

## **TEO strategic framework to end violence against women and girls: Law Centre NI response**

### **Introduction**

Law Centre NI (LCNI) has extensive experience of working with victims and survivors of domestic abuse who experience particular difficulties because of their immigration status. LCNI provides immigration advice and legal help with the aim of helping victims and survivors to obtain a 'durable' immigration status in their own right. Our experience is that the outworking of immigration controls can contribute to and perpetuate situations of domestic abuse.

As a contribution to the Executive Office Strategy to Tackle Violence Against Women and Girls, this paper provides evidence of the particular impact of violence against women and girls on those subject to immigration control. Our clients have predominately experienced male violence.

This paper presents seven recent case studies that illustrate starkly some of the difficulties for migrants who have been subject to domestic violence. A brief commentary follows each case. The paper concludes with a series of recommendations, which we urge the Executive Office to adopt.

## 1. What we know from our work

1.1 Insecure immigration status can result in victims and survivors effectively becoming trapped within abusive situations. The legal framework of immigration law itself creates a type of legal dependency, which of course is extremely problematic where there is coercive or controlling behaviour. It is not, in our experience, uncommon that abusive partners have control of the survivor/victim's immigration documents nor for the victim to live under a constant threat of being reported by the perpetrator to the immigration authorities. This is particularly a risk in situations where a visa ties the victim to the 'sponsor'. An example of this is a spousal visa.

1.2 Immigration law can also cause financial dependency due to the imposition of the 'no recourse to public funds' ("NRPF") condition. This condition, that is applied to most time-limited visas, prevents migrants from accessing means-tested social security benefits. Another restriction is a prohibition or limits on working. These factors combine to make it practically difficult for a victim to exit a situation of abuse and to live independently from the abusive partner. Isolation and/or social dependence on the perpetrator is also a common characteristic for our clients. While not directly caused by immigration law, this isolation can be linked to the victim's migrant status. For example, we regularly see situations where a migrant speaks very little English and has few friends, family, or other social support networks. Other common features of our clients are:

- a lack of understanding of her rights and entitlements;
- a lack of awareness of support structures and
- a lack of trust in law enforcement.

1.3 The immigration system acknowledges the need for a route whereby migrant victims of abuse can obtain leave to remain in their own right. The Immigration Rules contain two provisions: the **Destitute Domestic Violence (DDV)** concession, which affords an initial 3 month period of leave to remain<sup>1</sup> and then an **Indefinite Leave to Remain (DV) application**, which provides settlement.<sup>2</sup> While these provisions are designed specifically for victims of abuse, sometimes it is necessary to make other applications e.g. to the EU Settlement Scheme.

1.4 As the illustrative case studies below highlight, these provisions do not provide comprehensive protection for those in need of it.

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<sup>1</sup> Under the DDV concession, successful applicants are granted 3 months leave outside the immigration rules (LOTR) with a condition code that does not restrict access to public funds while they apply to settle in the UK.

<sup>2</sup> Under the DV provisions of Appendix FM section DVILR, successful applicants are granted indefinite leave to remain (ILR).

## 2. Case Studies

Names have been changed throughout these case studies.

### Case study 1: Gloria

Gloria is an Asian woman who married a man from Northern Ireland and arrived here on a spousal visa. This visa is subject to the No Recourse to Public Funds (NRPF) condition, meaning Gloria had no entitlement to social security.

Upon arriving in Northern Ireland, Gloria's husband's behaviours became coercive and controlling. Gloria was not permitted to find a job or have a mobile phone of her own. Whenever her husband left the house, he demanded that Gloria stayed indoors. Most strikingly, Gloria did not have a key to her own home.

The situation became violent. Following one altercation, Gloria's husband kicked her out of their home. Gloria was homeless but due to the NRPF condition, she was not eligible to approach the NI Housing Executive for homelessness assistance. Gloria managed to make contact with a small community organisation that helped her speak to Women's Aid. Thankfully the refuge was able to provide accommodation despite Gloria's lack of entitlement to public funds.

Women's Aid contacted the Law Centre. Our legal team assisted Gloria to obtain 3 months leave to remain through the Destitute Domestic Violence (DDV) concession and then made a second application for settlement, which remains pending. The three months period was a stressful time for Gloria; in addition to dealing with the aftermath of a violent relationship, she also had to deal with a number of concurrent ongoing police and safeguarding matters in addition to the onerous immigration application.

