

Abortion Services (Safe Access Zones) (Scotland) Bill

Guide to responding to the Scottish Parliament Health Committee's call for evidence

Following the successful introduction of Scottish Green MSP Gillian Mackay's Abortion Services (Safe Access Zones) (Scotland) Bill, it has progressed to Stage 1. During the Stage 1 process, the Scottish Parliament's Health, Social Care and Sport Committee are examining the Bill and gathering views.

The Committee has issued two calls for written evidence:

- A short survey, for people who want to provide general views and comments on the Bill overall
- A structured call for evidence for people who want to provide comments on individual provisions of the Bill

BPAS and Back Off Scotland have created a guide for organisations and individuals to respond to both calls for evidence and **would encourage everyone to complete the more detailed, structured call for evidence** as it will provide the committee with richer evidence.

It is important that anybody who has experience of, or opinions on, protests and 'vigils' taking place outside clinics and hospitals that provide abortion services submit their responses. This document provides a guide to responses and suggested content for specific questions.

You can find the consultation here –

<https://yourviews.parliament.scot/health/abortion-services-saz-bill/>

The deadline for written evidence is **Wednesday 20 December 2023**.

Structured call for evidence

This survey is open to individuals and organisations who wish to provide detailed comments on individual provisions in the Bill. These submissions will form part of the evidence base which the Committee will consider when making decisions relating to scrutiny of the Bill and will form part of the public record. You therefore can choose whether you would like to remain anonymous or not (your contact details will not be published either way).

Question 1: Do you agree with the purpose of the Bill?	
Yes	X
Partially	
No	
Don't know	



Question 2: Why do you support this bill? (Please tick all that apply)	
I believe that people should be able to access abortion services without harassment or intimidation	X
I am concerned about the human rights of people who access abortion services, and other services provided by these facilities	X
I have experienced harassment or intimidation whilst accessing abortion services	
I am a healthcare provider who has experienced harassment or intimidation from anti-abortion protestors	
I represent an organisation that supports people who access abortion	
Other (please provide more details in the box provided below)	X
<p>If you selected 'Other' please provide more details in the box provided below:</p> <ul style="list-style-type: none"> • I support this Bill because abortion is legal healthcare and women in Scotland should be able to access it without fear of intimidation and harassment. • The choice to have an abortion is personal, and we already know that all options are discussed between the patient and abortion provider during the consultation. • If any organisation wants to provide women with counselling, they should do so in a professional and regulated manner, not by the roadside outside the hospital. • This affects a huge amount of women across Scotland, not only will one in three women have an abortion during their lifetime, but national statistics show that 70% of these women live in a Scottish health board area that has been targeted by anti-choice groups in the past five years. • The widespread harm that these protests have is evident across society. Those affected include people accessing abortion care including women ending a pregnancy as a result of a serious or fatal foetal anomaly diagnosis, staff providing abortion care, patients attending a clinic or hospital who have previously had an abortion, patients attending a clinic or hospital – in some cases particularly maternity hospitals or sites where they may be experiencing a miscarriage or stillbirth, hospital staff, those living locally to the affected clinics and hospitals, and the general public. • Safe Access zones would stop activity taking place directly outside clinics and hospitals, but not have any impact on protests or activity anywhere else. They would apply equally to pro- and anti-choice groups, ensuring that abortion clients are not pressured as they access healthcare. • The Bill does not seek to stop anti-abortion protests or activity. We understand that people may oppose abortion but believe that the place to protest this should be done in a more appropriate location such as outside of the Scottish Parliament, and not a healthcare facility. 	

Question 3: Do you agree that the Safe Access Zone radius around protected premises should be set at 200 metres?	
Yes	X
No	



Don't know	
Please provide reasons for your answer using the box provided below:	
<ul style="list-style-type: none"> • The legislation must be national, and clear to make sure that those accessing abortion services can do so without running the risk of encountering intimidation or harassment. • Scoping work undertaken by BPAS and Back Off Scotland during 2022 showed that the original proposal of 150 metres is not sufficient to protect patients and staff at the Queen Elizabeth University Hospital in Glasgow. 150 metres from the perimeter of this site would leave a small area of pavement on Hardgate Road (which you have to travel down to access services) accessible to anti-abortion groups. • Therefore, I believe that in the interest of the Bill, the standard safe access zone must be extended to 200 metres to make sure that the aims of protecting all patients and staff nationwide are fulfilled. 	

