

NO RECOURSE - NO DUTY TO CARE?

Experiences of BAMER Women and Children affected by Domestic Violence and
Insecure Immigration Status in the UK

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INTRODUCTION & METHODS

Imkaan is a National, second-tier organisation that supports and advocates for Black, Asian Minority Ethnic and Refugee (BAMER) refugees that provide services for Black, Asian, Minority Ethnic and Refugee (BAMER) women and children experiencing violence and abuse.

Nationally, there is undoubtedly now a greater awareness of domestic violence and an apparent commitment towards addressing it. There has been - primarily through the Criminal Justice Process – a much tougher stance on combating violence against women. The Domestic Violence Bill¹, and the associated introduction of new civil remedies, Specialist Domestic Violence Courts, MARAC² processes and a requirement for statutory bodies to make improvements around their policies and practices are welcome developments. However within this agenda the needs of BAMER women and children with no recourse to public funds (nrpf) continues to be ignored by the Government and the inadequate avenues for safety for these women and children continue to be a primary concern for Imkaan and for BAMER frontline services that seek to provide support and refuge from violence.

The no recourse to public funds (nrpf) stipulation was part of the One Year Rule introduced in 1997 (for a detailed discussion of gender, race and immigration policies and a history of the One Year Rule, see Amrit Wilson (2007) *Dreams, Questions, Struggles –South Asian Women in Britain*, Pluto Press.)³ It meant that women who entered the UK on the basis of a marriage or relationship were subjected to a one-year probationary period during which they had to stay within the relationship - even if they faced violence - or be deported. Following a sustained campaign led by Southall Black Sisters (SBS) the government introduced the Domestic Violence concession in 1999 as a means of addressing the obstacles faced by women in this situation in leaving their abusers. However at the same time, the one-year probationary period was extended to two years. In effect, the benefits of the concession have been undermined by the nrpf rule and the restrictions of the two-year probationary period. Women with nrpf do not qualify for publicly funded refuge accommodation and are up against the impossible choice of staying on in violent relationships or facing destitution if they leave.

This report seeks to highlight the devastating circumstances many women and children with nrpf find themselves in and the responses of statutory bodies to those women who have had the courage to leave and seek external support. In particular:

- The nrpf rule means that large numbers of women continue to lack access to safe housing which is critical to them being able to leave violence and without this many are being forced to return to the perpetrator or face destitution.
- Language, fear of deportation, the repercussions of leaving families, isolation, a lack of access to information on rights, insensitive responses by agencies and individuals, i.e., race and gender and numerous other factors

¹ The Domestic Violence, Crime and Victims Bill received Royal Assent on 15th November 2004.

² Multi-agency risk assessment conferences introduced to deal with high- risk cases of domestic violence through a co-ordinated multi-agency response.

³ Amrit Wilson (2007) *Dreams, Questions, Struggles –South Asian Women in Britain*, Pluto Press.

- The majority of women cannot benefit from the DV concession as at the point at which many do leave the restrictions of the two-year period means that many through no fault of their own become deemed as overstayers and risk deportation. Access to support services and information, i.e. dv concession also denied if unable to access public housing.
- Despite the implementation of gender based policies the asylum process fails to recognise the distinct needs of women escaping violence who continue to be housed in accommodation centres without regard for their access to appropriate advocacy, advice and support.
- Where statutory duties exist under the Children's Act 1989 to safeguard the interests of children, women and children with with nrpf are being placed in more danger through threats that their children will be taken into care or that children should be returned to the abuser.
- A lack of guidelines and inconsistency around nrpf means that the quality of support is frequently subjective and varies from Borough to Borough. A number of women and children with nrpf are living in unacceptable levels of poverty and homelessness where there is an expectation that they should be self-sufficient and rely on informal networks of support despite a lack of support networks and vulnerability from the violence they have experienced.
- A number of attitudes and prejudices exist within support institutions in relation to negative perceptions towards immigrant populations in the UK, which can dictate decision-making processes and the level of support that will be offered.
- Specialist BAMER services are facing increasing pressure as they struggle to support women and children in need through their own fundraising efforts and donations. Some are now being told by Housing Associations that they can no longer support this group of women.

Methods

The format of the research included telephone interviews, questionnaires, web-based research and an analysis of twelve detailed case studies. Interviews took place with 10 Local Authorities (LAs) from across the UK. Questionnaires were completed and interviews took place with 15 domestic violence support refuges, 13 of which were specialist BAMER refuges, an outreach project and two mainstream support organisations. Interviews also took place with two legal specialists. The findings were also supplemented by an analysis of key strategies from 25 LAs. The strategies examined included Supporting People, Domestic Violence strategies and Local Area Agreements. Gita Patel (Imkaan) and Lia Latchford (Imkaan) assisted in collating the research materials, statistics and case studies. Rapinder Virdee provided administrative and editorial support. Sumanta Roy was responsible for conducting the research and producing the final report.

All of the case examples referred to in this report relate to the experiences of women approaching services during 2006 and 2007. The case references, quotes and statistics represent women from a range of BAMER communities including Jamaica, Turkey, Algeria, Ethiopia, Nigeria, Morocco, India and Pakistan. All of the names of the women and children have been changed in the interests of maintaining confidentiality.

1. NUMBERS OF WOMEN AND CHILDREN WITH NRPF ACCESSING SERVICES

1.1 Numbers approaching BAMER refuges

As part of this research, Imkaan collated statistics from BAMER refuges to get an indication of the numbers of women with nrpf who had approached refuges for housing and support over a two year period from April 2005-April 2007. Amongst IMKAAN membership across the UK there are twenty-five Asian women's refuges, Sixteen BMER refuges and ten generic refuges that offer a specialist service, that is, they have one BAMER worker.

The data reveals the following;

During a period of 2 years (April 05- April 07), data from 13 BAMER specialist refuges and domestic violence organisations based in London highlights that **637 women and children** approached refuges, LA Social Services and Housing departments.

Not all the groups record data on number of women housed. The data from **10 groups** indicates that out of **429 referrals –only 9% of these women were housed and 91% were not housed and were referred to other services.**

In most cases, refuges did not record numbers of children - 6 refuges recorded numbers of children and it was found that of those women with children **not accommodated 37 women had children.**

Of those women not housed there is no indication of where these women and children went.

Most cases of nrpf are supported by BAMER projects.

Other recent pieces of research provide further evidence on the numbers of women and children with nrpf approaching services:

Saheli (Anitha *et al* 2008)⁴ found the following:

Preliminary information from refuges to map the extent of this problem indicates that refuges catering to South Asian women are only able to offer a space to well under 10% of women with NRPF who have been referred to them.

Recent research from the Women's Resource Centre⁵ provides further evidence on the numbers of women and children presenting to services with nrpf:

⁴ . Anitha, Sundari, with Priya Chopra, Waheeda Farouk, Qamar Haq and Saliya Khan (2008) *Forgotten women: Domestic violence, poverty and South Asian women with No Recourse to Public Funds*. Manchester : Saheli (forthcoming).

⁵ Funding to London Women's Refuges: Women's Resource Centre Report to London Councils, August 2007

During 2006/07, 238 women with no recourse were supported by 15 providers (65% of all respondents). Of the 15 providers: seven were women's VCOs, four were BME women's VCOs, three were BME housing associations and one was a general housing association. The majority of women with no recourse to public funds (73%) were supported by just four organisations. Less than 20% of the 238 women were provided accommodation. The remaining 80% had accessed community services only.

1.2 Numbers approaching Local Authorities

It is difficult to make any statistical assessment on the total numbers of women and children with nrpf approaching LAs for support. Statistics on the numbers approaching services and follow-up on where women and children go post referral is not routinely monitored by most Local Authorities. Those that did provide figures state the following;

We had 3 in the last 8 months and all had children

We had at least 15 families this year

We had 40 referrals which included equal numbers of single women and women with children

During April 2006 - 31st March 2007 we had a total of 61 cases. 32 have children and 16 were single women. We have no information on the other 11.

We had 5 cases of single women and 16 cases in total.

1 in 4 or 5 cases referred have no recourse

Since April 2007 we have had 6 referrals for nrpf

1.3 The reality behind the numbers.....

These figures give only a partial indication of the scale of the problem and in reality the figures are likely to be much higher. Other estimates suggest that there are 600 women who have insecure immigration status who are subject to domestic violence from their spouse (Southall Black Sisters & Women's Resource Centre, 2005)⁶. The figures presented in this report relate to the numbers of women who are known to external services – the vast majority will not have escaped the violence or presented to any service therefore these figures are likely to be the tip of the ice berg.

