



Northern Ireland  
Assembly

Committee for Health

# Report on the Abortion Services (Safe Access Zones) Bill

This report is the property of the Committee for Health. Neither the report nor its contents should be disclosed to any person unless such disclosure is authorised by the Committee.

Ordered by the Committee for Health to be published on 27 January 2022.

Report: NIA 133/17-22 Committee for Health.

## Contents

Powers and Membership .....	3
List of Abbreviations and Acronyms used in this Report .....	5
Executive Summary .....	6
Introduction .....	8
Consideration of the Bill Clauses .....	11
Clause by Clause Scrutiny of the Bill .....	41
Links to Appendices .....	46
Appendix 1: Minutes of Proceedings.....	46
Appendix 2: Minutes of Evidence.....	46
Appendix 3: Written submissions.....	46
Appendix 4: Other papers considered by the Committee.....	46
Appendix 5: Research Papers .....	46
Appendix 6: List of Witnesses that gave evidence to the Committee.....	46

# Powers and Membership

## Powers

The Committee for Health is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement 1998 and under Assembly Standing Order 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department for Health and has a role in the initiation of legislation.

The Committee has power to:

- consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- consider subordinate legislation and take the Committee Stage of primary legislation;
- call for persons and papers;
- initiate inquiries and make reports; and
- consider and advise on matters brought to the Committee by the Minister of Health.

## Membership

The Committee has 9 members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is as follows:

- Colm Gildernew MLA (Chairperson)
- Pam Cameron MLA (Deputy Chairperson)
- Paula Bradshaw MLA
- Gerry Carroll MLA
- Alan Chambers MLA<sup>1</sup>

---

<sup>1</sup> Alan Chambers replaced John Stewart MLA with effect from 10 February 2020.

- Deborah Erskine MLA<sup>2</sup>
- Órlaithí Flynn MLA
- Colin McGrath MLA<sup>3</sup>
- Carál Ní Chuilín MLA<sup>4</sup>

---

<sup>2</sup> Deborah Erskine replaced Jonathan Buckley MLA with effect from 1 November 2021. Jonathan Buckley previously replaced Alex Easton MLA with effect from 2 November 2020.

<sup>3</sup> Cara Hunter MLA replaced Colin McGrath on the Committee between 14 December 2020 and 18 October 2021. Colin McGrath previously replaced Sinéad Bradley MLA with effect from 23 March 2020.

<sup>4</sup> Carál Ní Chuilín replaced Pat Sheehan MLA with effect from 1 February 2021. Pat Sheehan previously replaced Jemma Dolan MLA with effect from 16 March 2020.

# List of Abbreviations and Acronyms used in this Report

CEDAW: Committee on the Elimination of Discrimination against Women

CEDAW Convention: Convention on the Elimination of All Forms of  
Discrimination against Women

DoH: Department of Health

DoJ The Department of Justice

ECHR: European Convention on Human Rights

ECtHR: European Court of Human Rights

HSCT(s): Health and Social Care Trust(s)

NIHRC: Northern Ireland Human Rights Commission

PSNI: Police Service of Northern Ireland

RaISe: The NI Assembly Research and Information Service

The Bill: The Abortion Services (Safe Access Zones) Bill

The 2020 Regulations: The Abortion (Northern Ireland) (No. 2) Regulations  
2020

## Executive Summary

1. This report sets out the Committee for Health's consideration of the Abortion Services (Safe Access Zones) Bill.
2. The Abortion Services (Safe Access Zones) Bill was introduced by the Bill Sponsor, Clare Bailey MLA, in the Northern Ireland Assembly on 13 September 2021 and was referred to the Committee for Health for consideration in accordance with Standing Order 33 (1) on completion of the Second Stage of the Bill on 12 October 2021.
3. The purpose of the Bill is to require the creation 'safe access zones' outside premises which provide lawful abortions or related information, advice or counselling. It also creates offences which apply to safe access zones, and empowers the police to enforce these.
4. The Committee received a total of 6,459 written submissions to its call for evidence on the Bill. Of these, forty-seven submissions were received from organisations and 6,412 were from individuals. The Committee considered the Bill at 12 meetings and held evidence sessions with the NI Human Rights Commission, the Health and Social Care Trusts and the Police Service of Northern Ireland on the Bill. The Committee also had the Bill Sponsor give evidence on two occasions.
5. Following consideration of the written and oral evidence, the Committee undertook deliberations on the Bill and agreed a Committee amendment to Clause 2. The Committee also agreed to a number of proposed amendments provided by the Bill Sponsor. The Committee's formal clause by clause scrutiny of the Bill can be found at page 41 of this report.
6. The Committee agreed to support the Bill Sponsor's proposed new Clause 5A, which would provide for a defined distance for a safe access zone of 100 metres. The proposed new clause would also allow premise operators to

extend that distance up to a distance not exceeding 250 metres. The wording of the new clause can be found at paragraph 79.

7. The Committee also agreed to support the Bill Sponsor's proposed new clause 8A which would provide for the Department of Health to publish a list of protected premises and the safe zones established. The Committee would outline the importance of making this information readily available and that there should be further work on how signage can be erected to provide notice of safe access zones.
8. The Committee also agreed to support the Bill Sponsor's proposed amendment to Clause 11, which would provide an interpretation of what is meant by recording. The Committee were keen to ensure that recording was adequately defined to include photographs, video and audio recordings.
9. All Members of the Committee outlined that there is no place in our society for the harassment, abuse and intimidation of women and girls accessing health services and that patients, staff and visitors should be able to access health premises free from harassment, abuse and intimidation.

## Introduction

1. The Abortion Services (Safe Access Zones) Bill (“the Bill”) was introduced in the Northern Ireland Assembly on 13 September 2021 and was referred to the Committee for Health for consideration in accordance with Standing Order 33 (1) on completion of the Second Stage of the Bill on 12 October 2021.
2. At introduction the Bill Sponsor, Clare Bailey MLA made the following statement under section 9 of the Northern Ireland Act 1998: *‘In my view the Abortion Services (Safe Access Zones) Bill would be within the legislative competence of the Northern Ireland Assembly.’*
3. The Bill requires the Department of Health (DoH) to create ‘safe access zones’ outside premises which provide lawful abortions or related information, advice or counselling. It also creates offences which apply to safe access zones, and empowers the police to enforce these.
4. Further information on the background and policy objectives of the Bill can be found in the Bill’s accompanying Explanatory and Financial Memorandum.<sup>5</sup>

## Committee Approach

5. The Committee was briefed on the principles of the Bill by Clare Bailey MLA on 7 October 2021. The Minutes of Evidence of this, and all other evidence sessions relating to the Bill can be found at Appendix 2.
6. A public notice inviting written submissions on the Bill was placed in the Belfast Telegraph, Irish News and Newsletter. In addition, the Committee invited views from a number of key stakeholders.
7. A total of 6,459 written submissions were received by the Committee to its call for evidence on the Abortion Services (Safe Access Zones) Bill. Of these, forty-

---

<sup>5</sup> Available: [efm---abortion-services---as-introduced---full-print-version.pdf \(niassembly.gov.uk\)](https://www.niassembly.gov.uk/~/media/Committees/Committee-for-Health/Abortion-Services-(Safe-Access-Zones)-Bill-2021/efm---abortion-services---as-introduced---full-print-version.pdf)

seven submissions were received from organisations and 6,412 were from individuals. Links to the written submissions received by the Committee are included at Appendix 3 of this report.

