Northern Ireland Assembly

Committee for Health

OFFICIAL REPORT (Hansard)

Abortion Services (Safe Access Zones) Bill: Northern Ireland Human Rights Commission

7 December 2021

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)
Ms Paula Bradshaw
Mr Gerry Carroll
Mr Alan Chambers
Mrs Deborah Erskine
Ms Órlaithí Flynn
Mr Colin McGrath
Ms Carál Ní Chuilín

Witnesses:

Ms Alyson Kilpatrick	Northern Ireland Human Rights Commission
Ms Sarah Simms	Northern Ireland Human Rights Commission

The Chairperson (Mr Gildernew): This is the first of our evidence sessions on the Abortion Services (Safe Access Zones) Bill. I welcome, by StarLeaf, Ms Alyson Kilpatrick, the chief commissioner of the Human Rights Commission. You are very welcome, commissioner. Can you hear me?

Ms Alyson Kilpatrick (Northern Ireland Human Rights Commission): I can hear you.

The Chairperson (Mr Gildernew): We can hear you as well, chief commissioner. Thank you for that.

We will also be joined by Ms Sarah Simms, who is a policy and research officer with the Human Rights Commission. Can you hear us?

The Committee Clerk: Sarah is not online yet, Chair. We will bring her up once she joins.

The Chairperson (Mr Gildernew): Sarah is not online yet, Alyson, so I will go back to you. I ask you to brief the Committee. The Committee can then engage you with questions. I appreciate your being here this afternoon. Please go ahead. We would love to hear what you have to say about the Bill.

Ms Kilpatrick: *[Inaudible owing to poor sound quality.]*

The Chairperson (Mr Gildernew): We have lost your sound, Alyson. We are not able to hear you.

Ms Kilpatrick: Can you hear me now?

The Chairperson (Mr Gildernew): Yes. That is you now. Thank you.

Ms Kilpatrick: I was just thanking you for the welcome. Thank you very much for the invitation. I very much appreciate the commission's being invited to give evidence on the Bill. As you said, I will be joined by Sarah Simms. She has done a lot of work on the clauses and is here to assist, as and when necessary. We made a detailed written submission, so I will save time now and make only a few brief but *[Inaudible owing to poor sound quality]* accommodate your questions, and you can direct me to what, in particular, you would like me to consider.

In general, we see the Bill as a genuine, balanced attempt to redress the breach that was identified by the UN CEDAW committee in its 2018 report. I know that the Committee is aware of that report and of what CEDAW is. It is a specialist group that is made up of independent women's rights experts from across the territories of the United Nations. The report followed an inquiry that took account of written submissions of evidence and of the experience of the committee members who visited Northern Ireland. They recommended that the NI Executive:

> *"Protect women from harassment by"*

pro-life:

> *"protesters by investigating complaints and prosecuting and punishing perpetrators."*

From the outset, I should make it clear that the commission has considered the human rights consequences of the Bill. The evidence that I will give today would be the same whether or not CEDAW had made that recommendation.

I also want to make it clear that today is not about the right to abortion. The law already provides for abortion in Northern Ireland. The evidence that I will give is about the rights of women and girls to access such healthcare without intimidation or harassment while balancing with the rights of those who wish to express their disagreement.

I also suggest that, in some cases, it is not really about the right to protest. A number of people with whom I have spoken who have attended outside services disavow the argument that they are protesting. They say that they are absolutely not protesting outside services; rather, they say that they are offering guidance and support. That affects the consideration of the right to protest. There is no right, as you will be aware, to deliver counselling, support or advice if it is not requested.

If close consideration is given to the practical points that we make in our submission, the Bill should ensure that an appropriate balance is struck in line with courts' jurisprudence. I am referring in particular to the case that was brought against Ealing Council. That is certainly the most recent fulsome consideration of all the issues. It set out the relevant factors in the context of safe zones being imposed outside a clinic in London. It drew on domestic and human rights standards. In that case, the Court of Appeal could not have been stronger in rejecting the challenge to the designation of a zone. In fact, the Supreme Court rejected an application to appeal because it decided that there was no arguable point of law at all.