There are large numbers of women in this situation who will not be in a position to approach external agencies for support which impacts on their ability to fulfil the evidential requirements of the DV concession. Language; isolation; patriarchy; fear from repercussions from the family and wider community; inappropriate responses and racism from mainstream agencies are all factors that make it enormously difficult for BAMER women and children to leave situations of violence and abuse (Anitha et al, 2007⁷; Gill, 2005⁸; Thiara, 2003⁹; Wilson,

⁶ Southall Black Sisters & Women's Resource Centre, 2005, *How can I support her? Domestic violence, immigration and women with no recourse to public funds* Available online: www.southallblacksisters.org.uk

⁷ Anitha, Sundari, with Priya Chopra, Waheeda Farouk, Qamar Haq and Saliya Khan (2008) *Forgotten women: Domestic violence, poverty and South Asian women with No Recourse to Public Funds*. Manchester : Saheli (forthcoming).

⁸ Gill, A. (2005) Governing violence: Gender, Community and State Interventions, *Community Safety Journal* 4: 37-45.

2006¹⁰). Not only has this been well documented within academic research but these issues are also now widely addressed within the various domestic violence policies of statutory agencies (Radford & Gill, 2006¹¹; Horvath & Kelly, (2007¹²).

In their research Saheli, 2007 refer to the fact that women are not likely to disclose the abuse unless they feel sure that confidentiality will be maintained which then impacts on the ability to meet the evidential requirements of the concession:

Women often test services out to assure themselves that their concerns will be taken seriously, that confidentiality will be maintained, before they make a disclosure – and in doing so make partial disclosures that may not be recorded or pursued by the service provider. For example, women contacted GPs for sleeping difficulties or weight loss caused by the stress of domestic violence without making explicit reference to the abuse itself. This has implications for the evidence requirement under the Domestic Violence rule.

In this context, insecure immigration status acts as another insurmountable barrier to leaving as perpetrators are likely to use this situation as a means of exercising and maintaining their control. In most cases, passports are withheld to ensure that the woman has no knowledge of what rights she may have. Furthermore, enforced isolation, economic dependence, threats of deportation and losing children are all manipulative techniques utilised to ensure that the woman remains silent about the abuse. Those who manage to escape will often do so when the situation has reached crisis point and when the violence may have escalated to dangerous levels. Some will not leave in the hope that things will improve.

The situation is further compounded by the fact that if and when a woman leaves the external sources of support are ad-hoc, inconsistent and do not address the fundamental need for safe accommodation.

Paradoxically, a number of women and children continue to be re-victimised with threats of deportation and being separated from their children when they approach the agencies that are meant to help them (Gill & Sharma, 2006¹³).

Many spouses will intentionally seek not to regularise the woman's immigration status within the two-year period and for these women the situation becomes more dire as through no fault of their own they are deemed overstayers. The majority of refugees we spoke to confirm the fact that once a woman is classed as overstayer sources of support are very limited. For overstayers the ability to provide sufficient evidence for Home Office purposes is almost impossible in many cases especially where women are not able to report to any agency whilst within the violent relationship and the 2-year probationary period and – they are then likely to leave without any official documentation related to their status. Workers we spoke to state the following:

⁹ Thiara, R. (2005) 2005, The Need for Specialist Domestic Violence Services for Asian Women and Children, Imkaan, London.

¹⁰ Wilson, A. (2006) *Dreams, Questions, Struggles: South Asian Women in Britain*. London: Pluto Press.

¹¹ Radford, L., Gill, A. (2006) Losing the Plot? Researching Community Safety Partnership Work against Domestic Violence, *Howard Journal of Criminal*, Vol. 45, No. 4, pp. 369-387.

¹² Horvath, M., Kelly, L. (2006) *From the Outset: Why Violence Should be a Priority for the Commission for Equality and Human Rights*, CSWASU; London Metropolitan University.

¹³ Gill, A., Sharma, K. (2006) 'Response and Responsibility: Domestic Violence and Marriage Migration in the UK', in Walsum, S., Spijkerboer, T. (eds) *Women and Immigration Law: New Variations on Classical Feminist Themes*, London: Glasshouse Press.

Another woman came to us with same problem but she overstayed as well as not having enough evidence of domestic violence. She came from England to visit her friend who persuaded her to stay in Glasgow. We did get some funding for her baby, but were unable to admit her in refuge. Advised her to seek asylum but her lawyer was hopeful for her visa. After few weeks in Scotland she went back and we never heard from her again.

Most of the women we struggle to help are overstayers and single women where there is no funding available. It is easier when they have children.

We had over 60 cases (in the last year), just under half would be of overstayers but also included some 2 year rule cases African/ African-Caribbean and some Asian.

Sima was never allowed out of the house even to go to the GP so it was impossible to get any evidence of the domestic violence by the time she came to us.

2. FINANCIAL IMPACT

2.1 The cost of providing support

The reasons for not accommodating women relate to the fact that most of the BAMER organisations are very small, operate with scarce resources and have limited bed spaces. Some operate a quota of taking on 2-3 cases per year and therefore may not have the space or the resources for additional women and children. This is especially the case where Social Services have made a referral but without a commitment towards providing any level of financial support or any indication of when a decision will be made or when funding will materialise. This continues to place a number of refuges in enormous financial difficulty and in particular BAMER refuges who receive most nrpf referrals from mainstream agencies on the basis of their expertise.

One worker stated: *1 client's total cost of living and staff time accumulated to around £30,000 as she had been living with us for 18 months.*

Some fear the consequences of going against their Housing Association where some are now stipulating a blanket policy of not taking on any nrpf cases especially since the implementation of the Supporting People (SP) policy¹⁴. SP remains the key funding source for refuge provision and a concern around maintaining voids levels in line with the criteria of SP funding contracts places additional pressures on refuges to not take these cases on.

Our two Housing Associations do not let us take on women with no recourse to public funds. In the past, we used our reserve funds and the Women's Aid Last Resort Fund. These are no longer available. In the financial year 2006-2007, we had to turn away 29 women with no recourse to public funds and their children (this is 17% of our total refused referrals).

The data reveals that a number of BAMER refuges are struggling to provide basic food and living costs to those women that they have housed. In some cases Social Services have offered support and in other situations women have been supported through any in-house reserves the refuge has, donations as well as one off

¹⁴ Supporting People introduced in April 2003 to fund housing related support services.

payments through the Women's Aid last resort fund (which no longer exists) and the Saheli Crisis fund (which no longer exists).

Workers stated the following:

Usually women and children are in a dire situation as regards to clothing and essential items such as baby/child toiletries nappies etc.

1 client was supported by in-house finances and shared a room with another single lady

We have to support women through refuge loans whilst money from Social Services comes through

We supported one woman through money from another charity where we managed to get a short-term one off payment

Recent research from the Women's Resource Centre¹⁵ provides further evidence of the costs associated with supporting women with nrpf;

Fourteen providers accommodated women with no recourse, at an average cost of £149 per week (rent). Seven providers were able to negotiate with Social Services to cover rent (and in some cases, subsistence); although most noted that this was only successful if the women had children. Four of the providers funded a woman's stay out of reserves (in one case a designated reserve fund for this specific purpose) and three used a combination of unrestricted funds, under-spends from other services, reserves, their organisation's welfare fund, small grants and public donations.

3. SEEKING ASYLUM

The Border and Immigration Agency (BIA- formerly administered by NASS) support is in the main attached to housing support within NASS accommodation centres and financial support in the form of vouchers. Imkaan's 2003¹⁶ report highlighted the danger of this approach:

As part of the asylum process, women and children seeking asylum may be dispersed and detained in government-funded accommodation centres. While it is possible at the moment to plead special circumstances in a few cases, the government's plans for compulsory placement of all asylum applicants in such accommodation centres will make this extremely hard. For women and children who have faced domestic violence it may only serve to isolate them from their known sources of support and from accessing specialist counselling. It may also make it easier for their abusive partners to track them.

