

Dear Colleague

Thank you for taking time to consider making a response to the Northern Ireland Office consultation on a new legal framework for abortion services in Northern Ireland.

While the Presbyterian Church in Ireland, through its Council for Public Affairs, often responds to government consultations on a range of issues, it is rare for presbyteries and congregations to also be encouraged to submit responses on their own behalf.

Engaging with this consultation does not in any way suggest that PCI agrees with the premise or the proposed direction of this new legal framework for abortion services in Northern Ireland. However, these proposals mark one of the most significant social and cultural changes in a generation and we want to ensure that any changes to abortion legislation here provide protections for unborn children and their families, and that any such provision is safe, legal and most importantly, rare.

The General Assembly most recently noted its position on these issues in 2016, in response to a consultation on cases of fatal foetal abnormality and pregnancy as a result of sexual crime. That report is attached for your information.

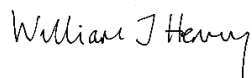
I appreciate that engaging in an exercise like this can be daunting and this short guide is designed to help you through the process. Some suggestions are given for how you might respond to each question. **It is vitally important that you do so in your own words.** There may also be others within your congregations with professional or personal experience of the issues raised and it may be appropriate to seek their input when preparing your response.

Other organisations have also produced useful guidance and these are signposted along with other relevant information at the end of this document.

If you would like any clarification or further information please contact PCI's Public Affairs Officer at [kjardine@presbyterianireland.org](mailto:kjardine@presbyterianireland.org) or by phone on 028 9041 7204.

The issues raised through this consultation and in the wider public debate on abortion cut across many difficult and personal experiences. Please be assured of my prayers for you as you pastor in these situations and encourage your congregations to develop ways of care and support that challenge the changing culture around us.

Yours in Christ



Rev Dr William Henry

## Background

The Northern Ireland (Executive Formation etc.) Act 2019, passed at Westminster in July 2019, placed a duty on the UK Government to bring forward regulations to introduce a new legal framework for abortion in Northern Ireland by March 2020. It also repealed sections 58 and 59 of the Offences Against the Person Act 1861 which up to that point had provided protections for both the mother and the unborn child.

On 22 October 2019 the legal framework for provision of abortion services in Northern Ireland changed to implement the recommendations of a report from the United Nations Committee on the Elimination of All forms of Discrimination against Women (CEDAW). These recommendations are attached at Annex A. The Secretary of State for Northern Ireland is now required to legislate 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; and
- (iii) Severe foetal impairment, including fatal foetal 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.

On 4 November 2019 the Northern Ireland Office launched a consultation on how these changes might be introduced.

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## How to respond

The consultation is open until 11.45pm on Monday 16 December and so time is short.

While it may seem daunting it is important that you read through the consultation document itself which is available [here](#).

There are three ways to respond:

- i) Complete an online survey which is available [here](#). You will be asked to give your name and email address and can follow through the consultation questions. This will automatically be submitted once you click 'submit response' at the end.
- ii) Download a copy of the consultation document [here](#) and use the template at Annex D to type in your responses. This should then be saved as a pdf and sent as an attachment via email to [abortionconsultation@nio.gov.uk](mailto:abortionconsultation@nio.gov.uk) or printed off and sent to *Abortion Consultation, Northern Ireland Office, Stormont House, Stormont Estate, Belfast, BT4 3SH*.
- iii) Download a copy of the consultation document [here](#), print it out and hand write your response. It can then be sent to *Abortion Consultation, Northern Ireland Office, Stormont House, Stormont Estate, Belfast, BT4 3SH*.

NB: If you intend to submit a hard copy of your response please ensure that it reaches the Northern Ireland Office by Monday 16 December. Receipt of hard copy responses after this deadline will most likely not be counted.

## Introduction

You will be asked to provide your name and email address. This is so that you can be issued with an acknowledgement that your submission has been received. If you are responding as private individual you do not need to add anything to the 'Organisation' box.

However, if you are responding on behalf of a congregation or presbytery this information should be included here.

