



Domestic Violence and No Recourse

Tower Hamlets Multi-Agency Guidelines



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Readers of these guidelines should be aware that the law can (and does) change. Although the guidelines have been legally checked, this can only assure that they were accurate at the time they were published (April 2007).

Up to date legal advice should always be sought from a specialist solicitor or law centre when dealing with victims of domestic violence who are subject to immigration control or who have no recourse to public funds.

1 Introduction

Many victims of domestic violence have entered the UK as spouses, civil partners or as unmarried partners of persons settled in this country and do not have access to public funds when they are fleeing situation of domestic violence.

The purpose of these guidelines is to increase the safety of victims, improve their access to available support services and provide a more consistent and effective response from organisations supporting victims of domestic violence.

Tower Hamlets is one of the most diverse boroughs in the country where migrant and minority ethnic communities constitute 58% of the population. Historically the borough has attracted immigrants and many homeless people. Statutory and voluntary services have developed to become more responsive to the needs of the communities that have settled here. A significant number of foreign spouses/partners entering UK join their partners who are settled in the borough. Also victims fleeing DV from other parts of the country as well as other London boroughs take refuge with relatives and family friends living here. Services in the area have a track record of assisting victims subject to immigration control but workers are not always confident of how best to respond to their needs. This document therefore aims to provide guidance to all front-line staff in Tower Hamlets who may come into contact with women and men subject to immigration control who are victims of domestic violence.

Statutory and voluntary organisations within Tower Hamlets will advise victims who have been residing in the borough for a period of time (including in a refuge) or have fled to the borough due to further risks of DV or have local connections.

These guidelines provide an overview of the needs of this group of victims and the barriers they face to accessing services; information on the range of support that may be available to them and how best to support applications for Indefinite Leave to Remain (ILR) in the UK on the grounds of domestic violence under the immigration rules.

For a national and wider context on DV, immigration and women with no recourse to public funds refer to the resource pack produced by Southall Black Sisters and the Women's Resource Centre titled 'How can I support her?' - available from Southall Black Sisters on www.southallblacksisters.org.uk

2 Domestic violence and victims with no recourse to public funds

Definition of domestic violence

“Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial and emotional) between adults who are or who have been intimate partners or family members, regardless of gender or sexuality.”

(Cross government definition, 2004)

This definition includes issues such as female genital mutilation (FGM) so-called ‘honour’ crimes, forced marriages and other acts of gender based violence, as well as elder abuse when committed within the family or by an intimate partner.

An adult is defined as any person aged 18 or over. Violence involving people under 18 years of age is classified as child abuse and is dealt with by separate policies and legislation. Nevertheless children and young people are affected by domestic violence. Not only are many traumatised by what they witness or overhear, which has long-term damaging emotional and psychological effects on them; but there is frequently direct child abuse occurring with domestic violence as well.

Family members are defined as mother, father, son, daughter, brother, sister, and grandparents, whether directly related or stepfamily.

Domestic violence involves a combination of different abusive behaviours and tactics including criminal and sub-criminal behaviour - threats, intimidation, harassment, hitting, kicking, pushing, attacks with weapons, up to and including murder. It also often involves destruction of property, stalking and harassment after a relationship has ended. This combination of abusive and controlling behaviours, may, and often does, escalate over time.

Women are most likely to be victims of

domestic violence than men and may be at risk of suicide.

Victims will often have experienced abuse for some time before seeking help from an agency. Victims may want the abuse to stop but the relationship to continue, and may feel ambivalent about the prospect of seeking formal intervention within their personal life. They may also fear that taking any action may provoke the perpetrator to more serious violence.¹

Women from migrant and ethnic minority communities have more barriers to overcome, such as language problems, racism, strong religious and cultural pressures as well as insecure immigration status.

Leaving an abusive relationship is not a guarantee of safety. Abuse and harassment can continue and escalate after the relationship has ended. Separation from a violent partner can create a heightened risk of serious violence and it is important that victims of violence are supported to maximise their safety when they are planning to leave or end the relationship.

Domestic violence has far reaching consequences and impacts upon the health, welfare and quality of life of the individual victims, their children, families and also affects the wider community.

Where children live with a parent who is experiencing domestic violence, the violence and abuse can extend to the children themselves. Witnessing a parent being abused is traumatic for children and can have long term damaging emotional and psychological effects for children.

Spouses, civil partners and unmarried partners

Every year in UK approximately 600² migrant women who experience domestic violence do not have access to public funds including welfare benefits, council housing and places in refuges, because they are subject to immigration control. Therefore they do not have equal access to the means to protection, support and justice otherwise provided to victims of DV.

People who enter UK as a spouse, civil partner or an unmarried partner are initially granted a two year visa to remain in the country. They are entitled to remain here as long as the relationship is subsisting and in order for them to obtain indefinite leave to remain (ILR) in the UK permanently they must complete the two year probationary period. During this period they are not entitled to public funds.

In June 1999 a concession was introduced within the immigration rules and subsequently in 2002 incorporated into the immigration rules. This allows foreign spouses, civil partners and unmarried partners who left their relationship due to domestic violence during the probationary period, to remain in the UK.

Victims are required to provide evidence (see appendix 3) that domestic violence took place within the 2 year probationary period and was the cause of the break down of the relationship. However, while the application is being processed by the Home Office the victims are prevented by the immigration rules to access means of support that are vital for their protection and sustenance, particularly welfare and housing benefits and statutory homelessness assistance.

