

# After the Refuge: Housing Options for Women Fleeing Domestic Violence.

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## Introduction

The need for women who have suffered from some form of domestic violence to have a safe place to live, and the role that refuges play in providing such places has been well documented by researchers such as Malos and Hague (1998, 1999) and Dobash and Dobash (1980, 1992). The importance of the services that these safe houses provide for women, not only by protecting them and their children from further harm, but also by helping them to construct new, independent lives free of the fear of abuse can no longer be denied.

As the term 'refuge' implies, however important their role may be and whatever services they are able to provide, the refuge is only a temporary form of shelter for abused women and children. The average length of time that a woman and her children may stay in one varies from just a few days to several months, but eventually she must find some form of permanent housing or she will risk having to resort to returning to the place where she was abused. Some refuges have a time limit although this, of course, does not mean that women seeking help are dumped out on the street after their 'time' is up, but are referred to 'move-on' or 'second-stage' accommodation where they are able to live more independently and in more privacy than in the initial refuge. Independence and privacy are difficult to achieve whilst living in a refuge. Normally a woman will have to share a room with her children, and the houses will be crowded, although not dangerously so. The refuges are usually self-catering, which means that the women will have to share cooking and washing facilities, and the children will share play areas and things like communal toys, games and televisions. As Malos (1998) points out,

<sup>1</sup>"Women in refuges, like anyone else, can behave badly towards each other and there can be rows and disputes, often caused by the crowded living conditions."

The difficulties of living the 'communal life' in a refuge are more than out-weighted by the positive aspects of mutual help and support and the sharing of similar experiences. Even the simple realisation that a woman is not alone in her experiences, that other women and children have been through it too, and that the woman and her opinions are valued and respected, is a crucial one which helps such women to overcome the crisis in which they have found themselves and rebuild their lives.

One of the main purposes of having a woman come to a refuge in a time of crisis, as opposed to moving in with relatives or friends, is this idea of rebuilding lives which have been shattered by violence and pain, both physical and emotional. It might be thought that the first reaction of women in such situations would be, indeed, to turn to their parents or friends for shelter. Often, however, this is not a viable option in many cases. Many women have not only been subjected to violence themselves, but have also had their families threatened too, and are desperate to protect them. Even if this is not the case, they would be unlikely to feel safe anywhere known to the man who has perpetrated the violence. In many cases, the women's families are neither willing nor able to offer support, often having turned a blind eye to the abuse for many years, or blame the victim herself. Staying in a friend's house can also be a trying experience, especially if there are children involved, and again the woman may fear for the safety of the family who are trying to help. In addition to this, most people nowadays do not have large enough houses to take in a woman and her children, and therefore may be unable to offer more than advice and emotional support. Most women in this situation would feel that the only answer would be to go to a refuge, which would provide safe and secure accommodation, but as mentioned above, accommodation in a refuge is only available on an emergency and temporary basis. Refuges are certainly a 'safe and secure' option, but not, unfortunately a permanent one. One of the most important needs of a woman leaving home due to violence is access to permanent housing.

Some women may, for various reasons, wish to return to their former homes, as long as their safety could be guaranteed, and it is easy to understand why both the woman and the authorities would ideally like to consider this as a viable option. The woman may have lived in the area for many years and have friends and family there. If there are children involved they, too, will probably have friends that they do not wish to leave, and they may be upset at changing schools that they have attended happily and successfully for some years. Moving some distance away to a completely new area can be a daunting

experience for both women and children and even more so for those who are disabled, elderly or members of an ethnic or linguistic minority.

For those who cannot return home for safety reasons, the following permanent housing options exist: home ownership, privately rented accommodation, and rehousing by local councils or housing associations. Before considering these options further it is necessary to look at the legislation which has been introduced in recent years to protect women in violent situations, in order to see why women make the choices they do.

### **Domestic Violence and the Law.**

#### **The Domestic Violence Act**

Various laws have been enacted in the last twenty years or so to try to protect women in their homes. One such piece of legislation is the Domestic Violence and Matrimonial Proceedings Act 1976 (or DVA), introduced as a private member's bill, with government support by Jo Richardson MP. Although this has now been replaced by Part IV of the Family Law Act 1996, the DVA made enormous changes to existing legislation, and for this reason it is mentioned here. One of the most important changes it made to existing law was that it could be used to protect women if they were living with a partner in the same household as husband and wife at the time of the offence even if they were not legally married. This meant that applications for protection from abuse could be made without there being any prior or continuing proceedings such as divorce. This was the first time that both married and unmarried women were treated as equals under the law concerning a shared home or relationship.

