



Tithe an
Oireachtas
Houses of the
Oireachtas

An Comhchoiste um Leanaí, Comhionannas, Míchumas, Lánpháirtíocht agus Óige

Tuarascáil maidir leis an ngrinnscrúdú réamhrechtach ar Scém Ghinearálta
Bille um Chothromaíocht Oibre agus Saoil agus Forálacha Ilghnéitheacha, 2022

Meitheamh 2022

Joint Committee on Children, Equality, Disability, Integration and Youth

Report on pre-legislative scrutiny of the General Scheme of a
Work Life Balance and Miscellaneous Provisions Bill 2022

June 2022



**Tithe an
Oireachtais**
**Houses of the
Oireachtas**

TITHE AN OIREACHTAIS

**AN COMHCHOISTE UM LEANAÍ, COMHIONANNAS, MÍCHUMAS,
LÁNPHÁIRTÍOCHT AGUS ÓIGE**

**Tuarascáil maidir leis an ngrinnscrúdú réamhrechtach ar Scéim
Ghinearálta Bille um Chothromaíocht Oibre agus Saoil agus
Forálacha Ilghnéitheacha, 2022**

June 2022

HOUSES OF THE OIREACHTAS

**JOINT COMMITTEE ON CHILDREN, EQUALITY, DISABILITY,
INTEGRATION AND YOUTH**

**Report on pre-legislative scrutiny of the General Scheme of a
Work Life Balance and Miscellaneous Provisions Bill 2022**

Meitheamh 2022

CDEI 33 09

MEMBERSHIP

- Holly Cairns T.D., SD
- Patrick Costello T.D., GP Leas-Chathaoirleach
- Cathal Crowe T.D., FF
- Alan Dillon T.D., FG
- Kathleen Funchion T.D., SF, Cathaoirleach
- Jennifer Murnane O'Connor T.D., FF
- John Paul Phelan T.D., FG
- Seán Sherlock T.D., LAB
- Mark Ward T.D., SF
- Senator Tom Clonan, IND
- Senator Erin McGreehan, FF
- Senator Ned O'Sullivan, FF
- Senator Lynn Ruane, IND
- Senator Mary Seery Kearney, FG

Joint Committee on Children, Equality, Disability, Integration and Youth



Kathleen Funchion TD
Sinn Féin (Cathaoirleach)



Patrick Costello TD
Green Party



Alan Dillon TD
Fine Gael



Jennifer Murnane
O'Connor TD
Fianna Fáil



John Paul Phelan TD
Fine Gael



Seán Sherlock TD
Labour



Mark Ward TD
Sinn Féin



Holly Cairns TD
Social Democrats



Cathal Crowe
Fianna Fáil



Senator Tom Clonan
Independent



Senator Erin
McGreehan
Fianna Fáil



Senator Lynn Ruane
Independent



Senator Mary Seery
Kearney
Fine Gael



Senator Ned O'Sullivan
Fianna Fáil



FOREWORD

As Cathaoirleach of the Joint Committee on Children, Equality, Disability, Integration and Youth, I welcome the opportunity for the Committee to engage in the pre-legislative Scrutiny process for this important Bill and I support many of the provisions it contains.

The Bill, which transposes an EU Directive on work-life balance, is timely and welcome. Covid-19 created a greater need for flexible working arrangements. Drawing on the lessons learnt from that period should be key to our approach to issues around caring, disability and equality going forward.

As discussed in this report, flexible working arrangements offer many benefits for employees and employers and are important tools for better enabling women and people with disabilities to work, for promoting gender equality, and work life balance and improving child and family wellbeing. The newly published Department of Enterprise, Trade and Employment evaluation of Remote Working found that remote working, for instance, improves labour market outcomes for both people with disabilities and caring responsibilities and is likely to have a positive impact on the Irish economy and society generally.

While this Bill is a very positive development, the Committee make a number of recommendations aimed at enhancing leave and flexible work policies further, in line with best practice. It is important to note that the initiatives proposed under this Bill must be met with improvements in the provision of accessible and affordable childcare and other care services.

Some of our key recommendations include:

- 10 days domestic violence leave must be provided for.
- There should be a statutory right to reasonable access to flexible working for all.
- The Bill should recognise and allow for applications for a wide variety of work arrangements, including, but not limited to, remote working and compressed hours.
- A payment or allowance should be provided for leave for medical care purposes in all cases.
- Lone parents should be entitled to double the amount of leave for medical care purposes, to account for the absent parent, i.e., 10 days.
- An additional form of paid leave for parents called 'sick child leave' should be introduced.