The abuser could be the partner or another member of the partner's family from whom

her partner fails to protect her. If the marriage permanently breaks down as a result of domestic violence then the victim can apply for ILR.

A person who entered the UK as a student, a worker, an asylum seeker, a fiancée or proposed civil partner, the spouse or partner of someone who themselves has only limited leave to remain, the spouse or partner of an European Economic Area national exercising free movement rights will not be able to apply under the DV rule. However, outside of the rule, a person may be able to make an application to be considered on discretionary basis.

Due to their temporary immigration status and financial dependence on their partner or the abuser, victims of DV are discouraged from seeking assistance. This leaves them extremely vulnerable. The situation is used to control the victims and can involve extreme forms of violence, imprisonment and domestic servitude.

Some victims become overstayers often after their spouse or partner have made false promises of making applications to the Home Office to regularise their immigration status.

3

Practical steps in responding to victims

All services - checklist for initial contact:

- Interview in private, away from friends or relatives
- Complete a DV1 referral form
- Take contact details of a trusted person (friend, relative, neighbour) who can be contacted to pass on messages or correspondence if necessary
- Make clear notes of visible injuries & mental state and reasons for these
- Make a note of victim's entry visa expiry date
- Go through the safety checklist with the victim
- Provide an information pack to victim if safe to do so (DV leaflet & safety check list)
- Refer to a specialist DV service (for support, advocacy & safety planning) using DV1 form & attach additional notes
- Keep a copy of the referral & additional notes in client file
- In due course, respond to the immigration solicitor's request for a supporting statement for ILR application.

• **Interview the victim in private and away from any relatives or friends.** The aims of the interview are to assess risk to the victim, look at her support needs and gather evidence of domestic violence which is imperative in supporting an application for ILR.

When appropriate trained bi-lingual workers are not available in your organisation, use a professional female interpreter, thus ensuring confidentiality.

In an emergency you can also call the Domestic Violence Helpline 0808 2000 247

(24 hrs freephone, language line and minicom service).

- **Complete a DV1 referral form** (Appendix 1). This form provides the structure for an initial interview and risk assessment. Attach any additional notes including that of any visible marks of injury on the victim's body and mental state (e.g. distressed, crying, numb) date of arrival to UK and entry visa expiry date. Keep clear record of these notes and copy of the form in the client file. Ask the client to sign the form to confirm the accuracy of the information recorded and permission to share information.
- **Provide an information pack** to the victim making sure that it is safe for her to take them with her. This should include a DV leaflet (available from LBTH DV Team) and a copy of the safety planning checklist (Appendix 2) which you should work through with her.
- **If your organisation is not a specialist DV service or you do not have a DV specialist** based within your organisation you should use the DV1 form to refer the victim (with consent) to a specialist DV service for advice, safety planning, support and advocacy. The form should be faxed to one of the following specialist agencies as soon as possible.

Specialist DV services in Tower Hamlets

Tower Hamlets Victim Support Domestic Violence Team
Tel: 020 8983 5454, Fax: 020 8981 8422

Tower Hamlets Women's Aid
Tel: 07000 782 539, Fax: 020 8983 9975

Tower Hamlets Asian Women's Aid Floating Support Service
Tel: 020 7517 1420

For advice & Information contact LBTH DV Team, Tel: 020 7364 6211/5441

Specialist DV services Case Workers checklist

- Provide the victim with clear information about their rights & options.
- Carry out a detailed interview of her experience of DV
- Carry out a risk assessment and devise a safety plan.
- Encourage her to report the DV to the hospital if she has been injured, to the police and to their GP
- Give information about accommodation options and explore any personal options they may have such as staying with friends or relatives
- Offer referral to an immigration law solicitor and arrange an appointment as soon as possible
- Provide a list of family law solicitors and offer to make a referral, as required
- If any dependent children refer to Children's Social Care
- Refer to Adult's Health & Wellbeing if she appears to be vulnerable
- Ensure that she is registered with a local GP
- Assist her in recovering or obtaining originals or certified copies of her relevant documents
- Prepare a supporting statement/letter for ILR
- Offer referral to a counsellor
- Continue to monitor and track the progress of the case until you are satisfied that appropriate support and legal processes are in place.

- **Safety Planning** - it is very important that you devise a safety plan with her as soon as possible as there may not be another opportunity to speak to her or you may have difficulty in contacting her again. The safety plan should be tailored to particular circumstances of the individual victim, bear in mind that victims of DV with no recourse may have specific and additional risks and given the limitations due to immigration control you may have to be very creative with the plan. A case example is given below.

Case Example

Following a serious DV incident the perpetrator was arrested by the police. The victim could not leave home due to her child's special medical needs. She had some vital medical equipment in the property which could not easily be taken with her and so she felt she had no choice but to stay.

A safety plan was devised by a DV Advocate which included an agreement from the police that after the perpetrator is released they would check on the property every two hours to look out for any disturbance. Since the victim had no recourse to public funds she did not have the option to present at a HPU for an emergency accommodation. The local hospital agreed to admit the victim and her child for a few days until an alternative option can be secured for them. The police also opened an account for the victim at her local cab service to help her get to the hospital.

- **First Appointment** - Where possible give priority to these victims and offer an appointment as soon as possible after the initial contact. During the appointment inform the victim of her rights and explain to her the

various options that may be available to her.

