



Response on the consultation on Domestic Violence Leave for the Steering Committee of the National Strategy on Domestic, Sexual and Gender-based Violence

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Introduction

Women's Aid is a leading national organisation that has been working in Ireland to stop domestic violence and abuse¹ against women and children since 1974. In this time, the organisation has built up a huge body of experience and expertise on the issue, enabling us to best support women and share this knowledge with other agencies responding to women experiencing domestic violence. More information on the Women's Aid services is provided in Appendix 1.

Women's Aid endorses the introduction of paid Domestic Violence Leave in Ireland as a vital support for survivors, and welcomes the opportunity to make this submission. Financial independence from the perpetrator is essential for women experiencing domestic abuse and employment is a key element of financial independence. Women's Aid believes that paid Domestic Violence Leave, as part of a comprehensive package of workplace measures, can play an important role in supporting abused women to remain in employment and therefore expanding their agency and choices.

Statistical Data on Domestic Violence

The EU Fundamental Rights Agency² survey on violence against women has found that in Ireland:

- At least 1 in 4 women in Ireland have been subjected to some form of abuse (emotional, physical, sexual) from a current or former partner.

The FRA data explorer also provides data for Ireland which is disaggregated by employment status.

Of relevance:

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- 1 While recognising that the legal term in Ireland is 'domestic violence' we acknowledge that many victims/survivors identify more with the term 'domestic abuse' or 'intimate partner violence'. Women's Aid uses these terms interchangeably in this submission to refer to the same set of abusive behaviors perpetrated by current or former intimate partners (including emotional, physical, sexual and financial abuse and coercive control).
 - 2 European Union Agency for Fundamental Rights, Violence Against Women: an EU-wide survey Main results, 2014.



- 13% of **employed** women have experienced sexual and/or physical violence by a partner since age 15 and **3% in the last 12 months**³
- 31% of **employed** women have experienced psychological violence by a partner since age 15 (12 months data not available)
- 24% of **employed** women know a victim of domestic violence where they work (or study). This suggests that information on how to respond and support colleagues experiencing violence could be very useful.

Domestic Violence and Time Off Work

A 2014 survey carried out by the Trade Union Congress in the UK and the Republic of Ireland found that domestic violence affects performance and attendance at work. Of those who experienced domestic violence over 40% said the abuse affected their ability to get to work and 56.7% said they had to take time off work as consequence of the abuse.

Women living with or escaping from domestic abuse may have a number of urgent and important matters to attend to related to the abuse they experience. These include: medical visits, attending and preparing for a number of criminal and civil legal proceedings, counselling for themselves or their children, looking for a new home, relocating, changing children's school, visiting specialist domestic violence services.

It may not be possible to attend to these matters outside of working hours because the services are not available or because the woman may need to hide her activities from the abuser. Women do not have a choice of time for appointments with specialist support organisations, solicitors or for court proceedings.

3 FRA data explorer, accessed 1st March 2021 <https://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey>, selecting Employed as Employment status. Note however that the employment status is the status at the time of the survey, which may or may not be the same as the status at the time of victimisation. Obviously for data "in the last 12 months", employment status at time of victimisation is more likely to correspond to status at the time of survey than for data "since age 15".



Currently women may have to take Annual Leave or often, when that is exhausted, unpaid leave. Many women already have a limited income and a wage cut due to unpaid leave may be very difficult to manage. In certain cases, they may leave or lose their job.

Response to Consultation Topics

Scope of Bill

1. How should this paid leave operate to best address the needs of victims?

Paid Domestic Violence Leave should be a statutory entitlement available to **all** employees and should work in a similar way to Statutory Sick leave or Force Majeure. It is important that Domestic Violence Leave should not be restricted to permanent employees. The majority of victims of domestic abuse are women, who are also more likely than men to be in non-permanent, part-time and casual work. Women experiencing domestic abuse are more likely to have disrupted work history and are more likely to be in casual or part-time employment than women who do not experience such violence⁴. It is therefore essential that leave is available to all employees including casual staff.

