



Department for the  
**Economy**  
[www.economy-ni.gov.uk](http://www.economy-ni.gov.uk)

An Roinn  
**Geilleagair**

# Domestic Abuse Safe Leave

**PUBLIC CONSULTATION**

JULY 2024

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## Foreword

Domestic abuse is a traumatic and horrendous experience for those subjected to it. It occurs amongst people of all genders, ethnicities, sexualities, ages, disabilities, immigration status, religions or beliefs, and socio-economic backgrounds. It has a devastating impact on all aspects of a victim and survivor's life, including the workplace. It can result in physical, emotional and psychological harm, and family and relationship breakdowns. As such, domestic abuse safe leave is very much a workplace issue and a workers' rights issue.

Having access to safe leave can give employees the chance to seek support and space to deal with issues related to domestic abuse. Having access to paid leave means that employees are not at a financial detriment when they need to be away from work for this purpose.



Employers are increasingly recognising the importance of supporting employees who are experiencing domestic abuse. These employers are leading the way in supporting their employees who are dealing with the trauma of domestic abuse. Many already provide access to leave and other supports. However, access is not universal and it is important that we make sure everyone that needs it can access the right workplace support.

In the 12 months from 1st April 2023 to 31st March 2024, there were 32,763 domestic abuse incidents recorded by the police here<sup>1</sup>. This is an appalling statistic and shows how much further we, as a society, still have to go in tackling this unacceptable behaviour. This is why it is so important that the Assembly passed the Domestic Abuse (Safe Leave) Act (NI) 2022. This progressive legislation will give employees and workers who are the victims of domestic abuse up to 10 days paid safe leave for the purpose of dealing with issues related to that abuse<sup>2</sup>. It is hoped this will also make it easier for employers to know what to do when their employee makes the difficult disclosure about domestic abuse. I am hopeful that it will encourage those affected to make such a disclosure as they will now be aware that a framework exists to provide them with support.

1 [Domestic Abuse Incidents and Crime Recorded in Northern Ireland Monthly Update to 31st March 2024 \(psni.police.uk\)](https://psni.police.uk)

2 While employers will have the discretion to grant more than 10 days, 10 days will be the statutory maximum in any leave year.

Many aspects of the safe leave framework have already been determined by the Act. Both employees and workers are entitled to safe leave. They will be able to access the right from their first day of employment. The cost of the paid leave is met by the employer. These are important cornerstones of the framework. There are, however, still some practical and implementation measures that the Department must determine. This consultation invites views on some specific aspects of the regulations so that we can implement the provisions of the Act in a way that provides support for all users of this important new legislation. I encourage you to respond to the consultation and share your views.

In the interim period, I also encourage all employers to proactively adopt the measures provided for in the Safe Leave Act.

I look forward to hearing your views.

A handwritten signature in black ink, appearing to read 'Conor Murphy', with a stylized, cursive script.

**CONOR MURPHY MLA**  
**Minister for the Economy**

## General Information

### Purpose of this consultation

This consultation seeks to inform the public about the department's intention to introduce regulations, under and in accordance with provisions of the Domestic Abuse (Safe Leave) Act (NI) 2022, 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. It should be noted that employees and workers have a different employment status<sup>3</sup> and they have slightly different employment rights more generally. However, for ease of reading we will use the term 'employees' to refer to both workers and employees in this document.

Responses to this consultation will help us 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.

Please note, the term 'victim' is used in this document to refer to an employee who is being, or has been, subjected to abusive behaviour as this reflects the terminology used in the Act. The Department recognises that not everyone who has experienced, or is experiencing, domestic abuse chooses to describe themselves as a victim and may prefer another term, for example, survivor. Anyone responding to this consultation is encouraged to use the terminology which is most relevant to their personal experience.

### Enquiries to:

Safe Leave Consultation Team

Department for the Economy

5<sup>th</sup> Floor, Adelaide House

39-49 Adelaide Street

Belfast, BT2 8FD

Email: [safeleaveconsultation@economy-ni.gov.uk](mailto:safeleaveconsultation@economy-ni.gov.uk)

We would welcome queries by e-mail where possible.

