ANNEX A

REASONS FOR NOT PROVIDING INFORMATION

An exemption applies

An exemption under **section 38(1)(b)** of FOISA (personal information) applies to some of the information requested because it is personal data of a third party, i.e. names and contact details of non-senior staff or external stakeholders, and disclosing it would contravene the data protection principles in data protection legislation. This exemption is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption.

Exemptions apply, subject to the public interest test

An exemption under **section 30(c)** of FOISA (prejudice to effective conduct of public affairs) applies to some of the information requested. It is essential for Ministers and officials to be able to communicate, often in confidence, with external stakeholders on a range of issues relating to abortion. Disclosing the content of these communications, particularly without the consent of the stakeholder, is likely to undermine their trust in the Scottish Government and will substantially inhibit communications on this type of issue in the future. These stakeholders will be reluctant to provide their views fully and frankly if they believe that their views are likely to be made public, particularly where these discussions relate to a sensitive issue, such as abortion services and policy. This would significantly harm the Government's ability to carry out many aspects of its work, and could adversely affect its ability to gather all of the information it needs to make fully informed decisions.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in allowing Ministers and officials a private space within which to communicate with appropriate external stakeholders as part of the process of exploring and refining the Government's position on issues relating to abortion. This private space is essential so that decisions can be taken based on informed advice. Premature disclosure is likely to undermine the full and frank discussion of issues between the Scottish Government and these stakeholders, which in turn will undermine the quality of the policy making process, which would not be in the public interest.

An exemption under **section 33(1)(b)** of FOISA (prejudice to commercial interests) applies to a small amount of the information requested. This is because it contains commercial information provided by a stakeholder, which is not publicly available, and disclosure would be likely to prejudice substantially the commercial interests of that organisation.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing

the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in avoiding disclosing commercial information would be likely to significantly harm the commercial position of third sector organisations.

ANNEX B

Information Requested

From: [*text redacted*]@bpas.org
Sent: 14 April 2020 13:50
To: [*text redacted*]@gov.scot
Cc: [*text redacted*]@gov.scot
Subject: RE: Abortion provision

Hi [*text redacted*],

[*text redacted – text out of scope*]

From my reading of the legislation, there is no need for a request for accommodation as seeking medical assistance falls within the grounds of a reasonable excuse, and that in s5 I would argue that being in London for medical assistance when they live in Scotland means they are unable to return to their main residence (s5(4)(a)(i)). I imagine that this is what is being interpreted for eg families of children who are undergoing treatment at specialist hospitals.

In all honesty I would rather not open up that can of worms. Based on how burnt we've been by the Westminster government in recent weeks, the last thing we want is to risk them noticing that this is happening and then demanding that it stop. That being said, the Northern Ireland Office have been putting out adverts on twitter saying that it is fine for women from NI to travel to England for treatment, so the government must consider accommodation to enable medical treatment to be covered by s5(4).

We have been struggling a little with accommodation in the last week so I dropped an email to the public affairs people at AirBnB to see if bpas could get on the key worker list so that we can continue to provide accommodation. I will chase them up today – but if that doesn't work, we have key worker status from the government so I'll just suggest that we apply as an individual and do it that way. I believe we've had a few Scottish women since lockdown started – maybe a couple a week so about normal levels.

The one other thing I wanted to flag is that bpas now has our pills by post service up and running so if you're in touch with trusts on their abortion plans, if they need any help setting up their services or need some slack picking up while they get their plans together, we're happy share our protocols or take on some EMA clients pre-10 weeks (obviously the English limit). We're doing the same in Wales because there are a couple of more remote health boards that aren't quite provision-ready yet.

Hope that helps!

[*text redacted*]

Tel: [*text redacted*]
Zoom: [*text redacted*]

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From: [*text redacted*]@gov.scot
Sent: 14 April 2020 13:07
To: [*text redacted*]@bpas.org
Cc: [*text redacted*]@gov.scot
Subject: Abortion provision

CAUTION: External mail: consider risks before opening files/links.

Hi [*text redacted*]

[*text redacted – out of scope*]

We've been discussing arrangements for later stage abortions here in the event that Boards are not able to treat patients locally (we are encouraging Boards to make arrangements to enable them to treat later stage patients) and have noted that the Secretary of State or a local authority would need to request access to accommodation services to make an overnight stay in London permissible for the patient under the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020.

I just wanted to check with you in general, are you having any difficulties because of these regulations, or because of the crackdown on AirBnB use? Have you had any Scottish women travelling down?

Thanks,

[*text redacted*]

[*text redacted*] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [*text redacted*]

From: [*text redacted*] **On Behalf Of** Abortion Consultation Mailbox
Sent: 30 September 2020 09:53
Subject: Consultation on Future Arrangements for Early Medical Abortion at Home

Good morning,

I'm writing to inform you that we are seeking views on the future arrangements for early medical abortion at home in Scotland.

The consultation is available online now at https://consult.gov.scot/population-health/early-medical-abortion-at-home and will run from 30 September 2020 to 5 January 2021.

The responses will help to inform the Scottish Government's decision on whether the current arrangements should continue once there is no longer a significant risk of COVID-19 transmission.

Due to the coronavirus (COVID-19) pandemic, the Minister for Public Health, Sport and Wellbeing signed a new approval on 30 March, allowing women to take both pills required for an early medical abortion at home, where they wish to and where it is considered clinically appropriate for them.

We recognise that there are a range of strongly held views on this issue, this is why we wish to consult on this issue to allow abortion providers and other health professionals, women who have accessed abortion services and the general public the opportunity to submit their views and evidence.

Thanks,

[*text redacted*]

[*text redacted*] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG

From: [*text redacted*]@bpas.org >
Sent: 25 September 2020 14:22
To: [*text redacted*]@gov.scot; [*text redacted*]@gov.scot
Subject: RE: Consultation on home use of mifepristone

As expected given the Scottish case – no grounds, decision upheld

https://www.judiciary.uk/wp-content/uploads/2020/09/R-Christian-Concern-v-SSHSC-judgment.pdf

[*text redacted*]

Tel: [*text redacted*]
Zoom: [*text redacted*]

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From: [*text redacted*]@gov.scot
Sent: 25 September 2020 11:31
To: [*text redacted*]@bpas.org; [*text redacted*]@gov.scot
Subject: RE: Consultation on home use of mifepristone

CAUTION: External mail: consider risks before opening files/links.

Thank you for the heads up – will look out for that!

[*text redacted*]

[*text redacted*] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [*text redacted*]

From: [*text redacted*]@bpas.org
Sent: 24 September 2020 18:14
To: [*text redacted*]@gov.scot; [*text redacted*]@gov.scot
Subject: RE: Consultation on home use of mifepristone

You've probably had this from Westminster, but just FYI the judgment from the Court of Appeal on home use of mifepristone is being published at 14:00 tomorrow (Friday).

