

## CASE STUDY 3



# Failure to safeguard vulnerable BME women victims of violence resulting in eviction and denial of access to children

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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, focuses on the safeguarding duties of local authority health and social services providers in relation to vulnerable BME women victims of violence.

### LEGAL DUTY HIGHLIGHTED IN THIS CASE STUDY: SAFEGUARDING DUTIES OF LOCAL AUTHORITIES IN RELATION TO VULNERABLE BME WOMEN VICTIMS OF VIOLENCE

- 1 The case raises significant questions regarding the local authority's compliance with its safeguarding and human rights obligations. The Care Act 2014 sets out the statutory framework for how local authorities and other parts of the health and care system identify and protect adults at risk of abuse or neglect and places a series of duties on local authorities in relation to the provision of care and support for adults who live in their areas. Under the Act,<sup>1</sup> local authorities are required to:
  - + provide a range of high quality, appropriate care and support services;
  - + ensure people can access the information and advice they need to make good decisions about their care and support; and
  - + provide services, facilities and resources to people who live in their areas in order to prevent their care needs from becoming more serious.

### CASE FACTS

- 2 G is a Muslim woman with two children who suffered years of domestic violence and psychological abuse by her former husband. G was referred to a specialist BME VAW service provider. Her caseworker raised serious concerns regarding G's mental health and wellbeing, making numerous referrals to social services and other statutory authorities to no avail. G's mental health declined and she was eventually detained under the Mental Health Act 1983. Her caseworker is adamant that if E had been given the proper care to which she was entitled, the need for her to be detained would have been avoided.
- 3 While G was detained under the Mental Health Act, she was evicted from her property as a result of maladministration by the Department for Work and Pensions (DWP). The DWP incorrectly informed the local council that G was working, as a result of which deductions were made from G's benefits' payments. G's caseworkers have also had to challenge claims for council tax arrears and submit evidence to prove that G was not liable for council tax payments for the two year period that she spent in hospital and supported accommodation as she recovered from her mental breakdown.

<sup>1</sup> Care Act 2014, s.2(1).

**4** G's caseworker continued to support her during her recovery. G's ex-husband who had custody of her two children, refused to allow her contact with them, claiming that her mental health issues made her unfit to care for them, despite the fact that she was at this time responding well to treatment. Without making any formal assessments, and without meeting with her children to take their views into account, social services took the decision to deny G any form of contact with her children. According to G's caseworkers, G had been in good physical and mental health at the time the decision was made by social services to stop contact and she would have been fit to participate in supervised visits with her children. G's caseworker supported G to access legal representation and G successfully appealed against the decision of social services, with the court ruling that supervised visits were appropriate.

## LEGAL CASE ANALYSIS

- 5** The case raises significant questions regarding compliance of local authority health and social services providers with their adult safeguarding duties, equality and human rights duties, including:
- + The denial of care and support by health and social services when G was first referred to them with mental health issues raises serious questions of compliance with their duties to identify and protect adults at risk of abuse and to provide care and support under the Care Act 2014.
  - + Denial of care and support to G also raises questions regarding compliance with the Equality Act 2010. The Equality Act provides protection from unlawful discrimination in the provision of goods, services and public functions in relation to the protected characteristics set out in the legislation, which include sex, race, and disability.
  - + G's overall treatment by health and social services indicates a potential violation of her human rights. Public authorities, including health and social services, have duties under the Human Rights Act 1998. The Convention rights relevant in this case are Article 3 (prohibition against torture, inhuman or degrading treatment) – public authorities have an obligation to prevent a person being subjected to inhuman or degrading treatment and to protect vulnerable individuals who they know or should know are at risk; and Article 8 (right to respect for private and family life) – public authorities must ensure that their policies or decisions do not interfere with a person's right to respect for private and family life.
  - + The decision of social services to deny G any form of contact with her children in the absence of both a formal assessment of G and meeting with G's children to take their views into account indicates a potential breach of adult safeguarding duties under the Care Act 2014 and child safeguarding duties under the Children Act 2004.

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/)