

Scottish Women's Aid's Response to the Consultation on the Proposed Abortion Services (Safe Access Zones) (Scotland) Bill
July 2022

Scottish Women's Aid (SWA) is the lead organisation in Scotland working towards the prevention of domestic abuse and plays a vital role in campaigning and lobbying for effective responses to domestic abuse. SWA is the umbrella organisation for 34 local Women's Aid organisations across Scotland; they provide practical and emotional support to women, children and young people who experience domestic abuse. The services offered by our members include crisis intervention, advocacy, counselling, outreach and follow-on support and temporary refuge accommodation.

Our responses to the substantive questions on the proposed Bill:

9. Which of the following best expresses your view of the proposed Bill?

☒ Fully supportive

☐ Partially supportive

☐ Neutral (neither support nor oppose)

☐ Partially opposed

☐ Fully opposed

☐ Unsure

Please elaborate on your response.

SWA is fully supportive of the introduction of safe access zones as proposed in this Bill. Access to safe abortion healthcare is an essential component of women's human rights. All women and people with the capacity to become pregnant have the right to make choices about their bodies and lives. This requires access to information, family planning and quality abortion healthcare. These services must be available without stigmatisation, harassment, coercion or intimidation of those seeking services or of those providing them.

Women's experience of domestic abuse frequently damages their right to health, including their sexual and reproductive health. Abusive partners may use control of women's sexual and reproductive choices as a tool to further the abuse. Access to safe abortion care is therefore an essential part of enabling women experiencing domestic abuse to regain control over their reproductive choices. Access to abortion in Scotland remains restricted including by "the requirement for two doctors to certify the approval for an abortion, the need for multiple appointments, and lack of available services for later abortion care in many local areas".¹ These barriers are already challenging for women experiencing domestic abuse to overcome – women may be prevented by the abuser from attending medical appointments, it may take longer for them to make appointments to see abortion services, the abuser may control their travel to other areas or their economic means of paying for

¹ <https://www.engender.org.uk/content/publications/Engender-Parliamentary-Briefing-Abortion-Clinic-Buffer-Zones.pdf>

that travel. After overcoming these barriers, women should not be confronted by harassment or intimidation by protesters seeking to overturn their personal decisions.

Removing the post code lottery for services is critical, both in terms of access to early medical abortion and access to second-trimester abortions. Lack of access to second-trimester abortions in Scotland is unacceptable, and immediate steps are necessary to ensure that women are not asked to travel or access service at unreasonable distances. A minimum standard of care that establishes how far women would be asked to travel (especially important for those living in island and rural communities) should be established and monitored.

10. What is your view of the proposal for safe access zones being introduced at all healthcare settings that provide abortion services throughout Scotland?

☒ Fully supportive

☐ Partially supportive

☐ Neutral (neither support nor oppose)

☐ Partially opposed

☐ Fully opposed

☐ Unsure

Please explain the reasons for your response.

We agree that safe access zones should be introduced at all providers of abortion services. If zones were restricted to healthcare settings which have experienced protests and harassment of service users in the past, there is a danger that demonstrators would just move their activities to outside the premises of other service providers where bans were not in place.

11. What is your view of the proposal for the 'precautionary' approach to be used, in which a safe access zone is implemented outside every site which provides abortion services?

☒ Fully supportive

☐ Partially supportive

☐ Neutral (neither support nor oppose)

☐ Partially opposed

☐ Fully opposed

☐ Unsure

Please explain the reasons for your response.

See answer to question 10.

12. What is your view of the proposed standard size of a safe access zone being 150 metres around entrances to buildings which provide or house abortion services?

☒ Yes – Support this part of the proposal

☐ No – Believe they should be a different standard size

☐ No – Believe the size should be decided based on each site

☐ No – Do not support the introduction of safe access zones in any form

☐ Unsure

☐ Other – please detail below

Please explain the reasons for your response.

The safe access zone should be large enough to allow for unimpeded, harassment-free access to abortion care providers by service users. If the evidence from other places shows that 150m is effective, then SWA is supportive of this distance. We agree with the proposal to give Local Authorities the power to increase this distance, if it is necessary to facilitate harassment-free access to services in particular settings.

13. What is your view of the proposal to ban all protests including both protests in support of and those in opposition to:

A person's decision to access abortion services (ie a woman having an abortion)?

☐ Fully supportive

☐ Partially supportive

☒ Neutral (neither support nor oppose)

☐ Partially opposed

☐ Fully opposed

☐ Unsure

Please explain the reasons for your response.

Neutral. SWA are supportive of a ban on those demonstrating outside clinics with the aim of interfering with women's access to essential healthcare services. The consultation document states that "some isolated reports of pro-choice activity outside sites that provide abortion services, seemingly as a response to the perceived impact of anti-abortion activity at the same sites". We are not aware of any reports of harassment or intimidation of service users or staff by pro-choice activists. If, as the consultation document notes, pro-choice activity outside service providers has occurred in response to anti-abortion activity, a ban on harassment and intimidation of service users and staff would prevent anti-abortion activity and mean that further pro-choice activity would be unlikely to occur, therefore making banning pro-choice activity unnecessary.

