

FACTSHEET 13

Asylum support for women who are victims of domestic violence

This factsheet provides advice to asylum-seeking and refused asylum-seeking women about applying to the UKBA for accommodation if they are experiencing domestic violence in their homes. It is aimed at women who are already living in accommodation provided by the UKBA and to those who are living in other accommodation, such as privately rented, who need to leave due to domestic violence.

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Definition of domestic violence

The government defines domestic violence as: 'any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality'. This includes issues of concern to black and minority ethnic (BME) communities such as so called honour killings. Research shows that domestic violence is more commonly experienced by women than men.

(See www.womensaid.org.uk)

Although the UKBA's policy on domestic violence applies to both men and women, this factsheet is aimed at women.

Women living in UKBA accommodation who are experiencing domestic violence

The UKBA's policy on domestic violence is set out in Policy Bulletin 70 (see www.tinyurl.com/68yc6d9). The policy expressly applies to asylum seekers living in Section 98 and Section 95 accommodation, but in ASAP's view it also applies to anyone living in Section 4 accommodation.

The UKBA states that housing providers it contracts to provide accommodation to asylum seekers 'must give paramount importance to the safety of victims of abuse and their children ... and inform residents of local advice and support agencies that can help people who suffer

domestic violence' (Policy Bulletin 70).

If a woman living in UKBA accommodation is experiencing violence, the accommodation provider must ensure that the victim, and any children, are transferred to alternative accommodation immediately. This accommodation must also be secure and safe. The accommodation provider does not need to get prior agreement from the UKBA to transfer the woman to alternative accommodation (Policy Bulletin 70).

If no alternative UKBA accommodation is available to the woman immediately, or she feels that the accommodation is not suitable, then the accommodation provider can refer the woman to a refuge or, in some circumstances, consult with the local authority about what action to take. Accommodation providers should also inform the woman that the UKBA can meet the reasonable costs of other accommodation she may be able to access, but she must provide the address and accommodation details to the UKBA.

If the woman has already fled from the UKBA accommodation and has found a suitable alternative, the UKBA can meet the costs of this accommodation as long as they are considered 'reasonable'. When assessing what are reasonable costs, the UKBA can take into account the rents other landlords are charging in the area where the woman is now staying.

If the woman and her children lose access to their financial support as result of fleeing their accommodation, the UKBA should arrange for the woman to receive emergency support, which would normally be sent by courier to her new address. Emergency support will normally only be provided for a maximum of four weeks.

◀◀ Women not living in UKBA accommodation who need alternative accommodation due to domestic violence

A woman experiencing domestic violence who is not living in accommodation provided by the UKBA may be entitled to support if she meets certain criteria. To qualify she needs to show that she is either an asylum seeker, or if she has become a refused asylum seeker, that she meets criteria for Section 4 support. She must also show that she is 'destitute'. The following outlines the criteria for both Section 95 and Section 4 support.

SECTION 95 SUPPORT

A person will qualify for Section 95 support if any of the following three situations apply:

- They have an ongoing asylum claim, which means they are still waiting for a final decision on their asylum claim, either from the UKBA or the Asylum and Immigration Tribunal.
- They had a dependent child under 18 living in their household before receiving a final decision on their asylum claim. In these cases they will remain entitled to Section 95 support until the youngest child turns 18 and while they remain in the UK.
- They are a refused asylum seeker who has made further submissions and these have been formally recorded as a fresh claim by UKBA. An acknowledgement of receipt of the fresh claim is not enough to be eligible for Section 95: there has to have been a decision that the new evidence amounts to a fresh claim.

For a fuller explanation of the criteria for Section 95 support see our factsheet on Section 95, which can be obtained on our website at: www.tinyurl.com/6gk29oa

SECTION 4 SUPPORT

If the woman is a refused asylum seeker and did not have children in her household before her first claim was fully refused, she may qualify for Section 4 support. Section 4 support is provided to some groups of refused asylum seekers who meet a narrow set of criteria. Broadly, this includes individuals who are taking all reasonable steps to leave the UK, or where it is not reasonable for the person to leave either due to a physical impediment to travel or because they have outstanding representations (fresh claim, judicial review) that are still under consideration.

For a fuller explanation of the criteria for Section 4 support see our Section 4 factsheet at: www.tinyurl.com/6xa4buq

Proving destitution in domestic violence cases

A person is considered destitute if they do not have adequate accommodation or enough money to meet living expenses for themselves and any dependent now or within the next 14 days.

ADEQUATE ACCOMMODATION AND DOMESTIC VIOLENCE

When the UKBA is assessing whether the woman has adequate accommodation, it needs to take into account 'whether it is probable that the person's continued occupation of the accommodation will lead to domestic violence against him (her) or any of his (her) dependants' – Asylum Support Regulations 2000 8 (2) (G). If the woman can show that she is experiencing violence, or the threat of violence, in her home then the UKBA should not consider her accommodation to be adequate.

PROVIDING PROOF OF DOMESTIC VIOLENCE

Where possible a woman applying for support from UKBA on the grounds of domestic violence should try and provide evidence. This evidence can include medical reports from her GP confirming the violence she is experiencing, letters from agencies that have been providing support to her, witness statements from the woman documenting the violence she has been experiencing, police attendance notes, copies of any caution given to the perpetrator of the violence, or, if the matter has gone to court, copies of any non-molestation order given or convictions against the perpetrators.

Right to appeal when support is refused

If the woman is refused support from UKBA she will have a right of appeal to the Asylum Support Tribunal.

For more information on appeals to the Asylum Support Tribunal please see our factsheet on appeals which can be obtained on our website at www.tinyurl.com/64uhval See also Policy Bulletin 70 at www.tinyurl.com/68yc6d9

ASYLUM SUPPORT APPEALS PROJECT ADVICE LINE

For more information about Section 4 and legacy, or for advice on other asylum support or asylum support appeals issues, please call our advice line on Monday, Wednesday and Friday between 2-4 pm:

020 7729 3042

CONTACT ASAP

Main office **020 7729 3056**
Advice Line (Mon, Wed, Fri 2-4 pm)
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