



Home Office

Migrant Victims of Domestic Abuse Review Findings

July 2020



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Recommendations from the Joint Committee

1. On 14 June 2019 the Joint Committee for the Draft Domestic Abuse Bill published a report outlining their recommendations for the draft Bill and the evidence they had heard in relation to the provisions in the Bill¹. The Joint Committee noted that they felt that the Bill missed “the opportunity to address the needs of migrant women who have no recourse to public funds”, and made several recommendations specific to migrant victims of domestic abuse, including;
 - A. To explore ways to extend the existing support available for some migrant victims of domestic abuse under the Domestic Violence Indefinite Leave to Remain immigration route (DVILR) and the Domestic Violence Concession (DDVC) [to ensure that vulnerable victims of crime can access protection and support whilst their application for indefinite leave to remain is considered by the Government];
 - B. To extend the time limit for support under the DDVC from three to six months;
 - C. To establish a ‘firewall’ at the levels of policy and practise to separate the reporting of crime and access to support services from immigration control

¹ Joint Committee on the Draft Domestic Abuse Bill – 1st Report (June 2019)

<https://www.parliament.uk/business/committees/committees-a-z/joint-select/draft-domestic-abuse-bill/>
accessed 4th June 2020

Response to the Joint Committee

2. In July 2019, the Home Office published a response to the Joint Committee² in which we committed to review the overall response for migrant victims of domestic abuse. We stated that we would specifically consider the Committee's recommendation to extend the period of time that support is offered for under the DDVC, how this relates to a victim's ability to access refuge accommodation, and take into account any obligations we may have under the Istanbul Convention regarding migrant victims to ensure we are compliant.
3. We also stated that, in respect of a 'firewall', we would consider what more the Government can do to support positive change in this area as part of the review.
4. In addition, we said that we recognised the importance of ensuring victims of domestic abuse had appropriate access to the EU Settlement Scheme. This was also considered in the review.

² Government response to the report from the Joint Committee on the draft Domestic Abuse Bill session 2017 to 2019 paper 378/HC2075: Domestic Abuse Bill (July 2019)

<https://www.gov.uk/government/publications/government-response-to-the-report-from-the-joint-committee-on-the-draft-domestic-abuse-bill> accessed 4 June 2020

The Review

5. The review was carried out in two stages.

- Stage one involved a review of a sample number of cases where an application for DVILR had been made to see what could be learned about the characteristics of those applicants and their applications.
- Stage two involved gathering evidence from expert sector organisations representing or specialising in the complex and interrelated issues that affect migrant victims of domestic abuse in order to obtain more detailed information and views on the difficulties faced by migrant victims.

6. Twenty-four expert organisations and groups contributed to the review. These were:

- Amnesty International
- The Angelou Centre
- Asiana Women's Project
- BAWSO Wales
- End Violence Against Women Campaign
- The Equality & Human Rights Commission
- Imkaan
- Kurdish and Middle Eastern Women's Organisation
- Latin American Women's Rights Service
- Liberty
- London Black Women's Project
- Middle Eastern Women and Society Organisation
- Migrants' Rights Network
- Project 17
- Refuge
- Refugee Women
- Rights of Women
- Safety 4 Sisters Manchester
- Sisters for Change
- Southall Black Sisters
- Step Up Migrant Women Coalition
- Welsh Women's Aid
- Women for Refugee Women
- Women's Aid

