



HM Government

A new legal framework for abortion services in Northern Ireland

Implementation of the legal duty under section 9 of the Northern Ireland (Executive Formation etc) Act 2019

UK Government consultation response

March 2020

CONTENTS

Foreword by the Minister of State for Northern Ireland	3
UK Government response structure	5
Chapter 1 - Introduction	
1.1 Section 9 - Northern Ireland (Executive Formation etc) Act 2019 obligations.....	6
1.2 Background to the consultation.....	7
1.3 Consultation engagement.....	7
1.4 Analysis methodology.....	8
Chapter 2 - New framework for access to abortion services for Northern Ireland from 31 March 2020	10
Chapter 3 - Summary of consultation responses and UK Government response to each element of the framework	
3.1 Overview.....	13
3.2 Early terminations of pregnancy up to 12 weeks gestation.....	14
3.3 Gestations beyond 12 weeks.....	17
3.4 Fetal abnormality.....	19
3.5 Risk to the woman or girl's life or risk of grave permanent injury.....	22
3.6 Who can perform a termination of pregnancy.....	23
3.7 Where procedures can take place.....	25
3.8 Certificate of opinion.....	28
3.9 Notification requirements.....	30
3.10 Conscientious objection.....	32
3.11 Exclusion zones.....	34
3.12 Other issues covered in the Regulations.....	36
Chapter 4 - Additional matters raised in consultation responses	38
Chapter 5 - Implementation of the recommendations in the CEDAW Report ...	43
Chapter 6 - Supplementary information	
• Annex A - Northern Ireland (Executive Formation etc) Act 2019 - Section 9 provisions	47

Foreword by the Minister of State

The Northern Ireland (Executive Formation etc) Act 2019 (NI EF Act) received Royal Assent on 24 July 2019. Section 9 of the NI EF Act placed a duty on the UK Government to change the abortion law in Northern Ireland, if the Northern Ireland Executive was not restored by 21 October 2019. As this date passed without an Executive being established, the Government was required to fulfil its obligations under section 9 of the NI EF Act.

The Government understands the strength of feeling on this issue and we have always been clear that the best way of bringing forward reform in this area would have been for the Executive and Assembly to take this forward, in the best interests of Northern Ireland.

Following the restoration of the Executive and Assembly in Northern Ireland, the Government remains under a legal duty under section 9 of NI EF Act. We have been clear that we will deliver on our duty in a way that works best for Northern Ireland - which is why we consulted on the proposals for the new legislative framework. The consultation provided the opportunity for people in Northern Ireland and relevant organisations to properly provide input and views on how we can best deliver a proposed new legislative framework that is consistent with requirements under section 9 of the NI EF Act.

The Government appreciates the wide range of consultation responses received and we are extremely thankful to all individuals and organisations who took the time to respond. We also recognise that there are a wide range views on these sensitive policy issues, which we have carefully considered and sought to ensure are appropriately reflected in the Government's response to the consultation.

In considering the consultation responses, we have sought to balance the range of views against our legal obligations, and taken pragmatic decisions informed by evidence, in order to bring forward a new legislative framework that will be operationally sound, that works best for Northern Ireland and that delivers on the Government's duty.

Having considered the consultation responses, we remain committed to delivering on our NI EF Act duty, in accordance with the recommendations made in the United Nations Committee on the Elimination of Discrimination Against Women report, *Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW Report).

In bringing forward these commitments, our guiding principles for this framework are to uphold the protection of women and girls, the promotion of their health and safety, and the provision of clarity and certainty for the healthcare profession, while being

responsive and sensitive to the Northern Ireland Executive and Assembly being back up and running.

The Abortion (Northern Ireland) Regulations 2020 have been made and today laid in Parliament and will come into force on 31 March 2020 and become the law on access to abortion services in Northern Ireland.

The Department of Health in Northern Ireland will oversee the framework's delivery model and the operational readiness of services. The Government will continue to work closely with the relevant Northern Ireland departments to ensure that the legal provisions can also be accompanied by models of care, training, professional guidance and professional standards of practice to assist medical professionals.

**ROBIN WALKER MP
MINISTER OF STATE
NORTHERN IRELAND OFFICE**

UK Government response structure

This UK Government response to the consultation, '*A new legal framework for abortion services in Northern Ireland*', is structured as follows:

- **Chapter 1** outlines the background to the consultation. This includes the legal duty on the Government to change the abortion law in Northern Ireland, a summary of the consultation exercise, and some detail on the engagement we undertook during the consultation period.
- **Chapter 2** provides an overview of the new framework for access to abortion services in Northern Ireland.
- **Chapter 3** sets out a high level overview of the consultation analysis undertaken for each of the themes set out in the consultation.
- **Chapter 4** outlines additional matters raised by respondents that were not consulted on but that are relevant to operational and service delivery of the new legislative framework.
- **Chapter 5** sets out in full the legislative duty under section 9(1) of the NI EF Act, which requires that the recommendations in paragraphs 85 and 86 of the CEDAW Report are implemented in respect of Northern Ireland and how each of these are being taken forward.
- **Chapter 6** provides the following supplementary information:
 - **Annex A** - Section 9 of the Northern Ireland (Executive Formation etc) Act 2019.