In the case of incidents of abuse the DVA made it possible for women to obtain two types of order or injunction. The first, a non-molestation order, was intended to prevent further abuse or harassment and provide emergency protection for the applicant or any children, and the second, an exclusion order, which when enforced meant that the man could be excluded from the home for a certain period and also prevented from returning if he had left. He could also be ordered to keep away from certain areas frequented by the woman such as the area surrounding the home, her workplace or the children's school. Initially both types of injunction could be obtained without the man's actual presence in court and could be backed up with police power to arrest if the orders were disregarded. In fact Malos and Hague (1993.4) found that the majority of these orders backed up by this and the following Act were breached at least once in between 50 per

cent to 60 per cent of the cases. If a man breaks an injunction not backed by powers of arrest the woman will have to return to the courts again to seek his imprisonment. A study by Val Binney in 1981 showed that only 8 per cent of the sample were able to return to their homes with the man excluded, and only half of this number were still there a year later.

The second Act dealing specifically with domestic violence, the Domestic Proceedings and Magistrates' Courts Act (DPMCA) was passed in 1978 and although similar to the DVA, it was thought to make these proceedings more accessible to working class women via the magistrates courts. The DPMCA allowed magistrates to grant exclusion orders and personal protection orders and powers of arrest could also be attached. These two laws were amalgamated in Part IV of the Family Law Act 1996.

A third piece of legislation, the Matrimonial Homes Act 1983, which also provided for injunctions in cases of domestic violence applied only to couples who were legally married, and was mainly concerned with settling the property disputes concerned with divorce resulting from violence. (Hague and Malos, 1998)

It is only reasonable to assume that the above legislation was passed in good faith, and represent honest attempts on the part of lawmakers to provide as much protection as possible for victims of violence. In practice however there were a great many loopholes in the laws and confusion about the extent to which exclusion orders should be carried out. Many courts were also reluctant to grant ouster orders because of an unwillingness to interfere with men's property rights. The majority of exclusion orders were made for a maximum of three months and according to Women's Aid research many women were not aware of an expiry date or that the injunction itself would expire on divorce. In fact one of the chief problems appears to have been that in at least half of the cases the men simply disregarded the order, and even when such breaches were serious, the police and the courts seemed to be able to do nothing about it.

In 1992 a report was published detailing the findings of the Law Commission on the question of domestic violence. This led to the drafting of the Family Homes and Domestic Violence Bill which proposed that there should be a unified law on the civil remedies available for protection against violence and harassment and for regulating the occupation of the family home after the breakdown of a relationship. When the Bill was introduced into Parliament it encountered a great deal of opposition from a coalition of groups concerned about men's rights which led to it being abandoned at the end of 1995.

Much of what the original bill contained was reintroduced as part of the Family Law Bill which included some new proposals concerning divorce and this was passed in 1996, again amidst much opposition.

### **The Family Law Act, Part IV**

As in the legislation mentioned above, this new law set out two civil remedies, a non-molestation order and an occupation order. The Law Commission had originally recommended that that occupation of the family home should be decided on a 'balance of need' and took into consideration the welfare of any children and the interests of whichever partner was deemed to have the greater need to occupy the home, but it did not take the conduct of either party into account. The amended Act did, however take this into account prior to a 'balance of harm' test.

Under the new law, it became possible to use the orders for a much broader range of people and relationships than previously. The following changes were made:

- Orders could be made for any specified period or even indefinitely for as long as needed and could also be effective after the relationship had ended.
- The right to apply for the orders now included both those who were legally entitled by ownership of the tenancy to occupy the home and those who were not, although for those who do not have the legal entitlement to the tenancy the rights are more limited.
- The law now protects a wider range of women for longer periods of time, and the protection is also extended to children who have been abused as this Act amends the Children Act 1989. The abuser can be excluded from the family home if the person remaining to care for the child consents to the exclusion.
- As before, it is possible to take out an injunction without any other proceedings such as divorce being necessary, but now it is possible to do so during the course of such proceedings too.
- The act has made it possible for third parties such as social services and the police to remove an abuser from the family home.
- The courts are now required to attach a power of arrest to any orders except when the applicant is clearly under adequate alternative protection. The courts are also obliged to attach powers of arrest even if the respondent is not present in court if it feels that there is considerable risk of harm.

