

Unite response to the Department for Business, Energy & Industrial Strategy Review of employment rights for survivors of domestic abuse

This submission is made by Unite, the UK's largest trade union with over one million members across all sectors of the economy including health, transport, manufacturing, financial services, food and agriculture, information technology, service industries, construction, energy and utilities, local government and the not for profit sector. Unite also organises in the community, enabling those who are not in employment to be part of our union.

Unite has for many years taken a strong position on supporting our members who are victims of domestic violence and abuse. This includes issuing guidance for members and encouraging joint working with their employers to develop and implement workplace policies and procedures on preventing domestic violence and abuse at work, raise awareness of the domestic violence and abuse in workplaces and providing a supportive workplace environment the survivors of domestic violence and abuse. Domestic violence mainly affects women and has increased as a result of the situation created by Covid-19 including confinement to home in lockdown and the exploitation by abusers of the ongoing financial uncertainty of the situation.

The particular exploitation and violence faced by migrant workers and migrant domestic workers requires specific action to ensure decent work, pay and conditions, health and safety, and to address discrimination, trafficking and modern slavery.

Unite is very concerned about the increase of coercive control exercised by abusers, for example putting pressure on the victim to prevent them going to work, which is often a safe space for her.

It is time for a major change in culture in workplaces and amongst employers to raise awareness of domestic violence and abuse, defeat the stigma surrounding it, and provide a sympathetic environment and support the survivors in practical ways such as paid domestic violence leave, flexible working and redesigning jobs if necessary, in addition to strengthening legislation and improving collection of statistics.

At the time of writing Unite's domestic violence and abuse guidelines for workplaces are being updated and will be posted on our website at <https://unitetheunion.org/campaigns/coronavirus-covid-19-advice/>

Thank you for the opportunity to contribute to this critically important discussion.

Unite recommendations for action

1. A specific legal duty on employers to prevent harassment, discrimination and bullying at work including a duty to protect the victims of domestic violence and abuse. The ongoing reports of racial and other harassment from front line workers in particular strengthen our call for this specific duty on employers.
2. Introduce statutory 2 weeks' paid leave for workers suffering from domestic violence and abuse and rights to flexible working.
3. Amend the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 to require the recording and reporting of domestic violence and abuse incidents at work
4. Develop statutory guidance for employers on managing domestic violence and abuse in the workplace in consultation with trade unions and employers' organisations.
5. Provide authorities such as the Health and Safety Executive and the Equality and Human Rights Commission with enhanced funding to enforce health and safety law and equality law.
6. Introduce a stalkers and domestic violence perpetrators register to enable the police to pro-actively identify, track, monitor and manage perpetrators
7. Reinstate Section 40 of the Equality Act 2010 which requires employers to prevent harassment from third parties.
8. Give statutory status to trade union workplace equality representatives
9. Give statutory status to workplace women's advocates, a specialist type of equality representative who is trained to support women affected by violence at work.

Recommendation 1

A legal duty on employers to prevent harassment, discrimination and bullying at work including a duty to protect victims of domestic violence

There should be a specific legal duty on employers to prevent harassment, discrimination and bullying at work including a duty to protect victims of domestic violence and abuse. Victims of domestic violence and abuse and their perpetrators are likely to be at work, and sometimes in the same workplace.

Employers already have a legal duty under the Health and Safety at Work etc Act 1974 (and its equivalent in Northern Ireland) to ensure, so far as is reasonably practicable, the health and safety at work of all their employees.(and its equivalent in Northern Ireland require employers to assess the risks of violence to employees and make arrangements for their health and safety by effective planning, organisation and control. It is evident that this general duty is not currently sufficient to protect victims of domestic violence and abuse.

ILO Convention 190¹ recognises the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment. Convention190 will come into force in June 2021. In its preamble it states:

....gender-based violence and harassment disproportionately affects women and girls, and recognizing that an inclusive, integrated and gender-responsive approach, which tackles underlying causes and risk factors, including gender stereotypes, multiple and intersecting forms

¹ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

of discrimination, and unequal gender-based power relations, is essential to ending violence and harassment in the world of work, and

.... domestic violence can affect employment, productivity and health and safety, and that governments, employers' and workers' organizations and labour market institutions can help, as part of other measures, to recognize, respond to and address the impacts of domestic violence ...

Some countries of the world have legislated for a duty under health and safety law to protect victims of domestic violence and abuse. For example, in the state of Ontario, Canada, under the Occupational Health and Safety Act, an employer must take every precaution reasonable in the circumstances for the protection of workers when they are aware, or ought reasonably to be aware, that domestic violence may occur in the workplace, and that it would likely expose a worker to physical injury [section 32.0.4].²

Recommendation 2

Introduce statutory 2 weeks' paid leave for workers who are suffering domestic violence and abuse and right to flexible working

Having to take time off from work because of domestic violence and abuse can cost a survivor of domestic violence their job especially if they are an agency or temporary worker.

Many employers will treat sympathetically requests for leave to help victims sort out their domestic affairs when faced with domestic violence and abuse. Unite has negotiated agreements with employers which allow for paid leave, for example with the Peabody Trust³

Employers should work with trade unions to develop and implement effective workplace policies on supporting employees suffering from domestic violence and abuse and raise awareness and provide training for all employees.

Unite believes that employers should be required to grant 2 weeks' paid leave to employees who are facing domestic violence and abuse. There should be no burden of proof on employees (such as the existence of criminal or civil proceedings) to qualify for this leave.

In addition legislation on flexible working should be strengthened to provide for flexible working for survivors of domestic violence and abuse.