Tel: [*text redacted*]
Zoom: [*text redacted*]

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From: [*text redacted*]@gov.scot
Sent: 24 September 2020 15:13
To: [*text redacted*]@bpas.org; [*text redacted*]@gov.scot
Subject: RE: Consultation on home use of mifepristone

CAUTION: External mail: consider risks before opening files/links.

Hi [*text redacted*]

In confidence obviously as we still need sign off but we're planning to launch at the end of September so next week.

[*text redacted*] I'm not sure if I can share it with you at this stage but I'll check with [*text redacted*] when she's back from leave.

Thanks,

[*text redacted*]

[*text redacted*] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [*text redacted*]

From: [*text redacted*]@bpas.org
Sent: 23 September 2020 16:35
To: [*text redacted*]@gov.scot; [*text redacted*]@gov.scot
Subject: RE: Consultation on home use of mifepristone

Really helpful – thanks!

I've been quite surprised by the (lack of) timeline on the English one yeah. Do you have any inkling of when you're thinking of launching?

Obviously we don't provide many EMA services for women in Scotland, but we do have a very large dataset on reduced complications, positive impacts on the service etc that I know are reflected across NHS services in England and Wales – would it be useful to use that in a response to you? I'm aware that because of the smaller scale services in Scotland, you may not have the strength of the underlying numbers.

I also know there are some papers on complication rates and an economic evaluation underway, which are based on English figures but which we would obviously like to share if they would be helpful.

[*text redacted*]

Tel: [*text redacted*]
Zoom: [*text redacted*]

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From: [*text redacted*]@gov.scot
Sent: 23 September 2020 16:29
To: [*text redacted*]@bpas.org; [*text redacted*]@gov.scot
Subject: RE: Consultation on home use of mifepristone

CAUTION: External mail: consider risks before opening files/links.

Hi [*text redacted*],

I'm good thanks, I hope you're doing alright too. Fingers crossed you get your holiday!

Yes we are preparing a consultation on future arrangements for EMAH, and we'll be sending it to you/BPAS on the day it's published. We had intended for it to be published at the same time as DH but I think at the moment ours could well be published before England.

Hope this is helpful.

[*text redacted*]

[*text redacted*] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [*text redacted*]

From: [*text redacted*]@bpas.org
Sent: 23 September 2020 15:33
To: [*text redacted*]@gov.scot; [*text redacted*]@gov.scot
Subject: Consultation on home use of mifepristone

Hi guys,

I hope you're both okay and that you got a little break between waves of Covid [*text redacted – out of scope*].

I know you've been talking to [*text redacted*] and [*text redacted*] in Westminster about the plan for an English consultation on home use of mifepristone becoming permanent. I just wondered whether Scotland was also planning on doing one of these. I know yours isn't time-limited in the same way as England and Wales, so I had hoped that you wouldn't need to – but I thought I would check in. The Welsh Deputy CMO has been in touch with providers there (including us) to ask about our experiences with a view to deciding whether they will have a consultation.

All the best,

[*text redacted*]

Tel: [*text redacted*]
Zoom: [*text redacted*]

_____

Messages between Scottish Government and BPAS

12 Nov 2020 16:56 [*from redacted – BPAS*]
Hey! [*text redacted*] again. I've just realised I'm a total idiot on doctors' signatures – don't worry about the scan/send thing. I'm thinking of certification forms and not the notification. We can will the notification ones in by hand no worries.

12 Nov 2020 17:03 [*from redacted – Scottish Government*]
Hey yes I realised that too after thinking about it I am also an idiot I can just send you a pdf of the yellow form and they can print it off and fill it out. I also just wanted to check about *[text redacted]*?

12 Nov 2020 17:03 [*from redacted - BPAS*]
[text redacted]. If any women have travelled to England we'd notify the English CMO as we usually do.

[*text redacted*]

12 Nov 2020 17:25 [*from redacted – Scottish Government*]
I think it's fine, were they private? Just checking because to comply with the SACP guidelines you'd need to seek agreement from the relevant board unless the patient wants to go private

12 Nov 2020 17:26 [*from redacted – BPAS*]
The ones I have on my sheet were all private - *[text redacted]*

12 Nov 2020 17:27 [*from redacted – Scottish Government*]
Okay fab sorry for all the questions!

12 Nov 2020 17:27 [*from redacted - BPAS*]
No don't worry!

12 Nov 2020 17:27 [*from redacted - BPAS*]
Our medical director is in touch with *[text redacted]* as well and *[text redacted]* got in touch with BSACP to say 'we know some people are coming south so could you remind them they can get free treatment in Scotland'

12 Nov 2020 17:27 [*from redacted - BPAS*]
So she knows too

From: [*text redacted*]@gov.scot
Sent: 17 November 2020 16:18
To: [*text redacted*]@bpas.org
Subject: RE: abortion notification forms

Hi [*text redacted*],

Yes just the yellow forms that need to be sent to CMO.

Thanks,

[*text redacted*]

[*text redacted*] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [*text redacted*]

From: [*text redacted*]@bpas.org
Sent: 17 November 2020 15:50
To: [*text redacted*]@gov.scot
Subject: RE: abortion notification forms

Hi [*text redacted*],

Thanks – really helpful.

Just to check, I assume that these are the same as the English forms in that the yellow form is to be printed and returned to the CMO, but that the green form lives with the patient notes (for not less than 3 years) and not with you? All of our clients have a copy of the green form with their notes prior to treatment, so just wanted to confirm you didn't expect anything different.

All the best,

[*text redacted*]

Tel: [*text redacted*]
Zoom: [*text redacted*]

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From: [*text redacted*]@gov.scot
Sent: 17 November 2020 15:45
To: [*text redacted*]@bpas.org
Subject: abortion notification forms

CAUTION: External mail: consider risks before opening files/links.

Hi [*text redacted*],

Good to chat to you last week! I've attached pdf copies of the abortion forms which can be printed out and posted.

Thanks,

[*text redacted*]

[*text redacted*] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [*text redacted*]

_____

Messages between Scottish Government and BPAS

26 Nov 2020 16:17 [*from redacted – BPAS*]
I haven't read it yet – I should make an Irish coffee before *[text redacted]*

[*text redacted*]

26 Nov 2020 16:23 [*from redacted – Scottish Government*]
I'm just having a read now

26 Nov 2020 16:59 [*from redacted – BPAS*]
A lot of the preamble came from RCOG *[text redacted]*

[*text redacted*]

26 Nov 2020 17:05 [*from redacted – Scottish Government*]
I noticed that one about the information too different. Quite a few differences from our questions and I noticed there's a lot of free text boxes as well

[*text redacted*]

_____

From: [*text redacted*]@gov.scot
Sent: 17 December 2020 16:30
To: [*text redacted*]@bpas.org
Cc: [*text redacted*]@gov.scot
Subject: RE: Shetland abortion

Hi [*text redacted*],

Thanks that's helpful we'll bear that in mind.

Hope you have a Merry Christmas too!

[*text redacted*]
[*text redacted*] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [*text redacted*]

From: [*text redacted*]@bpas.org
Sent: 16 December 2020 15:01
To: [*text redacted*]@gov.scot
Cc: [*text redacted*]@gov.scot
Subject: RE: Shetland abortion

Hi [*text redacted*],

Thanks for getting back to me.