Question 4: What is your view on the proposed processes within the Bill to extend or reduce Safe Access Zone distances around protected premises in the event that 200 metres is not appropriate?
Please provide your response in the box provided below:
<ul style="list-style-type: none"> • I am concerned about the extent of Section 8 of the Abortion Services (Safe Access Zones) (Scotland) Bill. • In Section 8 (1) it states that “<i>Scottish Ministers may reduce the distance between the edge of the protected premises and the boundary of the safe access zone for one or more protected premises if they consider it appropriate to do so</i>”. Unlike Section 7 (Extension of safe access zones), this power does not require the involvement of the abortion provider or consideration of the impact of the decision. • I feel that it undermines the purpose of the Bill to enable a Scottish Minister to reduce the size of a safe access zone below the area outlined in national law without any wider input, including from the premises being protected • I strongly support amendment of Section 8 to: <ul style="list-style-type: none"> ○ Reflect the provisions of Section 7 – including involvement of the abortion provider and consideration about whether a reduced zone would adequately protect patients and staff, and ○ Limit the ability of the Minister to reduce the size of a zone, so that no zone can be any less than 200m.

Question 5: Do you agree with the definition of “protected premises” outlined in the Bill and its accompanying documents?	
Yes	X
No	
Don't know	
Please provide reasons for your answer using the box provided below:	



- ‘Protected premises’ means a building that is, or that forms part of, a hospital at which abortion services are provided or place approved under the Abortion Act 1967. I believe that this is the correct definition, and support Section 10 of the proposed Bill which would give Scottish Ministers the power to modify the definition should any changes be made to where an abortion can be carried out.

Question 6: Do you feel that the penalty for offences related to the Bill is appropriate?

Yes	X
No	
Don't know	

Please provide reasons for your answer using the box provided below:

- I believe that a fine is the appropriate punishment for breaching a safe access zone
- This is the same punishment as legislation across the rest of the UK, so would be least likely to cause issues for any eventual legal challenge
- It is worth noting that this punishment is significantly below other comparable activity like breaching Non-Harassment Orders, so I would oppose any further reduction in the penalty.

Question 7: Do you feel the criminal offences created by the Bill are proportionate in terms of the activities they cover?

Yes	X
No	
Don't know	

Please provide reasons for your answer using the box provided below:

- The Supreme Court of the United Kingdom found that the similar law enacted in Northern Ireland in 2023 was both necessary and proportionate to the protection of women seeking to access legal abortion care.
- It is important to remember that the criminal offences here are not for just doing these things – but doing them immediately outside a premises which provides abortions. In terms of impact, it is not the same for somebody to stand outside Parliament and say that abortion is murder as it is to stand outside a clinic door and say the same. The activity is targeted to dissuade and deter women from accessing care, and criminalising it balances the rights of women with those of protesters.
- It is essential that the criminal offences remain – reducing the offence to something like a Fixed Penalty Notice would place breaching a buffer zone to harass women accessing healthcare as akin to a speeding fine, which would be inappropriate and not reflect the levels of harm caused by this activity

Question 8: What are your views on the impact of the Bill upon the rights enshrined under Articles 8, 9, 10, and 11 of the European Convention of Human Rights?

Please provide your views in the box provided below:

- Article 8: Currently, existing law in Scotland does not adequately cover clinic-based harassment, or the negative impact that it has on women. It is a combination of content and context which is unlike any other form of targeted street harassment. The targets of this harassment – women accessing abortion care – should be entitled to access legal, confidential healthcare services under Article 8.
- Articles 9, 10, and 11: This Bill does not seek to limit or change the views of any individuals or groups partaking in anti-abortion vigils outside medical facilities. Supporters of the Bill understand that people may oppose abortion but believe that the place to protest this should be done in a more appropriate location such as outside of the Scottish Parliament, and not a healthcare facility.
- Articles 9, 10, and 11 are all qualified rights – they can be limited to protect the rights of others. This clause balances the rights of people who oppose abortion with the rights of women to access healthcare confidentially and free from harassment and intimidation. This was seen in action in 2022 when the UK Supreme Court found that “*the [Abortion Services (Safe Access Zones) (Northern Ireland) Bill] only prevents anti-abortion protestors from exercising their rights under articles 9, 10, and 11 of the Convention within the designated safe zones*” but that “*they are free to protest anywhere else they please*”.

