



'No Recourse' - No Safety:

Briefing from Scottish Women's Aid and Amnesty International

Introduction

In Scotland, we believe that we have measures to protect all women from violence and abuse. We like to think that if any woman is abused, beaten, humiliated or raped, she would automatically get access to protection and justice. But the reality is not like that.

Scottish Women's Aid (SWA) and Amnesty International UK (AIUK) believe that all women, children and young people who have experienced domestic abuse should be able to access vital refuge services where and when they need them. However, significant numbers are unable to do so because they have no recourse to public funds; in most cases, this is linked to their immigration status.

By failing to guarantee women fleeing violence the means to access safe accommodation, the Government is failing to respect its duty to protect the human rights of women in its jurisdiction. We urge the UK and Scottish Governments to take immediate action to remedy this situation.

Amnesty International and Scottish Women's Aid urge the Scottish Government to:

- Make available immediate emergency funding to help women in Scotland until a permanent solution is in place.
- Ensure that the needs of women with no recourse to public funds are addressed in the Strategic Framework on Violence Against Women, due to be published by the Scottish Government.
- Urge the Home Office to exempt women fleeing violence from the 'no recourse rule', thereby guaranteeing that women with uncertain immigration status fleeing violence or its threat will have the right to access crisis, temporary and permanent accommodation, specialist support services and essential financial support.

Background

The NRP rule applies to people with an insecure immigration status, and is a condition attached to their stay. Immigration rules specify that visa applicants need to accept that they cannot claim 'Public funds', which includes most welfare benefits and temporary or permanent local authority housing. This rule also applies to women with insecure immigration status who experience violence while in the UK. They include women who may be here legally on spousal visas, work visas, student visas or other temporary visas. They may also be classed as being here illegally having been trafficked into the UK, or having over-stayed their visa.

Access to safe accommodation, including refuges, is dependent on women covering the costs themselves or through claiming benefits, including housing benefit. This briefing includes research from SWA and AIUK that has found that women with no recourse to public funds find it almost impossible to secure a place of safety because they usually leave a situation of violence with nothing, and find that they cannot claim the required benefits.

Acknowledging the problem in 2004, the Violence Against Women Team in the Home Office provided two payments totalling £120,000 for refuges to support women with no recourse to public funding. This

money was exhausted in 2005 and was never available for refuges in Scotland, Wales or Northern Ireland.

The number of women experiencing domestic abuse with no recourse to public funds is increasing. The current position in Scotland, where only a quarter of the women seeking refuge were accommodated, creates a two-tier system that SWA and AIUK find unacceptable, particularly, when a Government Strategy¹ is in place, the purpose of which is:

'to address and prevent domestic abuse, and to identify the ways in which services should develop... This includes recognising and addressing the specific issues facing particular groups of women/children, such as those from black and minority ethnic groups'

Gender-based violence is a fundamental abuse of human rights. The Scottish Government has a clear responsibility under international human rights law to act with due diligence. That is, to act with appropriate effort, care and effectiveness to ensure that a woman's right to live free from the threat and reality of violence and discrimination is upheld. AIUK and SWA believe that the failure to protect these vulnerable women is largely due to the UK Government's neglecting to implement its commitment under the 1995 UN Beijing Platform for Action to develop an integrated strategic approach to ending all forms of violence against women.

The Scottish Government has honoured this commitment in its development of a Strategic Framework on Violence Against Women, but the commitment is limited by the fact that immigration and benefits are reserved to the UK Government. This means that women with 'no recourse to public funds' do not have equity of access to services and safety compared with other women in Scotland who have experienced domestic abuse.

Scottish Women's Aid Research

Research by Scottish Women's Aid found that between 1st April 2007 and 31st March 2008 a total of 176 women with no recourse to public funds requested support from Women's Aid groups in Scotland, of whom 79% (139) wanted refuge accommodation. In stark contrast to that figure is that only 24%—33 women and 47 children—were accommodated.

The cost of accommodating those women and children was £107,566, and 84% of it was absorbed by the Women's Aid groups through loss of potential rent income. None of the local authorities paid for women to be accommodated in a women's refuge.

Local Authority ²	Number of requests	Number accommodated
Aberdeen (City of)	2	0
Aberdeenshire	2	2
Angus	2	0
Argyll & Bute	1	1
Clackmannanshire	1	1
Dumfries & Galloway	2	0
East Ayrshire	5	2
East Dunbartonshire	1	1
East Lothian	1	1
East Renfrewshire	1	0
Edinburgh (City of)	28	5
Fife	17	3
Glasgow	47	5
Highland	4	4
Perth & Kinross	5	0

¹ National Strategy To Address Domestic Abuse, Scottish Executive November 2000

² Local authorities where no requests for refuge were made - Comhairle nan Eilean Siar, Dundee (City of), Falkirk, Inverclyde, Midlothian Lothian, Moray, North Ayrshire, North Lanarkshire, Orkney, Renfrewshire, Shetland, South Lanarkshire

Scottish Borders	2	1
South Ayrshire	6	0
Stirling	6	3
West Dunbartonshire	2	0
West Lothian	4	4
Total	139	33 (24%)

The Social Work (Scotland) Act 1968 and the Children (Scotland) Act 1995 make provision for women and children to be accommodated. Despite this, only a few local authorities provide funding to support women with children, but the funding is minimal and does not cover the accommodation costs.

