



**An Roinn Tithíochta, Pleanála,
Poball agus Rialtais Áitiúil**
Department of Housing, Planning,
Community and Local Government

Policy and Procedural Guidance for Housing Authorities in Relation to Assisting Victims of Domestic Violence with Emergency and Long-term Accommodation Needs



**Rebuilding
Ireland**

Context

Domestic violence is a serious social issue that can have a devastating and long-term impact on victims and their families. Domestic violence, as with any act of violence committed against a person, is an offence punishable through the justice system and perpetrators should be held accountable for their actions.

The 1997 Report of the Task Force on Violence Against Women, published by the Office of the Tánaiste, defined domestic violence as:

“the use of physical or emotional force, including sexual violence in close adult relationships. This includes violence perpetrated by a spouse, son, daughter, or any other person who has a close blood relationship with the victim. The term domestic violence goes beyond actual physical violence, it can involve emotional abuse, the destruction of property, isolation from family and friends, and other potential sources of support, threats to others, including children, stalking, control over money access to personal items, food transportation and the telephone”.

While the most-negative consequences of such violence will necessarily be dealt with through the health-care and justice systems, issues of access to housing are often cited as a barrier for victims. Access to accommodation is critical for victims for the purposes of security and stability of the family unit but also to prevent homelessness occurring. Victims of domestic violence should not have to leave the family home but unfortunately it is not always safe or possible for them to remain in, or return to, the family home.

While most victims present to domestic violence refuge services in the first instance some present to housing authorities' homeless services. Often those that present to housing authorities will have spent a period of time in specialist refuge facilities, having exited once their immediate safety needs have abated. While the volume of cases is low it is a persistent feature in the analysis of reasons for homeless presentation and unfortunately it can be expected to be a continuing feature in homeless family presentation.

The *National Strategy on Domestic, Sexual and Gender-based Violence 2016-2021* sets out a plan for whole-of-government action to achieve a more effective system to prevent and address domestic, sexual and gender-based violence. The associated Action Plan for the National Strategy (Action 2.300) provides for the development of guidance for housing authorities to ensure effectiveness and consistency in responses to assist victims of domestic violence. This commitment is also reflected in *Rebuilding Ireland: An Action Plan on Housing and Homelessness* (Action 1.8).

The purpose of these guidelines is to provide policy and procedural guidance to housing authorities with regard to the role they can play to assist victims of domestic violence. Housing authorities can play an important role for victims in relation to emergency accommodation needs but also in preventing homelessness by addressing long-term accommodation needs, where required, by assisting in securing new independent tenancies. The role that can be played by housing authorities will be chiefly limited to assisting those households that are qualified for social housing support, but also in ensuring that those that may be eligible for supports are appropriately assessed.

Domestic Violence Services

Responsibility for the development and provision of services to support victims of domestic violence rests with the Minister for Children and Youth Affairs and the delivery of such services is managed through the Child and Family Agency, Tusla.

Housing authorities do not provide or oversee services specifically designed for victims of domestic violence. Previously housing authorities had provided funding to some refuges, however following the establishment of Tusla this element of funding transferred with full effect from 1 January 2015. This transfer arrangement underlines Tusla's role as the principal State agency in relation to domestic violence services and brings greater coherence to service delivery and oversight.

Generally women's refuges provide a suite of services for female victims of domestic violence. In addition to secure accommodation, women's refuges may provide services such as advocacy, accompaniment, counselling, helplines, legal and medical assistance, outreach and children's support services. Separate support services are available specific to the needs of male victims of domestic violence.

Refuge or shelter based accommodation is regarded as best practice in providing crisis accommodation for victims of domestic violence due to reasons outlined above and the relative ease of access to services and supports in one location which would not be available in traditional homeless emergency accommodation.

There are approximately twenty such refuge facilities across the country, managed through a variety of service providers, providing emergency accommodation to women. Many of these facilities were built utilising funding made available through housing authorities under the Capital Assistance Scheme.

