



Friday, November 12, 2021

Abortion Services (Safe Access Zones) Bill Call for Evidence

This submission to the Health Committee's call for evidence has been prepared on behalf of Belfast Feminist Network (BFN). BFN was established in 2010 as a grassroots collective of individuals building a platform for feminist education, awareness raising and campaigns. We have a ten year track record in these areas and have had a significant impact on progressing gender equality and the status of women in Northern Ireland. BFN has always supported the right to free, safe and legal abortion and we look forward to the day when the full range of abortion services to which women and pregnant people are now entitled in law, will be made fully available here. We are deeply concerned about the impact that clinic protestors are having on those who need to use the legal reproductive healthcare services that are currently available and as such we support the Bill. We endorse the submissions made to the Committee by our partners Alliance For Choice whose expertise and track record in supporting and amplifying the voices of women and pregnant people with abortion experience is unparalleled. In a context where abortion is still highly stigmatised we urge the Committee to give due regard to the material provided by Alliance For Choice as many of those affected will not have felt able to speak out in their own names. We also endorse the comprehensive submission provided by the Women's Policy Group. We work closely with all the members of this policy forum and commend their insight and analysis of the legal and policy implications of this Bill to the Committee.

**The following is a summary of the key priorities that BFN would like to bring to the Committee's attention in your considerations:**

Existing harassment legislation is not the right mechanism to deal with the harm caused by clinic protestors as it requires two or more occasions to make the legal threshold. While the collective behaviour of protestors outside healthcare providers may constitute harassment, different individuals may approach a patient to avoid meeting the legal threshold. It is also unreasonable to expect that someone using a healthcare service only once, in the midst of a potentially distressing or difficult time in their lives, should be expected to carry the burden of proof that they have been harassed in an interaction with a clinic protestor. We need a legal framework that removes this burden by ensuring that the interactions do not happen in the first place.

Freedom of expression and freedom of assembly as protected in the ECHR and the HRA are both qualified rights and they can be balanced with regard to the rights or safety of others. Our legal system contains many proportionate and justifiable qualifications of these rights such as the prohibition of hate speech or defamation. We believe the objectives of this Bill represent both a proportionate and a justifiable qualification of these rights in relation to clinic protestors as it achieves the legitimate aim of protecting the privacy, health, wellbeing and freedom of conscience of those attending healthcare services.

In particular, the Department of Health on whom this Bill would place a duty to establish safe access zones, must act in a way that is compliant with the duty to fully implement CEDAW's 2018 recommendation to the UK Government to "protect women from harassment from anti-abortion protestors by investigating complaints, prosecuting and punishing perpetrators" which is now also codified in UK domestic law in S9 Northern Ireland (Executive Formation etc) Act 2019.

Clinic protests are a barrier to accessing lawful abortion care as they create an intimidating environment where one's safety is not guaranteed. Additionally the impact of clinic protesters' behaviour, language, and printed materials on the mental health of those accessing lawful abortion services can be very damaging. While clinic protesters may explain their behaviour as benign, praying or offering counselling, it is impossible for someone accessing the clinic to know what the protesters' behaviour will constitute. Their presence is intimidating for both patients and staff.

For potentially vulnerable patients such as minors and those pregnant as a result of a sexual crime there are additional concerns that such protests will cause distress and adverse mental health impacts to people who have already experienced trauma. Protesters also use words such as 'murder' and 'kill' and this language is particularly distressing for those who are terminating a much wanted pregnancy after receiving a severe or fatal foetal impairment diagnosis. Often clinic protests are accompanied by graphic images and these are particularly distressing for people who have experienced a miscarriage.

We welcome the provision in the Bill that people accessing abortion care should be protected not only from those 'with the intent of' causing harm, distress or preventing their access to services, but also those who are 'reckless as to whether it has the effect of' causing these same harms. People who have been subjected to unsolicited confrontations with anti-abortion protestors overwhelmingly describe the impact of these confrontations in negative terms. It is important that the impact of these encounters is reflected in the law and not the subjective interpretation of how the protestors intend their presence to be perceived.

As the Bill only provides for a fine we are concerned that there may not be an effective deterrent to organisations and individuals who wish to commit offences as defined in the Bill. It is important to recognise that clinic protests are well planned and resourced by organisations who may find it easy to fundraise for payment of fines. We would like to see additional measures recommended for those who repeatedly commit offences or breaches of the safe access zones. We recommend that those committing offences should be required to attend anti-harassment training, similar to the approach taken to driving offences and speeding awareness training.

We are also concerned that the bill does not make provision for offences relating to photographing and recording patients and healthcare providers from outside of a safe access zone. Breaches of privacy and online harassment pose a significant concern for people using abortion services as it is still a highly stigmatised act and we would like to see this dealt with in the legislation. This applies equally to service users and those healthcare providers who deliver the services. Northern Ireland has a shameful history of harassment of workers associated with the provision of abortion services and counselling and we want to see greater legal protection for them.

*Liz Nelson & Emma Gallen, on behalf of Belfast Feminist Network*