Govan Law Centre's evidence to the Scottish Parliament's Social Justice and Social Security Committee on financial considerations when leaving an abusive relationship

1. **To what extent do Scottish Government strategies such as Equally Safe give proper recognition to financial considerations when leaving an abusive relationship?**

The Equally Safe campaign, and similar strategies, make reference to financial considerations when leaving an abusive relationship but do not propose sufficient practical solutions for women facing financial abuse, or to the barriers that financial difficulties present to women escaping abusive relationships, as further explained in our responses below.

2. **How well do social security systems take account of domestic abuse? Do you have specific examples of social security rules and practices that need to change?**

Generally, Universal Credit is assessed on the basis of household income. This is detrimental to women experiencing financial abuse as that income is often inaccessible to them. On paper, the woman is ineligible for universal credit on the basis of her partner's income, though in reality she has limited or no access to this source of income leading to control or destitution.

In practice, Universal Credit claims are automatically paid into a single joint account when it is a joint application. This gives perpetrators of financial abuse sole control of the household's monthly benefit income. A victim of financial abuse would have to request an alternative payment arrangement to split the UC payments between her and her partner. This places the onus on the victim/survivor to request split payments which would be challenging in the context of experiencing domestic abuse.

Benefits sanctions are also more likely to arise for women experiencing domestic abuse, whether because they are unable to work or unable to attend appointments or interviews due to a controlling partner. Although there are some protections in place, such as a short exception from work-related requirements for 13 weeks, victims are often not aware of the exceptions and even when they are, they are expected to provide evidence and to attend appointments and interviews during this period, which is often an impossible barrier to overcome.

In terms of housing, the Universal Credit housing element can be paid for a home for up to 52 weeks of a temporary absence if a survivor requires to flee her home due to GBV. If she leaves a property which is owned or jointly owned, the value of the property can be ignored for six months in terms of capital thresholds. However, women who experience financial abuse who are locked into mortgages with their abuser are likely to experience significant barriers in effecting a sale of the property, with financial abusers often withholding consent. A joint mortgage can cause economic hardship if the abuser refuses to pay their share of the cost with perpetrators using joint liability as a mechanism to enforce control.

There are likely to be difficulties in re-mortgaging the property with victims at risk of significant debt accrued in their names by their abusers. If the victim achieves a sale, with any equity in the property, she may be left with capital she is unable to invest in a new property due to her poor credit rating.

In terms of Universal Credit, there are strict capital thresholds for entitlement. To claim universal credit you require to have capital under £16,000, with a taper applying to any capital above £6,000. Though funds from the sale are not considered for a period of six months, this time period will not likely rectify the consequences of financial abuse on the survivor's borrowing capability and will lead to equity being used for daily living expenses.

3. **When public bodies, for example local authorities and housing associations, are pursuing debt owed to them, to what extent do they take into account the way debt can arise as a result of being in or leaving an abusive relationship? Do you have specific examples of rules and practices that need to change?**

At present a tenant's experience of domestic abuse, and its contribution to rent arrears, can be taken into consideration as part of the court's determination on whether it is reasonable to evict a social tenant in the whole circumstances of a case. However, this is only really given consideration at the stage where eviction proceedings have already been raised, and often not properly examined until a final hearing has been fixed and a tenant is likely to be called to give evidence. Few housing associations appear to take potential financial abuse into consideration when pursuing tenants for rent arrears and considering raising proceedings. Many women feel unable to discuss their experiences of domestic abuse with their housing association, particularly when their housing officers have a relationship with the abuser, as abusive partners are often the primary (or sole) contact for their housing officers.

The Housing Bill proposals to make it mandatory for housing associations to have a domestic abuse policy, and to support tenants who have accrued arrears which may be at least partly explained by the tenant having experienced domestic abuse, would potentially make a significant difference. Currently most Housing Associations appear to have no policy at all, despite most signing up to the CIH's 'Make a Stand' campaign in 2018, and the publication of the Domestic abuse good practice guide for social landlords published in 2019 by CIH and others, and those that do rarely have policies that meet the standards of the good practice guide.

It would be useful if social landlords were able to write off some or all of a tenant's arrears where it can be shown that they have accrued as the result of financial abuse.

