



HM Government

A new legal framework for abortion services in Northern Ireland

Implementation of the legal duty under section 9 of the Northern Ireland (Executive Formation etc) Act 2019

Government consultation

4 November 2019

FOREWORD BY THE SECRETARY OF STATE FOR NORTHERN IRELAND

The Government remains committed to restoring devolution in Northern Ireland. As Secretary of State for Northern Ireland, that remains my number one priority.

There is no substitute to having locally elected and accountable politicians, debate and pass laws that impact on the lives of people living in Northern Ireland. This is particularly important on sensitive matters such as abortion law, where locally elected members of the Northern Ireland Assembly should be debating and deciding on the shape and scope of any reform.

In the meantime, Northern Ireland has been without a fully functioning Executive and Assembly for almost three years. This has required the Government to take measures to ensure good governance in Northern Ireland. This has included the passage of legislation in the UK Parliament.

During the passage of the recent Northern Ireland (Executive Formation etc) Act 2019, Parliament placed a legal duty on the Government to create a new framework to provide lawful access to abortion services in Northern Ireland by 31 March 2020, if the Northern Ireland Executive was not restored by 21 October 2019. Now that this date has passed without an Executive being established, the Government is required to fulfil its obligations under the Northern Ireland (Executive Formation etc) Act 2019. This consultation document therefore seeks views on a proposed legislative framework for the provision of abortion services in Northern Ireland.

In considering these proposals, I remain acutely aware that the provision of abortion services are devolved to Northern Ireland, including health and social services. I am also deeply sympathetic to the fact that this is a highly sensitive and complex matter, with differing and strongly held views across society. I have made the case to party leaders in Northern Ireland that the best way of dealing with this issue would be to form an Executive that could take forward these commitments in the best interests in Northern Ireland - unfortunately this has not been possible to achieve.

With a legal duty now placed on the Government to change the abortion law in Northern Ireland, this consultation focuses on what new regulatory framework must be put in place for lawful access to abortion services in Northern Ireland. In doing so, the health and safety of women and girls, and clarity and certainty for the medical profession, are at the forefront of the Government's consideration.

We will be working on a range of operational and service delivery questions over the coming weeks and months, continuing to closely engage with Northern Ireland healthcare professionals, the Northern Ireland political parties, and other stakeholders. One of the guiding factors of this work will be to ensure that there is a balancing of rights and obligations, as far as practicable, so that no one is compelled to provide services that they have an objection to on the grounds of conscience. This will be recognised and respected, in accordance with other existing medical procedures.

If an Executive and functioning Assembly is restored in Northern Ireland in the coming months, ahead of the new framework being in place by 31 March 2020, I will of course engage closely with a restored Executive, relevant Ministers and the views of the Assembly, as the final regulations take shape, to ensure we are delivering in a way that works best for Northern Ireland, while still clearly delivering on the Government's legal duty.

We will also continue working with the healthcare profession to ensure that the legal provisions can also be accompanied by models of care, training, professional guidance and professional standards of practice to assist healthcare professionals in Northern Ireland to clearly understand their legal rights, obligations and duties.

We would be grateful to hear views from anyone with an interest in this proposed new framework.

RT HON JULIAN SMITH MP
SECRETARY OF STATE FOR NORTHERN IRELAND

CONTENTS

Overview

| | |
|------------------------------------|---|
| Introduction..... | 5 |
| About this consultation..... | 6 |
| -Purpose | |
| -Consultation scope | |
| -Timetable | |
| -Responding to the consultation | |
| -Consultation principles | |
| -Confidentiality | |
| -Government response | |
| Structure of the consultation..... | 9 |

Section 1 - Legislative changes

| | |
|---|----|
| Background..... | 10 |
| Changes taking effect from 22 October 2019 up to 31 March 2020..... | 11 |
| Legal framework for abortion services after 31 March 2020..... | 12 |

Section 2 - Consultation proposals

| | |
|---|----|
| Early Terminations of pregnancy..... | 13 |
| Gestations beyond 12 or 14 weeks..... | 15 |
| Fetal Abnormality..... | 17 |
| Risk to the woman or girl's life or risk of grave permanent injury..... | 19 |
| Who can perform a termination of pregnancy..... | 20 |
| Where procedures can take place..... | 21 |
| Certificate of opinion and notification requirements..... | 23 |
| Conscientious objection | 26 |
| Exclusion zones | 27 |

Section 3 - Supplementary information

| | |
|---|----|
| Annex A - Northern Ireland (Executive Formation etc) Act 2019 - Section 9 provisions..... | 30 |
| Annex B - UN CEDAW Report recommendations..... | 31 |
| Annex C - Legal framework on abortion prior 22 October 2019..... | 33 |
| Annex D - Consultation questions..... | 35 |

OVERVIEW

Introduction

The Northern Ireland (Executive Formation etc) Act 2019 (NI EF Act) places a legal duty on the UK Government, in the ongoing absence of a restored Northern Ireland Executive, to create a new framework to provide lawful access to abortion services in Northern Ireland by 31 March 2020.

It is acknowledged that there are a number of areas relevant to the provision of abortion services that are devolved to Northern Ireland, including health and social services. The UK Parliament however, retains the power to make laws for Northern Ireland, although it would not normally do so in respect of devolved matters without the consent of the Northern Ireland Assembly and Executive.

Section 9 of the NI EF Act, which deals with abortion law in Northern Ireland, came into force on 22 October 2019. Section 9 has two main components: firstly, it provides for decriminalisation of abortion in relation to sections 58 and 59 of the Offences Against the Person Act 1861 and a moratorium on abortion-related criminal prosecutions from 22 October; secondly, it places the UK Government under a duty to bring forward regulations to introduce a new legal framework for abortion in Northern Ireland by 31 March 2020. The full text of section 9 is set out at **Annex A**. This new legal framework will be informed by paragraphs 85 and 86 of the United Nations (UN) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Report: *Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*. Section 9(1) of the NI EF Act requires the Government to implement these recommendations, which can be found at **Annex B**.

In accordance with this duty, the UK Government is now consulting on a new regulatory framework for lawful access to abortion services in Northern Ireland. The health and safety of women and girls, and clarity and certainty for the medical profession, are at the forefront of the Government's consideration in developing the new legal framework.

In developing this consultation document, the UK Government has spoken to Royal Colleges in Northern Ireland, as well as a range of stakeholders. We have also referred to other evidence in the public domain that has set out the case for some type of reform to Northern Ireland's abortion law, including, but not limited to legal judgments, domestic inquiries, and international reports.

