

# Brexit: impact on EEA nationals searching for a refuge

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## 1. Introduction

*"Because it's not my language, because a different country and all those things stopped me to ask for any help at all." (EEA national survivor of domestic abuse, 2019)<sup>1</sup>*

Drawing on the experiences of 22 women supported by Women's Aid's No Woman Turned Away (NWTa) project, as well as expert opinion from the organisations Citizens Advice Bristol and Rights of Women, this briefing explores the experiences of domestic abuse survivors who are EEA<sup>2</sup> nationals living in England during their search for a refuge place. It investigates how plans for the UK to leave the European Union (EU) may impact survivors' ability to secure a refuge, and provides recommendations for government on how to minimise any negative consequences of Brexit.

Language and cultural barriers already make it harder for domestic abuse survivors who are EEA nationals to receive the help they need. In addition, EEA nationals are commonly refused means-tested benefits, sometimes due to lack of eligibility and sometimes due to the failure of benefit agencies to correctly assess benefit entitlement. We raise concerns that the EU Settlement Scheme, which is the mechanism for enabling EU citizens to continue living in the UK after Brexit, is in its current formation not accessible to survivors, and may increase obstacles for EEA nationals fleeing domestic abuse.

## 2. EEA nationals' experiences of searching for a refuge

### 2.1 EEA nationals and the No Woman Turned Away Project

NWTa has been funded by the Ministry of Housing, Communities and Local Government (MHCLG) since January 2016. It provides specialist support to women who face barriers in their search for a refuge place after fleeing domestic abuse, alongside dedicated monitoring and evaluation work. Since 2016, NWTa has supported at least 22

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<sup>1</sup> This quote is from one of the participants in our most recent report *Nowhere to Turn 2019*.

<sup>2</sup> EEA stands for European Economic Area. It includes EU countries, as well as Norway, Iceland and Liechtenstein.

women from EEA countries.<sup>3</sup> Eleven of these were working at the time of contact, three were financially self-sufficient in another way, three were family members of EEA nationals, four were receiving welfare benefits, and one did not fit into any of these categories.

## 2.2 Barriers faced by EEA survivors

Analysis of the data relating to the 22 EEA nationals supported by NWTa shows that the most common reason (15 out of 22) for EEA Nationals to be referred was that they had been refused means-tested benefits (on the basis that they did not have an eligible right to reside, see Table 1).

Rights of Women (ROW), which offers legal support to women from EEA countries, suggests that women who are eligible for means tested benefits are commonly unduly refused access to them. Often this is due to the failure of benefit agencies (Department of Work and Pensions, Her Majesty's Revenue and Customs) to correctly assess EEA nationals' entitlement to benefits, especially to correctly negotiate the complexities of EU Free Movement law and rights under the new EU Settlement Scheme.

Refusal of benefits represents a significant barrier to accessing a refuge because the vast majority of refugees depend on public funds, specifically housing benefit or the housing element of Universal Credit, to pay for a woman's accommodation.

Other barriers for the women included: ties to their local area, for example their work place or their children's school, requiring an interpreter, mental health support needs, fleeing with a male child over the age of 14, disabilities, and alcohol support needs.

**Table 1: Support needs and circumstances of women supported by the NWTa specialist practitioners<sup>4</sup>**

	Number of women	Percentage out of total number of women
Women who had been refused means-tested benefits including Housing Benefit/the housing element of UC (on the basis that they did not have an eligible right to reside)	15	68.2%
Women who were tied to their local area	10	45.5%
Women with same language support needs	9	40.9%

<sup>3</sup> The nationality of survivors is not always known to the NWTa specialist practitioners.

<sup>4</sup> The support needs listed here are the most common reasons for referral into the NWTa project. Many of the EEA nationals who were supported had more than one of the listed support needs.

