



# **BHN Domestic Abuse Policy September 2023**

# Contents

1. Background
  2. Purpose
  3. Definition
  4. Prevention
  5. Multi agency working
  6. Confidentiality and information sharing – Disclosure Scheme  
Domestic Abuse Scotland
  7. Supportive first point of contact
  8. Housing options and preventing homelessness
  9. Remaining at home
  10. Action against perpetrators
  11. Rehousing
  12. Legal rights and options
  13. Staff training and development
  14. Risk management
  15. Equalities
  16. Monitoring, evaluation and review
- Appendix 1 – referral pathways
  - Appendix 2 – legislative context

## **1 Background**

- 1.1** The four local Registered Social Landlords (RSLs) in the Scottish Borders, Berwickshire Housing Association, Eildon Housing Association, Scottish Borders Housing Association and Waverley Housing, in conjunction with our key strategic partner Scottish Borders Council, are committed to a unified approach to domestic abuse – prevention and response – as reflected in this shared policy which is accompanied by a suite of shared procedures.
- 1.2** The four organisations are committed to preventing and alleviating domestic abuse, its impact and cost, in the broadest sense through working with other organisations and by collaborative and individual practice to ensure that individuals and any family members including children, experiencing domestic abuse, receive timely and consistent assistance, information and advice on housing options.
- 1.3** The organisations will ensure that this policy links with other key policies of each organisation including Allocations, Anti-Social Behaviour, Equalities and Diversity, as well as local and national strategies on homelessness to ensure best practice is demonstrated in the prevention, management and promotion of access to specialist services by appropriate signposting.
- 1.4** The four organisations are committed to treating domestic abuse seriously, to providing a supportive and enabling environment which encourages people to seek support for their experience of domestic abuse, including reporting to the police; to taking a multi-agency approach in holding perpetrators accountable for their actions; to working co-operatively to enable households experiencing domestic abuse to access a range of housing options, advice and information and support options in line with their needs; to being sensitive to the diverse needs of victims, (including children), considering their age, disability, gender, race or ethnicity, religion or belief sexual orientation.

## **2 Purpose**

- 2.1** The purpose of this policy is to clearly describe the principles on which Borders Housing Network base our actions as RSLs to respond to individuals and where applicable their families experiencing domestic abuse.
- 2.2** The Policy aims:
- To prevent homelessness and addresses the housing needs of those who experience domestic abuse
  - To intervene effectively with tenants who perpetrate domestic abuse
  - To promote a proactive approach to domestic abuse
  - To ensure that through a unified approach, appropriate, sustainable housing solutions are, as far as practically possible contribute to ensuring that violence and abuse are not tolerated and that the Scottish Borders is a safe place for all in which to live.

- To enable effective signposting to specialist support services for all victims of domestic abuse and their children.
- To provide clarity on the housing and related options available to those experiencing domestic abuse and to those who have perpetrated it.
- To work in partnership with other organisations to create a supportive environment which encourages people to report domestic abuse and to assist in ensuring a joined up holistic response when this happens.
- To support and enable staff to effectively respond to victims of domestic abuse.

### **3 Definition**

**3.1** The nationally agreed definition of domestic abuse is:

‘Any form of physical, verbal, sexual, psychological or financial abuse which might amount to criminal conduct, and which takes place within the context of a relationship. The relationship will be between partners (married, cohabiting, civil partnership or otherwise) or ex-partners’

### **4 Prevention**

**4.1** The prevention of domestic abuse, with its impact, on individuals, children, families and, communities and as a significant cause of homelessness is integral to this unified policy.

**4.2** We will engage with others in awareness raising campaigns which seek to challenge attitudes and promote gender equality.

**4.3** We will make all new tenants aware of this policy including the consequences for perpetrators and support for survivors.

**4.4** We will promote our approach to all customers through our websites and customer newsletters.

**4.5** We will require all employees and contractors to report any concerns to the relevant reportable Officer (as defined by RSL).

### **5 Multi-Agency Working**

**5.1** The four organisations recognise the importance of working with other agencies to make sure a co-ordinated approach is taken for the benefit of those experiencing and affected by domestic abuse.