- **Report DV to the Police & G.P.** - encourage her to report to the police, her GP and any other relevant organisations she may be or may need to be involved with. If she is not registered with a local GP assist her to do so. If necessary offer a 3rd Party report to the police. Getting an injunction or a criminal conviction against the perpetrator has a very important implication on her chance of securing indefinite leave to remain in the UK.

- **Important Documents** - if the victim does not have her personal documents in her possession advise her and assist her in getting them back or obtaining copies from appropriate offices or apply for replacements. If necessary immigration solicitors can obtain copies of some documents from the Home Office where documents may have been submitted for immigration purposes or from British High Commission in the victim's country of origin.

If the documents are being withheld by the perpetrator/s - they must be reported to the police as stolen.

Important documents include:

- passports
 - immigration papers
 - birth certificates
 - marriage certificates
 - proof of address.
- **Legal Advice & Representation** - you must offer to refer her on to and if needed arrange appointments with a reputable immigration advisor/solicitor and also a family law solicitor for appropriate legal advice and representations (see appendix 4 for lists of solicitors). Where possible refer to a firm that specialises in both the immigration and the family law. To establish the person's immigration position, this referral should be

done before making referrals to Children's Social Care or Adult's Health and Wellbeing, except in an emergency. A person in this situation should qualify for public funding commonly known as legal aid.

- **Further essential specialist referrals** - as appropriate make referral to Children's Social Care and or to Adult's Health & Wellbeing. This should be done within 5 working days or as soon as possible if there is a statutory requirement to do so depending on victim's individual circumstances or in an emergency. Refer to the relevant sections below for further information on these services.

- **Follow up interview** - arrange a further appointment for follow up interview which should be carried out within 10 working days of the first appointment or earlier if necessary depending on individual circumstances such as needing to make application to Home Office before expiry of the visa.

- **Supporting statement** - a detailed account of her experience of DV is needed for a quality supporting statement and to put forward a strong case - this can make a critical difference in the speed and outcome of her case. See Appendix 5 for details of the kinds of information a supporting statement should include.

4 Applications for Indefinite Leave to Remain

The sooner an application can be submitted to the Home Office, the sooner the client's immigration status can be resolved. If the application is successful the client will then be able to apply for welfare benefits and housing assistance to help them establish a safe, independent future. It is therefore of crucial importance to support the application for ILR by ensuring the victim has specialist legal representation and providing a supporting statement detailing your involvement with the victim and the information s/he has disclosed to you. Applications supported with this type of evidence are usually dealt with quicker than cases which have little evidence.

When the application is made after the probationary period of two years or after the entry visa has expired the case gets allocated to complex case category where there is usually a long delay in processing the application; the Home Office is strict on who they grant leave to and usually take a very long time before making a decision.

It is very important that the case workers facilitate the application process by regular liaison with victim's immigration advisor/solicitor so that the application is submitted to the Home Office before the visa expires or as quickly as possible in case of overstayers (those who has not made an application for ILR before their visa expired).

The victim may need and may be eligible to make more than one type of application depending on the facts of her case. These include a human rights application and an asylum application which can be submitted at the same time along with the DV Rule application. The suitability of these applications needs to be assessed by her solicitor.

The Home Office is known to have taken from a few weeks to over a year to make

decisions on applications.

In case of a negative decision on the application the person has a right to appeal which is usually heard within 6 months of the notice of appeal.

Registration with the Home Office

If you are not a health professional or a police officer or an officer within a statutory social services department, the Home Office require that your organisation must be on their list of recognised DV organisations in order for your supporting statement to be accepted as evidence.³

To be included on the list you should write a letter to the Home Office. The letter should inform them of the role of your organisation in supporting victims of DV and that you wish to register your organisation with them. They will respond by sending you a declaration to sign and ask you to provide any other necessary information.

It is advisable that you send your letter by recorded delivery to:

Evidence & Enquiry, Borders & Immigration Agency, Home Office, Lunar House, 40 Wellesley Road, Croydon CR9 2BY.

Specialist DV caseworkers should endeavour to provide reports and statements to the appointed immigration adviser/solicitor within 10 working days after the follow up interview with the victim.

Professionals other than DV specialists should be prepared to provide the supporting statement/letter within 10 working days on request from victim's immigration solicitor/advisor.

³ <http://www.ind.homeoffice.gov.uk/documents/idischapter8/>

Social workers: a report from Children's Social Care is one of the main proofs of DV accepted by the Home Office. The Framework for the Assessment of Children In Need and their Families provides the basis upon which social workers undertake core assessments to safeguard children's best interests. Where a core assessment has been completed, information should be accordingly extracted from the report to evidence the application for ILR of victims of domestic violence. Reports should be provided without delay - target 10 working days.

Training - it is crucial that staff members in key services are adequately trained to provide supporting statement to support applications for ILR and to direct women to appropriate legal representatives who have a good track record in handling DV and immigration cases so that applications can be made in good time. Contact LBTH DV Team (0207 364 6211) for information on the availability of training on DV & No Recourse.

5 Accommodation

Victims who are subject to immigration control and have no recourse to public funds are not eligible for housing assistance from Local Authorities or for housing benefit. It is therefore essential to explore alternative safe housing options. In most cases the woman will have to make her own arrangements, e.g. stay with relatives, friends, possibly at places of worship and private rented accommodation.

