

# Sexual Abuse and Housing Rights

By Scottish Women's Rights Centre



# Introduction

This is an information guide for women in Scotland who are experiencing gender-based violence and need information on their housing rights.

Experiencing gender-based violence and abuse can impact your housing circumstances. You may not feel safe in your own home and want to find safe accommodation elsewhere, or you may want to know what your options are for staying in your home and keeping the abuser away. This guide will provide you with information about your housing rights in Scotland and enable you to make informed choices.

We have also included details of other organisations and services which may be able to offer you further support. Please note that this guide does

not include all forms of gender-based violence. If your circumstances are not covered by this guide, please contact the SWRC helpline and speak to a member of the team. They will be able to signpost you to appropriate information and support.

The Scottish Women's Rights Centre (SWRC) has co-produced this guide with Shelter Scotland and Scottish Women's Aid. The guide contains information for a range of circumstances that survivors of gender-based violence may face and has helpful flow charts that set out different options available depending on the relevant circumstances.

## Other Associated Guides

### Guide 1

Domestic Abuse and Housing Rights

### Guide 3

Stalking and Housing Rights

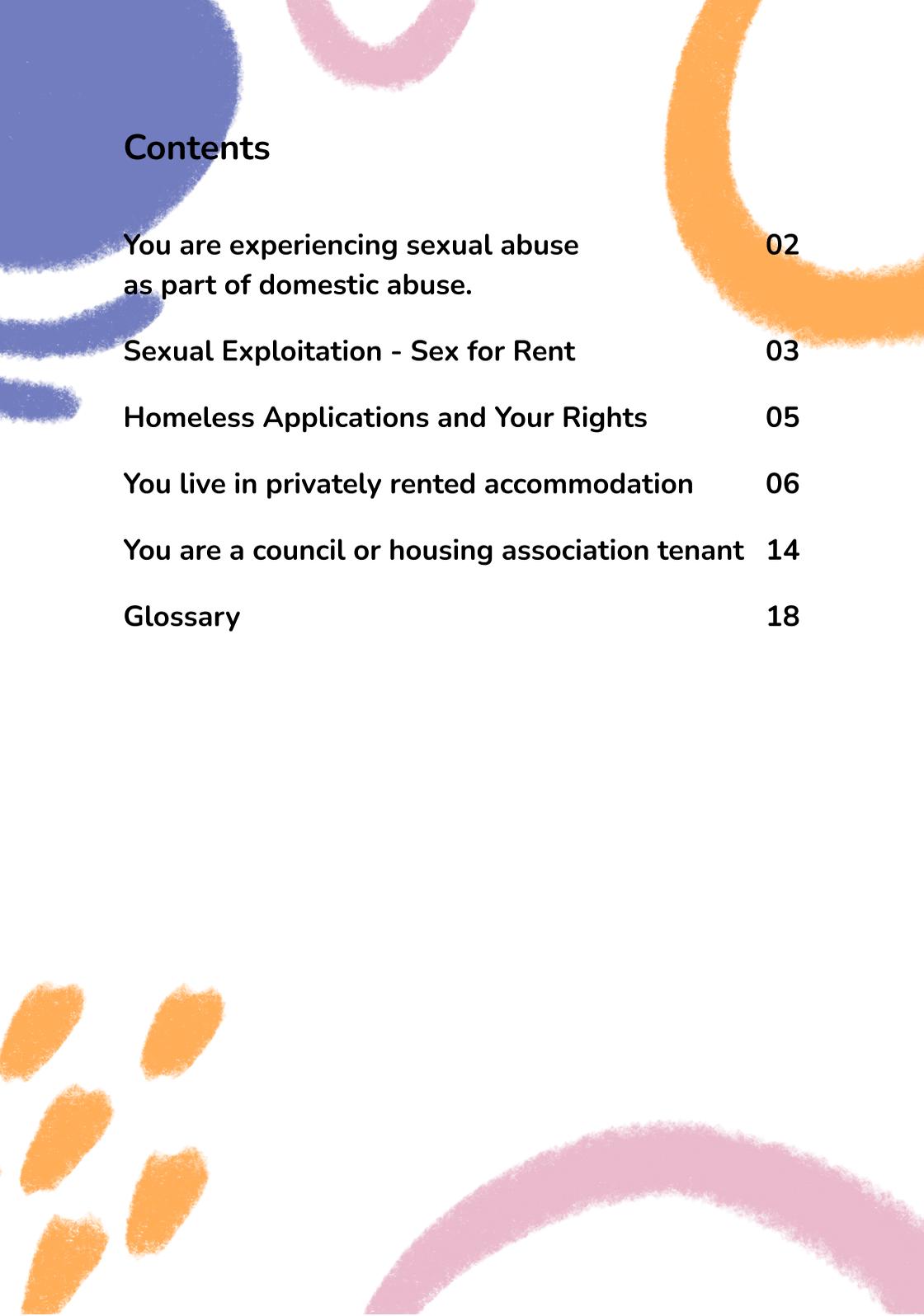
### Guide 4

Non-UK Nationals experiencing Gender-Based Violence and Housing Rights

**Web** [www.scottishwomensrights.org.uk](http://www.scottishwomensrights.org.uk)

**Helpline** 08088 010 789

**Email** [info@scottishwomensrightscentre.org.uk](mailto:info@scottishwomensrightscentre.org.uk)



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## This guide was developed by:



**The Scottish Women's Rights Centre** is a collaboration project between Rape Crisis Scotland, JustRight Scotland and the University of Strathclyde Law Clinic, providing free legal information, advice, representation and advocacy support to self-identifying women in Scotland affected by violence and abuse



**Scottish Women's Aid** is the lead organisation in Scotland working towards the prevention of domestic abuse. We play a vital role in coordinating, influencing and campaigning for effective responses to domestic abuse. Working with a network of 34 specialists in local Women's Aid groups toward a shared vision of a Scotland where domestic abuse is not tolerated.

### **Acknowledgements**

We would like to acknowledge and thank Shelter Scotland the support we received in the content for these guides.

