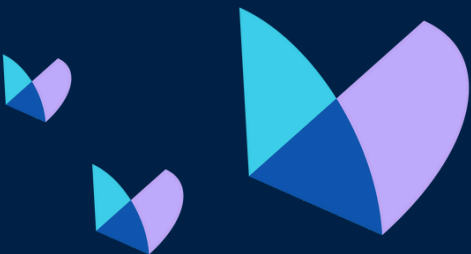


Consultation Response:

Department for the
Economy Consultation
on Domestic Abuse
Safe Leave

September 2024



Introduction

Nexus has almost 40 years' experience offering a specialised professional counselling service to people impacted by sexual abuse and abusive relationships. We can provide support to anyone impacted by sexual abuse from age 4 and upwards, availability of children's counselling depends on available funding. Our Early Intervention and Prevention Training team provide a range of bespoke training and workshops that are available to schools, workplaces, volunteer groups, higher education institutions, individual practitioners, community groups, sports teams, voluntary and charity groups, and businesses.

As a charity that supports people impacted by abusive relationships, we welcome the opportunity to provide our expertise on the Domestic Abuse Safe Leave consultation by the Department for the Economy. Having access to paid safe leave is a vital opportunity for people impacted by domestic abuse and abusive situations to seek support, safeguard themselves and any dependents, and have the space and resources to deal with any issues relating to domestic abuse.

The following comments, recommendations, and questions are based on our expertise and experience supporting people impacted by sexual abuse and abusive relationships, as well as feedback from our clients on their experiences with accessing support from their employers.

Background

The Domestic Abuse (Safe Leave) Act 2022 created a provision for an entitlement to paid safe leave for victims of domestic abuse and for “connected purposes”. The Department for the Economy, through the consultation process, is introducing regulations in accordance with the Safe Leave Act to “to entitle employees and workers, who are victims of domestic abuse up to 10 days paid safe leave in each leave year for the purpose of dealing with issues related to that abuse”. Responses to the consultation will help the Department determine:

- How to develop a legislative framework which enables employers to provide support to employees who are dealing with the challenges of domestic abuse;
- The process for taking safe leave;
- The regulatory, equality and other impacts of the policy.

1. Specified Abusive Behaviours

We agree with the Department’s proposal to include all the abusive behaviours outlined below in its definition of abusive behaviour:

- Physical abuse
- Psychological abuse
- Sexual abuse
- Financial abuse
- Emotional abuse
- Controlling behaviour
- Coercive behaviour

We also recommend including the following:

- Cyber Abuse
- Digital Abuse
- Harassment
- Stalking

2. Specified Relationships

We agree with the Department's proposal to include the following relationships should be included within the regulations:

- Is or has previously been married to each other
- Is or has previously been in a Civil partnership
- Is or has previously been living together as partners
- Is or has previously been in an intimate relationship with each other
- Members of the same family
- Parent
- Grandparent
- Grandchild
- Sibling / step sibling / half sibling
- Stepchildren / stepparents
- Child

We also recommend including the following:

- Aunt
- Uncle
- Nephew
- Niece
- Cousin

3. Purpose of Safe Leave

We would recommend specifying the following under "issues related to domestic abuse":

- Attending counselling
- Accessing domestic abuse services
- Accessing services from a victim services organisation
- Working with the PSNI, Children's Social Services, and other statutory agencies
- Arranging childcare or school needs

- Arranging carer responsibilities
- Appointments relating to criminal or civil justice proceedings, such as family court, obtaining protective orders
- Attending medical appointment due to conditions exacerbated by domestic abuse and/or abusive behaviours

Including "issues related to domestic abuse" in the regulations document provides an additional layer of protection for employees to access safe leave provisions. The guidance, whilst useful, will not be binding and would leave employees less protected if they request safe leave that does not fall strictly within the regulations. To further strengthen these protections, we would recommend including the rest of the sentence from Paragraph 4, Section 1 of the Domestic Abuse Safe Leave Act "Issues related to domestic abuse include but are not limited to..." explicitly.