Recent legal models for abortion reform adopted in other jurisdictions have also been considered in formulating the proposed approach to the new legal framework. We will continue working with the healthcare profession to ensure that the legal provisions can also be accompanied by professional guidance and professional standards of practice to assist healthcare professionals in Northern Ireland to clearly understand their legal rights, obligations and duties.

About this consultation

Purpose

The Government recognises the sensitivities of the issue of access to abortion services, and the strongly held views on all sides of the debate in Northern Ireland.

The Government equally recognises the need to keep the public informed on such important matters and to allow people the opportunity to comment on the policy proposals for bringing forward a new legal framework for abortion services in Northern Ireland.

This consultation therefore offers the public the opportunity to share their views on the proposed legislative changes. There are 15 questions in relation to the proposals set out in Section 2. A complete list of questions can be found at **Annex D**.

Consultation scope

This consultation covers a proposed new legislative framework for Northern Ireland to deliver on the statutory duty in section 9 of the NI EF Act, and consistent with the recommendations in paragraphs 85 and 86 of the UN CEDAW Report, *Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*. The aim is to provide women and girls in Northern Ireland with access to legal and safe abortion services in accordance with the UN CEDAW Report recommendations.

While all views will be acknowledged and taken into account, we are particularly interested in responses addressing the specific issues outlined in this consultation.

The UK Parliament has placed a legal duty on the UK Government to change abortion law in Northern Ireland, so this consultation is not seeking views on whether the Secretary of State should be exercising this duty in the first place, the ethics of the matter of abortion, nor the abortion framework in England, Scotland or Wales.

Timetable

This consultation opens on 4 November 2019 and closes at 11:45pm on 16 December 2019.

The consultation timetable will ensure that a new legal framework can be in place by 31 March 2020.

Responding to the consultation

The Government would welcome feedback from anyone with an interest or view on the proposed shape of this reform, addressing the specific questions listed throughout the consultation document and set out in **Annex D**.

We would particularly welcome views from those directly impacted by the current law and any proposed changes, including organisations representing those affected by these issues, including healthcare professionals, Health and Social Care (HSC) Trusts in Northern Ireland and commissioners, independent sector abortion providers and Royal Colleges.

Our preferred method of receiving your response is via our electronic consultation questionnaire which can be found via the following link:

<https://consultations.nidirect.gov.uk/nio-implementation-team//a-new-legal-framework-for-abortion-services-in-ni>

Alternatively, you may complete the response form found alongside this consultation document. If possible, we would prefer this form to be returned to us electronically as an email attachment. The email address for responses or queries is:

abortionconsultation@nio.gov.uk

Postal responses can be sent to:

Abortion Consultation
Northern Ireland Office
Stormont House
Stormont Estate
Belfast
BT4 3SH

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

A hard copy of this consultation document, and the corresponding response form is available on request, using the email address provided above.

Consultation principles

This consultation is being conducted in line with the Cabinet Office consultation principles published in January 2016. A copy of the principles can be found at: <https://www.gov.uk/government/publications/consultation-principles-guidance>

It is also being conducted in line with the Northern Ireland Office Equality Scheme which can be found at: <https://www.gov.uk/government/publications/nio-equality-scheme>.

An Equality Screening of the impact of the proposals in this consultation is available on the consultation website at www.gov.uk/nio or can be obtained in hardcopy on request.

Confidentiality

The information you send us may need to be shared within the Northern Ireland Office (NIO), with other relevant Government departments and relevant Northern Ireland Executive departments. The information might also be published in a summary of responses received and referred to in the published consultation report.

The Government summary of responses to this consultation and published consultation report will include a list of organisations that responded but not personal names without receiving permission from the individual. Other contact details will not be published.

All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of this public consultation exercise, it is understood that you consent to its possible disclosure and publication. If this is not the case, you should limit any personal information provided, or omit it entirely. If you want the information in your response to the consultation to be kept confidential, you should state so clearly in your response, although this cannot be guaranteed.

To find out more about the general principles of Freedom of Information and how it is applied in the NIO, please contact: foi@nio.gov.uk

In some consultations, external analysts may be contracted for the purpose of response analysis. If external analysts are used with this consultation, the NIO may share information you provided in response to the consultation, including personal data, with a third party or contracted external analyst.

The NIO is the data controller in respect of any personal data that you provide and NIO's Information Charter, which sets out the standards you can expect in respect of the handling of your personal data, can be found at:

<https://www.gov.uk/government/organisations/northern-ireland-office/about/personal-information-charter>

Government response

A summary of responses to this consultation and details of the action that the Government will take, or has taken, will be published on the Government website at www.gov.uk/nio.

The NIO will aim to publish this information within twelve weeks of the consultation closing date.

Structure of the consultation

Section 1 outlines the current legal position in Northern Ireland and sets out the legislative changes that took effect from 22 October 2019.

Section 2 sets out the UK Government's proposals on a new regulatory framework for lawful access to abortion services in Northern Ireland. There are 15 questions in relation to these proposals which respondents may wish to answer.

Section 3 provides the following supplementary information in relation to this consultation's proposals:

- Northern Ireland (Executive Formation etc) Act 2019 - Section 9 provisions
- UN CEDAW Report recommendations
- Legal framework for abortion prior 22 October 2019
- Consultation questions

SECTION 1 - LEGISLATIVE CHANGES

1.1 Background

In Northern Ireland, abortion law is governed by sections 58 and 59 of the Offences Against the Person Act 1861, section 25 of the Criminal Justice Act (Northern Ireland) 1945 and judicial case law. The legislation in England, Wales and Scotland (the Abortion Act 1967) does not extend to Northern Ireland.

Under the Offences Against the Person Act 1861 it is a criminal offence for a woman or girl to have an unlawful abortion or for any other person to carry out an unlawful abortion. It is also an offence to procure any drugs or instruments to cause an abortion.

Section 25(1) of the Criminal Justice Act (Northern Ireland) 1945 makes it a criminal offence for anyone to assist or wilfully act to 'destroy the life of a child then capable of being born alive', except where the purpose is to preserve the life of the mother 'in good faith'.¹ Section 25(2) of the Criminal Justice Act (NI) 1945 states that a fetus with a gestational age of 28 weeks is presumed to be capable of being born alive. Medical advances since this Act mean that a fetus can often survive earlier in gestation.²

Case law regarding the interpretation by the courts of the 1861 and 1945 legislation has created the current framework for abortions in Northern Ireland. This has determined that it is lawful to perform an operation in Northern Ireland for the termination of a pregnancy where it is necessary to preserve the life of a woman or girl, or where there is a risk of real and serious adverse effect on her physical or mental health, which is either long term or permanent.