Stage One: Review of sample cases

7. Stage one commenced in August 2019. We examined 100 cases chosen at random in which a claimant had applied for ILR on grounds of domestic abuse. The review specifically looked at:
 - length of time in the UK;
 - whether the claimant had arrived on a partner visa or had formed their partnership after arrival;
 - whether the claimant was being accommodated in a refuge or receiving other forms of support;
 - in addition, gender and other characteristics were recorded.
8. By nature of the small number of cases reviewed, stage one was not designed as a comprehensive analysis of those applying for DVILR, but it allowed a broad exploration of those applications in order to identify any emerging trends. It should also be noted that it relied on internal management information, which has not been quality assured.
9. We found that the majority of applicants for DVILR were female (circa. 80%). This supports other widely cited statistics, such as those in the Crime Survey for England and Wales³, that domestic abuse is a crime predominantly suffered by women but may also reflect that women are more likely to seek and access this type of support.
10. Nationals of Pakistan and India accounted for 40% of applications, but these countries also consistently give rise to more family related visas than other countries (circa. 25% in the year ending 31st March 2020⁴). This may be one reason for the high incidence of nationals of these countries in the DVILR applications. See Table 1 below.

³ Domestic abuse: findings from the Crime Survey for England and Wales: year ending March 2018 (November 2018)

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabusefindingsfromthecrimesurveyforenglandandwales/previousReleases> accessed 4 June 2020

⁴ Immigration statistics, year ending March 2020 (May 2020)

<https://www.gov.uk/government/statistics/immigration-statistics-year-ending-march-2020> accessed 4th June 2020

Table 1 – Applications for DVILR by nationality of applicant

Nationality of applicant	No. of applications
Pakistan	25
India	15
Nigeria	8
Sri Lanka	6
Morocco	5
Other	41

11. The review of sample cases revealed that the two largest providers of evidence in support of the DVILR application came from the police (in approximately two thirds of applications) and medical professionals (in just over one third of applications. Note that most applications contained evidence from more than one source). Charities and NGOs were the next most common; they provided evidence in just under a quarter of applications. See Table 2 below.

Table 2 – Providers of evidence in applications for DVILR

Evidence source	No. of applications*
Police	66
Medical profession e.g. GP or hospital	37
NGO or charity	23
Local Authority (includes social services)	17
Refuge	14
Courts (including non-molestation orders)	12
No evidence provided	10

**note that most applications contained evidence from more than one source*

12. Just over half of applicants from the cases that we sampled were in receipt of support from a refuge or another similar service. Again, while only an indicative finding, it suggests that a large proportion of migrant victims on partner visas seek refuge support or other safe accommodation when they leave their abuser. This may be a particular issue for those on partner visas as they often rely on the income of their sponsor in order to meet the requirements of their immigration leave; migrants on other major routes (e.g. workers and students) must demonstrate that they are financially independent.

13. Around two thirds of applicants for DVILR had been in the UK for more than two and a half years. Again, the small number of cases needs to be taken into account, but this finding could suggest that the DVILR is not being used, in the main, as an alternative route to obtain indefinite leave to remain. If the route was being used in this way, we might expect to see a higher proportion of cases where the applicant had only been in the UK for a very short period.

Stage Two: Evidence gathering from expert sector

14. For stage two, we gathered evidence from expert sector organisations that represent or are specialist in migrant victims of domestic abuse to understand the existing support available and the issues raised by the Joint Committee.
15. In October 2019, three workshops were held with stakeholders representing migrant victims of domestic abuse. The workshops covered;
 - a. The support and accommodation needs of all migrant victims (workshop one);
 - b. The specific needs of EEA migrant victims (workshop two); and
 - c. Information sharing between the police and immigration enforcement (workshop three).
16. Through the charity Refuge, we also met with refuge managers to get their perspective on the challenges that migrant victims face in obtaining support and accommodation. This also took place in October 2019.
17. In March 2020, we issued a final call for evidence to the charities and other stakeholders who had been involved in the review. We asked specifically for more information on;
 - the length of time between accessing the DDVC and submitting an application for indefinite leave to remain under the domestic abuse provisions;
 - the number of migrants seeking access to safe accommodation; and
 - their status on arrival to the UK and/or upon contact.

