

Ministerial Exceptional policy for people at risk of experiencing domestic abuse

Policy Principal June 2024

1 Summary

Following the recommendations of the Violence Against Women and Girls (VAWG) workstream, the Minister for Social Security has agreed to providing additional support through the Income Support benefit to people who experience domestic abuse to ensure that they can leave the relationship and have time to make plans for their future.

One of the VAWG recommendations is:

The Justice and Home Affairs Minister should introduce a concession for migrant victims-survivors on spouse and work visas to ensure they have access to public funds and access to the safety which this can afford them.

In Jersey's case, these public funds would come through Income Support and fall under the Minister for Social Security. The Minister will introduce similar provisions to those that are available in the UK, which provide time limited funding for people who would otherwise not be able to access financial support.

In addition to individuals subject to immigration controls, the Minister is also providing the same support to Common Travel Area (CTA) citizens (and others not subject to immigration controls) who have less than 5 years' residency.

2 Current restrictions on accessing funding

Where a person experiences domestic abuse in Jersey, there are two main barriers that could prevent them from leaving the relationship. The first is general to the UK's visa rules and therefore exists in the Crown Dependencies wherever these rules are mirrored. The second is specific to Jersey's benefit system, which has strict rules governing the length of time that a person must be in the Island before accessing Income Support.

2.1 "No Recourse To Public Funds" visa condition

A feature of the UK's visa system is the expectation that the individual (and their partner or children) will be financially independent. For people who would not normally have the right to reside in the UK (and by extension the Channel Islands), the visa is normally issued with a stamp which prevents them from accessing public funds. This is referred to as No Recourse to Public Funds (NRPF).

This excludes access to most forms of tax-funded benefit, which in Jersey would include Income Support¹. A person could still access contributory benefits such as Short-Term Incapacity Allowance as these are provided on a social insurance-based model.

2.2 Income Support residency rules

Income Support has residency requirements which operate independently of visa conditions or other legislation.

For a person to claim Income Support, they must demonstrate they have been resident in Jersey for five years continuously immediately before the date of claim, or ten years at any point in the past. There are some exceptions for people born in Jersey or the children of Jersey-born people, which allow people to accumulate towards the residency requirement with some gaps.

The residency condition of Income Support can be seen as strict compared to other places, although this fits with general Jersey policies on restricting access to housing and other services until people have long residency in the Island.

3 Recommendations from the VAWG workstream

The VAWG report recommends that Jersey consider an exception to the residency and benefit restrictions set out above. These would be designed to reflect a similar UK provision, and provide a limited access to public funds. This would be designed so that the general restrictions do not prevent a person from leaving an abusive relationship.

3.1 Limited access to public funds

In the UK, an exception to the "No Recourse to Public Funds" rule is available to people reporting domestic abuse. They are permitted to make a limited use of public funds for up to three months.

A person can apply for this exception, which is immediately granted.

At the end of that 3-month period the applicants must have taken action by either

- a) applying under a new immigration route; or
- b) applying under the ILR (Domestic Violence) route (where this is applicable); or
- c) making arrangements to leave the country.

The Minister for Justice and Home Affairs has agreed that this exception will also be available in Jersey.

This would allow the person to be supported for a three-month period in Jersey, through access to the Income Support system for the individual and any dependent children.

¹ Such a person could be included in an Income Support household with their partner, but the benefit would not pay any components that would be awarded to them on an individual basis. In practical terms, this means they are allowed to benefit from a rental component paid to their household, and the benefit could pay components in respect of their children, but the household benefit calculation would not pay any adult or disability components to them.

To ensure that this level of temporary support is also available to a person who is not subject to immigration controls (i.e. British/Irish citizens and others with the right to live in the Common Travel Area), the same concession will be available to this group – i.e. access to the Income Support system for up to 3 months to allow time to make plans for the future.

To ensure that the individual is receiving appropriate support and guidance, cases will be accepted through referrals from Jersey Domestic and Sexual Abuse Support (JDAS) or FREEDA: Free From Domestic Abuse (formerly the Women's Refuge). Applications will be processed by the Manager of the CLS Safeguarding Team.