Shelter Scotland provide practical support and advice to people experiencing bad housing or homelessness, by informing professionals, and by campaigning for legislative change.

## Sexual Abuse

Sexual abuse is a broad term used to describe any sexual activity or act (including online) that you are made to take part in and do not consent to. Consent is defined as free agreement and can be withdrawn at any time – including during a sexual act.

If you've experienced sexual abuse or something has happened to you that you feel uncomfortable or unsure about you can contact the **Rape Crisis Scotland Helpline**: on free-phone at **08088 01 03 02** daily between 5 pm – midnight. You can also **text 07537 410 027**; email or check their website for more information. Rape Crisis Scotland provides free confidential information and support to those who have experienced sexual abuse in their lives. You can find your local Rape Crisis centre using the **Rape Crisis website here: <https://www.rapecrisisscotland.org.uk/>**

## Sexual Abuse as part of Domestic Abuse

Sexual abuse can be used to control, cause fear, and humiliate you along with other behaviours as part of domestic abuse. If you are in a relationship with a person who is/has sexually abused you then this would be considered domestic abuse. If you are not sure what Domestic Abuse is, please see Guide 1 on Domestic Abuse and Housing Rights. Alternatively, you can speak with an SWRC advocacy worker or contact Scotland's Domestic Abuse and Forced Marriage Helpline (details below).

## Sexual Exploitation - Sex for Rent

Sex for rent is a form of a sexual exploitation which is on the rise in Scotland. Shelter defines Sex for Rent as being an arrangement where someone is being asked for payment for their housing costs in the form of sexual acts. This can take place in several ways:

Someone has entered a tenancy agreement with a landlord, who if unable to pay rent, may be asked for sex as payment.

- A person on a low income who never enters into a tenancy agreement and is asked for sex as payment.
- This payment could be for free accommodation, a reduction in rent or to write off rent arrears.

These arrangements are exploitative, and they present a risk around whether tenants have adequate housing rights and security since a tenancy agreement is unclear. The Sexual Offences Act 2009 (Scotland) covers a range of crimes that may be relevant to an experience/s of sexual exploitation, the Scottish Women's Rights Centre has information about your rights when reporting Sexual Crimes to the Police. If you need support and advice, you can contact the SWRC helpline, Rape Crisis Scotland, Shelter Scotland or your local Women's Aid.