Essentially, the test is whether the measures that are imposed restrict the important rights that are in articles 9, 10 and 11 of the European Convention on Human Rights, which are, essentially, the rights to manifest religion, to express opinion and to assemble. I will just make clear that there is not a right to protest, in and of itself. The combination of those three rights is what gives people the right to be moved on if they are protesting.

All measures must be necessary and proportionate. They must take account of all the circumstances, but they have to look at protecting the article 8 rights of women and girls to access services safely, with dignity and privacy. In that context, when looking at balance, it is relevant to note that the decision of women about whether to have an abortion is an intensely personal and sensitive matter that clearly falls, as the courts have said, within article 8, and that goes to the woman's physical and psychological integrity. In relation to the NI case that was brought by the commission, Lady Hale said:

> *"For many women, becoming pregnant is an expression of their autonomy, the fulfilment of a deep-felt desire. But for those women who become pregnant, or who are obliged to carry a pregnancy to term, against their will there can be few greater invasions of their autonomy and bodily integrity."*

Although I said that the issue not about the right to abortion, when it comes to the impact on women and girls accessing the services, it is relevant to take account of the deep-rooted invasion of their article 8 rights.

In the Ealing case, the Court of Appeal ruled that the safe zone was "necessary and proportionate". In fact, it held that, if Ealing had not made the order for a zone, a "fair balance" would not have been struck. It is important to remember that the zone does not and should not prohibit anyone exercising conscience, manifesting religion, expressing opinion or assembling. However, it does and should place reasonable restrictions on the place and manner of speech within in certain zones. The law that will come from the Bill will be restricted to certain places. No restriction is placed on demonstrating outside government buildings, for example, or, indeed, any premises where those making decisions may see the demonstration. The commission welcomes that. We say that that is a proper balance. Neither is there any restriction on campaigning against abortion or abortion clinics. That is a person's right. There is not even a restriction on demonstrating near clinics or raising awareness of the issue. When considering the Bill, I encourage you to keep in mind that what is restricted is the targeting of individual women as they are in the process of receiving health services. That goes back to what I said about the article 8 rights. The Bill applies to all demonstrators, regardless of their viewpoint, so, once again, it balances the various rights issues.

I will highlight one issue before we move to questions, which is this: the importance of determining "the immediate vicinity". Much of what is said about the Bill on competing rights will be determined by how that term is defined. It must be carefully considered in each case in order to ensure that the article 8 rights of patients and staff are protected while ensuring that any limits on the article 9, 10 and 11 rights to protest are restricted or limited proportionately. The "immediate vicinity" definition should include, because of geography changes, multipurpose sites, and it should take account of the layout of health and social care estates. Each case should be looked at on its own merits.

Finally, we particularly welcome clause 9 and see it as a good precedent for other Bills because it expressly requires that a human rights assessment be made. That balances the rights of those receiving health services and those wishing to object to the provision of the services. There is an obligation on the Department to consider the effectiveness of the zones and then to report annually. We think that that is an important measure in ensuring transparency and oversight. We believe that the appropriate balance has therefore been struck in the Bill, subject to minor considerations, clarity and guidance, as we have set out in our written submission.

Having raced through that rather quickly in order to allow questions, perhaps I can go straight to some questions. Sarah is happy for me to make the statement, and she can come in when I get things wrong in answering your questions.

The Chairperson (Mr Gildernew): Thank you, Alyson. Sarah, I see that you have now joined us, and you are very welcome. Sarah, can you hear us OK?

Ms Sarah Simms (Northern Ireland Human Rights Commission): Yes, I can hear you OK. Can you hear me OK?

The Chairperson (Mr Gildernew): Yes, we are hearing you fine, Sarah. Thank you.

I have a few questions before I go to members. What does the Human Rights Commission consider to be the forms of harassment that should be covered by the Bill? Where does the line sit between harassment and people saying that they are protesting or whatever, in your opinion, Alyson or Sarah?

Ms Kilpatrick: What I do not want to do is get into a list of things that it will or will not be. It is going to be context-dependent, and some of it is going to turn on the environment within which the actions are carried out or in which discussions are had. It is what a reasonable person would consider to be an interference or an attempt to put pressure on, humiliate or degrade somebody or, indeed, invade their privacy. That is why we talk about how there should be a prohibition on taking images, photographic stills and recordings of people. Having to attend for that healthcare provision is an intensely private, personal experience, and there is no justification for capturing images of a person attending for the service, albeit there is a justification for expressing your view that the service should not be there in the first place. There will be a threshold, and the most helpful thing that I can say, I think, is that it is a threshold of reasonableness and what a reasonable person would consider. I must recognise that some of that will be determined by the courts. I suspect that this is going to go through the court process and that we will get some further guidance.

