

Chapter 10:

Housing issues

10.1 Introduction

This chapter gives an overview of the options available to a survivor if she decides to stay or leave the home, and ways that she might get help to pay for accommodation. All of these issues can impact significantly on her financial situation and are therefore important to take into consideration when giving money advice.

Survivors' legal and financial rights and

responsibilities in relation to any shared home are covered in Chapter 7⁸³, and women may wish to check these first. In many cases, however, the survivor might need to leave the home she shares with her abuser (or where she is at risk) immediately in an emergency; so - while her housing status might influence if, when, and how she leaves - her safety and that of her children must always take priority.

10.2 Making the decision to leave or stay in the home

There are many variables that will impact on the survivor's decision to stay or leave the home, depending both on the status of the mortgage or tenancy (see Chapter 7), where she might go, and the general upheaval of moving out - including possible disruption to the children's schooling, and/or her employment. Regardless of all these factors, however, the decision to stay or go must ultimately be based upon her assessment of the likely risks to her safety and that of her children.

It is not cheap or easy to remove an abusive partner from the home, especially if he is the owner or tenant of the property. If the survivor does decide to remain in the home alone, with or without any court orders⁸⁴, there are steps she can take to increase her safety. For example, Sanctuary Schemes are

available in many areas, if she has ongoing concerns around safety once the perpetrator has left. These offer additional safety measures, such as alarms, and reinforced doors, and are normally provided alongside outreach support from a local domestic abuse agency. Contact the Community Safety Officer at the local authority for further information.

Those who do remain in the family home, or return to it following an injunction, might find it difficult to cover the mortgage or rent. Following the break up of any relationship, there is likely to be a significant drop in family income, and maintaining payment of a mortgage or rent from one source of income alone is often not affordable on a long term basis. Some help might be available from Housing Benefit or Support for Mortgage Interest; (see below, 10.4; see also Chapter 9

⁸³ See in particular, 7.6: Matrimonial home rights, and 7.10 and 7.11 for those who are not married.

⁸⁴ See Chapter 8 for legal options available to her.

for an overview of the state benefits and tax credits for which she might be eligible).

Many survivors do decide, or are forced, to leave their homes. Assuming their financial resources are limited, the short term options available to them include the following:

- Staying with friends or family; however, this could have safety implications and is not generally a long term solution.
- Seeking emergency accommodation, through one of the following -
 - Social Services – who might have a duty if there are any children who need emergency accommodation, and should help the survivor and her family to access this;
 - refuge accommodation – through a local specialist domestic/sexual violence service provider;
 - other emergency accommodation provided by the local authority on the basis that the applicant is homeless (see 10.3 below).

Many women are referred to a refuge by the

local authority when they make a homeless application. Staying in a refuge does not affect any rights a woman might have under the homelessness legislation, as this accommodation is for emergency and temporary residence, only. There is a national network of refuges, and survivors can be referred, or refer themselves, to a refuge in another area of the country if they are at risk in their own area. A list of refuge services is available on Women's Aid's Domestic Abuse Directory on their website. Refuges can also be accessed through the Freephone 24-hour National Domestic Violence Helpline 0808 2000247 (run in partnership between Women's Aid and Refuge).

If a survivor is working and not entitled to any benefits, she should check that she will be able to afford the rental and support costs associated with staying in a refuge.

If a survivor needs to leave urgently and has not had the opportunity to plan or has no money, a travel warrant might be available from Social Services to enable her to get to a refuge or other place of safety.

10.3 Homelessness and associated rights

People leaving home because of domestic violence are considered homeless if they cannot stay in or return to their home because of risk of violence to themselves or their children. They should not be treated as intentionally homeless; and in many circumstances, the local council might have to provide them with emergency accommodation. Those who are in fear of violence in their local area can ask for help from a different local council (women who are in short-term accommodation - such as a refuge – because of domestic abuse should also be considered homeless).

If a person is homeless, or is facing homelessness, the local authority has a duty to look at ways of helping them. Depending on their circumstances, this could simply mean providing information; or they might provide alternative accommodation.

Whether or not the local authority will provide accommodation, or simply offer advice, will depend on whether the applicant is deemed to be in "priority need". Homeless applicants with dependent children, pregnant women, most 16- and 17-year-olds, disabled people and those who are under the age of 21 and were in care after the age of 16 are among those

who automatically have a priority need for accommodation. Those who do not fall into one of the automatic priority need categories might also be considered to have a priority need if they are deemed vulnerable.

Some local authorities consider as vulnerable all those who have left their accommodation due to domestic abuse or threats of violence or abuse. When the local authority is considering whether an applicant is at risk of domestic abuse, they might ask for some evidence of the violence, for example a crime reference number, or a court order. However, if there is no evidence, they should still take the applicant's word that she has been a victim of violence or threats of violence. In any case, the council should take the following into account:

- The nature of the abuse, violence or threats of violence.
- The impact of the violence; if, for example, it has led to mental health problems, or these have been made worse by the violence.
- A lack of support networks.

