



*Citation for published version:*

Skinner, T 2021, *POLICY BRIEF: Strategies to Support Migrant Victim-Survivors of Domestic Abuse..*

*Publication date:*  
2021

*Document Version*  
Publisher's PDF, also known as Version of record

[Link to publication](#)

*Publisher Rights*  
Unspecified

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## **POLICY BREIF**

### **Strategies to Support Migrant Victim-Survivors of Domestic Abuse**

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#### **Overview**

- Domestic abuse is a damaging and widespread problem.
- The Domestic Abuse Act 2021 (Part 7, 81 and 82) makes provision for the writing of a statutory code of practice on the processing of domestic abuse data for immigration purposes.
- However, the Act lacks provisions for migrant women with insecure immigration status.
- Migrant women have no recourse to public funds, so face extra barriers when seeking a refuge place and may still be deterred from reporting domestic abuse due to fear of immigration enforcement and lack of awareness of translation services.
- The Destitute Domestic Violence Concession and Domestic Violence Rule should be extended to support all migrant victim-survivors, and refuge places for those currently without public funds should be funded.
- Funding should be increased for services 'by and for' BAME victim-survivors, including translation services.

#### **Introduction**

Domestic abuse refers to incidents of emotional, psychological, economic, physical or sexual abuse, controlling, coercive, violent or threatening behavior between partners, ex-partners, or family members (Domestic Abuse Act 2021 Part 1(1)). Victim-survivors can

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suffer serious physical injuries and psychological consequences, with survivors having high rates of mental health problems including depression and PTSD (Mechanic et al., 2008). There is also a financial cost, estimated at £66 billion in 2017 in England and Wales (Oliver et al., 2019). Therefore, the Domestic Abuse Act 2021 is important legislation, yet it is flawed by failing to address additional challenges victim-survivors with insecure immigration status face. This policy brief will give recommendations to improve support for migrant victim-survivors.

## **Background**

Domestic abuse is a pressing issue, with around 2.3 million adults in England and Wales experiencing it in the last year, the majority being female (Office for National Statistics, 2020). The coronavirus pandemic has made combatting it even more urgent, with increased demand for victim-survivor support services during lockdown, perhaps indicating more severe abuse during this period (Office for National Statistics, 2020). Therefore, it is essential The Domestic Abuse Act, a 'once in a generation opportunity' to confront abuse (Baird & Jacob, 2020), is effective. Whilst it contains extensive legislation to support many victim-survivors, it fails one particularly vulnerable group who face additional oppression linked to their immigration status.

One problem migrant women with insecure immigration status face is the 'no recourse to public funds' (NRPF) policy – people subject to immigration control, such as those with leave to remain in the UK as a student, asylum seeker or spouse of a UK citizen, cannot claim public funds. Therefore, they struggle to gain places in refuges, as they cannot access housing benefit, so often must stay with their abuser or face homelessness (McIlwaine et al, 2019). Those on spousal or partner visas can apply for indefinite leave to remain in the UK, under the Domestic Violence Rule (DVR), and those applying for this can access public funds for 3 months under the Destitute Domestic Violence Concession (DDVC). However, those on other, such as work or student visas, cannot apply so are not protected. The Joint Committee on the Draft Domestic Abuse Bill (2019) found this discrimination goes against requirements of the Istanbul Convention, which the government aims to ratify, as Article 4 states measures should be provided to protect everyone from violence, without discrimination on factors such as migrant status (Council of Europe, 2011).

Furthermore, victim-survivors with insecure status face challenges when reporting abuse. These result from language barriers – interviews showed victim-survivors are reluctant to

