



Spotlight 5: Episode 6

Podcast Transcript

Title: Holding housing to account: understanding the local authority's duty to individuals made homeless by domestic abuse.

Introduction: Spotlights is a series of online events and publications focusing on a particular group of victims and survivors who are often hidden from services. As a part of our Spotlight on homelessness and domestic abuse, my colleague Judith met with Jane Anderson, Services Manager for Housing Choice in Swinton. Jane has been working in the housing sector since 1993, and has established herself as an expert on the local authority's statutory responsibilities to victims and survivors who have been made homeless because of domestic abuse. In her interview she provides vital information and guidance for practitioners to effectively advocate for their clients when seeking housing support.

Key:

I= Interviewer

JA= Jane Anderson

I: So hi Jane. Thanks very much for joining me today to talk about homelessness and domestic abuse.

JA: Yeah. Well thanks first for inviting me. Thank you. So we just want to understand a little bit more about the local authority's duties to homelessness. Could you tell us a little bit more about what exactly is the local authority's responsibility to people who are forced to leave their home because they're fleeing domestic abuse?

JA: Yeah. So when somebody presents as homeless, the first thing that the local authority will do is to check that homelessness application has been triggered, and that means that they have to have reason to believe that they're homeless and as soon as they have that then legally they have to start an assessment, and the assessment is basically five questions. So are you eligible which is about immigration status. Are you homeless? Do you have a priority need? Are you intentionally homeless, and then we can if we choose a local connection? So the first thing that we would do is establish immigration status and then we would look at homeless.

If somebody says that they've had to leave their accommodation because of violence that automatically triggers a homelessness application because it's not reasonable for them to occupy their accommodation. If they have dependent children or they're

pregnant, they automatically have a priority need. So at that point the local authority's obligation is to offer temporary accommodation if it's needed, and to continue to provide that until they've reached a decision on the application. The application decision on the application must be made in writing.

So the applicant must get a written decision at some point, and the guideline is that that's within thirty-three working days of their application. If the applicant doesn't have dependent children or is pregnant, then we have to assess whether or not they are vulnerable. There was a Supreme Court judgment in May 2015 and the names were Hotack, Kanoo and Johnson and that redefined the vulnerability test that local authorities must use, and it actually lowered the bar. So it made it easier for single people to be deemed to be vulnerable and therefore in priority need, and then they too have access to temporary accommodation.

I: So that's really useful to know. I think that's a really key case for people to look at isn't it? So if we're thinking about numbers, I mean how prevalent do you think that this problem is in terms of homelessness for people fleeing domestic abuse?

JA: The figures that central government collect for many, many years showed domestic abuse as being in the top three reasons for acceptance. In the last few years it's dropped to four. That isn't because the numbers being accepted due to domestic abuse have dropped it's because other reasons have overtaken it. The numbers have remained fairly consistent and nationally we're looking at about 2,400/500 households a year accepted as homeless. However, what the government's statistics don't show is the numbers who present and are not found to have a priority need. So it's accepted that they're homeless, that they've had to leave because of domestic abuse but they're not included in the national figures because they're not what are called statutory homeless households because they don't meet the full criteria for that.

I: So it's really difficult to know the full picture then really isn't it because that excludes those who aren't pregnant, don't have dependent children and who may not fit that vulnerability definition?

JA: Yes.

I: Yeah definitely, and I think that would it be fair to say that I think most insist its kind of tell us the answer to this but that local authorities don't tend to fill their obligations when it comes to that level of homelessness, the domestic abuse and homelessness?

JA: I think the difficulty is around that definition of vulnerability and previously, previous to the Supreme Court judgement, it was extremely difficult. Basically you had to prove that you were more vulnerable than the most vulnerable which you know, by definition you can't do it because the comparison that we had to make was we had to assume that the applicant was a rough sleeper and then compare them to another rough sleeper and say why you're worse off.

I: Okay.