² See Ontario Department of Labour government guidelines Workplace Violence: understanding the law <https://www.labour.gov.on.ca/english/hs/pdf/wpvh.pdf>

³ http://www.housingworkers.org.uk/readnews.html?con_id=831 accessed 3 September 2020

Recommendation 3

Amend the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 to require the recording and reporting of domestic violence and abuse incidents at work.

Domestic violence and abuse often takes place in workplaces, including both physical violence and other forms of abuse such as use of work emails. Working from home as a result of Covid-19 may also put workers already facing abuse further at risk.

Unite is not aware of any formal system of recording instances of domestic violence in workplaces, including deaths, so the true extent of domestic violence at work effectively continues to be a matter for speculation. This is unacceptable.

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) define an “accident” as a separate, identifiable, unintended incident, which causes physical injury, **arising out of or in connection with work**. All deaths to workers and non-workers must be reported if they arise from a work-related accident, including an act of physical violence to a worker. This specifically includes acts of non-consensual violence to people at work.

However, HSE guidance⁴ on preventing violence in the health and social care services states:

Acts of non-consensual violence to a person at work that result in death, a major injury or being incapacitated for over-seven-days are reportable. A physical injury inflicted on one employee by another during a dispute about a personal matter, or an employee at work injured by a relative or friend who visits them at work about a domestic matter, is not reportable.

The HSE uses the Crime Survey for England and Wales as a source of information for statistics on workplace violence. But Annex 1 of their 2018 statistical report⁵ on work related violence specifically excludes incidents in which there is a domestic relationship between the offender and the victim.

Unite recommends that RIDDOR is amended to require the recording and reporting of workplace domestic violence incidents and its guidance revised accordingly, in consultation with trade unions and employers.

Recommendation 4

Develop statutory guidance for employers on managing domestic violence and abuse in the workplace in consultation with trade unions and employers’ organisations

Unite is aware of examples of good practices and policies in workplaces including in the transport sector, energy sector, local authorities, the voluntary sector and the National Health Service but it

⁴ <https://www.hse.gov.uk/healthservices/violence/do.htm> accessed 3 September 2020

⁵ <https://www.hse.gov.uk/statistics/causinj/violence/work-related-violence-report-2018.pdf> accessed 3 September 2020

is essential that the Government issues statutory guidance to help employers understand what they must do to take appropriate action in workplaces.

Recommendation 5

Provide authorities such as the Health and Safety Executive and the Equality and Human Rights Commission with enhanced funding to enforce health and safety law and equality law

Unite recommends that the Health and Safety Executive and the Equality and Human Rights Commission are given enhanced funding to take enforcement action against employers who do not take action to protect their employees from the effects of domestic violence and abuse in the workplace.

Recommendation 6

Introduce a stalkers and domestic violence perpetrators register to enable the police to proactively identify, track, monitor and manage perpetrators

Unite supports Paladin, the national stalking advocacy service, in its call for a register of serial stalkers and domestic violence perpetrators.

Paladin states:

Currently there is no existing framework which can track or monitor serial stalkers and domestic violence perpetrators. Instead police rely on a series of victims to report multiple crimes and often it is the victims who are forced to modify and change their behaviour, flee their homes and disappear themselves in order to stay safe. This is the reason why refuges are in demand and victims continue to be moved around the country. Multi agency risk assessment conferences also tend to focus on the victim too rather than the perpetrator. We track victims when they move but not the problem – the perpetrator.

This needs to change. It is the perpetrator's behaviour that is the problem. There needs to be a positive obligation on them to change their behaviour and take responsibility. They are the ones who need to be tracked, supervised and managed and not the victim.⁶

Recommendation 7

Reinstate Section 40 of the Equality Act 2010

Section 40 of the Equality Act 2010 rendered employers liable to employees if they were subjected to harassment by third parties during the course of their work and if – despite knowing harassment had occurred on two previous occasions – the employer had not taken reasonable steps to stop it happening again.

⁶ <https://paladinservice.co.uk/serial-perpetrator-register-and-order/> accessed 8 September 2020

Unite calls for the reinstatement of Section 40 as part of a legal framework for workplaces to protect workers suffering from domestic violence and abuse, and gender based violence such as sexual harassment.

Recommendation 8

Give statutory status to trade union workplace equality representatives

Domestic violence and abuse is primarily suffered by women and Unite believes that trained trade union Equality Representatives are crucial to driving equality at work including support for victims of domestic violence and abuse.

Trade Union Equality representatives do not have statutory rights to time off, training or facilities in the workplace. However, their skills, experience and activities are recognised in various official guidance and statutory codes of practice, for example the ACAS guide **Trade union representation in the workplace**⁵, the EHRC Employment Statutory Code of Practice and the EHRC Equal Pay Statutory Code of Practice⁷. At a time when existing inequalities in society are increasingly in evidence, statutory recognition of trade union Equality Representatives must no longer be deferred.

Recommendation 9

Give statutory status to workplace women's advocates, a specialist type of equality representative who is trained to support women affected by violence at work.

Women's advocates are union activists who are trained to support survivors of violence, link them with community support and advocate for workplace safety planning and job security. They also campaign for prevention of violence in the workplace and with allies in wider society. This model has been used effectively by trade unions across the world. Unite is calling for statutory recognition of women's advocates. The International Transport Workers' Federation and its affiliates are campaigning for the recognition of workplace women's advocates. For more information please see <https://itfviolencefreeworkplaces4women.wordpress.com/womens-advocacy/>

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