Refuges are not usually able to provide accommodation and related support to this group of victims either, because they cannot pay the rent. Refuges are very unlikely to accept a referral unless it is accompanied by a written confirmation of support offered by the local authority. It is recommended that specialist DV workers should refer the victim and any dependant children to the appropriate local authority departments as soon as possible in order to secure possible financial support to cover the rental cost and living expenses.

If the victim has dependent children under 18 years of age, the children must be referred to Children Social Care of the local authority where the family has normally been resident, for assistance under the Children Act 1989, Section 17. The local Children's Social Care department will undertake a core assessment to ascertain whether the children are in need and the level of input or service a family may require. It is important that victims of domestic violence with no recourse provide all the relevant documentation at the time of the assessment, and co-operate fully with the assessment process, as otherwise it may hinder the level of services provided.

Whether the victim has any dependent children or not, if she appears to be vulnerable she should be referred to Adult Social Services of the local authority where the family has been normally a resident of,

for an assessment. See the section below for the types of support which the victim may be entitled to from Adult Social Services which is spread out over a number of pieces of legislation. Any negative decisions may be challenged legally for which the victim should seek specialist legal advice and assistance (see appendix 4 for Community Care law solicitors).

In case where victims are waiting assessment or found not to be eligible for assistance from the Local Authority, specialist DV workers will attempt and try to locate suitable safe accommodation for those in immediate danger or at further risk of violence. See appendix 6 for a list of Useful Services. At times some refuges may be able to offer a space.

When appropriate and where the victim can cover the cost of rent, case workers should advise victims on how and where to access private rented accommodation. If the victim is in a position to take on lawful employment (see below) and is able to take on a paid job then she may be able to cover the rent.

However, there may be some practical reasons as well as language and cultural barriers that would make it difficult for victims to take up employment without some prior skills training or support. There are victims who have been known to secure mutually beneficial arrangements where they have provided, usually, domestic assistance in exchange for a place to stay and for food.

However, this may expose victims to exploitation and so caution should be taken in this regard and against further victimisation of women who are already vulnerable.

In the meantime organisations and individuals may wish to join the campaign to abolish no recourse to public funds for

women without secure immigration status and who are subject to domestic violence. For further information please contact Southall Black Sisters (SBS) who is leading on the campaign.

Members of the Tower Hamlets DV & No recourse Multi-Agency working group are also keen to hear from anyone who may have information on possible sources of funding and or be able to help raise funding from potential donors to provide the necessary support to victims who are not eligible for assistance from local authorities.

6 Financial Support

People subject to immigration control do not have the right to claim certain state services, which is known as having no recourse to public funds. Public funds for the purpose of the rules include:

- welfare benefits (Income Support, housing benefit)
- accommodation from a local authority as a homeless person or allocation from a housing register
- state pension credit, child tax credit, working tax credit
- child benefit (except where the spouse/partner is a UK or EU citizen, see more details below)
- DLA, severe disablement allowance, attendance or carers allowance

Public funds do not include access to the emergency services, NHS treatment, legal help public funding (legal aid), community care services and state education.

Legislation relevant to persons with limited leave to remain in UK is complex and may be changing so victims should be advised to seek professional legal advice on welfare rights and immigration before making any claims. They should also seek advice on possibilities within the family law for financial support.

The list below includes the possible sources of financial support:

Income from employment - where the person has a valid spouse visa she is eligible to work until the visa expires and also if she has applied for ILR under the DV rule before the visa had expired.

Child Benefit - if the DV victim's spouse is a UK or EU national (the applicant & child must be in UK at the time of making the claim and have lived here for at least 182 days in the

last 52 weeks). She can claim even if she is an overstayer, i.e. visa to stay in UK has expired.

Job Seekers Allowance - if working for two years and paid sufficient National Insurance Contributions.

Other welfare benefits and Maternity allowance - may be entitled depending on the person's nationality and or history of employment. Seek professional legal advice on this.

Financial provision available within the family proceeding - under legislation whether the client is married, unmarried and whether she has children or not she may be able to claim various types of financial assistance. She must seek specialist legal advice from a family law solicitor. If it is safe for victims of DV to do so, claims of course can only be made against someone with assets and sufficient income.

- For clients with children claims could be made under the Children's Act 1989, Section 15 and Schedule 1; DPMCA1978.
- For married couples legislation that could be used to claim under includes the Matrimonial Causes Act 1973; the Domestic Proceedings and Magistrates Court Act 1978, and the Married Women's Property Act 1882.
- Having obtained occupation orders under the Family Law Act 1996 claims could be made for financial and consequential Orders under Section 57 and Schedule 7 for payments of rent/mortgage/utility bills/maintenance costs (but not for council property).
- For unmarried couples claims against property could be made under Trusts of Land and Appointment of Trustees Act 1996.

7 Social Services Assistance

Tower Hamlets Children's Social Care (CSC)

Under the Children Act 1989 CSC has a responsibility to safeguard and promote the welfare and safety of children in need. If a young person or child appears to be at risk of harm, the service has a duty by law to investigate their situation. The service has a duty to assess and where required undertake a core assessment in accordance with the Framework of Assessment of Children in Need and Their Families. Social Workers talk to the child or young person, their family and all of those agencies who are directly involved.

Following the outcome of an assessment CSC may provide a range of services to support families who may be experiencing a range of problems including domestic violence. The service offers social work support to families which may include basic financial support, i.e. cost of accommodation and subsistence as well as supporting them to access other family support services such as parenting classes, domestic violence groups, playgroups etc.

