**ARC’s statement opposing amendment NC41 to the Criminal Justice Bill**

Antenatal Results and Choices (ARC) is a UK-wide charity with over 35 years’ experience of supporting expectant parents when they receive news in pregnancy that their baby is not developing as expected. ARC provides impartial information and support when they face painful decisions about the future of the pregnancy.

Over the years, ARC has worked with thousands of parents who make the heartrending decision to end their (most often much wanted) pregnancy because of scan findings or genetic test results. Including those whose terminations take place after 24 weeks gestation.

Alongside our support for parents, we work in close partnership with clinicians in the field, providing training and support to help ensure they are equipped to provide optimal care through antenatal screening and its consequences.

**Our expertise and long experience tell us that amendment NC41, put down by Sir Liam Fox, must be rejected if put to a vote. We outline our reasons below.**

1. **The current legal situation for abortions post 24 weeks**

Abortions after 24 weeks are only sanctioned if a woman’s life is in danger or if the criteria of what is commonly known as ‘Ground E’ of the Abortion Act are met.

The wording of Ground E reflects the outdated and insensitive terminology of nearly 70 years ago when the law was drafted. It states that there is no gestational time limit to an abortion if two doctors agree that a finding/diagnosis represents *‘substantial risk’* that, if born, a child would be *‘seriously handicapped’.* Neither phrase is defined, which allows doctors to make case by case decisions.

From feedback from parents and our work with doctors, we know doctors take their legal responsibility after 24 weeks very seriously. It doesn’t need saying that parents never take a third trimester termination lightly.

In 2021, there were 274 terminations under Ground E after 24 weeks. In 24 of these cases, Down’s syndrome is mentioned as a diagnosed condition. We cannot know what other serious findings were present in these 24 cases.

1. **Prenatal Diagnosis of Down’s syndrome**

In England and Wales, there is a standardised NHS antenatal screening programme for Down’s syndrome, Edwards’ syndrome and Patau’s syndrome. It is entirely optional. Those who choose to have screening are recommended to have the combined test (scan and blood draw) which is scheduled between 11 and 14 weeks of pregnancy. For those who miss this opportunity, the quadruple blood test is offered between 14 and 20 weeks. The timing of these tests means most diagnoses of Down’s syndrome are made before 24 weeks. However, sometimes there are indications seen at the mid pregnancy scan (around 20 weeks or sometimes later). Expectant parents will then be offered further testing. This can take them close to or beyond 24 weeks.

It is important to note that Down’s syndrome is a variable condition. Even if a conclusive prenatal diagnosis is made, it is impossible to accurately predict the implications for the child after birth. Sadly, Down’s syndrome increases the risk of miscarriage or stillbirth. The condition can also be associated with a number of very serious physical conditions, including heart defects and gastrointestinal issues.

1. **The setting of a precedent**

If NC41 were passed it would make Down’s syndrome the *only* condition for which a post 24-week termination is expressly prohibited. This will likely lead to calls for other conditions to be added to the ‘ban’ list: though it is difficult to see how this will be arbitrated.

Expert bodies, including the RCOG, have always opposed listing conditions which do or do not meet the criteria of Ground E as this would seriously impede carefully considered individual case by case assessments.

1. **Disability rights**

Antenatal screening and its consequences is a sensitive and ethically charged area of healthcare. Some people living with screened for conditions and their families are uncomfortable with the idea that one of the potential outcomes of the screening process is termination. While we must acknowledge this, (and ensure that screening is always framed in a way that is respectful to disabled people) it is not a reason for restricting reproductive choice.

The decision to terminate a wanted pregnancy after a diagnosis is never easy and is made within the individual life circumstances of the expectant parents involved. Expectant parents who go through this distressing experience include those who have other children with a disability or with a disability themselves.

Screening for Down’s syndrome has been available for more than thirty years, and in parallel there has been real progress in creating a more inclusive and accepting society to people living with disability, including Down’s syndrome (though of course more needs to be done). The two things are not mutually exclusive. There is no inherent conflict in supporting informed reproductive choice and supporting the rights of disabled people.

Contact:

Jane Fisher FRCOG

Chief Executive Officer

Antenatal Results and Choices

[jane@arc-uk.org](mailto:jane@arc-uk.org)

07875480076

*Note: the word ‘termination’ is preferred to ‘abortion’ when referring to the ending of a wanted pregnancy after a prenatal diagnosis.*