Abortion Consultation Guide

Helping you respond to the current public consultation on abortion.

Background

On 22 October 2019, the Northern Ireland (Executive Formation etc.) Act 2019 became law. The previous law on abortion was repealed and the Secretary of State is now required to legislate for abortion in the following cases: -

(i) Threat to the pregnant woman's physical or mental health, without conditionality of "long-term or permanent" effects;

(ii) Rape and incest;

(ii) Severe fetal impairment, including fatal fetal abnormality, without perpetuating stereotypes towards persons with disabilities and ensuring appropriate and ongoing support, social and financial, for women who decide to carry such pregnancies to term.

The law provides very little detail about what abortion provision will actually look like in practice – that's what this government consultation is about. Your views are now being sought to help shape it.

How to use this guidance

We understand that responding to public consultations is new for many people, so we have produced this guidance to help you respond: -

- You can use this guide to 'walk-through' each question in the consultation document – it should take no longer than one hour at the very most;
- We have also produced video guidance on each question, available at reimaginingfaith.com;
- Page 3 of this guidance contains a checklist and some more general points to keep in mind as you respond.

How can you respond?

The easiest way to respond is to complete the online survey here. Alternatively, you can download a copy of the consultation here, print it out, and hand-write your response.

Once you have completed the questions you can send them via email to abortionconsultation@nio.gov.uk or print and return completed hard copies to:-

Abortion Consultation, Northern Ireland Office, Stormont House, Stormont Estate, Belfast, BT4 3SH.

Time is short and the deadline is 11:45pm on 16 December 2019.

Our response to the issue of abortion seeks to be: -

1. Prophetic

We haven't changed but the law has. We continue to oppose the introduction of the new abortion legislation. Every human life has inherent dignity and value. We remain committed to the good and flourishing of both lives, longing and working towards the day to come when sickness, sin, death and abortion will be no more (Revelation 21). We warn against the devastating impacts of these proposals and point to a better story of hope and life and humanity even in the most difficult of circumstances.

2. Pastoral

This consultation deals with the very sensitive issue of abortion and within that, the issues of sexual crime and babies who die before or shortly after birth. These are among the most difficult of human experiences and a consultation response is not the place to fully consider these issues. However, we are very aware that this public conversation has raised the issue for many people again personally in their own lives, their churches and communities. We call upon the Church to be a place of refuge and redemption for women in pregnancy crisis, domestic or sexual violence, those who are suffering from abortion-regret, families struggling with disabled children, children with experience of the care system. Churches and Christian charities are already offering a wide variety of help and practical support from befriending to debt counselling. We encourage the Church to continue to develop these counter-cultural ways of care and support in this challenging and changing moment.

3. Pragmatic

We hold tightly to our principles while working pragmatically. Human life is sacred, so we seek to protect and care for both women and children. Nothing in this response is to be understood as the Evangelical Alliance Northern Ireland supporting or legitimising abortion in the instances contained within the proposals. However, we live in a deeply fallen world and, whilst we don't agree with this new legislation, we recognise the reality that the abortion law has profoundly changed in Northern Ireland. Because the government has proceeded down this line, we believe it is important for us as Christians, alongside our warning, to work to mitigate the worst effects of this legislation and secure the least-worst outcomes. We do not accept much of the framing of this consultation, nor many of the assumptions on which it is based. However, we have strived to guide you to respond in the way that could help to mitigate the impact. This has been a difficult process for us to wrestle with and will be for many people. We continue to work for God's good rule within the place we find ourselves.

You may wish to make similar points as part of your response to the first or last question.