Social services understand that they have a legal obligation towards children, but no legal obligation to the mother. Therefore on this rationale, taking the child into care or suggesting other custodial arrangements discharges their obligations to the child. SWA is aware of one recent case where funding was requested the local authority suggested that the child may be placed in the custody of her mother's abuser, a direct contravention of the principles of the Children (Scotland) Act 1995.

Anna and her daughter Ella (2) are staying in a Women's Aid refuge and the group is no longer able to accommodate them unless Anna can pay her rent. When she approached the council she was informed that:
'Their key responsibility is to her daughter Ella and if Anna is unable to care for her e.g. if she was not able to secure accommodation. In the first instance we would seek out family members This would mean that we would have to consider father as he has parental responsibilities I appreciate there may be concerns but we do need to make that assessment. We are still stuck with the position of not being able to provide public funds for housing costs for the mother if the child can stay with the father'

Amnesty International Research

Amnesty International's report, *No Recourse No Safety – The Government's failure to protect women from violence*, highlighted women with no recourse to public funds as a human rights issue. The Scottish launch of the report was in the Scottish Parliament on 13th March 2008, with speakers from Shakti Women's Aid and Hemat Gryffe Women's Aid giving their frontline experiences. The report states:

*"Fundamental to the protection of women's right to life when they are subjected to or fleeing gender based violence is 'life saving and critical' access to accommodation and support. In all cases examined for this report, women's rights have been violated at different points, starting with the act of violence itself, and compounded by the lack of Government support when seeking help. The fact that women with insecure immigration status are not guaranteed access to safe, secure and appropriate accommodation and support means that their right to life, liberty and security of person is constantly under threat."*³

The report includes the case of a woman who arrived in Scotland in March 2004, and suffered increasing threats and violence from her husband and her mother-in-law. Returning to her family was not an option for her, as they would have felt she had brought shame on the family. On the night she fled her home in Scotland her father-in-law had attempted to rape her. A doctor she spoke with referred her to a specialist women's refuge for safety and help.

Although she had managed to find a refuge, her problems did not end there. The Council's emergency temporary accommodation department assessed her case for support and decided they would not provide accommodation because she had no recourse to public funds. The local social work team also said that they would not provide living expenses for the same reason. The refuge had to ask another woman to share her room.

Current situation in Scotland

In Scotland, although immigration issues and benefits are powers reserved to the UK Government, violence against women issues and local government funding are devolved. This means that any

³ Amnesty International (2008) 'No Recourse' – No Safety: The Government's failure to protect women from violence. http://www.amnesty.org.uk/uploads/documents/doc_18308.pdf

emergency funding would come from the Scottish Government but long-term solutions must be developed by the UK Government.

Scotland leads the way in tackling violence against women in many respects; there is a national strategy on domestic abuse, and a strategic framework on violence against women is to be launched shortly. The Domestic Abuse Court in Glasgow and funding of refuges and Rape Crisis centres are examples of the benefits of this strategy. However, the strategy is failing to provide for women in Scotland with no recourse to public funds, and vulnerable women are falling through the gaps.

The Scottish Government recognises that the issue requires a strategic approach and has established a short-life working group to develop a sustainable solution, with representation from COSLA, the Homelessness and Violence Against Women divisions of Scottish Government, Association of Local Authority Chief Housing Officers, Hemat Gryffe Women's Aid, Shakti Women's Aid and SWA. This SLWG is due to report in September 2008, but meantime women with insecure immigration status continue to face destitution.

Recent developments

The Home Office has announced proposals for domestic abuse victims with no recourse to public funds. The plan is to 'back-date' a contribution towards costs for women with no recourse who successfully apply for leave to remain using the Domestic Violence Rule. We have yet to see any detail on how this would work in practice.

The proposals as they currently stand, which have been briefly outlined, will not solve the problem of ensuring immediate access to refuges for all women i.e. they will apply only to women who are eligible under the Domestic Violence Rule. They will also put already over-stretched services in severe financial difficulty. AIUK and SWA have identified the following problems with the proposals:

- Retrospective payments place unacceptable burdens on already over-stretched services. Refuges require resources at the point of need; they cannot support women without resources being up front
- It is not clear whether the proposals will cover over-stayers, domestic workers, trafficked women, those who have their applications rejected, and women from the A8 countries (Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovakia, and Slovenia)
- Although we support the aspiration to reduce the time it takes to process visa applications and produce guidance on applications, refuges are currently reporting waits of 3 to 6 months. We are concerned that introducing retrospective payments may lead to discrimination against women with complex cases, which may delay decisions.

Conclusion

Amnesty International and Scottish Women's Aid have joined forces to campaign on this issue here in Scotland. We recognise that domestic abuse is part of a continuum of violence against women, which represents some of the most pervasive and damaging human rights abuses in Scotland and the world.

Scotland is at the forefront of tackling violence against women, but some women in Scotland are excluded from Government strategies, safety and protection. In doing this, the UK and Scottish Governments are failing in their international human rights obligations, in their duty of care and in their moral duty to support those fleeing violence and abuse.

This is why Amnesty International and Scottish Women's Aid call on the Scottish Government to:

- Make available immediately emergency funding to help women in Scotland until the permanent solutions are put in place.
- Ensure that the needs of women with no recourse to public funds are addressed in the Strategic Framework on Violence Against Women, due to be published by the Scottish Government
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