8. The NI Assembly Research and Information Service (RaISe) Bill paper on the Bill which also supported the Committee's consideration of the Bill is included at Appendix 5.
9. During the period covered by this report the Committee considered the Bill and related issues at 12 meetings. The related Minutes of Proceedings are included at Appendix 1.
10. At its meeting on 21 October 2021, the Committee agreed a motion to extend the Committee Stage of the Bill to 28 January 2022. The extension was sought to ensure that there was sufficient opportunity to take oral evidence and carry out robust scrutiny of the Bill while also ensuring there was time for the Bill to complete its passage before the end of the mandate. The motion to extend Committee Stage was supported by the Assembly on 16 November 2021.
11. At its meeting on 2 December 2021, the Committee agreed to invite oral evidence from a number of statutory organisations. Evidence sessions were held with the DoH, the Health and Social Care Trusts (HSCTs), the Police Service of Northern Ireland (PSNI) and the Northern Ireland Human Rights Commission (NIHRC). The Minutes of Evidence for these sessions are included at Appendix 2 and a list of witnesses who gave oral evidence is included at Appendix 6.
12. The Committee would like to place on record its thanks to the organisations and individuals who responded in writing and provided oral evidence on this Bill.
13. The Committee explored the issues raised in the evidence it received with the Bill Sponsor in a further oral evidence session on 11 January 2022 and considered the Bill Sponsor's proposed amendments to the Bill at its meetings on 25 and 27 January.

14. The Committee sought advice from the Examiner of Statutory Rules on whether there were any delegated powers in the Bill and if so, to provide delegated powers advice on this. The Examiner confirmed that she was satisfied that the Bill as presently drafted did not provide for the delegation of legislative powers.
15. The Committee carried out informal deliberations on the Clauses of the Bill at its meetings on 13, 18, 20, 25 and 27 January 2022 and undertook its formal clause by clause scrutiny of the Bill at the meeting on 27 January 2022.
16. At its meeting on 27 January 2022, the Committee agreed its final report on the Abortion Services (Safe Access Zones) Bill and ordered that it should be published.
17. The next two sections of this report set out the Committee's consideration of the evidence it received and the Committee's clause by clause consideration of the Bill.

## Consideration of the Bill

18. The Health Committee received a total of 6,459 written submissions in response to its call for evidence on the Abortion Services (Safe Access Zones) Bill. Forty-seven of these submissions were from organisations and 6,412 submissions were received from individuals.
19. In addition to its consideration of the written submissions, the Committee agreed to invite a number of the statutory bodies to provide oral evidence on the Bill. The Committee heard evidence from the DoH, the HSCTs, the PSNI and the NIHR.
20. The Committee was also briefed by the Bill Sponsor on two occasions, once to provide briefing on the principles of the Bill prior to its introduction (7 October 2021) and on a second occasion to respond to the issues raised in the written and oral evidence the Committee had received on the Bill (11 January 2022).
21. The Committee received correspondence from Abolish Abortion and a number of individuals on 19 January asking the Committee to re-open its evidence gathering process to allow Christian Ministers and Pastors to give evidence on the Bill. The Committee considered this issue at its meeting on 20 January and agreed the following response:

*Thank you for your email. In relation to the Committee's consideration of the Abortion Services (Safe Access Zones) Bill, the Committee undertook a public consultation on the Bill and considered the written responses it received at its meeting on 2 December. The Committee received over 40 responses from organisations (responses from organisations included statutory bodies, staff representative bodies, professional bodies, pro-life organisations and pro-choice organisations) and over 6000 responses from individuals.*

*A copy of all the written submissions from organisations can be found at:*

<http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/health/primary-legislation/abortion-services-safe-access-zones-bill/abortion-services-safe-access-zones-bill---written-submissions/organisation-submissions/>

*At the meeting on 2 December, the Committee agreed to take evidence from the following statutory organisations: The Department of Health, PSNI, the Health and Social Care Trusts and the NI Human Rights Commission.*

*Members felt that the views of other organisations and individuals were clear from their written submissions and Members have used those written submissions to inform their views on the Bill. Therefore, it is not the intention of the Committee to re-open oral evidence sessions on this Bill.*

*The Committee will report its views on the Bill by the end of this month. The Committee's Report will be published and issued to all Members for consideration in advance of the Bill Sponsor scheduling consideration stage of the Bill. The Committee's report will include all written submissions received by the Committee.*

22. Outlined below are the issues raised in the written and oral evidence considered by the Committee.

## **Clause 1: Overview**

23. Clause 1 provides an overview of the intention of the Bill. The Bill places an obligation on the Department of Health to establish safe access zones for premises that provide abortion services and criminalises behaviours that prevent or impede access to such premises.

24. Twenty-seven of the 47 organisations that provided written submissions outlined their general support for the intention of the Bill and eighteen outlined their opposition.

25. Of the 6,412 submissions from individuals, the overwhelming majority stated their opposition to the Bill, with only thirteen submissions from individuals affirming their support. Many of the submissions that stated opposition to the Bill from both

organisations and individual expressed their opposition to abortion provision in its entirety, on the grounds of religious belief and moral conviction.

26. In a statement provided to the Committee, all five HSCTs expressed their support for the Bill.<sup>6</sup>

27. The Department of Justice (DoJ) confirmed that the Minister of Justice was fully supportive of the Bill and advised that the Minister had hoped to bring forward legislative proposals to provide for exclusion zones as an amendment to a Miscellaneous Provisions Bill in 2021 however, this was excluded from the Bill to secure Executive agreement for its introduction. DoJ advised that the narrower scope meant that it was not possible to bring forward necessary legislation in this mandate.

28. The NIHRC welcomed the Bill to provide safe access zones for premises where abortion treatments are carried out, including provision for premises where information, advice or counselling about abortion treatments are provided.

29. The Minister of Health advised the Committee (in correspondence of 6 December 2021) that he had met with the Bill Sponsor and outlined his '*support for the intention and the spirit in which the Bill has been brought*' however he and DoH officials (in oral evidence on 16 December 2021) outlined concerns about the Bill in terms of feasibility and the obligations it placed on the Department.

30. In its submission, the PSNI concluded that there were significant challenges around interpretation and enforcement of the proposed legislation.

### **Evidence for introduction of safe zones**

31. Many of organisations and individuals that oppose the Bill stated that there was no evidence to support the necessity for the introduction of safe zones.

---

<sup>6</sup> [9-december-2021-statement-from-the-health-and-social-care-trusts.pdf \(niassembly.gov.uk\)](https://niassembly.gov.uk/wp-content/uploads/2021/12/9-december-2021-statement-from-the-health-and-social-care-trusts.pdf)

32. Organisations cited the outcome of the 2018 UK Abortion Clinic Protest Review<sup>7</sup>, and a lack of progress in the introduction of exclusion zones in Scotland and the Republic of Ireland as evidence to support their view that the proposed introduction of safe zones in Northern Ireland has not been based on evidence of need.

33. Submissions also pointed to the UK Government's decision not to implement provision for exclusion zones in The Abortion (Northern Ireland) (No. 2) Regulations 2020 ("the 2020 Regulations") as evidence that it was not considered necessary. The UK Government's decision and explanation on this matter is set out in its consultation response document,<sup>8</sup> which outlined that abortion services should be given time to embed and a response should be made based on evidence. The UK Government advised that the matter would be kept under review.

