

RESPONDING TO INCIDENTS OF DOMESTIC VIOLENCE



MANUAL FOR SOCIAL SERVICES OFFICERS

Responding to Incidents of Domestic Violence

MANUAL FOR SOCIAL SERVICES OFFICERS

ACKNOWLEDGEMENTS

The manual is fruit of the team work of the Victim Advocacy and Support Section within the Department of Human Rights Rule of Law of the OSCE Mission in Kosovo.

KEY RESOURCE PEOPLE:

Selvete Gërxhaliu, Anton Hookes, Alma Begicevic, Anette Sikka.

COMMENTS RECEIVED FROM:

Ministry of Labour and Social Welfare, Department of Social Welfare, UNICEF Office in Kosovo, Association for Social Training Research and Advocacy (ASTRA).

ABBREVIATIONS

CM	Case Manager
CEDAW	The Convention on the Elimination of All Forms of Discrimination Against Women
CSW	Center for Social Work, Ministry of Labour and Social Welfare
DV	Domestic Violence
DOJ	Department of Justice, Pillar I, UNMIK
DSW	Department of Social Welfare, Ministry of Labour and Social Welfare
DPJV	The Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power
ECHR	European Convention on Human rights
IG	Institute of Guardianship
ICCPR	International Covenant on Civil and Political Rights
IEPO	Interim Emergency Protection Order
LNGO	Local non-governmental organization
LSP	Law on Social Protection
LMFR	Law on Marriage and Family Relation
LSFS	Law on Social and Family Services
LSAS	Law on Social Assistance Scheme
LEP	Law on Execution Procedure
MLSW	Ministry of Labour and Social Welfare
NGO	Non-governmental organization
OSCE	Organization for Security and Cooperation in Europe
PCKK	Provisional Criminal Code of Kosovo
PCPCK	Provisional Criminal Procedure Code of Kosovo
PISG	Provisional Institutions of Self Government
PO	Protection Order
EPO	Emergency Protection Order
SSO	Social Services Officer – working in CSW
SW	Social Worker
TL	Team Leader , CSW Social Services
UNICEF	United Nations Children Fund
UDHR	Universal Declaration on Human rights
VA	Victims' Advocate
VAAU	Victim Advocacy and Assistance Unit, Department of Justice

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PREFACE

MANUAL FOR SOCIAL SERVICES OFFICERS



January 2006

Preface

The Ministry of Labour and Social Welfare (MLSW) – Department of Social Welfare (DSW) is committed to ensuring that all members of the community are protected and live in a safe and protected environment.

This manual provides information on responding to incidents of domestic violence and has been designed to establish the process that must be followed by MLSW, DSW and all Centers for Social Work (CSWs) in Kosovo, for all cases of domestic violence (DV).

The whole process of planning, decision making and implementation should be driven and shaped by the needs of the client and progress made according to timescales that reflect those needs.

1. Introduction

1.1. Background to this publication

Every state should condemn domestic violence categorically, regardless of traditions beliefs and culture. The DSW fully endorses this view and expects its professionals to work accordingly.

1.2 This manual and its purpose

Social work is a service oriented profession, with the main aim of assisting persons in a state of temporary or chronic social need, whether due to financial or psychological distress or some type of social injustice. Being an effective and professional Social Services Officer (SSO) working in a CSW means to be able to interact with clients, both victims and perpetrators of domestic violence, while always ensuring the safety and well-being of the victim is a top priority. It means being able to understand the short and long-term effects of acts of domestic violence and the psychological and physical dangers they pose to the victim and his or her children.

The MLSW recognises that a comprehensive and integrated system of victim protection does not develop overnight. There are many actors, both governmental and non-governmental, that play a role in meeting the needs of DV victims. Services offered to victims and/or perpetrators of DV lose an element of effectiveness when provided by individual agencies in isolation; an effective response requires agencies to collaborate. Thus, the manual encourages the social worker to develop a community response approach rather than an individual style agency response.

All protection acts and services taken by institutions and NGOs need to be based on:

- Human rights;
- Legal norms;
- Legitimacy, as laid out by the rules and regulations of the MLSW.

To this end, this manual has incorporated within it a thorough analysis of the applicable law of Kosovo, UNMIK regulations, international human rights law and how they relate to the responsibilities and duties of the modern social worker. A working understanding of the law as it relates to the professional parameters of the social worker, together with knowledge of the dynamics of domestic violence, practice guidance for intervention and guidance on supporting victims and their families is essential for best practice outcomes.

1.3. The scope of this book

The manual draws on existing experience of social workers and expertise of professional victim advocates, judges, police and local NGOs in Kosovo and augments this knowledge with material and approaches supported by the international community. Within the text will be concepts that may be new to the social worker. The manual is designed to be comprehensive, but at the same time it is meant to be an easy to follow, practical tool for all SSOs working with victims of domestic violence

To accommodate both the knowledge and practice base requirements of this field of social work and in consideration of the special challenges of working with people who experience domestic violence, the manual has been divided into two parts:

- **Theory and knowledge**
- **Theory in to practice**

And with seven chapters and six appendices:

- **Domestic violence phenomenon**
- **Law relating to cases of domestic violence**
- **Social services and domestic violence**
- **Case management approach to domestic violence interventions**
- **Handling individual cases**
- **Good practice guidance for the social worker**
- **Building a multi-agency response**
- **Appendices**

Appendix One: Questions and tools for interviewing
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DOMESTIC VIOLENCE PHENOMENON

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2. Domestic Violence Phenomenon

2.1 Defining domestic violence

Domestic Violence is an act of physical, sexual and/or psychological maltreatment of one family member by another with the intent to control. Family members include two persons who are engaged or married to each other, co-habiting with each other without marriage, persons who share a primary household in common and who are related by blood, marriage, or adoption or are in a guardian relationship including parents, grandparents, children, grandchildren, siblings, aunts, uncles, nieces, nephews, or cousins; or two persons who are the parents of a common child.¹ This misuse of power within the family harms the psychological, social, economic, sexual and physical well being of the victim.

2.1.1 Types of domestic violence

In most cases, the perpetrator is a male family member and the victim female. In a small number of cases the perpetrator is reported to be a sister-in-law or mother-in-law, less frequently, the perpetrator is wife.

There are several forms of manifestation of DV, and they fall generally within these categories:

- Physical abuse;
- Sexual abuse;
- Emotional and psychological abuse;
- Isolation;
- Economic Abuse.

2.1.1.1 Physical abuse

Physical abuse means non-accidental physical violence committed by the abuser. Physical abuse includes inflicting bodily injury, whether light or severe, and also includes any physical assault that would cause the victim to fear for his or her physical well-being. It is also physical abuse to forcibly remove someone from his or her residence. Physical abuse involves behaviors such as pushing, shoving, slapping, hitting, kicking, biting, use of tools or weapons, or other acts which may result in fear, injury or death. It is a common pattern in DV cases with physical violence the severity of abuse increases in the domestic relationship.

2.1.1.2 Sexual abuse

Sexual abuse means a non-consenting sexual encounter or encounters within the family in which someone is either pressured, coerced (expressed or implied), or forced into sexual activity. If one of the persons is under 16 or is between 16 and 18 years and a child, foster child, step-child, grandchild, nephew or niece of the other person, it is always assumed that they cannot consent, and thus sexual activity constitutes abuse under any circumstances. Sexual abuse involves behaviors such as fondling, fellatio or cunnilingus, anal or vaginal penetration. It can also include exploitation through forcing someone to have photographs taken of a sexual nature, or by forcing someone into prostitution.

Particularly relevant to the discussion of DV is the category of “battering rapes” as a form of marital rape, where the sexual assault occurs in combination with physical beatings and psychological abuse. However, there are other forms of “sex-specific” violence where the sexual assault is not accompanied by physical assault, but rather is seen as a primary form of coercion by which the partner is victimised. The amount of physical violence used is only enough to coerce the victim into having sex, and appears to be motivated primarily by a desire to overpower and control the victim. In many of these cases the brutality or coercion is based on the perpetrator believing that he/she has the right to have sex with his/her spouse on his/her own terms. It is important to remember that consenting to have sex as a result of fear of violence is a form of coercion and that in these cases the perpetrator has committed a criminal act.

¹ UNMIK Regulation 2003/12, on Protection against Domestic Violence, (Regulation) section 1.1.

A different type of marital rape to watch for, which is perpetrated by individuals with deviant sexual arousal patterns typically involves obsessive forced sex, these victims are required to have an extra-ordinary number of sexual encounters, or to have sex as a form of sadistic, brutal or perverse behaviour. Once again without active consent the act becomes criminal in nature. The actor is a perpetrator of violent sexual crime and the person at the end of the crime is a victim.

2.1.1.3. Emotional and psychological abuse

Emotional abuse can be defined as verbal statements or physical acts that result in the destruction of the victim's self-esteem. This abuse, whether manifested in a form of name calling, ridiculing, threatening, or using other forms of verbal violence, is a systematic and purposeful form of degradation of the victim. The abusive partner exercises control or power over the victim who eventually loses her/his self-esteem, feels insecure but at the same time is afraid of being abandoned, or is made to feel that s/he deserves the abuse. As a result of repeated emotional abuse the victim will eventually experience a feeling of dependence and self-worthlessness.

A common form of psychological abuse to note appears in relationships where violence has occurred in the past. In these cases emotional abuse takes the form of repeated threats, which may cause strong anxiety and fear. This so-called "psychological battering" is particularly terrorising because a victim experiences terror, trepidation and uncertainty. The victim is unable to foresee when violence might occur, in what form, and whether it will happen at all. The victim's anticipatory anxiety resulting from threats can be as excruciating as the violence itself.

2.1.1.4 Isolating

Isolation is characteristic of DV cases when perpetrators exert efforts to control the victim's environment. Such behaviours may include isolating victims from family members and restricting freedom of movement.² Perpetrators may restrict a victim's personal contacts with the world outside their family, preventing the victim from discussing abuse problems with anyone and thus taking away her or his capacity to even recognise the abuse. With this degree of control established by the perpetrator, he or she becomes a potential source of solace as well as humiliation.

2.1.1.5 Economic abuse

In the same way that perpetrators exert efforts to control a victim's physical environment by isolating the victim from friends and family, he or she will often find other ways to control a victim using money. Money provides an individual with opportunity and independence. Withholding access to finances gives the abuser more opportunity to control the victim. Again, this type of control removes the ability of the victim to control her or his own life.

Also since money and finances are often a source of tension in households, it may be used by the perpetrator as a potential flash-point for violence. For example, when perpetrators control all of the money in the household, the victim is put in a position of having to ask for money to run the household which 1) reinforces a lack of independence, and 2) can cause a conflict which the perpetrator suppresses through violence.

2.1.2. Pattern of escalating violence: "The Cycle of Violence"³

The circumstances of any one victim do not usually fit neatly within a set category of abuse; for example, it can be the case that the victim is also physically and/or sexually abused as well. Given that each victim situation is unique, the formal categories of victim abuse are best seen as setting broad parameters within which a victim's distress and their need for help can be understood and described. It should also be kept in mind that the abuse of a victim is rarely a "once only" event, but rather part of an on-going pattern of ill-treatment.

A common method of describing a pattern of relationship abuse is the "cycle of violence": First there is a period of tension building which can include verbal abuse, minor physical abuse as well as attempts from the victim to placate her partner, though rarely successful. This leads to an incident of severe violence, followed by a period of remorse when the perpetrator tries to convince

² See Regulation 2003 /12 section 1.1(f) unlawfully limiting the freedom of movement of the other person

³ Walker (1979)

the victim of his love and promises no further harm. This is a common pattern of domestic violence. Unfortunately for the victim it is also common for the violent attacks to increase in ferocity with each cycle.

2.2 Indicators of domestic violence in a victim

Sometimes victims can be identified and recognised by different signs of abuse. These may be divided into physical, emotional and psychological signs. A SSO who has been informed that a woman may be at risk of DV should view any of the following signs with suspicion. As an SSO, it is also important to recognise such symptoms individually in order to adequately assess the situation and provide the best form of support to victims.

2.2.1 Physical indicators of domestic violence

Physical symptoms of abuse may include injuries that are untended and/or have healed poorly due to lack of attention. Common types of these injuries include:

- Contusions, abrasions, and minor lacerations, as well as fractures or sprains;
- Injuries to the head, neck, chest;
- Self-inflicted cuts to the wrist and arms;
- Injuries during pregnancy;
- Multiple sites of injuries;
- Repeated or chronic injuries;
- Chronic pain, psychogenic pain (psychologically induced pain, normally non specific in nature), or pain due to diffuse trauma without physical evidence;
- Sexually transmitted diseases;
- Damage to sexual organs and anus – this is often a sign/consequence of sexual abuse and lack of control over the sexual relationship.

Physical symptoms related to stress, chronic post-traumatic stress disorder, other anxiety disorder or depression:

- Sleep and appetite disturbances;
- Fatigue, decreased concentration;
- Chronic headaches;
- Abdominal and gastrointestinal complaints;
- Palpitations, dizziness and dyspnoea (a non-specific skin irritation, without obvious cause);
- Atypical chest pain.

2.2.2 Emotional indicators of domestic violence

- Low self-esteem;
- Feeling of isolation and inability to cope;
- Suicide attempts or gestures;
- Depression;
- Panic attacks and other anxiety symptoms;
- Alcohol and drug abuse;
- Post-traumatic stress reaction and / or disorder.

2.2.3 Behavioural indicators of domestic violence

- Victim may appear frightened, ashamed, evasive or embarrassed;
- Partner accompanies victim, insists on staying close, and answers all questions directed to her;
- Reluctance of a client to speak or disagree in front of her partner;
- Exaggerated sense of personal responsibility for the relationship, including self – blame for her partner’s violence.

2.3 Domestic violence -The search for a conceptual framework

It should be made clear from the outset when discussing characteristics of domestic violence and looking for explanations for the phenomena, that violence towards women or men within a domestic relationship is unacceptable. No matter what the circumstances; there is never a situation where violence is acceptable; there are no mitigating circumstances. The discussion in this manual on the causes of domestic violence are not justifications for the actions of abusers, but rather a practical approach to understanding the phenomenon in order to work with a perpetrator to prevent the actions.

Currently, the most comprehensive theory for understanding the context and root causes of domestic violence is what is known as the “ecological perspective,”⁴ which states that it is the interaction between personal history, social situation, and political or cultural environment that give rise to abuse, not simply one of these factors alone.

A full understanding of domestic violence will include taking into account a minimum of 4 factors:

First, there are **Personal Risk Factors**, such as witnessing family violence as a child, being sexually abused or the lack of a consistent father figure.

Secondly, it is important to note the **Micro factors**, which are the situational factors surrounding the abuse in the victim’s relationship, such as male dominance in decision-making, male economic control in the relationship, marital conflict and alcohol use.

Thirdly, taking into account the **Exo-system** means examining factors within the formal and non-formal social structure and institutions that impact the situation - such as unemployment, social isolation and delinquent peer association.

Fourthly, it is extremely important to pay attention to the **Macro-system**, the broad set of cultural values and beliefs that permeate and inform the other three layers of the social ecology and involves a definition of manhood that can include dominance and aggression, adherence to traditional gender roles, a sense of male entitlement/ownership over women, approval of physical punishment of women and cultural support for use of violence to resolve interpersonal conflicts.

2.3.1 Kosovo through the ecological perspective

Domestic Violence is present in Kosovo. In 2004, in UNMIK police Domestic Violence Unit and CSW dealt with 223 cases. Domestic Violence shelters reported about 298 cases. After the war on 2000 UNIFEM undertook an assessment of the levels of violence experienced by women in Kosovo.⁵ Of 216 women who answered the survey, 23 percent reported being abused within the domestic environment. Discussion groups with women from both urban and rural locations highlighted that the dynamics of family life and society at large meant that the number of cases are under-reported. The cultural values or *macro-system* in Kosovo is closely linked to the particular family dynamics or *micro-systems* within relationships and thus understanding both of these in conjunction with each other is a key to understand root causes of violence and how to work to alleviate these causes. The following is an attempt to understand domestic violence relationships within the Kosovo context using the “ecological perspective” analysis outlined above.

2.4 Personal risk factors that may contribute to DV

Within the framework of the social/ life influences, there are specific individual influences which can also prove to be factors that increase the risk of DV. It should be made clear from the outset that *risk factors are not causes of DV* nor can they be used as justifications for the violence. They make violence more likely to occur under certain circumstances and thus they are important factors for SSOs to be aware of, in order to identify potential victims:

- Fighting within the family of origin and/or exposure to parental violence;
- Previous violence in other relationships;
- Isolation of victim from family and friends;

⁴ See for example Heise, L.L. (1998), “Violence against Women: An integrated ecological framework”, in *Violence against Women* 4 292-290.

⁵UNIFEM 2000 “No Safe Place: An assessment on violence against women in Kosovo

- High levels of expressed anger and impulsiveness (between family members);
- Inappropriate expectations of children or spouse;
- Aggressive response to actual and perceived stress;
- Biological and neuro-psychological factors, inherited or acquired;
- Alcohol and drug abuse.
- Experiencing civil war that includes murder, violence, ethnic cleansing and rape.

2.5 Women and domestic violence – why it is difficult to leave the violence

The question which is so often asked, “Why doesn’t she just leave?” is based on the incorrect assumption that leaving will end the violence. It also assumes that the victim of violence has no right to her/his own home, and that the perpetrator has the right to drive others from it.

There are many reasons why someone who is being battered may stay in an abusive relationship, though it may be difficult for others to fully understand because the dynamics within the relationship are far more powerful to those who are in the relationship than those of us on the outside can see. All the same, these dynamics are real.

The following are only a few of the reasons why it may be hard to leave a battering relationship:

- Lack of resources and social support are the most significant impediments to a victim of batterer’s ability to become independent and leave the batterer.
- Love. The victim may still love the abuser and remember the good times in their relationship.
- Hope. The victim may hope that the partner’s promises to stop are real, and that the relationship will return to the way it once was before the violence started.
- Shame. The victim may feel ashamed to let other people know what is going on, in the relationship.
- Isolation. The batterer’s destruction of ties to friends and family may leave the victim economically and psychologically dependent on the abusive partner.
- Practical problems in leaving: lack of a shelter or immediate space in the shelter; short stays in shelters where space is limited — not enough time to get started over; lack of legal assistance, housing, jobs, child care, police and court support.
- Fear of retaliation from the assailant. More battering victims are murdered while attempting to flee from their abusers than at any other time.
- Cultural pressure. Many individuals belong to identification groups or strongly believe in certain practices, including the need to maintain a marriage relationship no matter what. For women, the pressure is often on them to work to keep the family together. Not doing so, or leaving, may cause separation from the culture.

Many other reasons may contribute to a victim feeling trapped in a relationship and unable to “just leave.” For each individual the reasons may be unique to their situation, and often they do not see any other choice. But the more support systems there are in place in our society to assist victims of battering, the more likely they will be to leave an abusive relationship and not return.

2.6. Effects of domestic violence on children

Living within a family where domestic violence is prevalent is extremely stressful for children. An SSO needs to be alert to all warning signs which may indicate distress so that they can intervene as appropriate to protect all the victims of DV. All children who live in homes where domestic violence is occurring are affected by this experience. The children will be affected differently, based on the following factors, and thus an SSO must be aware of such factors to be able to appropriately work with each individual child. Some of the factors are:

- Their interpretation of the experience (age influenced);
- How they have learned to survive and cope with stress;
- The availability of supports (friends, relatives, other adults);
- Their ability to accept support and assistance from adults.

