playrooms, rooms for group meetings and support work, counselling and safe outdoor play areas. However, since 2011, uncertainty about the future funding of supported accommodation and UK government proposals to remove supported housing from the housing benefit system have led to a lack of investment in developing new refuges. A third of refuge spaces are still provided in some form of shared accommodation.⁸² Due to social distancing measures in response to Covid-19, sharing accommodation with people who are not members of your household is no longer possible, and Women's Aid groups have had to reduce the number of women and children they can accommodate.

⁸⁰ Council of Europe Convention on preventing and combating violence against women and domestic violence: <https://www.coe.int/fr/web/conventions/full-list/-/conventions/rms/090000168008482e>

⁸¹ <https://www.gov.scot/publications/amendment-homeless-persons-unsuitable-accommodation-scotland-order-2020-bria/>

⁸² Scottish Women's Aid survey of refuges in Scotland 2019 (internal review).



Temporary homeless accommodation

The quality of temporary accommodation causes concerns for some women: inadequate and insecure facilities in bed and breakfasts; lack of cooking or laundry facilities to enable them to care for their children; witnessing domestic abuse experienced by other residents.

Research by the University of Dundee found that women experience increased vulnerability and exploitation when in mixed-sex temporary accommodation. Many women reported being harassed by men residents, while some experienced sexual violence, theft and other crimes.⁸³

Women responding to an SWA survey said that such hostels were dangerous and that women-only spaces were necessary as ‘safe spaces’ because of sensitivities including GBV, substance use or medical issues. Women from certain cultural backgrounds refused to talk about problems in front of men, or even speak at all.⁸⁴

Both the Dundee research and the SWA survey found that women experience stigma, judgement and/or incomprehension from some services. Some service providers do not know how trauma and complex needs affect women. Women, in turn, feel disbelieved and belittled. This results in women facing barriers to support, disengaging from support, ongoing vulnerability and further trauma.

Reports from Women’s Aid groups and calls to Scotland’s Domestic Abuse and Forced Marriage Helpline indicate that women are often reluctant to move into, or do not remain in, temporary homeless accommodation, particularly when it is mixed-sex, because of the concerns outlined above; and return to an abusive partner.

The introduction of standards for temporary accommodation is included within the Ending Homelessness Together action plan. A working group is to ‘develop concrete proposals for a legally enforceable standards framework’ in 2021.⁸⁵ The framework should ensure standards are based on gender analysis; reflect the needs of diverse groups of women; and respond to women’s experience of GBV.

Unsuitable Accommodation Order (UAO)

Following recommendation by HARSAG, an amendment to the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 was introduced on 5 May 2020 to extend the UAO to all homeless households. The UAO allows more flexibility in the types of accommodation that can be used to house some people, recognising that the extension of criteria to all homeless households will cover a range of groups who may not have the same needs as those with children.

⁸³ Lopez, M. and Smith, F.M. (2019). Gendered approaches to service provision: research report. University of Dundee/Dundee Women’s Aid. Available at: <http://www.dundeewomensaid.co.uk/uploads/genderedapproachestoserviceprovision.pdf>

⁸⁴ Scottish Women’s Aid survey of refuges in Scotland 2019 (internal review).

⁸⁵ Ending homelessness together: updated action plan. (October 2020). Available at: <https://www.gov.scot/publications/ending-homelessness-together-updated-action-plan-october-2020/#:~:text=Updated%20Ending%20Homelessness%20Together%20action,to%20the%20global%20coronavirus%20pandemic>

SWA and other organisations have raised concerns that the UAO will negatively affect pregnant women and women with children who may now spend longer in unsuitable temporary accommodation. Local authorities lack sufficient temporary accommodation that is suitable for women and children who have experienced domestic abuse. If women are temporarily separated from their children, the unsuitability of the accommodation can prevent them from regaining residency of their children if it does not meet social work requirements which would allow children to visit or to stay overnight.

Permanent housing

An SWA survey of Women's Aid groups found that women and children stay ever longer in refuge waiting for a suitable new home. The average length of stay in refuge is now around eight or nine months. In some areas, notably Edinburgh, Glasgow and the Highlands, women and children typically wait for 12 to 18 months before they can move into a new home. Edinburgh and Glasgow have a substantial amount of shared refuge provision, meaning women and children have to share their accommodation with other families for lengthy periods.⁸⁶ This causes bottlenecks in refuges as women and children needing refuge are unable to get in until others are rehoused. The lack of affordable, suitable, safe accommodation is why women and children are unable to move into a new home and on to the next stage of rebuilding their lives.