In response to the campaigning efforts of Refugee Action and various women's groups on the unsafe nature of this approach NASS issued guidelines to take on these concerns¹⁷. The guidance states that any asylum seeking woman who reports DV should be safely re-housed if that is her wish. It also identified options including refuge provision or funding for private accommodation. However, a Refugee Council report indicates that the

¹⁵ Funding to London Women's Refuges: Report to London Councils, August 2007

¹⁶ A Place to Stay, Imkaan, 2003

¹⁷ Refugee Action (2006) *The Destitution Trap: Asylum's untold story* Available online: www.refugee-action.org.uk

policy is not being implemented or monitored consistently¹⁸. A consultation with refugee groups facilitated by the Refugee Council found the following:

Our experience suggests that many asylum seeking women do not receive adequate support or intervention due to unclear policy between services and public agencies, such as social services and refuges

Women and children are often isolated in accommodation/removal centres especially outside London, where they are easily targeted by violent spouses/partners or relatives, and lack access to essential safe and specialist refuges and support services. Refugee community organisations supporting victims/survivors of domestic violence have difficulty in finding safe accommodation at refuges and they sometimes have found themselves stretched to look for a safe place for a woman within community homes and in some extra cases in their organisation's offices.

*NASS Domestic Violence Policy does **NOT** cover issues around the access to legal advice and it does not address the difficulties experienced by asylum seeking women in trying to access legal advice and support*

Imkaan's research confirms that a number of women continue to be dispersed and detained in accommodation centres where access to support is limited. An outreach manager told us that in the last three cases she dealt with all of the women concerned had come from a centre in Dover and none of them had received appropriate advice about the DV concession from staff based at the centre.

The following cases from Imkaan's research also illustrate the inadequacy of support in ensuring that women have access to the relevant legal advice and safe refuge accommodation. Although the circumstances of both cases are very different, both cases highlight a number of glaring errors. Both Shameem and Rita were inappropriately detained in Home Office accommodation centres, their experiences of domestic violence were questioned in favour of an overriding concern about their irregular status and staff based at the centres appeared to lack both knowledge and expertise on domestic violence issues. In Shameem's case she had made reports to the Police and Social Services who had clear evidence of her injuries and vulnerability but despite this they sought to disperse and detain her in two separate accommodation centres. It was only through a conversation with other women in her position and a chance meeting with the Support worker of the Asian women's outreach project that she accessed appropriate support and was in a position to appeal against the proposed deportation. Sadly in Shameem's case this process led her to suffer from serious mental health issues. In Rita's case despite trying to disclose the abuse to the agencies around her the only way of accessing support was through a woman she had befriended at her stepson's school.

CASE STUDY

Following a period of violence, Shameem took money out of her husband's pocket and managed to escape to her own family in London where she was put in touch with an Asian women's support service. In London a police report was made of the injuries she had incurred. Subsequently her in-laws found her and took her back home. They then locked her up in a house for 2 weeks and subjected her to further violence. A neighbour heard her and called the Police who made a log of the injuries and noted that the child was a British Citizen. Social Services got involved but said they did not know what to do with her so they put her in a B & B for the night. The Police took her to Liverpool and then Dover to the detention centres as an asylum-seeker.

¹⁸ Refugee Council, Response to the Mayor of London's consultation on the second London Domestic Violence Strategy (2005).

She spoke to other Asian women and found out about the DV concession and her right to apply from other Asian women in the detention centre. She was then dispersed back to the place she escaped originally. A couple of days later one of our support workers found her incredibly distressed as she had just received a letter stating that she had made a false claim and she was due to be deported a couple of days later. Our solicitor advised us to house her elsewhere until her application could be lodged - we had to keep her in hiding for ten days as no one would pay her rent. She was due to be dispersed but with the help of a good Housing Association we managed to get her support through Section 4 and then we successfully argued for her to not be dispersed again which is a condition under S 4. After one and a half years Shameen has got her stay but her mental health has totally deteriorated during this time to the point that she has been hospitalised in the psychiatric ward. She and her child are still in temporary housing.

CASE STUDY

Rita had an arranged marriage and came to UK. Her husband had a child from a previous marriage. During the marriage she had asked her husband to help her to apply for Indefinite Leave to Remain upon which he informed her that he had sent her passport to the Home Office. The violence began soon after the marriage began and during this time Rita had called the police for help but found it difficult to communicate in English and found them to be unhelpful to her. Rita subsequently withdrew her statement. In her heart, Rita felt that the real purpose of the marriage was so that her husband could get custody of his son. One day, he came home and told her that they needed to go to the Home Office and collect her passport. When she got there she realised that he had reported her to the Home Office as an over-stayer and he then took her to a detention centre. Rita spoke the immigration officer about the violence she had experienced but was told that there was no help available and the only option was for her husband to buy her return ticket back to India and that they should return back to the office with the ticket. Rita's husband had discovered that she had in fact contacted the Police and told her that this was the reason why her visa application had been refused. He also informed the Police that she was an over-stayer and about to be deported. Rita was eventually arrested and taken to a detention centre. Thankfully, Rita contacted a woman who she had befriended at her stepson's school and with her help received advice from an immigration solicitor who appealed against the deportation order and secured her release from the detention centre. With the help of the woman Rita was put in touch with Social Services. Rita is now safe and happy in a refuge where she has received funding under S21 and has recently had her application under the DV concession approved.

The possibility of deportation has perilous consequences and Home Office judgements are made on the presumption that women are returning to places that are deemed as safe where they will be in a position to access adequate support services in their own country of origin and able to re-establish their lives. In reality women are returned to situations that places them in further danger.

As referred to the report Safe to Return? (Siddiqui, N, Ismail, S., Allen, M, 2008)¹⁹:

¹⁹ Siddiqui, N., Ismail, S., Allen, M. (2008) Safe to Return: Pakistani Women, domestic violence and access to refugee protection – A report of a trans-national research project conducted in the UK & Pakistan, South Manchester Law Centre: Manchester.

There are similar tensions when considering where in Pakistan a woman should 'return'. This study demonstrates that women cannot return to the place, house, family or situation from which they have fled. A woman's return therefore has to take her to a new 'place' within Pakistan, but her safety is not assured by geographical distance since, for example, she is likely to lack support networks, be isolated, and be unable to retain anonymity. In a UK context, return is more commonly associated with an involuntary process of removal to a 'safe' airport in the country of origin, beyond which the UK state is absolved from any further responsibility.

Workers told us also of the dangers of deportation:

When they are from the Caribbean Islands the fact that political asylum is not an issue is really difficult as the Embassy says it is OK to send her back even if there are dangers of her being exposed to gang related violence then too the embassy will say the same

This woman was raped and abused by her husband. There were police reports with the evidence. The problem is that the child will not be recognised as having any status in Morocco as it is illegal to have a child with a non-Muslim man. It will be impossible for her to return and dangerous but the Home Office won't accept it - we are still trying to liaise with them on this to stop her being returned.

CASE STUDY

Our client is 37 and from Nigeria and she has been in the UK since 2004. Whilst in Nigeria, she entered into an arranged marriage reluctantly. After the birth of her first child her husband said that they would go to the US however they ended up in the UK (entering illegally with false passports). Once in the UK, and heavily pregnant with her second child her husband would frequently disappear for long periods of time and she began to suspect that her husband had another family. The violence started soon after the marriage and whilst she was heavily pregnant. She was regularly beaten and sometimes with a belt or on occasions stabbed with a fork. Throughout the marriage he continued to threaten to kill her and her children. She finally escaped through the help of a local Church and once referred to the women's organisation she was helped to make a report to the Police and Social Services. The police were unable to track the husband as he managed to make anonymous phone calls and there was no official documentation to evidence the marriage. The woman continued to stay with friends she made at a local Church for fear that he would come back and make further threats. We referred her older child to the Children's Mental Health team to support him with the trauma he had witnessed and experienced.

Social Services were unwilling to provide support and our client has been advised that unless she can demonstrate that she has severe mental health problems that could not be treated in Nigeria she is likely to fail in her Home Office application and be deported. The consequences of returning are frightening in terms of poverty where it is unlikely that her children will be able to pursue an education and it will be difficult to get a job despite being qualified as a Nurse. However, her greatest fear is the backlash she will experience from community members in the village she comes from - she will be blamed and therefore is likely to be ostracised by the community and their lives will be in danger.

Our client continues to rely on the goodwill of others. A couple of weeks ago her husband called her and the threats have started again. Our client is still not considered as high risk and therefore we cannot refer her to the MARAC high risk panel.

In 2002, Section 54 and schedule 3 of the Nationality Immigration and Asylum Act made it extremely difficult for women who fail in their asylum application or become overstayers to access community care support. It removes the rights of EEA nationals and their dependants, failed asylum seekers and overstayers to community care assistance. This includes exclusion from financial support under section 17 Children Act 1989 and section 21 National Assistance Act 1948²⁰.