Checklist

1. **Pray –** We encourage you to prayerfully respond to this consultation as an act of worship, warning and witness.
2. **Don't be put off** – There is a lot of text and complex language in the online consultation survey, at the beginning and accompanying each question. If you are minded to read it please do, but for each question we have summarised key points for you and provided background context.
3. **We will guide you but make points in your words** - If you agree with the points we make, then please make similar points in your own words. This is vital, as responses where the wording is identical could be counted as a single response.
    - Use the **'key points and alternative suggestions'** we have provided for each question to help formulate your own response.
    - Feel free to refer to the **appendix** at the end of this document which contains more detailed background information for each question. This gives more context to the questions being asked and our suggested responses.
4. **Write something for every question as well as ticking the boxes** - This is your chance to qualify and express a better, more nuanced response.
5. **Tell the NIO how these law changes directly affect you -** It might be the loss of your unborn child's protection in law; concern for family members yet to be born; concern for disabled family members and wider community. Perhaps you had an abortion and regret it. Perhaps you have a belief, faith or disability that you believe is being discriminated against. Are you a healthcare professional who might exercise a conscientious objection? Do you have concerns that there is no mention of alternative services or support?
6. **Keep a copy of this guide in front of you, either on a screen or a paper copy -** If you're filling in the online survey, follow this link. If you're handwriting a response, grab your pen. Our guidance is tailored to the online survey, but the points made will apply to handwritten responses as well.

Let's get started…..

Introduction

Fill in your: -

- Name
- e-mail address
- Organisation (If you are responding on behalf of an organisation fill this in, otherwise, leave it blank – you are not responding on our behalf so please do not write "Evangelical Alliance")

→ Click "Continue"
→ There is some background information on 'legislative changes'
→ Scroll to the bottom of the page and click 'Continue'

Questions 1a and 1b (Early terminations of pregnancy)

The Evangelical Alliance will be responding: "**No**" and "**No**" - and making the following points in the space provided below the tick-boxes.

Key points and alternative suggestions

- This 'unrestricted access' proposal goes far beyond what the law requires.
- The law does not require abortion on request for any reason, nor for any specific gestational limits.
- The gestational limit should be reduced as low as possible, and considerably lower than 12-14 weeks, by which point 93.3% of all abortions take place.
- The grounds should be as tight as possible and linked to the actual requirements of the legislation, namely 'rape and incest' and 'threat to…health'.
- Potential wording could be something like, where there is *a risk of real and serious, immediate and specific harm to a woman's physical or mental health, including circumstances of rape and incest.*
- When rape or incest is alleged, a certificate/affidavit could be developed similar to wording and practice which already exists in Northern Ireland (developed by this government in relation to benefit eligibility for a child conceived through sexual crime) to deal with issues arising from allegations of a crime and a duty to report offences.
- This 'unrestricted access' proposal is culturally inappropriate and disproportionate - ECHR member states like Northern Ireland, have a wide margin of appreciation in the application of abortion laws in line with their cultural values. Any legal changes should clearly be towards the minimal end not the maximal approach taken here.
- A scan should be required as a safeguard to date the unborn child to make sure gestational limits are adhered to.

Question 2 (Early terminations of pregnancy – part 2)

The Evangelical Alliance will be responding: "**Yes**" - and making the following points in the space provided below the tick-boxes.

Key points and alternative approaches

- Abortion ends a human life. A very high bar should be set to certify that the abortion falls within the regulations – otherwise they are meaningless.
- A detailed form of certification should be completed for every abortion.
- It should be verified and signed by two doctors.
- The certification should include the reason(s) why abortion is being sought.
- The certificate should verify the gestation of the unborn child.
- The vast majority of abortions happen in these early stages. If data is not captured as to why women are having abortions, then women are being failed and future policy decisions are ill-informed.
- If minimal data is collected, there would be no data on repeat abortions. In GB last year 39% of all abortions were repeat abortions for women who had at least one previous abortion.

Questions 3a and 3b (Gestations beyond 12 or 14 weeks)

The Evangelical Alliance will be responding: **"No"** to both - and making the following points in the space provided below the tick-boxes.

Key points and alternative provisions

- This ground goes far beyond what is required by the new law.
- The wording effectively permits unrestricted abortion up to 22/24 weeks. The undefined risk to mental health is similar to the ground under which 98% of all abortions take place in GB.
- Highlight and push back against the examples given like 'delayed recognition of pregnancy' as a 'health' reason for an abortion.
- There is no requirement for abortions within this proposed gestational limit. Health grounds could be covered within the lowest possible gestational period referred to in our suggested response to question 1.
- The wording around risk of injury to physical or mental health should include terms like "real and serious, immediate and specific harm" referred to in our suggested response to question 1.
- There should be a higher bar for ending a human life. The balance of probabilities test should not be used in the wording because it could potentially always be argued that abortion is the lower risk and therefore is always permissible.
- Where the abortion is being sought on the ground of mental health –two doctors could sign off, one being a consultant in mental health.
- It is difficult to think of circumstances which would not qualify for an abortion under the breadth of this ground. Indeed, there is little or no evidence of abortions being refused in England and Wales where similar wording exists.
- Ask the NIO to set out a list of circumstances where abortions would not be permitted under this ground. What will be done to prevent abuse of this ground?