4. Giving Notice to Employers

It is imperative that the employee taking safe leave as a result of domestic abuse or issues relating to domestic abuse are able to do so without impediment. The department should issue guidance around how to take safe leave, but this should not be a legal requirement in order to safeguard the employee during a potentially life-threatening situation. The workplace should be sensitive to the gravity of the employee's situation, therefore including regulations on how and when safe leave can be taken is restricting the ability of the employee to make a decision about their welfare and the welfare of any dependants. As the policy document states, safe leave is a completely different process to taking parental leave, sick leave, or holiday time due to the time sensitivity, safeguarding concerns, and emergency situation, and therefore should not be subject to the same or similar standards.

Employees who are impacted by domestic abuse or abusive behaviour will already be in a state of anxiety, fear, and survival, which will only be compounded by being bound by regulation to disclose the reason for their safe leave. The safety and consent of the employee is paramount, especially in the context of an abusive situation.

5. Pay

Any employee should be awarded their full normal pay without any deductions, as the safe leave regulations are for extenuating circumstances and do not detract from the quality, quantity, and output of the employee.

6. Operation of Safe Leave

The Safe at Home, Safe at Work and Developing a Workplace Policy on Domestic and Sexual Violence and Abuse are comprehensive examples that should be replicated in the Department's guidance. We recommend including the following:

- A section on assessing and monitoring compliance with the regulations, including the legal requirements and frequency of monitoring processes.
- As in our answer to Question 14, we would also recommend including a detailed section on the Early Conciliation and Tribunal process to provide further information for employees.
- As many workplaces recognise various trade unions, we would like to see the inclusion of the role of trade unions in developing workplace guidance to ensure the protection of employees.
- A section on reporting, confidentiality and ensuring a "need to know" basis for employees' information, circumstances, working arrangements, and data protection.

- A section on workplace guidance for any employee or employer alleged to have committed an act of violence and abuse in the workplace, during work hours, or using workplace equipment. This section should also include guidance on if a disclosure is made regarding an employee or employer that is not related to the workplace.
- A communication plan to disseminate information on the guidance to all employees and to house the guidance in an accessible channel.

We also propose including a list of recommended training topics for employers and employees, as well as providing contact information for trusted and accredited training providers.

Further, we recommend a more detailed section on the Early Conciliation and Tribunal process to be available for employees to access should they need to escalate a matter regarding their safe leave. Further descriptions of the process would provide guidance for how a Tribunal functions, what employees can expect, and what support is available, such as a union representative.

Conclusion

In summation, the Domestic Abuse Safe Leave regulations will provide a safeguard for employees to take paid leave without suffering any financial detriment or risk to their employment. We strongly agree with the protections in the regulation for employees regarding notification of leave and awarding normal pay, and we advise that the regulations include details on monitoring and compliance, inclusion of trade union representation, protections for employees who have been abused by a coworker or employer, and a list of recommend training for employers and employees.

We also submit the following for consideration:

The consultation states, “the purpose of safe leave is to deal with ‘issues related to domestic abuse’” - as a charity that supports people impacted by sexual abuse and abusive relationships, we want to highlight the importance of including and recognising the term ‘abusive relationships’.

From the legislation -

Paragraph 1, Section 1 of the Domestic Abuse (Safe Leave) Act 2022 states that an employee is a victim of domestic abuse if -

1. the employee is being, or has been, subjected to abusive behaviour by a person to whom the employee is connected, and
2. such other conditions as may be specified are satisfied.

Paragraph 3 states “the regulations must include provision as to the meaning of being subjected to abusive behaviour, and as to the criteria for being connected to another person, for the purposes of paragraph (2); and the regulations may do so by reference to

provisions of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 or by applying other statutory provisions (with or without modifications)".

As the legislation states, a victim of domestic abuse is defined as being subjected to abusive behaviour, which we strongly recommend is highlighted explicitly in the Safe Leave Guidance and Regulations to account for the stigma of the term 'domestic abuse'. To illustrate this point, some people do not identify what they are going through as 'domestic abuse' due to not cohabitating and therefore not living in a 'domestic' situation.

Further Information



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