**5.2** Research suggests that a significant number of those experiencing domestic abuse do not report it to anyone. However, they may still, for other reasons, come into contact with a wide range of service providers, including teachers, the police, courts, health professionals and social services. It is vital to the success of local strategies that these agencies are open to the possibility of domestic abuse and be as approachable and accessible as possible so that victims can be given appropriate support.

**5.3** We will take steps to enter planned partnership working with the following organisations to co-operate in assisting survivors of domestic abuse:

- Organisations providing specialist domestic abuse support and advice
- Police
- Fire Service
- Organisations providing advice on health, housing advice and substance misuse
- Victim Support
- Organisations providing more general advice services

**5.4** We will work in partnership with specialist support providers to ensure that there are clear referral pathways, and our staff will support engagement with the receiving agency.

**5.5** Training will be provided for our frontline employees on the services provided by these specialist support agencies, and how to supportively engage with these services.

## **6 Confidentiality and Information Sharing**

**6.1** All four organisations are committed to maintaining the highest standards of confidentiality/information sharing and risk management to ensure the safety and well-being of both victims/children and staff in accordance with the Data Protection Act and GDPR.

**6.2** Any information disclosed will be treated in the strictest confidence. Integral to this, the health, safety and well-being of the victim will be paramount and staff will not pass on or share information, including tenancy related matters with any third parties, irrespective of their stated relationship with the victim, except in circumstances where the victim has given written consent.

**6.3** In exceptional circumstances, where the health and safety of an individual is at risk, including children, and it is not feasible to obtain the individual's consent then information that would normally be considered confidential may be passed on to appropriate agencies. It would be reasonable to disclose information if:

- The victim is considered at risk
- A vulnerable adult is considered at risk
- A child is considered at risk
- A member of staff is at risk
- Information about the perpetrator could reduce risk

**6.4** In all circumstances where a child is considered to be at risk, staff will comply with the local Child Protection Guidelines.

**6.5** In all circumstances where an adult is considered to be at risk of harm, staff will comply with the local Adult Protection Guidelines.

**6.6 Disclosure Scheme for Domestic Abuse Scotland**

**6.7** The Disclosure Scheme for Domestic Abuse Scotland (DSDAS) was rolled out nationally on 1<sup>st</sup> October 2015 and aimed at tackling and preventing domestic abuse.

**6.8** The scheme has two main pathways for disclosure.

The **'Right to Ask'** element, where by an individual can ask if their partner has a history of domestic abuse and the **'Power to Tell'** which is generated by Police and partners.

The Power to Tell gives Police the power to disclose information to a person they feel may be at risk in their current relationship. A Power to Tell application can be created by any police officer or partner agency who is in receipt of intelligence or information about an individual which indicates their domestic history may present a risk to an identified partner. The responsibility for generating a submission lies with us all. As agencies with differing interactions and engagement with individuals, we are all in receipt of varying levels of information which is not always necessarily shared across each organisation.

Officers or partner agencies who wish to make a Power To tell application should complete the online form available on the Police Scotland Website.

When a Power to Tell application has been agreed as an appropriate course of action, information requests are sent to partner agencies and other Policing Divisions in order to collate any information held. An assessment is made from the information gathered as to whether a Concern is highlighted and if the application is to proceed to a multi-agency decision making forum (DMF). This forum will decide whether a disclosure will be made or not.

Disclosures will be made to the applicant by Police and agencies best placed to safeguard the individual at risk and will always be conducted in conjunction with advocacy services.

All disclosures made allow individuals to assess the threat and risk their relationship represents to them and any children/wider family and allows for an informed decision as to whether to continue in the relationship.

Queries can be made via the online form or by the designated email: [LothianScotBordersDAIUEast@scotland.police.uk](mailto:LothianScotBordersDAIUEast@scotland.police.uk)

## **7 Supportive First Point of Contact**

**7.1** Staff will enquire as to the person's experiences in their relationship to make sure they receive the right help and support.

- Staff will know about the services available locally to support people who experience, or perpetrate domestic violence or abuse and how to make a referral, whilst being aware of the potential impact of equality and diversity issues
- Consideration will be given to the type of support needed, both immediately and longer-term.