The effect of this violence on children can be seen in many different ways. Each individual child may exhibit some of the following and possibly will exhibit different distress at different times:

Possible emotional reactions:

- Feeling guilty for the abuse and for not stopping it;
- Grief over family and personal losses;
- Confusion regarding conflicting feelings towards parents;
- Fear of abandonment, of expressing feelings, of the unknown, or of personal injury;
- Anger about the violence and the chaos in family members lives;
- Depression, a feeling helplessness and powerlessness;
- Embarrassment about events and dynamics at home.

Possible cognitive manifestations:

- Belief that they are responsible for the violence;
- Blame others for their own behaviors;
- Belief that it is acceptable to hit people they care for to get what they want, to express their anger, to feel powerful, or to get others to meet their needs;
- Low self-esteem;
- Not asking for what they need, let alone what they want;
- Lack of trust;
- A belief that feeling angry is bad, because people get hurt;
- Rigid stereotypes of what it means to be a boy, a girl, a man, a woman, a husband, a wife;

Behavioral signs (often seen in opposite extremes):

- Children may act out or withdraw;
- They may become overachievers or underachievers;
- Refusal to go to school;
- Caretaking, more concern for others than self – parent substitute;
- Aggressive vs. passive;
- Rigid defences (aloof, sarcastic, defensive, "black and white thinking");
- Excessive attention seeking (often using extreme behaviors);
- Bedwetting and nightmares;
- Out of control behavior, not able to set own limits or follow directions;

Social manifestations:

- Isolation from friends or relatives or excessive social involvement to avoid home life;
- Relationships are frequently stormy, start intensely and end abruptly;
- Difficulty in trusting, especially adults;
- Poor conflict resolution and anger management skills;
- May be passive with peers, or bully peers;
- Engage in exploitive relationships either as perpetrator or victim;
- Play with peers gets exceedingly rough, engaging in high-risk play activities.

Physical distress:

- Somatic complaints (headaches, stomach aches);
- Nervous, anxious and a short attention span (frequently misdiagnosed as being Attention Deficit Hyperactivity Disorder (ADHD));
- Tired, lethargic;
- Frequently ill;
- Poor personal hygiene;
- Regression in development tasks (bedwetting, thumb sucking – age dependant);
- Desensitisation to pain;
- Self injury;

LAW RELATING TO CASES OF DOMESTIC VIOLENCE

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3. Law relating to cases of Domestic Violence

A thorough knowledge of the laws and the obligations they prescribe is essential if the CSWs and SSOs are to uphold the interests of victims of domestic violence. The Constitutional Framework of Kosovo (the Constitutional Framework)⁶ requires that the Provisional Institutions of Self-Government must act in accordance with human rights standards. The CSWs fall within this category, being a function of the Ministry of Labour and Social Welfare, and thus all the decisions that the CSW take must be made in accordance with the human rights standards set forth therein.

3.1 Human rights in Kosovo

The Constitutional Framework, chapter 3 point 3.3, states that internationally recognised human rights and fundamental freedoms are directly applicable in Kosovo⁷. Primarily women are victims of domestic violence in Kosovo.⁸ Therefore, broadly speaking, the applicable human rights standards providing protection from DV, discrimination and unfair treatment are set out in:

- *The Universal Declaration on Human Rights (UDHR)*
- *The European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, (ECHR)*
- *The International Covenant on Civil and Political Rights and the protocols thereto (ICCPR);*
- *The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*
- *The Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power (DPJV)⁹*

In the Universal Declaration and the ECHR discrimination on the basis of sex is prohibited¹⁰. The DPJV also contains a non-discrimination provision at article 3 which underlies all the requirements on the state to provide access to justice, psycho-social counseling and support services, and compensation¹¹. CEDAW stipulates that state authorities have the responsibility to develop a “policy of eliminating discrimination against women” including adopting legislative and other measures and taking all appropriate measures in all fields to modify or abolish existing laws, regulations, customs and practices which discriminate against women.¹² Furthermore, under Article 16 of CEDAW, states are responsible to take all appropriate measures to eliminate discrimination in all matters relating to family relations and marriage and ensure equality of men and women in areas such as divorce, children and property rights.

It is the responsibility of the institutions to ensure that within their areas those human rights outlined above are adhered to. Thus all state actors are responsible for acting in accordance with those rights. Each agency of the PISG and other institutions has delegated authority to act on behalf of the institutions as a government agency, and thus takes on the institutions’ responsibility to secure these rights. If the PISG fails to do so they are contravening their obligations as set out in the Constitution. These obligations will take specific forms in each department of the PISG in their work with women and children.

⁶ UNMIK Regulation 2001/9, The Constitutional Framework of Kosovo, chapter 3, point 3.2:

The Provisional Institutions of Self-Government shall observe and ensure internationally recognized human rights and fundamental freedoms, including those rights and freedoms set forth in:

(a) The Universal Declaration on Human Rights
(b) The European Convention for the Protection of Human Rights and its Protocols;
(c) The International Covenant on Civil and Political Rights and the Protocols thereto;
(d) The Convention on the Elimination of All Forms of Racial Discrimination;
(e) The Convention on the Elimination of all Forms of Discrimination Against Women;
The Convention on the Rights of the Child;
(g) The European Charter for Regional or Minority Languages; and
(h) The Council of Europe’s Framework Convention for the Protection of National Minorities

⁷ Ibid art 3.3.: “The provisions on rights and freedoms set forth in these instruments shall be directly applicable in Kosovo as part of this Constitutional Framework.”

⁸ For further reading of children as victims of domestic violence, see the Child Protection Manual, where also the Convention on the Rights of the Child is included.

⁹ The provisions contained within the DPJV are indirectly applicable as a human rights standard under the Constitutional Framework as a soft law although not specifically cited. See note 1 where art 3.2 states that “The Provisional Institutions of Self-Government shall observe and ensure internationally recognized human rights and fundamental freedoms.

¹⁰ The UDHR art 2 and the ECHR art 14.

¹¹ Articles 4, 14 and 12 respectively

¹² See Article 2, CEDAW.

In areas of work covered by the Ministry of Labour and Social Welfare (MLSW), that ministry is responsible for securing the rights outlined above Kosovo wide¹³, with the CSWs as the municipal implementing agencies¹⁴, responsible for securing those rights in practice in the municipalities¹⁵. What this means practically is that in your work as SSOs you must ensure that your decisions do not have a discriminatory effect, including taking into account the root causes of the lower financial and cultural position of women in Kosovo societies¹⁶.

3.2 Domestic laws applicable to domestic violence

The legal system in Kosovo has a number of sophisticated instruments to ensure the protection of individuals from discrimination and violence. The substantive provisions relating to the work of SSOs are contained in the following documents:

1. *Law on Social Protection*, Official Gazette 18/76. (LSP)
2. *Law on Marriage and Family Relation*, Official Gazette 10/84, (LMFR)
3. *UNMIK Regulation 2003/12 on the Protection Against Domestic Violence* (DV Regulation)
4. *Provisional Criminal Code of Kosovo* UNMIK Regulation 2003/25 (PCC)
5. *Provisional Criminal Procedure Code of Kosovo* UNMIK Regulation 2003/26 (PCPC)
6. *Law on Social and Family Service* UNMIK Regulation 2005/46 (LSFS)

In addition to these laws there are a number of other laws that will relate generally to the work of SSOs, outlining procedures for administration, court procedures, and appeal mechanisms¹⁷.

3.3. SSOs obligations under domestic laws

There are a number of laws that govern the responsibility of CSWs for victims of domestic violence. SSOs must also implement those laws in their work in a non-discriminatory fashion, taking into account the reality of women's situation in Kosovo and within particular families' victims¹⁸.

In addition to SSOs, primary responsibility for enabling all victims of crime to get access to justice, and particularly gender-based violence, lies with the Victim Advocacy and Assistance Unit (VAAU) of the Department of Justice. Their role is now enshrined in the criminal law as the automatically appointed authorised representative for victims of domestic violence. The role of VAAU is foreseen based on Articles. 81 and 82, of the *Provisional Criminal Procedure Code of Kosovo* UNMIK Regulation 2003/26 (PCPC). The representative from Victim Advocacy and Assistance Unit of the Department of Justice will act as authorised representative for DV based on Article 206 PCPC. In terms of providing social protection, CSWs have responsibility to also assist victims of domestic violence. Law on Social and Family Services outline the categories of the persons in need; the reference for the DV victims is highlighted in Article 1.3(e)(10). In General Provisions of LSFS states; that the State has a duty to provide social and family services to people in need as well the victims of domestic violence in "meaner that respects their dignity as human beings and their fundamental rights based on Kosovo Legislation and International Human Rights Conventions." While Municipal CSW remains responsible for operational activities and providing immediate assistance, the Ministry of Labour and Social Welfare oversees and manages the quality of their work¹⁹.

¹³ The Ministry of Labour and Social Welfare (MLSW) was established by Annex VII of UNMIK Regulation 2001/19, On the Executive Branch of the Provisional Institutions of Self-Government in Kosovo. The Administrative Department of Health and Social Welfare (DSW) was established by UNMIK Regulation 2000/10 On The Establishment of the Administrative Department of Health and Social Welfare. These laws give the MLSW, through its implementing department the DSW, the authority to exercise administrative supervision over social welfare offices.

¹⁴ Role of CSW as the Institute of Guardianship is explained in the Law on Marriage and Family Relations, Article 22 and the Law on Non-Contested Procedure, Article 5.

¹⁵ According to the Law on Social and Family Services, UNMIK Regulation 2005/46, Article 1.3.j. the Guardianship Authority remains under the authority of municipal Centers for Social Work, which in turn represents the sole authority accountable for protection of the rights of the child.

¹⁶ For practical examples of how to ensure you are not making discriminatory decisions as an SSO please refer to the "case management" section of this manual.

¹⁷ See for example: Law on Non-Contested Procedure (Official Gazette SAPK 42/86); Law on Procedure on General Administration of 1986 (Official Gazette 47/86); Law on Administrative Disputes of 1977 (Official Gazette SFRY, No 47); Law on Contested Procedure (Official Gazette SFRY 4/1977).

¹⁸ Arts. 81 and 82 of the *Provisional Criminal Procedure Code of Kosovo* UNMIK Regulation 2003/26 (PCPC). The role of the Victim Advocacy and Assistance Unit of the Department of Justice is now enshrined in Article 206 PCPC as the automatically appointed authorised representative for victims of DV. For practical examples on how to ensure you are not making discriminatory decisions as an SSO when implementing these laws please refer to the "case management" section of this manual.

¹⁹ See LSFS, Article 2. .3 on the Role of the Ministry.

3.3.1 Law on Social Protection (LSP)

Law on Social Protection in its Article 6 in general terms explains the overall responsibility of the MLSW with regard to social protection, including the work of the CSWs. These are to: provide follow up and study of the social problems; draft plans and programs for the development of social protection; undertake precaution measures to impede the causes that lead to such social needs; determine the form, criteria and relevant measures for social protection of persons in distressed conditions; establish, develop and follow up of the organisations institutions and social protection services. Law on Social and Family Services in Article 2 elaborates on the role of the Ministry of Labour and Social Welfare as well in Article 3 LSFS defines the role of the Department of Social Welfare the responsibility for the direction and oversight of all operational functions under LSFS²⁰. In terms of managing and supervising municipal centres for social work, LSFS defines that person or family who considers themselves in need of social protection, are entitled to have their circumstances assessed by the CSW in the municipality where they reside, or in which they are found. The CSWs are to take into account the needs of the clients and the availability of resources to provide social protection services²¹. Article 2 elaborates on the Ministry of Labour and Social Welfare and its “overall responsibility for the organisation of the provision of Social and Family Services in Kosovo”.

While the LSP does not specifically address the problem of domestic violence and protection of victims, LSFS defines them as a separate group requiring social protection²². Naturally in cases of DV there are also additional factors to negotiate with regard to the victim’s personal safety. It is not uncommon for women to leave the home for safety and treatment following an incident of domestic violence. Article 31 of the LSP highlights the right of someone needing social protection to access a safe place. The social worker is thus obliged to find a service for a victim if required.

Finally, what always must underlie any decision taken in a DV case is the consent of the victim. Article 36 of the LSP states that “Social Protection is given to a person (client) based on his/her request ... [or] consent, and to a juvenile [or] person who is partly or completely deprived from his/her work ability, protection is given on a the request or ... with the consent of his/ her legal representative.” Social protection may be given by an SSO without consent of the individual or their legal representative only if it is considered to be “in [the] interest of [the] person and social community or exists the interest of third person. It is not uncommon for a victim to turn down the support of professionals, because of fear of reprisal by the abuser and she or he may not be able to act in their (or their children’s) own best interests. In this case an SSO can make a determination that it is in the victim’s (and the children’s) best interests to provide social protection regardless of consent. However this must be used only in extreme cases or if children are at physical risk, as it is a serious breach of an individuals’ right to privacy and family life to interfere without his/her consent.

It is the SSOs responsibility to ensure that the victim understands what kind of protection is available and that the victim consents to receiving protection - or that the circumstances are dangerous enough for the victim or another person that the SSO should provide assistance without consent.

Social assistance for DV victims / Law on Social Assistance Scheme

The type of social assistance an SSO is required to provide is outlined in the Social Assistance Scheme (SAS) in Kosovo, Kosovo Assembly Law no. 2003 /15²³ . According to the preamble, the purpose of the law is to provide a social safety net within the broader context of the social protection system in Kosovo and alleviating poverty by providing social assistance to poor and vulnerable families in need. The CSWs have been designated to administer the social assistance

²⁰ See LSFS , Article 3, role of the Department of Social Welfare , paragraph 3.3, points (a),(b),(c),(d), (e),(f),(g), (h), (i) , (j), (k).

²¹ See LSFS, Article 1, paragraph 1.4.

²² See LSFS, Article 1.e.10.

²³ UNMIK Regulation 2003/28 On the promulgation of the law adopted by the Assembly of Kosovo on the Social Assistance Scheme in Kosovo.

scheme and to provide financial support to eligible families in accordance with the criteria set forth in the law.²⁴ It is important that the Social Assistance Scheme is applied in a non-discriminatory way. Therefore, in a situation when dealing with a case of a woman who has left her family because of reasons of domestic violence, it is recommended that the SSO keeps the woman's vulnerability from all aspects in mind. Considering a woman's generally lower financial and social status in the Kosovo society, it is likely that the woman is in greater financial need of social assistance than the other part of the family, and should thus be the one in the family entitled to social assistance. Based on Section 12 of SAS it is also possible for the MLSW to make arrangements for the provision of ad hoc and immediate support to meet exceptional needs not otherwise provided for under SAS. In an emergency situation, a domestic violence case could be qualified as such an exceptional need. It is the responsibility of CSW as a designated authority to assess and administer the awarding of such exceptional needs support.

3.3.2. Law on Marriage and Family Relations (LMFR)

The Institute of the Legal Guardian (IG) derives from the LMFR²⁵. The functions of the IG with respect to social protection of families are carried out by the municipal organ in charge of social protection (i.e. the CSW). The LSFS in its Article 7.2., compliments the LMFR elaborating that "[t]he Centre for Social Work will constitute the Guardianship Authority and perform the duties required of this function as set out in the relevant Kosovo statutes". The specific responsibilities of SSOs under the LMFR in relation to domestic violence are threefold. Through its function as the IG, an SSO might: a) supervise parental rights²⁶, b) act as legal representative of a child where a child is seriously endangered²⁷, or c) recommend to the municipal court to initiate the procedure of temporarily removing parental rights.²⁸ The LSFS in Article 3(3.3)(g) specifies that the Department of Social Welfare retains direct responsibility in all matters related to application to the court initiated by a municipal Centre for Social Work. Also, in cases when family relationships cannot be reconciled or it is inappropriate to reconcile, as in many domestic violence cases, the CSW provides an expert opinion to the municipal courts, essential for divorce, and custody rights cases.²⁹

The LMFR states that the CSW is obliged to adequately investigate circumstances important for the child's psychological and physical development³⁰ but that a child only can be taken away if the child's upbringing is seriously endangered.³¹ In implementing these responsibilities SSOs should always bear in mind that profiles of domestic violence victims reveal that they are rarely exposed to isolated incidents of abuse. The result of stress, disempowerment and physical and mental abuse is that mental health amongst women and children is affected and clinical depression may interfere with an individual's ability to function.

In consideration that women in Kosovo society take the majority of responsibility for child care, a woman who experiences DV may have a reduced capacity to offer an optimum level of care for her children. This should not be assumed but attention should be paid to children in families where DV has taken place and caution should be taken not to jump to a false conclusion. Essentially, Article 339 and Articles 343 and 345, of LMFR define the CSWs responsibility towards reconciling spouses. One of the concerns is that this law makes a strong emphasis on reconciliation, whereas placing a woman victim of domestic violence back in to the unsafe environment even with the marital counseling, may not always prevent domestic violence from re-occurring. Thus, the CSWs must conduct risk assessments prior to advocating for the return of victim home, as it is stipulated by Article 34 of the LSP. Further, even in cases when CSW refer a victim to an NGO for specialist counseling or for safe housing, it still maintains an obligation for follow-up and for monitoring progress and any changes which may affect her or her children³².

²⁴ UNMIK Reg. 2003/28, Article 3.

²⁵ The IG is also found in Article 22 Law of Marriage and Family Relations (Official Gazette 10/84), and article 5 of the Law on Non-Contested Procedure, OG 86 (LNCP). The IG should take all action to protect the rights and interests of minors

²⁶ LFMR art 118.

²⁷ LFMR art 122.

²⁸ LFMR art 126.

²⁹ LFMR arts 111 and 339.

³⁰ LFMR art 116

³¹ Supra note 28

³² Given that CSW-s has general responsibilities under the LSP and LMFR towards victims and victim's families; this includes determining what types of protections are needed as circumstances change, as in art. 37 of the LSP.

3.3.3. UNMIK Regulation 2003/12 on Protection Against Domestic Violence (DV Regulation)

The DV Regulation is the main legal source governing the response to victims of domestic violence, and thus it is important for SSOs to fully understand the definitions within the law, and the response procedures. The LSP, LMFR and the LSFS are the laws giving SSOs general authority and responsibility for caring for victims of DV within the family unit, and the DV Regulation is the piece of legislation that provides details of how some of that support is to be given. The DV Regulation covers two main topics: 1) Protection Orders 2) Law enforcement and Criminal Response

1. Protection Orders

DV is defined as any of the following acts committed in the context of a “domestic relationship”: inflicting bodily injury, non-consensual sexual acts or sexual exploitation, causing the other person to fear for his or her physical, emotional or economic well-being, kidnapping, causing property damage, unlawfully limiting the freedom of movement of the other person, forcibly entering the property of the other person, forcibly removing the other person from a common residence, prohibiting the other person from entering or leaving a common residence, or engaging in a pattern of conduct with the intent to degrade the other person³³. A domestic relationship exists when two persons are engaged, married, cohabiting, sharing a primary household in common and related by blood, marriage, or adoption or are in a guardian relationship³⁴. These definitions apply for the purpose of courts ordering protection orders – which will be explained shortly. There is a slightly different definition of DV that applies for criminal acts, which will be outlined in the next section.