Questions 4a and 4b (Fetal abnormality)

The Evangelical Alliance will be responding: **"No"** to both - and making the following points in the space provided below the tick-boxes.

Key points and alternative provisions

- This proposal seeks to introduce abortion on the basis of disability and a highly subjective 'quality of life' test. This perpetuates stereotypes against disabled people, failing to meet even the requirements of the new legislation and the UK's commitments under the UN Convention on the Rights of People with Disabilities.
- Incredibly, the Equality Impact Assessment for this consultation, which proposes to introduce abortion on the grounds of disability, fails to mention any meaningful impact on the disabled community.
- At every level this proposal is legally problematic.
- Abortion should not be permitted solely on the basis of there being something perceived as deficient with any baby. This ground should be linked to and include a "risk of real and serious, immediate and specific harm to the woman's health" in line with our response to the other grounds.
- While we do not agree entirely, the NI Assembly working group report 'on Fatal Fetal Abnormality' from 2016 would be a more local and appropriate basis to approach cases where the baby may not survive birth than what is proposed here. It also contains helpful content about alternative pathways of care for women who want to continue to term.
- The words and assessment based on the 'quality of life' should be removed. This is highly subjective and open to wide abuse.
- Any medical assessments should include neonatologist and paediatricians in the assessment of the baby.
- There should be statutory provision and protection of services for women and families to continue the pregnancy including close working with NGOs and parents' groups in this space.

Questions 5a and 5b (Risk to the woman or girl's life or risk of grave permanent injury)

The Evangelical Alliance will be responding: **"No"** to **5a** and "**Yes**" to **5b** - and making the following points in the space provided below the tick-boxes.

Key points and alternative provisions

- We acknowledge that the law must allow for terminations in some limited circumstances and emergency situations where it is deemed medically necessary to save the life of the woman.
- However, the wording under 5a should be amended. It is currently framed as a balance of probabilities where arguably any pregnancy could be ended because it presents a higher risk to life than an abortion. The wording should be amended to say something much closer to the previous law like, 'Abortion is deemed necessary because there is a real and serious/grave and immediate risk to the life of the woman.'
- Rather than abortion, every effort should be made in these circumstances to deliver the baby alive.

Question 6 (Who can perform an abortion?)

The Evangelical Alliance will be responding: **"No"** - and making the following points in the space provided below the tick-boxes.

Key points and alternative approaches

- Abortion ends a human life – The bar should be set as high as possible to protect women and unborn children from abuse of these legal grounds for abortion.
- This proposal would set a potentially lower bar than two doctors in the rest of GB. Abortions should be signed off by two registered medical practitioners (doctors) rather than a single healthcare professional who has been trained.
- Where mental health is being claimed as the ground, one of the doctors should be a mental health professional.

Question 7 (Where procedures can take place)

The Evangelical Alliance will be responding: **"No"** - and making the following points in the space provided below the tick-boxes.

Key points and alternative approaches

- Abortion ends a human life. It should not be so easy and flexible that it becomes normalised and indifferent to any other 'healthcare'.
- The NIO should urgently clarify that abortion 'services' are not required to be provided at all public health facilities and define this terminology.
- Provision of abortion services should be restricted and regulated as far as possible as a regulated activity and subject to the highest levels of data collection and transparency.
- It should not be legal to make profit from providing abortion.
- Abortion should not be available in schools or universities or high street suppliers.
- Standards and safeguards should be as high as possible. Inspections and reporting should be regular and thorough.

Question 8 (Where procedures can take place – part 2)

The Evangelical Alliance will be responding: **"Yes"** - and making the following points in the space provided below the tick-boxes.

Key points and alternative approaches

- All terminations after this stage should be carried out in acute sector hospitals and we propose this applies to all abortions outside of the lowest possible gestational limit as per our response to question 1.
- Late terms abortions carry more risks and potential for complications.
- There are awful instances of later stage abortions where babies have been left to die and women suffered severe complications following later abortions and poor treatment at independent clinics.

