

# Breach of equality and human rights duties in provision of homelessness accommodation to BME victims of domestic abuse

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From 2016-2019, Sisters For Change worked with Black, Asian and Minoritised (BME) Violence Against Women (VAW) service providers across England to investigate public authority responses to violence against BME women. Our 2019 report, *Unequal Regard, Unequal Protection 2, Spotlight on Manchester*, included a range of case studies exemplifying experiences of BME women in Manchester. This case study, taken from the report, highlights discriminatory treatment of BME women victims of domestic abuse trying to secure local authority homelessness accommodation for themselves and their children and potential breaches of equality and human rights law.

## LEGAL DUTY HIGHLIGHTED IN THIS CASE STUDY: EQUALITY AND HUMAN RIGHTS OBLIGATIONS OF HOUSING AUTHORITIES

- 1** The case raises significant questions regarding the housing authority's compliance with its equality duties and human rights obligations. Housing authorities are required to ensure that policies and decisions relating to homelessness and threatened homelessness do not amount to unlawful conduct under the Equality Act 2010 and comply with their duty to protect vulnerable victims of violence under the Human Rights Act 1998. The Children Act 2004 requires housing authorities to safeguard and promote the welfare of children when securing accommodation for families with children, which includes minimising disruption to the education of children.

## CASE FACTS

- 2** M is a Chinese woman. She does not understand or speak English. M was referred to a specialist BME VAW service provider by the local multi-agency safeguarding hub (MASH). The MASH referral was made after M had been admitted to hospital following a suicide attempt. M disclosed to her caseworker that her husband was controlling and unstable having issues with drug use and gambling, had accumulated significant debts including debts in her name, and had borrowed money from their relatives in China. M was not receiving any form of support from social services or the local authority. M only felt comfortable engaging with the specialist BME VAW service.

- 3** Initially, M's caseworker provided general advice in relation to making an application for welfare benefits. Later, M requested additional support in securing accommodation for herself and her children so that she could leave her husband. She was in private rented accommodation but could not afford to rent a flat for herself and her children as she was only in part-time employment and most private landlords were reluctant to accept a tenant in receipt of benefits. M's caseworker took her to meet with the local authority's homelessness team. At their initial meeting, both M and the caseworker were treated disrespectfully and informed them that they would have to book an independent interpreter.
- 4** M returned for another meeting and explained that she was in private rented accommodation that she could no longer afford – M was behind in her rent and facing eviction. The only action taken by the local authority homelessness team was to contact M's private landlord and request that he allow her to stay in the property for a further month to allow her time to find alternative accommodation for herself and her children. After the month had passed and M had been unsuccessful in finding alternative accommodation, the homelessness team finally completed an assessment. M and her children were allocated temporary accommodation in a hotel, where she stayed for a period of three weeks before being allocated housing. During this time, M's children were unable to attend school due to the distance between the hotel and their school.

## LEGAL CASE ANALYSIS

- 5** The case raises significant questions regarding the housing authority's compliance with its equality and human rights duties, as well as its duties to provide homelessness services, including:
- + A person who is vulnerable as a result of having to leave accommodation because of violence from another person, or threats of violence from another person that are likely to be carried out, has a priority need for accommodation for the purposes of Part 7 of the Housing Act 1996.<sup>1</sup>
  - + The disrespectful and discriminatory treatment of M by the local authority homelessness team and their failure to provide access to an interpreter conflicts with the local authority's duties under the Equality Act 2010. The Act provides protection from unlawful discrimination in the provision of goods, services and public functions, housing, transport and education in relation to the protected characteristics set out in the legislation, which are sex, race, religion or belief, age, disability, sexual orientation, gender reassignment, pregnancy and maternity (which includes breastfeeding) and marriage and civil partnership.
  - + Further, the public sector equality duty (s.149(1) of the Equality Act) requires public authorities, including housing authorities, to integrate equality considerations into the decision-making process from the outset, including in the development, implementation and review of their policies and services. This includes policies and services relating to homelessness and threatened homelessness. Specifically, s.149(1) requires public authorities in exercising their functions to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; and advance equality of opportunity (for example, access to services on a non-discriminatory basis) between persons who share a relevant protected characteristic and persons who do not.

<sup>1</sup> Homelessness (Priority Need for Accommodation) (England) Order 2002, Article 6.

- + In addition, when someone is receiving services from a public authority, they have rights under the Human Rights Act 1998 (HRA). It is unlawful for a public authority to act in a way which is incompatible with the human rights protected under the Act (Convention rights). There are two Convention rights which are particularly important in this case. Under Article 3 (prohibition against torture, inhuman or degrading treatment), housing authorities have an obligation to prevent a person being subjected to inhuman or degrading treatment, to investigate any allegations of such treatment and to protect vulnerable individuals who they know or should know are at risk of such treatment. Under Article 8 (right to respect for private and family life), housing authorities must ensure that their policies or decisions do not interfere with a person's right to respect for private and family life. The local authority's homelessness team were aware that M was a vulnerable victim of domestic abuse who had attempted suicide and that M and her children were at risk of harm if they remained with M's abusive husband.
- + Housing authorities have a duty to safeguard and promote the welfare of children and to co-operate to promote the well-being of all children under the Children Act 2004. All public authority staff who come into contact with children and their families must be alert to any risks of harm that individual abusers or potential abusers may pose, and respond proactively to them when dealing with their housing situation.<sup>2</sup>
- + The allocation of hotel accommodation by the local authority raises questions of compliance with the Homelessness (Suitability of Accommodation) (England) Order 2003 which specifies that B&B accommodation is not regarded as suitable for applicants with family commitments and that families should be allocated B&B accommodation only as a last resort.<sup>3</sup>
- + The failure to provide suitable accommodation to A and her children indicates a potential breach of the duty to extend the same level of support to those from other areas as they do their own residents.<sup>4</sup>
- + The inability of M's children to attend school due to the location of temporary accommodation indicates potential breaches of the local authority's duties under s.11 of the Children Act 2004 to safeguard and promote the welfare of children when securing accommodation for families with children, which includes minimising disruption to the education of children.<sup>5</sup>

For further examples of public authority legal duties, refer to the two other case studies in this series. For further information about public authority responses to BME women victims of violence in England and Manchester, please access Sisters For Change's two reports, *Unequal Regard, Unequal Protection: Public authority responses to violence against BME women in England* (November 2017) and *Unequal Regard, Unequal Protection 2: Spotlight on Manchester* (June 2019) available on our website: [www.sistersforchange.org.uk/global-law-reform-resource-hub/](http://www.sistersforchange.org.uk/global-law-reform-resource-hub/)

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<sup>2</sup> Homelessness code of guidance for local authorities 2018 (updated 29 June 2020) (LA Guidance) available at: <https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-1-introduction>

<sup>3</sup> LA Guidance, chp. 17, para. 17.33.

<sup>4</sup> LA Guidance, chp. 21, para. 21.15.

<sup>5</sup> LA Guidance, chp. 17, para. 17.52.