When a family is referred to CSC an initial assessment should be completed within 7 working days and a more detailed core assessment within 35 days. Where possible, DV caseworkers should escort the family to the first appointment. The victim of DV and her children should be seen in the service office and social workers may talk to child's school, family, doctor or other professionals who know the family. The victim's permission will always be asked to talk to others about the family circumstances unless it is believed that the child/ren would suffer serious harm if there is a delay in carrying out an assessment.

Following completion of a child in need or child at risk assessment, if a decision is

made to provide services, a child in need plan/protection plan will be completed. Support services may be provided prior to the completion of a core assessment if it is deemed to do so is in the children's best interests.

The Advice and Assessment teams deal with new cases and can be contacted on **020 7364 5006**. They offer the first point of contact for all families seeking help from Children's Social Care.

Tower Hamlets Adult's Health & Wellbeing

Tower Hamlets Adult's Health & Wellbeing provides care, support and assistance to a wide range of people and has a legal responsibility to ensure the welfare and protection of children and vulnerable adults.

To be eligible for services, the person must be 18 or over and normally a Tower Hamlets' resident. The person may also qualify if they are a patient in a Tower Hamlets' hospital but do not live in the borough and no other council has responsibility for their care. The person must also have needs arising from: frailty due to age, physical disability, impairment or life-limiting illness, sensory disability or impairment, learning disability or impairment, cognitive disability or impairment, substance misuse (drugs and alcohol), mental health difficulties or providing substantial and regular care to somebody with one or more of the above difficulties.

Mental health difficulties do not only mean a person having severe and enduring mental health but also include severe depression and the person should qualify for support. Also for a person in DV situation, the issue is the impact DV has had on the person and how it continues to do so. It has to be proven

that the need for care and attention is not just due to a lack of accommodation and funds but also the prevention of harm and violence.⁴

According to the government 'Fair Access to Care Services' rules, eligibility for services depends on the level of risk to the person's independence in four areas: person's health and safety, including freedom from harm, abuse and neglect, autonomy and freedom to make choices, ability to manage personal and other daily routines, their involvement in work, family and wider community life.

Councils cannot help everyone who asks for support. Tower Hamlets, will provide the person with services if their ability to live independently would otherwise be at substantial risk.

Services that may be provided include: home care and equipment for daily living, meals on wheels, day centres, support for people with mobility difficulties (parking and concessionary fares permits), aids and adaptations for people with disabilities, supported housing or nursing or residential care, and family support including family centres.

Access to these services usually follows an assessment of need. Following this, a care plan is agreed, setting out what services are to be provided.

For a victim of DV with no recourse, a referral or request for a social work assessment should preferably be made by letter or email. This will ensure a record of the approach made to the council and cases can be tracked easily. Adult's Health & Wellbeing will carry out an assessment and clearly record the details and outcome. They will need to establish eligibility in relation to immigration legislation, establish that the person is destitute, that the person has

needs in addition to destitution which would leave them at risk of significant harm if left without support.

The Social Care Team is the initial point of contact for members of the public and for professional bodies needing to access Adult's Health & Wellbeing.

The team can give information on the range of services provided by the council. It can also give advice on how to get help if the council does not provide the specific service required.

The Social Care Team

Operating hours: Monday to Friday, 8am to 8pm.

Tel: 020 7364 3838

Fax: 020 7364 3860

E-mail: adultcare@towerhamlets.gov.uk

Out of hours emergency

The emergency duty team can be contacted on 020 7364 7000 between 5pm and 9am.

The Legal framework for Adults Social Services provision

Victims who have applied under the DV rule in time (before the visa expired) may be entitled to services, care or support from Adult's Health and Wellbeing under a number of legislation including:

- S47 of the NHS & Community Care Act 1990
- S21 and Sch8 of NHS Act 1977
- S21 and 29 of the National Assistance Act 1948
- S2 Local Government Act
- S2 of the Chronically Sick and Disabled Persons Act 1970
- S117 Mental Health Act 1984

⁴ R (Khan) v Oxfordshire County Council and Office of the Deputy Prime Minister [2004] EWCA Civ 309

Under section 47 of the NHS & CCA, where there appears to be a need, local authorities are under a duty to identify and classify these needs and decide on provision of services.

As a last resort, accommodation and other support can be provided under section 21 of the NAA if they have additional needs, needs that are not solely caused by destitution but due to their individual circumstances such as where the person's needs are made worse by illness or some other factor beyond destitution (ill health, vulnerability etc).

Overstayers are only entitled to services in order to prevent breach of Article 3 European Convention of Human Rights (ECHR) or European Convention (EC) Treaty.

Overstayers are also entitled to help under S117 MH Act, if appropriate.

Local authorities are entitled to advise applicants to explore other remedies such as those under the Family Law Act.

Challenging a local authority depends on the following: a good prospect of gaining indefinite leave to remain in UK and DV has to have occurred within the probationary period.

Withholding and withdrawal of support from a non-UK citizen and separation of mother and children can be challenged under the Human Rights Act.

Appendix 1: DV1 Referral Form

LBTH DOMESTIC VIOLENCE REFERRAL & MONITORING FORM

This form must be used to record ALL reports of DV and to make referrals to DV services. It must also be copied to the LBTH DV Team for monitoring and review. It provides essential information to assist agencies to support the victim, and reduces the need to repeat information to different staff. The completed form **must** be faxed to the DV Team on **020 7364 4299**. For advice phone 0207 364 4183.

