

## **Submission by Northern Ireland Women's European Platform to Economy Committee Call for evidence on Domestic Abuse (Safe Leave) Bill**

**December 2021**

### **Introduction**

Northern Ireland Women's European Platform (NIWEP) welcomes the Domestic Abuse (Safe Leave) Bill as an important proposal that would strengthen protection and support for domestic abuse victims and survivors. NIWEP welcomes the opportunity to contribute to the Bill scrutiny process.

NIWEP is a membership organisation working to promote the implementation of international human rights standards in Northern Ireland, and in particular the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in line with the international obligations of the UK. Locally, NIWEP coordinates representation of the women's sector in Northern Ireland within UN human rights processes and builds the capacity of the sector to utilise international human rights standards in their own work to strengthen gender equality. Acting as the Northern Ireland link to the European Women's Lobby, NIWEP also works to amplify the voice of women and girls in Northern Ireland internationally.

NIWEP views implementing the recommendations of CEDAW as a clear roadmap and mechanism to ensuring women's human rights are fully met and upheld in Northern Ireland. NIWEP also respects the right of all people to self determine their gender, gender identity and sexual orientation. The comments in this submission are made within this context.

NIWEP confirms that this submission can be published in full and can inform deliberations at the Committee.

### **Summary**

NIWEP welcomes and strongly supports the Bill. The proposal is in line with international law, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which requires State Parties to the treaty to take action to protect women from violence<sup>1</sup>. More recently, ILO Convention C190 - Violence and Harassment Convention<sup>2</sup> adopted in 2019 requires UN Member States to take action to address violence

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<sup>1</sup> [Convention on the Elimination of All Forms of Discrimination against Women](#) (CEDAW, 1979), articles 1 and

2. The UK signed the Convention in 1981 and ratified in 1986

<sup>2</sup> [C190 - Violence and Harassment Convention](#)

and harassment in the workplace, including measures to mitigate the impact on victims and survivors.

Domestic violence does not stop at the front door, and a feature of domestic violence is that abusers seek to control their victims by disrupting their working lives. As such, domestic violence is a workplace issue, and addressing domestic violence in a variety of ways forms part of an employer's duty of care towards staff. However, it is essential that policies are well prepared and supported, take into account the traumatic nature of domestic abuse and are sufficiently sensitive and supportive to encourage and enable victims and survivors to come forward. This is relevant in particular to requirements regarding notification, proof and time of service requirements, which should be tailored to avoid retraumatising victims and survivors and deterring them from seeking leave due to concerns about the impact of disclosure.

A survey by the Irish Congress of Trade Unions (ICTU) on domestic violence and the workplace highlighted that respondents felt domestic violence is a barrier to work, as abusers may try to prevent their victim from getting to work in a variety of ways, or create difficulties for them at work, by making them late or continuing abuse at work through phone calls, abusive emails or turning up at their workplace. Respondents also reported that the impact of domestic abuse, including lateness and other performance related issues, could lead to disciplinary action or dismissal, which was a significant worry for many. The survey also showed that respondents felt action in the workplace, including paid leave, would help address domestic violence and support victims and survivors.<sup>3</sup> In particular, current evidence emphasises that the workplace can be one of the few places of relative safety for victims and survivors of domestic violence, and supportive workplace laws, policies and measures can effectively help them deal with their situation, mitigating harm and contributing to tackling domestic abuse<sup>4</sup>, which is overwhelmingly rooted in misogynistic patriarchal norms. This survey is reflected in international evidence, collated by UN Women, which also notes that the cost of domestic violence globally was €1.6tn in 2016.<sup>5</sup>

This survey also highlights that addressing domestic violence and mitigating harm is directly associated with economic outcomes, as domestic violence directly impacts on employees' ability to carry out their duties effectively. No figures exist for Northern Ireland, but a recent study for the UK government estimated the cost of domestic violence and harassment in England and Wales to £66 billion per year in 2017. This figure includes £14bn for lost output at work, as well as £47bn for physical and emotional harm, £3bn for health and victim services and a total of around £2bn for response costs, including police and judicial costs.<sup>6</sup> These figures provide a relevant context to the economic implications of the Bill, and highlight the value of the Bill at the societal level. However, it is recognised that small employers may have concerns regarding the economic implications at the level of the individual organisation, and regulations need to take account of this.