## **8 Housing Options and preventing homelessness**

**8.1** Staff will explore a range of options with domestic abuse victims:

1. Supporting victims to transfer tenancies into their names
2. Making effective use of management transfers so victims can make planned moves and avoid homelessness
3. Engage with RSLs outwith the area to explore wider housing options
4. Providing security measures to the home
5. Supporting victims to access specialist support
6. Supporting victims to access legal advice and representation
7. Re-housing the perpetrator
8. General financial support

**8.2** Where a victim or survivor of domestic abuse chooses to leave their existing home, both SBC and partner RSLs recognise that collaboration is the most person-centred and outcome focussed approach.

**8.3** RSLs will consider whether or not they have suitable alternative accommodation available within a reasonable timescale that may prevent the need for temporary accommodation and/or the requirement for a formal statutory assessment.

**8.4** SBC will determine whether or not advice and assistance, or a formal statutory homeless assessment, is required, in any given circumstance.

**8.5** A range of emergency accommodation is available for people experiencing domestic abuse who require an urgent move away from their current accommodation.

## **9 Remaining at Home**

- 9.1** The disruption and wide ranging costs – financial, emotional, social, caused by ‘having’ to move can be greatly reduced where victims are able to remain in their homes safely and the perpetrator excluded/re-housed.
- 9.2** Consideration will be given to the use of exclusion orders to enable those experiencing domestic abuse to remain in their home and exclude an abusive partner.
- 9.3** A co-ordinated approach will be taken involving RSLs, police and fire services, following a risk based approach to enable and support those who have experienced domestic abuse to remain at home, with additional safety and security measures in place.
- 9.4** RSLs will consider what action they can take in order to maximise the safety of an individual and their family where appropriate. This, in line with Safe Housing may include additional work to the property to assist in making it more secure such as changing locks, provision of an emergency alarm etc.

## **10 Action that will be taken against perpetrators**

- 10.1** All BHN members will be consistent in their remedies and actions against perpetrators of domestic abuse within their tenancies, they will:
- Ensure that tenancy agreements state that domestic abuse will be treated as a breach of tenancy that could lead to eviction
  - Include information in tenancy handbooks, newsletters, websites on the action which will be taken against perpetrators
  - Take a victim-centred approach to support any legal or other action necessary to transfer a tenancy to the victim and rehouse a perpetrator
  - Ensure that our response to a perpetrator does not place a victim at increased risk, or blame the victim for a perpetrator’s behaviour
  - Ensure that staff are appropriately trained and have good working relationships with specialist domestic abuse services
  - Support police with any required preventative steps or otherwise appropriate action
- 10.2** Whilst legislative provisions from the Domestic Abuse (Protection) (Scotland) Act 2021 remain unacted at the time of drafting this Policy, all BHN members are committed to implementation once brought into force. This will include legal mechanisms to end and transfer joint tenancies.

This provision was a key part of the Domestic Abuse (Protection) (Scotland) Act 2021 but is yet to be brought into force. The Scottish Government is currently developing the necessary secondary legislation and guidance and is working with the Scottish Court Service to develop changes to court rules and forms. The provisions aren’t expected to come into force until late 2023.



**10.3** The provisions on ending interest in sole and joint tenancies, contained in Part 2 of the Act, are explained in the [Act's Explanatory Notes here](#)

**10.4** In summary, the main factors to note are:

- For tenants who have engaged in abusive behaviour, a new ground (para 15A of Schedule 2) has been inserted into the 2001 Act to enable recovery action to be taken against the perpetrator
- Where the perpetrator is the sole named tenant, recovery action must be accompanied by the intention to offer the tenancy to the person who has suffered the abuse
- Where the perpetrator is one of the joint tenants, the landlord will have the power to apply to remove that person from the tenancy, leaving the other joint tenant in the tenancy
- The new ground defines the perpetrator to be either a spouse or former spouse, or civil partner or former civil partner, or a person with whom the abused person has lived with in the house to which the tenancy relates as if a spouse, for a period of at least six months in the twelve months prior to the proceedings being raised. This can include intermittent periods that amount to six months in total within the last twelve months
- Landlords will be required to give the perpetrator, as well as any qualifying occupier, advice and assistance regarding alternative accommodation. This advice and assistance must be provided as soon as is reasonably practicable after raising the proceedings
- In using any of these powers and duties, landlords must have regard to any guidance produced by the Scottish Government. This guidance must be the subject of consultation with the sector.