The *Housing (Accommodation Provided by Approved Bodies) Regulations* dictate that funding under the Capital Assistance Scheme is only available to 'approved housing bodies' and the scheme is focussed on the provision of accommodation which will meet the long-term housing needs of households that are included on housing authorities' waiting lists. Housing authorities should remain cognisant of the objectives of the Capital Assistance Scheme when considering and progressing proposals received from approved housing bodies. Proposals submitted by approved housing bodies in relation to the housing needs of victims of domestic violence should always be progressed in collaboration with Tusla and, following the housing authority's own assessment that local housing needs are being met, such proposals should only be prioritised for capital funding approval where Tusla have agreed the prioritisation of the proposal and have confirmed that any support services required have been provided for.

It is a matter for Tusla to monitor women's refuges in terms of capacity, usage, through-flow, etc. The official monthly homeless data published by this Department and produced by housing authorities via the Pathway Accommodation & Support System (PASS) relates to the State-funded emergency accommodation arrangements that are overseen by housing authorities only. PASS is not operational in the refuge sector.

Partnership Working

In addition to working closely with Tusla it is also important that practical working relationships exist between statutory agencies and organisations involved locally in the delivery of domestic violence services. Successful partnership working can ensure effective responses and helps to prevent and reduce the occurrence of homelessness, minimise its duration, and facilitate the provision of long-term accommodation for victims where it does occur.

A Joint Homelessness Consultative Forum exists on a statutory basis in each of the nine homeless regions, providing a platform for the various stakeholders to have input into the organisation of local services and the development of regional Homelessness Action Plans. These fora include representation from a variety of State organisations including housing authorities, the Department of Social Protection, the Health Service Executive, Tusla, etc. as well as providing for the participation of non-governmental organisations that are involved in the delivery of homelessness services; this may include domestic violence service providers where such services are operating in a region.

At the county level Homelessness Action Teams are operational across the various local authorities. Such teams comprise the local decision-making expertise available to people who are homeless in the specific locality and may include housing authority officials working in homeless services, health professionals including HSE staff, drugs task force representatives, frontline workers from organisations providing emergency accommodation, representatives of the Department of Social Protection, etc. The main purpose of Homelessness Action Teams is to bring together and utilise the expertise of all services and agencies that can assist in returning homeless people to independent living as quickly and effectively as possible. The specific expertise offered by domestic violence service providers can be invaluable to the progression of relevant cases through the Homelessness Action Team structure.

Domestic Violence and Homelessness

As noted, most female victims will seek specialist domestic violence services in the first instance. Where a victim of domestic violence presents to housing authority overseen homeless services the authority should ensure that the case is referred to a specialist domestic violence service so that any particular care needs can be considered and addressed. Victims may have particular needs beyond what can be provided via housing authorities by way of emergency accommodation, e.g. specialist legal or medical assistance may be required.

While it is appropriate that the various needs of victims are considered by specialist services in the first instance, it should be noted that refuges only provide a crisis response for women fleeing violence and do not represent a long-term accommodation option. Where victims remain in refuges for excessive periods it has a consequence with regard to the availability of services for other victims.

Oftentimes it is not possible, or it is not safe, for a victim to return to the family home after their stay in a refuge has ended; where not properly managed, this scenario can give rise to homeless presentation. Accordingly victims are recognised as an 'at risk' target group in relation to homelessness.

A housing authority may provide short-term emergency housing to persons who are unable to return to their homes because of domestic violence on a humanitarian basis without having to assess their eligibility for social housing support or include them on the authority's waiting list for housing supports.

Such support can be provided where the authority considers a victim's homeless presentation in accordance with Section 2 of the Housing Act 1988, as they would a presentation by any other household. The Section 2 homeless definition requires that the means of those presenting must be taken into account and also that the housing authority considers whether there is accommodation available that those presenting could reasonably be expected to occupy. However the legislative definition is not prescriptive and in practice it is sufficiently broad to include those that can not return to their homes for fear of violence.

