



Scottish Women's Rights Centre

Response to the call for evidence on Support in the workplace for survivors of domestic abuse

September 2020

Overview

The Scottish Women's Rights Centre (SWRC) is a unique collaborative project that provides free legal information, advice and representation to women affected by violence and abuse. The SWRC exists because of abuses of power and because a gap persists between women's experience of violence and abuse and their access to justice. The SWRC strives to fill these gaps by working with specialist solicitors and experienced advocacy workers. Informed by our direct work with victims/survivors of violence and abuse, we seek to influence national policy, research and training to improve processes and systems, and ultimately to improve the outcomes for women who have experienced gender-based violence (GBV).

We recognise that people of any gender can be affected by abuse and violence (including sexual violence). However, statistics show that these crimes are more often committed by men against women. Also, as the SWRC specifically supports women aged 16 and over, when we talk about victims/survivors in this response, we will generally refer to women. Despite this, we are aware—and do acknowledge—that any person can be subjected to these crimes.

Our response to the current consultation on "Support in the workplace for survivors of domestic abuse" has been informed by the lived experiences of women who contact our service through our helplines, legal surgeries and legal representation. We have specifically taken the views of three women whom have experienced domestic abuse and disclosed to their employers, referred to in this response as Woman A, Woman B and Woman C. All women have given consent for their experiences to be shared anonymously.

1. What practical circumstances arise in relation to domestic abuse and work?

In our experience, women who have experienced domestic abuse often face a number of practical difficulties when it comes to their workplace:

- Attendance of appointments related to the disclosure of the abuse – women often need to attend various appointments related to the disclosure of the abuse; for example: GP, support services and when reporting to Police Scotland. Practical issues which can arise from this can be requiring time off work to attend these appointments and gain the support of their employer to take calls during working hours. Women who use our service have commented that their employers did not provide time for them to seek support and advice from advice agencies/solicitors and other services, particularly for women working full time and/or those with additional caring responsibilities.
- Safety concerns – leaving an abusive relationship often leads to a heightened risk of abuse from the perpetrator. Women may not be, or feel safe at work if their abuser is aware of their work address and schedule.
- Difficulty of leaving their abuser – particularly when forced to maintain contact due to shared parental responsibilities/a court order for child contact. This can impact their attendance and performance at work.
- Impact of domestic abuse on mental health – it can be extremely challenging to keep working during a crisis that is impacting the woman's ability to concentrate and to engage in stressful situations at work.
- Inappropriate contact from the abuser to the woman's employer – including wrongful allegations and sharing of indecent information.

In our experience, many women do not feel it is safe to make a disclosure to their employer due to:

- A lack of policies or procedures in their workplace outlining the appropriate procedure for disclosure, including who to disclose to and what will happen next/what help will be available.
- Some women may also share a workplace/employer with their abuser, e.g. if both are employed by, for example, a local authority, health board or the police force, this can lead to concerns about confidentiality.
- Concern that they will be blamed or judged for what has happened to them, or that they won't be believed. Many women also fear being stigmatised.
- Concern that disclosure may impact on their job performance or career progression.
- Worry that they may be asked to provide "proof" of the abuse.
- Fear that their safety concerns will be ignored/no practical help will be provided by their employer.
- The abuser may also have made threats about what would happen if they disclose the abuse to anyone.

Woman A comments that, when she disclosed domestic abuse to her employer, there were no procedures or policies in place or followed by her employer. The manager whom she disclosed to indicated to her that he was not equipped to deal with the situation or handle the disclosure. Woman A comments that it would have been beneficial if there had been a policy or a specific person that she could have approached about her situation in a more relaxed manner. Woman A does not feel that she had a positive experience with disclosing her situation to her employer. She

comments that: *“I feel the subject [domestic abuse] is very taboo in the workplace and essentially I felt I was bringing personal drama to work. I had spent the previous 9 months battling to be strong and attend work without anyone ever knowing what I was experiencing. In hindsight I would have preferred to have the ability to confidently approach HR myself and have a relaxed discussion. I definitely feel if the subject was addressed and support known to employees then that would have made a massive difference in my experience.”*