Since June 2017, the UK Government has offered access to abortion services in England and Wales for women and girls resident in Northern Ireland, on the same basis as services are offered to women and girls resident in England and Wales.

Further information about the legal framework that existed in Northern Ireland prior to 22 October 2019 can be found at **Annex C**.

¹ The Act provides that evidence that a woman or girl had been pregnant for a period of 28 weeks is prima facie (automatic) proof that she was at that time pregnant with a child capable of being born alive.

² And see *R v McDonald* 1999 where the Crown Court ruled 'capable of being born alive' meant the fetus has a real chance of being born and existing as a live child, breathing through its own lungs, whether unaided or with the assistance of a ventilator and whether for a short time or a longer period.

1.2 Legislative changes taking effect from 22 October 2019 up to 31 March 2020

Section 9(2) of the NI EF Act repeals sections 58 and 59 of the Offences against the Person Act 1861 (OAPA), which make termination of pregnancy a criminal offence, with effect from 22 October 2019. Further, a criminal moratorium came into effect on that date meaning that no investigation may be carried out and no criminal proceedings brought or continued in respect of an offence under those sections under the law of Northern Ireland (whenever committed), pursuant to section 9(3) of the NI EF Act.

This approach is consistent with two of the recommendations under the UN CEDAW Report, which the Government has a statutory duty under the NI EF Act to implement in Northern Ireland.

Paragraph 85(a) recommends that the State party (the UK Government) urgently takes action to:

Repeal sections 58 and 59 of the Offences against the Person Act, 1861, so that no criminal charges can be brought against women and girls who undergo abortion or against qualified health-care professionals and all others who provide and assist in the abortion.

Paragraph 85(c) of the UN CEDAW Report recommends that the State party (the UK Government) urgently takes action to:

Introduce, as an interim measure, a moratorium on the application of criminal laws concerning abortion and cease all related arrests, investigations and criminal prosecutions, including of women seeking post-abortion care and health-care professionals.

However, other relevant laws relating to the termination of pregnancy will remain in place. In particular, section 25(1) of the Criminal Justice Act (Northern Ireland) 1945 which makes it a criminal offence for anyone to assist or wilfully act to 'destroy the life of a child then capable of being born alive', except where the purpose is to preserve the life of the mother 'in good faith' will remain in place. This means that abortions "where the fetus is capable of being born alive" will continue to be unlawful.

Further guidance on the framework in place during the interim period is available here: <https://www.gov.uk/government/publications/changes-to-the-law-in-northern-ireland>

This guidance supersedes that provided by the Department of Health in Northern Ireland in March 2016 ('Guidance for Health and Social Care Professionals on Termination of Pregnancy in Northern Ireland').

1.3 Legal framework for abortion services after 31 March 2020

Most countries have legal frameworks in place to support access to lawful abortion and which set out the grounds under which it is available. The grounds can vary considerably but there are some common elements that are covered in many countries' legislation. These include:

- grounds for abortion and gestational time limits
- who can provide services and where these can be performed
- conscientious objection
- notification requirements

Each of these issues is considered below and views sought on how legislation covering Northern Ireland should be framed.

SECTION 2 - CONSULTATION PROPOSALS

2.1 Early terminations of pregnancy

The UK Government has a duty to implement the recommendations in the UN CEDAW Report. The report recommends at paragraph 85(b) that the State party (the UK Government) urgently takes action to:

Adopt legislation to provide for expanded grounds to legalize abortion at least in the following cases:

- (i) Threat to the pregnant woman's physical or mental health, without conditionality of "long-term or permanent" effects;
- (ii) Rape and incest;
- (iii) Severe fetal impairment, including fatal fetal abnormality, without perpetuating stereotypes towards persons with disabilities and ensuring appropriate and ongoing support, social and financial, for women who decide to carry such pregnancies to term.

The UN CEDAW report therefore requires that grounds to legalise abortion include circumstances where pregnancy arises from rape or incest. Women and girls who are pregnant as a result of sexual crime are extremely vulnerable and may be suffering from trauma. The impact of the crime on their lives is considerable. We have considered whether there is an appropriate way to build in a system of reporting, an approach some jurisdictions have considered. However, to include rape, incest and other sexual crime as an express criteria in the Regulations for the purposes of lawful termination would require the victim of sexual crime to evidence or prove the connection between the sexual offence and the pregnancy. It is considered that such a requirement may result in a woman or girl seeking a termination through unlawful means or otherwise not seeking appropriate medical care and putting herself at risk of physical or psychological harm.

The Government also recognises that there are particular difficulties in including rape and incest as specific criteria in law due to the narrow legal definition of 'rape' and because incest is not a term currently used in law as it is not a specific criminal offence. Regulations would be required to set out the scenarios involving rape, incest and other sexual crime that would apply for the purposes of lawful termination. This is not an approach that the Government advocates in the case of abortion due to the impact this would have on victims and the high risk that such an approach would result in a legal framework which excludes some victims of sexual crime who are unable to evidence that the pregnancy is a result of such a crime.

Accordingly the Government is concerned that it may not be appropriate for a new process to be applied that requires a woman or girl to evidence that the pregnancy is a result of sexual crime and to obtain certification from a medical professional on that basis.

Instead, to address the CEDAW recommendation, we are seeking views on a period of unrestricted access for early terminations, so that termination of pregnancy is available without conditionality, where a pregnancy has not exceeded 12 or 14 weeks gestation. 12 weeks gestation has been considered because it is the end of the first trimester of pregnancy and in England and Wales 90% of abortions are performed within this timeframe. However, an alternative approach would be allowing for a termination up to 14 weeks gestation without conditionality, as some women and girls may have been delayed in finding out that they are pregnant and others may need more time to reach a decision.

We are seeking views in this consultation on whether an appropriate approach for a framework in Northern Ireland would be one that allows for termination of pregnancy up to 12 or 14 weeks gestation, which would cover the circumstances where the pregnancy is the result of sexual crime, or where it would have a detrimental effect on the woman or girl's physical or mental health or wellbeing, or that of her family.

| Question 1: Should the gestational limit for early terminations of pregnancy be: | Yes | No |
|---|------------|-----------|
| Up to 12 weeks gestation (11 weeks + 6 days) | | |
| Up to 14 weeks gestation (13 weeks + 6 days) | | |
| If neither, what alternative approach would you suggest? | | |

A further issue for consideration is certification of early stage terminations of pregnancy. Given that the woman or girl will not be required to explain or justify why she is seeking a termination, it may therefore mean that no certificate of opinion would be required for the early termination (up to 12/14 weeks gestation), because it is proposed that termination will be available up to this gestational limit without any medical grounds being required to be met.