For the purpose of protection orders, this definition is extremely important for an SSO to understand fully. Given your role under the existing law to assist and protect families and victims under the LSP and LMFR, understanding the legal definition of DV can help the decision as to the victim’s state of social need. The definition is also important in that an SSO can petition the court for certain types of orders (outlined in the next paragraph) and thus you are required to know the conditions that must be there in order for you to make such a petition. Protection orders are granted only based on the grounds listed above in the definition.

There are three different types of protection orders outlined in the DV Regulation; regular Protection Orders, Emergency Protection Orders and Interim Emergency Protection Orders.

The Procedure of Requesting and Issuing Protection Orders

A victim of domestic violence or his/her legal representative can file for a Protection Order (PO). The petition can be filed in writing or orally³⁵ with the municipal court which has jurisdiction over the municipality where the petitioner permanently or temporarily resides³⁶ and the court has to issue a decision on the order within 15 (fifteen) days³⁷.

The court can order the following measures to protect the victim³⁸:

- “(a) Prohibit the respondent from committing or threatening to commit any act of domestic violence against the protected party and/or a person with whom the protected party has a domestic relationship;
- (b) Prohibit the respondent from harassing, annoying, contacting, or otherwise directly or indirectly communicating with the protected party;
- (c) Prohibit the respondent from approaching within a specified distance of the protected party;
- (d) Prohibit the respondent from being at the place of work of the protected party or at another specified locality;
- (e) Limit the access of the respondent to the child of the protected party on such conditions as may be appropriate;
- (f) Prohibit the respondent from entering or remaining in the temporary or permanent residence of the protected party, or a portion thereof, regardless of respondent’s ownership or occupancy rights;

³³ UNMIK Regulation 2003/12 On protection against domestic violence, Section 1.2.

³⁴ UNMIK Reg. 2003/12, Section 1.1.

³⁵ UNMIK Reg. 2003/12, Section 6.3.

³⁶ UNMIK Reg. 2003/12, Section 5.1.

³⁷ UNMIK Reg. 2003/12, Section 7.1.

³⁸ UNMIK Reg. 2003/12, Section 2.1.

- (g) Order an authorized person to accompany the protected party or the respondent to the residence of the protected party and supervise the removal of personal property belonging to that person or another specified person;
- (h) Order the seizure of weapons;
- (j) Order the respondent to pay the rent or mortgage on the temporary or permanent residence of the protected party;
- (k) Order the return of the child of the protected party to the protected party;
- (l) Grant temporary custody of the child of the protected party to the protected party;
- (p) or order any other measure that is necessary to protect the safety, health or well-being of the protected party and/or a person with whom the protected party has a domestic relationship.

A petitioner or respondent can appeal against a decision for a PO within eight (8) days of the issuance of such decision³⁹

Emergency Protection Orders

Emergency Protection Orders (EPO) offer a quicker but more temporary remedy for victims of DV. The differences in the petitioning procedure and requirements are described below. In addition to the victim or the legal representative the following persons can also file for an EPO: a person in a domestic relationship with the protected party, a representative of the CSW, a Victim Advocate if the protected party consents, or a person with direct knowledge of an act or acts of domestic violence against the protected party⁴⁰.

To issue an EPO the court must find, in addition to the requirements for issuing a PO, that the respondent poses an immediate or imminent threat to the safety, health or well-being of the protected party⁴¹. The court must decide on an EPO within twenty-four (24) hours of the filing of the petition⁴². An EPO can contain measures listed in Section 2.1(a) to (h) of the DV Regulation, listed above.

Interim Emergency Protection Orders

Interim Emergency Protection Orders (IEPO) are issued by the on-call or acting Regional Domestic Violence Commander of UNMIK Police, outside of the working hours of the court.⁴³ IEPOs can be requested by the same persons who can file for an EPO, but the request is to be submitted to the law enforcement authorities (the police)⁴⁴. There is no specified deadline for the Regional Domestic Violence Commander to issue an IEPO. However the measures are meant as an immediate temporary solution outside of the working hours of the court and thus an immediate decision should be expected.

Only measures outlined in Section 2.1(a) to (c) of the DV Regulation, listed above, can be granted by an IEPO⁴⁵. The order expires at the end of the next day that the court is in operation⁴⁶. To issue an IEPO the Regional Domestic Violence Commander must find that the same conditions exist for as for an EPO as outlined above⁴⁷

CSW are to be forwarded a copy of EPOs and IEPO. It is unlikely that a CSW will not already know of a case of domestic violence by the time a PO is requested. Further, in all cases where the victim is under the age of 18 years or where the acts of DV are so grave as to impact the safety or security of a person under the age of 18 years, the law authorities shall immediately report the incident to the CSW⁴⁸.

³⁹ UNMIK Reg. 2003/12, Section 11.
⁴⁰ UNMIK Reg. 2003/12, Section 6.2 DV.
⁴¹ UNMIK Reg. 2003/12, Section 10.1.
⁴² UNMIK Reg. 2003/12, Section 9.1.
⁴³ UNMIK Reg. 2003/12, Section 13.2.
⁴⁴ UNMIK Reg. 2003/12, Section 13.1.
⁴⁵ UNMIK Reg. 2003/12, Section 13.2.
⁴⁶ UNMIK Reg. 2003/12, Section 13.3(b).
⁴⁷ UNMIK Reg. 2003/12, Section 13.2.
⁴⁸ UNMIK Reg. 2003/12, Section 14.5.

If an SSO sees that someone committed one of the acts in s. 1.2 of the DV Regulation and that person is related to the victim in a way outlined in s.1.1, the SSO should offer to petition for a protection order for the victim.

2) Criminal sanctions and law enforcement

Social Service Officers must be aware of the difference between DV as defined in s.1.2 for the purpose of protection orders, and DV as it is referred to in the criminal law. The definition in s.1.2 that outlines all the acts that constitute domestic violence, above, is not criminal law, and thus those acts are not criminal offences. However, in many cases those acts also constitute criminal offences under the Provisional Criminal Code of Kosovo (PCC)⁴⁹, and suspects can be arrested and prosecutions brought. For the purpose of the criminal law, domestic violence is **any** criminal offence, as defined by the PCC, when perpetrated in the context of a domestic relationship. Again, a domestic relationship means the same for the purposes of criminal law as it does for protection orders: “A domestic relationship exists when two persons are engaged, married, cohabiting, sharing a primary household in common and related by blood, marriage, or adoption or are in a guardian relationship”⁵⁰.

Social Service Officers should be aware that legally in all cases of DV the law enforcement authorities shall respond to any report of acts or threats to commit acts of domestic violence or a violation of a PO or EPO, regardless of who reports it. Officers may arrest a person suspected of committing DV or of breaking a PO or EPO. Given these obligations the police are regularly involved in DV interventions and the CSW should have a full working relationship with the Regional Domestic Violence Coordinator and the Primary Domestic Violence Investigators in each police station⁵¹.

3.3.4 Provisional Criminal Code (PCC) and Provisional Criminal Procedure Code (PCPC)

At the outset it must be recognised that primary responsibility for all victims of crime, and particularly gender-based violence now lies with the Victim Advocacy and Assistance Unit of the Department of Justice, Pillar I. Their role is now enshrined in the criminal law as the automatically appointed authorised representative for victims of DV.⁵²

Within the PCC and PCPC are a number of provisions that relate directly now to crimes committed in the context of a domestic relationship. As mentioned before, for the purpose of the criminal law, domestic violence is a criminal act as defined by the PCC, but committed by someone with whom the victim has a domestic relationship.

There are a number of criminal offences that are commonly linked with DV cases, and SSOs must be aware of them. If an SSO becomes aware of DV offences, they must bear in mind that they have knowledge of the occurrence of a criminal act and must act accordingly under the PCC. All of these crimes also contain higher sentences when committed in the context of a domestic relationship. The most common are: Art 137(3): establishing slavery, slavery-like conditions and forced labour; Art 153(4) light bodily harm; Art 154(3) grievous bodily harm; Art 160(2) coercion; Art 161(3) threat; Art 193(3)8 rape⁵³; Art 195(3)8 sexual assault⁵⁴. Please note that since January 2003 offences against sexual integrity, including rape, are applicable to all persons, including if the perpetrator and victim are married.⁵⁵

The PCPC now recognises the pressures put on victims of DV by their partners and therefore does not allow the public prosecutor to suspend prosecution under article 226 in cases of domestic

⁴⁹ UNMIK Regulation 2003/25. For example causing bodily injury is both a ground for ordering protection under s.1.2 of the DV Regulation, and also the criminal offences of “light bodily injury”, art 153(4) or “grievous bodily injury”, art 154(3). However “causing fear” or “engaging in a pattern of conduct with the intent to degrade the other person” are not criminal offences, so perpetrators cannot be arrested for those acts but the acts can be used to support petitions for protection orders.

⁵⁰ UNMIK Reg. 2003/12, Section 1.1.

⁵¹ These investigators were established under UNMIK Police Operational Bulletin 0073 of 29 January 2004. Each station is now required to have two trained DV officers who are required to respond to all DV cases, on-call 24 hours per day. CSW-s should obtain a list of the officers in their municipality.

⁵² Arts. 81 and 82 of the *Provisional Criminal Procedure Code of Kosovo* UNMIK Regulation 2003/26.

⁵³ The sentence for this crime will be higher if the person is in a domestic relationship and the victim is between 16 and 18 years old

⁵⁴ Ibid.

⁵⁵ UNMIK Regulation 2003/1 Amending the applicable law on criminal offences involving sexual violence, Section 1.1(1) in combination with paragraph 4 of the preamble.

violence, as s/he could in other cases.⁵⁶ However, in many property related offences, under art 275 of the PCC if the crime was committed in the context of a domestic relationship the victim must submit a motion and the offences are not prosecuted *ex officio*, where in other circumstances it would be.

New support mechanisms have also been instituted in the PCC and PCPC, providing that domestic violence victims will have an authorised representative from the initiation of criminal proceedings⁵⁷. As mentioned before, these representatives are identified as the Victim Advocates from Victim Advocacy and Assistance Unit of the Department of Justice with whom SSOs should communicate on a regular basis.

CSW-s has responsibility also to assist with victims of DV in the context of family relations and should work closely with other responsible agencies like the VAAU and law enforcement to ensure that all aspects of the violence are addressed.

3.3.5. The Law on Social and Family Services

This law defines social services as well as the persons in need who can benefit from social protection. The person in need may be any person who may come from disordered family, is vulnerable to exploitation or abuse or has suffered domestic violence. Furthermore, the Guardianship authority remains under the territorial responsibility of the municipal Centers for Social Work⁵⁸. CSWs are responsible to protect victims of domestic violence under the provision on protection of vulnerable adults, within Article 13.1 of the LSFS. This article states that regarding any person who is unable to care for themselves because s/he is being exploited or abused by others, CSW of the municipality where the person resides, will “take all necessary steps to secure their safety without delay”. The CSW has responsibility to request Emergency Protection Order to ensure safety its client⁵⁹.

The Ministry of Labour and Social Welfare, the Department of Social Welfare, is responsible to promote coherent development and implementation of social welfare policies in Kosovo. Thus, the Department of Social Welfare reserves the right to determine the type or services to be delivered and the beneficiaries who will receive the services. In circumstances when a CSW or other organisation providing social services, fails to adhere to the minimum professional standards specified by the Ministry of Labour and Social Services, the Ministry retains responsibility of the delivery of such services. The Institute of Social Policy remains an independent department, under the authority of MLSW. Under LSFS article 4, ISP has the role to promote research and professional development in the area of social services.

According to the LSFS, NGOs can play a significant role in delivering social services to the victims of domestic violence. In Kosovo there are many NGOs who have been providing shelter and other social services to women who are victims of domestic violence and to their children. Law on Social and Family Services, Article 8 stipulates that the NGOs can continue providing social services but must register and be licensed as social services provider by the Department of Social Welfare and have a contract with the CSW.

3.4 Legal mechanisms for enforcing decisions

As SSOs are responsible for making decisions under the LSFS, LMFR and LSP, and even the UNMIK Regulation 2003/12 On protection against domestic violence, so they are responsible for using every means available to ensure that the decisions they make and actions they take are implemented to the best of their ability.

Any CSW decision that is made under the LMFR is enforceable through the “*Law on execution procedure*”⁶⁰ (LEP) which is to be applied in securing decisions made in accordance with the

⁵⁶ Art 226 PCPC: “(1) The public prosecutor may suspend the criminal prosecution of a criminal offence punishable by a fine or imprisonment of up to three years, with the consent of the injured party taking into account the nature, circumstances and character of the criminal offence and the perpetrator, if the defendant undertakes to behave as instructed by the public prosecutor and to fulfil certain obligations to relieve or remove the harmful consequences of the criminal offence, ... (5) The present article shall not apply in cases of domestic or sexual violence.”

⁵⁷ Article 82 PCPC

⁵⁸ See LSFS, Article 7, paragraph 7.2.

⁵⁹ See UNMIK Regulation 2003 /12, Section 6, paragraph 6.2. point (d)

⁶⁰ *Law on Executive Procedure(LEP): LU/1369/SE/ED*

LMFR⁶¹. The LEP provides only for fines, however and is noticeably silent on executing procedures involving children. The LMFR does provide for forced execution of decisions⁶², in effect physically removing the child from one parent to give to the other.

Often it is due to the threat of domestic violence from one parent or their family that prevents the other parent from exercising her or his rights under a decision made by a CSW. In these cases civil remedies described above may not be suitable and the amount of time required to enforce those decisions through the courts can mean an inordinate amount of time that a child does not get access to the other parent. In these cases SSOs now need to be aware that preventing the execution of a CSW decision has been made a criminal offence under the CPC⁶³. With knowledge of violence and the prevention of execution of a decision on custody or access, an SSO officer thus is in the position of having knowledge of a criminal offence. If a decision has been made by the SSO it is to be made in the best interests of the child⁶⁴. Thus not implementing the decision is not in the best interests of the child, while also being a criminal offence. In these cases SSOs should inform law enforcement in order to fully implement their decisions. CSWs should work closely with law enforcement in their municipalities to form ties with officers trained in working with the special needs of children, to avoid any extra trauma to the child. The implementing phase of a decision is as important as the making of that decision and SSOs are required to use every means available to them to do so.

⁶¹ Article 373.

⁶² Art 377 LMFR: "After the court has taken into consideration all the applicable circumstances, it shall decide if the execution will be in the form of fines against person holding the child or by taking the child away from him. If the aim of the execution can not be achieved by issuing fines, the execution shall be carried out by taking the child from the person and handing the child to the parent"

⁶³ Art 214 PCC.

⁶⁴ Art 116 LMFR.

CASE MANAGEMENT APPROACH TO DOMESTIC VIOLENCE

MANUAL FOR SOCIAL SERVICES OFFICERS



January 2006

4. Case management approach to domestic violence

The overall purpose of intervening in a case of DV is to assist a victim of DV to regain the power to control her life and to encourage the victim to act for her own well-being and safety. However, at a time of crisis, the immediate intervention is to take steps to move the victim and any vulnerable family members to safety in order to prevent any further abuse from happening and to stop the indirect consequences of such abuse, e.g., the affect on the children.

Professional intervention in DV cases imputes the SSO to undertake duties towards the victim, the victim's family, the offender and society. These duties include:

- duty of care;
- duty to protect now and prevent in the future;
- duty to warn;
- duty to report.

One approach by which a Social Service Officer can uphold these duties and provide efficient and consistent service delivery is Case Management. Case Management is a holistic approach that intrinsically offers an organisational structure for working on cases with six methodical stages and incorporation of a set of case management forms to document information and progress through these stages. It is an approach that addresses the issue of clients often having complex issues that require support from not just one, but a variety of sources to achieve a level of well-being. Case management is a method and process of working with clients individually, as couples, or families from the point of referral to closure of the services. It requires involvement and partnership on behalf of both the SSO and client to identify goals and objectives, and sets out clear expectations about the work to be achieved together. Case management seeks to first look at and build upon the strengths of the client, and subsequently looks to then incorporate the identified help of others within a client's 'system' drawing on individual support networks of family, friends, and community. This framework also recognises help may lay outside of a client's own environment and that a multidisciplinary approach involving other professional services may be necessary to meet the client's needs.

Using the case management approach, SSOs take on the role of 'case manager,' whereby the SSO and client work in partnership to develop a particular package of services to meet the specific needs of the client. The case manager assists this process by identifying and co-ordinating work on the goals set, gathering and disseminating information and service provision. The case manager is a fixed point of responsibility for the client and also the focal point for other service providers working with the client. The job of case manager therefore requires the development and maintenance of an ongoing and interactive relationship with the client and to take on a role of co-ordinator responsive to other service providers, in an effort to assist the client to draw on a web of support to regain a level of stability and/or decrease vulnerability in his/her life.

While there are many important specific aspects that must be considered in cases of domestic violence, Case Management, as an approach that focuses on the client and takes into consideration the full spectrum of client needs, can be a useful framework by which the SSO moves step by step through the helping process with clients of DV. In relation to the case management approach, when SSO is working with clients who are victims of DV, there are three key elements that an SSO must achieve: protection, investigation and support.

4.1 Case management

- Duties are operationalised by breaking down the social work response to each case in to specific tasks as follows
- *Client assessment* - gathering information to have a full picture of the client's needs (interviews, meetings, strategy meetings, reading files etc)
- *Creating a service plan* - translate needs into concrete and realistic goals and objectives (protection plan, work plan, agreements etc)
- *Implementing a service plan* – working together to support expected change (visiting, meetings, working with the client, finding resources, linking client with other services etc.)

- *System coordination and monitoring* – networking and overseeing the process (meeting with other services, review meetings, coordination of the work etc)
- *Client advocacy* – bring the needs of the client to the eyes of the responsible parties (Courts, Police, Victims Advocates, Health, NGO-s etc)
- *Case turnover*- meeting the established goals and objectives decreasing vulnerability of the client

During each step of a case a social work team should consider all relevant aspects of the investigation and they must include the following important issues:

- Co-ordination arrangements with Police;
- Information to be obtained from other professionals;
- Persons to be interviewed, in what order and where;
- Possible arrangements for medical examinations;
- Contingency care arrangements for the client;
- Arrangements for personal safety of staff, if necessary;
- Timeframe and reporting arrangements;
- Date and time of next meeting of the operational group;
- Team Leader need to make brief report for this meeting.
- Arranging meetings with the other professionals and briefing them first.

The above list is the minimum that should be taken into consideration, but in each case there will be additional factors that are important and these should also be discussed during the planning of the investigation.

4.2 Operational planning of case management with DV cases

For the sake of operational efficiency in cases of DV, the roles and responsibilities of the different staff involved should be clearly defined so that each staff member knows exactly their responsibility in the investigation, service plan and service delivery.

If the case is referred to the Team Leader (TL) directly, the TL identifies two Social Services Officers to conduct an investigation. In light of the nature of the suspected victim abuse, consideration should be given to the gender of the officers conducting the intervention. One will be designated as the Case Manager (CM) and a second SSO will provide support to the CM.

A second SSO is always appointed if the case is serious and /or complicated (if the child /children are part of victimisation, when there is a need to collect more information, as a witness to the evidence collected, as practical support for the CM doing the investigation, or for gender balance during the intervention).

Under no circumstances should a CM or the second SSO be involved in the investigation of a family with whom they are personally acquainted or related. If necessary, staff from another CSW should be utilized to avoid any bias or a possibility of bias. In certain conditions, such as when a leading member of a community is involved, the investigation may be also conducted by staff from another CSW, away from the immediate area. It is not beyond reason for police to be requested to escort the investigators to provide protection. This should not be overlooked as a possible security measure by management of social services.