When all other avenues have been exhausted Section 4 is a provision within the Immigration and Asylum Act. Qualification requires that you are a *failed asylum seeker* and are *destitute which is defined as not being able to meet accommodation or living expenses for the next 14 days*. In addition there are expectations that steps will be taken to leave the UK bearing in mind that the person is well enough to travel (only the journey itself) and you will be returning to a Country that is deemed safe. Although, voluntary return is not a strict condition of accessing S 4 support it is given a strong emphasis by NASS (now known as BIA)²¹. A claim can also be made to avoid a breach of human rights and this is where most claims will be made.

Our research found that it is not unusual for a LA to be non-committal in providing any type of support unless they are certain that the woman's immigration application has been lodged and has reached near the end of the process where they are fairly confident of securing an indefinite leave to remain status. Some LAs prefer to support asylum-seekers or move women onto S4 support as the money can be retrieved from the BIA as one LA Manager from Social Services proudly informed us:

We don't mind cases of asylum seekers because we can get the money back from NASS but in the case of nrpf there is simply no budget...yes, we work vigorously against providing support to families with no recourse; we only pay when judicially reviewed.

4. LOCAL AUTHORITY RESPONSES

Our research revealed only small pockets of good practice (see below) and the cases and material collated by us point overwhelmingly to the fact that support is fragmented, short-term and sub-standard in the majority of cases.

4.1 Being listened to in the first place

Women with nrpf continue to be treated as second class citizens and turned away by LAs across the Country. **This is an area we don't like dealing with. ... go to Lunar House ... we don't have the budget.... you need to go back to the Local Authority you came from or no response** are the types of statements that refuge workers are accustomed to hearing from Local Authorities in cases of nrpf.

A case-worker states the following:

The LA told me - listen we don't do that – take her to the Home Office at Lunar House when asked about whether her client could qualify for support under S21 – this woman had a child of 6 and we were not in a position to house her as there were no spaces she ended up returning back to the perpetrator.

²⁰ Home Office, (2007) Enforcing the rules: a strategy to ensure and enforce compliance with our immigration laws.

²¹ Border and Immigration agency

An outreach manager states the following;

Our Social Services manager is actually supportive but when he is not around his staff continue to tell our woman – go home, what are you doing here?

In many cases women are simply abandoned and left homeless - vulnerable to further danger whilst waiting for Social Services, Housing and Immigration teams to decide whether their case merits assessment in the first instance and then left to wait further whilst assessments are conducted, decisions are made, and the level of support, if they can offer it is confirmed. This waiting can be long, arduous, frightening and very painful for women especially when the eventual outcome is often: *no we cannot help you.*

The refuge and advice workers we spoke to continue to spend countless hours gathering the relevant evidence, accessing legal advice and consistently challenging authorities on their inaction and failure to offer support.

Across the majority of authorities there is no one person or team, which deals with this issue. Workers described their frustration at having to explain their client's situation repeatedly whilst being passed from department to department. The time taken to respond to an initial referral or to make a decision can take many months and in the absence of any standards and guidelines, workers have few avenues to challenge malpractices

A legal advocate told us about a recent case:

In the course of 7 days we sent 20 faxes ... this was just to ask them to take the application on board and agree to an assessment It is now 6 weeks later and we still don't have a decision ... the woman concerned has had to rely on the goodwill of a woman that found her crying in the street and took her in. Social Services are now saying why cant the friend support her... what they don't understand is that this was someone she met randomly and is unable to provide the level of long-term support she needs ... she already relies on her for money for travel, food, lodging It also places enormous pressure on any social networks women might have. The friend is now also scared to carry on helping her as the husband has found out where she is living and has started to threaten her ... as in many of these cases I fear that if she doesn't get a decision soon she will return to her husband as the situation is becoming increasingly desperate .

Staff told us that the period when a woman was trying to leave an abusive relationship was a particularly difficult and dangerous time for women which was exacerbated when the woman was not housed in a refuge or was homeless or still remained in the violent home but was seeking advice on their situation. Without adequate and timely support in place, many of these women disappear and often return to the violence as a consequence.

Imkaan received a recent referral from Newcastle from a Solicitor seeking refuge space for a single woman. Despite police intervention to remove the woman from the situation of violence the homeless department refused offer support beyond three night's accommodation. On the fourth night the woman sat up in a police station for half the night and when they closed, wandered the streets at risk from not only her perpetrators and their associates in the community but also other criminals.

Another Advice Worker told us:

Nobody is helping us, women are being passed back and forth between Housing and Social Services because of their disagreements around who should support the woman – many have children and have no choice but to

return back to their partners even when we consider them to be high risk Social Services don't - these women tend to disappear and then come back to us as there has often been further violence

The level of violence experienced is not only being disregarded but also minimised to the extent that women's accounts are not believed:

A DV outreach service told us:

The husband had obvious mental health issues and has been sectioned in the past but no one was seriously taking the wife's assertions that the violence towards her and the children was getting worse due to a lack of diagnosis and the lack of treatment for the husband. Despite a whole range of services being involved little was done. In the end we had to call out the emergency mental health team who then sectioned him. What I can't understand, is that regardless of the husband's illness, is why no-one took the wife's assertions of his violence seriously especially where he had already been sectioned in the past?

4.2 A few pockets of good practice

Imkaan did find eight of examples of good practice within Local Authorities in relation to nrpf and it was clear when speaking to some workers that they were clearly dedicated to offering support and advocacy but felt limited in the level of support they could offer because of the Home Office restrictions and the limits set by the LA itself.

Good practice across five authorities included:

- Providing winter clothing allowances, money for school meals and milk token for mothers
- Providing emergency overnight bags with the basic essentials
- Using LA procured accommodation rather than bed & breakfast as the norm and ensuring that some level of support is maintained
- Funding a small number of bed spaces in the local refuge specifically for nrpf
- Establishing a nrpf network which offers frontline support and seeks to educate other authorities on good practice around nrpf
- Fundraising to establish a LA emergency fund
- Developing good practice guidelines

4.3 Local Authority Duties

Obligations do exist under various statutory regulations which include Section 4 of the Immigration and Nationality Act (referred to in the previous section), Section 21 of the National Assistance Act, 1948 and Section 17 of the Children's Act 1989.

However, the research revealed a number of situations where clearly duties were not adhered to or utilised in cases of nrpf.

Qualifying for support under destitution plus (Section 21 of the National Assistance Act, 1948)

From 6th December 2000, those subject to immigration control were no longer eligible for assistance if their need stems from 'destitution alone' or the consequences of destitution. Local Authorities use the term

“destitution plus”. The key criteria is whether there is an **imminent risk of significant harm** not arising from financial or accommodation reasons if support was not provided, which would only be suffered as a result of the additional circumstance of ill health, disability or other vulnerability.

Correspondence from the Home Office, 2006 to Local Authorities highlighted the need for *local authorities to be mindful that some victims of domestic violence could have specific needs for care and attention and /or have dependent children, which may make them eligible for assistance under section 47 of the NHS & Community Care Act, the Local Government Act s.2, Children Act 1989 or other relevant legislation.*

The letter also reminded Local authorities to consider the case of Khan-v-Oxfordshire (2004) when making individual assessments. This case found that the woman’s need for care arose out of the domestic violence itself over and above destitution that is solely related to a lack of accommodation and therefore acknowledged her right to funding under Section 21.

Although, the letter from the Home Office usefully highlights the need for special consideration unfortunately guidance is interpreted and applied very differently across Authorities. Furthermore, Section 21 is not directly linked to the need to provide funding for accommodation.

For a single woman with no recourse to public funds S21 is often only the way in which she can access any kind of financial support. However, the criteria for assessment are not only very high but domestic violence is not identified within the eligibility criteria. A focus on having an overt physical disability such as blindness or a clinically diagnosed mental health issue makes it very difficult for women subject to violence to fit into the rigid criteria of the Act. This is ironic given that sexual, physical and emotional violence are undoubtedly linked to acute levels of mental distress and trauma and this is in addition to dealing with homelessness and the uncertainty of an insecure immigration status.

One LA stated:

It is difficult to try and capture the vulnerability as a consequence of DV under S21 In these cases more often than not it’s a refuge that will need to support the woman.

One refuge caseworker told us:

It’s very hard for us to help women get assessed under S21 and for her to fulfil the criteria as it is too high – they won’t accept it unless there is a severe physical disability or mental health issue.