When domestic violence victims enter housing authority overseen emergency accommodation the authority should engage the domestic violence service providers to ensure that any ongoing support requirements are provided on an outreach basis.

Domestic Violence and Social Housing

Where a long-term housing need pertains a social housing assessment will be required; this is where local structures can be important, allowing all service providers to work together to ensure that an assessment is conducted in a timely manner and that victims do not end up residing in emergency accommodation for long periods of time.

It is a matter solely for the housing authority concerned to determine whether an applicant for social housing support is eligible for and in need of that support. The authority must make its determination in accordance with the provisions of Section 20 of the *Housing (Miscellaneous Provisions) Act 2009*, as amended, and the associated *Social Housing Assessment Regulations 2011*, as amended, having regard to the particular circumstances of the case.

The household concerned may be determined by the relevant housing authority to be in need of social housing support where the authority considers that the household's current accommodation is unsuitable in terms of adequate housing provision, having regard to particular household circumstances or exceptional medical or compassionate grounds. This allows a housing authority to consider a victim as having a housing need and to be placed on a waiting list for housing supports, subject to the household meeting all other eligibility criteria.

For the purpose of social housing assessment a victim that is residing in a refuge facility may be considered as homeless; refuges are a form of emergency accommodation.

Given the number of households qualified for social housing support nationally¹, many with prioritised status and time accrued on the list, the reality is that housing authorities will not have unused accommodation on standby to be allocated to newly qualified households. However being qualified for entry on to the list allows households to pursue other supports that are provided by the State – e.g. Housing Assistance Payment, Rental Accommodation Scheme, Rent Supplement – and to access an independent tenancy in the private rented sector. In this regard the onus is on the household to engage with the private rented sector and to secure a new tenancy itself; it is not a function of housing authorities to act as an accommodation finder in the private rented sector. Domestic violence service providers should be encouraged to assist their clients' engagement with the private rented sector in this regard.

area of residence and local connection

In some instances, primarily for safety reasons, victims flee the administrative area in which they had been residing and consequently may seek to establish themselves in a new area permanently. Given the provisions of the Social Housing Assessment Regulations this should not be an issue; however this scenario is often cited as a significant barrier for victims:

1). The Regulations do not provide for a housing authority to impose a minimum period of residence in the area prior to application for social housing support. In general, a household will apply to the authority where the household is currently resident, or in terms of the Regulations "*the functional area in which the household normally resides*". Therefore residence can be demonstrated by production of relevant documentation, which could include evidence of social welfare payments, etc. without any requirement to demonstrate a local connection.

2). A household can be eligible for supports in a housing authority area where they are not normally resident if they can demonstrate a "*local connection*". The Regulations require a housing authority to have regard to whether a household member has lived in the area for a continuous five-year period at any time in the past; is employed in the area, or within 15 km of the area; is in full-time education, or attending specialist medical care in the area; has a relative (as defined in the Regulations) living in the area for two-years or longer

¹ 91,600 households were assessed as qualified for housing support as of 21 September 2016

3). Furthermore, under Regulation 5(c), a housing authority may decide at its discretion to consider an application for social housing support from a household that does not meet these residence or local connection criteria. In the case of a victim of domestic violence authorities may consider applying discretion on the basis of an applicant's "*particular household circumstances*" or on "*exceptional medical or compassionate grounds*".

accommodation-owner victim

Under the Social Housing Assessment Regulations, in order to be eligible for social housing support a long-term housing need must be established which may not be the case if the applicant has a joint interest in the family home or ownership of alternative accommodation that they could reasonably be expected to use to meet their housing need, either by ownership or by selling it and using the proceeds to secure alternative accommodation.