**LBTH DV1
CONFIDENTIAL**

Your Team/Dept:	Officer:	Phone:	Date:	Your Reference:
CLIENT'S DETAILS				
First name / initial:	Middle name / initial:	Surname / initial:	Date of Birth:	Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
Address:		Safe contact number:	Safe time(s) to contact:	
Postcode		How many children (17 or under) live with the client?	Is it safe to write to the client at this address? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Housing tenure: <input type="checkbox"/> Sole tenant <input type="checkbox"/> Joint tenant <input type="checkbox"/> Partner is sole tenant <input type="checkbox"/> Owner/Occupier <input type="checkbox"/> Other (<i>please state</i>) Landlord:		Ethnic identity:	Living with perpetrator? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the client consider herself disabled? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please specify access needs:				
Language support needed? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please specify preferred language/dialect:				
Relationship with perpetrator: Perpetrator is clients'... <input type="checkbox"/> husband/wife <input type="checkbox"/> ex-husband/wife <input type="checkbox"/> partner <input type="checkbox"/> ex-partner <input type="checkbox"/> boyfriend/girlfriend <input type="checkbox"/> friend <input type="checkbox"/> brother/sister <input type="checkbox"/> son/daughter <input type="checkbox"/> parent/step parent <input type="checkbox"/> niece/nephew <input type="checkbox"/> acquaintance <input type="checkbox"/> other – please specify:			Perpetrator's Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	
REFERRAL, MOST RECENT INCIDENT AND RISK FACTORS				
Referral from: <input type="checkbox"/> Self referral <input type="checkbox"/> Agency (please state)				
Reasons for Referral: <i>please tick all that apply</i> <input type="checkbox"/> Recent incident (give details below) <input type="checkbox"/> threats <input type="checkbox"/> harassment <input type="checkbox"/> escalation of abuse <input type="checkbox"/> concerns about children <input type="checkbox"/> advice from others (e.g. friend/family) <input type="checkbox"/> other (<i>please state</i>):				
Incident Details: <i>please briefly describe the most recent incident:</i>			Incident Date: Where did it happen? <input type="checkbox"/> Client's home <input type="checkbox"/> Perpetrator's home <input type="checkbox"/> Other – <i>please specify</i> :	
Children present? <input type="checkbox"/> Yes <input type="checkbox"/> No Social Services Informed? <input type="checkbox"/> Yes <input type="checkbox"/> No		Reported to police? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Medical attention required? <input type="checkbox"/> Hospital <input type="checkbox"/> GP <input type="checkbox"/> Dentist		Crime Reference No:		
How long has DV been occurring?				
Risk Factors: <i>please tick all that apply</i> <input type="checkbox"/> Separation/child contact proceedings <input type="checkbox"/> Pregnancy/recent birth <input type="checkbox"/> Frequency of incidents has increased <input type="checkbox"/> Assaults have become more dangerous <input type="checkbox"/> Stalking/harassment <input type="checkbox"/> Violence includes sexual assaults <input type="checkbox"/> Perpetrator misusing drugs/alcohol <input type="checkbox"/> Perpetrator has threatened to kill <input type="checkbox"/> Perpetrator has breached court orders				

**PLEASE FAX THIS FORM TO THE LBTH DV TEAM ON 020 7364 4299 or
Email: dvteam@towerhamlets.gov.uk**

Client name:	Your Reference:
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HELP SOUGHT BY CLIENT

Indicate what help the client is seeking at this point of contact. *Please tick all that apply*

<input type="checkbox"/> General advice, information & support	<input type="checkbox"/> Police action	<input type="checkbox"/> Counselling
<input type="checkbox"/> Health treatment/advice	<input type="checkbox"/> Housing – advice & information	<input type="checkbox"/> Housing – emergency housing/refuge
<input type="checkbox"/> Housing – transfer/move	<input type="checkbox"/> Housing – repairs/security	<input type="checkbox"/> Legal – injunction
<input type="checkbox"/> Legal – divorce/separation	<input type="checkbox"/> Legal – child contact/residence	<input type="checkbox"/> Legal – immigration/asylum
<input type="checkbox"/> Children – support/counselling	<input type="checkbox"/> Children – child protection	<input type="checkbox"/> Financial/benefits
<input type="checkbox"/> Help for perpetrator	<input type="checkbox"/> Help for drug/alcohol issues	<input type="checkbox"/> Other – please specify:

LEGAL PROTECTION CURRENTLY IN PLACE

Are there any court orders currently in place? Yes No If yes, please give details:

Date order issued:	Date order expires:	Power of arrest attached? <input type="checkbox"/> Yes <input type="checkbox"/> No
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ADVICE GIVEN & ACTION TAKEN

Please briefly describe what action you have taken / are taking in relation to this case:

Have you closed the case? <input type="checkbox"/> Yes <input type="checkbox"/> No
--

AGENCY INVOLVEMENT

Has the client reported the DV to any other agencies?