Research on the economic impact of paid safe leave from Australia indicates that only 1.5 per cent of female and 0.3 per cent of male employees are likely to take leave in a given year, and estimate the costs of paid leave at AU£80-120 million, or 0.02 per cent of the

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<sup>3</sup> Irish Congress of Trade Unions (2015) [Domestic violence and the workplace: Findings from a survey](#)

<sup>4</sup> CIPD and EHRC (September 2020) [Managing and supporting employees experiencing domestic abuse](#)

<sup>5</sup> UN Women (May 2020) [The COVID-19 shadow pandemic: Domestic violence in the world of work: A Call to action for the private sector](#)

<sup>6</sup> Oliver, R et al (2019) [The economic and social costs of domestic abuse](#). London: The Home Office.

entire Australian payroll.<sup>7</sup> It should also be noted that this is not new or additional leave; a survey commissioned by Vodafone indicates that the average length of unplanned leave currently taken by victims and survivors of domestic abuse is 10.1 days and the impact to the UK economy in the order of £316 million per year.<sup>8</sup> However, introducing safe leave offers a degree of certainty for victims and survivors, and the economic impact is likely to be offset by reductions in additional stress and mental health impacts due to financial concerns and fears about implications of taking time off work.

### ***International legislation***

The best known example of legislation currently in place is in New Zealand, where provision is 10 days' paid leave per employee per year, for employees with at least six months' service<sup>9</sup>. However, legislation in Australia also provides for five days' unpaid leave per year, while the law allows for and encourages employers to provide more extensive offers as part of workplace policies.<sup>10</sup> A proposal to extend this to 10 days' paid leave is currently going through the Australian Parliament, with support for the move across parties.<sup>11</sup> In both New Zealand and Australia, the cost of domestic violence to the national economy in lost workdays and productivity is highlighted as a driver for legislation, in addition to human rights and a duty of care towards victims and survivors.

Legislation is currently also in place in the provinces of Ontario and Manitoba in Canada. In Ontario, the law covers domestic and sexual violence, and provides for five days' paid leave and up to 15 weeks of unpaid leave in a calendar year.<sup>12</sup> Provision in Manitoba is similar, with five days' paid leave and up to 17 weeks' unpaid leave in a calendar year.<sup>13</sup> In the US, legislation in a number of states including California, Washington and Washington DC also require employers to give employees leave to deal with issues related to domestic abuse; provisions vary across states and are mostly unpaid, except for in Washington, DC which mandates paid leave.<sup>14</sup>

A common theme across existing laws is that they prohibit discrimination against or dismissal of an employee taking time off work to deal with domestic violence. They also set out the purposes for which employees can take leave, typically to seek medical attention, access counselling or other support, deal with moving house, and/or access legal advice and support. Most laws also include leave to support a child experiencing domestic violence for similar purposes. UN Women has urged governments across the world to introduce a universal right to paid leave due to domestic abuse, for specific purposes including accessing care, advice and support<sup>15</sup>.

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<sup>7</sup> Stanford, J (2016) [Economic Aspects of Paid Domestic Violence Leave Provisions](#). Canberra: The Centre for Future Work.