This consultation is relevant to workers; employees; employers; groups representing employers and employees; victims and survivors of domestic abuse; and legal, HR and payroll professionals.

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<sup>3</sup> Employment status is someone's legal status at work. It affects what employment rights they are entitled to and their employer's responsibilities. There are 3 main types of employment status: employee, worker and self-employed. People with 'employee' employment status have more employment rights than workers or self-employed people and have more obligations towards their employer. People with 'worker' employment status have some employment rights, but not as many as employees. Self-employed status is not defined in employment law but is usually a person who is their own boss. It's a category used by HM Revenue and Customs (HMRC) for tax purposes. Self-employed people do not have an entitlement to paid safe leave under the Domestic Abuse (Safe Leave) Act (NI) 2022.

## How to Respond

The consultation will be open for responses from 5 July 2024 for a 12 week period. Responses should be received no later than 5pm on 27 September 2024.

When responding please state whether you are responding as an individual or representing the views of a company or an organisation. If you are responding on behalf of a company or an organisation, please make it clear who you represent by selecting the appropriate interest group on the consultation response form.

Your response will be most useful if it is framed in direct response to the questions asked, though further comments and evidence are also welcome.

We would encourage you to complete your response online using Citizen Space, at our dedicated [consultation page](#). However, a consultation response form is also available for download from the consultation page.

The downloaded form may be submitted by email or by post to:

**Email:** [safeleaveconsultation@economy-ni.gov.uk](mailto:safeleaveconsultation@economy-ni.gov.uk)

### Postal Address:

To be opened by the addressee only  
Safe Leave Consultation Team  
Department for the Economy  
5<sup>th</sup> Floor, Adelaide House  
39-49 Adelaide Street  
Belfast, BT2 8FD

**Alternative format and additional copies:** Please contact us if you require this document in an alternative format. You may make copies of this document without permission. **This consultation paper contains public sector information licensed under the Open Government Licence v3.0.**

## Confidentiality and data protection

We will summarise all responses received and place this summary on the Department for the Economy website. This will include a list of the companies and organisations that responded but will not include people's personal names, addresses or other contact details.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure under access to information legislation (primarily the Data Protection Act 2018/the General Data Protection Regulation 2018; Freedom of Information Act 2000; and the Environmental Information Regulations 2004).

For this reason you should identify in your response any information which you do not wish to be disclosed and explain why this is the case. Please note that an automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

If we receive a request for disclosure of this information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

For further information about how we process your personal data, please see our [Privacy Notice](#).

## Consultation Process

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to: [safeleaveconsultation@economy-ni.gov.uk](mailto:safeleaveconsultation@economy-ni.gov.uk) or to the Departmental Complaints Officer at [DfEmail@economy-ni.gov.uk](mailto:DfEmail@economy-ni.gov.uk). Details of the Department's Complaint Process can be found at:

- [DfE complaints procedure](#)

## Impact Assessments

Equality, Regulatory and Rural Impact Assessments have been conducted for this policy proposal. Currently we do not anticipate the policy to result in any adverse impacts on any of the Section 75 groups or for those who live rurally. A Small and Micro Business Impact Assessment (SAMBIT) has been completed which examines the likely impact on small and micro businesses. The Department welcomes comments or feedback on any of the associated impact assessments. If any potential issues are raised as part of this consultation process we will review our impact assessments at that stage and amend if required.

Our initial Regulatory Impact Assessment will be reviewed at legislation drafting stage where we can assess in more detail the regulatory impact of the policy proposal.

The Equality, initial Regulatory Impact Assessment and SAMBIT can be viewed at [Department for the Economy website](#).

## Introduction

### Overview

Preventing and tackling domestic abuse is a cross cutting societal and Executive priority. There has been ongoing work by the Executive and key government departments, working alongside important stakeholders, to address the problem of domestic abuse. The Departments of Health and Justice are joint leads in taking forward the Domestic and Sexual Abuse Strategy for 2023-2030. This is an ambitious seven-year programme marking a renewed focus on tackling domestic and sexual abuse. The introduction of safe leave will contribute to that wider programme.