I hope the work of the Committee will assist the Government in strengthening the provisions contained in the draft legislation.

A copy of the report has been sent to the Minister for Children, Equality, Disability, Integration and Youth.



Kathleen Funchion T.D.
Cathaoirleach
9 June 2022

Table of Contents

MEMBERSHIP	2
FOREWORD	4
INTRODUCTION	7
KEY ISSUES	10
Head 3 – Right to request flexible working arrangements for caring purposes	10
Head 4 - Parental Leave and Force Majeure Leave – leave for medical care purposes	15
Other Key Issues	16
APPENDIX 1 - ORDERS OF REFERENCE	20
APPENDIX 2 – LINKS TO SUBMISSIONS	24

Introduction

This Bill will transpose elements of EU Directive 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance. The General Scheme of the Work Life Balance and Miscellaneous Provisions Bill 2022 was referred to the Committee on 25 April 2022, with a request that pre-legislative scrutiny be completed by 21 June 2022 in order to meet the deadline of 2 August 2022 for transposition.

The Committee agreed to issue requests for written submissions to 22 stakeholders and received seven submissions. The sections of the General Scheme discussed in most detail in these submissions, were Heads 3 and 4. Head 3 deals with the right to request flexible working arrangements for caring purposes. Head 4 deals with leave for medical care purposes. Other issues the Committee wished to highlight are discussed under the section 'Other Key Issues'.

The government department with responsibility for leave policy in Ireland is the Department of Children, Equality, Diversity, Integration and Youth. However, the Department of Enterprise, Trade and Employment has policy responsibility for employment rights. Legislating for flexible working arrangements in Ireland therefore has implications across the policy remit of two government departments.

The Committee has been consistent in calling for improvements in family leave policies and was disappointed that a majority of the recommendations made in its Report on pre-legislative scrutiny of the General Scheme of the Parents' Leave and Benefit (Amendment) Bill 2020 were not implemented¹²³.

It is widely acknowledged that flexible and family friendly policies are important tools for better enabling women and people with disabilities to work, for promoting gender equality, and work life balance and improving child and family wellbeing. It is important to note here that the initiatives proposed under this Bill cannot deliver these objectives in isolation. Other factors, such as the provision of accessible and affordable childcare and other care services remain essential. While these areas are central to the remit of this Committee, several other benefits in terms of achieving other policy objectives have been acknowledged by Government, such as, attracting and retaining talent, enabling balanced regional development, alleviating accommodation pressures and reducing carbon emissions and air pollution⁴. This Bill and related legislation offer an opportunity to develop progressive policies that deliver across sectors and Departments. It also offers an opportunity to deliver on recommendations the Committee previously called for in its scrutiny of the General Scheme of the Parents' Leave and Benefit (Amendment) Bill 2020.

There has been much discussion domestically and internationally about how the lessons of the pandemic will shape the world of work going forward. Covid-19 forced employees and employers to adapt, in many cases by adopting remote and flexible working. While such

¹ The Report on pre-legislative scrutiny of the General Scheme of the Parents' Leave and Benefit (Amendment) Bill 2020 is available [here](#).

² The final Bill was titled Family Leave and Miscellaneous Provisions Bill 2021, a link to it is available [here](#).

³ For analysis see Oireachtas Library and Research Service [Bill Digest on the Family Leave Bill 2021](#) .

⁴ Right to Request Remote Work Bill 2021 Regulatory Impact Assessment, available [here](#).

policies will not work for all employees or employers, several reports indicate that the majority of employees favoured having at least partial remote work⁵. Productivity also increased for a significant cohort of companies⁶. It is acknowledged by Government that interest in remote working in the long term remains strong for many workers and many will want to continue with at least partial remote working after the pandemic⁷. This Bill combined with the Right to Request Remote Working Bill 2022 are important pieces of legislation in terms of ensuring that the flexibility demanded by Covid-19 is harnessed to the greatest benefit possible.

In terms of family leave policies, Ireland lags behind many of our EU counterparts in terms of the payments for and duration of leave available and the gap between the end of paid leave and the beginning of formal childcare provision⁸. For the most part, this Bill implements the minimum standard required by the Directive. Many EU countries have already implemented all of its provisions and more progressive measures beyond the minimum standard it demands⁹.

Two welcome exceptions, in terms of going beyond the minimum standard the Directive requires, are contained in Head 3. Firstly, The General Scheme as drafted aligns the age of children whose parents have the right to request flexible work arrangements with the entitlement to parental leave, which is available until the child turns 12. The Directive stipulated that this must be available to parents of children at least eight years of age.

