



## **Rights of Women's consultation response to 'Tackling illegal immigration in privately rented accommodation'**

### **About Rights of Women**

Rights of Women works to secure justice equality and respect for all women.

Our mission is to advise, educate and empower women by:

- Providing women with free, confidential legal advice by specialist women solicitors and barristers.
- Enabling women to understand and benefit from their legal rights through accessible and timely publications and training.
- Campaigning to ensure that women's voices are heard and law and policy meets all women's needs.

Rights of Women specialises in supporting women who are experiencing or are at risk of experiencing, gender-based violence, including domestic and sexual violence. We support other disadvantaged and vulnerable women including Black, Minority Ethnic, Refugee and asylum-seeking women (BMER women), women involved in the criminal justice system (as victims and/or offenders) and socially excluded women. By offering a range of services including specialist telephone legal advice lines, legal information and training for professionals we aim to increase women's understanding of their legal rights and improve their access to justice enabling them to live free from violence and make informed, safe, choices about their own and their families' lives.

Rights of Women is a registered charity 1147913 and Company Limited by Guarantee.

## **Summary of the consultation**

In brief, the consultation seeks to limit the ability of those who overstay their visas and other irregular immigrants to access private rented accommodation by requiring landlords make checks on their tenants before renting a property to them.

Landlords or their agents would be required to check the documents after deciding on a tenant and then keep a copy on file. This would apply to all tenants, whether British or not, not just the tenant holding the lease etc.

If landlords fail to do so, then they face a civil penalty or warning which can be appealed to court. For landlords who already have irregular migrants in their property, they may get a warning letter.

Those who will be able to rent a property include: British citizens, those with settled status, EEA nationals and their family members, and lawful third country nationals with leave to enter or remain, as well as asylum seekers. For those who do not have a copy of their documents because they are with the Home Office, there will be a helpline number for landlords to call and check documentation, similar to the current employment system.

There would be no requirement to report someone to the Home Office if they were irregular, but if they had rented the property and were then discovered to be irregular, the landlord would be likely to avoid any civil penalty if they had reported the tenants.

It is proposed that the landlord would not be required to re-check when a visa expired, so if someone had a 6 month visa, they could sign a year long tenancy but would need proof of their status by the time the contract expired if they wanted to renew.

The Government plans to exclude from the scheme: business and holiday lets under 3 months; anyone who is renting a property which is not their primary or main residence; tourists in hotels unless their stay is over 3 months; anyone in accommodation supplied as part of their employment or students in student accommodation as they have already been checked. The exclusion would cover anyone in a hostel or refuge that supplies crisis accommodation, hospitals and care homes and children's homes. It would also exclude private rental accommodation

secured by the local authority under their main homelessness duty. The Home Office also plans to exclude lodgers and sub-tenants. If they were to be included, they are unclear who would check the documents.

Landlords are not to be made liable for what happens in the property once it is let because of the limited powers of entry.

### **Rights of Women response**

Rights of Women opposes in principle the imposition of further immigration controls that will make it harder for migrant women to access services and support. This concern is particularly acute when taken with the proposals to limit legal aid to those who have established 1 year of lawful residence before they may access legal aid and therefore the courts to challenge the provision of services by a Local Authority.

Further, Rights of Women is of the view that any barriers that limit a woman's ability to leave an abusive situation, even where the barriers are perceived rather than actual, impede gender equality and undermine the principal aims of the Government's national strategy to eliminate violence against women and girls. In the refreshed Action Plan 2013, Theresa May set out that:

*"But I am also determined to see a society where abuse is no longer tolerated, where all businesses and organisations offer support to those who may be victims, where those affected by domestic or sexual violence feel confident in coming forward to report their experiences and are fully supported for doing so..."<sup>1</sup>*

Rights of Women remain concerned that the requirement to produce proof of immigration status will have a disproportionate impact on women who escape domestic abuse whether these women are British or EEA nationals, persons subject to immigration control or those who are irregular migrants.