We are no longer providing services in Scotland – when women call (and we do receive a reasonable number of calls), we redirect them first to their local service, or to the Glasgow and Greater Clyde service if their local service is not providing pills by post. Our original provision was only to provide while local services were established.

[*text redacted*]

I hope you have a good Christmas!

All the best,

[*text redacted*]

Tel: [*text redacted*]
Zoom: [*text redacted*]

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From: [*text redacted*]@gov.scot
Sent: 16 December 2020 13:16
To: [*text redacted*]@bpas.org
Cc: [*text redacted*]@gov.scot
Subject: RE: Shetland abortion

CAUTION: External mail: consider risks before opening files/links.

Hi [*text redacted*]

Thanks for passing that on I'll get in touch with her.

[*text redacted*]

Thanks,

[*text redacted*]

[*text redacted*] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [*text redacted*]

From: [*text redacted*]@bpas.org
Sent: 12 December 2020 11:55
To: [*text redacted*]@gov.scot
Subject: Shetland abortion

Hi [*text redacted*],

When we last spoke we discussed Shetland - and I finally managed to get in touch with [*text redacted*] who is the head midwife up there.

She says they have been providing EMA during Covid to minimise the need to travel - which is great!

She's happy for me to share her email in case you wanted to get in touch with her - she's on [*text redacted*]

All the best,

[*text redacted*]

[*text redacted*]
Tel: [*text redacted*]
Zoom: [*text redacted*]

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From: [*text redacted*]@bpas.org
Sent: 05 January 2021 15:44
To: Abortion Consultation Mailbox <AbortionConsultation@gov.scot>
Cc: [*text redacted*]@gov.scot; [*text redacted*]@gov.scot
Subject: BPAS consultation submission

Please find attached a copy of the British Pregnancy Advisory Service (BPAS) submission to the consultation on the approval of women's homes for administration of mifepristone.

I have shared our responses to individual questions via the online consultation tool, but given the length and detail (as well as background on the BPAS service which didn't fit into the questions asked), I thought it might be helpful for you to have a full copy.

If you have any questions at all, do let me know.

All the best,

[*text redacted*]

[*text redacted*]
Tel: [*text redacted*]
Zoom: [*text redacted*]

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From: [*text redacted*]@bpas.org
Sent: 26 February 2021 15:03
To: [*text redacted*]@MSIChoices.org.uk; [*text redacted*]@gov.scot; [*text redacted*]@gov.scot
Cc: Abortion Consultation Mailbox <AbortionConsultation@gov.scot>
Subject: RE: [EXTERNAL] RE: Evidence published into no-test medical abortion via telemedicine

Hi [*text redacted*]
Hope you're well!
As [*text redacted*] said, took us a while to get off the mark on this one so my apologies for the delay, but we have had similarly impressive differential impacts on deprivation and rurality in the BPAS service. Below is what I am submitting to England today.
Do let me know if you have any questions,
[*text redacted*]

Based on BPAS data from the first quarter of providing Pills by Post (April – June 2020), compared to the same quarter in 2019 (April – June 2019), telemedical abortion and our Pills by Post service has a disproportionately positive impact on abortion care for women from more deprived backgrounds and for women from more rural and remote areas who had previously experienced longer waiting times and higher gestation at treatment.

Deprivation and socio-economic disadvantage

As shown in the 2019 Abortion Statistics, the more economically disadvantaged a woman is, the more likely she is to need to access abortion. Information from within the BPAS service shows that this has differential has worsened during the pandemic – with our poorest clients (Decile 1 of IMD) now being more than twice as likely to attend BPAS for care than the richest (Decile 10) when adjusted for population distribution, compared to only 60% more likely in 2019. In the first quarter of Pills by Post, 16.5% of our clients were from Decile 1, compared to 13.7% in 2019 (and 10.9% in the population as a whole).

BPAS knows that more deprived women are disproportionately likely to ask us to delay care that requires them to travel until they are next paid or receive their benefits – because existing NHS travel costs schemes do not fund self-referred abortion travel.

Women face structural issues of socio-economic disadvantage which may leave them struggling to access care which provided from specialised clinics or hospitals, including:

The high cost of childcare

Families where women do not have access to an independent income and wish to keep their travel and treatment private

The disproportionate likelihood of being employed in precarious jobs or with zero-hours contracts, which may make it more difficult to get time off work for appointments and to pass the pregnancy in the days subsequent to the appointment

Disproportionate reliance on public transport which affects the cost, time, and difficulty of attending an in-person appointment – particularly in more rural and remote areas

These difficulties are borne out in the impact of our Pills by Post service – showing that the regulatory change has made abortion more easily accessible to the most disadvantaged women:
Clients from more deprived areas have had a 46% greater reduction in gestation than clients from the least deprived areas (9.45 days reduction compared to 6.48 days)

In 2020, there was a much lower variance in gestation based on deprivation compared to 2019 – 0.69 vs 2.69 – meaning that the difference between gestational age at procedure between the richest and poorest clients has declined by nearly 75%

For Early Medical Abortion only, clients from more deprived areas have had a 30% greater reduction in gestation than women from the least deprived areas (5.85 vs 4.51)

Clients from the most deprived areas have had a 22% greater decline in waiting times than clients in the least deprived areas

There is no difference in the use of Pills by Post as a proportion of all procedures by deprivation

Rural/Urban

Women from more rural areas have historically struggled to access abortion care in an equitable way – as a result of the need to travel a greater distance, issues for disadvantaged of women of accessing private transport, and the increased difficulties of spending longer away from home. As expected, the introduction of telemedicine has had a disproportionately positive impact on women from more rural areas who were particularly disadvantaged by the requirement to attend a clinic. This is despite women from the most rural ('rural sparse') areas being disproportionately likely to access abortion care – with presentations to BPAS care being 50% higher than the proportion of women of reproductive age who live in these areas.

