

Practitioner article

Domestic abuse and homelessness legislation

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Domestic abuse and homelessness legislation

Jo Ozga, Housing Development Worker, Scottish Women's Aid outlines the current legal and social rented housing situation for people who experience domestic abuse and become homeless as a result of it, particularly women. She focuses on the way in which priority need can work for and against them and discusses why priority need by itself is not enough to ensure a suitable permanent housing outcome for many.

Women's Aid in Scotland

Scottish Women's Aid (SWA) is the umbrella organisation for Women's Aid groups across Scotland. SWA's work includes training, policy development, publications, research and campaigning in order to develop and improve services provided to women, children and young people who experience domestic abuse.

Women's Aid groups provide information, support and safe temporary accommodation to women, children and young people throughout Scotland. 39 Women's Aid groups are affiliated to SWA. Many Women's Aid groups provide continued support to women, children and young people when they are re-housed and also provide outreach services in the community.

The legislative framework

Prior to the introduction of the Homelessness etc (Scotland) Act 2003 a two-tier system operated for women in terms of priority need. Women with children who experienced domestic abuse were a recognised priority category as defined by Section 25 (b) of the Housing (Scotland) Act 1987. However women without children did not have automatic priority but could be assessed under Section 25 (c) as, 'A person who is vulnerable as a result of ... or other special reason.'

The 1997 Code of Guidance on Homelessness went some way to addressing this anomaly by stating that, 'women suffering, or in fear of, violence may be vulnerable even if they have no children.' (Section 7.3)

This progression, in terms of the legislative framework, was continued with the Homelessness etc (Scotland) Act 2003. Section 10 removed the previously iniquitous situation by including 'persons at risk of domestic abuse' as a priority category. The Act also defined domestic abuse by referring to the meaning set out in the Protection from Abuse (Scotland) Act 2001:

"abuse' includes violence, harassment, threatening conduct, and any other conduct giving rise, or likely to give rise, to physical or mental injury, fear, alarm or distress;
-'conduct' includes-
(a) speech; and
(b) presence in a specified place or area.'

This recognised that domestic abuse was not only physical violence and that it could involve a range of abusive behaviours. These developments mean that the statutory protection provided by the housing legislation for women experiencing domestic abuse is now relatively robust. Women who are homeless as a result of domestic abuse have a legal entitlement to housing. The problem lies in the enormous gap in housing provision to meet this legal entitlement and the difficulties women still face in accessing this scarce resource.

Domestic abuse and homelessness

It is recognised that men, people in same-sex relationships, children and the elderly can all experience domestic abuse. However, the vast majority of domestic abuse is perpetrated by men and experienced by women. In 2004, 88 per cent of the 46,678 incidents recorded by the Police¹ involved a male perpetrator and female victim. It is estimated that one in four² women will experience domestic abuse in their lifetime. In 90 per cent of incidents children will be in the same or next room.³

Definition of domestic abuse

The National Strategy to Address Domestic Abuse in Scotland in November 2000 adopted the following definition of domestic abuse:

'Domestic abuse (as gender-based abuse), can be perpetrated by partners or ex-partners and can include physical abuse (assault and physical attack involving a range of behaviour), sexual abuse (acts which degrade and humiliate women and are perpetrated against their will, including rape) and mental and emotional abuse (such as threats, verbal abuse, racial abuse, withholding money and other types of controlling behaviour such as isolation from family or friends). Domestic abuse occurs in all social groups, is not

¹ Scottish Executive, 2005. Statistical Bulletin: CrJ/2005/9: Domestic Abuse Recorded by the Police in Scotland, 1 January - 31 December 2004. [<http://www.scotland.gov.uk/Publications/2005/09/16120959/10005>]

² Council of Europe (2002). Recommendation Rec(2002)5 of the Committee of Ministers to member States on the protection of women against violence adopted on 30 April 2002 and Explanatory Memorandum. Council of Europe: Strasbourg, France.

³ Hughes, 1992. Impact of Spouse Abuse on Children of Battered Women. (Violence Update).

caused by stress, unemployment, poverty, alcohol or mental illness, or by the women who experience the abuse.'