Women with mental health support needs	5	22.7%
Women with older male children	2	9.1%
Women who had one or more disability	1	4.5%
Women with alcohol use support needs	1	4.5%
Women with large families (4+ children)	0	0%
Women with drug use support needs	0	0%
Women previously evicted from refuge	0	0%
Women with an offending history	0	0%

## 2.3 Sofa-surfing, sleeping rough, and further abuse: What happened while searching for a refuge?

We found that half of the EEA nationals supported by the NWTa project spent time sofa-surfing whilst waiting for a refuge space. Our recent *Nowhere to Turn, 2019* report shows how sofa-surfing is wholly inappropriate for what women need at this vulnerable time in their lives. The report details the inability of survivors to process what has happened, their feelings of a lack of safety, the potential for additional abuse, and the negative impact on friendships. At least two of the 22 women slept rough: one woman slept in her car and one slept on the street.

Five women (22.7%) experienced further abuse from the perpetrator whilst waiting for a refuge space. Three (13.6%) called the police out to an incident, two (9.1%) disclosed that they were scared to go outside, one (4.5%) was physically injured, and another (4.5%) spent time as inpatient in hospital after attempting to take her own life.

## 2.4 How many women found suitable accommodation?

Table 2 shows that only 9.1% (two women) of the EEA nationals who were supported by the NWTa project since 2016 were eventually accommodated in a suitable refuge. In comparison, in our first year report, second year report, and third year report, we found that 25.5%, 21.2%, and 22.3% of the total number women supported by the NWTa project that year, respectively, were accommodated in a suitable refuge.<sup>5</sup> None of the

<sup>5</sup> Our first year report *Nowhere to Turn* is available here: <https://www.womensaid.org.uk/research-and-publications/nowomanturnedaway/>

Our second year report *Nowhere to Turn 2018* is available here: <https://www.womensaid.org.uk/research-and-publications/nowhere-to-turn-2018/>

Our third year report *Nowhere to Turn 2019* is available here: <https://www.womensaid.org.uk/no-woman-turned-away/>

EEA nationals who had been refused means-tested welfare benefits found a suitable refuge.<sup>6</sup>

For three out of the 22 women, the final outcome was that they were accommodated in emergency accommodation, which, as detailed in *Nowhere to Turn, 2019*, does not bring with it the support and sense of safety that a refuge can provide. Only one of the survivors accommodated in emergency accommodation was from the group of women who had been refused means-tested welfare benefits. The remaining women, including 14 out of the 15 women who had been refused means-tested welfare benefits, had to try to find alternative arrangements.

Three women were staying with friends and family at the time of case closure. Five women were living with the perpetrator. One survivor returned to their country of origin and one woman was continuing to sleep rough.

**Table 2: Outcome at the end of support from the NWT specialist practitioner**

	<b>Number of women</b>	<b>Percentage of total number of women</b>
Outcome unknown/Lost contact	4	18.2%
Staying with friends and family	3	13.6%
Stayed put – living with perpetrator	3	13.6%
Accommodated in suitable refuge space	2	9.1%
Returned to perpetrator	2	9.1%
Emergency accommodation different local authority (long-term)	1	4.5%
Emergency accommodation same local authority (long-term)	1	4.5%
Emergency accommodation different local authority (short-term)	1	4.5%
Returned to country of origin	1	4.5%
Sleeping rough	1	4.5%
Other	3	13.6%

<sup>6</sup> One of the women who was accommodated in a suitable refuge had language support needs and/or cultural barriers, and one was waiting for a decision regarding her application for benefits.

## 3. The immigration rights of EEA nationals

### 3.1 Current EEA immigration law

Under current EEA law, EEA nationals automatically have a right to reside in the UK if they are in the UK for certain reasons (e.g. as the family member of an EEA national who is working) or are undertaking certain activities in the UK (e.g. working, studying, running a business). Certain types of right to reside, for example the right to reside as a worker or self-employed person, carry with them the right to access welfare benefits if the person meets the relevant criteria, whereas other types of right to reside (e.g. carers from non-EEA states whose residence is required to enable a British child or dependent adult to live in the UK) do not.

