

**SUBMISSION FROM THE COUNCIL FOR PUBLIC AFFAIRS OF THE
PRESBYTERIAN CHURCH IN IRELAND TO THE JOINT COMMITTEE
ON STATUTORY INSTRUMENTS CONSIDERATION OF THE
ABORTION (NORTHERN IRELAND) REGULATIONS 2021**

APRIL 2021

1. The Presbyterian Church in Ireland (PCI) has over 217,000 members belonging to 535 congregations across 19 Presbyteries throughout Ireland, north and south. The Council for Public Affairs is authorised by the General Assembly of the Presbyterian Church in Ireland to speak on behalf of PCI on matters of public policy, and following consultation with members made a submission to the Northern Ireland Office on its proposals for a new abortion framework for Northern Ireland. Included in our membership are many medical and health professionals, educationalists and others who are directly impacted by the Abortion (Northern Ireland) (No.2) Regulations 2020 passed by Parliament last year.
2. PCI, along with other Churches and organisations alarmed by this legislation, made representation to the Joint Committee on Statutory Instruments last year to aid its scrutiny of these regulations.
3. PCI would again like to avail of this opportunity and contribute to the Joint Committee on Statutory Instruments consideration of the newly laid Abortion (Northern Ireland) Regulations 2021 for the reasons outlined below.
 - (a) *that it imposes a charge on the public revenues or contains provisions requiring payments to be made to the Exchequer or any government department or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payments*
4. The Explanatory Note accompanying the regulations makes the following statement at paragraph 3.1:

“this instrument confers on the Secretary of State the power to direct that certain public authorities take action. The instrument does not therefore impose duties on people that are significantly more onerous than before, or require them to adopt different patterns of behaviour...”

5. However, it is notable that the consultation process on the 2020 Regulations did not include a regulatory impact assessment and so the cost of implementing this service, including the impact on the provision of other health and social care services, in Northern Ireland is unknown. Introducing abortion services to Northern Ireland has not been costed in any public or transparent way, and there appears to be little clarity regarding the source of additional funding available to provide these services. In seeking these new powers, the Secretary of State for Northern Ireland has not addressed these issues.
6. While in no way supporting the introduction of these regulations, it might be reasonable to presume that, given this legislation has been enacted at Westminster rather than by the locally devolved institutions, that the Northern Ireland Department of Health should not be expected to implement this new framework out of its existing budgetary provision.

(f) that it appears to be a doubt whether it is intra vires or that it appears to make some unusual or unexpected use of powers conferred by the statute under which it is made

7. Abortion is a sensitive matter throughout the United Kingdom, but no more so than in Northern Ireland to which the Abortion Act 1967 was never extended. The Abortion (Northern Ireland) (No.2) Regulations 2020 radically altered the framework for the delivery of abortion services in Northern Ireland, exceeding provisions already available elsewhere in the UK. For example, this includes the introduction of unconditional access to abortion where the “pregnancy has not exceeded its 12th week”.
8. The 2021 Regulations, providing the Secretary of State for Northern Ireland powers to direct Ministers in the Northern Ireland Executive, and other named statutory agencies, drives a coach and horses through Northern Ireland’s hard won and finely devolved constitutional settlement. These powers not only devalue Northern Ireland’s purposely unique system of negotiated government by giving the Secretary of State the freedom to interfere, directly and at will, with every single department of devolved government in Northern Ireland. This includes being able to unilaterally direct what should happen in Northern Ireland’s schools, taking local power and decision making away from governors, teachers and parents on sensitive issues, therefore undermining the right of schools to embrace a particular ethos.
9. It is notable that during the period when the Northern Ireland Executive was not functioning (March 2017 – January 2020) neither the Secretary of State for Northern Ireland, nor the UK Government, deemed it necessary to pass legislation which would have allowed for governance from Westminster, even though in previous periods of suspension Direct Rule was invoked. It is therefore even more incredulous that while the NI Executive and Assembly are both functioning, a UK Government would even contemplate, never mind implement, legislation to give direction on longstanding devolved matters.

10. No matter their views on the subject of the 2021 Regulations those within Parliament, both in the House of Commons and the House of Lords, who are supportive of devolution cannot claim to be upholding Northern Ireland's fragile devolved settlement while, at the same time, giving their assent to such an ill-considered and irresponsible intervention which undermines that system.
11. Furthermore, the Explanatory Note highlights that a six-week consultation was conducted in advance of making the Abortion (Northern Ireland) Regulations 2020 and while noting that over 21,000 people responses were received fails to acknowledge that nearly 80% of those were not supportive of the proposals. This Committee previously suggested that this consultation exercise was too short for such a sensitive topic and did not conform to best practice. It therefore seems illogical to introduce more legislation on the basis of this flawed process.
12. While the Abortion (Northern Ireland) Regulations 2021 do not give effect to any new policies over that which are stated in the 2020 legislation, they again do not take account either of the consultation exercise or of legislative developments in the Northern Ireland Assembly through the introduction of the Severe Fetal Impairment Abortion (Amendment) Bill.



**Rev Daniel Kane (Convener of the
Council for Public Affairs)**



**Rev Trevor D Gribben (Clerk of the
General Assembly)**