

## **Wear Valley District Council Housing Services Department**

### **Domestic Violence Policy & Procedure**

#### **Introduction**

This policy and procedure document sets out what Wear Valley District Council Housing Services Department hopes to achieve in relation to domestic violence.

#### **Statement of Intent**

We condemn domestic violence and recognise that it is a very serious offence that impacts on both individuals and communities. The Housing Services Department is committed to working towards providing the best and most appropriate support and services for people experiencing or affected by domestic violence.

We are committed to playing a major role in awareness raising and bringing about social change to reduce both the incidence and acceptability of domestic violence.

We believe that none of our residents or customers should live in fear of violence from a spouse or partner, former spouse or partner, or other member of their household. We are committed to offering assistance to any of our residents or customers who are suffering from domestic violence or threats of violence from someone within their home or from someone outside their home.

#### **What do we mean by Domestic Violence?**

Wear Valley District Council Housing Services Department has adopted the following definition of domestic violence.

**‘The term ‘domestic violence’ shall be understood to mean any violence between current or former partners in a close relationship, or a current or former family member, wherever and whenever the violence occurs. The violence may include physical, sexual, serious emotional or financial abuse’.**

Examples of domestic violence include:

- Physical abuse, e.g. slapping, pushing, kicking, punching and stabbing, attempted murder or murder;
- Sexual abuse e.g. rape and non consensual sex acts;
- Emotional or psychological abuse e.g. intimidation, isolation, verbal abuse, humiliation, degradation, not allowing friends or relatives to visit or phone, destruction of belongings, threat of legal sanctions e.g. deportation, custody of children etc;

- Financial abuse, denial of rights or restriction of personal freedom e.g. withholding money or medical help.

Domestic violence takes place in a range of situations, including;

- where a woman is the victim;
- where a man is the victim;
- lesbian and gay relationships;
- where the victim is a child or young person under 18 years old;
- where the victim is a more vulnerable adult i.e., an older or disabled person.

The British Crime Survey 2000 highlighted that, nationally;

- Of all crimes reported more than one in 20 were classified as domestic violence.
- Domestic Violence accounts for almost a quarter (23%) of all violent crime
- No other crime has such a high rate of repeat offences on the same victim
- The Police receive an average of 1,300 calls every day about Domestic Violence
- In 1999, 37% of women murder victims were killed by their present or former partners, (compared to 6% of men) – more than 2 a week
- A Domestic Violence incident takes place every 6 seconds in this country

In the majority of cases victims of domestic violence are women with the majority of perpetrators being men. On average, men who experience domestic violence make a report quite quickly. However, women tend not to report domestic violence immediately and, on average, will experience domestic violence 35 times before asking for help. (Tearnsire, S. "Analysis of Cohort", in Bewley, S Friend, J and Mezey G (eds) Violence Against Women. London, RCOG, 1997).

A primary focus of this policy therefore is violence committed against women however the guidelines and procedures set out in this policy will also apply to other relationships.

## **Policy Aims & Objectives**

The key objectives of the Domestic Violence Policy are:

- To improve our response to domestic violence and increase the support it provides
- To assist, wherever possible, those threatened with or suffering violence by providing secure accommodation, free from the threat or fear of violence.
- To provide advice to the victims of violence on alternate sources of accommodation and support, including assistance from voluntary organisations, in cases where we are not in a position to provide secure accommodation.
- To take a victim-centred approach in responding to cases of domestic violence.

- Recognising that evidence of domestic violence may not always be readily available, we will accept the victim's account and will not insist on the victim providing proof of evidence. Although some form of evidence will be required where legal action is to be taken and verification may be required where other potential solutions are being considered such as a management transfer.
- To take action to evict the perpetrators of domestic violence using the powers available to us under the Housing Act 1996, and other relevant legislation, subject to the wishes of the victim.
- To take a flexible approach in responding to incidents of domestic violence and take account of the varying circumstances of victims of violence and the different courses of action, which may be possible and appropriate.
- To be consistent with other policies, for example policies on racial harassment, anti-social behaviour, allocations, and equality and diversity.
- To comply with all relevant legislation, regulatory guidance, and Codes of Practice and to learn from examples of good practice.
- To keep up to date records of local agencies that could offer advice or support to victims of domestic violence