She goes on further to comment on the system itself as having a very damaging impact on the mental health of women:

Countless visits to the GP, mental health professionals so we can gather evidence in itself makes woman worse as they suffer as a consequence of constantly reliving the trauma they have experienced. I have seen women deteriorate... some have developed serious eating disorders.

One of our recent clients was so distressed by the uncertainty of her situation she kept asking us where will I go ... she has emotionally deteriorated to the point that she is now self-harming ... Sometimes we hear her banging her head against the wall in her room. By the time she got her stay she didn’t even understand what it meant ... she was sectioned for two years. She is out now.

4.4 Sorry we don't have the budget

Budgetary reasons are frequently cited by LAs as the rationale for not intervening even where clear statutory duties exist. "We are a business after all" one LA worker stated who was clearly torn between knowing that turning women away was wrong and complying with the expectations of Managers.

There are large discrepancies between authorities and the level of financial support offered with workers often having to argue further and rely on fundraising donations to ensure that the support provided can meet the basic essentials of survival. Without any agreed standards Local Authorities are free to pay what they choose and consequently a number of women and children with nrpf are living in extreme poverty. Some follow the rates set by NASS (£35 per week) however this could be paid regardless of the number of children the woman has. Overall, there are no guidelines around the amount paid.

Saheli, (by Anitha *et al*, 2008) found the following:

11 single women, all of whom were being supported by social services or refuges, were living on between £25 and £35 a week while the poverty threshold for adults is £101 per week. Women with children were also living on far below the threshold. 4 women with one child were often living on under £60 a week, while other women with between one and two children were living on between £80 and £100 - in one case, a family comprising of a woman and 4 children were struggling to survive on £55 per week – their poverty threshold would be £266. Five women who were not in receipt of any support were living on nothing, and relying on the charity of others for food and shelter often in return for labouring in their homes, while 2 women who were employed were living on between £40 and £70 a week.

We came across one case where the LA was threatened with legal action and were able to successfully argue the case on the basis of the accepted standards around child benefit payments: *One woman with two children was offered £30 a week. This was contested on the basis that if she was eligible for child benefit she would qualify for more money. The LA conceded in this case and paid the appropriate level. The difficulties are that support is insecure and only offered over a short period of timeit needs to be reassessed every 6 months.*

There are also immense difficulties on surviving on the funds received and payments tend to be made in the form of vouchers which are limited to certain shops:

Our women can only use vouchers to buy groceries from the local shop which is very small - it makes it difficult for them to have access to a phone; buy basic clothes, pots and pans necessary for day-to-day living.....I don't know why they cant give them the cash Some of our women try and sell the vouchers at the Supermarket just so they can buy their own food from the Asian shops.

4.5 Children

The research found that some LAs do act according to their obligations under the Children's Act 1989 providing support to mother and child. Islington NRPF guidance states:

If the adult is not accepted as 'destitute-plus' and they have a dependent child in their current care, then it is essential that a section 17 assessment is carried out under the Children Act 1989. If the child is found to be destitute then the Local Authority has a duty to provide services including accommodation to that child. Under the Children Act 1989 this can be in the form of accommodation of the child alone under section 20 or by the provision of services which can include accommodation for the child and their carer under section 17. In making

this decision consideration needs to be given to the child's individual needs and its right to family life under Article 8 of the European Convention on Human Rights (ECHR).

A number of workers reported that it was easier to access support for cases involving children. However our research revealed that the level of support provided appears to differ with some authorities stating that housing and finances could be offered for a few nights and a few stating that they would support both mother and child until the immigration status was secured. Others quoted repatriation and seeking help from family or friends as an alternative option which clearly have the potential for placing women at more risk. In a number of cases, women and children were not housed despite duties to support children who are homeless and 'in need' and 'at risk'.

A Social Service manager stated:

'We simply do not have resources for accommodation and subsistence until application comes to an end - either for women with children or without - no cases of children taken into care. But we have legal obligation under section 17 to assess. 5/ 40 may be given assistance after this, for others refer to help to identify other means of support or help with repatriation, or put them in touch with their families,

Another Social Services Manager reported:

In many cases the level of dv is extremely high - almost always there are children involved. The women are not the abusers they are 'good' mothers. They are caught between having no funds and being harmed. You can assess them under the Children Act but then there is the whole question of who picks up their housing etc Under section 17 there is a duty to assess - which means comprehensive assessment, look at all their needs and then social workers get authorisation (as long as there is no risk from their mothers). We do find them somewhere to live (the only cases where we might threaten them are those where people will not give info) usually this is for one year. We also provide financial support,

Unfortunately, abhorrent attitudes still permeate in LAs despite statutory obligations. One worker we spoke to told us about a conference she attended where the local Social Services Manager was present:

At a conference I attended in 2007 the Manager openly stated that they threaten to take the children into care to avoid paying for assistance under section 21, and most families back off. The Manager went onto say that that shows that they are "not really destitute".

Imkaan found evidence indicating that a number of LAs still operate a policy to support the child but not the mother. These trends have also been confirmed by other research by (Anitha *et al*, 2008)²² and Amnesty (2008)²³. Threats of taking children into care appear to be used as a way of evading responsibilities and as a mechanism for instilling fear into women thus ensuring that they do not return to Social Services for help. It is alarming that a lack of support towards the mother is not seen as having a detrimental impact on the well-being and safety of both the mother and child.

²² Anitha, Sundari, with Priya Chopra, Waheeda Farouk, Qamar Haq and Saliya Khan (2008) *Forgotten women: Domestic violence, poverty and South Asian women with No Recourse to Public Funds*. Manchester: Saheli (forthcoming).

²³ Amnesty International (2008) *No Recourse – No Safety: The UK Government Failure to Protect Women From Violence*. London: Amnesty International (forthcoming).

A legal advocate with experience of providing representation on nrpf cases told us that threats of taking children into care is still unfortunately commonplace in some Authorities:

I know from my knowledge of other lawyers when most women approach Social Services the initial response is almost always that they threaten to take the children into care - but it is usually when they receive a letter from a Solicitor that Social Services often back down and then deny they ever said anything.

In this case the workers were told that the woman would not qualify for support as a single mother on the basis of their advice to return the child to the abuser or take the child into care:

They refused to support a woman with no recourse who had 2 children, saying the kids should go back to father or be taken into care under section 17 (rather than supporting the mother and the children together), then they said that as a single mother, she would be ineligible for support .

One recent case we came across (see below) illustrates the callousness and cruelty of the social welfare system when dealing with immigration cases. In this case support was immediately withdrawn when the son of the woman concerned died as a consequence of a serious long-term illness so the mother had to contend not only with grieving for her son but was also left destitute. In this context, it is understandable why women will often end up living in situations of further destitution, uncertainty and violence if this is the only way of keeping their children and families together. This dangerous practice also serves to ensure that women completely lose confidence in the social welfare support system in the UK and become unlikely to approach any agencies for help. But perhaps that is the intention of these practices?

CASE STUDY

Anita did not have a secure immigration status and her case was picked up by Social Services in November 2006. Vijay suffered from a condition called Global Developmental Delay which meant he had no control over any of his physical body muscles and needed 24 hour constant care. At the hospital the staff eventually discovered that both mother and child had been subject to domestic violence. The son was put on the child protection register and social services strongly advised that Anita should leave her husband with the assurance that they would find her somewhere safe to stay and that they would pay the rent as well as offering additional financial support. Anita agreed and both mother and child were referred to a refuge in December 2006. Anita was eligible to receive child tax credit, child benefits, disability benefits, carers allowance for Vijay. Anita had lost a lot of her self-confidence as a consequence of enduring violence and mental torture from her husband and over some time gained the confidence to start interacting with others in the refuge whilst she dedicated almost all of her time to caring for her son who needed constant care and had to attend numerous doctors and hospital appointments. The refuge then helped her to find immigration solicitor.

Soon after settling into the refuge Vijay was taken into intensive care at the children's hospital. After 5 days in hospital, Vijay passed away. Anita's Social worker from the Disabled children's service rang and informed staff that they would be discharging their duties in paying for Anita as Vijay had passed away and they no longer had a duty to care for the mother. Social service's had already delayed making the agreed rent payments which were already 6 months in arrears. The refuge requested that SS should give at least 28 days notice, but the response was that they had already gone over by a couple of days and the manager wanted to discharge their duties on the day that Vijay died. Since Vijay has died the workers struggled to cover the costs and had to desperately fundraise from other sources through which small pots of money were accessed through the Saheli Crisis Fund and Women's Aid Last resort fund which covered rental costs for a short period of time. Anita had

to live with no little financial support to cover basic living costs or her rent for 4 months following the death of her son. Anita now has indefinite leave to remain but is still in arrears with her rent.