report domestic abuse if they do not know enough English to communicate with phone operators (Chowbey, 2017). Hence, they feel powerless in reporting as they cannot explain their situation coherently (Refuge, 2017). Additional problems in reporting relate to police guidelines stating if officers suspect a victim-survivor is an illegal immigrant it is appropriate for them to contact immigration authorities who can take enforcement action (NPCC, 2018). Migrants may have an insecure status resulting from abuse (perpetrators can lie about managing it or withhold essential documents from them) so this policy deters victim-survivors from reporting abuse in fear they will be deported (Step-Up Migrant Women Coalition, 2020). As well as harming victim-survivors, this is not in the public interest - perpetrators are less likely to be prosecuted, so more able to commit further domestic abuse crimes (Liberty and Southall Black Sisters, 2018). The Domestic Abuse Act (Part 7 81 and 82) aims to address this by guaranteeing a review of the processing of victim-survivor's data for immigration purposes that will be scrutinized by Parliament, and establishing a statutory code of practice relating to the processing of migrant victim-survivor's data. This review, due to report on 29<sup>th</sup> July 2021 has been extended to 29<sup>th</sup> December 2021. The review "must have regard" to the HMICFRS (2020) recommendations in response to Liberty and Southall Black Sister's super complaint. However, The Step-Up Migrant Women campaign (2021) states the Code does not yet have a clear purpose, with no commitment from the Government that it is to enable victim-survivors to receive protection without fear of immigration control. Therefore, the Act does not properly address these issues.

### **Practice Context**

In practice, these problems are damaging. An audit by Women's Aid (2020) found only 5% of refuge spaces were available to those with NRPF. The DVR and DDVC are good solutions but are not applicable to everyone. Southall Black Sisters (2020) found 57% of women who approached them between April 2019 and March 2020 for domestic abuse support were not eligible for the DDVC or DVR. Similarly, Women's Aid reported two thirds of their users in 2016-17 with NRPF were not eligible for DDVC (Women's Aid, 2017). Therefore, many lack support and may suffer poverty and homelessness (McIlwaine et al, 2019).

The police response is also problematic. A freedom of information request showed 60% of UK police forces refer victim-survivors to the Home Office for immigration enforcement (Nye et al., 2018). Interviews, surveys and focus groups involving over 60 migrant victim-

survivors show the impact, finding fear of deportation was the most common factor preventing women reporting violence (McIlwaine et al, 2019). Perpetrators used this for further control – 62% of victim-survivors had partners threaten them with deportation if they reported abuse. Further findings suggested a lack of trust in police, with 2 in 3 migrant victim-survivors fearing police would not support them due to their immigration status, and 52% believing the perpetrator would be supported over them. This shows how current practice deters victim-survivors from reporting. This not only traps them in abusive situations, but Her Majesty's Inspectorate of Policing, Fire and Rescue Services (HMICFRS, 2020) found 'significant harm is being caused to the public interest' due to current data sharing policies as abusers are less likely to be reported. McIlwaine et al (2019) also found police dealt poorly with migrant victim-survivors who did come forward, with only 39% saying they were treated well by police, 36% being neutral and a quarter reporting bad treatment, such as discrimination, or not being believed or given support. This could be because, as case studies by Liberty and Southall Black Sisters (2018) showed, police sometimes prioritize immigration enforcement over fair treatment of victim-survivors and view migrants as "potential 'illegals' first and as victims second". This is contrary to the Victim Code, as victims of crime are entitled to be treated professionally, respectfully, sensitively, and without discrimination (Ministry of Justice, 2015, 2020). Whilst the review of processing of data for migration purposes carried out under the Domestic Abuse Act could address some of these concerns. The review is not guaranteed to address these concerns, nor are the review recommendations likely to translate effectively into police practice on the ground without appropriate funding for training, monitoring, enforcement and support.

In terms of translation services, independent organizations, for example the Domestic Abuse Helpline and police services within the UK do have these for reporting domestic abuse, with phone operators speaking many languages (Refuge, 2019; Metropolitan Police, 2020). However, many people are unaware of this (Chowbey, 2017). Furthermore, the Battered Women's Project (Ham, 2004) highlighted the importance of victim-survivors' access to translation services for legal documents such as applications for indefinite leave to remain and the DDVC, to elevate their understanding and control of the situation. The NRPF (2018) network provide language interpreters during applications, however this is not universal nor does it extend to other legal documentation services.

## **Alternative policy solutions**

As a solution, the Government announced in July 2020 £1.5 million would be allocated to a pilot scheme to support victim-survivors with NRPF and gather evidence. However, Southall Black Sisters (2020) stated £1.5 million is not enough, estimating the cost of supporting abused migrant women with NRPF for 6 months is around £18.6 million. Therefore, more urgent action is needed.