Secondly, as observed by the Employment Bar Association in their submission, the provision of flexible working for employees in the Bill appears not to have the same limitations as the Parental Leave Act 1998 and the Carer's Leave Act 2001. Head 3 provides for the right to request flexible working arrangements for caring purposes to employees with children where the child is in need of significant care or support for a serious medical reason. In such circumstances the age of the child is not defined and could technically be an adult child. This is welcome. The Committee is aware of the challenges many people with caring responsibilities face in terms of accessing services to enable them to work, or in giving up work to qualify for Carer's Allowance. This provision could enable a significant cohort to remain in the workforce, benefiting families and the exchequer.

The majority of submissions the Committee received on this Bill were quite polarized. On the one hand, the National Women's Council, One Family, the Irish Congress of Trade Unions, the recruitment and training company 'ICE Group' and Dr Stephan Köppe, an expert in social policy, called for more progressive policies than the current draft of the General Scheme offers. On the other hand, IBEC submitted that:

"It is vital that the transposition exercise goes no further than necessary in transposing the minimum requirements of the Directive."

⁵ See for example data from [Gallup](#).

⁶ See for example data from [Catalyst](#).

⁷ Right to Request Remote Work Bill 2021 Regulatory Impact Assessment, available [here](#).

⁸ Oireachtas Library and Research Service [Bill Digest on the Family Leave Bill 2021](#).

⁹ For comparative analysis see [Bill Digest on the Family Leave Bill 2021](#).

The Committee is aware that there is a nuanced array of viewpoints amongst employers around the introduction of policies around additional leave and flexible working arrangements. Many industry leaders recognise that there is an impetus on employers to make reasonable efforts to embrace these developments and risks around staff retention and inertia involved in failing to do so¹⁰. Recently, while scrutinising a Private Members Bill, the Committee engaged with Vodafone. They are trailblazing a policy whereby, even in the absence of legislation, the employer offers flexibility around remote working and domestic violence leave. That engagement illustrated the willingness of some private companies to embrace flexibility and progressive leave policies, to the benefit of employee and employer¹¹. The Committee acknowledges that it is the intention of the Minister to introduce Domestic Violence Leave at Committee stage consideration of the Bill and recommends that this leave be 10 days as provided for in the Organisation of Working Time (Domestic Violence Leave) Bill 2020 [PMB].

¹⁰ See for example interviews and analysis in [The Farmers Journal](#), [RTE](#) and [irishtechnews.ie](#).

¹¹ The transcript of that debate is available [here](#).

KEY ISSUES

Following an analysis of submissions received, the Committee have identified key areas of concern in the General Scheme and have made a number of recommendations.

Head 3 – Right to request flexible working arrangements for caring purposes

The need to ensure that flexible working is open to all workers

This Bill is aimed at parents and carers. While the provisions for those cohorts are important, providing the right to reasonable access to flexible working arrangements to everyone is preferable. This is reflected in recent efforts by Government to progress the Right to Request Remote Working Bill 2022. The majority of caring and parenting responsibilities are undertaken by women. Multiple submissions highlighted the importance of ensuring that flexible working is open to all workers, in order to best address existing gender inequality in caring and parenting. When flexible work is not shared between men and women or when, by virtue of their design, interventions are imbalanced, this has the potential to reproduce existing caring and employment inequalities and reinforce gender stereotypes and differences between work and care¹².

As the National Women’s Council submitted:

“Where women are more likely to avail of flexible work options, we risk further embedding a male-breadwinner model. Giving all workers a right to flexible working supports the normalisation of flexible working, promoting gender equality as well as supporting opportunities for disabled workers.”

A statutory right to reasonable access to flexible working, not limited to those with caring roles, was one of the citizen’s assembly recommendations. This was introduced in the UK for all employees with 26 weeks’ continuous employment in June 2014¹³.

A right to flexible work for all need not be absolute. The Committee acknowledges that for many employers there are legitimate reasons why such a right could not be provided across the board. In this Bill, employers have ample scope to reject an employee’s request for flexible working. The majority of the submissions the Committee received argued in favour of broadening the eligibility for same. In their submission, the Irish Congress of Trade Unions also flagged what they describe as a “*highly problematic, catch-all ground*” of “*any other relevant matters*” as grounds for an employer to postpone a flexible working arrangement.

A reasonable right to access flexible working for all can be introduced in a staggered manner which accounts for feasibility. One submission the Committee received from Dr Stephan Köppe, an expert in social policy, offered an example of how Germany has broadened the

¹² This is discussed in the L&RS [Note](#) on comparative Flexible Working Arrangements and acknowledged in the Directive.