JA: The Supreme Court judgment said that that is the wrong comparison, that the comparison should be with an ordinary person.

I: Right okay.

JA: So before it was an ordinary homeless person. Now we're saying it's an ordinary person.

I: Okay.

JA: So it's easier to be deemed to be vulnerable, and that's where if you have additional issues such as a disability, mental, physical health issues, substance misuse. You know, if English isn't your first language. All those additional issues, that's where they really become important in terms of assessing the person's vulnerability.

I: Yeah absolutely. is there kind of anything that we could help frontline practitioners now use to challenge local authorities if they're not going to fulfil their duties?

JA: Yeah. It...the common accusation if you like is that local authorities gate keep. That's the term that's used, and gate keeping refers to the unlawful practice of preventing someone from making a homelessness application. There are lots of reasons why that might happen. Lack of training is one. That people actually don't realise that what they're doing is wrong because they've not had training. Budgets have been cut hugely for local authorities in the last few years. Training is always one of the first things to go, so I'm not excusing the behaviour but you know, there is some explanation about that.

A lot of local authorities are also under pressure just to keep their figures down because it doesn't look good, and because it's expensive. If we accept that somebody's homeless and has a priority need, we have to provide temporary accommodation. If as in some areas, a lot of your temporary accommodation is being decommissioned, then you become reliant on B&B. B&B is very expensive. So there is undoubtedly pressure. When the Supreme Court judgement was published, the judges specifically made the comment that lack of resources is not a reason to prevent people from making homelessness applications because there was an acknowledgement there that that perhaps that's why it's happening.

In terms of challenging it, I think one of the really important things is to appreciate the difference between being told that you haven't triggered a homeless application, and that you are not homeless. They are two in law, very different things because to trigger an application they have to have reason to believe that you're homeless. If they say...if you're told normally at triage you haven't triggered an application, they don't have to take an application. If they tell you you're not homeless, they've made a decision on your homeless application and you must get that in writing.

I: In writing, so that you can challenge that?

JA: And then you can challenge the decision. So it's being very aware of the difference between not triggering, being told you haven't, you know, you don't meet the criteria for a homeless application and being told you're not homeless. That's a decision.

I I would always still ask for it, so, and if they say it's because you're not homeless, then you ask for your Section 184 decision letter because not homeless is a decision. There is also some guidance issued by the Department of Communities and Local Government, and it's the supplementary guidance on domestic abuse and homelessness. I think Safe Lives have put it on moodle.

I: I would actually recommend any Idvas just carry it out with them. It sets out the definition which we're required to use which is the cross government department definition. So it quite clearly states it doesn't just need to be physical abuse. It can be any other form of abuse. It sets out what our duties are around providing accommodation and the suitability of that accommodation. What prevention work we can do about not requiring proof. It's just really plainly worded, easy to understand guide to what a local authority's duties are when responding to domestic abuse. So it's really useful just to

be able to show to your triage officer and says 'actually the guidance here says,' and it's in writing. And the guidance isn't...it's not statute. So it's not legally binding but we have to have regard to it.

I: Absolutely. I think one thing that you've really sort of made clear is that how important it is to have an advocate with you, but the reality is many, many people don't have access to an advocate to go with them. What do you think we can do to reach out and help those people who may not have that kind of advocacy available to them?

JA: I think in those situations, even if the advocate is not able to accompany the client, for me it's about building your relationship with your homelessness service and if you bid for a company maybe providing information beforehand. What we often find is that people will withhold information that they think will put them in a bad light if you like.

I: Yes, yeah.

JA: That they think will make them less likely to receive a service, and actually for homelessness it's the opposite. So if you have an issue with substance misuse or you have a mental health problem, it actually helps you if we know about that but we accept that for a lot of people it's really difficult to talk about that as it is just about the abuse in general. So if this arrangement whereby Idvas can provide information to say this client will be presenting, here is some background information, then that is something that could help. Local authorities have to you know, we're bound by the Equalities Act, and my own authority has been in Court recently, a County Court appeal and it pretty much lost the case on our failure to comply with the Equalities Act in regard to someone's disability.