Research published by CIH Scotland, Shelter Scotland and the SFHA in June 2020 demonstrated the need for 53,000 new affordable homes over the next five years (2021-2026). This includes 37,100 for social rent.⁸⁷ As key delivery partners in the Affordable Housing Supply Programme, local authorities must be adequately funded to provide these homes.

Social security

The social security system fails women when they are living with an abusive partner; when they try to leave an abusive partner; and when they try to build a new life. Being unable to afford to leave, and fearing the financial implications of leaving, can mean that victim-survivors stay longer, increasing the risk of abuse.⁸⁸ Universal Credit (UC) disadvantages women in several ways. The single household payment is of particular concern for women experiencing domestic abuse, making women more vulnerable to financial abuse and leaving them with no access to an independent income.⁸⁹ The five-week wait for a payment of UC pushes women into debt and affects their ability to leave.

⁸⁶ Scottish Women's Aid survey of refuges in Scotland 2019 (internal review).

⁸⁷ Affordable Housing Need in Scotland post-2021. (Revised May 2020). Available at: https://scotland.shelter.org.uk/_data/assets/pdf_file/0010/1925668/Affordable_Housing_Need_in_Scotland_Post-21_final_report.pdf_nocache

⁸⁸ Howard, M. (2019). Benefits or barriers? Making social security work for survivors of violence and abuse across the UK's four nations. Women's Budget Group. Available at: <https://wbg.org.uk/wp-content/uploads/2019/06/Benefits-or-barriers-4-nations-report.pdf>

⁸⁹ Something needs saying about universal credit and women – it is discrimination by design. Blog: <https://cpag.org.uk/news-blogs/news-listings/something-needs-saying-about-universal-credit-and-women-%E2%80%93-it-discrimination>



Access to financial support at this transitional time is critical to victim-survivors. The Scottish Welfare Fund (SWF) provides crisis grants for emergency funding and community care grants for essential household goods. Crisis grants to help a victim-survivor make preparations to leave are not always available. Administration of the SWF is often not made quickly enough to provide support immediately after a victim-survivor leaves.

A recent report by the Poverty and Inequality Commission highlighted issues with the SWF including that information and access, success rates and amounts awarded vary considerably across the country.⁹⁰

3. THE RECOMMENDATIONS

Recommendations

1. Refuges

The Scottish Government should review specialist refuge provision and develop this to meet international standards for the number of spaces, distribution and suitability. This includes specific provision for BME women and women with NRPF.

This would remove the need for the UAO exemption and acceptance of substandard accommodation for women and children who have experienced domestic abuse.

This review should include an assessment of a programme of sustainable funding for refuge support services for women and children.

2. Temporary accommodation

Local authorities and partners should review their provision of temporary accommodation to provide suitable single-sex temporary accommodation for women.

All staff working in homeless services and relevant support services should receive specialist training on domestic abuse and other forms of VAWG.

Temporary accommodation standards should be based on gender analysis; reflect the needs of diverse groups of women; and respond to women's experience of GBV. The working group developing these standards should include representatives of women's and children's rights organisations.

3. Unsuitable Accommodation Order (UAO)

The Scottish Government should provide additional funding for local authorities to provide enough high quality temporary accommodation and support services to meet the needs of women and children.

⁹⁰ Poverty and Inequality Commission. (2020). The role of the Scottish Welfare Fund during the COVID-19 pandemic. Available at: <https://povertyinequality.scot/wp-content/uploads/2020/08/Scottish-Welfare-Fund-briefing-.pdf>

Women's and children's rights organisations should contribute to new guidance so that women and children do not face additional barriers to safe and suitable housing. When published, the statutory guidance from COSLA and the Scottish Government should make it clear that shared tenancies, community hosting and rapid access accommodation are never suitable accommodation options for women who have experienced domestic abuse.

4. Permanent housing

At least 53,000 new social and affordable homes are vital for landlords to have sufficient housing stock to ensure victim-survivors have a safe, affordable home. The Scottish Government should urgently review affordable housing subsidy rates to ensure that high quality, accessible homes can be provided without passing on the costs to existing tenants.

