

policy briefing

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threatened protection: domestic violence and immigration



Law Centre (NI)

women's aid

Federation Northern Ireland

Background information

One in four women experience domestic violence in their lifetime and between one in eight and one in ten women experience it annually.¹ International human rights law requires that States take all appropriate steps to ensure that women are protected from domestic violence.

Less than half of all incidents of domestic violence are reported to the police in Northern Ireland, but the PSNI still receive one domestic violence call every minute.² PSNI Statistics for 2008/09 indicate that there were 9,211 recorded crimes with a 'domestic motivation.' In 2007/08, the Women's Aid's 24 Hour Domestic Violence Helpline, which is available to anyone experiencing domestic violence, managed 24,153 calls. This figure represents a seven per cent increase on 2006/07. Reduction of domestic violence is a key government target.³ The Northern Ireland Assembly recently affirmed that it deplores any instance of domestic violence and called for fully funded measures to support those affected.⁴

Some women may be particularly vulnerable in circumstances of domestic violence because of the application of certain immigration rules: the requirement of a fee for permanent residence applications from immigrant victims of domestic violence and the 'no recourse to public funds' rule.

The fee requirement

Immigration status is often associated with a relationship status. A limited category of immigrant women who have suffered domestic violence may apply for permanent residence in the UK independently of their spouse. The 'domestic violence rule' in the Immigration Rules provides that immigrants affected by domestic violence from a partner in the UK are eligible to apply for permanent residence if the following conditions are satisfied:

- the immigrant was admitted to the UK for a period of not more than 27 months or was given an extension of stay for a period of two years as the spouse, civil partner, unmarried partner or same-sex partner, of a person present and settled in the UK;
- the relationship of the immigrant with their spouse or civil partner or unmarried partner or same-sex partner, was subsisting at the beginning of the period of leave or extension of stay;

- the immigrant is able to produce evidence to establish that the relationship was caused to permanently break down before the end of the period of leave as a result of domestic violence.⁵

Since April 2007, a fee has been payable by immigrant victims of domestic violence who apply for permanent residence in the UK independent of their abusive partners. The fee is currently £820. In April 2009, the fee increased from £750, and an additional £50 became payable for each dependant included on the same application.⁶

Exemption from the £820-plus fee applies only if the applicant is destitute and can prove that her financial circumstances have been assessed, by sending evidence to the Home Office, usually a signed letter from social services or an agency supporting her.

The 'no recourse' rule

Many immigrant victims of domestic violence are affected by the 'no recourse to public funds' provision.⁷ The provision operates to bar many of those who are subject to immigration control from claiming most social welfare benefits, including Income Support and Housing Benefit, even though they may have been working lawfully and therefore paying taxes. Immigrant victims of domestic violence whose stay in the UK is subject to the 'no recourse to public funds' provision are not able to receive social welfare benefits to support them in leaving an abusive relationship. They may be able to access short-term crisis accommodation in a refuge.

What are the issues?

The 'domestic violence rule' in the Immigration Rules does not offer protection to immigrant women in many categories, such as those who do not make an application for further leave in time and those who have overstayed their visa, or entered the UK, for example, as the partner of a student or a migrant worker. Those who entered the UK as family members of European nationals under the EEA Regulations will not be protected by the Immigration Rules, but may have some protection under the EEA Regulations.

For many of those falling within the scope of the 'domestic violence rule', the £820-plus fee requirement may be prohibitive and may prevent them from making an immigration application. It may force vulnerable women to remain in an abusive relationship and

others to become unwillingly destitute. Both outcomes decrease a woman's independence and may increase the burden on the state through increased healthcare and policing costs.

In 2008, the UK government announced that 'successful applicants' for permanent residence under the 'domestic violence rule' who have no recourse to public funds can apply to have their housing and living costs paid for the period up to receiving a positive immigration decision retrospectively.⁸ This does not solve the problem that many women are unable to submit the application, even if they meet all the requirements of the rules, because of the prohibitive fee. Those women will not become 'successful applicants' and may remain cut off from welfare support, lose their immigration status and face immigration enforcement measures against them such as detention and forcible removal from the UK.

Refuge places are currently funded in Northern Ireland for those who have recourse to public funds, including Housing Benefit. This may leave women who have no recourse to public funds without the protection and support of safe accommodation at the time when they most need it.

What needs to be done?

We recommend that the Home Office:

- amends the Immigration Rules to enable all immigrant women suffering domestic violence to leave an abusive relationship without the risk of losing their immigration status;
- abolishes the £820-plus fee for immigration applications from people affected by domestic violence. No-one should have to stay in a violent relationship because they cannot afford the £820-plus fee to make an immigration application. No-one should face the choice between destitution and remaining in an abusive or dangerous situation.
- Alternatively, if the Home Office retains the fee, it should amend the rules to permit the UK Border Agency to apply a broader range of exemptions from the fee.

We recommend that the Northern Ireland Executive and Assembly

- develop and publish clear guidance for immigrant women in this vulnerable situation, explaining how they can be assisted to leave an abusive relationship without facing destitution;

- ensure that the Northern Ireland Domestic Violence Strategy makes provision for the particular needs of immigrant women as a particularly vulnerable group;
- give consideration to establishing a dedicated funding source to act as a safety net to assist those immigrant women unable to pay the £820 fee to make the relevant immigration application;
- take steps to make it possible for immigrant victims of domestic violence to leave abusive relationships for places of safety here. This includes the provision of dedicated and funded support of refuge places for immigrant women with no recourse to public funds.

References

Women with No or Limited Recourse to Public Funds, A Report of Findings, Northern Ireland Women's Aid Federation (2007)

No Recourse No Safety: The Government's Failure to Protect Women from Violence, Amnesty International and Southall Black Sisters (2008).

Notes

1. Women's Aid Federation Northern Ireland, Annual Report 2007/2008
2. Women's Aid Federation Northern Ireland, Annual Report 2007/2008
3. *Tackling Violence at Home: A Strategy for Addressing Domestic Violence and Abuse in Northern Ireland*, NIO/DHSSPS(NI) (2005)
4. Motion on Domestic Violence, Northern Ireland Assembly Minute of Proceedings, 31 March 2009
5. The Immigration Rules, paragraph 289, at www.ukba.homeoffice.gov.uk
6. See Form and Guidance Notes SET(DV) online at <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/settlement/setdv1>
7. See Home Office publication, 'No recourse to public funds' at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/residency/publicfunds.pdf>
8. Statement by Vernon Coaker MP to the Home Affairs Committee, 4 March 2008