### Rape Crisis Scotland

**Telephone:** 08088 01 03 02 5pm – midnight, Monday-Friday

**Text:** 07537 410 027

**Email:** [support@rapecrisisScotland.org.uk](mailto:support@rapecrisisScotland.org.uk)

**Webchat:** <https://www.rapecrisisScotland.org.uk/>

### Scottish Women's Rights Centre

<https://www.scottishwomensrightscentre.org.uk>

Our services include legal and advocacy helplines, legal advice surgeries, advocacy support and legal representation. You can find a [list of our services on the website](#).

### Shelter Scotland

<https://scotland.shelter.org.uk/>

**Telephone 0808 800 4444.** Mon – Fri except bank holidays. Calls are free from most mobile networks and landlines. You can also chat to an advisor online Mon-Fri 9am to 4pm (except bank holidays).

### Scottish Women's Aid

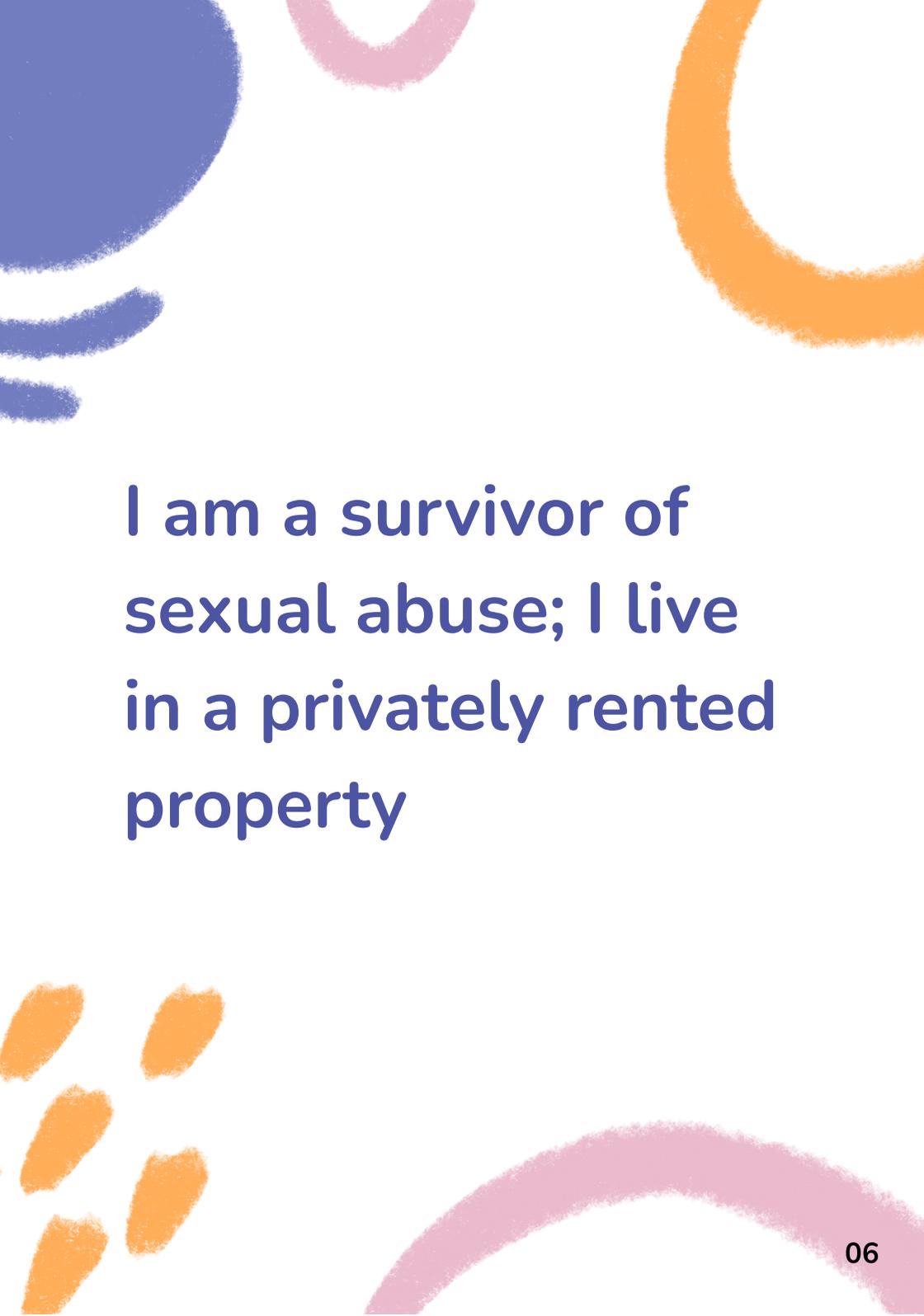
<https://womensaid.scot/find-nearest-wa-group/>