The Team Leader must hold a meeting with the CM and the support worker in order to plan the investigation. The meeting should take place on the day that the initial referral was made. The meeting should be planned to ensure that all potential risks to themselves and the individual(s) who have been identified as witnesses are considered. Background checks should be done with the police on the family to establish any potential known risks. Of course, it is likely that the police may be involved directly at the stage of the first visit, if an act of violence is suspected.

4.2.1 Goals of intervention

The primary goal of intervention for DV victims is the cessation of the violence by the perpetrators, whereby the cessation of violence will provide the safety of victims and their children. At its core it has three elements: protection, investigation and support, which may be understood as crisis intervention, investigation and support.

A SSO should not attempt reconciliation of a couple as a crisis management technique. The safety of the victim should take precedence over all other steps during the crisis period. Close coordination with protective services agencies (the police, the courts, Victim Advocates and specialist NGOs, including shelter providers), is vital for the victim to remain safe. This goal takes priority over family reunification or the resolution of “relationship issues,” and should be the foundation on which all treatment decisions with perpetrators are made.

Perpetrators of DV are to be held accountable for violent behavior. This is for the courts to judge following investigation into the criminal act of a perpetrator by the police. Of course, violence is considered the responsibility of the individual who chooses to perpetrate it. If the social worker detects violence, the extent of the responsibility is to report it to the police. Or to ensure that the victim knows whom they can talk to should they wish to take forward a criminal charge, such as the Victim Advocate Service.

Similarly, services for treatment of DV victims should be predicated on the basis that victims do not control, are NOT responsible for their victimization, and should be consult that they are not to blame themselves for the violence that has been perpetrated against them.

The safety of staff that provides DV services is a high priority and should be taken into consideration throughout and following the assessment and treatment process.

4.2.2 System Coordination and monitoring

The modern case management approach foresees that some social services cases may be complex and therefore clients will require a variety of services in order to meet their needs. In drawing up a Service Plan, the SSO and client together identify objectives and review persons within the client’s system, as well as social institutions, which may be able to assist the client to meet these stated objectives. The phenomenon of DV is a complex one and not all services for victims and perpetrators of DV are available directly from CSWs. However, there are other community services, such as shelter, health care, counseling, and other forms of support, that may all be facilitated by a number of women’s NGOs, which have specialized training in DV. While other organizations may provide these services, it is the obligation of the CM from the CSW to monitor the services and to ensure that the service is commensurate to the needs of the individual and the family. Review of the service plan between the SSO and client should be made regularly to assess progress and make necessary changes to the goals and objectives according to the client’s current needs and situation. This should be written up into the case notes which are an additional ongoing task to the Domestic Violence Report.

4.2.3 Annual reporting⁶⁵

It shall be the duty of the Team Leader and Social Services (SS) team to compile and report annually to the DSW for all data collected from the DV cases. The annual report shall include but not be limited to:

- The total number of cases received;
- The number of reports or requests made by the victims of each sex;
- The number of cases investigated (police, number of crimes, assisted, consulted, sheltered (type of the shelter, how long, etc...)) ;
- The average time lapse in responding to each report;
- The type of services provided;
- Outcome of the cases on an annual basis.

⁶⁵ For the purpose of gathering of statistics every year, the CSW //Social Services team should compile the annual report, including statistics. The Domestic Violence Coordinator in the Social Services Division of DSW has to compile all data and figures coming from the CSW-s from all municipalities. The final report and statistics should be made by the Domestic Violence Coordinator.

HANDLING INDIVIDUAL CASES

MANUAL FOR SOCIAL SERVICES OFFICERS



January 2006

5. Handling Individual Cases

5.1. Immediate concerns

Upon receipt of the initial referral information, the SSO must consider if, on the basis of the information currently available, there are grounds for initiating a formal investigation into the case of suspected DV. The reasons for not proceeding with a formal investigation at this stage would include:

- Lack of information on which to make such a decision;
- The matter of concern does not meet criteria for DV, although if there are repeated allegations of this nature this might constitute grounds for further enquiry;
- A victim withdraws her/his accusation of domestic violence , (victims can be pressured by the family and others to deny the report of DV, but this should be seen as suspect and potentially a case the SSOs need to monitor) .
- When there are no grounds to proceed with an investigation, there might be reason to seek further information from professionals who know the victim and her family; for example, police, healthcare professionals, and teachers. If the SSO considers that there are grounds to proceed with a formal DV investigation, the SSO must address the following two questions:
 - Is there any indication/proof that a crime might have been committed?
 - Does the victim appear to be in immediate danger of serious harm?
 - If the answer to either of these questions is yes then the SSO must, without delay, consult with the Police⁶⁶ in order to:
 - Report the suspected crime;⁶⁷
 - Seek their assistance if emergency action is required;
 - Co-ordinate investigations.

5.2. Initial contact with a victim of DV

The style and the location of the interview will depend on the circumstance of the initial interview. An interview which takes place immediately in the aftermath of a physical attack by a perpetrator as a result of an emergency call will differ from of a visit to someone a social work team has heard has been a victim in the past and with whom the team is concerned. Where possible, the content of interview should be planned in advance by the investigators (Case Manager) so that the CM is clear as to the areas to be covered and the questions to which they are seeking answers. Attempts must be made to keep unnecessary repeat visits that may re-traumatize a victim to a minimum.

In each case, the interview should not place the victim at risk. If the initial contact must take place in home, the victim should be alone, out of sight and hearing of the perpetrator and anyone sympathetic to him who could prejudice her responses or use the information collected as reason to cause more harm. If it is conducted in the offices of an institution or elsewhere it should be in a quiet private place with a closed door where no one can listen or enter in the middle of the conversation and startle the victim.

The CM should initially ask questions of the client using indirect, non-threatening questions in an empathetic manner such as:

- Is everything alright at home?
- How are you feeling?
- Are you getting the support you need at home?
- From indirect questions, CM continues to ask more direct detailed non-threatening, questions. From the answers the CM should begin to gain some indications of what is happening:
 - Whether the DV exists or not;
 - Affirm the scale of the problem;

⁶⁶ In the police station where a DV unit exists, a case should be reported directly to the Unit; in police stations where a DV unit does not exist, the case should be referred to Community Police Unit

⁶⁷ The Court may issue an emergency protection order if it determines that: (a) there are grounds to believe that the respondent has committed or threatened to commit an act of DV, (b) the respondent poses an immediate or imminent threat to the safety health or well-being of the person who has a domestic relationship..... (See the UNMIK Regulation No. 2003/12 On Protection against Domestic Violence, Section 10: paragraph 10.1.).

- Formulate an initial indication of what action will need to be taken to protect the victim.

When the client is ready to answer further questions, there is a need for an in-depth professional assessment made by the CM to ascertain the type, nature and circumstances of the abuse which may be necessary in supporting Protection Orders. The investigating CM may find ‘screening questions in the back of this manual under the section titled “An aid memoir of areas to be covered during the investigation of physical and sexual assault.” It is located in Appendix one at the back of this manual.

Under no circumstances should the CM or SSO force the victim to leave the home or make a decision that she/he does not feel completely comfortable with. At this time in Kosovo specific longer term services for victims of DV are still in development. Therefore, it is possible that even if the victim chooses to go to a shelter for certain time period, she/he will eventually return to the family home and have to face the perpetrator again. The victim should be in complete agreement with the plan set out and any measures that are taken regarding the case of domestic violence.

5.3 Domestic violence report

It shall be the duty of the CM and SSO responding to a DV case to complete a DV report that will be a part of the record. The domestic violence report should be written on a form prescribed by the Institute of Social Policy. It shall include, but not be limited to:

- Name of the alleged victim;
- Address of the alleged victim;
- The relationship of the parties;
- The gender of the parties;
- Information regarding the occupational and educational levels of the parties;
- The time and date the complaint was received;
- The time the CM began the investigation of the complaint;
- Whether children were involved and whether the DV took place in the presence of children;
- The type and extent of the abuse;
- The number and type of weapons used;
- The effective date and terms of the order issued concerning the parties;⁶⁸
- Any other data necessary for a complete analysis of all the circumstances leading to the alleged incident of domestic violence.

The initial report should be written within five (5) working days but ideally within 24 hours from the time the complaint was received. The report always needs to be signed by the Case Manager.

5.4 The case management / Service Plan

The formulation of the Service Plan may take a number of different routes. Your primary concern in all situations is to support an individual to minimise any further violence and to minimise any further factors that may place the victim or the victim’s family ‘at risk’ In each case the plan should be led by the wishes of the victim. This will require further deeper discussions about the dynamic of the DV and her wishes for the future. In supporting a victim to construct a Service Plan, the CM will raise all the following points with the victim (and any other issues of relevance may be added):

5.5 Shelter

The CM should discuss various safety options with the client:

- Where can she/he stay⁶⁹?
- Does she/he have family or friends with whom she can stay?
- Or does the client need to be sheltered in one of the safe-house facilities available in all regions of Kosovo?
- Within the Shelter, the CM must be pro-active by:

⁶⁸ For example; any protection order issued by the Court.

⁶⁹ By the UNMIK regulation 2003 /12 , Section 2 Measures in Protection Order ... , paragraph 2.1 (f), Prohibit the respondent from entering or remaining in the temporary or permanent residence of the protected party, or a portion thereof, regardless of respondent’s ownership or occupancy rights.

- Actively managing the case and assisting in the recovery of the victim and co-operating with the shelter provider;
- Developing a plan together with the client for the victim's recovery and regularly communicating with the shelter provider about the progress.

5.6 Protection order⁷⁰

A petition for a protection order, emergency protection order, or interim emergency protection order from a CSW may be filed by the CM.

In line with Regulation 2003/12 on Domestic Violence, a petition for a protection order or an emergency order shall be submitted in writing or orally and shall include the following:

- a) The name of the Court;
- b) The name, address and occupation of the petitioner respondent and any legal representative;
- c) The name(s) of the person(s) to be protected by the protection order or emergency protection order and their relationship to the petitioner and respondent;
- d) A clear description of the subject matter of the dispute, including the specific reason(s) the petitioner fears that his/her safety is jeopardized by the respondent;
- e) A clear indication of the specific protective measures requested; and
- f) Where possible, evidence should be provided to support the petition.

5.7. Undertake a risk assessment

A risk assessment is an essential element of safety planning and the overall Service Plan of the client. All strategies should be led by this.

5.8 Safety planning

Accommodation in a shelter/refuge may be part of a short-term measure of respite from the locus of violence or part of a plan to leave the husband's home completely, or it may not feature at all in the plan. Whatever the victim's decision, it is a responsibility of the CM to ensure the victim has been part of a safety planning exercise. This exercise involves analysing her situation at home and devising strategies to deal with any further situation. It is common for this process to involve periods of in-depth discussion with a professional devising plan to various different scenarios which may be written out into lists of things to take and things she might want to do. Refer to Appendix five – Safety Planning and Risk Assessment for examples of lists and informal statements that can be used to help support a victim to think about her safety

5.9. Suicidal assessment

If there is concern about the mental health of a victim a referral should be made to the Mental Health Social Worker attached to the Community Mental Health Centre (there is one in each region) who will undertake an assessment together with someone else who has a professional background to make the assessment. The CM needs to arrange and facilitate this. If the client wants to return home the CM has to be sure the client is not suicidal.

5. 10 Access to justice

If the client needs/wants access to the mechanisms of justice, the SSO needs to:

- a) Be informed about her/his role and scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;
- b) Allowing the views and concerns of the client to be presented and considered at appropriate stages of the proceedings where her/his personal interest is affected;
- c) Providing proper assistance to victims throughout the legal process.⁷¹

⁷⁰ Reference in the UNMIK Regulation 2003/12 on Protection Against Domestic Violence in Section 6, Petitions for Protection Orders or Emergency Protection Orders , under 6.1 (d) the representative from the CSW in the municipality where the protected party permanently resides or temporarily resides; it is suggested that this be done only with consent of the victim, if possible.

⁷¹ The coordination and cooperation with Victim Advocates is more than necessary in this situation. Victim Advocates will be able to provide more professional legal information on these cases. "Victim Advocate" means a person who is authorized by the competent authority to advocate for a victim's interests as an authorized representative and to provide support and assistance to victims.

(This may be done by referring the victim to the Victim Advocacy Unit (VAU) which operates in each region.)

5. 11 Material help

The role of the social worker is to ameliorate the conditions associated with domestic violence and allow an individual and her children to re-establish her life either within the family or externally; whichever she feels to be appropriate. A strategy of support should build on the inherent strength of the individual, even if that may not be apparent at the outset of the intervention. For those women who have not been educated and have no marketable skills, material support will be required for a longer period of time.

Where financial hardship is seen as a source of stress within a family unit, consideration could be given to providing material support to reduce a potential source of antagonism. This should not be seen as tacit approval to excuse the act of a perpetrator, but as a means to reduce the risk of further episodes of violence should a victim decide to stay within the environment. Material support for a victim and her children may be short term or long term.

5. 12 Counselling

Counselling is a very important aspect of the support offered to a victim of domestic violence. The goal of counselling is to assist a victim in coping with a crisis immediately after victimisation. The goal is really to help a client achieve a level of well-being and it can be crisis counselling just after an episode of DV or on-going counselling sessions as the victims lives through the cycles of violence. As well the purpose of the counselling is to empower the victim and to assist her/him in deciding on short-term and long-term strategies to protect herself/himself from further violence and to restore the normality of her/his life. This is achieved by the SSO or a professional with counselling experience (counsellor, psychologist, psychiatrist, pedagogue) dedicated to talking with the client; addressing the issue through direct communication.

The client is given the opportunity in a safe and trusting environment to express and explore the situation and a possible resolution. In addition, the client should receive counseling from different programmes / organizations that provide specialized counseling services especially for victims of DV.

- Crises intervention counseling;
- Emotional Support; supportive individual and group counseling;
- Long-term counseling and mental health intervention in response to trauma.
- Assertiveness training for victim.

If the CSW has subcontracted a service such as counseling for an individual using fund from the CSW or DSW, the SSO should be involved in supervising and evaluating the service contractor to establish the progress of the counseling.

It should be noted that victims of domestic violence are often involved in a cycle of violence at home, whereby following a violent episode a perpetrator will repent, promise to never be violent again, or give any other number of promises which often trap a victim into staying in the abusive relationship due to guilt, love, and/or other reasons. Therefore, many victims remain in such a relationship for sometime or leave the home only to come back again over a period of time. While crisis counselling is provided in the short-term, on-going counselling must be seen as a mid- to long-term service to the victim. Often it is in counselling peer groups with other victims of DV that a victim will slowly gain the strength to leave the abusive relationship, taking courage from the efforts of other victims. It is essential for SSOs and all others involved in any counselling sessions with victims of DV that they should never force a victim to leave the relationship without a safety plan, as discussed in section 7.5.5.

5. 13 Emergency/Crisis Intervention

It is highly likely that a CSW will be asked to respond to a case of DV with little or no notice. It is important that there is flexibility within a social work team for this to occur. In such cases, there is often no clear progression through a process of interview, service planning, ongoing support. There may be little time to plan an investigation and it is suggested that following the intervention the social worker in attendance discuss the incident with a Team Leader. The investigation process

with the appointment of a CM and assistant will then follow the normal course as outlined earlier. Of course, in such emergency situations, attention must be paid to the safety of the attending social worker.

When a victim has experienced a violent attack, the suspected perpetrator may be subject of arrest by the police that will usually result in the perpetrator's removal to a police station until such time when she/he is charged. However, as a result of the initial assessment of circumstances surrounding the violence you may still assess it in the best interest of the victim to find immediate support with housing and medical or psychological support. Unless the victim is incapacitated due to ill health, mental or otherwise, she can only be removed to a place of safety with her consent. The most appropriate place would be temporary housing and support offered by a women's safe-house/refuge run by various NGOs located throughout Kosovo.

GOOD PRACTICE GUIDANCE

MANUAL FOR SOCIAL SERVICES OFFICERS



January 2006

6. Good Practice Guidance

6.1. Safety considerations for the social worker

Interventions should, where possible, be planned. However, given the emergency nature of such events, it is possible that a social worker may be called to a DV event which is either in progress or may have only just finished.

The following practical advice is offered:

- Always inform someone of where you are going and what time you expect to be back.
- Ensure that you have left your mobile number with the office. Make sure you have credit and a full battery. Program a 1 digit memory code for the police number.
- Do not enter the home by yourself.
- As soon as you enter, note possible escape routes for you, the victim and that the perpetrator may use.
- When in the house/site of the DV event, be aware of objects which could become potentially dangerous to you or the victim. The position of heavy objects, such as saucepans, bottles and ashtrays as well as knives, should be noted and subtly removed or at least moved to a less obvious position.

If this action is noted:

- Never try to block the exit route of the perpetrator should they try to leave.
- If you are concerned for your safety, remove yourself immediately from the scene and call the police.

6.2. Case supervision

Supervision serves three main functions: technical support and monitoring that correct procedures are being followed; a space to think creatively about the intervention so that the best practice is upheld; and support for the individual SSOs involved.

Cases of DV may be extremely disturbing. A CM in the course of investigating and supporting a victim may witness actual events of family discord, observe the physical results of violent aggression towards a victim such as traumatic injury and be informed of disturbing accounts of a victim during interview. The profound affects that such involvement in a case can have on increasing the stress levels of an SSO should not be underestimated. Supervision is a suitable environment for the investigating officer to discuss emotions that have been raised in the course of the work. Stress is an important contributor to 'burn out' amongst social services officers. There is an obligation for management to support their staff. There is also a necessity for all social workers to face up to the realities of stress in the work environment and request for support when required.

6.3. Record keeping

Record keeping is an essential part of good case management. The needs of a client cannot be stalled by the unfortunate absence from work by a CM. Good record keeping allows another social worker to undertake crucial work that may not be able to wait, such as the application for a Protection Order or a court report used by the magistrate in deciding whether or not to grant a Protection Order.

Each contact with a client, whether phone or visit or meeting or discussion with another professional involved in the case, must be logged, recording the date and time. A clear account of the contact, the content of the meeting and any action that arose out of the contact must be recorded in clear and unambiguous language.

6.3.1 Confidentiality and privacy

At the beginning of each investigation the CM must as a priority explain the limits and boundaries of confidentiality to the client in line with the Code of Ethics for Social Services Workers.

Furthermore, all information obtained in the course of an investigation shall be kept confidential. It will not be divulged to anyone, except:⁷²

- If the victim insists on confidentiality no one can be informed unless the victim is in a life-threatening situation. In those cases the police always be informed;
- Persons within the cabinet (Team leader and Department of Social Welfare) with a legitimate interest or responsibility related to the case;
- Other medical, psychological, educational, correctional personnel or law enforcement agency with a legitimate interest in the case, based on the consent of the victim;
- Officials authorised by court (i.e., prosecutor). (In all cases where a public prosecution is foreseen, as with grave bodily injuries, it is the mandatory obligation of the staff to inform the police immediately of the case. In less severe cases, it is up to the professional assessment of SSO if the case will be reported to the police or it should be left to the victim to decide.)

In order to provide confidentiality of the case, the case file has to be kept in a confidential and secure location out of public view.

Discussions with a victim, within a team or with other professionals should be conducted in a private place. Cases must not be discussed in public locations where others without any reason to know of the case may hear.

