



# Police Service of Northern Ireland

A/Assistant Chief Constable Melanie Jones  
PSNI Headquarters  
Community Safety Department  
65 Knock Road  
Belfast  
BT5 6LE  
Email: [CSD-ACC@psni.police.uk](mailto:CSD-ACC@psni.police.uk)  
Tel: 02890 561599

Keith McBride  
Clerk, Committee for Health  
Room 410, Parliament Buildings  
Stormont  
Belfast BT4 3XX

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Your Ref: C287/21

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By Email: [Committee.Health@niassembly.gov.uk](mailto:Committee.Health@niassembly.gov.uk)

Dear Keith

## **Re: The Abortion Services (Safe Access Zones) Bill**

Thank you for your letter dated 21 October 2021 to the Chief Constable who has asked me to respond on his behalf.

Whilst the Abortion Service (Safe Access Zones) Bill does not seek to stop protest or prevent people from gathering in numbers, provided they are located outside of the safe zone or, if they are within it, that they do not undertake any of the activities that the Bill seeks to criminalise, I would conclude that there are significant challenges around interpretation and enforcement of the proposed legislation especially around the need to balance the competing Human Rights being exercised by all the different groups affected in a number of ways:

1. The potential offence of seeking to influence someone for accessing the services provided by the premises.  
Seeking to influence someone is a fundamental aspect of protest and removing that, could be arguably removing their right to protest within the safe zone. This may invite challenge as being effectively a 'blanket ban', similar to the Dolan ruling in the England and Wales COA in December 2020 which found that stopping people protesting in any number was effectively a 'blanket ban' and created a breach of Human Rights.
2. Clarity as to the exact definition of the safe zone.  
The attached explanatory and financial memorandum contains very little detail, beyond the broad definition set out in clause 5, as to the exact nature, size and location of the safe zone and so is difficult to make accurate commentary on.



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Presumably it will be out of line of sight from the entrances and exits of the buildings? The definition and application of the safe zone will be legally important in order to balance the competing human rights in particular the right to protest which is silent within the papers provided.

### 3. Compliance with competing Human Rights.

It is highly likely that any legislation would invite legal challenge on the grounds that the legislation is attempting to criminalise protest by introducing offences pertaining to protest, and are established and familiar protest activity, such as seeking to ban handing out leaflets, activities that are not inherently unlawful.

### 4. The over-riding 'health' considerations of this Bill will inevitably draw it in to legal challenge with the competing rights of the unborn child which is the key area of ground for the protestors.

### 5. Clause 6 Defence.

The defence as outlined in Clause 6 will make enforcement very difficult as it will allow protestors to rely upon a lack of knowledge. Hence, effective enforcement would only realistically be possible for repeat offenders where the prosecution can demonstrate beyond reasonable doubt that the protestor did know that they were inside a safe zone or contemporaneous enforcement after warning which has the net effect of the protest and related activity having taken place or being tolerated for a period of time.

### 6. Clause 7 Enforcement.

The powers of enforcement as set out in Clause 7 omit two critical requirements:

- There is no requirement for those who are subject to enforcement to provide name, address or other personal details to the police. This would be key to negating any defence relied on in Clause 6 – either at that time or in the future.
- There is no specific power of seizure around recording equipment or other material. Whilst PACE provisions may be adequate for a criminal investigation, they would not be effective to prevent further offences being committed at that particular time.

Finally, I would highlight the potential resourcing implications for the PSNI in respect of this Bill. Protests of this nature are both frequent in nature and often spontaneous and elongated. Effective policing would require a continuous police presence for the duration of any protest activity.



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I trust that this provides a sufficient summary of the observations being sought from the PSNI and we remain available to provide additional detail or commentary as required.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Melanie Jones', written in a cursive style.

MELANIE JONES  
A/Assistant Chief Constable  
Community Safety Department