### Scotland's Domestic Abuse and Forced Marriage Helpline

**Telephone 0800 0271234** 24 hours a day 7 days a week. You can also email or check their website for more information:  
<https://sdafmh.org.uk>.

## Your rights when making a homeless application:

- To do this you need to contact the council's Homeless Department and tell them that you are making a homeless application.
- The council has a duty to provide you with temporary accommodation in an emergency. You can present as homeless at any local council. This means you can turn up at the Homeless Department's area office or call them.
- You can find information about your nearest office, on the **Shelter Scotland website**: [https://scotland.shelter.org.uk/housing\\_advice/i\\_need\\_help\\_from\\_the\\_council](https://scotland.shelter.org.uk/housing_advice/i_need_help_from_the_council)
- **You do not need** to go into lots of detail and provide evidence to the council that you are experiencing gender-based violence at this point.
- **You do not need** to have reported it to the police in order to access emergency homeless accommodation.



**I am a survivor of  
sexual abuse; I live  
in a privately rented  
property**

## In all cases the following applies:

- Sexual Abuse is a crime. You have the right to report this to the Police. The Scottish Women's Rights Centre has information about your rights when reporting Sexual Crimes to the Police.
- If you decide to report the abuser to the Police – and they believe there is sufficient evidence – there might be protections put in place by the criminal justice system such as bail conditions that can stop the abuser coming near you.
- You do not need to disclose details of the sexual abuse you have experienced or any criminal justice processes to your landlord, housing association or council.
- In all cases, if you wish to move, you are eligible for assistance from the council. You have the right to make a homeless application to the local council.
- The council must supply you with temporary accommodation from the day you present as homeless.

## Your landlord is the abuser

### You want to report your landlord to the council

- Apart from a few exceptions most private landlords must be registered with the council Landlord Registration Team.
- Registration must be approved prior to a property being advertised for rent.
- Part of the registration process involves assessing whether a landlord is a 'fit and proper' person. This can include issues such as criminal convictions.
- You can read more about landlord registration on the Shelter Scotland website.<sup>3</sup>
- You can end the tenancy. The process for this will vary depending on the type of tenancy you have. You can check your tenancy on the Shelter website.<sup>4</sup>

### You want to report to the police

- If you're thinking about reporting and would like to talk this through with someone before you make a decision, you can contact a support worker at the **Rape Crisis Scotland Helpline** or an advocacy worker from your **Local Rape Crisis Centre**.<sup>5</sup> You can also contact the SWRC helpline for information and to access legal advice. The SWRC has a guide which provides you with information about your rights when reporting sexual crimes to the police.
- You may be able to apply for an interdict or a non-harassment order to keep the abuser/s away. You can get advice from a Family Law Solicitor.
- These are court orders that can stop a person from behaving in a certain way and are on option whether you chose to report to the police or not.

## Your landlord is the abuser

You feel unsafe and want to leave

- If you decide you no longer feel safe to remain in the property, you can get advice on finding somewhere else to stay.<sup>6</sup>
- You can get help from your local council if you need to leave and have nowhere else to go. You have the right to make a homeless application as they have a responsibility to you in providing temporary accommodation.