Women B mentions that, at the point of disclosure, her employer had no policies or procedures in place, although they are now in the process of implementing these. Woman B commented that: *“I think all employers should have a domestic abuse policy; this is for a number of reasons. Firstly, to change perceptions of domestic violence – so it is not as taboo. The more it is talked about the less tolerant we will be of abusers. This will help to reduce the prevalence of abuse in our society. I think all employers should have a policy – over 700 people work at my organisation. Everyone should know they have a right to feel safe and if they don’t then other people will protect them.”* Women B also states that it would be helpful not to have to disclose abuse to Human Resources, or specifically to someone you do not know. Women B also highlighted the need to take time off during court processes and the need to feel supported by your employer to do so.

During the Covid-19 pandemic, we have also heard from women who have faced additional barriers on top of those outlined above. We have seen that during lockdown, it has been more difficult for many women experiencing domestic abuse to reach out for advice and support while they are working from home and continue to live in the same household as their abuser. Through our helpline and surgeries, we have heard from women that they often have very limited windows of opportunity to seek help; those opportunities can be, for example, when their partner has left the family home to go shopping or to take a walk.

Although many women would usually have a relatively safe space from their abuse when they go to their workplace, working from home as the “new normal” has meant that some women have no escape from the abuse, which can now take place during working hours and is continuous. The “safe space” needed for disclosure will also be limited, which can mean women continue to be in the abusive relationship with little or no support.

2. What support can be offered in the workplace to survivors of domestic abuse?

In our view, it is crucial that every workplace fosters a culture that is outspoken in encouraging victims/survivors to disclose abuse, which communicates clearly that domestic abuse is unacceptable and offers practical support where possible, making their employees aware of the options and support available to them. In our experience, women will not feel comfortable disclosing abuse to their employer without a workplace culture that makes it clear that they will listen to and believe staff

when they disclose their experience of domestic abuse and which responds effectively and sensitively (i.e. they should never ask for proof of the abuse).

There is a wide variety of practical support which could be offered in the workplace to survivor/survivors of domestic abuse:

- Awareness-raising on how to keep employees safe at work, e.g. keeping their work schedule and place of work private, awareness that emails and phone communications could be intercepted by an employee's abuser, etc.
- Understanding and awareness of the additional barriers which some women may face when disclosing abuse, that is, recognising intersectionality and that each abusive situation and disclosure will be different.
- Understanding and awareness that there are times where women may be at higher risk, for example during pregnancy, which can be a trigger for DA to escalate.
- Staff should be trained to recognise the signs of domestic abuse and when risk is heightened, e.g. self-nominated staff to undertake training, in the same way that first aiders are trained in every workplace.
- Implementation of clear policies and measures to assist and support employees who may be experiencing domestic abuse in a practical and confidential way. This could include:
 - a policy statement making a clear commitment to tackling domestic abuse and taking staff disclosures seriously
 - a clear definition of domestic abuse and the variety of behaviours it can include
 - clear roles and responsibilities for those who have undertaken domestic abuse training and for managers/senior staff
 - clear policies around confidentiality to encourage disclosures
 - clear roles and responsibilities for the HR team (e.g. policies/practices/procedures may need to be updated to reflect any new domestic abuse policy)
 - list of relevant support and advice agencies for staff.
- Respect for the individual's personal choice on whether they wish to report the abuse to the police or not.
- Paid leave for those experiencing domestic abuse and flexible working arrangements
- Assistance with safely setting up a new bank account in their sole name, and with having their salary paid into this account (rather than a joint account shared with their abuser).
- Offer/facilities to privately and securely store a copy of important documents e.g. copies of ID, wage slips and birth certificates, among others.
- Emergency salary payments available for those in real financial hardship.

