



What you need to know: Domestic Abuse (Protection) Bill

Background

The [Domestic Abuse \(Protection\) \(Scotland\) Bill](#) as passed by the Scottish Parliament on 17 March 2021 will, when the provisions come into force, enable police and courts to ban suspected abusers from re-entering the home for a period of up to three months with a domestic abuse order. The legislation will also allow social landlords to apply to the court to end a sole tenancy of a perpetrator of domestic abuse or end a perpetrator's interest in a joint tenancy, enabling the victim to remain in the family home.

The Bill marks a critical shift in preventing women's homelessness by removing and barring the perpetrator from the home and gives social landlords greater control to transfer tenancies to a victim/survivor, upholding women's rights to remain in their home.

Domestic Abuse Protection Notices/Orders- Part 1

The law gives courts a new power to impose protective orders ("domestic abuse protection orders" or DAPOs) which can remove a suspected perpetrator of domestic abuse from a home of any tenure of a person at risk and prohibit them from contacting them while the order is in effect.

The legislation allows for police to impose a very short-term administrative notice (a "domestic abuse protection notice" or DAPN) to take immediate effect ahead of applying to the court for a DAPO. A DAPO can last for two months and can be extended on application to the court to a maximum of three months. The DAPO cannot be renewed beyond this period.

Social landlords ending a tenancy - Part 2, section 18

In sole tenancy cases, where the victim has been living with the perpetrator but is not named on the tenancy agreement, social landlords will have the power to raise an application to the court for

repossession on the grounds of domestic abuse. The landlord can then enter into a tenancy agreement with the victim as a sole tenant - allowing victims to remain in the family home rather than having to move to alternative accommodation, or where they have been temporarily rehoused, return to the family home as sole tenant.

In joint tenancy cases, social landlords will also have the power to raise an application to the court to terminate a perpetrator's interest in the tenancy on the grounds of domestic abuse, allowing victims to remain in the family home rather than having to move to alternative accommodation, or where they have been temporarily rehoused, return to the family home as the tenant.

There are a number of conditions that must be met to allow these grounds to be used, including that the property is the victim's only or principle home, that they wish to remain living there, and that the parties have been in a co-habiting relationship for at least six of the 12 months preceding any action being taken by the landlord.

In addition, social landlords must provide advice and assistance to the perpetrator and any qualifying occupier in relation to the finding of alternative accommodation as required. There is however no requirement on the social landlord to provide alternative accommodation.

In sole tenancy cases, social landlords must also, within 28 days after the date of termination of a perpetrator's tenancy, offer the tenancy of the house to victim/survivor.

The 28 day period to offer the tenancy provides flexibility for social landlords in cases where for example, the perpetrator has remained in the family home and essential repairs and safety checks need to be carried out before the victim can move into the home safely.



The Bill as passed also allows landlords not to offer the tenancy to the victim within 28 days after the date of termination of the perpetrators tenancy where it is impossible or inappropriate to do so because of circumstances relating to the victim.

An example of this is if the landlord was unable to locate the victim to make the offer of the tenancy to them. It is anticipated that situations like this will be rare, but the Bill makes provision for an exemption so that the duty to make the offer is not absolute.

Statutory Guidance - Part 2, section 18

Scottish Ministers have provisions allowing them to issue statutory guidance in relation to the changes introduced by section 18 of the Bill, and to consult such persons as they consider appropriate in the development of guidance.

The CIH view

We very much welcome the passing of the Bill which will improve the housing rights of victim-survivors.

We know domestic abuse is the principal cause of homelessness for women but the law did not previously give enough protection to victim-survivors to safeguard their housing rights. This legislation will now give victims of domestic abuse housing rights and options that were previously unavailable - including the option of staying in their home. A key ask from our domestic abuse campaign, [Make a Stand](#).

However, we note that while social landlords may wish to combine a tenancy transfer application at the same time a DAPO is in place, it is important to remember that DAPOs can only last for a maximum of three months. As the court process is likely to take much longer than three months, where appropriate, victims may need to seek other court protections such as interdicts or exclusion orders to continue to exclude perpetrators from the family home, to allow the action to be heard and concluded by the court and ensure the safety and wellbeing of the victim/survivor.

CIH Scotland also recognise that legislation alone cannot improve housing outcomes for victims of domestic abuse and believe the development of the accompanying guidance, including provisions on how to rehouse perpetrators, will be crucial in supporting social landlords improve housing and homeless services.

The Bill also places a duty on social landlords to have regard to any statutory guidance published by Scottish Ministers on use of the new powers set out at section 18 of the Bill.

The Scottish Government have advised that they will work closely with practitioners, including CIH and SWA in developing the guidance needed before the provisions can be brought into force. The guidance will support social landlords in the use of these new processes and will cover issues such as gathering evidence, support for victims to help them sustain their tenancy in the long term, and positive practice examples.