¹³ [Law Library | Citizens’ Assembly](#)

right while protecting smaller firms. Only companies with over 15 employees must provide the right to flexible work, while there are the strongest entitlements to flexible work in companies with over 45 employees. He recommends a number of ways Ireland could reasonably establish the right for all, while protecting business, stating that under this Bill as drafted, *“Irish employment law and social protection will constitute the lowest standard within the EU”*.

IBEC warned that the transposition of the EU Directive must be mindful of the need for employers to sustain employment and remain competitive in the face of Brexit and Covid-19. Yet, emerging data indicates that flexibility is essential for attracting and retaining staff¹⁴. This was touched on in other submissions, for example Dr Stephan Köppe referenced the risk of professionals leaving Ireland in the absence of flexible provisions and the Irish Congress of Trade Unions highlighted that a *‘world class approach’* to flexible working is a key part of the UK Government’s strategy to excel in the post-Covid-19 economy.

In their submission, the Employment Bar Association flag that the Bill does not reference a need for documentation for applications for flexible arrangements to provide care to someone with a *“serious medical reason”* under Head 3. They ask:

“there is no obligation imposed in the amendment that any evidence of the “serious medical reason” requiring care be provided by the employee to the employer so on what basis is an employer to determine whether an employee is eligible for flexible working arrangements for caring purposes?”

However, the National Women's Council of Ireland raised the need for consideration of whether supplying medical information on a third party to an employer is consistent with GDPR regulations.

The Committee recommends that:

1. 10 days domestic violence leave must be provided for.
2. There should be a statutory right to reasonable access to flexible working for all.
3. The initiatives proposed under this Bill must be met with improvements in the provision of accessible and affordable childcare and other care services.
4. Consideration should be given to removing catch-all ground of “any other relevant matters” as grounds for an employer to postpone a flexible working arrangement.
5. Consideration should be given to varying the extent of flexible arrangements a company must legally accommodate according to company size.

¹⁴ See for example see discussions on data from [Kellogg and Indeed](#), [PwC](#), [the London Business School](#) and [the University of Southern California](#), and [EY](#).

6. The Bill must define how personal/medical information concerning a third party is understood and to be used in the application for leave relating to the care of that third party, including, what the employer can reasonably request; a provision for when the third party does not consent to the sharing of the information; and the obligations of the employer regarding the processing, storing, and destruction of that information.

Eligibility - Requirement for six months continuous employment before flexible working can be requested

Article 9(4) of the Directive reads:

“Member States may make the right to request flexible working arrangements subject to a period of work qualification or to a length of service qualification, which shall not exceed six months.”

The Directive thus gives Member States the option of imposing a mandatory period of service before employees can request flexible working arrangements, but only allows them to impose a maximum requirement of six months service.

The General Scheme, in Head 3 – 6A(4) reads:

“A period of flexible working arrangements for caring purposes shall not commence before a time when the employee concerned has completed six months continuous employment with the employer from whose employment the leave is taken.”

As drafted this provision goes only marginally further than the minimum standard required by the Directive, in that it could allow some employees to *begin* as opposed to *apply for* a flexible working arrangement once they have obtained six months service. Several stakeholders called for the required six months service to be removed, as it is optional under the Directive and it will disproportionately affect certain groups such as lone parents and workers on temporary contracts¹⁵. These cohorts are already disproportionately affected by poverty and job insecurity.

One Family submitted that the lack of access to quality affordable early childhood education and care is one of the most significant barriers to education and employment for one-parent families, stating that retaining the six-month employment eligibility criteria will directly contribute to the ongoing high rates of poverty (13.1%) and deprivation (44.9%) in this cohort.

The Irish Congress of Trade Unions submitted that hundreds of thousands of workers employed on term-time contracts, including professionals working in early childhood education and care who have 38-week contracts, would be without cover if the Bill does not incorporate the second line of Article 9(4) of the Directive, which reads:

¹⁵ See for example submissions from One Family and The National Women’s Council.

“In the case of successive fixed-term contracts within the meaning of Directive 1999/70/EC with the same employer, the sum of those contracts shall be taken into account for the purpose of calculating the qualifying period.”

IBEC called for a tightening up of the provision in Head 3 – 6A(4), so that it embodies the absolute minimum standard required under the Directive, namely that once six months service has been served, only then can an application be made for flexible working arrangements.

The Committee recommends that:

7. Consideration should be given to reducing the length of service an employee must have acquired and the requirement for such service to be continuous before they can make an application for flexible working arrangements.

