

May 2022

NWC submission to the
JOC on Children,
Equality, Disability &
Integration on the Work
Life Balance and
Miscellaneous
Provisions Bill 2022

Introduction

The National Women's Council (NWC) is the leading national representative organisation for women and women's groups in Ireland. We have over 190-member groups and a large and growing community of individual supporters. The ambition of the National Women's Council is an Ireland where every woman enjoys true equality and no woman is left behind. NWC welcomes the invitation to make a written submission on the General Scheme of the Work Life Balance and Miscellaneous Provisions Bill 2022. NWC has long called for advancements in flexible work and family leave to support care and so we welcome progress on implementing the requirements of the EU Directive on Work Life Balance. However, the Bill falls short of what is required in a number of areas.

The pandemic has reinforced the importance of care to a functioning economy and society. It has both exposed and exacerbated our continuing reliance on the unpaid and underpaid labour of women to meet our society's care needs. However, it has also reinforced the potential benefits of flexible work. The Directive, developed prior to the pandemic, is not sufficiently ambitious and contains gaps in its provisions around who can avail of flexible work and the importance of paid leave. In general, the Directive also assumes a two-parent family as the norm and does not sufficiently account for the needs of lone parents who are sole earners and sole caregivers for their families. However, in its transposition of the Directive, Ireland can go beyond the floor of rights that it sets out and can enact legislation capable of transformative change in how we work, live, value and share care.

The recommendations of the Citizens' Assembly on Gender Equality also require further ambition than what is contained in Work Life Balance Bill. The Citizens' Assembly's recommendation on flexible work was not limited to those with caring roles. They also recommended that **paid** leave for parents covers the first year of a child's life, that lone parents should have the same total leave period as a couple and that payments should be increased to incentivise take up.

In its consideration of the Bill, NWC asks the Committee to consider the following key recommendations which would greatly improve the Work Life Balance and Miscellaneous Provisions Bill 2022.

Key recommendations

- Amend the legislation to ensure that flexible working is open to all workers
- Remove the requirement for six months continuous employment before flexible working can be requested
- Amend the Bill so that the 5 days paid leave for medical care is paid at the level of Illness Benefit
- Include an amendment to the Family Leave and Miscellaneous Provisions Act 2021 to provide lone parents with an equal level of Parent's Leave as two parent families

Head 3: Right to request flexible working

Pre-pandemic, 1 in 4 workers in Ireland said that they had no access to flexible work arrangements in their work place¹, with only 14% of employees in Ireland 'usually' or 'sometimes' working from home.² When the pandemic struck, 82% of global firms were able to transition to remote work in less than a week with the majority of those taking less than 48 hours to make the transition.³

¹ European Commission (2018). Flash Eurobarometer 470 – Work-Life Balance. European Union, 2018

² Redmond, P. & McGuinness, S. (2020). Who can work from home in Ireland? ESRI

³ Robert Walters (2020). Returning to the new world of work: A practical guide for business leaders.

The pandemic has reinforced the benefits of flexible working and it should be available to all workers. It can open up opportunities for those living in rural communities and can be a crucial reasonable accommodation for disabled workers. Ireland has one of the highest disability employment gaps in the OECD⁴ with disabled women particularly impacted. The labour force participation rate of disabled women is only 26% (compared to 35% for disabled men).⁵

A survey of Disability Allowance recipients by the Department of Social Protection found flexible hours were cited by 30% of respondents as the most important factor in helping them achieve their employment ambitions and goals.⁶ In its current iteration, disabled women cannot benefit from the provisions of the Bill unless they have care responsibilities.

As envisioned by the Directive, the availability of flexible work is a key support to enable women to balance care with participation in the labour market. However, where women avail of flexible working and men don't, there is a risk that gendered inequalities in care and the labour market could be reinforced. There is the potential for women to become less visible in the workplace with reduced opportunities for promotion, compared to male colleagues. Where women are more likely to avail of flexible options like reduced hours, the loss of income could perpetuate existing economic inequalities between women and men.

Additionally, the need for flexible work arrangements does not end when a child is 12, especially for lone parents. While it is welcome that the Bill goes beyond the minimum provisions of the Directive by extending the age from 8 years to 12 years, this will still exclude a significant cohort of workers with care responsibilities.

To ensure that flexible working does not have adverse impacts on gender equality, flexible working should be available to all workers, to ensure a culture that supports flexible working as a desirable and legitimate option for all.

NWC's view is that flexibility should be available from commencement of employment. The requirement that workers must have completed 6 months service to request flexible working (6.a (4)) will impact negatively on lone parents who may be in need of flexibility in order to take up a job in the first place, those returning to work following a period out of the labour market for care (more likely to be women) and workers on temporary contracts.

The EU Directive lays down minimum requirements. Ireland has an opportunity to go beyond this and make flexible work an option for all workers.

Recommendations

- Amend the legislation to ensure that flexible working is open to all workers
- Remove the requirement for six months continuous employment before flexible working can be requested

Head 4 – Leave for medical care purposes

Paid leave is vital to addressing gender inequalities in the division of care and if the leave is to be a realistic option for all workers. Paid leave is particularly important for lone parents who are solely responsible for their household income and who are already more at risk of poverty than other household types.