Evidence and Findings

I. DDVC/DVILR

18. At the workshop, we were told that access to a refuge space is often dependent upon a victim being able to pay for that space. Refuge buildings are usually houses adapted for multiple occupation and rented from a housing association, local authority or similar landlord. Most refuges are part-funded through local government grants and fundraising. They make up the remainder of their funding (often around 50%⁵) through housing benefit, paid to them through the victims they are supporting.
19. The majority of non-EEA migrants are subject to the condition that they cannot access public funds (known as the No Recourse to Public Funds condition, or NRPF). The DDVC therefore specifically grants a period of three months' leave outside the Immigration Rules independent from their sponsor, as well as recourse to public funds which allows them to pay for a space in a refuge.
20. The DDVC is only available for specific groups of migrants; mainly those who hold a partner visa, but also some smaller groups such as the partners of refugees or the partners of those serving in the armed forces. We were told that if a migrant victim is not eligible for the DDVC it is difficult for them to access a refuge space as, from a funding perspective, it is unsustainable for many refuges to support victims who are unable to pay for their space through benefits.
21. This was supported both by our conversation with refuge managers, and by evidence from Women's Aid's 'No Woman Turned Away' project⁶. Of the 977 victims supported by the project from January 2016 to January 2019, 231 (24%) were unable to access public funds.
22. We were told that some refuges have funds of their own that they can use to support a victim who does not have access to public funds. These funds are often generated through local fund-raising initiatives; however, stakeholders at the workshops said this was not the norm and most refuges are simply unable to provide spaces for migrant victims who do not have access to public funds. As such, the expert organisations recommended that the DDVC be expanded to include all migrants, regardless of immigration status.
23. What was unclear from the evidence we received was the immigration status of those who needed support, and particularly whether any other support was available to them. For example, we were provided with evidence that suggested that some individuals on

⁵ Women's Aid – Funding a National Network of Refuges (2018)

⁶ Women's Aid – Nowhere to Turn (2019, 2018 and 2017)

<https://www.womensaid.org.uk/research-and-publications/> accessed 4th June 2020

visitor and student visas had come forward for support. However, individuals on these visas must prove that they are able to support themselves financially in order to be granted leave to enter the UK so it was not clear why they might have been in need.

24. Additionally, we saw evidence that victims of trafficking, asylum seekers, and those granted discretionary leave had also been provided with support. There is, however, existing support available for victims of trafficking through the National Referral Mechanism (NRM), asylum seekers who would otherwise be destitute are supported by the Home Office, and those with Discretionary Leave are granted recourse to public funds.
25. The organisations identified a number of concerns with the current operation of the DDVC. They said that there was uncertainty about when recourse to public funds has been granted, and that this meant DWP granted benefits from different starting points. For example, there was confusion about whether a migrant could claim benefits only from the date that the Biometric Residence Permit (BRP) was received, or whether backdated payments could be claimed from the date the DDVC was granted or from the date they applied to the DDVC.
26. Additionally, it was mentioned that some victims experienced a delay in obtaining a fresh British Resident Permit (BRP) to confirm that recourse to public funds had been given. These delays often impacted on migrants' ability to claim benefits from DWP, and we heard that some refuges were therefore refusing to grant migrant victims a space until the BRP had been received. Southall Black Sisters presented evidence to show that they had supported some migrants on spousal visas who had experienced these delays. However, the refuge managers we spoke to said that they accept migrant victims based solely on the Home Office letter confirming that the DDVC has been granted.
27. We received conflicting feedback about whether the current three-month timeframe for support under the DDVC was long enough. Under the existing arrangement, where an application for the DVILR is made within three months, support will continue under the DDVC until that application has been decided rather than end at the three-month mark. The Home Office's internal management information shows that the majority of DVILR applications are made within three months.
28. Some organisations mentioned that refuges were turning migrant victims away in the belief that they would only be eligible for housing benefits for three months (we were told that the average length of stay in a refuge can be anywhere from four months to a year). We were told that some migrants struggled to obtain legal support and the necessary documentation for their DVILR application within the three-month period.
29. In contrast, we were also told that the current system worked well for those currently eligible for the DDVC, but that, if the DDVC were expanded to cover other migrant groups who cannot apply for the DVILR, three months' support would not be long enough for many of them to resolve their situation and move on from the refuge.