Another option in Northern Ireland would be to have a limited form of certification, that simply required a medical professional to confirm that the pregnancy has not exceeded either 12 or 14 weeks, without any assessment of the reasons in which an abortion has been requested. The healthcare professional could also note that the woman or girl’s medical situation has been assessed. This is necessarily different to the approach in England and Wales where certification is required, given the criminal law in place.

| Question 2: Should a limited form of certification by a healthcare professional be required for early terminations of pregnancy? | Yes | No |
|---|------------|-----------|
| | | |
| If no, what alternative approach would you suggest? | | |

2.2 Gestations beyond 12 or 14 weeks

Women and girls seek abortions at gestations beyond 12 weeks for a number of reasons including where the woman or girl has experienced a significant change in circumstances such as relationship breakdown, or delayed recognition of pregnancy. Other women and girls presenting for healthcare later may be more vulnerable with challenging life circumstances, such as those suffering from mental health issues, drug and alcohol dependency, homelessness and abuse.

The issue of abortion time limits is highly sensitive, and the Government has not traditionally taken a view on how these should be set.

As discussed under section 2.1 above, section 9 of the NI EF Act requires the Secretary of State to ensure that the recommendations in paragraphs 85 and 86 of the UN CEDAW Report on this issue are implemented in Northern Ireland. This includes recommendations to adopt legislation to provide for expanded grounds to legalise abortion including in cases of a threat to the pregnant woman or girl’s physical or mental health, without conditionality of “long-term or permanent” effects.

We are seeking views on whether termination of pregnancy should be available after 12 or 14 weeks (see consultation question 1 above) in Northern Ireland, provided grounds similar to those in England and Wales are met in relation to mental wellbeing grounds. This is consistent with the recommendations of the UN CEDAW Report. However, the CEDAW Report does not specify the appropriateness of any term limit.

One approach would be to not specify any term limit and instead decide that an abortion can take place, where the physical or mental health of a woman or girl is at risk, up to the point where a fetus is capable of being born alive. This would leave the issue of the term limit on abortion to medical discretion taking account of the facts in each case.

However, if this approach were adopted, it would require a doctor to assess both the health of the pregnant woman or girl, and assess the viability of the fetus. This could require the doctor to make difficult and fine judgements and inconsistency in interpretation of viability.

We are therefore seeking views in this consultation on whether an appropriate approach for Northern Ireland, to provide more clarity and reassurance both for medical professionals and for women and girls, would be for the regulations to set out a term limit for where abortions can be accessed on the basis of risk to the woman or girl's physical or mental health (without conditionality of "long-term or permanent" effects).

In England and Wales, abortion is lawful up to 24 weeks gestation (23 weeks + 6 days) where continuing the pregnancy would involve risk, greater than if the pregnancy was terminated, of injury to the physical or mental health of the pregnant woman or girl, or any existing children of her family. However, with advances in medicine and healthcare, it could be possible that a fetus having reached a gestation of 22 weeks (21 weeks + 6 days) is viable and thus capable of being born alive, depending on the individual circumstances of the woman and the fetus.

In deciding what term limit to apply to Northern Ireland, a careful balance of considerations is required, including the position in England, Scotland and Wales, the circumstances and needs of the woman or girl and what may be appropriate from a service delivery perspective. Consideration has also been given to the approach taken in other international jurisdictions. Considering these various factors, we would welcome views on the appropriate time limit for terminations on the grounds of risk to the woman or girl's physical or mental health.

| Question 3: Should the gestational time limit in circumstances where the continuance of the pregnancy would cause risk of injury to the physical or mental health of the pregnant woman or girl, or any existing children or her family, greater than the risk of terminating the pregnancy, be: | Yes | No |
|--|-----|----|
| 21 weeks + 6 days gestation | | |
| 23 weeks + 6 days gestation | | |
| If neither, what alternative approach would you suggest? | | |

2.3 Fetal Abnormality

Abortion for severe or fatal fetal abnormality is a particularly sensitive issue and the decision to end a pregnancy in these circumstances can be an extremely difficult one. The Royal College of Obstetricians and Gynaecologists (RCOG) have provided guidance for health professionals on this issue which sets out the importance of the woman or girl, and her family being given time to understand the nature and severity of the condition, so they are able to reach an informed decision about how to proceed and whether to continue with the pregnancy or seek a termination.

A detailed ultrasound scan, which can identify fetal anomalies, is usually carried out between 18 and 21 weeks of pregnancy. If an abnormality is detected, the RCOG guidance sets out that the woman or girl, and her family “will need help to understand and explore the issues and options that are open to her and be given the time she needs to decide how to proceed”.

In England and Wales (and Scotland), termination of pregnancy is available without time limit, where two doctors agree that “there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities to be seriously handicapped”. Other jurisdictions offer abortions under similar grounds.

In 2018, 3,269 abortions were performed on residents of England and Wales under these grounds (1.6% of the total), of which 283 were performed at gestations of 24 weeks and over.

Provision of abortion for severe and fatal fetal abnormality would be consistent with the UN CEDAW Report recommendations under paragraph 85(b) (which the UK Government has a duty to implement). The UN CEDAW Report recommendation notes that legislation should be adopted to provide for lawful access to abortion in cases of 'severe fetal impairment, including fatal fetal abnormality, without perpetuating stereotypes towards persons with disabilities and ensuring appropriate and ongoing support, social and financial, for women or girls who decide to carry such pregnancies to term'. We therefore propose to include provision for abortion for fetal abnormality in line with the CEDAW recommendations.

As set out above, most abortions for fetal abnormality take place before 24 weeks gestation in England and Wales. However, a small number take place after 24 weeks for a number of reasons, including late detection of the abnormality, delays in accessing scanning or because some results may require further investigation. We are seeking views in this consultation on whether abortion for fetal abnormality should be available without time limit in Northern Ireland in the case of fatal fetal abnormality and/or where the disability is likely to have a profound impact on the length or quality of the child's life.

| Question 4: Should abortion without time limit be available for fetal abnormality where there is a substantial risk that: | Yes | No |
|--|------------|-----------|
| The fetus would die in utero (in the womb) or shortly after birth | | |
| The fetus if born would suffer a severe impairment, including a mental or physical disability which is likely to significantly limit either the length or quality of the child's life | | |
| If you answered 'no', what alternative approach would you suggest? | | |

2.4 Risk to the woman or girl's life or risk of grave permanent injury

In England, Scotland and Wales abortion is also available without time limit when:

- the continuance of the pregnancy would involve risk to the life of the pregnant woman or girl greater than if the pregnancy were terminated, or;
- the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman or girl.