5. Social security

The Scottish Government has committed to introducing split payments of the UC award in Scotland to ensure everyone has access to an independent income.⁹¹ While recognising that UC is reserved to the UK Government and that progress on this development with the Department for Work and Pensions (DWP) has been delayed by Covid-19, the Scottish Government should strongly pursue this commitment.

6. Financial support for women experiencing domestic abuse

The Scottish Government should explore options for a dedicated support fund or entitlements with clear guidance and capable of delivering short-term recurring payments to support women leaving an abusive partner. This should include essential crisis costs to enable a woman to leave and to bridge the gap between leaving and the first payment of a UC payment.

⁹¹ <https://www.gov.scot/news/offering-flexibility-to-universal-credit-recipients/>



Protecting all women's rights: no recourse to public funds, domestic abuse and homelessness

WOMEN EXPERIENCING DOMESTIC ABUSE WITH NRPF OR WHOSE IMMIGRATION STATUS MAKES THEM INELIGIBLE FOR BASIC SOCIAL PROTECTION ARE AT PARTICULAR RISK OF HOMELESSNESS.

1. THE ISSUE

Overview

Immigration law is reserved to the UK government.

The immigration status of migrant women affects their access to support and accommodation, and engagement with services.

Women experiencing domestic abuse with NRPF or whose immigration status makes them ineligible for basic social protection are at particular risk of homelessness. Because they are not entitled to most mainstream benefits and local authority housing allocation or homelessness services, they are often forced to return to an abusive partner or face destitution.

During the Covid-19 pandemic COSLA developed a framework to assist local authorities and their partners to support people with NRPF or who are otherwise restricted from public services because of immigration law. This included:

- ▶ Women (non-EEA nationals) with NRPF as condition of their leave to remain and those who do not have lawful leave to remain
- ▶ EEA nationals who have not yet secured settlement under the EU Settlement Scheme and/or who are not entitled to mainstream benefits
- ▶ Women who have been refused asylum (appeal rights exhausted (ARE) asylum seekers)

This meant that those women could be helped as a public health response.

A targeted and specialist approach is now necessary to alleviate homelessness for women and children with NRPF who have experienced domestic abuse.



Scottish Ministers have been lobbying the UK Government to review the legislation. The only long-term solution to eradicate homelessness and destitution or entrapment with an abusive partner is to lift the NRPF condition for women experiencing domestic abuse. Without funding, local authorities and third sector organisations struggle to provide adequate support. This puts some of the most vulnerable women and children at further risk. It also affects how long they remain with an abusive partner, or are homeless and destitute.

2. THE ANALYSIS

Context

Immigration status and eligibility for public funds

Under UK immigration law, access to various public services depends on a person's immigration status. People with certain types of permission to stay in the UK, for example on a student or spousal visa, have NRPF. This means that they are not entitled to most social security benefits, homelessness assistance or local authority allocation of social housing. People who do not have permission to stay in the UK are subject to the NRPF condition, for example visa overstayer or ARE asylum seeker. In other cases, immigration status allows people recourse to public funds if they meet other eligibility requirements, such as the habitual residency test. Despite having recourse to public funds, some migrants experience problems receiving benefits if they are unable to evidence their entitlement.⁹²

The definition of a 'public fund' is set out in the immigration rules. It does not include all services provided by or funded by public bodies: only specific benefits and some local authority housing provision.⁹³

Human rights

Domestic abuse, along with other forms of GBV, is a form of gender discrimination and 'one of the fundamental social, political and economic means by which the subordinate position of women with respect to men and their stereotyped roles are perpetuated'.⁹⁴ Governments have a duty to protect women from all forms of GBV, including domestic abuse. The duty to protect includes the requirement to act with 'due diligence' to prevent, investigate, prosecute, punish, and provide redress to victims.