8. The Bill must incorporate the parts of the Directive dealing with fixed term contracts, which reads: *“In the case of successive fixed-term contracts within the meaning of Directive 1999/70/EC with the same employer, the sum of those contracts shall be taken into account for the purpose of calculating the qualifying period.”*

9. Where possible, and if appropriate, consideration should be given to aligning the eligibility criteria for remote working arrangements, provided for in the Right to Request Remote Working Bill, with the grounds for refusal of a flexible working arrangement provided for in this Bill.

The in loco parentis role

Head 3 and 4 allow an employee to apply for the Bill’s provisions in relation to a range of persons. One of these is “a person to whom the employee is in loco parentis”. In loco parentis normally refers to an individual who assumes parental responsibilities without formally adopting that person. It was highlighted that the in loco parentis role and entitlement needs to be clarified and that awareness of it will be important going forward so that those eligible can benefit. One Family pointed out that stepparents, grandparents and other family members often play a crucial role in the care of children in one-parent families. As such, this provision could be important in enabling lone parents to participate in the workforce. Further, Covid-19 has given rise to new issues around sick leave or suspected minor illnesses for all families. This provision could reduce absences from school and work by creating more flexibility around care options.

The Committee recommends that:

10. There needs to be a significant campaign of awareness raising among employees and employers about the variety of new arrangements or entitlements that may be relevant to them under the Bill.

11. In loco parentis should be further explained and defined in the Bill and should allow for the wide range of individuals who assume that role in different cases, including aunts, uncles, step-parents and grandparents.

The concept of a Shorter Working Week

The Committee received a submission from recruitment and training company 'ICE Group'. ICE initiated a compressed hours four day working week in 2019. The concept proposes the individual worker maintain the same level of pay and productivity as they would do over five days, while reducing their working hours and only work for four days. Essentially, employees provide the same productivity in four days as is normal in five days, and most importantly maintain the same level of pay. Since moving to this arrangement, which is also known as 'compressed hours', ICE have had:

- 33% increase in employee happiness scores
- 27% increase in productivity
- Reduced single day absenteeism
- Better Staff Retention
- Reduced carbon footprint due to 20% reduction in commuting

ICE suggested that this Bill should recognise the concept of a shorter working week, while recognising that the design and implementation of statutory provisions for same would need careful consideration and would not fit into this specific piece of legislation. The Irish Congress of Trade Unions has also been to the fore in calling for a statutory right to request flexible working arrangements which include compressed hours. Beyond the submissions received by this Committee, momentum for this kind of arrangement and other similar ones is building. The Committee on Enterprise, Trade and Employment recently held a meeting on the concept of a four-day working week¹⁶.

IBEC criticised the lack of a precise definition of flexible working arrangements in the General Scheme stating that this will lead to an unsustainable and unaffordable array of requests being received by many businesses. The Government has expressed support for remote and flexible models of working to be a much broader part of life post Covid¹⁷. It follows that legislation should be forward facing and account for these emerging trends. There has been much debate in the Oireachtas about the need to accommodate a range of arrangements to better enable women and people with disabilities to work, to promote gender equality, work life balance, and child and family wellbeing and to ensure that Irish workplaces remain attractive places to workers generally¹⁸.

¹⁶ [Joint Committee on Enterprise, Trade and Employment debate - Wednesday, 6 Oct 2021 \(oireachtas.ie\)](#)

¹⁷ See for example Minister of State Robert Troy discussing flexible work during debate of [9 March 2022](#).

¹⁸ See for example debate of [9 March 2022](#).

The Committee recommends that:

12. The Bill should recognise and allow for applications for a wide variety of work arrangements, including, but not limited to, remote working and compressed hours.

Head 4 - Parental Leave and Force Majeure Leave – leave for medical care purposes

The Directive does not legally oblige Member States to provide payment for the types of leave provided. It does, however, say that they are encouraged to introduce a payment or an allowance in order to guarantee the effective take-up of the right, by men in particular. Many submissions recommended that leave for medical care purposes should be paid leave. In the absence of payment, men, lone parents and those with lower incomes are less likely to benefit from the five days leave for medical purposes provided by the Directive. The amount of payment being called for by stakeholders varied and included full wages, 70% of wages, and at the level of illness benefit. A number of submissions called for the removal of the entitlement of employers to request a medical certificate for persons being cared for by an employee under this type of leave. Concern was also raised about how such requests operated in relation to GDPR regulations.

Leave specifically for sick children is already available in many other EU countries with some form of payment and for a greater number of days than the five stipulated in the Directive¹⁹. Lone parents are usually allocated the leave period of the absent parent. Dr Stephan Köppe called for the introduction of sick child leave in addition to the leave being introduced by the Directive.