4 Legal framework and communications

4.1 Legal framework

The Income Support legislation includes residency rules that can prevent a person accessing financial support following domestic abuse. The immigration system includes restrictions on access to public funds including Income Support.

To support individuals seeking to leave a domestic abuse situation, the Minister for Social Security has confirmed that she will provide support, equivalent to the value of Income Support, to a person and any dependent children in the household, for a period of up to 3 months.

This support will be provided under Article 8 of the Income Support Law and will be available to any person who requests it and is being supported by JDAS or FREEDA. JDAS and FREEDA will be issued with a simple referral process to confirm that the individual is engaging with and receiving support from that agency.

The individual will need to provide details of their current situation and any dependent children. They will not be subject to the means-testing or work requirement rules of Income Support. The IS payment will include components as appropriate in respect of:

- Adult
- Child
- Single parent
- Household
- Accommodation

The IS payments will be made for up to 13 weeks and will not be extended beyond that time. Except in wholly exceptional circumstances, an individual will not be able to request a second 13-week period of support at a later date.

The person must be supported by Jersey Domestic and Sexual Abuse Support (JDAS) or FREEDA: Free from Domestic Abuse (formerly the Women's Refuge). If an individual approaches the Department directly seeking support, they will be immediately referred to an appropriate support agency and will then be helped to make an application with the support of that agency.

The Minister has agreed to set out these rules so officers within the Safeguarding Team of CLS can process applications without requiring a separate Ministerial Exceptional Payment request for each application.

The likely financial impact is modest, due to a small number of cases each year. A rough estimate is potentially 5-10 households although this is difficult to quantify.

This can be absorbed by the general budget of Income Support. It might be reasonable to estimate that each three-month payment would be approximately £5500 (this is based on a single parent with one child living in a hostel).

4.2 Proposed wording

The following wording provides information for staff and relevant agencies.

“Following the recent Violence Against Women and Girls (VAWG) report, the Minister for Social Security has taken steps to provide financial support through the Income Support benefit to victims of domestic abuse.

The Minister has agreed that exceptional payments will be available to people in this situation. Although the VAWG report is based on the experience of women and girls, support is also available to men and boys who are the subject of abuse.

There are two steps to gain support, depending on a person’s immigration status.

A. In the case of people who are in Jersey on an immigration permission

A person who is normally prevented from having “recourse to public funds” by a condition in their passport should ask the Customs and Immigration Department to give them a three-month exception to that condition. During this period, the person will be able to apply for a three-month exceptional payment of Income Support. The JCIS team will support the person to make contact with the Safeguarding Team at CLS.

B. Any person from Step A, plus any person who has the right to live in Jersey, but does not meet the residency conditions for Income Support:

Regardless of the length of time a person has spent in Jersey, if a person in this situation is at risk of domestic abuse, they can request an exceptional payment of Income Support for up to 3 months.

Anyone in this situation should get in touch with Jersey Domestic and Sexual Abuse Support (JDAS) or FREEDA: Free from Domestic Abuse (formerly known as the Women’s Refuge).

With support from JDAS or FREEDA, a person can then apply for financial support from CLS. The agency will complete a simple form confirming that the person has engaged with them and is receiving support.

Applications will be processed via the CLS Safeguarding Team. The support will cover living and accommodation costs for the applicant and any dependent children in the household, using the usual Income Support rates. The person will not need to complete a means test and will not be required to look for work during the 13 week period.

Within CLS, these cases should be referred to the Safeguarding Team.

The Income Support internal Determining Officer’s Guide will be updated this week to reflect these changes. The Public Policy Document of Income Support will also be updated, although this won’t be immediate. All staff should refer to the internal guidance or direct any questions to the Safeguarding Team.

Contact details

- **Jersey Customs and Immigration Service:** telephone 01534 448000 or email immigration@gov.je
- **Jersey Domestic and Sexual Abuse Support:** telephone +44 (0) 1534 880505 or contact via <https://www.jdas.je/contact-us/>
- **FREEDA – Free from Domestic Abuse:** telephone +44 1534 768368 (office) free helpline at 0800 7356836 or email hello@freeda.org.je
- **Customer and Local Services (General):** telephone +44 (0)1534 444444 or by emailing customerservice@gov.je