Figures from within the BPAS service show:

Waiting times have fallen 30% more for women living in 'rural sparse' areas than in 'urban' areas

Gestation at treatment has fallen 12% more for women in 'rural sparse' areas than in 'urban' areas

Women in 'rural sparse' areas were 5 percentage points more likely to access Pills by Post than women in urban areas, despite no difference in overall Early Medical Abortion preference
[*text redacted*]

Tel: [*text redacted*]
Zoom: [*text redacted*]

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From: [*text redacted*]@MSIChoices.org.uk
Sent: 24 February 2021 19:11
To: [*text redacted*]*@gov.scot*
Cc: AbortionConsultation@gov.scot; [*text redacted*]*@bpas.org*
Subject: RE: [EXTERNAL] RE: Evidence published into no-test medical abortion via telemedicine
CAUTION: External mail: consider risks before opening files/links.
Dear [*text redacted*],
You may also be interested in an analysis we are working on to investigate the impact of the introduction of the new remote-access abortion pathway on rural, remote and deprived groups. We are confident about the data, but with the complexity of the analysis have not been able to complete the paper in time for the closing date:
Data from MSI Reproductive Choices relating to 32,033 women who underwent EMA during the period April – December 2020, shows that those accessing the telemedicine service were almost four times more likely to obtain an appointment within five days when compared to accessing the in-clinic service. When comparing the years 2020 (when telemedicine was available in addition to traditional in-person consultation) with 2019 (when in-person consultation was the only option), in a sample size of 71,866, the proportion of women who underwent EMA receiving an appointment within five days of their first contact with MSUK improved significantly after telemedicine was introduced. In 2019 there had been a substantial differential, with those living in rural areas and those living more than 30 miles from a clinic all significantly less likely to obtain an appointment within five days ($p<0.01$) when compared to those in urban areas and living less than 30 miles away. These groups not only benefitted from improved access after the introduction of telemedicine ($p<0.001$), but the differential had disappeared ($p>0.6$) demonstrating that the new pathway disproportionately improved access for those from rural and remote communities. Access also improved for those in the most deprived areas ($p=0.01$), with no difference after the introduction of telemedicine between the most and least deprived communities ($p=0.8$). The other group that appeared to derive most benefit was in those who already have children, presumably owing to the difficulties in organising childcare.

I've copied in my BPAS colleagues as I know they too are analysing their cohorts (this geographical dataset needs quite specialist input, so we've been collaborating to make sure we get it right!)
Best wishes,
[*text redacted*]

From: [*text redacted*]*@gov.scot*
Sent: 22 February 2021 10:33
To: [*text redacted*]*@MSIChoices.org.uk*
Cc: AbortionConsultation@gov.scot
Subject: [EXTERNAL] RE: Evidence published into no-test medical abortion via telemedicine
Dear [*text redacted*]
Thanks very much for sending these. They are useful and it's helpful to know as we plan to publish the consultation responses by the end of February.
Best wishes,

[*text redacted*]
Donation and Abortion Policy
Scottish Government
3E, St Andrew's House, Edinburgh
Tel: [*text redacted*]

From: [*text redacted*]*@MSIChoices.org.uk*
Sent: 20 February 2021 11:54
To: [*text redacted*]*@gov.scot*
Cc: Abortion Consultation Mailbox <AbortionConsultation@gov.scot>
Subject: FW: Evidence published into no-test medical abortion via telemedicine
Dear [*text redacted*],
I'd promised to inform you when the evidence investigating no-test telemedicine abortion was published and available.
I'm delighted to report that three large studies into the effectiveness, safety and acceptability of no-test medical abortion via telemedicine are now available – all open access, published after peer-review in mainstream journals (the BJOG system is they typeset after a few weeks, so that is still in a manuscript layout).
UK's largest study in abortion care of 52,142 women, representing 85% of all medical abortions performed nationally in the study period, concluded: "**a telemedicine-hybrid model for medical abortion that includes no-test telemedicine and treatment without an ultrasound is effective, safe, acceptable, and improves access to care**"
https://obgyn.onlinelibrary.wiley.com/doi/10.1111/1471-0528.16668
A study into the acceptability of telemedicine in 1243 patients found it highly rated, and reassuringly reported that no patient reported they were unable to talk privately. It concluded: "**telemedicine EMA is a valued, private, convenient and more accessible option that is highly acceptable for patients seeking an abortion, especially those for whom in-clinic visits are logistically or emotionally challenging. Evidence that this pathway would be a first choice again in future**

for most patients supports the case to make telemedicine EMA permanent"
https://srh.bmj.com/content/early/2021/02/17/bmjsrh-2020-200954
Our Scottish colleagues have published a cohort study (n=663) with robust methodology that followed up all their patients and cross-checked the NHS records to ensure all complications were recorded. Their reported treatment success rate was identical to the English study at 98%. Their conclusion was that, "**this model of telemedicine abortion without routine ultrasound is safe, and has high efficacy and high acceptability among women**".
Telemedicine medical abortion at home under 12 weeks' gestation: a prospective observational cohort study during the COVID-19 pandemic | BMJ Sexual & Reproductive Health
These are also attached here for convenience.
Best wishes,
[*text redacted*]

From: [*text redacted*]@*gov.scot*
Sent: 06 January 2021 16:27
To: [*text redacted*]@exeter.ac.uk
Cc: AbortionConsultation@gov.scot
Subject: RE: Evidence for consultation

Dear [*text redacted*]
Thanks very much for sending these papers. We will of course ensure our analysts keep these confidential until they are published.
Best wishes,
[*text redacted*]

[*text redacted*]
Donation and Abortion Policy
Scottish Government
3E, St Andrew's House, Edinburgh
Tel: [*text redacted*]

From: [*text redacted*]@exeter.ac.uk
Sent: 05 January 2021 17:49
To: Abortion Consultation Mailbox <AbortionConsultation@gov.scot>
Cc: [*text redacted*]@RCOG.ORG.UK; [*text redacted*]@bournemouth.ac.uk; [*text redacted*]@bpas.org; [*text redacted*]@MSIChoices.org; [*text redacted*]@nhs.net

Subject: Evidence for consultation
Dear Sir,
With the consultation into early medical abortion at home closing today, please find attached in confidence two academic papers that I know have been cited by several organisations in their pre-print format, and for which I am the corresponding author. These versions are the final submitted proofs, following peer-review. They have been provisionally accepted by the journals subject to the revisions requested by the peer-reviewers and now await a final editorial decision. Whilst the papers themselves should be published within a couple of months (depending on time taken for final editorial checks, typesetting etc.), academic journals always request that these pre-

publication manuscripts are kept confidential and the journal holds the copyright of them.

Effectiveness, safety and acceptability of no-test medical abortion provided via telemedicine: a national cohort study

This is we believe the largest study in abortion care from the UK and certainly the largest in world literature investigating telemedicine abortion care. We investigated a total sample of 52,142 women in two groups (85% of the national total) to compare the traditional (in-person) model with the new one where telemedicine is offered to eligible women. We believe the results are compelling, demonstrating advantages to access (reduced gestation and waiting times), no inferiority of safety and effectiveness (suggestion of superiority but our trial was not designed to demonstrate that) and excellent acceptability reported by patients.

Acceptability of no-test medical abortion provided via telemedicine: analysis of patient-reported outcomes

This is a more in-depth analysis of patient-reported outcomes among 1,243 women. We validated the sample as being representative, and found that women reported high confidence in telemedicine abortion and high satisfaction with the convenience, privacy and ease of managing their abortion at home. No patient reported that they were unable to consult privately. 83% of patients reported preferring the telemedicine pathway.

I have not personally submitted a consultation response as I am aware the organisations with whom I am affiliated have done. However I do hope these papers will be useful in your assessment of the evidence. If you would like me to submit the published versions when they are available, please let me know and I'll happily forward them.