### What Gloria's case illustrates

Although Gloria was able to avail of the initial three-month visa, this case study demonstrates the insufficiency of this protection. Three months is barely enough time for victims and survivors of abuse to regularise their immigration status.

This case study also illustrates the important role of specialist services – such as Women's Aid - and the role of small community organisations in being able to identify and respond to situations of abuse and to make timely referrals for specialist legal help to secure Gloria's entitlements. It is very unlikely that Gloria would have found her own way to specialist immigration legal advice without this support.

This case study also highlights the need for specialist immigration advice. Even though Gloria is fluent in English, she found the whole process extremely difficult.

## Case study 2: Mandisa

Mandisa is an African woman who came to Northern Ireland on a 6 month visit visa to join her partner and their children who have British nationality. The family had previously lived together abroad. Mandisa overstayed her visa.

Mandisa's partner subjected her to physical, emotional and financial abuse. He threatened her daily regarding her precarious immigration status, taunting her that he would "contact immigration" and get Mandisa "sent back home." Mandisa lived in isolation and had no support network. She suffered from anxiety and rarely left the family home. Given her immigration status, Mandisa could not work or claim social security and so was utterly dependent on her partner.

The relationship ended due to violence. However, as Mandisa initially entered Northern Ireland with a visit visa rather than spouse visa, she could not avail of the domestic violence provisions within the Immigration Rules.

With the Domestic Violence route closed to Mandisa, Law Centre advised her on her remaining visa options. None of these other visas are straightforward nor do they make any allowance for persons who have experienced domestic abuse. Mandisa has encountered multiple difficulties in meeting the evidential requirements for her visa application. For example, she has struggled to demonstrate her financial hardship (and thereby her entitlement to Legal Aid) because her partner controlled the finances and she had no access to a bank account.

It is likely to be several more months before Mandisa becomes entitled to social security and many years before she is eligible for permanent residency. At the time of writing, Mandisa has been entirely reliant on Social Services and charities for financial support for almost a year. If her application is refused, Mandisa may face removal, which would separate her from her children. This prospect is very frightening for her.

### What Mandisa's case illustrates

Mandisa's situation highlights the gap in legal protection for migrants whose visa excludes them from availing of the existing domestic violence provisions. These provisions were specifically designed to provide protection to victims and survivors of domestic abuse. However, only certain visa holders – namely spouse/partners of British or settled persons – qualify. Many do not.

Like Gloria, Mandisa also had to deal with a significant number of complex legal / administrative processes including divorce, care proceedings, residence proceedings, alongside the immigration process. The sheer amount of concurrent legal processes underscores the need for specialist legal support.

## Case study 3: Aashni

Aashni is from a South Asian country. Shortly after Aashni arrived in Northern Ireland to live with her husband and children the abuse started. Aashni was forbidden to leave the home, speak to anyone else or even learn English.

Aashni's husband controlled the household's finances. He withheld all the money and let Aashni and their children live in a state of near destitution. Although Aashni's visa permitted her to work, employment was not an option as she was deemed responsible for looking after the children and also suffered from medical issues. Aashni was subject to the NRPF condition and so was barred access to social security benefits. She found her situation very demeaning.

Following the end of the relationship, Aashni and her children became entirely reliant on Social Services for living costs. It was a Social Worker who contacted the Law Centre.

The Law Centre assisted Aashni to obtain an initial three month visa through the Destitute Domestic Violence concession. This gave her access to public funds. She is currently preparing a subsequent application for Indefinite Leave to Remain which will provide her with durable immigration status. The evidential requirements are onerous. Although there are police incident reports, these never progressed to criminal convictions and Aashni never sought a non-molestation order. Given the lack of 'strong value evidence', Aashni is compelled to request supporting letters from a number of other agencies and persons she has come into contact with.

### What Aashni's case illustrates

Aashni's case study illustrates how the NRPF condition can compound situations of abuse: in this situation, Aashni's husband used her lack of financial independence as a means of control. This case also highlights the need for financial support while immigration matters are ongoing. Financial support would enable Aashni and her children to live more independently while waiting for the outcome of her immigration application.

This case study also illustrates that victims of domestic violence are required to liaise with numerous frontline agencies and to repeatedly relive traumatic experiences when they explain their situations e.g., to their social workers, solicitors, government agencies and other organisations.

## Case study 4: Tendai

Tendai arrived in Northern Ireland with a visa to live with her partner, however, her relationship broke down due to domestic violence.