All in all, the Act has been felt by Women's Aid, and researchers including Gill Hague, Ellen Malos and Sarah Payne to be a considerable step forward in protecting women and their tenancy rights, however as Malos and Hague say in 'Domestic Violence: Action for Change':

<sup>2</sup>"The new law itself is an important step forward. However, the history of the original domestic violence legislation of the 1970s suggests that changing the law in itself will not be enough. Unless the judiciary and the rest of the legal system take on board the spirit of the legislation, the way will be open to a limitation of its scope in appeal judgements, the muffling of its impact by the use of discretion, and the filtering out of enforcement applications by solicitors when injunctions have been broken. Women's Aid broadly welcomed the Family Law Act, while expressing reservations. Given the reluctance of courts to attach powers of arrest, and a preference in some courts for the use of undertakings rather than orders, despite their admitted shortcomings, some doubts remain as to how the law will be applied and its use will need careful monitoring."

The Law Commission Report of 1992 also recognised the limitations of all forms of legal action when it commented that domestic violence was not simply a legal problem which could be eradicated by appropriate legal remedies. It was also a social and psychological problem it said, which could only be eliminated by fundamental changes in society and in attitudes to women and children, and that while legal remedies were an attempt to alleviate the symptoms of domestic violence they could do little to tackle the causes.

This is the reason why, unsurprisingly, so few women feel that they can safely return to their own homes and also why the refuges are so overcrowded and in such demand. Whatever the present law says, by and large, it is simply not possible for a woman to return to the very place where she was abused, within easy reach of her abuser without risking life, limb and her sanity. Given the above facts, which I think clearly show how difficult it is for most abused women to resort to the option of returning to their previous homes, what further housing options are open to them?

### Home ownership

Owner occupation is one answer to the problem for a few women who have been able to come to a favourable property settlement with their ex-partners or who have independent wealth. For a woman who has some financial resources this is an option that can

work very well especially now that property prices have come down somewhat. However, the lower prices that may enable a woman to buy a house also mean that the sale of the former home may be more difficult and her share in it will be less. The legal and housing issues involved are complicated and without the advice of a solicitor who is experienced in matrimonial work and property matters these issues can work to the woman's disadvantage.

Another factor working against the woman in this situation is that if she has fled to a safe location it can be almost impossible to get through the traumatic process of divorce and property settlement if it is not safe for her or her representatives to have any contact with her former partner. Until the process is completed, it will be necessary for her to find somewhere safe and permanent to live, possibly in another part of the country, and because of the length of the process it will not be possible for her to stay in a refuge. Economically speaking, if the woman has little in the way of financial resources even whilst she is married it is certain that position will be much worse when she leaves the relationship. According to Pascal (1997) with three-quarters of married couples in owner-occupied homes, the ability to retain owner-occupied homes on divorce is a major element in women's housing independence. However, even if the break up of the relationship is relatively amicable, men's privileged access to employment means that a single woman's access to employment and the financial support necessary to retain or buy an owner-occupied home is extremely disadvantaged.

Unfortunately, in this paper, space does not allow for a detailed consideration of the relationship between gender and the ability to obtain well paid employment or the attitude of financial institutions to granting single women large enough mortgages to buy suitable properties. However, Pascal, in 'Social Policy: A New Feminist Analysis' (1997) discusses in detail the disadvantages that women face when buying a home, disadvantages that apply not only to women who suffer violence, but to women as a whole. This is a problem that can only be solved by women's increased access to the labour market. The London Housing Unit found that only 15 per cent of women earned enough to qualify for a mortgage for a one-bedroom flat in London, as opposed to 49 per cent of men. (Hague and Malos, 1998). It is therefore, even more unlikely that a women could qualify for a mortgage sufficient to buy the two or three-bedroom house that she would need if she has children.

