



Home Office

Domestic Abuse Commissioner's report: 'Safety Before Status: The Solutions'

Government Response

July 2023



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Introduction

The Home Office thanks the Domestic Abuse Commissioner for this report.

The Home Office is grateful to the Domestic Abuse Commissioner for publishing the 'Safety Before Status: The Solutions' report and to the Commissioner's team and external partners for researching the vital issue of support for migrant victims and survivors of domestic abuse. We would like to highlight the specific contributions of those at the London School of Economics and the Migration Observatory at the University of Oxford whose detailed research contributed to this report.

The Home Office would also like to acknowledge the bravery of those domestic abuse victims and survivors who shared their experiences in the 'Safety Before Status: The Solutions' report and at the Commissioner's launch event. We greatly value the insight provided by those with lived experience to this research.

Tackling violence against women and girls is a government priority. We are committed to supporting all victims of abuse, regardless of their immigration status, and it remains the case that all victims will be treated first and foremost as exactly that.

The recommendations set out in this report touch on a number of wide-ranging and complex issues. We will seek to engage further with the Commissioner's office and departments across government on these. This response focuses on the specific recommendations made in the report.

We have already begun to take forward work that stems from some of the recommendations. We have considered the findings of this research in conjunction with the external evaluation of the Home Office funded Support for Migrant Victims Scheme pilot and considering wider policies affecting migrant victims and survivors of domestic abuse.

The recommendations in this report build upon those set out in the Commissioner's first report into migrant victims of domestic abuse published in October 2021, 'Safety Before Status: Improving Pathways to Support for Migrant Victims of Domestic Abuse'. The [government response](#) to the Commissioner's first report was published in January 2022 and set out how the government accepted five of the recommendations and partially accepted six more. Five recommendations were not accepted.

The Commissioner made six recommendations in her report. We have carefully considered these recommendations and have outlined the latest Government activity in response to each one and we are happy to discuss this further with the Commissioner and other stakeholders.

The responses to the recommendations in this report demonstrate the Government's continued commitment to supporting victims and survivors of domestic abuse. We understand there is more that can be done and look forward to working with the Domestic Abuse Commissioner's Office further to help achieve this.

UK Government Response to Recommendations in the Report

As required by the Domestic Abuse Act 2021, we have focused on responding to the specific recommendations in the report, rather than commenting on each of the wide-ranging issues the report covers. We address each recommendation under the same headings and in the same order as in the report.

Recommendation 1: Consultation

The Domestic Abuse Commissioner recommends that the Home Office consult closely with the specialist domestic abuse sector, and particularly the specialist by and for sector, in the development and implementation of any new model of support for migrant victims. Through the introduction of the Destitution Domestic Violence concession (DDVC), following the Sojourner project for example, the Home Office convened a working group with the specialist domestic abuse sector to aid implementation.

Response

The Home Office has established a collaborative partnership with the Domestic Abuse Commissioner's office and the wider violence against women and girls (VAWG) sector, including the domestic abuse sector, and we will continue to engage constructively on these important matters affecting victims and survivors. Our Tackling Violence Against Women and Girls Strategy and Tackling Domestic Abuse Plan are underpinned by consultation. Both were informed by a public Call for Evidence undertaken in 2021 in which 180,000 responses were received.

The Support for Migrant Victims Scheme (SMV) pilot launched in April 2021 and was designed and developed in consultation with VAWG sector specialists. Throughout the course of the SMV we have regularly engaged with our implementation leads, Southall Black Sisters, their delivery partners and the Commissioner's office (further background on the SMV is set out in the response to recommendation 3).

In addition to regular engagement with delivery partners, the evaluation of the SMV's quarterly reporting is a key component of our standard grant monitoring processes. This engagement has been used to discuss feedback from the pilot and its independent evaluation, to determine both the short and long-term adaptations needed for the SMV to continue to deliver effectively for the migrant victims it supports.

Taking on board lessons learned from the quarterly reporting, the Home Office has worked with the SMV's delivery partners and made operational changes accordingly. We also continue to provide regular updates to the VAWG sector on the SMV and related policies through several established forums, including the Commissioner's

monthly sector stakeholder meetings and the Home Office's quarterly VAWG sector meetings.

