

NORTHERN IRELAND CONSULTATION RESPONSE

Question 1 Should the gestational limit for early terminations of pregnancy be:	Yes	No
Up to 12 weeks gestation (11 weeks + 6 days)		X
Up to 14 weeks gestation (13 weeks + 6 days)		X
<p>If neither, what alternative approach would you suggest?</p> <p>Doctors for Choice UK (DfCUK) supports the removal of all criminal sanctions specific to abortion instead relying on existing legal, regulatory, and professional controls to ensure safe and equitable access for all those who need it, without conditionality and at any gestational age.</p> <p>A 12/14 week gestational limit serves no discernibly useful purpose other than to artificially differentiate between ‘earlier’ terminations (provided without conditionality) and ‘later’ terminations, upon which greater restrictions may be placed.</p> <p>DfCUK believes that this is wrong both in principle and in practice.</p> <p>Firstly, our position is that abortions should be available without conditionality throughout all stages of pregnancy – existing regulatory and professional controls already ensure that care provided by abortion services is safe and equitable, whilst recent NICE guidance provides evidence-based clinical guidelines. Even with the current higher gestational limit of 24 weeks in Great Britain, 90% of abortions took place in the first trimester in 2018. Introducing a new limit on unrestricted access is seeking to exert control for its own sake, and would involve enforcing clinically unwarranted restrictions on access beyond that limit. This infantilises women, by assuming that doctors are uniquely qualified to make these decisions on their behalf. It also fundamentally disregards the decision that they have made about their own pregnancy, and is therefore a clear infringement of their right to bodily autonomy.</p> <p>Secondly, a gestational limit disproportionately affects women in vulnerable situations (e.g. very young women, those with a history of abuse or trauma, those with mental health illness) who tend to present to abortion services later. These women need competent, compassionate and holistic care to address their complex needs, rather than an abdication of care based on an arbitrary deadline that has no clinical or ethical basis.</p>		

<p>Question 2 Should a limited form of certification by a healthcare professional be required for early terminations of pregnancy?</p>	Yes	No
<p>If no, what alternative approach would you suggest?</p> <p>DfCUK believes there should not be any form of certification by one or any number of healthcare professionals, at any gestational age.</p> <p>Certification is required by two doctors in Great Britain to confirm that the woman meets one of several conditions set out in the Abortion Act 1967, otherwise the abortion is illegal. This process of certification serves no purpose other than to fulfil the law, since gaining consent for the procedure (and other important tasks like safeguarding) are entirely separate processes, for which there are separate legal and regulatory requirements – these would be unaffected by decriminalisation. Certification exceptionalises abortion and adds an unnecessary administrative burden to healthcare providers, without benefitting patient care; certification in Great Britain has been found to cause delays in delivering care (House of Commons Science and Technology Committee, Scientific Developments relating to the Abortion Act 1967, paragraph 99.)</p> <p>Under these government proposals abortions in early pregnancy will be unconditional, so it is not clear why certification is necessary. DfCUK would see any requirement to certify an abortion, at any gestation, as an unwarranted interference with a woman’s bodily autonomy and integrity. It is only useful in censoring a woman’s decision and controlling her means of reproduction, to satisfy ideological interests rather than clinical need.</p>		X

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		X
23 weeks + 6 days gestation	X	
<p>If neither, what alternative approach would you suggest?</p> <p>DfCUK does not support the introduction of any gestational time limit; however, should a limit be introduced we would advise the least restrictive option of 23 weeks plus six days gestation.</p> <p>Viability is a nebulous concept that has no standard definition or mode of measurement, nor any standard of what probability of survival is enough; it is not a scientifically sound or objective marker, and has been used by those who wish to restrict access to abortion to try to lower gestational limits.</p> <p>There is no legitimate case to be made for the lowering of the gestational limit to 22 weeks: it would disproportionately affect women accessing services later due to complex medical and social circumstances and it is highly likely that women will need to travel to Great Britain to access care, which undermines the CEDAW recommendations.</p>		

Question 4 Should abortion without time limit be available for fetal abnormality where there is a substantial risk that:	Yes	No
The foetus would die in utero (in the womb) or shortly after birth?	X	
The foetus, 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?	X	
<p>If you answered 'no', what alternative approach would you suggest?</p> <p>DfCUK does not support the introduction of a gestational limit in these, or any, circumstances.</p> <p>Prognosis in medicine is never an exact science and it is therefore often not possible to determine if an anomaly is 'fatal'. There may be disagreement between doctors as to what constitutes a 'fatal' or a 'severe' impairment and therefore disagreement about whether a lawful termination may be provided. Women in Ireland, where the law allows for termination for fatal but not severe fetal anomaly, have been forced to travel to Great Britain if there is uncertainty over whether the fetal condition is 'fatal'; forcing women from Northern Ireland to travel for similar reasons would undermine the CEDAW recommendations.</p>		

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?	X	
Termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman or girl?	X	
<p>If you answered 'no', what alternative approach would you suggest?</p> <p>DfCUK does not support the introduction of a gestational limit in these, or any, circumstances.</p> <p>Any arguments made in favour of introducing an arbitrary limit in these circumstances trivialize and minimise the potential risk to the life of the woman or girl, instead favouring the fetus, which currently has no legal right to life in UK or international law. This is an inhumane position to take: criminalizing abortion at any stage of pregnancy in these circumstances means banning a procedure that would reduce the risk to a pregnant person's life or health. This would represent a devastating regression for women's reproductive rights, and would legislate for one of the most extreme abortion law regimes in the world.</p>		