### 3.2 The EU Settlement Scheme

After the UK leaves the EU, EEA citizens living in the UK, including survivors of domestic abuse, will no longer have an automatic right to reside in the UK under EU law, and this may impact on their ability to claim the benefits necessary to access refuge. Current arrangements are that EEA nationals must apply to the EU Settlement Scheme, which has been fully open since the 30<sup>th</sup> of March 2019.

- *Settled status*: EU citizens who have lived in the UK for five continuous years are eligible for settled status. Settled status offers Indefinite Leave to Remain (ILR) in the UK and allows unrestricted access to welfare benefits and to social housing and homelessness assistance.
- *Pre-settled status*: EU citizens who have lived in the UK for less than five years are eligible for pre-settled status. Pre-settled status is a grant of five years limited leave to remain in the UK. After a person has lived in the UK for a continuous period of five years they can apply for settled status.

Pre-settled status in itself is *not* a qualifier for means-tested benefits, social housing or homelessness assistance. EEA nationals with pre-settled status are only able to access means-tested welfare benefits, homelessness assistance or eligibility for housing allocation from the council when they continue to have an eligible EU law derived right to reside, for example as a worker or self-employed person. When free movement rights cease to exist in the UK after Brexit, the law as it currently stands will not allow anyone with pre-settled status to access

welfare benefits (including housing benefit or the housing element of Universal Credit), regardless of whether they are for example working or self-employed.

Rights of Women suggests that EEA nationals are currently commonly wrongly refused means-tested benefits not only due to the complexity of the rights of people with pre-settled status to access welfare benefits (no right to access means-tested welfare benefits through pre-settled status itself, while at the same time retaining a right to access means-tested benefits based on an existing eligible right to reside under EU law), but also due to poor communication regarding the rights of people with settled status.

## 4. The impact of the EU Settlement Scheme on EEA survivors

### 4.1 Proving settled status: obstacles for survivors

The charity New Philanthropy Capital (NPC), as well as Rights of Women and Citizens Advice Bristol, point out that if women who are fleeing domestic abuse depend on partners or ex-partners for evidence, they will find it harder to prove their right to settled status under the EU Settlement Scheme.<sup>7</sup> Our *The Economics of Abuse* report showed that over a third of survivors of domestic abuse report financial abuse<sup>8</sup> from the perpetrator and many flee their abuser with very little financial capital<sup>9</sup>. *Nowhere to Turn, 2019* showed that women fleeing domestic abuse often also flee with very few personal belongings, sometimes with just “the shirt on her back”<sup>10</sup>. This means that providing proof of identity and residency, required under the EU Settlement Scheme, may prove problematic. Precarious living arrangements, which often include homelessness, and/or a complex residence history<sup>11</sup>, may make it difficult for survivors to engage in the online application process<sup>12</sup>.

Research by Imkaan has shown that a woman’s insecure immigration status is frequently exploited by domestic abusers, who may withhold the evidence women require to prove length of residency, as well as access to the internet and/or

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<sup>7</sup> See <https://www.thinknpc.org/wp-content/uploads/2018/10/How-the-EU-settlement-scheme-affects-women-and-girls.pdf>

<sup>8</sup> Financial abuse is usually used to describe denying or restricting access to money, or misusing another person’s money.

<sup>9</sup> As reported in our report *The Domestic Abuse Report 2019 – The Annual Audit*, 38.9% of survivors of domestic abuse report financial abuse to the service that they work with.

<sup>10</sup> This quote is from one of the survivors who took part in the research for *Nowhere to Turn 2019*.