I do not know whether Sarah, who has spoken to more stakeholders than I have recently, wants to add anything.

Ms Simms: No, not at this moment. I think that you have covered that OK.

The Chairperson (Mr Gildernew): The second question from me is on the consultation process. What consultation should the Department undertake on specific safe zones?

Ms Kilpatrick: Specific safe zones will depend, again, on the geography. In some cases, it will be necessary to consult residents and local businesses, certainly the service providers and possibly patients or potential patients. In some cases, it may be much more straightforward. The Department needs to be satisfied, and it needs to receive as much information as it considers necessary in order to make a rational decision. Certainly, the commission says that the Department would be well advised to listen to anyone who wishes to take part in a consultation but that it has to draw a line.

The Chairperson (Mr Gildernew): My final question is on the time limit that you mentioned in your presentation. You say that those should be limited to a specific time-limited period, with a review built in. What sort of time period do you suggest, Alyson? Is that case-specific, or what is your thinking on that?

Ms Kilpatrick: I think that it is case-specific. Each case needs to be considered. If you go back to the justification being "necessary and proportionate", you will see that time will also be a factor in that. It may be that some will require only a short period of time and should be renewed and withdrawn if there is not a reason to carry them on. With others, there may be a more focused protest that is interfering with people's rights to access the premises over a longer period of time. However, if it is kept flexible and there is an anticipation that it should be reviewed within a matter of months, that will meet the necessity and proportionality tests.

The Chairperson (Mr Gildernew): I will go to members for questions.

Ms Bradshaw: Thank you for coming to the Committee today. My first question is about the case law on such protests. Do we find such incidents happening in any other branch of healthcare that people are trying to access for personal reasons? You mentioned the balance. How can it ever be justified that someone can be intimidated out of accessing healthcare? How can it ever be justified for people to engage in that behaviour?

Ms Kilpatrick: In answer to your first question, I am not aware of it happening in any other branch of healthcare, and I have looked. It has certainly not happened on these islands. The only example that I can think of is from one part of America, when a group of Jehovah's Witnesses tried to block certain parents taking their children to access ordinary GP appointments. That is the only time that has happened. There was no difficulty whatsoever in the States with their constitutional right to protest, which was engaged in in that case. The court said that it was perfectly appropriate to have an injunction. You will be aware that, in the United States, the constitutional right to free speech is guarded very jealously above almost all else.

Your second point is very valid. On the one hand, if you are dealing with someone's right to attend for health services — it has to be seen as a health service in order to put the consideration into the proper context — the ability to do that privately and with dignity and to access the service without fear of recrimination will always weigh very heavily in the balance against someone's right to say that the service should not be provided. While you have a general right to protest and demonstrate against the provision of services, you do not have the right to intimidate an individual. Going back to the evidence that the CEDAW committee found and that has been put forward in a lot of inquiries, individual women are targeted in order to try to deter them from accessing a service.

It is very difficult to see how there is a right to do that. Even if it was a right to demonstrate to an individual, it is very difficult to see how their objection to the provision of the service could be justified when someone is in the process of receiving the service. In almost all cases, the right of women to access the service will weigh more heavily in the balance. It is hard to see how a woman would be required to attend a service while pushing her way past, either physically or psychologically, barriers to her achieving the service.

Ms Bradshaw: My last question might come a bit out of left field. When I spoke to staff from the Belfast Trust last week, they said that it can sometimes take up to 15 minutes to calm women down after the traumatic experience of pushing their way through a protest. Is there any recourse in law for the trauma that is caused to those women when they are accessing the service?

Ms Kilpatrick: There is very little, and that is one of the problems that the Bill will try to overcome. After the event, it is probably too late to consider using any legal redress. A woman in that situation is not thinking about her potential to sue, even if she had such a recourse. You will be aware that the Protection from Harassment (Northern Ireland) Order 1997 requires a course of conduct, and most women will visit a provision on one occasion or will have been confronted by different people on different occasions, so that legislation does not help with that.