<sup>8</sup> KPMG (2019) [The workplace impacts of domestic violence and abuse: A KPMG report for Vodafone Group](#)

<sup>9</sup> New Zealand Domestic Violence — Victims' Protection Act 2018, information accessed through [Domestic violence leave | New Zealand Government \(www.govt.nz\)](#), last accessed 7 January 2021

<sup>10</sup> Australian New Employment Standards, information accessed through [Fair Work Ombudsman](#) Australia, last accessed 7 January 2021

<sup>11</sup> The Sydney Morning Herald 30 November 2020 '[Labor considers mandating paid leave for domestic violence victims](#)' ([smh.com.au](#))

<sup>12</sup> Ontario Employment Standards Act, information accessed through [Your guide to the Employment Standards Act: Domestic or sexual violence leave | Ontario.ca](#), last accessed 7 January 2021

<sup>13</sup> [The Domestic Violence and Stalking Act](#), Manitoba

<sup>14</sup> Information from

<sup>15</sup> UN Women (May 2020) [The COVID-19 shadow pandemic: Domestic violence in the world of work: A Call to action for the private sector](#)

In the UK, in particular larger individual employers have begun highlighting policies providing up to 10 days' paid leave for domestic abuse victims and survivors. The Welsh government has encouraged all public bodies in Wales to offer paid leave to employees experiencing domestic abuse.<sup>16</sup> The CIPD and the Equality and Human Rights Commission (for England and Wales) has also called for legislation putting in place paid leave for domestic abuse victims and survivors, highlighting the increased incidence of domestic abuse during lockdown and also stressing that the workplace may be one of the few places where a victim of domestic abuse is separate from their abuser and can seek help and support.<sup>17</sup> The trade union movement is also supporting a change in legislation to provide paid leave for domestic abuse victims and survivors, with robust workplace policies in place to support this.<sup>18</sup>

## Comments – meeting the UK's obligations in international law

### 1. Should victims/survivors of domestic abuse be entitled to safe leave?

- Yes
- No

**Comments:** NIWEP welcomes the Bill. This is one important mechanism to support victims and survivors access vital support, care and assistance, while removing or at least reducing concerns over repercussions at work.

### 2. Should there be a legal entitlement to employee safe leave and pay (if eligible) in NI?

- Yes
- No

**Comment:** Enshrining provision in law is important to ensure equitable provision for all, and to set clear standards and procedures that employers are expected to meet and follow. Voluntary provision will not go far enough and will result in uneven provision across workplaces and sectors, which will create new inequalities between those who can access support and those who cannot. This would also likely disadvantage people in lower paid and skilled jobs and sectors, in particular female dominated sectors such as care, hospitality and retail. Current evidence indicates policies are predominantly provided by organisations with higher profit margins, and therefore voluntary provision appears to disadvantage people in lower paid and lower skilled jobs and sectors.

Full pay is appropriate, to ensure that all victims/survivors can access the provision with confidence. As noted in relation to Q4, financial concerns are a main reason why victims/survivors do not seek a change in their circumstances, and for many a cut in wage would make their situation untenable, thus rendering the provision ineffective and also creating false hope for victims/survivors.

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<sup>16</sup> Welsh Government press release 14 January 2020 [‘Public sector in Wales encouraged to offer paid leave for victims of domestic abuse’](#)

<sup>17</sup> CIPD and EHRC (September 2020) [Managing and supporting employees experiencing domestic abuse](#)

<sup>18</sup> TUC (September 2020) [Support in the workplace for victims of domestic abuse: TUC response to BEIS call for evidence](#)

**3. Do you think safe leave would enable victims/survivors to seek appropriate help and support?**

- **Yes**
- **No**

**Comment:** The ICTU survey highlights that victims and survivors are concerned about missing work to seek support; stoking fears about disciplinary action or dismissal is also a common behaviour for abusers as part of controlling their victims. Lack of understanding and knowledge about the nature of domestic violence among employers and managers also adds to barriers, as this often creates workplaces cultures where disclosing abuse is difficult, and may increase the risk of employees being disciplined or penalised for seeking help. A legal entitlement to leave would significantly reduce concerns among victims and survivors regarding taking leave, and would therefore encourage victims and survivors to seek help and support. This can enable healthier lives for victims and survivors, and also for their children, which is fully in line with CEDAW Article 2 on protecting women and girls from all forms of discrimination, including gender based violence.

