

Domestic Abuse Safe Leave: Small and Micro Business Impact Assessment

Introduction required setting out the purpose of safe leave

Northern Ireland currently offers no method of paid leave to employees in cases of domestic abuse. The social and financial burdens this creates may therefore be a factor in determining whether leave is taken or not and whether affected individuals are able to access vital and necessary services. To address this, the Domestic Abuse (Safe Leave) Act (Northern Ireland) 2022 (“the Act”) was passed by the Assembly in March 2022. The purpose of the Act is to introduce a statutory provision requiring the Department for the Economy to make regulations providing for paid leave for workers/employees that are victims of domestic abuse in each leave year. The proposal is to introduce a statutory entitlement of 10 days paid safe leave.

The Act contains a statutory provision requiring the Department for the Economy to make regulations providing for 10 days paid leave in each leave year for workers/employees that are victims of domestic abuse. The right applies to both workers and employees and the cost of safe leave is met by employers. Safe leave is for each leave year and therefore cannot be carried over into a new leave year. The Department wishes to develop appropriate regulations so that it meets the needs of victims of domestic abuse and ensures that employers understand and can fulfil their obligations. The regulations will create a minimum standard for an issue which may be difficult to navigate for employers and employees.

Preliminary Assessment

1. Do the regulations apply to small businesses or affect the business environment in which they operate?

Yes, the safe leave regulations will apply to small businesses. Businesses which employ people will have to grant safe leave to qualifying employees and workers in accordance with the statutory framework.

2. What are the characteristics of small businesses likely to be affected?

The regulations will apply to all small businesses who have employees and/or workers. Sole traders and the self-employed will not be affected as their employment rights differ from employees and workers.

Consideration of alternative approaches

3. Examining whether alternative approaches (including, but not limited to, exemptions, simplified inspections and less frequent reporting) are appropriate for small and micro businesses:

Given the societal nature of the problem of domestic abuse it is not appropriate to consider an exemption for small businesses. Victims of domestic abuse come from all strata of society. The support which the Act and regulations are aimed at providing should be equally accessible to those who are employed by small businesses.

It is also an accepted principle that employees/workers are generally able to access the same framework of employment rights and responsibilities, regardless of the size of their employer.

There will be no inspections or mandatory reporting requirements as part of the safe leave framework. Therefore, no alternative approaches are appropriate. There will be an opportunity for views and input from businesses, regardless of size, to be provided as part of the Department's statutory obligation to report on safe leave. This will be on a voluntary basis.

The Department is obligated to develop guidance of the implementation of the regulations. This will be aimed at supporting all employers, but due consideration will be given to ensuring it meets the needs of small employers.

4. Examining whether small and micro businesses (those with fewer than 50 employees) can be given a complete or partial exemption from new rules, and whether alternative approaches are appropriate:

As stated above, given the societal nature of the problem of domestic abuse it is not appropriate to consider an exemption for small businesses. Victims of domestic abuse come from all strata of society. The support which the Act and regulations are aimed at providing should be equally accessible to those who are employed by small businesses.

It is also an accepted principle that employees/workers are generally able to access the same framework of employment rights and responsibilities, regardless of the size of their employer.

It would therefore not be appropriate to give a full or partial exemption to small and micro businesses.

5. Examining whether a lighter regulatory regime would be appropriate for small and microbusinesses.

It is the Department's intention that the safe leave framework should be easily implemented for all employers and easily accessible for all relevant employees/workers. In designing the regulatory framework, the Department will endeavour to ensure that any additional administrative burden on employers is proportionate. The Department will also aim to provide some flexibility for organisations to use existing leave processes to manage safe leave. In developing statutory guidance, the Department will be mindful of the need to make it user friendly for small and micro businesses.

Scoping

As the primary legislation has already been passed by the Assembly there is limited opportunity for the Department to alter the provisions for safe leave as set out in the Act.

