



"Abused twice"

The 'gatekeeping' of housing support for domestic abuse survivors in every London borough

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About PILC

PILC exists to challenge systemic injustice through legal representation, strategic litigation, research and legal education. We specialise in public law, actions against public authorities and public inquiries, bringing cases to court for individuals and grassroots groups that have been treated unfairly. We hold government and public bodies to account, challenging unlawful policies and practices. We also undertake research-led advocacy and communications in our priority areas, which include migrant destitution, austerity, state surveillance and violence against women.

PILC is a member of the Law Centres Network.

About PILC's Domestic Abuse Project

Since 2019 PILC has been funded by the [Baring Foundation](#) to defend and enforce the rights of those escaping sexual and domestic abuse. Through our Domestic Abuse Hub we are working to: strengthen the capacity of the voluntary sector to support survivors of sexual and domestic abuse by providing second-tier advice, training and legal representation; develop strategic legal action to defend and enforce the housing rights of those escaping sexual and domestic abuse; and empower survivors and activists to take action around domestic abuse. In December 2021 we launched the [Domestic Abuse and Housing Forum \(DAHF\)](#) with the aim of bringing together lawyers, frontline workers and campaigners to challenge local-authority gatekeeping in relation to survivors of domestic abuse.

In early 2022 we were awarded two further grants to continue and develop our strategic work to support survivors. PILC and [Latin American Women's Rights Service \(LAWRS\)](#) were awarded a grant from the [Strategic Legal Fund](#) to undertake pre-litigation research into the government's failure to provide migrant survivors of domestic abuse with access to safe accommodation. We have also been awarded a new grant from the Baring Foundation which will enable us to scale and expand our work offering training, legal representation and strategic litigation at the intersection of housing, domestic abuse and racial justice.

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Foreword

When the Domestic Abuse Act 2021 received Royal Assent, the then Minister for Rough Sleeping and Housing Eddie Hughes MP said: "The new duty on councils through the landmark Domestic Abuse Act will ensure that no one is turned away from life-saving support".¹

This report, which provides a snapshot of survivors' experiences across all London boroughs, suggests that this promise has not materialised. These first-hand accounts—from survivors of domestic abuse seeking help from local housing authorities through homelessness applications or requests to transfer their council tenancy—paint a grim picture of councils not understanding domestic abuse, and not complying with their legal obligations.

Housing campaigners and lawyers have been warning about "gate-keeping"—the practice of preventing people from making applications for homelessness assistance—for many years.² For those leaving domestic abuse, the Domestic Abuse Act 2021 was meant to change all that. But one year on we continue to read of councils failing to recognise that someone might be homeless or failing to deal with an application efficiently. These accounts show that some councils still hold an old-fashioned view of domestic violence as needing to involve physical assault, and have failed to acknowledge the modern broader understanding—and legal definition—of domestic abuse. Some councils are still requiring corroborative evidence when no such evidence might exist.

The accounts that form the basis of this report paint an appalling picture of the standard of emergency and longer-term housing, including overcrowded and sometimes dirty temporary accommodation and offers of accommodation miles away from a person's original home (and family, friends and support network). Such conditions—the product of the reduction in the stock of publicly owned homes over several

decades and of councils being starved of funds—are experienced by many people receiving homelessness help from councils. But the effects of overcrowded, insanitary and sometimes mixed-gender emergency accommodation are much worse for those fleeing domestic abuse. The system of one-offer-only of longer-term accommodation can force a domestic abuse survivor to choose between safe housing and support.

Despite legal obligations requiring local housing authorities not to apply local connection tests in cases of domestic abuse, survivors all too often end up being passed from pillar to post between councils.

Domestic abuse survivors with No Recourse to Public Funds (NRPF) are in the most vulnerable position. Complex rules governing eligibility mean that those with NRPF cannot access homelessness assistance. They struggle to find refuge space or may end up sleeping rough. Their very lack of options provides an additional—horrific—opportunity for a perpetrator to exploit.

When women obtain legal advice, councils respond and acknowledge unlawful actions. But legal aid housing advice is increasingly hard to obtain. In any event, it should not take a lawyer's letter to make public authorities comply with the law.

The stories told below are, inevitably, those of negative experiences. There will be other survivors who are treated appropriately. However, the accounts of unlawful treatment across all London boroughs are too similar to be viewed as isolated and unrepresentative occurrences. The worry is that a long-standing bureaucratic response to domestic abuse allegations—a culture of disbelief—remains, despite the Domestic Abuse Act.

Liz Davies KC
Garden Court Chambers

Executive Summary

Housing is one of the major barriers facing women and girls fleeing abuse. Domestic abuse survivors have the legal right to access emergency housing and longer-term safe and secure accommodation. Yet systemic 'gatekeeping' (the placing of bureaucratic or other obstacles in the way of those seeking statutory support) across local councils means many survivors are unable to access the help they so desperately need and are entitled to.

This report looks in detail at local-authority 'gatekeeping' of housing support for domestic abuse survivors across London. It is based on original research, casework and litigation undertaken through PILC's Domestic Abuse Project and has been adapted from a legal submission sent to Simon Clarke, the Secretary of State for Levelling Up, Housing and Communities and Sadiq Khan, the Mayor of London, in September 2022, with enclosed witness statements from each of the 32 London boroughs.

At the report's heart are witness statements provided by 32 domestic abuse survivors and frontline advocates—one for each London borough—which illustrate the real-life impact of local authority 'gatekeeping'.

The report's key findings are as follows:

- The 'gatekeeping' of housing support for domestic abuse survivors is a systemic issue across London local authorities
- 'Gatekeeping' by councils takes a variety of forms, including: long (and sometimes unlawful) delays in making decisions around housing for survivors; unsuitable offers of temporary and long-term accommodation; the failure to provide emergency accommodation to survivors and their children; the imposition of unlawfully high evidence thresholds before support is provided; failure to apply the statutory definition of domestic abuse; the application of value judgements by housing officers; survivors being wrongly instructed to

stay in or leave their borough; and the refusal of support until there is a threat of legal action

- Council 'gatekeeping' is having a serious impact on survivors. Examples of this impact include: survivors being forced to remain in properties where they are at risk or having no option but to return to the perpetrator of domestic abuse; survivors becoming street homeless or being forced to living in unsuitable or unaffordable accommodation; survivors being moved away from support networks; survivors being retraumatised leading to a deterioration in their mental health; and survivors being forced into increased dependency on their perpetrators
- 'Gatekeeping' across London local authorities has worsened over the last decade as a consequence of austerity and a chronic shortage of social housing
- The introduction of the Domestic Abuse Act 2021 has not solved and will not solve the problem of systemic 'gatekeeping'
- For survivors, the 'gatekeeping' of support in domestic abuse cases can be the difference between life and death, safety and danger, housing and street homelessness
- There is therefore an urgent need for national and local government to review the way in which housing is provided to this group.

Introduction

Housing is a key barrier facing survivors of domestic abuse. As the charity Women’s Aid has noted, “domestic abuse is, by its very nature, a housing issue, because domestic abuse and other forms of VAWG typically occur within the home.”³

Domestic abuse survivors have the legal right to access emergency housing and longer-term safe and secure accommodation.⁴ The government, moreover, has made a series of commitments to prioritising the needs of survivors. For instance, statutory guidance published in January 2022 states the following:⁵

“We have already put in place a number of measures to assist victims of domestic abuse. Since 2014 we have invested £205 million in support within safe accommodation services.

The government is committed to ensuring that those who need to escape from domestic abuse are given as much support and assistance as possible so that they are able to re-build their lives away from abuse and harm.

We recognise that housing provision is a key element of this support. Many victims of domestic abuse are forced to flee their homes to seek safety and support in a refuge or other form of temporary accommodation. This is often in another local authority area in order to put a safe distance between themselves and their perpetrators.”⁶

In her ‘Tackling Domestic Abuse Plan’, the then Home Secretary Priti Patel acknowledged that:

“Domestic abuse is a devastating crime that ruins lives and tackling it is an important part of this government’s Beating Crime Plan. For far too long the focus has been on what the victim might have done differently, rather than on the behaviour of the perpetrators themselves.”⁷

Despite these promises, systemic gatekeeping—the placing of bureaucratic or other obstacles in the way of those seeking statutory support—across local

authorities is still stopping many survivors from accessing the help they so desperately need and are entitled to.

As one survivor puts it, seeking housing support can feel like being ‘abused twice—once by the perpetrator, and once by the council.’

It is common for survivors to experience long delays before being housed. Emergency accommodation is often refused. High thresholds of evidence are applied, meaning survivors cannot access support unless they can provide police evidence or demonstrate that there have been recent incidences of abuse. Advocacy from an Independent Domestic Violence Advocate (IDVA) or a qualified lawyer is often required for a survivor to have any chance of accessing housing.

As a result of these failures on the part of local authorities, many survivors remain stuck in unsafe and unsuitable housing where they are at risk of further domestic abuse.

This report documents the real-life impact of local authority ‘gatekeeping’ of support for domestic abuse survivors. It calls on the government to urgently tackle the issue to ensure all survivors are able to access safe and suitable housing without delay—as is their legal right.

PILC has been working in the domestic abuse and housing field for three years. Through our Domestic Abuse Project we have given advice on over 200 cases, trained over 180 staff across 10 frontline organisations and taken on over 40 cases. We have won most of our cases, resolving the barriers to support faced by numerous survivors. Yet the same kind of referral reaches our inbox daily: survivors experiencing ‘gatekeeping’ when trying to access housing through a local authority.

While the law can provide a measure of accountability and remedies for individuals, it has so far failed to

address the structural factors that make it more difficult for survivors to access housing support they so badly need and are entitled to.

The consequences of 'gatekeeping' can be extremely grave. As documented in this report, they include:

- survivors being forced to remain in dangerous properties or return to the perpetrator of abuse;
- street homelessness—one of our research participants was forced to sleep in a friend's car, another on a park bench;
- survivors having no choice but to occupy unsuitable or unaffordable accommodation;
- survivors being moved away from support networks;
- survivors being retraumatised leading to a deterioration in their mental health; and
- survivors being left dependent on their perpetrators for accommodation.

In other words, the impact of local authority gatekeeping in domestic abuse cases can be the difference between life and death, safety and danger, housing and street homelessness.

'Gatekeeping' as a legacy of austerity

The problem of local-authority 'gatekeeping' of support for survivors has worsened over the last decade as a consequence of austerity and a chronic shortage of social housing.⁸ Between 1970 and 2014, local-authority social-housing stock shrank from six and half million dwellings to just over two million dwellings. In the same time period, private-rented stock doubled in size from two and a half million dwellings to over five million dwellings.⁹ Meanwhile, the number of housing-association properties rose from 300,000 to a staggering three million.¹⁰

Compounding the above, the introduction of austerity in 2010 directly impacted access to hous-

ing for domestic-abuse survivors. Since 2010, London local authorities have had their core funding from central government cut by 63 per cent.¹¹ Today, almost two-thirds of refuge referrals are refused due to lack of capacity.¹² Indeed, the number of refuge spaces is 30% lower than the Council of Europe recommends.¹³ Hostile immigration policies have also impacted survivors' access to housing: only 4% of refuge spaces are accessible to women with no recourse to public funds.^{14/15}

Despite containing laudable housing provisions,¹⁶ the Domestic Abuse Act 2021 will not eliminate the systemic gatekeeping outlined in this report if the chronic shortage of social housing continues. For example, the act extended the definition of 'priority need' to include survivors of domestic abuse. Yet one PILC client saw her homelessness application refused by Lambeth Council earlier this year on the grounds that she was not 'homeless' because she was not deemed to be experiencing domestic abuse. The council had switched from 'gatekeeping' on basis of priority need to refusing to accept survivors' homelessness. Local authorities will continue to 'gatekeep', and the Domestic Abuse Act will fail to provide recourse to survivors of domestic abuse, if austerity policies and the current chronic lack of social housing persist.