## **Policy Context**

The Housing Services Domestic Violence Policy & Procedure supports the Corporate Objectives contained in Council Plan for 2004-2007 around the following priorities:

### **Crime – Corporate Objective**

- **The Council will design its services to increase community safety and crime prevention and work closely with key partners to improve crime reduction**

### **Health – Corporate Objective**

- **The Council will use its services to help improve the health and wellbeing of Wear Valley residents and promote healthy lifestyles**

## **Key points of policy**

The Director of Housing Services is responsible for the overall implementation of the Policy. The Tenancy Enforcement Manager will act as the main point of contact for complainants of domestic violence but will work in close co-operation with other teams including Supporting People Team, Homeless Officer and Neighbourhood Managers.

If someone has a housing problem caused by domestic violence they can expect the following response from us.

- If possible we will arrange for them to speak to a member of staff in private and at a place they choose;
- If they feel more comfortable speaking to a member of staff who is the same sex as them, we will arrange this if possible. Many women may find it impossible to talk to a male interviewer about their experiences;
- If an interpreter is required we will arrange this, establishing first, if possible, that the person would be happy with this and whether they also prefer a same sex interpreter;
- We will not ask them to prove that they have experienced violence;
- We will listen to them and give them time to explain their situation;
- We will not contact the person responsible for the violence unless requested to do so by the victim. As an alternative, in exceptional circumstances at some point in the future it may be necessary to contact the perpetrator about resolving a tenancy matter, but only after any issues about safety have been considered.
- We will not insist that they take legal action against the violent person but offer advice regarding contacts should they wish to pursue this.
- We will provide regular telephone calls and visits by Street Wardens in cases where victims fear repeat incidents
- We will not pass on messages from the perpetrator to the victim or act as a go between;
- We will treat all information received in confidence and we will only pass on information to other agencies if they give their permission, unless we are required to do so by law, or the information is necessary for the protection of children;
- If in the future they experience more problems, they can come back to us for help;

We will maintain confidentiality in dealing with cases of domestic violence. Separate records (from the standard house files) will be kept. We will seek permission from those reporting domestic violence before disclosing information to any other party other than the victim.

The nature of domestic violence means that some cases will be difficult to resolve or bring to an end. However, we will ensure that complainants are clearly advised when no further action can be taken to resolve an issue and a case being closed. We will seek feedback from the complainant on how well the case has been handled.

Some victims of domestic violence do not wish to leave their home and will be seeking advice and assistance to help them remain there in safety. Alternatively, some clients may not be aware of other options to re-housing.

Housing officers are aware that there are legal procedures that seek to protect women from violent partners and allow them to remain in their homes. These include for example Occupation Orders and non-molestation orders. However, such measures are not always quick or effective and clients will always be advised to seek legal advice before considering them.

We can not find a solicitor to act on behalf of a client although we can provide information about solicitors in the district. Council officers will never seek to influence an applicant's decision.

**Regardless of a woman's tenancy housing officers can:**

- Liaise with Housing Benefit section to ensure double payments (emergency accommodation and tenancy) if necessary. This could apply when a woman is forced to leave home and live in temporary accommodation and is therefore liable to pay 2 rents
- Offer initial advice on homeless procedures and arrange for a homeless interview if required
- Arrange emergency accommodation on a temporary basis by making a referral to the Women's Refuge or the Homeless Officer
- Offer advice and help on how to put extra security measures in their home
- Offer support and advice about tenancy enforcement and legal aspects of injunctions
- Make a referral to other partner agencies and organisations that can help;

**If the woman is a council tenant, additional assistance from housing officers can take the form of:**

- Ensuring repairs and graffiti that result from violence are processed as an emergency (NB. Attempts may be made to recharge the perpetrator of any damage if possible)
- Using Housing Act 1996 powers to take enforcement action against the perpetrator of the violence or seek an injunction on behalf of the Council if the perpetrator is also a council tenant, having first received the consent of the victim

Under section 152 of the Housing Act an application can be made for an injunction against any person to prohibit that person from engaging in or threatening to engage in conduct causing or likely to cause a nuisance or annoyance to others. This would cover a partner living with or an ex-partner visiting the home of a council tenant. If the tenant perceives there is a real threat attached, an injunction with the power of arrest can be applied for. This gives police the power to arrest the perpetrator if the tenant reports the perpetrator has attempted to threaten or harm the tenant.