The summary statement which accompanied the publication of the consultation document outlined that the Government was committed to ending the abuse of vulnerable people, stating;

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<sup>1</sup> Theresa May, A Call to End Violence Against Women and Girls, March 2013, p3

*The Government already supports local authorities in taking action to tackle rogue landlords who provide sub-standard accommodation to vulnerable people, including illegal migrants. The Government has announced further funding of £3 million to support these activities.*

However, nothing in the measures proposed tackles the vulnerability of migrants to rogue landlords. In fact, the proposition to exclude both subletting and business lets of under three months duration work to directly favour landlords over tenants

#### **Scope of the proposals (Section 4)**

Rights of Women are particularly concerned about the impact of the consultation on migrant women and homelessness. Where a woman is a victim of domestic abuse but does not have regular migration status, she is, because of the 'no recourse to public funds' rule, reliant on the provisions of s21 National Assistance Act 1948 if she needs care and attention, or under the provisions of s17 Children Act 1989 if she cares for children.

The provisions for women and children are limited to an obligation to assess the needs of a child in a Local Authority's area, regardless of nationality. The Local Authority has a power under s17 Children Act 1989 to provide accommodation and other support to children who are assessed as 'in need'. The Act provides:

- 1) It shall be the general duty of every local authority (in addition to the other duties imposed on them by this Part)—*
  - (a) to safeguard and promote the welfare of children within their area who are in need; and*
  - (b) so far as is consistent with that duty, to promote the upbringing of such children by their families,*  
*by providing a range and level of services appropriate to those children's needs*
- (6) The services provided by a local authority in the exercise of functions conferred on them by this section may include providing accommodation and giving assistance in kind or, in exceptional circumstances, in cash*

The consultation sets out particular exceptions to the requirement on private landlords to check the immigration status of a prospective tenant. The two exceptions in relation to homelessness are:

- Privately rented accommodation secured by a local housing authority using the private rented sector to offer power under s193 (F) of the Housing Act 1996 for households owed the main homelessness duty [§25]
- Hostels and refuges providing crisis accommodation to homeless and other vulnerable people [§26]

Rights of Women is concerned that as currently drafted, the exceptions for homelessness will not include emergency accommodation for families under s17 Children Act 1989 unless they are housed in a hostel or refuge.

This will have a disproportionate impact on women with children without immigration status who rely on the support of the Local Authority. It is unclear how many families are housed in private rented accommodation under s17 Children Act currently. However, anecdotal evidence through second tier organisations and telephone calls made to the Rights of Women immigration and asylum legal advice line suggest that there are a number of women who live with their children in private rented accommodation where the rent is paid in full or in part by the Local Authority, or they are housed semi-permanently in hotels.

In their most recent report, the UN Committee on the Elimination of Discrimination Against Women had concerns that:

*56.The Committee recalls its previous concluding observations of 2008 (A/63/38, paras. 295 and 296) and remains concerned that under the “no recourse to public funds” policy, women with insecure immigration status still have no access to state support. While noting that the State party has announced a concession for women who are victims of domestic violence, the Committee is concerned that this concession only applies to women who have entered the State party on spousal visas, which might trap women in violent relationships.<sup>2</sup>*

The concern that women are disproportionately affected by the no recourse to public funds rule and therefore cannot access state support has been previously expressed

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<sup>2</sup> Unedited report of the CEDAW committee, Concluding Observations on the seventh periodic report on the United Kingdom of Great Britain and Northern Ireland, 26 July 2013

by the CEDAW committee. The risk that limiting access to private rented accommodation to those who can prove their immigration status, whether British national or not, is that there is a further restriction placed on state support for the most vulnerable. In their joint research published in 2011, the NSPCC and Refuge flagged that where women and children had insecure immigration status, it was frequently difficult to find them accommodation away from the perpetrator and in many cases, women felt forced to remain with perpetrators of violence in order to secure their immigration status.<sup>3</sup>