34. Other organisations that support the Bill including the NIHRC, expressed disappointment that the 2020 Regulations did not include provision for safe access or buffer zones, as recommended by the UN CEDAW Committee to *'protect women from harassment from anti-abortion protestors by investigating complaints, prosecuting and punishing perpetrators'*<sup>9</sup>.

35. In its written submission to the Committee, Belfast HSCT advised that since the beginning of 2021, despite lockdown and COVID-19 restrictions, there have been weekly protests from various anti-abortion groups outside clinics in Northern Ireland, including its College Street premises. The Belfast HSCT advised that protests cause considerable distress and anxiety to patients and staff.

---

<sup>7</sup> 13 September 2018 Statement made by the Secretary of State for the Home Department on the Outcome of the Abortion Clinic Protest Review: [Written statements - Written questions, answers and statements - UK Parliament](#)

<sup>8</sup> HM Government, A new legal framework for abortion services in Northern Ireland, UK Government Consultation Response, March 2020: [FINAL Government response - Northern Ireland abortion framework.pdf \(publishing.service.gov.uk\)](#)

<sup>9</sup> CEDAW, [Report of the inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women](#)

36. In its separate submission on the Bill, the Northern HSCT advised that it has moved the location of its clinic on two occasions as the service had concerns about the on-going impact of personal and abusive protests on service users and that there were concerns for patient and staff confidentiality.
37. In oral evidence to the Committee on 9 December 2021, a representative of the Belfast HSCT advised that since April 2020 all HCSTs with the exception of the South Eastern Trust had experienced protests outside clinics providing early medical abortion services and that this has had a significant impact on staff, on patients accessing abortion care and on patients accessing other healthcare in the buildings.
38. An advisory and counselling service organisation also provided detail of the protests held outside its offices for over twenty years in its written submission.
39. To assist its consideration of the frequency of protests, the Committee asked the PSNI to provide information on police deployments in response to either planned or spontaneous gatherings/protests at facilities that provide abortion-related services. In correspondence of 13 January 2022, PSNI confirmed that in the 12-month period from January 2021 to January 2022, police were requested to attend at 55 incidents at such premises across Northern Ireland. PSNI advised that all of these deployments were spontaneous in nature and in response to requests, usually from either members of the public or staff employed within the facility.
40. The PSNI also provided detail on its operational involvement relating to the now closed, Marie Stopes Clinic in Belfast. PSNI advised that this location was the focus of intense and sustained protest related activity from 2013 until its closure and at the height of protest activity, police were deployed on a daily basis. During this time, police recorded 85 crime occurrences (62 allegations made by staff working at the clinic and 23 allegations made by protestors). PSNI advised the Committee that one anti-abortion protestor was successfully prosecuted for harassment but this conviction was overturned on appeal, with the Judge

describing the protestor's behaviour as unpleasant but did not meet the level of criminal harassment.

41. A number of the respondents that support the introduction of safe zones provided examples of harassment and intimidation encountered by women and staff at abortion service clinics.

42. Examples of harassing and intimidating behaviour cited in these submissions included: filming/ photographing individuals approaching clinics (threatening to stream footage online); initiating unsolicited conversations with women on their reason for entering premises; distributing leaflets containing inaccurate and misleading medical information; name-calling, including phrases such as 'murderers'; using emotive and coercive language; blocking access to entrances; praying or reciting scripture; throwing holy water; displaying graphic images; following people; and spitting.

43. Some organisations described the detrimental impact of the actions and behaviours of protestors on those accessing services and highlighted the impact on vulnerable groups such as minors and those attending services as a result of sexual assault. One submission advised that in some cases protests cause such distress to women that they defer treatment which may result in greater medical complications and psychological distress.

44. Other organisations pointed out the distress caused not only to those women wanting an abortion, but to women who have suffered pregnancy loss and who live with fertility issues.

45. Many of the organisations that oppose the Bill also condemned situations in which women or staff were harassed or subjected to behaviours which would compound distress.

46. A number of organisations disputed the behaviours described, advising that such examples were not the norm and citing the peaceful nature of the protests that take place. These organisations advised that protests usually take the form of

praying outside premises, holding up signs or handing out leaflets with information about alternatives to abortion.

47. Many of these organisations were concerned that the Bill will criminalise behaviour and activities that should not be within the scope of criminal law. These organisations advised that activities such as silent prayer or peaceful protests should not be considered a threat to public safety or ‘criminal’ simply because they are considered unwelcome or unpopular. These organisations pointed out that while some behaviours and experiences may be unpleasant or divisive, there is no right not to be offended and such activities can be discouraged through existing legislation (where deemed criminal) or other diversionary measures rather than criminalisation.

48. Some organisations pointed out that there has been no consideration given to the women who have been helped by those offering alternatives to abortions outside healthcare facilities.

## **Financial implications**

49. A number of organisations that oppose the Bill drew attention to the financial burden the Bill would place on the DoH budget and asked the Committee to give this matter consideration.

50. The Explanatory and Financial Memorandum for the Bill acknowledges that if enacted as introduced, the Bill would place duties on the DoH which would lead to additional costs relating to the establishment and reviewing of Safe Access Zones. The explanatory memorandum further considers that a major source of additional cost could be legal costs.

51. In briefing the Committee in advance of the second stage debate, the Bill Sponsor confirmed that she looked at the costs that were incurred by Ealing Council, which was the first council in England to introduce these protections. These costs were in the region of £250,000.

52. In its submission, PSNI also highlighted the potential resourcing implications related to the Bill, stating that protests of this nature are both frequent in nature and often spontaneous and elongated. PSNI advised that effective policing would require a continuous police presence for the duration of any protest activity.
53. Further to the oral evidence it received from the HSCTs at its meeting on 9 December 2021, the Committee asked the Trusts for further information on the costs associated with the security measures taken at clinics as a result of ongoing protests and for information on the costs incurred as a result of the relocation of services to alternative premises in response to ongoing protests.
54. In response, Belfast HSCT reported costs of £22k relating to security personnel, CCTV installation and window tinting at its Rose Clinic. The Northern HSCT reported costs of £2,173 as a result of the relocation of services to alternative premises. The Southern, South Eastern, and Western HSCTs confirmed they had not incurred any costs relating to measures at clinics as a result of ongoing protests.
55. Following consideration of the evidence, the Committee agreed the following amendment to clause 1, this amendment is a consequence of the Bill Proposer's proposed new clause 5A.

*Clause 1, page 1, line 2*

*Leave out 'requires the Department of Health to establish' and insert 'establishes'*

## **Clause 2: Premises where abortion treatments are carried out**

56. Clause 2 introduces the definition of 'protected premises'. The Bill provides that premises are 'protected premises' if they are premises where lawful treatment for termination of pregnancy is carried out, or proposed to be carried out.

57. Some organisations were concerned that the definition of ‘protected premises’, was too wide, while others felt that the name of clause 2 was potentially restrictive in scope.

58. One organisation did not believe that it was necessary for the DoH to determine which premises are entitled to safe access zones and suggest that these sites should be included in the Bill without approval by the Department.

59. One organisation pointed out that the terms “abortion” and “termination of pregnancy” are not synonymous or interchangeable and recommended the term “abortion” is applied consistently throughout the Bill.