CHAPTER 1 - INTRODUCTION

1.1 Section 9 - Northern Ireland (Executive Formation etc) Act 2019 obligations

The Northern Ireland (Executive Formation etc) Act 2019 (NI EF Act), which was passed by Parliament in July 2019, placed a duty on the UK Government to reform Northern Ireland's abortion law given the ongoing absence of devolved government.

Section 9 of the NI EF Act came into force on 22 October 2019 and has the following key components:

1. Firstly, it provided for decriminalisation of abortion through the repeal of sections 58 and 59 of the Offences Against the Person Act 1861 (OAPA), which came into effect on 22 October 2019. At this time a moratorium on abortion-related criminal prosecutions also came into effect, meaning that any police investigations or prosecutions currently underway at that time, in respect of an offence under sections 58 and 59 of the OAPA (regardless of when an offence may have been committed), will not be carried out, and no criminal proceedings may be brought or continued.
2. Secondly, it places the UK Government under a duty to make regulations to implement the recommendations in paragraphs 85 and 86 of the CEDAW Report. The regulations must come into force by 31 March 2020.

The recommendations in the CEDAW Report (set out in Chapter 5) do not mandate a specific legislative model. Rather, the CEDAW Report required abortion services to be decriminalised and provided as part of women's reproductive healthcare by developing a suitable legal framework and ensuring access to services, as least in the cases of:

- (i) Threat to the pregnant woman's physical or mental health, without conditionality of "long-term or permanent" effects;
- (ii) Rape and incest; and
- (iii) Severe fetal impairment, including fatal fetal abnormality, without perpetuating stereotypes towards persons with disabilities and ensuring appropriate and ongoing support, social and financial, for women who decide to carry such pregnancies to term.

The Report also sets out minimum standards on the provision of sexual and reproductive health rights and services and requires the adoption of evidence-based protocols to bring Northern Ireland into compliance with the rights contained within the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which the Government ratified in 1986.

1.2 Background to the consultation

On 4 November 2019, the then Secretary of State for Northern Ireland, the Rt Hon Julian Smith MP, launched a six-week public consultation, '*A new legal framework for abortion services in Northern Ireland*'. The consultation provided an opportunity for people and organisations in Northern Ireland to provide input and views on the question of how the Government can best deliver a framework that is consistent with the legal requirements under section 9 NI EF Act, being the implementation of the recommendations contained in the CEDAW Report.

The Government recognises the sensitivities surrounding the issue of access to abortion services in Northern Ireland, and the strongly held views on all sides of the debate in Northern Ireland. The Government has been clear that the UK Parliament has placed a legal duty on the Government to change abortion law in Northern Ireland, and develop a suitable framework that fulfils the Government's obligations under CEDAW and meets the legal duties imposed by section 9 of the NI EF Act. The consultation sought views addressing the specific issues outlined in the proposed new framework.

As the consultation document made clear, we were not seeking views on whether the Secretary of State should be exercising this duty in the first place, the ethics of the matter of abortion, nor the abortion framework in England, Scotland or Wales.

The consultation was conducted in line with the Cabinet Office consultation principles published in January 2016. A copy of the principles can be found at: www.gov.uk/government/publications/consultation-principles-guidance

It was also conducted in line with the Northern Ireland Office Equality Scheme which can be found at: www.gov.uk/government/publications/nio-equalityscheme

The consultation ran for 6 weeks and concluded on 16 December 2019. The consultation ended with over 21,000 responses received. A breakdown of the figures is captured in Chapter 3.

The Government appreciates the time that respondents, including a wide range of organisations, took to engage with this consultation and respond. We are particularly grateful to those who took the time to share individual, and often deeply personal experiences, to help shape the final framework for Northern Ireland.

1.3 Consultation engagement

In delivering on its duty to provide access to abortion services in Northern Ireland in line with CEDAW recommendations, the Government has been clear that we want to ensure we are doing this in a way that works best for Northern Ireland. This is why we consulted on the proposals for the new legislative framework.

In consulting on the proposals, Northern Ireland Office officials talked to a range of stakeholders. These groups include the Northern Ireland Department of Health, healthcare professionals, Royal Colleges, the all-Ireland church leaders group, abortion service providers, trade unions and civil society organisations. We also meet individuals with lived experience. This approach was consistent with the aims set out in the consultation document, which encouraged views to be submitted in response to these proposals, and in particular from those directly impacted by the current law and any proposed changes.

1.4 Analysis methodology

The consultation document was designed in a modular way, to allow respondents to focus on the areas of most interest or relevance to them. A questionnaire was included for respondents to consider when making their submissions, allowing them to answer 'yes' or 'no' to different legislative proposals. Respondents could also provide narrative submissions in free text boxes, further contextualising their opinions and providing personal experience and evidence to support their submission.

Respondents had the option to respond to the consultation via an online consultation platform, email or post. All responses were collated on the online consultation platform and allocated a unique reference number (URN) for data protection purposes.