Yours faithfully,

[*text redacted*]

From: [*text redacted*]*@gov.scot*
Sent: 22 February 2021 10:43
To: [*text redacted*]@bpas.org; [*text redacted*]@gov.scot
Subject: RE: Home use of mife consultation

Hi [*text redacted*],

Sorry just to clarify, I meant the analysis of the responses will be published in March, and Ministers will make a decision on the outcome in due course.

Thanks,

[*text redacted*]

[text redacted] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [text redacted]

From: [*text redacted*]@bpas.org
Sent: 19 February 2021 15:06
To: [*text redacted*]@gov.scot; [*text redacted*]@gov.scot
Subject: Re: Home use of mife consultation

Brilliant - thanks! I'll keep an eye out. I had a chat with the royal pharmaceutical society today and they tell me they put in a v positive response which I'm pleased about - we don't often speak to them so they did it all by themselves (should count for extra I think)

—
[*text redacted*]
[*text redacted*] | British Pregnancy Advisory Service
[*text redacted*] | [*text redacted*]@bpas.org

From: [*text redacted*]@gov.scot
Sent: Friday, February 19, 2021 2:10:33 PM
To: [*text redacted*]@bpas.org; [*text redacted*]@gov.scot
Subject: RE: Home use of mife consultation

CAUTION: External mail: consider risks before opening files/links.

Hi [*text redacted*],

Just about defrosted, thanks! Hope you're well too.

We're hoping by the middle of March, but the responses will be published on the website https://consult.gov.scot/population-health/early-medical-abortion-at-home/ before then hopefully (no confirmed date yet).

Thanks for sending the link to the paper, we'll have a look at it.

Thanks,
[*text redacted*]

[text redacted] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [text redacted]

From: [*text redacted*]@bpas.org
Sent: 18 February 2021 19:42
To: [*text redacted*]@gov.scot; [*text redacted*]@gov.scot
Subject: Home use of mife consultation

Hi both,

I hope you're well and haven't frozen to death in the snowy borders ☺

I was wondering whether you were in a position to give me an idea of when you think you might have an outcome from the abortion consultation in Scotland? I know Wales had been keen to come up with a result prior to the election and I assume you're working to the same deadline – but just thought I'd check in.

There's going to be quite a lot of media coverage down here tomorrow on the publication of the Aiken et al outcomes paper (a 52,000 cohort study on outcomes pre- and post-change in England and Wales). I think several of us included a pre-print link in the consultation responses, but it's here - https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3742277 and is going to be published by the British Journal of Obstetrics and Gynaecology.

Thanks!

[*text redacted*]
[*text redacted*]

Tel: [*text redacted*]
Zoom: [*text redacted*]

From: [*text redacted*]@bpas.org
Sent: 18 March 2021 10:49
To: [*text redacted*]@gov.scot; [*text redacted*]@gov.scot
Subject: RE: Mife at home

No that's great – thanks ☺
[*text redacted*]
[*text redacted*]
Tel: [*text redacted*]
Zoom: [*text redacted*]

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From: [*text redacted*]@gov.scot
Sent: 18 March 2021 10:40
To: [*text redacted*]@bpas.org; [*text redacted*]@gov.scot
Subject: RE: Mife at home
CAUTION: External mail: consider risks before opening files/links.
Hi [*text redacted*],
Hope you're well too! We'll be publishing the analysis report next week. Sorry to be vague, but Ministers will make a decision on the outcome in due course.
Thanks,
[*text redacted*]

[text redacted] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [text redacted]

From: [*text redacted*]@bpas.org>
Sent: 17 March 2021 15:34
To: [*text redacted*] @gov.scot; [*text redacted*] @gov.scot

Subject: Mife at home
Hi guys,
Hope you're still well – sounds like Covid's (hold your breath) very nearly over up in Scotland so that's great!
I was just wondering whether you were able to share whether you were still expecting to come back with a response to the mife at home consultation before parliament goes into the pre-election recess next week? I have you as a 'potential' in my diary and just thought I'd check in.
Thanks!

[*text redacted*]
[*text redacted*]

_____

From: [*text redacted*]<no-reply@sharepointonline.com>
Sent: 23 April 2021 14:17
To: [*text redacted*]@gov.scot
Cc: [*text redacted*]@MSIChoices.org.uk

Subject: [*text redacted*] is inviting you to collaborate on Blue Door Events Webinars

Welcome to our Blue Door Events Webinars site. This is where you can find all the materials from the Blue Door series of webinars. I do hope you find these material useful and informative. For further information or help using this site, please email marketing@MSIChoices.org.uk

Kind regards,
[*text redacted*]

Go to Blue Door Events Webinars

Follow this site to get updates in your newsfeed.

Submitted to Abortion notifications and data - changing the process: consultation
Submitted on 2021-04-29 17:45:17

Questions

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

Comments (optional)::

Sending confidential medical data with identifying information through the post presents a serious data protection concern. Information is currently available to whoever may wrongly intercept post, without any means for doctors to anonymise or pseudonymise the confidential data included. In the year 2019/20, Royal Mail received nearly 250,000 complaints regarding lost post, and a further 50,000 complaints regarding mis-delivered items. The risks of mis-delivery or loss pose an existential risk to the provision of confidential medical care.

BPAS's ultimate preferred position is that doctors should not be compelled by specific criminal law to notify the Chief Medical Officer of procedures. But within the bounds of the existing Abortion Act, a requirement to provide information digitally would better protect the privacy rights of patients who access abortion care.

Regardless of the content of confidential or identifiable information, we believe digital returns to be a more sensible way of collating this data – reducing the burden on clinical staff, maintaining local records of information sent and queries received, and keeping abortion care up to date with changes happening elsewhere across the NHS.

This is particularly true in relation to telemedical abortion care and the related approval for registered medical practitioners to prescribe from home – where all other aspects of care are provided remotely and electronically, and yet doctors are still required to print a paper form and physically post it to the CMO.

If the decision of the government is to pursue digital submission without the proposed changes to identifiable information, we suggest the use of a dedicated portal maintained by the Department, to avoid any potential data loss via email.

2 Currently, doctors must send notifications to the CMO within seven days of the abortion. Should registered medical practitioners be given a longer time period to return abortion notifications to the CMO?

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

Comments (optional)::

With the removal of the requirement to provide identifiable information, the purpose of the notification of the CMO is changed and the requirement to have a timely notification of an individual patient's treatment is obviated.

The proposals by the government would result in the CMO retaining only the most basic of information regarding overall numbers and locations of abortions provided – as such, there is no threat to the quality or accuracy of data by increasing the amount time that medical practitioners have to provide this information.

A three-month period would allow for quarterly reporting in line with other aspects of care and management.

3 Currently, data on abortions is sent to the CMO with the abortion notifications; the CMO's office then passes it directly to Public Health Scotland. In future, 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

Comments (optional)::

The second principle of the Data Protection Act 2018 is that the purpose of collection and processing of data be specified, explicit, and legitimate. We believe that the collection of identifiable abortion data falls short of these provisions – the legal requirement to share with the CMO not being explicit in information provided to

patients, not making clear that data is collected solely for the purpose of being shared and not for service provision, and not being reasonably required for the protection of health or the enforcement of any law.