6. How serious is the problem the proposal seeks to address in relation to smaller businesses?

Domestic violence is an inherently serious problem that affects all aspects of our society. Victims of domestic abuse can find themselves in extremely vulnerable positions. Leave from work and wider workplace support may help victims of domestic abuse as they navigate their circumstances. In terms of smaller businesses, it may be the case that the probability of a staff member requiring this leave is minimal. However, when an employee of a small business is affected by domestic abuse, the impact on that business may be greater than it may be on a larger employer. It is recognised that many small businesses will already provide support to workers, should they find themselves in such distressing circumstances. However, the aim of the legislation is to ensure that all workers have equal access to a minimum level of support.

7. What changes will smaller businesses have to make to the way their business operates?

A smaller business, like all employers, will have to familiarise themselves with the new regulatory requirements that this new employment right will introduce. It is likely that the majority of smaller businesses may not receive any safe leave requests in a leave year. The Department will produce statutory guidance on the new framework. There are also existing support guides for employers to help them respond to disclosures about domestic abuse. The Department will review existing advice in designing any new safe leave guidance. The guidance will be developed to help provide straightforward advice to employers and outline the steps necessary to comply with the legal requirements when an application is received.

8. Is there likely to be a greater impact on the operations and performance of smaller business than others (It is normal for the impact of measures to bear more heavily on small businesses because they do not enjoy the economies of scale of larger businesses)?

It may be the case that where an employee/worker is absent on safe leave that the ability to cover the absence may be harder for smaller employers. However smaller employers already manage this challenge when any other type of leave is taken and may have similar processes that they can adapt. The possibility that an employee or worker may already need to take time off for a reason related to domestic abuse already exists. It may also be the case that the use of safe leave will result in a

reduction in other types of absence, such as sick leave. If so the net impact of safe leave would be minimised. The vast majority of employees/workers will not need to avail of safe leave and due to having smaller employee numbers it is suggested the probability of small businesses receiving requests for safe leave is less than for large employers.

9. What are the likely approximate costs and benefits of the proposal for small business?

Costs

It is estimated that an individual small business is much less likely to be impacted by the policy than a large business. The anticipated levels for small businesses is set out below:

	Numbers of workers taking DV Leave		
Business Size	High	Med	Low
0-49	1296	648	259

In terms of the costs of administration of safe leave for small businesses, on an annual basis, based on these estimated uptakes above are as follows:

	Admin cost for 5 hours (F/T)		
Business Size	High	Med	Low
0-49	£197,575	£98788	£39,485

While the total anticipated cost of absence to small businesses cannot accurately be estimated at this time, the projected number of workers using the right means the cost of absence should not be excessive.

Benefits

In terms of small business benefits, the benefits of this entitlement are non-monetisable. Employers may, however, benefit from the retention of valued staff and increased employee engagement and associated productivity increase.

10. Will exempting (either fully or partially) smaller businesses from the policy materially affect the potential benefits from the policy?

Yes. The majority of businesses in NI are SMEs, many of which would be small and micro businesses. Applying an exemption would have the potential to significantly negatively impact the effectiveness of the policy aims as it would exclude many victims who will need to access this support from being able to avail of the new employment right.

While an exemption for small and micro businesses would not be appropriate, the Department will produce guidance that may help businesses of all sizes comply with their statutory obligations. This guidance will supplement existing guides that are available to support businesses. The Labour Relations Agency is also available to provide advice and support to small and micro businesses. The Department will also ensure that the NIbusinessinfo website is updated to provide advice for employers on how to implement the safe leave framework.

11. Are there alternative approaches for smaller businesses, which would not materially affect the potential benefits from the policy?

No.

Impact Test

12. Is there likely to be a greater impact on the operations and performance of small and micro business than others?

Statistically a small business is less likely to receive a request for safe leave. However, it is recognised that small businesses may have greater challenges in accommodating leave, due to the small number of employees in the business.

Conclusion

This document examines the likely impact on small businesses. The Department will invite views on the content of this small and micro business assessment during the consultation. Comments are welcomed in respect of any potential mitigations that could be provided for small and micro businesses – for example, guidance or advice.

Approved by: Colin Jack

Date: 15 May 2024