

Scottish Parliament Equality and Human Rights Committee Inquiry into Destitution, Asylum and Insecure Immigration Status in Scotland

Written evidence submitted by Scottish Women's Aid March 2017

1. Scottish Women's Aid

Scottish Women's Aid (SWA) is the lead organisation in Scotland working towards the prevention of domestic abuse and plays a vital role in campaigning and lobbying for effective responses to domestic abuse.

We provide advice, information, training and publications to our 36 member groups and to a wide variety of stakeholders. Our members are local Women's Aid groups which provide specialist services, including safe refuge accommodation, information and support to women, children and young people.

An important aspect of our work is ensuring that public and voluntary services respond appropriately and sensitively to women and children with experience of domestic abuse.

2. Introduction

SWA welcomes the opportunity to provide a written submission to the EHRIC's inquiry into the destitution of people who are seeking asylum or have insecure immigration status. We focus this response specifically on women at risk of domestic abuse and other forms of violence against women, who experience destitution as a consequence of their immigration status.

Like all women with experience of domestic abuse, women with insecure immigration status have multiple and intersecting identities which shape their experiences of and vulnerability to destitution. However women with insecure immigration status experience specific patterns of abuse such as domestic servitude, restrictions from learning English, or working outside the home that are underlined with threats relating to their immigration status that increase the potential power of the perpetrator and restrict women's agency.

Equally Safe the Scottish Government and CoSLA's strategy for preventing and eradicating violence against women and girls recognises the importance of these additional risk factors that can;

“increase vulnerability to abuse and keep women trapped; factors such as age, financial dependence, poverty, disability, homelessness, insecure immigration status and ethnicity. Addressing these additional risks therefore, will be a key requirement in our future work to prevent violence against women and girls”¹

3. Background

Under international human rights law Governments are obliged to prevent violence against women and to respond when it occurs by ensuring victims’ access to safety and justice. For women with insecure immigration status there is a significant failure to uphold these rights, legal protections and access to safety and support.

The Committee on the Elimination of Discrimination Against Women (CEDAW) noted this discrepancy in the UK in its Concluding Observations on the UK’s Seventh Periodic Report, stating at paragraph 56:

“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.”

The Committee recommended that the Destitute Domestic Violence concession be provided to all women who are subjected to gender-based violence and exploitation and, access to justice and health care should also be provided to all women with insecure immigration status, including asylum seekers, until they return to their countries of origin.²

4. Destitution - NRPF and insecure immigration status

The Destitute Domestic violence Concession (DDV) introduced in 2010 gives women who entered the UK on spousal visas access to benefits for 3 months while they apply for Indefinite Leave to Remain in the UK, where she can prove her marriage has ended because of domestic abuse, has had a significant impact however many women remain excluded. This includes women; who entered the country on other visas and then married, students, as well as women trafficked into the country. These women often have a No Recourse to Public Funds (NRPF) condition attached to their immigration status.

More recently changes to the benefit entitlement of EEA nationals restrict access to benefits such as Jobseeker’s Allowance and housing benefit. EEA nationals are required to have a

¹ Scottish Government, CoSLA (2016) Equally Safe: Scotland’s strategy for preventing and eradicating violence against women and girls

² <http://www.edf.org.uk/blog/ehrc-submission-to-the-un-committee-on-the-elimination-of-all-forms-of-discrimination-against-women/>

right to reside to be able to claim benefits, whether in work or not. Those who are not 'economically active' (in paid work or self-employed) have to pass the habitual residence test to be eligible for benefits, and those who have never worked can only claim JSA for restricted periods and can no longer claim housing benefit.

These changes to social security entitlements have had an unequal impact on women, as they fail to take into account gendered patterns of care and employment. Women, particularly women with children, are less able to fulfil entitlement requirements because of their childcare responsibilities, are often as 'second earners' are in low paid, part time working and are more likely to have gaps in their employment history.

Victims of domestic abuse are doubly disadvantaged from being able to meet these requirements, due to the coercive and often financially controlling behaviour of the abuser; women are discouraged or prevented from working, benefits such as child benefit or child tax credit are often in the abusers name, women are usually isolated, discouraged or prevented from working or learning English and from accessing information and support.