In relation to Council Tax, the Local Government and Finance Act 1992 contains provisions for allowing local authorities to consider discretionary applications for Council Tax relief in England and Wales (s13A). However, there is no equivalent of s13A in relation to Scotland. The inclusion of a similar provision for Scotland would allow Local Authorities the power to provide relief or write-offs of council tax arrears to a person who may have accrued them as a direct result of financial abuse.

4. **Do legal aid rules take sufficient account of the financial circumstances of women who have experienced domestic abuse? Do you have any specific examples of rules or practices which need to change?**

Regulation 11 of the Civil Legal Aid (Scotland) Regulations 2002 requires that when assessing an applicant's financial eligibility, including the amount of any contribution that the applicant can be asked to pay towards the cost of the case, then the resources of the couple must be aggregated.

There are some exceptions including a contrary interest between the parties for which the legal aid is sought or that the person and their spouse or partner are living separate and apart. However, a contrary interest refers only to cases where the partner is seeking a different outcome from the person concerned. Even in cases where the partner's assets can be excluded, the applicant may be considered to own capital which may be in her name but which she has no access to.

Where there is financial abuse the victim will have issues accessing justice due to the household aggregate income requirement. The aggregate income requirement necessarily results in access to justice problems, with women experiencing financial abuse having limited access to the resources they are purported to have. This test fails to take into account the fact that victim-survivors of economic abuse do not have control of assets/income.

The eligibility for both advice and assistance and civil legal aid require to be reformed, such as increasing the threshold for entitlement, to reflect the seriousness of obtaining protective orders such as interdicts. In the context of gender-based violence, protective orders serve to limit or prevent contact from the person who poses a risk to the victim. Protective orders exist to safeguard victims of abuse. Reform in this area is required to ensure these protections are affordable and accessible.

5. **What are the particular barriers faced by those with No Recourse to Public Funds? And what can be done at a Scottish and local level to address these?**

There are significant barriers for those experiencing financial abuse who have no recourse to public funds (NRPF). NRPF restricts access of migrants to social security benefits, homelessness assistance and social housing.

With NRPF, the survivor will be placed at risk of destitution and homelessness. In terms of homelessness provision, there will be no legal remedy of judicial review available to them in terms of upholding the local authority's statutory duties under the Housing (Scotland) Act 1987 as they are exempt. This is particularly harmful for victims of abuse who will have no safeguards in place to facilitate their transfer to a safe environment. This places victims of abuse at further risk of exploitation.

Some survivors can apply for indefinite leave to remain through the Settle in the UK as a victim of domestic violence, form ILR SET DV application process, but this is limited to situations where the current visa is linked to a spouse or partner who is British, permanently resident or a refugee. This excludes a number of applicants who do not meet this criteria.

The survivor can also apply for temporary access (up to three months) to public funds through the Destitution Domestic Violence (DVV) Concession application. Both applications are made to the Home Office with the support of an immigration adviser.

It is clear that the imposition of NRPF is devastating to survivors of abuse who are forced to continue with the status quo within the abusive relationship or otherwise face destitution. A temporary solution is provided for three months only under the DVV concession application process. It is selfevident the current scheme will lead to a continuation of abuse within coercive relationships due to the lack of support available.

6. **Does the advice and information available to women experiencing domestic abuse adequately deal with financial barriers?**

Many women experiencing domestic abuse are unable to access advice and information for the reasons outlined above (if they are not eligible for legal aid because of capital that they have no access to, or if they have no recourse to public funds for example), and where support is available many are not aware that it is. Victims often take years to escape an abusive relationship because of this. It is incredibly intimidating to try to approach organisations for help if you don't think you will be eligible, or if even one organisation has turned you away telling you that you are ineligible.

Financial barriers are often discussed, but practical solutions are rarely offered, particularly in the longer term. Short term emergency funding can sometimes be found, but that is often not enough for someone planning to leave an abusive relationship, and women can find themselves returning to an abusive relationship when they are unable to support themselves and/or their children in the longer-term.

7. **To what extent is it the role of government to ensure that someone's economic circumstances do not prevent them from leaving an abusive relationship?**

8. **Please share any other comments you have with us.**

The Domestic Abuse (Protection)(Scotland) Act 2021 has yet to be brought into force, almost 4 years after it was enacted. It seems clear that emergency protection orders would make a significant difference for women experiencing domestic abuse, as would giving social landlords the power to intervene on behalf of a victim of domestic abuse to remove the perpetrator. Allowing the victim and any children of the family to remain in the family home would significantly reduce the impact of financial abuse and the risk of homelessness.

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