

# **Abortion Service Safe Access Zones (Scotland) Bill**

## **Equality Impact Assessment – Results**

**October 2023**

## Equality Impact Assessment – Results

<b>Title of Policy</b>	Abortion Services (Safe Access Zones) (Scotland) Bill (“the Bill”)
<b>Summary of aims and desired outcomes of Policy</b>	Further information about the background and the policy intention behind the Bill is set out in the Policy Memorandum which accompanies the Bill. The Bill, Policy Memorandum and other accompanying documents are available from the Scottish Parliament website.

### Executive summary

Work was carried out to assess the impacts of the Bill in terms of eliminating unlawful discrimination, harassment and victimisation; advancing equality of opportunity; and promoting good relations among and between different groups. The evidence base for the following [protected characteristics](#) was reviewed and assessed: age, disability, sex, pregnancy and maternity, gender reassignment, sexual orientation, race, religion or belief, and marriage and civil partnership. The ‘Key Findings’ section details our assessment the impact of the Bill on protected characteristics.

### Note on language

The Scottish Government recognises that abortion is an emotive issue and that the language surrounding it is itself a source of debate and a matter of considerable sensitivity. The Scottish Government has therefore taken this opportunity to highlight some particular choices adopted during this document, and to acknowledge that, in some instances, different groups would prefer to use other terms to refer to themselves. Nothing in this document is intended to overlook nuance or personal preferences; it is used instead for consistency and to, as far as possible, describe actions rather than motivations.

In particular, the terms service users and providers, as well as “those who access or provide services” are predominantly used instead of patients and staff. This reflects that not all those who seek abortion services consider themselves to be patients, though some do.

Similarly, the term “anti-abortion activity” is used as a catch-all to encompass the range of activity that takes place outside premises providing abortion services, and, as far as possible, this document refers to groups or individuals who carry out anti-abortion activity. In choosing this phrasing, the Scottish Government recognises that some participants are motivated by a desire to offer support and highlight abortion alternatives rather than simply advocate against abortion, and that some groups prefer the term “pro-life”. The term anti-abortion is not intended to undermine or dismiss these motivations or the ways in which groups or individuals describe themselves. Rather, it recognises that the desired outcome of activities carried out

directly outside places providing abortion services is often to prevent abortions taking place. “Anti-abortion activity”, in this context, is therefore an umbrella term and allows the full range of activity to be captured.

## **Background**

In Scotland, around 16,000<sup>1</sup> abortions are carried out each year. The majority of these are medical abortions and occur before 9 weeks’ gestation. Historically, abortion has been a highly contentious subject which attracts polarising views. These views have come to the forefront of public consciousness over the past few years as changes have occurred within abortion policy across the world. Most notably, there were changes to the way abortion care is provided within Scotland with the introduction of early medical abortion at home (EMAH) from 2017 onwards.<sup>2</sup>

Whilst legalised abortion has always provoked strong and often polarised debate, in recent years, there has been an increase in activity occurring directly outside premises at which abortions services are provided. In the last five years, documented anti-abortion activity has occurred outside Queen Elizabeth University Hospital (QEUH), Aberdeen Maternity Hospital, Sandyford Clinic, Chalmers Clinic, Royal Infirmary of Edinburgh, and Glasgow Royal Infirmary. This activity has included silent vigils, displays of images of foetuses, signs with language such as “murderer”, and displays of religious iconography.

Testimonies of those accessing and providing abortion services provide clear evidence that anti-abortion activity directly outside premises providing abortion services can be distressing; for some, it compounds what is already a difficult and painful experience.

In May 2022, Gillian Mackay MSP noted her intention to bring forward a Member’s Bill to establish safe access zones around healthcare settings providing abortion care. Following a summit on abortion care held by the former First Minister, Nicola Sturgeon MSP, in June 2022, the Scottish Government and Ms Mackay agreed to work together to develop and draft safe access zone legislation.

Further information about the background, the policy intention behind the Bill and the options considered to implement the policy is set out in the Policy Memorandum which accompanies the Bill. The Bill, Policy Memorandum and other accompanying documents are available from the Scottish Parliament website.

## Public Consultation

Ms Gillian Mackay MSP ran a public consultation between 18 May 2022 – 11 August 2022<sup>3</sup> which invited responses from anyone who wished to express a view.