While Regulation 22 provides that a household with alternative accommodation that would meet its housing need is ineligible for social housing support, paragraph (2) of the Regulation clarifies that paragraph (1) does not operate to exclude from eligibility for social housing support an applicant who owns accommodation that is occupied by his / her spouse, from whom he / she is formally separated or divorced. Under the enactment, a deed of separation is sufficient to set aside this ineligibility ground and it is not necessary to await judicial separation or divorce to get a decision on social housing support in these cases.

It was recognised that this provision alone was not adequate to deal with all situations that may arise as a result of separation within a household; consequently the *Housing (Miscellaneous Provisions) Act 2014* inserts a new subsection (4A) into Section 20. Under this revision, where a household would otherwise qualify for social housing support, the housing authority may determine that the household qualifies for a tenancy under the Rental Accommodation Scheme or the Housing Assistance Payment; such determinations are reviewed at prescribed intervals until ownership of the family home is resolved in a formal settlement. This provision was enacted under *Statutory Instrument No. 404 of 2014* and came into operation in September 2014; details were previously set out in Departmental housing circular 40/2014.

joint housing authority tenant

Where a victim of domestic violence applies for social housing support in their own right while still a joint tenant, it is a matter for the relevant local authority to address the contractual issues arising in relation to the joint tenancy agreement.

Accordingly the household may transfer out of their existing tenancy and into a new tenancy agreement with the housing authority or they may access an independent tenancy in the private rented sector utilising the various housing supports offered by the State.

In some instances a victim, who is a joint housing authority tenant, may return to the family home with the justice system ensuring the exclusion of the perpetrator. In certain cases, where proposed by An Garda Síochána, a housing authority may wish to consider overseeing the provision of a safe / sanctuary room in a housing authority owned property. Works could include installing reinforced doors and bolts, lighting and a communications point to be funded via housing authorities' standard improvement works programmes. Such a facility should only be provided where it is the clear choice of the victim and where the perpetrator is no longer present in the family home. Such initiatives are only suitable in situations where the victim is not in immediate danger of a violent attack but has remaining concerns for their safety. A safe / sanctuary room should only ever be implemented under the guidance of an Garda Síochána in partnership with a specialist domestic violence service.

non-Irish nationals

Detailed guidance on access to social housing supports for non-Irish nationals is contained in Departmental housing circular 41/2012. Social housing applicants who are not Irish or UK nationals must meet additional criteria in order to be assessed for social housing support. EEA nationals must have an employment record in the State in order to be assessed with some exceptions. Non-EEA nationals who have been granted refugee, programme refugee or subsidiary protection status may be assessed for social housing support, from the date of granting of such status, on the same basis as an Irish citizen. Asylum seekers are not eligible for support.

When a non-Irish national is separating from an abusive partner, to form a new independent household, difficulties may arise in accessing a range of State supports. Such difficulties arise where previously the perpetrator's citizenship or residency status had been providing for the household's eligibility for State supports and where the victim does not meet the qualifying criteria independently.

In recent years the Irish Naturalisation and Immigration Service has revised its practice in relation to independent status for victims of domestic violence with dependant status and will usually issue a Stamp in such cases. This removes many of the barriers associated with accessing State support for these individuals.

While short-term emergency accommodation may be provided on a humanitarian basis there is little assistance that housing authorities can offer to households that do not qualify for entry onto the waiting list for social housing support. Victims that present in such scenarios should be referred to the appropriate domestic violence service providers who will have experience in assisting such cases and guiding victims through the various processes of engagement with State services.

There may also be a role for the community welfare service of the Department of Social Protection to assist in such cases on the basis of Exceptional Needs. While there is no automatic entitlement to support, with each case considered based on the particular circumstances, the service has discretionary powers that may be used where a claimant's safety and wellbeing are at risk due to domestic violence and where the person in question could become homeless out of fear of returning to their family home.

social housing allocation / prioritisation

Neither the Housing Acts nor the *Social Housing Allocation Regulations* prioritise any specific category of applicant. The prioritisation of households, or classes of households, is a matter for individual local authorities under their allocation schemes made under section 22 of the Housing (Miscellaneous Provisions) Act 2009.

