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Safe to share? Liberty and Southall Black Sisters' super-complaint on policing and immigration status.

The PCC agrees with the points raised in the recently published super complaint on the sharing of data by police with Immigration Enforcement for victims of domestic abuse who have an unsettled immigration status. These issues are not new and I am pleased that HMICFRS, the College of Policing and the Independent Office for Police Conduct have upheld the issues raised.

The complaint highlights how people with uncertain immigration status are facing difficulties in reporting crime to the police. We know that victims with insecure immigration status face multiple exploitation and disadvantage. The immigration status alone increases vulnerability and chances of further exploitation as victims often become tied to their abusers through fear of immigration enforcement. Although the Domestic Abuse Concession is available to victims on a UK partner visa enabling them to claim public funds for up to 3 months while UK Visas and Immigration considers their application to settle in the UK, this ignores those who are in the UK on different visa's and is very limited in terms of its reach. Proposals were put in to amend the disparity in financial support and the rights of migrant women and introduce equal protection and support within the Domestic Abuse Bill but the Bill in its current form still leaves a wide gap excluding migrant women from access to public support and housing¹. It is crucial that we go further to ensure that the no recourse to public funds policy is amended to ensure a responsive rather than a hostile environment approach to immigration.

Using insecure immigration status to further exert coercive control over victims is common place and we know it happens both in a domestic abuse setting as well as in a modern slavery and exploitation setting.

The West Midlands is a region rich in diversity it is made up of seven local authority areas as well as being home to the second largest police force in the country. Across the region there are a significant number of organisations working to support victims of crime. Through the Victims Commission the PCC provides funding to a number of organisations to work directly with victims with insecure immigration status.

Despite all commissioned services being able to work with victims with insecure immigration status, the PCC has also allocated funding to the specialist domestic abuse sector who have a profound and in-depth knowledge of the cultural factors affecting these victims. This move to fund the specialist sector was part of a concerted effort to engage more effectively with communities in recognition of their specific expertise around immigration/language/confidence.

From a victims perspective insecure immigration status increases vulnerability in the following ways:

- Becoming trapped in abusive situations
- Reduces confidence in approaching the police/support services

¹ <https://southallblacksisters.org.uk/press-release/domestic-abuse-bill-to-discuss-migrant-women-having-access-to-public-funds/>

- Coerced into taking part in activity against their will (particularly in cases of criminal exploitation/domestic servitude).
- Threatened to remain in abusive situations.
- Forced to re-live their traumatic experiences through both the criminal and immigration investigation processes leading to further re-traumatisation and impact.

Use of Mobile ID fingerprint is also an area of concern. In the course of their duties Police Officers may have cause to, where there are reasonable grounds to do so, use a mobile fingerprint device as covered under General Police Powers. This can arise during Stop and Search, Section 163 Road Traffic Stops and Section 60. A fingerprint is taken with consent and if refused, officers can revert to their usual powers of arrest in order to confirm a person's identity. Should the officers get a hit on the device from the immigration database the officers would take the individual into custody where UK Border Force would be contacted to deal with them in line with current operating procedures.

There is potential for this practice to impact victims, for example in a situation where a victim and a suspect travelling in a car is pulled over by the Police. In such a scenario, the victim might be asked to provide their fingerprints along with the offender. In this instance, would the victim feel confident enough to not consent? If they did provide their prints, and the fingerprint device provided a "hit" for unsettled status, then according to the HMICFRS report, this should not be shared with the Home office.

Consideration needs to be given to the possibility of this information being shared with the Home Office. There needs to be specific guidance should this situation arise. We welcome the guidance to Police Forces to immediately stop sharing data on immigration status, but would like further assurances that the Home Office will not take action in these instances either where cases do get referred or have come to the Home Office attention via other routes.

In relation to the issue of consent; victims need to clearly understand that the lantern devices need consent; how will that consent be captured as part of their use? We suggest there is need for specific reference within Recommendation 1:

"The College of Policing guidance will also clarify the difference between insecure and uncertain status from a victims perspective and immigration offending."

Next steps

1. Take to Victims commission to explore with partners what this looks across the West Midlands.
2. Link in with the Domestic abuse and Modern Slavery/Human Trafficking strategic boards.
3. In relation to recommendation 6 – we will work with the West Midlands BAME consortium and the Victims Commission to explore further
4. Work with WMP to ensure they are aware of the specialist service offer