Both quantitative and qualitative analysis was used, in line with Government best practice. Whilst the online consultation platform was able to generate numbers of yes/no responses to the questionnaire, each response was then manually analysed for qualitative views. Key opinions that emerged were noted via a series of 'tags' corresponding to major themes set out in the consultation and emerging issues arising from stakeholder engagement. This methodology helped to draw out useful themes emerging from the consultation and the reasons behind each of them.

We have taken the time to read and carefully consider each submission for analysis of views and opinions, noting the key messages and themes that emerged. Many additional issues were also helpfully raised, which are set out at the end of Chapter 4 of this document.

The CEDAW Report and recommendations require that evidence based protocols are adopted in terms of provision of services in Northern Ireland, so we have taken particular account of the views and evidence provided by experts and medical professionals, alongside the views of other respondents in making decisions on the final proposals.

Of all submissions received, 79% of those expressed a view registering their general opposition to any abortion provision in Northern Ireland beyond that which is currently permitted. These views were carefully assessed and noted, recognising the strength of feeling expressed by many. However, the Government remains under a legal obligation to introduce a framework in a way that implements the recommendations of the CEDAW Report. Where particular views have been expressed on operational and service delivery questions, they have been incorporated into the consultation analysis discussion in Chapter 3.

We have used a qualitative approach to the consultation analysis in Chapter 3, setting out the range of views expressed in response to each question, before explaining how the Government made its decision on each element of the framework.

CHAPTER 2 - ACCESS TO ABORTION SERVICES FOR NORTHERN IRELAND

A fundamental requirement of this framework is to ensure the provisions are in accordance with the recommendations made in the CEDAW Report and the clear duty under section 9 of the NI EF Act. Following analysis of the submissions received through the consultation process, the following guiding principles were also taken into account:

- Ensuring that the framework protects and promotes the health and safety of women and girls and provides clarity and certainty for the medical profession; and
- Being responsive and sensitive to the Northern Ireland Executive and Assembly being back up and running.

Decisions were also made on the basis that, where legally possible and whilst being responsive to the unique circumstances in Northern Ireland, the provisions do not stray too far from the abortion service model in England and Wales.

2.1 New framework for access to abortion services for Northern Ireland from 31 March 2020

The Regulations, coming into force by 31 March 2020, will make provision for:

1. **Early termination of pregnancy** - access without conditionality to abortion services up to 12 weeks gestation (11 weeks + 6 days).
2. **Termination of pregnancy up 24 weeks** - access to abortion services up to 24 weeks gestation (23 + 6 days) in cases where the continuance of the pregnancy would involve risk of injury to the physical or mental health of the pregnant woman or girl, greater than the risk of terminating the pregnancy.
3. **Fetal abnormality** - access to abortion services in cases of severe fetal impairment (SFI) and fatal fetal abnormalities (FFA) with no gestational time limit. This is where there is a substantial risk that the condition of the fetus is such that the death of the fetus is likely before, during or shortly after birth; or if the child were born, it would suffer from such physical or mental impairment as to be seriously disabled.
4. **Risk to the woman or girl's life or risk of grave permanent injury** - access to abortion services with no gestational time limit where there is a risk to the life of the woman or girl, greater than if the pregnancy were terminated, or where necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman or girl, including in cases of immediate

necessity.

5. **Who can perform a termination** - a registered medical practitioner licenced by the General Medical Council (a doctor), a registered nurse or a registered midwife will be able to perform a termination – referred to collectively as ‘medical professionals’.
6. **Where procedures can take place** - terminations to be carried out in General Practitioners premises, clinics provided by a Health and Social Care (HSC) trust, and HSC hospitals, operating under the overall Northern Ireland HSC framework and women’s homes where the second stage of early medical terminations may be carried out. The Regulations also provide a power for the Northern Ireland Health Minister to be able to approve further places where medical abortion can be performed, with the power being able to be exercised at any point in time.
7. **Certification of opinion** - a certification process for all terminations in Northern Ireland. In relation to terminations carried out with no conditionality before 12 weeks gestation (or in a case of immediate necessity where there is a risk to the life of the woman or girl) the certificate will be signed by one medical professional certifying in good faith that the pregnancy has not exceeded 12 weeks gestation or that the termination is immediately necessary. For terminations on other grounds under the Regulations the certificate will be signed by two medical professionals certifying in good faith that one of the grounds has been met.
8. **Notification requirements** - a duty on the medical professional to give notice of the termination and submit this with relevant data, specified in the Regulations, to the Chief Medical Officer at the Northern Ireland Department of Health. The Department of Health in Northern Ireland will then be responsible for annual publication of relevant data.
9. **Conscientious objection** - This framework for Northern Ireland will mirror the same statutory protection as under the Abortion Act 1967, meaning no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by the Regulations to which the person has a conscientious objection. The only exception will be where the participation in treatment is necessary to save the life or to prevent grave permanent injury to the physical or mental health of a pregnant woman or girl.
10. **Sanctions** - The Regulations impose sanctions for terminating a pregnancy other than in accordance with the Regulations, with a failure to comply with the requirements will be a criminal offence punishable with a level five fine (up

to £5000 in Northern Ireland). An intentional failure to comply with certification and notification requirements will be a criminal offence punishable with a level four fine (up to £2500 in Northern Ireland).