Questions 9a and 9b (Certificate of opinion and notification requirements)

The Evangelical Alliance will be responding: "**Yes**" to **9a** and "**No**" to **9b** - and making the following points in the space provided below the tick-boxes.

Key points and alternative provisions

- A process of certification by two doctors should be in place for every abortion deemed legal. This is a better way to protect: -
  - doctors;
  - women from medical mis-diagnosis; and
  - unborn babies from abortions which should never have taken place.
- Abortion ends a human life. Second medical opinions are common, allowing one person to make such a significant and irreversible medical decision is not wise.
- This is in line with response to question 1 where we propose no period of 'unrestricted abortion' but always linked to a meaningful and medical risk to life or health.
- This proposal would leave no meaningful checks or balances. There are news stories of abuse by doctors in England pre-signing forms for abortions even with the two-doctor rule in place and stories of rogue abortion doctors at US clinics performing infanticide and storing aborted babies outside of clinics.
- It may be true that a more significant number of people will raise conscientious objections than in other parts of UK. The NIO does not cite evidence for this assumption however.
- It is concerning that conscience is seen as a problem and barrier to abortion and worrying that the proposed solution is to reduce the bar designed to protect doctors, women and babies.

Question 10 (Certificate of opinion and notification requirements – part 2)

The Evangelical Alliance will be responding: **"Yes"** - and making the following points in the space provided below the tick-boxes.

Key points and alternative provisions

- Agree statutory and compulsory data collection is essential.
- There should be similar data collection to England and Wales but more detailed reasons why women are choosing to abort – important to capture abuse, domestic violence, sexual crime, poverty, lack of relational support, failed contraception etc.
- Data should be collected on the number of refused abortions – women who did not meet the grounds. If no abortions are refused then this should flag up that the regulations impose no meaningful restrictions or limits on abortion.
- Data should be collected for early abortions even if the access is 'unrestricted' up to 12 or 14 weeks. It would be strange not to collect data in what would likely amount to 90-95% of all abortions if these gestational limits are adopted.
- Data must be anonymised but published annually.

- Data is vital for systemic change – to address underlying symptoms as to why abortion is chosen. However, data collection without any stated policy direction is meaningless. Can the NIO confirm that reducing recourse to abortion is a good and legitimate policy objective?

Question 11 (Conscientious objection)

The Evangelical Alliance will be responding: "**No**" - and making the following point in the space provided below the tick-boxes.

Key points and alternative provisions

- We believe statutory protection of conscience is vital, but it should provide greater protection than in rest of UK – see alternative approach outlined in response to Q12 below.

Question 12 (Conscientious objection)

The Evangelical Alliance will be responding: "**Yes**" - and making the following points in the space provided below the tick-boxes.

Key points and alternative provisions

- We agree there should be a statutory conscientious objection but argue that it should be wider than in the rest of the UK.
- This would be in line with devolution and the wide margin of appreciation given to member states around abortion.
- Conscience should be protected for the entire course of the procedure, referrals and booking for abortions, administration of abortifacient medication, ancillary, administrative or managerial tasks.
- If managerial tasks are not specifically protected, a glass ceiling will effectively be created when it comes to management and career progression for people with a conscientious objection. This is discriminatory towards people who hold a conscientious objection. It could also amount to indirect or direct discrimination on the basis of religion or political belief under existing legislation.
- We have been contacted by/are aware of medical staff who have already come under pressure to administer pills 'sure you're just setting them in front of her, you're not forcing them down her throat, it's her choice to take them'. Also, anecdotal evidence of silencing and staff feeling that they can't say anything.
- Any statutory conscience objection protection should not undermine existing fair employment legislation.
- Conscience is a positive asset in a diverse workplace. It is not a problem to be solved but a value to be celebrated.

Question 13 (Exclusion zones)

The Evangelical Alliance will be responding: "**No**" - and making the following points in the space provided below the tick-boxes.