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<sup>1</sup>[Termination of pregnancy statistics - Year ending December 2022 - Termination of pregnancy statistics - Publications - Public Health Scotland](#)

<sup>2</sup>[Telemedicine early medical abortion at home: evaluation - gov.scot \(www.gov.scot\)](#)

<sup>3</sup>[abortion-services-safe-access-zones-consultation-document\\_final.pdf \(parliament.scot\)](#)

The consultation analysis was published on 15th June 2023<sup>4</sup>. The consultation received 11,879 responses in total, of which 52 were from organisations, and 11,827 from individuals. Responses to the consultation were polarised - of the responses received from individuals, 56.1% were fully in favour of the proposal whilst 42.6% were fully opposed to the proposal. A further 1.3% of individuals were either partially in support of, or partially opposed to the proposal. 63% of organisations which responded were fully in favour, whilst 31% were fully opposed.

Responses in favour of the Bill cited personal experiences of anti-abortion activity, and the various harms associated with it, such as feelings like fear, judgement and harassment. These experiences are not limited to services users, but also reflected by service providers. Both service users and providers welcomed the proposed introduction of measures to protect service users and providers from anti-abortion activity from occurring outside premises providing abortion services. One respondent to the consultation noted<sup>5</sup>:

“As an employee at the QEJH where the protesters are stationed every Tuesday and sometimes even more frequently (such as during Lent), I have witnessed first hand how distressing having those protestors there could be for people trying to access healthcare. They stand with images of bloodied fetuses, and highly evocative slogans intended to shock and shame. I also believe they are spreading medical mis information as many of the UKs anti-abortion anti-choice organisations tend to show images of fetuses with incorrect gestation periods besides them so as to give the impression the foetus is more developed at that stage than it actually is. Regardless of the reason someone has an abortion, they deserve to access this basic health service without being subjected to this, the experience of an unwanted or unplanned abortion is traumatising enough. Also, as a member of staff at the hospital I feel that I should be able to get to work every day without encountering this. I am in favor of the right to protest but it is damaging to people’s mental states having it here, and also the group claim it is a ‘prayer’ not a protest, in which case they can do that somewhere else. Other countries such as Ireland and Spain have already introduced these buffer zones. I feel Scotland needs to quickly follow suit, especially considering that these groups are affiliated with those involved in the reversal of Roe V Wade in the states.”

Of those who were opposed to the Bill, many noted the infringement of rights, such as freedom of religion, freedom of expression and freedom of assembly<sup>6</sup>. For many individuals participating in anti-abortion activities the location of where the activities take place is of great importance. Responses to the consultation show that some of those who take part in anti-abortion activities outside of premises providing abortion services note that they are doing so, in that particular location, in order to bear witness to abortions. As one respondent to the consultation noted:

“Genuine freedom of belief must include the freedom to bear witness to your beliefs even though doing so may cause others offence or distress. Those who believe that human life is sacred and begins at conception not only have a right but a duty to tell these unfortunate women, in a peaceful, non-judgemental way, that what they are

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<sup>4</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#)

<sup>5</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#) Page 20

<sup>6</sup> [European Convention on Human Rights \(coe.int\)](#)

doing is wrong. I know someone who has taken part in one of these vigils so I know that they are not about intimidation but bearing witness to the truth that the unborn child is a fellow human being with as much right to life as the rest of us. Moreover, practical help is offered to those having second thoughts or who have been pressurised into seeking an abortion. It would be an incredibly sad day for this country and for freedom if people who have the courage to bear witness to a deeply held but unpopular belief are ever treated as criminals deserving of up to two years imprisonment.”<sup>7</sup>

Respondents opposed to the Bill were also keen to highlight their belief that anti-abortion activity such as silent prayer vigils do not distress or harm women, and that there is no evidence to support the assertion that anti-abortion activities outside premises providing abortion services have a negative impact on those accessing or using abortion services. One respondent to the consultation noted:

“there is no evidence of a problem existing against women in this situation - it would be a breach of human rights to prevent others from helping these ladies and prevent free speech and freedom of expression. This crime of abortion may affect the mental health of those affected who may later come to regret their crime. the purpose of the Bill is not to limit protest but it would limit it if implemented. Banning "influence and persuasion" is a dangerous step for a supposed democratic society to take.”<sup>8</sup>

Question 20 of the consultation paper asked whether the Bill would have a positive, neutral or negative impact on individuals with protected characteristics:

#### “Question 20

Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

What impact could this proposal have on particular people if it became law?

Positive

Slightly positive

Neutral (neither positive nor negative)

Slightly negative

Negative

Unsure

Please explain the reasons for your answer and if there are any ways you think the proposal could avoid negative impacts on particular people.”