The Bill is to enable them to access their healthcare without having to be in a state of emotional distress and needing to be calmed down by doctors. There is no substitute for that. As I say, even if there was a right to sue somebody, it would be difficult to know who. The provider of the service has some duty of care to its patients, but it is very difficult for it, because we are talking about public spaces. The provider of the service would have very limited options in what it can do. The Bill is about public spaces, and it is for the Department to take control of the issue.

Ms Bradshaw: Thank you.

The Chairperson (Mr Gildernew): I have Gerry indicating in the room, and, on screen, I have Carál and then Colin. I will go to you, Gerry, first.

Mr Carroll: Thanks, Chair. Thanks for your presentation. Albeit it would apply in limited, specific circumstances, can you confirm whether, if the Bill were to pass, it would, effectively, be the only restriction on people who engage in anti-choice activism or protest — however you want to describe it — and that people could still parade and protest in opposition to abortion, except outside specific healthcare settings?

In the briefing, you mentioned consideration of images and audio — I think that those were the words that you used. Obviously, we have heard stories of really distressing sounds — that is the only way that I can describe them — being played outside some of those clinics and health settings. Have you considered shouting as well? There could be a situation where something is played on an audio device or a megaphone, but somebody could also be physically close to one of those healthcare settings shouting expletives at a woman. Has that come into your consideration?

Ms Kilpatrick: You are absolutely right: the Bill does not prevent anyone protesting about anything. It certainly does not prevent anyone protesting or campaigning about their opposition to abortion. They can use the media. They can use various other platforms. They can campaign and protest outside decision-makers' premises. In fact, the Bill also allows them to protest relatively near to abortion clinics and those settings that provide services and advice. What it does not allow is for protesters to invade the space and upset, unnecessarily and disproportionately, people who want to avail themselves of the service. They have absolutely every right to say that they disagree, but they do not have a right to impose that on people who are in the process of accessing the service.

I should say that it is probably worth going back to look at the Ealing case when you are looking at the finer detail of the guidance that will follow. The Ealing case looked very closely at balancing those rights. In that case, it was the court that imposed a strict access zone. It had no difficulty in saying that it struck an "appropriate balance".

The more that examples of inappropriate images and shouting etc are given is helpful, but you should not be overly prescriptive in legislation, because what you may get then is attempts to simply avoid the technical letter of the law and to not comply with the spirit of the provision of access zones. Certainly, shouting would fall within that. Images are distressing not just to people who are availing themselves of the service but to members of the public, including children, who are walking by. The sounds that you are talking about have been described to me as certainly some of the most upsetting elements of what happens outside some of those services. Yes, there should be flexibility to respond to creative ways to continue to intimidate, but it should be made clear in guidance that that is broad and is judged by the effect that it has on the reasonable person who is availing themselves of the service. Sarah, did you want to add anything on images, loudspeakers and things like that?

Ms Simms: Yes. I was just going to add that the vicinity was 100 metres in the Ealing case and that we referenced the use of loudspeakers in our submission.

The Chairperson (Mr Gildernew): I will go across now to Carál on the video. Carál, go ahead, please.

Ms Ní Chuilín: Thank you, Chair. Thank you, Alyson and Sarah. I just want to clarify something that you said about the possibility of the need to consult if an incident occurs outside what is known as a traditional health and social care setting. I am just wondering whether I picked that up correctly. Who would you consult? My concern is that this is health and social care provision, which it is, and that such incidents do not happen in any other aspect of health and social care. Can you clarify that, please?

Ms Kilpatrick: I think that that may have been my mistake, actually. I was not clear enough. What I meant was that, sometimes you will have a service provider in a larger estate. That needs to be taken into account, so it would not just involve a stand-alone service. If having to walk through another part of an estate will prevent women from accessing the service, that should also be protected. It is going to depend very much on the geography and on who is most affected. In some cases, residents are going to be affected, such as those in residential accommodation that is very close to the entrance to the hospital or the estate. Does that better answer the question?

