



Live Fear
Free Helpline

Providing confidential support
and information on domestic
abuse, sexual violence and
violence against women in Wales.

Llinell Gymorth
Byw Heb Ofn

Darparu gwybodaeth a chefnogaeth
cyfrinachol ynghylch traws domestig,
traws ffisegol a ffisias yn erbyn merched
yng Nghymru.

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Welsh Women's Aid Briefing: No Recourse to Public Funds – Briefing for MSs

No woman or child turned away

Overview

No recourse to public funds (NRPF) acts as a serious barrier for survivors experiencing violence and abuse with restricted or insecure immigration status in the UK. The current Destitute and Domestic Violence Concession (DDVC) is narrow in its remit and only available to survivors in the UK who are eligible to apply for the Domestic Violence Rule, i.e. those who entered the UK on a spousal/partner visa. Southall Black Sisters works to raise awareness of and improve outcomes for survivors with NRPF and argues there are significant numbers of abused migrant women who have other types of visas, such as student and work visas who cannot access support via the DDVC or the National Asylum Support Service. In brief this places restrictions on specialist violence against women, domestic abuse and sexual violence (VAWDASV) services, particularly refuge, who rely on housing benefit to fund refuge spaces for women. While the DDVC, if granted, provides survivors with temporary leave to remain and therefore access to public funds, it only lasts for three months and is limited in its scope. Refuges are then faced with the challenge of the funding expiring after just three months and a survivor with very limited options. This is compounded by a lack of secure and sustainable funding for the specialist violence against women, domestic abuse and sexual violence sector in Wales. The sector's capacity and resources have been severely impacted, leaving specialist services struggling to absorb the cost of supporting migrant women with NRPF. This results in migrant women unable to access support or a safe place to stay. It forces survivors to remain with abusive partners, putting them at further risk of harm, exploitation, modern slavery or facing destitution.

What is no recourse to public funds?

No recourse to public funds is a condition imposed on individuals due to their immigration status. Section 115 of the Immigration and Asylum Act 1999 states that a person will have 'no recourse to public funds' if they are 'subject to immigration control'.

A person will be 'subject to immigration control' if they:

- Have been granted leave to enter or remain in the UK with the condition of 'no recourse to public funds'. This may include women who have joined their husband or partner on a spousal visa or may have limited leave granted under family or private life rules.
- Have leave to enter or remain in the UK but may have a restriction or prohibition on claiming public funds for a period of time. For example, persons from the European Economic Area (EEA) nationals may be prevented from accessing public funds when they do not meet the eligibility criteria.
- Do not have leave to enter or remain, such as those who overstay their visa or who enter illegally.



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- Individuals on a time limited visa, such as a student or work visa.

Insecure immigration status and VAWDASV

Women with insecure immigration status, or whose immigration status is dependent on a spouse or employer are often at a heightened risk of violence and exploitation. They face a hostile environment by immigration checks happening in healthcare, maternity, education and housing settings; they are prevented from accessing protection and support due to their NRPF status and they face a real risk of being detained and deported rather than assisted if they report abuse. This hostile environment is often exploited by abusers who control them and scare them into not seeking help. This cohort of women also face barriers to accessing protection, support and specialist services, because of a lack of funding within the sector, or through isolation, language and cultural barriers. The fear of deportation can also act as a barrier to women accessing other avenues for support.

“Women survive violence then have to survive on peanuts. We have nothing, no furniture, no food, no recourse to public funds. We need money to live on, otherwise we are either destitute or die... Do they understand that we are living on nothing?” - survivor

In 2018/19 68% of referrals from women with NRPF to our membership of specialist VAWDASV services in Wales, were accepted (of the 44 referrals, 30 could be accommodated). However, the number of those supported who were eligible for the DV rule was only 5. Of those who could not access funding under the DV rule, the majority of places were funded either by social services for women with dependent children, via the service's own reserves or via Southall Black Sisters' 'Last Resort No Recourse Fund'¹ which is specifically for cases where there are no other options available. Services who use their own reserves inevitably take a hit to their own finances, who are often already overstretched, highlighting the need for secure and sustainable funding for the VAWDASV sector. This clearly demonstrates that the DV rule is too narrow in its scope and should be expanded to all migrant women subject to violence and abuse.

