Housing Domestic Violence Policy.

1. Objectives and Overview.

Southwark Council believes that domestic violence is unacceptable under any circumstances. The Council as a partner in the Safer Southwark Partnership is a signatory to the borough’s Hate Crime and Domestic Violence Strategy. This policy seeks to implement key aspects of that strategy.

The primary objectives of this policy are to:

- Provide a range of housing options for victims of domestic violence,
- improve the quality of service delivery to victims of domestic violence and their families,
- reduce homelessness and repeat homelessness due to domestic violence through providing or commissioning support and advice services to victims, and measures to tackle perpetrators living in council accommodation,
- enable victims to remain in their own homes through provision of advice, support and security measures, where it is safe to do so,
- where the victim is a council tenant and it is not safe for them to remain in their home, to provide emergency accommodation while measures to resolve the situation are put in place, without the requirement to make a homeless application.

Through our Supporting People programme we will continue to commission refuge provision and floating support services for victims of domestic violence.

We will adopt a problem-solving approach. This will involve listening to the victim, ensuring effective risk assessment and case management, and through joint working with other agencies.

This policy sets out a range of options for victims of domestic violence, including measures to enable victims to remain in their own homes in recognition that this is many victims preference. These options include measures to increase home security and action to tackle perpetrators. Where victims cannot remain in safety in their homes, emergency or respite accommodation will be provided while options are pursued.

Where perpetrators of domestic violence live in council accommodation, where possible, we will take action to evict or exclude them from the premises. In the longer term we aim to develop a borough-wide response to tackle perpetrators of domestic violence, whatever their tenure, subject to resources.

We will treat all victims of domestic violence with sensitivity.
2. Definition of Domestic Violence.

The definition of domestic violence is set out in the borough Hate Crime and Domestic Violence Strategy:

*Domestic violence is a particular form of hate crime where there is a pattern of behaviour characterised by the exercise of control and misuse of power by one person over another within an intimate/carer relationship.*

The abuse of power can take place in a range of personal relationship contexts, including:

- Heterosexual relationships between adults
- Same sex relationships between adults
- Relationships involving a personal/family carer of an elderly or vulnerable adult
- Parent/other adult relationships with children

Forms of abuse can be physical, sexual, emotional and financial, and can include the imposition of social isolation. Domestic violence is therefore not limited to actual violence or threat of violence. Domestic violence can also include patterns of controlling behaviour, such as refusal to allow the victim to see friends or family, or excessive financial controls.

This policy applies to anyone who might experience domestic violence, i.e. men, women and children, and including those in same sex relationships. It includes co-habiting couples as well as partners or ex-partners who are no longer living together, or who have never lived together. It includes domestic violence perpetrated within families, e.g. grandparent/grandchild. It also includes homophobic domestic violence perpetrated by family members on grounds of sexual orientation against people who are or are perceived to be lesbians, gay men, bisexual or transgender.

3. Links to other Strategies and Policies

This policy has links to other policies and strategies, including within Housing, Southwark’s Homelessness and Supporting People Strategies and the Housing Lettings Policy. It also has links to the wider Southwark Hate Crime and Domestic Violence Strategy and the Safer Southwark Partnership. It has links to the Children Act 1989, ‘Every Child Matters’ agenda, the National Service Framework for Children, and the London Child Protection Procedures. Within the regional context it has links to the Greater London Authority Domestic Violence Strategy and within a national context of providing more support to victims and more effective action against perpetrators as exemplified in the Domestic Violence, Crime and Victims Act 2004 and related guidance.
4. Multi-agency Working

Successful solutions for victims of domestic violence and their families are dependent on effective inter-agency working. This could include the police, Social Services Children and Family Services, Corporate Community Safety Service, Southwark Victim Support, refuges etc, as well as Southwark Housing Department services. The approach is for all relevant agencies to participate in risk assessment, case management or network meetings, as necessary.

Southwark Council is committed to working with other agencies to identify effective solutions for victims of domestic violence and their families.

5. Relevant Housing Legislation

There is a range of housing and related legislation in relation to both victims and perpetrators. For the purposes of this policy this section should be treated as an indicator only, in recognition that legislation may change but it is considered useful to include a summary of current legal remedies.

Victims


The Homelessness (Priority Need for Accommodation) Order 2002 includes people who are ‘vulnerable as a result of ceasing to occupy accommodation by reason of violence from another person or threats of violence from another person which are likely to be carried out’ amongst those who have a priority need. This definition applies to people fleeing domestic violence without children as well as to those with children.