IBEC made the case in their submission that there is no need to introduce a new form of leave for medical purposes, as, in their view, Carer's Leave already meets the minimum requirements of the Directive. They also suggested that an employee must be required to give a reasonable period of prior notice, otherwise, they said, this leave is already in existence under force majeure. However, the Directive specifically designates the leave as *in addition to* existing rights to force majeure leave²⁰ and Carer's leave has a specific set of conditions attached to it²¹.

The Committee recommends that:

13. A payment or allowance should be provided for leave for medical care purposes.

14. Remove the entitlement of employers to request a medical certificate for persons being cared for by a worker under this type of leave.

¹⁹ Dr Stephan Köppe submission.

²⁰ See page 4 of the [Directive](#).

²¹ For more on Carer's Leave see citizensinformation.ie.

15. An additional form of paid leave for parents called ‘sick child leave’ should be introduced.

Other Key Issues

Monitoring and Transparency

The Directive instructs Member States to cooperate with one another in order to develop comparable statistics that are disaggregated by sex, and, by 2027, to communicate to the Commission all information concerning its implementation including available aggregated data on the take-up of different types of leave and flexible working arrangements, by men and women, in particular with regard to gender equality²². The Department of Children, Equality, Disability, Integration and Youth should collect disaggregated data on flexible working arrangements for caring purposes to ensure the legislation is effectively and equitably implemented and to assess its impact.

One Family proposed in their submission that companies should be required to keep a log of requests for flexible working arrangements, which lists the department (where applicable), the outcome of the request and, if relevant, grounds for refusal. The log, they say, should be published on their website, accessible to the Workplace Relations Commission and subject to audit where necessary, to ensure fair access to flexible working arrangement for all staff, regardless of their seniority or position within the company. While this suggestion is welcome from a transparency and equality enforcement perspective, if implemented it should be combined with supports for businesses. Article 12 of the Directive places the initial burden of proof on the employer where there is a suspected dismissal on the grounds that they have applied for, or have taken, leave provided for by the Directive. This in itself also creates a need for record keeping. Many businesses will have human resource policies in place whereby such records are routinely kept, while others may not. Varying the extent of reporting requirements according to company size, with more extensive obligations around reporting being placed on larger firms may be worth considering.

The Committee recommends that:

16. The Department of Children, Equality, Disability, Integration and Youth should collect disaggregated data on flexible working arrangements for caring purposes to:

- A) ensure the legislation is effectively and equitably implemented and to assess its impact in terms of achieving equality and wellbeing objectives
- B) assess the impact of the measures on businesses and provide them with targeted supports
- C) enable cooperation at EU level in assessing and developing the Directive’s measures going forward.

17. Consideration should be given to obliging companies, potentially over a certain size, to publish data on requests for flexible working arrangements. Supports should be provided to businesses to enable them to do this effectively.

²² See page 2 of the [Directive](#).

Supports for Business

The Directive encourages Member States to thoroughly assess the impact of their implementing measures, especially with a view to ensuring small and medium enterprises (SMEs) are not disproportionately affected by the measures. It also encourages them to provide incentives, guidance and advice to SMEs to assist them in complying with their obligations. Communications and support for businesses will be essential to alleviating employers concerns around the Bill and making sure they are rewarded for implementation and compliance. The relevant Departments should proactively engage in outreach and knowledge sharing with employers, by utilising already established forums where possible. Further equality Directives will likely be forthcoming from the EU, on related topics such as Equal Pay for Equal Work, so having and maintaining established channels of communication and support for business should be a priority. IBEC stressed that these supports need to be available immediately, stating:

“Appropriate supports for employers must be put in place by Government. These supports must be easily and rapidly accessible and made available in step with the introduction of this proposed legislation.”

The Committee recommends that:

18. A campaign of communications with, and support for, businesses should be developed by the relevant Departments as a priority, utilising established forums where possible to support the implementation of this and other similar future Directives.

Outstanding Technical and Linguistic issues

In their submission, the Employment Bar Association make a number of linguistic, technical and theoretical observations. These are detailed and will be a good resource for drafters refining the Bill going forward. The Committee recommends that the Department and those involved in progressing the Bill take account of the observations in that submission. For example, their submission highlights that under Head 12: Amendment of section 16(1) of Maternity Protection Act, 1994 – Reference to “Woman” for the Purposes of Entitlement to Maternity Leave, the Employment Bar Association observe that the replacement of “woman” with “person” in section 16(1) is appropriate in order to include pregnant transgender males, but say this raises the question of whether the subsequent reference to “the father of the child” should be amended to refer to “the child’s other parent” in circumstances where the remaining parent may not be male.