Additionally, the requirement that every adult in the household produces proof of their immigration status is likely to lead to additional tension within families and households. Where the family unit consists of one member who does not have immigration status, it may lead both to exploitation and abuse of that person, or an unwillingness on the part of the family to involve the police or other services where there is violence or where there are child protection concerns<sup>4</sup>. If a family are at risk of homelessness and if they bring to the attention of any second tier services that they live in rented accommodation without all members having proof of their immigration status, then tackling abuse, forced marriage or honour based crimes will become harder. It is difficult to see how increasing this risk among vulnerable and marginalised communities is in line with the Government's strategy on ending violence against women and girls.

**Consultation question 1: The focus of this policy is to check the immigration status of people who are paying money to live in accommodation as their main or only home. Given this focus, do you think the following forms of accommodation should be included in the landlord checking scheme?**

**(i) Properties rented out for one or more person(s) to live in as their main or only home (Yes / no / don't know)**

**(ii) Homes which are not buildings – including caravans and houseboats – if they are rented as the tenant's main or only home (Yes / no / don't know)**

**(iii) Homes which were not built for residential purposes – for example someone renting a disused office as their home, including “property guardians” (Yes / no / don't know)**

**(iv) Further forms of accommodation not described in the consultation (please specify further forms of accommodation) (Yes / no / don't know)**

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<sup>3</sup> NSPCC and Refuge report p89

<sup>4</sup> Irregular Immigration: an urgent need for a new approach, Migrant Rights Network, May 2009, p28

- (i) No
- (ii) No
- (iii) No
- (iv) No

See above summary of Rights of Women's response. Rights of Women does not accept that there should be a scheme to check the immigration status of those renting privately.

**Consultation question 2: Do you think the following forms of accommodation should be excluded from the landlord checking scheme?**

**(i) Social housing rented to tenants nominated by local authorities or to households provided accommodation under the homelessness legislation (Yes / no / don't know)**

**(ii) Privately rented accommodation offered by the local authority to a person to whom a homelessness duty is owed (Yes / no / don't know)**

**(iii) Sales of homes, including those purchased on a leasehold or shared ownership basis (Yes / no / don't know)**

**(iv) Accommodation provided by universities and other full-time educational**

**(v) Accommodation provided by employers for their employees (Yes / no / don't know)**

**(vi) Tourist accommodation such as hotels and guest houses providing short-term accommodation to tourists and business travellers (Yes / no / don't know)**

**(vii) Short term business and holiday lets (Yes / no / don't know)**

**(viii) Hostels providing crisis accommodation to homeless and other vulnerable people (Yes / no / don't know)**

**(ix) Hospital and hospice accommodation for patients (Yes / no / don't know)**

**(x) Care homes for the elderly (Yes / no / don't know)**

**(xi) Children's homes and boarding schools (Yes / no / don't know)**

**(xii) Other forms of accommodation not described above (please specify other forms of accommodation) (Yes / no / don't know)**

**(i)-(xii) All accommodation should be excluded.**

Rights of Women has experience of advising and assisting women who are subject to domestic abuse within the Government definition. Many women will be subject to coercion and to financial control and in addition will be threatened with loss of their immigration status, homelessness and separation from their children. In March 2010, a report by Homeless Link found that domestic violence was reported as a contributing factor for 21% of those migrants who were homeless.<sup>5</sup>

## CASE STUDY

*Through the Rights of Women Immigration and asylum legal advice line, Rights of Women advised a Thai national married to a British spouse and in the UK on a spouse visa. Following the probationary period for her visa, she sent her documents to the Home Office with her application for settlement. During the relationship, she suffered physical and mental abuse from her husband but she did not make the decision to end the relationship until after the application for settlement. Her husband refused to allow her to leave with the child as she had nowhere to live, and required her to work for him in order to earn the right to see her child. Her documents were with the Home Office although there was a risk that they had been returned to the former matrimonial home. She was therefore unable to demonstrate her entitlement to remain in the UK, unsure of her status and would be unable to rent a property for her and her child to live in, or seek support from the Local Authority. Her husband withheld access to their child on the basis of her lack of accommodation.*

