



Northern Ireland
Assembly

Committee for Health

OFFICIAL REPORT (Hansard)

Abortion Services (Safe Access Zones) Bill:
Ms Clare Bailey MLA

11 January 2022

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Colm Gildernew (Chairperson)
Mrs Pam Cameron (Deputy Chairperson)
Mr Gerry Carroll
Mr Alan Chambers
Mrs Deborah Erskine
Ms Órlaithí Flynn
Ms Carál Ní Chuilín

Witnesses:

Ms Bailey	MLA - South Belfast
Ms Áine Groogan	Green Party

The Chairperson (Mr Gildernew): I welcome Ms Clare Bailey MLA to the meeting. Do you want to go ahead and brief the Committee, Clare, and then we can go to members' questions?

Ms Clare Bailey (Northern Ireland Assembly): OK, Chair. I will shout in the hope that you can pick me up, but please let me know if the sound drops, and I will try to sort it out.

Áine Groogan is with me. For social-distancing reasons, she cannot be on camera, but she is very close by and is ready to answer questions as they come up, if that is OK with Committee members. Áine has been working very closely with me on the Bill.

The Chairperson (Mr Gildernew): Yes.

Ms Bailey: Great. I thank the Committee for the sessions that it has had. The oral presentations on the Bill have been very informative, particularly the session with health trust staff telling of their experiences and of the impact that this has on them. I was particularly delighted when the Northern Ireland Human Rights Commission was with the Committee, and it felt that the balance of competing rights under articles 9, 10 and 11 of the European Convention on Human Rights are met by this Bill, and that it clearly meets the needs set out by CEDAW when it identified that women in Northern Ireland need to have safe access to healthcare.

I also looked at the extensive written submissions and listened to the feedback that came through. If it is OK with the Committee, I am happy to speak about what I am looking to potentially amend in the Bill. From there, I will be happy to take any questions from the Committee.

A lot of stakeholder feedback and engagement focused on setting a minimum zone in the primary legislation rather than allowing it to be wholly set by the Department. I am having discussions about drafting an amendment that embeds a minimum zone in the primary legislation but also gives power to the Department to extend that minimum zone if it is not sufficient for the specific premises. I am more than happy to draft that amendment. That is being looked at. It is being drafted, and I will be happy to share that with the Committee once it is done.

The other main issue that came up was about identifying what is meant by "recording" and about whether that needs to be further explained. We are looking at adding an amendment to make sure that that includes video recording, audio recording and note taking. That issue came up again in your earlier session with the PSNI: there are no powers in clause 7 for the police to take names of people or to seize property. I am aware that the PSNI has the power, under current legislation, to seize property or take names of people if an arrest is made. We feel that that needs to go a little further and to apply within the buffer zones or safe access zones, if they happen. If the Committee also feels that way, I am more than happy to look at that.

Clause 8 will be tidied up, if a minimum zone amendment is embedded in the legislation. We will do that as well. If the Bill passes, clause 10 might need a minor amendment to provide further clarity around the monitoring of the potential workings of any zone. I am content with clause 10 as it is, but I am very willing to listen to further feedback from Committee members if they would like to raise anything. Áine, have I missed anything out?

Ms Áine Groogan (Green Party): *[Inaudible.]*

Ms Bailey: Sorry, the other thing to look at is an amendment to the power in the Bill for the Department to revoke any potential safe zone unilaterally. We will look at making that an operator-led rather than a Department-led decision.

The Chairperson (Mr Gildernew): OK, thank you, Clare. I believe that you were online during the session with Melanie from the PSNI. Are there any plans to engage with the PSNI or anyone else as a result of some of the sessions that we have had? Are you planning further engagement with any stakeholders?

Ms Bailey: I have engaged with the PSNI. I spoke to the police on a separate matter during a meeting on general issues, as we do as MLAs, and we discussed the Bill. The police said that they would like to meet me to discuss the enforcement powers that the PSNI might have were the Bill to pass. That meeting was set up, and, in November, I met Superintendent Gillian Kearney specifically to discuss the Bill. That meeting took a while to set up, and, unfortunately, when it happened, Superintendent Kearney had not read the Bill. I gave her an overview of it, and we discussed the enforcement powers. Following that meeting, I sent a copy of the Bill and the explanatory and financial memorandum to Superintendent Kearney, and I asked her to continue to meet me. I told her that I would be happy to meet her at any time and as many times as possible, but I have not heard anything back since.

The Chairperson (Mr Gildernew): OK, thank you. Has there been any further engagement with the Department?

