A report on social security and domestic abuse

The Early Warning System was developed by Child Poverty Action Group (CPAG) in Scotland to collect and analyse case evidence about how social security changes are affecting the wellbeing of children, their families, and the communities and services that support them.

Scottish Women’s Aid assert - ‘critical for women to be able to leave an abusive partner is having a safe place to go and knowing that they will have the financial means to survive. It takes considerable courage and immense effort to leave and knowing what will happen to them is central to them making that decision.’¹

Evidence from the Early Warning System indicates that changes in the social security system and the way the system is administered means that people escaping domestic abuse are not guaranteed to have the financial means to survive. This can also jeopardise them having a safe place to go. Failure to put these things in place can result in people returning to their abusive partners.

Delays accessing support
Delays accessing support can leave people escaping domestic abuse with little or no income

A woman with four children, who is escaping domestic abuse, experienced a delay in getting her benefits in place. She tried to claim tax credits but was incorrectly told that she couldn’t because she is in a universal credit full service area and she was unable to claim universal credit because new claims cannot be taken from families with more than two children. #15801

A woman who was escaping domestic abuse had no income for six weeks because she was not adequately advised about which benefit to claim and her subsequent claim got lost. #11675

Somewhere safe to go
Case evidence from the Early Warning System indicates that issues with the social security system can:

- jeopardise people’s ability to move out of the family home
- threaten temporary accommodation arrangements
- undermine people’s ability to sustain permanent accommodation

An adviser from a local authority homelessness service reports that people moving into their temporary accommodation are being refused Scottish Welfare Fund (SWF) community care grants to assist with their moving costs because they are not moving into settled accommodation - including people who have left their homes due to domestic abuse. The

¹ Scottish Parliament Equality and Human Rights Committee Inquiry into Destitution, Asylum and Insecure Immigration Status in Scotland Written evidence submitted by Scottish Women’s Aid March 2017
SWF guidance indicates that people may be provided assistance in these circumstances and there is nothing stated to infer that they should not be. #764

A woman escaping domestic abuse took her two children to stay temporarily with her brother in an adjoining local authority. She was offered an unfurnished tenancy in the local authority area that she originated from and applied for a community care grant for furniture. Her application was incorrectly refused on the basis that she was not staying in the local authority at the time.* Discouraged the woman returned to live with her abusive spouse.

*Scottish Welfare Fund Guidance states that applications should be considered from people who are moving into the area.

Fleeing domestic abuse, a woman and her young disabled son, went to stay with her dad and brother temporarily in their two bedroom house while she applies for an RSL tenancy. After six weeks the local authority applied a non-dependant deduction wiping out Dad's entitlement to housing benefit, even though a non-dependant deduction should not be applied to someone staying temporarily. The client is working but in considerable debt. Dad says he can't afford to have his daughter staying with him anymore because of the effect on his housing benefit so she and her son will have to move out and make a homeless application. #15992

A lone parent with five children staying in temporary accommodation having left her husband due to domestic abuse, had her housing benefit reduced to 50p a week once the benefit cap was applied. Even when she finds permanent accommodation, it is unlikely that she will receive full support with her rent because the size of her family means she is likely to continue to be affected by the cap #69

A local authority are recovering an overpayment from the ongoing housing benefit of a woman in a Women’s Aid refuge. This is a change in most local authorities’ policy not to recover overpayments of housing benefit while women are in refuge and getting support and advice to resolve money and debt issues that they are often left with. #16337

**Universal credit**

There are a number of issues in relation to the design of universal credit (UC) that are of particular concern in relation to people escaping domestic abuse.

**Five week wait for first payment** – although claimants can receive an advance at the beginning of the claim this can cause financial hardship while this is recovered from subsequent payments.

Client’s partner claimed UC, got an advance, including housing costs (even though they had none as they were staying with her parents). Client left with her baby due to domestic abuse. The UC advance is being recovered from her income support even though it would appear that current legislation does not allow for UC advances to be recovered from income support. Even so, the DWP would have other means of recovery albeit limited, as the regulations treat her as liable to repay the advance. #18279
Bank account – claimants are often prevented from making a claim by the online claim system if they do not have a bank account.

A client who experienced domestic abuse was prevented from claiming UC because he did not have a bank account. He had shared a bank account with his ex-partner, but it was in her name and she would not let him access it. This caused a two week delay in getting the UC claim started.