Key points and alternative approaches

- No-one wants to see women harassed.
- Thankfully, the criminal justice system already allows for complaints to be investigated and for prosecutions and punishment to follow where a crime is proved. This proposal goes far beyond what the law requires.
- Deal with the individual who breaks the law – don't punish peaceful protestors, those exercising their freedom of expression responsibly. There are important European Convention of Human Rights protections to be considered around freedom of assembly, expression and protest.
- Don't ban alternative help close to the places where women might need it most. There are many stories of women changing their mind because of encounters with people who have offered real and alternative support. It is unfair to ban help for vulnerable women, as long as that help is being offered responsibility and within the law.
- Using the word 'safe zone' implies that protestors are dangerous and have harmful and ill-intent. It is unfair and disproportionate.
- Ask the NIO to clarify exactly what would constitute unlawful behaviour – gathering silently, public prayer?
- The law already deals with this issue and Health Trusts can determine what happens on their property but the freedom to assemble and protest on the street is vital to a plural democracy.

Question 14 (Exclusion zones)

The Evangelical Alliance will be responding: "**Yes**" - and making the following point in the space provided below the tick-boxes.

Key points and alternative provisions

We believe there should be a power to designate a separate zone for protest only if exclusion zones are adopted.

Question 15 (Further Comments)

This is your opportunity to make any additional points you wish to make.
Remember to include how the issues raised in this consultation have personally affected you, or could in future. You may wish to consider some of the following points and make similar points in your own words.

1. We oppose the introduction of this new abortion legislation. We warn against the effects on women, children and the entire community.
2. Nothing in this response is to be understood as support or legitimisation for abortion in the instances contained within the proposals. BECAUSE the government has decided to proceed down this line, THEN we are engaging to propose the most minimal approach possible within the new legal requirements.
3. It is unfair and discriminatory to state that views on the ethics of abortion are not being welcomed. p.6 *'this consultation is not seeking views on whether the SOS should be exercising this duty in the first place, the ethics of the matter of abortion, nor the framework in England, Scotland and Wales.'*
4. The Secretary of State himself acknowledges in his foreword that 'this is a highly sensitive and complex matter' – the ethical nature of abortion cannot be excluded from the practicalities which facilitate it. The framing of the consultation in this way, as to discourage or exclude views on these matters, unfairly discriminates against those with a religious belief or a political opinion which would lead them to an ethical objection to abortion and/or this framework.
5. The NIO refers to the abortion framework in England on every page between 16–28. It is bizarre to discourage views on the framework in England when the NIO themselves use it as a point of reference throughout the consultation.
6. The NIO misquotes the 1945 Criminal Justice Act replacing the word child with fetus. The crime the act refers to still exists and is called 'child destruction'. Language and accuracy are both important. That this particularly important word has been changed, either deliberately or mistakenly, is deeply concerning. It is difficult to have confidence in either the objectivity or the ability of such a Department.
7. There is no mention of services to help women continue with pregnancy and support and raise their children. This should be match-funded at least in terms of the investment being made in abortion services and annual cost to the block grant.
8. There is no mention of counselling or post-abortive care. This should be funded and provided independently from the abortion provider. There is a clear and well-documented conflict of interest if the abortion provider is offering counselling.
9. There is no mention of education.
10. There is no mention of adoption and making pathways towards adoption more straightforward as a positive choice.
11. There is nothing in these proposed regulations about coercive abortion – no protections for women or unborn children. What steps will be taken to prevent this abuse of vulnerable women and children?
12. There is no mention of polices which could reduce recourse to abortion.
13. The new law has effectively legalised back-street abortions. This arguably puts women and unborn children at greater risk that the previous law which protected both lives. What does the NIO propose happens when an abortion is found to have taken place outside of these parameters? What would be the consequence for the doctor? What plans are there for re-criminalisation or partial re-criminalisation of abortions outside of the new legal parameters?
14. How would the NIO stop abortion on the grounds of sex or a minor disability (following a private or Health Service screening test)?
15. Will the NIO confirm that it will expressly ban abortion on the grounds of sex selection?
16. What happens when an abortion fails and a baby is born alive? What is to stop infanticide at this stage? Will comfort care be given in hospitals or will babies be left to die in sluice rooms as has happened.

17. What will happen to fetal remains if aborted at home? Is it still a crime not to notify? Remember the baby in the bin case: Link to BBC report.
18. Will fetal remains be incinerated to heat hospitals? Will this be banned? Link to Telegraph report.
19. Will pain relief be given to fetuses before the abortion procedure?
20. Will parental consent be required for a girl seeking an abortion?
21. What will happen in cases involving statutory rape and abortion? Can the child consent to the abortion procedure? Will Gillick competency be applied?
22. How will data be tracked longitudinally? Will abortions appear on health records to help track potential causality and co-morbidity when it comes to other physical or mental health issues.
23. Will independent clinics providing publicly funded services be subject to judicial review and FIO legislation?