60. The Committee agreed that clause 2 should be amended to provide clarity that protected premises are where abortion services are provided. The Committee agreed that a similar amendment is made to clause 3. The Committee agreed the following amendments to clause 2 to provide clarity that protected premises are where abortion services are provided:

*Clause 2, page 1, line 9,*

*Leave out from ‘treatment’ to ‘pregnancy’ in line 10 and insert ‘abortion services’*

### **Clause 3: Premises where information, advice or counselling about abortion treatments are provided**

61. Clause 3 extends the definition of “protected premises” to premises where advice, information or counselling about abortion is provided. Unlike abortion clinics which will automatically be protected premises, these places will only be protected if the operator of the clinic makes a formal request to the DoH for them to be protected.

62. A number of organisations welcomed the inclusion of premises where information, advice and counselling about abortion treatments are provided.

63. One organisation requested clarification on the criteria to be used by the Department to determine whether the designation of a specific facility 'is reasonable to do so' at clause 3 (5) arguing that it is vital that criteria are clearly established and applied in a consistent manner.

64. Another wanted to ensure that 'rogue clinics' could not benefit from 'protected premises' status and stated that clinics that do not provide accurate information or provide misleading advice should not be given protected status.

65. The Committee agreed it was content with Clause 3 as drafted.

## **Clause 4: Protected persons**

66. Clause 4 introduces the definition of a 'protected person'.

67. A number of respondents expressed support for the inclusion of a definition of 'protected persons' within the Bill at clause 4 and welcomed that the definition included those accessing services, those accompanying that person, and those who work in such premises. The NIHRC advised that a broad and inclusive approach should be applied to these definitions.

68. A number of submissions highlighted in particular the impact of protests on staff and the potential threat of violence.

69. Other respondents advised that protests have a wider impact, and can affect: passing members of the general public; those who work or reside near clinics; local businesses/shops, patients attending the premises for other medical services; people working on the same site but not in abortion care; and delivery drivers. A number of submissions suggested that the definition of protected persons should be widened.

70. One organisation argued that the drawing of 'protected persons' would be a barrier for police to determine whether people present outside an abortion

premises are committing an offence and advised that it would also provide a potential defence for these groups that they didn't 'know' the people they were approaching were 'protected persons'.

71. The Committee agreed it was content with the definition of 'protected person' as provided for in clause 4.

## **Clause 5: Safe access zone**

72. Clause 5 defines 'safe access zone.' A 'safe access zone' consists of: the protected premises, including any entrances or exits; and a public area outside the premises and in their immediate vicinity, which is designated a safe access zone by the DoH.

73. A number of organisations (both those who support and those who oppose the Bill) were concerned about the lack of clarity about what would constitute 'the immediate vicinity of the protected premises' and pointed to potential interpretation and legal issues for those tasked with enforcing the legislation.

74. The PSNI identified the challenges presented by a lack of clarity as to the exact definition of the safe zone. PSNI stated that 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 Bill papers.

75. The NIHRC recommended that the "immediate vicinity" of a safe access zone is carefully considered to ensure protection of the Article 8 European Convention on Human Rights<sup>10</sup> (ECHR) rights of patients and staff while ensuring that limitations on the Articles 9, 10 and 11 ECHR rights of protesters are restricted or limited proportionately. The "immediate vicinity" definition should include provision for multi-purpose sites and take account of the layout of health and social care estates.

---

<sup>10</sup> [European Convention on Human Rights \(coe.int\)](https://www.coe.int)

76. A number of respondents felt it would be helpful to define, within the legislation, a specific distance in which the safe zone would operate to: guarantee privacy and confidential access to care; ensure clarity for the purposes of enforcement; and avoid delay in the implementation of the safe zone. These organisations cited 100/150 metres (with most preferring 150 metres) as an appropriate distance that has been used in other jurisdictions and to include safe access to transport links.

77. When briefing the Committee on the principles of the Bill on 7 October 2021<sup>11</sup>, the Bill Sponsor advised that the inclusion of a specific distance would not be suitable because the context here is different and that the geography around the premises is absolutely key. However, when briefing the Committee again on 11 January, Ms Bailey confirmed that, after considering the evidence received by the Committee, she intended to bring forward an amendment to the Bill to make provision for a specific distance.

78. Some organisations highlighted the importance of clear signage to be displayed both inside and outside protected premises to ensure that those using the services, as well as those who may seek to obstruct them from doing so, are made aware of the designation of a protected premises and the area covered by the safe access zone.

79. Following consideration of the evidence received, the Committee agreed that it would provide better clarity for enforcement purposes and for public information that a distance be defined within the legislation. The Committee agreed that it was content to support the Bill Sponsor's proposed new amendment 5A that provides a defined distance for a safe access zone and allows premise operators to extend that distance.

*After clause 5 insert –*

*'Establishment of safe access zone*

*5A.- (1) A safe access zone is established for each protected premises which consists of*

---

<sup>11</sup> [committee-28755.pdf \(niassembly.gov.uk\)](https://committees.parliament.uk/committees/28755/)

*(a) the protected premises, including entrances to and exits from the premises, and*

*(i) the public area outside the protected premises within 100 metres from the entrances to and exits from the premises, or*

*(ii) the public area outside the protected premises within a distance greater than 100 metres but not exceeding 250 metres, from the entrances to and exits from the premises.*

*(2) If an operator of a protected premises wishes to extend the safe access zone to a specified distance in accordance with subsection (1) (a) (ii) above, it must notify the Department.*

*(3) On receipt of such a notification, the Department must publish the extent of the safe access zone within four weeks.*

*(4) The safe access zone is established for the purpose of subsection (1) (a) (ii) on publication by the Department under subsection (3).*

*(5) In this section “public area” means a place to which the public has access, without payment, as of right.’*

## **Clause 6: Offences in respect of a safe access zone**

80. Clause 6 criminalises certain behaviour in the safe access zone. There is a broad and a specific offence within clause 6. The broad offence makes it a crime to do anything in a safe access zone which might influence a person in their decision to attend an abortion clinic, or which might prevent or impede access to the clinic, or which might harass, alarm or distress that person. The specific offence is recording a person who is in the safe access zone if that might also have the effect of influencing their decision to attend, preventing or impeding access, or that might harass, alarm or distress them.

81. Clause 6 further provides that it is a defence for a person to show that they did not know, and had no reasonable way of knowing, that the protected person was in a

safe access zone and that an offence under clause 6 is punishable, on summary conviction, by a fine not exceeding level 2 on the standard scale (£500).

**Whether the offences described in clause 6 (2)(b) and (c) are provided for in existing legislation**

82. Many of the organisations that oppose the Bill advised that the Bill is unnecessary as the offences described in Clause 6 (2)(b) and (c) are already provided for by existing legislation including: The Public Order (Northern Ireland) Order 1987 and The Protection from Harassment (Northern Ireland) Order 1997.

83. This view was not shared by other respondents who advised there were shortfalls in existing legislation and that the current law on harassment was not adequate. Respondents on this point advised that existing harassment legislation requires two or more occasions to meet the legal threshold which can be avoided if different individuals approach a patient or worker. A number of these respondents also highlighted that the responsibility for reporting harassment lies with the victim. Some organisations pointed out deficiencies in the use of Public Spaces Protection Orders which have been implemented in England.