We are committed to continue building on this positive stakeholder engagement and will continue to seek the views of relevant stakeholders.

Recommendation 2: Emergency provision leading to initial support

The first prong of this model [Scenario 1 which the Commissioner recommends is adopted by the Home Office] involves support being made available to victims and survivors swiftly, within a 72-hour period. To support the implementation of this model the Commissioner would recommend that a routine referral pathway be established between public services and the domestic abuse sector, whereby guidance is issued to public services to ensure they refer any migrant victim to interim support from a specialist by and for service. The Commissioner would also recommend that specific guidance is issued to local authorities in the implementation of any central funding model which covers both single victims and survivors and those with children. This guidance should make clear that the existence of this pathway does not absolve local authorities of their duties under the Children Act.

The initial support pathway should be funded through a centrally held grant administered by domestic abuse service(s) in every Tier 1 local authority (or a relevant cross authority partnership). To ensure migrant survivors can access tailored and specialist support, this pot should have centrally set conditions for awarding the fund to the following services in order of priority:

1. Specialist 'by and for' organisations with expertise in supporting migrant victims of domestic abuse;
2. Specialist 'by and for' organisations, in partnership with mainstream specialist domestic abuse organisations;
3. Mainstream specialist domestic abuse organisations.

Response

The Commissioner recommends implementing Scenario 1 as set out in her report. This scenario proposes flexible support for all migrant victims regardless of status via an extension of the existing Destitute Domestic Violence Concession (DDVC) and Domestic Violence Indefinite Leave to Remain (DVILR) among other support (further background on the DDVC and DVILR is set out in the response to recommendation 3).

At this time, we are not considering establishing a routine referral pathway between public services and the domestic abuse sector, as we believe that existing government guidance already provides the information required for public services to support the specific needs of migrant victims. The [Domestic Abuse Statutory Guidance](#), which was published in July 2022, is aimed at statutory and non-statutory bodies working with victims and perpetrators of domestic abuse, and those dealing with other consequences of abuse. Those exercising public functions to whom the guidance relates must have regard to it in carrying out their functions. The guidance sets out how migrant victims of domestic abuse may face additional barriers when attempting to escape domestic abuse or seeking support relating to their immigration status or lack thereof. The guidance also provides a clear indication of what support is available to support this cohort of victims.

In addition to the Domestic Abuse Statutory Guidance, the Department of Levelling Up, Housing and Communities published its own statutory guidance '[Delivery of support to victims of domestic abuse in domestic abuse safe accommodation services](#)' for local authorities setting out how tier 1 authorities must commission safe accommodation services that reflect the particular needs of all victims in the area, including migrant victims who have insecure immigration status.

The Home Office fully recognises the importance of 'by and for' and specialist services in providing the tailored support that victims and survivors need, and we are committed to continue providing funding to these vital services. This was reflected in the 2021 Tackling Violence Against Women and Girls Strategy through which we committed to providing an additional £1.5 million to fund specialist 'by and for' organisations to allow an increase in the provision of available support services. In addition, as committed in our Tackling Domestic Abuse Plan (published in March 2022), we provided a further £1.4 million in 2022-23 to continue to fund the SMV Scheme. We have now extended this annual funding to March 2025, ensuring we maintain support for migrant victims of domestic abuse.

The VAWG National Statement of Expectations and Commissioning Toolkit, which we published in March 2022, provides support to commissioners to help them understand

the importance of and considerations which apply in relation to the provision of 'by and for' and specialist services.

In November 2022, to deliver on several key commitments within the Tackling VAWG Strategy 2021 and the Tackling Domestic Abuse Plan 2022, the Home Office launched the Violence Against Women and Girls Support and Specialist Service Fund, a joint fund with the Ministry of Justice to build capacity and capability in 'by and for' services to better support victims and survivors of VAWG. We recognise the benefits of multiyear grant funding and as a result have made up to £8.4 million available over two years, with the aim of funding a combination of both specialist 'by and for' and mainstream services. The fund consists of up to £6 million ringfenced for 'by and for' services from 2023/24 to 2024/25. The fund's specification set out the Home Office's intention to welcome consortium bids incorporating larger and smaller organisations, strongly encouraging partnership working and recognising the importance of specialist knowledge and trauma informed practices in service delivery. The fund has been designed to reflect the findings of the early mapping published by the Commissioner in June 2022.

