

# **Abortion Notifications and Data - consultation on changing the process for giving notice of an abortion and providing information about abortions**

**March 2021**



**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

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# Introduction

## Why we are consulting

1. All abortions (sometimes referred to as terminations of pregnancy) in Scotland must be notified to the Chief Medical Officer (CMO) by the doctor who carried out the abortion, within seven days of the abortion taking place. At the moment, these notifications must be completed on a paper form and sent or delivered to the CMO. The form also requires certain information to be provided about the abortion carried out. The CMO's office then deliver the notification forms to Public Health Scotland (PHS), which uses the information in the form to prepare the abortion statistics<sup>1</sup>.
2. The Scottish Government proposes that the existing legislation should be amended to enable the notification of an abortion to be sent electronically in future. This consultation also proposes changes to the content of the notification itself. The proposals would mean that providers would only provide a simple notification confirming that an abortion had been carried out to the CMO so would no longer need to submit the yellow notification forms. Further details of the abortion would be submitted directly to PHS via secure electronic means, to allow them to produce abortion statistics.

## What this consultation covers

3. This consultation looks at how notifications and additional information about abortions in Scotland should be provided to ensure transmission is both secure and efficient. It considers this in respect of a new process involving two separate stages, where electronic submissions will be made to the CMO and PHS separately. It also considers the timescales within which abortion providers must return notifications to the CMO.
4. The consultation does not seek views on either how abortion services are delivered or the wider legal framework governing abortions in Scotland. Any comments in responses on these wider matters cannot be considered as part of this consultation. It also does not seek views on the information which should be included in data returns to PHS, as PHS will decide that separately in discussion with Scottish abortion providers.

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<sup>1</sup> See <https://beta.isdscotland.org/find-publications-and-data/population-health/sexual-health/termination-of-pregnancy-statistics/> for 2019 statistics and <https://scotland.shinyapps.io/phs-covid-wider-impact/> for the monthly wider impacts of Covid-19 statistics.

# Background

## Requirements of the Abortion (Scotland) Regulations 1991

5. The Abortion Act 1967 requires registered medical practitioners (doctors) who have terminated a pregnancy, to give notice of that termination to the CMO, and, where this is required by Regulations, to provide certain other information relating to the termination. This is done using a form set out in schedule 2 of the Abortion (Scotland) Regulations 1991<sup>2</sup> (the 1991 Regulations). The doctor must currently return the form to the CMO **by post or deliver it in a sealed envelope** within seven days of the termination. The 1991 Regulations permit the information provided in the notification forms to be shared by the CMO with PHS, which uses the information contained in the forms to produce annual statistics. These statistics provide valuable information regarding the demographics of patients seeking abortions and other factors, such as the proportion of patients having abortions at different gestations.
6. The current form of notification - contained in schedule 2 of the 1991 Regulations - is set out in the **Annex** for information.
7. Any changes to enable notifications to be sent electronically, to amend the timescales doctors have to submit notifications within and to update the information provided in a notification would require the 1991 Regulations to be amended.

## Current arrangements

8. In Scotland, under the current system forms are filled out by hand and then sent by courier or recorded delivery, or hand delivered, to the CMO within seven days of the abortion taking place. The CMO's office transports the envelopes to PHS. Staff in PHS then enter the data they require from the forms onto their database in order to allow them to compile the monthly and annual abortion statistics. The hard copies of the forms are kept securely locked away for six years before being securely destroyed.
9. In England and Wales, abortion providers have for a number of years been able to provide their notifications of abortions electronically via a bespoke IT system developed by the Department of Health and Social Care (DHSC), although some providers there still use paper forms.

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<sup>2</sup> See <https://www.legislation.gov.uk/uksi/1991/460/contents/made> - regulation 4