Impact of Brexit

Welsh Women's Aid is concerned that EU migrant women may find their rights restricted and removed post-Brexit as well as facing restrictions on the application process for 'settled status'. Women impacted by domestic and sexual abuse are at greater risk of failing to access their settled status in the context of coercive control, where perpetrators can further their oppression by preventing women from proving their residency and using their immigration status to further control and isolate. This will only exacerbate our concerns about the status of women with NRPF and the impact on services in Wales.

The EU has been instrumental in progressing protections for women. We are concerned that leaving the EU will lead to a regression of those rights and protections and Welsh Women's Aid urges UK and Welsh Government to outline their plan to protect women against these negative implications.

¹ <https://southallblacksisters.org.uk/no-recourse-fund/>



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Welsh Government

While immigration and benefit entitlement are reserved to UK Government. We are calling for Welsh Government to do more to support migrant women in Wales. We welcome Welsh Government's commitment to become a nation of sanctuary and note in their Nation of Sanctuary Plan, support for women impacted by VAWDASV. However, it does not address the huge barrier to accessing support that women with no recourse to public funds face; namely that many specialist services do not have the resources to support women who cannot access public funds. We call on Welsh Government to consider what funding can be made available to the specialist VAWDASV sector to enable them to support women fleeing abuse with NRPFs. We don't feel Welsh Government can claim to be a nation of sanctuary for asylum seekers and refugees if women living with abuse and violence are prevented from accessing the lifesaving support they need.

Additionally, Welsh Government has also publicly confirmed its commitment to adhere to the Istanbul Convention, where possible. However, Article 4, which is concerned with ensuring fundamental rights, equality and non-discrimination, states 'measures to protect the rights of victims, shall be secured without discrimination on any ground' including migrant and refugee status. Therefore, as it stands, protections for migrant women are limited and victims face a post-code lottery to protection.

Finally, clarity is needed from Welsh Government on the status of Supporting People funding and whether this can be used to support survivors of VAWDASV with NRPFs. While it is recognised that there are legislative restrictions that prevent people who have NRPFs from accessing public funds, we do not believe this applies to SPPG. Our understanding of this comes from the work of Southall Black Sisters an organisation who have been supporting migrant and refugee women for 40 years. They point out that Support People funding is not mentioned in the closed list which outlines what constitutes public funds in immigration law². 'Housing and homelessness assistance' determined to be public funds' under immigration rules are considered to be an allocation of local authority housing,

² Immigration Act 1971 and Immigration Rules. The benefits and support that constitute public funding are:

- income-based jobseeker's allowance
- income support
- child tax credit
- universal credit
- working tax credit
- a social fund payment
- child benefit
- housing benefit
- council tax benefit
- council tax reduction
- domestic rate relief (Northern Ireland)
- state pension credit
- attendance allowance
- severe disablement allowance
- personal independence payment
- carer's allowance
- disability living allowance
- an allocation of local authority housing



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allocation of a housing association property provided via the local authority rehousing list only, and statutory homelessness assistance³. This is further outlined in the Housing (Wales) Act 2014 which does not reference supporting people funds. Therefore, if a survivor with NRPFs is denied refuge accommodation provided by Supporting People because it is seen as constituting 'public funds' it would be wrong.

What we are calling for;

- That the specialist VAWDASV sector in Wales is fully resourced so that no woman with NRPF is turned away from specialist support
- Political parties in Wales to pledge in their manifestos to set aside a NRPF fund for the specialist sector to access in order to support migrant women experiencing violence and abuse.
- Welsh Government to confirm the status of Supporting People funding and immediately include migrant survivors of VAWDASV.

Any comments or questions regarding this briefing can be directed to:

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• local authority homelessness assistance

³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772305/Public_funds_v14.0ext.pdf