As outlined above, housing authorities may consider victims of domestic violence as homeless. Accordingly, where a victim has been entered onto the housing waiting list as a qualified household, it may be prioritised for accommodation where this is in accordance with the particular housing authority's Allocation Scheme made under Section 22 of the 2009 Act.

Allocation schemes may also contain provisions for exceptional or emergency cases, allowing immediate housing outside of normal waiting list priorities, should circumstances warrant it.

SUMMARY OF GUIDANCE FOR HOUSING AUTHORITIES

Organisational

- Proposals for the accommodation of victims of domestic violence under the Capital Assistance Scheme should only be progressed where Tusla has agreed to the prioritisation of the proposal and has confirmed the operational arrangements.
- Housing authorities should ensure that representatives from Tusla and domestic violence service providers, as appropriate, can participate in the established participatory structures for homelessness – i.e. the Joint Homelessness Consultative Forum at regional level and Homelessness Action Teams at the local level.

Emergency Accommodation

- Any victim of domestic violence that presents directly to homeless services should be referred to a specialist domestic violence service so that any particular care needs can be considered and addressed.
- Where a victim's emergency accommodation needs can not be met by a refuge service, including where the victim has been required to exit a refuge facility, housing authorities must consider the presentation in accordance with Section 2 of the Housing Act 1988.
- Where a victim meets the requirements of the Section 2 homeless definition, housing authorities may provide short-term emergency accommodation without having to assess eligibility for social housing supports or include them on the authority's housing waiting list.
- Victims residing in housing authority overseen emergency accommodation may still require specialist support which should be provided by domestic violence service providers on an outreach basis.

Long-term Accommodation Needs

- Where a victim is not seeking to return to the family home a social housing assessment is an appropriate longer-term response to a case of domestic violence. Assessments should be conducted in a timely manner to ensure that victims do not end up residing in emergency accommodation, including refuge facilities, for long periods of time.
- It is a matter solely for the housing authority concerned to determine whether an applicant should be included on the waiting list. It is also a matter for housing authorities to prioritise certain categories of housing need in their Allocation Schemes.
- The immediate solution to allow qualified victim households exit emergency accommodation is to access accommodation in the private rented sector availing of one of the housing support schemes provided by the State. Domestic violence service providers should be encouraged to be proactive in assisting their clients in this regard.
- Housing authorities must accept applications from households that are normally resident in their administrative area; a minimum period of residence in the area prior to application can not be imposed in this regard. Where an applicant is not normally resident an application can be accepted where they can demonstrate a local connection, as defined in the Social Housing Assessment Regulations. Where neither of these criteria is met housing authorities may consider using the discretion available under Regulation 5(c) to assess an application for social housing support.
- If an applicant for social housing support has a joint interest in the family home, or ownership of alternative accommodation that could meet its housing need, they will not be eligible for entry onto a waiting list for social housing support unless a deed of separation is in place, in relation to their spouse who is in occupation of the accommodation. Where such a deed is not in place, or can not be put in place, housing authorities may consider households, which would otherwise qualify for social housing support, for a tenancy under the Rental Accommodation Scheme or the Housing Assistance Payment, for prescribed intervals, until ownership of the property is resolved.

- Victims of domestic violence that had been in a joint local authority tenancy can be eligible for re-entry to the waiting list where deed of separation is in place. Where such a deed does not exist housing authorities may use discretion to allow applications.
- In certain instances, and in partnership with an Garda Síochána and specialist domestic violence services, housing authorities may wish to consider carrying out works to create a safe room / sanctuary room in a council owned property to protect a tenant.
- Applications from non-Irish nationals should be considered in accordance with guidance provided in Housing Circular 41/2012. Victims that can not qualify for social housing support may be provided with short-term emergency accommodation on a humanitarian basis but should be referred to domestic violence service providers who can offer a greater level of guidance; there may also be a role for the community welfare service of the Department of Social Protection to assist in such cases.