94% of the total respondents to the consultation submitted an answer to this question, with 46% selecting that the proposal would have a 'positive', or 'slightly positive' effect on these groups. In contrast, 43% selected that the proposal would have a 'negative' or 'slightly negative' impact on these groups, whilst 5% selected 'neutral' and 6% selected 'unsure'. Respondents were then given the opportunity to

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<sup>7</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#) Page 31

<sup>8</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#) Page 108

explain the reasons for their answer, some of which will be referred to within this impact assessment.<sup>9</sup>

Of those who thought that the Bill would have a positive or slightly positive impact on equalities, a common theme was that freedom to access healthcare would improve the lives of many individuals, particularly, although not exclusively, for women, trans and non-binary people who are able to become pregnant, people with disabilities, ethnic minority people, young people and people from disadvantaged backgrounds. The rationale given for this was that individuals with protected characteristics often experience multiple forms of discrimination, and the Bill would offer additional protection for those most vulnerable to harassment and intimidation and for those who may need additional privacy. As noted through the organisational response provided by Zero Tolerance:

“Women who experience multiple forms of discrimination may experience intimidation and harassment as not only sexist but also charged with racism, ableism, ageism, homophobia, and transphobia. Lesbian and bisexual young women are twice as likely to become pregnant as their heterosexual peers (IMPACT 2012). Trans and non-binary people who want additional privacy and others such as younger, LGBTI, and those living in rural, and small communities are also more vulnerable (Engender 2021). This Bill will offer additional protection for those most vulnerable to harassment, intimidation and who may also need additional privacy due to characteristics protected by the Equality Act (2020).”<sup>10</sup>

Many of those who selected ‘positive’ or ‘slightly positive’ impact on equalities also recognised that the Bill could negatively affect people with particular religious beliefs, but acknowledged that this would only affect those individuals within the limit of the safe access zone. As noted in the response provided by Scottish Women’s Aid:

“Arguments will be made that the proposed new law would have a negative impact on people for reasons of religion or belief. However, freedom of religion is not freedom to harass or intimidate others who do not share your beliefs. As the consultation paper states, the rights to freedom of religion, freedom of speech and freedom of assembly under the European Convention on Human Rights (ECHR) are not unlimited rights. The ECHR provides that states may limit these rights if specific conditions are met: the limitations must be “prescribed by law” and be “necessary in a democratic society” for one or more of a specified list of reasons, including “in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others”. The passage of the proposed law would meet the first requirement that the restriction is set out clearly in law. The second requirement is met because the introduction of safe access zones is to protect public health and the rights and freedoms of women and others who have the capacity to become pregnant to exercise their rights to health, to privacy and to bodily autonomy.”<sup>11</sup>

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<sup>9</sup> [Summary of Consultation Responses](#)

<sup>10</sup> [Organisation Responses - Google Drive](#) Zero Tolerance

<sup>11</sup> [Organisation Responses – Google Drive](#) Scottish Women’s Aid

Similarly, those who selected 'unsure' or 'neutral' impact on equalities acknowledged that the impact would be positive for some, but neutral or negative for others. One respondent to the consultation noted:

"This will affect individuals differently based on their beliefs however I believe it will affect the majority positively and only those protesting negatively but not to the extent of the scale of the positive impact affecting users of the service and those that believe in woman's rights in general. Supporters of women's rights not affected by abortion will also be affected positively but less so than before mentioned. All others- no impact."<sup>12</sup>

Of those who selected a 'negative' or 'slightly negative' impact on equalities, common themes included the view that adequate legislation already exists and there was strong concern that the Bill would restrict religious freedoms. As detailed in the response by the Archdiocese of St Andrews and Edinburgh:

"A key purpose of a vigil is to pray. To stop vigils, the Bill must stop prayer and so must discriminate on grounds of religion. The consultation document does not provide sufficient evidence as to why this right should be disregarded. The Bill discriminates on grounds of pregnancy and maternity. Pregnant women would be deprived of support, information and care which vigils offer through unexpected pregnancy centres in Scotland."<sup>13</sup>

### **Provisions of the Bill**

A brief summary of the Bill's provisions is provided below; more detailed information on the Bill can be found within the Policy Memorandum which is published on the Scottish Parliament website. The Bill will:

- create an automatic safe access zone comprising the premises which provide abortion services ("the protected premises"), the public area of the attaching grounds if there are any, and a zone (also being the public area) of 200m extending in all directions from the edge of the protected premises.
- allow health providers or Health Boards to respond to local circumstances by providing the ability for them to apply for an extension of a safe access zone if the current zone does not provide adequate protection;
- create offences within a safe access zone which prohibit behaviours in terms of their impacts, rather than providing an exhaustive list of prohibited behaviours and activities;
- safeguard the rights of those who wish to protest or otherwise demonstrate opposition to abortion by limiting the prohibition to only activities carried out (or which can be seen or heard) in public areas within the boundary of a zone.