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### Question 1: Should the gestational limit for early terminations of pregnancy be:

- Up to 12 weeks gestation (11 weeks + 6 days) – **NO**
- Up to 14 weeks gestation (13 weeks + 6 days) – **NO**

While there is opportunity to make general comments at Question 15 you might wish to make some of the following introductory points in the box below this question:

- Engagement with this consultation exercise does not signify an endorsement of its proposals.
- Provision of abortion services not only impacts women but also their families and the wider community, along with those involved in the medical and healthcare profession.
- The framework for introducing abortion services to Northern Ireland should therefore ensure that provision is safe, legal and most importantly, rare.

On gestational limits for early terminations of pregnancy you may wish to make the following points:

- Requests for early abortion should always be linked to the requirements of the legislation (that is a threat to the mental or physical health of the pregnant woman, or in cases of rape or incest). The suggestion for 'unrestricted access' goes far beyond this.
  - A scan assessment should be mandatory to ensure accurate dating of the unborn child
  - Gestational limits should be as low as possible and should never exceed 12 weeks (11 weeks + 6 days)
  - A "cooling off" period should be specified to give women time to weigh up all the options available to them
  - Anything over 12 weeks would create a significant differential with the Republic of Ireland which may encourage women to travel across the border to access abortion services
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**Question 2: Should a limited form of certification by a healthcare professional be required for early terminations of pregnancy? – YES**

**You may wish to make some of the following points:**

- This is vital to underpin the principle that abortion provision should be safe, legal and rare
  - Certification should include:
    - confirmation of the gestational stage of the unborn child;
    - the reason for the abortion, specifically linked to the physical or mental health of the mother, or as a consequence of sexual crime
  - Healthcare professional should be defined as ‘two doctors’
  - Data captured through certification should be used to guarantee compliance with the legislation, and identify appropriate policy responses to ensure that the number of abortions sought and provided are rare, and detect numbers of repeat abortions.
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**Question 3: Should the gestational 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:**

- **21 weeks + 6 days gestation – NO**
- **23 weeks + 6 days gestation – NO**

**You may wish to make some of the following points:**

- These proposals do not fit with the principle that where abortion services are provided they should be safe, legal and rare
- As with question 1 the proposals here go far beyond what the legislation requires, and therefore there is no requirement for provision of abortion services up to these limits
- The CEDAW report from which the legislation has been developed does not reference existing children or the wider family
- This has the potential to create a significant differential with the provision of services in the Republic of Ireland, with the possibility of women travelling to Northern Ireland to access abortion services
- October 2019 guidance from the British Association of Perinatal Medicine (BAPM) advocates for resuscitation of babies born at 22 weeks which in any case would mitigate against the higher limit suggested
- Gestational limits for abortion should be as low as possible, and not more than 12 weeks

**Question 4: Should abortion without time limit be available for foetal abnormality where there is a substantial risk that:**

- **The foetus would die in utero (in the womb) or shortly after birth – NO**
- **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 – NO**

**You might wish to make some of the following points:**

- The proposals here do not fit with the principle that where abortion services are provided they should be safe, legal and rare
  - As with question 1 the proposals here go far beyond what the legislation requires. The CEDAW report states that abortion on these grounds should not perpetuate 'stereotypes towards persons with disabilities' and should ensure 'appropriate and ongoing support, social and financial, for women who decide to carry such pregnancies to term'. Nothing within these proposals makes reference to, or provides for, these mitigations
  - Discussions about the quality of life antenatally are inherently speculative, whilst assessment of quality of life postnatally are highly subjective and open to abuse.
  - These proposals negate the value and significance of families having even a very short time together should a baby die shortly after birth, and do not recognise that pain and suffering are managed with all medical means used to ensure comfort and care in these tragic circumstances
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**Question 5: Do you agree that provision should be made for abortion without gestational time limit where:**

- **There is a risk to the life of the woman greater than if the pregnancy were terminated – NO**
- **Termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant women or girl - YES**

**You may wish to make some of the following point:**

- Recognise that the law must allow for terminations where it is medically necessary to save the life of the woman, and suggest that the previous legal framework and guidance in Northern Ireland provided the necessary protections in this regard.
- Suggest amending the first point to qualify the risk to the life of the woman to 'a real and serious risk'
- Emphasise that such instances will be rare as detailed in the consultation document itself.

