

POLICY BULLETIN 70

DOMESTIC VIOLENCE

1 Scope

- 1.1 This bulletin gives guidance to UK Border Agency staff when they receive a report of domestic violence in connection with a UK Border Agency accommodated asylum seeker.
- 1.2 It also gives guidance to both UK Border Agency accommodation providers, one stop services and the voluntary sector providing emergency accommodation regarding their policies and procedures relating to domestic violence.
- 1.3 This document replaces the references to domestic violence previously found in Policy Bulletin 18.

2 Application of this instruction in respect of children and those with children

- 2.1 Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the UK Border Agency to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions, or override existing functions.

Officers must not apply the actions set out in this instruction either to children or to those with children without having due regard to Section 55. The UK Border Agency instruction 'Arrangements to Safeguard and Promote Children's Welfare in the United Kingdom Border Agency' sets out the key principles to take into account in all Agency activities.

Our statutory duty to children includes the need to demonstrate:

- Fair treatment which meets the same standard a British child would receive;
- The child's interests being made a primary, although not the only consideration;
- No discrimination of any kind;
- Asylum applications are dealt with in a timely fashion;
- Identification of those that might be at risk from harm.

3 Principles

- 3.1 Domestic violence is defined in family and housing law as "Violence or threats of violence from an associated person. Associated person covers a range of relatives, present and former spouses, cohabitees, fiancés and other people who live or have lived in the same household".
- 3.2 Domestic violence is defined by the Home Office as "Any violence between current and former partners in an intimate relationship, wherever and whenever the violence occurs. The violence may include physical, sexual, emotional and financial abuse." Domestic violence occurs across society, regardless of age, gender, race, sexuality, wealth and geography. However it is predominantly women who suffer as a result of it.

(This paragraph and the next are taken from “Safety and Justice: the government’s proposals on domestic violence” published in June 2003)

3.3 The government’s strategy for tackling domestic violence is based on three elements:

- prevention: working to prevent it happening in the first place, and working with victims and offenders to prevent it recurring;
- protection and justice: increased legal protection for victims and their families; and
- support for victims to rebuild their lives.

3.4 The UK Border Agency receives only a small number of reports of domestic violence involving asylum seekers and their dependants. It is recognised that, for a number of reasons, domestic violence is generally under-reported. The immigration status of asylum seekers may be one factor that influences an asylum seeker, or a dependant of an asylum seeker, against reporting domestic violence.

3.5 Some common difficulties that may prevent a person reporting violence or abuse are:

- fear that they will not be believed;
- fear that they will be blamed;
- belief that their partner’s behaviour is normal and all relationships are like theirs;
- belief that the abuse is their fault;
- fear that their partner will find out that they have reported abuse;
- fear of homelessness or destitution;
- fear that they will be removed from the UK;
- uncertainty about the availability of services and their legal rights;
- uncertainty about their rights in relation to any children and that the children may be taken away by social services or their partner.

3.6 In addition, uncertainty about their immigration status or an unresolved asylum claim may have contributed to a misguided belief that involving the authorities in a report of domestic violence may somehow count against them.

3.7 It is fundamental that the confidentiality of the victim who reports domestic violence is protected. To have the confidence to report abuse a victim needs to be sure who will find out what they have disclosed, that their consent will be obtained before any information is passed on and that they will have choices about how to protect themselves and their children.

3.8 It is recognised that there will be occasions when a victim reports abuse, but is not ready to leave an abusive relationship. A victim may want information and assurance about how they would be treated and what accommodation would be offered to them if they decided to leave. Also it happens that someone may leave an abusive relationship and later return, and this pattern may be repeated.

4 Information

4.1 Both accommodation providers and one stop services must hold, and have on display, information about preventing domestic violence and what to do if you are a victim of domestic violence.

5 Role of accommodation provider

- 5.1 The accommodation provider (including any sub-contractors) must have a statement on domestic violence policy and procedure that conforms to the requirements of this policy bulletin and has been agreed as such by the Home Office. This must:
- give paramount importance to the safety of victims of abuse and their children,
 - inform residents of local advice and support agencies that can help people who suffer domestic violence,
 - warn offenders of the possible consequences, including prosecution and loss of their accommodation and support,
 - maintain emergency response arrangements that are capable of reacting to a crisis situation such as when a victim leaves their home,
 - consider the needs of children (with reference to policy bulletin on child protection),
 - install safety and security devices to protect and reassure victims in their accommodation,
 - with the consent of the victim, report incidents to UK Border Agency asylum support investigations team leader without delay
 - liaise with local networks and agencies including police, social services, health services, solicitors, refuges and other voluntary organisations, and be aware of their policies and practices
 - contribute to case conferences, and arrange for an interpreter to attend if the victim asks for an interpreter.
- 5.2 The accommodation provider must ensure that a victim and any children are transferred to alternative accommodation that is safe and secure. The accommodation provider does not require prior consent from the UK Border Agency in order to transfer a victim and any children to alternative accommodation that is safe and secure for them, when the victim believes they cannot in the interests of their safety return to their previous accommodation. But the provider should report a transfer to the UK Border Agency without delay for the purpose of the record of how accommodation is allocated.
- 5.3 If the UK Border Agency decide (see section 9 below on case conferences) that an offender should be evicted (either because a partner and any children have left and so that accommodation is under occupied or because the UK Border Agency has decided to withdraw the offender's support), the accommodation provider, must evict that offender.

