



## HERe NI Response to Domestic Abuse Safe Leave Consultation

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HERe NI is registered with the Charity Commission for Northern Ireland (NIC104707) and a Company Limited by Guarantee (NI053306).

## Introduction

HERe NI (previously LASI), established informally in 2000 and formally constituted as a Company Limited by Guarantee in 2004, is a regional organisation that works across all areas of Northern Ireland. We advocate for and support LGBTQIA+ women and their families and improve the lives of LGBTQIA+ women across the North. HERe NI is the only women focused organisation within the Northern Ireland LGBTQIA+ sector.

Domestic abuse is a health, safety and wellbeing, workplace, human rights and equality issue, which affects many people. LGBTQIA+ women are particularly at risk; 1 in 4 lesbian and bisexual women experienced domestic abuse.<sup>1</sup> In a workplace context, it can put staff at risk of harm as well as affecting their ability to carry out their role. Preventing and tackling domestic abuse is an integral part of ensuring the safety and wellbeing of employees. HERe NI therefore welcome this consultation as a step towards supporting victims of domestic abuse in the workplace. As an organisation we are committed to promoting zero tolerance of domestic abuse against, or by its staff and will ensure that the working environment promotes the view that any form of domestic abuse is unacceptable and that such abuse will not be tolerated.

HERe NI recognises that every employee who is experiencing or has experienced domestic abuse has the right to raise and discuss the issue with their line manager in the knowledge that the matter will be dealt with sensitively, non-judgementally, confidentially and in an effective manner. The Domestic Abuse (Safe Leave) Act 2022 is an important piece of legislation which establishes the provision for an entitlement to paid safe leave for victims of domestic abuse; and for connected purposes. However, the categories within Departmental regulations and guidance should be developed and amended to consider the full range of people who experience abuse and the support they are entitled to.

**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 that are relevant?**

Physical abuse **Yes**

Psychological abuse **Yes**

Sexual abuse **Yes**

Financial abuse **Yes**

Emotional abuse **Yes**

Controlling behaviour **Yes**

Coercive behaviour **Yes**

Other (please specify) - **Online and Technological Abuse**; where technology, social media or other online means is used to control or coerce victims.

**Q2. In terms of ‘connected to’, which of the following relationships should be included within the regulations?**

## **Relationship**

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<sup>1</sup> Department of Health and Department of Justice ‘Domestic and Sexual Abuse Strategy 2024-2031’ (2024) p. 30 [Accessed 26/09/24: <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/dsa-strategy-09-24.pdf>]

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

Step children / step parents

Child

Other – the following relationships should also be considered:

- Wider family members; especially as many people live with relatives who are not their direct nuclear relationships e.g. aunts, uncles, cousins, etc. So-called honour-based abuse can involve extended family members.
- Roommates/friends who live together.
- Foster children/foster parents.
- Cases where the abuser is a member of a paramilitary organisation.
- Co-habitants within hotel or hostel accommodation. This is particularly relevant following ‘Operation Maximise’; a Conservative Party anti-immigration plan which has encouraged room sharing arrangements among asylum seekers. In Northern Ireland according to a Law Centre report 78% of respondents shared that they have experienced some form of abuse or violence from other refugees or asylum seekers.<sup>2</sup>

### **Q3 Do you agree that the right to safe leave should arise following a single incident of domestic abuse?**

Yes

### **Q4 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?**

Yes

Please provide any comments you might have in the text box below:

The Act does outline a range of important issues related to domestic abuse. However, it needs to go further by acknowledging further issues that may arise in relation to domestic abuse, such as:

- Enabling children to change schools or to attend meetings at the school regarding accommodations that may be needed to help the child to adjust.

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<sup>2</sup> Law Centre NI ‘We are getting hurt: Safe accommodation for LGBTQIA+ people seeking sanctuary in Northern Ireland ’ (2024) p. 11 [Accessed 24/09/24: <https://www.lawcentreni.org/wp-content/uploads/2024/06/We-Are-Getting-Hurt-June-2024.pdf>]

- Flexibility to attend medical appointments for injuries sustained including follow up visits e.g. dental appointments which would be common for victims.
- ‘Taking advantage of healthcare’ is listed, however this should also explicitly include the option to take a day for self-care.
- Enabling the victim to attend banking appointments and sort out financial matters.

**Q5 Do you think identification of other ‘issues related to domestic abuse’ would be more appropriately dealt with via Departmental guidance?**

Yes

Please provide any comments you might have in the text box below:

HERe NI recognise that implementation of this legislation could be strengthened by further departmental guidance, providing that the guidance is considerate of all the various issues noted above and stresses that they must be considered by an employer. Indeed, guidance should match the regulations in relation to ‘issues related too domestic abuse’ so they are fully adhered to and ensure that certain issues being seen as ‘lesser’ by being placed in the guidance rather than within the regulations.