The Committee recommends that:

19. The relevant Departments and those involved in progressing the Bill should take account of the of linguistic, technical and theoretical observations in the Employment Bar Association's submission and make corresponding amendments as necessary.

Lone Parents

In the course of its consideration of Child Poverty and the General Scheme of the Parents' Leave and Benefit (Amendment) Bill 2020, the Committee has heard consistent calls from experts for enhanced welfare supports for lone parents. The Committee previously recommended that in the case of lone parents, access to double the amount of statutory Parent's Leave, i.e., 10 weeks, should be provided and that the Revenue administered Single Person Child Carer Credit (SPCCC) should be examined as a potential mechanism to identify the parent who is the primary carer and to qualify them for access to double the amount of statutory Parent's Leave. The Committee is still of this view and calls on the relevant Departments to investigate ways that lone parents could be given that allocation of Parent's Leave and other enhanced welfare supports. The National Women's council proposed the inclusion of an amendment to the Family Leave Act to provide an additional leave allocation to custodial parents without impacting the non-transferability requirement. It is understandable that Parent's Leave is non-transferrable in cases where two parents are present, so that both parents are encouraged to take time out from work and share childcare, with the aim of avoiding the continuation of traditional gender roles. However, lone parents are parenting alone, so they have double the amount of caring responsibilities while their children have half the dedicated time with a caregiver, in terms of Parent's Leave, vis-à-vis children in two-parent families, during a vital time in their early development.

The EU Child Guarantee obligates Member States to provide equal opportunities for all children, with a particular focus on children who experience social exclusion due to poverty or other forms of a disadvantage²³. Likewise, Principle 11 of the European Pillar of Social Rights states that *"children from disadvantaged backgrounds have the right to specific measures to enhance equal opportunities"*²⁴. Given that children in two-parent families have a consistent poverty rate of 6.1%, whereas children in lone-parent households have a consistent poverty rate of 17.1%²⁵, there seems to be a clear need for inventive targeted measures for single parent families. The Government strategy First5 states that *"policies that allow children to be cared for at home by parents, particularly in their first year, that ensure such opportunities are open to families across the income spectrum, are strongly supported by research"*²⁶.

In the case of the leave for medical purposes offered under this Bill, and as called for by stakeholders, lone parents should be given double the entitlements, as in, be allocated the

²³ [EU Child Guarantee](#) – adopted by the Council in 2021.

²⁴ [European Pillar of Social Rights](#) – 20 Key Principles.

²⁵ See data presented by Spark during [meeting of 23 November 2021](#) .

²⁶ [First5](#): A Whole-of-Government Strategy for Babies, Young Children and their Families 2019-2028.

leave period of the absent parent. In line with recommendation 13, a payment or allowance should be provided for leave for medical care purposes in all cases.

The Committee recommends that:

20. Lone parents should be entitled to double the amount of leave for medical care purposes, to account for the absent parent, i.e., 10 days, with a payment or allowance being provided for leave for medical care purposes in all cases.

21. The relevant Departments, working with lone parents, should develop other enhanced and targeted supports for single parent families.

Breastfeeding Breaks

The provisions around breastfeeding breaks were widely welcomed in submissions the Committee received, with the exception of IBEC. IBEC submitted that, to reduce the significant cost impact on employers, the paid entitlement should extend to 52 weeks, not 104, and any extension beyond 52 weeks from the date of confinement should be unpaid. The Committee welcomes the Bills provisions in relation to breastfeeding breaks.

APPENDIX 1 - ORDERS OF REFERENCE

a. Functions of the Committee – derived from Standing Orders [DSO 95; SSO 71]

1) The Dáil may appoint a Departmental Select Committee to consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Dáil on any matter relating to—

- (a) legislation, policy, governance, expenditure and administration of—
 - (i) a Government Department, and
 - (ii) State bodies within the responsibility of such Department, and
- (b) the performance of a non-State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.

(2) A Select Committee appointed pursuant to this Standing Order shall also consider such other matters which—

- (a) stand referred to the Committee by virtue of these Standing Orders or statute law, or
- (b) shall be referred to the Committee by order of the Dáil.

(3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be—

- (a) for the accountability of the relevant Minister or Minister of State, and
- (b) to assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.

(4) A Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts—

- (a) consents to such consideration, or
- (b) has reported on such accounts or reports.