**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? NO**

**You may wish to make some of the following points:**

- “Registered healthcare professional” is an undefined term covering a wide range of areas of expertise from Occupational Therapists to Dieticians to auxiliary nursing staff.
  - Abortions should only be carried out by registered medical practitioners – preferably experts in Obstetrics and Gynaecology so that they are fully equipped and trained to deal with any medical emergencies or complications which may arise
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**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 in Northern Ireland? NO**

**You may wish to make some of the following points:**

- Abortion should not be treated as “normal” healthcare
  - No clarity has been provided as to how the provision of abortion services in Northern Ireland will be regulated
  - Abortion should not be available in schools or universities
  - Later terminations may present with a higher rate of complications and should only be carried out in an acute hospital setting with appropriate levels of medical expertise, aftercare and theatre facilities
  - Standards and safeguards should be as high as possible
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**Question 8: Do you agree that terminations after 22/24 weeks should only be undertaken by health and social care providers within acute hospitals? YES**

**You may wish to make some of the following points:**

- From a medical perspective argue that abortions should be brought into the acute hospital environment from at least 18 weeks due to the risk of complications
- There is a small possibility of a baby being born alive pre-24 weeks and appropriate medical care should be made available in these instances within the acute hospital setting
- October 2019 guidance from the British Association of Perinatal Medicine (BAPM) advocates for resuscitation of babies born at 22 weeks which in any case would mitigate against the higher limit suggested

**Question 9: Do you think a process of certification by two healthcare professionals should be put in place for abortions after 12/14 weeks gestation in Northern Ireland? YES**

**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 (owing to perceived higher levels of conscientious objection)? NO**

**You may wish to make the following points:**

- These proposals impact on the safety of women with regard to abortion provision
  - In the case of any ethical, moral or possibly contentious issue it is normal practice for more than one professional to make a final decision so there is less likelihood for clinical error, complaint or legal challenge. This proposal would leave no meaningful checks and balances
  - Two healthcare professionals should be more clearly defined as two doctors with one being a specialist in the appropriate area e.g. neonatology or psychiatry
  - The standard in the rest of the British Isles is for two doctors to provide certification. This would be a significant departure
  - The NIO cites no evidence for its claim that it is likely that there will be a more significant number of people raising conscientious objection than elsewhere in the UK
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**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**

**You may wish to make the following points:**

- This is vital for all abortions provided under the new legal framework
  - Abortion provision should be safe, legal and rare and data collection through notification will help to assess how well those principles are being met
  - Important to ensure compliance with the law, provide for monitoring and regulation, allow decisions to be made regarding service delivery, ensure that those providing services are appropriately trained
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**Question 11: Do you agree that the proposed conscientious objection provision should reflect practice in the rest of the UK, covering participation in the whole course of treatment for the abortion, but not ancillary, administrative or managerial tasks? NO**

**You may wish to make the following points:**

- Statutory protection of conscience is essential but this definition is too narrow an interpretation and assumes that those with conscientious objection are a problem to be solved

**Question 12: Do you think any further protections or clarifications regarding conscientious objection is required in the regulations? YES**

**You may wish to make the following points:**

- The current proposal (Q11) creates a 'glass ceiling' in regard to career progression for those who wish to object to being part of ancillary, administrative or managerial tasks
  - Conscience should be protected throughout the entirety of the procedure and across all administrative and managerial tasks
  - Conscientious objection should also be 'future-proofed' so that they are protected when changing employment
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**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? NO**

**You may wish to make the following points:**

- No one wants to see a situation where women, or medical staff involved in abortion provision, are harassed
  - The rights of peaceful protestors should not be diminished because of the actions of a small number who may break the law
  - Existing legislation around harassment and anti-social behaviour may be sufficient to deal with the small number of issues which may arise
  - Would set a potentially dangerous precedent
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**Question 14: Do you consider there should also be a power to designate a separate zone where protest can take place under certain conditions? NO**

**You may wish to make the following points:**

- There should be freedom to protest, and freedom to share opinion in a reasonable and peaceful manner. This is not harassment.
- While women must have a clear path to access services that is not physically blocked, others should be able to express their fundamental right to a reasonable expression of opinion.