Ms Ní Chuilín: Yes. I appreciate what you are saying, but, for me, it is going to single out that aspect of health and social care. There are human rights concerns around that as well. I want to make it clear that I am not ignoring any potential impact of any potential protest on residents. For example, in my constituency, our health and well-being centres are right in the heart of the community, and I welcome that, because it means that people can access health and social care in what is almost a one-stop shop. If they are going for psychological or emotional support, they are going through the same door as someone who needs chiropody. The ambiguous nature of accessing services therefore works out quite well.

Once you allow other people into that setting, we are undermining our own argument about the ability to access health and social care. The emphasis seems to be on protecting people who are protesting rather than on protecting people who want to access health and social care. That is a small concern that I have, but I agree that the guidance and the regulations will be key. Those are my thoughts.

Ms Kilpatrick: I absolutely agree. I do not disagree with anything that you said. That is where it gets tricky, because there is a really strong argument for anonymity for the people attending for the service. There will be situations exactly as you have described, in which the public and residents should not be consulted. That is why we keep going back to looking at things on a case-by-case basis. What is the geography of the service? Who is using it? Who may or may not be affected by it? If no one is affected, should there be notice to the public that a safe access zone is in place? All of that can be fleshed out in guidance, but also through experience. That is why, for everyone's benefit, safe access zones should be kept under review. The primary consideration, given the grave consequences for the article 8 rights of women and girls, should always be the patients and staff at the service.

Ms Ní Chuilín: I will follow up on that. Clauses 3, 4 and 5 deal with the safe access zone. At the minute, protected premises are those where services are delivered in a traditional healthcare setting. In the case that we have outlined, where the service is provided outside of such a setting, could the zone include the residents so that they are protected also? That would need to be done by the Department of Health.

Ms Kilpatrick: Do you want to respond to that, Sarah? I hope that Sarah agrees with me.

Ms Simms: Again, we would stress the importance of looking at things on a case-by-case basis and in consultation with the operator. The operator will be aware of how staff feel in that health and social care setting. Their rights are equally as important as those of the patients.

The Chairperson (Mr Gildernew): OK, Carál?

Ms Ní Chuilín: Yes, Chair. I just wanted to get clarity on the issue. Thank you.

Mr McGrath: Thank you, Alyson and Sarah, for your presentation. It is really appreciated. I wanted to ask about the recommendations in the paper that you presented to us. There is a reference made to the European Court of Human Rights in determining the introduction of safe access zones and to keeping an eye on its decisions in other cases. Are there precedents for that at the moment, or do you envisage that happening going forward?

Ms Kilpatrick: There are some precedents in the Council of Europe region, but the only one on these islands is the Ealing case. That went through to the Court of Appeal, and there was an attempt to appeal to the Supreme Court. The Supreme Court said that it did not even raise an issue that required clarity, so it strongly reinforced the argument made in the Court of Appeal. We therefore have very strong authority, insofar as it has gone. I am expecting it to go further.

In Poland and some other European countries, there are cases going through at the minute, and we will keep an eye on what is said about those.

Mr McGrath: Another issue that has been raised is that of recordings and photographs. Do you deem live video streaming to be a recording? Is that your understanding under the law, or is people using a camera for Facebook Live and other types of broadcasting from a space something that needs to be fleshed out? Is that covered under "recording"?

Ms Kilpatrick: Whether a court would agree with me, I am not sure, but that probably requires a bit more technical expertise. I can barely use my own iPhone, but I think that it would be covered if you are communicating to somebody who is not there, albeit it is going out live.

It comes back again to the point about flexibility. You have to make clear the purpose to be achieved: that it is not to deter people from accessing services or for their experience to be an undignified one that breaches their privacy and right to confidentiality. The Bill therefore needs to be acceptable without being too prescriptive. We have to allow for different methods developed all the time to get around rules.

Mr McGrath: Thank you, Alyson and Sarah.

Mr Chambers: Paula asked earlier whether other medical services had ever been subjected to such a level of protest. I appreciate that the following example is not even close to the level of protest and harassment that is happening outside abortion service clinics, but, recently, we had protests about vaccination. Young teenagers at a school in Londonderry were harassed when they were seeking their COVID vaccine. There were also minor protests outside vaccination centres in west Belfast recently.

Do you have an opinion on whether it might be prudent to future-proof the Bill by inserting a clause that embraces and protects access to medical services other than just abortion, although abortion is the central issue at the moment?