### Domestic abuse and the workplace

Domestic abuse is increasingly recognised as a workplace issue. The effects of domestic abuse can have a significant impact on victims and survivors' participation in the workplace. Productivity, participation, attendance, career progression and employment stability can all understandably be affected.

Workplaces can offer important respite for a victim, and a safe space away from their abuser. The workplace may also provide the person with the opportunity to access support information and services which might help them leave an abusive relationship in a safe way.

From the perspective of employers, the impact of domestic abuse on an employee may result in lost output, additional costs, and the need for additional resources. Most good employers, however, recognise the difficulties people face in this situation and will genuinely want to help their employees who are dealing with domestic abuse. A supportive approach may benefit employers in the longer term by helping them retain good employees.

In recognition of the difficulties employees face trying to balance work while dealing with such difficult personal circumstances, many employers have already introduced workplace policies aimed at helping their employees who find themselves in such situations.

There remain, however, many victims of domestic abuse who do not have access to leave from work available to them, when they need it.

To address this need, many countries have introduced legislation to provide a consistent level of workplace support. These include the Philippines, Canada, New Zealand, Australia and the South of Ireland.



## The position in NI

The Domestic Abuse (Safe Leave) Act (NI) 2022 (“the Act”) is an important piece of legislation that will help those employees who are victims. The purpose of the Act is to make provision for an entitlement to paid safe leave for victims of domestic abuse. The cost of safe leave is met by the employer.

Safe leave is defined by the Act as paid leave from work that can be used by an employee who is a victim of domestic abuse for the purpose of dealing with issues related to the domestic abuse. Safe leave can help mitigate some of the barriers that victims face when attempting to seek help and support. It can also assist employers to know what to do, as it sets out a framework to help them support their employees.

In this consultation, the Department wishes to seek views on the issues that will be addressed in regulations that implement the provisions within the Act.

## What does the Domestic Abuse (Safe Leave) Act (NI) 2022 do?

As set out above, the Act creates a statutory provision that requires the Department for the Economy to make regulations providing for a statutory entitlement to paid safe leave for employees that are victims of domestic abuse in each leave year for the purpose of dealing with issues related to the domestic abuse. The Act provides that the entitlement the Department must stipulate in regulations is at least 10 days in each leave year. Once introduced it may be the case that some users of the leave may not need all 10 days. Others may need to access the full 10 days leave as set out in the regulations. There will also be nothing to prevent employers, who wish to do so, from providing more. The leave can be taken as single days.

In addition, the Act specifies the following aspects of the safe leave framework:

- There is no qualifying length of service condition to be eligible for safe leave, i.e. it is available to all from the first day of employment;
- Employees and workers are both entitled to safe leave;
- Applicants for safe leave are required to provide notice to their employer but not evidence of domestic abuse having taken place;
- The cost of the paid safe leave is met by the employer;
- The Department for the Economy is required to make a report on the operation of regulations. There is no reporting requirement for employers.

This consultation seeks your views on the Department’s proposed approach to developing the appropriate regulations. Your views will help the Department develop regulations that meet the needs of victims of domestic abuse and provide guidance to employers to help them understand, manage and fulfil their obligations, in line with the parameters set by the Act.

The Department therefore wishes to seek views on the following issues which need to be clarified to enable employees to avail of 10 days paid safe leave:

- The specific definition of domestic abuse for the purposes of safe leave;
- Definition of leave year and flexibility to take safe leave;
- Notice for safe leave;
- Calculation of pay for the purposes of paid safe leave;
- The content of guidance that the Department will provide to support the safe leave framework; and
- Resolving disputes related to safe leave.

In undertaking this policy development our guiding principles will be:

- Creating a framework that can be easily accessed by those who need to avail of it – we need to be mindful that in seeking to use this provision we do not wish to add to the trauma that victims of domestic abuse have already experienced.
- Creating a framework where the measures operate well and employers can easily understand their obligations and how they can support their employees using these provisions. We need to ensure that the process will help build on and maintain supportive working relationships for victims of domestic abuse and their employers.
- At all stages, being fully aware of the need to protect the privacy and security of the victim when managing information provided by the employee and minimising, where possible, the administrative burden on the employer.