This definition recognises that:

'domestic abuse is associated with broader gender inequality and should be understood in its historical context, whereby societies have given greater status, wealth, influence, control and power to men. It is part of a range of behaviours constituting male abuse of power, and is linked to other forms of male violence'.⁴

The impact of domestic abuse

Accurately assessing the number of women and children who become homeless as a result of domestic abuse is difficult for a number of reasons:

- Domestic abuse is often hidden and unreported.
- Existing statistics on homelessness do not accurately identify the number of women experiencing domestic abuse who present as homeless, the 'domestic dispute' categories used in the HL1 form do not reflect the above definition.
- A proportion of women will not present as homeless but will find accommodation by other means this often involves staying with family or friends and becoming part of the 'hidden' homeless population.
- When presenting as homeless a number of women do not give domestic abuse as the primary cause of their homelessness.

The research report, Sustaining Tenancies Following Domestic Abuse⁵, reviewed the available statistical and other evidence and concluded that the number of women forced to leave their homes was, at a conservative estimate 13,500 a year.

Barriers to accessing housing

Gaining access to safe, affordable housing is a necessity if a woman is to leave a relationship in which she is experiencing domestic abuse. As outlined above the housing needs of women who have experienced domestic abuse have been recognised as a priority in legislation. Having this right realised at a practical level is now the major difficulty women face.

⁴ Scottish Executive, 2000. National Strategy to Address Domestic Abuse in Scotland.
[\[http://www.scotland.gov.uk/library3/law/stra-00.asp\]](http://www.scotland.gov.uk/library3/law/stra-00.asp)

⁵ Edgar, B, Williams N., McMahon L., McAvoy S., 2003. Sustaining Tenancies Following Domestic Abuse, JCSHR, University of Dundee

The position of women in the housing system reflects their economically disadvantaged position in society. Women in employment continue to earn less than men. The 2005 Annual Earnings Survey shows that the full-time gender pay gap is 17.2 per cent.⁶ Women with childcare responsibilities often work in part-time, low-paid employment. Their low economic status presents barriers to them accessing the private sector because of higher rent levels and prevents them from accessing mortgage finance. Women are therefore disproportionately dependent on the social rented sector.

Local authority housing

The quality of the offer of accommodation and the area are crucial to the successful outcome for a woman moving into her own home as a result of domestic abuse. As the best local authority stock has been lost through Right to Buy, women in temporary refuge accommodation are waiting for increasingly longer periods for appropriate permanent housing to become available. In some areas women will remain in temporary accommodation for over a year. Housing supply cannot meet the current level of need. The lack of appropriate permanent housing has a knock-on effect for women attempting to access refuge accommodation. In the period 1 April – 31 March 2005, 2,787 women looking for safe temporary refuge, were unable to access accommodation from Women's Aid groups in Scotland.

Another factor impacting on women who have experienced domestic abuse is the varied response they receive from homeless sections across Scotland. As the Sustaining Tenancies research report noted:

'Local authorities are the main suppliers of affordable rented housing, but the treatment the women received from local authorities was on the whole unsympathetic and in some cases callous. This was compounded by the quality of the accommodation offers the women received, which was usually in the most unpopular and difficult-to-let neighbourhoods.'

As the researchers point out:

'It is almost as if the women were being further punished for being abused by having to experience a significant deterioration in their residential quality of life.'

The role of local authority homeless sections has been to act as gatekeepers to a diminishing resource. This role will change with the abolition of priority need and will require a cultural shift, supported by training to meet the new challenges homeless sections will face.

⁶ National Statistics Online, <http://www.statistics.gov.uk/>.

Housing Associations

Housing Associations are increasingly becoming providers of social housing and as a result of large-scale voluntary stock transfer, are in some areas the only providers. Women moving into housing association properties fared best in the Sustaining Tenancies research cited above.

'They were treated more sympathetically and were allocated better quality housing in more popular neighbourhoods. Their chances of sustaining their tenancies and independence were significantly increased.'