It is important to note, that the Bill is intended to protect persons attending premises for the purpose of accessing treatment, information about treatment, advice about

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<sup>12</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#) Page 100

<sup>13</sup> [Organisation Responses - Google Drive](#) Archdiocese of St Andrews and Edinburgh

treatment and follow up appointments/after care. The Bill will also protect those seeking to provide or facilitate the treatment and will include those who provide information, or advice about abortion in premises which provide abortion services. The Bill has been developed to benefit those accessing and providing services. As service users will be pregnant when accessing abortion services, they will hold that protected characteristic until the pregnancy is terminated. There will be impacts on other groups who hold protected characteristics, as detailed in the key findings section, below.

## **The Scope of the EQIA**

The full EQIA process has been followed given the equality impacts of the Bill.

In developing this EQIA the Scottish Government is mindful of the three requirements of the Public Sector Equality Duty – to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between people who share a protected characteristic and those who do not, and foster good relations between such people. Where any negative impacts have been identified, the Scottish Government has sought to mitigate/eliminate these, whilst being mindful that the Scottish Government also has a positive duty to promote equality. The Scottish Government, and Gillian Mackay MSP, have therefore sought to promote equality through the provisions within the Bill and this EQIA outlines how provisions could have a positive and negative impact on one or more of the protected characteristics.

## **Key Findings**

### Age

Abortion services can be accessed by people of all ages who were biologically sexed as female at birth and can become pregnant. There can be differences in how abortion services are delivered, due to age. For example, under 16s are generally unable to access early medical abortion at home (EMAH)<sup>14</sup> which allows service users to administer both sets of abortion medications at home up to 12 weeks' gestation, where clinically appropriate to do so, following on from a telephone or video consultation with a doctor or nurse. Therefore, whilst most service users will still attend a premise providing abortion services at some point, even if only to collect their medication, it is possible that service users under the age of 16 would be somewhat more likely to encounter anti-abortion activity as they generally have to attend appointments in person. This means that the positive impacts of the Bill may have a greater impact on those who are under the age of 16 who are seeking access to abortion services.

A recent study published by the Joseph Rowntree Foundation found that almost all young people felt there is stigma attached to having an abortion.<sup>15</sup> Elsewhere,

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<sup>14</sup> [Scottish Abortion Care Providers \(SACP\) Network](#)

<sup>15</sup> [Influences on young women's decisions about abortion or motherhood | JRF](#)



research has shown significant gaps in young people's knowledge about abortion, which can act as a barrier to them making informed choices and accessing services.<sup>16</sup> This gap in knowledge, alongside documented evidence of misinformation provided outside abortion clinics,<sup>17</sup> may leave younger people more susceptible to anti-abortion activity, as detailed in testimony from the Scottish Youth Parliament.<sup>18</sup>

Consultation responses also noted that younger service users may be more vulnerable to intimidation, and therefore may need additional privacy when accessing services. Professor Sharon Cameron noted in her consultation response:

“As a service, we are concerned about the negative impact of the presence of the protestors on patients attending our clinics not just for abortion but for wide range of health concerns, as well as other clinics in nearby hospital buildings. It can take a lot of motivation and courage to attend any clinic appointment, and the prospect of facing protestors on one's way to attend a clinic may deter patients from accessing services that they need. Even on days when protestors are not present, patients may fear that protestors could be there. We are aware of patients contacting the service in advance of appointments worried about this. There is also concern that certain groups such as young people and vulnerable groups who may find it particularly difficult to navigate clinical appointments, may be most at risk.”<sup>19</sup>

It is possible that anti-abortion activity which takes place outside premises providing abortion services may contribute to the stigmatisation of young people seeking abortions and that allowing it to continue unchecked would compound this. Given that under 16s cannot generally access EMAH within Scotland and must attend an in-person appointment, it is also possible that anti-abortion activity which takes place outside premises providing abortion services may disproportionately affect young people. As such, the provisions of the Bill may have a greater positive impact on this age group than others, although the great majority of patients will attend a premise which provides abortion services at some point, for example to collect medication and in many cases for an ultrasound scan.

More generally, implementing safe access zones will protect abortion care service users and providers of all ages from anti-abortion activity while accessing abortion services. The Bill will do so by preventing service users and providers from experiencing unwanted influence, harassment, and distress outside of premises which provide abortion services.