In addition, abortions can be performed, in an emergency, certified by the operating practitioner as immediately necessary:

- to save the life of the pregnant woman or girl, or;
- to prevent grave permanent injury to the physical or mental health of the pregnant woman or girl.

Case law has established that it is currently lawful to perform an abortion in Northern Ireland where it is necessary to preserve the life of the woman or girl, or where there is a risk of real and serious adverse effect on the woman or girl's physical or mental health, which is either long term or permanent. Making provision similar to the grounds under the legislative regime in England, Wales and Scotland would mean that the existing test is included within the statutory legal framework for abortion in Northern Ireland and that abortions continue to be available in the limited circumstances that existed prior to 21 October 2019.

In 2018, for residents of England and Wales there were:

- 92 abortions where the continuance of the pregnancy would involve risk to the life of the pregnant woman or girl greater than if the pregnancy were terminated (alone or with other grounds);
- 33 abortions where the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman or girl (alone);
- 20 abortions where the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman or girl (with other grounds); and
- 7 abortions required to save the life of the pregnant woman or girl, or to prevent grave permanent injury to the physical or mental health of the pregnant woman or girl.

| Question 5: Do you agree that provision should be made for abortion without gestational time limit where: | Yes | No |
|---|------------|-----------|
| There is a risk to the life of the woman or girl greater than if the pregnancy were terminated? | | |
| Termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman or girl? | | |
| If you answered ‘no’, what alternative provision do you suggest? | | |

2.5 Who can perform a termination

Access to early medical abortion has had a significant impact on the way abortion services are provided in many countries. Regimes in other countries allow for a range of qualified health professionals to perform abortions. Within the rest of the UK different models of provision have emerged. For example, in England and Wales, most services are provided by independent sector organisations under contract from the NHS. Abortion services are not generally provided in GP surgeries. In Scotland there is little independent sector provision and most women and girls access services in NHS hospitals.

Abortions can only be performed by a registered medical practitioner in England, Wales and Scotland. Increasingly, abortions are provided through medical rather than surgical methods, at earlier gestations and there is generally multidisciplinary team (“MDT”) involvement.

In line with developments in practice, a framework is proposed, which would enable a medical practitioner or any other registered healthcare professional to be able to provide terminations, provided they are appropriately trained and competent to provide treatment in accordance with their professional body’s requirements and guidelines. We believe this to be the most appropriate model because the role of nurses and midwives has developed significantly in recent years and they are now taking on increasingly complex duties. We consider it important that the legislation reflects how health services are now delivered. We are seeking views in this consultation on whether this model would be appropriate for the framework in Northern Ireland.

| Question 6: Do you agree that a medical practitioner or any other registered healthcare professional should be able to provide terminations provided they are appropriately trained and competent to provide the treatment in accordance with their professional body's requirements and guidelines? | Yes | No |
|--|---|----|
| | If you answered 'no', what alternative approach do you suggest? | |

2.6 Where procedures can take place

Unless performed in an emergency, in England, Scotland and Wales, the Abortion Act states that all abortions must take place in an NHS hospital or a place approved by the Secretary of State. Within the NHS, abortions have traditionally been carried out in gynaecology wards and day care units.

Independent sector hospitals or clinics must obtain the Secretary of State's approval and agree to comply with the Required Standard Operating Procedures set out in the Procedures for the Approval of Independent Sector Places for the Termination of Pregnancy. In addition, in England, Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 provides that the termination of pregnancy is a regulated activity. All providers of regulated activities must be registered with the Care Quality Commission CQC and meet fundamental standards of quality and safety as set out in regulations.

With the expansion of early medical abortion, services in England are increasingly being provided in a wider range of settings. This includes allowing women and girls to take the pills for the second stage of early medical abortion in their own homes. At gestations beyond 10 weeks, women and girls are admitted to services for the second stage treatment for medical abortions and at all gestations for surgical procedures.

In line with this direction of travel, we are seeking views in this consultation on whether providing for a range of options as to where services are provided is the most appropriate model for Northern Ireland. It is proposed that these services should be commissioned in the usual way, and provided in the most effective way possible which meet the needs of women and girls in Northern Ireland. It will be for Northern Ireland Commissioners to decide what is the optimal model of care.

| | | |
|---|------------|-----------|
| Question 7: Do you agree that the model of service delivery for Northern Ireland should provide for flexibility on where abortion procedures can take place and be able to be developed within Northern Ireland? | Yes | No |
| | | |
| If you answered 'no', what alternative approach do you suggest? | | |
| | | |

For terminations after 22/24 weeks of gestation, we are seeking views in this consultation on whether terminations in these circumstances should only be provided by a Health and Social Care Trust provider in a hospital setting. This is similar to the provisions in England where abortions beyond 23 weeks + 6 days gestations can only be undertaken in an NHS acute hospital. This is in recognition of the fact that more limited grounds apply after this gestation, and that the later the gestation, the higher the risk of complications. Women and girls are also far more likely to require an overnight stay which is better accommodated in a hospital setting.

| | | |
|--|------------|-----------|
| Question 8: Do you agree that terminations after 22/24 weeks should only be undertaken by health and social care providers within acute sector hospitals? | Yes | No |
| | | |
| If you answered 'no', what alternative approach do you suggest? | | |
| | | |

2.7 Certification of opinion and notification requirements

CEDAW recommends that healthcare professional adopt evidence-based protocols for providing legal abortions, particularly on the grounds of physical and mental health. To assist with the evidence-gathering process, a system of certification of certain procedures can prove a useful tool, while also being a means by which a medical or healthcare professional gives their opinion, formed in good faith, that the grounds for termination have been met for their patient to have an abortion.

This section considers options for certificates required for terminations in the later stages of pregnancy.

In England, Wales and Scotland, two doctors must certify that there were lawful grounds for an abortion (given that the legislation provides for exemptions to the criminal law). The purpose of certification is to provide evidence that the law has been complied with, by ensuring that medical practitioners make a legal declaration that they have formed their opinion in good faith. As such, the certificate must be completed by both practitioners prior to the termination unless this is not reasonably practicable in which case it should be completed no later than 24 hours after the procedure.