**4. What impact do you think introducing safe leave would have on the amount of sick days/periods taken by an employee?**

- **More sick leave taken**
- **The same amount of sick leave taken**
- **Less sick leave taken**

**Comment:** There is evidence from the UK that victims and survivors of domestic violence currently take leave due to the abuse they are experiencing, including from the ICTU survey mentioned above and the KPMG survey undertaken for Vodafone. In some cases, victims and survivors are forced to take unpaid leave to deal with their circumstances, including seeking medical care. This is particularly a concern for those in precarious and low paid employment, which typically has very limited leave provisions. Introducing safe leave would enable victims and survivors to take leave with more confidence, which is likely to reduce the amount of sick leave taken.

Paid safe leave is one relatively straightforward mechanism that will support help seeking, particularly by reducing concerns about work. This, in turn, can create a space where victims/survivors can feel sufficiently safe and confident to consider their situation and make informed choices for themselves.

**5. What impact do you think introducing safe leave would have on the costs of domestic abuse for employers?**

- **More costs for employers**
- **Same costs for employers**
- **Less costs for employers**

**Comment:** As noted above in relation to Q2 and Q4, employers already carry costs for domestic abuse, through staff absence and impacts on productivity. Safe leave would not increase these costs, but could rather help control costs by enabling victims and survivors

to seek help and support, potentially at an earlier stage than they otherwise might do. This is likely to reduce sick absence, by enabling more timely intervention and as noted above, through increasing staff confidence in supportive arrangements at work.

NIWEP recognises legitimate concerns in particular among small employers of the potential impact of safe leave. As noted in the Australian research cited above, however, only a very small proportion of employees are likely to utilise leave in any given year, and there is no evidence from existing schemes in Australia, Canada and New Zealand that provisions have been abused. The provisions are also in line with existing employment legislation that enables action to be taken through disciplinary policies in any unlikely cases of abuse.

Consideration should be given to a scheme where the state can cover an element of pay, similar to arrangements during the first six weeks of parental leave. Such schemes could be limited to cover primarily or only small employers, for whom the financial impact may be more onerous. It would be important that any scheme is administratively straightforward and timely, to ensure employers can introduce safe leave schemes with confidence. This would also constitute a clear message from the Executive and Assembly that tackling domestic abuse and supporting victims and survivors is prioritised in Northern Ireland.

**6. The leave entitlement is for a period of 10 days, do you think this is the correct amount?**

- **Yes**
- **No**

**Comment:** The proposed 10 days in a leave year should be the minimum all employers are required to provide in workplace specific schemes. The section International legislation above provides an overview of current practice elsewhere, and highlights unpaid leave provisions in place in a number of Canadian provinces. NIWEP believes that regulations should enable employers to offer more generous schemes than a minimum ten days' paid leave, and should also enable unpaid leave provisions for longer periods to be negotiated with individual employees, where relevant. However, it is important to ensure clarity for employers through regulations and guidance, to ensure equity for employees across workplaces and smooth implementation of the legislation.

**7. The Bill will allow the 10 days to be taken anytime during the leave year. What is your view?**

- **Yes**
- **No**
- **Unsure**

**Comment:** Domestic violence is by its very nature unpredictable, and victims/survivors may need to access specialist support and care on more than one occasion. Women typically try to leave an abusive relationship seven times, before eventually being able to do so; this is in addition to individual incidents of abuse that may lead to healthcare or other support needs. Therefore, setting a limit on the number of times an employee can take paid leave would appear both unethical and unhelpful. A more helpful approach would be to require employers to signpost employees who disclose abuse to support services, as part of the

employer's duty of care and as a practical way of both offering support and reducing absences.

This would also offer a constructive approach to addressing concerns over misuse of the provision; it should be noted, however, that disclosing abuse is traumatic and it is unlikely that a victim/survivor would do this frivolously. Conversely, it should be noted that the trauma caused by abuse will have a deep, long term impact on victims/survivors, which means victims/survivors may need to access leave on multiple occasions regardless of the amount of time that has passed since the abuse.