## Defining Domestic Abuse for the purposes of Safe Leave

### Definition of domestic abuse

The Act requires the Department to make regulations which entitle an employee or worker who is a victim of domestic abuse to be absent from work for the purpose of dealing with issues related to the domestic abuse.

To be entitled to safe leave, therefore, an employee must:

- (a) Be a victim of domestic abuse.
- (b) Be dealing with an issue related to domestic abuse.

For employers and employees, it will be important to understand who can utilise these provisions, and then understand how they do so.

### Who is a victim of domestic abuse?

The Act provides that an employee is a victim of domestic abuse if:

- (a) they are being, or have been, subjected to abusive behaviour by a person to whom they are connected, and
- (b) such other conditions as may be specified are satisfied.

The Act states that any regulations made by the Department must provide:

- A definition of what 'abusive behaviour' is; and
- The criteria for being connected to another person?

While the Act permits the Department to reference the Domestic Abuse and Civil Proceedings Act (NI) 2021, it is not obliged to do so.

### Definition of Abusive Behaviour

The Domestic Abuse and Civil Proceedings Act (NI) 2021 ("the DACPA 2021") sets out that abusive behaviour includes behaviour which is violent or threatening (including both physical and sexual violence). It also covers behaviour directed at an individual, their child or any other person where the purpose of the behaviour is to have certain effects on the partner/connected person or where a reasonable person would consider it likely to have one or more of the effects.

The DACPA 2021 also sets out the relevant effects that can indicate that behaviour is abusive. This is intended to ensure that, for example, psychological abuse, or controlling or coercive behaviour that could not previously have been prosecuted, falls within the definition of abusive behaviour (as well as violent or threatening behaviour) and constitutes a criminal offence.

These relevant effects include:

- (a) making a person dependent on, or subordinate to, the abuser,
- (b) isolating a person from friends, family members or other sources of social interaction or support,
- (c) controlling, regulating or monitoring a person's day-to-day activities,
- (d) depriving a person of, or restricting the person's, freedom of action,
- (e) making the person feel frightened, humiliated, degraded, punished or intimidated.

It is noted that the DACPA 2021 states that to constitute a criminal offence for the purposes of that Act, a course of behaviour involves behaviour on at least two occasions. It is not anticipated that there will be a requirement for there to be a course of behaviour to qualify for safe leave i.e. a single or repeated incidence of domestic abuse will result in a victim being able to avail of safe leave from their employment for the purpose of dealing with issues related to that abuse.

The Department has some concerns about directly linking the safe leave regulations to the provisions in the DACPA 2021, as those provisions are descriptors of a criminal offence. This may not be an appropriate threshold to set in terms of accessing an employment right. However, the Department wishes to seek views on the core components of the definition to inform the Safe Leave Regulations. The Department wishes to take views on its proposal to capture all of the abusive behaviours listed in the DACPA 2021 in its definition for safe leave purposes.

### **Meaning of 'Connected to'**

The right for safe leave is specific to domestic abuse. This is different from other forms of violence and abuse because of the relationship between the victim and their abuser. The Act refers to this as being "subjected to abusive behaviour by a person to whom the employee is connected' and requires the Department to set out in regulations the criteria for being connected to another person.

As an example, the DACPA 2021 sets out that two people are personally connected to each other if:

- (a) they are, or have been, married to each other,
- (b) they are, or have been, civil partners of each other,
- (c) they are living together, or have lived together, as if spouses of each other,
- (d) they are, or have been, otherwise in an intimate personal relationship with each other, or
- (e) they are members of the same family.

The Department wishes to seek views on the meaning of 'connected to' as part of this consultation.

## Question

1) The Department proposes to include all of the abusive behaviours outlined below in its definition of abusive behaviour. Do you agree that the behaviours below should be included? Are there any other behaviours relevant?