## **11 Rehousing**

**11.1** Applications for housing are received by RSLs from people wishing to be housed or who wish to be transferred to alternative accommodation for a number of reasons. This section outlines how staff will respond in terms of applicants experiencing domestic abuse.

**11.2** The circumstances of applicants who experience domestic abuse will be varied. Staff will recognise that a victim may not feel strong enough to leave the abuser imminently and that the safest option for them may be to remain in their home – leaving is a process.

- 11.3** Victims or survivors of domestic abuse may request that correspondence relating to their application be sent to a care of address. Where this is the case staff will ensure that the application is clearly marked showing this and will respect the need for sensitive handling of the application.
- 11.4** Victims of domestic abuse who make their application in person will be treated appropriately and as with other applicants interviewed in private. Where possible interview should be conducted by members of staff of the same gender if desired.
- 11.5** Victims of domestic abuse who require emergency accommodation will be assisted to contact other services eg homelessness service, social work, Borders Womens' Aid.
- 11.6** Referrals if appropriate will be made to support staff for both assistance in making an application and sustaining a tenancy once an allocation is made. This is in recognition that domestic abuse victims are looking for housing assistance at a difficult time and are particularly vulnerable.
- 11.7** Referrals will be made for assistance in making claims for benefits and other financial advice and assistance if appropriate.
- 11.8** Victims of domestic abuse may not wish to be visited at home and where this is the case, interviews in an alternative safe place such as an office will be arranged. Where home visits are carried out staff will be mindful of personal safety issues and make joint visits when deemed necessary.
- 11.9** Offers of rehousing will be risk assessed in relation to the previous circumstances of the individual and any family, and to the whereabouts of the perpetrator where known.

## **12 Legal Rights and Options**

- 12.1** **Appendix 2** sets out the legislative context relating to domestic abuse.
- 12.2** The four organisations are committed to ensuring that staff are knowledgeable of the options available including interdict and exclusion orders and that these are fully explored.
- 12.3** Where someone feels unsafe in their home and would prefer their spouse/partner does not live in the property with them they will be supported where appropriate to apply to the court for an interdict or exclusion order.
- 12.4** Legal Aid may be available and victims will be directed to seek legal advice and/or support from the Police Domestic Abuse Liaison Officer.

### **12.5** An interdict can:

- Restrain or prohibit conduct by one spouse against the other or any of their children
- Prohibit one spouse from entering or remaining in the matrimonial home or in a specified area around the matrimonial home
- Stop a partner/ex-partner making other forms of unwelcome contact such as phoning, texting or emailing or doing other things, for example taking items from the victim's home, where evidence of such harassment is available.

The court can also attach power of arrest provided an application has been made.

### **12.6** An exclusion order can:

- Remove the person from the property

## **13. Staff Training and Development**

**13.1** It is essential that staff have the requisite awareness and training to recognise the difficulties facing those experiencing domestic abuse and to provide the necessary information and assistance. Domestic abuse is often hidden and unreported. Housing staff need to be alert to domestic abuse, when considering reports of neighbour nuisance and antisocial behaviour, repair requests, rent/arrears management, allocations and homelessness presentations in particular.

**13.2** There will be mandatory training on domestic abuse for all staff who come into contact with customers and all staff who are responsible for implementing this policy which will cover:

- This policy and related procedures
- Relevant legislation
- The services available from other agencies to support victims/survivors
- Understanding the "survivor" experience.
- Personal safety measures
- Supporting victims of domestic abuse and their children to provide feedback on their experiences of service provision, and encouraging, where appropriate survivors to contribute to service policy and procedure reviews.

## **14 Risk Management**

**14.1** All four organisations are committed to ensuring that staff are confident and competent in responding to the potential, perceived or real risks associated with domestic abuse.