The other thing that I would worry about is this: if people who are hell-bent on protesting are prevented from protesting in the vicinity of abortion advice centres, might they shift the subject and location of their protests to, say, the homes of staff or their practitioners? Does the current law protect against that situation? If not, might it again be prudent to introduce some form of words — I do not know what that form of words would be — that would protect practitioners or those working in the centres from having the protest shift to their private life and their place of residence?

Ms Kilpatrick: I do not mean to sound sycophantic, but you have hit the nail on the head about where decisions become very difficult and nuanced. When making the legislation for a very specific purpose, in which you are balancing the rights of patients and those of staff who are delivering a health service against the rights of those who wish to object to the service rather than to the people, there is a danger of making it encompass much broader situations of receiving health treatment or of protest. If you broaden the Bill too much, you fall into the danger of perhaps tipping the balance away from the protection of the article 8 rights of patients and staff to those of the protesters.

Your point about what happens if a protest is moved is really important, because that is exactly what might happen. At the minute, the law — protection from harassment is perhaps the most obvious — requires a course of conduct. That could be reconsidered. Antisocial behaviour orders can also be considered for specific cases. It would be easier and probably better to consider the other laws, should targeting move from patients to elsewhere, rather than try to put it into the Bill, which is very specific and limited.

Mr Chambers: Thank you.

Mrs Cameron: Thank you, chief commissioner and Sarah, for your attendance at the Committee today. My question leads on nicely from Alan's. At the outset, I put on record again that intimidation, harassment and abuse of any kind and in any scenario are completely wrong.

Alan made an interesting point about situations in which that type of activity or protest could move to other venues or, indeed, to people's homes, for example. Chief commissioner, are intimidation, harassment and abuse not already covered under harassment laws currently in place? If not, should we not be looking at strengthening what is there in order to ensure that people are not subjected to that poor behaviour across the board? You said that, if a protest moves to other venues, other laws should be looked at or used, but, following that train of thought, surely those laws in general should protect everybody in every circumstance.

Ms Kilpatrick: Yes. There is a difference, however. Under the laws on harassment, and this applies to harassment anywhere in Northern Ireland, an activity has to come under the statutory criteria, as we said. The criteria would not cover, for example, counselling or support being offered immediately outside an abortion service. That would not be called harassment, although it would be very detrimental to the emotional well-being — that is the evidence that we have heard — of a woman who is in the process of accessing that service and who has not requested consultation or, indeed, to meet anybody or reveal her identity to anybody at the time. An activity may not fall within the legal definition of harassment under the current law, but it would come into play in those very difficult and sensitive moments when somebody is trying to access a service. The two laws do not substitute for each other, if I can put it that way. The law on harassment away from a service is different from the law on harassing a woman who is exercising her article 8 right by accessing a service.

The short answer is that the Protection from Harassment Order (NI) 1997, as enacted or even as amended, would not deal with the situation that is under review here. It could not be used to enable women to go to an abortion service with dignity and in privacy.

Mrs Cameron: OK. For clarity, Alyson, you are saying that laws could not be strengthened in order to deal with that scenario?

Ms Kilpatrick: The laws as they are. I do not see how you could amend the current laws to cover precisely this situation, which is that of people in the process of accessing a health service being offered consultation or prayer or having things shouted at them. The law, as it stands or even if it were strengthened, would not apply in that very situation, and it would be reactive rather than protective. The key point is that a woman has to be free to access that service. If she is put off, it is too late. The law does not really protect her at all. This is about protecting people before they even have to encounter the potential of bringing a suit or proving harassment. It is about prevention rather than cure.

Mrs Cameron: Thank you.

The Chairperson (Mr Gildernew): Another question has occurred to me as a result of the conversations had and questions asked. I noted the comment about the recording issue and thought it very relevant. It raises a general concern that any legislation will be scrutinised to the nth degree by those who wish to seek ways in which to continue harassing women in that situation. We have heard from the Bill sponsor that "harassment" means two episodes of harassment. People therefore double up, so you have two different individuals conducting the harassment in order to evade that particular legislative definition.

Are there any other areas in the Bill that you are concerned about and that you suggest need to be considered in either legislation or guidance in order to ensure that people do not successfully circumvent the legislation?