<sup>11</sup> See *Nowhere to Turn, 2019*: <https://www.womensaid.org.uk/wp-content/uploads/2019/09/Nowhere-to-Turn-2019-Full-Report.pdf>

<sup>12</sup> See <https://www.thinknpc.org/wp-content/uploads/2018/10/How-the-EU-settlement-scheme-affects-women-and-girls.pdf>

telephone<sup>13</sup>. Non-EU citizen family members seeking settled status may be at even greater risk of exclusion from the scheme, since they cannot qualify in their own right, but only as a result of their relationship to a qualifying person. *Nowhere to Turn, 2019*, shows that for family members of EU citizens, concerns around a woman's immigration status may put pressure on her to reconcile with a perpetrator<sup>14</sup>.

Barriers to accessing legal aid mean that those who need legal advice to secure settled status cannot always access it.<sup>15</sup> According to Rights of Women:

*"Legal support is critical in complex cases including those where women cannot produce an identity document, have incomplete or no evidence of their residence in the UK, have criminal convictions that may impact on their eligibility or are dependent on an abusive family member to qualify."*

However, Rights of Women points out that:

*"Legal aid has not been made available to victims of domestic violence who need help to apply to the EU Settlement Scheme. Instead, government has provided funding to 57 voluntary and community sector organisations nationwide to support up to 200,000 vulnerable people apply to the scheme. Only some of these organisations have specialist legal expertise with most unable to help with complex cases. The funding runs out at the end of March 2020 just at a time when work becomes more urgent to get people through the scheme before it closes."*

## 4.2 Impact of the EU Settlement Scheme on survivors after Brexit

Given the obstacles survivors face in providing the evidence requested by the EU Settlement Scheme, we are concerned that once this becomes a requirement for remaining in the UK and for accessing welfare benefits, vulnerable survivors of domestic abuse will be put at a considerable disadvantage. According to the sector experts that we consulted, the difficulty for survivors to prove settled status may impact them in a variety of ways after they lose their EU law derived immigration rights:

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<sup>13</sup> See [https://drive.google.com/file/d/0B\\_MKSoEcCvQwUEQtdlo2ZWxVY0k/view](https://drive.google.com/file/d/0B_MKSoEcCvQwUEQtdlo2ZWxVY0k/view)

<sup>14</sup> See *Nowhere to Turn 2019*: <https://www.womensaid.org.uk/wp-content/uploads/2019/09/Nowhere-to-Turn-2019-Full-Report.pdf>

<sup>15</sup> See <https://rightsofwomen.org.uk/wp-content/uploads/2019/02/Briefing-on-LASPO-Review-report.pdf> and <https://www.womensaid.org.uk/wp-content/uploads/2019/03/Economics-of-Abuse-Report-2019.pdf>

- 1) Survivors who cannot supply sufficient or acceptable evidence to show that they have lived in the UK continuously for five years, even when they have done so, may be given pre-settled status instead of settled status. Since pre-settled status does not provide access to means-tested welfare benefits, and access to benefits is often a requirement for accessing a bed space in a refuge, this may prevent them from being granted safety.
- 2) The applications of survivors who cannot supply straightforward evidence to show that they have lived in the UK continuously for five years may be delayed, taking considerably longer to be approved than straightforward applications. According to Rights of Women *"it's only straightforward applications that can expect a timely decision from the Home Office. Women with issues in their case face lengthy delays which means they are often prevented from accessing benefits and housing while their case is decided. There is no system in place to prioritise vulnerable applicants or expedite cases where there are protection needs."*
- 3) Survivors who cannot provide ID documents (often due to the perpetrator's actions in taking or destroying these) may have to apply to the EU Settlement Scheme via a paper application form, which can take a considerable time (up to six months) to be decided.
- 4) Survivors who can only provide expired ID documents (again, often due to the perpetrator's actions in preventing the survivor from renewing these) may have to renew their ID documents before applying electronically to the EU Settlement Scheme. This can be expensive and in the case of some EU countries (for example Romania and Germany) it requires the person to travel back to their country to do so. Alternatively, survivors can apply to the EU Settlement Scheme via a paper application form which, as stated above, takes a considerable time (up to six months) to be decided.