### **Privately-rented Accommodation**

Another choice available to women is private rented accommodation. In the United Kingdom, houses and flats for rent are usually furnished, if rather poorly, and this can be a great advantage for a woman who has been forced to leave home with her children leaving everything else behind. On the down-side, such accommodation nowadays is often hard to find, expensive, the tenancy short and insecure, and landlords almost always refuse to take children. The London Housing Unit mentioned above found that private rented accommodation, especially in the capital, was only slightly cheaper than owner-occupation and that since women generally have lower incomes than men, only 19 per cent of women could afford to rent a bedsit in London, as opposed to 57 per cent of men. Another disadvantage is that the cheaper rentals provide very little physical comfort and no security whatsoever, leaving victims of violence in a particularly vulnerable position.

Before the Second World War, the majority of homes were privately rented, and such housing units have declined rapidly since. In the last fifty years successive legislation has reduced the level of return on money invested in property to such an extent that landlords no longer find it worth their while to invest money this way. Inflation, changes in tax laws, legislation giving tenants security of tenure and controlled rents were all contributing factors in the decline of this sector. Whereas in 1951, 52 per cent of homes were rented, by 1999 this had declined to 10 per cent. (Young, 2000)

### **Local Authority Housing**

In contrast to many other countries, during the twentieth century towns and villages all over the United Kingdom built up a solid stock of estates of housing owned by the local councils. Although many estates were badly run and maintained, the majority provided safe, well built accommodation for large numbers of tenants at a reasonable cost. These estates have formed a mainstay of the United Kingdom's policy of housing those people without the means to buy their own homes or rent in the expensive private sector. As such, this option should have been the ideal solution for a woman needing to make a new life for herself and her children.

Unfortunately, in the last twenty years or so, all this has been changing. The Conservative government, when it was in power between 1979 and 1997, tried to reduce the role of local authorities as providers of housing. The most important issue in public housing



has been the sale of council houses. Legislation was passed as long ago as 1957 allowing councils to sell off their property but it was not until the 1980 Housing Act established the tenants 'right to buy' that the rush to sell off council properties at huge discounts of as much as 50 per cent really started. The Conservative government encouraged people to buy in two ways: first through the discount schemes and then by increasing the rents. Between 1979 and 1980 council rents rose by 117 per cent. (Young, 2000) This has resulted in a huge reduction of houses and flats available for rent and these are often the least desirable units that cannot be sold at any price. It has been estimated that between 1984 and 1994 alone, ownership of almost 1.5 million public housing units was transferred to owner occupation. (Alcock, Payne, Sullivan, 2000)

Another issue affecting the supply of council housing were the cutbacks in public expenditure and the almost complete winding down of building programmes under the government restrictions of the 1980s. This has led to the chronic shortage of reasonably priced council housing despite the housing association sector being encouraged to fill in the gap. The brunt of this housing crisis is now being borne by the more needy members of society; the elderly, the disabled, the unemployed and those women and children who have been forced out of their homes by male violence. Such groups who have no other permanent housing options have been disproportionately affected by this situation.

In spite of the above, local authority housing remains the only option open to the majority of women and children escaping from violence and as Malos (1999.13) has pointed out,

<sup>3</sup>"...in the last twenty years this has often been made possible only through the special provisions made for homelessness, with local authority nominations to housing associations as a valuable supplement."

As we have seen above, when a relationship breaks down the housing issue becomes crucial for women, but the loss or reduction in income makes it extremely difficult for a woman to rent in the private sector. This leaves local authority housing as the only viable option, but one which, for the reasons explained in the above section, many women are finding hard to obtain. This has not been offset as planned by the expansion of provision of social rented accommodation by the housing associations.

### Homelessness and access to council housing

Under the 1985 Homeless Persons Act, women who cannot return to their homes because of violence should be treated as homeless, although the help they receive may vary from authority to authority. As a result of 'right to buy' policies, the housing stock in some authorities had been so depleted that it was virtually impossible for them to house their homeless even under the most stringent interpretations of the law.

In 1996, faced with growing numbers of homeless persons and nowhere to house them, the Conservative government of the time responded to the situation outlined above by passing the 1996 Housing Act. In the words of Hague and Malos (1998):

“It was inspired by a commitment to private ownership, a crusade against council housing and a conviction that the 1977 Act represented some kind of fast track for the homeless to permanent housing. Faced with increased homelessness, coupled with the decrease in social housing provision brought about by their own policies, the government's response was simple: remove the legal duty permanently to rehouse statutorily homeless people.”