Single payment into one bank account – UC requires couples to nominate a single bank account. There are concerns that this could result in less equal relationships, financial abuse and reduce women’s financial autonomy.2

Worse off under universal credit
The Government have stated that no one will be worse off under universal credit than they are under the benefits that it is replacing. However this only applies to people who are migrating to universal credit under the managed migration programme due to take place between 2019 and 2023. They will be given transitional protection. In the meantime a number of people are moving to universal credit (‘natural migration’), from the benefits it is replacing, who are not given transitional protection. Changes of circumstances that might result in someone moving to universal credit prior to managed migration include: those making a new claim as a single person following relationship breakdown (including domestic abuse) or moving to a different local authority area.

A client with three children recently separated from her husband due to domestic abuse. She is £20 a week worse off on UC than she would be if she had been able to claim legacy benefits.

The Universal Credit (Transitional Provisions) (Managed Migration) Amendment Regulations 2018 propose that transitional protection is likely to be lost in the event that someone leaves their partner as this would be considered to be a change of circumstances. It is also proposed that transitional protection will not apply to people living in temporary accommodation or supported housing such as refuges. If people know that they may be worse off as a result of leaving their partner, this may act as a deterrent to them leaving domestic abuse.

Work-related requirements
A UC claimant may not have to look for or prepare for work for 13 weeks (26 weeks if they are the primary carer of a child) if they have experienced domestic violence in the preceding six months. The threshold for meeting this exemption appears to be particularly high - The claimant must:

• notify the DWP in the manner required
• not have been excused from work related requirements due to domestic violence in the previous 12 months
• not be living at the same address as the abuser
• provide evidence that their circumstances are consistent with someone who has experienced domestic abuse within the previous six months. This could be from person acting in an official capacity, such as health care professional, police officer, social worker, employer union rep or someone from a domestic abuse charity or organisation. The claimant must have contact with them in the preceding six months in relation to a domestic abuse incident.

Lack of domestic abuse training, publicly available and promoted information often means that people are not made aware of this exemption.

**Administrative issues**

One third of cases added to the Early Warning System include examples of benefits being processed incorrectly or people being given the wrong information about possible entitlement. The administration of UC is no exception with administrative errors and maladministration contributing to the issues people claiming UC are experiencing.

A woman separated from her partner due to domestic abuse and is now experiencing considerable financial hardship because UC are only paying half of her housing costs, citing that her ex-partner is liable for half the rent as joint tenant. Under the terms of the tenancy either partner can be liable for all of the rent and DWP guidance recognises this. However the guidance refers to people who have been joint tenants and part of the same benefit unit as joint renters rather than joint tenants which may have contributed to the error. #16237

**Two child limit**

The two-child limit restricts additional amounts paid to support children in tax credits, housing benefit or universal credit, to the first two children in a family, unless an exception applies. Up until 6 April 2017 additional amounts could be included in awards of these benefits for every child in the family. The limit can represent a loss of up £2780 per additional child per year. There are a number of exceptions from the two-child limit including children likely to have been conceived as the result of rape or a coercive/controlling relationship.

A parent thought that she would be exempt from the two-child limit because her first child was conceived without consent when she was a teenager. She currently has two children but would like to start a family with her new partner. She will not receive additional money for the new baby because the ‘rape clause’ only applies to third and subsequent children who were conceived without consent and not to first and second children, limiting the number of children a mother may plan to have following the birth of a child conceived without consent. #13538

Client recently separated from her partner due to domestic abuse. She works part time but may have to give up her job to look after her children, one of whom is disabled. At present
she cannot claim UC because she has more than two children and will continue to receive tax credits for all four. There was a significant delay in the client claiming child benefit and child tax credit for her fourth child as she misunderstood the two-child limit. #16578

People from abroad
Since 2014 there have been a number of changes regarding benefit entitlement for people coming from abroad. These were primarily intended to restrict access for EU migrants who were not in work, but have also, to a lesser extent, impacted on British nationals returning to the UK from abroad. Increasingly we see cases regarding migrants, often with children, many of whom are escaping domestic abuse, who are unable to establish entitlement to benefit and have nowhere else to turn.