84. In correspondence to the Committee, the Health Minister asked that the Committee give due consideration to whether any revision to existing legal provisions and protections, such as those set out in the Protection from Harassment (Northern Ireland) Order 1997, might offer a more feasible route to achieving the Bill's aims.

85. The Minister's view was shared by other organisations who argued that a review of existing legislation should be carried out in advance of the Bill being progressed. These organisations argued that the existing legislation should be amended if gaps and weaknesses were identified.

86. The Health Minister outlined his Department's primary concerns relate to the statutory responsibility it would have under this Bill to, in effect, determine where a criminal offence does or does not take place, and to monitor the effectiveness of

such determinations on an ongoing basis. The Minister advised that in making these decisions, his Department would become responsible for balancing the safety and dignity of protected persons and the right to respect for private and family life on the one hand against the right to manifest religious belief and the rights to freedom of assembly and expression on the other. In the Minister's view, these are not appropriate functions for the Department of Health, as it does not, and should not, have competence in this arena and stating that such matters are therefore better left to the judicial system. The Minister suggested that, if the Committee is minded to support the intention of the Bill, that alternative means of achieving this should be considered.

87. The DoJ advised it will work with the Committee to ensure that the offences and penalties that will be created by the Bill fit appropriately within the Northern Ireland sentencing framework and also that whatever is agreed by the Assembly is enforceable under the law.

#### **The introduction of the crime of 'influence' within clause 6 (2)**

88. Many of the organisations that oppose the Bill highlighted concerns regarding the introduction of the crime of 'influence' within Clause 6 (2) particularly in relation to a lack of clarity in relation to how 'influence' is defined.

89. A number of organisations are concerned that any pro-life activity which may influence a 'protected person' whether directly or indirectly, (including otherwise legal activity) will be criminalised and will effectively ban the offer of alternative help at the point where some might need it most. These organisations are concerned at the criminalisation of, what is in their opinion benign acts such as praying or handing out leaflets.

90. Some organisations were concerned that influence relates only to influence that would deter a person from approaching a clinic and would not apply to influence used to pressurise a person to use the clinic.

91. PSNI also identified challenges relating to the potential offence of seeking to influence someone for accessing the services provided by the premises. PSNI stated that 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 Court of Appeal in December 2020 which found that stopping people protesting in any number was effectively a 'blanket ban' and created a breach of Human Rights.

92. PSNI further stated that 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. In addition, PSNI advises that the over-riding 'health' considerations of this Bill will inevitably draw it into legal challenge with the competing rights of the unborn child which is the key area of ground for the protestors.

### **Criminalised actions**

93. Some organisations asked the Committee to consider whether an expansion of the description of criminalised actions was needed. Suggestions included: handing out of leaflets; vigils; prayers; erection of signs/posters/banners; projection of images; chanting; and the use of sound amplification.

94. As previously outlined, some of the organisations that provided their views in opposition to the Bill pointed out that the UK government review deemed prohibiting such activities as 'disproportionate' given that most activity outside clinics is passive in nature and other legislation exists where there is a genuine threat to public order or personal safety.

95. Some organisations highlighted, what they believed to be, unintended consequences of clause 6 stating that this clause could potentially affect for

example, a picket line protest or the teaching of antenatal ethics to students on hospital sites.

### **Clause 6 (3) the offence of recording a protected person who is in a safe access zone without consent**

96. Some organisations welcomed the creation of the offence of recording a protected person in a safe access zone without the consent of that person as it will provide reassurance of confidentiality to service users and staff.

97. Others, including the NIHR, expressed concern that the Bill does not explicitly make provision for offences relating to recording such as photographing and audio recording and requested that this is explicitly included within the Bill.

98. The Committee concurred that greater clarity in respect of the 'offence of recording' would be useful and agreed that an amendment should be made to specify that the word 'record' means photographs, video and audio recordings. The Committee agreed it was content with the Bill Sponsor's proposed amendment to provide for a definition relating to recording is included at clause 11.

### **Clause 6 (4) Grounds for Defence**

99. In its submission to the Committee, the PSNI advised that 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.

100. Some organisations highlighted that the defence provided for in clause 6 (4) reinforces the need for clear signage both inside and outside protected premises which includes the area covered by the safe access zone.

101. In relation to clause 6 (4) the NIHRC advised that further consideration is necessary as to how the Department will work with operators to determine the nature and extent of each zone. The NIHRC recommended the development of guidance for operators and that such guidance should include notification and dissemination of the nature and extent of the zones.

102. The Committee felt that measures such as clear signage notifying of a safe zone and the need for the Department of Health to publish a list of protected premises would provide the necessary information in relation to a safe access zone.

103. The Committee considered the Bill Sponsor's proposed amendment to remove subsection 4 of clause. The Committee agreed it was content to support the proposed amendment.

*Clause 6, page 3, line 4*

*Leave out subsection (4)*

### **Level of fines at clause 6 (5)**

104. Some organisations were concerned that the fines relating to safe access zones offences are too low and will not provide a sufficient deterrent, particularly to organisations, from committing further offences.

105. Some organisations argued for making a distinction in punishment for individuals and organisations and another suggested that the fine distinguish between a first-time offence and a repeat offender.

106. The Committee was content with Clause 6 as amended by the Bill Sponsor's proposed amendment.

## **Clause 7: Enforcement of safe access zone by a constable**

107. Clause 7 establishes police powers in relation to offences under clause 6.

108. A number of organisations welcomed the measures in clause 7 to provide the police with enforcement powers to ensure that safe access zones protect the rights of those accessing protected premises. Belfast HSCT believed that staff would have more clarity on when protesters have breached reasonable behaviour and the right to protest and when the PSNI should be called.

109. PSNI advised that 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 and advised that this would be key to negating any defence relied on in Clause 6 – either at that time or in the future; and
- There is no specific power of seizure around recording equipment or other material. PSNI advise that 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.

110. The NIHRC also highlighted that further clarification is needed in regards to “Where a constable has reasonable grounds to believe that a person has committed, is committing, or is about to commit an offence under section 6(3), the constable may direct the person to cease recording”. The Commission suggests this should extend expressly to situations where the constable believes photographs have been taken, are being taken or are about to be taken. The Commission recommended the Bill is amended to ensure a police officer can direct a person to cease taking photographs.

111. A number of organisations expressed concern about repeat offending and suggested that anti-harassment training should be provided as a deterrent to prevent repeat offending occurring.

112. Differing views were expressed in submissions regarding the necessity for police presence at safe zones, with some organisations welcoming regular police

monitoring and others stating this would not be the best use of resources or in any way mitigate the problem.

113. The Committee was content with Clause 7 as drafted.

## **Clause 8: Procedure for designating a safe access zone**

114. Clause 8 establishes the procedure by which a safe access zone is designated.

### **Designation decisions**

115. A number of organisations that provided submissions on the Bill highlighted that safe zones designation would not be automatically applied and were concerned that this would result in a 'postcode lottery of protection'. These organisations requested that safe zone designation is applied to all abortion service premises, with some organisations calling for a wider national approach.

116. Other organisations were concerned about the lack of discretion that is given to the Department within clause 8 (2) to determine whether it is appropriate that the safe zone should be established.

117. The NIHRC also referred to the discretion of the Department within its submission and recommended the Committee consider an amendment to the Bill to provide the Department with an additional power to introduce a safe access zone, without an application by an operator, where it sees necessary.