Question 6	Yes	No
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?	X	
<p>If you answered 'no', what alternative provision do you suggest?</p> <p>DfCUK supports the proposal that appropriately trained healthcare professionals, including nurses and midwives, should be able to provide abortions. The organisation best placed to decide if a healthcare professional is 'adequately trained' is their relevant professional body, not the law.</p> <p>Nurses and midwives are currently authorised in the UK to perform procedures to manage miscarriage, but cannot perform exactly the same procedures to manage an abortion. This discrepancy has no basis in clinical best practice, with adverse effects on service provision, workforce sustainability and ultimately patient care.</p> <p>The most recent NICE guidelines on termination of pregnancy (2019) state that 'abortion providers should maximise the role of nurses and midwives in providing care'; introducing legislation that restricts the type of healthcare professional able to provide abortions will hinder the development of services in line with these evidence-based guidelines, and other international examples of best practice.</p>		

Question 7	Yes	No
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?	X	
<p>If you answered 'no', what alternative provision do you suggest?</p> <p>There should be no legal restriction on the kind of place in which an abortion can be carried out.</p> <p>There is no indication for the introduction of new legal restrictions specific to abortion - there already exists well-defined regulations that determine where healthcare can be delivered, and the appropriate bodies have a statutory duty to assess these premises. These regulations are unaffected by decriminalisation and are sufficient for the purpose of abortion provision.</p> <p>DfCUK supports a regulatory framework that allows the development of innovative models of service delivery, for example, telemedicine and the home-use of misoprostol in Great Britain. The development of these services would be hindered by the introduction of legal restrictions that are specific to where abortion services can be delivered.</p>		

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
		X
If you answered 'no', what alternative provision do you suggest? There is no indication or justification for the introduction of this restriction; the development of future services based on best practice would be made significantly and unnecessarily more difficult should this proposal be adopted.		

Question 9	Yes	No
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?		X
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?		X
<p>If you answered ‘no’ to either or both of the above, what alternative approach would you suggest?</p> <p>DfCUK believes there should not be any form of certification by one or any number of healthcare professionals at any gestational age.</p> <p>Certification is only necessary to meet legal requirements in mainland UK, it is not required by evidence-based clinical standards since it plays no meaningful part in the process of gaining consent for the procedure, for the effective implementation of safeguarding guidelines, or for the improvement of clinical safety. The introduction of any form of certification would therefore represent an unjustified overreach of state control.</p>		

Question 10	Yes	No
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?		X
<p>If you answered 'no', what alternative approach do you suggest?</p> <p>DfCUK supports the collection of data for service audit and quality improvement, as is the case in all areas of healthcare in the UK; any such requirements for the collection of data should not be introduced through legislation but at a regulatory level.</p> <p>DfCUK does not support the additional legal requirements for notification specifically for abortion care.</p>		

Question 11	Yes	No
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?	X	
<p>If you answered ‘no’, what alternative approach do you suggest?</p> <p>DfCUK believes that healthcare professionals with sincere religious or moral beliefs that conflict with providing abortion care should be permitted to opt out of participating in treatment, as in section 4 of the Abortion Act 1967. It is essential that section 4(2) of the Abortion Act remains in place: requiring individuals to participate in treatment necessary to save the life or prevent grave permanent injury to the mental or physical health of a pregnant woman.</p> <p>DfCUK supports the conclusion of Supreme Court ruling in the case Greater Glasgow Health Board v. Doogan (2014) UKSC68, which ruled that ‘participating in treatment’ means taking part in a hands-on capacity: actually performing the tasks involved in the course of treatment.</p> <p>In order to comply with the recommendations of the CEDAW report, as is necessary under section 9 of the Northern Ireland (Executive Formation) Act 2019, the government must ensure “access to high quality abortion and post-abortion care in all public health facilities”. The introduction of legislation that extends the right to conscientious objection to cover ancillary, administrative or managerial tasks would seriously undermine the state’s ability to meet this requirement, due to the detrimental impact such an extension would have on workforce sustainability and equitable access to services in Northern Ireland.</p>		

Question 12 Do you think any further protections or clarification regarding conscientious objection is required in the regulations?	Yes	No
	X	
<p>If you answered ‘yes’, please suggest additional measures that would improve the regulations:</p> <p>Those with a conscientious objection to abortion must not be permitted to obstruct or delay access to abortion care by, for example, attempting to dissuade a patient from having an abortion, giving women false information about abortion, refusing to refer or give any information or deliberately delaying referral. The Supreme Court ruling referenced in our response to question 11 concluded that the “duty of care owed to patients by members of the health care profession is that any conscientious objector is under an obligation to refer the case to a professional who does not share the objection” (paragraph 40). DfCUK therefore believes that legal clarification on the differences between conscientious objection to participating in treatment, and the obstruction of abortion care, would improve 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> <p>DfCUK favours an exclusion zone regulation such as that which is specified in sections 18-27 of the Isle of Man Abortion Reform Act 2019. Anti-abortion protests outside clinics are a frequent occurrence throughout the UK, including in Belfast where they have been larger, more abusive and violent than anywhere else in the UK, resulting in several arrests over the past few years. Evidence collated by multiple groups and submitted to the Home Office details the distress and intimidation suffered by women accessing services as a result of protests outside clinics.</p> <p>Public Spaces Protection Orders have been used to limited effect outside three clinics in England so far. However, these are time consuming to set up, and are a temporary measure, expiring three years after implementation. DfCUK believes that introducing powers that allow for an exclusion zone would offer a more appropriate and effective mechanism for protecting services users and healthcare workers from harassment and intimidation.</p>	X	

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

X

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

DfCUK does not support the introduction of a 'separate zone' where protest can take place; we consider it unnecessary since protesters can use any public land outside the exclusion zone.