Unlawful 'gatekeeping' practices in London

This report documents a variety of different kinds of 'gatekeeping' experienced by survivors, including:

- Unlawful delay
- Failure to provide emergency accommodation
- Unsuitable offers of temporary and long-term accommodation
- Unlawfully high evidence thresholds
- Failure to apply the statutory definition of domestic abuse
- The application of value judgements

- Survivors being inappropriately instructed to stay in their borough/leave their borough
- 'Gatekeeping' until there is a threat of legal action.

The first chapter of this report documents each of these 'gatekeeping' practices in turn, identifying the problem and applicable law and illustrating the issue through survivor testimony. A second chapter looks at the experiences of LGBTQI+ survivors, while a third discusses the barriers to housing for survivors with

no recourse to public funds (NRPF). A fourth chapter examines the socio-political contexts of local-authority 'gatekeeping'.

The report's conclusion outlines the action we believe the Secretary of State for Levelling Up, Housing and Communities and the Mayor of London need to take to tackle the systemic 'gatekeeping' domestic abuse survivors face in housing offices on a daily basis.

Methodology

This report is based on original research, casework and litigation undertaken through PILC's Domestic Abuse Project. It has been adapted from a legal submission sent by PILC to the Secretary of State for Levelling Up, Housing and Communities and the Mayor of London in September 2022.

In August 2020 PILC was contacted by two domestic abuse survivors who wanted to tell their stories and those of others to highlight the obstacles survivors face when trying to access housing from local authorities.

Since then we have collated a total of 32 witness statements relating to the 'gatekeeping' of support for survivors—one from each London borough. These testimonies form the evidential heart of this report, documenting the real-life impact of London local authorities' failure to uphold the rights of survivors.

Chapter 1

The kinds of 'gatekeeping' experienced by domestic abuse survivors

1.1 Unlawful delay

Local authorities often delay making decisions—and decisions related to domestic abuse survivors are no exception. In over three-quarters of the witness statements we collected while researching this report, survivors faced ongoing delay.

Councils frequently fail to communicate either with survivors, their lawyers or Independent Domestic Violence Advocates (IDVAs). As a result, survivors can be left 'chasing' their homelessness applications or management-transfer applications whilst continuing to live in dangerous accommodation. In some cases, housing officers provide survivors with contact telephone numbers that are not in use. In others, survivors send emails to the council that elicit no reply, with some waiting months for an update from their local-authority caseworker.

One of our research participants made a homelessness application to Redbridge Council. The council failed to respond to her calls or emails and refused to accept that she and her support worker had 'chased' on several occasions. Throughout this time, the survivor remained trapped in an abusive home:

"I couldn't understand why Redbridge were leaving me to remain in a home where I was experiencing domestic abuse. It felt like something awful could happen to me and my children at any moment. I felt ignored by Redbridge and threatened at home ...

I had asked Redbridge for support so many times to try and move on from the abuse I had suffered... By ignoring my calls for help, Redbridge forced me to remain in my perpetrator's house."

In another case, Bromley Council left an applicant waiting 10 months for a response to her homelessness application:

"After 6 months of waiting, in November 2021, my key worker spoke with a Housing Officer she had previously worked with on another case. My key worker wanted to know why no one had responded to our repeated attempts to get in contact. The Housing Officer said that my officer was on extended leave, and this was why no one had replied. I couldn't understand why no one informed me of this, nor why they didn't allocate someone else to deal with my case. I felt really let down by Bromley Council.

In February 2022, I was still waiting in the refuge for someone to respond to my homelessness application. My key worker decided to file a complaint against Bromley Council for their lack of response, given that I had been in the refuge for almost a year without any contact from the Council."

Similarly, Lewisham Council delayed processing a survivor's homelessness application for two years, leaving her in a single room in a refuge with her two children:

"In that refuge environment, there was no space. You couldn't escape. Maybe if we had been there for one month, two maybe even three it would have been fine. But being there for nearly two years with nowhere to go, it really affected me.

At the refuge, me and my two children were in one room, with a shared bathroom and kitchen. It was women only, and there were about 15 of us there. There were women there with a lot of alcohol issues, and drug issues. A woman there actually threatened to hit my child and nothing was actioned. I didn't feel safe there. You couldn't have anyone over because no one is supposed to know where the property is. The kitchens were shared, so I basically didn't eat for two years because you couldn't keep stuff in the shared fridge. I ended up buying my own

small fridge, and hiding it in my room. Even that was taken away at some point. The bath was really dirty there, so we never used that bath. You couldn't be happy or healthy in a place like that.

I reported all this to the council loads of times. They just repeated every time, that this is just the process, you just have to bid. They said that if I move from the refuge, my priority will go down. My key worker chased the council about getting moved, and I would call them up daily. By the end I just got so exhausted that it would be more like once a week. In 2016 I got made one offer, only because I was continuously calling to complain, and after writing to the MP."

In another case, Harrow Council promised to respond to our research participant's homelessness application within five working days. The applicant found that many phone numbers and emails on the council's website were not in operation. When she did eventually reach an operator, no housing officers were available. In her words:

"This happened every day and it really frustrated me as I was spending so much time calling the Council and not getting further with my application. I felt like I was being ignored by the system and I was starting to get really worried as my departure date for the refuge was fast approaching."

Despite regular 'chasing' over several months, Harrow Council did not contact the applicant. As a result of this ongoing delay and lack of communication, our research participant eventually gave up hope of accessing support from Harrow:

"Due to the immense stress it was causing me and the complete lack of help and response from Harrow, I decided that it would be best to make a homelessness application in another borough. I felt really let down and frustrated by the fact that I was being led in circles by the Council. Despite publishing numbers on their website, barely any of them worked, and when I finally got to speak to someone, they encouraged me to talk to someone else. I wanted to be in Harrow due to my family

connections in the area. As a survivor of domestic abuse, I rely on my family so much because I am quite fragile at the moment."

As a result of 'gatekeeping' by Harrow Council, the applicant was forced to make a homelessness application elsewhere, away from her support networks. Harrow effectively gained from its own 'gatekeeping' by having one less homelessness application to process.

In a further case, Brent Council placed a heavily pregnant survivor of abuse in unsuitable accommodation and then failed to respond to her advocate's efforts to explain why she should be moved. The survivor was subsequently tracked down by her ex-partner:

"When my support worker raised these concerns, the Housing Officer did not answer any of her calls or emails flagging these concerns about the unsuitability of my temporary accommodation.

During this time my ex-partner tracked my phone and turned up at the train station when I was coming back from a friend's house. I had not told him that I was there. When he found me at the station, he became very aggressive and threatening towards me. He shouted at me in the station and said that if I was not pregnant with his baby, he would punch me.

After these events, I went to the women's safe house where I used to stay. I was very distressed and upset and told them what had happened. My support worker at the hostel was really concerned. They tried to update my housing officer but they were uncontactable. My support worker decided it would be best for me to move back to the safe house temporarily, as there was a chance that my perpetrator knew the address of my new temporary accommodation and they did not trust Brent Council to keep me safe and respond to their requests.

Brent Council have still not found suitable

alternative accommodation for me and have barely responded to any form of communication from my support worker.

This whole experience has had a profoundly detrimental impact on my wellbeing and recovery from abuse. I am now seven months pregnant and desperately trying to secure appropriate accommodation before my child is born. The constant precarity impacts my ability to psychologically and physically recover from the abuse and trauma that I have experienced."

In yet another instance, our research participant's application to Barnet Council was delayed because she could not navigate the online system. The applicant was an older woman who found IT difficult. Yet Barnet did nothing to assist her:

"I approached Barnet Housing to make my application with the help of an advocate. I am not very good with IT or using computers so was not sure how to go about making the application. I asked my Independent Domestic Violence Advocate to help me complete the application.

The application took such a long time, and I was really disheartened by the process. I was not able to stay up-to-date with it online as I didn't know how to access the page. I just wanted to stay in Barnet as I had lived there for 40 years of my life, and it was home to me.

Barnet Housing were un-empathetic to my situation and kept referring me to the online application which I was struggling with. I was really anxious about using the computer and kept getting it wrong. Barnet Housing provided no support to me with the application. The situation was putting a huge strain on my mental health"

In a further instance, delays to a survivor's application to Haringey Council for housing support were caused by housing officers not responding to telephone enquiries during the pandemic. As the client's advocate from Solace Women's Aid writes:

"The first barrier was that due to Covid-19 Haringey housing office was closed for drop-ins, so we had to do the homeless application online and then spend a lot of time chasing up a telephone response. As we were not right in front of the housing officers it meant it was easier for them to avoid us and avoid the client.

We argued that Haringey Council still had a duty to assess her homeless application, and had the option to place her into emergency accommodation in the meantime and then later discharge their duty to another local authority. This process went on for a few days and during this time the client had to wait it out at the refuge as there was nowhere else for her to go. During this time, she could not walk around to go to the shops next to the refuge on her own in case she bumped into a perpetrator so would have to be accompanied by myself or a refuge staff member.

Homes for Haringey also said they could not offer her accommodation until we had provided all the supporting documents. We had to argue with Haringey so they would offer her emergency accommodation, to allow us time to gather the supporting documents. Our client was in crisis and at risk and the priority was for her to access safe accommodation as soon as possible.

I found it interesting that they did not respond to me via email throughout this process, as if they did not want a paper trail. I would email them, and they would only follow things up via a phone-call."

Our research shows that domestic abuse applicants are left in precarious and often dangerous situations as a result of delays in processing applications and a pervasive lack of communication. Councils leave it to domestic abuse survivors to chase continuously to ensure that their application is dealt with. This is not a question of isolated incidents or a few 'bad apple' boroughs. Delays and poor communication are systemic issues facing survivors when applying for housing support across all London local authorities.

Applicable Law

Not only are the above failures an unacceptable way to run a housing office, they are also unlawful.

- Homeless applicants are entitled to have their decisions dealt with, and within a reasonable time frame. Unreasonable delay can amount to an abuse of power by a local authority.¹⁷
- A general lack of resources, as a matter of law, cannot be relied on to excuse the delay.¹⁸

Failure to discharge duty to make enquiries

More specifically, where a local authority has accepted an application from a homeless survivor of domestic abuse and fails to commence inquiries, this is a breach of its duty to make inquiries into a homeless application under Section 184(1) of the Housing Act (HA) 1996.