#### **8. Should there be a limit on the number of times that a victim/survivor can take safe leave throughout their employment?**

- Yes
- No
- Unsure

**Comment:** Comments made under Q7 above also apply to this question. Legislation in Ontario<sup>19</sup> and Manitoba<sup>20</sup> in Canada includes up to 17 weeks' unpaid leave, in addition to paid leave. While the focus should be on paid leave, for at least the ten days suggested, it may be relevant to consider an additional, unpaid element for a period of a number of weeks in a calendar year. This would add flexibility to legislation, and would enable those who may need a longer period of leave to have greater confidence in being able to retain their job (although the affordability issue remains; ideally this should be looked at in conjunction with benefit policy). It should be noted that in Ontario, the 15 weeks do not need to be sequential, but leave can be taken in chunks of one or more days per week throughout the year (in negotiation with the employer; however, the employer cannot deny leave except on very narrow grounds).

It can also be noted that the legislation in New Zealand includes provision to request short term flexible working for up to two months<sup>21</sup>. Consideration should be given to including such a provision in any legislation in Northern Ireland as well, as this can support some victims/survivors and does not involve the financial burden of taking unpaid leave. Flexible working arrangements can also contribute to business continuity for the employer, which may strengthen employer support for the legislation.

It is critical that the Bill includes clauses to mandate non discrimination and prohibit sanctions at work for anyone disclosing abuse and/or making use of domestic violence leave. This is vital to ensure that employers do not use disclosure against an employee, for example to limit their progression opportunities, refuse a reference or manoeuvre them out of their role or post because they are seen as 'difficult'. Examples of this occurring exist, and have been outlined for example by the Australian Human Rights Commission.<sup>22</sup>

#### **8. Should a minimum period of employment be applied before safe leave becomes available to an employee?**

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<sup>19</sup> Ontario Employment Standards Act, information accessed through [Your guide to the Employment Standards Act: Domestic or sexual violence leave | Ontario.ca](#), last accessed 7 January 2021

<sup>20</sup> *The Domestic Violence and Stalking Act*, Manitoba

<sup>21</sup> [Domestic violence leave | New Zealand Government \(www.govt.nz\)](#), last accessed 7 January 2021

<sup>22</sup> Australian Human Rights Commission (2014)

- Yes
- No

**Comment:** Comments made under Q7 above also apply to this question. Domestic abuse is unpredictable and perpetrators may deliberately seek to make it difficult for victims to take up employment through intensifying abuse in the early stages of a new job. Therefore, it is inappropriate and unethical to apply time limits; safe leave should be a day one right as proposed by the Bill.

Safe leave can be particularly important for seeking help in an emergency, as this by definition is urgent and makes it difficult to utilise other channels, such as annual leave. In addition, introducing domestic violence leave can contribute to enabling and opening up discussion about domestic violence in the workplace, thus making it easier for employees to disclose abuse without fear of stigma or practical repercussions at work.

Consideration could be given, in specific circumstances such as for small employers with less than 10/20 staff, to limit safe leave during an early period, such as a probationary period, to leave for emergency purposes. However, this should be discouraged due to the reasons set out above and to avoid creating inequality between employees in different types of employment and sizes of organisation.

**9. Should the victim/survivor have to supply evidence to their employer before safe leave can be taken?**

- Yes
- No

**Comment:** Disclosing domestic abuse to anyone is difficult, and it is likely to be particularly difficult to tell an employer, in the current context of limited understanding of domestic violence, and occasionally unhelpful attitudes. A requirement to provide evidence or proof is likely to act as an additional barrier, especially for victims and survivors who may not have disclosed abuse to anyone else, or who are not in contact with support services at the time they seek paid leave. For this reason, it should not be made a requirement to provide proof, but rather provide guidance to employers on how to sensitively address the issue; this adds a degree of flexibility while providing a symbolic function to ensure victims and survivors do not feel proof is a prerequisite for applying for leave. This is the provision in the legislation in New Zealand, as well as in Australia, Ontario and Manitoba.