If in any doubt about confidentiality of privacy issues, social services officers are reminded of section 1.07 Confidentiality and Privacy of the Code of Ethics for Social Services Workers issued by the Ministry of Labour and Social Welfare / Institute for Social Policy.

6.3.2. Handling Complex Cases

In situations where more than one family member is involved and affected by domestic violence, it is advisable that each individual with an identified need is allocated a separate Social Services Officer. This is of particular importance where the perpetrator is identified as having needs due to a mental health issue, substance abuse or learning difficulties.

6.4. Applying to the courts for Protection Orders

In applying for a Protection Order, use clear unambiguous language. Be specific about incidents. Your information will provide the court with the information required to make a decision. There are clear indications about what criteria must be fulfilled. Provide details that will fulfil such criteria.

6.5. Giving evidence in court

It is possible that you could be questioned or cross examined about the contents of the Emergency Protection Order application. **Law on Social and Family Services** in the provision on Expert Advice to the Courts, Article 14 explains that CSWs may be requested by court to testify in cases related to children or a vulnerable adult in criminal or civil proceedings. CSW may be requested to conduct inquires and provide expert assessment of the social circumstances of the person in question and make recommendation on his/her well being. Ensure that you are familiar with your report, and can openly justify the comments that you have made. Ensure that you have a copy with you so that you can make reference to it. Also that you can explain and substantiate any comments you have made. It is wise to back up any claims you make about the affects of abuse or violence towards a victim with professional academic findings or social work/psychological concepts. Make sure that if you do, you are fully conversant with the concepts you make reference to.

6.6 Chairing meetings

As the lead agency in issues of social protection, there is an obligation for you to research a DV case thoroughly. This will mean meeting with other agencies who may have valuable information through their contact with the family. The case conference is invaluable in gaining the perspective and professional expertise of others and exploring and devising a Service Plan.

The chair acts as a co-ordinator, however there are important considerations to ensuring the effective use of this position:

- Give adequate warning of the meeting;
- If you cannot get all the relevant agencies involved at the time of your choice, consider cancelling it until such time that you can, unless of course, to do so would dramatically stall an important intervention;
- Be punctual and instil punctuality in others –efficiency is vital;
- Check with the others to ensure you know their time line. Another pressing meeting may require them to leave early so that you may have to change the order of the agenda to meet their needs and ensure that you benefit from their perspective;
- Have an agenda for the meeting. Run through it at the beginning with the others to check that it suits everyone else’s needs. If this is cumbersome, undertake a synopsis of why you have called the meeting and the aims of the meeting. The meeting needs to be focused. Do not agree to inclusion of any idea that is peripheral. Suggest that another meeting is called to discuss that point;
- Make sure the meeting stays on track and keep an eye on the watch to ensure that the meeting stays within the agreed time-scale;
- If a meeting falters on agreement of a particular point try to reach an interim solution where a plan of action is tried, and then reviewed at the next meeting. Do not put off until tomorrow a hard decision. The victim’s life may rely on it;
- End the meeting with a summary of what has been agreed;
- Do not domineer the meeting. It is likely to breed ill-will between the agencies and make them feel disrespected. Modern social work approaches require a multi-agency response.

BUILDING A MULTI-AGENCY RESPONSE

MANUAL FOR SOCIAL SERVICES OFFICERS



January 2006

7. Building a Multi-Agency Response

7.1 Principle of a multi-agency response to domestic violence

As mentioned in the Introduction of this document, the MLSW recognises that services offered to victims and/or perpetrators lose an element of effectiveness when provided by individual agencies in isolation.

The current legislation relating to DV (UNMIK Regulation 2003/12 on Protection Against Domestic Violence), gives four statutory agencies a role in DV intervention: the police, the court, the Victim Advocacy Units and the DSW. A broader view of organisations and agencies involved in delivery of services include the numerous NGOs who provide psychosocial support and housing and the local health houses and schools.

7.2 The DV Forum

Effective solutions to those who experience DV in a community require effective partnerships between the different local actors. Building these partnerships requires not only close co-operation, but an understanding of the differences that exist between the different institutions and NGOs and the focus of their work. Appreciation of the operational realities that mould particular institutions or NGOs in their approach may be critical in understanding and learning to iron out responses in particular scenarios. It is suggested that each community/municipality set up a forum where all actors meet on a regular basis to discuss best practice and wider issues.

There is no standard model for DV Forums or its work, but it is suggested that it include:

- Liaison and networking;
- Coordination of local services;
- Improving local service delivery, including future funding of safe-houses and women's centres under Section 3.1 of UNMIK Regulation 2000/45 on Municipal Self-Governance. Based on LSFS MLSW is permitted to enter into contracts with NGO for the provision of specific services social and family services ;
- Initiating standardised training for all agencies, including those who may come into contact with victims, such as doctors and teachers;
- Engaging in public education;
- Devising standardised methods of data collection so that statistics can be compared.

Membership of the forum does not imply attendance at case conferences of individuals, as this would breach confidentiality, but is instead designed to be a place where strategic responses are devised. In this respect it should be attended by those staff who have power to affect policy shifts in their own organisation.

It is envisaged that the initial phase of liaison is a transitional one and that the Forum would evolve a more focussed approach to developing specific pieces of work thereafter. To be really effective the forum must move beyond a 'talking shop' and multi-agency work recognised as a means to an end and not an end in itself. Tasks, such as interagency protocols, must become central to the shared responsibility of the forum.

As mentioned, large groups of different organisations can lead to differences of opinion. Interagency forums can benefit from terms of references being devised by the actors together. This can help each organisation to understand its own role in discussions and the limits for its involvement in the intervention. Another common stumbling block are overlaps in responsibilities that lead to partisan positions, turf wars or conflicts of interest. A forum can provide all actors and agencies support to establish an understanding of the boundaries and limits to its involvement.

Of course these may in themselves be a stumbling point at the beginning. Development of services is, after all, an evolution. The forum should reflect on its own practice and monitor and evaluate outcomes as part of regular reviews of its own performance.

7.3 Multi-agency work in individual cases

It is hoped that strategic review of the roles of different actors will lead to improvements in the delivery of services to individual victims and survivors of DV.

To do so requires good lines of communication between professionals at grass-roots level. Case Managers must keep in regular contact with the staff of women's centres, refuges/safe-houses, police and Victim Advocates Units. Information that affects the safety of the individual or others within a CSW must be shared on a need-to-know basis. It is best practice to do this with the consent of the individual, but it must be stressed that information cannot be withheld if it should place others at risk. Again, all SSO-s are advised to know your own terms of reference and protocols within the Code of Ethics for Social Services Workers when deciding with the client on particular interventions.

APPENDIX I

QUESTIONS AND TOOLS

FOR INTERVIEWING

MANUAL FOR SOCIAL SERVICES OFFICERS



January 2006

Appendix One

Tools for supporting interviews and assessing ongoing risk to victims of domestic violence.

1. Screening questions: An aid memoir of areas to be covered during the investigation of physical and sexual assault
2. The Cycle of Violence
3. The Power Wheel
4. The Equality Wheel
5. The Spiral of Improvement and Decision Making

Screening questions: An aid memoir of areas to be covered during the investigation of physical and sexual assault

Sexual assault

Never Once Often

1. Forcing her to have sex
2. Forcing her to have sex with objects
3. Forcing her to have sex with animals
4. Forcing her to have sex with other men
5. Forcing her to do sexual practices she does not like
6. Having sex with her when she is too drunk/drugged to say no
7. Having sex with her whilst she is asleep
8. Taking her clothes off against her will
9. Making her appear in pornography against her will
10. Prostituting her against her will
11. Making her pregnant/refusing access to contraception
12. Making her have an abortion
13. Assaulting her during pregnancy

Have any of these become more frequent and/or more serious recently?

Yes/No

If Yes, which ones:

- 1.
- 2.
- 3.

Physical assault

Never Once Often

1. Throwing objects at her
2. Pushing her against wall or another object
3. Holding her down
4. Kicking, biting or pinching her
5. Slapping or hitting her with hands or objects
6. Choking, or shaking her
7. Burning her with cigarettes, iron, oven or setting fire to her
8. Punching her
9. Pushing her head under water
10. Tying her up, tying her hands behind her back
11. Forcing her to hurt herself
12. Strangling her
13. Banging her head against the floor or a wall
14. Attacking her with a weapon

Have any of these become more frequent and/or more serious recently?

Yes/No

If Yes, which ones:

- 1.
- 2.
- 3.

The power and control tactics

Tactic 1 – Using coercion and threats

Never Once Often

1. Threatened physical or sexual violence
2. Threatened to kill her or to have someone else kill her
3. Threatened another loved one
4. Threatened to kill/harm the woman or child's pet
5. Threatened self harm or suicide if she did not comply
6. Threatened to make her lose her job
7. Threatened to report her to the authorities
8. Threatened to have her deported
9. Threatened to take her children away
10. Threatened to exclusion from family or community
11. Threatened her family/friends
12. Threatened to return and hurt her
13. Threatened to expose things she is ashamed of to others
14. Threatened to destroy possessions

Have any of these become more frequent and/or more serious recently?

Yes/No

If Yes, which ones:

-
-
-

Tactic 2 – Minimising, denying and blaming

Never Once Often

1. Made light of the abuse
2. Minimised the harm caused
3. Denied that any abuse happened
4. Told her no one will believe her
5. Blamed her to for causing/provoking the abuse
6. Claimed she wanted the abuse
7. Said she must have wanted it because she did not say no/resist
8. Said she could have told him to stop
9. Said it was her fault for being there
10. Said she chooses to remain
11. Said she flirted/led him on

Have any of these become more frequent and/or more serious recently?

Yes/No

If Yes, which ones:

- 1.
- 2.
- 3.

Tactic 3 – Intimidation

Never Once Often

1. Made her afraid by looks, action or gestures
2. Smashed and broke objects, valued personal possessions
3. Shouted at her
4. Obtained weapons or displayed them in a threatening way
5. Lifted hand or objects as if to hit her
6. Drove a car dangerously with her in it
7. Was violent to others as a lesson to her
8. Told stories about how he has hurt others
9. Followed her
10. Watched her at home or at work
11. Phoned and made her feel afraid
12. Made her friends/family too scared to contact her
13. Warned her not to tell anyone
14. Talked about the ways he would like to hurt her
15. Talked about the ways he might hurt her if she disobeys
16. Sent her unwanted gifts
17. Reminds her she has no right to stay in the country

Have any of these become more frequent and/or more serious recently?

Yes/No

If Yes, which ones:

- 1.
- 2.
- 3.

Tactic 4 – Using children

Never Once Often

1. Threatened to take her children away
2. Threatened to report her to child protection/social
3. services
4. Threatened to harm her children
5. Used child contact to harass her after separation
6. Used children to relay threatening or manipulative
7. messages
8. Turned children against her
9. Abused her in front of her children
10. Abused her children in front of her
11. Got information from children
12. Treated children differently
13. Made children think their mother knows about
14. Incest/sexual abuse
15. Told her she is a bad mother
16. Threatened to tell children she works as a prostitute

Have any of these become more frequent and/or more serious recently?

Yes/No

If Yes, which ones:

- 1.
- 2.
- 3.

Tactic 5 – Isolation

Never Once Often

1. Prevented her from contacting family and friends
2. Turned family and friends against her
3. Interfered with her relationships
4. Made it difficult for her to go to school/work/college
5. Jealous surveillance
6. Prevented her learning the local language
7. Removing her documents/passport
8. Monitored her time
9. Kept her locked in a room or house
10. Excluded her from community
11. Took her to a different country/city
12. Made her work long hours
13. Refused her money to go out
14. Controlled access to transport and information
15. Accompanied her everywhere
16. (including to appointments with doctors, etc)
17. Restricted her movements
18. Timed her absence from home

Have any of these become more frequent and/or more serious recently?

Yes/No

If Yes, which ones:

- 1.
- 2.
- 3.

Tactic 6 – Emotional abuse

Never Once Often

1. Told her she is crazy/mad
2. Made her think she is crazy/mad
3. Called her names, put her down
4. Undermined her confidence
5. Sudden mood changes
6. Unpredictable behavior
7. Told her feelings or reactions were irrational/crazy
8. Criticized her childcare
9. Criticized her work (paid or in the house)
10. Withdrawal of affection
11. Refused to speak to her/ignored her
12. Used racism against her
13. Used her disability against her
14. Said he only abuses her because he loves her
15. Made negative comments about her appearance/abilities
16. Accused her of destroying the family honor
17. Prevented her going to doctor/taking medication

Have any of these become more frequent and/or more serious recently?

Yes/No

If Yes, which ones:

- 1.
- 2.
- 3.

Tactic 7 – Using male privilege

Never Once Often

1. Treated her like second-class citizen or servant
2. Made decisions for her
3. Demanded she obey him
4. Refused to do any childcare or household work
5. Applied double standards
6. Made clear he does not like/respect women
7. Enforced strong rules about gender roles
8. Insisted men have the right to sex when they want it
9. Used his superior position in community or family
10. against her

Have any of these become more frequent and/or more serious recently?

Yes/No

If Yes, which ones:

- 1.
- 2.
- 3.

Tactic 8 – Economic abuse/control of resources

Never Once Often

1. Prevented her from getting or keeping her job
2. Took her money
3. Refused to give her money
4. Demanded receipts for all spending
5. Made her ask/beg for money
6. Deliberately misinformed her about her entitlements
7. Refused her information about family income/financial
8. Situation
9. Made her earn money for him to keep/spend
10. Incurred debts and expected her to pay them
11. Incurred debts in her name
12. Refused to support her ambitions/economic
13. Independence
14. Used money to make her compliant (rewarding compliance)
15. Forced her to commit acts of fraud

Have any of these become more frequent and/or more serious recently?

Yes/No

If Yes, which ones:

- 1.
- 2.
- 3.

Tactic 9 – Humiliation and degradation

Never Once Often

1. Mocked/laughed at her
2. Abused her in front of others
3. Put her down in front of others
4. Locked her in
5. Locked her outside at night and/or naked
6. Constantly criticized her/her abilities
7. Said things that he knows are deeply hurtful
8. Told her she is ugly/stupid/a disgrace to the family
9. Called her a whore/slag/slut
10. Told her no other man would want her
11. Made her have sex with other men against her will
12. Made her watch, pose for or act out pornography against her will
13. Used aspects of her identity (race, religion, disability) as a way of repeatedly belittling her
14. Made her break the law to prove her love
15. Spat on her
16. Made her do things she is ashamed of
17. Allowed her no privacy – to go the toilet/take a bath
18. Made her ask/beg to be hurt
19. Made her say she likes/wants/enjoys it
20. Made her do things she finds sexually degrading
21. Urinated on her

Have any of these become more frequent and/or more serious recently?

Yes/No

If Yes, which ones:

- 1.
- 2.
- 3.

Tactic 10- Deception

Never Once Often

1. Lied to her
2. Told her she will have a legitimate job when it will
3. involve prostitution
4. Said he just wants a cup of coffee or a conversation and
5. then assaults her
6. Offered a lift home as a way to get access to her
7. Promised he will change to keep her
8. Promised he will change to keep her
9. Made her believe that official agencies will not
10. support or believe her
11. Invented stories to justify the abuse
12. Lied to family/friends/others

Have any of these become more frequent and/or more serious recently?

Yes/No

If Yes, which ones:

- 1.
- 2.
- 3.

Tactic 11 – Deprivation

Never Once Often

1. Prevented her eating or drinking
2. Prevented her sleeping
3. Denied her access to medical care
4. Prevented her from learning the language of the
5. country in which she lives

Have any of these become more frequent and/or more serious recently?

Yes/No

If Yes, which ones:

- 1.
- 2.
- 3.

Tactic 12 – Sexual objectification

Never Once Often

1. Criticized her body/sexual performance
2. Published pornographic pictures of her
3. Denied her any choice about how many clients she sees
4. Denied her any choice about the kinds of sex she performs
5. Called her names like “dirty whore” and “slut”
6. Insisted he has the right to sex on demand
7. Asked or insisted that she change her body for him
8. Asked or insisted that she wears certain kinds of clothes for him
9. Related to her only as a sexual object
10. Has never been concerned about her sexual pleasure
11. Refused to practice safe sex
12. Had affairs to humiliate her
13. Expected her to have sex after having physically assaulted her

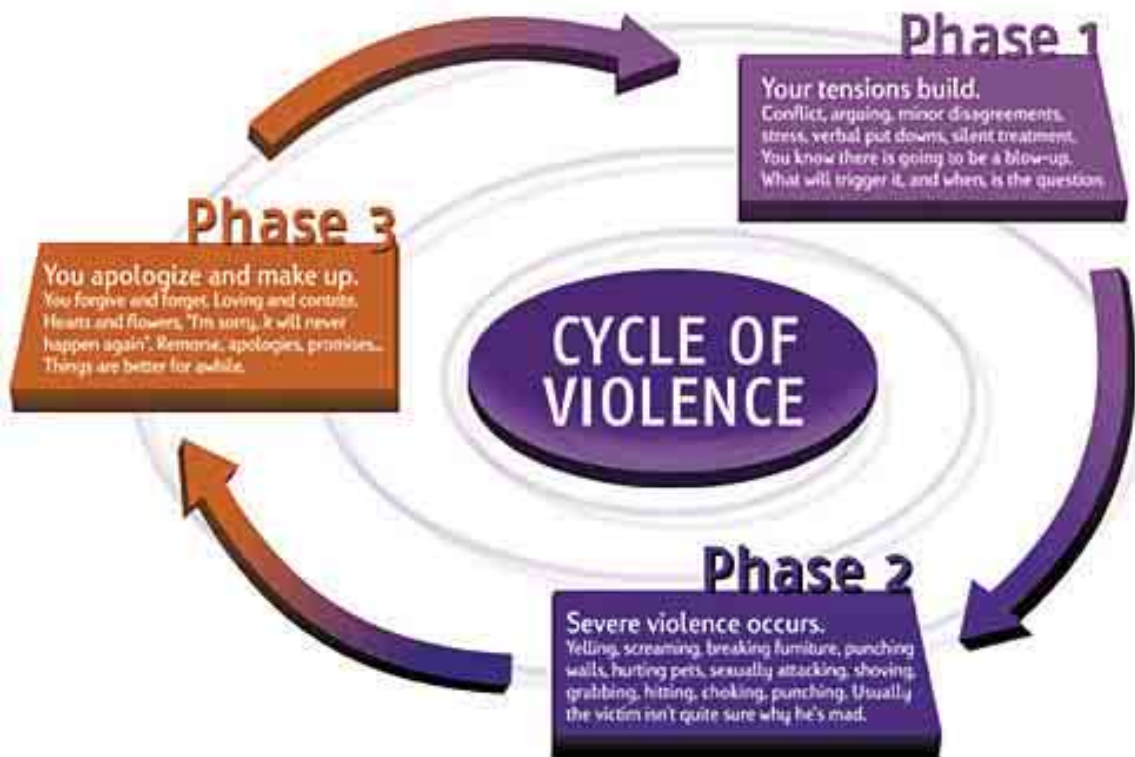
Have any of these become more frequent and/or more serious recently?