Domestic violence victims may need immediate assistance with obtaining money, clothes etc. For people not in emergency accommodation, a referral to the Benefits Agency can be made if required.

## **Domestic Violence and Child Protection**

Where children and young people are living in a situation involving domestic violence Wear Valley District Council recognises the need to consider whether they are at risk of harm and need protection or support.

While domestic violence and child abuse do not always exist together it can be an important indicator of a child at risk of harm from either actual physical, sexual and/or emotional abuse or by exposure to abusive relationships.

Research carried out by NCH Action for Children in 1994 called “The Hidden Victims – Children and Domestic Violence” showed that 87% of respondents said that their children were aware of the violence at home. In 27% of cases the children were hit or abused themselves.

In incidents of domestic violence the possibility of child abuse must be explored. Listening to the child him/herself is a priority. Factors which officers should consider are:

- The risk of physical injury – for example, where the child is young or disabled; where weapons are used; where there are frequent episodes of violence;
- The risk of emotional abuse – for example, where children are used to get or give information or where children are made to feel responsible for the violence because of their own actions
- The risk of neglect – for example, by withholding or misusing money resulting in an inadequate diet or insufficient clothing
- The risk of sexual abuse – where sexual abuse of a woman by her partner is a feature of domestic violence
- Where there are concerns officers should make a referral to the County Durham Social Care & Health or Durham Constabulary. Some of the following information will be important in determining whether a referral needs to be made.

## **Marginalised Groups**

The Housing Services Department recognises that customers from marginalised groups face additional barriers to accessing help and is committed to adopting a multi agency approach in addressing these barriers:

### **Black and Minority Ethnic Groups (BME):**

- Language barriers prevent many BME customers from seeking help – We will provide interpreters when requested and seek to ensure they are of the gender requested by the victim.
- Fear of isolation from their communities may prevent BME customers from seeking help coupled with a lack of recognition and understanding of cultural

needs by service providers – We will strive to be sensitive to cultural differences and provide a service that respects those differences.

### **Disabled People:**

- 12% of disabled women aged 16-29 had experienced domestic violence in 1995 (British Crime Survey 1996). Disabled customers may experience different forms of domestic violence from their abusers such as prevention of mobility, denial of communication and neglect.
- Lack of understanding of the range of care services a disabled customer may need when leaving a violent relationship may hinder our response to disabled customers – We will ensure that services are co-ordinated with partner agencies to ensure a high quality appropriate response.

### **Same sex relationships:**

- Fear of homophobia from agencies may inhibit the reporting of domestic violence in same sex relationships. A customer's sexuality may not be widely known by their friends, family or colleagues so there is an added stress of coming out – We will ensure confidentiality and equality of access to all service users.

### **Older Women:**

- Older women have often suffered domestic violence for a long period of time whilst bringing up a family, there are often fears that they will be disbelieved or judged for not coming forward sooner. The perpetrator may also be a carer.

### **Travellers:**

- Travellers may fear discrimination from service providers and isolation from their own community. There may also be a lack of understanding of cultural needs by service providers - We will strive to be sensitive to cultural differences and provide a service that respects those differences

### **Young People and young Parents (under 18):**

- Young people under 18 may be forced to stay with older violent partners, as they can't access housing. Domestic Violence may result in truancy from school or homelessness due to running away from home. There is evidence showing that young women fleeing domestic violence are vulnerable to sexual exploitation, particularly where young women are coerced into prostitution – We will be sensitive to the specific needs of young people suffering Domestic Violence and ensure that our services are co-ordinated with other agencies supporting the victim. We will seek the victims consent to make appropriate referrals to partner agencies.

## **Training**

The success of the Domestic Violence Policy and proper implementation of the accompanying procedures depend on the knowledge and confidence of the staff implementing them.

Staff will be trained and expected to support the department's commitment to dealing with domestic violence. There will be thorough induction training for new staff and regular updates for all staff who have responsibilities for any part of the Domestic Violence policy.

Wear Valley District Council Housing Services Department has developed specific procedures for community housing employees when dealing with customers where domestic violence is an issue.

## **Procedures For Employees Working With People Experiencing Or Affected By Domestic Violence**

The attached procedures compliment Wear Valley District Council Housing Services Department Domestic Violence Policy. They should be referred to when working with customers who are experiencing or affected by domestic violence.