NIWEP also appreciates the need for certainty for employers, as well as the importance of adequate record keeping as part of providing effective support. Therefore, it may be acceptable to include an option to request proof retrospectively (within a reasonable timeframe), particularly if this is a key question for employer support and helps ensure appropriate monitoring and analysis of how the legislation operates. Any forms used within human resources processes should, however, be succinct and sensitive, requiring the minimum amount of detail to avoid retraumatising victims and survivors. Guidance should also be made available to employers regarding responding to disclosure and seeking proof, to ensure a consistent approach. For example, managers should have clear templates they can rely on, to avoid overreaching and intrusive questioning.

Care should be taken in what proof can be requested and from whom. Domestic abuse is a very private and intimate matter, and it is therefore not appropriate to ask for evidence from family or friends, as this may risk confidentiality and threaten trust based relationships. Such a provision would also put individuals providing evidence at risk under existing legislation in Northern Ireland, in particular Section 5 of the Criminal Law (Northern Ireland) Act 1967.

Recent guidance by the Northern Ireland Attorney General clarifies that in the majority of sexual violence cases, failure to report will not be considered an offence under Section 5 of the Criminal Law (Northern Ireland) Act 1967, as victims or someone they have confided in, including relevant professionals, are considered to have a reasonable excuse not to report<sup>23</sup>. However, full clarity is needed regarding domestic violence cases and employers, to ensure both victims and survivors and employers can have confidence in making and hearing disclosure. The above guidance recognises that many victims and survivors are reluctant to report to police, for a variety of reasons, and stresses that this issue must be given due consideration.

**10. There is no time limited threshold in the Bill as to when the domestic abuse occurred for when safe leave can be taken. Do you agree?**

- **Yes**
- **No**

**Comment:** Comments made above under Q7 apply. Domestic abuse is by definition traumatic with long standing impact, and safe leave may therefore be required at any time during an often lengthy recovery process. Introducing time limits would create an unhelpful and evidently unethical hierarchy of victims and survivors, by setting what amounts to arbitrary timeframes for seeking help and recovery.

Domestic violence causes trauma, which takes time to process, while recovery is not linear. Therefore, eligibility should not be tied to the amount of time since the abuse occurred, as this will create inequalities between victims/survivors and may prevent some victims/survivors from seeking help at a time they are ready to do so.

It should also be noted that legislation in New Zealand, Ontario and Manitoba does not impose any time limit. Rather, the guidance to victims and survivors in New Zealand emphasises that no time limit is imposed.

**11. What level of remuneration should be offered to the employee taking safe leave?**

- **Full**
- **Statutory**
- **Min wage**
- **Other**

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<sup>23</sup> Attorney General for Northern Ireland (2020) [Guidance by the Attorney General for Northern Ireland pursuant to Section 8 of the Justice \(Northern Ireland\) Act 2004 No. 16](#) Human Rights Guidance for the Public Prosecution Service and the Police Service of Northern Ireland: The Application of Section 5 of the Criminal Law Act (Northern Ireland) 1967 to Victims of Serious Sexual Offences and Those to Whom They Make Disclosures

**Comment:** Comments made above under Q2, Q4 and Q7 apply to this question. Full pay is appropriate, in order to ensure that employees regardless of their sector or employer can take leave to address their situation, without financial concern.

There is ample evidence to show that concern about finances is a primary reason why victims and survivors do not seek to change their circumstances. This is also another common threat employed by abusers, who may for example suggest that children will be taken into care if the victim's/survivor's financial situation changes. The situation is particularly acute for those victims/survivors experiencing financial abuse, as their abusers often saddle them with significant debt, and/or leave them with no disposable income. Safe leave with full pay is therefore the most appropriate way to ensure the legislation is meaningful and provides practical support to victims and survivors, in particular those in employment with limited benefits and leave provisions.

## 12. What notice should be required for a survivor/victim to undertake safe leave?

- **None**
- **1 day**
- **1 week**
- **Other**

**Comment:** As underlined above, domestic abuse is unpredictable, and it is often impracticable to provide notice, in particular in emergencies, which may include seeking emergency medical care, but also urgently addressing other issues including housing, child safety and welfare, and personal welfare. Therefore, notice requirements should not be included in either the Bill or the regulations to follow.

