



To Whom It May Concern,

Re: The Overarching Code of Practice for Residential Property Agents

Surviving Economic Abuse (SEA) and Standing Together Against Domestic Abuse are two national domestic abuse charities working together to create a Whole Housing Approachⁱ that supports victim-survivors of domestic abuse to achieve housing security in the private rented and privately-owned housing sectors. We welcome the opportunity to respond to the consultation on the Overarching Code of Practice for Residential Property Agents and are sending this cover letter by way of providing context for our comments. We hope it will support your analysis and we would be pleased to talk to you about any of the issues raised in more detail as you shape your response.

As you may be aware, SEA is dedicated to raising awareness of economic abuse,ⁱⁱ as a form of domestic abuse, and transforming responses to it, with a focus on how this abuse takes place within the context of homeownership. Standing Together is a national charity bringing communities together to end domestic abuse, working nationally with the private rented sector through the Domestic Abuse Housing Alliance (DAHA).ⁱⁱⁱ

Domestic abuse is a structural, systemic problem, which is why we work with businesses and agencies, such as property agents, landlords and members of the RoPA working group such as ARLA and the IRPM, to raise awareness of domestic abuse and improve responses to it. We aim to encourage the private sector to take their part of the responsibility in addressing domestic abuse, and support this by providing the tools and confidence for them to do so.

This is vital. We know that perpetrators use the systems available to them (including in relation to acquiring, maintaining and selling property/ending leases) to carry out their abuse and, without the support and awareness of the whole community, victim-survivors will be unable to achieve safety and independence. Domestic abuse is a leading cause of homelessness and housing is a fundamental economic resource. Victim-survivors cannot be safe and rebuild their lives without access to safe, appropriate accommodation.

The link between property and domestic abuse

Research has highlighted the link between property agents and domestic abuse. In May 2019, the Peabody Trust commissioned the University of Bristol to analyse data from the Justice, Inequality and Gender Based Violence project through a housing lens.^{iv} It was identified that many victim-survivors living in privately rented and privately owned accommodation faced significant barriers to becoming safe from the abuse and maintaining a safe and secure home. Simply put, victim-survivors were "forced to choose between their home - in which they have invested for years in some cases - and their

safety''. However, the study also revealed that that property agents had (or could have) played a vital role in supporting survivors to stay safe within their homes.

By its very nature, domestic abuse takes place in the home, and property agents may be the first or only professionals that a victim-survivor can reach out to. As such, we believe it is vital that property agents know how to respond, and it is in this spirit that we submit our response to the consultation. Indeed, as the build-to-rent sector, and the sector in general, continues to grow, the role of the PRS to safeguard communities will become ever more important.

We also know that victim-survivors face huge economic costs and barriers to securing safe accommodation in the PRS and when purchasing privately, with the 'cost of leaving' regularly reaching many thousands of pounds. Many victim-survivors find it impossible to find a safe place to live with no money and a damaged credit rating. However, this credit rating is not a reflection of their financial capability, including the ability to pay housing costs regularly and reliably, but a reflection of the perpetrator's abuse. Acknowledgement of this would open the door to working supportively and flexibly with these customers and transform housing accessibility. For example, exercising discretion when considering creditworthiness and flexibility with deposits would make a huge difference to access to suitable housing for victim-survivors.

We know that victim-survivors can be trapped in tenancies and mortgages with joint and several liability to pay the rent, with many perpetrators undermining this through economic abuse, such as creating arrears by refusing to contribute to the housing costs and/or generating other debts. This is not an unusual occurrence; 60 per cent of victim-survivors reported that the perpetrator deliberately built up debt in their name.^v It is perhaps unsurprising that women who have experienced domestic abuse received section 8 eviction notices due to rent arrears at four times the rate of the general tenant population,^{vi} and it is estimated (conservatively) that 10 per cent of all repossessions involve domestic abuse.^{vii} It is key that property agents are aware of how perpetrators can use property within abuse and can respond effectively.

We also hear from victim-survivors of how estate agents can be used as a tool in the abuse. For example, perpetrators may: manipulate them to inflate or deflate the asking price to the detriment of the victim-survivor; sabotage viewings or use them to gain access to the victim-survivor's property, and; even threaten agents to the point that no firm is willing to instruct a sale, leaving the victim-survivor tied to the perpetrator. An aware and understanding estate agent can be the difference between a victim-survivor being able to sell a home and remain on the property ladder or repossession.