118. One organisation stated it would be helpful to clarify what criteria the Department is to use when designating safe access zones, and in particular what criteria will be utilised to assess representations from stakeholders.

119. One organisation expressed concern that the DoH may not implement safe zones and recommended that clause 8 should focus only on the ability of the DoH

to increase the size of safe access zones beyond the statutory minimum where appropriate, and the Department's statutory duty to publish the extent of zones.

### **Appeal and Review Mechanisms**

120. A number of organisations pointed out that the Bill does not contain any mechanism to appeal the decision made by the Department in respect of the designation of a safe access zone. Further, there was no mechanism for regular review. Another was concerned that there is no provision for the time period in which safe zones can remain in place.

121. The NIHRC echoed concerns that the Bill did not provide any guidance on the duration of safe zones or the operation of a review mechanism. The Commission recommended that safe access zones should be for a time limited period which may be extended following a review.

### **Consultation**

122. The NIHRC welcomed the requirement for the Department to consult with the operator and the police in determining the safe access zone and further recommended the Department ensure consultation on safe access zones extends to surrounding business owners and residents where appropriate.

123. A number of submissions provided commentary on the time period of eight weeks in which a safe zone determination must be made by the Department. Some stated the importance that the designation process should not take any longer than the eight weeks where others believes the eight-week time limit to be too short given the range of personnel and organisations to be consulted.

124. Some organisations highlighted concern with allowing the Department to determine for itself when 'the operator no longer wishes there to be a safe access zone' as per clause 8 (5).

### **Practical difficulties**

125. In correspondence of 6 December to the Committee, the Minister of Health drew attention to practical difficulties that clause 8 presented. These included the potential need for the DoH to designate safe access zones in differing clinical settings, including those for which it does not have statutory responsibility.
126. The Minister advised that some abortion-related services, as covered by the provisions of the Bill, take place in town centres, some of which are in private premises, and which can be adjacent to commercial premises, roads and public walkways; others take place in hospitals and other HSC premises. The way in which safe access zones are designated, enforced and monitored would therefore vary greatly according to the clinical location. While all users and providers of lawful healthcare services are equally entitled to protection from harassment or intimidation, the additional complexity involved in implementing these provisions in urban or in private settings would be beyond the competence of the DoH.
127. The Minister also advised that it will be necessary for any provisions describing the type and location of services covered by the Bill to be able to accommodate the potential for future changes to the current location and delivery model.
128. Following the Committee's agreement to support the Bill sponsor's proposed new Clause 5A, Clause 8 as currently drafted is no longer required. The Committee agreed to support the new Clause 8A, as proposed by the Bill Sponsor that would require the Department to publish a list of all protected premises, and the safe zones established under section 5A.

*After clause 8 insert -*

*'Publication of safe access zones*

*8A.- The Department must publish a list of all protected premises, and the safe access zones established under section 5A, in such a manner as appears to it to be appropriate.'*

## **Clause 9: Exercise of functions**

129. Most of the evidence submitted concerning clause 9 discussed the balancing of competing human rights. In particular, the right to privacy on the part of those accessing abortion services against the rights to expression, association and religion on the part of others.
130. Many of the organisations that oppose the Bill advocated the importance of ensuring that freedom of speech and the right to hold peaceful protest is maintained and attest that the Bill is an attempt to undermine and limit these freedoms for those who oppose abortion, indeed a number of organisations referred to the Bill's intention to introduce 'censorship' zones. These organisations believe that the restrictions of human rights proposed by the Bill cannot be considered necessary nor proportionate and should, therefore, be rejected.
131. Many of these organisations see the Bill as part of a wider global attempt to suppress and silence those who oppose abortion. These organisations point out that for freedom of speech to be meaningful, the law must protect the expression of views which are unpopular, controversial and even offensive to some. These organisations believe it is in the interests of all sections of civic society to defend and protect these freedoms. One organisation stated that the Bill will establish a hierarchy of rights, promoting rights and protections for some individuals while threatening or indeed abolishing some rights for others.
132. A number of the organisations that support the Bill also stated their support for the right to free speech and the right to protest. However, these organisations asserted that these are qualified rights and believe that legislative provision for safe zones was a proportionate response, balancing the right to protest with the rights of others to access healthcare facilities without harassment, and to maintain healthcare privacy.
133. A number of these organisations pointed out that although the legislation would restrict the activities of protesters within designated safe zones it would not prohibit protesters from holding or exercising their beliefs and activities in any other space, including public spaces.

134. While one respondent asserted that protests of any nature should not be permitted on any HSC premises or land, another suggested the creation of designated places in suitable locations (i.e. away from healthcare centres) for organisations to protest.
135. The NIHRC advised the Committee that the Bill engages Articles 8, 9, 10 and 11 of the ECHR that require consideration. The NIHRC advised that none of these rights are absolute rights can be interfered with and limited under certain circumstances. The Commission advised that the European Court of Human Rights (ECtHR), in considering restrictions or limitations, has held that the restriction must be "prescribed by law"; have a legitimate aim under the relevant Article; and must be "necessary in a democratic society". Contracting States enjoy some margin of appreciation in determining these. To demonstrate that a restriction is necessary in a democratic society, it must be proportionate.
136. In light of this, the Commission advises that in the case of safe access zones, there are legitimate aims such as the protection of health. Where protests are preventing access to necessary healthcare, causing distress or possibly leading to harassment of patients and staff, protecting their right to physical and psychological integrity (under Article 8 ECHR) is a very important factor.
137. Moreover, in extreme cases, the attempt by protesters to prevent (physically or psychologically) women and girls from accessing vital reproductive healthcare their right to life (Article 2 ECHR) is engaged and potentially infringed. In such circumstances, the Article 2 ECHR right of women and girls will prevail over a protester's Articles 10 and 11 ECHR rights. Additionally, the protesters' actions may amount to torture, inhuman or degrading treatment (Article 3 ECHR). NIHRC advised that Article 3 is an absolute right, which may never be derogated from. That being the case, the Article 3 rights of women and girls will prevail over a protester's Article 10 and 11 ECHR rights.
138. NIHRC advised that the range of circumstances in different scenarios should be considered by the Committee and weighed up bearing in mind the rights set out.

139. The Commission welcomed the Bill's inclusion of ECHR rights within the face of the Bill and that the Department must give consideration to these rights. The Commission advised that the Department should be required to carry out a human rights impact assessment when considering safe access zones.

140. The Commission made the following recommendations for the consideration of the Committee:

- The Commission recommends the Committee ensure the Department conduct a human rights impact assessment on a case-by-case basis when considering the introduction of a particular safe access zone.
- The Commission recommends that the Department of Health should give due consideration to the jurisprudence of the ECtHR in determining the introduction of safe access zones. The Commission recommends further that the Department of Health should keep pace with upcoming cases of the ECtHR on safe access or buffer zones to ensure legislation can evolve and reflect the decision of the ECtHR and therefore compliance with, not least, the ECHR.

141. Committee would recommend that the Department of Health undertakes a human rights impact assessment as part of the process for designating a 'non-standard' safe access zone.

142. The PSNI advised that there are significant challenges around interpretation and enforcement of the proposed legislation especially around the need to balance competing human rights.