Governments also have a duty to provide women migrants suffering domestic abuse with 'relevant emergency and social services, regardless of their immigration status'.⁹⁵ The Committee on the Elimination of Discrimination Against Women (CEDAW) noted that the current NRPF rules violate women's fundamental rights. In its concluding observations on the UK's Seventh Periodic Report:

⁹² Migration Scotland. Migrants' rights and entitlements to local authority services and support. <http://www.migrationscotland.org.uk/migrants-rights-entitlements/introduction/1-1-how-use-guidance>

⁹³ Immigration staff guidance on public funds foreign nationals can claim: <https://www.gov.uk/government/publications/public-funds>

⁹⁴ CEDAW General Recommendation 35: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=en

⁹⁵ Council of Europe Convention on preventing and combating violence against women and domestic violence, 2011: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>

'The committee recalls in its previous concluding observations (ibid., paras. 295 and 296) and remains concerned that, under the "no recourse to public funds" policy, women with insecure immigration status continue to have no access to State support. While noting that the State party has announced a concession for women who are victims of domestic violence, the Committee is concerned that the concession only applies to women who have entered the State party on spousal visas and this has the potential to trap women in violent relationships.'⁹⁶

According to a Child Poverty Action Group in Scotland Early Warning System report, securing both immigration status and entitlement to benefits is often subject to misinformation and incorrect decisions resulting in months of delay during which time the victim has no income to support herself and her children. This increases the risk of women being compelled to return to an abusive partner.⁹⁷

VAW organisations secured the Destitute Domestic Violence Concession (DDVC) in 2012.⁹⁸ However, during the passage of the UK Government's Domestic Abuse Bill in 2020, attempts to extend the DDVC to cover all abused migrant women were unsuccessful.⁹⁹ Scottish Ministers have written several times to the UK government in recent months urging a change in policy so that women with NRPF in specific circumstances can receive mainstream services and support. COSLA has advocated with Local Government Associations across the UK for NRPF conditions to be lifted and the habitual residency test linked to most DWP benefits to be removed to allow access to mainstream benefits, housing and homelessness provision. Many third sector organisations have campaigned for similar reforms.

As a reserved issue, and in the absence of any significant change, a shared approach is needed to strengthen accommodation and support options to protect the human rights of women and children with insecure status living in Scotland.

Risks to and vulnerabilities for women with NRPF

Those with NRPF, including women and children, are at high risk of rough sleeping and destitution. They are vulnerable to financial and food insecurity, exploitation and abuse. Women face particular risks from sexual exploitation and domestic abuse because of their gender. They are more likely than men to have caring responsibilities for children and other relatives. This affects their ability to engage with services or, if eligible to work, employment.

⁹⁶ Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhslidCrOIUTvLRFdjh6%2Fx1pWB8bSIKfa34XmmIN3IG11hwWhjFqrEprJHQfoipZTwnVkhDALmzaR6gCkiPapM2exTMh89SX7GUOJHbH%2BN8Qq9U>

⁹⁷ Child Poverty Action Group in Scotland. (2015). Benefits for EEA nationals. Available at: [https://cpag.org.uk/sites/default/files/EWS%20briefing%20EU%20migrants%20\(May%202015\).pdf](https://cpag.org.uk/sites/default/files/EWS%20briefing%20EU%20migrants%20(May%202015).pdf)

⁹⁸ NRPF Network. The Destitution Domestic Violence (DDV) Concession. http://www.migrationscotland.org.uk/uploads/files/documents/nrpf_network_ddv_concession_factsheet.pdf

⁹⁹ <https://southallblacksisters.org.uk/news/all-of-us-or-none-of-us/>



The pandemic and consequent economic crisis have made women with insecure immigration status, who may have previously been self-sufficient and in secure housing, even more vulnerable. They may have been ill from Covid-19 or have to care for someone with the virus. They may have lost their jobs. Domestic abuse or a breakdown in a relationship may mean that they are no longer able to meet their housing or other essential living costs.

Women with insecure immigration status experience certain types of abuse such as domestic servitude, restriction from learning English or working outside the home. Their immigration status may depend on the status of an abusive partner. An abusive partner may use a woman's insecure immigration status as a threat against her. All the above factors affect a woman's agency and her ability to leave an abusive partner and/or engage with services.

For EEA nationals, women, particularly those with children, may not be able to fulfil entitlement requirements, such as the habitual residency test, because of their childcare responsibilities. They are often 'second earners' in low-paid, part-time jobs and likely to have gaps in their employment history. Victim-survivors of domestic abuse are doubly disadvantaged. Features of coercive control include financial abuse, being discouraged or prevented from working, and/or benefits such as child benefit or child tax credit being in the abusive partner's name. Women are usually isolated, discouraged or prevented from working, from learning English, and/or from seeking help or advice.