The VAWG Specialist and Support Services Fund is also informed by the Ministry of Justice led, cross-Government Victims Funding Strategy which aims to tackle barriers to sustainable funding and drive consistent commissioning, so that victims get the right support at the right time. The Strategy re-affirmed the principle of multi-year funding across government to ensure that services have stability and can invest in building capacity to support victims effectively. The Strategy also introduces national commissioning standards and core metrics and outcomes, to ensure that government can measure the impact of funding and commissioning and that victims can access high quality support when they need it.

We are committed to ensuring victims can access support that is right for them, and we will continue working across government to support efforts to further build capacity in 'by and for' support and specialist support services, including through funding and investing in partnerships.

Recommendation 3: DDVC and DVILR extension

There are a number of different factors to consider in relation to DVILR extension. Firstly, the statutory criteria for awarding DVILR should be amended. In particular the rules criminalising migrants arriving by informal routes (particularly those carried by people smugglers) should be waived in terms of these criminal convictions and bad character provisions of DVILR. The overlapping processes of determining asylum applications and processing applications for ILR under the other visa routes can continue in parallel with the DVILR application, where this is appropriate.

With survivors on a range of different visa types having access to the DDVC in this Scenario, it may be that there are more complex cases where victims require more than six months to gather the evidence they need to make an application for DVILR. There may also be limited capacity for legal advice with additional survivors making applications, particularly in the first months of implementation. There should therefore be some flexibility built into this model whereby survivors with particularly complex cases can extend access to DDVC while they gather the additional information they need to make their DVILR application. Flexibility should be granted based on confirmation that the victim intends to make an application to the DVILR, which could be evidenced through a supportive letter from a voluntary or statutory agency or from a legal advisor.

Response

The rationale for the present policy provisions for migrant victims in the Immigration Rules is that those who have come to the UK as the spouse or partner of a person present and settled in the UK (or with refugee status or pre-settled status) have come to the UK in the reasonable expectation of being able to live here permanently. They would have an expectation of permanent settlement but for the breakdown in the relationship because of domestic abuse. But those who have come as the partner of a person on a temporary work or study visa have no such legitimate expectation on entering the UK.

The policy intent of the DDVC is to allow migrant victims of domestic abuse who entered the UK with a legitimate expectation to settle, to access immediate support

and grant them temporary status whilst their application to settle in the UK is considered. An application under the DDVC enables applicants to apply for leave to remain outside of the rules, without the no recourse to public funds (NRPF) restriction when their relationship has broken down because of domestic violence, where they are destitute and intend to subsequently make an application for DVILR. The SMV has provided a support net for migrant victims of abuse with no recourse to public funds, including wraparound support services such as accommodation, subsistence, counselling and legal advice. The purpose of funding the pilot was to ensure we further understand the circumstances and experiences of migrant victims who may fall outside of the current provisions under the Immigration Rules and what further support they require during their time within the SMV.

This should further build the evidence base to inform future policy decisions on supporting migrant victims. We are taking the findings of the SMV Scheme pilot into account to ensure migrant victims are supported effectively and continue to provide up to £1.4 million in each year of 2023-2025 to fund support for migrant victims of domestic abuse.

We welcome the research, undertaken by the London School of Economics, in partnership with the Oxford Migration Observatory, as part of this report which has further helped to:

- Provide an estimate of the number of victims of domestic abuse with NRPF and what types of leave they hold.
- Provide an estimate of the cost of providing support to those who need it within this group.
- Provide a cost benefit analysis of providing this support with a 10 year look at wider societal benefits.

