

Written Evidence to the Oireachtas Health Committee on Safe Access Zones – October 2022

Introduction

Founded in 1973, the National Women's Council (NWC) is the leading national women's membership organisation. Guided by our Strategic Plan, No Woman Left Behind, our mission is to advance women's rights, including achieving a positive transformation in reproductive health and rights.

To this end, we convene and Chair the Abortion Working Group, a collective of over 20 civil society organisations and healthcare providers which was established in 2019. As a group of experts working to improve both access to and experience of reproductive healthcare in Ireland, we collectively submitted to the Abortion Review as we believe that significant legal changes and practice improvements are required if the Health (Regulation of Termination of Pregnancy) Act is to guarantee equitable, accessible and legal abortion for all women and pregnant people in need.

A key aspect of our submission to the Review was the introduction of Safe Access Zones. We therefore welcome this opportunity to provide evidence to the Oireachtas Health Committee on this new Government-sponsored Bill. At NWC, we believe this Bill represents the swiftest way to protect staff, service-users and the wider community, from ongoing threats, harassment and abuse from anti-choice activities, and must be supported.

As former Minister for Health, Simon Harris said when he pledged to introduce this legislation back in 2018: "I think it's very important that people can go about their work and access their health services without being in any way obstructed."¹

¹ Jennifer Bray (2018) Harris to legislate for 'safe zones' around abortion services: Minister for Health says he intends to bring forward stand-alone legislation next year, Irish Times
<https://www.irishtimes.com/news/politics/harris-to-legislate-for-safe-zones-around-abortion-services-1.3723069>

There should be no more delays to this urgently needed legislation.

The necessity of Safe Access Zones Legislation

1. Upholding access to essential healthcare

All women and pregnant people should be guaranteed access to confidential, private and respectful healthcare. Yet, nationwide, anti-abortion activities outside of hospitals, clinics, and GPs surgeries are occurring throughout the country on an almost daily basis. These activities constitute intimidation and harassment of service-users: as well as chanting, groups sometimes use distressing images, and props, such as small coffins and white crosses.

There is strong evidence that the anti-choice activities, as they currently occur, are adversely affecting women and pregnant people's ability to access healthcare, including abortion care, freely and without interference.² There is strong evidence that the anti-abortion activities have a profoundly distressing, stressful and traumatizing effect on people as they access their healthcare providers.³ It is important to note that it is not just abortion care service-users who can be adversely affected, but also other patients, the wider community and healthcare staff who can be confronted with these activities on a day-to-day basis.

2. Ensuring adequate coverage of abortion care in the community

At present, just 1 in 10 GPs are providing abortion services in Ireland, meaning just one third of GP practices are able to give early medical abortions. Concerningly, the pool of GPs registered with My Options who provide care to the general public is even less than this:

² The Impact of Anti-abortion Protest on Women Accessing Services - A Rapid Evidence Assessment. Oireachtas Library & Research Service. (2019)

³Greene Foster, D. 2013. Effect of Abortion Protesters on Women's Emotional Response to Abortion. *Contraception*. 81(1) 81-87. Cozzarelli, C. Major, B. Karrasch, A, Fuegen, K. (2000) Women's Experiences of and Reactions to Abortion Picketing. *Basic & Applied Social Psychology*, 22(4), 265-275.

just 7% of the overall GP population.⁴ One of the biggest obstacles to more GP practices coming on board is lack of Safe Access Zones. Healthcare providers need to be confident that in stepping up to deliver essential reproductive healthcare, they and their patients won't be targeted by anti-choice activities which seek to intimidate staff and service users.

GPs have highlighted the threat of anti-abortion activities is one of the biggest impediments to new providers coming on board. There is strong evidence that healthcare providers are adversely affected by ongoing protests⁵ and that these activities have a chilling effect on provision of services,⁶ which has resulted in large parts of Ireland not having local access to care.

Data shared with NWC by the HSE in March 2022, shows that half of counties have less than 10 GPs offering the service currently – in some counties it could be as low as one GP per county as the data was provided in a 0-10 range rather than the total number. Indeed only four out of 26 counties have a well-developed community network of providers: Dublin, Cork, Galway and Wicklow.

It is important to note that lack of nationwide coverage means a much greater burden on women and pregnant people, it's a particular barrier for those who are disabled, who may have childcare responsibilities or lack of access to a car to drive to appointments. Three years into our abortion care roll-out, research by Dr Lorraine Grimes for the Abortion Rights Campaign suggests that a sizeable portion of service-users are having to travel significant distances to access care (30% respondents reporting travel of 4-6 hours).⁷

⁴ 405 GPs in total, 246 are registered with My Option: HSE response to Freedom of information request C040, 28 February 2022

⁵ Dempsey, B., Favier, M, Mullally, A, & Higgins, M.F. (2021) Exploring providers' Experiences of Stigma following the Introduction of More Liberal Abortion Care in the Republic of Ireland. *Contraception*.104(4) 414-419

⁶ Accessing Abortion in Ireland: Meeting the Needs of Every Woman. National Women's Council and Dr. Sinead Kennedy (2021)

⁷ Abortion Rights Campaign and Lorraine Grimes. Too Many Barriers: Experiences of Abortion in Ireland after Repeal. Sept. 2021.