However, data from the 2019 Southall Black Sisters' report 'Safe and Secure'⁷ shows that of the 55 women they supported for which they had data, only seven were supported for longer than three months.

30. Two main solutions were suggested which reflected the recommendations of the Joint Committee. We were told that support under the DDVC should be extended for a minimum of six months. It was also suggested that we should provide all migrant victims a route to permanent settlement by opening the DVILR to include migrants on non-spousal visas.

Conclusions

31. The DDVC and the DVILR are intended to provide support and a route to settlement for those on a spousal visa independent of their sponsor because, the domestic abuse notwithstanding, these individuals would otherwise have a reasonable expectation of remaining in the UK on a long-term basis. This is not the case for migrants on non-spousal visas, and the Government has concerns that opening this route up to those on other visas would detract from its intention.

32. A decision to expand the DDVC will have a significant financial cost. Despite our call for evidence to support this review, there is currently a lack of evidence to demonstrate how long individuals who are not currently eligible for the DDVC might need support for and how they could be supported to move on from safe accommodation. It is also unclear which cohorts of migrants are likely to be most in need of support and how well existing arrangements may address their needs. Without clear information that identifies which groups of migrants may be most in need of support, it is difficult to ensure that any additional funding is targeted correctly. It is therefore reasonable to defer a decision until these evidence gaps have been addressed.

33. We have instead explored options for now that would allow us to disconnect immigration status from the need for support so that migrant victims of domestic abuse can be treated as victims, first and foremost. That is why we have allocated £1.5m toward a 'Support for Migrant Victims' (SMV) pilot scheme, to be launched later this year, to support migrant victims of domestic abuse who do not have access to public funds to access safe accommodation.

34. In addition to offering emergency support, the SMV pilot will be designed to assess gaps in existing provisions and gather information to help inform future funding decisions. This would include data on the number of migrant victims who are likely to need support, information about their immigration status and length of time they are supported, and their outcomes from the pilot and how they can be supported to move on from safe accommodation.

⁷ Southall Black Sisters draft report of findings – "Safe and Secure: The No Recourse Fund" (September 2019). Not available publicly. Submitted by Southall Black Sisters as part of the final call for evidence.

35. We are reviewing the options for implementing the SMV pilot and expect to make further announcements by the Autumn ahead of its launch later this year. The findings from the SMV pilot will be used to inform future decisions about support for migrant victims of domestic abuse.
36. We will work closely with the Domestic Abuse Commissioner to consider the findings of the SMV pilot and develop sustainable options for migrant victims in the future.