Pregnant women and women with young children are especially vulnerable; they are much less likely to be able to meet job seeking requirements. This is also the time when women experiencing domestic abuse are at greater risk of harm, as abuse often escalates during pregnancy or the period following childbirth. Women are also at greatest risk of injury when leaving an abusive partner

In many cases these are women who have lived for years within the UK and may have British citizen children.

5. Insecure immigration status the impact on women experiencing domestic abuse

Establishing women's rights is a complex and lengthy process, requiring expert advice.³ Securing both immigration status and entitlement to benefits is often subject to misinformation and incorrect decision making which results 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 their abusive partner.⁴

Critical for women to be able to leave an abusive partner is having a safe place to go and knowing that they will have the financial means to survive. It takes considerable courage and immense effort to decide to leave and knowing what will happen to them when they leave is central to making this decision. However women with NRPF and many women from

³ <http://rightsofwomen.org.uk/wp-content/uploads/2014/10/Domestic-violence-immigration-law-and-no-recourse-to-public-funds-.pdf>

⁴ [http://www.cpag.org.uk/sites/default/files/EWS%20briefing%20EU%20migrants%20\(May%202015\).pdf](http://www.cpag.org.uk/sites/default/files/EWS%20briefing%20EU%20migrants%20(May%202015).pdf)

EEA countries because they have no entitlement to housing benefit are unable to access refuges. Refuges are financially dependent on housing benefit to cover their rental costs.

While many Women's Aid groups have worked to raise additional funding to cover the cost of accommodating women with no entitlement to housing benefit and to provide funds to cover basic needs such as food, clothing, toiletries, travel etc. This in no way meets the current levels of demand and with Women's Aid services under increasing financial pressure most are unable to accommodate women with insecure immigration status.

Some Women's Aid groups have also been informed by their local authority that as a condition of their funding they cannot accommodate women with NRPF or provide them with any support unless they are able to demonstrate this has not been provided using public funds.

At the same time Women's Aid groups continue to receive referrals from the police, housing, health and other public services of women with insecure immigration because they urgently need crisis accommodation and specialist domestic abuse support. However, when women's circumstances are assessed and they are informed of their lack of entitlement to funding for accommodation and the barriers to financial support that they are likely to experience - they often do not return to these services for support.

Destitution in addition to women's experience of domestic abuse and has an enormous impact on women's physical and mental health. In focus groups we held with women with insecure immigration status, women talked about the lack of understanding they experienced from public services, that they were treated without dignity or respect and that their safety and that of their children was not taken into account. They talked about the complex and lengthy process for decisions to be made and how this had affected their health.

"Having no means to survive has destroyed me it's had an enormous impact on my mental health and added to the domestic abuse"

"They shouldn't be leaving people with no money, people who have worked and paid taxes"

"They lost my residency forms three times, I had to keep re-applying, all that time I was left without any money"

Women also talked about the impact on their children and lack of support from social services. While some local authorities had provided small amounts of funding towards food, another woman was told by her local authority that they could only provide support by taking her children into care.

"What do I need to do, put my daughter up for adoption to be able to work and survive?"

"Decision making took a long time I had to rely on crisis grants to survive and food parcels"

Women and their support workers also talked about the attitude and quality of interpreters. They raised issues of inaccurate translation by interpreters and of interpreters questioning the veracity of women's experiences.

Case studies are included as an appendix to this submission

6. Other comments –mitigation measures that we invite the Committee to consider

In *Securing Women's Futures*⁵, a joint report from Engender, Carer's Scotland, Close the Gap, Scottish Refugee Council and Scottish Women's Aid we called on the Scottish Government to:

- Ensure that all women are able to access refuge accommodation, regardless of their entitlement to housing benefit, immigration status, or access to public funds.
- Create a destitution fund to mitigate the impact of restrictions on access to public funds for those with insecure immigration status and EEA migrant women experiencing domestic abuse.