However the guidance issued to date does not refer to same sex partners and such needs must be taken into account, particularly in light of forthcoming duties related to the Civil Partnership Act 2004, which extends partnership rights to same sex couples from 5 December 2005. Therefore for the purposes of this policy, the legislation and guidance will be interpreted to apply equally to those in same sex relationships, as to those in heterosexual relationships.

Ineligible asylum seekers and those with no recourse to public funds.

Under immigration and housing legislation, people subject to immigration controls are generally ineligible for housing assistance. However under Supporting People legislation ineligible asylum seekers and those with no
recourse to public funds who are victims of domestic violence are exempt from the Supporting People element of charging for refuge places.

Although we are unable to directly assist this group, we will provide advice in signposting such victims to other services which may be in a position to provide advice or support.

Perpetrators

**Housing Act 1985, as amended by the Housing Act 1996**
This civil remedy depends on the tenant experiencing domestic violence leaving the property with no intention of returning. It is therefore simply a way that the landlord can regain a property by taking action against an abuser who remains in occupation. It does not enable the victim to stay in the property.

**Crime and Disorder Act 1998- anti social behaviour order**
The local authority, police or a registered social landlord can take up these orders, where there is proof that harassment, alarm or distress has occurred. They can be for a minimum of 2 years up to life. They can prevent the perpetrator from entering a certain locality. They cannot be used for co-habiting couples but can be used for former partners.

**Anti-social Behaviour Act 2003**
This includes provision for increased use of injunctions, including the ability to exclude perpetrators from residential properties.

6. Southwark Housing’s Tenancy Agreement

Southwark Housing’s tenancy agreement makes the following provisions in respect of domestic violence:

**Domestic Violence**

‘The tenant must not use or threaten to use violence against any other person lawfully entitled to reside in the dwelling house so that they may be or are prevented from continuing peaceably to live in the dwelling house.’

**Relationship Breakdown**

‘Where the original tenancy is granted to one or both parties living together as a couple in a stable relationship, then if either party provided conclusive evidence that the relationship has broken down permanently, the Council shall provide suitable alternative accommodation, such accommodation to be provided in accordance with an assessment of their housing needs, provided that they have lived in the accommodation for at least three years or have occupied previous property owned by the Council as a couple for at least three years.'
Where the relationship breakdown is a result in whole or in part of domestic violence, the Council shall not be obligated under Clause 3(1) to rehouse or grant the tenancy of the dwelling house to the perpetrator of domestic violence.’

Departure of One of Joint Tenants

Where the tenancy is a joint secure tenancy, and one of the joint secure tenants has terminated the tenancy in accordance with the conditions of their tenancy agreement, the approach taken is generally that a new tenancy will be granted to the remaining tenant. This is subject to there being no serious breach of other clauses in the tenancy agreement. One of these exceptions is where there has been domestic violence.

Circumstances where the victim is not a joint tenant

There will be circumstances where the perpetrator of domestic violence is the tenant and their partner is not a joint tenant. In such a situation the Council will assess the facts of the case to determine whether it would be appropriate for the Council to commence possession proceedings based on domestic violence, or whether to take an alternative course of action if deemed appropriate, based on legal advice. It may still be possible to use other measures to exclude the perpetrator from the home. These measures will be considered where there is evidence that the victim has lived in the property continuously for a minimum period of a year, again subject to an assessment of the case and legal advice.

7. Risk assessment, Confidentiality and Sharing Information.

The approach to assessing the needs of victims of domestic violence will be based on a multi-agency risk assessment. Where necessary a multi-agency case conference will be convened by an expert panel to examine the case and to consider possible options in detail. There will be a defined information exchange process between agencies to be set out in detail in an information exchange protocol. The information to be shared will be set out in the protocol, and will be in accordance with the requirements of the Data Protection Act and Home Office guidance.

The risk assessment will be used to determine the type of services needed by the victim and any family members who reside with them. It will also be used in the assessment of possible housing options for the victim.