- Assistance with access to support/counselling/therapy where needed.
- Time off or flexible hours to attend appointments relating to physical and mental health, solicitors appointments, appointments regarding housing/childcare, and others.
- Flexibility with changes to employee's place of work and working hours where possible (including redeployment/relocation if requested by the employee and possible).
- Safety planning for travel to and from work. If a workplace has a reception and/or security staff, they may be able to assist in keeping the affected employee safe. Offering a chaperone or buddy to accompany the woman when leaving and arriving at work; for example, walking to and from their car.
- If the employee's abuser does attempt to contact the workplace, the employer should keep a record of any incidents, e.g. persistent telephone calls, emails or visits to the workplace.
- Wider record keeping around the impact of domestic abuse upon employment such as: sick leave, impact, and safeguarding measures taken by the employer. Such record-keeping can help survivors to evidence the impact of the abuse.
- If the employee's abuser contacts the employer to make spurious allegations against her, employers should be aware of the issues surrounding malicious reporting (and the different ways domestic abuse can manifest), and take this into consideration when undertaking appropriate and sensitive investigations.

3. What is possible within the existing framework?

Firstly, we note there is no legislation requiring employers to provide any specific support for those experiencing domestic abuse. In our experience, which is informed by the lived-experiences of survivors, we consider that this requires to be addressed and that there should be appropriate legislation to place obligations and opportunities for employers to implement support and procedures for employees experiencing abuse.

The existing framework is limited in the support that it offers to victims/survivors of domestic abuse:

- S.57A of the Employment Rights Act 1996 provides time off to care for dependents in various circumstances. For women with children, this form of compassionate leave could potentially be used if their child has been injured or if their care arrangements have been disrupted due to domestic abuse. However, the Act does not go far enough as it does not mention domestic abuse specifically and there is no leave provided for women without children who are experiencing domestic abuse.

- The Human Rights Act 1998 (the HRA) states that all public bodies have an obligation to protect the human rights of individuals and to ensure that their human rights are not being violated. Violence against women and domestic abuse is a violation of fundamental human rights. Although the HRA can be utilised by those employed by a public body (or a private body carrying out a public function), the HRA provides no recourse for those employed by a private organisation.
- The Equality Act 2010 includes a public sector duty to eliminate unlawful discrimination, harassment and victimisation. However, similarly to the limitations of the Human Rights Act, private organisations which do not provide a “public function” are not subject to the general equality duty contained in the legislation.
- Health and safety legislation states that workers have the right to work in a safe environment where risks to health and wellbeing are considered and dealt with effectively. Employers have a duty of care to any employee who discloses that they may be at risk of harm; e.g. Health and Safety at Work Act 1974. Although useful, the health and safety legislation is too broad and does not contain specific obligations pertaining to domestic abuse.

4. What does current best practice look like?

Best practice examples – from our own outreach work and client engagement

Woman C – describes a positive experience from her Scottish employer and comments that the following measures were put into place following her disclosure of abuse: she found it reassuring that security measures were put into place for her commute to and from work. Her working pattern was adjusted to suit the situation and to allow her to attend legal and support appointments. Woman C comments that there was a constant review of her wellbeing and safety, with a specific team being set up to work with her and provide advice on anything that she was struggling with regarding the situation.

