

Victims of Domestic Violence Immigration Guidelines

The purpose of this document is to set out how the Irish immigration system deals with cases of domestic violence where the victim is a foreign national and whose immigration status is currently derived from or dependant on that of the perpetrator of domestic violence. It is aimed at explaining how a victim of domestic violence whose relationship has broken down can apply for independent immigration permission in his/her own right.

1. What is domestic violence?¹

Domestic Violence refers to the use of physical or emotional force or threat of physical force, including sexual violence in close adult relationships. This includes violence perpetrated by a spouse, partner, son or daughter or any other person who has a close or blood relationship with the victim. The term 'domestic violence' goes beyond actual physical violence. It can also involve emotional abuse; the destruction of property; isolation from friends, family and other potential sources of support; threats to others including children; stalking; and control over access to money, personal items, food, transportation and the telephone.

No one should have to suffer domestic violence and it is a matter that is taken seriously by the authorities. Migrants may have additional vulnerability in this area in that the person committing domestic violence may say "if you report this you will lose your immigration status". **This is not true.** Domestic violence should always be reported and you do not have to remain in an abusive relationship in order to preserve your entitlement to remain in Ireland.

Confidential support and information is available to women on the Women's Aid National Freephone Helpline – 1800 341 900. The Helpline can access an interpreter in your language and can provide information on support services throughout Ireland. Information is also available on-line at www.womensaid.ie

Amen provide a confidential helpline and support service for men – 046 902 3718 – and information is available on-line at www.amen.ie

Full details of support services available in Ireland may be found at the website of Cosc – The National Office for the Prevention of Domestic, Sexual and Gender-based Violence
<http://www.cosc.ie/en/COSC/Pages/WP08000009>

2. Making an application for independent status as a victim of domestic violence

Applications must be made from inside the State and the person making the application should have some form of current immigration status as the dependent of an Irish national or of a

¹ Source: COSC website – Reference: Report of the Task Force on Violence against Women

foreign national who has immigration permission to live in Ireland. If their immigration status has lapsed an application can still be made but it will have to be clearly explained in the application as to the circumstances in which the permission was not renewed.

Applications should be made in writing to General Immigration Division, 13/14 Burgh Quay, Dublin 2. There is no application fee. In the event of the application being successful the normal registration fee will be applied.

The application, which can be made through a solicitor or directly by the person themselves should set out details of the domestic violence suffered and make a request for independent immigration status. Any relevant family circumstances, especially whether there are any children involved should be disclosed, including information on whether the applicant or the perpetrator has left the family home.

3. Evidence to support application

In order that INIS can fully consider your application for independent status under this policy, it will be necessary to supply as much information as possible in support of your claim that you are a victim of domestic violence. The sort of documents that would be helpful in establishing this would include (original documents required)

- Protection Order, Safety Order or Barring Order from the Courts
- Medical reports indicating injuries consistent with domestic violence. Details of doctor and dates of consultation should be supplied
- A Garda report of incidents of domestic violence
- A letter from a State body (such as the Health Service Executive) indicating that it is dealing with your case as an issue of domestic violence
- A letter of support from a domestic violence support organisation
- Any other evidence indicating that you are the victim of domestic violence.

4. Immigration Categories for Victims of Domestic Violence

Generally the immigration status granted would be at the same level as that which was previously held as a dependent (normally Stamp 3). The main difference is that this status is no longer dependent on the spouse or partner and that person will have no say in whether the applicant is permitted to stay in Ireland. Where it becomes necessary for the victim to work to support themselves or family members lawfully residing in the State, consideration will be given to granting permission to work.

All decisions are at the Minister's discretion.

5. Cases where the victim is unlawfully present in the State.

This policy is aimed at providing the possibility for lawfully resident victims of domestic violence to obtain immigration status independent of the perpetrator. The arrangements outlined above do not apply where the victim is unlawfully present.

However domestic violence should always be reported to the Garda Síochána who will investigate the complaints and evidence of the domestic violence can be presented for consideration in any immigration determination including a leave to remain application made on foot of a notification to deport.

A person who is being subject to domestic violence may apply to the courts for an order under the Domestic Violence Act 1996. The Legal Aid Board and domestic violence support services will advise on whether a person is eligible to apply but immigration status is not considered in relation to such an application,

6. Perpetrators of Domestic Violence

One of the standard conditions of a foreign national's immigration permission is that the holder shall be of good character. Engaging in domestic violence can be regarded as breaching this condition and this could lead to revocation or non-renewal of the of the perpetrator's own immigration status.

Notes

1. The provisions contained in the European Communities (Free Movement of Persons) (No. 2) Regulations 2006 (S.I. No. 656 of 2006) in respect of victims of domestic violence in the event of divorce or annulment of marriage are not affected by this document. Persons who hold an EU Fam card by virtue of being a spouse partner or other family member of an EU national exercising rights of Free Movement may in some circumstances retain their rights of residence following divorce or annulment.
2. These provisions relate only to immigration status. Any issues relating to entitlement to state services remain matters for individual Government Department or service provider.