Generally the confidentiality and wishes of the victim will be respected. However, there will be exceptional situations where the risks to the victim or members of their household, especially children, may outweigh these considerations and where there is an obligation to disclose information to other agencies, e.g. Children and Family Services. In respect of children at risk of, or witnessing domestic violence, the Council’s position is that the needs of children must come first. Where possible the priority will be to minimise disruption and ensure stability for the children of the household.
8. Support Services

Southwark Housing Department and its partner agencies will provide support services to victims of domestic violence, either directly or through commissioning. Support to be provided by Southwark Housing or its partner agencies will include:

- Housing advice, including housing options advice,
- Referral to partner agencies to carry out fitting of additional security measures to the victim's home and/or installation of a sanctuary scheme for victims of domestic violence, irrespective of the victim’s form of housing tenure, providing the perpetrator can legally be excluded from the victim’s home,
- Referrals to other agencies or services for non-Housing support- e.g. emotional support, advocacy and counselling services. A directory of services for victims of hate crime and domestic violence is set out at Appendix 1,

Support could include advising and empowering victims in exploring any legal remedies available to them to exclude the perpetrator from the home, where he or she is resident in the home, or from the area, if he or she is not resident in the home. Such actions will only be pursued with the victim’s consent and where a risk assessment has determined it is safe to do so.

All of the services described above will be available to victims irrespective of their housing tenure.

In addition, where the victim lives in Council accommodation or temporary accommodation, speedy repairs will be carried out to the victim’s home, where the perpetrator has caused damage affecting the security of the property- e.g. repairs to broken windows or doors.


While some victims of domestic violence will have no option but to flee their home and make a homeless application, other victims may make a homeless application because they are unaware of other options that may be available to them. They may also be in need of other advice and support.

Where a victim of domestic violence makes a homeless application they will be referred for an assessment of the victim’s support needs and for a risk assessment that takes account of the victim’s housing options, and any remedies to resolve the situation. This information will then be used as part of the homeless investigation and assessment. However this does not supersede any duties owed under homelessness legislation, for example any interim duty to accommodate under Part VII, Section 188 of the Housing Act 1996.
Where victims of domestic violence cannot remain in Southwark in safety, they will be provided with advice regarding their housing options, including the possibility of approaching another local authority for assistance. It should be noted that no local authority can compel another local authority to provide assistance.

Where the victim is a Southwark council tenant they should be encouraged to approach their housing area office for assistance as this may be in the victim’s best interest. However if the victim chooses not to pursue this option, a homelessness assessment will be conducted.

10. Council Tenants and Domestic Violence

Council tenants, or their partners, who are victims of domestic violence will generally be dealt with by their area housing office, unless they have exercised their right to a homelessness assessment.

Where such a victim approaches the area office the victim will be referred for a risk assessment. Where the victim is in need of emergency accommodation and is unable to make their own arrangements, an officer of appropriate seniority has the authority to make an initial placement into emergency accommodation, in liaison with the Temporary Accommodation service (see section 11). This initial placement will be provided until the risk assessment is completed, after which period the placement will be reviewed by the area office. If the recommendation of the risk assessment is that the victim should be rehoused, the area office will be responsible for referring the case to the Management Needs Panel (see section 12). If rehousing is not required, the area office will cancel the emergency accommodation placement.

If the outcome of the risk assessment is that there are alternative options that can be pursued, the area office will provide an overall case management role to the victim, in liaison with other agencies as appropriate.

Victims of domestic violence who are not council tenants or do not have occupation rights to council property ie general housing applicants who approach one of the area housing offices will be provided with advice about the availability of services, and where appropriate, signposted to the Homeless Service.

11. Respite or Emergency Accommodation- council tenants

There will be occasions when the risk assessment identifies the need for respite or emergency accommodation to be provided to council tenants who are victims of domestic violence. There may also be occasions when the risk assessment cannot be completed straightaway.
In these circumstances the area housing office will make an initial placement into emergency accommodation, in liaison with the Temporary Accommodation service.

This accommodation may be required for only a relatively short period, for example to enable the risk assessment to be completed or to provide the victim with a breathing space in which to consider their options, such as pursuing legal measures to exclude the perpetrator from the home. However it may be required for a longer period, for example pending rehousing as a result of the granting of Personal Protection priority under Southwark’s Housing Lettings Policy.

Types of accommodation to be considered will include refuges, both within and outside the borough. However these are often oversubscribed and therefore Southwark temporary accommodation will also be considered under this option. It should be noted that the majority of refuges are currently provided for women and that some have restrictions on the maximum age of male children who can stay at the refuge.

Where an area housing office has placed the victim in Southwark temporary accommodation under this aspect of the policy this does not require a homelessness application and for monitoring purposes should not be recorded as provided under a homelessness duty. It will however be funded through Southwark’s Temporary Accommodation budget for the first three months of the placement.