Notice of Leave

While employees should be required to give advanced notice of leave when possible, there may be emergency situations when this is not possible (for example when having to attend court for an urgent ex-parte order, when having to escape to a refuge) and this should be allowed for. It therefore needs to be treated in a similar fashion to Force Majeure whereby it can be applied at short notice.

⁴ McFerran, L (2011) 'Safe at Home, Safe at Work', National Domestic Violence and the Workplace Survey, Australian Domestic and Family Violence Clearinghouse, A Project of the Centre for Gender- Related Violence Studies and Micromex Research, University of New South Wales (National Domestic Violence Workplace Survey 2011), page 2.



2. What would be your concerns around introducing paid leave for domestic violence?

Our concerns are that there would be too many barriers to paid leave for domestic violence being requested or granted including:

- employers requiring high level of proof of domestic violence such as accepting only Police reports or court orders (see below)
- lack of awareness of the paid leave as an option
- fear that confidentiality will not be maintained
- stigma and shame

In order to limit these barriers, it is important that once paid Domestic Violence Leave is introduced, there should be an awareness-raising campaign to promote it and to reassure employees that confidentiality will be maintained and that there will be no repercussion for an employee's performance record for availing of the Domestic Violence Leave or disclosing abuse. Ideally all employers should introduce clear domestic abuse policies and procedures to create a clear, consistent and transparent context for responding to employees suffering abuse, and employees perpetrating abuse. There should not be an emphasis on requiring proof for employees to avail of this leave. See below Q3 in the Terms of Leave Section.

3. What benefits would the introduction of paid leave pose for survivors of domestic violence?

Paid Domestic Violence Leave is used in other jurisdictions for survivors to be able to attend to important and urgent matters related to domestic violence, which cannot be dealt with after hours or which need immediate attention. These matters may include: attending legal proceedings, appointments with solicitors, counselling and medical appointments for themselves or their children, relocation (including of children's school or care arrangements), or other actions needed to attend to safety needs or respond to the situation.

In order to attend to these matters many survivors currently have to take Annual Leave or other forms of leave. However, they may not be eligible for other leave such as Sick Leave if they are well,



and they should not have to use Annual Leave, which is meant for rest, to deal with domestic violence. Once all paid leave is exhausted survivors are in the position where they have to ask for discretionary and unpaid leave. In certain cases, they may lose their job.

Therefore, the introduction of paid Domestic Violence Leave offers survivors a number of important benefits including:

- retaining employment and financial independence, which is critical to being able to make choices about leaving
- reducing the risk of poverty and deprivation
- enhancing safety
- repositioning responsibility to the external factor of the abuser
- supporting dignity in the workplace
- the request of leave could be an opportunity to offer other forms of support and link in with specialist organisations
- offering potential cover to seek specialist support while the abuser believes them to be 'in work'
- retaining Annual Leave/other forms of leave for their appropriate purpose

As noted, we also envisage that paid leave would be but **one** aspect of a broader Domestic Violence and Work Policy that would also support survivors in other ways (see below).

4. How could the Leave be utilised to best support victims and what economic activities should be covered by the Leave?

The purpose of the Leave is to facilitate survivors in attending activities directly related to their experience of domestic abuse, which they cannot attend to outside of working hours. This could be because these activities are at a specific time which cannot be changed, (e.g. Court), because



they are not open after hours or because it is safer for the survivor to attend while the perpetrator thinks they are at work.

Domestic Violence Leave should include activities which are not already covered by other forms of leave such as Sick leave or Force Majeure. This can include for example: visits to specialist support services, Garda, solicitors, court hearings, medical or counselling appointments, accompanying children to support services, looking for a new home and moving, changing children's school or crèche.

The list of activities should not be exhaustive, and should remain open to the needs of the individual survivor. The test should be if the activity is related to the domestic violence the employee is experiencing and needs to be done during working hours.