The duty to make enquiries into whether an applicant is eligible for assistance and if so, whether any duty is owed to them, is triggered once the local authority has reason to believe a homeless applicant may be homeless or threatened with homelessness. The trigger for making enquiries, therefore, is exceptionally low.¹⁹ The duty to make enquiries should not, and indeed as a matter of law cannot, be postponed.²⁰

Under section 184(3) HA 1996, upon completing enquiries the local authority must notify the applicant of its decision.

Only on very rare occasions would a reasonable Local Housing Authority consider it unnecessary to make any enquiries in order to assess whether an applicant is homeless and therefore owed a duty under section 193 HA 1996. In the case of *R v Nottingham CC ex p Costello* [1989] 21 HLR 301 QBD, Schiemann J held that:

"A council which makes numerous inquiries can, in my judgment, only be attacked for failing to make one more if it failed to make an inquiry which no reasonable council could have failed to regard as necessary."

Actions (or inaction) by local authorities is in many cases falling short of even that low test. Rather than making 'numerous inquiries', councils are often not making any inquiries whatsoever. Even if a council is doubtful as to whether an applicant satisfies the "homeless" threshold, a reasonable authority will nevertheless deem it necessary to make enquiries to verify the same, for instance to request evidence from an applicant's Independent Domestic Violence Advocate (IDVA) to assess the applicant's risk.

In practice, both lawyers and IDVAs are often ignored by local authorities. By neglecting to make enquiries, local authorities are arguably acting unlawfully.

Furthermore, in *R v Gravesham BC ex p Winchester* [1986] 18 HLR 208, Brown J held as follows:

"The burden lies upon the local authority to make appropriate inquiries ... in a caring and sympathetic way ... These enquiries should be pursued rigorously and fairly albeit the authority are not under a duty to conduct detailed CID-type enquiries ... the applicant must be given an opportunity to explain matters which the local authority is minded to regard as weighing substantially against him."

Making limited or no inquiries can hardly be described as 'rigorous' or 'fair'.

In the majority of the cases we have dealt with through our Domestic Abuse Project, the applicant's evidence (such as an IDVA's risk assessment, professional support letter, or before medical history) has been more than sufficient to justify a positive decision on their homelessness application and should certainly have triggered the exceptionally low duty to make enquiries.

Such issues of delay and lack of communication are nothing new. The Local Government and Social Care Ombudsman has made a shockingly high number of findings of maladministration against Local Housing Authorities in England for failing to enquire as to whether applicants were homeless or threatened with homelessness, for prematurely advising applicants that the council would not assist

them, and for telling applicants to find their own accommodation.²¹

In a 2011 report titled 'Homelessness: how councils can ensure justice for homeless people'²² the Local Government Ombudsman highlighted local authorities' failure to apply the law in refusing to accept homelessness applications:

"[C]omplaints to the Local Government Ombudsman suggest that people who face homelessness do not always receive the help that they are entitled to from councils. Other organisations have coined the phrase 'gatekeeping' to describe where councils refuse to accept a homelessness application or to provide interim accommodation where there is no legitimate reason ... We know that councils are currently under pressure with limited resources and increasing numbers of people presenting as homeless. To avoid more people suffering personal injustice councils should always properly apply the law in practice."

As HHJ Luba QC, Davies, Johnston and Buchanan assert in *Housing Allocation and Homelessness, Law and Practice*:

"Given the absolute duty to make inquiries and, in some cases, to secure interim accommodation when an application for homelessness assistance is made, it is essential that local housing authority staff in direct contact with the public are well trained and can recognise and receive applications and ensure that inquiries are put in hand. Far too often, applicants are wrongly turned away by busy or inexperienced reception staff. It is not unknown for applicants to be told:

- *'you need to apply to a different local housing authority';*
- *'we do not take homelessness applications from our own tenants';*
- *'we only help the priority homeless here';*

- *'we will send you to a different local housing authority'*
- *'we cannot help because you have made yourself homeless intentionally';*
- *'please return with a passport and proof of employment'.*
- *'please return with proof of pregnancy'*
- *'you should try to find your own accommodation first'; or*
- *'come back when you are about to be evicted'.*

All of these responses to an application, and any other similar statements, are wrong in law."²³

Almost a decade after the Local Government Ombudsman's special report, this unlawful 'gatekeeping' persists, with serious consequences for survivors.

1.2 Failure to provide emergency accommodation

Another common issue encountered by survivors is the failure of local authorities to offer emergency accommodation. As outlined below, the legal test for providing such accommodation is exceptionally low, especially in cases where the applicant has experienced, or is at risk of, domestic abuse. Nevertheless, time and time again, local authorities are failing in their duties, placing survivors in serious danger and exacerbating existing mental health issues.

One of our research participants reports how Lambeth Council refused to provide them with emergency accommodation until PILC challenged the decision. Even then, the provision of emergency accommodation was delayed, placing the survivor in further danger:

"Later, Lambeth conducted a telephone assessment over the phone. They said they couldn't offer me emergency accommodation. They said I needed to seek a harassment order. I didn't know what to tell them during the meeting. I felt that they only really understood domestic abuse as physical abuse. I felt that my situation was not being taken seriously because of this."

In late February 2022, my solicitor contacted the Housing Authority to argue that I should receive emergency accommodation and then Lambeth immediately retracted their decision. They said I would be assigned a new Housing Advisor and they would undertake a new assessment the same day.

However, Lambeth then said they couldn't provide emergency accommodation until after the weekend. I decided to stay with a friend that weekend. I found out from my neighbour that my ex-partner had visited our house when I wasn't there. It was clear he was still liaising with my landlord to gain access to the property. Even though it was so obvi-

ous I was in danger, Lambeth had still not moved me to a safe property and had actually left me to stay in a dangerous one. If I hadn't been able to stay at my friend's house I would have been subject to more abuse that weekend. Lambeth did nothing to protect me from that."

This kind of experience is commonplace. Another research participant was refused emergency accommodation by Redbridge Council:

"Redbridge delayed looking at my homeless application whilst I was in a house with my abusive partner. I experienced an incident and then fled, without anywhere to go because Redbridge had not yet offered me any alternative accommodation. If Redbridge had acted sooner, I wouldn't have had to experience the last incident of abuse."

In this case Redbridge arguably failed to protect this survivor's rights under article 3 of the European Convention of Human Rights (ECHR), which provides that "no one shall be subjected to torture or to inhuman or degrading treatment or punishment." In *E.S. and Others v. Slovakia*²⁴ it was held that an alleged failure by bodies to provide adequate protection against domestic violence engages Article 3.

The account given by another of our research participants of her experience with Bexley council is equally harrowing. In this case the survivor was forced to sleep in her friend's car as a result of Bexley failing to provide her with emergency accommodation at the time she fled:

"As Bexley Council was refusing to place me in emergency accommodation as someone who was fleeing domestic abuse, I had no option but to continue to stay on friends' sofas and in their cars to avoid being homeless on the street."

In another case, Ealing Council's failure to place an applicant in emergency accommodation might have had lethal consequences:

"In February 2021, I had nowhere to go and so decided to approach Ealing Council for

homelessness assistance. I was given emergency accommodation for one night and was required to leave in the morning.

I didn't have anywhere else to go after this and couldn't understand why I was being left to fend for myself with no support. I then tried to approach Newham Council, but I was turned away on the basis that I had sought homelessness assistance from Ealing Council first.

I decided to call Ealing Council's emergency out of hours number and was again offered accommodation for one night. I couldn't understand why their support only extended to one night's stay.

I had to stay in emergency accommodation for a few days under Severe Weather Emergency Protocol (SWEP), but then was required to vacate the premises.

That night I slept on a bench. The next day, I was so desperate, I tried to end my life. The police were contacted, and I was taken to Ealing Hospital. When I was discharged, I was placed in a recovery house for two weeks."

As the above examples show, local authorities are placing survivors in danger by refusing or failing to provide emergency accommodation to homeless applicants who have experienced domestic abuse. Such failures are not only morally abhorrent—they are also unlawful.

Applicable Law

The local authority has a duty to provide a homeless applicant with interim accommodation under section 188(1) of the Housing Act 1996 if it has reason to believe that the individual may be homeless, eligible and in priority need.

The words "reason to believe" and "may" indicate a low threshold, as per *R (Kelly & Mehari) v Birmingham City Council* [2009] EWHC 3240 [at paragraph 7(iv)]. This is corroborated by paragraph 15.5 of the Homelessness Code of Guidance ("The Code"):

*"The threshold for triggering the section 188(1) duty is low as the housing authority only has to have a **reason to believe** (rather than being satisfied) that the applicant may be homeless, eligible for assistance and have a priority need."*

This, in combination with the low evidential threshold which should generally be applied in the context of domestic abuse, makes for a very low threshold indeed. As paragraph 21.25 of The Code states:

"If there is evidence that would give the authority reason to believe the applicant may be homeless as a result of domestic abuse the authority should make interim accommodation available to the applicant immediately whilst they undertake their investigations." [Emphasis added]. "

There is simply no lawful excuse for local authorities to breach their obligations. Nevertheless, they do so daily. Lawyers are forced to challenge local authority decision-making even in straightforward cases, with clients almost always winning such cases.

1.3 Unsuitable offers of temporary and long-term accommodation

Housing officers routinely offer homelessness applicants and management-transfer applicants unsuitable properties. In many cases survivors are being forced to inhabit very small living spaces instead of being provided with the suitable accommodation they need to recuperate from the trauma they have suffered.

In Bromley, one of our research participants and her five-year-old daughter were moved into temporary accommodation after 10 months of waiting for a decision on her homeless application. Conditions in the temporary accommodation were decrepit and the applicant was forced to share a single bed with her daughter for three months:

"There was only one bed, with a mattress that was stained, dirty and the mattress filling had been torn out in places. There was damp and mould throughout the property. There were rat droppings all over the property, it was often freezing and there weren't any curtain poles to darken the room at all. The accommodation was in such a poor state, my daughter kept saying she didn't want to be there and was really upset.

The agent eventually came over and agreed to change the mattress, however this didn't come to anything. In the end my key worker had to arrange for a single bed to be placed in the room which both me and my daughter slept in. I begged the landlord to buy a mattress for me as it was very uncomfortable to share a single bed with my daughter. The landlord eventually visited the property and agreed to change the mattress three months later. I was very grateful for that. I could sleep at last."

Nobody should have to share a single bed with their child for three months. In this case, the poor condition of her accommodation led our research participant to question her decision to flee:

"After 10 months and the threat of legal proceedings, the accommodation I was eventually given was unsuitable. It was awful fleeing my abusive partner and then all I got was a flat with a single bed (and only because it was sourced by my key worker) which I shared with my daughter for three months. Bromley Council's behaviour has made me question my decision to flee. I don't want to give up for my daughter's sake. I want her to have a chance at living a normal and happy life, away from abuse."

In another case, Camden Council placed the survivor in a location that was dangerous for her:

"... I was quickly moved somewhere else, to a property ten minutes away from my perpetrator. I immediately rang the temporary accommodation team and told them I couldn't stay there, that I was literally ten minutes from my perpetrator's house, and that he would see me. They told me there was nothing they could do. I asked them how I was meant to get food, given that he shopped in the supermarket directly opposite my house. Camden Council said I would have to shop in another supermarket."