Best practice examples – UK

- **Close the Gap** have developed the Equally Safe at Work toolkit for managers, which they are piloting with Local Authorities. The toolkit includes guidance on how to identify gender-based violence (GBV), how to respond to disclosures, how to facilitate a conversation, safety considerations, signposting to supports, and how to manage perpetrators of abuse. Local Authorities taking part in the pilot are invited to work towards “kitemarks” (stages) to demonstrate progress.¹

¹ See: <https://www.equallysafeatwork.scot/>

- **Linklaters** worked with **Safe Lives** to create a new policy and support programme for survivors of domestic abuse. They provide: 3 nights' accommodation in a hotel with a daily living expenses allowance, up to 10 days paid leave and an emergency assistance fund for staff. They have also partnered with Surviving Economic Abuse and SafeLives to provide training for its HR team and people managers on how to spot the signs, have conversations, and signpost support for those living with domestic abuse.²
- **Renfrewshire Council** was one of the first local authorities in Scotland to formally introduce a domestic abuse policy for staff. Employees who are victims of domestic abuse are able to request special paid leave to receive necessary support and attend any relevant appointments.³
- **North Ayrshire Council** provide 10 days paid "Safe Leave" for staff experiencing domestic abuse.⁴
- **Scheme in Northumbria** - around 400 public and private employers agreed to have nominated employee champions in their employment who other employees could easily disclose abuse to.⁵
- **"Recognise, respond and refer" toolkit**, produced for Vodafone by Dr Jane Pillinger, Independent Gender Expert.⁶ Vodafone were also the first company to offer up to 10 days of paid leave to survivors of domestic abuse on a global scale.⁷

Best practice examples – International

- **New Zealand** – employers are required by law to provide 10 days paid leave for those experiencing domestic abuse, in addition to standard holiday and sick leave entitlements.⁸
- **Canada** – Laws providing paid leave relating to domestic violence also exist in Canada at a provincial level, in Manitoba and Ontario.

5. What is the potential to do more?

² <https://www.linklaters.com/en/about-us/news-and-deals/news/2020/august/linklaters-launches-new-policy-and-support-programme-for-survivors-of-domestic-abuse>

³ <http://www.renfrewshire.gov.uk/article/9813/New-policy-demonstrates-zero-tolerance-approach-to-domestic-abuse>

⁴ <https://www.north-ayrshire.gov.uk/Documents/CorporateServices/HR/domestic-abuse-policy.pdf>

⁵ <http://www.northumbria-pcc.gov.uk/police-crime-plan/vawg/workplace-domestic-violence-champions/>

⁶ <https://static1.squarespace.com/static/5cd83ed84d871178f0307100/t/5ce6640d0d9297b48f5f0da5/1558602776101/vodafone-foundation-toolkit-on-domestic-violence-at-work-recognise-respond-refer.pdf>

⁷ <https://www.independent.co.uk/news/business/news/vodafone-paid-leave-domestic-violence-survivors-a8806771.html>

⁸ <https://www.theguardian.com/world/2018/jul/26/new-zealand-paid-domestic-violence-leave-jan-logie>

In our view there is significant room for improvement regarding the current framework and obligations upon employers to support survivors of abuse. In addition to our recommendations in question 2 above, we would highlight the following:

Recommendations:

1. Workplace legislation to be implemented to place obligations upon employers to have policies and procedures in place regarding handling of disclosure of domestic abuse and procedures and supports for survivors.
2. Recommendations and best practice to be encouraged by the Scottish Government for employers to put in place workplace champions for domestic abuse and to ensure that relevant employees are appropriately trained in this area. For example recommendation for the use of the Equally Safe at Work toolkit (see Question 4 above).
3. Employers who provide compassionate leave should make it clear that existing compassionate leave policies cover domestic abuse situations and that such leave can be used by victims/survivors in these circumstances.
4. Given that compassionate leave policies are often discretionary, there should be workplace legislation which includes provision for victims/survivors to take a set period of paid "safe leave", as implemented by North Ayrshire Council and mentioned above. Where employees can take a set period of time off when they are experiencing domestic abuse or living through the aftermath of such a situation, our recommendation is that this leave should be recognised as a statutory obligation in its own right, rather than being included together with other forms of compassionate leave.
5. Statutory guidance, written with input from specialist agencies, published alongside any changes to legislation.
6. Appropriate funding to be available to small employers and sole traders to assist with the implementation of training and availability of allowances for victims/survivors and paid leave.