⁴ OECD (2021). Disability, work and inclusion in the Ireland. <https://www.oecd.org/employment/disability-work-and-inclusion-in-ireland-74b45baa-en.htm>

⁵ CSO (2017). Census 2016.

⁶ DSP (2016). Department of Social Protection Report on Disability Allowance Survey

The value of paid family leave in Ireland is far behind our EU peers, pitched at around 27% of the average wage.⁷ We currently do not have any ‘well paid’ leave, i.e., leave paid at 66 % of earnings or above. A review by the Department of Public Expenditure and Reform found that uptake of Parent’s Leave in Ireland is low among fathers and one of the reasons suggested for this is the low rate of payment.⁸ Where the payment is low, taking time off for work is more challenging and often unaffordable for fathers in low incomes families and is predominantly taken by fathers working in middle- to high-income jobs.⁹

The Commission’s original proposal was to provide leave paid at a level at least equivalent to sick pay but the final Directive is weaker, in that it does not stipulate that the leave should be paid. While we welcome that this Bill will provide a much-needed basic right to take time off to care, without threat of dismissal, we have an opportunity to clearly state that unpaid care has value to society and the economy by providing a state payment for that leave. Converting the leave to paid leave would send a clear signal that Ireland is serious about addressing gender inequalities in care and supporting lone parents out of poverty.

The proposal to require workers to obtain a medical certificate (13A (6)(c)) for a third party is overly restrictive. It also places an additional and unreasonable cost burden on parents, and particularly lone parents and low-income workers, especially when coupled with the unpaid nature of the leave. It must also be considered whether supplying medical information on a third party to an employer is consistent with GDPR regulations.

Key recommendations

- Amend the Bill so that the 5 days paid leave for medical care is paid at the level of Illness Benefit
- Remove the entitlement of employers to request a medical certificate for persons being cared for by a worker

Supporting lone parents in their care roles: Family Leave Act

In general, the EU Directive assumes a two-parent family as the norm and does not sufficiently account for the needs of lone parents who are sole earners and sole caregivers for their families. This bias towards two-parent families has been replicated in Ireland’s Family Leave and Miscellaneous Provisions Act 2021 which transposes other elements of the EU Directive on Work Life Balance, namely the provision of paid parental leave, through the Parent’s Leave scheme.

Under the Act, lone parent families are not supported to the same extent as two-parent families. From July 2022, a lone parent will be able to access only seven weeks of Parent’s Leave whereas a two-parent family will be able to avail of a combined fourteen weeks. This means, that despite the additional barriers to paid employment, including lack of an accessible and affordable public childcare system and higher risk of poverty experienced by lone parents, there is less state support for women parenting alone and their children than those living in two-parent families.

NWC and partners in the National One Parent Family Alliance have continued to call for this inequality to be rectified. In their consideration of the Family Leave Bill in 2021, the Oireachtas Committee on Children, Disability, Equality and Integration agreed that lone parents should have equality in the provision of paid parental leave and recommended that the Bill be amended to reflect this.¹⁰ Equal paid parental leave for lone parents is also a recommendation of the Citizens’ Assembly on Gender Equality.

We ask that in transposing the remaining elements of the EU Directive into law through the Work Life Balance Bill, that the specific needs of lone parents are considered. While recognising the importance of

⁷ OECD (2018). Family database. Parental leave systems. https://www.oecd.org/els/soc/PF2_1_Parental_leave_systems.pdf

⁸ DPER (2010). <https://igees.gov.ie/wp-content/uploads/2020/11/Focused-Policy-Assessment-Paid-Parent-LeaveScheme.pdf>

⁹ https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2021/2021-03-25_bill-digest-family-leave-bill-2021_en.pdf

¹⁰ Committee on Children, Disability, Equality and Integration (2021). Report on the Parents Leave and Benefit Bill

the principle of non-transferability of leave as set out in the Directive, lone parents might be supported through the provision of an additional period of leave so that the leave entitlement matches that of a two-parent family.

Recommendations

- Include an amendment to the Family Leave Act so as to provide an additional leave allocation to custodial parents without impacting the non-transferability requirement

Head 10 & 11 - Breastfeeding and transgender inclusion

NWC welcomes the proposed amendment to the Maternity Protection (Amendment) Act 2004 to extend breastfeeding leave from 26 weeks after giving birth to 104 weeks. This will allow workers to benefit from the leave when they return from maternity leave. NWC also welcomes efforts in the Bill to ensure that all women and people who may become pregnant fall within the scope of the Act.

NWC welcomes the development of inclusive language and recommends that it should be additive. For example, the Bill proposes to amend the Maternity Protection Act 1994 (a) in section 2(1) by the replacement of 'her' employer and 'her' condition with his or her – an example of adding inclusive language. However, the Bill includes a provision that the Maternity Protection Act 1994 is amended (a) in section 16(1) by the replacement of "woman" with "person". NWC recommends that the amendment should read 'woman or person'.

Conclusion

In its current iteration, the Bill provides some recognition of the value to workers of having time to care but it does not sufficiently recognise the value of care to society and the economy

Adequate paid leave requires State investment in the care economy and would be a clear signal that care is necessary and valuable. It would promote gender equality as well as supporting low income households and lone parents to balance work with care responsibilities.

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.