We recognise this is a substantial piece of work attempting to use a disparate range of data and statistics to provide methodologically robust assumptions and conclusions. It draws on contributions from a range of experts, practitioners, researchers and victims and survivors of domestic abuse to highlight:

- That NRPF status is being used as a tool for perpetrators to coerce and control victims, such as access to finances, housing or children.
- The impact on victims' mental health and relationships with their children, including the need for long-term psychological support.
- The importance of receiving specialist 'by and for' organisations' support, for specific needs such as language, emotional support, advocacy and legal support.

The consensus from the victims and survivors the researchers spoke to, and the core recommendation of the report, is that a simple and quick route to emergency funds and regularising immigration status were essential, and the most effective option for support would be to extend the DDVC and DVILR to all migrant victims regardless of immigration status.

This research will complement and enhance the data from the SMV pilot to provide further evidence to support decisions on future policy. Ministers have reviewed the operation and scope of the DDVC and DVILR in light of this report and their decisions will be announced as soon as is practicable.

Recommendation 4: Improved access to immigration legal advice and representation

This is vital in ensuring victims and survivors can be supported to make applications to the DDVC and DVILR. This should include:

- a) Commissioning a national immigration advice line for migrant survivors of domestic abuse;
- b) Implementing reforms through the legal aid means test review which ensure all survivors of domestic abuse should be automatically granted an exemption from undergoing the means test in civil and immigration proceedings.

Response

Currently, we have no plans to commission a helpline to specifically assist with DDVC and DVILR applications. The DDVC form is specifically designed to be a light touch process which allows applicants to self-declare they are victims of domestic abuse and eligible for DVILR. It then gathers basic personal information to enable UK Visas and Immigration (UKVI) staff to process the application. If an applicant wishes they can give permission for a legal representative, refuge or advice agency to be their point of contact with the Home Office throughout the process.

Our internal review indicated the vast majority of successful DDVC applicants also made subsequent DVILR applications within the three-month period of leave granted by the DDVC. UKVI staff cannot provide legal advice but provide a range of contact centre options to help and support those making a settlement application.

A range of support is already available through the National Domestic Abuse Helpline which offers support and advice to victims and survivors of domestic abuse, their family, friends and practitioners, including those with NRPF. The service is free to access and available 24-hours a day, 365 days a year.

All those currently eligible to apply for DVILR can access legal aid when making their application. Reforms were made to the by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Legal Aid: Family and Domestic Abuse) (Miscellaneous

Amendments Order 2022) to ensure consistency, bringing in access for partners of refugees with limited leave, partners of members of the Armed Forces who have served more than four years and partners of those with pre-settled status under the EU Settlement Scheme as they were not previously included.

Reforms have been implemented following the legal aid means test review, and changes have been proposed around the capital thresholds for civil legal aid. By their nature this should have an impact on migrant victims of domestic abuse who are not eligible for DVILR, and once these changes have been implemented, we can look to review again depending on their impact. We will work with the Ministry of Justice to keep this under review.

Recommendation 5: Introduce a firewall

Introduce a firewall between immigration enforcement and public services to ensure survivors of domestic abuse can safely report their experiences of domestic abuse, enabling them to access support through this pathway, without fear of immigration enforcement. This firewall would help to address the fear of reporting and the impact of immigration abuse described so clearly by survivors in the roundtables held by the Commissioner to inform the report. This firewall should be established through legislation in the upcoming Victim's Bill and should be supported by a routine referral pathway from the police to domestic abuse services.

Response

We know that migrant victims can face additional challenges when reporting to the police. As discussed in the report, perpetrators often use a victim's immigration status to exert fear or control, such as threatening that immigration action will be taken against the victim if they report their domestic abuse to the police. We know that the fear of immigration action being taken against them can make victims more reluctant to seek help.

The Home Office's Report [Review of data sharing: migrant victims and witnesses of crime - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/102421/Review_of_data_sharing_migrant_victims_and_witnesses_of_crime_-_GOV.UK_(www.gov.uk).pdf) was published on 15 December 2021. The review concluded that the Government did not support a permanent cessation to the sharing of victim and witness data to the Home Office by the police for immigration enforcement purposes. Instead, the Government undertook to develop a Migrant Victim Protocol which will provide protection from immigration enforcement action and assurance to victims that there is a safe pathway to report crime.