6 Role of the one stop service and voluntary sector

- 6.1 If an asylum seeker or the dependant of an asylum seeker reports domestic violence to a one stop service or a one stop service suspects that an asylum seeker or their dependant is the victim of domestic violence, then the one stop service must:
- attempt to support the victim and advise them about their options,
 - refer them for further advice and support to another appropriate agency, e.g the police, social services, health services, solicitors, refuges and other voluntary organisations,
 - with the consent of the victim, report the matter to the UK Border Agency asylum support investigations team leader without delay,
 - with the consent of the victim, report the matter to their accommodation provider.

- 6.2 It is preferable that a victim seeking alternative accommodation should not resort to using UK Border Agency initial accommodation. But if no other alternative accommodation is immediately accessible - from either an accommodation provider or a refuge or other source – then the one stop service voluntary agency in the same region where accommodation has been allocated for the victim may admit the victim and any children to emergency accommodation in the region. Priority must be given, however, to finding alternative, suitable, dispersal accommodation for the victim and any dependants.
- 6.3 There is no authorisation for the voluntary sector in a region other than where the asylum seeker or dependant had been living, to make emergency accommodation available to an asylum seeker or their dependant.

7 Alternative accommodation

- 7.1 If an accommodation provider receives a request for help from a victim of domestic violence, and the victim and any children need alternative accommodation, the provider should offer alternative safe accommodation immediately. This accommodation is to be offered on the condition that their transfer must be reported to the UK Border Agency (merely for the purpose of keeping a record of how accommodation is allocated).
- 7.2 If, exceptionally, this is impracticable, or does not accord with the preference of the victim for accommodation with support, then the provider should either refer the victim to a refuge or consult with the local authority about the action to take. At the same time, the provider should inform the victim that the reasonable costs of alternative accommodation can be met by the UK Border Agency but that for this purpose the UK Border Agency must be informed of their circumstances and address.
- 7.3 If an asylum seeker or the dependant of an asylum seeker flees from their UK Border Agency accommodation on account of domestic violence and finds or is found alternative accommodation, of whatever sort, then the UK Border Agency should pay the reasonable costs of that accommodation or a reasonable contribution towards the costs.
- 7.4 For this purpose reasonable costs are the income that the manager/landlord of the alternative accommodation can show that they regularly receive from rents/housing benefits and supporting people grant in respect of a resident who is not an asylum seeker, and that are not receivable in respect of a resident who is an asylum seeker.
- 7.5 When the victim's alternative accommodation is found informally with a friend or someone who does not regularly accommodate the victims of domestic violence, then the UK Border Agency should make a reasonable contribution to any additional costs falling to the person providing the alternative accommodation. For this purpose a reasonable contribution should be the equivalent of either the additional costs or the local costs of UK Border Agency accommodation for a household of the same size, whichever is the lesser amount.
- 7.6 Once the details of the alternative accommodation and its costs that should fall to the UK Border Agency have been agreed between the UK Border Agency asylum support investigator and the manager/person providing the accommodation, then the investigator should arrange for a purchase order to be issued to the manager/person providing the accommodation.

- 7.7 The purchase order is required in order that invoices can be settled.
- 7.8 An invoice asking for reimbursement of reasonable costs or a reasonable contribution should be sent to the investigator responsible for the case.
- 7.9 The UK Border Agency should continue to pay the reasonable costs or a reasonable contribution to the costs of alternative accommodation for the period necessary for an action plan to be made, usually following a case conference.

8 Alternative support for essential living needs

- 8.1 When a victim and any children separates from their abusive partner and occupies alternative accommodation they are likely to lose access to the cash support that has been claimed by, and paid to, the alleged offender.
- 8.2 The investigator should be aware of this probability, and ask whether the victim wants emergency cash support. If they do then the investigator should contact the Case Owner and request a supply of interim support tokens (ISTs) to be sent by courier to the victim. These tokens should usually be provided for a period no longer than 4 weeks.