Please note that customer has been used throughout to represent adults and children affected by or experiencing domestic violence.

## **Safety and Confidentiality**

When a customer approaches the Council they must feel able to do so in the knowledge that we will take all possible steps to ensure their safety and that confidentiality will be maintained. Officers must be aware that breaching confidentiality could put the customer, their family and workers in danger. Priority should be given to the immediate safety of the customer and their children.

Be clear about confidentiality, information will only be shared on a need to know basis when it is in the best interests of the customer. Be clear about when you might need to exchange information. Make sure you have the customer's agreement if you need to share the information with other agencies.

If you suspect that someone is affected by domestic violence do not ignore it.

Never give information about the customer or their whereabouts to anyone outside of your department, including members of their family.

Never pass on letters from the perpetrator.

Where possible interview in a private room rather than an open office.



Try to make arrangements for accompanying children to be looked after during the interview.

Make sure you have the customers agreement to send letters or phone them at home, make sure you get contact numbers.

Respect their wishes if they do not want to be contacted at home.

Never get involved with joint sessions between the customer and the perpetrator.

The issue of confidentiality is paramount in cases of domestic violence. If a general enquiry is made by a third party, no indication should be given that a particular person is known to the council and the fact that an enquiry was made and any further details should be passed on to the person concerned immediately.

### **Creating a safe environment to discuss domestic violence**

Customers should be given the choice of seeing someone of the same gender and ethnic origin, where possible.

Some customers may want to bring a friend, advocate or a member of the family with them. In such cases do not insist on seeing them on their own but make it clear to them that they have the option of coming on their own in the future.

Offer an interpreter if the customer's first language is not English, or who need sign language interpreters.

If they bring a member of the family who is interpreting for them let them know that you may be able to arrange for an interpreter for a follow up visit if necessary.

Ensure that the interview takes place in an accessible venue.

### **Good Practice guidelines for providing advice and support**

Consult with specialist agencies and individuals if the customer gives their permission. Never seek to give specialist advice in areas you have no training but refer to the most appropriate agencies with those skills.

Find out what the customer wants.

Consider and address the additional needs of marginalised groups as outlined in the Domestic Violence Policy.

If forms are to be completed be mindful of any language or literacy problems, give the option of filling in the form if they want you to, always making sure that they agree to and understand the contents.

Give the customer time to share and talk about their experiences, feelings and fears.

Focus the interview on facts and not why it happened.

Believe what you are told, take this seriously and be sensitive in your response.

Make sure all relevant paperwork is available so the customer does not have to repeat any experiences and document the interview accurately.

Be aware that their options may be limited due to lack of resources and be realistic with solutions offered.

Be sure you have a good knowledge of the services available.

Make sure that the customer knows that they do not have to leave home to talk to the staff at the Women's Refuge.

### **Interviews**

Anyone who approaches the Council and states they are suffering from domestic violence should be interviewed at the office at which they present themselves.

Interviews should be undertaken on the same day or on the next working day of a customer approaching us for help.

Applicants should be given the opportunity to be interviewed by someone of the same sex.

The first priority is to ensure the safety of the person claiming domestic violence and their children. As a result temporary accommodation must be offered to all applicants who cannot, by their own assessment, continue to occupy their home.

Staff should offer refuge accommodation to all women fleeing domestic violence. Since the level of support is far greater than the level of support the housing department could offer, including services for children, refuge accommodation should always be offered first.

Where women have stated they wish to remain in their own homes or go to the homeless unit they should still be informed about the outreach services on offer by Wear Valley Women's Aid.

Domestic violence cases are often difficult to confirm as mostly there will be no witnesses. As a result an applicant's statement about the violence should be given priority. The applicant should be reassured that the violence is not their fault, and their feelings should be acknowledged.

The underlying aim of the interview is to reassure the applicant that their situation is being dealt with as a matter of urgency.

Staff should:

- aim to find out what has happened to the applicant in sensitive and calm manner
- find out who the applicant can turn to for support
- find out what the applicant did in the past to keep themselves safe and whether it worked
- give advice and information e.g. on refuge accommodation, victim support, Rape Crisis, Social Services and other partner agencies and organisations
- help get a doctor where necessary
- help to contact with the police if required
- give advice on claiming benefits etc.