As such, BPAS fully supports the removal of the specific criminal underpinning of the collection of statistical information from healthcare providers (i.e. by not providing it to the CMO under the auspices of the Abortion Act 1967), and the removal of any requirement to provide identifiable and confidential medical information to a third party as a condition of treatment.

Data collection is essential to the provision of high quality healthcare in all fields – but there is no justification for treating abortion care differently to comparable care such as maternity care or contraceptive provision. Anonymised, aggregated data can provide helpful insights to support the improvement of healthcare provision – but there is nothing to be gained from such data being identifiable.

As a result, we support a system where basic, high level information on the numbers and locations of abortions are provided electronically to the CMO as a requirement of the law, and that more detailed, anonymised data is collected directly by PHS to report on patterns of access and care. This further enables PHS to change their data requirements over time to more adequately reflect clinical developments, and not be restricted by outdated Statutory Instruments.

4 The proposed changes mean that the Chief Medical Officer would no longer receive any personal data about patients with abortion notifications. This data would instead be transferred directly to Public Health Scotland. Do you think there will be any impact 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

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

These changes will have a positive impact on the data privacy of patients. In the Data Protection Act 2018, healthcare data is a special category of data subject to increased protections. The current arrangements pose a serious risk of data breach, with the potential for a particular form of personal or reputational harm as a result. This risk also carries with it a substantial reputational risk to the Department, the government, and to individual medical practitioners.

We are unaware of any prosecutions of medical practitioners or patients under the law related to abortion as a result of the identifiable information provided to CMOs, nor any purpose to its collection beyond such action – and as such believe that there is no legal justification for the collection, processing, and retention of identifiable information.

About you

What is your name?

Name:
[*redacted*]

What is your email address?

Email:
[*redacted*]@bpas.org

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation: British Pregnancy Advisory Service (BPAS)

From: [*text redacted*]@bpas.org>
Sent: 14 May 2021 16:09
To: [*text redacted*]@gov.scot>; [*text redacted*]@gov.scot>; [*text redacted*]@gov.scot>
Subject: RE: Abortion Protest Poll Finding

Hi [*text redacted*],

No problem at all. I've taken out [*text redacted*] just to avoid spamming them, but just FYI this letter was sent to Ministers in Westminster today from a group of organisations regarding the retention of mifepristone at home. Obviously not Scotland-specific, but I thought it might be helpful to share.

Have a nice weekend,

[See Annex C for copy of PDF]
[*text redacted*]

Tel: [*text redacted*]
Zoom: [*text redacted*]

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From: [*text redacted*]@gov.scot
Sent: 14 May 2021 14:52
To: [*text redacted*]@bpas.org>; [*text redacted*]@gov.scot; [*text redacted*]@humanism.scot; [*text redacted*]@gov.scot
Cc: [*text redacted*]
Subject: RE: Abortion Protest Poll Finding

CAUTION: External mail: consider risks before opening files/links.

Hi [*text redacted*]

Sorry, no update on the timing of the decision but we are still planning to publish the analysis first, hopefully before the summer.

Thanks,

[*text redacted*]
[text redacted] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [text redacted]

From: [*text redacted*]
Sent: 14 May 2021 13:05
To: [*text redacted*]
Cc: [*text redacted*]
Subject: RE: Abortion Protest Poll Finding

Thanks [*text redacted*]. [*text redacted – out of scope*], but I'll get the things I promised over to you ASAP.

I'm sure the answer to this is no – but do you have any sense of a timeline currently on the telemedicine decision? I wasn't sure if you were still planning on publishing the analysis in advance of the Ministerial decision.

I hope everyone has a good weekend,

[*text redacted*]

Tel: [*text redacted*]
Zoom: [*text redacted*]

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_____

From: [*text redacted*]@gov.scot>
Sent: 13 May 2021 18:40
To: [*text redacted*]@bpas.org>
Subject: RE: Clinic protests meeting

Thanks [*text redacted*], that's helpful.

See you tomorrow!

[*text redacted*]
[text redacted] | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [text redacted]

From: [*text redacted*]@bpas.org>
Sent: 12 May 2021 20:11
To: [*text redacted*]@gov.scot>
Subject: Clinic protests meeting

Hi [*text redacted*],

Look forward to chatting on Friday re clinic protests.

I thought it might be helpful in advance to share my most up to date briefing on protests. Back Off Scotland are best-placed to share info on recent presence, but the briefing may have some useful info on the shortcomings of current legal provision.

[*text redacted*]

See you Friday!

[*text redacted*]

Tel: [*text redacted*]
Zoom: [*text redacted*]

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(*Attachment pasted below – Briefing on Buffer zones*)

Protecting access to essential healthcare: Why we need buffer zones

Back Off is a campaign co-ordinated by the British Pregnancy Advisory Service (BPAS) and supported by a coalition of organisations including the British Medical

Association, the Humanist Society Scotland, Scottish Women's Aid, and grassroots campaigns in Scotland like Back Off Chalmers.

BPAS is a reproductive healthcare charity that offers abortion care, contraception, STI testing, miscarriage management, and pregnancy counselling to 100,000 clients each year, primarily on behalf of the NHS via our clinics in England, Scotland, and Wales.

The problem

Clinic Protests

Clinic protests are a form of activity used by anti-choice protesters to deter or prevent patients accessing abortion care. They take many forms, including the display of graphic images of dismembered foetuses, marches that end outside the clinic, filming clients and staff members, following clients down the street and thrusting anti-abortion literature into their hands, sprinkling sites with holy water, and 'vigils' - large gatherings of people who sing hymns and recite dedicated anti-abortion prayers loudly enough to be heard inside clinics or hospitals. These protests usually last several hours a day over a number of weeks or months. In several cases around the country, protests have continued for many years.

In Scotland

Clinic protests in Scotland date back to 1999 when the group Precious Life Scotland began protesting outside Brook Advisory clinics with large, explicit images. The Health Minister said at the time "I give these groups notice today - back off. Do not promote your view in proximity to these facilities. I want you to withdraw voluntarily and I want you to do so immediately."

Since the beginning of 2017 we are aware of 7 hospitals and clinics in Scotland that have been targeted – Aberdeen Maternity Hospital, Edinburgh's Chalmers Centre, Dundee's Ninewells Hospital, Glasgow Royal Infirmary, Larbert's Forth Valley Royal Hospital, Queen Elizabeth University Hospital Glasgow, and the Royal Infirmary of Edinburgh.

Most of these are organised by the Texas-founded group 40 Days for Life, which holds two sets of 40-day protests a year – one during Lent, and one in the autumn, in which they stand with placards and leaflets, and pray outside hospitals every day usually from 7am to 7pm. These have been going on in Scotland for around six years. The other protests tend to be organised by local anti-choice groups and by the international group Helpers of God's Precious Infants.