**14.2** BHN's Policy approach recognises that a major barrier to victims leaving an abusive partner is that it can be extremely dangerous. Victims are at most risk of serious harm when separating from an abusive partner.

**14.3** Domestic abuse does not stop when a victim ends a relationship and/or leaves: abuse, stalking and harassment may continue and often escalate. It may seem counter-intuitive, but it is often safer for victims to stay in a situation in which abuse occurs, but which is more predictable and in which they have some (albeit limited) agency.

Victims themselves are often best placed to understand the risk to them and their children. A victim's assessment of their safety balances several factors:

- Their knowledge of the perpetrator's behaviour
- Their likely reaction
- The law's ability to protect them from that reaction

**14.4** This policy recognises that supporting victims of domestic abuse can be stressful and can impact on staff members, and fully supports the use of support and supervision for staff who may require to access additional support.

**14.5** All BHN Housing staff and designated frontline operatives are trained to identify and assess risk factors relevant to domestic abuse. All staff will be trained in the Referral Flowchart contained in **Appendix 1**, and supported to make effective, timely referrals where appropriate.

**14.6** When a member of our teams identify risk, a specific domestic abuse housing pathway will provide them a process to follow so they can deal with the risk according to the level of risk and the immediacy of the situation.

**14.7** All relevant staff are trained to work within child protection and adult protection policies/ procedures as specified within the Public Protection Committee learning resource.

**14.8** Multi-Agency Risk Assessment Conferences (MARACs) are confidential, regular, local meetings where information about domestic abuse victims at risk of the most serious levels of harm (including murder) are shared between representatives from local agencies (with BHN representation across all four housing associations) to inform a coordinated action plan to increase the safety of the victim and their children, and reduce risk. Local authority housing/homeless services are members of MARACs and provide housing responses/solutions.

## **15 Equalities**

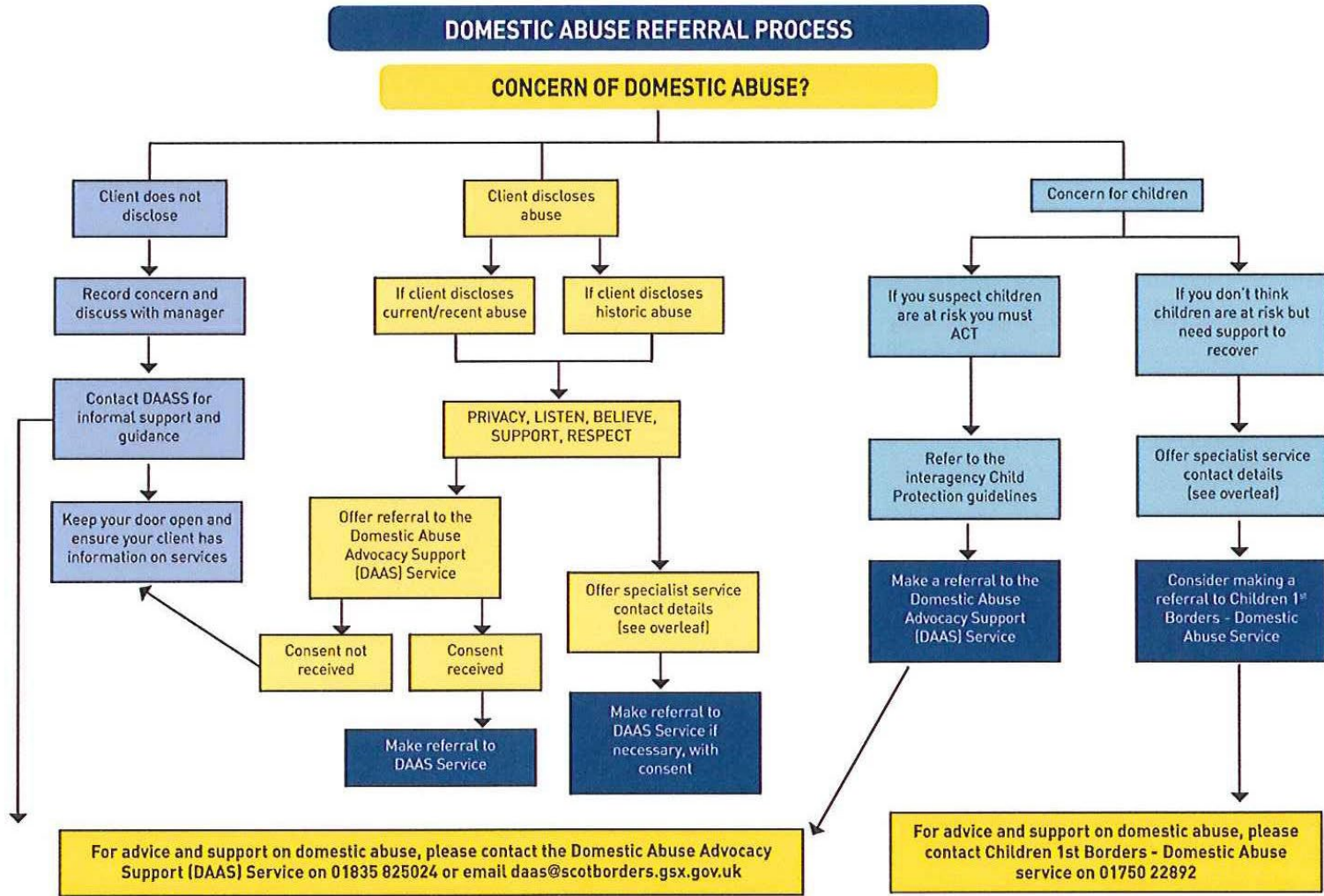
**15.1** We will not discriminate in the operation of this policy on the basis of age, disability, gender assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