## Proposals for changes to these arrangements

10. The Scottish Government proposes to change the current arrangements to improve the security of the data transfer and the accuracy of the data collected by both moving to an electronic process and avoiding the extra step of information about the abortion being sent via the CMO.
11. Due to the requirements of the Abortion Act 1967, this will still require a doctor to send a notification of each abortion they have carried out or supervised to the CMO, but in future that will be a simple notification of numbers of abortions during a particular time period. No personal data about the patients would be provided in these notifications. It is likely that notifications would in future be requested by email rather than on paper, but arrangements would be confirmed to providers subject to the feedback from this consultation. The Scottish Government would however ask the doctor sending the notification to indicate which NHS Board or private provider they worked for (unless this was clear from their email address or other means).
12. Separately, NHS Boards and private providers would be asked to provide data securely direct to PHS. This is likely to use similar means of electronic data transfer that PHS already use to collect data on other aspects of healthcare from NHS Boards and other healthcare providers, but would be confirmed following PHS discussions with providers. PHS would therefore work with providers to agree the data required and would carry out the relevant Data Protection Impact Assessments, for example to ensure that they are only collecting personal data where that is necessary and that they have robust arrangements in place with providers to ensure the data transfer process is secure.
13. There are a number of reasons why we would like to make these changes. Firstly, the forms currently contain sensitive (special category) personal data about women who have had abortions, as well as the names and contact details of the doctors who signed off each abortion. It is therefore vital that this information is transferred and kept securely. Measures are in place to ensure the security of the data; however sending personal data directly to PHS and using an electronic system should ensure greater data security as it can ensure access to the data is restricted to only those who need to see it. While the notifications to CMO would no longer contain personal data, we propose that enabling them to be sent electronically in future will make the process easier and more efficient for providers.
14. In addition, the Scottish Government would hope that using an electronic means of collecting data would help reduce the time taken for abortion providers to provide the information as they would no longer need to complete yellow forms, and avoid the need for PHS staff to spend time manually entering the information into their database. It should also reduce errors in the forms. While PHS tries where possible to obtain missing information or correct identified errors or unclear entries by email, where forms are not signed they have to be sent back to the provider by post. In England and Wales, the proportion of errors and missing information in forms decreased significantly after the introduction of their IT system.

## **Proposals for electronic notifications**

15. The Scottish Government proposes to amend the Abortion (Scotland) Regulations 1991 (regulation 4) to require notifications to the CMO to be sent electronically. Processes for providers doing that would be set out in guidance from the CMO's office. We would allow time for PHS to put in place the new arrangements for compiling abortion data before the changes to the Regulations come into force.

## **Timescales for providing notifications**

16. Currently the Regulations require doctors to return a notification within seven days of the termination, although the Scottish Government does not take any formal action against providers if this deadline is missed. However, we know that some doctors find it difficult to meet these timescales due to work pressures. We also know that it may not be clear within seven days if the patient needs any further treatment.
17. In England and Wales, providers have fourteen days from the date of the termination to return notifications (either electronically or by post). A longer deadline would not impact on the statistics under these proposals as this deadline would only cover the simple notifications of numbers of abortions to the CMO (and not the more detailed information which would be shared with PHS by providers). The Scottish Government would therefore be grateful for views on whether the current seven day deadline should be retained or whether providers should be given a longer time period, such as fourteen days, one month or even three months, to return notifications.

## **Proposals for changes to how information is provided to Public Health Scotland**

18. As noted above, the Scottish Government proposes to amend regulation 4 of the 1991 Regulations to (i) allow a simple notification to be sent to the CMO electronically at regular intervals where a registered medical practitioner would notify the CMO regarding how many abortions they had provided or overseen over a certain time period, and (ii) remove the requirement to provide to the CMO other information relating to the abortion in the form set out in schedule 2. Schedule 2 would be revoked to remove the current form of notification (the yellow form).
19. The Scottish Government is exploring the best legal avenue under which PHS can compile data on abortions. Subject to the responses to this consultation, we would hope to be able to implement the new arrangements fairly soon after amendments to the 1991 Regulations are considered in the Scottish Parliament. However, we will discuss this further with PHS and abortion providers to ensure they have sufficient time to fully prepare for the changes, including agreeing what information should be provided about each abortion in future and putting in place secure data transfer arrangements.

## Consultation questions

We would be grateful for views in response to the following questions. In particular, we would welcome responses from NHS Boards and private providers who provide abortion care in Scotland, women who have had abortions in Scotland and groups representing women.

**Question 1** – Should registered medical practitioners be required to send abortion notifications to the Chief Medical Officer (CMO) electronically (rather than on a paper form)?

Yes – notifications should be sent electronically

No – notifications should continue to be sent on paper forms

I don't know

Comments (optional):

**Question 2** – Should registered medical practitioners be given a longer time period to return abortion notifications to the CMO?

Yes – they should be given fourteen days from the date of the termination

Yes – they should be given one month from the date of the termination

Yes – they should be given three months from the date of the termination

No – they should continue to provide notifications within seven days of the termination

I don't know

Other

Comments (optional):

**Question 3** – Should providers send data for the compilation of the abortion statistics directly to Public Health Scotland (PHS), rather than sending it via the CMO?

Yes – data should be supplied directly to PHS

No – data should not be supplied to PHS directly

I don't know

Comments (optional):

**Question 4** – Do you think there will be any impacts from the changes proposed in this consultation on the privacy of personal data about patients and staff?

Yes – these changes will impact on data privacy

No – these changes won't have any impact on data privacy

I don't know

If you selected 'Yes', please provide comments on any impacts on privacy (either positive or negative):



# Annex – Information currently provided in the notifications

## ABORTION ACT 1967 ABORTION (SCOTLAND) REGULATIONS 1991 NOTIFICATION OF AN ABORTION PERFORMED UNDER SECTION 1 OF THE ACT

(All questions to be answered to the best of the notifying practitioner's knowledge and belief)

I .....  
(name and qualifications of practitioner)

of .....  
(full address of practitioner)

hereby give notice that I terminated the pregnancy of

.....  
(full name of pregnant woman)

of .....  
(usual place of residence)

..... Postcode .....