Other criminal laws will continue to apply, including section 25 of the Criminal Justice Act (Northern Ireland) 1945, but this will be disapplied to the Regulations and will not apply to the pregnant woman or girl or the medical professional acting in good faith within the Regulations.

CHAPTER 3 - SUMMARY OF CONSULTATION RESPONSES AND GOVERNMENT RESPONSE ON EACH ELEMENT OF THE FRAMEWORK

3.1 Overview

This chapter provides an overview of the key views submitted by respondents to the consultation. It is important to note that views gathered through a public consultation are not intended to be representative of the opinions of the wider population; rather, they are the views of people who were aware of the consultation, have an interest in the subject matter, and chose to take part. The approach to the analysis took account of the range of responses received and the varied material submitted, using a robust thematic framework based on, but not constrained by, the consultation questionnaire.

As the health and safety of women and girls, and certainty and clarity for the medical profession, are guiding principles for this work, we particularly reflected on the information provided from respondents with experience or expertise in terms of operational workability and proper access to services on the ground in Northern Ireland.

This was made clear in the consultation document, where we noted that we would particularly welcome views from those directly impacted by the current law and any proposed changes, including organisations representing those affected by these issues, including healthcare professionals, royal medical colleges and independent sector abortion providers.

We thank all individuals and organisations who have taken the time to submit their views, particularly the respondents who engaged directly with the consultation questions and provided supporting evidence to guide the delivery of the regulations.

Submissions received

We received 21,244 responses to the consultation in total. These came to us via post (862), email (12,734), and through the online consultation portal (7,648). The responses received can be broken down into the following broad categories, with estimated totals attributed to each:

- 161 responses from organisations, including 13 responses from the medical sector
- 7,006 responses from individuals
- 14,077 responses affiliated to an individual campaign.

For analysis purposes, responses affiliated to a campaign were recorded as individual responses and were analysed in the same manner as all other responses,

while noting the volume of views and opinions expressed. The following sections summarise the views and opinions received in response to the consultation. In order to efficiently summarise the responses received, this chapter broadly duplicates the modular design of the consultation paper, using the questions asked in the relevant sections as a framework. We have included a separate summary of any additional opinions and views which were expressed in the range of submissions to the consultation that do not clearly fall within the legislative framework in Chapter 4.

3.2 Early terminations of pregnancy

Consultation proposals

The consultation sought views on whether abortions should be permitted in early pregnancy up to 12 or 14 weeks gestation, without conditionality. The CEDAW Report and the recommendations in paragraph 85 require that the Government:

‘adopts legislation to provide for expanded grounds to legalise abortion in at least the following cases:

- i) Threat to the pregnant woman’s physical or mental health, without conditionality of “long-term or permanent” effects’;
- ii) Rape and incest;
- iii) Severe fatal impairment, including fatal fetal abnormality, without perpetuating stereotypes towards persons with disabilities, and ensuring appropriate and ongoing support (social and financial) for women who decide to carry such pregnancies to term.’

The CEDAW Report does not recommend gestational time limits in relation to these requirements but leaves the question of time limits open to the State to determine, premised on ensuring access to services for women and girls in at least the circumstances set out above. The CEDAW Report focusses on decriminalising abortion services and emphasises that access to services should be provided in the context of wider sexual and reproductive healthcare.

As a result of the repeal of sections 58 and 59 of the OAPA, abortion is lawful in Northern Ireland without conditionality (except for late term abortion to which section 25 of the Criminal Justice Act (Northern Ireland) 1945 would apply). From a starting point that abortion is lawful, this framework seeks to regulate in a way which is appropriate to add safeguards and give certainty to healthcare professionals whilst also ensuring that the minimum requirements under CEDAW are met.

The gestational limits of 12 and 14 weeks for abortion without conditionality were included on the basis that 12 weeks typically represents the end of the first trimester, and in England and Wales 90% of abortions are performed within this timeframe. A

12 week gestational limit would be consistent with provision without conditionality in the Republic of Ireland; and a 14 week gestational limit was also considered given this has recently been adopted by the Isle of Man.

The consultation acknowledged that in cases of sexual crime, women and girls are extremely vulnerable, and that we wanted to avoid building a system that could lead to further trauma or act as a barrier to access for victims of sexual crime which would, in the Government's view, be a breach of the CEDAW requirements.

In England and Wales there are specified grounds which must be met for a termination of pregnancy to be lawful in a context where sections 58 and 59 of the OAPA apply. The Abortion Act 1967 specifies the grounds under which abortions can be legally performed and two doctors must certify that these are met. In England and Wales, 98% of abortions fall within section 1(1) (a) of the Abortion Act 1967, namely that the "pregnancy has not exceeded its twenty-fourth week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the pregnant woman or girl or any existing children of her family".