When Tendai's visa expired, she lost her eligibility to be registered with a GP. She had been on a hospital waiting list for a long time for a condition that may be related to the abuse she experienced. However, by the time she was offered an appointment, her visa had expired meaning she is no longer eligible for free healthcare. Instead, the law specifies that she must be charged for any hospital treatment.

Her women's refuge support worker urged Tendai to prioritise her health and to attend the hospital appointment despite the fact that a bill would be issued. The support worker sought advice from the Law Centre and we liaised with Red Cross who agreed to pay any healthcare charges using Crisis Fund monies. The Law Centre also spoke to Business Services Organisation staff who, while extremely sympathetic to Tendai's situation, explained that they have no discretion to waive healthcare charges for victims of domestic violence.

### What Tendai's case illustrates

Domestic abuse can have long-term emotional, psychological and physical effects. Access to healthcare is essential. Healthcare can be immediately necessary – e.g. in the aftermath of a violent physical assault – and also in the long term: research indicates that female survivors of domestic abuse are at double the risk of developing long-term physical illness and three times more likely to develop severe mental illness than the general population.<sup>3</sup>

The applicable Northern Ireland healthcare [regulations](#) do not make provision for victims of domestic violence to obtain free healthcare.<sup>4</sup> This means that migrant victims of domestic violence such as Tendai cannot access GP services and are routinely being charged for healthcare treatment.

In contrast, [legislation](#) has been adopted in England to enable free healthcare treatment of conditions caused by torture, female genital mutilation, domestic abuse or sexual violence.<sup>5</sup>

Healthcare policy is a devolved matter and so legislation could be adopted in Northern Ireland to ensure that healthcare is available for all victims of domestic abuse and gender based harm.

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<sup>3</sup> See University of Birmingham, 'Domestic abuse survivors twice at risk of long-term illness', web article about research published in Journal of Interpersonal Violence 6 December 2019 available [here](#).

<sup>4</sup> Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2015.

<sup>5</sup> The National Health Service (Charges to Overseas Visitors) Regulations 2015 available [here](#).

## Case study 5: Isabella

Isabella is from a Southeast Asian country. Her husband is a European national who has obtained EU Settled Status. The marriage broke down due to domestic violence and Isabella entered a women's refuge with her children in a small town in Northern Ireland. The refuge support worker contacted the Law Centre for assistance; she had previously sought help from a number of solicitors closer by but they were unable to help.

Isabella speaks a minority language and there was an initial difficulty in finding a qualified interpreter. Isabella explained that she had made three applications to the EU Settlement Scheme with the assistance of a friend, but all had been refused. She did not know why the applications had been refused nor could she access her online EU Settlement Scheme account.

The Law Centre is currently assisting Isabella to make a further application to the EU Settlement Scheme. Although the deadline has long passed (30 June 2021), it is possible to make a late application in situations involving domestic violence.

Obtaining the necessary evidence has not been easy. For example, Isabella has struggled to demonstrate her residence in Northern Ireland given that most of her paperwork – tenancy agreement, bank account, etc. – were in her husband's name. It was only through her trusted relationship with the refuge support worker that Isabella was able to disclose that in addition to the physical violence that had escalated towards the end of the relationship, she had been a victim of coercive control *throughout* the relationship: her husband isolated her from family and friends, he monitored her movements, he checked her phone and social media, controlled the family's finances, made wild and jealous accusations and demanded that she lived by his "rules".

### What Isabella's case illustrates

This case study illustrates the importance of specialist immigration advice. Isabella had tried and failed to make the application herself, which has complicated things considerably.

Isabella's case study also highlights the importance of a partnership approach between support services. The refuge support worker has hosted Law Centre appointments (thereby avoiding the need for Isabella to travel to Belfast) and has played an essential role in building trust and helping Isabella gather together the necessary information.

Isabella's situation also highlights the need for awareness-raising measures: Isabella was not aware that coercive control is an offence and so endured years of abuse at the hands of her husband before she managed to escape. Had she been aware of the law and protection for victims of abuse, she and her children might have been able to find safety much earlier.



## Case Study 6: Frida

Frida is a European national who arrived in Northern Ireland with her partner. As she arrived in the UK before Brexit, she had to apply to the EU Settlement Scheme and was granted Pre-Settled Status.