We are concerned that the evidential requirements in relation to residence are too inflexible to cater to survivors of domestic abuse and that applications which cannot be evidenced in a straightforward and simple manner will be routinely delayed. Survivors of domestic abuse will therefore be left unable to access means-tested welfare benefits for long periods. Wider reforms that ensure all women with insecure immigration status can access the public funds they need to secure support and safe accommodation when escaping domestic abuse are therefore essential.



## 5. Conclusion and Recommendations

### 5.1 Conclusion

EEA nationals fleeing domestic abuse already experience often unimaginable difficulties when searching for a refuge. Especially those who have been refused means-tested welfare benefits face a near impossible task to access a safe place to live. Many experience homelessness and further abuse. Currently the EU Settlement Scheme is the only option for EEA nationals in the UK to secure Indefinite Leave to Remain (ILR) after Brexit, which, amongst other things, brings with it rights to apply for welfare benefits. We are concerned that the EU Settlement Scheme is inadequate for survivors of domestic abuse because:

- The complexity of rights to access means-tested welfare benefits (particularly for people with pre-settled status) is currently causing survivors of abuse to be wrongly refused benefits.
- Settled status is only granted to EU citizens who have lived in the UK continuously for five years. The fact that pre-settled status itself does not provide an eligible right to reside in relation to means-tested benefits will result in survivors of domestic abuse being left destitute after Brexit.
- The application process poses significant challenges for survivors, due to potential difficulties in proving identity and residency, and as a result of the perpetrator using immigration status as a form of control.
- The complexity of applications from survivors of abuse who are unable to provide valid ID documents and straightforward evidence of residency means that their applications under the scheme are severely delayed.

This means that, as it stands, after EU law derived rights to reside cease in the UK, an increased number of women will likely be prevented from accessing housing benefit or the housing element of Universal Credit, which is essential to pay for their housing costs within refuge. This may further increase the risk of homelessness and additional abuse for EEA nationals who are fleeing domestic abuse. In addition, the financial abuse<sup>16</sup> many survivors experience from the perpetrator and the fact that many flee with very little financial capital<sup>17</sup> means that restricting EEA nationals' ability to apply for

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<sup>16</sup> Financial abuse is usually used to describe denying or restricting access to money, or misusing another person's money.

<sup>17</sup> As reported in our report *The Domestic Abuse Report 2019 – The Annual Audit*, 38.9% of survivors of domestic abuse report financial abuse to the service that they work with.

other welfare benefits may leave those fleeing domestic abuse vulnerable to poverty at a time when they require help and support.

## 5.2 Recommendations for government

- Ensure the EU Settlement Scheme is accessible to survivors of domestic abuse in reality – including flexibility in evidential requirements.
- Apply a ‘presumption of belief’ in relation to evidence of residence to all applications from survivors of abuse.
- Prioritise applications to the scheme from survivors of abuse. Ensure that all applications (electronic or paper-based) where the applicant has identified as a survivor of abuse be decided within two weeks of receipt.
- Grant EEA nationals who have lived in the UK for less than five years, but have provided evidence that they are survivors of domestic abuse and evidence that they are ‘destitute’ at the point of application, pre-settled status with full access to public funds (i.e. an eligible right to reside in relation to means-tested benefits, social housing allocation and homelessness assistance).
- Reform the eligibility criteria for the Destitution Domestic Violence Concession (DDVC) and Domestic Abuse Rule to ensure all survivors with insecure immigration status, and not only those on spousal visas, can apply for a life-saving refuge space.
- Provide specialist level legal advice for survivors applying for the EU Settlement Scheme.
- Deliver a long-term funding solution for domestic abuse services, including specialist services led ‘by and for’ groups with protected characteristics, and ensure they are resourced to meet migrant women’s specific needs.