Anecdotally, for the women who contact us, information regarding their rights to remain legally in the UK is critical to the decision to leave an abusive partner; however many women who are isolated and who have not had an opportunity to integrate as a result of the abuse they have experienced are left without access to this information or knowledge of this. In the period from April-July 2013, Rights of Women distributed 169 copies our guide on *Domestic Violence, Housing and Homelessness*. In addition, our guide on *Domestic violence immigration law and “no recourse to public funds”*, which includes information on s17 support and other housing options, was downloaded 5358 times from our website in the period 2012-2013.

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<sup>5</sup> Homeless Link, Homelessness among migrant groups: A survey of homelessness and refugee groups across England, March 2010 p16



If women are also excluded from emergency accommodation that is not a hostel or refuge, then it will act as a further barrier to leaving an abusive relationship. In a number of instances, Local Authorities are not able to accommodate women in crisis accommodation but instead fund their mid-long term placements in hotels or in other private rented accommodation.

The requirement to produce evidence of a lawful entitlement to enter or remain in the UK in order to rent private accommodation would not extinguish the duty of the Local Authority under the Children Act or under s21 National Assistance Act 1948 to assess a child or vulnerable person or to act in order to prevent a breach of convention rights. The availability of this accommodation includes when an application for leave to remain has been made, or when there is an appeal in process to the Home Office. A local authority is obliged not to terminate an immigration application through a refusal to provide accommodation.

The additional pressure on the Local Authority may necessitate alternative, and more expensive solutions, to providing housing to women and families. The view of Rights of Women is that the exceptions for homelessness and vulnerable individuals should be extended to those who are housed by the Local Authority under their powers under s17 Children Act and s21 National Assistance Act. This would allow local authorities to continue to house women and families in private rented accommodation **(No to subsections (i), (ii), (viii) and (xii))**.

Further, we submit that there should be information supplied by the Home Office in respect of applications made where there has been domestic abuse, that women who leave violent or abusive relationships may be able to access accommodation.

**Consultation question 3: The Government wishes to exclude tourist accommodation and short-term business and holiday lets from immigration checks because these do not usually represent the person's main or only home. However, the Government considers checks should be made if the person stays there for an extended period of time. After what duration of stay should an immigration check be required?**

- (i) At the end of one month;**
- (ii) At the end of two months;**
- (iii) At the end of three months;**
- (iv) At the end of four months;**

**(v) Longer than four months;**

**(vi) Don't know?**

**None of the above.**

Rights of Women considers that the exclusion of business accommodation may put families at risk of renting accommodation from unscrupulous landlords who have declared their properties as accommodation as for business purposes.

This is likely to be particularly acute in situations where landlords both house tenants and are directly or indirectly involved in providing them with work; this involvement may allow individuals to re-classify their accommodation and then make tenants homeless after 3 months<sup>6</sup>. Similarly, this will then exacerbate a situation of trafficking and exploitation where tenants are transported from one source of accommodation and employment to another. The consultation costs/benefit analysis recognises that the imposition of a duty to check documentation is likely to see a concomitant increase in the hidden economy.<sup>7</sup>

Rights of Women has advised women who are living in holiday lets to escape from perpetrators of domestic abuse with their children. One of the most profound difficulties raised was the requirement to leave the property and move to a different holiday let regularly, causing disruption to family life, removing support networks and uprooting vulnerable children from education.

Rights of Women further endorses the response of ILPA regarding the definition of the term "holiday home".