It may be that Northern Ireland requires a distinct approach in terms of the requirements of the certification by a medical or healthcare professional that in their opinion, formed in good faith, the grounds for termination under the regulations have been met for a patient to have an abortion, due to the unique circumstances.

A different approach might be required as it is likely that there will be a more significant number of people raising conscientious objections than in other parts of the UK. This could create practical difficulties, in particular delays in women accessing termination services, if two medical professionals, both with an understanding of the woman or girl's situation, are required to certify the grounds for an abortion.

Depending on the different service delivery models, it may also mean that where multidisciplinary teams are working together, one healthcare professional is involved in patient care, and bringing in a second healthcare professional or a medical professional, where they might not otherwise be involved in the provision of service, could cause an administrative burden.

We are seeking views in this consultation on whether it is considered appropriate that only one qualified and trained medical or healthcare professional who forms an opinion in good faith, based on their expert medical opinion, that a termination after 12/14 weeks meets the relevant criteria is sufficient, given the particular circumstances in Northern Ireland.

In England, the Department for Health and Social Care have issued guidance setting out the view that in reaching an opinion in good faith, doctors should ensure that they have considered sufficient information specific to the woman or girl seeking a termination to be able to assess whether she satisfies one of the lawful grounds under the Abortion Act. This includes consideration of any risk to the woman or girl's physical or mental health. The identification of where the threshold of risk to the physical or mental health of the woman or girl lies, is a matter of the clinical opinion for each of the doctors. It is our view that placing a similar requirement on healthcare professionals in Northern Ireland, to certify their opinion in good faith, will be a safeguard that the grounds for abortion have been properly considered.

| Question 9: Do you think that a process of certification by two healthcare professionals should be put in place for abortions after 12/14 weeks gestation in Northern Ireland? | Yes | No |
|---|------------|-----------|
| Alternatively, do you think that a process of certification by only one healthcare professional is suitable in Northern Ireland for abortions after 12/14 weeks gestation? | | |
| If you answered 'no' to either or both of the above, what alternative provision do you suggest? | | |

In England and Wales, the legislation currently requires all registered medical practitioners terminating a pregnancy to give notice to the Chief Medical Officer (CMO) within 14 days of the procedure. In England, the current system of notification to the CMO is seen as important, both as a matter of law, and for there to be appropriate public and Parliamentary scrutiny and trust in the data that are published. The statistical data is used and published (anonymously) by the Department of Health and Social Care and is used by a wide range of people, not just Government, for a variety of purposes, including to inform decisions about sexual health and maternity policy and services, to inform parliamentary business and debates and in reporting on the effectiveness of services and policies; to scrutinise the application of existing abortion legislation; and to plan, develop and evaluate local services.

The important statistical data that would be collected through a notification and certification processes in Northern Ireland would be able to be used by Government and other interested bodies in the same way. This would be particularly important in monitoring the new framework.

We are seeking views on whether the new regulatory framework in Northern Ireland should include similar notification requirements. This will enable similar scrutiny of service development within Northern Ireland including the numbers of abortions being performed, gestation weeks at which they are performed and characteristics of women and girls obtaining abortions. The notification system will need to be confidential and developed in a way that individual women and girls cannot be identified. In time, trend data will also be available.

| Question 10: Do you consider a notification process should be put in place in Northern Ireland to provide scrutiny of the services provided, as well as ensuring data is available to provide transparency around access to services? | Yes | No |
|--|------------|-----------|
| If you answered 'no', what alternative approach do you suggest? | | |

2.8 Conscientious objection

It is a long-established practice that medical practitioners and other healthcare professionals may opt out of certain duties on grounds of conscience. There is not always explicit provision in legislation for a healthcare professional to opt out of certain procedures, though they can object to participating, but in England, Scotland and Wales, there is provision under the Abortion Act for conscientious objection. This removes any duty to participate in any treatment authorised by the Act to which the person has a conscientious objection, other than treatment which is necessary to save the life of the woman or girl, or to prevent grave permanent injury to her physical or mental health.

Apart from an emergency situation where there is a clear duty of care to a patient, any objection to participation in treatment on grounds of conscience should be recognised and respected.

It is proposed that the new regulatory framework in Northern Ireland will provide a statutory right for healthcare professionals to conscientiously object to the provision of treatment relating to a termination of pregnancy to provide a clear legal position. This will not apply where treatment is necessary to save the life or to prevent grave permanent injury to the physical or mental health of a pregnant woman or girl.

In the rest of the UK, the legislation on conscientious objection has been tested and the courts³ have ruled that a refusal on conscience grounds to participate in treatment covers participation in the whole course of treatment for the purpose of the abortion but does not include any ancillary, administrative and managerial tasks that might be associated with that treatment. It is proposed that the legal framework in Northern Ireland will apply in the same way to ensure consistency for professional bodies whose guidance applies across the UK.

In a situation where the life of the woman or girl is in danger and emergency treatment is needed without delay to save her life, or to prevent grave permanent injury to her physical or mental health, the healthcare professional would be required to participate, unless another competent, appropriately qualified and experienced healthcare professional is immediately available and willing to participate in their place.

³ Janaway v Salford Health Authority [1988] 3 All ER 1079, Greater Glasgow Health Board v Doogan and another [2014] UKSC 68.

| | | |
|---|------------|-----------|
| Question 11: Do you agree that the proposed conscientious objection provision should reflect practice in the rest of the United Kingdom, covering participation in the whole course of treatment for the abortion, but not associated ancillary, administrative or managerial tasks? | Yes | No |
| | | |
| If you answered 'no', what alternative approach do you suggest? | | |
| | | |

| | | |
|---|------------|-----------|
| Question 12: Do you think any further protections or clarification regarding conscientious objection is required in the regulations? | Yes | No |
| | | |
| If you answered 'yes', please suggest additional measures that would improve the regulations: | | |
| | | |

2.9 Exclusion zones

We recognise that there are strongly held views on abortion, and that everyone has the right to express their views, including the right to peaceful protest. Equally, we need to consider the rights of women and girls to access pregnancy advice and treatment.

The UN CEDAW Report at paragraph 86(g), recommends that we 'protect women from harassment by anti-abortion protesters by investigating complaints and prosecuting and punishing perpetrators'. Therefore, we are seeking views in this consultation on whether an exclusion zone (or safe zone) may be necessary or appropriate in developing the new framework for Northern Ireland.

