



Guidance for Maracs on sharing of information in relation to victims who may have insecure immigration status

Introduction

This guidance has been written to ensure that all partner agencies can contribute to the role of Maracs (Multi-Agency Risk Assessment Conferences)¹ in protecting adult and child victims with insecure immigration status².

Only relevant and proportionate information should be shared through the Marac process to safeguard victims at risk. Any information shared with non-attending agencies should only be done with the agreement of the Marac, if appropriate, and only where it will directly help to improve the safety of the adult and/or child victims. Maracs must ensure that information shared within the process has safeguarding of the victim(s) as the absolute focus. Information sharing should serve the purpose of enhanced protection – for example to enable the victim(s) to access safe accommodation, court protection orders, engage in the family, civil or criminal justice systems, to confirm domestic abuse for legal proceedings or access to other specialist services.

- **Information shared during the Marac process should not be used to support immigration enforcement proceedings**
- **Immigration Enforcement should not attend Marac meetings**
- **No agency should pass on information shared at Marac meetings to Immigration Enforcement without explicit agreement of the Marac and then only for the purposes of safeguarding the victim(s).**

This guidance was developed by [SafeLives](#) with the support of Southall Black Sisters³, and with input from Standing Together⁴ and the Ealing Marac⁵. When referencing Marac agreement within the document, this refers to the Chair, the Marac co-ordinator and the Marac partners.

This guidance should be read in conjunction with:

- The [10 principles of an effective Marac](#), which includes best practice for all information sharing and action planning;
- HMICFRS' response to Liberty and Southall Black Sisters Super Complaint on policing and immigration.⁶ This report states that no information should be shared with Immigration Enforcement.

¹ If you are a practitioner working with domestic abuse victims and you need to contact a Marac, use SafeLives' 'Find a MARAC' service at <http://www.safelives.org.uk/marac/findamarac.html>. Alternatively, contact SafeLives' helpdesk on info@safelives.org.uk. For more information, see the guidance for Maracs which can be accessed at http://www.safelives.org.uk/marac/Resources_for_MARAC_Chairs_and_Coordinators.html

² People with 'insecure immigration status' are those whose status is temporary or insecure due to waiting for a decision about their permission to stay, or because they are dependent on their partner's, spouse or other family member's status. Their stay is usually limited, they may be undocumented or do not have legal rights to stay (Equalities and Human Rights Committee, 2017; Safety4Sisters, 2016).

³ <https://southallblacksisters.org.uk/>

⁴ <https://www.standingtogether.org.uk/>

⁵ With thanks to Marac representatives from Ealing, Standing Together (who coordinate Ealing Marac), and Southall Black Sisters

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945314/safe-to-share-liberty-southall-black-sisters-super-complaint-policing-immigration-status.pdf

For the purpose of this guidance, when referencing the Home Office, Border Force and UKVI (UK Visa's and Immigration) we use Immigration Enforcement.

Why do we need guidance?

The recent Super Complaint submitted by Liberty and Southall Black Sisters raised serious concerns about the impact of information sharing between the police and the Home Office in respect of victims of domestic abuse with insecure immigration status. The Police Inspectorate, HMICFRS' response to that complaint further highlighted "inconsistencies in police practice and a lack of clarity in policy" including an "absence of guidance for MARACs on information sharing". This document seeks to create greater clarity for Maracs in response to these concerns and is issued by SafeLives which is a charity, independent of Government or any other agency, to ensure victims of domestic abuse whose cases are heard at Marac are not put at risk by the Marac process.

Sharing information shared during the Marac process with any outside body is governed by data protection, common law, human rights law and other legislation, and concerns around confidentiality.

Routine information sharing during the Marac process should always be conducted by following legislation and Marac principles.

Multi-agency partners in Marac forums need to be able to feel confident in researching and bringing relevant and proportionate information to the Marac which has a direct impact on the safeguarding of the adult victim, and on any children involved, as well as ensuring actions are created for potential interventions or disruption of the perpetrator. **Information that will not have a direct safeguarding result could end up escalating the victim's risk, or criminalise the victim instead of protecting them.**

It is key that Maracs ensure they practice effective information sharing, which should include relevant and proportionate information as well as abiding by the relevant legislation such as General Data Protection Regulations⁷. **Only information relating to the victims' current circumstances in order to put an action plan in place to stop murder or serious harm should be shared.** Good Marac practice should include ensuring the safety plan is victim focused as opposed to agency focused as well as an understanding of what information sharing will achieve, and if it is for the good of the victim.