II. EEA Migrants

37. The second workshop covered the rights of EEA migrants and their partners in relation to those subject to domestic abuse. We also received submissions on this issue from our further call for evidence in March 2020.
38. It should be noted that since this workshop, changes have been made to Immigration Rules which govern the EU Settlement Scheme (EUSS) that address some of these issues. These are discussed further in our conclusions.
39. EEA migrants have a right of permanent residence in the UK under the EEA Regulations 2016 if they have lived here continuously in accordance with the Regulations for five years or more. Such EEA migrants would also be eligible for 'settled status' under the EUSS. EEA migrants who meet the definition of a 'qualified person' in the EEA Regulations i.e. if they are exercising 'treaty rights' (this includes those who are working, studying, self-employed, seeking work, or are financially self-sufficient) have a right to reside in the UK beyond three months. Those continuously resident in the UK for less than five years are eligible for 'pre-settled status' under the EUSS (unless they qualify under one of the routes to 'settled status' for those with less than five years' continuous residence). Generally, there is no requirement to demonstrate they have been a 'qualified person' while continuously resident to obtain status under the EUSS.
40. This right of residence under the EEA Regulations 2016 extends to close family members, including spouses and civil partners, even if they are not from the EEA or a 'qualified person'. For family members of EEA nationals, a right to reside in the UK also allows them to access public funds where they meet the relevant qualifying criteria. Furthermore, eligible family members of EEA migrants are able to apply for status under the EUSS.
41. The organisations at the workshop told us that, although under the EUSS the right of residence in the UK could be retained by the ex-spouse or ex-civil partner of a resident EEA citizen where this was warranted by particularly difficult circumstances (including domestic abuse), this only applied where the relationship had been legally terminated. Therefore, this did not provide any protection for unmarried partners or other family members subject to domestic abuse.
42. We were told that when migrants in this situation leave their abuser, many then lose their eligibility under the EUSS and, for those not exercising qualifying Treaty rights, they struggle to access safe accommodation because they are unable to access public funds.
43. The organisations recommended that the policy should be amended so that family members of EEA migrants can access public funds if they leave their abuser, even when they are not exercising qualifying Treaty rights.

44. We were also told that, because status under the EUSS is not an automatic right but must be applied for by those migrants who are eligible, there may be some EEA migrants who would be without status and unable to access public funds if they fail to apply by the deadline to the scheme. There was a concern that migrant victims would be at a greater risk of this because of the controlling nature of domestic abuse; many migrant victims might be isolated and unaware that they need to apply to the EUSS, and others may simply be unable to obtain the necessary documentation to apply to the scheme if their partner prevents them from accessing it.

Conclusions

45. The Government recognises the difficulties that the family members of EEA migrants face when they are in an abusive situation. That is why we have made changes to the EUSS rules. These changes will mean that any family member within the scope of the EUSS (a spouse, civil partner, durable partner, child, dependent parent or dependent relative) whose family relationship with a relevant EEA citizen (or with a qualifying British citizen, having returned with them to the UK after living together in the EEA) has broken down permanently as a result of domestic violence or abuse will have a continued right of residence where this is warranted by domestic violence or abuse against them or another family member. They will be able to rely on this, together with their own continuous residence in the UK, in applying for status under the EUSS. These changes came into force on 4 June 2020.

46. We also recognise concerns that migrant victims may be unable to access public funds if they leave their abuser, and that this can cause difficulties for those needing to access safe accommodation. Migrant victims in this situation, including those who are dependent on EEA migrants for their right of residence, will come under the scope of the Support for Migrant Victims pilot described above. This funding will support migrant victims who cannot access public funds to find safe accommodation.

47. On the issue of the EUSS deadline, the Domestic Abuse Bill explicitly recognises that domestic abuse does not just include physical violence but can also involve controlling and coercive behaviour. This will be included in a new statutory definition of domestic abuse. In respect of migrant victims, we recognise that immigration status can form part of the controlling behaviour of an abuser. In our response to the Joint Committee⁸ we said “[t]he Government recognises that there may be circumstances in which some perpetrators may use their partner’s insecure immigration status as a form of abuse and we are clear that such abuse is unacceptable.”

48. The Government published a Statement of Intent for the EUSS in June 2018⁹. This states that “where someone misses the deadline for their application for a good reason,

⁸ Government response to the report from the Joint Committee on the draft Domestic Abuse Bill session 2017 to 2019 paper 378/HC2075: Domestic Abuse Bill (July 2019) <https://www.gov.uk/government/publications/government-response-to-the-report-from-the-joint-committee-on-the-draft-domestic-abuse-bill> accessed 4 June 2020

⁹ EU Settlement Scheme: statement of intent (June 2018) <https://www.gov.uk/government/publications/eu-settlement-scheme-statement-of-intent> accessed 4 June 2020

they will be given a reasonable further period in which to apply” (pg.9). Examples of ‘good reason[s]’ were provided by the Home Secretary in a letter to the Home Affairs Committee earlier this year¹⁰. These included “those in abusive or controlling relationships who are prevented from applying or accessing the documents they need to do so”, and the letter stated that the Home Office intends to publish guidance for caseworkers on “what constitutes reasonable grounds for missing the deadline to ensure consistency of approach”.