In a further instance, Brent Council placed a heavily pregnant survivor of domestic abuse in wholly unsuitable temporary accommodation:

"Although it was a self-contained flat, the building it was in was largely occupied by single men, many of whom were smoking drugs. My room was on the top floor and I had to walk past the other men who lived on the other floors. It was up several flights of stairs and I was heavily pregnant (6 months). Also, the temporary accommodation was in a remote borough and it took me over an hour and a half to travel to my maternity appointments (which are regular because my pregnancy is high-risk due to my previous miscarriage)."

In another case, Redbridge Council offered a survivor of abuse a place in a refuge. The survivor explained that this would not be suitable for her family of five. However, the council placed her there regardless:

"I am currently living in a refuge with my four children. We share amenities with the other residents and me and my four children (ages 15, 13, 11 and 3) all stay in the same room. We are overcrowded and the living situation is really impacting my children's mental health."

Similarly, in Basildon, the only offer of accommodation made to an applicant was a refuge space which was not suitable for her:

"If I moved into a refuge, I would not have been able to continue working, as a requirement of moving into a refuge is that you cannot have a job. My job was a lifeline for me, and it would have felt like a step backwards."

Survivors are often placed far away from their support networks at a time when they are at their most vulnerable. In one case, a homelessness applicant in Barking & Dagenham was offered temporary accommodation in the North of England, far away from her support networks:

"They said there was nowhere for me to go in Barking and Dagenham and my only option was to move to Yorkshire. This was despite the fact that I had lived in Barking and Dagenham all my life, was a first-time mother, a domestic abuse survivor and had a support network there. Barking & Dagenham Council said if I was desperate, I would take the offer ..."

Because of this I felt I had no option but to make a homelessness application to another Council in the north of England away from my support networks, at a time when I was my most vulnerable ... All I needed was a safe place to live with my newborn baby, which wasn't my mum's sofa but was relatively close to her and Barking & Dagenham did not provide me with this."

In another case, a survivor who had made a homelessness application to Lambeth Council was offered temporary accommodation in Kent:

"I was so shocked by this. As someone who had experienced abuse, I relied on my family for support. Moving to Kent would take me away from them and move me to an unfamiliar place on my own. I couldn't bear to think about it. I was so upset. I called my advocate in tears and had to get my cousin to explain what happened as I was unable to talk. I suffered a panic attack."

Redbridge offered the aforementioned applicant temporary accommodation away from her and her children's support networks:

"Eventually, Redbridge offered me accommodation 2 boroughs away, which would have taken my son who is at GCSE age, 2 hours to get to school. I couldn't accept that. So instead we are now staying in a refuge, where me and my four children, including two teenage sons, share one room."

Tower Hamlets Council also failed to appreciate the importance of support networks for survivors of domestic abuse:

"The Housing Officer told me that there was no temporary accommodation available in London. They said that if I was desperate, I would need to leave London. She was really rude and didn't understand that this would mean taking three children out of school and would mean living far away from my Mum. I was so scared that my mental health would get even worse. I was already in such a bad place and being really far from my mum was just not an option at that time."

I explained that I would really struggle to be away from my Mum as she was the only real support network I had, given that I had been isolated from many of my friends. I was in a vulnerable position as I had just fled, and my mental health was really poor. At times I found it difficult to leave the house so relied on my mum a lot. My mum was literally helping me to get out of bed and face the world. I could not have done it without her. My medication had been increased after I fled because I was struggling so much."

The Housing Officer then said that if I didn't want to leave London, I should stay at the property where I lived with my ex-partner.

It scares me to think how close I was to going back to a property where I was unsafe, all because Tower Hamlets did not offer me temporary accommodation in London at a time when my mental health was so bad that I couldn't live without my Mum. Without my support network, I would, without question, have gone back to my abusive partner. When I was not offered anything from Tower Hamlets, that seemed like the easier option. I just wanted stability. My case makes me worried for other women in my position who get rejected by Tower Hamlets but who don't have the family support I did."

In this case, Tower Hamlet's refusal to house the applicant near her mother almost led to her returning to the perpetrator of the domestic abuse she had suffered.

In another case, Barnet Council did not consider an older applicant's mobility issues when offering her emergency accommodation. As a result she ended up staying in a Travel Lodge, often at her own expense, for a year:

"Eventually Barnet Council offered me a form of emergency accommodation, however what they offered me was not suitable. I have mobility issues and the accommodation Barnet offered was too far from public transport links. I had no choice but to turn the accommodation down and remain in the Travel Lodge. Later I was then offered another place, however it had the same problem. I felt frustrated and angry that Barnet Housing was not listening to my needs and requirements.

I had to use my housing benefit to cover the costs of the Travel Lodge each day, however the prices of the rooms I was in would fluctuate. Sometimes the benefit would not cover the price of the room and I had to use my own money to cover the difference. I was struggling financially staying in the hotel, all

I wanted was to be safe and secure in my own home."

Local authorities are also offering mixed-gender emergency accommodation to homeless applicants, despite the fact that such hostels are likely to be unsuitable for survivors of abuse. As a service manager at Solace Women's Aid explains:

"My client, X, had spent many years between living on the street and also in multiple homeless hostels before she fled to the refuge, due to experiencing gender-based violence in a hostel. She made it clear she never wanted to return to living in a homeless hostel due to the high levels of chaos and drug-use in those environments, and because she was regularly targeted by perpetrators of abuse in mixed-gendered hostels."

In Ealing, the council failed to listen to an applicant's reasoning as to why mixed-gender accommodation was unsuitable for her:

"The interim accommodation was a mixed-gender shared hostel. The majority of the residents were male. I felt so scared there and didn't want to stay. As someone who had been abused at home, I felt threatened by the male presence.

Ealing didn't seem to understand that I would feel uncomfortable in a mixed-gendered hostel, and that it was unsuitable for someone fleeing domestic abuse. They stated that it wasn't appropriate to generalise an entire gender off statistics and although it was true that domestic abuse is perpetrated more by males, this didn't mean I would experience this from the men visiting the hostel. "

An applicant in Camden was first required to explain why mixed-gender accommodation would be unsuitable for her, and was then placed in a mixed-gender hostel anyway:

"[W]hen they were going through my needs assessment, I was asked over and over about my experiences. When I said I couldn't stay in male-dom-

inated accommodation because it was triggering for me, they kept requesting details of specific triggers. They clearly didn't have any acute understanding of how trauma works. If they had, they would have understood the impact of making me repeat my experiences, and describe my triggers.

As a result of the conditions of the accommodation in Haringey, I moved to a hostel in Forest Hill later in 2014. This hostel housed about 150-200 people, and nearly all of them were men. At the time I was there, I believe there were only around 3-4 women. I was at this hostel for quite a few months, and it was here that my mental health really started to get bad. I was surrounded by men, most of which were ex-offenders and drug users. I became really ill at this accommodation and suicidal."

The consequences of offering unsuitable accommodation to domestic abuse survivors cannot be underestimated. Local authorities must ensure that survivors of abuse are not punished for fleeing abusive homes and should make a specific effort to house survivors close to their support networks. Domestic abuse survivors must be given the opportunity to recover from the trauma they have faced rather than being subjected to possible re-traumatization.

Applicable Law

Under Part 7 of the Housing Act 1996, any accommodation provided must be suitable.

As paragraph 17.2 of The Code stipulates that:

"Section 206 provides that where a housing authority discharges its functions to secure that accommodation is available for an applicant the accommodation must be suitable. This applies in respect of all powers and duties to secure accommodation under Part 7, including interim duties. The accommodation must be suitable in relation to the applicant and to all members of their household who normally reside with them, or who might reasonably be expected to reside with them."

Suitability will depend on a case-by-case basis assessment:

"Space and arrangement will be key factors in determining the suitability of accommodation. However, consideration of whether accommodation is suitable will require an assessment of all aspects of the accommodation in the light of the relevant needs, requirements and circumstances of the homeless person and their household. The location of the accommodation will always be a relevant factor."

While suitability can change depending on the length of time somebody occupies a property,²⁵ there is a minimum standard below which accommodation must not fall irrespective of limited funds:

*"Although financial constraints and limited housing stock are matters that can be taken into account in determining suitability, there is a minimum and one must look at the needs and circumstances of the particular family and decide what is suitable for them, and there will be a line to be drawn below which the standard of accommodation cannot fall. If the accommodation falls below that line and is accommodation which no reasonable local authority could consider to be suitable to the needs of the applicant, then the decision will be struck down, and an appeal to the resources argument will be of no avail."*²⁶

Location - Homelessness (Suitability of Accommodation) (England) Order 2012

Under the Homelessness Order 2012, the local authority must take into account the location of the accommodation when determining whether accommodation is suitable for a person, including:

- (a) where the accommodation is located outside the authority's area, the distance from the 'placing' authority
- (b) the significance of any disruption to employment, caring responsibilities or education of the applicant and her/his household
- (c) proximity and accessibility of the accommodation

to medical facilities and other support which –

- (i) are currently used by or provided to the person...; and
- (ii) are essential of the well-being of the person...²⁷

The Code maintains the availability of support services should be considered when assessing the suitability of a property's location:

*"Securing accommodation for an applicant in a different location can cause difficulties for some applicants. Where possible the authority should seek to retain established links with schools, doctors, social workers and other key services and support."*²⁸

Applicants who have a need for essential services within the borough should be given particular attention:

*"Careful consideration should be given to applicants with a mental illness... who may have a particular need to remain in a specific area, for example to maintain links with health service professionals and/or reliance on existing informal support networks and community links. Such applicants may be less able than others to adapt to any disruption caused by being placed in accommodation in another district."*²⁹

In our view, local authorities must as a matter of law fully consider a survivor's particular need to maintain links with a counsellor, psychotherapist or psychiatrist, as well as the need to remain close to support networks while recovering from the trauma of abuse.

Where a local authority cannot place a survivor within the borough because they are at risk of domestic abuse in that area, the local authority must provide accommodation as close as possible to where they were previously living:

"Where it is not reasonably practicable to secure accommodation within district and an authority has secured accommodation outside their district, the housing authority is required to take

*into account the distance of that accommodation from the district of the authority."*³⁰

Mixed-gender accommodation

The Code makes specific note of the use of mixed-gender accommodation for domestic abuse survivors:

*"Housing authorities should consider whether mixed gender accommodation is appropriate and seek to provide single sex accommodation where this is required and available. Some victims may find it traumatic to share facilities with members of a particular gender and [this] may be the case particularly for some women who feel safer sharing with other women."*³¹

In the case of one female survivor of domestic abuse suffering from mental health difficulties, a mixed-gender hostel was so unsuitable that it fell below the 'line to be drawn' described in *Ojuri, R v London Borough Of Newham (No 3)*.³²

Section 13 of the Equality Act 2010 prohibits direct discrimination in the provision of services and/or public functions. It provides that:

"(1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others."