## You have a resident landlord

Resident landlord

- If you have a resident landlord, then you will have a common law tenancy.<sup>7</sup> A 'resident landlord' is one who uses the property as their only or main home.
- You can read more about the features of common law tenancy and how to give notice.<sup>7</sup>

<sup>3</sup> Read more about **Landlord Registration** on the **Shelter Scotland** website by going to — Shelter Scotland > Housing advice > Your rights if you rent your home > Your landlord's registration responsibilities: <https://shelter.org.uk>

<sup>4</sup> Check your **Tenancy Type** on the **Shelter Scotland** website at — Shelter Scotland > Professional Resources > Shelter Legal > Security of tenure > Tenancy checker: <https://shelter.org.uk>

<sup>5</sup> Find your local **Rape Crisis Scotland** centre on their website: <https://rapecrisisscotland.org.uk>

<sup>6</sup> To get information on **Finding somewhere else to stay** visit Shelter's website and go to — Shelter Scotland > Housing Advice > Finding a Home: <https://shelter.org.uk>

<sup>7</sup> For more information on common **Law Tenancy** please go to Shelter's website: <https://shelter.org.uk>

## Your housemate is the abuser

### You have a shared tenancy agreement

- If you or the abuser are going to leave the property the landlord will need to end everyone's tenancy.
- You can request that they issue a new agreement for you and any other tenants without the abuser.
- If the landlord refuses to do this then you may have to find somewhere else to stay (see Footnote 1) or make a homeless application to the council.<sup>8</sup>

### You have individual tenancy agreements for the same property

- You can inform your landlord/estate agent that you no longer feel able to live with the abuser.
- What your landlord can do depends on the type of tenancy you have. Speak to Shelter Scotland for advice.
- If one of your housemates is breaking the terms of your tenancy agreement, then it is up to your landlord to take action.<sup>9</sup>

<sup>8</sup> To get information on making a **Homeless Application** to the council, visit Shelter's website and go to — Shelter Scotland > Housing advice > Homeless, sofa surfing or nowhere safe to stay: <https://shelter.org.uk>

<sup>9</sup> For **Advice and More Information**, contact Shelter for legal signposting: <https://shelter.org.uk>

## Your neighbour is the abuser

**You feel unsafe and want to leave**

- If you do not feel safe and need to flee your property, let your landlord know as soon as possible.
- Please note that if you have a shared tenancy, and you ask to end your tenancy, this may bring the tenancy to an end for all tenants.
- You may need to contact your landlord to end or transfer your tenancy. Your landlord may be able to grant you a sole tenancy at the end of your fixed-term agreement, if there is one.

**You want to stay in your home**

- Depending on the area you live in – you may be able to get a security check done to make your home as safe as possible. You can contact your local Rape Crisis group or your local council for more information about this.
- You may be able to apply for an interdict or a non-harassment order to keep them away. You can get advice from a Solicitor about this.
- These are court orders that stop a person from behaving in a certain way and are on option whether you chose to report to the police or not.<sup>12</sup>
- If you're thinking about reporting and would like to talk this through with someone before you make a decision, you can contact a support worker at the [Rape Crisis Scotland Helpline](#) or an advocacy worker from [your Local Rape Crisis Centre](#).<sup>13</sup> You can also contact the SWRC helpline for information and to access legal advice. The SWRC has a guide which provides you with information about your rights when reporting sexual crimes to the police.