In England and Wales there are powers to issue Public Space Protection Orders under the Anti Social Behaviour Crime and Policing Act 2014, and these have been used on a few occasions to provide targeted measures where there are localised problems outside clinics. These powers do not extend to Northern Ireland, and there are no equivalent powers. Further, these powers have previously been used in only a select number of locations in response to incidents where there has been harassment, alarm or distress caused to the people seeking to access the locations and services provided.

The proposed framework outlined above in this consultation does not set out a model that requires that abortion services are provided in specialist separate clinics. Rather, subject to consultation views, it may be that abortion services may be provided in a clinic or hospital alongside other Health and Social Care (HSC) services in Northern Ireland. Depending on where abortion services are provided, there is concern that protest and other behaviour will cause distress and may prevent patients from accessing the healthcare services they are entitled to, whether this be abortion services or other healthcare services provided at the same clinic or hospital. Protests may also be detrimental and distressing for local residents and employees of the service provider. Therefore new powers may be required in Northern Ireland that allow for the proactive designation of local exclusion zones, designated on a case by case basis where there may be localised problems. These powers could specify types of protest or activity that could be banned, so that women and girls accessing the services, and health professionals working in the facilities, can feel safe and secure and free from harassment, intimidation and distress in doing so.

In giving consideration to such a provision, there is a need to balance rights and freedoms under the European Convention on Human Rights (ECHR). A prohibition on protest and other activity in a public place would engage articles 9 (freedom of thought, conscience and religion), 10 (freedom of expression) and 11 (freedom of association) and interfering with those rights must be justified and balanced against the right to respect for private and family life under article 8 of the ECHR for those affected.

We are seeking views in this consultation on whether a new power may be required in Northern Ireland to ensure that the new services can be provided and accessed in a way that protects women from harassment by anti-abortion protesters. Any new power would be used in a way which complies with the rights to freedom of expression and freedom of association. The exercising of any proposed power to designate a local buffer or exclusion zone around a clinic will require a consultation process covering issues such as the area of the zone, the types of prohibited activity and publicity or notification of the zone. Consideration could also be given as to whether the power could be used to designate a local zone in which protest would be permitted, and to set conditions for such protest. There would be a right to appeal against the introduction of any buffer zone. As a whole, such an approach would therefore broadly mirror that taken in England & Wales.

| | | |
|--|------------|-----------|
| Question 13: Do you agree that there should be provision for powers which allow for an exclusion or safe zone to be put in place? | Yes | No |
| | | |

If you answered 'no', what alternative approach do you suggest?

| | | |
|--|------------|-----------|
| Question 14: Do you consider there should also be a power to designate a separate zone where protest can take place under certain conditions? | Yes | No |
| | | |

If you answered 'no', what alternative approach do you suggest?

Question 15: Have you any other comments you wish to make about the proposed new legal framework for abortion services in Northern Ireland?

SECTION 3 - SUPPLEMENTARY INFORMATION

ANNEX A

Northern Ireland (Executive Formation etc) Act 2019 - Section 9 provisions

(1) The Secretary of State must ensure that the recommendations in paragraphs 85 and 86 of the CEDAW report are implemented in respect of Northern Ireland.

(2) Sections 58 and 59 of the Offences Against the Person Act 1861 (attempts to procure abortion) are repealed under the law of Northern Ireland.

(3) No investigation may be carried out, and no criminal proceedings may be brought or continued, in respect of an offence under those sections under the law of Northern Ireland (whenever committed).

(4) The Secretary of State must by regulations make whatever other changes to the law of Northern Ireland appear to the Secretary of State to be necessary or appropriate for the purpose of complying with subsection (1).

(5) Regulations under subsection (4) must, in particular, make provision for the purposes of regulating abortions in Northern Ireland, including provision as to the circumstances in which an abortion may take place.

(6) Regulations under subsection (4) must be made so as to come into force by 31 March 2020 (but this does not in any way limit the re-exercise of the power).

(7) The Secretary of State must carry out the duties imposed by this section expeditiously, recognising the importance of doing so for protecting the human rights of women in Northern Ireland.

(8) The Secretary of State may by regulations make any provision that appears to the Secretary of State to be appropriate in view of subsection (2) or (3).

(9) Regulations under this section may make any provision that could be made by an Act of the Northern Ireland Assembly.

UN CEDAW REPORT RECOMMENDATIONS IN PARAGRAPHS 85 AND 86

For the full report, see:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW%2fC%2fOP.8%2fGBR%2f1&Lang=en

| Recommendation |
|---|
| <p>Repeal sections 58 and 59 of the Offences against the Person Act, 1861, so that no criminal charges can be brought against women and girls who undergo abortion or against qualified health-care professionals and all others who provide and assist in the abortion;</p> |
| <p>Adopt legislation to provide for expanded grounds to legalize abortion at least in the following cases:</p> <ul style="list-style-type: none"> (i) Threat to the pregnant woman’s physical or mental health, without conditionality of “long-term or permanent” effects; (ii) Rape and incest; (iii) Severe fetal impairment, including fatal fetal abnormality, without perpetuating stereotypes towards persons with disabilities and ensuring appropriate and ongoing support, social and financial, for women who decide to carry such pregnancies to term; |
| <p>Introduce, as an interim measure, a moratorium on the application of criminal laws concerning abortion and cease all related arrests, investigations and criminal prosecutions, including of women seeking post-abortion care and health-care professionals.</p> |
| <p>Adopt evidence-based protocols for health-care professionals on providing legal abortions particularly on the grounds of physical and mental health and ensure continuous training on the protocols.</p> |
| <p>Establish a mechanism to advance women’s rights, including through monitoring authorities’ compliance with international standards concerning access to sexual and reproductive health, including access to safe abortions, and ensure enhanced coordination between the mechanism with the Department of Health, Social Services and Public Safety and the Northern Ireland Human Rights Commission.</p> |

Strengthen existing data-collection systems and data sharing between the Department and the police to address the phenomenon of self-induced abortion

Provide non-biased, scientifically sound and rights-based counselling and information on sexual and reproductive health services, including on all methods of contraception and access to abortion.

Ensure the accessibility and affordability of sexual and reproductive health services and products, including on safe and modern contraception, including oral, emergency, long-term and permanent forms of contraception, and adopt a protocol to facilitate access at pharmacies, clinics and hospitals.

Provide women with access to high-quality abortion and post-abortion care in all public health facilities and adopt guidance on doctor-patient confidentiality in that area.

Make age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights a compulsory component of curriculum for adolescents, covering prevention of early pregnancy and access to abortion, and monitor its implementation.