Impact

Across the UK, 49 hospitals and clinics have had anti-abortion protests outside in the last two years. BPAS routinely collects client comment forms from people who attend our clinics, as well as from abortion clients who attend hospitals and clinics not run by BPAS, local residents, and passers-by who either observer or experience the protests. Some of the responses we have received from Scotland include:

“While walking with my baby in the pram, I passed one protester standing on the pavement outside centre. She tried to hand me a leaflet which clearly had anti-abortion messaging… I spoke to her about what she was doing… She looked into my baby’s pram and said ‘but there’s a reason you didn’t want to murder your own baby’. I walked away and she shouted after me ‘You are a hypocrite. You knew she was a baby and you knew she was in your womb. Would you kill her too?’ Chalmers Centre, Edinburgh, February 2020

“They were standing opposite the entrance to the maternity wing of the hospital with banners and placards, singing hymns and swaying. Every time I’ve attended this hospital in 2019 they have been there.” Queen Elizabeth University Hospital, Glasgow, October 2019

“They were chanting, praying loudly, showing photos of foetuses, giving out leaflets, and approaching women and couples entering the clinic. They were telling people that dead embryos go into vaccines.” Chalmers Centre, Edinburgh, March 2019

“[They were] getting in a poor woman’s face and screaming at her that she was a murderer and that God was sending her to hell. [It made me feel] furious. I’m a Christian; that is not my God… I will often call out that kind of behaviour, but they scared me too.” Queen Elizabeth University Hospital, Glasgow, 2017

“I felt incredibly angry… at the time I was pregnant with my second child. On attempting to engage with them, one of the group marched over to me and was extremely aggressive… he screamed in my face several times… he told me that I was going to get cancer (I had disclosed that I had an abortion between pregnancies)” Royal Infirmary of Edinburgh, 2017

Concerns

Content – The form the protests take are often distressing. Some groups carry large placards with graphic pictures of foetuses; many distribute leaflets with provably false medical claims such as ‘abortion causes breast cancer’; and some protests are large and intimidating – with people who gather behind large symbols and carry signs decrying a woman’s right to choose.

Context – These gatherings occur outside clinics and hospitals which are seeing people who have made a difficult, personal decision and who are trying to preserve their medical confidentiality. People accessing abortion services report that it is not just the content of the protest that upsets them – but the fact that protesters believe they have a right to influence their decisions about their medical care, and try to pressure them into making a different choice, while compromising their right to privacy.

Aims of the protest – This is not a protest in the usual sense. Clinic protesters are not seeking to change the law or influence the opinions of decision-makers – they are present to pressure individual abortion clients into making different decisions about their healthcare. They rely on being able to access individual service users in a vulnerable position. 40 Days for Life – which runs multiple protests in Scotland – keeps a running tally on their homepage of the number of abortion clients they

believe they have convinced to change their mind, the number of medical workers they have forced to quit their jobs, and the number of clinics they have forced to close.

Example – Queen Elizabeth University Hospital, Glasgow

40 Days for Life started protesting outside QEUH in Glasgow less than a year after it opened. 2020 is the fifth year that protests have been held. This hospital has had the largest anti-abortion clinic protest out of any site in the UK – with around 200 people holding a candlelight vigil in the autumn of 2018.

On a regular basis, up to 12 protesters gather with placards and leaflets for up to 12 hours every day. They position themselves on the road immediately outside the entrance to the maternity unit, which is also where abortions take place. This originally took place for 40 days during spring and 40 days in the autumn, but these periods have been extended and they are now present most of the year. Organisers describe their activities as a 'vigil' – meaning that they pray in the same spot for long periods, watching patients enter and leave the hospital. Healthcare workers and passers-by report protesters stopping them and speaking to them, 'accosting them', and distributing leaflets.

We have received accounts from patients accessing services, healthcare workers, and passers-by about the protests at QUEH, including:

• Passer-by, 2019 ""They were standing opposite the entrance to the maternity wing of the hospital with banners and placards, singing hymns and swaying. Every time I've attended this hospital in 2019 they have been there."

• Abortion client, 2018 "It made me feel very vulnerable as a young girl. It made me question my decisions purely based on the fact I was being judged for my decisions. Despite knowing what was best for me they made me feel as if I was doing something wrong."

• Healthcare worker, 2018 "It is unacceptable that any woman should be faced with this, but for women attending a hospital for TOP for fetal anomaly, or returning to work having had such a procedure it really is disappointing to say the least…As I say, totally unacceptable and the more that can be done to address this, the better."

• Maternity patient, 2017 "I was on my way to the hospital for my 20-week scan, this should have been a happy moment for myself and my partner, however their presence outside really upset me. Someone close to me had to be induced after her 20 week scan as the baby had Edwards Syndrome, all I could think of is how women going through something like that, or other any other situation, must feel having to pass them given how angry and upset I was seeing them with my healthy pregnancy. By the time I was in the waiting area for my scan I was shaking…"

Existing position
Scottish Government

The Scottish Government has previously said that it believes the police already have powers to address the issues of disorder that are potentially raised clinic protests. But the concerns highlighted in the accounts gathered by BPAS show that public disorder is not the only negative effect of clinic protests.

In response to a parliamentary question, Aileen Campbell MSP said on 14th March 2018:

"The Scottish Government believes all women should have access to abortion services as part of routine care, and available free from stigma and harassment.

"Whilst the right to public assembly is an important right, such rights must be balanced with the rights of communities affected by any protests to go about their business as undisturbed as possible and without fear for their safety. Any gatherings of this nature must be conducted outside hospital grounds in order to allow the hospital to function, and patients to attend, without disruption.

"Police Scotland has powers available to them to deal with any disorder and to ensure that public safety is maintained. The Scottish Government fully supports Police Scotland to take appropriate and proportionate action where necessary to protect public safety."

Scottish law

There are pieces of law that relate loosely to the issues raised by clinic protests, none of which we believe fully cover the extent and impact of activity outside clinics and hospitals, and none of which have yet been used to address the activity in question.

• S201-204 of the Local Government (Scotland) Act 1973 allows local councils to create byelaws that could be used to ban protests related to pregnancy choices outside abortion clinics or hospitals. However, these apply only to individual clinics and hospitals, create a postcode lottery of protection for abortion clients, place the onus on local authorities to take action and pay to defend their actions in court, have to be approved by ministers, and have to be renewed every ten years. Similar measures are possible in England but of the 42 clinics affected, only three clinics have a local order in place.

• Antisocial behaviour etc. (Scotland) Act 2004 allows police to issue a dispersal order which can order a group of two or more people to disperse. They can be issued where the public has been alarmed or distressed and where behaviour has become significant, persistent, and serious. They require other approaches to have been tried and failed, and only last for three months at which point the same test would need to be met again. The Act also provides for antisocial behaviour orders to be issued, but these are applied to specific, named individuals and not to groups or gatherings and we know from other areas that anti-abortion activists travel between protests, often over long distance.

• Public Order Act 1986 can impose conditions on public assemblies to prevent disorder or to stop groups of preventing someone doing something they have a legal

right to do. This provision has been used before for this purpose in by the Metropolitan Police in London, but was retracted and the police force claimed it had been issued in error - so its practicability is questionable.