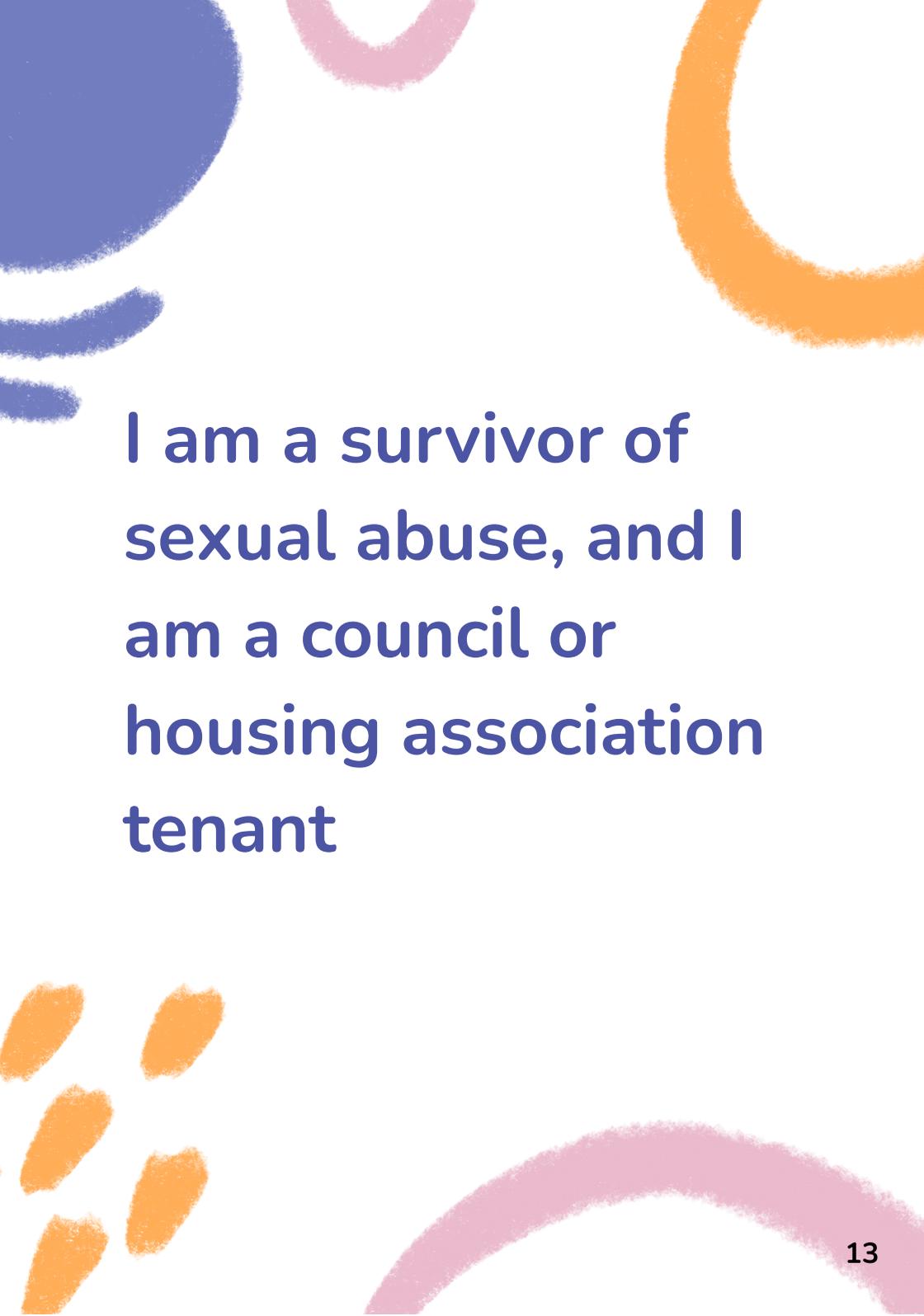
<sup>12</sup> Rape Crisis Scotland are able to help you if you are thinking about reporting sexual violence: <https://rapecrisisScotland.org.uk>

<sup>13</sup> We have a Solicitor Signposting Network on our website, for more information visit: <https://scottishwomensrightscentre.org.uk/solicitors/>

## Your neighbour is the abuser

You want to stay in your home

- These are court orders that can stop a person from behaving in a certain way and are an option whether you chose to report to the police or not.
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**I am a survivor of  
sexual abuse, and I  
am a council or  
housing association  
tenant**

You do not need to disclose details of the sexual abuse you have experienced or any criminal justice processes to your landlord, housing association or council.

#### The abuser works for the council or housing association

- You should be protected under confidentiality/safeguarding policies.
- You can report to a member of staff who you feel safe with and discuss what can be done to increase your safety including options for moving or staying safe in your own home.
- You have the right to make a formal complaint using the council or housing association's complaints procedure
- You have the right to report them to the police if you feel able. If you need advice or support before speaking to the police, contact SWRC.
- You can contact SWRC for initial legal information/advice about your rights and options with regards to protective orders
- You may be able to apply for an interdict or a non-harassment order to stop them from contacting you. You can get advice and support from a lawyer on how to apply.
- These are court orders that can stop a person from behaving in a certain way and are an option whether you chose to report to the police or not.<sup>12</sup>
- If you're thinking about reporting and would like to talk this through with someone before you make a decision, you can contact a support worker at the Rape Crisis Scotland Helpline or an advocacy worker from your Local Rape Crisis Centre (see Footnote 6). You can also contact the SWRC helpline for information and to access legal advice. The SWRC has a guide which provides you with information about your rights when reporting sexual crimes to the police.