Date of birth ..... Hospital case reference number .....

THE PREGNANCY WAS TERMINATED AT (to be completed for all terminations):-

Name of hospital/approved place/other place (address) .....

on (date) .....

Consultant in nominal charge .....

Signature of practitioner who terminated pregnancy .....

In all non-emergency cases, particulars of the practitioner(s) who joined in giving the certificate required for section 1 should be shown below in the appropriate space(s):

1. To be completed in all cases

2. Do not complete if the operating practitioner joined in giving Certificate A

Name .....

Permanent address .....

.....

Did the practitioner named at 1 certify that he saw/and examined\* the pregnant woman before giving the certificate? YES NO

Did the practitioner named at 2 certify that he saw/and examined\* the pregnant woman before giving the certificate? YES NO

\* Delete as appropriate

THE STATUTORY GROUNDS CERTIFIED for terminating the pregnancy were:

1. OTHERWISE THAN IN EMERGENCY

(Tick appropriate box(es))

**Please specify as precisely as possible**

**A** the continuing of the pregnancy would involve risk to the life of the pregnant woman greater than if the pregnancy were terminated.

The main indication(s)  
.....  
.....

**B** the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman.

The main indication(s)  
.....  
.....

**C** the pregnancy has NOT exceeded its 24<sup>th</sup> week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the woman.

The main indication(s)  
.....  
.....  
.....  
.....

**D** the pregnancy has NOT exceeded its 24<sup>th</sup> week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the existing child(ren) of the family of the pregnant woman.

The main indication(s) and number of children in the family  
.....  
.....  
.....

**E** there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

For **Ground E** Complete the Appropriate Column below

EITHER

1. State diagnosis

.....

2. Method(s) of diagnosis (tick appropriate box(es))

- 1. Amniocentesis
  - 2. Chorion villus sampling
  - 3. Ultrasound
  - 4. Other
- Specify .....

OR

State condition in pregnant woman causing condition in fetus (complete 1 and 2 below)

- 1. Condition in pregnant woman Specify .....
- 2. Suspected condition in fetus Specify .....



METHOD OF TERMINATION

(tick appropriate box(es))

Cervical preparation	1. Yes	2. No
Surgical	* Medical (tick all appropriate boxes)	
1. Vacuum aspiration	6. Prostaglandins	
2. Dilation and evacuation/Curettage	7. Oxytocics	
3. Hysterotomy	8. Antiprogesterones (see below)	
4. Hysterectomy	9. Other medical agents	
5. Other surgical	Specify .....	
Specify .....		

\* DO NOT enter an **Evacuation of retained products of conception** as a further method of termination

If Antiprogesterone was used:-

Antiprogesterone	Prostaglandin	
Date of administration .....	Date of administration .....	Date termination confirmed
give name and address .....	give name and address .....	.....
of place .....	of place .....	
of treatment .....	of treatment .....	
Type of premises .....	Type of premises .....	

STERILISATION

Yes No

(tick appropriate box)

IN CASE OF DEATH Specify cause .....

# Appendix

## Responding to this consultation

We are inviting responses to this consultation by **30 April 2021**.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/population-health/abortion-notifications-and-data/>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of **30 April 2021**.

If you are unable to respond using our consultation hub, you can alternatively send your response by email or post. If so, please complete the Respondent Information Form (download it from the Supporting Files section) and add your responses and send them to:

[abortionconsultation@gov.scot](mailto:abortionconsultation@gov.scot)

While normally we would happily accept postal responses, given the Covid-19 pandemic, it would be helpful if responses are provided online wherever possible to ensure that views are received, collected and attributed correctly. However, we will accept written responses by exception for those who do not have internet access. If you need to send your response by post, please send it to:

Abortion notification consultation  
Scottish Government  
Area 3E  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

## Handling your response

If you respond using the consultation hub, you will be directed to the 'About You' page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore

have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>.

## **Next steps in the process**

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered, along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

## **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or [abortionconsultation@gov.scot](mailto:abortionconsultation@gov.scot).

## **Scottish Government consultation process**

Consultation is an essential part of the policy making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision-making process, along with a range of other available information and evidence. We will publish a report on this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

## **Respondent Information Form**

If you are unable to respond via Citizen Space on the website please complete the Respondent Information Form. The Respondent Information Form and accompanying Consultation Questionnaire are available in the supporting files for this publication.

Please do not send a response without a Respondent Information Form.



## Consultation on Notifications of Abortions and Submission of Abortion Data

### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:  
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name

#### Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.



Publish response only (without name)

Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No



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