We know that those who take part in anti-abortion activity outside of premises that provide abortion services tend to be older in age, which was highlighted by Compassion Scotland in response to the consultation:

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<sup>16</sup> [Young people's views and knowledge about abortion, Centre for Research on Families and Relationships, September 2015](#)

<sup>17</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#) Page 18

<sup>18</sup> [#CabinetTakeover 2023: Buffer zones - Scottish Youth Parliament \(syp.org.uk\)](#)

<sup>19</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#) Page 17

“Vigil groups often stand back from the clinics and are made up of older women who have had abortions themselves.”<sup>20</sup>

Therefore, the Bill may have a negative impact on those people. However, as set out in greater detail in the Policy Memorandum, the aim of the Bill is not to prevent the expression of opposition to the provision of abortion services or restrict the expression of religious views on abortion. It limits the activity that can be carried out only in very limited circumstances and places, and only so far as is necessary to achieve the legislation’s overarching aims. Beyond these limitations, it does not remove the ability of those who oppose abortion to protest or make known views on abortion.

### Race/ethnicity

Research suggests that service users from ethnic minorities are more likely to experience barriers when accessing healthcare<sup>21</sup>. In addition, recent studies have shown that service users from ethnic minorities are less likely to engage with health services due to a number of factors, including poor past experience of health services, and cultural differences<sup>22</sup>. This may be further compounded should service users encounter anti-abortion activity outside premises providing abortion services.

Preventing anti-abortion activities from occurring outside of premises where abortion services are located could, therefore, have a positive impact by ensuring that no additional barriers to accessing abortion services are created for service users from minority ethnic groups.

The Scottish Government has not identified any negative impact for this group.

### Disability

Research has shown that service users with disabilities are more likely to face difficulties when accessing health care<sup>23</sup>. This is further compounded if service users also have another protected characteristic, such as being LGBTQ+ or from an ethnic minority<sup>24</sup>. Therefore, preventing anti-abortion activities from occurring outside of premises that provide abortion services could ensure that disabled people do not have to face additional barriers such as feeling fear or harrassment when accessing those services, and thus could have a positive impact on disabled people who seek to access abortion services.

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<sup>20</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\) Page 59](#)

<sup>21</sup> [Access to health care for ethnic minority populations | Postgraduate Medical Journal \(bmj.com\)](#)

<sup>22</sup> [A qualitative exploration of the barriers and facilitators affecting ethnic minority patient groups when accessing medicine review services: Perspectives of healthcare professionals - PMC \(nih.gov\)](#)  
[Race, Ethnicity, Culture, and Disparities in Health care - PMC \(nih.gov\)](#) [Review highlights stark ethnic healthcare inequalities in the UK \(manchester.ac.uk\)](#)

<sup>23</sup> [Footnotes - Women's experiences of discrimination and the impact on health: research - gov.scot \(www.gov.scot\)](#)

<sup>24</sup> [Footnotes - Women's experiences of discrimination and the impact on health: research - gov.scot \(www.gov.scot\)](#)

Some respondents to the consultation suggest that anti-abortion activities that take place outside of premises that provide abortion services offer an opportunity for service users to see the support that is available to them through the participating organisations. As one respondent to the consultation noted:

“For women in crisis pregnancies, and others who find themselves unsure that they are able to parent a child, removing access to information at the gates and to access to support groups they may not know how to find otherwise, will be damaging.”<sup>25</sup>

The Royal College of General Practitioners highlighted in its consultation response that clinicians are trained to offer counselling and provide adequate safeguarding; other respondents made similar observations, in particular counselling which has not been asked for or sought outside premises by strangers whose qualifications cannot be known is inappropriate. This is further evidenced in a paper published by the Faculty of Sexual & Reproductive Health on safe access zones which states:

“Accessing an abortion is a personal healthcare decision that a woman should make based on her own wellbeing and health needs. During the process of accessing an abortion, trained abortion providers discuss options and offer counselling and other professional regulated services according to the patient’s wishes. It is inappropriate for any protestor to be offering these services or seeking to influence a woman’s decision outside of a clinic or hospital.”<sup>26</sup>

This Bill does not amend the current law on abortion; it does not make provision regarding the provision of counselling and guidance on support available for people considering an abortion, it seeks only to ensure safe access to abortion services.

The establishment of safe access zones outside of premises that provide abortion services will be well publicised in advance of the zones becoming operational so that the general public are aware of the existence of the zones and the offences that the legislation will create. In addition, the Bill itself places a duty on Scottish Ministers to publish both a list and maps of the safe access zones. This will be an important step to ensure that service users and providers as well as those who participate in anti-abortion activity can access information about safe access zones. For service users and providers it will provide assurance that the premises they are accessing are protected, and for those participating in anti-abortion activities it will provide clarity about where engaging in these activities could be considered an offence.

The intention is that this information will be published online. It is recognised that ensuring this information is accessible to everyone will be important to ensure the Bill does not impact negatively on those with disabilities. The information will therefore be made available in different formats in order to adhere to accessibility requirements. Accessibility considerations will also be taken into account when public messaging is developed.