Terms of Leave

1. What would be an appropriate number of paid days' leave?

Women's Aid suggest that the Leave should be at minimum 10 days per rolling 12-month period. This is not overly-generous, for example in Australia and in the UK many Collective Bargaining Agreements grant 20 days paid leave. In Italy the law provides for 3 months over 3 years of paid leave. Note that it should be possible to break the Leave into hours, as the necessary activity to be undertaken may not need a full day.

2. Should provisions be made to allow for additional unpaid leave?

Yes, as in certain cases 10 days may not be enough, and additional unpaid leave may be necessary. Unpaid leave should work similarly to Maternity Leave provisions and could be even more generous than 10 days.

3. How could proof/evidence requirements to an employer be satisfied? What would be considered appropriate and accessible 'proof'?

Special Leave for Domestic Violence is about granting leave for a survivor to attend to necessary activities to deal with the abuse they experience. We don't advocate an emphasis on proof but rather



employing a holistic approach based on policies and procedures to support managers and HR staff to engage with employees in a supportive way, which includes safety planning, referrals, flexibility and paid leave, as necessary.

We would firstly advocate an approach based on trust and collaboration. Our primary position is that this will be sufficient given the low likelihood of an employee unnecessarily disclosing an experience of domestic abuse for anything but authentic reasons. This issue carries with it stigma and shame which any statutory measures ought to try to mitigate and not exacerbate by requiring further 'proof' of abuse.

However, and only if serious concerns arise after a period of time and in relation to continuing application of this Leave an employer might ask for evidence to confirm the Leave was for the purpose of attending an activity associated with domestic violence. This could be a letter attesting the employee attended court, the Gardaí, a solicitor, specialist support service/counselling or other appointment for themselves or their children, as relevant to their particular circumstances. It is very important that, should such a provision be included, a wide range of proof is allowed and that evidence is not limited to court orders or Garda reports, as the majority of women do not report the abuse and do not have domestic violence orders.

As noted above, Women's Aid does not believe it likely that this would be a form of leave that would be 'abused'. In fact, in Australia research by the University of New South Wales investigating the implementation of domestic violence clauses in selected workplaces, shows that both the uptake of Domestic Violence Leave and the number of days taken are low.

The UNSW Report found that only 35.3% of employers offering Domestic Violence Leave had received a request for this Leave in the previous 12 months. This means that the majority of these employers had no Domestic Violence Leave requests. Of those that had requests, the average time off for paid leave in the previous 12 months was 43 hours (ranging between 8 and 202 hours). The



average time off for unpaid leave was in the previous 12 months was 19 hours (ranging between one and 65 hours).

The Australian Council of Trade Unions confirms this is consistent with what other employers have identified. For example, Telstra, which has approximately 33,000 employees, stated that for the period November 2014 (when the Family Violence Policy was introduced), to July 2015, only 17 individuals across Australia had used the leave entitlement (12 women and 5 men), taking a total of 45 days leave. In Italy, uptake had been extremely low, with only 150 women having requested it more than one year after it became available, although this is possibly because women are not aware of this entitlement.

4. Should the evidence requirement for paid leave be the same as for unpaid leave for domestic violence?

Yes, in that we do not recommend an evidence requirement. See response to Q 3. Above

5. What other arrangements could employers implement to support employees (e.g. short-term flexible working arrangements, workplace safety policy)?

Women's Aid believes that paid leave is only one element of a number of supports that should be available to employees subjected to domestic violence. All employers should ensure that they have a clear and accessible domestic violence policy to support affected staff and encourage and facilitate application for paid leave, if required. The arrangements below should be considered for inclusion in such policies to support employees and increase their safety (this list is not exhaustive):

- short-term, flexible working hours and the possibility of changing hours and shift patterns
- remote working or change of location or duties where possible
- change of employees work contact details such as email or phone number
- safety planning to increase safety in the work place



- financial support (e.g. pay advance to cover relocation)
- protection from dismissal or adverse action against an employee because of domestic violence
- referrals to specialist organisations
- access to designated staff trained in domestic violence within the workplace

More generally, awareness-raising activities in the workplace, including signposting to clear policies and information on the rights of employees who are victims of domestic abuse would help in promoting a supportive culture and facilitate disclosure. Training of managers and HR staff is also key to provide appropriate support.