**Consultation question 4: The Government is interested to know whether it is appropriate to include lodgers and sub-tenants in the policy. Should the policy apply to:**

**(i) Owner-occupiers taking in paying lodgers where the lodger is living there as their main or only home (Yes / no / don't know)?**

**(ii) Tenants of privately rented accommodation taking in lodgers or sub-tenants as their main or only home (Yes / no / don't know)?**

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<sup>6</sup> In their report on Irregular Migrants, Migrant Rights Network reported from a case in the Daily Mail in which migrants who slept in the packhouse where they worked were victims of a fire because sprinklers were not properly installed; p28

<sup>7</sup> Consultation, p48

**(iii) Social housing tenants taking in paying lodgers or sub-tenants where the lodger is living there as their main or only home (Yes / no / don't know)**

**None of the above**

Rights of Women endorses the response of ILPA. The Government has previously suggested that renting a spare bedroom in social housing would be a way in which tenants could act to ameliorate the impact of the reduction to housing benefit for empty rooms in a social housing property. To then impose further obligations appears to further complicate this and to create an extra hurdle for those people who already face great difficulties in their rental obligations.

**Consultation question 5: If the Government does decide to include lodgers and subtenants, then who should be held liable for making the migration checks on the lodger or sub-tenant?**

- (i) Always the landlord's/owner occupier's responsibility;**
- (ii) Always the tenant's responsibility;**
- (iii) Unless they specifically agree otherwise, the landlord;**
- (iv) Unless they specifically agree otherwise, the tenant;**
- (v) Don't know?**

**None of the above.**

Rights of Women endorses the response of ILPA that the question reveals that the policy proposed is unworkable in practise.

**Consultation question 6: If you are a current or prospective tenant or lodger, and you are in the UK legally, would you readily be able to provide one of the forms of documentation that are in the list? (Yes / no / don't know / NA)**

**Consultation question 7: Are you in receipt of welfare benefits? If so, do you have in your possession a letter that is less than three months old and which evidences your entitlement to benefits that you could show to a landlord? Which benefits does this relate to?**

**Consultation question 8: What other evidence have you used to demonstrate your identity for official purposes?**

**Not applicable.** Although not directly in able to answer these questions, Rights of Women are able to provide the following response:

By requiring the production of documents that demonstrate a right to be in the UK women who leave situations of domestic abuse may not be in a position to show documentation, even where eligible. This is because anecdotally, abusers often withhold documentation as a means of control as stated above. In the Government's own definition of domestic abuse, included in the Modernised Guidance<sup>8</sup> on domestic violence there is explicit recognition that control may include:

*“depriving them of the means needed for independence”*

There is no general requirement to carry documentation that proves identity and EEA and British national citizens may not be in possession of such documentation. The checks are applicable to all tenants regardless of race or nationality. Therefore this requirement as proposed potentially affects all victims of domestic abuse and other exploitative situations because it presents an potential additional barrier to accessing housing and thus leaving the abusive situation

Identity to rent property can currently be demonstrated through the provision of proof of current address, bank details and bank statements or work references. Women who require immediate accommodation are able to obtain acceptable forms of proof of identity which would not demonstrate immigration status.

**Consultation question 9: When the requirement for employers to check employees' migration status was introduced, the Home Office estimated that employers would take on average two hours to familiarise themselves with the new requirements. Do you think the time required for landlords to familiarise themselves with the new requirements would be:**

- (i) shorter than two hours;**
- (ii) about two hours;**
- (iii) longer than two hours;**
- (iv) don't know?**

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<sup>8</sup> Modernised Guidance, UK Home Office, 29 July 2013 accessed 06 August 2013 at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/modernised/family/section4.pdf?view=Binary>, p9

**(iii) longer than two hours**

Rights of Women does not have direct experience of the employers' checking system but endorses the response of ILPA who have gathered experiences of the employers' checking system from a range of practitioner-members.

**Consultation question 10: When the requirement for employers to check employees' migration status was introduced, the Home Office estimated that employers would on average take 15 minutes to check the migration status of an employee. Do you think the time required for checking the migration status of a tenant would be:**

- (i) shorter than 15 minutes;**
- (ii) about 15 minutes;**
- (iii) longer than 15 minutes;**
- (iv) don't know?.**

**(iii) longer than 15 minutes**

See response to question 9, above.