→ Click "Continue" – There are just a couple more steps until your response is submitted.

Supplementary Information

This is a summary of the current legal position.

Scroll to the bottom of the survey page.

→ Click "Continue"

Almost done…

Fill in your e-mail address if you want to receive an e-mail copy of your response.

→ Click "Submit Response"

If you have been writing your response as a hard copy, or in a form separate to the survey, you just need to email it to abortionconsultation@nio.gov.uk or post a hard copy to: -

Abortion Consultation, Northern Ireland Office, Stormont House, Stormont Estate, Belfast, BT4 3SH.

You are finished!
Thank you so much for the contribution you have made to this important consultation.

Stay up to date at
https://www.reimaginingfaith.com/abortion

APPENDIX

Understanding the context

Question 1: 'Early terminations of pregnancy'

The NIO has a legal duty to legislate for abortions on the grounds of 'rape and incest'. (Section 9 of the Northern Ireland Executive Formation Act 2019 as per CEDAW Para 85 (b) ii.) They propose that the best way to do this is to allow 'unrestricted access' to abortion for any reason up to 12 or 14 weeks.

This raises at least three important issues: -

1. 'Unrestricted Access'

    - Obviously 'unrestricted access' goes far beyond what is actually required by the new legislation. It would allow abortion for any and no reason completely unrelated to the health or life of the woman. The value of every unborn human being is reduced to a solely private concern.

- In a number of judgements, the European Court of Human Rights has reaffirmed that member states have *a wide margin of appreciation* when it comes to balancing the interconnected rights and protections of women and their unborn children around abortion (A, B & C v Ireland and Vo v France).

- When no reason is required for an abortion, victims of sexual crime may be more likely to go unnoticed, abuse may continue and other systematic failures like poverty remain unaddressed.

2. Abortions in the case of 'rape and incest'

    These are obviously extremely sensitive issues often involving grave human rights abuses. In England and Wales, abortions on these grounds take place under the risk to mental health without officially being recorded on the basis of rape or incest. It is important to note that emergency contraception is offered routinely in Northern Ireland when sexual crime is reported within 72 hours of the alleged incident.

    There are two main issues when it comes to legislating for abortion on the grounds of rape/incest/sexual crime in Northern Ireland: -

    (i) One is how to sensitively but robustly evidence an allegation of sexual crime. By the time such a matter would be prosecuted and proved in court the baby would be born. Also, sexual crimes are among the most difficult to prosecute and prove. The consultation document states 'this is not an approach the government advocates' due to 'impact on victims and high risk of resulting in a legal framework which would exclude those who are unable to evidence the crime'. This issue is not particular to Northern Ireland and other jurisdictions have dealt with rape and incest by way of a sworn affidavit.

    (ii) The second difficulty is particular to Northern Ireland, where Article 5 of the Criminal Justice Act (NI) 1967 creates a specific legal duty to report a criminal

offence. This could mean that medical professionals could be required to report sexual crimes to the PSNI.

However a process already exists in the benefits system having been devised by this government to allow women to claim benefits for a third child conceived through sexual crime, where otherwise conceived they would not receive them. The wording in this clause deals with the issues around proving and reporting an alleged sexual offence in Northern Ireland so that the medical professional may not be required to report an alleged crime in the interests of patient confidentiality.

3. Gestational Limits

Be in no doubt, the wording and gestational limits within this clause could permit or limit thousands of abortions every year.

- 93.3 % of abortions take place up to 14 weeks.
- 90% of abortions happen in first 12 weeks.
- However, only 12.5 % of abortions take place at 6 weeks and 51% of abortions take place up to 8 weeks.
- New non-invasive genetic testing methods mean that a baby's sex and various disabilities can be determined at around 10 weeks. If abortions were limited to before this gestation sex-selective abortions could not be facilitated so easily.