However at present, only 6 per cent of women in Women's Aid refuges are permanently re-housed by a housing association. Section 5 referrals and nomination arrangements between local authorities and RSLs are not being used consistently across Scotland to allow homeless applicants greater access to housing association stock.

Housing associations may also impose other obstacles that women, who have experienced domestic abuse, have to overcome to access housing, the obstacles include:

Allocation policy

- A requirement to provide evidence of domestic abuse or operating a two-tier points priority system, where extra points are awarded if a woman is able to provide proof.
- Penalising a woman if she goes into temporary accommodation by removing points or priority as she is no longer experiencing domestic abuse in her home.

Rent arrears

- Imposing a blanket policy on rent arrears and suspending an application for housing or transfer.

Rechargeable repairs

- Again some associations will not consider a transfer application if there are outstanding repair charges. In cases of domestic abuse if the tenant is not the perpetrator it may not be appropriate to pursue this debt.

Remaining at home

The focus for women and children experiencing domestic abuse in relation to housing legislation has been on establishing their right to housing as they become homeless. The disruption caused to women and their children could be greatly reduced if they were able to remain in their homes safely and the perpetrator re-housed.

The abolition of priority need in 2012 will allow men to gain greater rights to access housing. Legislation currently exists in the form of exclusion orders, for women experiencing domestic abuse to remain in their home and exclude an abusive partner. However, these orders are rarely used effectively. In Scottish Women's Aid's response to the consultation on the Ministerial Statement on the Abolition of Priority Need we recommended that research is commissioned by the Scottish Executive to identify why exclusion orders are not successfully implemented and make recommendations to ensure they become a practical tool to allow women, children and young people to remain in their homes safely.

Supporting People

A key element for any person managing a transition into a new home, following homelessness or in order to prevent homelessness is access to appropriate support. A recent Scottish Women's Aid survey of affiliated Women's Aid groups, on the impact of Supporting People funding found that 31 per cent of groups did not receive sufficient funding to cover the cost of providing housing support services⁷. As a result Women's Aid Groups had to reduce services by limiting support time, supporting fewer women or cutting worker hours. All of these reductions have an impact on the support women and their children receive when they become homeless as a result of domestic abuse. Support services in relation to homelessness prevention and resettlement need to be adequately resourced and directed. As 2012 approaches and increasing numbers of people have a right to a permanent home additional funding for support services must be provided to ensure that vulnerable people are enabled to sustain their homes.

Conclusions

The legislative changes that have taken place over the last two decades mean that women who are homeless as a result of domestic abuse now have a legal entitlement to housing. The issue now is having that legal entitlement realised and realised in a way that does not place the woman and her children at a further disadvantage.

What is urgently needed now is an increase in the provision of affordable, good quality social housing and support services to meet current needs let alone meet the future rights of homeless people. But that, by itself isn't enough. Changes also need to take place in the culture of homeless and housing services that often result in women being punished doubly for a partner's abusive behaviour. These changes would include a shift from gate keeping to enabling, challenging some of the myths surrounding homelessness – particularly with respect to domestic abuse.

How can housing providers start to bring about these changes?

⁷ Scottish Women's Aid, September 2005. Supporting People Survey.

- Ensure that the appropriate staff receive domestic abuse awareness training to begin to address some of the myths and attitudinal issues that exist. Training will increase the confidence of front line housing staff to work with women who have experienced domestic abuse more sensitively.
- Support women and children to remain in their homes, if they choose to do so, by re-housing the perpetrators, reducing the level of disruption to the family.
- Revise allocation and transfer policies to ensure that they meet good practice in relation to domestic abuse.
- Make sure arrears and rechargeable repairs policies are not penalising women inappropriately, either by preventing them from being housed or charging them for repairs for which they are not responsible.
- Ensure confidentiality policies are implemented at all times, by all staff and that service users know what the policy is.
- Provide relevant up-to-date information about domestic abuse services or other sources of help.

Implementing these changes will go some way to creating a culture that is open, approachable and non-judgemental and improve how services are delivered to women, children and young people who experience domestic abuse.

Further information

If you would like to contact Jo about this article, please send an email to chip@shelter.org.uk in the first instance.