Other measures we believe the Scottish Government and local authorities should consider are to:

- Systematically assess the number and needs of women and girls with insecure immigration status at risk of violence against women in Scotland.
- Consult with relevant violence against women NGO's and service providers on how best to address the needs of this group of women and their children.
- Address the additional support needs of specialist organisations working with women who have NRPf/ insecure immigration status to enable them to provide services to women experiencing domestic abuse and other forms of violence against women.
- Develop specific guidance for local authorities on migrants' rights, access to benefits and local authority services. Current CoSLA guidance, "Establishing migrants' access to benefits and local authority services" is from 2012 and requires updating.
- Provide training and guidance for DWP and Housing Benefit staff administering benefits for EU nationals to address the high level of misinformation and incorrectly refused claims, and ensure that EU nationals with a right to reside get the benefit that they are entitled to.
- Ensure the provision of accessible interpretation and translation services in accordance with national standards and good practice guidelines.

⁵ Engender (2016) *Securing Women's Futures: using Scotland's new social security powers to close the gender equality gap*

7. Scottish Women's Aid Case studies

1. Ms K has been in the UK for ten years, originally coming to the UK through a university supported sponsorship to and then gaining full-time employment. Her husband was a spouse on her visa. She sought legal assistance to extend her UK visa but defective legal representation left her with no status within the UK, she is appealing this decision and currently she has no access to public funds. Ms S experienced severe emotional, physical and sexual abuse from her husband, as well as financial fraud and other manipulating and controlling behaviour, exacerbated by his awareness of her insecure immigration status. She was coerced into terminating pregnancies and as a consequence of the abuse, her mental health has been severely impacted and she has tried to commit suicide on three occasions. This has had an impact on her 13-month old daughter and she has no income to buy necessities for her child. She sought support from Shakti Women's Aid, a difficult process due to her having no access no public funds or access to local authority accommodation. She left her husband in December 2016 to stay with family members but they were unable to support her long and she was forced to return to her husband. (Case study from Shakti Women's Aid)

2. EU national woman escaped domestic abuse and would like to return to Europe but her ex-partner has obtained a court order preventing her from taking their child out of the UK. The client should have retained worker status that would entitle her to benefits but income support and housing benefit were both refused and she has been told that jobseeker's allowance will stop after three months when the genuine prospect of work test will be applied. (Case study from Child Poverty Action Group's Early Warning System)

3. Ms K is a Polish national. She arrived in the UK in 2009 and worked in full-time employment for several years. As a result of domestic abuse she had to leave her home and her job and moved into temporary accommodation along with her three children. We supported Ms K to claim Housing Benefit and Jobseeker's Allowance (JSA) but because of a gap in her employment history she was only entitled to income based JSA and her Housing Benefit claim was refused. With three young children it is difficult for Ms K to find a job that she can fit round her childcare and pays enough to cover her rent, food, bills etc. Ms K faces eviction from her temporary accommodation as she has no entitlement to housing benefit and has built up rent arrears which she cannot pay. She is now considering returning to her abusive partner as she doesn't feel she has any other options. (Case study from Ross-shire Women's Aid)

4. Ms P has been living in UK just under 5 years. She was working until she became pregnant; her son is now 2 years old. She separated from her partner because of domestic abuse. She has received JSA for 3 months, is not entitled to housing benefit and has accrued considerable rent arrears. She is to be evicted from the house she is living in. She has no money to live on. Her mental health has deteriorated due to the impact of domestic abuse and her financial destitution. (Case study from Perth Women's Aid)

5. Ms S has lived in the UK for 12 years during this period she worked and studied; this included working for the NHS for 4 years. She separated from her partner because of domestic abuse and has a one year old son. Because she had breaks in her employment history when she studied to improve her career she was only entitled to JSA for 3 months and has no entitlement to housing benefit. She has rent arrears that she cannot pay that causes her considerable stress. She and her child both have health problems resulting from the abuse, she is traumatised and depressed. She and her son are reliant on Shakti Women's Aid providing food parcels and small loans. (Case study from Shakti Women's Aid)

Jo Ozga
Policy Worker
Scottish Women's Aid
Email: jo.ozga@scottishwomensaid.org.uk
[Telephone: 0131 226 6606](tel:01312266606)
www.scottishwomensaid.org.uk