The Supreme Court has recently held that direct discrimination may occur where the very limited provision of women-only services causes women to suffer a detriment, as per *R (Coll) v Secretary of State for Justice* [2017] 1 WLR 2903 [26-33].

When assessing suitability, a local authority must base that assessment on the particular needs of the applicant and their family. Consideration of the location of the property is paramount for domestic abuse survivors given their particular reliance on support networks and health care professionals. In addition, mixed gender accommodation will almost always be unsuitable for domestic abuse survivors given the potential trauma occasioned by sharing facilities with unfamiliar men.

Local authorities must take these legal duties seriously. A shortage of housing stock must not be used as an excuse for neglecting their obligations to provide suitable accommodation. Central government, meanwhile, needs to adequately fund councils so that they can expand their stock of suitable accommodation.

1.4 Unlawfully high evidential thresholds

In many cases, local authorities are imposing unlawfully high evidential thresholds when processing homelessness and management transfer-applications. In some cases, councils are requiring police evidence as corroboration of domestic abuse and/or requiring past incidences of abuse to have been documented in order for support to be provided.

Such high evidential thresholds make it more difficult for domestic abuse survivors to access the support they are legally entitled to. Moreover, in such cases, most survivors are unaware that the local authority is acting unlawfully by requiring such evidence, with many being wrongly led to believe that they are not entitled to support.

Blanket requirement for police evidence

It is common for local authorities to impose a blanket requirement for police evidence to corroborate homelessness applications or management transfer applications made by survivors.

This blanket requirement is deeply concerning given that many survivors do not report abuse to the police because of threats from the perpetrator. As one research participant from Hillingdon put it:

"I did not usually report the abuse to the police as I was terrified of reprisals ..."

In a case in Brent, the council repeatedly asked a survivor to report the abuse she had suffered to the police despite the applicant not feeling comfortable in doing so:

"I did not want to report the abuse to the police because I did not initially acknowledge that I was experiencing abuse. It took me several weeks to begin to name my experiences. This is something that I continue to struggle with. I also did not want to cause trouble. My ex-partner is also the father of my child and I wanted to preserve our relationship for the sake of my child."

Survivors with no recourse to public funds (see Chapter 2) may have additional reason to fear reporting domestic abuse to the police—not least the ever-present risk that information about their immigration status will be passed on to the Home Office.³³ Latin American Women's Rights Organisation (LAWRS) drew our attention to one case, in which:

"[The client] refused to report the perpetrator to the police as she feared immigration action against her due to her undocumented status."

Despite the above, local authorities are continuing to request police evidence. Lewisham Council told one survivor they could not progress her case unless she provided such documentation:

"Since approaching the Council again to move, there has been continuous problems after problems. The most recent being that I don't have a police reference number and have not reported the incident ... They are not even acknowledging the history of abuse, or asked about what happened in the past. They just want a crime reference number."

In Redbridge, a survivor was refused support, with the council telling her to call the police instead because they could not help her:

"Eventually I got through and explained my situation to someone in the Redbridge Housing team. They made me feel incredibly distressed and sad. They were not considerate of my situation and kept informing me that as my house was a joint tenancy, I could not make a homelessness application. They said if I had a problem, I should call the police."

I was extremely distressed about calling the police. I did not want to involve them as I did not want my children to have to see their father taken away. I just wanted to leave the house and my children were desperate for us to flee. I did not want to prolong the situation."

I called Redbridge Housing Authority, again, to try and find accommodation, and they were not

helpful or sympathetic. They informed me again that I should call the police... I felt like I was going around in circles. I was a domestic abuse survivor who had just fled her home, without anywhere to go because of their failings, and yet they continually pushed me away."

"No recent incidences of abuse"

Another example of the high evidence threshold being applied by local authorities involves the refusal of support due to a lack of recent incidences of domestic abuse.

One of our research participants saw her application for housing support refused by Hammersmith and Fulham on the basis that there were no "recent incidences of abuse". This was despite the survivor concerned having experienced eighteen years of ongoing, cyclical abuse which had been documented by professionals:

"Eventually, H&F refused my application because there had not been "any recent incidences of abuse". I felt that my entire history had been ignored ...

I had given H&F ample evidence of the abuse I had suffered, showing that my ex-partner was extremely violent and unpredictable. There were periods of quiet followed by significant violence. The Council also had records showing that domestic abuse was a recurrent theme in all three of my ex-partner's relationships. I felt that this clearly demonstrated that I was at risk, and the fact that there had been no "recent incidences" did not mean me and my family were safe. It made no sense to me why they wouldn't consider the cyclical nature of the abuse I had suffered."

Bexley Council refused another domestic abuse survivor's homeless application because her relationship had ended three years previously. They did so despite the applicant having experienced post-separation abuse:

"I felt this was really upsetting and neglectful. My advocate explained to Bexley that I had

experienced post-separation abuse, and that my case had recently been heard at MARAC where it was deemed that I remained high-risk; I therefore should have been considered as 'priority need' for housing support. My advocate also explained that I had made consistent contact with Bexley Housing to explain my current situation and to seek emergency accommodation."

These last examples testify to the failure of local authorities to appreciate both the cyclical nature of abuse and the prevalence of post-separation abuse. Across the board, however, councils are applying unlawfully high evidence thresholds, making it more difficult for survivors to access the housing support they need.

Applicable Law

Blanket requirement of police evidence

Imposing a blanket requirement that incidences of domestic abuse should have been reported to the police in order for a homelessness application or a management-transfer application to be approved is unlawful.

The barriers to survivors reporting abuse have been repeatedly highlighted by both the homelessness and Violence Against Women & Girls (VAWG) sectors and are acknowledged in statutory guidance. Indeed, The Code states that:

*"Victims can experience many incidents of abuse before calling the police or reporting it to another agency..."*³⁴

There is thus a widely acknowledged principle that domestic abuse survivors should not be required to corroborate their experiences with police evidence given the particular difficulties they face in obtaining such evidence. For this reason, demanding such evidence is unlawful:

"In some cases, corroborative evidence of actual or threatened violence may not be available, for example, because there were no adult witnesses and/or the applicant was too frightened or ashamed to report incidents to

*family, friend or the police. Housing authorities should not have a blanket approach toward domestic abuse which requires corroborative or police evidence to be provided [our emphasis]."*³⁵

No recent incidences

In addition, it is unlawful for a local authority to base any assessment of possible threats of domestic abuse on whether abuse has taken place in the recent past.³⁶

Further, The Code specifically states that abuse may be perpetrated by an ex-partner:

*“Domestic abuse is ‘domestic’ in nature if the perpetrator is a person who is personally connected with the victim. This does not require the individuals to be living together. In most cases domestic abuse is carried out by a partner or ex-partner ...”*³⁷

Local authorities often disregard the fact that information surrounding risk may be obtained from friends, relatives, social services, health professionals, MARACs and support services as well as from the police.³⁸

1.5 Failure to apply the statutory definition of domestic abuse

Domestic abuse is clearly defined in section 1 of the Domestic Abuse Act 2021.³⁹ Yet some housing officers are seemingly unaware of the legal definition of domestic abuse or are deliberately disregarding it when assessing an applicant's circumstances.

Lambeth Council refused one homeless applicant because they did not consider her experience to amount to 'domestic abuse'. This was despite the applicant having experienced emotional, psychological, verbal and economic abuse that had led to them being granted leave to remain by the Home Office through the Destitute Domestic Violence Concession (DDVC):

"[Lambeth Council] said that they did not consider me to be homeless or threatened with homelessness because they said what I was going through would not be classified as domestic violence and they said 'there has never been any physical violence within the relationship' ... I felt that they were not taking the abuse I had suffered seriously, and the fact that it could start again at any moment. My ex-partner was stalking me and I lived in constant fear that he would show up and continue to abuse me and my children. I felt so unsafe and alone."

Applicable Law

Section 1 of the Domestic Abuse Act 2021 states that:

"The behaviour of a person ("A") towards another person ("B") is "domestic abuse" if—

(a) A and B are each aged 16 or over and are personally connected to each other; and,

(b) the behaviour is abusive."

Under section 2(e), those who are "personally connected" include those who have been in an intimate personal relationship.

Under section 1(3), behaviour is "abusive" if it consists of **any** of the following:

- (a) physical or sexual abuse;*
- (b) violent or threatening behaviour;*
- (c) controlling or coercive behaviour;*
- (d) economic abuse;*
- (e) psychological, emotional or other abuse.*

The Code stresses the importance of local authorities understanding the definition of domestic abuse:

*"An important factor in ensuring that an authority develops a strong and appropriate response to domestic abuse is understanding what domestic abuse is, the context in which it takes place and what the impacts are on victims; as well as how the impacts may be different on different groups of people."*⁴⁰

Since July 2021 the law has provided a statutory definition of domestic abuse. Yet, in some cases, local authorities are failing to apply this law, with the consequence that survivors are being excluded from accessing services they are legally entitled to.

1.6 Value judgements

In our patriarchal society, the blame and burden of violence against women and girls is often laid at the woman's door. What women wear, who they decide to sleep with, and whether or not they decide to walk home alone—all are factored into moral judgments relating to abuse experienced at the hands of men.

Such preconceptions are reproduced in housing offices, with council officers frequently applying value judgments when assessing applications for support made by domestic abuse survivors.

In one case, a housing officer at Lewisham Council questioned a survivor's account of the abuse she had suffered:

"When I did eventually meet [the housing officer], they were so insulting. It was clear that they hadn't been trained to deal with people who had survived domestic abuse. I tried to explain why I left my previous property, and that my ex threatened to burn down the house with the kids inside. They just said to me 'do you think maybe that is not really realistic?'"

In another case, officers at Ealing Council speculated about the reasons why a survivor had left her partner:

"The next day I was allocated a Housing Officer. From them I received a section 184 decision which stated that I was not in priority need, despite having suffered domestic abuse and fleeing my home. They made it clear that they did not believe that I had experienced domestic abuse and suggested that I had left because my partner was unfaithful. I felt belittled by them."

In Bexley, a housing manager told an applicant for homelessness assistance that she did not require housing as a domestic abuse survivor because her relationship had ended three years ago—despite evidence showing that she was experiencing post-separation abuse. Bexley effectively decided that because the relationship had ended the survivor was safe. The housing officer applied their own

understanding of abuse instead of listening to and believing the survivor's account.

In a case in Southwark Council, a survivor felt like her experience was not respected by her housing officers:

"The second time I was there I felt bullied. I was asked questions in an aggressive manner; I was asked personal questions about my mental health including suicidal ideation, and I felt pressured to answer quickly to get the process over with. The staff at the housing office treated me horribly."

I feel that I have been mistreated by many people at Southwark Council. The staff have been rude and dismissive many times...

I feel like I was abused twice – once by the perpetrator, and once by the council. I doubted myself many times. I wondered if I deserved a flat, and if the abuse was actually not that bad."

Applicable Law

Local authorities must understand what domestic abuse is and the context within which it takes place. This includes taking into account why a survivor might maintain personal contact with an abusive ex-partner.⁴¹

Local authorities must not pass judgment on survivors of abuse. They must instead consider their case in line with the evidence submitted to them:

"An assessment of the likelihood of a threat of violence or abuse being carried out... must be based on the facts of the case and should be devoid of any value judgements about what an applicant should or should not do, or should or should not have done, to mitigate the risk of any violence or abuse"⁴² [Emphasis added].