After sustaining domestic violence, Frida left her abusive partner along with her two pre-school age children. Due to the social security benefit rules pertaining to Pre Settled Status, she was unable to benefit from Universal Credit that would have otherwise unlocked her access to a whole range of vital supports, including financial support for housing. Despite having lawful status in the UK, Frida found herself in an extremely precarious housing and financial situation: she and her children survived on food vouchers, electricity tokens and just £5 cash support per week. Frida had rent arrears of £2,000.

The Law Centre social security team have challenged the refusal of Universal Credit. The case was heard by the Court of Justice of the EU which considered whether or not the Department for Communities' response was unlawful and contrary to her European law rights.<sup>6</sup> The Court found that the Department had not acted unlawfully in withholding benefits so long as it had carried out an individual assessment of need to safeguard against the risk of destitution.<sup>7</sup> This is an important judicial statement, suggesting that the inherent dignity of the person must be upheld in the application of EU law. The case has UK-wide implications and is not yet fully resolved.

### What Frida's case illustrates

Frida's case is not technically an immigration case; she presented to the Law Centre requiring help with social security. Her case demonstrates how immigration law intersects with other areas of law and how restrictions brought about by immigration status can have far-reaching effects on people's lives, especially when compounded by domestic abuse.

Frida's case also reminds us that while immigration law is made at Westminster, its effects are felt at the local level and involve devolved agencies. For example, Social Services had to intervene to keep Frida and her children afloat whereas it is the Department for Communities that is responsible for the (non) payment of Universal Credit. These agencies have powers that could be flexed to provide a more comprehensive response for victims and survivors of domestic abuse in Northern Ireland.

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<sup>6</sup> Law Centre NI, 'Court of Justice of the European Union highlights importance of EU Charter of Fundamental Rights for Pre Settled EU Nationals' web article available [here](#).

<sup>7</sup> CG v Department for Communities in Northern Ireland (Case C-709/20) available [here](#). See para. 89.



## Case study 7: Olha

Olha fled the war in Ukraine and arrived in Northern Ireland under the Ukraine Scheme. She had found a sponsor online who had agreed to host her and her young son. She and her sponsor made a joint visa application.

Her sponsor was an older man who lived alone. Olha did not feel comfortable with him and neither did her young son who refused to be alone in his presence. Olha felt that her sponsor was monitoring her at all times; she described piling up the furniture at her bedroom door during the night as she did not feel safe.

Within days of arriving in Northern Ireland, she attended a Ukraine Assistance Centre which was located a short bus ride away from where she lived.

Olha was worried that her visa would be cancelled if she were to leave her sponsor. Through an interpreter, a Law Centre Immigration Adviser reassured Olha that her visa does not 'tie' her to her sponsor as many visas do. We explained her rights and entitlements and talked her through the various support services and different options.

Just days afterwards, things escalated at the sponsor's home and Olha felt she needed to leave immediately. A number of agencies worked together effectively to provide a prompt response and she was re-housed within hours.

## What Olha's case illustrates

Olha was fortunate to be able to attend a Ukraine Assistance Centre which was locally accessible. At the centre, she was able to avail of quality information and advice that enabled her to make an informed decision about possible next steps. She was also able to link in with the appropriate support services.

What is particularly interesting in this case is that Olha had actually arrived in Northern Ireland via Dublin *before* her visa had been fully processed. By law, this meant that she and son were 'unlawful entrants',<sup>8</sup> which carries a maximum sentence of 6 months imprisonment.<sup>9</sup> Whereas migrants of other nationalities would expect to be subject to immigration enforcement, the UK government and Northern Ireland government departments have agreed to adopt a "sympathetic approach" towards Ukrainians. This is why the NI Housing Executive stepped in to provide Olha with accommodation notwithstanding her lack of immigration status. This case highlights that Northern Ireland government departments *can* prioritise humanitarian needs over administrative matters such as immigration status.

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<sup>8</sup> Section 33(1) Immigration Act 1971

<sup>9</sup> Home Office, 'Irregular or unlawful entry and arrival' 8 July 2022 available [here](#).

## 3. Key recommendations

3.1 While only the Westminster Government has powers to amend immigration law to provide more comprehensive protections for migrant victims of domestic abuse, the Law Centre considers that the NI Executive has a vital role to play in advocating at a UK level for such changes.

3.2 In addition to better protecting victims, more comprehensive immigration protections would also bring benefits to devolved agencies and services. This is because immigration status unlocks entitlements such as social security and enables the person to be financial independent. In contrast, if a person does not have immigration status, she is likely to be destitute: this gives rise to a risk of exploitation and creates pressures /costs for Social Services and charitable funding.