3. Delivering publicly mandated legislation

Nationally representative polling data from February suggests there is huge public demand for Safe Access Zones and that their timely introduction should be a priority for our elected representatives. The research conducted by Opinions Market Research with a sample of 863 adults found an overwhelming 85% of adults agree that individuals accessing and providing abortion care should be protected from threats, harassment and abuse from anti-abortion protests.⁸

Separately, law lecturer and expert in Constitutional Law, Dr Jennifer Kavanagh, who is a member of the Together for Safety legal team has highlighted that Safe Access Zones do not interfere with the right to protest. Speaking about the original cross-party Bill, Dr Kavanagh affirmed “this Bill does not prevent protest, it just creates space for privacy that’s free from harassment. Protest is an essential democratic right but as with any right it is proportional, and this Bill seeks to balance these rights.”⁹ Given the original cross-party Bill closely aligns with this Government-sponsored legislation, it is our belief that this statement still applies.

Feedback on General Scheme of Bill (Safe Access Zones) 2022

We welcome this piece of Government-sponsored legislation and believe that overall, it represents a robust legal framework which safeguards staff, service-users and the wider community. In particular, we support the 100-metre zone and feel this is an important aspect of the Bill. We have discussed the General Scheme of the Bill with Together for Safety, a member of our Abortion Working Group and recommend the below changes. Together for Safety collected feedback on the Bill through extensive consultation with unions, the Gardai, advocacy organisations and legal experts before submitting these recommended legal changes to the public consultation.

⁸ Opinions Market Research Omnibus Feb 2022, base: n=863, margin of error: +/-3.34%, see: NWC, *Public opinion of abortion shows 80% agree no woman should have to travel abroad for abortion care*, Press Release 15.03.2022

⁹ Together for Safety Press Release (2022) <https://togetherforsafety.ie/press-release-and-photocall/>

1. Protecting Industrial Action

The Bill must protect industrial action and protest under the Industrial Relations Act 1990 or anything done by an authorized Trade Union in the conduct of its business.

We would request the addition of an explicit clause excluding from the ambit of the Bill anything done in the course of industrial action within the meaning of the Industrial Relations Act 1990 or anything done by an authorised Trade Union in the conduct of its business.

Together for Safety's cross-party bill included such an explicit exclusion, which received wide-support from leading Irish labour unions.

2. Powers and duties of members of an Garda Síochána

We request changes to the powers of the Gardai as outlined in Heads 4 and 7 to strengthen efficacy and support with implementation.

In effect, in order for an offence to be committed under Head 4(7) of the proposed legislation, an individual acting in breach of the provisions of the proposed legislation must have been previously issued with a warning pursuant to Head 4(5). However, there is no requirement in the General Scheme that a member of an Garda Síochána records whether such a warning has been given:

“The Garda Síochána *may* maintain a record of a warning issued pursuant to subsection 5, which *may* include particulars relevant to the warning and the person to whom the warning has been issued” (emphasis added).

The imprecise wording of ‘may’ dilutes the effectiveness of this clause. Records must be accurate and reflect all instances of prohibited behaviour. The legal duty must be clear, and all members of Garda Síochána must treat record-keeping around anti-abortion activities consistently.

We request that the language of Head 4(11) change from 'may' to 'shall' thereby ensuring that action is taken in every appropriate instance.

3. Inclusive Language

The language of the Bill should be amended to ensure trans inclusivity, reflecting that alongside women, trans men, intersex and non-binary people may also become pregnant. The Bill should include gender inclusive language throughout as appropriate, i.e. women and pregnant persons. This is important as non-binary people currently have no means of legally affirming their gender under Irish law. This wording does not erase women, but rather works to include and recognise the experience of everyone impacted.

We request that the language of Head 4(11) change from 'may' to 'shall' thereby ensuring that action is taken in every appropriate instance.

Conclusion: Raising Quality Standards in Abortion Care

The Repeal campaign that led to the landslide Yes victory for removal of the eighth amendment from the Irish Constitution was one of the most important political and social movements in Irish history. The message was clear; all women should be able to access healthcare at home, and with their doctors, make decisions regarding their care needs.

Safe Access Zones legislation, first promised in 2018, is a key element of safe abortion care, ensuring access and delivery of this healthcare in dignity and respect. Given the impact that ongoing incidents of harassment and intimidation have on service-users, staff and the wider community, it is critical that this legislation progresses swiftly without further delay. It is important to note, that the swift provision of Safe Access Zones is just one element of the wider piece on improving abortion provision in Ireland. At NWC, we believe the ongoing Review is a

unique and essential opportunity to raise quality standards and bring Ireland in line with WHO guidance and international best practice.

To address legal barriers to access, we recommend:

- Full decriminalisation of abortion so doctors can provide care based on clinical judgement and professional expertise
- Removal of the 3-day mandatory wait and review of the 12-week gestational limit so abortion is accessible to all on request
- Removal of the 28-day mortality clause for fatal foetal anomalies so compassionate care can be provided at home in Ireland

These changes are all in line with the 2022 WHO guidelines on abortion, the gold standard in clinical best practice and medical evidence.

To address regional barriers to access, we recommend:

- Early medical abortion to be understood as a core part of primary care, with additional HSE resources deployed as required.
- Maternity hospitals to be mandated to provide the service in line with the law. Where necessary, new medical appointments should be fast-tracked to address any gaps in service provision and the necessary resources should be made available to address infrastructural challenges.
- All healthcare staff working in primary and hospital settings should be supported to come on board through provision of comprehensive training in abortion care, beginning in undergraduate, and access to Continuous Professional Development and values clarification workshops in the workplace.

For a full list of recommendations: see our Abortion Working Group's submission to the Abortion Review.