As with many of the instances of 'gatekeeping' discussed in this report, the law is clear in prohibiting value judgements. Yet housing officers are continuing to apply their own preconceptions and belittle survivors' experiences.

1.7 Survivors being inappropriately instructed to stay in or leave their borough

Local authorities frequently tell domestic abuse survivors that if they wish to be housed, they must either stay in the borough they are in—or that they must leave the borough. Through our Domestic Abuse Project we have encountered many instances of each of these arbitrarily-imposed requirements.

Telling survivors they must stay in-borough is inappropriate because many survivors will be in danger in the borough which they are applying to (which is often the borough in which they are currently living).

Telling survivors they must leave the borough is also inappropriate because survivors are not necessarily at risk of abuse in all parts of the borough. For example, they may be in danger in the north of the borough, but not in the south. If there are areas within their home borough where an applicant for housing support considers themselves to be safe, this is often an ideal location, given that it will allow them to be housed near to their support networks.

Yet local authorities often fail to allow survivors of abuse to manage their own risk and decide where they are safe and unsafe.

In one case, Ealing Council only offered their tenant a management transfer within the borough, despite Ealing being an unsafe borough for that survivor:

"In early 2020 my housing officer explained to me that I may be eligible for a management transfer, however he said that they were only able to offer a transfer within Ealing. This was really difficult for me to take, as I felt I had to choose between presenting as homeless and losing my secure home, or remain in danger."

Islington Council gave similar advice to their tenant:

"I was informed in March that a management

transfer would only be available inside Islington, and I was not able to move to Enfield to be closer to my family. I felt I had to consider this option instead of losing my secure tenancy. I knew for my safety I had to move quickly; however, I would feel safer moving out of the borough completely."

By contrast, Basildon Council advised an applicant that if she was in danger, she must leave the borough. Basildon did not give her the option of staying in the borough precisely because she was fleeing abuse. The imposition of this requirement led to our research participant considering moving back in with the perpetrator of the abuse she had suffered:

"The Domestic Violence Hub argued that if I was in danger, I would have to move out of the borough. If I was not in danger, I could not be considered homeless. This didn't make sense to me as the borough of Basildon is big, and I was safe in some parts of the borough, even though I was in danger in other parts. Also, my daughter and my support network were in Basildon which I heavily relied on, especially at that time of fleeing. It was clear that the local authority was refusing to consider a survivors' perspectives and choices. I felt that it was important that my voice, as a survivor, was taken into account. But my voice was not being heard."

Following the continuous back and forth, and the fact that so many of my applications had been rejected, I was left tired and hopeless. I felt that my only chance of having a secure place to live would be to return to my perpetrator. I felt completely let down by Basildon as I had made it clear multiple times that I was not safe, and just wanted to move on with my life."

Haringey Council gave similar advice to an applicant for support, as the survivor's advocate at Solace Women's Aid explains:

"The next barrier was [that] even though the client had made a homeless application to Haringey Council, and even though both us as support workers and her had spoken to the Council on

the phone, and despite needing to immediately leave the refuge, Haringey Council kept saying that they would not accept her homeless application because she was fleeing a refuge in Haringey. They said she needed to approach another borough instead and make a homeless application to them.

We had to keep pushing back and tell[ing] them that she still had the right to approach any local authority including Haringey, and Haringey council can place her in out of borough temporary accommodation if she needs to leave the borough.

Haringey Council eventually agreed to offer our client interim accommodation and she went to collect the keys and was very reassured. However, on her way there Haringey called her to say that she could only stay there for one night and would have to leave the next day, and approach another borough. This left her feeling very uncertain, anxious, disappointed and extremely let down."

Applicable Law

In general, the law provides that local authorities must decide applications on a case-by-case basis. Some survivors may feel safe within a borough; some survivors may want to leave the borough. Their individual needs must be considered:

*"There are a number of potential accommodation options for victims of domestic abuse, and housing authorities will need to consider which are most appropriate for each person on a case by case basis taking into account their circumstances and needs. This may include safe temporary accommodation and/or a managed transfer."*⁴³

Indeed, many local authorities have policies that in principle prioritise their 'customers' needs. For example, Basildon Council's Key Customer Principles include "put[ting] the customer at the heart of everything we do..." and ensuring that "services are designed around the needs of the customer". Decisions to ignore applicants' requests to stay in the borough therefore contravene many councils' own policies.

Requiring that survivors stay in-borough in order to be granted a management transfer is plainly unlawful. The Code⁴⁴ stipulates that local authorities must consider the need for survivors to flee their homes and area:

*"Households at risk of domestic abuse often have to leave their homes and the area where they have lived. There is a clear need for victims of abuse and their children to be able to travel to different areas in order for them to be safe from the perpetrator..."*⁴⁵

The Code advises local authorities to consider cooperation and reciprocal agreements to ensure survivors can be moved to safe areas:

"Housing authorities should also consider assisting one another in cases where victims of domestic abuse are at risk of violence in their area as outlined in 16.15

*... Where domestic abuse is involved and the applicant is not able to stay in the current home, housing authorities may need to consider the need for accommodation that would not be found by the perpetrator (which may involve an out of district placement) and which has security measures and appropriately trained staff to protect the occupants. Housing authorities may consider implementing a reciprocal agreement with other housing authorities and providers to facilitate out of area moves for victims of domestic abuse."*⁴⁶

The law is clear that each case should be decided on its particular facts, and that local authorities need to be flexible regarding where a survivor is housed.

1.8 Gatekeeping until threat of legal action

In many cases, housing authorities only act lawfully where they are held accountable.

Over the past three years PILC lawyers have provided a second-tier advice service to frontline charities, giving advice to hundreds of advocates. We have also acted as litigators, bringing legal action where authorities continue to act unlawfully. We have won almost every case we have taken on because, as this report makes clear, much local-authority 'gatekeeping' is unlawful.

Sadly, however, many survivors of abuse do not have access to a lawyer. Indeed, whether a domestic abuse survivor can find legal representation and therefore access their rights when they encounter local-authority 'gatekeeping' depends to a considerable extent upon where they live.

Legal Aid Cuts

Legal aid in theory allows those without adequate means to access justice. However, since 2010 there have been extensive cuts to this provision, under the auspices of economic 'austerity', including through the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), which contributed towards the overall budget for legal aid decreasing from £2.6 billion to £1.7 billion.⁴⁷ As a result of these cuts, many areas of law have been removed from scope while the proportion of people eligible for assistance fell from 80% in 1949 to 20% in 2020.⁴⁸

LASPO has also decimated the number of legal aid providers. In 2013 there were 3,500 civil legal aid providers. By 2020 this number had halved to 1,774.⁴⁹

One knock-on effect of cuts to legal aid has been the formation of 'housing advice deserts' as legal-aid providers in some areas have gone out of business.⁵⁰ Over 37% of people in England and Wales do not have access to a single housing legal-aid provider in their area.⁵¹

Frontline advocates often find it very difficult to find lawyers for their clients, as an advocate at Solace Women's Aid explains:

"I was aware that Haringey Council's treatment towards the client was unlawful, but I struggled with the legal language. It was hard to get last-minute legal advice, so I took advice from a Solace housing IDVA who had a written legal template which I was able to edit and email out to the decision makers in Homes for Haringey."

As the legal aid solicitor Derek Bernardi tweeted in 2021:

*"Client assessed as high risk of DV by MARAC⁵², made a homeless app 4 mo[nth]s ago. Council ignored her IDVA⁵³ & MARAC for months. I sent a PAP letter today, & w/in an hour she's been offered temp accom. It shouldn't take lawyers to help women get out of high-risk situations."*⁵⁴

Derek Bernardi's experience chimes with our daily experience at PILC. Survivors of domestic abuse require lawyers to challenge unlawful decisions. If they are able to find legal representation, they invariably win their cases. This begs the question: how many survivors are falling through the net? How many are left in unsafe accommodation because they cannot access a lawyer?

In Bromley, one survivor's support worker sought legal representation from PILC after her client had spent ten months trying to get a response to her homeless application. As soon as PILC got involved, the council responded, placing the survivor in temporary accommodation:

"Bromley Council still did not respond, so my key worker decided to get legal support. The lawyer advised my key worker to send a final letter threatening legal proceedings given that it was arguable that Bromley's behaviour would amount to unlawful delay."

The Council then did respond, but only because we threatened legal action, and decided to place me in temporary accommodation. I appreciated that they did finally act, although it was a shame this was only due to the threat of legal action."

In a similar instance, Hammersmith & Fulham refused a survivor's application for a management transfer until PILC challenged its decision:

"Despite twenty years of ongoing abuse, it took a lawyer to challenge my case (pro-bono) in order for H&F to accept they had a duty to transfer me to a safe property. In the meantime, I was forced to stay in an unsafe property. If I had not found a lawyer I would have eventually given up and ended up relinquishing my secure tenancy. I would have been forced to go into insecure and unstable temporary accommodation, all because H&F did not consider the abuse I had suffered as recent enough. The lack of support from the Council left me feeling hopeless and undeserving of protection. Domestic abuse survivors should not feel like they have to fight against the Council to get the simple protection they are entitled to, and so desperately need."

As a result of the delay in providing accommodation, the survivor was forced to remain for longer than necessary in a home where she was at risk of domestic abuse. If she had not found a lawyer, the consequences could have been serious. For example, she might have lost her secure tenancy if she had fled her home without a lawyer's advice on how to retain her tenancy in such circumstances.

In Westminster, another survivor took legal action to compel Westminster council to reconsider her homeless application and move her out of unsuitable mixed-gender accommodation:

"Without a lawyer, I feel that my homelessness application would not have been reinstated. I would have just been left by Westminster Council to live in a mixed gender hostel, as a survivor of domestic abuse. I feel that the system just completely forgot about me. By closing my application and not telling me, I was left hoping that my situation would be changed. Then, when my application was eventually reinstated, Westminster refused my application. It's awful that domestic abuse survivors are left in very vulnerable situations but have to rely on legal support to challenge local

authority behaviour. Without the help from my lawyer, I would still be in the hostel and would still be in a limbo about where I was going to live long-term, having fled abuse to find safety and security."

In Camden, it took the intervention of a survivor's MP to persuade Camden Council to move her out of a mixed-gender hostel:

"Although I was constantly emailing my housing advisor about how scared and suicidal I felt at the property, I didn't inform them about the assault. Following my initial experience of approaching the housing team, I did not think I would be believed, and I didn't know if there was any evidence. My intention was to just get out and then go to the police, which I did when I left. I was only moved from the property after contacting my local MP. Until the MP was able to get me through to the temporary accommodation team, I was totally ignored."

Not being believed, and not given the opportunity to voice your own experience, has lifelong repercussions. I was made to feel like my situation was my own fault. I blamed my homelessness on myself. I was wrongly given the deliberate impression that my external circumstances were in my control. I viewed myself as somehow a problem or an issue for the housing team because I hadn't managed to overcome those external circumstances. I think if I had been properly helped, and given an opportunity to move on, there is no way that my mental health would have been impacted to the extent it has now."