Yes/No

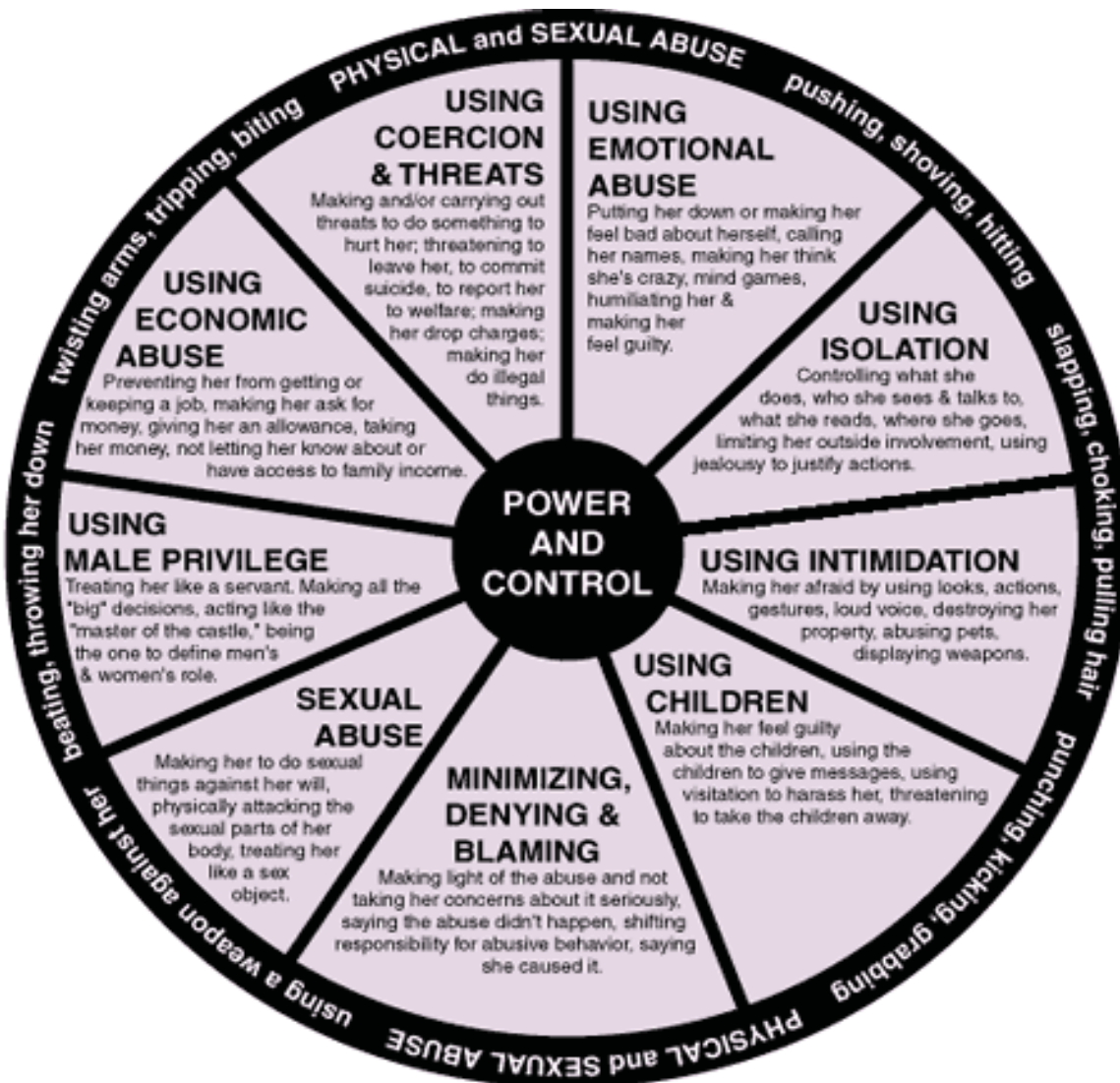
If Yes, which ones:

- 1.
- 2.
- 3.

The Cycle of Violence



The Power and Control Wheel



Wheel of Equality



APPENDIX II MYTHS AND FACTS OF DOMESTIC VIOLENCE

MANUAL FOR SOCIAL SERVICES OFFICERS



January 2006

Appendix Two

Myths and facts of domestic violence

Myth #1 Battering is rare.

FACT: Domestic violence is extremely common. In Kosovo between July 2002 and July 2003, there were 743 incidents of domestic violence reported to the police and in a study conducted by UNIFEM in 2000 23% of those women interviewed said a partner had hit them. Given that there is not a culture of reporting domestic violence it is likely that this is a conservative estimate.

Myth #2 Domestic violence occurs only in poor, poorly educated, minority, or “dysfunctional” families. It could never happen to anyone I know.

FACT: There are doctors, ministers, psychologist, police officers, and professionals who beat their partners. Domestic violence happens in rich, educated and respectable families and relationships. You are more likely to be assaulted by an intimate partner than a stranger.

Myth #3 Domestic Violence is about couples getting into a brawl on the weekend, beating each other up, and totally disrupting the neighborhood.

FACT: In domestic assaults, one partner is beating, intimidating, and terrorizing the other on an ongoing basis. It is NOT “mutual combat” or two people in a fistfight. It is one person dominating and controlling the other.

Myth #4 The problem is not really woman abuse; it is spouse abuse. Women are just as violent as men.

FACT: In over 95% of domestic assaults, the man is the perpetrator. This fact makes many of us uncomfortable, but is no less true because of that discomfort. To end domestic violence, we must scrutinize why it is men are usually violent in partnerships. We must examine the historic and legal permission that men have given to be violent in general, and to be violent towards their wives and children specifically.

There are some cases where a woman batters a man. Battering also does occur in lesbian, gay male and bisexual relationships. Survivors of abuse in such relationships should hear that because their situation is rare — or because they are in a relationship that is scorned by society — that does NOT make their experience less valid or less serious.

Myth #5 When there is violence in the family, all members of the family are participating in the dynamic, therefore, all must change for the violence to stop.

FACT: Only the perpetrator has the ability to stop the violence. Many women who are battered make numerous attempts to change their behavior in hopes that this will stop the abuse. This does not work. Changes in the family members’ behaviors will not cause or influence the batterer to be non-violent.

Myth #6 Perpetrators of DV are mentally ill.

FACT: An extremely small percentage of batterers are mentally ill. The vast majority seem completely normal, and are often charming, persuasive, and rational. The major difference between

them and others is that they use force and intimidation to control their partners. Battering is a behavioral choice.

Myth #7 Domestic violence is usually a one time event, an isolated incident.

FACT: DV is a pattern, a reign of force and terror. Once violence begins in a relationship, it escalates and becomes more frequent and severe over a period of time. Battering is NOT just one physical attack. It is a number of tactics — intimidation, threats, economic deprivation, psychological and sexual abuse — used repeatedly. Physical violence is one of those tactics. Experts have compared methods used by batterers to those used by terrorists to brainwash hostages.

Myth #8 Victims of DV always stay in violent relationships.

FACT: Many victims of battering leave their abusive partners permanently, and despite many obstacles, succeeding building a life free of violence. Almost all battering victims leave at least once. The perpetrator dramatically escalates the violence when the victim leaves, or tries to do so, because it is necessary for the perpetrator to reassert control and ownership. Victims of battering are often very active and far from helpless, on their own behalf. Their efforts often fail because the batterer continues to assault, and institutions refuse to offer adequate protection.

Myth #9 Domestic violence is a private family matter and no business of the institutions of Kosovo

FACT: This is comprehensively wrong. Police Officers have an obligation to investigate all matters of domestic dispute. Where violence has been undertaken, regulation 2003/12 demands that the courts prosecute a perpetrator regardless of their relation to the victim. Social workers are bound to be involved in the process of social protection of a woman and her children who have been abused by a husband or any member of the family living as part of the family unit.

APPENDIX III

UNMIK REGULATION 2003/12

ON PROTECTION AGAINST

DOMESTIC VIOLENCE

MANUAL FOR SOCIAL SERVICES OFFICERS



January 2006

Appendix Three

UNMIK Regulation 2003/12 On Protection Against Domestic Violence

UNITED NATIONS
United Nations Interim
Administration Mission in
Kosovo



NATIONS UNIES
Mission d'Administration
Intérimaire des Nations Unies
au Kosovo

UNMIK/REG/2003/12
7 May 2003

REGULATION NO. 2003/12

ON PROTECTION AGAINST DOMESTIC VIOLENCE

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

Taking into account, *inter alia*, the International Covenant on Civil and Political Rights, the European Convention on Human Rights and Fundamental Freedoms, the Convention on the Elimination of all forms of Discrimination Against Women, and the International Convention on the Rights of the Child,

Recognizing that domestic violence, in all its forms, cannot be tolerated and that there should be effective legal protection and assistance mechanisms for victims of domestic violence,

Hereby promulgates the following:

CHAPTER I: General Provisions

Section 1 Definitions

For the purposes of the present Regulation:

1.1 "Domestic relationship" means a relationship between two persons:

- (a) Who are engaged or married to each other or are co-habiting with each other without marriage;
- (b) Who share a primary household in common and who are related by blood,

marriage, or adoption or are in a guardian relationship, including parents, grandparents, children, grandchildren, siblings, aunts, uncles, nieces, nephews, or cousins; or

(c) Who are the parents of a common child.

1.2 “Domestic violence” means one or more of the following intentional acts or omissions when committed by a person against another person with whom he or she is, or has been, in a domestic relationship:

(a) Inflicting bodily injury;

(b) Non-consensual sexual acts or sexual exploitation;

(c) Causing the other person to fear for his or her physical, emotional or economic well-being;

(d) Kidnapping;

(e) Causing property damage;

(f) Unlawfully limiting the freedom of movement of the other person;

(g) Forcibly entering the property of the other person;

(h) Forcibly removing the other person from a common residence;

(i) Prohibiting the other person from entering or leaving a common residence; or

(j) Engaging in a pattern of conduct with the intent to degrade the other person.

1.3 “Victim” means a person subjected to domestic violence as defined in section 1.2.

1.4 “Petitioner” means a person who files a petition for a protection order or an emergency protection order.

1.5 “Respondent” means a person who is alleged to have committed an act or acts of domestic violence and against whom a protection order or an emergency protection order is sought.

1.6 “Protected party” means a person subjected to domestic violence and for whose benefit a protection order or an emergency protection order is sought.

1.7 “Law enforcement authority” means the Civilian Police of the United Nation Interim Administration Mission in Kosovo, also known as the United Nations International Police or UNMIK Police, and the Kosovo Police Service.

1.8 “Victim Advocate” means a person who is authorised by the competent authority to advocate victims’ interests as an authorised representative and to provide support and assistance to victims.

1.9 “Child” means a person who has not reached the age of eighteen (18) years.

Section 2

Measures in Protection Orders, Emergency Protection Orders
and Interim Emergency Protection Orders

2.1 A protection order may:

- (a) Prohibit the respondent from committing or threatening to commit any act of domestic violence against the protected party and/or a person with whom the protected party has a domestic relationship;
- (b) Prohibit the respondent from harassing, annoying, contacting, or otherwise directly or indirectly communicating with the protected party and/or a person with whom the protected party has a domestic relationship;
- (c) Prohibit the respondent from approaching within a specified distance of the protected party and/or a person with whom the protected party has a domestic relationship;
- (d) Prohibit the respondent from being at the place of work of the protected party or at another specified locality;
- (e) Limit the access of the respondent to the child of the protected party on such conditions as may be appropriate;
- (f) Prohibit the respondent from entering or remaining in the temporary or permanent residence of the protected party, or a portion thereof, regardless of respondent's ownership or occupancy rights;
- (g) Order an authorised person to accompany the protected party or the respondent to the residence of the protected party and supervise the removal of personal property belonging to that person or another specified person;
- (h) Order the seizure of weapons (as defined in UNMIK Regulation No. 2001/7 of 21 February 2001 On the Authorization of Possession of Weapons in Kosovo), including hunting and recreational weapons;
- (i) Order the respondent to allow the protected party to use the residence shared by the respondent and the protected party, or a portion thereof;
- (j) Order the respondent to pay the rent or mortgage on the temporary or permanent residence of the protected party and/or to pay for the maintenance of the protected party and any child the respondent has an obligation to support;
- (k) Order the return of the child of the protected party to the protected party;
- (l) Grant temporary custody of the child of the protected party to the protected party;
- (m) Prohibit either the respondent or the protected party from disposing of any property for a temporary, specified period of time;
- (n) Grant the protected party the exclusive possession and use of specified personal property of the protected party;
- (o) Order the Police Commissioner to suspend or revoke a Weapon Authorization

Card issued under UNMIK Regulation 2001/7 of 21 February 2001 on the Authorization of Possession of Weapons in Kosovo; or

(p) Order any other measure that is necessary to protect the safety, health or well-being of the protected party and/or a person with whom the protected party has a domestic relationship.

2.2 An emergency protection order may order one or more of the measures provided for in paragraphs (a) – (h) of section 2.1.

2.3 An interim emergency protection order may order one or more of the measures provided for in paragraphs (a) – (c) of section 2.1.

Section 3 Relationship with Other Orders

3.1 Notwithstanding any other order issued by a court or other competent authority, a protection order, an emergency protection order or an interim emergency protection order may be issued in accordance with the present Regulation.

3.2 The issuance of a protection order, an emergency protection order or an interim emergency protection order shall not prejudice the property or custody rights of any person beyond the duration of such order.

Section 4 Assistance of Legal Counsel

The victim and the respondent may be assisted by legal counsel in all proceedings related to a protection order, an emergency protection order or an interim emergency protection order.

CHAPTER II: Protection Orders and Emergency Protection Orders

Section 5 Court Jurisdiction

5.1 The municipal court which has jurisdiction over the municipality where the petitioner permanently or temporarily resides shall be competent to review a petition for a protection order or an emergency protection order and to issue such order.

5.2 Any municipal court shall be competent to review a petition for a protection order or an emergency protection order and to issue such order, where the competent court in section 5.1 has transferred a petition for a protection order or an emergency protection order to that court and such court has jurisdiction over the municipality where the protected party has changed residence, taken up a temporary residence or where such transfer is in the best interests of the protected party.

5.3 If a claim pursuant to the applicable law on marriage and family relationships has

already been filed in a competent court, such court shall also be competent to review a petition for a protection order or an emergency protection order and to issue such order.

5.4 The review of a petition for a protection order or an emergency protection order and the issuance of such order shall be conducted by a single judge.

5.5 The court that issues a protection order or an emergency protection order shall be competent to determine any violation of such order pursuant to section 15.

Section 6
Petitions for Protection Orders or Emergency Protection Orders

6.1 A petition for a protection order may be filed by:

- (a) The protected party; or
- (b) The legal representative of the protected party.

6.2 A petition for an emergency protection order may be filed by:

- (a) The protected party;
- (b) The legal representative of the protected party;
- (c) A person with whom the protected party has a domestic relationship;
- (d) A representative from the Center for Social Work in the municipality where the protected party permanently or temporarily resides;
- (e) A person with direct knowledge of an act or acts of domestic violence against the protected party; or
- (f) A Victim Advocate, upon the consent of the protected party.

6.3 A petition for a protection order or an emergency order shall be filed in writing or orally pursuant to the Law on Contested Procedure and shall include the following:

- (a) The name of the court;
- (b) The name, address and occupation of the petitioner and the respondent;
- (c) The name and address of the protected party and/or a person who has a domestic relationship with the protected party and who is to be protected by the protection order or emergency protection order and the relationship of such person(s) to the respondent;
- (d) A clear description of the subject matter of the dispute, including the specific reason(s) the petitioner fears that the safety, health or well-being of the protected party and/or a person who has a domestic relationship with the protected party and who is to be protected by the protection order or emergency protection order is jeopardized by the respondent;

- (e) The specific protective measures requested; and
- (f) Where possible, evidence to support the petition.

6.4 A petition for a protection order or an emergency order may be filed together with a claim filed pursuant to the applicable law on marriage and family relationships.

6.5 The petitioner is discharged from court taxes.

6.6 The petitioner shall have a Victim Advocate represent his or her interests, upon his or her consent, including during the appeals process.

6.7 If the disclosure of the permanent or temporary address of the petitioner, the protected party and/or a person who has a domestic relationship with the protected party and who is to be protected by the protection order or emergency protection order would endanger such person(s), the one or more following measures may be taken:

- (a) The petition may provide an alternative address;
- (b) The alternative address provided in the petition shall be the only address reflected in public court documents and records; or
- (c) If the judge determines that disclosure of an address in the court records is necessary, the records which reflect that address shall be sealed.

Section 7 Review of Petitions for Protection Orders

7.1 The court shall decide on a petition for a protection order within fifteen days of receipt of the petition.

7.2 In reviewing a petition for a protection order, the court shall hold a hearing so that the following persons may be heard:

- (a) The protected party and/or an authorised representative;
- (b) The respondent and/or an authorised representative;
- (c) The petitioner;
- (d) A representative from the Center for Social Work of the municipality where the person referred to below permanently or temporarily resides in a case where,
 - (i) The petitioner is under the age of eighteen (18) years or lacks legal capacity; or
 - (ii) The alleged acts of domestic violence impact on a person who is under the age of eighteen (18) years or lacks legal capacity; and
 - (e) Any witness deemed necessary by the court.

7.3 The court shall immediately summon the persons referred to in section 7.2, in

accordance with the Law on Contested Procedure. Where a representative from the Center for Social Work has been summoned, the court shall also request that such person present a written opinion assessing the situation of the protected party.

7.4 The hearing shall be held in the absence of the respondent where such individual was properly summoned and the petition is supported by sufficient evidence.

7.5 The petition shall be considered withdrawn if neither the protected party nor the authorised representative of the protected party appear at the hearing, where such persons were properly summoned and did not inform the court of the reasons for their absence. The withdrawal of the petition does not prevent the submission of another petition.

Section 8 Issuance of Protection Orders

8.1 The court shall issue a protection order to order one or more of the measures provided for in section 2.1, if it determines that:

(a) There are grounds to believe that the respondent has committed or threatened to commit an act of domestic violence; and

(b) The issuance of the protection order is necessary to protect the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order.

8.2. Whether or not there is a criminal proceeding against the respondent shall not prejudice a decision on a protection order.

8.3 The protection order shall state:

(a) The measure ordered by the court;

(b) The duration of the protection order, which shall not exceed twelve (12) months;

(c) A warning that a violation of the protection order constitutes a criminal offence;

(d) A notification of the right to appeal the protection order within eight (8) days from the receipt of such order; and

(e) A notification that the respondent may be assisted by legal counsel.

8.4 A protection order issued by the court shall be immediately served on the respondent, in accordance with the Law on Contested Procedure.

8.5 Within twenty-four (24) hours of issuing a protection order, the court shall deliver one copy to each of the following persons:

(a) The protected party and other persons named in the protection order;

(b) The petitioner;

(c) The local police station in the locality where the protected party and other persons named in the protection order reside on a permanent or temporary basis; and

(d) The Center for Social Work in the municipality where the protected party and other persons named in the protection order reside on a permanent or temporary basis.

8.6 A protection order shall be effective immediately upon issuance by the court and shall be enforceable against the respondent upon personal service on the respondent, in accordance with the Law on Contested Procedure.

Section 9

Review of Petitions for Emergency Protection Orders

9.1 The court shall decide on a petition for an emergency protection order within twenty-four (24) hours of the filing of the petition.

9.2 In reviewing a petition for an emergency protection order, the court shall hold a hearing so that the following persons may be heard:

(a) The protected party and/or an authorised representative;

(b) The respondent and/or an authorised representative;

(c) The petitioner; and

(d) Any witness deemed necessary by the court.