Support options for women and children with NRPf (pre-Covid-19)

Social services support from local authorities

Local authorities have responsibilities for safeguarding children and vulnerable adults who need social care. The assistance of social services may be needed when a person or family is not entitled to social security benefits because of NRPf, and they need accommodation and financial support to alleviate destitution. This assistance is not a public fund for immigration purposes. It is a public fund for children and adults who are in need, regardless of their immigration status. However, for certain adults and families, accommodation and financial support are based on a human rights assessment which considers whether they can return to their country of origin to avoid destitution in the UK as an alternative to being supported by social services.

Accommodation and financial support are typically provided to people with NRPf under the following legislation:

- ▶ Section 22 of the Children (Scotland) Act 1995: to a family to meet a child's needs
- ▶ Sections 29 and 30 of the Children (Scotland) Act 1995: to a young person eligible for aftercare
- ▶ Sections 12 or 13A of the Social Work (Scotland) Act 1968: to an adult in need
- ▶ Section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003

The UK and Scottish Governments and the UK Supreme Court recognise this support as a safety net to protect the most vulnerable migrants from destitution.¹⁰⁰

¹⁰⁰ The Scottish Parliament Equalities and Human Rights Committee. (2017). Hidden lives – new beginnings: destitution, asylum and insecure immigration status in Scotland. Available at: <https://digitalpublications.parliament.scot/Committees/Report/EHRIC/2017/5/22/Hidden-Lives--New-Beginnings--Destitution--asylum-and-insecure-immigration-status-in-Scotland>

Destitution Domestic Violence Concession

Women on a spousal visa, with limited permission to stay in the UK, whose relationship has broken down because of domestic abuse, and who are destitute, can be eligible to apply for the DDVC. If successful, the concession allows recourse to public funds for three months to allow women to take steps to regularise their status in the UK or return to their country of origin.

National Referral Mechanism

Statutory duties and obligations apply to women and children recognised as survivors of human trafficking. Individuals with NRPF referred as possible survivors of trafficking under the National Referral Mechanism are eligible for advocacy, guidance, accommodation and support for a limited period. Positive conclusive identification as a survivor of trafficking may result in a discretionary grant of limited leave to remain. This is usually granted with recourse to public funds, allowing full access to mainstream benefits and accommodation.

Non-statutory support

Third sector organisations, housing associations and volunteers within the community can all contribute to meeting accommodation needs if the Scottish Government and local government are restricted from doing so. Shakti Women's Aid and Hemat Gryffe Women's Aid provide specialist support to BME women and children with insecure immigration status and who are experiencing domestic abuse including forced marriage, female genital mutilation and 'honour-based abuse'.

Developing accommodation pathways for women and children with NRPF and EEA nationals who are experiencing domestic abuse

Meeting the needs of vulnerable women and children with NRPF requires a strategic and coordinated response by the statutory and third sectors. A targeted and specialist approach is necessary to account for the unique needs of women and children with NRPF who have experienced domestic abuse. This must be developed to meet women's and children's needs as and when public health grounds change.

In 2019 COSLA published guidance on Migrants' Rights and Entitlements to Local Authority Services and Support.¹⁰¹ It followed this up with training. Local authorities have provided emergency financial support or accommodation to individuals – regardless of immigration status – to support the public health response under the Coronavirus (Scotland) Act 2020.

The 'Ending Homelessness Together' strategy is similarly concerned with migrant homelessness with an intention to explore what is possible within devolved competence to give frontline support to migrant people who are homeless.¹⁰²

Under devolved legislation, the Scottish Government and local authorities are not authorised to accommodate people who do not have eligible needs and entitlements to statutory support. This includes women without children. In many cases, the lifeline of accommodation and subsistence comes from third sector agencies which are not subject to the same strictures.

¹⁰¹ <http://www.migrationscotland.org.uk/migrants-rights-entitlements/introduction/1-1-how-use-guidance>

¹⁰² Scottish Government. January 2020. Ending homelessness action plan: annual report. Available at: <https://www.gov.scot/publications/ending-homelessness-together-action-plan-annual-report-parliament/>



3. THE RECOMMENDATIONS

Recommendation

1. Human rights-based accommodation pathways

Human rights-based accommodation pathways for victim-survivors with NRPF and EEA nationals should be developed and implemented. This recommendation has now been included within the updated Ending Homelessness Together action plan. A working group is developing more detailed recommendations for these pathways.



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