

15. In addition to reviewing who may be eligible for the Destitute Domestic Violence Concession, what other considerations could the Government make in respect of protecting domestic abuse victims with no recourse to public funds?

It is important to be aware that victims of domestic violence who have no recourse to public funds (NRPF) are not limited to those with spouse visas, but can include people with:

- Leave to remain with NRPF as a spouse of a British citizen/ settled person
- Leave to remain with NRPF under other categories, whether as a dependant family member or not
- No current immigration permission
- A pending asylum application or refused asylum claim
- EEA nationality where the habitual residence and right to reside tests for benefits are not satisfied
- EU derivative right to reside on the basis of being the primary carer of a British citizen

Therefore, when this question is considered, the needs of each of these groups must be addressed. Although a review of eligibility for the Destitute Domestic Violence Concession is welcome, which will hopefully be widened, there may still be victims who cannot rely on this as a route to gaining recourse to public funds, and therefore mainstream housing and welfare support.

(1) Support options for people with NRPF: knowledge and support gaps

When a domestic abuse victim's support options are not quickly identified or accessed there is a risk that they will remain in accommodation with the perpetrator because they are unaware of any other options or there can be delays removing them to a place of safety.

A domestic homicide review undertaken in February 2013 following the death of an EEA (A2) national in Sheffield highlighted that systems were deficient in ensuring the victim had full access to the services she may have required:

'The Review has identified that after Adult D fled the home there were gaps in service responses, and finds that these were due not only to her status as an A2 migrant; and to the lack of knowledge and understanding of staff about her rights as an A2 migrant fleeing domestic violence; but most importantly, to deficits in the systems available to ensure she was provided with her rights in law and the resources for refuge, support and safety which would be provided to a UK national in similar circumstances.' [1]

Where a person has children under 18, or an adult with care and support needs is destitute and has NRPF, they are likely to be eligible for support from social services under section 17 of the Children Act 1989 or the Care Act 2014, respectively.

A 2015 report by COMPAS at Oxford University found that experiences of domestic violence were a key element in many referrals of women and children to local authorities for support, with relationship breakdown, including domestic violence, often leading to previously stable circumstances deteriorating. [2]

Knowledge of social services' duties towards families can be limited across the statutory and voluntary sectors, with a lack of understanding that section 17 allows for families to be supported together where this will safeguard and promote the welfare of children. It is therefore important that all agencies coming into contact with NRPF families fleeing domestic violence are aware of this avenue of support, including when such support may be provided to prevent a human rights breach (if the parent is a EEA national or has no current immigration permission).

There are significant gaps in statutory support for victims of domestic violence with NRPF who do not have children in their care or who are not eligible for Home Office asylum support. Our data shows that 50 local authorities are supporting 457 single adults whereas 1805 households with dependent children are supported. For single adults with NRPF who do not have eligible care and support needs, then the local authority may use discretionary powers to provide accommodation in order to prevent a breach of the person's human rights, but these are not widely used and are usually only engaged when a person has identified vulnerabilities.

A single adult victim of domestic violence with NRPF may be involved in bringing criminal proceedings against the perpetrator or child contact/care proceedings if their children have remained with the other parent. They may therefore require support whilst legal proceedings are ongoing. Although a local authority may decide discretionary powers to provide support are engaged in the latter scenario, in order to comply with duties to promote the welfare of children and to prevent a breach of family life, practice will vary between councils and this is not a guaranteed support option.

We provide resources on social services duties including a web tool to help practitioners establish a family's support options and what should be considered when social services' support is requested. [3]

Recommendations:

- Short-term funding for refuge spaces/accommodation is necessary to allow for a person with NRPF to flee to a safe place whilst they obtain immigration and/or benefits advice, establish their support options and find an appropriate pathway out of destitution. An evaluation of the Southall Black Sisters project will be welcomed.
- Ensuring all front-line practitioners encountering domestic abuse victims have a good awareness of support options for a person with NRPF, including how to access social services' support.

(2) Access to free immigration advice for all victims

Access to immigration advice is essential so that victims of domestic abuse are fully aware of their immigration position and how this may impact on their support options. They may need to take immediate action if they have a pending application which may be varied, or

where a new claim is required. Difficulties accessing legal advice may mean that a person will face delays getting access to public funds.

Legal aid is available for: people on a spouse visa making an ILR application on the basis of domestic violence, EEA nationals in some instances, and people claiming asylum.

In 2016, the OISC confirmed that providing advice about, or assistance with, a Destitution Domestic Violence Concession application constituted providing immigration advice and services, yet legal aid funding does not cover this. There can therefore be a delay in a person being able to access legal advice before the concession application can be made, so gaining access to public funds does not take place as quickly as it could do.

Our data shows that the individual or parent in two-thirds of the NRPF households supported by 50 councils nationally has no current immigration permission. Therefore, many victims of domestic violence receiving social services' support will need advice on matters that are out of scope of legal aid. Social services need to ensure that a victim has obtained immigration advice in order to support them to establish a sustainable pathway out of destitution. For the majority of people or families supported by social services, this will be a grant of leave to remain with recourse to public funds, although the average time spent on support is just under 2.5 years. The lack of legal aid therefore contributes to longer periods of dependency on social services' support whilst an immigration matter is resolved. [4]

Recommendation:

- Legal aid is made available for all victims of domestic violence so that they are able to get legal advice about their options, before or immediately after fleeing from the perpetrator. Ideally, a referral for immigration advice should be made as part of an agency's response when a victim with NRPF is first encountered by a statutory or voluntary service.

References

[1] <http://sheffielddact.org.uk/domestic-abuse/wp-content/uploads/sites/3/2016/06/Learning-from-Domestic-Homicide-Review-Adult-D-Sheffield-.pdf>

[2] <https://www.compas.ox.ac.uk/2015/safeguarding-children-from-destitution-local-authority-responses-to-families-with-no-recourse-to-public-funds/>

[3] Web tool: support for migrant families <http://migrantfamilies.nrpfnetwork.org.uk/>

[4] All data referenced is from the NRPF Connect database, year end 2017/18
<http://www.nrpfnetwork.org.uk/nrpfconnect/Pages/default.aspx>

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