Developing property agents' response to domestic abuse

Developing the response of property agents to domestic abuse is vital to overcome the issues outlined above. As concluded by the National Housing and Domestic Abuse Policy and Practice Group (NHDAPPG),^{viii} the PRS needs to be better informed and aware of what constitutes domestic abuse to improve its response and adhere to safeguarding responsibilities.^{ix} Similarly, it identified that estate agents have a role to play in identifying economic abuse used in the sale or purchase of a home and supporting customers safely. In response to a consultation on the Domestic Abuse Bill, the NHDAPPG also made several recommendations to ensure that policies related to housing do not

undermine victims-survivors' ability to escape from domestic abuse and rebuild their lives.^x

It is in the same spirit that we have submitted the attached consultation response to the Overarching Code of Practice for Residential Property Agents. The introduction of an Overarching Code is a key opportunity to highlight and clarify the role of property agents in responding to domestic abuse and lay the foundations for a consistent response. Within the consultation we address three key points:

1. Through the Code, there is a vital opportunity to set a standard for residential property agents to work with victim-survivors of domestic abuse and their children fairly and safely, recognising that their experiences of domestic abuse place them in a disadvantageous position to have fair and equal access to housing.
2. Property agents must use their duty of care and act with due skill, care and diligence to ensure that victim-survivors of domestic abuse and their children are treated fairly and have equal access to housing.
3. In order to achieve this, agents must be supported by training, policies and procedures for safely, consistently and effectively responding domestic abuse within their professional remit and capacity. This training must be specific to the context that each professional is working in and cover economic abuse to aid an understanding of how perpetrators undermine housing security for victim-survivors.

We know from our work that property agents are eager to address domestic abuse and we look forward to working with you to create a framework that is truly transformational. Lack of access to economic resources, such as suitable housing, are the primary reasons that women stay with a perpetrator for longer than they want to and have no other choice but to return to the abuse. Enabling agents to act with due care with victim-survivors of domestic abuse and their children is crucial for the millions of women and children who are living in the private sector and need the support to rebuild their lives and avoid homelessness.

We would be happy to meet and collaborate with the Working Group to discuss this and other aspects of the regulations, as work develops in this area, to ensure that it is informed by the needs of victim-survivors. If this would be of interest, please contact Stephanie Orr on the email address below.

Kind regards,

Stephanie Orr (Policy Officer, SEA) and Deidre Cartwright (PRS Development Manager, Standing Together)

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Draft Code of Practice: RICS and TPO's Regulation of Property Agents (RoPA)

Consultation Response - September 2020

This response has been submitted online, as per RICS instructions. It is accompanied by a cover letter to give context to the following comments.

Section 1 comments (points 1-9)

1g

When considering mandatory reporting of criminal activity, added consideration should be given to circumstances where a crime encompasses any form of gender-based violence and abuse, and specifically any form of domestic abuse. We agree that property agents should be advised and encouraged to contact the police where there is an immediate risk of harm to an adult or child, however, where that is not the case but domestic abuse is suspected, a different response should be taken. This is because contacting the police in some cases may place the victim-survivor and their children at an increased risk of harm.

Standing Together work with health care professionals and have witnessed the confusion facing staff when guidance about responding to criminal activity is too broad, unclear or contradictory, and so it is key that the Code is as clear as possible. National guidance is currently available to agents working in the private rented sector (PRS), as set out in the PRS Domestic Abuse Toolkit provided by the Domestic Abuse Housing Alliance (DAHA). This Toolkit advises that property agents should initially take steps to support their tenant to gain advice from national and local specialist domestic abuse services. This will enable the tenant to make an informed and safe decision regarding contacting the police. In response to safeguarding concerns for the adult victim-survivor, perpetrator or any child, the guidance outlines that a property agent should follow safeguarding guidance and procedures.