9.3 The court may hold a hearing in the absence of the respondent, where appropriate.

9.4 The court shall immediately summon the persons referred to in section 9.2, in accordance with the Law on Contested Procedure.

Section 10

Issuance of Emergency Protection Orders

10.1 The court may issue an emergency protection order to order one or more of the measures provided for in paragraphs (a) – (h) of section 2.1, if it determines that:

(a) There are grounds to believe that the respondent has committed or threatened to commit an act of domestic violence;

(b) The respondent poses an immediate or imminent threat to the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order; and

(c) The issuance of the emergency protection order is necessary to protect the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order.

10.2. Whether or not there is a criminal proceeding against the respondent shall not prejudice a decision on an emergency protection order.

10.3 The emergency protection order shall state:

- (a) The measure ordered by the court;
- (b) The duration of the emergency protection order, which shall expire at the end of the hearing for the confirmation of the emergency protection order;
- (c) A warning that a violation of the emergency protection order constitutes a criminal offence;
- (d) The date of a hearing for the confirmation of the emergency protection order, which shall be within twenty (20) days of the issuance of the emergency protection order;
- (e) A notification that the respondent may be assisted by legal counsel.

10.4 An emergency protection order issued by the court shall be immediately served on the respondent, in accordance with the Law on Contested Procedure.

10.5 Within twenty-four (24) hours of issuing an emergency protection order, the court shall deliver one copy to the following persons:

- (a) The protected party and other persons named in the emergency protection order;
- (b) The petitioner;
- (c) The local police station in the locality where the protected party and other persons named in the emergency protection order reside on a permanent or temporary basis; and
- (d) The Center for Social Work in the municipality where the protected party and other persons named in the emergency protection order reside on a permanent or temporary basis.

10.6 An emergency protection order shall be effective immediately upon issuance by the court and shall be enforceable against the respondent upon personal service on the respondent, in accordance with the Law on Contested Procedure.

10.7 At the hearing for the confirmation of the emergency protection order, the court shall proceed in accordance with section 7. At the end of such hearing, the court may:

- (a) Order the termination of the emergency protection order; or
- (b) Issue a protection order, in accordance with section 8. Such protection order may modify the terms of the emergency protection order, where necessary.

Section 11
Appeals

11.1 An appeal against a decision on a petition for a protection order or a decision on the confirmation of an emergency protection order shall be filed within eight (8) days from the issuance of such decision.

11.2 The filing of an appeal shall not stay the execution of a protection order.

Section 12
Modifications, Terminations and Extensions

12.1 Where there are significantly changed circumstances, the protected party or the respondent may file a petition for the modification or termination of a protection order.

12.2 Upon receipt of a petition for the modification or termination of a protection order, the court shall proceed with a review of such petition in accordance with section 7. At the end of such review, the court may

- (a) Order that the protection order remain in force;
- (b) Order a modification of the protection order, where warranted by significantly changed circumstances; or
- (c) Order the termination of the protection order, where the criteria set forth in section 8.1 no longer apply due to significantly changed circumstances.

12.3 The filing of a petition for the modification or termination of a protection order shall not suspend the execution of the protection order.

12.4 Within fifteen (15) days prior to the expiration of a protection order, the protected party or his or her legal representative may file a petition for the extension of the protection order. If no petition for extension is filed, the protection order will terminate automatically on the day of expiration.

12.5 Upon receipt of a petition for the extension of a protection order, the court shall proceed with a review of such petition in accordance with section 7. At the end of such review, the court may:

- (a) Confirm the termination of the protection order on its date of expiration; or
- (b) Order the extension of the protection order, where the criteria set forth in section 8.1 apply.

12.6 Sections 8.4 to 8.6 shall apply to orders issued pursuant to the present section. Where the court orders the modification or extension of a protection order, pursuant to sections 12.2(b) or 12.5(b), section 8.3 shall also apply.

CHAPTER III: Authority and Responsibilities of Law Enforcement Authorities

Section 13

Interim Emergency Protection Orders

13.1 Outside of court hours, a request for an interim emergency protection order may be submitted to the law enforcement authorities by:

- (a) The protected party; where the protected party permanently or temporarily resides; or
- (b) The legal representative of the protected party;
- (c) A person with whom the protected party has a domestic relationship;
- (d) A representative from the Center for Social Work in the municipality
- (e) A person with direct knowledge of an act or acts of domestic violence against the petitioner.

13.2 The on-call or acting Regional Domestic Violence Commander of UNMIK Police may issue an interim emergency protection order to order the one or more of the measures referred to paragraphs (a) – (c) of section 2.1 of the present Regulation, if he or she determines that:

- (a) There are grounds to believe that the respondent has committed or threatened to commit an act of domestic violence;
- (b) The respondent poses an immediate or imminent threat to the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order; and
- (c) The issuance of the interim emergency protection order is necessary to protect the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order.

13.3 The interim emergency protection order shall state:

- (a) The measure ordered by the on-call or acting Regional Domestic Violence Commander of UNMIK Police;
- (b) The duration of the interim emergency protection order, which shall expire on the end of the next day that the court is in operation;
- (c) A warning that a violation of the interim emergency protection order constitutes a criminal offence;
- (d) A notification that the respondent may be assisted by legal counsel in the proceedings; and
- (e) An explanation that upon the expiry of the interim emergency protection order,

the protected party may file a petition for an emergency protection order which, if granted, would be subject to a confirmation hearing or a petition for a protection order which, if granted, would be subject to appeal.

13.4 An interim emergency protection order issued by an on-call or acting Regional Domestic Violence Commander of UNMIK Police shall immediately be served on the respondent, in accordance with the Law on Contested Procedure.

13.5 The law enforcement authorities shall immediately deliver one copy to each of the following persons:

(a) The protected party and other persons named in the interim emergency protection order;

(b) The petitioner;

(c) The local police stations in the localities where the petitioner and other persons named in the interim emergency protection order reside on a permanent or temporary basis;

(d) The Center for Social Work in the municipality where the protected party and other persons named in the interim emergency protection order reside on a permanent or temporary basis; and

(e) The competent municipal court.

13.6 An interim emergency protection order shall be effective immediately upon issuance by the on-call or acting Regional Domestic Violence Commander of UNMIK Police and shall be enforceable against the respondent upon personal service on the respondent, in accordance with the Law on Contested Procedure.

Section 14 Responsibilities of Law Enforcement Authorities

14.1 The law enforcement authorities shall respond to any report of acts or threats to commit acts of domestic violence or a violation of a protection order or emergency protection order, regardless of who reports.

14.2 Where there are grounds for suspicion that a crime involving domestic violence was committed, the law enforcement authorities shall arrest the alleged perpetrator if a basis for detention under the Law on Criminal Procedure exists.

14.3 The law enforcement authorities shall use all reasonable means to protect the victim and prevent further violence, including, but not limited to:

(a) Informing the victim or the legal representative of the victim of his/her rights pursuant to this Regulation, including the right to request an interim emergency protection order pursuant to section 13 and the rights provided for under this section;

(b) Informing the victim about legal, psychological, social and other assistance services available from governmental institutions as well as from the authorised network of

non-governmental organisations providing victim services;

(c) Informing the relevant service providers referred to in section 14.3 (b) of an incident of domestic violence and facilitating contact between the service provider and the victim, upon the request of the victim;

(d) Providing or arranging transport through another agency for the victim and the victim's dependents to an appropriate medical facility for treatment and/or a medical examination;

(e) Assisting the victim in removing only essential personal property if the victim chooses to leave the shared domestic residence;

(f) Providing or arranging transport through another agency for the victim and, where appropriate, the victim's dependents to a shelter or other suitable safe haven, upon the request of the victim;

(g) Providing protection, if possible, to the reporter of violence, in accordance with relevant legal obligations regarding protection of witnesses;

(h) In the case of a protection order or emergency protection order ordering the measure provided for in section 2.1(f), removing the respondent from the temporary or permanent residence of the protected party, or a portion thereof; or

(i) Providing the victim or the legal representative of the victim an official contact for an investigating officer within the law enforcement authorities should further assistance be required. In case of the absence of the investigating officer, any other officer within the law enforcement authorities will assist the victim.

14.4 The law enforcement authorities shall complete an incident report whether or not a crime was committed or an arrest was made and provide a copy of the incident report to the victim or the legal representative of the victim.

14.5 Where the victim is a person under the age of eighteen (18) years or a person who does not have legal capacity, or where the acts of domestic violence are so grave as to impact the safety or security of a person under the age of eighteen (18) years or a person who does not have the legal capacity living in the same residence, the law enforcement authorities shall immediately report the incident to the Centre for Social Work of the Municipality where that person permanently or temporarily resides.

14.6 Where there are grounds for suspicion that a crime involving domestic violence was committed, whether or not the suspected perpetrator has been arrested or his/her whereabouts ascertained, the law enforcement authorities shall regularly provide the victim or the legal representative of the victim with an update on the status of the investigation, including any information on the whereabouts of the suspected perpetrator or his or her release from custody.

CHAPTER IV: Criminal Offences and Proceedings

Section 15

Violation of Protection Orders, Emergency Protection Orders and Interim Emergency Protection Orders

Whoever violates a protection order, emergency protection order or an interim emergency protection order, in whole or in part, commits a criminal offence and shall be sentenced to a fine of 200 EURO to 2000 EURO or imprisonment of up to six months.

Section 16

Prosecution of Criminal Offences Related to Domestic Violence

16.1 A violation of a protection order, emergency protection order or an interim protection order shall be automatically prosecuted.

16.2 The crime of light bodily injury, when committed within the context of a domestic relationship, shall be automatically prosecuted.

16.3 The crime of damaging the property of another person, when committed within the context of a domestic relationship, shall be automatically prosecuted.

CHAPTER V: Final Provisions

Section 17

Implementation

The Special Representative of the Secretary-General may issue Administrative Directions for the implementation of the present Regulation.

Section 18

Applicable Law

18.1 The present regulation shall supersede any provision in the applicable law that is inconsistent with it.

18.2 The provisions of the Law on Contested Procedure shall be applicable where not specified in this Regulation as a special contested procedure.

Section 19

Entry into Force

The present regulation shall enter into force on 9 May 2003.

Michael Steiner
Special Representative of the Secretary-General

APPENDIX IV PROTECTION ORDER FORM

MANUAL FOR SOCIAL SERVICES OFFICERS



January 2006

Appendix Four

Protection Order Forms

1. Petition for a Protection Order
2. Decision on Petition for a Protection Order
3. Emergency Protection Order Forms
4. Petition for an Interim Protection Order
5. Decision on Petition for an Interim Protection Order
6. Interim Emergency Protection Order Forms
7. Petition for an Emergency Interim Protection Order
8. Decision on Petition for an Emergency Interim Protection Order

Petition for a Protection Order

In accordance with Section 6.1. of UNMIK Regulation 2003/12

_____ Court in _____

No. _____

On _____

Protected Party: _____

Residing at: _____

Occupation: _____

Or

Legal representative: _____

Address: _____

Against

Respondent: _____

Residing at: _____

Occupation: _____

1 Protection Order

For

Table 1

Protected Party	Residing at	Occupation	Relationship to the Respondent

Table 2

Parties in domestic relationship with Protected Party	Residing at	DoB	Relationship to the Respondent

1.1.1 Reasoning

A protection order is requested because there is fear that the Respondent might endanger the safety, health or well-being of the Protected Party and/or a person who has a domestic relationship with the Protected Party. (Describe in detail the subject matter of the dispute and specific reasons for fear such as previous instances of domestic violence, dates of commission of domestic violence, and weapon involved if at all, contact with police, injuries sustained)

1.1.2 Evidence

If possible, provide a list of evidence to support the above claim and attach copies to this Protection Order (police reports on previous instances of domestic violence, child abuse, etc.):

1.1.3 Protective measure requested [where applicable]

To prohibit the Respondent from:

1. Committing or threatening to commit any act of domestic violence⁷³ against the Protected Party and/or a person with whom the Protected Party has a domestic relationship.
2. Harassing, annoying, contacting or otherwise directly or indirectly communicating with the Protected Party and/or a person with whom the Protected Party has a domestic relationship.
3. Approaching within _____m⁷⁴ of the Protected Party and/or a person, stated below, with whom the Protected Party has a

⁷³ As specified in UNMIK Regulation 2003/12 of 9 May 2003 on Protection Against Domestic Violence

domestic relationship

4. Being at the Protected Party's residence workplace school other⁷⁵

1.2 Further

5. The Protected Party shall have exclusive right to the residence at _____ . The Respondent may take Respondent's personal clothing and tools of trade from the residence while a law enforcement officer is present.

Or

6. The Respondent is ordered to allow the Protected Party to use the residence shared by the Respondent and the Protected Party or a portion thereof, specifically

7. The Respondent is prohibited from disposing of the below stated property until the expiration of this Protection Order.

8. Respondent is ordered to pay the rent or mortgage on the temporary or permanent residence of the Protected Party

1.3 And/or

9. Respondent is ordered to pay for the maintenance of the Protected Party in the amount of _____ Euro⁷⁶ per month until

10. The Protected Party shall have exclusive possession and use of the following specified personal property of the Protected Party:

1.4 Complete only if the protection order involves minors

11. Protected Party is granted the temporary custody of the minors named in table 2.

12. The Respondent shall be allowed supervised visitation on the following days and on the following conditions

⁷⁴ The distance is given in both letters and numbers, e.g. 30 (thirty)

⁷⁵ Specify

⁷⁶ The amount is given in both letters and numbers

13. The Respondent is ordered to return the child of the Protected Party to the Protected Party

14. The Respondent is ordered to pay child support in the amount of _____ Euro⁷⁷ per month until _____

1.5 Complete only if applicable

15. Weapon(s) of the make and caliber as stated below is herewith seized.

16. Police Commissioner is ordered to suspend or revoke a Weapon Authorization Card⁷⁸

Any other measure as necessary to protect the safety, health or well-being of the Protected Party and/or a person with whom the Protected Party has a domestic relationship:

15. _____

Petitioner: _____

Date: _____

List of attachments:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

⁷⁷ The amount is given in both letters and numbers

⁷⁸ As issued pursuant to UNMIK Regulation No. 2001/7 of 21 February 2001 on the Authorization of Possession of Weapons in Kosovo

Decision on Protection Order

Pursuant to Section 8 of UNMIK Regulation 2003/12

Municipal Court in _____

No. _____

On _____

Municipal Court in _____ through _____ as an

individual judge in hearing to review the petition for Protection Order filed by

Protected Party: _____

Residing at: _____

Occupation: _____

Or

Legal representative _____

Address: _____

Against

Respondent: _____

Residing at: _____

Occupation: _____

Notice of this hearing was served on the Respondent by personal service
service by mail pursuant to court order other _____

Present are:

Protected Party _____

And/or

Authorized representative _____

Respondent _____

And/or

Authorized representative _____

Petitioner _____

Representative from Center for Social Work _____

The Respondent has been notified of his right to legal counsel pursuant to Section 8.3. (e) of UNMIK Regulation 2003/12.

Justification

I hereby issue the following

2 Protection Order

For

Table 1

Protected Party	Residing at	Occupation	Relationship to the Respondent

Table 2

Parties in domestic relationship with Protected Party	Residing at	DoB	Relationship to the Respondent

Hereby the Respondent is prohibited from [√ where applicable]:

1. Committing or threatening to commit any act of domestic violence⁷⁹ against the Protected Party and/or a person with whom the Protected Party has a domestic relationship.
 2. Harassing, annoying, contacting or otherwise directly or indirectly communicating with the Protected Party and/or a person with whom the Protected Party has a domestic relationship.
 3. Approaching within _____⁸⁰ m of the Protected Party and a person with whom the Protected Party has a domestic relationship.
 4. Being at the Protected Party's residence workplace school other⁸¹
-

2.1 Further

5. Protected Party shall have exclusive right to the residence at _____ . The Respondent may take Respondent's personal clothing and tools of trade from the residence while a law enforcement officer is present.

Or

6. Respondent is ordered to allow the Protected Party to use the whole residence shared by the Respondent and the Protected Party or a portion thereof, specifically:

7. Respondent and the Protected Party are prohibited from disposing of the below stated property until the expiration of this Protection Order.

8. Respondent is ordered to pay the rent or mortgage on the temporary or permanent residence of the Protected Party

2.2 And/or

9. Respondent is ordered to pay for the maintenance of the Protected Party in the amount of _____ Euro⁸² per month until _____
10. Protected Party shall have exclusive possession and use of the following specified personal property of the Protected Party:

⁷⁹ As specified in UNMIK Regulation 2003/12 of 9 May 2003 on Protection Against Domestic Violence

⁸⁰ The distance is given in both letters and numbers, e.g. 30 (thirty)

⁸¹ Specify

⁸² The amount is given in both letters and numbers

2.3 Complete only if protection ordered involves minors

11. Protected Party is granted the temporary custody of the minors named in the table 2.
12. Respondent shall be allowed supervised visitation on the following days and on the following conditions _____

13. Respondent is ordered to return the child of the Protected Party to the Protected Party
14. Respondent is ordered to pay child support in the amount of _____ Euro⁸³ per month until _____

2.4 Complete only if applicable

15. Weapon(s) of the make and caliber as stated below is herewith seized.

16. Police Commissioner is ordered to suspend or revoke a Weapon Authorization Card⁸⁴
- Any other measure as necessary to protect the safety, health or well-being of the Protected Party and/or a person with whom the Protected Party has a domestic relationship:
15. _____

Violation of this protection order shall constitute an offense and shall be automatically prosecuted pursuant to Regulation 2003/12.

This Protection Order shall expire on _____ (date).

2.4.1 Municipal Court in _____ No. _____

Judge:

Date: _____

⁸³ The amount is given in both letters and numbers

⁸⁴ As issued pursuant to UNMIK Regulation No. 2001/7 of 21 February 2001 on the Authorization of Possession of Weapons in Kosovo

Legal remedy: Appeal against this protection order is allowed within 8 days from its receipt. The Respondent may be assisted by legal counsel.

Copy of the Protection Order:

1. Protected Party
2. Respondent
3. Police Station _____
4. Center for Social Work _____

Petition for an Emergency Protection Order

In accordance with Section 6.2. of UNMIK Regulation 2003/12

Municipal Court in _____

No. _____

On _____

Protected Party: _____

Residing at: _____

Occupation: _____

Or

Legal representative: _____

Address: _____

Or

Representative of the Center for Social Work in _____

Or

Victim Advocate _____

Address _____

Or

Other _____

Occupation: _____

Address: _____

Against

Respondent: _____

Residing at: _____

Occupation: _____

Emergency Protection Order

For

Table 1

Protected Party	Residing at	Occupation	Relationship to the Respondent

Table 2

Parties in domestic relationship with Protected Party	Residing at	DoB	Relationship to the Respondent

2.4.2 Reasoning

A protection order is requested because there is fear that the Respondent might endanger the safety, health or well-being of the Protected Party and/or a person who has a domestic relationship with the Protected Party. (Describe in detail the subject matter of the dispute and specific reasons for fear such as previous instances of domestic violence, dates of commission of domestic violence, and weapon involved if at all, contact with police, injuries sustained)

2.4.3 Evidence

If possible, provide a list of evidence to support the above claim and attach copies to this Protection Order (police reports on previous instances of domestic violence, child abuse, etc.):

2.4.4 Protective measure requested [where applicable]

To prohibit the Respondent from:

1. Committing or threatening to commit any act of domestic violence⁸⁵ against the Protected Party and/or a person with whom the Protected Party has a domestic relationship.
2. Harassing, annoying, contacting or otherwise directly or indirectly communicating with the Protected Party and/or a person with whom the Protected Party has a domestic relationship.
3. Approaching within _____m⁸⁶ of the Protected Party and/or a person, stated below, with whom the Protected Party has a domestic relationship

4. Being at the Protected Party's residence workplace school other⁸⁷

2.5 Further

5. The Protected Party shall have exclusive right to the residence at _____ . The Respondent may take Respondent's personal clothing and tools of trade from the residence while a law enforcement officer is present.