¹⁰ Letter to the Chair from the Home Secretary in response to the letter on the EU Settlement Scheme (April 2020)
<https://committees.parliament.uk/download/file/?url=%2Fpublications%2F667%2Fdocuments%2F3023&slug=200414-letter-to-the-chair-from-the-home-secretary-in-response-to-the-letter-on-the-eu-settlement-schemepdf> accessed 4 June 2020

III. Information Sharing

49. Workshop three examined the role of information sharing between public bodies, most often the Police, and Immigration Enforcement agencies. Organisations representing migrant victims of domestic abuse were invited to share evidence, and we also heard from representatives from the Police and Immigration Enforcement.
50. Stakeholders raised concerns about occasions where the immigration status of migrant victims is passed on to Immigration Enforcement. They told us that this deterred victims from coming forward and argued that migrant victims should be able to access support and protection from the Police without fear of Immigration Enforcement.
51. We were told that the best way to achieve this would be to implement a data-sharing ‘firewall’ between the Police and Immigration Enforcement, to ensure immigration details were not disclosed when migrant victims came forward.
52. Representatives from the Police and Immigration Enforcement told us that migrant victims are treated as victims first and foremost. They said that when an undocumented migrant victim comes forward for support, sharing information about their immigration status can help prevent that victim from being subject to enforcement action if they are identified by Immigration Enforcement in an unrelated setting.
53. Additionally, they said that by working with Immigration Enforcement, the Police can help to signpost victims to the appropriate support, including measures such as the DDVC, or to routes that would help them to regularise their stay.
54. We also heard from police representatives that cases that reach criminal proceedings can be discontinued by the Court where it transpires that the Police have not informed the Crown Prosecution Service of the victim’s immigration status as it could be deemed that the police have withheld evidence or misled the court.

Conclusions

55. These points were addressed in our further response to the Joint Committee in March 2020¹¹. We said at that time that “we will take into consideration the outcome of the police super-complaint lodged about the police sharing immigration data”, and that “the Government will also take into account the outcome of a Judicial Review against the Metropolitan Police’s policy in respect of the passing of information to Immigration Enforcement about victims of crime with unsettled immigration status; the Home Office has lodged an application to be an interested party in the proceedings. As the

¹¹ Further government response from the Joint Committee on the draft Domestic Abuse Bill, session 2017 to 2019 HL paper 378/HC2075: Domestic Abuse Bill
<https://www.gov.uk/government/publications/government-response-to-the-report-from-the-joint-committee-on-the-draft-domestic-abuse-bill> accessed 4 June 2020

outcomes of this super-complaint and Judicial Review are germane to our further consideration of this recommendation by the Committee, the Government will return to this issue once HM Inspectorate of Constabulary has completed its investigation of the super-complaint and the legal proceedings in respect of the Judicial Review have concluded” (page 13).

56. The legal proceedings in respect of the Judicial Review has not yet concluded nor has the investigation of the super-complaint been completed. The Government will return to this issue once the outcome of these two challenges is known.

Conclusions

57. This Government is committed to doing what it can to support all migrant victims of domestic abuse as victims, first and foremost. This review has helped highlight concerns about the situation for these victims, particularly how a lack of access to public funds can make it difficult to obtain safe accommodation.

58. However, what is also clear from the review is that we need a better evidence base before we can make robust policy decisions about support for this cohort. For now, the Support for Migrant Victims pilot we have announced will not only support more individuals to find safe accommodation, but it will also help gather the data that is needed to develop sustainable solutions for all migrant victims of domestic abuse over the long-term.