4.6 The Emotional and Physical Health of Women and Children

As described earlier cases involving children demonstrate not only an expectation from Local Authorities that women and children survive on limited funds but that the child should be separated from the mother. Our research found that advice from Social Workers can totally compromise the safety and well-being of children often preferring to return children to the abuser rather than offer support.

This is demonstrated by the following case:

CASE STUDY

We are currently helping a woman with a child who was brought to us by her health visitor. Her baby has nutritional needs and as a result he was not thriving normally. The health visitor noticed signs of DV and when she explored this further her doubts were confirmed. She came to us in June 2007 where we helped her to report to Social Services and the Police despite her reluctance to do so due to her limited visa status. We were unable to house her because of financial difficulties. The Social Worker promised to look into it but due to lack of evidence was not very helpful. A month later we heard from the health visitor that Social Services did not respond at all and situation was getting worse. We phoned and they promised to look in to it yet again. Subsequently Social Services visited the woman in her house but due to the presence of her abusers she was unable to disclose the abuse. Finally on 29th of Oct 2007 the police were called because her father in law allegedly tried to strangle her and harm her baby. Police called us for help. We called social services for help and eventually they gave us one weeks rent as well as spending money until they investigate further i.e. police report, health visitor report etc. We collectively decided that even if Social Services did not help we would have to find a way out despite our financial situation. Social Services advised the woman to leave the child and go back to her country of origin and that the baby should be looked after by her father. We were disgusted by this suggestion because firstly, mother will be separated from her son and secondly the child be given to abuser. We are now providing free accommodation for them and eventually we got SS to agree to pay a weekly allowance for the baby of £35.00/wk. We are in process of applying for her settlement visa.

A lack of funds for basic essentials such as food, nappies and safe housing has a detrimental impact on the physical and emotional well-being of children who continue to be denied the conditions in which they should be able to thrive and develop normally.

Workers told us the following:

It is very hard as these children often go without sweets, toys, school and everything they see other children get ... many cause havoc because they are disturbed, have lost family, have to wait much longer to get into the system ... the mothers also suffer from extreme levels of distress as they are unable to provide for the children.

We can't keep them as we are restricted so we do what we can ... often we have to try and get donations or buy it ourselves for food, underwear, nappies, haircuts, pots and pans.

We have had cases where children have had no access to nappies, food - these are usually young children.

Most schools refuse school meals for children with nrpf.

In this case it is understandable that the mother was driven to desperate measures in order to feed her child:

Without any other means of financial support, she is trying to earn some money by braiding hair. She was so desperate for her son to go to school so he could at least have a meal each day that she lied to the school stating that her son was in fact her friend's child which helped him qualify for free school meals and schooling. She has now confessed this to the relevant Authorities but is now terrified that her children will be taken away from her as Social Services always remind her that their responsibility is towards the child not the mother.

We have received numerous accounts from workers of the deteriorating mental and physical health of women with nrpf. It is commonplace for women to present with depression, chronic anxiety, sleep disorders, eating disorders and in some cases schizophrenic tendencies:

Our client is always saying she wish she never left ...this woman was in good health but over the last few weeks the workers have seen her health suffer. Her house is in a mess, she is constantly sleeping and now she is starting to show schizophrenic tendencies. The uncertainty of her position in terms of her Home Office application and the time it has taken for Social Services to make a decision has had a direct impact on her health. She has now been housed for the second time but again in temporary accommodation. Only 3 weeks ago she had another spell and had to be taken to the Mental Health ward. We have referred her to the emergency mental health team and we take it in turns to take her child to school.

As referred to earlier in the report women continue to be re-victimised by the system itself and our research shows this has serious consequences to their mental health and in some cases this is leading to serious mental health conditions.

Recent media reports suggest that babies born to 'foreign born mothers' are a drain on the maternal and antenatal health services across the UK²⁴. Unfortunately, this will only serve to perpetuate further racism towards immigrant populations in the UK rather than highlight the contradictions of other reports that point to the significant economic contribution that immigrants continue to make to the UK. The Home Office proposals to restrict NHS services serve to further fuel this position. The Home Office²⁵ is currently considering proposals which would exclude vulnerable migrants from eligibility for free NHS GP and other primary care services. The proposals would further endanger the health of women and children with nrpf as well as presenting another barrier to fulfilling the evidential requirements of the domestic violence concession. Restricting health services to pregnant women is also particularly dangerous given that it is well-known that pregnancy itself can trigger extreme levels of violence and as such is recognized as a key factor within the criteria of statutory and voluntary sector risk assessments²⁶.

Medact²⁷ recently produced a report to highlight these concerns:

The 2004 regulations have resulted in vulnerable women being denied maternity care... despite guidance stating that antenatal, birth and postnatal care are considered 'immediate and necessary' and to be provided whether or not the woman can pay. Excluding vulnerable migrants from eligibility for free GP services is likely

²⁴ See: <http://news.bbc.co.uk/1/hi/health/7215624.stm>, accessed 2nd February 2008.

²⁵ Enforcing the Rules, Home Office, (2006)

²⁶ Kelley N. & Stevenson (2006) First do no harm: denying health care to people whose asylum claims have failed Available online: www.refugeecouncil.org.uk

²⁷ Maternal and infant health of vulnerable migrants briefing paper, Medact, Reaching Out Project, (2008)

to result in more women missing out on care.... likely to lead to delays in commencement of antenatal care, which increases the risks to the health of pregnant women and their babies.

Maternal deaths amongst Black African women in the UK are six times higher than for White women. Many women do not have the right to work or to receive state benefits. Many are destitute and dependent on churches and charities to survive. Others are at risk of destitution if they leave an abusive relationship.

For women experiencing domestic abuse, GPs provide an important source of health care and may assist in linking her to sources of support. Vulnerable migrants who are experiencing domestic abuse may not be able to obtain money from their partner or family to pay for GP appointments and so may lose this source of support

Women with 'no recourse to public funds' who are escaping an abusive relationship may gain the right to remain in the country if they can provide evidence of the abuse. A letter from a GP is one of the few forms of evidence which is acceptable to the Home Office. Currently, most women with 'no recourse to public funds' are entitled to free GP appointments. If these women were to be charged to attend a GP appointment, they may not be able to obtain the necessary medical report for the Home Office.²⁸

4.7 Sorry, we won't support you ... go back to where you came from

The need to make exceptions to the local connection rule so that women can be housed in an alternative LA area has long been argued by the women's sector as key to ensuring women and children remain safe from the repercussions of leaving violent family homes. It is also now addressed within homelessness policy - Homelessness Guidance to Local Authorities (DCLG (now known as CLG), July 2006) stipulates *that applicants cannot be referred to another housing authority if they, or any member of their household, would be at risk of violence in the district of the other authority.* Therefore, LAs use these criteria when assessing domestic violence homeless applications and referrals are made to alternative Boroughs where safety is a concern.

Again there appears to be a totally contradictory approach when dealing with domestic violence for women subject to immigration control. Supporting People acknowledges the need for a cross-authority approach to dealing with DV referrals yet this appears to exclude the rights of women with nrpf. Feedback from refuge workers highlights the fact that workers have to persistently argue this point with LAs.

In one situation the organisation itself was blamed for encouraging women with nrpf to access the service:

If your organisation wasn't there we would not have these cases coming from outside the borough

Another told us:

It's very hard to get the original authority to pay when she has had to leave for safety reasons ... especially when they are single women.

The original Local Authority is not only reluctant to pay support costs for women where she flees to another borough out of fear for her safety but it appears easier for them to absolve themselves of the responsibility when the woman leaves their catchment area. Whilst authorities argue with each other about who is responsible for providing funding women are left in situations of further vulnerability and homelessness. Guidance published by the Islington NRPf network which seeks to share good practice highlights the following

²⁸ See: http://www.medact.org/content/reaching_out/maternal%20and%20infant%20health%20briefing.doc

in a recent policy bulletin - *Where local authorities are in dispute about which of them is the responsible authority interim support continues to be provided to the applicant on a without prejudice basis by one of the authorities. Unfortunately this does not appear to work in practice.*

In a recent case we had to work hard to get the original authority to pay for the woman – she had a child and was pregnant. It was dangerous for her to stay where she was and they refused to support her argument that she needed to leave for safety reasons –I asked them for their policy they said they didn't have one and only through constant calls to the LA we finally managed to get them to provide funding for 16 weeks (had a child and was pregnant). She was not even an overstayer?