Another applicant in Croydon suffered abuse at the hands of her father and applied as homeless with her sister to Croydon council. However, she did not know what she was entitled to:

"The Housing Officer at Croydon Council told us to fill out a form and then turned us away. The Housing Officer would not let us explain our situation and seemed to have no empathy and made

no effort to understand us. We were only asked if we were pregnant, had children, or a medical condition. They said my medical condition was not enough to reach the vulnerable threshold.

Following this, we approached Solace Women's Aid and enlisted the help of an advocate, who advised that we were entitled to emergency accommodation.

A few days later, we reapproached the Council and filled out the same form and presented as homeless. This time they engaged with us. I have felt pressured and taken advantage of because I don't have experience of the housing system and the knowledge about what I am entitled to, for people in my situation."

Without support from Solace Women's Aid, the survivors in this case would not have been placed in emergency accommodation. The sisters did not know what they were entitled to under the law. How many survivors are not accessing their rights because their local authority has failed to offer them a service to which they are entitled?

In a similar case in Ealing, a survivor had to resort to legal action to get herself moved out of mixed-gender accommodation:

"My solicitor sent a letter and several emails to Ealing Council regarding how unsuitable the accommodation was. Only because of this was I offered alternative accommodation. This was a hostel but none of the facilities were shared with male residents.

I just felt so uncomfortable there and unsafe, purely based on the abuse I had suffered and not prejudice. I truly believe I would have remained in the mixed gender shared accommodation without the help of a solicitor. I also believe that if Ealing Council had given me more support, I would not have found myself in the darkest period of my life where I tried to commit suicide."

Survivors being often forced to resort to legal action to compel local authorities to provide services they

are entitled to is not a rare occurrence. In fact, it is a systemic issue across London local authorities.

The government must ensure that local authorities abide by the law from the outset. It must also make sure that every domestic abuse survivor can access legal aid, and therefore legal representation, if they need to. It must prevent the formation of 'advice deserts' since these effectively deny survivors of domestic abuse their right to legal representation in some areas.

Applicable Law

The law in this area is extremely simple. Local authorities must abide by the statutory legislation and guidance which governs their behaviour.

In the all-too-frequent cases where they do not, survivors are being forced to seek legal representation.

Chapter 2

LGBTQI+ survivors' particular experiences

LGBTQI+ domestic abuse survivors face the obstacles outlined in the rest of this report, as well as specific obstacles relating to their gender and sexual identities.

Twenty-four per cent of the youth homelessness population is lesbian, gay, bisexual or transgender.⁵⁵ In 2017 it was estimated that 150,000 young LGBTQI+ people were homeless or at risk of homelessness as a result of their gender and/or sexual identity.⁵⁶ The causes of homelessness amongst this group included parental rejection, abuse within the family and being exposed to aggression and violence.⁵⁷ The number of young LGBTQI+ people fleeing domestic abuse has increased by 78% since 2019.⁵⁸

The difficulties for LGBTQI+ homeless survivors are being compounded by lack of access to organisations who can support them.⁵⁹ During Covid-19, the organisation Star Support received 129 referrals for 4 bed spaces in one of its emergency projects, of which 120 referrals were suitable for the accommodation. As a result of limited funding, the organisation was only able to support 12 people during the project's first 6 months.

Stonewall Housing note the problems that arise from a lack of access to support services:

"We know that trans young people are fearful of being accommodated in the wrong places. We also have experience of trans young people who have been accommodated but experience discrimination from the staff or fellow service users. And then when they secure tenancy they may experience it from neighbours."

*In terms of prevention, if young people who are at risk of becoming homeless don't know what their rights are and the services don't ask about their sexual orientation or gender identity, the young LGBT person might feel there's no need to reveal that information and the housing authority might miss key details."*⁶⁰

Below we offer two examples of specific obstacles

LGBTQI+ domestic abuse survivors experience when trying to access housing:

Being told to remain in abusive homes

LGBTQI+ people are frequently encouraged by statutory services to remain in or return to abusive homes, including when threatened with 'conversion therapy'—or torture, as Star Support and other organisations such as Amnesty International⁶¹ consider such 'therapy'. If homeless applicants leave their home in such circumstances, they are often considered 'intentionally homeless'.

As Star Support explain, one homelessness applicant who sought help at their refuge had previously been turned away by Lambeth Council:

"Harriet self-referred to us having spent several nights in their local park having escaped domestic abuse from her family and plans for her to be trafficked to East Africa for so called 'conversion therapy'."

Harriet had made a homelessness application but was being encouraged to return home by her housing officer. Her housing officer believed that the actions taken by her parent to send her to East Africa for 'conversion therapy' was a sign of a supportive home. They directly told her that she should return to her parents and that her parents were just trying to support her."

We advocated for a change in housing officer but, although recognising that the advice to return was dangerous, the Council maintained that the housing officer's advice was appropriate as she believed that Harriet's parents were acting in her best interests and if Harriet complied with her parents wishes - not living as an LGBTQI+ person - then she would have a safe home to live in."

In this case, Lambeth Council used their own value judgements about what was right or wrong, failing to recognise that Harriet's parents were indeed the perpetrators of domestic abuse.

Lack of training for housing officers

Many housing officers and staff working in commissioned services such as hostels lack training when it comes to LGBTQI+ homeless applicants. As Star Support explain:

"Support workers are confused as to what housing and services are available. We have been in meetings with workers who have asked invasive questions about surgeries. Another worker asked us to discuss with a trans woman that they should ensure that she appears more feminine and shave before accessing their women's day service - she was street homeless."

In addition, LGBTQI+ sex workers are often conflated with 'high risk' street-based sex workers. As Star Support note:

"It is also our experience here and in working particularly with trans women who are sex working that they are often considered 'high risk' in the housing and support system alongside more high risk street based sex workers that have complexities of male partner / pimp coercion, addiction or gang affiliation."

There is a lack of nuance and sex worker positivity in the way statutory services work with people who are sex working that disproportionately affects our community who have, due to our oppression, the lack of free healthcare for trans people and - more positively - our sexual freedom, always relied on sex work and being a sex work positive community."

In one case, Star Support's advocacy was paramount in ensuring that the survivor concerned was housed safely and suitably:

"Chloe originally came to the Outside Project when we were based in the COVID Hotel. They came to us after fleeing an abusive relationship. As a trans woman with a limited social support network in London and a lack of stable income and a recent history of sex work the project was a lifeline [for them]."

After a period of support, we worked with Chloe on her move on. We referred her to the GLA commissioned PLACE programme by Thamesreach. Initially we were looking at house shares which the programme generally offers but following a conversation with Thamesreach it appeared there was some concern about how to make sure any potential home for Chloe would be safe and free from abuse."

Thamesreach were not able to confirm how safe a suggested move on option would be. We worked with them to make sure the staff felt skilled and confident to discuss the issues with other members of the potential household. In this case it transpired that the household would be unsafe as some of the residents had transphobic views. We advocated for Chloe with Thamesreach and they were supportive in finding a suitable studio for her."

LGBTQI+ domestic abuse survivors face specific obstacles when trying to access housing. It is imperative that housing officers are trained to respond adequately and suitably to survivors with various needs. As The Code states:

"21.11 An important factor in ensuring that an authority develops a strong and appropriate response to domestic abuse is understanding what domestic abuse is, the context in which it takes place and what the impacts are on victims; as well as how the impacts may be different on different groups of people. Specialist training for staff and managers will help them to provide a more sensitive response and to identify, with applicants, housing options which are safe and appropriate to their needs. Housing authorities may consider training delivered by specialist domestic abuse organisations and are strongly encouraged to provide risk assessment training to support staff and managers with responsibility for assessing applications from victims of domestic abuse."

Local authorities must provide safe and appropriate housing options to LGBTQI+ survivors of abuse and take seriously the concerns raised by by-and-for services such as Star Support. Staff must not use their own value judgements when considering housing applications made by LGBTQI+ survivors.

Chapter 3

Survivors with No Recourse to Public Funds

Survivors of domestic abuse with no recourse to public funds (NRPF)⁶² are not eligible for housing assistance under the Housing Act 1996. Moreover, survivors with NRPF and others with restricted entitlement to welfare benefits (such as European Economic Area [EEA] nationals and qualifying family members with pre-settled status) are routinely denied access to refuge spaces and other safe accommodation. As a result, many are faced with an impossible choice between becoming destitute or remaining with, or returning to, the perpetrator of the abuse they have suffered.⁶³

The results of a research study conducted by Oxford University's Migration Observatory in 2020 suggest that nearly 1.4 million people in the UK have NRPF.⁶⁴ A further 2.28 million people are estimated to have pre-settled status, and therefore to enjoy limited entitlement to welfare benefits.⁶⁵

Compounding this issue is a chronic shortage of refuge spaces, particularly for those with NRPF. According to the charity Women's Aid, England has 30% fewer refuge spaces compared to the capacity recommended by the Council of Europe.⁶⁶ In 2019-20, only 4% of refuge spaces out of this already limited provision were accessible to women with NRPF.⁶⁷

The Domestic Abuse Act was sold by the government as a "once-in-a-generation opportunity"⁶⁸ to support all victims of domestic abuse. In reality, it has failed survivors with insecure immigration status or NRPF (who are among the demographic groups most vulnerable to abuse and exploitation) by excluding them from the legal protections enjoyed by others.

Despite high-profile campaigning and lobbying by, among others, Southall Black Sisters (SBS), Latin American Women's Rights Service (LAWRS) and the End Violence Against Women (EVAW) Coalition, amendments to the act requesting the removal of the NRPF condition for all abused women, the establishment of safe reporting mechanisms, and the extension of eligibility and time frames for the

Destitution Domestic Violence Concession were all voted down by Parliament.⁶⁹

The government instead announced a £1.5 million one-year pilot project to assess the needs of domestic abuse survivors and victims who have NRPF. However, as SBS, who are to deliver the project, have pointed out, the pilot will only support a maximum of 500 women.⁷⁰

LAWRS have highlighted to PILC the increased risk migrant survivors face as a result of non-eligibility for housing support. In one case, a survivor was forced to remain in an abusive home due to a lack of accommodation options, with this arguably constituting a violation of her article 3 ECHR rights:

"[D]ue to complications with finding Alejandra suitable accommodation, it meant that she had to remain in the abusive situation for a further two months before she was able to escape. This was very concerning for both the caseworker and for Alejandra due to the level of abuse she was facing.

Alejandra was turned away from some refuges due to having NRPF and the difficulty of finding accommodation within the scheme's limited budget.

Alejandra was eventually able to move into secure accommodation by accessing the Support for Migrant Victims Scheme. Despite this, the support provided by the pilot scheme will only last for three months. Alejandra's caseworker is concerned of the potential risk of her going back to the perpetrator as her options are limited."

In fact, those with insecure immigration status/no recourse to public funds are likely to suffer *additional* abuse as a result of their dependency on abusive partners who may use their precarious status as a further means of control. Survivors often lack the language, self-esteem and confidence to understand

their rights, making it more likely that they will experience control and coercion. Many such women are forced to endure financial dependency, acute isolation, domestic servitude and abandonment. Such women therefore face additional barriers when accessing or attempting to access specialist support services, protection and accommodation.