The consultation asked the following:

Question 1: Should the gestational limit for early terminations of pregnancy be:

1a: Up to 12 weeks gestation (11 weeks + 6 days)?

1b: Up to 14 weeks gestation (13 weeks + 6 days)?

Consultation responses

This was an area in the consultation where neither side of the debate was supportive of either proposed gestational limit (12 or 14 weeks). The majority of respondents registered their general opposition to this provision. Though it is important to note that this opposition was for two very different reasons. Some organisations, including some professional medical bodies, strongly advocated for unrestricted abortion without conditionality up to 24 weeks gestation, whilst others expressed the view that the proposals had gone too far.

Those who opposed reform to abortion law overall went on to comment that, if the reform was to be delivered in Northern Ireland, then to provide unconditional access up to 12 or 14 weeks would lead in practice to abortions 'on request' up to 12 or 14

weeks for any women and girls, and that this goes beyond CEDAW requirements in terms of access on the grounds of rape and incest. Many preferred to see a specific system built around reporting a sexual crime, or lowering the gestational limit to 8-10 weeks gestation.

Those supporting overall reform of abortion law in Northern Ireland, including some professional medical bodies, opposed unconditional access up to 12 or 14 weeks and instead strongly advocated for unrestricted access to abortion services without conditionality up to 24 weeks gestation. This was on the basis that CEDAW requires the adoption of evidence-based protocols and that a restriction of 12 or 14 weeks would contravene this recommendation. They also expressed the view that limiting abortion without conditionality to 12 or 14 weeks could be inconsistent with the intended aim of protecting women and girls who have been the victim of a sexual crime as victims may present at later gestations. Many consultees also referred to the statutory duty to report a crime as being a particular barrier for victims of a sexual crime. Others expressed the view that a 12 or 14 week limit would create particular barriers to access in Northern Ireland for marginalised and vulnerable groups.

Government response

This framework for Northern Ireland will allow for access without conditionality to abortion services up to 12 weeks gestation (11 weeks + 6 days).

The decision has been made to provide access to abortion services without any conditions up to 12 weeks to allow access for victims of sexual crime (i.e. rape and incest). We judge that this provision is proportionate and appropriate in order to avoid building a system that could lead to further trauma for victims of rape or incest or act as a barrier to access for victims of sexual crime. A barrier to access would, in the Government's view, be a breach of the CEDAW requirements.

The decision of 12 weeks gestation is also based on global evidence that termination rates are not higher when there are fewer legal restrictions. Introducing a framework which creates barriers to access is unlikely to reduce the rate of terminations, but would rather be likely to lead to women buying abortion pills online, unlawfully, with attendant health risks, rather than accessing safe services.

Based on current data, 86% of the abortions currently accessed by residents of Northern Ireland in England under the Abortion Act 1967, take place prior to 12 weeks gestation and would be covered by this limit. For abortions beyond 12 weeks, the legal framework will allow abortions on very similar grounds to England and Wales up to 24 weeks gestation, including risk to physical or mental health.

We consider this approach will ensure that women resident in Northern Ireland will have access to abortion without conditionality in the vast majority of cases and this ensures compliance with CEDAW requirements. This is appropriate given that the

position in Northern Ireland, following repeal of sections 58 and 59 of the OAPA, is that abortion early in pregnancy is lawful.

For abortions performed up to 12 weeks without conditionality, the process of either surgical or medical abortion must have commenced on or before 11 weeks and six days gestation. For medical abortion, this refers to when the Mifepristone is taken, the second stage of the procedure can be completed beyond 11 weeks and six days. In addition, in the case of incomplete or failed abortion the process can be completed as an abortion performed without conditionality and a separate certification process does not need to occur.

3.3 Gestations beyond 12 weeks

Consultation proposals

In its recommendation to provide access to abortion services, including in cases of a 'threat to the pregnant woman or girl's physical or mental health, without conditionality of "long-term or permanent" effects', the CEDAW Report does not make specific recommendations as to what gestational time limits should be. As such, it leaves discretion on the State party (the UK Government here) to determine an appropriate framework.

The issue of abortion time limits is highly sensitive, and the Government has not traditionally taken a view on how these should be set. The consultation also acknowledged that women and girls seek abortions at gestations beyond 12 weeks for a number of reasons including where the woman or girl has experienced a significant change in circumstances.

In England and Wales, abortion is lawful up to 24 weeks gestation (23 weeks + 6 days) where continuing the pregnancy would involve risk, greater than if the pregnancy was terminated, of injury to the physical or mental health of the pregnant woman or girl, or any existing children of her family.

Therefore, in deciding what term limit to apply, a careful balance is required in considering the health of and access to services by women and girls, what may be appropriate from a service delivery perspective in Northern Ireland and ensuring that proper access is delivered on the ground consistent with term limits in GB to prevent women having to continue to travel to access services in England, Scotland and Wales.

We therefore asked:

Question 3: Should the gestational time limit in circumstances where the continuance of the pregnancy would cause risk of injury to the physical or mental health of the pregnant woman or girl, or any existing children or her family, greater than the risk of terminating the pregnancy, be:

3a: 22 weeks gestation (21+ 6 days)?