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<sup>25</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#) Page 99

<sup>26</sup> [fsrh-rcog-safe-access-zones-around-abortion-clinics-report.pdf](#)

## Sex

As all service users seeking to have abortions were born biologically female, the protection the Bill offers for those accessing abortion services will predominantly impact women. At this time, gender is not routinely captured as part of the data collected for abortion in Scotland. However, other research such as the 2023 evaluation of EMAH contained a patient survey which was completed by 327 service users, with over 99% reporting their gender as female<sup>27</sup>.

The Bill will ensure that people are able to access services free from unwanted influence, harassment or intimidation and so will have a positive impact on this protected characteristic. This may be especially true for abortion services that are located in premises which provide other services; some sexual health services provide both abortion and rape crisis services for example. As noted by MSI Reproductive Choices in their response to the consultation:

“Sex is protected characteristic. In our experience, women entering the premises were overwhelmingly targeted by the anti-choice groups, as they were presumed to be accessing abortion care at the clinic. In some instances, women and girls have been harassed outside MSI UK premises despite attending for another type of healthcare.

For some, abortion is required as a result of, or as a protection against gender-based violence. The activity we see outside our clinics can be distressing for anyone, but it is especially so for those who have already experienced trauma. For example, it can be a trigger for Post-Traumatic Stress Disorder for people who have been raped or abused.”<sup>28</sup>

Further, the UN Committee on the Elimination of Discrimination against Women (CEDAW) recognises that the “abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of gender-based violence”<sup>29</sup>. The UK is a signatory to the Convention on the Elimination of All Forms of Discrimination against Women.

The Scottish Government is aware that there are women who take part in anti-abortion activities outside of premises that provide abortion services and so those women may be negatively impacted by the legislation. However, the Bill will not impact on women who take part in anti-abortion activity outside of premises that provide abortion services differently; it will equally affect both men and women who engage in this activity. The aim of the Bill is not to prevent the expression of opposition to the provision of abortion services or restrict the expression of religious views on abortion. It is only to prevent their expression in limited areas to the extent necessary to achieve the overarching aims of the legislation. Those limitations will apply only within safe access zones (or in areas not within public areas in the zone that are visible or audible from the zone). Further detail on the size and design of zones can be found in the Policy memorandum.

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<sup>27</sup> <https://www.gov.scot/publications/evaluation-telemedicine-early-medical-abortion-home-scotland>

<sup>28</sup> [Organisation Responses - Google Drive MSI Reproductive Choices](#)

<sup>29</sup> [Committee on the Elimination of Discrimination against Women | OHCHR](#)

## Marriage and Civil partnership

We have not identified any positive or negative impacts for this protected characteristic.

## Maternity and Pregnancy

In Scotland, abortion care is routinely offered through clinics and hospitals which provide other healthcare services, such as maternity, sexual health, gender clinics, and gynaecological services. Those accessing abortion care are pregnant, and the Scottish Government knows that having an abortion for any reason is a difficult, and often emotional, decision. As noted by one respondent to the consultation:

“My daughter chose to abort her much loved daughter and my much loved granddaughter This still loved child. She chose her daughter over herself. After scans showed fetal damage beyond repairing. We were devastated and heartbroken. It was the one decision in my daughters life she had to make alone because as the mother it was her right to protect her child from further pain at huge cost to herself. During these antenatal and scan visits we were intimated and harassed daily this continued both before and after the termination. At this most difficult time my daughter was called a sinner a murderess and more. Judge and jury anti abortionists chose daily to inform my daughter of her sins They broke her heart my placid sensible loving brave daughter whilst steadfast in her decision for her daughters sake took ptsd.”<sup>30</sup>

Anti-abortion activity is often undertaken close to maternity services; for example at the Queen Elizabeth University Hospital (QEUH), Glasgow, anti-abortion activity takes place on the main road outside the entrance to the maternity hospital.

This means that anti-abortion activity can impact on those accessing maternity services and evidence gathered by the Scottish Government shows the negative impact on those seeking healthcare in buildings targeted by anti-abortion behaviour, even if those people are accessing services that are not related to abortion.