Follow up interviews should be arranged within two weeks of the first one. At the second interview discussion can concentrate on what has happened since the first interview and whether the applicant has a clear idea of what they want to do and what progress has been made to any housing application and what further help and advice can be provided.

## **Assessment**

An applicant's statement will be accepted unless it is proved to be false by investigations carried out as they would be under the homelessness policy. Every effort should be made to substantiate the applicant's account of domestic violence independently, whilst recognising that the absence of evidence should not preclude either the provision of temporary accommodation or permanent rehousing.

Where the family is thought to have an allocated Social Worker or where child abuse is suspected, it may be appropriate to contact Social Services during the course of the investigation.

## **Rehousing**

The timescale for the offer of permanent accommodation will be in line with current guidelines for housing homeless applicants.

- the initial interview will be undertaken on the same day or the following day of an application
- the completion of enquiries will be completed within 8 working days of an application unless there are exceptional circumstances
- the applicant must be informed within 3 working days of the completion of enquiries
- Tenants or their partners who are rehoused as a result of domestic violence will be offered accommodation of the same size.

All applicants will be advised of their right to appeal if they are unhappy with the decision made. All appeals are dealt with by senior officers in line with established appeals procedures.

## **Legal Action**

It is Council policy to evict the perpetrators of domestic violence wherever possible. However any legal action should only be undertaken with the agreement of the person suffering domestic violence. It should always be remembered that taking action under the tenancy agreement because of violence might not always be in the best interest of the person who has suffered the violence since they may have to appear as a witness.

The clauses in the tenancy agreements relating to domestic violence are contained within section 6 Tenancy Agreement, "Anti-Social Behaviour". Domestic Violence is specifically highlighted in the notes to Section 6 of the Tenancy Agreement as behaviour that constitutes a breach of the Tenancy Agreement.

As a result, where relationship breakdown is the result of domestic violence the Council is not obliged to rehouse or grant the tenancy to the perpetrator of domestic violence. If the perpetrator of domestic violence is not a tenant but remains in the property, action should be taken to evict them as a squatter. To reduce the potential for repercussions against the person who has suffered the violence it should be impressed on the perpetrator that this is standard action when a legal occupier has left.

Where the perpetrator is a tenant, they could be warned that action might be taken by the council against them, or they might be transferred to smaller accommodation if they are under-occupying. However any legal action should only be considered with the prior agreement of the person who has suffered from domestic violence.

## **Joint tenants**

If joint tenants are involved there is a range of possibilities that may be considered.

Once an applicant who is either a joint or sole tenant has been accepted as statutory homeless, they should sign a termination of tenancy form. A new tenancy should not be set up without relinquishment of the earlier tenancy. The LB Greenwich v McGrady case (1982) established that one party to a joint tenancy could terminate the tenancy for both. This procedure effectively gives the council the following options:

- grant a new tenancy to either of the parties
- grant a new tenancy to the applicant elsewhere
- grant a sole tenancy to the applicant after evicting the perpetrator as a trespasser
- transfer the perpetrator elsewhere and grant them a sole tenancy - usually in smaller accommodation

The McGrady case can be used where there is a serious under occupancy of the applicant's former home. The problems using this are:

- the applicant may not wish to be responsible for enabling the council to evict their ex-partner
- in law the joint tenants are trustees for themselves and each other in relation to their joint property - this means that one partner could take legal action against the other or the council for breach of trust.
- it could be seen as maladministration by the local authority to accept a notice from one party to a joint tenancy and act upon it without consulting the other party and taking their views into account.

These difficulties could be avoided by the following procedure:

Ask the applicant for a written notice terminating the joint tenancy (an applicant should not be expected to give notice until they have had written confirmation from the council that they will get priority for rehousing)

The applicant should be interviewed to find out what action they want the council to take against their violent ex-partner.

Interview the violent partner to obtain their views and discuss alternatives available to them

### **Evaluating whether to take legal action**

Injunctions may be useful under certain circumstances but some violent perpetrators may not be deterred by an injunction e.g. those with a criminal past.

Often civil remedies are seen as the only appropriate responses such as injunctions rather than prosecution under the criminal law e.g. for grievous bodily harm, or a civil action and criminal prosecution.