<input type="checkbox"/> Police	<input type="checkbox"/> Homeless Services	<input type="checkbox"/> Solicitor	<input type="checkbox"/> Housing Office	<input type="checkbox"/> Health Visitor	<input type="checkbox"/> LBTH DV Team
<input type="checkbox"/> GP	<input type="checkbox"/> Victim Support	<input type="checkbox"/> Social Services (Children & Families)	<input type="checkbox"/> Social Services (Adults)	<input type="checkbox"/> Other(s) (please state)	
<input type="checkbox"/> School (please state)					

REFERRALS TO OTHER AGENCIES

Please give details of all agencies / Council departments you are referring the client on to:	Date referred

CLIENT CONSENT

Data Protection requirements are that the client’s permission has been given before passing personal information to another agency. If the client cannot sign the form in person to confirm this, you may sign on their behalf. Signing the form on behalf of the client confirms that their permission has been given.

I.....(print client name) have checked the information on this form and agree that it is accurate. I agree to my details being passed to the agencies stated above, and that the agencies identified on this form may share information pertaining to my case for the purpose of providing me with services and protection. I consent to this information being recorded in a confidential database located with the LBTH Domestic Violence Co-ordinator.

Signature..... Date:..... OR tick here if consent given by phone

Workers Signature:..... Date:.....



**PLEASE FAX THIS FORM TO THE LBTH DV TEAM
ON 020 7364 4299 or
Email: dvteam@towerhamlets.gov.uk**



Appendix 2: Safety Planning Checklist

In any domestic violence case there is a strong likelihood of repeat victimisation. One of the most practical things the victim can do is put together a safety plan to deal with emergencies and threats. The checklist below can help put such a plan in place.

If you are still living with an abusive partner:

- Think about who you can contact in an emergency - this could be a friend, family member or neighbour you trust. Discuss the situation with them, and ask if you can call them in an emergency. Make sure you know their number. Consider having a code word you can use to let them know there is a problem without your partner knowing.
- Find somewhere you can safely use a phone in an emergency.
- Put away some money in case you need it for taxi or bus fares etc.
- Keep an escape bag in a safe place or give it to your trusted person for safe keeping until you need it. Put important documents or copies of these such as your passport, immigration papers, birth certificate, cheque books, medical card, any court orders, marriage certificate and driving licence in it, or copies of these documents as well as a change of clothes for yourself and your children, toys, any medication and spare keys for the house and car.
- If you choose to leave always try to take your children with you.
- If your children are old enough, teach them how to call the police on 999.
- Leave when it is safe to do so.
- You can request a police to escort you to return to the property if you have left behind

anything essential.

- Keep an incident diary in a safe place, listing all events concerning any harassment with details of perpetrator/s, what happened, what was said, date, time, place and any witness.
- Call 999 in an emergency.

If you have separated from your abusive partner:

- Report your experience of DV to the Police, your GP, and to a specialist DV service such as Women's Aid, Asian Women's Aid or Victim Support as soon as possible if you haven't already done so. This is a must if you are intending to make an application for indefinite leave to remain in UK as well as for your protection.
- If your important documents and any valuable properties are withheld by the perpetrator/s you must report this to the police as soon as possible and request their assistance in getting them back.
- Change telephone numbers if appropriate. Have "number withheld" calls barred.
- Don't let in unexpected visitors without checking their ID.
- Keep copies of any injunctions with powers of arrest easily accessible.
- If necessary and possible change your routines such as using different routes and shops.
- Change children's school if possible.
- Make sure your children understand that they should not let anyone into the property without you saying so - even their father if he is the abuser.
- Tell the school who can collect children from school - inform the school of any

injunctions or bail conditions in place.

Ask family members, friends and acquaintances not to pass on your new phone number/address to anyone without your permission. Only give your new number to people who you trust not to pass it on.

Keep an incident diary, listing all events concerning the perpetrator and any harassment with details of what happened, what was said, date, time, place and any witness.

Always call 999 in an emergency.

Appendix 3: Proof of domestic violence required in applications to the Home office for indefinite leave to remain

A victim of domestic violence who came to the UK to join her spouse and who has limited permission to stay in the UK (probationary leave of 2 years) may need to apply to the Home Office for settlement if her marriage has broken down as a result of the domestic violence. The Home Office will not normally grant settlement unless proof of the domestic violence is supplied.

The Home Office expects evidence in the form of⁵

1. An injunction, non molestation order or other protection order made against the partner (other than ex-parter or interim order); or
2. A relevant court conviction against the partner; or
3. Full details of a relevant police caution against the partner.

In recognition of the difficulties some victims may have of getting this sort of evidence the Home Office may accept two or more of the following:

1. Medical report from a hospital doctor confirming injuries consistent with domestic violence;
2. Letter from GP who has examined Applicant confirming injuries are consistent with domestic violence;
3. An undertaking given to the Court by the partner not to approach the Applicant who is the victim of domestic violence;
4. A police report confirming attendance at the Applicants home because of a domestic violence incident;
5. A letter from social services confirming its involvement because of domestic violence;
6. Letter/report from a women's refuge.

⁵ Immigration Directorate Instructions on DV:
<http://www.ind.homeoffice.gov.uk/documents/idischapter8/>

Appendix 4: Legal advice and representation

All solicitors in this list have contracts with the Community Legal Service therefore undertake public funding (legal aid) work.