The Overarching Code is an ideal opportunity to align with this existing guidance, and further work could extend and expand on this so this it is available to all agents as suitable to their role, ensuring consistency across all sectors. We know how transformational this can be in the private sector; Surviving Economic Abuse has delivered specialist training to several banks and building societies to support them to recognise economic abuse and implement a voluntary code of practice on Financial Abuse, created by UK Finance. The training highlighted that in addition to a clear code of practice and accompanying guidance, it is important that the industry receives specialist training in order to

effectively implement its principles, remove any ambiguity and provide the best response to victim-survivors. We suggest that point 1g of the Code is expanded to address the unique circumstances of responding to domestic abuse. A specific, supplementary guidance document may aid this, and we would be happy to work with the Working Group to develop this or any alternative.

In addition, we suggest that, for a property agent to safely and effectively respond to a suspected crime linked to domestic abuse, they should be provided with adequate safeguarding training that covers understanding and responding to the dynamics of domestic abuse, including economic abuse. We respond to this in section 2, addressing point 13b.

3a

A key area of the Code is the focus on the fair and equal treatment of all customers, and it is important to acknowledge that experiences of domestic abuse can place someone at a disadvantage in relation to fair and equal access to housing. The perpetrator may be directly controlling and restricting this or do so indirectly by undermining economic opportunities more broadly. Gender-based violence, which includes domestic abuse, is disproportionately experienced by women; a cause and consequence of gender inequality. It is a form of discrimination against women and therefore a breach of the human right to equality and non-discrimination. Women experiencing domestic abuse may be further disadvantaged by intersecting characteristics or aspects such as ethnicity, disability and immigration status.

As outlined further below (point 5), responding to domestic abuse is everybody's business and is inarguably critical to ethical and competent practice. Property agents are uniquely placed to pick up signs of abuse and may be a victim-survivor's only point of contact with a professional, especially those most marginalised and isolated. As such, agents need to be equipped to respond effectively and appropriately. This includes taking into account the victim-survivor's circumstances and any disadvantages and relevant characteristics. As such, whilst responses to domestic abuse must always adhere to overarching principles, they must be tailored to the individual victim-survivor and their situation.

For example, a woman on a spousal visa who lives in her husband's home will have very limited choices when it comes to accessing safe housing and may have narrow avenues to seek support. She will likely be fully economically dependent on her husband, who in the context of domestic abuse will be the perpetrator, and may have no credit record of her own in the UK. In addition to legislative barriers, she may fear discrimination from agencies, making it more difficult to speak out and seek support. There could be a greater fear of police than is typical and immigration advice will likely be crucial to decision making. This is one example of a multitude of circumstances, and highlights how multiple factors need to be considered together with our comments regarding point 1g on reporting criminal behaviour and ensuring the safety of victim-survivors and their children.

3b

We are pleased to see that economic circumstances are highlighted as reason to take special care when working with customers. For the majority of women who experience economic abuse as a coercive and controlling tactic within domestic abuse (95%), this will be significant. For example, many victim-survivors find it impossible to find a safe place to live with no money/substantial debts and a damaged credit rating. However, this credit rating is not a reflection of their financial capability, including ability to pay housing costs regularly and reliably, but a reflection of the perpetrator's abuse. Acknowledgement of this would open the door to working supportively and flexibly with these customers, for example exercising discretion when considering creditworthiness and flexibility with deposits would make a huge difference in access to suitable housing for victim-survivors. As such, experience of economic abuse should be considered as a specific economic disadvantage.

We also suggest that direct mention is given to domestic abuse as an issue that a property agent should take special care when dealing with. As we detail in our response to section 2, property agents should be provided with adequate guidance and training to provide 'special care' to those experiencing domestic abuse, or any form of gender-based violence, as the consequences of not doing so could increase the risk of harm including homicide for the victim or children in the most extreme cases.

4b

An all too common feature of economic abuse is fraud and coercion. Surviving Economic Abuse speaks to many women whose partners have coerced them into joint tenancies and mortgages or applied fraudulently without their knowledge. Where the Code stipulates a good working knowledge of contract law and strict observation of legal responsibilities, it is important to understand how this operates within economic abuse.

Given that a contract can be rendered invalid if coercion plays a part in it, there is also a business case for robust policies to detect and deal with this, to ensure all contracts are legally valid and are not breached, in addition to the moral case for doing so. Where agents have a duty to ensure that a realistic prospect of coercion is absent from the transaction, an understanding that domestic abuse frequently takes place within a context of coercion is essential. The Crime Survey for England and Wales estimated that 7 million people experienced domestic abuse in the year ending March 2018, meaning that this will be a significant proportion of the consumer body.