143. At Clause by Clause, the Committee agreed to support the Bill Sponsor's intention to oppose that this clause stands part of the Bill.

## **Clause 10: Monitoring of effectiveness of safe access zones**

144. Clause 10 requires the DoH to publish an annual report, setting out the Department's view on whether each safe access zone has been effective in protecting the safety and dignity of protected persons.
145. A number of organisations endorsed the requirement to monitor and publish an annual report on the effectiveness of safe access zones.
146. In correspondence (of 6 December 2021) to the Committee, the Minister of Health highlighted a practical concern around the appropriateness of the DoH being responsible for a monitoring and reporting requirement, when another agency (PSNI) would be responsible for enforcement. The Minister advised he would welcome any revisions which reflect the practical considerations around enforcement, monitoring and reporting.
147. Other organisations also questioned the appropriateness of placing a monitoring obligation on the DoH with some asking whether this responsibility would be better placed with another body or Department.
148. The RQIA advised that, should the Bill be enacted, it will engage with the DoH on whether RQIA could support the monitoring requirements in any way.
149. A number of organisations were concerned that as currently drafted, this clause provides only for the opinion of the Department to be considered on whether safe access zones have been effective. These organisations suggested that the Department should be required to consult with others including service providers, service users, staff, local residents and businesses and the PSNI.
150. A number of organisations requested clarity on the criteria to be used by the Department to determine effectiveness and recommended that criteria is developed in partnership with those providing abortion care in Northern Ireland.
151. Some submissions requested clarity on what action would be taken if a safe zone was found to be ineffective.

152. Some respondents provided views on the information that the annual monitoring report should contain:

- the number of requests for safe access zones;
- a summary of the consultation process and outcome in each case;
- the number of safe access zones designated including location and extent;
- the number of appeals registered and the outcome of such appeals;
- the effectiveness of the safe access zone including details of displacement with regard to protests;
- data on the number of offences, prosecutions and fines; and
- feedback from each health service.

153. The Committee agreed that it was content with this clause as drafted.

## Clause 11 Interpretation

154. Clause 11, as drafted defines three key terms which are abbreviated throughout the rest of the Bill. These are: 'The Convention' which is defined as the European Convention on Human Rights; 'The Department' which is defined as the Department of Health; and 'The operator' of premises which is the person in charge of providing services specified in clauses 2 and 3.

155. As a consequence of the Committee agreeing to support the Bill Sponsor's intention to oppose that Clause 9 stand part of the Bill, a further amendment is required to remove reference to 'convention', which was referenced in Clause 9. The Committee agreed it was content with the Bill Proposer's amendment to remove reference to 'convention':

*Clause 11, page 4,*

*leave out line 17*

156. The Committee believe it would be useful to provide clarity in relation to the specific offence of recording a protected person in a safe zone as provided for in

clause 6 (3). The Committee agreed to support the Bill Sponsor's proposed amendment to specify the definition of the word 'record' within clause 11 as per below:

*Clause 11, page 4,*

*after line 21 insert*

*“record” means*

*(a) To make a recording of sounds; or*

*(b) To make a recording of moving images; or*

*(c) To make a recording of moving images accompanied by a recording of sounds; or*

*(d) To take a photograph,*

## **Clause 12: Commencement**

157. Clause 12 provides that the whole Act, except for clauses 6 and 7, would come into operation on the day after the Act receives Royal Assent.

158. Clauses 6 and 7, concerning offences within a safe access zone, and enforcement of safe access zones by police, would come into operation three months after the Act receives Royal Assent.

159. There were no issues raised in written or oral evidence in relation to clause 12.

## **Clause 13: Short title**

160. Clause 13 provides that the Bill, if enacted, may be cited as the 'Abortion Services (Safe Access Zones) Act (Northern Ireland) 2021'.

161. There were no issues raised in written or oral evidence in relation to clause 13.

## Members comments

162. During consideration of the Bill, some Members raised concerns in relation to the Bill. The Committee agreed to allow Members the opportunity to provide any comments for inclusion in the Committee Report.

163. The Deputy Chairperson, Pam Cameron MLA, provided the following comments on the Bill on behalf of herself and Deborah Erskine MLA:

*“The DUP recognises that patients, staff and visitors entering health and care premises across Northern Ireland should be free to do so without harassment or abuse. We would be supportive of enhanced measures that prohibit specific activities by individuals which can be reasonably and objectively regarded to constitute criminal behaviour. However, on balance we believe the Abortion Services (Safe Access Zones) Bill would fail to deliver a framework that is clear, operable or accountable. It would not, in our view, be compliant with Article 9, 10, 11 of the European Convention on Human Rights which establish the freedoms underpinning the right to protest.*

*The proposed criminalisation of direct or indirect influence in Clause 6 is hugely problematic. Influence as a general concept is a key facet in protest activity. Therefore, the planned departure from well-established legal thresholds, such as undue or unreasonable influence likely to cause distress, may capture a range of legitimate protest activities within the proposed offence. This is not fair nor proportionate. It is unusual and regrettable that the amendments proposed by the Bill Sponsor and by members of the Committee appear to ignore this central weakness of the Bill. It is highly likely that these provisions, if ratified, would be subject to legal challenge, with serious implications for the taxpayer and ultimately little change in current interactions at affected premises.*

*As illustrated by the PSNI in its evidence, the enforcement framework provided for under Clause 7 would lead to continuous physical police presence outside many of the premises where a safe access zone is in operation. This would have a significant impact on policing resources. Coupled with concerns that the reasonable defence originally stipulated in the Bill would in practice restrict enforcement, we have deep reservations about the effectiveness or added-value of this function.*

*Clause 9 of the Bill as introduced does require the Department of Health to give due regard the need to respect freedom of assembly and expression and the right to manifest religious belief, however this appears to only apply to decisions on the extent of a safe access zone. No such safeguard is included with respect of the nature of the proposed offences, which are sweeping in nature.*

*We reiterate our view that these issues are of sufficient weight and significance to demand more detailed examination by the Assembly and Committee than afforded in the short window remaining in the current mandate. Fair and operable legislation is preferable to rushed legislation. Valid concern has been expressed that the consultation on which the Bill dates back to 2016/17. It is also our considered opinion that scrutiny of this Bill has been limited by a failure to examine separate and alternative legislative provisions, including a potential overview of harassment laws.*

*Ultimately, we are fearful that the Bill as currently presented would simply displace protest activity without deterring the isolated group of individuals engaged in specific forms of wrongdoing. There is a risk that by pressing ahead with a framework that is evidently unworkable and potentially unlawful, a false dawn will be promised to women who hold legitimate grievances about behaviour directed towards them.*

*Whilst there were inevitable time constraints placed on the Committee's deliberations, it is disappointing that space could not be made available to hear oral evidence from representatives of pro-life and faith groups, despite our request. Irrespective of their beliefs on abortion, members of these groups stand to be directly impacted by the framing of offences created under the Bill.*

*We recognise that it was not deliberately intended to omit such views - particularly given the significant level of written submissions received and the duty to examine all evidence equally.*

## Clause by Clause Scrutiny of the Bill

164. The Committee undertook its formal clause by clause consideration of the Abortion Services (Safe Access Zones) Bill at its meeting on 27 January 2022.

165. The Deputy Chairperson, Pam Cameron and Committee Member, Deborah Erskine outlined concerns in relation to the Bill and advised, that as a consequence of their concerns, they would not be taking part in the clause by clause consideration of the Bill.