**15.2** Our responses to domestic abuse will be designed to meet the needs of people with different protected characteristics, for example disabled women, BME women.

## **16 Monitoring, Evaluation and Review**

- 16.1 All four organisations are committed to monitoring and evaluating the effectiveness of this unified policy using a range of measures and performance indicators, specific to each provider.
- 16.2 This information will be shared with strategic partnerships to provide evidence, data, and feedback on the coordinated, community approach to addressing domestic abuse in the Scottish Borders.
- 16.3 Additionally, service user feedback will be gathered by each RSL to inform changes to policy and practice.
- 16.4 This policy will be reviewed every three years or earlier due to changes in the law, regulation, best practice or requirements of any of the participating organisations.

## Appendix 1 - Referral Process



## **Appendix 2 - Legislative context**

Domestic Abuse (Protection) (Scotland) Act 2021  
<https://www.legislation.gov.uk/asp/2021/16/contents>

Domestic Abuse (Scotland) Act 2018  
<http://www.legislation.gov.uk/asp/2018/5/contents/enacted>

Domestic Abuse (Scotland) Act 2011  
<http://www.legislation.gov.uk/asp/2011/13/contents>

Adult Support and Protection (Scotland) Act 2007  
<http://www.legislation.gov.uk/asp/2007/10/contents>

Children (Scotland) Act 1995  
<https://www.legislation.gov.uk/ukpga/1995/36/contents>

Children's Hearing (Scotland) Act 2011  
<https://www.legislation.gov.uk/asp/2011/1/contents>

Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011  
<http://www.legislation.gov.uk/asp/2011/15/contents/enacted>

Protection from Abuse (Scotland) Act 2001  
<https://www.legislation.gov.uk/asp/2001/14/contents>

Housing (Scotland) Act 1987  
<https://www.legislation.gov.uk/ukpga/1987/26/contents>

Homelessness etc. (Scotland) Act 2003  
<https://www.legislation.gov.uk/asp/2003/10/contents>

<b>Title of policy/ practice/ strategy</b>	Domestic Abuse	
<b>Department</b>	Community Services	
<b>Who is involved in the EQIA?</b>	Hilary Scott, Housing Services Manager, Eildon HA Dan Blake, Director of Customer Experience, Berwickshire HA Nicola McIrwraith, Head of Support Services, SBHA Lenore Suddon, Housing Manager, Waverley Housing	
<b>Type of policy/ practice/ strategy</b>	BHN Unified Policy Existing (review)	
<b>Date completed</b>	11/09/23	

**Stage 1: Screening Record**

**What is the main purpose of the policy?**

To describe the principles on which we base our actions to identify and respond to individuals who are experiencing domestic abuse.