• The common law offence of Breach of the Peace provides for individuals to be arrested if they engage in 'conduct severe enough to cause alarm to ordinary people and threaten serious disturbance to the community'. This definition presents an issue in the case of clinic protests as much action is unlikely to 'threaten serious disturbance to the community' as their activity is targeted at individual women accessing services.

Enforcement

Across Scotland and the UK, there has been a lack of action to address clinic protests and the negative impact they have on abortion clients accessing services, local residents, and passersby. This is particularly an issue in Scotland as the majority of protests are outside hospitals and therefore vulnerable people (including women and pregnant people attending maternity units for miscarriages) are forced to pass these protests.

We believe that existing law in Scotland does not adequately cover clinic protests, or the negative impact that they have on abortion clients. New legislation is needed to protect those seeking to access legal, confidential healthcare services and protect abortion clients' Article 8 right to a privacy.

National solution

This is a public order issue grounded in gendered street harassment. These protests are a way of telling women and pregnant people that the decision they make about their bodies and own futures are unacceptable, and that they deserve to have attention drawn to them in the most public, misogynistic, unsolicited way possible.

There are many opportunities and locations for individuals who wish to share their opinions on abortion to do that, but the place outside a hospital or clinic should not be one of them. People accessing abortion services are not seeking debate – they are trying to make their own personal decision about their own pregnancy.

What are buffer zones?

In a number of places around the world – including British Columbia and Ontario in Canada, and Victoria in Australia, 'buffer zones' are used to deter and prevent harassment and intimidation outside clinics.

Buffer zones are an area around clinics, hospitals with abortion services, and pregnancy advisory bureaux where certain activities cannot take place – including filming of clients accessing services, harassment and intimidation, stopping clients in an attempt to change their mind about accessing services, and gathering for the purpose of protest about reproductive choice.

They would stop activity taking place directly outside clinics and hospitals, but not have any impact on protests anywhere else. It would apply equally to pro- and anti-choice protests, ensuring that abortion clients are not pressured as they access healthcare.

We believe that new legislation is needed across the UK to address these protests, and are happy to support efforts, and work with elected officials, in any devolved administration to put a stop to this distressing activity. A bill along these lines passed its First Reading in Westminster in June 2020 by 212 votes to 45.

Support for buffer zones

There are a large number of supporters of the campaign to introduce buffer zones, including:
• British Medical Association
• Royal College of Obstetricians and Gynaecologists
• Royal College of Midwives
• Humanist Society Scotland
• Back Off Chalmers
• Scottish Women's Aid
• End Violence Against Women Coalition

You can find the full list of supporters here.

The Back Off campaign

The campaign to introduce buffer zones at a national level is called Back Off and is run by the British Pregnancy Advisory Service. BPAS are more than happy to answer any questions on the national campaign or any protests your constituents may encounter.

Contact
[*text redacted*], British Pregnancy Advisory Service
[*text redacted*]

Helen Whately MP, Minister of State for Care
The Rt Hon Matt Hancock MP, Secretary of State for Health and Social Care
Department of Health and Social Care
39 Victoria Street
London
SW1H 0EU

14th May 2021

Dear Ministers,

Back in March 2020, you changed abortion regulations to allow telemedical early medical abortion care. This has meant that women across England have been able to continue to access abortion care during the pandemic by having medication posted to them following a telephone consultation with a qualified nurse or midwife.

The impact of this change has been significant and overwhelmingly positive. A study of more than 50,000 abortions before and after the change in England and Wales, recently published by the British Journal of Obstetrics and Gynaecology[1] concluded that telemedical abortion provision is 'effective, safe, acceptable, and improves access to care'. Evidence shows that access to a hybrid model of care that includes telemedical abortion care has reduced waiting times and allowed pregnancies to be terminated at the earliest gestations, making the procedure safer. The study also found that there is no difference in the safety and efficacy of telemedical abortion care compared to in-clinic care.

Telemedical care also removes access barriers across the board. We know that for many, being required to take medication in a clinic is difficult. Clinics can be far from a client's home, they may need to take time off work, associated travel and childcare costs can be high. Some women are disproportionately likely to encounter difficulties when required to attend a clinic for treatment – including those with caring responsibilities, victim-survivors of sexual violence and domestic abuse, teenagers, those on low incomes or in insecure work, LGBTI people, disabled women, Black and minoritized women, migrant women, homeless women, women with mental health or substance use issues, and women with insecure immigration status. The ability to provide the option of telemedicine as part of a full, holistic service enables providers to tailor care to individual clients and their needs and allows women to access healthcare no matter their circumstances.

As you consider whether to make permanent the regulations that allow for telemedical abortion care, we ask that you place women, girls, and all people who need abortion care at the heart of

[1] Aiken, ARA, Lohr, PA, Lord, J, Ghosh, N, Starling, J. Effectiveness, safety and acceptability of no-test medical abortion (termination of pregnancy) provided via telemedicine: a national cohort study. BJOG 2021; https://doi.org/10.1111/1471-0528.16668. 00: 1– 11.

your decision-making. In a BPAS evaluation of client satisfaction, 97% of clients were satisfied or very satisfied with their experience, and 80% of clients reported that receiving pills via post or telephone consultation and pill collection from a clinic is their preferred method of care[2] – figures which are supported by other major abortion providers. To revoke the regulations that allow for this care would be to ignore these voices. With clinical bodies and evidence showing that early medical abortion care is safe effective, there is no clinical argument for reinstating restrictions. All that revoking telemedical abortion care would do is service to make access to abortion more difficult and distressing – for entirely political purposes.

We hope the Department of Health and Social Care will recognise the positive step telemedical abortion care is for the progress of women's health policy-making in the UK and will choose to stand with women and all those who need abortion care by making regulations that allow for telemedical abortion services to become permanent.

Yours Sincerely,

Abortion Rights UK
Amnesty International (UK)
Birthrights
British Medical Association
British Pregnancy Advisory Service
British Society of Abortion Care Providers
Brook
Doctors for Choice UK
End Violence Against Women Coalition
Faculty of Sexual and Reproductive Healthcare (FSRH)
Fawcett Society
Humanists UK
International Planned Parenthood Federation
Maternity Action
MSI Reproductive Choices
National Education Union (NEU)
National Union of Students (NUS)
NUPAS
Rape Crisis England & Wales
Royal College of Midwives
Royal College of Obstetricians & Gynaecologists
Safe Abortion Action Fund
Sister Supporter
Stonewall
Vagina Museum
Women's Aid Federation of England

[2] Meurice ME, Whitehouse KC, Blaylock R, Chang JJ, Lohr PA. Client satisfaction and experience of telemedicine and home use of mifepristone and misoprostol for abortion up to 10 weeks' gestation at British Pregnancy Advisory Service: a cross-sectional evaluation. Contraception. 2021 May 8:S0010-7824(21)00143-8. doi: 10.1016/j.contraception.2021.04.027. Epub ahead of print. PMID: 33974918.