The DVR and DDVC should be extended to migrants on all visas, not just spousal, so all can access funds and therefore safety from refugees. This is supported by expert groups, such as Women's Aid, the Step-Up Migrant Women Coalition, and the Joint Committee on the Draft Domestic Abuse Bill (2019). The Government should also fund refuge places for those with NRPF, so they can access safety before DDVC is processed, and receive help in applying for it. MPs opposed to these changes have argued extending the DVR could lead to exploitation of the system, with people claiming domestic abuse purely to obtain indefinite leave to remain. However, a Government review suggested this is not the case currently, as the majority of applications they reviewed for indefinite leave to remain under the DVR had been in the UK for over two and a half years, and if the rule were being abused in this way, a higher proportion of applicants being in the UK for only a very short period of time would be expected (Home Office, 2020). This suggests it would mainly be used for intended purposes.

Additionally, to improve police responses, a complete 'firewall' between police and the Home Office should be implemented, preventing data sharing for the purposes of immigration enforcement, which victim-survivors should be made aware of to encourage reporting. This is something that the review of processing personal data being undertaken under Part 7 (81) of the Act should be considering because it was one of the HMICFRS (2020) recommendations. This approach is taken in the Netherlands, with a 'free in, free out' policy, guaranteeing migrants the ability to report a crime then leave the police station without being arrested or detained, which is recognized by relevant stakeholders, migrant and human rights observers as essential to protecting migrants (Timmerman et al., 2020). Additionally, introducing sanctuary policies in certain cities, limiting the cooperation of local law enforcement officials with immigration authorities, greatly lowered domestic homicide rates among Hispanic women in the USA, who previously reported fear relating to immigration control as a motive for not reporting domestic abuse (Amuedo-Dorantes & Deza, 2019). Amuedo-Dorantes and Deza suggest these policies could reduce homicides due to greater trust in police, so victim-survivors report incidents before they escalate, and

offenders may be deterred from abusing victim-survivors due to a greater likelihood they will go to police. Therefore, this indicates positive impacts of implementing this policy.

The Government have previously suggested data sharing between police and immigration enforcement is necessary to safeguard victim-survivors and help with regularizing their status (Home Office, 2020). However, Liberty and Southall Black Sisters (2018) highlight there is no evidence for this, and immigration officers do not have expertise to offer advice and support, with their job instead being enforcing law on immigration offences. Therefore, instead of the Home Office, police should have a strong partnership with, and refer victim-survivors to services run 'by and for' migrants, for example, the Kurdish and Middle Eastern Women's Organisation, who help them secure their status. These specialist services are therefore vital but are underfunded (Women's Aid 2019), so the Government should commit to increasing their funding.

Furthermore, migrants should be made more aware of the translation services provided when reporting domestic abuse. Current campaigns such as The Change Project advertise the services for reporting domestic abuse on the internet and through training programmes. A review by Noar et al. (2007) explains large-scale media campaigns can positively shape beliefs and behaviors if campaigns are targeted well, suggesting rigorous campaigns may increase migrant women's awareness of translation services available, increasing their confidence when completing immigration documents and reporting abuse. These campaigns are limited by a lack of funding due to cuts (Oppenheim, 2019), so the Government should commit to increasing funding to domestic abuse services, providing sufficient money for vital campaigning.

### **Summary of Policy Recommendations**

- **Extend the Destitute Domestic Violence Concession and Domestic Violence Rule to apply to migrants on all types of visas** so all victim-survivors, without discrimination, can access support.
- **Fund refuge places for those with 'no recourse to public funds'** so they can access support before their DDVC is processed
- **The current review of processing of victim-survivors' personal data for immigration purposes should follow the HMICFRS (2020) recommendations**, including creating a firewall preventing data sharing between police and

immigration enforcement to increase reporting of domestic abuse, creating a safer society for all.

- **Provide sufficient funding for the training, support, monitoring and enforcement of the new Code of Practice** to ensure it translates effectively into practice.
- **Increase funding for services ‘by and for’ migrant women.** Strong partnerships between police and these services should be developed, with police referring victim-survivors to them for specialized support.
- **Increase funding to campaigns raising awareness of translation services for domestic abuse victim-survivors** so migrants can understand what services offer language translation, allowing them to report abuse and apply to DDVC and DVR with confidence.

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