If a woman comes from X Authority I don't even bother as from my experience they have not responded to a single letter I have sent themmy time is better spent approaching the Authority we are in ..In a way it's not right they are off the hook.

In some cases a threat of legal action has been the only route to getting Authorities to provide support:

We recently challenged a particular borough that were refusing to support and conduct a community care assessment on a woman on the basis that she came from another area – they did not accept that she needed to leave for her own safety. However, we took the case to Judicial Review and the LA conceded to conducting an assessment prior to us having to go through judicial review.

4.8. Housing

In 2004, the government acknowledged that it was detrimental to the health and development of children to house homeless families with children in Bed and Breakfast accommodation (B & B). Hence, in April 2004, the Homelessness (Suitability of Accommodation) (England) Order 2003 came into force which means that Local Authorities can no longer discharge their duty to families with children accepted as homeless by placing them in Bed and Breakfast accommodation for longer than six weeks.

Whilst this is widely acknowledged as a necessary and positive development within homelessness legislation this policy appears not to be extended to women and children with no recourse to public funds. In a number of cases little regard appears to be given to the health and safety of women and children. One LA told us *we have procured our own accommodation so we can control the standard and we do not use B & B and a few are following this approach.* However, our research found that a number of authorities are not operating this policy and single women and those with children continue to be housed in B & B accommodation and other forms of unsuitable private rented accommodation where they are removed from the only existing external networks of support they have and are vulnerable to exploitation. More alarmingly, they are almost expected to accept any terms on the basis of their immigration status and once housed it is almost impossible to challenge decisions.

A legal advocate commented:

In all my years of experience using bed and breakfast accommodation for single women and women with children with no recourse to public funds is the norm..... often they are placed in areas outside of the Borough where it is difficult to travel and have access to the advice workers ... one client was placed in Lime house where she was racially abused but when we approached Social Services the general tone from them is you have no right to complain...Essentially this is racism that operates against immigrants which is very difficult to challenge once our clients have been housed.

I have noticed a trend of these women being sexually exploited by other men because of their position of vulnerability and homelessness... They often have to rely on the goodwill of others who they do not know very well.

In one case we dealt with an Algerian woman who was placed in a Bed & Breakfast in Cambridge ... there was no access to support,; translators etc. - but it is so much more difficult to challenge LA decisions once the woman has been placed in accommodation.

Housing Departments say go to Social Services. Social Services don't want to know. Whatever Supporting People money there is only for a year and getting Indefinite Leave to remain is taking more than a year.

Social Services told the woman to go back to Pakistan where she would be at risk from the abuser's family. She had escaped to another Borough for safety reasons but she was then put a B&B without any DV support. We felt shocked by the apparent lack of training for Social Services staff in terms of their knowledge of 'Every Child Matters' and of domestic violence. The woman was eventually supported by our refuge for 2 months with funding for rent and money for the children but workers had to go there every fortnight with her to argue for the money. Eventually the woman returned to the abuser as she felt she wasn't receiving enough support and it was too much taking care of a 13 yr old child with learning difficulties as well.

5. Local Authority Domestic Violence Strategies and Local Area Agreements

The extent to which National and local strategies address the issue of nrpf will dictate the extent to which this issue is considered to be a significant national concern and one where resources will be allocated to ensure women with nrpf have access to appropriate support services.

The Government has developed a set of national priorities and 198 indicators²⁹ on areas such as crime, safety, education and the environment. Each Local Authority will need to have a Local Area Agreement (LAA) in place by June 2008, which reflects the indicators set by the Government. Funding will no longer be ring-fenced within the specific themes and blocks e.g. 'Safer Communities' and money will be pooled with the intention of streamlining commissioning processes and with the aim of providing Local Authorities greater flexibility and freedom to set their own priorities in response to what they assess to be local need. The position of domestic violence services within LAAs is already a key concern for the violence against women sector. The previous 11 measures (BVPI 225) which specified the need for refuge provision amongst other targets has been replaced by the national indicator 'preventing DV murders'. It will be up to Local Authorities to decide on whether there should be additional domestic violence targets set over and above the national priorities. Not only does this make the future funding and delivery of DV support services more precarious than it already remains but also places an emphasis on criminal justice interventions as the way in which LAs will ultimately be monitored on their performance in addressing DV. Women's Aid state³⁰ in a recent briefing paper:

Unlike the BVPI 225, which required a minimum number of refuge spaces, the new National Performance Indicators (NPI) do not include an indicator relating to the provision of domestic violence services, although there is an indicator on the provision of specialist sexual violence services. Unlike the BVPI 225, the new NPIs

²⁹ The New Performance Framework for Local Authorities & Local Authority Partnerships: Single Set of National Indicators, October 2007

³⁰ Women's Aid Briefing October 2007 Local Area Agreements – what's next?

do not mandate a certain number of refuges. Potentially, this means that some local areas may choose to reduce the number of refuge spaces. We are also concerned that the new NPIs will mean an even greater tendency towards developing Criminal Justice focused approaches to tackling domestic violence. This is despite the fact that the overwhelming majority of domestic violence incidents are not reported to the police – the British Crime Survey in 2004 found that only 24% of women survivors reported incidents of domestic violence to the police (Walby & Allen, 2004)³¹.

For women with nrpf where access to avenues of support through the CJS are already very limited through the restrictions around legal aid and housing support it is likely that their needs will become even more marginalised within the new LAAs. Where no incentives exist to ensure that LAs invest in the development of appropriate support services this will undoubtedly make it easier for some LAs to further deprioritise this issue in favour of activities targeted towards CJS initiatives. It will also depend on whether nrpf is highlighted within existing strategies. As part of this research, Imkaan looked at the Supporting People and Domestic Violence strategies and Local Area Agreements of 25 different authorities across the UK in order to assess the extent to which there is a formal commitment to addressing and responding to women with nrpf. We found:

Only 9 out of 25 of the Supporting People strategies identify service gaps for women with NRPF.

Two out of 25 authorities make clear statements about how the issue will be taken forward with concrete actions, which include:

- *Emergency fund established.*
- *Capital funding bed spaces for women with no recourse to public funds, whilst SP pays for associated support costs (this restates a previous commitment.)*

Where other authorities have raised this is an issue, the specific actions they will take remain fairly vague.

For example:

- *Number of women with NRPF is growing and, services sparse.*
- *Develop a project to engage key services in reviewing current provision for this client group, develop and implement an action plan to address identified needs.*
- *Promoting consistent response across all sectors when seeking to accommodate women with NRPF, through assessment of needs.*

7 domestic violence strategies highlight the need for further research and increased provision yet no commitments are made to explain how these priorities will be addressed.

It is not clear about how LAs will intend to provide a robust evidence base especially since as the interviews we have done confirm, the vast majority of LAs, despite an increased awareness of the issue, do not routinely monitor and follow-up on the numbers of women and children with nrpf approaching statutory services.

³¹ Walby, S. and Allen, P. (2004) Interpersonal Violence: Findings from 2001 British Crime Survey. Home Office Research Study No. 276. London: Home Office.

Numerous pieces of research have already been conducted by the women's sector, which should provide a solid base for acknowledging this issue as a strategic concern.

Ultimately, the priorities set within the three-year LAAs will dictate the types services, which each LA will fund and deliver. What is interesting to note is that **nrfp is not highlighted as a priority in relation to DV work in all of the 25 LAA agreements** that Imkaan examined. Unfortunately, it will remain in the hands of the BAMER women's sector to continue to raise these critical issues within Local Strategic Partnership forums in the hope that their concerns will be taken seriously otherwise BAMER women and children will continue to receive poor service responses and will remain vulnerable to further danger.

6. Challenging through the legal process

Where all other avenues have been exhausted, legal action and a threat of judicial review is often the only way in which a LA will agree to provide support. The concern about having to pay mounting legal costs means that some LAs will prefer to negotiate prior to formally embarking on a full judicial review. Solicitors can cost up to £200 and seeing a case through could cost between £3000-£4,000.

The reality is that it is only the minority of women who have access to appropriate community-based legal advocacy– the vast majority will not have access to any form of external support including legal advice.

A lawyer stated;

We only really see women that come through agencies such as Social Services and Refuges - most don't even know that they may have a case

The governments desire to clamp down on the numbers claiming asylum in the UK has led to significant cuts in the provision of legal aid, restrictions on hours and fees, and the provision of community legal advice services in relation to asylum and immigration³². The time demands and complexity of these cases has created reluctance amongst legal professionals to take them on.