In order to control temporary accommodation numbers and costs, after three months, if the victim has not bid for suitable vacancies under the Council’s choice-based lettings scheme, the Council reserves the right to make a direct offer of accommodation. This will not be done without first advising the applicant of the consequences of failure to bid. If it is considered on appeal that the applicant has unreasonably refused this offer, then the placement will be cancelled. The victim will then be provided with advice and support, including the possibility of a one of the Council’s private sector funding initiatives, (subject to availability of funding), to find private sector housing.

If a risk assessment determines this accommodation is no longer required, the placement will be cancelled by the originating service. If the household is being placed pending permanent rehousing under the Personal Protection rehousing category, the area office will jointly be responsible for periodically reviewing the household’s circumstances with any support provider. This will include ensuring that the household is bidding for suitable properties under the choice-based lettings scheme, as set out in Section 12.

12. Rehousing under Personal Protection Category (‘management transfers’)
The Personal Protection rehousing category includes Southwark council tenants who are victims of domestic violence, where a risk assessment has determined that permanent rehousing is required. Following this determination, all such cases will be forwarded to the Management Needs Panel for appropriate action. It should be noted that this rehousing category applies to council tenants only and not to council leaseholders. Owner occupiers including council leaseholders are eligible to seek housing advice from the Housing Options Service or assistance under homelessness legislation.

Pending alternative housing becoming available, emergency accommodation may be required, as set out in Section 11 of this policy.

Under Southwark Housing’s Lettings Policy, this rehousing category attracts Band 2 priority, i.e. a high degree of priority for rehousing. As this is a choice-based policy, speed of rehousing will be dependent on the availability of suitable properties, how frequently applicants bid for vacancies and their priority, relative to other bidders.

Where a council tenant has been accepted under this rehousing category and they have been placed in temporary accommodation, they will be required to relinquish their tenancy on expiry of their entitlement to Housing Benefit on the two properties (or at the stage of acceptance for rehousing, if there is no Housing Benefit entitlement).

Full details of Southwark Housing’s Lettings Policy are set out in the Housing Lettings Policy Guide.


Measures to tackle perpetrators will be targeted at those living in Southwark accommodation, (including temporary accommodation), and at those threatening Southwark council tenants.

In respect of non-council tenants, a referral will be made to a support and advice service.

In respect of perpetrators of domestic violence who are council tenants, it is the Council’s intention to use the powers set out under Sections 5 and 6 of this policy to the fullest extent possible to evict or exclude them from council accommodation. However this will be subject to an assessment of the merits of each case, and taking legal advice into account. Where possible and appropriate the department will seek to use evidence from third party witnesses as part of the evidence-gathering process.

Where the victim of domestic violence is a council tenant and the perpetrator is living on the premises, with the victim’s consent the Housing service will take action to evict or exclude the perpetrator from the premises, based on an assessment of the merits of the case, and in accordance with legal advice. Where the perpetrator does not live with the
victim, advice will be provided to the victim on the remedies that are available to them to exclude the perpetrator from the vicinity of the victim’s home will be considered. In exceptional circumstances the Housing Department may pursue these remedies on the victim’s behalf, again subject to legal advice. Other legal remedies also exist to exclude perpetrators from the vicinity of the victim’s place of work or from friends and relatives of the victim. Where appropriate, these measures will also be considered.

14. Equalities Implications

Domestic violence is predominantly perpetrated by men against women. The consequences of domestic violence for women also tend to be more severe as statistics show that they are more likely to be seriously injured or murdered. However, domestic violence can affect people regardless of class, gender, ethnic origin, disability, religious belief, age or sexuality. Similarly, this applies to perpetrators of domestic violence. Among certain communities fear of being stigmatised may lead to under-reporting of domestic violence. Housing officers should be alert to these issues.

Same sex officers will be provided to interview victims where requested.

Interpreting facilities will be provided where required. Under no circumstances should relatives of the victim be asked to interpret on behalf of victims.

Advice and assistance, such as referrals to other appropriate agencies will be provided to ineligible asylum seekers and those with no recourse to public funds.

The impact of the new policy will be monitored to ensure that it does not discriminate, either directly or indirectly, against any group or community.
Appendix 1

(Insert list of other support/advice providers or hyper-link to Hate Crime Service Directory).