I: Right okay.

JA: So we have to acknowledge it in our decision letters that we've taken it into account, and the homelessness code of guidance, the general code of guidance does say that our services must be designed to meet the needs of everyone. So that includes things like doing home visits, doing hospital visits, doing telephone assessments. There isn't actually a requirement for a homeless assessment to be face to face.

I: Oh okay.

JA: It doesn't need to be.

I: Right.

JA: So you could do it over the telephone. We have actually set up an arrangement with our rid for service whereby anyone who, their case is heard at Marac and the action from Marac is that they should be re-housed. We have a system whereby we don't interview them. Their Idvar will send that information to us. We have an officer at Marac anyway, so that information would be picked up and we would take an homelessness application on the basis of the information taken from Marac because we don't need anything. It's a multi agency information sharing, that's the purpose of that meeting so we don't need anything further than that, and if it's an action from Marac, then we would accept that that easily puts somebody within the criteria of requiring re-housing.

I: A priority need or...?

JA: Yes so they would get...if the action from Marac is this person needs re-housing then they would be awarded full duty statutory homelessness.

I: ...right okay.

JA: Yeah.

I: **That's an incredibly useful I think piece of information because I think in other areas that would really help them you know, improve the response from housing and other queries. So that's something that people can think about. That's great. So just thinking as we kind of come to the close, how do you feel that local authorities could improve and change the services they offer to homeless?**

JA: I think it works. There's work at all levels that could be done. So if you start at very operational level just building the relationship between Idva services and between homelessness services, I know there could be quite adversarial, and I think what both services need to be is centred on the needs of the client, and we have worked quite hard in my authority to develop those relationships. So we have done things around job shadowing. Our workers will go and spend a day with Idvas. Idvas have come and spent time with our team so we both appreciate what others' roles are. At the next level up that's fine if you've got your co-operation between your workers but that needs to be reflected at management level and that's where you know, we as I said the example of actions from Marac, we don't take...we don't require them to come in to make a homeless application.

So that was something that was agreed by managers, and taking it up a level again, I think there's work that needs to be done strategically, particularly now when there's so much competition for funding. I think it's really important that services work together and don't compete. So particularly you know this is one of the things that we've discussed at our domestic abuse board is about pots of funding and then discovering that different people around the table have put in individual bits rather than working together to say what do we need as a whole? What can we deliver in a co-ordinated way and to do bits in that way?

Being part of each other's strategic group so I chair our homelessness strategy monitoring group, and for me it's really important that I have somebody representing domestic abuse services on that. So they get their input as well as the services. Similarly, I sit on their board. So you...it's a bit more of a strategic approach and it's about supporting each other and about understanding if you cut this service here, it impacts on this service over here, and so you know things like for example, sanctuary scheme. If you cut our sanctuary scheme it impacts on you know, this client group here. This now means that rather than people being able to stay in their own home, they're going to have to make a homeless application.

I: **So it sounds like very much like you've got a really good model up here where you do all of those strategic collaborative working and you're making those changes and if we could just sort of encourage other local authorities to perhaps do the same it would be really good. Thank you very much for your time Jane. I think some really useful pieces of advice and information there and certainly some signposting for frontline advocates so that they can go to. So thank you for your time.**

JA: Thank you.

Thank you for listening. If you'd like to find out more about Safelives Spotlight on domestic abuse and homelessness, go to our website [SafeLives.org.uk](https://www.SafeLives.org.uk) where we will be uploading content every week from different experts from the 7th August through

the 15th Sept. And we want to hear from you-we need your views, experiences and practice tips, so join the conversation on Twitter with the hashtag #SafeAtHome and get involved on the SafeLives Community