2.6 Complete only if the protection order involves minors

6. The Respondent shall be allowed supervised visitation on the following days and on the following conditions

⁸⁵ As specified in Section 2.1. of UNMIK Regulation 2003/12 of 9 May 2003 on Protection Against Domestic Violence

⁸⁶ The distance is given in both letters and numbers, e.g. 30 (thirty)

⁸⁷ Specify

2.7 Complete only if applicable

Weapon(s) of the make and caliber as stated below is herewith seized.

15. _____

Petitioner:

Date: _____

List of attachments:

- 7. _____
- 8. _____
- 9. _____
- 10. _____
- 11. _____
- 12. _____

Decision on Emergency Protection Order

Pursuant to Section 10 of UNMIK Regulation 2003/12

_____ Court in _____

No. _____

On _____

Municipal Court in _____ through _____ as an individual judge in hearing to review the petition for an Emergency Protection

Order filed by

Petitioner: _____

Address: _____

Occupation: _____

Against

Respondent: _____

Residing at: _____

Occupation: _____

Notice of this hearing was served on the Respondent by personal service service by mail pursuant to court order other _____.

Present are:

Protected Party _____

And/or

Authorized representative _____

Respondent _____

And/or

Authorized representative _____

Petitioner _____

Representative from Center for Social Work _____

The Respondent has been notified of his right to legal counsel pursuant to Section 8.3 (e) of UNMIK Regulation 2003/12.

Justification

I hereby issue the following

3 Emergency Protection Order

For

Table 1

Protected Party	Residing at	Occupation	Relationship to the Respondent

Table 2

Parties in domestic relationship with Protected Party	Residing at	DoB	Relationship to the Respondent

Hereby the Respondent is prohibited from [√ where applicable]:

1. Committing or threatening to commit any act of domestic violence⁸⁸ against the Protected Party and/or a person with whom the Protected Party has a domestic relationship.
 2. Harassing, annoying, contacting or otherwise directly or indirectly communicating with the Protected Party and/or a person with whom the Protected Party has a domestic relationship.
 3. Approaching within _____⁸⁹ m of the Protected Party and/or a person with whom the Protected Party has a domestic relationship.
 4. Being at the Protected Party's residence workplace school other⁹⁰
-

3.1 Further

- Protected Party shall have exclusive right to the residence at _____.
5. The Respondent may take Respondent's personal clothing and tools of trade from the residence while a law enforcement officer is present.

3.2 Complete only if protection ordered involves minors

- Respondent shall be allowed supervised visitation on the following days and on the following conditions _____
6. _____

3.3 Complete only if applicable

- Weapon(s) of the make and caliber as stated bellow is herewith seized.
7. _____

Violation of this emergency protection order shall constitute an offense and shall be automatically prosecuted pursuant to Regulation 2003/12.

This Emergency Protection Order shall expire on _____
(date) following the hearing for the confirmation of the emergency protection order to be held within 20 days from the issuance of this Emergency Protection Order.

⁸⁸ As specified in Section 2 of UNMIK Regulation 2003/12 of 9 May 2003 on Protection Against Domestic Violence

⁸⁹ The distance is given in both letters and numbers, e.g. 30 (thirty)

⁹⁰ Specify

3.3.1 Municipal Court in _____ No. _____

Judge: _____

Date: _____

Legal remedy: Appeal against this protection order is allowed within 8 days from its receipt. The Respondent may be assisted by legal counsel.

Copy of the Emergency Protection Order to be served within 24 hours:

1. Protected Party
2. Respondent
3. Petitioner
4. Police Station _____
5. Center for Social Work _____

Petition for an Interim Emergency Protection Order

In accordance with Section 6.1. of UNMIK Regulation 2003/12

_____ Region Domestic Violence Coordinator

No. _____

On _____

Protected Party: _____

Residing at: _____

Occupation: _____

Or

Legal representative: _____

Address: _____

Or

Representative of the Center for Social Work in _____

Or

Other _____

Occupation: _____

Address: _____

Against

Respondent: _____

Residing at: _____

Occupation: _____

4 Protection Order

For

Table 1

Protected Party	Residing at	Occupation	Relationship to the Respondent

Table 2

Parties in domestic relationship with Protected Party	Residing at	DoB	Relationship to the Respondent

4.1.1 Reasoning

A protection order is requested because there is fear that the Respondent might endanger the safety, health or well-being of the Protected Party and/or a person who has a domestic relationship with the Protected Party. (Describe in detail the subject matter of the dispute and specific reasons for fear such as previous instances of domestic violence, dates of commission of domestic violence, and weapon involved if at all, contact with police, injuries sustained)

4.1.2 Evidence

If possible, provide a list of evidence to support the above claim and attach copies to this Protection Order (police reports on previous instances of domestic violence, child abuse, etc.):

Hereby the respondent is prohibited from [where applicable]:

1. Committing or threatening to commit any act of domestic violence⁹¹ against the protected party and/or a person with whom the protected party has a domestic relationship.
2. Harassing, annoying, contacting or otherwise directly or indirectly communicating with the protected party and/or a person with whom the protected party has a domestic relationship.
3. Approaching within _____ m⁹² of the protected party and/or a person with whom the protected party has a domestic relationship.

I have been notified that if granted this Interim Emergency Protection Order shall expire on _____ (date), the first consecutive day the court is in operation.

I have been notified that upon the expiry of this Interim Emergency Protection Order, a petition may be filed with the _____ Court in _____ for an emergency protection order. If granted, the emergency protection order is subject to confirmation hearing.

I have been notified that the protected party may also file a petition for a protection order, which, if granted, will be subject to appeal.

Petitioner: _____

Date: _____

List of attachments:

13. _____
14. _____
15. _____
16. _____

⁹¹ As specified in Section 2 of UNMIK Regulation 2003/12 of 9 May 2003 on Protection Against Domestic Violence

⁹² The distance is given in both letters and numbers, e.g. 30 (thirty)

_____ Region Domestic Violence Coordinator

No. _____

On _____

Interim Emergency Protection Order

Protected Party: _____

Residing at: _____

Occupation: _____

Or

Legal representative: _____

Address: _____

Or

Representative of the Center for Social Work in _____

Or

Other _____

Occupation: _____

Address: _____

Against

Respondent: _____

Residing at: _____

Occupation: _____

Having reviewed the petition, testimony and case record, as applicable, it has been determined there are grounds to believe that the respondent has committed or threatened to commit an act of domestic violence and the respondent poses an immediate threat to the safety, health or well-being of the protected party. Issuance of the protection order is necessary to protect the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party.

5 The Interim Emergency Protection Order is issued
For

Table 1

Protected Party	Residing at	Occupation	Relationship to the Respondent

Table 2

Parties in domestic relationship with Protected Party	Residing at	DoB	Relationship to the Respondent

Hereby the respondent is prohibited from [where applicable]:

1. Committing or threatening to commit any act of domestic violence⁹³ against the protected party and/or a person with whom the protected party has a domestic relationship.
2. Harassing, annoying, contacting or otherwise directly or indirectly communicating with the protected party and/or a person with whom the protected party has a domestic relationship.
3. Approaching within _____ m⁹⁴ of the protected party and/or a person with whom the protected party has a domestic relationship.

This Interim Emergency Protection Order shall expire on _____ (date), the first consecutive day the court is in operation.

Violation of this interim emergency protection order shall constitute an offense and shall be automatically prosecuted pursuant to Regulation 2003/12.

The respondent is hereby notified of his right to legal counsel pursuant to Section 13.3 (d) of the Regulation 2003/12.

The protected party is hereby notified that upon the expiry of this Interim Emergency Protection Order, a petition may be filed with the Municipal Court in

⁹³ As specified in Section 2 of UNMIK Regulation 2003/12 of 9 May 2003 on Protection Against Domestic Violence

⁹⁴ The distance is given in both letters and numbers, e.g. 30 (thirty)

_____ for an emergency protection order. If granted, the emergency protection order is subject to confirmation hearing.

The protected party may also file a petition **for a protection order, which, if granted, will be subject to appeal.**

Date:

Issued by:

Copy of the Interim Emergency Protection Order to be served within 24 hours:

1. Protected party
2. Petitioner
3. Police Station _____
4. Center for Social Work _____
5. Municipal Court in _____

APPENDIX V QUESTION ORDER FORMS

MANUAL FOR SOCIAL SERVICES OFFICERS



January 2006

Appendix Five

Questions to help undertake a risk assessment

1. How much contact is there with the perpetrator and/or his supporters ?
 2. The woman lives/works with the perpetrator
 3. Perpetrator knows where the woman lives/has her phone number
 4. Perpetrator is harassing /stalking the woman
 5. Woman has frequent contact with visits by perpetrator
 6. The perpetrator's friends/allies are in regular contact with her
 7. The perpetrator has legal rights to visit the woman's children
 8. The perpetrator wishes to reconcile/live with the woman
 9. The perpetrator has broken a protection order from the court
 10. The nature/tone of the most recent contact
 11. Threats to hurt the woman
 12. Threats to rape/kill her
 13. Threats to hurt children or other family members
 14. Saying things like "if you try to get away I will find you"
 15. Saying things like "if you go to the police you will be sorry"
 16. An ex-partner expressing any of the following :
 - I can't live without you or you won't live without me
 - You owe me
 - I've changed, give me another chance
 - Verbal abuse, for example. "You're a bitch"
 - You'll be with me or nobody
- Yes No
- Yes No

Additional risk indicators

Yes No

1. Woman is afraid of reprisals
2. Woman is scared about upcoming court date
3. Is there a court appearance for an imprisoned abuser
4. Is the perpetrator being released into the woman's community
5. Is perpetrator threatening to have her deported/report her to the authorities
6. Is the woman thinking of/planning to end the relationship/escape
7. Is the woman beginning a new relationship
8. Has the perpetrator recently obtained or threatened to obtain weapons
9. Has the perpetrator's use of alcohol/drugs increased
10. Is the woman moving to a more isolated community
11. Is the woman pregnant
12. Is the woman isolated
13. Is it difficult for her to communicate with others
14. Is the physical abuse getting worse
15. Are the control strategies getting worse
16. Is she encountering barriers to getting out of the abusive situation
17. Is she frightened for her children/family
18. Has the perpetrator got a history of violence to other women/children

APPENDIX VI SAFETY PLANNING

MANUAL FOR SOCIAL SERVICES OFFICERS



January 2006

Appendix Six - Safety Planning

1. Creating a safety plan
2. Safety when preparing to leave the home
3. Safety in my home
4. Safety: My well-being
5. Supporting a Friend

Personalised Safety Plan

Date: _____

Review dates: _____

During a violent incident at home, I can use some of the following strategies:

1. When I anticipate an incident, I will try to move to a space that is lowest risk
2. (i.e. not the bathroom, kitchen or rooms without access to outside door).
3. I will tell _____ and _____ about the violence and ask them to call the police if they hear suspicious noises coming from my home.
4. (Name at least two people here who are your neighbours).
5. I will use _____ as my code word with my children or my friends so they know I want them to call for help.
6. I will teach my children our name and full address, and how to use the telephone to contact the police and say “someone is hurting my mummy” and tell them where we live.
7. I will teach my children where to go in the house, or if they leave the house to be safe if I am being attacked.
8. If I decide to leave, I will _____

(Think about how to get out safely. What doors, windows, lifts stairs or fire escapes would you use?)

9. I can keep my purse and (car) keys (and important documents) ready and put them (place) _____ in order to leave more quickly.
10. If I have to leave my home, I will go to _____ or _____
11. Remember to tell all the people you have mentioned here about your plans, and what you may need them to do for you

Safety when preparing to leave home

1. Safety when preparing to leave you home
2. Leaving is best done strategically, since this makes it safer for you, but sometimes you just have to run. If you can plan though, this is good for you (and your children), since many men are often very controlling and abusive when you make the decision to leave.
3. When planning to leave, I will use some or all of the following strategies:
 - I will leave money, copies of important documents, and an extra set of keys with _____ so I can leave quickly.
 - I will open a savings account by _____ to increase my independence.
 - I will get legal advice from a lawyer who understands these issues.
 - I will check with _____ and _____ to see who could let me stay in an emergency and/or lend me some money.
 - I can leave extra clothes with _____
 - I will rehearse my escape plan.
 - Other things I can do to increase my independence are:
 - i. I can buy myself a mobile phone and know what number to ring in an emergency
 - ii. I can contact the local help-line /support group/shelter: their number is:
 - iii. I can keep change for phone calls on me at all times
 - iv. I will sit down and review my safety plan every _____ in order to plan the safest way to get away.
4. Items to pack

When you leave your partner it is important to understand that this can be an action that might trigger violence from your partner. Being and prepared to make a quick break away from the relationship is one key to reducing the risk of violence. If possible, it is recommended that you pre-pack clothing and important documents ahead of time and leave them with a trusted friend or relative.

When leaving an abusive partner, you should take the following items with you. (Those with asterisks are the most important to take.)

Items:

- ATM Card
- Credit Cards
- Money
- Keys
- Medications
- Clothing
- Toiletries
- Toys
- Photographs
- Jewelry
- Items of sentimental value

Documents:

- Driver's License
- Car Registration
- Birth Certificates (children & yourself)
- School & Vaccination Records
- Checkbook
- Work Permits
- Passports
- Medical Records
- Insurance Papers
- Address Book & Phone Numbers
- Social Security Cards
- Welfare information
- Divorce Papers
- Court Orders
- Bank Records
- Rental Agreement / Mortgage Papers

Safety in my own home

Safety measures I can use include:

- I can change the locks on my doors and windows as soon as possible.
- I can ask _____ to help me install window locks and/or security chains on my front door.
- I can install security systems including additional locks, window bars, poles to wedge against doors, an electronic alarm system.
- I can replace wooden doors with steel/metal doors.
- I can install smoke detectors and purchase fire extinguishers for each floor in my house/apartment.
- I can install a motion sensitive lighting system outside that lights up when a person is coming close to my home.
- I can get an ansaphone so I can screen my calls, and I will report abusive calls to the telephone company and the police.
- I can buy a mobile/cellular phone.
- I can ask the police about any protection measures that they might have to help me
- I will call the police if I see the perpetrator near my home, or he threatens me/communicates with in any other way.
- I will ask _____ to call the police if they see the perpetrator near my home.
- I will teach my children how to use the telephone to call _____ if we are in danger, or to call me if they are abducted.
- I will inform all the people who provide care for my children who has permission to pick them up and who does not.

Safety with a protection order

Protection orders are restrictions placed on people's movement and actions by the court, they have a number of forms such as: peace bonds, restraining/protection orders, bail conditions, parole conditions, child custody/access orders. Some perpetrators do obey protection orders, but one can never be sure which will break them. The order often needs to be enforced by police or the courts.

The following are some steps that I can take to help the enforcement of my protection order.

1. I will keep my protection order document(s) (original if possible) in _____ (place). (Always keep it on or near your person. If you change bags, that is the first thing that you should check. It is also a good idea to make copies, just in case).
2. I will inform my employer, friends, neighbours children's school/nursery (say who here) _____ that I have a protection order.
3. If the perpetrator destroys the order; I can get another copy from the court, my lawyer or _____
4. If I expect trouble I can inform the police and ask them to be alert.
5. If the perpetrator breaks the order, I will call the police and report this and report it to anyone else who needs to know including my lawyer and the court/judge. (Report every violation of the order).
6. If I am not satisfied with the action of the police, I can file a complaint with the chief of the police department as well as letting my lawyer know the judge/magistrate and anyone else involved.

Safety at work and in public places

At work, it is important that some other people know what is happening, this might be your closest colleagues, or your boss, and people like door staff or receptionists; they do not need to know the whole story, but they can be asked to limit who is allowed in, or to phone you.

I might do any or all of the following:

1. If I trust them I can inform my boss, the security supervisor and _____ at work of my situation.
2. I can ask _____ to help screen my telephone calls at work.
3. When leaving work, I can _____
4. When driving home if problems occur, I can _____
5. If I use public transport, I can _____
6. I can use different locations for shopping, going to the post office, bank etc. to reduce the risk of contact with the perpetrator.
7. I can by a mobile phone.
8. I can buy a very loud alarm which I carry in my pocket.
9. I can practise shouting really loudly “get away from me” or “call the police this man is dangerous”.
10. I can wear shoes that I can run in.
11. I can take a self-defence class to increase my confidence.
12. I can also _____

Safety and my well-being

The experience of being assaulted/abused/threatened is frightening, exhausting and emotionally draining. The process of rebuilding your life requires much courage and energy.

To conserve my emotional energy and resource I can do some of the following:

1. If I feel depressed and ready to return to a potentially abusive situation, I can

2. If I feel low and that everything is too much, I can lift my spirits by

3. If I am not sure what to do, and am worried about my safety I can talk to

4. I can join a women's support group.
5. If I have to communicate with the perpetrator in person or by telephone I can

6. I will use "I can..." statements with myself and be assertive with others.
7. I will keep reminding myself that I deserve to be safe and have control my life.

How to help a friend

You can help a friend in the following way:

- Listen to her
- Give her your undivided attention. Let her know that you have heard what she has said
- Believe her
- Believe what she is telling you. Recognize that disclosing to you takes a great deal of strength and courage
- Understand what she is saying
- Devote your efforts to understanding the thoughts, feelings, and experiences she has chosen to share with you
- Validate her feeling and strength
- By disclosing to you, she has just taken a major step in dealing with the pain of relationship violence. It is extremely important for you to validate both the feelings she is expressing and the strength it took to share them with you. One example might be, "I'm so glad you told me."

Help her devise a safety plan

- It is essential to talk with her about her physical safety. An example of a way to begin this dialogue might be, "I'm concerned for your physical safety. Could we talk about how you might try to be safe?"
- Help her understand that the violence is not her fault
- She might feel guilty about being a battered women for several reasons. Our culture reinforces the ideas that:
 - women determine the success or failure of their relationships;
 - women are responsible for making men happy;
 - a woman can change a man's behavior; and
 - women are to blame if their partners choose to batter them.
- **NONE OF THESE ARE TRUE.** Help erase her guilt by saying something like, "This is not your fault," or "You have done nothing to deserve this kind of treatment."
- Support her right to control her own life
- Sometimes we think we know what is best for a friend. Don't expect her to follow all of your advice.
- Remember that ultimately she must be the one to make decisions regarding her own life. An example of something you might say is: "I know this is decision only you can make. Whatever you decide, remember I'll stand by you." And do stand by her, regardless of her decision.
- Provide helpful resource information
- Protect her right to confidentiality
- Recognize her choice to disclose to you. Respect her right to tell whomever she chooses. It is not your place to inform others. Telling others may jeopardize her safety.

BE PROUD OF THE FACT THAT YOU ARE A CARING FRIEND