Under this Act, homeless people have to compete for housing alongside other applicants and there is no longer a duty to provide permanent accommodation. It guarantees only temporary accommodation for periods of up to two years which can run consecutively. Regardless of the needs of the applicants this duty can be fulfilled by placing, for example, women with small children in bed and breakfast hotels for months at a time with no cooking facilities. Fortunately, some councils are beginning to phase out the use of this particular form of temporary housing and others recognise the special needs of women escaping domestic violence for a permanent home by adopting a points system for the waiting list or other administrative devices.

Since the Labour party came into power some modifications have been made to the Act, but not to the extent of the promises made before the 1997 election. We can only hope. The changes that have been made include regulations which state that any private tenancy made available to the local authority should not be regarded as suitable unless it is to be available for more than two years, and that homelessness should be given 'due weight' in the allocation of points on the waiting list for permanent accommodation.

When local authorities receive an application for housing they first have to ascertain

whether the applicant is indeed homeless under the terms of the Housing Act. This means that the person has to be defined as unintentionally homeless. Under the 1977 Housing Act, a woman was only classed as homeless if she had been a victim of violence perpetrated by someone actually living with her. In reality, women frequently experience violence in and in the neighbourhood of their homes from men with whom they are not actually living. The 1996 Housing Act has widened the definition of homeless to include women who are abused outside their homes or by men with whom they are not actually living.

Secondly, the applicants must be in 'priority need'. This is defined to include people with dependent children, pregnant women, people homeless due to emergencies such as flooding and those who are vulnerable because of old age, disability or handicap or have some other special reason. In addition, as mentioned above, the person must also be homeless unintentionally, that means they are not homeless as a result of any deliberate act or omission of their own. Also in general they should have a local connection with the authority to which they are applying.

The extent to which these regulations are interpreted and applied by the individual councils does, unfortunately vary a great deal. Some take harder lines than others. If a woman has taken out an injunction order against her partner she might be told that she is intentionally homeless as it is now safe for her to return to her own home, and therefore not in priority need. The idea of 'local connection' is one which has been found to be open to differing interpretations. Strictly speaking, if a woman fleeing from violence makes an application to an authority she should be accepted even if it is not her 'local' area, since she would not be safe living near her previous home. Some authorities dispute such cases quite strongly making it almost impossible for a woman without a local connection to be rehoused in their area.

## **Conclusion**

In spite of all the disadvantages that women leaving refuges face, many are successful in finding safe reasonably priced places to live in either council or housing association properties and this enables them to rebuild their lives. However homeless people of all kinds continue to experience significant difficulties in finding suitable accommodation. The current Labour government has promised to make further amendments to the 1996 Housing Act, and to use the proceeds of the sale of council housing for the building of

public housing. It seems, however, very unlikely that the shortfall can be made good in the near future as it has been estimated that there is a need for as many as 100,000 new housing units in the next ten years. (Greve, 1991) It seems therefore, that finding homes for victims of domestic violence in the United Kingdom in the next decade or so will present a huge challenge to both local authorities and also to organisations such as Women's Aid who are supporting them.

### References

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- <sup>2</sup> (ibid) p. 89.
- <sup>3</sup> Harwin, Hague and Malos Eds. (1999) *The Multi-Agency Approach to Domestic Violence*. Whiting and Birch, p.199
- <sup>4</sup> Hague, G. and Malos, E. (1998) *Domestic Violence, Action for Change*. 2<sup>nd</sup> edition. New Clarion Press, p. 106.

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### **Abstract.**

Studies in domestic violence carried out in the United Kingdom show, and have done for quite some time, that victims of violence cannot be considered to be safe from further harm if they are obliged to remain in the place where the abuse occurred. As a temporary solution, such women are encouraged to flee to refuges which can provide shelter for a short period of time. I have tried to show in this study that although refuges provide a welcome and necessary service in this respect, access to permanent, secure and reasonably priced accommodation is also necessary and it is this which the government, for a number of reasons, has failed, and is failing to provide. This report outlines the present legal and policy aspects of the problem.