The Home Office shares a commitment, with other agencies and authorities, to safeguard all vulnerable individuals and to ensure the sharing of information enables organisations to perform an active collaborative role in protecting the wellbeing of migrants.

Information sharing enables agencies and authorities to acquire a fuller understanding of a migrant's particular needs and circumstances which may assist in determining the

most appropriate and effective intervention(s). Migrant victims' safety and well-being will always be a priority.

Restrictions on data sharing between public services and immigration authorities could lead to delays in migrant victims being able to access vital information about their immigration status, including recourse to public funds, from the Home Office which may prolong their uncertainty and increase their vulnerability.

Alongside the introduction of the Migrant Victim Protocol, the Home Office is developing the Statutory Code of Practice relating to the sharing of personal data of victims of domestic abuse subject to immigration control between the police and the Home Office.

Section 82 of the Domestic Abuse Act 2021, which was commenced on 5 April 2023, confers a power on the Secretary of State to issue a Code of Practice relating to the processing of personal data obtained for the purpose of, or in connection with, the provision of support in relation to victims of domestic abuse or their children for the purpose of the maintenance of effective immigration control, or the investigation or detection of activities that would undermine the maintenance of effective immigration control.

The Code is subject to Parliamentary approval with prior consultation with the Domestic Abuse Commissioner and the Information Commissioners Office.

Recommendation 6: Include the Domestic Abuse Commissioner's definition of 'immigration abuse'

Include the Domestic Abuse Commissioner's definition of 'immigration abuse'¹ in policy and guidance on domestic abuse, including the Coercive and Controlling Behaviour statutory guidance. This would help improve understanding and recognition of the particular barriers to accessing support that this type of coercive control creates for migrant survivors, as described so clearly by survivors of domestic abuse to the Commissioner. Improved understanding of immigration abuse would also help to bring perpetrators of domestic abuse to justice by understanding the full range of abusive behaviours used.

Response

We believe that the updated [Controlling or Coercive Behaviour Statutory Guidance](#), published in April 2023, provides clear information to help agencies understand and recognise the additional barriers that migrant victims of abuse may face. The guidance, which we publicly consulted on, sets out how perpetrators may use the immigration status of a victim to threaten, exploit, coerce and/or control them. It sets out that perpetrators may manipulate documents related to a victim's immigration status as a tool for controlling or coercive behaviour (e.g. through withholding or destroying the victim's passport(s) and/or visas) and that immigration status can be manipulated as a tool for coercive control (e.g. through threatening to report the victim's immigration status to authorities, or in cases where the victim's immigration status is dependent on the perpetrator). The guidance also contains sections highlighting the specific barriers that migrant victims experience when seeking support and the range of different approaches that a perpetrator may use to abuse a victim based on their immigration status.

The Home Office would like to thank the Commissioner's office for their input into updating the Controlling or Coercive Behaviour Guidance and for their response to the public consultation.

¹ [Safety-Before-Status-Report-2021.pdf \(domesticabusecommissioner.uk\)](#)

Similarly, the Domestic Abuse Statutory Guidance published in July 2022 includes detailed sections setting out the barriers that migrant victims of domestic abuse may experience when seeking support to escape perpetrators.

Organisations such as the police and Crown Prosecution Service (CPS), which is responsible for pursuing perpetrators, already have due regard for the ways in which immigration status can be used by perpetrators to exert control over victims in their guidance and training. For example, the College of Policing issues Authorised Professional Practice (APP) which is the official source of professional practice on policing. The College's APP on domestic abuse clearly sets out that victims may have specific needs or issues relating to their cultural background or immigration status which should be considered when understanding the risk and vulnerability of the victim.

The [CPS Domestic Abuse Legal Guidance](#) sets out to prosecutors the ways in which those with insecure immigration status may experience barriers to reporting domestic abuse in the section 'People with insecure immigration status, refugees, and asylum seekers'. CPS guidance on controlling or coercive behaviour notes to prosecutors that perpetrators may exploit someone's vulnerability owing to their immigration status. The CPS controlling or coercive behaviour updated guidance was published in line with the commencement of the new offence in April 2023.