The HMICFRS have recommended that as an interim measure following their report, where officers only have concerns or doubts about a victim's immigration status, "they should immediately stop sharing information on domestic abuse victims with Immigration Enforcement." Instead, police officers should "link the victim to a third party that can provide advice and assistance. This applies where police officers have doubts about a victim's immigration status, not where they have evidence that an offence has been committed." The College of Policing are developing guidance to clarify this aspect of practice.

Those taking decisions about safeguarding domestic abuse victims are on balance likely to conclude that **retaining the confidence of the victim to enable good and effective safeguarding outweighs the need to share information about immigration offences that are known.**

The Marac is not a legal entity, and therefore the information belongs to the agency which chooses to share it. The release of information, what that information is and to whom, needs to be agreed by all Marac partners. If an agency or person is seeking access to information shared at Marac, the request needs to be made to the Marac forum which should then ensure the relevant agency is notified of the request. These principles are unpinned by legislation and should be explicit in local Marac Operating Protocols and Information Sharing Agreements.

Why do Immigration Enforcement agencies not routinely share information or attend Maracs?

There are several reasons why Immigration Enforcement is not invited to share information with or attend Maracs:

1. The information Immigration Enforcement agencies would bring would only ever be on a case-by-case basis. Therefore, it would be challenging to ascertain why and when they would be needed.

⁷ <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/principles/>

If they were to attend on a consistent basis, this may contravene GDPR, the eight principles of the Data Protection Act 2018⁸, common law and the Human Rights Act.

Even though the Marac process operates as an intervention for high risk cases and any information shared is protected by law, the information shared needs to be relevant and proportionate. As a result, if an agency would only have minimum input on a certain case and not be able to offer expertise on a regular basis in the same way the core agencies can, they would hear highly sensitive information thereby potentially contravening GDPR. It would also mean having regular access to case information without the ability to intervene with actions or information, which again contravenes data protection. If cases with immigration issues arise with direct safeguarding consequences on a consistent basis, then the local strategic partnership should review how these victims receive the appropriate support.

2. Immigration Enforcement is not required to attend Marac meetings as there is no evidence that their involvement achieves safeguarding outcomes. The Home Office, including Immigration Enforcement, does not have a safeguarding function. This is the primary reason why it cannot be involved in Maracs directly or indirectly. Sharing information with immigration officers can compromise the Marac safeguarding function because it can lead to the arrest, detention and deportation of a victim. Sharing information with Immigration Enforcement will deter a victim from being able to engage with partner agencies. Immigration matters are dealt with via the immigration system which lies outside the safeguarding functions of the welfare state and the civil and criminal justice system.
3. Immigration Enforcement staff could be compromised if they were to hear information shared during the Marac process which they may have a duty to act on as, while the victim will normally know that they have been referred to the Marac, the perpetrator will not. This creates difficulty for immigration officers, as they may feel there is a conflict of interest around sharing information they receive with all parties.
4. Immigration issues are dealt with via a specific system, which as the Super Complaint on information sharing argued, does not sit within either safeguarding or the criminal justice system. Therefore, as the Police and Probation are present, another law enforcing agency is not needed, as it would alter the core ethos of the meeting which is to safeguard the victim.
5. Immigration Enforcement has no remit to aid action planning for the victim but may escalate risk by acting on a legal enforcement basis.
6. Immigration Enforcement being present to share information on the immigration status of the perpetrator will not benefit the victim, because they would be there to enforce and once again, this could raise the risk for adult and child victims.

Together, these issues mean that Immigration Enforcement cannot routinely receive the Marac case list, or share information with or attend Maracs. For the same reason, they cannot sign up to a Marac Information-Sharing Protocol or Operating Protocol.

Can Immigration Enforcement ever contribute to the MARAC process?

Information shared during the Marac process should not be used to support immigration enforcement proceedings. No agency should pass information shared at Marac to Immigration Enforcement without the explicit agreement of the Marac and only for the purposes of safeguarding the victim(s).

It is essential that any contribution does not escalate the risk to the victim.

Maracs need to be careful when sharing information directly or indirectly with immigration officials about victims and perpetrators who have insecure immigration status. Although it may seem effective to use the immigration system as a means by which to disrupt perpetrator behavior, it can lead to a violation of the fundamental human rights of the perpetrator and of any children involved. For example, it may breach the perpetrator's right to private and family life in relation to children who are settled in the UK. Information sharing regarding a perpetrator could also lead to deportation to an unsafe country for the perpetrator, who may be seeking asylum or the right to remain on human rights grounds.