The local authority should also consider the following:

- Whether **other suitable accommodation is available** to the client. Someone is homeless if it is not reasonable for her to continue to occupy the current accommodation; for example, if it is probable that staying in the accommodation will lead to domestic violence against her; or against a person who normally resides with her as a member of her family or any other person who

may reasonably be expected to reside with her;

- Whether she is **eligible for assistance**: a person subject to immigration control is usually not eligible for housing assistance, although exceptions apply.
- Whether she is **intentionally homeless**: if someone has had to give up a mortgaged property due to its becoming unaffordable now she is trying to manage alone, she should not be considered as making herself intentionally homeless; nor is she intentionally homeless if she has left because of violence or fear of violence.
- Whether there is there a **local connection** to the area. If there is no local connection, (such as her previous home, or her employment), the council might try to refer the applicant to another area where there is such a connection. However, it should not do so if the applicant or anyone she might reasonably wish to live with faces a risk of violence in that area. In that case, the local authority she first applied to should provide help.

If the local authority decides that it has a duty to re-house the survivor, it will provide temporary accommodation for a while. If the local council has accepted its duty to house a survivor of domestic violence, it might also store her belongings (though it might charge for this.)

See www.shelter.org.uk for further information on homelessness rights. See also the *Homelessness Code of Guidance for Local Authorities* (CLG, July 2006)⁸⁵.

10.4 Housing and council tax benefits

People on a low income, whether or not they are working, might be eligible for help with housing costs. This is available for

- rent;
- council tax benefit;
- mortgage interest payments (but only for those

claiming Income Support, income-based JSA or ESA, or pension credit: see Chapter 9).

Housing benefit and council tax benefit are paid by the local council, which assesses eligibility and amount payable by looking at

⁸⁵ www.communities.gov.uk/publications/housing/homelessnesscode

income, savings, and size of household. For anyone making a new claim after April 2008, rent payments must not exceed the Local Housing Allowance rate, which is linked to the bottom third of rents in that area. The amount paid will also be limited to the size and type of accommodation deemed reasonable for a household of that size; and – from January 2012 - there is also a cap on the maximum payable overall.

10.5 Claiming double rents

If a survivor has had to leave home for temporary accommodation or refuge for a period, and needs to claim housing benefit, she should – for a limited period - be able to claim both for the accommodation where she is temporarily living, and her previous home, if she intends to return to it, or is still uncertain what to do. If the local authority is reluctant to grant payment, this should be challenged.

Those survivors who are also claiming other benefits, such as IS, JSA or ESA, can claim Housing Benefit at the same time through Jobcentre Plus. Those who are not eligible for any other benefits should contact their local council direct. The council will usually deal with the claim within 2 weeks, and housing benefit will usually be paid from the week after the claim has been received. Those who urgently need help in paying rent in advance might be eligible for a Crisis Loan from the Social Fund (see Chapter 9).

The current Housing Benefit and Council Tax Benefit Guidance for local authorities⁸⁶ states that they should treat a claimant as occupying the former dwelling as her home for a maximum of four benefit weeks, if she left her previous home due to violence or fear of violence, and has a liability to continue to pay for it; and that they should make payments for rental liability on both the claimant's former and current homes in such circumstances (up to an absolute maximum of 52 weeks).

10.6 Future re-housing

Survivors who have left their previous home and are unable to return will at some point need to look at their longer term housing options. These could include the following:

- **Re-housing** by the local authority or local housing association: the local council's housing department might have a duty to help with re-housing in some circumstances, although this can take time, and applicants might only be offered 'hard to let' accommodation.
- **A mutual exchange** with another tenant, if the survivor still has her tenancy but is unable to return to it. This carries with it its own risks, however, as the person with whom a client exchanges with might (knowingly or not) pass on information which could lead to the

discovery of the new address.

- **Privately renting:** a deposit and at least one month's rent in advance is usually needed to rent privately. Some (not all) local authorities have a Rent Deposit Scheme to help with these initial costs. If this is not available, a local charity might run a similar scheme. If a client is in receipt of benefits, they will usually be eligible for some help with rental costs from Housing Benefit. However, when renting privately, usually only a proportion of the costs are met and they are restricted to whatever the Local Housing Allowance will cover.
- **Buying:** in some circumstances a survivor might be in a financial position to be able to purchase another property. She should be

⁸⁶ www.dwp.gov.uk/local-authority-staff/housing-benefit/claims-processing/operational-manuals/housing-benefit-guidance/ paras. 3.414 – 3.631

advised however; not to take on more than she can realistically afford.

- **Sharing with friends:** if a survivor is young and has no children, her options might be even more limited, as the cost of living alone can be very expensive. In addition, there are limits on the amount of Housing Benefit that can be paid to claimants under age 35 and this limit should be checked out before

taking on any tenancy. Therefore, sharing the costs with friends, where it is safe to do so, could be the best alternative.

The longer term options available might also be affected by any outstanding rent arrears or other housing related debt. See Chapter 6 for guidance on prioritising and dealing with these debts.

10.7 Summary

- The survivor's rights and responsibilities in relation to her home might influence her decision on whether or not to leave, stay, or return; but safety must be the first consideration.
- Survivors needing to leave their homes have options regarding emergency accommodation, including going to a refuge.
- People experiencing domestic abuse are considered homeless and should also be treated as in priority need of help by the local authority.
- There are some benefits available to help with housing costs, including the facility to cover both previous and new accommodation for a short time in some circumstances.
- Some longer term housing options are considered.