

The Royal College of Midwives (RCM) is the trade union and professional organisation that represents the vast majority of practising midwives in the UK. It is the only such organisation run by midwives for midwives. The RCM is the voice of midwifery, providing excellence in representation, professional leadership, education and influence for and on behalf of midwives. We actively support and campaign for improvements to maternity services and provide professional leadership for one of the most established clinical disciplines.

The RCM welcomes the opportunity to respond to the Call for Evidence from the Health Committee of the Northern Ireland Assembly in relation to the Abortion Services (Safe Access Zones) Bill.

The RCM wholly supports women's rights to access legal healthcare services, and healthcare professionals' right to go to work, without fear of being intimidated or harassed. The RCM appreciates that there are a wide range of views about abortion but believes that the intimidation of women and staff who are providing a lawful and necessary service is unacceptable.

The nature of protests and their impact on women and on healthcare staff has been clearly articulated by many women, professional bodies and trade unions. A wide range of tactics are used to intimidate and harass people entering premises where the protesters believe abortion services are being provided. These tactics include loud chanting, praying for people, name calling, making threats, distributing leaflets, displaying obscene imagery, blocking access to buildings and even photographing or recording people.

The impact of harassment by anti-abortion protesters causes great distress and confusion for women attending premises to access abortion services, for people accessing the premises to attend appointments for other healthcare services and for local residents living close to these premises. It also has a direct impact on staff wellbeing, causing them to feel unable to properly support and protect women and patients. Midwives and other staff should not have to face protests on a daily basis as they attend work to provide legal, safe care for women. This is particularly important in the current context due to the risk of transmission of COVID-19.

As requested by the Committee this submission is structured to address the specific clauses and schedules of the Bill.

Overview

The RCM agrees with the overview of the Bill.

Clause 2 – Premises where abortion treatments are carried out.

The RCM is in agreement with the definition of 'protected premises'

Clause 3 – Premises where information, advice or counselling about abortion treatments are provided.

The RCM is in agreement with the provisions made in Conditions 1,2, and 3 and also with subsection 5.

Clause 4 – Protected persons

The RCM is in agreement with the definition of a ‘protected person’. We are particularly pleased to see the recognition that this must also include those ‘working in, or providing services to, the protected premises’.

The HSC Trusts have a duty of care to both their employees and to patients, women and clients attending for health care at Trust premises. The RCM are clear that employers must be obliged to undertake a full risk assessment to determine whether the designation of a workplace meets the definition of a ‘protected premise’ but also to clarify if other measures such as CCTV, panic alarms, or security personnel are required to meet their obligation to protect the health, safety and welfare of their staff at work.

Clause 5 – Safe Access zone

The RCM is in agreement with the definition of a ‘Safe access zone’. We would, however advocate for a minimum safe access zone of 100 metres and to include safe access to transport links. It will be important that following designation of the safe access zone that clear signage is displayed to ensure that those using the services as well as those seeking to obstruct them from accessing that service are made aware of the area covered by the safe access zone.

Clause 6 – Offences in respect of a safe access zone

The RCM is in agreement with the sections of this clause.

The inclusion of the proposal in subsection 3 that it will be an offence to record a protected person who is within a Safe Access Zone is welcomed. This will provide reassurance to both service users and staff that their confidentiality will not be breached by those seeking to dissuade them from accessing or providing healthcare services.

The defence provided for in subsection 4 reinforces the argument made previously that clear and appropriate signage must be provided so that:

- Service users know that they have a legal right not to be subjected to harassment within the area covered by the Safe Access Zone
- Those who wish to protest or demonstrate are also aware of their obligation not to do so within the confines of the Safe Access Zone

Clause 7 – Enforcement of safe access zones by a constable

The RCM is in agreement with the provisions of this clause.



Clause 8 – Procedure for designating a safe access zone

The RCM is in agreement with the provisions of this clause. With regard to subsection 6 '*The Department must publish the extent of the safe access zone*, we would draw your attention to our earlier comment relating to the need for clear and appropriate signage.

Clause 9 – Exercise of functions

The RCM agrees with the provisions of Section 9 which recognises both the right of service users and staff to be protected from harassment and also the right to peaceful protest. The provision of safe access zones will be a sensible way to balance competing rights.

Clause 10 – Monitoring the effectiveness of safe access zones

The RCM agrees that mechanisms to monitor the effectiveness of the Safe Access Zone should be in place both to demonstrate compliance with legislation and the effectiveness of the measures that have been put in place.

Clause 11/12/13 – Interpretation, Commencement, Short Title

The RCM have no comments in relation to these sections.

Conclusion

The RCM believe in the right to assemble and the right to freedom of speech and expression but we also strongly believe that all women, girls and pregnant people should be able to access reproductive and sexual healthcare without fear or threat of harassment and intimidation.

The RCM notes that in August 2019, the United Kingdom Court of Appeal considered the competing rights relevant to this issue when considering the legality of the establishment of PSPO around the Mattock Lane clinic¹. In that case, the Court balanced the extent to which the exclusion zone interfered with the Appellant's (an anti-abortion protester) Article 9, 10, and 11 rights to freedom of expression and association on the one hand, versus the extent to which this was necessary to protect the Article 8 rights to privacy of service users on the other. The Court upheld the decision which found the exclusion zone was justified because the protesters' activities were not merely such as to 'shock, offend or annoy', rather, the activities were having a detrimental impact on, and causing lasting harm to service users. This assessment is consistent with similar decisions made by the European Court of Human Rights². The RCM supports the Court of Appeal's ruling on the balance of competing rights in these circumstances.

The RCM supports the intention of the Abortion Services (Safe Access Zones) Bill and believe that it balances conflicting rights through the establishment of Safe Access Zones. Health and Social Care Trusts have a Duty of Care both for their

¹ Dulgheriu v The London Borough of Earling [2019] EWCA Civ 1490

² P v Poland [2012] ECHR 1853



employees and for patients and clients accessing their services. The introduction of Safe Access Zones through this Bill will make a significant contribution to enabling Trusts to meet their responsibilities.

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The Royal College of Midwives
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