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Christine Darrah  
Clerk to the Committee for Justice  
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17 August 2020

Dear Christine

## **DOMESTIC ABUSE AND FAMILY PROCEEDINGS BILL**

At committee stage of the Domestic Abuse and Family Proceeding Bill the Justice Committee agreed to contact the Department for Communities for clarification of:

- (i) the position regarding the availability of funding and support for victims of domestic abuse whose immigration status prevents them from accessing public funds; and
- (ii) to ask the Department to consider providing a sustainable, permanent destitution mitigation fund for migrant victims of domestic abuse that would cover housing costs and an adequate amount to support the victim to enable them to leave an abusive relationship.

Access to public funds is determined in the first instance by an individual's immigration status which is an excepted matter under the Northern Ireland Act 1998 and vests in the Home Office. I am therefore writing to provide information on the position to the Committee as I understand it, but in doing so I would note that this is not a matter this Department (or indeed the Assembly) has significant policy responsibility for, or expertise in.

Section 115 of the Immigration and Asylum Act 1999 provides a statutory bar to persons subject to immigration control accessing income-based and certain non-contributory benefits. The term 'No recourse to public funds' is applied as a visa condition for most people granted temporary permission to enter the UK from non-European Economic Area (EEA) regions. Essentially people accept they will have no recourse to public funds when applying to live here.

The Northern Ireland Housing Executive (NIHE) which has statutory responsibility for Homelessness has advised in terms of assisting migrant women with insecure immigration status it would highlight the Homelessness Strategy 2017-22 where it is noted that 'Where an

applicant is ineligible but they are destitute and have a pre-existing care need, they may be referred to Social Services under the Health & Personal Services (NI) Order 1972'. In the same way, the Health and Social Care Trusts have a duty under the Children (Northern Ireland) Order 1995 to provide services for persons under 18 who are children in need. Therefore, a referral would be made to the relevant Health and Social Care Trust in such instances.

In such cases where Social Services assist a household under the Health & Personal Services (NI) Order 1972 the NIHE will often be asked to work with Social Services in identifying appropriate temporary accommodation. The NIHE will always do as much as possible to assist destitute households with a pre-existing care need but such assistance will always be cognisant of current legislation.

Partners of British settled residents/those deemed to be British/settled residents who are subjected to domestic violence can access support to leave the relationship. If they intend to apply for indefinite leave to remain under the domestic violence rules and have become destitute due to fleeing domestic violence they can apply for 3 months' limited leave to remain 'outside the Immigration Rules'. Under these conditions they have the right to work and immediate access to welfare benefits.

Not only would it not be legal to extend the availability of benefits or housing assistance to a person with NRPFs, but if the Department were to arbitrarily do so, it would potentially be exposing the person to ramifications for their current and future immigration status. Their permission to remain here could be refused or curtailed and they may be committing a criminal offence.

I hope this is helpful, however the Committee might wish to follow up further with organisations more familiar with immigration legislation.

Yours sincerely

**Departmental Assembly Liaison  
Officer Private Office**