**Consultation question 11: If the landlord or agent undertaking the migration status check has a specific enquiry that needs to be answered by email, what would be the maximum acceptable response period:**

- (i) one to two working days;**
- (ii) three to five working days;**
- (iii) More than five working days but less than two working weeks;**
- (iv) Two to three working weeks;**
- (v) Don't know?**

**None of the above.**

A response period in excess of 2 working days risks leaving migrants and their families without adequate housing. If there is delay in responding to queries, landlords are less likely to rent accommodation to those they believe will require extra work and delay that may result in a property sitting empty. Unlike the obligations on employers to treat all prospective and current employees with due regard to equality principles, and a route of challenge if they do not, landlords are not under any obligation to act fairly and exercise non-discrimination on the grounds of race or nationality.

Where an individual landlord is acting to rent a property, there is no available legal challenge to a decision not to rent the accommodation solely on the grounds of nationality, supposed or perceived nationality or race.

Rights of Women are concerned that this will have an adverse impact on families where there is more than one adult, as the number of checks that need to be undertaken will prolong the process.

**Consultation question 12: If you are a letting agent, would you be willing to provide a checking service on the prospective tenant's migration status? (Yes / no / Don't know)**

**Consultation question 13: If you are a letting agent who would be prepared to provide a checking service, would you be willing to have liability transferred to you for carrying out the check? (Yes / no / don't know)**

**Consultation question 14: If you are a letting agent who would be prepared to provide a checking service and accept liability, would you charge extra to check the migration status of a prospective tenant? (Yes / No / Don't know)**

**Consultation question 15: If you are a landlord who does not currently use a letting agent, would this policy prompt you to use a letting agent in the future if they agreed to accept the responsibility for checking the migration status of tenants? (Yes / no / don't know/N/A)**

**Not applicable.**

However Rights of Women endorses the response of the Immigration Lawyers' Practitioners' Association (ILPA).

Property agents are likely to gain from the proposals as individual landlords will want to pass on the liability for performing the checks to an agent. The cost of this will then be passed to the tenant. The recent report of Shelter on the costs of renting accommodation can be found here:

[http://england.shelter.org.uk/ data/assets/pdf file/0006/671649/Letting\\_agencies -  
\\_The\\_price\\_you\\_pay.pdf](http://england.shelter.org.uk/data/assets/pdf_file/0006/671649/Letting_agencies_-_The_price_you_pay.pdf)

**Consultation question 16: For properties rented out to a corporate tenant (i.e. a company), who should be responsible for making checks on people living in the property?**

- (i) The landlord;**
- (ii) The company that rents the property;**
- (iii) It is up to the landlord and company to agree but, in the absence of explicit agreement, the landlord should be responsible;**
- (iv) It is up to the landlord and company to agree but, in the absence of explicit agreement, the company should be responsible;**
- (v) Don't know.**

**None of the above.**

Rights of Women endorse the response of ILPA.

**Consultation question 17: If a tenant provides evidence showing they have limited leave to remain in the UK, when is the next time that the landlord or letting agent should be required to repeat the check of their immigration status?**

- (i) Immediately after their leave to remain expires (however soon after the initial check or far into the future that may be);**
- (ii) after a year (regardless of when their leave expires);**
- (iii) after a year or when their leave expires, whichever is later;**
- (iv) whenever the tenancy is renewed / renegotiated;**
- (v) don't know.**

As above, Rights of Women endorses the response of ILPA who have greater experience of the employers' checking scheme.