3b: 24 weeks gestation (23 + 6 days)?

Consultation responses

Many respondents were opposed to any gestational limit beyond 12 weeks, regardless of the grounds. In contrast, other groups supported the 24 weeks gestational limit (in line with England and Wales) however many organisations, including some professional medical bodies, have strongly advocated for unrestricted abortion without conditionality up to 24 weeks gestation.

Those supporting reform, including many healthcare providers and women's groups, argued that the gestational limit should be up to 24 weeks to be consistent with the rest of the UK and to reflect medical opinion about viability. Respondents noted that whilst there are rare cases of a child being born alive from 22 weeks, the survival rates are low and risk of long-term medical complications high in such children, with data indicating that around half of babies born at 24 weeks survive. Many respondents also argued that CEDAW imposes a low threshold to the risk to mental or physical health, and that a woman or girl's wellbeing should also be a factor that healthcare professionals consider to avoid the risk of inconsistent interpretation, particularly around mental health issues.

Other respondents expressed opposition to any gestational limit beyond 12 weeks on health grounds, and noted that later terminations should only be provided on grounds of risk to the life of the woman or girl. Some commented that if abortions are to be allowed on these grounds, the threshold should be tightened by ensuring that doctors in the relevant speciality assess the woman or girl before the termination is carried out. Further, many respondents suggested that there should be better support services available for women and girls in making an informed choice.

Government response

This framework for Northern Ireland will allow for access to abortion services up to 24 weeks gestation (23 weeks + 6 days) in cases where the continuance of the pregnancy would involve risk of injury to the physical or mental health of the pregnant woman or girl, greater than the risk of terminating the pregnancy.

This is where two medical professionals make a determination in good faith that the continuance of the pregnancy would involve risk of injury to the physical or mental health of the pregnant woman or girl, greater than the risk of terminating the pregnancy. No diagnosis of a prescribed mental health condition is required in order to access the risk to mental health ground.

This decision means that the provision for Northern Ireland will be similar to the law in England and Wales under the Abortion Act 1967. We considered that if the gestational limit in Northern Ireland was set any lower than 24 weeks, women and girls would continue to travel to England for abortions. This decision is also consistent with the standard medical threshold of viability of the fetus, which is recognised as 24 weeks.

As set out above, it is considered that this approach ensures that the requirement in the CEDAW Report to make abortion services available to women in cases where there is a threat to the pregnant woman or girl's physical or mental health greater than if the pregnancy is terminated is met. This provision will also include victims of sexual crime, if continuing the pregnancy would cause injury to the physical or mental health greater than an abortion.

In practice, In England and Wales, only 8% (17,913 of 200,608) of abortions are performed beyond 12 weeks gestation and we would anticipate the position to be similar in Northern Ireland.

3.4 Fetal abnormality

Consultation proposals

It is acknowledged that any diagnosis or identified risk of a severe fetal impairment (SFI) or fatal fetal abnormality (FFA) in a wanted pregnancy is highly traumatic for the woman or girl concerned and her family, and legislating in this area is a very sensitive issue. Women, girls and families need considerable support in considering all of the options open to them. The CEDAW Report recommends that expanded grounds to legalise abortion are provided for in the case of:

'severe fetal impairment, including fatal fetal abnormality, without perpetuating stereotypes towards persons with disabilities and ensuring appropriate and

ongoing support, social and financial, for women who decide to carry such pregnancies to term’.

In England and Wales and Scotland, under the Abortion Act 1967, terminations for both SFI and FFA are lawful grounds for an abortion without time limit where two doctors agree that ‘there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities to be seriously handicapped’.

The majority of terminations for FFA and SFI take place before 24 weeks gestation: 91.3% were carried out before 24 weeks in England and Wales in 2018. However, a small number take place after 24 weeks for a number of reasons, including late detection of the abnormality, delays in accessing scanning or because some results may require further investigation.

The consultation therefore sought views on whether similar grounds for terminations for FFA and SFI should cover any stage of pregnancy in Northern Ireland. We asked:

Question 4: Should abortion without time limit be available for fetal abnormality where there is a substantial risk that:

4a: The fetus would die in utero (in the womb) or shortly after birth

4b: The fetus if born would suffer a severe impairment, including a mental or physical disability which is likely to significantly limit either the length or quality of the child’s life

Consultation responses

There were strongly held views on both sides of this debate; however, one clear area of consensus was around the need for adequate support services for pregnancies where a fetal abnormality or impairment is suspected or detected. Many respondents principally argued that aborting in such cases could risk perpetuating stereotypes of disability. The overarching view from respondents on the other side of the debate was that such decisions should be made by the pregnant woman or girl, with the appropriate support from her medical team.

There was consensus among most healthcare bodies, women’s groups and statutory bodies that access to abortion services should be permitted without time limit in both cases of SFI and FFA, and that decisions to terminate in these circumstances should be made by the pregnant woman or girl (along with the appropriate support). Many noted that some life-limiting conditions are diagnosed late in pregnancy and

therefore provision must be made for after 24 weeks, rather than women or girls having to suffer through carrying pregnancies to full term and the risks of serious complications if a fetus dies in utero.