Question 9: Do you think that the Bill’s intended policy outcomes could be achieved through another means, such as existing legislation?

Please provide your views in the box provided below:

- Anti-abortion harassment outside abortion facilities has been recorded in Scotland since the 1990s. Despite efforts from local councils, providers, and the police, no existing law has been successful in stopping this activity and protecting women.
- The most relevant other option would be the use of local council byelaws to create local safe access zones, but they would only apply to individual clinics and hospitals; would create a patchwork of protection; would place the onus on local authorities to take action and pay to defend their actions in court; have to be approved individually by ministers; and would have to be renewed every 10 years.
- Similar measures are possible in England, but of the 42 clinics affected, only five have a local order in place – 5 years after the first one was introduced. The fear of legal challenge meant that in one area, more than 500 women reported harassment, alarm, and distress to their local council and no action was taken for more than four years because the council claims this doesn’t meet the ‘evidentiary threshold’ for a Safe Access zone.
- New legislation is needed to move these groups away from the clinic gate and to preserve the rights of women to access legal, essential healthcare.
- It is important that all hospitals, clinics, and sites that provide abortion care are treated equally and have a safe access zone in place – otherwise women in



Scotland will be subject to patchwork protections where pro-active health boards such as Glasgow or Lothian may protect women, but women in health boards like Grampian where the Chief Executive has claimed there is no impact on patient would continue to have to deal with this harassment

Question 10: Do you have any further comments about the Bill?

Please provide your response in the box below:

- Please add in anything you feel has not been covered that reflects your views or experiences.

Short survey

This survey is open to individuals who wish to provide a short response of their views on the Bill overall. Individual responses to the short survey will not be published. Instead, a summary of responses will be published.

Question 1: Do you agree with the purpose of the Bill?

Yes	X
Partially	
No	
Don't know	

Question 2: Why do you support this bill? (Please tick all that apply)

I believe that people should be able to access abortion services without harassment or intimidation	X
I am concerned about the human rights of people who access abortion services, and other services provided by these facilities	X
I have experienced harassment or intimidation whilst accessing abortion services	
I am a healthcare provider who has experienced harassment or intimidation from anti-abortion protestors	
Other (please provide more details in the box provided below)	X

If you selected 'Other' please provide more details in the box provided below:

- I support this Bill because abortion is legal healthcare and women in Scotland should be able to access it without fear of intimidation and harassment.



- The choice to have an abortion is personal, and we already know that all options are discussed between the patient and abortion provider during the consultation.
- If any organisation wants to provide women with counselling, they should do so in a professional and regulated manner, not by the roadside outside the hospital.
- This affects a huge amount of women across Scotland, not only will one in three women have an abortion during their lifetime, but national statistics show that 70% of these women live in a Scottish health board area that has been targeted by anti-choice groups in the past five years.
- The widespread harm that these protests have is evident across society. Those affected include people accessing abortion care including women ending a pregnancy as a result of a serious or fatal foetal anomaly diagnosis, staff providing abortion care, patients attending a clinic or hospital who have previously had an abortion, patients attending a clinic or hospital – in some cases particularly maternity hospitals or sites where they may be experiencing a miscarriage or stillbirth, hospital staff, those living locally to the affected clinics and hospitals, and the general public.
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Question 3: Do you agree that the Safe Access Zone radius around protected premises should be set at 200 metres?	
Yes	X
No	
Don't know	
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Question 4: Do you think the offences in the Bill are proportionate?	
Yes	X
No	
Don't know	
<p>Please provide further details about your response in the box provided:</p> <ul style="list-style-type: none"> • The Supreme Court of the United Kingdom found that the similar law enacted in Northern Ireland in 2023 was both necessary and proportionate to the protection of women seeking to access legal abortion care. • It is important to remember that the criminal offences here are not for just doing these things – but doing them immediately outside a premises which provides abortions. In terms of impact, it is not the same for somebody to stand outside Parliament and say that abortion is murder as it is to stand outside a clinic door and say the same. The activity is targeted to dissuade and deter women from accessing care, and criminalising it balances the rights of women with those of protesters. • I believe that a fine is the appropriate punishment for breaching a safe access zone • This is the same punishment as legislation across the rest of the UK, so would be least likely to cause issues for any eventual legal challenge 	

Question 5: Do you have any further comments about the Bill?
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