**Consultation question 18: If you are a landlord or letting agent: assuming that the legislation, enquiry service and guidance are in place by March 2014, what is the earliest date by which you will be ready to undertake checks on new tenants?**

- (i) April 2014;**
- (ii) July 2014;**
- (iii) October 2014;**
- (iv) January 2015;**
- (v) later**

**(v) later**

Rights of Women endorses the response of ILPA

**Consultation question 19: If the Secretary of State issues a notice of liability requiring the recipient to pay a penalty, it is proposed that the recipient should have the opportunity to deny liability and/or claim that one or more of a list of statutory excuses' exists, so that a penalty should not be payable. These objections must be considered by the Secretary of State, following which there is a further right of appeal to the courts. Do you think this approach provides sufficient safeguards for landlords and letting agents against a notice of liability issued unfairly? (Yes / no / don't know)**

**Consultation question 20: If a landlord or letting agent is found to have an illegal adult migrant as a tenant, they may be subject to a penalty. Do you consider that the following penalty levels (per adult illegal non-EEA migrant) are:**

**(i) too low;**

**(ii) about right;**

**(iii) too high;**

**(iv) don't know.?**

**£1,000 per migrant for landlords or letting agents who have not received an advisory letter or notice of liability within the past three years**

**£3,000 per migrant for landlords or letting agents who have received an advisory letter or notice of liability within the past three years**

**Consultation question 21: The Government is considering whether the policy should apply to lodgers and sub-tenants. If it is decided that it should apply to them, the Government is minded to apply lower penalties to those landlords who take into their home up to two lodgers or sub-tenants, if their lodger(s) and sub-tenant(s) are found to be illegal adult migrants. Do you consider the following penalty levels (per adult illegal non-EEA migrant) for such landlords are:**

**(i) too low;**

**(ii) about right;**

**(iii) too high;**

**(iv) don't know?**



**£80 per migrant for a landlord who has not received an advisory letter or notice of liability within the past three years £500 per migrant for a landlord who has received an advisory letter or notice of liability within the past three years**

**(19) don't know**

**(20) (iii) too high**

**(21) (iii) too high**

Rights of Women endorses the responses of ILPA regarding the civil penalties for breach of the proposed scheme.

**Consultation question 22: Should local authorities in England and Wales be able to take a person's previous record of complying with this policy into account when deciding whether that person is fit and proper (or competent) to hold a licence for (or manage) a House in Multiple Occupation? (Yes / no / don't know / NA)**

**Consultation question 23: Should local authorities in Scotland or the Housing Executive for Northern Ireland be able to take a person's previous record of complying with this policy into account when considering licence applications for a House in Multiple Occupation? (Yes / no / don't know)**

**No.**

Rights of Women endorses the response of ILPA regarding licences for a House in Multiple Occupation.

**Consultation question 24: [To be answered by landlords and letting agents] Given that you are already subject to the Data Protection Act, does the requirement to check tenants' migration status add substantially to the work you need to do in order to be compliant with the Data Protection Act? (Yes / No / don't know)**

**Consultation question 25: [To be answered by landlords and letting agents] On average, how long do you keep records of your past tenants?**

**(i) Dispose of immediately after the tenant's departure;**

**(ii) Up to a year;**

**(iii) Longer than a year;**

**(iv) Don't know.**

Rights of Women endorses the detailed response of ILPA regarding data protection.

**Impact Assessment**

The impact assessment in respect of the consultation does not set out or consider the full extent of the impact on families, and particularly women and children. Section 55 of the Borders, Immigration and Asylum Act 2009 requires that in all immigration decisions the Home Office has regard to the best interests of children.

It is clear that there will be a considerable impact on children where both adult relatives are required to demonstrate their immigration status in order to rent a property. Where both parents are unable to do so, the children will be at risk of homelessness or separation from a parent where they are unable to demonstrate their immigration status in order to access private rental accommodation.

As demonstrated above, it is also likely that children will be adversely affected by domestic abuse where one parent does not have immigration status and may not be able to access adequate, secure accommodation with a non-abusive parent. The duty under s55 to consider the best interests of the children cannot be satisfactorily discharged in the consultation merely by stating that this has no direct impact on children because they will not be required to prove their immigration status.