It is important to note that where fraud or coercion are detected within this context, the response must be carefully considered and cannot be one-size-fits-all. As highlighted in response to point 1g, any actions against a perpetrator of abuse have the potential to place the victim-survivor at a greater risk of harm.

5

When considering a duty of care, this will also apply to adult victim-survivors of domestic abuse with safeguarding needs, as stipulated under the Care Act 2014, as well as a duty of

care to any children experiencing domestic abuse as a form of child abuse, as outlined in the statutory guidance, Working Together to Safeguard Children (2018).

We advise that, for property agents to be able to fulfil their duty of care to adults and children experiencing domestic abuse, they need to be supported with adequate policies, procedures, training and guidance as specified in our response to section 2. We recommend signposting or referral to specialist domestic abuse services and/or for support to increase economic safety when there is a need/risk identified and would be happy to have further discussions about guidance or appropriate courses of action.

Section 2 (points 10-15)

13b

For property agents to fulfil the requirements of 1b, 1g, 3a, 3b and 5a-f, they need to be supported by training, policies and procedures for safely, consistently and effectively responding to domestic abuse within their professional remit. It should be the responsibility of the property agent to develop adequate policies and procedures for safeguarding customers, including domestic abuse.

As part of the Whole Housing Approach project, Surviving Economic Abuse and Standing Together work with agencies to develop policies and procedures to ensure that they are safe and do not inadvertently facilitate abuse, and to deliver specialist training. We support agencies to take positive steps to support victim-survivors to achieve or maintain housing security and minimise the impact of economic abuse. It is important that any training is specialised to ensure that property agents working in distinct roles and settings understand how domestic abuse operates within that context, so that they can recognise it. This means that economic abuse must be covered within training. We are happy to discuss this further with the Working Group as the appropriate stage is reached within the regulatory process.

In addition, national specialist organisations such as the Domestic Abuse Housing Alliance can be accessed by local authorities and landlords to provide support and guidance for developing and delivering training, drafting guidance, policies and procedures to support property agents.

ⁱ The Whole Housing Approach (WHA) endeavours to improve the housing options and outcomes for people experiencing domestic abuse so that they can achieve stable housing, live safely and overcome the abuse and its harmful impacts, <https://www.dahalliance.org.uk/what-we-do/whole-housing-approach/>

ⁱⁱ Through economic abuse, an abuser may restrict how their partner acquires, uses and maintains money and economic resources, such as accommodation, food, clothing and transportation.

ⁱⁱⁱ The Domestic Abuse Housing Alliance (DAHA) is a national partnership between housing associations Peabody (London) and Gentoo (Sunderland), and Standing Together Against Domestic Violence, <https://www.dahalliance.org.uk/>.

^{iv} [https://research-information.bristol.ac.uk/en/projects/justice-inequality-and-gender-based-violence\(49bc49cc-1db3-4675-b2ed-94a46555a0e9\).html](https://research-information.bristol.ac.uk/en/projects/justice-inequality-and-gender-based-violence(49bc49cc-1db3-4675-b2ed-94a46555a0e9).html).)

^v Surviving Economic Abuse (2019) Midterm Report of the Economic Justice Project

^{vi} Jackson, R. (2013) The Role of Registered Social Landlords in tackling domestic abuse in Gwent and the wider implications

^{vii} Walby, S. (2004) *The Cost of Domestic Violence*. London: Department of Trade and Industry, Women and Equality Unit.

^{viii} The National Housing and Domestic Abuse Policy and Practice Group is led by DAHA and aims to find consensus, share best practice and influence policy and practice on domestic abuse and housing in England, <https://www.dahalliance.org.uk/what-we-do/national-group/>

^{ix} Domestic Abuse Bill. Consultation response from the National Housing and Domestic Abuse Policy and Practice Group. May 2018

^x Surviving Economic Abuse (2018) *Transforming the response to domestic abuse*. SEA May 2018. Response to the Government consultation see https://survivingeconomicabuse.org/wp-content/uploads/2019/01/Bill-doc-_May-2018.pdf