Type of behaviour	Yes	No
Physical abuse		
Psychological abuse		
Sexual abuse		
Financial abuse		
Emotional abuse		
Controlling behaviour		
Coercive behaviour		
Other (please specify)		

2) In terms of 'connected to', which of the following relationships should be included within the regulations?

Relationship	Yes	No
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		
<b>Members of the same family:</b>	Parent	
	Grandparent	
	Grandchild	
	Sibling/step sibling/half sibling	
	Step children/step parents	
	Child	
Other (please specify)		

3) Do you agree that the right to safe leave should arise following a single incident of domestic abuse?

## Issues related to Domestic Abuse

As stated above, the purpose of safe leave is to permit an employee to deal with issues related to domestic abuse.

The Act specifies that 'issues related to domestic abuse' include, but are not limited to:

- (a) obtaining legal advice and pursuing legal proceedings and remedies;
- (b) finding alternative accommodation;
- (c) taking advantage of healthcare (including mental health care);
- (d) obtaining welfare support;
- (e) protecting family members; and
- (f) such other matters as may be specified in the regulations.

The Department therefore needs to consider if any other issues should be specified in regulations.

As the Act frames this list as non-exhaustive, it may not be necessary or appropriate to specifically add other issues to regulations. It may also be possible to provide further detail on the types of issues in guidance. However, the Department would welcome views on whether there are other matters that should be specified in regulations.

### Question

**4) The purpose of safe leave is to deal with 'issues related to domestic abuse'. Do you think in addition to those already referred to in the Act there are any other issues related to domestic abuse which should be specified in regulations?**

**5) Do you think identification of other 'issues related to domestic abuse' would be more appropriately dealt with via Departmental guidance?**

## The Leave Year

### **Definition of a leave year**

The Act specifies that the entitlement of up to 10 days is in each leave year (whether or not taken as a single continuous period) with “leave year” having the meaning given in, and being calculated in accordance with, the regulations.

The Department is therefore required to develop a definition of a leave year for the purposes of safe leave.

Employees will be entitled to safe leave from their first day of employment. Safe leave cannot be carried over from one leave year to the next. This means it is important to identify when a leave year starts and ends so that the correct entitlement in any given year can be accurately determined.

The **Working Time Regulations (NI) 2016**, set out the definition of a leave year for the purposes of calculating annual leave entitlement. Specifically, paragraph 15 (2) states that:

***A worker’s leave year, for the purposes of this regulation, begins –***

- (a) on such date during the calendar year as may be provided for in a relevant agreement; or***
- (b) where there are no provisions of a relevant agreement which apply, on the date on which the worker’s employment begins and each subsequent anniversary of that date.***

In the context of this provision, a ‘relevant agreement’ is:

***“in relation to a worker, means a workforce agreement which applies to the worker, any provision of a collective agreement which forms part of a contract between the worker and the worker’s employer, or any other agreement in writing which is legally enforceable as between the worker and the employer.”***

Effectively this means that, for annual leave purposes, in the absence of an agreement, the date of commencement of employment becomes the date of each new leave year.

The Department does not wish to create an additional burden for employers to have to agree a new workplace agreement, or collective agreement, or to revisit individual contracts of employment for the purposes of safe leave.

The Department wishes to seek views on whether it would be most straightforward for employers and employees, if the leave year for safe leave purposes is the same as that currently in place for calculating annual leave. This would mean that the Safe Leave Regulations would mirror the relevant provision in the Working Time Regulations. That would mean that employers and employees would be able to use the same arrangements which they use in their particular organisation for annual leave purposes, for safe leave purposes.

## Question

- 6) Do you agree that the definition of leave year for the purposes of safe leave should align with the existing definition of leave year for annual leave purposes, set out in the Working Time Regulations (NI) 2016?**



## How to take Safe Leave

### Notice to take safe leave and when it can be taken

In the case of safe leave, the Act sets out that the regulations may make provision about how safe leave is to be taken. In particular, it is stated that the regulations may:

- (a) attach conditions, or enable an employer to attach reasonable conditions, in respect of entitlement to safe leave (including as to when it may be taken);
- (b) require an employee to give such notice (if any) as is reasonably practicable before taking safe leave.