Ms Kilpatrick: It is all going to come down to careful consideration of what a designated zone is and what is prohibited in that zone. It may be less about the legislation and more about its application, the decisions that are made on a case-by-case basis and the review of those decisions. We very much welcome the obligation on the Department to publish a report and to review the legislation's effectiveness. It is likely that, as time goes on, we will learn much more about what is and is not effective and about what can and cannot be prevented in a safe access zone.

I wish that I had put it this way the first time, but it comes to back to the point that after the event is too late, because it has interfered with people in the course of their getting health treatment and with their rights to bodily integrity. It is too late after that simply to sue and get damages, redress or even an injunction for further use: the damage has been done. It is all about enabling people to access that service at a critical time in their life, not about their having to deal with it afterwards.

The Chairperson (Mr Gildernew): My final question relates to the Ealing case that you mentioned, Alyson. Sarah mentioned the 100-metre exclusion zone. Is that an appropriate yardstick? With everything else being equal, is 100 metres about right, or is there evidence to suggest that it should be more or less?

Ms Kilpatrick: It comes back to geography: the layout of the site and the estate generally. In some cases, 100 metres may be too much; in other cases, it may not be enough. It depends on the access points to the clinics and on whether, for example, people have to go down a single access road to get into a general entrance area. The Ealing case certainly told us that the individual access zone is what will be considered, not the general principle behind it. All those various factors will be looked at. In Ealing, the access zone had a designated area within it, within which certain protests could be carried out. That was permissible because of the geography but not as a general principle. Sarah may want to give some examples of distances for zones that have been set up in Manchester.

Ms Simms: I do not have a specific example off the top of my head, but I can certainly follow up with the Committee on that, if required.

I will add to the answer to the previous question, however. We advised that, when a safe access zone has been established, the Department should work with the operator to establish guidance for that operator on how it can make it publicly known to those who want to protest around the area that the safe access zone is in place so that it is clear that it is there and they know what the requirements are.

The Chairperson (Mr Gildernew): OK. Thank you. Do any members want to ask an additional question? There is a little bit of time allowing.

Ms Bradshaw: Chair, I did not want to take up too much time earlier. My question is to do with the recommendation to put the onus on the Department to report annually. Who else has a role to play in that? Do the trusts? Does the PSNI? I do not want to put additional burdens on already stretched services, but is the Department the right vehicle for collecting and collating that information?

Ms Kilpatrick: It is hard to think of who else would be in a better position, but it will be dependent on the Department properly consulting, for example, the PSNI; the operators; patients, if possible; residents; and people who have attempted to protest. We hope that the annual report will consider all those various aspects. It should also consider enforcement action that has had to be taken during the time and whether the zone has been effective at all. We hope that all of that will be covered in the annual report.

Ms Bradshaw: Thank you. I have one other question, It concerns the outstanding issue in the Northern Ireland Assembly on the introduction of safe staffing legislation and is primarily about optimal staffing levels in settings. I am wondering about the safety of staff travelling to and from and through those protests. Is there anything that the Bill could do to strengthen protections for staff who not only have to travel through those areas but have to comfort women when they arrive?

Ms Kilpatrick: Yes. I will go back to my earlier point: it is too late after the event, because the damage has already been done. The safe access zones also have to protect staff travelling to and from the centre and, in fact, when coming out to meet women and girls who are accessing services. The idea is that they will not have to deal with that harassment at all when accessing their place of employment or helping their patients. When travelling to and from the workplace, that becomes more difficult, because that would essentially require an access route — almost a free route — by which they could travel from their home to their work. That would not be enforceable. There are other laws on harassment, assault etc, however, and the PSNI should be consulted, as well as the trusts, on what is happening and on what law is already in place to assist those staff members.

Ms Bradshaw: Thank you.

The Chairperson (Mr Gildernew): Thank you, chief commissioner and Sarah, for coming to the Committee today, for providing your presentation to us in advance, for your remarks and for answering members' questions. I wish you all the very best in the time ahead and sincerely thank you for attending. Go raibh maith agaibh.

Ms Kilpatrick: Thank you very much, Chair. I will follow up on some specific questions.

Ms Simms: Thank you.

The Chairperson (Mr Gildernew): Thank you.