Testimonies provided by service users and providers accessing maternity buildings highlight the damaging effects of encountering anti-abortion activity. For instance, service users may attend maternity services for any number of reasons including giving birth, or to have additional diagnostic tests related to their pregnancy. For some service users who have had to attend services on multiple occasions encountering anti-abortion activity on a repeated basis has had a deeply profound impact on their psychological wellbeing. As one respondent to the consultation noted:

“Nobody should be harassed when seeking medical care. Pro-life protestors were present outside the Queen Elizabeth University Hospital Maternity Unit in Glasgow when a friend attended with a miscarriage. They were present also outside Glasgow's Sandyford Clinic for Sexual and Reproductive Health when another friend attended to have a coil fitted; she was filmed by a male protestor on her way in. In

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<sup>30</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#) Page 117

Glasgow pro-life protests are located outside premises that provide health services that include, but are not limited to, abortion. While it is women seeking terminations who require our immediate protection from these protests, they have a threatening effect on all service-users, some equally vulnerable. The professional bodies that cover all these services support buffer zones as a democratic solution. As a person who uses sexual health services, so do I.”<sup>31</sup>

### Gender Reassignment and Sexual Orientation

As noted above, a recent evaluation on EMAH conducted a patient survey which showed that the majority of service users having abortions identify as being female<sup>32</sup>. However, the evaluation also showed a very small number of service users that identify as another gender. The Scottish Government acknowledges trans people are more likely to face barriers<sup>33</sup> when accessing healthcare, and preventing anti-abortion activity outside of premises that provide abortion services could have a positive impact by ensuring that no additional barriers to accessing abortion services are created for trans service users. As noted by Zero Tolerance in their consultation response:

“Trans and non-binary people who want additional privacy and others such as younger, LGBTI, and those living in rural, and small communities are also more vulnerable (Engender 2021). This Bill will offer additional protection for those most vulnerable to harassment, intimidation and who may also need additional privacy due to characteristics protected by the Equality Act (2020)”<sup>34</sup>

Some responses to the consultation note that lesbian and bisexual women are the most likely to access abortion services within the LGBTIQ+ community. They note that LGBTIQ+ people are more likely to have lived through traumatic experiences, and facing anti-abortion activity may be very distressing<sup>35</sup>. Therefore, it is likely that the Bill will have a positive impact for lesbian and bisexual women, and trans men. This is because the Bill will make it an offence to engage in harmful behaviours within a safe access zone.

### Religion

In developing the Bill the Scottish Government recognises that the protected characteristic which is most likely to be impacted is religion. Abortion is a deeply polarising issue, and people who take part in anti-abortion activity outside of premises that provide abortion services are often affiliated with religious organisations and often see that as an expression of their beliefs.<sup>36</sup> Whilst it should be noted that not all respondents to the consultation who identified as having religious beliefs were opposed to the introduction of safe access zones, the Bill may impact negatively on people who choose to engage in anti-abortion activity for

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<sup>31</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#) Page 17

<sup>32</sup> [Telemedicine early medical abortion at home: evaluation - gov.scot \(www.gov.scot\)](#)

<sup>33</sup> <https://www.bmj.com/content/366/bmj.l5374>

<sup>34</sup> [buffer-zone-.pdf \(parliament.scot\)](#) Page 97

<sup>35</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#) Page 96

<sup>36</sup> [Anti-Abortion Clinic Activism, Civil Inattention and the Problem of Gendered Harassment \(sagepub.com\)](#)

reasons related to their religion by restricting their ability to express their religious beliefs within a specified area. As noted by one respondent to the consultation:

“im prolife, and i have been praying outside my local abortion provider (aberdeen royal infirmary/ari) for about 9 years. as a practising catholic i believe i have the right (and duty) to try to prevent unborn children from being murdered in their mothers wombs. i have been part of '40 days for life' for about 5 years. its better organised and led than any other pro life activity i know of but is a peaceful, prayerfull protest. buffer zones will ultimately mean more children are killed and mothers and families will be permanently scared.”<sup>37</sup>

The above response reflects the view of many respondents to the consultation and the evidence which the Scottish Government has collected throughout the development of the Bill. Many individuals who participate in anti-abortion activity outside premises providing abortion services view these activities as a part of their faith, and feel that they are compelled to bear witness to abortions and/or try to prevent them.

As noted by one respondent to the consultation:

“...banning individuals from seeking to express their view that abortion is morally questionable infringes on their human rights in terms of freedom of speech, expression and religion...”<sup>38</sup>

It is acknowledged that the Bill may interfere with individuals' rights to express their religious beliefs, however this will only be the case within specified safe access zones. In order to minimise infringement on religious expression, detailed mapping exercises have been conducted to ensure that zones are of an adequate size to protect service users and providers but are not overly restrictive on the rights of those who choose to participate in anti-abortion activity. Importantly, individuals who participate in anti-abortion activities can still express their opposition in other ways such as writing articles for the media, attending vigils in other locations, and using social media platforms. Further detail of the work which was undertaken to determine the zone size can be found within the Policy Memorandum on the Scottish Parliament website.