Ms Bailey: Yes, I have met the Department. I know that when you met departmental officials, they talked about the meeting that we had. I have met the Department since, most recently yesterday, and we looked at how we will move forward. The Department's major issue is the setting up of minimum zones, which it is keen to see happen. We talked about how that would work and whether, if a minimum zone were to be applied, it would automatically apply to any existing service or, potentially, any service in future, that may offer advice, guidance and healthcare or counselling services, or whether premises would need to ask for a zone.

I am still of the persuasion that such zones should be operator- and premises-led rather than being automatic, because we do not know what the future looks like. The commissioning of services is being worked on in the Department. Until we have that commissioning, it is hard to see how an automatic zone might be applied. There is also the potential for unintended consequences. I am still discussing that, and I am happy to do so. I am more than happy to continue to meet departmental officials, and, when the amendments are drafted, we will be happy to go through them with those officials.

The Chairperson (Mr Gildernew): OK, thank you.

Ms Ní Chuilín: Hi, Clare and Áine. Thanks for that, Clare. I am glad that you clarified that you have met Gillian Kearney. I hope that the police are across your Bill and the explanatory note. Even from listening to Melanie Jones, it is clear that there are laws that the PSNI can use currently. There are gaps that definitely need to be tightened up. I agree that safe zones need to be operator-led, but the gap is that there is no guidance on operating the safe zone and what the operators need to do to trigger it.

We also need to look at how to revoke a safe zone. We need clarity on declaring a revocation. Regardless of the potential for enforcement to be subject to challenge, which we all expect to happen, I would like the Committee to write back to the PSNI on that. The Chair told Melanie Jones that we would do so.

As for what constitutes harassment, the onus of proof does not need to be on the person accessing healthcare. If, when the PSNI is called to a healthcare setting, it is clear that people feel harassed or intimidated, or perhaps even impeded, there is current legislation that the police can use. What we need to find out is what they would do in the event of graphic materials being displayed. You also talked about video and audio recordings and note taking. That needs to be clarified as well. I do not know how you will seek that clarification, Clare, but I would certainly like the Committee to ask for that.

Finally, we asked for examples of instances elsewhere. Newry is a case in point, and it was not mentioned. There have been protests outside family planning clinics and the like. Despite what the trusts have said, some health and social care staff feel that the legislation needs to be very clear on the provision of support. If we or you can tighten up anything else in advance of the legislation going forward, or if there are any additional questions that we can ask, we would welcome the opportunity to do that. Although the right to assembly and the right to protest are accepted, the right to access healthcare without intimidation or harassment also needs to be accepted. I will leave it there, Chair.

The Chairperson (Mr Gildernew): OK. Thank you. Clerk, do any other members wish to come in with any questions at this point?

I want to build on what Carál said. The concern is that, similar to harassment, which requires there to be two incidents, a recording could be passed around a group to facilitate its being ongoing in nature, and that would thwart any attempt to prevent any type of behaviour that crosses the line. We have been clear about that from the start. We all recognise and respect people's right to protest and to have and express a view. What we are talking about is the evidence that we have heard about the extent and the impact of some of that.

I will check with the Clerk.

The Committee Clerk: There are no further indications from members.

The Chairperson (Mr Gildernew): Clare, is there anything further that you want to say in closing?

Ms Bailey: Thank you, Chair. I know that there has been a lot of discussion, and rightly so, about how the Bill, if enacted, will impact on the right to protest. There has been a lot of discussion — we heard this again in the previous session — about the right to hold distasteful or conflicting views. That is not what the Bill is about. It is not about conflicting views and whose view supersedes or is upheld more than anybody else's. The right to hold views, regardless of what those views are, does not override the right to access healthcare safely. That is stipulated under article 8. That is what the Bill seeks to do, rather than restricting a person's right to protest or hold views. Gerry Carroll was succinct in his questioning. This does not restrict anybody. They can protest anywhere, apart from in a safe zone, because, within a safe zone, we have a legal obligation under human rights to uphold a woman's right to access healthcare safely. That is not upheld at the minute. That is exactly why CEDAW identified the problem in its inquiry, and it is exactly why the Northern Ireland Human Rights Commission expressed its opinion that the Bill sought to achieve that balance of competing rights. The balance of competing rights, under the Human Rights Act, is met in the Bill. That is absolutely not in conflict with anybody's right to hold or express an opinion or view. The Bill does not curtail that right. The Bill seeks to ensure safe, unimpeded access to healthcare.

The Chairperson (Mr Gildernew): Thank you, Clare, for assisting the Committee with its ongoing consideration and scrutiny of the Bill. With that, we will let you go.