<sup>12</sup> Rape Crisis Scotland are able to help you if you are thinking about reporting sexual violence: <https://rapecrisisscotland.org.uk>

### The abuser also has a council or housing association tenancy

- You can contact your council/Social Housing Provider and let them know that you do not feel safe in your own home. They must take you seriously, be supportive and not minimise the Sexual Abuse you are/have experienced.
- The council/ social landlord should provide you with information that is clear and approach in a supportive way to allow you to make informed choices about your housing options.
- Councils should have policies in place that address gender-based violence and abuse and follow best practice guidelines.
- The council may use anti-social behaviour policies to address gender-based violence, but they **should** have separate policies in place.
- For example, if you have are/have experienced sexual abuse as part of domestic abuse then you can ask your Social Landlord for their specific policy and response to Domestic Abuse.
- If you're thinking about reporting and would like to talk this through with someone before you make a decision, you can contact a support worker at the [Rape Crisis Scotland Helpline](#) or an advocacy worker from [your Local Rape Crisis Centre](#) (see Footnote 6). You can also contact the SWRC helpline for information and to access legal advice. The SWRC has a guide which provides you with information about your rights when reporting sexual crimes to the police.
- You may be able to apply for an interdict or a non-harassment order to keep them away. You can get advice from a Family Law Solicitor.
- These are court orders that stop a person from behaving in a certain way and are an option whether you chose to report to the police or not.
- If you decide no longer feel safe to remain in the property, you can get advice on [finding a new place to live](#).
- You can get help from your local council if you need to leave and have nowhere else to go. You have the right to make a homeless application to the council.<sup>13</sup>

## I am a survivor of sexual abuse, and I am a council or housing association tenant

<sup>13</sup> We have a Solicitor Signposting Network on our website, for more information visit: <https://scottishwomensrightscentre.org.uk/solicitors/>

### The abuser is a stranger, or someone not connected to the council or housing association, but you feel unsafe in the area where you live

- If you no longer feel safe to remain in your tenancy, then your housing association or council may have a duty to support you to move elsewhere.
- You can ask to see the council or housing associations safeguarding policy which should outline the support available to tenants that have experienced sexual violence.
- You can contact your council/Social Housing Provider and let them know that you do not feel safe in your own home. They must take you seriously, be supportive and not minimise the Sexual Abuse you are/have experienced.
- The council/social landlord should provide you with information that is clear and approach in a supportive way to allow you to make informed choices about your housing options.
- Councils should have policies in place that address GBV and follow best practice guidelines.
- The council may use anti-social behaviour policies to address gender-based violence, but they **should** have separate policies in place.
- For example, if you have are/have experienced sexual abuse as part of domestic abuse then you can ask your Social Landlord for their specific policy and response to Domestic Abuse.

I am a survivor of sexual abuse, and I am a council or housing association tenant

The abuser is a stranger, or someone not connected to the council or housing association, but you feel unsafe in the area where you live

- If you're thinking about reporting and would like to talk this through with someone before you make a decision, you can contact a support worker at the [Rape Crisis Scotland Helpline](#) or an advocacy worker from [your Local Rape Crisis Centre](#).<sup>14</sup> You can also contact the SWRC helpline for information and to access legal advice. The SWRC has a guide which provides you with information about your rights when reporting sexual crimes to the police.
- You may be able to apply for an interdict or a non-harassment order to keep them away. You can get advice from a **Family Law Solicitor**.<sup>15</sup>
- These are court orders that stop a person from behaving in a certain way and are an option whether you chose to report to the police or not.

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# Glossary

**Gender-based violence (GBV) and abuse** is a term that is used to describe crimes such as rape, domestic abuse, stalking, and forced marriage that are overwhelmingly but not exclusively carried out by men against women. It is a symptom of the historic and current inequalities of power that exist between men and women.

There are many ways in which gender-based violence can cause harm. It can be physical, financial, emotional, sexual, or cause harm and suffering in other ways. What all forms of gender-based violence have in common is that they stem from and reinforce gender inequality.