Evidence collected by the Scottish Government during the development of the Bill shows some abortion care service users who have had abortions and are religious have felt intimidated by anti-abortion activity. There are two reasons given for this; firstly, service users may be religious and have felt that they may be identified by individuals choosing to engage in anti-abortion activity which may result in negative consequences for them. Secondly, service users have felt an increased level of distress based on the perceived judgment they feel from individuals engaging in anti-abortion activities who are of the same faith group. As one respondent to the consultation noted:

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<sup>37</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#) Page 28

<sup>38</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#) Page 65

“In Edinburgh I was accompanying a then 17 year old from Dublin - a cousin. She was terrified. She told her parents she was coming to see me to think about university options in the UK, and so chose a clinic in Edinburgh so we could also get some photos of her around uni buildings etc as ‘proof’ this is what we’d been doing. We arrived at the clinic and there were 5 middle aged men outside. All 5 of them had disgusting placards supposedly depicting fetuses and were attempting to hand out flyers to passersby - which, sadly, included us. I was able to shield her from them but she could still hear them shouting that she was a murder, telling her she’d regret it for the rest of her life, that the baby would haunt her and she’d go to hell. She didn’t want to have an abortion. Part of her did believe that abortion is murder because this is how her parents brought her up. It was a huge, huge thing for her to contact me, ask me to pay for a flight and a hotel, and accompany her. But she did it, because she knew it was the right choice for her.”<sup>39</sup>

Finally, for those considering abortion and whose own faith or religion can make the impact of anti-abortion activity more significant, the Bill will have a positive impact by preventing behaviours from occurring within safe access zones.

## **Recommendations and Conclusions**

The Scottish Government has assessed the potential impact of the provisions contained within the Bill on equal opportunities and has determined that they do not unlawfully directly discriminate with respect to any of the protected characteristics (including age, disability, sex, pregnancy and maternity, gender reassignment, sexual orientation, race, religion or belief, marriage, or civil partnership).

However, the evidence collected during the development of the Bill points to a tension between service users rights to access healthcare free from unwanted influence, intimidation, and harassment, versus the rights of individuals who choose to participate in anti-abortion activity outside of premises that provide abortion services.

This tension cannot be wholly resolved, and it is acknowledged that there will be a limited negative impact on those whose faith or religion plays a part in whether or how they participate in anti-abortion activities. Nonetheless, those using and providing abortion services have a right to access premises providing abortion services without fear or harassment, and the Bill will protect these rights through the establishment of safe access zones.

The Bill may have a negative impact on individuals who, for religious reasons, take part in anti-abortion activity outside of premises that provide abortion services, however, and as outlined above, the Scottish Government’s position is that there are mitigations in place to ensure that the restrictions apply in clearly defined areas. As set out in greater detail in the Policy Memorandum, the aim of the Bill is not to prevent the expression of opposition to the provision of abortion services or restrict the expression of religious views on abortion. It is only to prevent their expression in limited areas to the extent necessary to achieve the overarching aims of the legislation. The Bill creates areas where activities are restricted and subject to

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<sup>39</sup> [buffer-zone-consultation-summary.pdf \(parliament.scot\)](#) Page 13



criminal sanction. It does not prohibit all protests and does not remove the ability to protest or make known views on abortion. It creates safe access zones which will encompass the premises providing abortion services, the attaching grounds if there are any, and a zone of 200m (also the public area) extending in all directions from the edge of the protected premises. The zones are designed to ensure that service users and providers are adequately protected by anti-abortion activity from occurring outside of premises providing abortion services whilst not being unduly restrictive on those who choose to participate in anti-abortion activity. By prohibiting anti-abortion activity only within the confines of safe access zones, the Bill aims to ensure that the rights of those to engage in anti-abortion activities is only limited when balanced against the rights of services users and providers to access and provide services. This limited infringement on the rights of individuals is not targeted at age or any other protected characteristic, but rather preventing harms which are associated with anti-abortion activities which take place outside of premises providing abortion services. The Scottish Government has identified that the Bill will positively impact people with protected characteristics other than religion which may be negatively impacted.

This conclusion is shared by others, such as the Scottish Human Rights Commission, which notes:

“The Commission considers that a restriction on protest at termination of pregnancy services is likely to have positive impacts for individuals seeking abortion or other sexual and reproductive healthcare provided in the same settings will have positive impacts for young people, disabled people, trans people, women, pregnant people and new mothers, women of colour and lesbian and bisexual women and men who attend these services, each of whom will benefit from increased privacy and the removal of a possibly coercive force as they attempt to access care”.<sup>40</sup>

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<sup>40</sup> [safe-access-abortion-services-scotland-bill-consultation-final-web-version.pdf](https://www.scottishhumanrights.com/wp-content/uploads/2022/07/safe-access-abortion-services-scotland-bill-consultation-final-web-version.pdf)  
([scottishhumanrights.com](https://www.scottishhumanrights.com))



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