It could well be that civil and criminal actions are not necessarily alternatives; they may be used to complement one another.

Tenants should always be referred to a solicitor. However, the following legal remedies should be borne in mind since they may be available for people suffering from domestic violence:

- non-molestation orders under the Family Law Act 1996 can provide some protection in the short term. Ex-parte orders with a power of arrest attached can be granted and breach of an order is a contempt of court leading to the possible imprisonment or a fine for the perpetrator
- occupation orders under the Family Law Act 1996 may be used to remove the perpetrator from the home temporarily, but this will not affect long term property rights.

- Protection from Harassment Act 1997 provides people suffering from domestic violence with the option of seeking an injunction.

It should be noted that if someone has an income above Income Support levels then they may not qualify for full legal aid and will most likely have to pay a contribution. This may well make such options impractical.

## **Rent Arrears**

The existence of arrears or the lack of an arrangement to pay them off should not be used as a reason for not actively considering an application for housing due to domestic violence and the two issues should be treated separately. It is unlikely the applicant would have wilfully built up arrears and for this reason the debt should never be solely attributed to the applicant if his or her partner can not be traced.

## **Benefits**

When an applicant is forced to leave home and live in temporary accommodation they may find they are legally liable to pay two rents, although they may also be entitled to Housing Benefit payments.

Housing Benefit is usually only payable on one home but exceptions include where an individual is temporarily living away from home because of violence (Regulation 5(5)(a) Housing Benefit Regulations).

This states that:

*'The claimant has had to leave, and remain absent from, the normal home through fear of violence in the home (e.g. racial or landlord harassment) or from a former member of the family, and it is reasonable to pay benefit, but only for a maximum of 52 weeks and only for as long as the claimant intends to return to occupy the former home. If there is no intention to return, the claimant must be treated as occupying the former home for up to four weeks if there is an unavoidable liability to make payments on it.'*

It should be noted that the regulation also states that:

*'Actual violence need not have occurred ... for the terms to be met. The claimant has only to show that he or she is afraid of violence occurring in the home, or from a former member of the family.'*

In such cases guidance should be sought immediately to establish what level of benefits the customer is entitled to receive.

## **Disputes over children**

Applicants, especially women fleeing domestic violence, sometimes tend to leave their children behind temporarily. Unfortunately a woman will find that leaving children in this way will seriously jeopardise her chances of being reunited with them in the future. Women need to be advised wherever possible to take their children with them. In any case the woman should be advised to seek good legal advice immediately. If the woman is unmarried, she should consider obtaining a Prohibited Steps Order and Residence Order under the Children Act 1989. Where marriage partners are concerned, a Residence Order determining where children should live can be made under the Children Act 1989 before divorce proceedings are started.

A good solicitor is essential and should be contacted immediately; it is highly likely that the lack of accommodation would adversely affect the woman's chances of being reunited with her children. Unless there are good reasons for alternative action (e.g. the woman has maltreated the children) the woman should be offered accommodation suitable for both herself and the children. The application should not be deferred pending the outcome of her application for a Residence Order under the Children Act 1989, unless there is considerable doubt about a successful outcome.

If, however the couple have not been married or he is not the natural father the mother is the only parent to have parental responsibility unless either the mother has given it to him or a court has granted it (usually as part of a residence or contact proceedings).

## **What support is available?**

We can provide specific help and support to those experiencing domestic violence to meet the housing needs of the customer, other agencies that can provide practical and emotional help are detailed below.

- **Women's Aid (local)** 01388 600094
- **Number 75 – Local Domestic Violence Co-ordinator** 01388 660957
- **Victim Support (Durham Area Office)** 0191 383 1389
- **Gay Advice Darlington** 01325 247355
- **Lesbian Line – Tel.** 0191 261 2277
- **Durham & Darlington Race Equality Network** 01325 283 900 or 0191 3862700
- **Shelterline free national service** 0808 800 444
- **Samaritans (Durham Area)** **08457 909090**
- **National Child Protection Helpline (NSPCC)** 0800 800 500
- **DISC** 01388 424499
- **Moving On (Durham Area)** 0191 383 1559
- **South Durham Witness Services** 01325 307 596
- **Rape & Sexual Abuse Helpline** 01325 369933

There is also the **National Domestic Violence Helpline** – Tel. 08457 023 468