Respondents also stated that screening tests routinely available in England and Wales which detect abnormalities at earlier gestations are not currently available in Northern Ireland, and there can be delays in accessing available screening tests at 20 weeks gestation.

Other respondents were opposed to allowing terminations under this ground without time limit, particularly in relation to severe impairment where the fetus may be capable of being born alive, arguing that allowing abortions in such cases risks perpetuating stereotypes of disability by implying that such conditions are incompatible with a good quality of life. Some also noted the Supreme Court's comments in June 2018¹ that a majority did not reach agreement that failing to provide for abortion in cases of SFI amounted to a breach of Article 8 (right to respect for private and family life) of the European Convention of Human Rights (ECHR), only that the absence of abortion on grounds of FFA was incompatible with Article 8; and also pointed to findings the Northern Ireland Working Group Report on Fatal Fetal Abnormalities, published in April 2018.²

Many respondents noted that women and girls should be provided with appropriate support and information on all their options to be able to make an informed choice either way, and that better funding should be provided to improve the screening tests available in Northern Ireland.

Government response

This framework for Northern Ireland will allow for access to abortion services in cases of severe fetal impairment (SFI) and fatal fetal abnormalities (FFA) with no gestational time limit. This is where there is a substantial risk that the condition of the fetus is such that the death of the fetus is likely before, during or shortly after birth; or if the child were born, it would suffer from such physical or mental impairment as to be seriously disabled.

This decision complies with the specific duty on the Government to implement the CEDAW recommendation, which calls for provision of abortion services in cases of 'severe fetal impairment, including fatal fetal abnormality, without perpetuating stereotypes towards persons with disabilities and ensuring appropriate and ongoing support, social and financial, for women or girls who decide to carry such pregnancies to term'. The regime under the Abortion Act 1967, which provides a

¹ In the *matter of an application by the Northern Ireland Human Rights Commission for Judicial Review [2018] UKSC 27*.

² Though the terms of reference of the Working Group were limited to FFA, not SFI.

similar ground of access to abortion, is compliant with the international human rights framework.

This decision has also been made on the basis that it mirrors provision of services in England, Scotland and Wales, where abortion for SFI and FFA is available without time limit. We considered that if we created a different time limit for SFI in Northern Ireland, women and girls would effectively be left with no choice but to travel to other parts of the UK for a termination. It also ensures that women and girls have access to abortion until a late stage in pregnancy where invasive test results or screening may be delayed or there has been late presentation of an impairment.

The Government recognises the importance of counselling and other support services to support women and girls through these difficult decisions. This is a matter for the Department of Health to take forward as part of its commissioning of abortion as a new healthcare service.

3.5 Risk to the woman or girl's life or risk of grave permanent injury

Consultation proposals

We asked about access to abortion services in cases where the continuance of the pregnancy would involve risk to life or where it is necessary to prevent risk of grave or permanent injury.

Prior to 22 October 2019, the date from which access to abortion services was decriminalised in Northern Ireland by the repeal of sections 58 and 59 of the OAPA, case law had already established that it was lawful to perform an abortion in Northern Ireland where it was necessary to preserve the life of the woman or girl, or where there was a risk of real and serious adverse effect on the woman or girl's physical or mental health, which is either long term or permanent.³

In England, Scotland and Wales, abortion is also available without time limit in similar circumstances and can be performed in an emergency. In these circumstances, it will be certified by the operating practitioner as immediately necessary to save the life of the pregnant woman or girl, or to prevent grave permanent injury to the physical or mental health of the pregnant woman or girl.

In view of the above, we asked:

Question 5: Do you agree that provision should be made for abortion without gestational time limit where:

³ R v Bourne [1939] 1 KB 687 and subsequent cases.

5a: There is a risk to the life of the woman or girl greater than if the pregnancy were terminated?

5b: Termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman or girl?

Consultation responses

This provision was relatively uncontroversial, with respondents noting that in these exceptional circumstances they support a termination being available where required to save the life of the woman or girl or avert risk of grave permanent injury.

However, many noted that everything should also be done to attempt to save the life of the fetus. Some respondents also noted that the language could be amended to ensure greater objectivity in terms of the risk or threat to health, or that further clarity should be provided as to how these cases would be assessed to ensure the services are provided appropriately.

There was also a view expressed amongst many of the healthcare respondents that further training for healthcare professionals was needed, as well as pointing to the need to improve counselling services for before and after abortions, alongside signposting to other services as appropriate.

Government response

This framework for Northern Ireland will allow for access to abortion services with no gestational time limit where there is a risk to the life of the woman or girl, greater than if the pregnancy were terminated, or where necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman or girl, including in cases of immediate necessity.

This decision remains consistent with the limited circumstances in which abortions could be carried out in Northern Ireland before the NI EF Act changes where the doctor was 'operating for the purpose of preserving the life of the woman'. This provision is also the same basis as the provision in the Abortion Act 1967 and is therefore consistent with the legal position and practice across the rest of the UK.