If a ban on all protests, whether against or in favour, means that the introduction of safe access zones receives more widespread support, then we would not be against prohibiting all protests. In addition, information shared by clinicians from Glasgow and Edinburgh at the Abortion Care Summit made clear that patients and staff felt that counter demonstrations did not ameliorate the impact of having to access care in the presence of anti-abortion demonstrators.

14. What is your view of the proposal to ban all protests including both protests in support of and those in opposition to:

A person's decision to provide abortion services (ie a doctor, nurse, or midwife)?

☐ Fully supportive

☐ Partially supportive

☒ Neutral (neither support nor oppose)

☐ Partially opposed

☐ Fully opposed

☐ Unsure

Please explain the reasons for your response.

See answer to question 13.

15 What is your view of the proposal to ban all protests including both protests in support of and those in opposition to:

A person's decision to facilitate provision of abortion services (ie administrative or support staff)?

☐ Fully supportive

☐ Partially supportive

☒ Neutral (neither support nor oppose)

☐ Partially opposed

☐ Fully opposed

☐ Unsure

Please explain the reasons for your response.

See answer to question 13.

16. Which types of activity – when done for the purposes of influencing a person's decision to access healthcare settings including abortion services - do you consider should be banned in a safe access zone? (tick as many from the list as you consider should be covered by the Bill))

☐ Persistently, continuously, or repeatedly occupying the zone

☐ Impeding or blocking somebody's path or an entrance to abortion services

☐ Intimidating or harassing a person

☐ Seeking to influence or persuade a person concerning their access to or employment in connection with abortion services

☐ Demonstrating using items such as leaflets, posters, and pictures specifically related to abortion

☐ Photographing, filming, or recording a person in the zone

☒ All of the above

☐ None of these

☐ Other (include details below)

17. What is your view on the potential punishments set out in the proposal for breach of a safe access zone (see pages 15 to 16 of the consultation document)?

☐ Fully supportive

☒ Partially supportive

☐ Neutral (neither support nor oppose)

☐ Partially opposed

☐ Fully opposed

☐ Unsure

Please give reasons for your response, including commenting on whether this should be a criminal offence.

We agree that there needs to be a sanction for breaching a safe access zone and that the offence of “breach of a non-harassment order” contained in the Protection from Harassment Act 1997 is an appropriate model.

18. Do you think there are other ways in which the Bill’s aims could be achieved more effectively?

☐ Yes

☒ No

☐ Unsure

Please elaborate on your response if you’d like to:

SWA considers the bill is necessary; however, it will not solve all issues relating to abortion access in Scotland. Decriminalisation of abortion would send another strong message to those involved in protests to disrupt women’s access to abortion services that abortion is essential healthcare and not a matter for criminal law, except in the instance of forced abortion. Additional action is also needed to improve access to abortion services and remove the barriers mentioned above in our answer to question 9.

Financial implications

19. Any new law can have a financial impact which would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?

☐ a significant increase in costs

☐ some increase in costs

☐ no overall change in costs

☐ some reduction in costs

☐ a significant reduction in costs

☐ I don’t know

Please explain the reasons for your answer, including who you would expect to feel the financial impact of the proposal, and if there are any ways you think the proposal could be delivered more cost-effectively.

Equalities

20. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

What impact could this proposal have on particular people if it became law?

☒ Positive

☐ Slightly positive

☐ Neutral (neither positive nor negative)

☐ Slightly negative

☐ Negative

☐ Unsure

Please explain the reasons for your answer and if there are any ways you think the proposal could avoid negative impacts on particular people.

The introduction of safe access zones will have a positive impact on women and people with the capacity to get pregnant who will be able to access abortion services with a much-reduced risk of experiencing harassment and intimidation.

Arguments will be made that the proposed new law would have a negative impact on people for reasons of religion or belief. However, freedom of religion is not freedom to harass or intimidate others who do not share your beliefs. As the consultation paper states, the rights to freedom of religion, freedom of speech and freedom of assembly under the European Convention on Human Rights (ECHR) are not unlimited rights. The ECHR provides that states may limit these rights if specific conditions are met: the limitations must be “prescribed by law” and be “necessary in a democratic society” for one or more of a specified list of reasons, including “in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others”.²

The passage of the proposed law would meet the first requirement that the restriction is set out clearly in law. The second requirement is met because the introduction of safe access zones is to protect public health and the rights and freedoms of women and others who have the capacity to become pregnant to exercise their rights to health, to privacy and to bodily autonomy.

Sustainability

21. Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations. Do you think the proposal could impact in any of these areas?

☐ Yes

☐ No

☐ Unsure

Please explain the reasons for your answer, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?

General

² European Convention on Human Rights, Article 9 on Freedom of thought, conscience and religion, https://www.echr.coe.int/Documents/Convention_ENG.pdf Article 10 on Freedom of expression contains a slightly different list of permitted reasons for limitations: “in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary”, as does Article 11 on Freedom of assembly and association “national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others”.

22. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?