In this instance it is optional for the Department to make regulations on this matter. The Department therefore wishes to seek views on whether it is necessary to do so, or whether the issue of notice might better be addressed via guidance.

It is important to be mindful that the purpose of safe leave is to support an employee who is or has been a victim of domestic abuse to deal with issues related to that abuse. It may be extremely hard for the individual to even make a request for safe leave to their employer, given the difficult traumatic circumstances they find themselves in. The aim should be to make the process for making a request as easy and as accessible as possible. As such, it is imperative that any notice requirements are proportionate and can be easily complied with, and do not cause unnecessary distress for the employee. It is also important to ensure employers can comply easily in a manner which encourages the maintenance of a supportive and confidential environment. It is also important to note that while notice can be requested of the need to take safe leave, the Act does not require an employee to provide evidence of domestic abuse.

From an employer perspective, employers need to be able to manage their businesses. It is important that they know as soon as possible when employees are not going to be able to be in work. Likewise, as employees are entitled to be paid for safe leave, it is important that they can inform their employer of the specific reason for their absence to ensure that they receive payment for that absence at the correct rate.

Employers and employees are familiar with requirements to give notice of intention to take types of leave such as annual leave, maternity leave, paternity leave and so on. The need to take these types of leave are generally known in advance and therefore notice procedures associated with these types of leave reflect this. In cases of other types of leave such as sick leave or leave for care of a dependent, it is less likely that employees will be aware in advance of the absence prior to the need arising; therefore the process for notifying their employer will be different.

Many employers already have in place safe leave arrangements, and it is assumed that these processes work for their individual organisations.

The Department wishes to seek views on how prescriptive any legislation or guidance should be about procedures for notice. For example, when the Act was being debated in the Assembly, Members made clear that it was not the intention that a worker should be required to provide evidence that they had suffered domestic abuse to their employer. However, the Department wishes to seek views on whether employers should be able to ask for notification of the purpose for which safe leave is required (e.g. obtaining legal advice, finding alternative accommodation etc).

If legislation is preferred to guidance, would it be appropriate to have a general provision that an employee seeking to take safe leave must tell their employer the reason for their absence as soon as reasonably practicable?

### Question

**7) Should the Department set out how notice to take safe leave should be given by an employee in guidance or regulations?**

**8) If the notice requirements to take safe leave are set out in regulations would it be appropriate to make it a requirement to inform the employer as soon as reasonably practicable?**

**9) Should an employer have the option of seeking notification of the purpose of safe leave (e.g. obtaining legal advice, finding alternative accommodation etc) as part of any notice procedures?**

### Duration of absences

The Act allows a victim up to 10 days paid safe leave in each leave year (whether or not taken as a single continuous period) to address issues related to that abuse. This sets out a clear intention that the safe leave days do not need to be taken in a single block and can be taken at different times. The flexibility to take safe leave in this way is aimed at ensuring that the employee who needs the leave can avail of it at the time when it is most needed and in the way that suits them best.

It is necessary to consider if there should be a minimum amount of safe leave that can be taken at any one time. For example, should safe leave be able to be taken in whole or part days?

In considering the best approach to dealing with this issue, it will be necessary to seek to ensure as much flexibility as is reasonably practicable for employees while also ensuring that employers can properly manage and fulfil their obligations under the safe leave framework.

### Question

**10) Should safe leave be able to be taken in periods shorter than one day?**

## Remuneration

The Act makes clear that an employee that is absent on safe leave is entitled to remuneration while on leave. It also specifies that an employer is fully responsible for paying remuneration to the employee when they are on a period of safe leave. During the Assembly debates on the Act, Assembly Members stressed that one of the important features of the Act is that it will help victims of domestic abuse maintain their financial independence and be able to access leave from work without losing income.

As such, it is understood that the principle of the Act is that remuneration while on a period of safe leave should reflect the employee's usual rate of pay for periods of actual work.