**Who will the policy benefit and how?**

The policy will benefit tenants by offering a clear approach to supporting them if they experience domestic abuse. The policy will also inform and support staff.

**For each equality group, does or could the policy have a negative impact?**

Protected characteristic	Negative	Positive/no impact	Don't know
Age		X	
Disability		X	
Gender reassignment		X	
Marriage & civil partnership		X	
Pregnancy & maternity		X	
Race		X	
Religion or belief (including no belief)		X	
Sex		X	
Sexual orientation		x	

If you answered negative or don't know to the above question you should consider doing a full EQIA.

**Are there any potential barriers to implementing the policy?**

Lack of suitable alternative accommodation



	Yes	No
<i>Is a full EQIA required?</i>	X	

*If you answered no to the above question explain why a full EQIA is not required:*

No impact on equalities identified:	
Other:	

## Stage 2: Assessing the impacts

**How might the policy impact on people who share protected characteristics?** Include both positive and negative impacts.

Protected Characteristic	Description of Impact
Age	The policy commits to providing individuals and any family members including children experiencing domestic abuse with timely advice, information and support tailored to their individual requirements. Referrals will be made to specialist support services for tenants and their children.
Disability	The policy is sensitive to the diverse needs of victims and commits to supporting them to access a range of housing options, advice and support in line with their needs.
Gender reassignment	No specific positive / negative impacts.
Marriage & civil partnership	The definition of domestic abuse adopted in the policy is clear that domestic abuse can take place within the context of a relationship where the partners are married, cohabiting, in a civil partnership or otherwise, or are ex-partners.
Pregnancy & maternity	No specific positive / negative impacts.
Race	No specific positive / negative impacts.
Religion or belief (including no belief)	No specific positive / negative impacts.
Sex	The policy is gender neutral in relation to victims and perpetrators, and commits to engaging with others in awareness raising campaigns which seek to challenge attitudes and promote gender equality.
Sexual orientation	No specific positive / negative impacts.

### **How does the policy promote equality of opportunity?**

The policy acknowledges that every tenant is different and that different tenants will have specific requirements based on their individual needs; the policy approach is to ascertain what these needs are and include these in the consideration of action to take.

The policy is clear that we understand that individual circumstances differ and that they will be taken into account, acknowledging the differences and being clear that we may treat people differently to ensure equality of opportunity.

### **How does the policy promote good relations?**

The unified policy confirms commitment by BHN members to provide a consistent approach to supporting victims of domestic abuse and taking action against perpetrators.

### Stage 3: Decision making and monitoring

#### ***Identifying and establishing any required mitigating action***

If, following the impact analysis, you think you have identified any unlawful discrimination – direct or indirect - you must consider and set out what action will be undertaken to mitigate the negative impact.

Does the assessment show a potential for differential impact on any group(s)?	Yes	No <input checked="" type="checkbox"/>
Is there potential for unlawful direct or indirect discrimination?	Yes	No <input checked="" type="checkbox"/>

#### ***What arrangements could be implemented to reduce or mitigate any potential adverse or negative impacts identified?***

##### ***Describing how Equality Impact analysis has shaped the policy making process***

The policy development has been guided by stakeholder discussion and feedback from customers with lived experience. Reflecting on the potential positive and negative impacts on different groups has helped to inform the language used and how we frame our inclusive approach to this policy and the associated process and procedures.

##### ***Monitoring and Review***

The policy and EQIA will be reviewed every 3 years.

#### Stage 4 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes

No

- ◆ Opportunities to promote equality in respect of age, disability, sex, pregnancy and maternity, gender reassignment, sexual orientation, race and religion or belief have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes

No

#### Declaration

**I am satisfied with the equality impact assessment that has been undertaken for the Domestic Abuse policy.**

**Name:**

**Position:**

**Authorisation date:**