## **Coercive Control**

Involves a pattern of behaviours used to control and dominate. These can

and financial abuse, humiliation, sexual abuse, isolation from friends and family, undermining a person's sense of self, and deliberately causing confusion to distort a person's sense of reality. Coercive control is a term that is used to show that Domestic Abuse is not related only to incidents of physical violence.

## **Interdict**

An interdict is an order from the civil courts which forbids a person from doing something and/or from visiting a certain place or approaching a certain person or even contacting them. An interdict can have specific requirements such as preventing a person from visiting your workplace or place of education. You can apply for an interdict against someone who is still living with you. For example, you

can have an interdict to stop a person from abusing you.

Please note however, this would only be limited to forbidding certain behaviours, as they are still living in the same house. For example, it could not stop your ex/partner from approaching you. Also, if your ex/partner has the legal right to live in the house, you cannot use an interdict to remove these rights.

When you are asking your solicitor to apply to the court for an interdict, make sure you ask them to request the court attaches a power of arrest to any interdict or interim interdict made against the abuser. This means that if the abuser breaches the conditions of the interdict, the police may be able to arrest them if there is sufficient evidence. Your solicitor can also ask the court to “determine” that your interdict is, what is

called, a Domestic Abuse Interdict. This is important because if the court does this and you have a power of arrest attached to that interdict, breach of any of the conditions of the interdict becomes a criminal offence.

### **Interim Interdict**

This is a temporary emergency order which you can request from the court before any legal action is served on the abuser.

### **Non-Harassment Order**

A non-harassment order is designed to prevent behaviour which may cause you harm or distress. It is similar to an interdict but provides additional protection from harassment. If the harassment you are experiencing amounts to domestic abuse, then the behaviour only has to happen once before you can apply to the civil court for a non-harassment order. If the

harassment is not part of domestic abuse situation, then the behaviour must happen on at least two occasions before you can apply for the civil non-harassment order.

### **Sex for rent**

is a form of sexual exploitation which is on the rise in Scotland. Shelter defines sex for rent as being an arrangement where someone is being asked for payment for the housing costs in the form of sexual acts. This can take place in several ways:

Someone has entered a tenancy agreement with a landlord, who if unable to pay rent, may be asked for sex as payment.

- Someone has entered a tenancy agreement with a landlord, who if unable to pay rent, may be asked for sex as payment.

- A person on a low income who never enters into a tenancy agreement and is asked for sex as payment.
- This payment could be for free accommodation, a reduction in rent or to write off rent arrears.

**Occupancy rights** are the legal rights to stay in a family home and apply where an individual either:

- Owns the home themselves
- Is a joint owner
- Is named as a tenant or a joint tenant on the tenancy agreement or
- Is married or in a civil partnership with someone from the three categories above.

### **Exclusion Order**

An Exclusion Order suspends the occupancy rights of your ex/partner. If you and your ex/partner are married, in a civil

partnership or are joint owners of the property, exclusion orders will only be effective while the marriage or civil partnership continues and until expiry of the order or until one or either of you ask the court to remove the order.

If you are joint tenants, the exclusion order will be in place until it is removed by the court, you or your ex/partner are no longer legally entitled to live in the house. However, if you asked for - and were given - occupancy rights by the court, these only last for up to six months at a time. So, in this case the exclusion order can only last as long as the time you have occupancy rights. The exclusion order stops having an effect when those occupancy rights fall. You can however, go back to the court and ask them to extend the occupancy rights.

### **Safety Planning**

This is a way of helping you to protect yourself and your children. It helps you to plan in advance for the possibility of future violence and abuse. It also helps you to think about how you can increase your safety either within the relationship or if you decide to leave.

### **Refuge accommodation:**

This is a type of temporary accommodation run by Women's Aid groups for women, children and young people who are experiencing Domestic Abuse.

### **Temporary accommodation:**

Is short term accommodation provided by the council. The council can place you in temporary accommodation when you are considered homeless. This can consist of self-contained flats and houses.



The Scottish Women's Rights Centre (SWRC) is a collaboration project between Rape Crisis Scotland, JustRight Scotland and the University of Strathclyde Law Clinic. We are a unique collaborative project providing free legal information, advice, representation and advocacy support to self-identifying women in Scotland affected by violence and abuse.

Helpline: [0808 801 0789](tel:08088010789)