HERe NI recommend that guidance should be developed with consultation with those with lived experience/survivors of Domestic Abuse, and well as relevant sector organisations to ensure it is fit for purpose. A list of support organisations should also be detailed in any Departmental guidance. Moreover, HERe NI’s Domestic Abuse Workplace Policy recommend that staff ‘access the support and guidance available’. Therefore, any guidance that the Department can issue would help our organisation support any staff to the best of our ability.

**Q6 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?**

Yes

**Q7 Should the Department set out how notice to take safe leave should be given by an employee in guidance or regulations?**

Guidance

Please provide any comments you might have in the text box below:

Notice to take safe leave should be included in guidance, as it may not always be possible or practical for someone obtaining safe leave. An employer should be flexible and take account of emergency factors and the risk of victims. Therefore, HERe NI recommend that guidance outlines that employers are flexible with regards to length of notice, where it is even possible.

**Q8 The notice requirements to take safe leave are set out in regulations. Would it be appropriate to make the requirement to inform the employer as soon as reasonably practicable?**

Yes

Please provide any comments you might have in the text box below:

This is suitable provided that regulations explicitly acknowledge that there are some situations where it will be impossible to give any notice at all.

**Q9 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?**

No

Please provide any comments you might have in the text box below:

This should not be required as safe leave is a legal entitlement outlined in the Domestic Abuse (Safe Leave) Act (Northern Ireland 2022). The employer should be mindful of the additional pressure that this could put on the employee to disclose this information and could be very invasive for victims. It should be at the discretion of the victim if they choose to share this with the employer as part of any notice procedures.

**Q10 Should safe leave be able to be taken in periods shorter than one day?**

Yes

Please provide any comments you might have in the text box below:

Often escaping Domestic Abuse involves multiple appointments with GPs, banks, schools, letting agents, etc. as well as a series of court dates across several months. Therefore, some time may be needed in periods shorter than a day to attend these various appointments. Victims of domestic abuse should be able to choose when and how to manage their 10 Calendar days provided in the Act.

**Q11 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?**

Normal Pay

Please provide any comments you might have in the text box below:

A negative change in a pay check from one month to the next could risk the employee falling behind on payments, not being able to pay childcare bills etc. Additional financial pressures would add further stress and pressure to an already extremely difficult period for the victim.

**Q12 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?**

There are some workplace adjustments that can be considered by managers and should be outlined in the guidance, such as:

- Providing private areas for the person to make a telephone call to access personal or professional support
- Ensuring working time arrangements are flexible enough that they do not have to arrive and leave work at the same time each day. For example, they may also need to stagger their work pattern, or may need to leave work suddenly.
- Flexibility to attend appointments will be necessary or a phased return to work may be needed. For example, consideration of working patterns, later starts or earlier finishing times will help, where the business allows.
- A staff member may for safety purposes need to be redeployed to a different area of the business/ location if possible
- Using other existing policies including flexible working
- Access to counselling/support services in paid time
- Access to courses develop to support survivors of domestic abuse e.g. assertiveness training
- Sometimes if the person is being threatened and made to feel unsafe by their perpetrator, their email and direct line number may need changed.

**Q13 Is there any other support that might be useful for employers and employees?**

There should also be a list of domestic abuse support organisations detailed in any guidance. In Northern Ireland, this should include, but is not limited to:

- Nexus
- Women's Aid
- Assist NI
- Rape Crisis
- Victim Support NI

For LGBTQIA+ victims of domestic abuse they may also want to access the services of:

- HERe NI
- The Rainbow Project
- Cara-Friend
- Rainbow Refugees
- Mermaids NI
- Transgender NI

In addition to this, recommend that every employer develop a stand-alone workplace policy on Domestic Abuse and a guide for employees on their rights and how to exercise them.

**Q14 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.**

NA

**Q15 Do you have any additional comments about any aspect of this consultation and/or the implementation of Domestic Abuse – Safe Leave?**

There needs to be greater detail within the guidance on who employees who are victims of domestic abuse report to and how this will be managed. Furthermore, employers should receive training on how to support victims following any guidance issued by the Department. Without support the employer may feel unable to cope with disclosures of domestic abuse and should be offered support themselves for anything that victims of Domestic Abuse share with them. HERE NI also support the Women's Policy Group suggestion that there should be a minimum of two possibilities of management to report to in case your employer is also your abuser.

**Q16 Please use the space below if you wish to provide any comments or feedback on any of the associated impact assessments.**

HERE NI welcomes this consultation as a step forward towards improving the lives of LGBTQIA+ women affected by domestic abuse. Our organisation can provide training on LGBTQIA+ domestic abuse for organisations or Department teams.

*ENDS*