Question 2: 'Early terminations of pregnancy (part 2)'

- Remember it is proposed that there should be 'unrestricted access' to abortion in the first 12/14 weeks. However, in GB, 94.5% of abortions occur in first 14 weeks.
- If the NIO adopt their proposals in question 1 and 2 unchanged, then little or no data would be recorded for almost 95% of abortions as to why women were seeking them.
- This question also lowers the bar for certifying from two medical practitioners (doctors) to one healthcare professional.
- The aim is to normalise abortion as an unrestricted choice and to frustrate information on why women choose abortions. Abortion has been de-criminalised, it is argued that this layer of legal safeguarding for women and doctors is no longer required.
- It would be extraordinary not to collect data to compile statistics and identify trends. It would make annual reporting, transparency, future policy assessments and decisions almost impossible.
- There would be no longitudinal data on the number of women seeking abortions because of domestic violence, poverty, sex selection, lack of relational support etc over time.
- Failure to collect data could contradict paragraph 85 d & f of the CEDAW agreement on which the Northern Ireland Executive Formation legislation is based.

Question 3: 'Gestations beyond 12 or 14 weeks'

The NIO has a legal duty to legislate for abortions on the grounds of "threat to the pregnant woman's physical or mental health, without conditionality of 'long term or permanent' effects" (Section 9 of the Northern Ireland Executive Formation Act 2019 as per CEDAW Para 85 (b) i.)

However, this proposal goes far beyond what is required by the new law. There are several concerning issues: -

The balance of probabilities test

The test for abortion here is very low – *'the continuance of the pregnancy would cause risk of injury…. greater than the risk of terminating the pregnancy'*: it could and has been argued that simply by virtue of being pregnant, a woman's health could be at greater risk than the risk of terminating.

The definition of 'risk of injury to the physical or mental health': -

- The wording should be amended to create a much higher bar to avoid abuse of this ground. Something like 'risk of real and serious, immediate and specific harm to the physical or mental health.'
- The wording in this proposal and the examples cited in the consultation paper including 'significant change in circumstance such as relationship breakdown, or delayed recognition of pregnancy' go far beyond any meaningful connection to health.
- This is not evidence-based in terms of the impact on health; it's entirely subjective. The reality, therefore, is that this ground is seeking to establish a 'right' or strong presumption of choice up to 24 weeks under the guise of risk to health.
- The wording resembles ground C of the 1967 Abortion Act, under which 98% of all abortions take place on the grounds of mental health alone.

Gestational Limits

- There is nothing in the legislation that requires abortion up to a particular gestational limit. The limit of 24 weeks is very late.
- Abortion on the grounds of health, which is required in the new law, could be included in a lower gestational limit referred to in response to Question 1. Any risk of grave or permanent injury or threat to a woman's life is already provided for in law at any stage up to birth and covered in question 5.

Question 4: 'Fetal abnormality'

The NIO has a legal duty to legislate for abortions on the grounds of "Severe fetal impairment, including fatal fetal abnormality, without perpetuating stereotypes towards persons with disabilities and ensuring appropriate and ongoing support, social and financial, for women who decide to carry such pregnancies to term;" (Section 9 of the Northern Ireland Executive Formation Act 2019 as per CEDAW Para 85 (b) iii).

Once again, the proposal here goes much further than what is required by the new law and raises some concerning issues: -

- The phrases from the consultation document, 'profound impact' on and 'significantly limit either the length or quality of a child's life' are very subjective and wide. Annual statistics

from England and Wales are proof that provisions like this are interpreted very liberally to include minor disabilities – for instance a diagnosis of a cleft lip arguably has significant impact on the quality of life of a baby girl, yet this is a minor 'defect' that does not even qualify as a disability for the purposes of benefit assessment etc.

- The medical assessment should again be linked to a risk of real and serious, immediate and specific harm to the physical or mental health of the women, not just the 'abnormality' or 'impairment' of the unborn child.
- This proposal very likely constitutes discrimination, in light of UK's obligations under the UN Convention on the Rights of Disabled People. Yet, and incredibly, the Equality Impact Assessment carried out for this legislation is does not note any potential negative impact on the disabled community. The deficiency of the Equality Impact Assessment to even raise this issue could be grounds for legal action.
- The proposal here is biased towards abortion and neglectful of the other legal requirements to provide support for women or actions to stop stereotypes being perpetuated.