Another lawyer argued that:

There are problems in getting immigration advice especially since there are less immigration lawyers now – the fact that they only now get a fixed fee and the fact that the work on these cases is very time-consuming means that solicitors are not likely to want to take on these cases.

Furthermore, it is much harder to challenge LAs in cases involving single women or they are categorised as overstayers as the following comment highlights:

It is much more difficult to challenge in situations involving single women and overstayers where there are huge difficulties in providing evidence to the DV to qualify for the concession.

Research conducted by The South Manchester Law Centre (Siddique, Ismail & Allen, 2008) refers to detrimental impact of cuts in legal aid which has led to a number of inexperienced, private firms seeking to fill

³² Lord Carter's Review of Legal Aid Procurement, July 2006

the gap but in doing so making poor quality representations and in some instances financially exploiting women:

The squeeze on legal aid funding has, additionally, led to many reputable private practitioners across the UK to cease immigration and asylum case work altogether. This has in turn overburdened the not-for-profit providers of legal services and enabled the flourishing private market of 'consultants' to capitalise on this new 'market'. Participants highlighted that in combination, these factors had ultimately contributed to women's inability to present credible cases. The extent of corrupt practice is supported by anecdotal evidence from reputable lawyers as well as investigations carried out by OISC however women in need of legal 'support' continued to be financially exploited.

(Siddique, Ismail & Allen, 2008: 160)³³

Our research found that women are being asked by some solicitors to pay £750 in order to process their application with the Home Office unless it is proven that she is destitute. In many cases Social Services are taking an inappropriate length of time to respond and assess cases and this presents yet another obstacle to being able to apply for the DV concession. Access to good quality solicitors firms who have competence and expertise in these cases is essential as one Outreach Manager states:

One of our women went to a private solicitor and had to pay £750 but where we have used good firms they have not been asked to pay. We found out at a recent training we attended that if we can get Local Authorities to write to the Home Office stating that they have done an assessment we can get them to waive the fee... , it is only through this Solicitor we know that we have managed to get him to convince another firm who had originally declined to take on any of these cases to now take these cases on ... we really need links with good firms

7. Human Rights

The UK government has obligations towards a number of existing human rights instruments and standards which seek to afford safety, protection and support to all women and children experiencing violence and abuse. The UN Declaration on the Elimination of Violence Against Women (1994) defines violence against women as: "Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Imkaan's research highlights the complexities of how nprf and UK asylum laws and policies are applied when BAMER women seek asylum from gender-based persecution. Unfortunately, the reality in the UK illustrates that those with insecure immigration will be treated differently and not within the standards set by national and international policy frameworks. The research provides evidence to confirm that the Government is in violation of a range of rights and obligations through the implementation of domestic immigration policies which directly discriminate against the needs of BAMER vulnerable women and children with insecure immigration status escaping violence.

³³ Siddiqui, N., Ismail, S., Allen, M. (2008) Safe to Return: Pakistani Women, domestic violence and access to refugee protection – A report of a trans-national research project conducted in the UK & Pakistan, South Manchester Law Centre: Manchester.

A forthcoming report from Amnesty³⁴ highlights the specific violations towards women with insecure immigration status within a human rights context;

it is clear under international law that the UK Government must uphold the rights of women including those subject to immigration control. The vulnerability of minority and non national women who are victims of violence is recognised consistently throughout analyses of international standards whether by experts, academics or international or regional courts or committees. They specify that such women should be accorded the same protection as nationals, and to achieve this require specific services that allow them access to the same protections and remedies. Furthermore, the UN Human Rights Committee in its General Comment 31 on article 2 (the right to be free from discrimination), stated that where States fail to take appropriate steps and to exercise due diligence then they may be liable for the resulting human rights violation

The rights and duties violated by violence against women not only include those already highlighted such as the right to life, liberty and security of the person; the right to be free of slavery and servitude; the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment; and the right to be free of discrimination but many others including:

- *The right to equal protection under the law:*
- *The right to equality in the family:*
- *The right to the highest standard of physical and mental health*
- *The right to family and private life*
- *The right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing (Article 11 1 of the ICESCR)*
- *The right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development (Article 19.1 CRC)*

Amnesty International (2008) No Recourse – No Safety: The UK Government Failure to Protect Women From Violence. London: Amnesty International (forthcoming).

Imkaan's findings clearly demonstrate that the UK Government is in breach of its human rights obligations by excluding BAMER women and children with nrpf from their right to safe housing and support and ultimately their right to be protected from violence.

³⁴ Forthcoming report from Amnesty International (UK) focusing on human rights and nrpf, 2008

8. Conclusions and Recommendations

Imkaan's research highlights the fact that the Government's commitment to addressing domestic violence and the usefulness of the domestic violence concession are being totally undermined by the nrpf stipulation and by a lack of recognition of the specific needs of BAMER women and children.

The plight of women with nrpf continues to be ignored and sidelined in favour of debates about honour which are regarded as more newsworthy but serve to divert attention from the ongoing reality of the women and children with nrpf who continue to live in violence and poverty and at risk of exploitation.

The state's concern about the potential dangers of illegal immigration, and the perception that vulnerable women and children are somehow a drain on state resources leads to a situation which effectively excludes and penalises those who are most vulnerable.

Our research demonstrates that where statutory duties exist, public bodies continue to absolve themselves of responsibilities by providing short-term, inconsistent and dangerous responses. This ensures that women lose confidence in the system which is supposed to help them and as such do not return for help.

A gender-neutral approach to asylum and immigration policies is inadvertently encouraging the continued abuse and exploitation of women and children which contradicts the UK government's commitment to national gender equality duties and wider human rights obligations.

Imkaan calls on the Government and the Home Office to act:

- To abolish the no recourse to public funds rule to enable women and children experiencing violence subject to the immigration control access to housing, legal protection and specialist support.
- Abolish the two-year probationary period and extend the domestic rule to all abused women including over-stayers and introduce similar protection for trafficked women subjected to sexual and economic abuse and to overseas domestic workers experiencing violence from employers.
- Develop an effective system and monitoring system to fast-track immigration applications for indefinite leave to remain and ensure interim housing and support measures are in place from the throughout the duration of Home Office application assessments
- Provide adequate levels of legal aid to ensure access to appropriate and timely legal advice.
- Review and monitor the effectiveness of the NASS policy and put mechanisms in place to end the referral of vulnerable women to Home Office Accommodation Centres.

Local Authorities and other statutory agencies must:

- Implement national guidelines outlining policy, procedures and best practice on nrpf cases to end the inconsistent nature of responses and level of support provided by individual authorities across different regions.

- Develop a more consistent method for capturing data on the numbers of women and children with nrpf approaching Local Authorities, outcomes and follow-up in terms of agency interventions and support.
- All public support agencies (Social Services, Housing, Asylum, Mental Health Teams and Police) and other responsible agencies need to develop stronger links with specialist women's organisations and be better informed about services and options for women with nrpf.
- Establish partnership arrangements between local authorities across the UK to ensure women with nrpf and other women needing to escape their locality for reasons of safety are able to access housing and support in other local authorities and to prevent women from having to approach numerous authorities for support.
- End the use of B & B accommodation for women with/without children with nrpf. To fulfil an immediate need for interim emergency housing provision and funding to support single women and those with children whilst immigration decisions are being processed by Home Office and longer-term support through second stage accommodation. This could be either through funding bed spaces within existing refuges or through the development of specific gender/culturally specific provision.
- Provide training for frontline advice workers on legislation and applications of statutory policies in cases of nrpf.
- Health services (GPs, A&E, obstetric services) need to be pro-active in screening and conducting risk assessments and for taking appropriate follow-up action including referrals to inform women about the services available; the information gained from routine screening and recording of domestic violence crucial to securing ILR and evidential requirements of the Home Office.
- Allocate resources for a worker dedicated solely to dealing with nrpf cases and liaising between departments and the voluntary sector.
- SP and other commissioners need to invest in specialist community-based outreach, advice and other services, which are crucial to BAMER women and children and those with nrpf who face multiple barriers in access to mainstream support services.
- Reassess MARAC protocols in relation to risk to ensure cases consider the additional risks and safety concerns for women and children with nrpf.
- Provide accessible information and awareness-raising materials in GP surgeries, hospitals, community centres and other locations in the UK and British Embassies abroad.