Intensify awareness-raising campaigns on sexual and reproductive health rights and services, including on access to modern contraception.

Adopt a strategy to combat gender-based stereotypes regarding women's primary role as mothers.

Protect women from harassment by anti-abortion protesters by investigating complaints and prosecuting and punishing perpetrators.

Legal framework for abortion prior to 22 October 2019

Under the Offences Against the Person Act 1861 (which also applies in England and Wales) it is a criminal offence for any woman or girl, being with child, unlawfully to do any act with intent to procure a miscarriage; and for any person unlawfully with intention to do an act to procure a miscarriage of any woman or girl; or to unlawfully supply or procure drugs or instruments to cause an abortion. More specifically, sections 58 and 59 of the Act provides that:

Section 58 - Administering drugs or using instruments to procure abortion.

Every woman, being with child, who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, and whosoever, with intent to procure the miscarriage of any woman, whether she be or be not with child, shall unlawfully administer to her or cause to be taken by her any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, shall be guilty of felony, and being convicted thereof shall be liable . . . to be kept in penal servitude for life.

Section 59 - Procuring drugs, &c. to cause abortion.

Whosoever shall unlawfully supply or procure any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, shall be guilty of a misdemeanor, and being convicted thereof shall be liable . . . to be kept in penal servitude.

Section 25(1) of the Criminal Justice Act (Northern Ireland) 1945 also makes it a criminal offence for anyone to assist or wilfully act to ‘destroy the life of a child then capable of being born alive’, except where the purpose is to preserve the life of the mother ‘in good faith’.⁴

Common law has determined that if a doctor is of the reasonable opinion that the probable consequence of the continuation of the pregnancy is to make a woman or girl a “physical or mental wreck” that will have “real and serious” effects that would

⁴ The Act provides that evidence that a woman had been pregnant for a period of 28 weeks is prima facie proof that she was at that time pregnant of a child capable of being born alive. This replicates the Infant Life Preservation Act 1929 for England and Wales.

be “permanent or long term” it can be construed that the doctor is “operating for the purpose of preserving the life of the woman”⁵.

There were 12 abortions performed in hospitals in Northern Ireland in 2017/18 under the existing common law provisions set out above.

⁵ *R v Bourne* [1939] 1 KB 687 and subsequent cases

Consultation questions

| Question 1: Should the gestational limit for early terminations of pregnancy be: | Yes | No |
|--|-----|----|
| Up to 12 weeks gestation (11 weeks + 6 days) | | |
| Up to 14 weeks gestation (13 weeks + 6 days) | | |
| If neither, what alternative approach would you suggest? | | |

| Question 2: Should a limited form of certification by a healthcare professional be required for early terminations of pregnancy? | Yes | No |
|--|-----|----|
| | | |
| If no, what alternative approach would you suggest? | | |

| Question 3: Should the gestational time limit in circumstances where the continuance of the pregnancy would cause risk of injury to the physical or mental health of the pregnant woman or girl, or any existing children or her family, greater than the risk of terminating the pregnancy, be: | Yes | No |
|--|-----|----|
| 21 weeks + 6 days gestation | | |
| 23 weeks + 6 days gestation | | |
| If neither, what alternative approach would you suggest? | | |
| Question 4: Should abortion without time limit be available for fetal abnormality where there is a substantial risk that: | Yes | No |
| The fetus would die in utero (in the womb) or shortly after birth | | |
| The fetus if born would suffer a severe impairment, including a mental or physical disability which is likely to significantly limit either the length or quality of the child's life | | |
| If you answered 'no', what alternative approach would you suggest? | | |

| Question 5: Do you agree that provision should be made for abortion without gestational time limit where: | Yes | No |
|--|-----|----|
| There is a risk to the life of the woman or girl greater than if the pregnancy were terminated? | | |
| Termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman or girl? | | |
| If you answered 'no', what alternative provision do you suggest? | | |

| Question 6: Do you agree that a medical practitioner or any other registered healthcare professional should be able to provide terminations provided they are appropriately trained and competent to provide the treatment in accordance with their professional body's requirements and guidelines? | Yes | No |
|--|-----|----|
| If you answered 'no', what alternative approach do you suggest? | | |

| | | |
|---|------------|-----------|
| Question 7: Do you agree that the model of service delivery for Northern Ireland should provide for flexibility on where abortion procedures can take place and be able to be developed within Northern Ireland? | Yes | No |
| If you answered 'no', what alternative approach do you suggest? | | |

| | | |
|--|------------|-----------|
| Question 8: Do you agree that terminations after 22/24 weeks should only be undertaken by health and social care providers within acute sector hospitals? | Yes | No |
| If you answered 'no', what alternative approach do you suggest? | | |

| | | |
|---|------------|-----------|
| Question 9: Do you think that a process of certification by two healthcare professionals should be put in place for abortions after 12/14 weeks gestation in Northern Ireland? | Yes | No |
| Alternatively, do you think that a process of certification by only one healthcare professional is suitable in Northern Ireland for abortions after 12/14 weeks gestation? | | |
| If you answered 'no' to either or both of the above, what alternative provision do you suggest? | | |

| | | |
|--|------------|-----------|
| Question 10: Do you consider a notification process should be put in place in Northern Ireland to provide scrutiny of the services provided, as well as ensuring data is available to provide transparency around access to services? | Yes | No |
| If you answered 'no', what alternative approach do you suggest? | | |

| Question 11: Do you agree that the proposed conscientious objection provision should reflect practice in the rest of the United Kingdom, covering participation in the whole course of treatment for the abortion, but not associated ancillary, administrative or managerial tasks? | Yes | No |
|--|-----|----|
| <p>If you answered 'no', what alternative approach do you suggest?</p> | | |

| Question 12: Do you think any further protections or clarification regarding conscientious objection is required in the regulations? | Yes | No |
|--|-----|----|
| <p>If you answered 'yes', please suggest additional measures that would improve the regulations:</p> | | |

| Question 13: Do you agree that there should be provision for powers which allow for an exclusion or safe zone to be put in place? | Yes | No |
|---|-----|----|
| <p>If you answered 'no', what alternative approach do you suggest?</p> | | |

| Question 14: Do you consider there should also be a power to designate a separate zone where protest can take place under certain conditions? | Yes | No |
|---|-----|----|
| <p>If you answered 'no', what alternative approach do you suggest?</p> | | |

Question 15: Have you any other comments you wish to make about the proposed new legal framework for abortion services in Northern Ireland?