The wording here goes far beyond the requirements of the new law. Any changes should be minimalist and as limited as possible, much more closely reflecting the Northern Ireland Assembly report on this issue in 2016 and not based on quality of life.

Question 5: 'Risk to the woman or girls life or risk of grave permanent injury'

The wording in this question seems to conflate two very different situations. One is a very low bar which could lead to abortion up to birth for any reason and the other is a higher bar which is similar to the law which existed here before October 22 2019.

The wording which must be amended is the 'risk to the life of the woman or girl greater than if the pregnancy were terminated'. This is a very low bar based on a balance of probabilities.

It could be argued that every pregnancy potentially presents a risk to the women greater than an abortion. If the wording here is not changed then abortions could be allowed up to birth for any reason in any pregnancy by virtue of the fact a woman is pregnant.

Question 6: 'Who can perform an abortion?'

This provision is about making abortion easier and opening it up into independent clinics etc. In GB over 70% of all abortions take place in independent clinics. It is about taking the decision away from two doctors and putting it into the hands of any single medical professional who has been trained. It is a lower safeguard for women, unborn children and medical staff.

Question 7: 'Where abortions can take place?'

Similar to question 6, this is part of a wider trend to further normalise abortions and make them available like any other over-the-counter medicines, in independent abortion clinics, universities

and potentially even schools. In England and Wales around 70% of all abortions take place in independent clinics.

It is likely linked to paragraph 86 (c) of the CEDAW report which states,

> *"Provide women with access to high-quality abortion and post-abortion care in **all** public health facilities and adopt guidance on doctor-patient confidentiality in that area."*

Any independent sector hospitals or clinics must obtain the Secretary of State's approval and agree to comply with the Required Standard Operating Procedures set out in the Procedures for the Approval of Independent Sector Places for the Termination of Pregnancy. In addition, in England, Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 provides that the termination of pregnancy is a regulated activity. All providers of regulated activities must be registered with the Care Quality Commission CQC and meet fundamental standards of quality and safety as set out in regulations.

Question 8: No additional comments

Question 9: 'Certification of opinion and notification requirements'

The trend is to make abortion as easy as possible and to remove any perceived barriers to it. Conscience protection is perceived as a barrier to abortion as is the protection of two doctors signing off. The NIO suspect that more medical staff here will conscientiously object than across the rest of the UK and, seeing this as a problem, propose reducing to one healthcare professional (nurse, midwife, nursing auxiliary), rather than two doctors.

Question 10: No additional comments

Question 11: No additional comments

Question 12: 'Conscientious objection'

The freedom and protection of conscientious objection to abortion is under threat in many countries. It is part of a wider trend, led by some abortion advocates to silence and remove dissenting voices from the field of healthcare. The 'Scottish Midwives' case appeared to narrow the previous interpretation of conscience protection under the 1967 Act. In Sweden midwives are currently not permitted conscientious objection on the grounds of religious belief though this may be appealed to the EHRC.

The NIO themselves acknowledge that it 'is likely that there will be a more significant number of people raising conscientious objections than in other parts of the UK.' (p.23) However, this is framed as a problem to be overcome by lowering the bar to allow one person to certify an abortion.

However, a 'wide margin of appreciation' is given to member states around balancing the interconnected rights and protections of women and their unborn children when it comes to abortion policy. This includes conscience and given abortion is a devolved matter, it should reflect more closely the greater cultural opposition to abortion here and carefully protect the potentially higher number of people relying on it. This should be viewed as a cultural asset, not a problem.

It is notable that conscientious objection is not even mentioned in either the CEDAW report or the new legislation.

Questions 13 & 14: 'Exclusion Zones'

The NIO is under a legal duty to *'protect women from harassment by anti-abortion protesters by investigating complaints and prosecuting and punishing perpetrators'*. However, exclusion zones go far beyond what is required by CEDAW.

To be very clear we oppose harassment and support the fair application of the laws which already exist to deal with those who commit these offences. However, there is a concerted aim by pro-abortion campaigners to have dissenting voices silenced and physically removed from public spaces.

There is an important balance here between protecting people from harassment and protecting freedom of assembly and expression and protest.

An application has been made for permission to appeal Ealing Council's Public Space Protection Order that creates a buffer zone around a Marie Stopes clinic: Read more here.