Immigration

Citizens Advice Bureau

Whitechapel
32 Greatorex Street
London E1 5NP
Tel: 020 7247 1050
Tel: 0870 126 4014
(phone between 1:00pm-3:00pm)

Cleveland & Co Solicitors

234 Whitechapel Road
London E1
Tel: 020 7377 8866

Corbin & Hasan Solicitors

49 Raven Row
Whitechapel
London E1 2EG
Tel: 020 7247 6518

Elder Rahimi Solicitors

Norvin House
45/55 Commercial Road
London E1 6BD
Tel: 020 7377 6600

Oxford House

Derbyshire Street
Bethnal Green
London E2 6HG
Tel: 020 7749 1123 / 1117 / 1111
Immigration Only

Tower Hamlets Law Centre

214 Whitechapel Road
London E1 1BJ
Tel: 020 7247 9424
Housing, Immigration, Welfare Benefits & Education Law

Refugee Legal Centre

Nelson House
153-157 Commercial Road
London E1
Tel: 020 7780 3200

Kuddus Solicitors

2 Whitechapel Road
London E1 1EW
Tel: 020 7247 5476
Human Rights, Immigration, Family Law

Hackney

Duncan Lewis & Co Solicitors

1 Kingsland High Street
London E8 2JS
Tel: 020 7923 4020 / 020 7275 2773

Newham

Abiloy & Co Solicitors

21/23 Broadway
Stratford E15
Tel: 020 8534 9144

Citizens Advice Bureau

107-108 The Grove
Stratford E15 1HP
Tel: 020 8536 1626

Camden

Bindman & Partners

275 Gray's Inn Road
London WC1X 8QB
Tel: 020 7833 4433
Immigration and Family Law

Family Law

TV Edwards Solicitors

29 Mile End Rd, E1
Tel: 020 7791 1050

Family Law Practice

549-551 Cable St
London E1W
Tel: 020 7791 0432

Miles & Partners Solicitors

88-90 Middlesex St
London E1
Tel: 020 7426 0400

McCormacks Solicitors LLP

122 Mile End Rd
London E1
Tel: 020 7791 2000

Shahnaz & Partners

114 Cavell St
London E1
Tel: 020 7375 2898

Bibi Gadhwa Solicitors

245- 249 Whitechapel Rd
London E1
Tel: 020 7377 6102

Julia Cooper Solicitors

53 Mile End Rd
London E1
Tel: 020 7790 0441

McMillen Hamilton McCarthy

75 Whitechapel Rd
London E1
Tel: 020 7426 8833

Edward Fail Bradshaw & Waterson Solicitors

402 Commercial Rd
London E1
Tel: 020 7790 4032

Community Care Law

TV Edwards Solicitors

29 Mile End Rd
London E1 4TP
Tel: 020 7790 7000

Duncan Lewis & Co Solicitors

1 Kingsland High Street
London E8 2JS
Tel: 020 7923 4020 / 020 7275 2773

Appendix 5: Headings for supporting statements to the Home Office

(Please provide as much of the following information as possible from your records)

Background Information

Please provide details of:

Client's date of presenting to your service

Whether direct referral or from another agency

Client's dependents

Which country client is from and date of issue of entry clearance and arrival in UK

Details of domestic violence

Please provide details of client's account of domestic violence to include:-

When domestic violence started and all the forms of abuse experienced

Who was the perpetrator of the violence (husband, in-laws etc?)

Who did client report violence to? E.g. police, doctor, refuge, counsellor, relatives

If it was not reported what the reasons were for not reporting

How did client escape the violence?

Is the violence/threat of violence still ongoing?

Does the client consider that it has affected the client's physical/mental health?

Does the client fear return to country of previous residence and if so why?

Health (physical/mental) of client and dependents

Do the client and/or dependants have any medical conditions/needs?

Have these medical conditions/needs been diagnosed, if so please provide details of when and by whom.

Are the client and/or dependents receiving any medical treatment, if so by whom and give dates.

Are the client and/or dependants on medication? If so please provide details.

Has the client or does the client needs to be referred to any other specialist, if so please provide details.

Other needs

Does the client have a need for any other service e.g., counselling, family law advice, if so has or will a referral be made, please provide details.

Other support

Does the client have any other family/support networks available to them, if so please provide details.

Financial support

What financial support if any does the client have or need?

Care in the community/child in need assessments

Have any assessments been carried out? If not are there any pending and when do you expect them to be completed?

If the assessment has been completed has the threshold criteria been met and if so at what level?

What services are being provided to client by your department?

Please provide a copy of the assessment.

Do you consider the client to be vulnerable for any other reason?

Appendix 6: List of Useful Services

National Domestic Violence Helpline, 24 hours	0808 2000 247
Eave's Housing for Women	020 7735 2062
Tower Hamlets Asian Women's Aid	020 7517 1420
Newham Asian Women's Project	020 8552 5524
Ashiana Network (Refuge)	020 8539 6800
Karma Nirvana Refuge	01332 604 098
Tower Hamlets Police Community Safety Unit	020 7275 4757
East London Asian Family Counselling Service	020 7377 8640
The Limehouse Project	020 7538 0075
Forward (for African Women)	020 8960 4000
Akina Mama Africa	020 7713 5166
Chinese Information & Advice Centre	020 7323 1538
Rights of Women (Legal Advice)	020 7251 6577
Latin American Women's Rights Service	020 7336 0888
Tower Hamlets Victim Support	020 8983 5454
Tower Hamlets Women's Aid	07000 782 539
The Poppy Project (trafficked women), 24 hours	020 7840 7129
Joint Council for the Welfare of Immigrants	020 7251 8706/8
Women's Resource Centre	020 7324 3030

Southall Black Sisters 020 8571 9595

Email: southallblacksisters@btconnect.com

Website: www.southallblacksisters.org.uk