(5) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for the purposes of paragraph (1) and such other purposes as may be specified in these Standing Orders or by order of the Dáil: provided that the Joint Committee shall not consider—

- (a) the Committee Stage of a Bill,
- (b) Estimates for Public Services, or
- (c) a proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.

(6) Any report that the Joint Committee proposes to make shall, on adoption by the Joint Committee, be made to both Houses of the Oireachtas.

(7) The Chairman of the Select Committee appointed pursuant to this Standing Order shall also be Chairman of the Joint Committee.

(8) Where a Select Committee proposes to consider—

- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 133, including the compliance of such acts with the principle of subsidiarity,
- (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
- (c) non-legislative documents published by any EU institution in relation to EU policy matters, or
- (d) matters listed for consideration on the agenda for meetings of the relevant Council (of Ministers) of the European Union and the outcome of such meetings,

the following may be notified accordingly and shall have the right to attend and take part in such consideration without having a right to move motions or amendments or the right to vote:

- (i) members of the European Parliament elected from constituencies in Ireland,
- (ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
- (iii) at the invitation of the Committee, other members of the European Parliament.

(9) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department consider—

- (a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
- (b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 130 apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.

b. Scope and Context of Activities of Committees (as derived from Standing Orders) [DSO 94; SSO 70]

(1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;

(2) such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil/Seanad;

(3) it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under DSO 125(1) and SSO 108(1); and

(4) it shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

- (a) a member of the Government or a Minister of State, or
 - (b) the principal office-holder of a State body within the responsibility of a Government Department or
 - (c) the principal office-holder of a non-State body which is partly funded by the State,
- Provided that the Committee may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

(5) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice to the Business Committee by a Chairman of one of the Select Committees concerned, waives this instruction.

c. Powers of Committees (as derived from Standing Orders) [DSO 96; SSO 72]

Unless the Dáil/Seanad shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

(1) power to invite and receive oral and written evidence and to print and publish from time to time—

- (a) minutes of such evidence as was heard in public, and
- (b) such evidence in writing as the Committee thinks fit;

(2) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil/Seanad;

(3) power to draft recommendations for legislative change and for new legislation;

(4) in relation to any statutory instrument, including those laid or laid in draft before either or both Houses of the Oireachtas, power to—

- (a) require any Government Department or other instrument-making authority concerned to—
 - (i) submit a memorandum to the Joint Committee explaining the statutory instrument, or
 - (ii) attend a meeting of the Joint Committee to explain any such statutory instrument: Provided that the authority concerned may decline to attend for reasons given in writing to the Joint Committee, which may report thereon to the Dáil, and
- (b) recommend, where it considers that such action is warranted, that the instrument should be annulled or amended;

(5) power to require that a member of the Government or Minister of State shall attend before the Joint Committee to discuss—

(a) policy, or

(b) proposed primary or secondary legislation (prior to such legislation being published),

for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Joint Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Joint Committee to enable him or her to discuss such policy or proposed legislation;

(6) power to require that a member of the Government or Minister of State shall attend before the Joint Committee and provide, in private session if so requested by the attendee, oral briefings in advance of meetings of the relevant EC Council (of Ministers) of the European Union to enable the Joint Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;

(7) power to require that the Chairperson designate of a body or agency under the aegis of a Department shall, prior to his or her appointment, attend before the Select Committee to discuss his or her strategic priorities for the role;

(8) power to require that a member of the Government or Minister of State who is officially responsible for the implementation of an Act shall attend before a Joint Committee in relation to the consideration of a report under DSO 197/SSO 168;

(9) subject to any constraints otherwise prescribed by law, power to require that principal office-holders of a—

(a) State body within the responsibility of a Government Department or

(b) non-State body which is partly funded by the State,

shall attend meetings of the Joint Committee, as appropriate, to discuss issues for which they are officially responsible: Provided that such an office-holder may decline to attend for stated reasons given in writing to the Joint Committee, which may report thereon to the Dáil/Seanad; and

(10) power to—

(a) engage the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and

(b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Chairmen under DSO 120(4)(a)/SSO 107(4)(a).

APPENDIX 2 – LINKS TO SUBMISSIONS

SUBMISSIONS

[National Women's Council](#)

[Dr Stephan Köppe](#)

[One Family](#)

[Ice Group](#)

[Congress](#)

[Employment Bar Association](#)

[Irish Business and Employers Confederation](#)

Houses of the Oireachtas

Leinster House
Kildare Street
Dublin 2
D02 XR20

www.oireachtas.ie

Tel: +353 (0)1 6183000 or 076 1001700

Twitter: @OireachtasNews

Connect with us



Download our App