An EU national fled domestic abuse from her UK national husband. She is currently in emergency accommodation with her two children (age two and nine months), but had been refused housing benefit and income support because she is deemed not have a right to reside that would entitle her to benefits. The circumstances of the case indicate that it may be arguable that she does have a right to reside but there is no guarantee that this would be successful (as it would be reliant on interpretation of case law) and is likely to take time. In the meantime the client has no income. Her husband is looking to exert his parental rights and prevent her returning to Europe with the children, and is building a case asserting that her destitution indicates that she is unfit to look after the children. #709

UK national returned to the UK with her three children fleeing domestic abuse. She had been living with her husband in Europe. She was not entitled to jobseeker’s allowance, child benefit or child tax credits for three months on her return and could not get a school clothing grant because she was not receiving a qualifying benefit. She has been awarded a small crisis grant by the SWF, but it is not enough to maintain client and her children for three months. #11847

People from outside the EU may apply for destitution domestic violence concession that would allow them to claim benefits for up to three months while UK immigration considers their application to settle in the UK. However, this only applies to people who have arrived in the UK on a spousal visa and does not apply to people who arrived on other visas for example as a student or who were trafficked.3

A national from South East Asia was married to a UK national and has three young children. She recently left the family home due to domestic abuse. She has no recourse to public funds and is therefore not entitled to any benefits at present. However, she can apply for a destitution domestic violence concession which would allow her to claim benefits for up to three months while UK immigration considers her application to settle in the UK. #591

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3 More information can be found in Scottish Women’s Aid written evidence to Scottish Parliament Equality and Human Rights Committee Inquiry into Destitution, Asylum and Insecure Immigration Status in Scotland, March 2017
Women who have no entitlement to housing benefit are also often unable to access refuges. Refuges are dependent on housing benefit for their income to cover the cost of accommodation.

**Recommendations**

**For the Scottish Welfare Fund**
- ensure all staff have been trained in domestic abuse, for example to develop an understanding that some people will have to make several applications to the SWF if they are forced to move several times by their abusive partner
- encourage staff to refer to the SWF guidance in decision making
- process applications from people experiencing domestic abuse as a priority

**For Scottish Government**
- consider eligibility criteria for devolved benefits for people who have experienced domestic abuse who may not be entitled to a qualifying benefit, for example because they have not been able to establish a right to reside
- Prioritise the creation of a new ‘Destitution Fund’ for women experiencing domestic abuse unable to access other sources of help to mitigate the impact of restrictions on access to public funds for those with insecure immigration status and European Economic Area migrant women experiencing domestic abuse, as recommended by the Scottish Parliament’s Equalities and Human Rights Committee
- develop a timetable for bringing forward regulations/work with DWP to enable women’s financial independence and remove enablement of financial control provided by single household payment of universal credit

**For DWP and local authorities**
- improve guidance regarding people who have moved in with family or friends having left domestic abuse so that housing costs contributions or non-dependant deductions are not applied to any temporary housing arrangements
- waive recovery of overpayments while people are staying in refuge or temporary accommodation and consider use of their discretion to write off any overpayments to prevent hardship

**For universal credit**
- ensure all work coaches have undertaken domestic abuse training and have access to expert support
- extend period to repay advances from one to two years for anyone who experienced domestic abuse
- provide information about what to do if you don’t have a bank account at the point of claim

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• currently payment can be made once to someone else’s bank account on one occasion. Extend this for people who have left domestic abuse and may not be able to set up a bank account immediately or make use of the simple payment service using the paypoint scheme.
• reduce or widen the criteria that determines which people leaving domestic abuse may be exempted from work-related requirements for 13/26 weeks and extend this period
• ensure that people leaving domestic abuse do not lose transitional protection for UC by virtue of the change in their circumstances or because they were staying in temporary accommodation or a refuge.

For the two child limit
• end the two-child limit. It breaks the link between the assessment of children’s needs and the support they receive. Further information can be found in CPAG’s policy briefing on the two-child limit\textsuperscript{5}.
• While the two-child limit continues to be applied, the exemption for children conceived without consent should be extended to apply to all children and not only third and subsequent children.

For people from abroad
• waive the 3 month restriction for UK nationals returning from abroad following domestic abuse
• extend the destitution domestic violence concession to include people who came to the UK on different visas, not solely spousal visas, or EU nationals who would not have needed a visa
• entitle people escaping domestic abuse access to universal credit (and housing benefit for temporary accommodation or refuge) for 13 weeks – 26 weeks if they are the primary carer of a child\textsuperscript{6}

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\textsuperscript{5} A report on the two child limit, CPAG in Scotland’s Early Warning System, July 2018
\textsuperscript{6} this could be done by inserting ‘a person who does not have a right to reside or leave to remain, who meets the conditions of regulation 98(3)’ in regulation 9(4) of the Universal Credit Regulations 2013 and reg 10(3B) Housing Benefit Regulations 2006