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

**This section provides an opportunity for you to make any additional points. Some areas are suggested below which you may wish to expand upon in your own words. This is not an exhaustive list and you might want to include how you have been personally affected by the issues raised in the consultation, or could in the future.**

- The consultation process
  - Participation in this consultation does not imply endorsement of policy direction or the introduction of this legislation
  - The framing of the consultation, including replacing the term ‘child’ in a quotation of the Criminal Justice Act 1945 with the term ‘foetus’ indicates a bias
- Protection and support for women
  - The consultation doesn’t outline provision for counselling services to ensure that women can make an ‘informed’ choice when offered an abortion
  - There are no provisions for post-abortive counselling or care
  - There are no protections specified in relation to coercive abortion
  - There is no mention of support for women to help them continue with a pregnancy and support and raise their children
  - Issues around girls who underage or women of any age who lack capacity for decision making are not addressed
- Diagnosis of a foetal abnormality
  - The consultation does not address how a diagnosis of foetal abnormality is disclosed to a pregnant woman, nor the counselling and support required on receipt of that diagnosis
- Investment in provision of services
  - Current and ever-increasing pressures on the NHS
  - Which services will be cut/squeezed to make room for these provisions?
  - Number of closures of gynaecology wards across Northern Ireland suggests that the capacity does not currently exist to provide these services
- Equality Screening – religious belief
  - The Equality Screening document has assessed that the new framework will have a ‘minor’ impact on equality of opportunity based on religious belief. However the consultation document itself anticipates a number of difficulties which may arise because of conscientious objection due to religious belief. This equality impact assessment therefore seems contradictory.
- Equality screening – disability
  - The Equality Screening document has assessed that the new framework will have a ‘minor’ impact on equality of opportunity based on disability. However this contradicts the development of a policy which seeks to implement subjective assessments of ‘quality of life’. The societal and cultural change which will be introduced as a result of the introduction of the proposed framework has the potential to have a profoundly negative impact on perceptions of disability, and in turn on the equality of opportunity for people of all ages who are disabled.

## Useful links

A number of organisations have provided other resources, information and guidance on responding to this consultation. These include:

- Both Lives Matter**     [www.bothlivesmatter.org](http://www.bothlivesmatter.org)
- CARE**                     [www.care.org.uk](http://www.care.org.uk)
- Evangelical Alliance**     [www.reimaginingfaith.com/abortion](http://www.reimaginingfaith.com/abortion)

Some useful background information is available here:

- Report of the Committee on the Elimination of Discrimination against Women (2018)**     [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GBR/INT\\_CEDAW\\_ITB\\_GBR\\_8637\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GBR/INT_CEDAW_ITB_GBR_8637_E.pdf)
- Northern Ireland (Executive Formation etc) 2019 Act**     <http://www.legislation.gov.uk/ukpga/2019/22/contents>
- Abortion Act 1967**                     <http://www.legislation.gov.uk/ukpga/1967/87/contents>
- Offences Against the Person Act 1861 sections 58 & 59**     <http://www.legislation.gov.uk/ukpga/Vict/24-25/100/crossheading/attempts-to-procure-abortion>
- Criminal Justice (Northern Ireland) Act 1945 section 25**     <http://www.legislation.gov.uk/apni/1945/15/section/25>

## Annex A

### Recommendations of the 2018 report from the United Nations Committee on the Elimination of All Forms of Discrimination Against Women

#### Recommendations

##### A. Legal and Institutional Framework

85. The Committee recommends that the State party urgently:

- i. Repeal sections 58 & 59 of the Offences Against the Person Act 1861
- ii. Adopt legislation to provide for expanded grounds to legalise abortion in at least the following cases:
  - a) Threat to the pregnant woman's physical or mental health, without conditionality of 'long-term' or permanent effects;
  - b) Rape and incest
  - c) 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
- iii. Introduce, as an interim measure, a moratorium on the application of criminal laws concerning abortion and cease all related arrests, investigations and criminal prosecutions
- iv. 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
- v. Establish a mechanism to advance women's rights

##### B. Sexual and reproductive health rights and services

86. The Committee recommends that the State party urgently:

- i. 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
- ii. Ensure accessibility and affordability of sexual and reproductive health services and products, including on safe and modern contraception
- iii. 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
- iv. 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
- v. Intensify awareness campaigns on sexual and reproductive health rights and services, including on access to modern contraception
- vi. Adopt a strategy to combat gender-based stereotypes regarding women's primary role as mothers
- vii. Protect women from harassment by anti-abortion protesters by investigating complaints and prosecuting and punishing perpetrators