166. The formal clause by clause consideration is outlined below.

**Agreed:** The Committee agreed to consider Clause 1, following consideration of Clause 5.

### **Clause 2: Premises where abortion treatments are carried out**

The Committee considered its proposed amendment to Clause 2.

*Clause 2, page 1, line 9,*

*Leave out from 'treatment' to 'pregnancy' in line 10 and insert 'abortion services'*

**Agreed:** The Committee agreed that it was content with the amendment as drafted.

**Agreed:** The Committee agreed that it was content with Clause 2 as amended.

### **Clause 3: Premises where information, advice or counselling about abortion treatments are provided**

The Committee considered Clause 3 as drafted.

**Agreed:** The Committee agreed that it was content with Clause 3 as drafted.

### **Clause 4: Protected persons**

The Committee considered Clause 4 as drafted.

**Agreed:** The Committee agreed that it was content with Clause 4 as drafted.

### **Clause 5: Safe access zone**

The Committee considered the Bill Sponsor's intention to oppose the question that Clause 5 stand part of the Bill.

**Agreed:** The Committee agreed that it was not content with Clause 5 as drafted.

**Agreed:** The Committee agreed it supported the Bill Sponsor's intention to oppose the question that Clause 5 stand part of the Bill.

### **New Clause 5A**

The Committee considered an amendment proposed by the Bill Sponsor to insert a new Clause 5A.

*After clause 5 insert –*

*'Establishment of safe access zone*

*5A.- (1) A safe access zone is established for each protected premises which consists of*

*(a) the protected premises, including entrances to and exits from the premises, and*

*(i) the public area outside the protected premises within 100 metres from the entrances to and exits from the premises, or*

*(ii) the public area outside the protected premises within a distance greater than 100 metres but not exceeding 250 metres, from the entrances to and exits from the premises.*

*(2) If an operator of a protected premises wishes to extend the safe access zone to a specified distance in accordance with subsection (1) (a) (ii) above, it must notify the Department.*

*(3) On receipt of such a notification, the Department must publish the extent of the safe access zone within four weeks.*

*(4) The safe access zone is established for the purpose of subsection (1) (a) (ii) on publication by the Department under subsection (3).*

*(5) In this section "public area" means a place to which the public has access, without payment, as of right.'*

**Agreed:** The Committee agreed that it was content with the proposed new Clause 5A.

**Agreed:** That the Committee recommends to the Assembly that the proposed new Clause 5A be added to the Bill.

### **Clause 1: Overview**

The Committee considered Clause 1 and a consequential amendment proposed by the Bill Sponsor as a result of changes to Clause 5.

*Clause 1, page 1, line 2*

*Leave out 'requires the Department of Health to establish' and insert 'establishes'*

**Agreed:** The Committee agreed that it was content with the amendment as drafted.

**Agreed:** The Committee agreed that it was content with Clause 1 as amended.

### **Clause 6: Offences in respect of a safe access zone**

The Committee considered the Bill Sponsor's proposed amendment to Clause 6.

*Clause 6, page 3, line 4*

*Leave out subsection (4)*

**Agreed:** The Committee agreed that it was content with the amendment as drafted.

**Agreed:** The Committee agreed that it was content with Clause 6 as amended.

### **Clause 7: Enforcement of safe access zone by a constable**

The Committee considered Clause 7 as drafted.

**Agreed:** The Committee agreed that it was content with Clause 7 as drafted.

### **Clause 8: Procedure for designating a safe access zone**

The Committee considered the Bill Sponsor's intention to oppose the question that Clause 8 stand part of the Bill.

**Agreed:** The Committee agreed that it was not content with Clause 8 as drafted.

**Agreed:** The Committee agreed it supported the Bill Sponsor's intention to oppose the question that Clause 8 stand part of the Bill.

### **New Clause 8A**

The Committee considered an amendment proposed by the Bill Sponsor to insert a new Clause 8A.

*After clause 8 insert -*

*'Publication of safe access zones*

*8A.- The Department must publish a list of all protected premises, and the safe access zones established under section 5A, in such a manner as appears to it to be appropriate.'*

**Agreed:** The Committee agreed that it was content with the proposed new Clause 8A.

**Agreed:** That the Committee recommends to the Assembly that the proposed new Clause 8A be added to the Bill.

### **Clause 9: Exercise of functions**

The Committee considered the Bill Sponsor's intention to oppose the question that Clause 9 stand part of the Bill.

**Agreed:** The Committee agreed that it was not content with Clause 9 as drafted.

**Agreed:** The Committee agreed it supported the Bill Sponsor's intention to oppose the question that Clause 9 stand part of the Bill.

### **Clause 10: Monitoring of effectiveness of safe access zones**

The Committee considered Clause 10 as drafted.

**Agreed:** The Committee agreed that it was content with Clause 10 as drafted.

### **Clause 11 Interpretation**

The Committee considered the Bill Sponsor's proposed amendments to Clause 11.

#### Amendment 1

*Clause 11, page 4,  
leave out line 17*

Amendment 2

Clause 11, page 4,

after line 21 insert

“record” means

(a) To make a recording of sounds; or

(b) To make a recording of moving images; or

(c) To make a recording of moving images accompanied by a recording of sounds; or

(d) To take a photograph,

regardless of the medium on which the recording is made or the method by which the sounds or images are reproduced or produced.’

**Agreed:** The Committee agreed that it was content with the amendments as drafted.

**Agreed:** The Committee agreed that it was content with Clause 11 as amended.

**Clause 12: Commencement**

The Committee considered Clause 12 as drafted.

**Agreed:** The Committee agreed that it was content with Clause 12 as drafted.

**Clause 13: Short title**

The Committee considered Clause 13 as drafted.

**Agreed:** The Committee agreed that it was content with Clause 13 as drafted.

**Long Title**

The Committee considered the Long Title as drafted.

**Agreed:** The Committee agreed that it was content with the Long Title as drafted.

## Links to Appendices

### **Appendix 1: Minutes of Proceedings**

[View Minutes of Proceedings of Committee meetings related to the report.](#)

### **Appendix 2: Minutes of Evidence**

[View Minutes of Evidence from evidence sessions related to the report.](#)

### **Appendix 3: Written submissions**

[View written submissions received in relation to the report.](#)

### **Appendix 4: Other papers considered by the Committee**

[View other papers considered by the Committee in relation to the report.](#)

### **Appendix 5: Research Papers**

[View Research Papers produced by the Assembly's Research and Information Service \(RaISe\) in relation to the report.](#)

### **Appendix 6: List of Witnesses that gave evidence to the Committee**

[View a list of witnesses who gave evidence to the Committee.](#)

You may re-use this publication (not including images or logos) free of charge in any format or medium, under the terms of the Open Northern Ireland Assembly Licence. To find out more about this licence visit:

<http://data.niassembly.gov.uk/license.aspx>

This Report can be made available in a range of formats including large print, Braille etc. For more information, please contact:

Committee for Health  
Keith McBride, Clerk  
Northern Ireland Assembly  
Parliament Buildings  
Ballymiscaw  
Stormont  
Belfast BT4 3XX

Telephone: 028 90 520348

Email: [committee.health@niassembly.gov.uk](mailto:committee.health@niassembly.gov.uk)

Twitter: @niahealth

---