6. What other elements should be considered when examining domestic violence leave (e.g. safeguards, workplace safety)?

A key consideration in regards to Domestic Violence Leave (or other supportive arrangements as outlined in point 5 above) is confidentiality. Records of Domestic Violence Leave must be confidential and only shared on a need to know basis. Workplaces should also develop a workplace safety plan in order to minimise the risk that employees experiencing domestic violence will be subject to abuse at work, including procedure for dealing with an emergency situation and procedure for when both the victim and abuser are employed in the same workplace.

Thank you for the opportunity to submit our views on this important initiative. Women's Aid would be very pleased to discuss this submission in person should the opportunity arise to do so.



Appendix 1: Women's Aid services and expertise

24hr National Freephone Helpline

The 24hr National Freephone Helpline provides a listening ear, emotional support and practical information to women experiencing abuse from their current or former male partners. It is the only free, national, domestic violence helpline with specialised trained staff, fully accredited and quality assured by The Helplines Partnership. It has a Telephone Interpretation Service facility covering 170 languages for callers needing support in their own language. We also provide a text service for deaf and hard of hearing women. The Helpline is a gateway into our Dublin-based face-to-face and court support services and to other local independent support services and refuges around the country. The National Freephone Helpline also provides an instant chat service through www.womensaid.ie.

One to One Support Service and Court Accompaniment

We provide direct face-to-face support to women at safe, accessible outreach locations embedded in communities around Dublin city and county. We offer court accompaniment and court advocacy support to women who access our one to one services and who are seeking legal redress in the courts regarding violence and abuse by a current or former spouse or partner.

Dolphin House Family Law Support and Referral Service

Based in the Dolphin House Family Law Court, the support and referral service is a free and confidential drop in service for women who are experiencing domestic violence. This can include emotional, physical, sexual or financial abuse. The service provides support and information on legal options, safety planning and links women in with domestic violence services for ongoing support. Women's Aid runs this service in partnership with the Inchicore Outreach Centre.



High Risk Support Project

The High Risk Support Project provides a multi-agency response to women at high risk of ongoing abuse and homicide from their ex-partners. Women's Aid partners with An Garda Síochána and local domestic abuse services to deliver a coordinated rapid response system for women and families, which is generously supported by the Vodafone Foundation and the Department of Justice Commission for the Support for Victims of Crime.

Women's Aid Law Clinic

Our confidential and free legal information and assistance clinic supports women experiencing domestic violence who are representing themselves in domestic violence and family law proceedings. The clinic is staffed by volunteer lawyers from McCann Fitzgerald whose services are provided free of charge.

Specialised Training

Women's Aid is a Centre of Excellence for Training and Development of professional and organisational responses to women and children experiencing domestic violence. We provide support to local and national organisations throughout Ireland, both statutory and non-statutory, to promote best practice responses to women and children experiencing domestic violence. All Women's Aid training is informed and guided by over 40 years of experience of direct work supporting women and by international models of best practice.

Public Awareness and Campaigns

Women's Aid leads the way in raising awareness and providing information on domestic violence to women experiencing abuse, their families and friends, their communities and wider society. Our annual public awareness campaigns and communications activity are a vital way to highlight the prevalence, nature and impact of domestic violence, dating abuse and femicide. We also engage with the media to promote the 24hr National Freephone Helpline and our other support services.



The Women's Voices testimony project encourages and facilitates survivors of domestic violence to tell their stories in a safe way to create better awareness and change for women in similar situations.

Influencing Government and Policy

Women's Aid provides solution based recommendations on experiencing abuse to a number of national and local fora. We make submissions and meet with Government ministers, policy-makers and members of the Oireachtas to discuss a range of issues and collaborate with other agencies and organisations to bring about political and social change.