Applicable Law

As things stand, UK housing law specifically excludes many migrant women from support where they experience domestic abuse.

As The Code states:

“Part 7 of the 1996 [Housing] Act includes provisions that make certain people from abroad ineligible for housing assistance. Housing authorities will therefore need to satisfy themselves that applicants are eligible before providing housing assistance. The provisions on eligibility are complex and housing authorities will need to ensure that they have procedures in place to carry out appropriate checks on housing applicants.”⁷¹

“A person will not be eligible for assistance under Part 7 if they are a person from abroad who is ineligible for housing assistance under section 185 of the 1996 Act. In particular:

- 1. (a) a ‘person subject to immigration control’ is not eligible for housing assistance unless they come within a class prescribed in regulations made by the Secretary of State; and,*
- 2. (b) the Secretary of State can make regulations to provide for other descriptions of person from abroad who, although they are not subject to immigration control, are to be treated as ineligible for housing assistance.”⁷²*

Only the following categories of person do not require leave to enter or remain in the UK:

- 1. (a) British citizens;*
- 2. (b) certain Commonwealth citizens with a right of abode in the UK;*
- 3. (c) Irish citizens, who are not subject to immigration control in the UK because the Republic of Ireland forms part of the Common Travel Area (see paragraph 7.10) with the UK which allows free movement;*
- 4. (d) by operation of the savings provisions referred to at 7.9 above EEA nationals and their family members, who have established citizens’ rights in accordance with Part 2 of the Withdrawal Agreement (i.e. those who were resident and have exercised a right to reside in the UK derived from European Union law or any provision under section 2(2) of the European Communities Act 1972, and those who were frontier working, before 31 December 2020. Whether an EEA national (or family member) has exercised a right to reside in the UK or rights to be treated as a frontier worker will depend on their circumstances at that particular time. For example, whether the EEA national is, for the purposes of the Immigration (European Economic Area) Regulations 2016 (‘the EEA Regulations’) (as preserved by the savings provisions) a jobseeker, a worker, a self-employed person and so on;*
- 5. (e) persons who are exempt from immigration control under the Immigration Acts, including diplomats and their family members based in the United Kingdom, and some military personnel.*

For the purposes of this guidance, ‘EEA nationals’ means nationals of any of the EU member states, and nationals of Iceland, Norway, Liechtenstein and Switzerland.

Any person who does not fall within one of the 4 categories in paragraph 7.11 above will be a person subject to immigration control and will be ineligible for housing assistance unless they fall within a class of persons prescribed by regulation 5 of the Eligibility Regulations" ⁷³ [Emphasis added]

Please note the guidance in the Code is updated regularly.

Destitution Domestic Violence Concession (DDVC)

The DDVC was introduced by the Home Office in 2012 as a response to campaigning by SBS and others around the rights of migrant women survivors of domestic abuse. It allows some migrant women access to temporary support where they have experienced domestic violence.

However, the DDVC is only available to survivors who are eligible to make an application for indefinite leave to remain under the domestic violence provisions of the immigration rules.⁷⁴

That restricts the application of the DDVC to migrants with certain categories of spousal visa. As a result of these restrictions, many survivors of domestic abuse with NRPF are not eligible for the DDVC.

In light of the above, many migrant survivors of domestic abuse are ineligible for housing support under the Housing Act. There are other legal remedies for certain survivors under Section 21 of the Children's Act and the Care Act respectively. However, this is piecemeal and difficult-to-obtain protection rather than a robust legal framework. Many migrant survivors are therefore not protected within the law, with the result that it is common for them to remain in dangerous homes instead of seeking support.

Chapter 4

Social and political contexts

The changing landscape of social housing

Local-authority 'gatekeeping' of support for survivors of domestic abuse takes place within the context of a crisis of local-authority housing supply caused by decades of underinvestment and ideologically driven reform to the housing system. Against popular perception, the question is not one of housing supply per se—rather that the supply does not consist of social housing.⁷⁵ The underlying cause of this is a capitalist system which prioritises private wealth and purposefully depletes state provision of social welfare, including housing provision, in favour of private profit rather than public wealth.

The landscape of public housing in the United Kingdom has been dramatically altered over the past forty years. In the late 1970s, almost one third of all residential properties were owned by the state.⁷⁶ Local authorities were the largest providers of rented housing with 6.5 million dwellings, compared to 2.5 million in the private rented sector and 300,000 housing association properties.⁷⁷ Secure council tenancies—introduced through the Housing Act 1980—were relatively easy to obtain throughout the 1980s and beyond.⁷⁸

By 2014, this picture had been completely reversed. The number of local authority dwellings had shrunk to just over two million, while private rented stock had doubled in size to over five million dwellings. The number of housing association dwellings, meanwhile, had risen to around three million.⁷⁹

There were a number of reasons for this seismic shift: the promotion of 'right to buy' (also introduced through the Housing Act 1980), under which 2.8 million council homes—nearly half of the total stock—were sold off between 1980 and the mid-2000s;⁸⁰ the unwillingness of successive

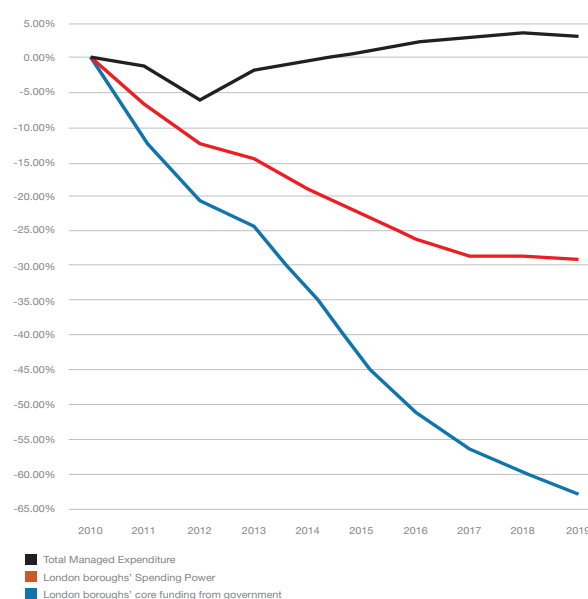
governments to allow local authorities to build new council properties;⁸¹ the introduction of assured shorthold tenancies providing limited security of tenure;⁸² and the passage of the Localism Act 2011, which empowered local authorities and housing associations to offer "flexible" tenancies (secure tenancies with a minimum term of two years).⁸³

As a result of the effective privatisation of housing provision in the UK, long-term social housing has become extremely difficult to obtain. This has had severe consequences in terms of people's standards of living. Over a million people in the UK live in overcrowded homes,⁸⁴ while more than 250,000 people live in temporary accommodation (TA), including many children. (This last figure has almost doubled over the last decade.)⁸⁵ 1.15 million households are currently waiting for long-term council housing,⁸⁶ with this figure expected to double as a result of the coronavirus pandemic.⁸⁷

The impact of austerity

More than a decade of economic austerity has further hit the UK's supply of local-authority housing. Since 2010, London local authorities have had their core funding from central government cut by 63 per cent.⁸⁸

Cumulative like-for-like real terms % change in public spending 2010-2020



This dearth of council housing—and cuts to local government funding—reverberate across the social-housing arena. Housing officers' hands are usually tied in terms of the offers they can make to applicants; the legal advice given by solicitors and welfare advisers has to involve balancing a client's individual needs against their realistic options, which are usually very limited; court decisions generally make reference to the fundamental policy point that resources are scarce. Across the board the implicit expectation is that applicants for social housing should feel lucky to be offered anything at all.

One significant material impact of the scarce resources with which local authorities are operating can be seen in the rise in "out-of-area placements." This practice used to be reserved for sourcing emergency accommodation, but local authorities are now increasingly using it to place people in longer-term temporary accommodation, or to make final offers of accommodation.

The absurd consequences of this practice are illustrated by the example of Canterbury City Council, which in 2016 was outbid by Redbridge Council for the use of accommodation *within Canterbury* to house 200 families.⁸⁹ 'Out-of-borough' placements are effectively exerting a domino effect in terms of the availability of social housing, with Basildon Council (for example) claiming it has no option but to offer local residents' housing placements in the north of England because London councils routinely outbid them for accommodation within their own borough.⁹⁰

This is the wider socio-political context within which local authority 'gatekeeping' of support for survivors of domestic abuse takes place. For as long as governments continue to underfund local authorities leading to a chronic shortage of social housing, survivors will bear the brunt. 'Gatekeeping' has become a systemic issue because local authorities feel forced to cut corners to accommodate radical limits to their spending. Unless this changes, domestic abuse survivors will continue to return to abusive partners and face street homelessness as a result of being denied support.

Conclusion

The systemic gatekeeping faced by domestic abuse survivors on a daily basis in housing offices across London is a scandal. It demands an urgent response from national and upper-tier local government.

PILC has written to Simon Clarke, the Secretary of State for Levelling Up, Housing and Communities and Sadiq Khan, the Mayor of London, urging them both to take action within their powers to address the issues raised in this report.

Specifically, we are asking the Secretary of State and the Mayor to:

- Implement a substantial funding increase for local authorities to deal with housing applications for domestic abuse survivors, including funding for a single point of contact in each local authority housing department who can respond to the concerns raised by DA services, such as a housing based VAWG lead
- Launch an immediate independent investigation into the problem of 'gatekeeping' in domestic abuse cases. Such an investigation would need to enquire into:
 - i. Delays and lack of communication by local authorities (analysing the impact on domestic abuse survivors and making recommendations for local sanctions);
 - ii. Local authorities' failure to provide emergency accommodation under section 188 Housing Act 1996;
 - iii. The provision of unsuitable accommodation;
 - iv. The imposition of excessively high evidence thresholds including the requirement for police evidence and 'recent incidences';
 - v. Councils' failure to apply the statutory definition of domestic abuse;
 - vi. The use of value judgements; and

- vii. Survivors being inappropriately advised to stay in or leave their home borough.
- To guarantee legal aid to all those fleeing domestic abuse, irrespective of means, to allow them to instruct a solicitor to assist in their case
- Increase the number of refuge spaces in line with Council of Europe recommendations⁹¹ and ensure an increase of the number of spaces accessible to women with NRPF and LGBTQI+
- Implement training for local authorities to ensure that they provide safe and appropriate housing options to LGBTQI+ survivors of abuse, take seriously the concerns raised by services such as Star Support, who are a by-and-for service, and stop using their own value judgements when considering housing applications made by LGBTQI+ survivors.
- Abolish the NRPF regime, which forces migrant survivors of domestic abuse into destitution
- Urgently address the chronic lack of social housing and general underfunding of local authorities by building 1 million new council homes

The adoption of the above measures by national and upper-tier local government would be an important step towards ensuring that all survivors have access to safe and secure accommodation when fleeing abuse. Without them, survivors of domestic abuse in London will continue to be abused twice, once by their perpetrators and once by the housing system, in their moments of greatest need.

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