⁸ <https://www.gov.uk/data-protection>

Immigration could potentially contribute indirectly in the case of the perpetrator, as a disruptive factor. However, this means information about immigration status being brought by an agency, and the Marac would need to discuss what action to take on the basis of this information, how it can benefit the victim and children without exacerbating the risk, and if it will help to disrupt the perpetrator.

It is paramount to stress that immigration status is not a criminal issue, it is a migrant issue; therefore, any disrupter actions could mean unwittingly violating human rights law, as the end result could mean deportation to an unsafe country of origin. It is unlikely agencies would know the intricacies of any case or be able to take an independent view on this issue. The likelihood, therefore, is that this could increase the risk and therefore should not be brought to the Marac.

What is the role of a Marac in relation to the immigration status of adult and child victims?

It is the role of the Chair and the expert Marac partners to safeguard the victim, not to enforce legislation. The roles of the Chair and of the Idva, in particular, are to balance the needs of the victims and uphold any law. Information can be recorded to confirm status, but it is likely it would already be known to authorities. Maracs must always work on the basis that the victim is not being dishonest. If necessary, the information could be kept in a secure place where other Marac minutes should be stored, or with the agency which supplied the information. It is essential the victim is made aware of this. Maracs must always work on the assumption that migrant victims of abuse are not seeking to manipulate the system.

Maracs must assess and manage risk and address needs, irrespective of a victim's immigration status. Information sharing can impact negatively on the victim who may be subject to arrest, detention and removal or deportation which in turn may generate other risks of harm. Instead, Maracs should focus on routes to safety including obtaining civil injunctions and other criminal and legal remedies that remove risks for the victim and children.

Marac minutes can record immigration information. This information needs only be discussed if relevant. Maracs should work in a holistic manner and the first duty is to safeguard the victim and the children. Immigration is a migrant issue, not a criminal issue, and a Marac's remit is not immigration enforcement, it is about reducing risk. The victim may be facing persecution and, as well as affecting the adult victim, this could also have a direct negative consequence on children, deterring victims from seeking or accessing statutory authority help or support. Safety plans should utilise tools such as civil injunctions as remedies to remove the perpetrator. Immigration status is a risk in itself to victims as acknowledged by the Home Office⁹ and victims are vulnerable to perpetrators and communities using immigration status as weapon to control and coerce victims. It is essential that partners at Marac have a duty to support victims in a proactive way and to consider at all times the barriers victims face to reporting abuse.

Viewing a victim primarily through an immigration lens can be discriminatory and compound the trauma the victim has already experienced at the hands of the perpetrator, leading to loss of autonomy and dignity as well as escalating and prolonging feelings of fear and isolation. It is paramount for Maracs to remember that the victim may have left their country of origin for a myriad of reasons including violence and abuse and any information sharing with immigration that results in their return to their country of origin and/or separation from any children will compound the trauma they have experienced. A victim may have a resultant mistrust of statutory agencies alongside the domestic abuse they have experienced. They are likely to have a very real fear of statutory services, and a fear of deportation. It is also important for partner agencies to recognise that in addition to fear and risk of the perpetrator, there may be a fear of the community they reside in.

It must be remembered that it is the abuser(s) who has created the situation they are in, not their current immigration status. For a Marac to act in a punitive way would be contradictory to the aims of Marac. Instead, partner agencies should facilitate and encourage engagement with support services.

What is the role of a Marac in relation to the immigration status of perpetrators?

As stated previously, in relation to immigration issues, Marac partners need to be aware of the human rights of the perpetrator. The Marac will not have knowledge or an independent view of why the

⁹ Para 47, page 16: "In respect of migrant victims, we recognise that immigration status can form part of the controlling behaviour of an abuser."

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/897472/Migrant_Victims_of_Domestic_Abuse_-_Review_Findings_v.3_FINAL.pdf

perpetrator has insecure immigration status. Treating the perpetrator differently from other perpetrators who have committed and continue to commit offences, but whose crimes go un-challenged, could be discriminatory. For example, because those with insecure immigration status are predominantly from a racial or ethnic minority they may be treated differently from white people who are committing crime but are not addressed because the Marac partners have deemed it unnecessary either to the action plan, or for the safety of the victim or the work being carried out.