For many employees, their rate of pay remains constant and does not vary. In these circumstances an employer should find it relatively straightforward to calculate the appropriate remuneration for the period of safe leave to ensure that the employee receives the same pay that they would have received if they had been at work.

For employees whose pay or hours worked varies, employers will have to apply a different method for calculating the correct rate of remuneration. The Employment Rights (NI) Order 1996 (the 1996 Order) already sets out how to calculate a week's pay. Where an employee's pay or hours worked varies, pay should be calculated based on an average from their earnings in a 12 week reference period. If a worker has not worked any hours in any week in the previous 12 weeks, that week is usually discounted from the methodology and an earlier week is used instead. This methodology is already commonly used to calculate a week's pay for a variety of other types of employment related pay.

The Department proposes to adapt or modify this standard methodology for calculating a week's pay as set out in the 1996 Order for the purposes of the safe leave regulations. However, the Department wishes to seek views as to whether pay for safe leave should be calculated at the "normal" or "basic" rate of pay. "Normal" would include components that make up part of an employee's normal pay – such as regular overtime, regular commission and regular bonuses. This type of calculation would mirror the calculation that employers are required to apply for at least 20 days of their employee's holiday entitlement. Alternatively "basic" would exclude those components and reflect an employee's basic contracted hours.

## Question

**11) The intention is that employees should receive their full pay when on a period of safe leave. Should this rate of pay reflect an employee's normal pay and include components such as regular overtime, regular commission and regular bonuses or an employee's basic pay?**

## Ensuring people can take safe leave

### Guidance

Workplace guidance on how to support employees affected by domestic violence and abuse is already available. The [Safe at home Safe at work.pdf \(Ira.org.uk\)](#)<sup>4</sup> guide and the [Developing a Workplace policy on Domestic and Sexual Abuse - a guide for employers](#)<sup>5</sup> are two examples of guidance for employers. There is a statutory requirement for the Department for the Economy to issue guidance about the implementation or application of a provision of regulations made under the Act. It is anticipated that this guidance will focus on the content of the regulations rather than replicate the more holistic guidance already in place. However, the Department wishes to seek views on the issues that should be covered by any Departmental guidance. This includes any views on how the personal data and information relating to requests for safe leave should be managed by employers.

### Question

**12) Do you have any comments on the matters which should be contained in any Department for the Economy guidance on the operation of safe leave?**

**13) Is there any other support that might be useful for employers and employees?**

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4 A joint publication by the Labour Relations Agency and Northern Ireland Committee – Irish Congress of Trade Unions

5 Produced by the Departments of Health and Justice

## Resolving Disputes

### What happens if an employer does not fulfil their obligations?

When any employment right is introduced, it is always hoped that employers will fulfil their obligations. Most employers are good employers, and it is expected that, given the circumstances under which an employee will need to access safe leave, it is highly likely that employers will be keen to support their staff and deliver fully on the requirements of this particular legislation.

However, it is also appreciated that rare occasions may arise where an employee may be prevented from accessing or exercising all of their rights available under the safe leave framework. Therefore, there needs to be a way for employees who are denied a right, or suffer a detriment for exercising their right, to have this rectified.

The normal route for an employee to enforce a right that they have been denied, or to seek a remedy for detrimental treatment, is through the industrial tribunal process. Before most claims can be lodged at the tribunal, the claimant must have considered whether to engage in Early Conciliation, via the Labour Relations Agency, to see if their complaint can be resolved that way.

The Early Conciliation and Tribunal processes routinely deal with sensitive matters. The overriding objective and equal treatment arrangements are already in place to address the needs specific to individual parties. It is anticipated that this approach will also be used to deal with complaints against employers about failures to comply with the requirements of safe leave.

### Question

**14) Please provide any comments you might have about the role of Early Conciliation and the Tribunal processes in claims related to Domestic Abuse – Safe Leave.**

## Final Questions

- 15) Do you have any additional comments about any aspect of this consultation and/or the implementation of Domestic Abuse – Safe Leave?**
- 16) Do you have any comments or feedback on any of the associated impact assessments?**