3.3 Accordingly, the Law Centre make two recommendations focussed on action by Westminster and a further seven recommendations focussed on action by NI Executive.

*Westminster-focused recommendations:*

3.3 The DDV concession provides a three-month initial visa. This does not afford sufficient time for applicants to make the second application causing unnecessary stress and anxiety for all involved. Critically, it also gives rise to the risk of the applicant becoming a visa overstayer. The Law Centre's casework experience shows that the concession should be extended to at least six months.

**Recommendation 1. The NI Executive should highlight the risks associated with the operation of this current rule and seek to secure amendment of the immigration rules to extend the concession from three to six months to better uphold the ambitions and commitments of this Strategy.**

3.4 The existing Domestic Violence (DV) provisions within the Immigration Rules – namely the Destitute Domestic Violence Concession and the Appendix FM section DVILR – are only available to persons initially granted leave to enter or remain as the partner of a British citizen or settled person. Persons who arrive through different visa routes – e.g. visit visa, student visa, work permit – find themselves excluded from the protections.

**Recommendation 2. The NI Executive should highlight the risks associated with the operation of this current rule and work to secure amendment of the immigration rules designed to protect survivors/victims of domestic violence so that they are readily available to all visa holders.**

*Northern Ireland-focused recommendations*

3.5 Access to quality immigration advice and representation is critical as it enables the survivor/victim to obtain durable immigration status and obtain access to public funds. Achieving a durable solution to immigration status is the key that unlocks safety. This is the entry point for housing and other support services to women and girls that enables them to

rebuild their lives after the trauma of abuse. Dedicated and specialist immigration legal services are a vital piece of the support jigsaw.

**Recommendation 3. Work cross-departmentally to ensure specialist and dedicated immigration law support in NI is available to this group of women.**

3.6 Specialist support is likewise critical: women's refuges provide an essential safe space for women to get away from the abusive situation and to guide the victims /survivors through the next steps. This support is particularly important for migrant women who, as a result of the NRPF condition, cannot access any other type of homelessness accommodation.

**Recommendation 4. Work cross-departmentally to ensure adequate and sustainable funding for specialist women's refuges and support services.**

3.7 Community-based organisations also play a key role. It is rarely the case that victims and survivors contact Law Centre NI directly; referrals come from organisations such as women's groups, migrant support organisations, churches and integration initiatives.

**Recommendation 5. Community-based organisations need increased funding for training and capacity building around working with victims and survivors of domestic abuse.**

3.7 Public legal information is necessary. It is also important that frontline agencies, including law enforcement, understand the particular barriers experienced by migrant survivors/victims of abuse.

**Recommendation 6. Ensure that migrant issues are effectively covered in any government-funding training / public information campaigns.**

3.8 It is important that survivors/victims have initial access to financial support pending while considering their next steps. The determination of NRPF status is a reserved matter and therefore Discretionary Support (a public fund) is not available for migrants; nonetheless, the Independent Review on Discretionary Support<sup>10</sup> highlights that support could be delivered through a separate hardship scheme or existing migrant crisis funds such as the TEO Crisis Fund.

**Recommendation 7. Ensure the availability of financial support to migrant survivors/victims of domestic abuse that is not tied to social security entitlement.**

3.9 Victims of domestic abuse and other forms of gender-based harm such as FGM need access to healthcare. The legislation in England provides a starting point.

**Recommendation 8. Amend the legislation and associated guidance to ensure that free healthcare is available to victims of domestic abuse.**

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<sup>10</sup> [Independent Review of Discretionary Support \(communities-ni.gov.uk\)](https://www.communities-ni.gov.uk) pg 97

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Consultation response, September 2023



3.10 The Ukraine Assistance Centre model has proved extremely effective in terms of identifying risks and needs. The multi-agency model enables different services to provide a swift and coordinated response for the Ukrainian refugees. The Law Centre congratulates the Executive Office for this initiative and for the “can do” ethos that has underpinned the centres to date. When the centres were first set up, officials spoke about expanding the model to asylum seekers, however, this has not materialised. Further the Executive Office has reduced the frequency of the centres and has restricted the location to Belfast only.

**Recommendation 9. Maintain the Ukraine Assistance Centre model for Ukrainians and expand the concept to other displaced persons.**

For more information about any of these issues please contact:

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