9 The case conference

- 9.1 However domestic violence is reported, a UK Border Agency asylum support investigations team leader should usually convene a case conference or should act according to a local protocol for responding to reports of domestic violence. They should also:
- gather information that will be useful to the case conference;
 - consult the victim and encourage them to report the issue to the police, but only with the consent of the victim arrange for it to be reported to the police. Staff need to be sensitive to whether the victim may have a fear of authorities, such as the police, due to persecution in their country of origin;
 - consult with the victim about whether the incident should be reported to social services, particularly if there are children in the household.
 - If the victim consents, arrange for it to be reported to social services.
- 9.2 The process prior to convening a case conference must respect the wishes of the victim and any other person who reported the abuse. Therefore the agency who receives the report of domestic violence should explain to the person reporting and to the victim (if they are different) that a report will be passed onto a UK Border Agency asylum support investigations team leader who will then convene a case conference to consider what action to take. Only if the victim consents for the report to be passed onto the investigations team leader, should it be passed on. The victim must receive an explanation of what a case conference is and what it is designed to achieve.
- 9.3 If the victim or other person reporting domestic violence does not agree for Asylum Support investigations to become involved and convene a case conference, then the alternative course of action should be for the agency that received the report to take responsibility for making an action plan. The responsible agency should, with the consent of the victim, act in a similar way to the UK Border Agency, consulting as necessary and if possible convening a case conference. If the action plan being proposed includes any decisions that are reserved to the UK Border Agency under

paragraph 8.8 (below) then it should be explained to the victim that it is necessary to involve the UK Border Agency and so it is in their interests to agree for the action plan to be reported to the asylum support investigations team leader.

- 9.4 A case conference should be convened urgently and usually within one week of the date that the UK Border Agency received a first report of domestic violence.
- 9.5 Representatives of the accommodation provider, social services and agencies with relevant knowledge of the case or services to offer should be invited to the case conference by the investigations team leader. It is essential to keep the victim informed of the arrangements for the case conference and to invite them to participate in the conference. Therefore the case conference must be convened at a place that is convenient for the victim. The alleged offender must not be invited to the case conference.
- 9.6 If the victim asks to have an interpreter with them at a case conference then their accommodation provider must arrange for a suitable interpreter to attend.
- 9.7 The case conference should agree on an action plan that the UK Border Agency is able to approve. The action plan must be recorded and confirm the agency/person that will take responsibility for each action. It may include any combination of the following and any other measures that are considered to be appropriate to the case:
- a decision to interview the alleged offender about the incident with the intention of considering whether to evict them from the asylum support accommodation on the grounds that they have breached their occupancy agreement and conditions of support by being violent or abusive to their partner;
 - a decision to transfer the alleged offender to alternative UK Border Agency accommodation on the grounds that their present accommodation is under-occupied;
 - the offer of temporary supported housing for the victim and any children;
 - with their consent, the return of the victim to their UK Border Agency accommodation either to rejoin the offender or after the offender has vacated that accommodation;
 - an agreement to take specific measures that would secure the victim's accommodation and make them feel safer living there;
 - the transfer of the victim to alternative UK Border Agency accommodation in either the same area or in another area, with either the same provider or with another provider. Whilst the UK Border Agency is not allowed to have regard to a person's preference as to the locality of accommodation to be provided, the victim must be consulted regarding their safety in areas that may be considered;
 - if the victim is a dependant and not a principal asylum seeker, to advise the victim strongly to reconsider their status in the UK (e.g the victim may wish to apply for asylum independently of their separated partner);
 - a plan to advise and assist the victim or the offender to report a change of circumstances formally to the UK Border Agency – for convenience this can be made the responsibility of the investigator present at the case conference;
 - encourage the victim to report incidents to the police but only with the consent of the victim, to report any apparent crime to the police;
 - with the consent of the victim, to inform social services if the family includes any children.
 - advise the victim to seek legal advice on how to obtain an injunction
- 9.8 The UK Border Agency should decide whether to cease supporting the offender, or whether and where to re-house offenders or victims, and these decisions should take

account of the recommendations of the case conference.

9.9 It is appropriate to reconvene the case conference for the purposes of:

- either, to review the circumstances of the offender or victim;
- or, to consider a response to a recurrence of violence or abuse;
- or, at the request of the victim or an agency involved in the case.

9.10 If either the offender or victim is dissatisfied with the response to a report of domestic violence then they may either use the complaints procedure of the accommodation provider or communicate their complaint to the UK Border Agency regional office.

10. Monitoring

10.1 UK Border Agency asylum support investigations teams should monitor the effectiveness of this policy by collecting statistics of the number of reports of domestic violence received by the UK Border Agency, the number of case conferences convened and an analysis of the outcomes which occasionally should include the view of the victim on how their case was dealt with.

10.2 UK Border Agency asylum support investigations teams should also keep a record of any “anonymous reports” of domestic violence they receive as these are a sign of the level of under-reporting. An anonymous report is one made by a UK Border Agency accommodated asylum seeker or the dependant of an asylum seeker, but which lacks significant details because the asylum seeker or dependant did not consent to the full report being passed onto the UK Border Agency.

DOCUMENT CONTROL

Change Record

Version	Authors	Date	Change Reference
2.0	BF	14/11/08	Update branding only
3.0	SM	05/10/09	Children’s Duty paragraph added