NIWEP also appreciates, however, that employers require as much clarity and certainty as possible. For this reason, guidance could be provided on situations where it may be appropriate to expect reasonable notice for safe leave to be taken. This might be in situations where a timescale is known, such as in relation to court dates, house moves and meetings with relevant service providers. In addition, it may be reasonable to ask victims and survivors accessing longer term support, such as ongoing attendance with a service provider, to make appropriate arrangements with the employer in advance. However, it is vital that guidance is supported by training for employers to ensure this issue is approached sensitively.

## 13. Any other comments

**Comment:** As noted throughout this response, this legislation must be accompanied by detailed guidance and also training for employers. Domestic abuse is by its very nature a private and intimate matter, and there is significant evidence that victims and survivors are reluctant to disclose abuse, often due to concern about not being believed. Victims and survivors typically also experience a major loss of confidence, which is a hallmark of domestic abuse and a result of gaslighting, criticising and undermining tactics utilised by perpetrators to gain control over their victim. Therefore, it is vital that employers are prepared to hear disclosure, and have the capacity and skills to deal with this sensitively.

It would appear appropriate that training is developed and delivered in collaboration with specialist organisations with expertise in this area, in particular Women's Aid. This would

help ensure an evidence based and user led approach, which effectively supports employers as well as victims and survivors.

Finally, it is important to note that this legislation contributes to implementing international human rights standards in Northern Ireland, notably CEDAW and ILO Convention 190 on violence and harassment at work. As a State Party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>24</sup>, the UK including all the devolved administrations has an obligation to protect women from all forms of discrimination, including gender based violence. This is clearly stated throughout the Convention, and highlighted in Articles 1-3, which emphasise the obligation on states to introduce legislation that prohibit all forms of discrimination of women and protect women from ‘any act of discrimination’ (Article 2). In addition, Article 5 introduces an obligation to act on gender stereotypes, which are relevant in the context gender based violence in that misogyny both drives and utilises gender stereotyping, which often informs how perpetrators choose their victims. In its Concluding Observations on the examination of the UK in 2019<sup>25</sup>, the CEDAW Committee expressed concern regarding the inadequacy of legislation and policies in Northern Ireland to protect women from gender based violence, and recommended that the State Party adopt legislative and comprehensive measures to address the situation. The Concluding Observations also include a recommendation relevant to all jurisdictions in the UK to take action on sexual harassment of women and girls in public places, workplaces and educational institutions.

CEDAW General Recommendation 35<sup>26</sup> on gender based violence clarifies the concept of gender based violence as a social phenomenon as opposed to an individual level issue, and provides further guidance on action required by State Parties to protect women and girls in line with this understanding. This includes strengthening legal measures, including sanctions, as well as civil remedies. The General Recommendation also highlights that violence and harassment is increasingly perpetrated in the online sphere, and that action is required to protect women and girls.

The General Recommendation requires States parties to CEDAW to ‘have an effective and accessible legal and legal services framework in place to address all forms of gender-based violence against women committed by State agents, whether on their territory or extraterritorially.’<sup>27</sup> The Recommendation also requires State parties to ensure that relevant actors have appropriate training to effectively implement legislation and policy, including prosecuting offences. In addition, it places an onus on States parties to harmonise legislation with CEDAW, and ensure that all practices that can be considered gender based violence come within the scope of such legislation. Safe leave legislation is, therefore, in line with international human rights standards and would help ensure Northern Ireland legislation is fully compliant with CEDAW.

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<sup>24</sup> [CEDAW](#) 1979

<sup>25</sup> CEDAW Committee (2019) [Concluding Observations on the 8<sup>th</sup> periodic report of the United Kingdom of Great Britain and Northern Ireland](#)

<sup>26</sup> [CEDAW General recommendation No.35](#) on gender-based violence against women, updating general recommendation No.19, CEDAW/C/GC/35, July 2017

<sup>27</sup> CEDAW General Recommendation 35, paragraph 22.