Insight Hour: Domestic abuse and employers' legal obligations

This is a summary of our Insight Hour webinar with Anvita Sharma, employment lawyer at Hogan Lovells; Jim Fitzgerald, consultant at Baringa; and Susan Bright, CEO of EIDA. The session was recorded and you can watch it here.

Introduction to key legislation

While the general understanding of domestic abuse as a business issue has improved in the UK, we still receive questions from employers about whether domestic abuse should be seen as a private matter, not relevant to the workplace. The starting point for these conversations should be to look at the statistics about the prevalence of domestic abuse in the UK. With one in four women and one in seven men being impacted by domestic abuse in their lifetimes, everyone will know someone who has experienced domestic abuse. Work can often be the only safe space for someone experiencing domestic abuse and a place where they can seek support

The statutory definition of domestic abuse can be found in the Domestic Abuse Act 2021: "The abusive behaviour of one person towards another person if they are each aged 16 or over and are personally connected to each other". This covers intimate relationships, family relationships, and people who share responsibility for a child. The definition covers a range of abusive behaviours, including physical abuse and sexual abuse, economic abuse, emotional abuse, and coercive and controlling behaviour. Domestic abuse can happen to anyone, regardless of their gender identity, race, sexual orientation, background, or level of seniority.

Employers are a vital part of the collective societal response to domestic abuse. The Statutory Guidance accompanying the Domestic Abuse Act 2021 states that "Employers should consider the impact of domestic abuse on their employees as part of their duty of care". As best practice, employers should also develop policies and procedures, signpost to specialist domestic abuse services, and to the extent they are able, offer practical support to employees who are impacted by abuse.

Furthermore, the Health and Safety at Work Act 1974 concerns the welfare of employees. It requires employers to undertake risk assessments to identify risks associated with employment and adopt suitable measures to mitigate these risks. If there is a known risk of domestic abuse to an employee within the organisation, this may fall under the Health and Safety at Work Act 1974. Employers should be aware of the general obligation to maintain a safe working environment and should consider domestic abuse issues which may rise in the workplace in the context of risk assessments.

The Worker Protection Act 2023

The Worker Protection (Amendment of Equality Act 2010) Act 2023 introduces a new legal duty on employers to take reasonable steps to prevent sexual harassment of their workers. Employers who fail to take reasonable steps to prevent sexual harassment will face penalties, including an increase of up to 25 percent in compensation awards for workplace sexual harassment if an

employment tribunal finds the employer has breached this new duty. Sexual harassment, as defined under Section 26 of the Equality Act 2010, encompasses "any unwanted sexual conduct that has the purpose or effect of undermining the recipient's dignity or creates an intimidating, hostile, degrading, humiliating, or offensive work environment".

The Equalities and Human Rights Commission regulates compliance and enforces the duties set out in the Equality Act. This typically entails entering into voluntary agreements with employers, where the employer agrees to a remedy and the Commission monitors their compliance. Remedies may include workplace training and updating organisational policies/guidance. The Commission has issued technical guidance on what can be considered reasonable steps.

There are potential overlaps between the domestic abuse legislation and the sexual harassment legislation, not least as the latter also applies to third parties. A practical example could be instances where sexual harassment is used as a form of domestic abuse, either in the workplace or where an employee is working from home.

The Employment Rights Bill

The Employment Rights Bill was proposed by the Labour Government in October 2024 and is currently going through the Parliamentary process. The Bill covers protection for employees and new statutory duties on employers, including for sexual harassment and third-party protections. The wording of the Bill currently requires employers to take *all* reasonable steps to prevent harassment – a stricter requirement than the current Equality Act requirement. The types of harassment covered in this Bill include any harassment based on protected characteristics such as age, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race, nationality, ethnic or national origin, religion or belief, sex, and sexual orientation.

Upcoming legislation

A recent Private Members Bill introduced by Alex McIntyre MP has proposed a statutory duty on employers to provide 10 days paid leave to victim-survivors of domestic abuse, a similar provision to that which exists in Northern Ireland. It is currently due for parliamentary reading in June 2025, and we encourage employers to keep an eye on developments in this space.

Case study: Baringa

EIDA-member Baringa is a UK-based management consultancy with over 1,300 employees. Responsibility for their workplace domestic abuse response sits within their Gender Diversity Network and Women's Safety Working Group. They have implemented their response around four pillars of action.

- **Strategic leadership.** This includes ensuring diverse representation at senior leadership level and implementing formal policies and procedures for reporting domestic abuse. They have based this pillar around the 3-year action plan from White Ribbon.

- **Engaging men.** This entails raising awareness of domestic abuse and sexual harassment among male members of staff, recruiting White Ribbon Ambassadors (broadly equivalent to Domestic Abuse Champions), providing peer-to-peer training, and making sure domestic abuse is kept on the organisational agenda.
- **Embed allyship culture.** This pillar is about de-stigmatising conversations around domestic abuse, providing examples of best practice, and how allyship can be included in the day-to-day.
- **Raising awareness.** This pillar centres on Baringa's commitment to raising awareness and tackling domestic abuse externally. They host roundtable events for their clients, join external webinars, feature their response on social media, and have installed a Safe Space widget on their intranet.

Baringa's overall approach is based around raising awareness among all employees and driving a company culture that promotes the support they have available to employees impacted by domestic abuse. Some of the support they offer includes emergency accommodation, short-term and interest-free loans, paid leave, and mental health services through their Employee Assistance Programme (EAP).

By making employees aware of the concrete options available to them, businesses can help those impacted by abuse regain a sense of control over their situation. We recommend that employers be guided by the employee, as they will know their situation and needs best. This also applies to situations where the alleged perpetrator may also be an employee in the same business. Each case is unique, for example, some may need closer monitoring and safety planning over time. Employer flexibility is key, whilst always ensuring the safety of the victim-survivor at the heart of the employer's response.

January 2025