Any action carried out to remove, detain or act against the perpetrator should be used as a way to protect the victim or hold the perpetrator to account, and the Marac should implement the same judicial enforcement avenues used for perpetrators with no such insecure immigration status. Actions focused on the perpetrator may seem like a convenient means by which to safeguard a victim but can lead to discriminatory outcomes. Maracs need to adopt a consistent approach to all perpetrators, irrespective of their backgrounds.

Expertise on immigration in Marac meetings

Most Maracs do not have specialist immigration expertise in their meetings. Those which do will have the ability to carry out a more nuanced action plan. If this expertise is not present, especially in areas where cases may be more common, the governance group should review how they can access this expertise and where necessary, ensure partner agencies have expertise, and/or ensure the Idva has training to be able to assist and refer onwards.

Maracs should ensure they have some level of knowledge within the Marac to be able to respond to cases with features of insecure immigration status with immediacy, before contacting other agencies to provide more detailed knowledge, noting the points made above about Immigration Enforcement in relation to not being routinely asked to share information or attend Marac meetings. Referrals to specialist support alongside legal advice and representation should always be a priority. Knowledge of the ways in which insecure immigration status acts as a barrier to protection should be gained by accessing specialist training and advice. Southall Black Sisters have provided this expertise to professionals for many years.

Summary

- **Information shared during the Marac process should not be used to support immigration enforcement proceedings**
- **Immigration Enforcement should not attend Marac meetings**, even on a case-by-case basis, because they cannot routinely share information and/or attend Maracs, leaving them unable to sign the Information Sharing Protocol. NB Information Sharing Protocols and Operating Protocols should be reviewed every two years and signed by all partner agencies.
- **No agency should pass information shared during the Marac process to Immigration Enforcement without explicit agreement of the Marac and only for the purposes of safeguarding the victim(s).**
- A section on **immigration status guidance should be included on the Marac Operating Protocol and Information Sharing Agreement** and signed by all agencies. However, immigration information should not be shared with Immigration Enforcement as it is not relevant in safeguarding the victim. **Immigration can be used as a form of abuse and coercive control by the perpetrator, and this should be listed as a clear risk.** Marac Operation Protocols should include the following as implemented in the Ealing Marac MOP: *“All work undertaken at the meetings will be informed by a commitment to equality principles enshrined in the law, which means that particular measures to protect victims will be implemented without discrimination on any ground such as sex, gender, race, sexual orientation, age, disability, marital status, migrant or refugee status, or other status.”*
- **Maracs must develop local pathways for specialist support** where the immigration status of a victim is an issue. Such routes to support should be regularly reviewed by the governance group. The pathways should clearly highlight who to contact for expert advice and support. As part of safety planning for individual Marac cases, partners can discuss how knowledge around immigration status would affect the plan. In addition to specialist charities such as Southall Black Sisters, other national support could be accessed via [the Immigration directory in Women's Aid's The Survivor's Handbook](#).
- Where there are significant cases in which immigration issues arise that require expert input, **the local strategic partnership should review and consider an action plan in conjunction with key Black, Asian and racially minoritised specialist services** on how to create referral pathways and provide appropriate support to women in a safe and confidential manner. Expertise

in the local area should be invited to attend the Marac meetings if funded services exist.

- The **perpetrator's immigration status should only be discussed in relation to the victim**, and not in relation to their immigration status. This information should not be passed to any immigration agency as it is not relevant in the safeguarding of the victim.
- **A perpetrator with insecure immigration status needs to be treated in exactly the same way as any other perpetrator.** The perpetrator needs to be charged for criminal or civil behaviour and not on the basis of their immigration status, as this is complex and relates to human rights around asylum and refuge. Their immigration status does not constitute a crime. Any focus on the perpetrator's immigration status could be deemed to be inappropriate, unnecessary and disproportionate.
- **Governance groups should monitor cases where immigration issues arise around safeguarding**, and performance manage data to ensure cases are being dealt with effectively.
- All agencies should have basic awareness of the risks around immigration such as fear of deportation, the community, a fear of statutory services, housing issues or no public recourse to funds, as well as having to deal with societal attitudes towards them. **Training should be implemented for all Marac partners around immigration, and its intersection with domestic abuse. Champions should be identified to cascade the training to partner agencies and should be linked in with specialist agencies if they exist. This training should be facilitated by specialist organisations holding the expertise in working and supporting with migrant victims**, and written into strategic domestic abuse commissioning.

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