3.6 Who can perform a termination of pregnancy?

Consultation proposals

Access to early medical abortion has had a significant impact on the way abortion services are provided in many countries, including Great Britain. Evidence shows

that, increasingly, abortions are provided through medical rather than surgical methods, at earlier gestations and there is generally multidisciplinary team involvement.

Under the Abortion Act 1967, abortions in England, Wales and Scotland can only be performed by a registered medical practitioner. For medical abortions, whilst it is recognised that multidisciplinary teams, including nurses and midwives, have a role to play in abortion care in England and Wales, it is the registered medical practitioner who initiates and takes responsibility throughout the abortion procedure.

In light of continued developments in multidisciplinary patient care, the consultation sought views on whether a medical doctor or any other registered healthcare professional (a registered nurse, or registered midwife) should be able to provide terminations. This was included in the consultation on the basis that, whilst the CEDAW Report is silent on this matter, this is an important issue for operational services. We therefore asked:

Question 6: Do you agree that a medical practitioner or any other registered healthcare professional should be able to provide terminations provided they are appropriately trained and competent to provide the treatment in accordance with their professional body's requirements and guidelines?

Consultation responses

A number of organisations that demonstrated support for reform, including healthcare professional bodies, strongly supported a multidisciplinary approach to abortion provision, highlighting developments in abortion service provision and patient care allowing for appropriately trained medical professionals, including nurses and midwives, to carry out procedures if they have the relevant professional competence and training. They also argued that allowing for a multidisciplinary team approach would make abortion services more accessible, particularly for those living in rural areas or for vulnerable women and girls, and this would therefore be the most appropriate model to meet Northern Ireland's specific needs.

Some respondents indicated that only registered medical practitioners (i.e. doctors, ideally in the area of obstetrics and gynaecology) should perform abortions to provide specialist patient care. Some respondents expressed concern around the perception that those that deal with birth, such as midwives, should not also have to perform terminations. There were also concerns around the strain providing abortions would put on staff that have not been traditionally trained in performing these procedures.

Government response

This framework for Northern Ireland will allow for a registered medical practitioner licenced by the General Medical Council (a doctor), a registered nurse or a registered midwife to be able to perform a termination – referred to collectively as ‘medical professionals’.

This decision has been made on the basis that it reflects the continued developments in patient care, with many nurses and midwives now taking on additional duties, in line with their professional competence, training and patient care.

3.7 Where procedures can take place

Consultation proposals

The CEDAW recommendations require the state to ‘provide women with access to high-quality abortion and post-abortion care in all public health facilities’, but do not make specific operational recommendations as to where abortion services should be provided.

With the expansion of early medical abortion, services in England are increasingly being provided in a wider range of settings approved by the Secretary of State for Health and Social Care. Unless performed in an emergency, in England, Scotland and Wales, the Abortion Act 1967 states that all abortions must take place in an NHS hospital or a place approved by the Secretary of State, which includes independent sector hospitals or clinics.⁴ At gestations beyond 10 weeks, women and girls are usually admitted as day cases. In relation to medical abortion beyond 10 weeks this will be for second stage treatment only (and in a small number of cases the woman or girl may need to stay overnight). The woman or girl will have received the first stage treatment 24 or 48 hours earlier at the same or a different medical facility). The consultation therefore provided an opportunity to seek views on how the services could be provided in a way that is the most appropriate model for Northern Ireland. It will be for Northern Ireland Commissioners to decide what the optimal model of care is for women and girls in Northern Ireland.

⁴ These premises must obtain the Secretary of State’s approval and agree to comply with the Required Standard Operating Procedures set out in the Procedures for the Approval of Independent Sector Places for the Termination of Pregnancy. In addition, in England, Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 provides that the termination of pregnancy is a regulated activity. All providers of regulated activities must be registered with the Care Quality Commission CQC and meet fundamental standards of quality and safety as set out in regulations.

We asked:

Question 7: Do you agree that the model of service delivery for Northern Ireland should provide for flexibility on where abortion procedures can take place and be able to be developed within Northern Ireland?

This section also sought views on provision for later stage terminations (after 22/24 weeks of gestation) and whether these should only be undertaken by health and social care providers within an acute sector hospital setting. This would be in line with provision in England where abortions beyond 23 weeks + 6 days gestation can only be undertaken in an NHS hospital reflecting the higher risk of complications for terminations at later gestations. We asked:

Question 8: Do you agree that terminations after 22/24 weeks should only be undertaken by health and social care providers within acute sector hospitals?

Consultation responses

The majority of responses from the medical sector and abortion care providers did not support restrictions on where abortion services can be provided. They argued that the question of where abortion services can be carried out is a commissioning matter for Northern Ireland, supported by medical regulation and oversight. It was also argued that a flexible service delivery model would enable practitioners, through changes in clinical guidance, to tailor practices to provide the safest and most effective medical care. Many recommended that any new model should follow current National Institute for Health and Care Excellence (NICE) clinical guidelines, and that abortion treatment and care should be integrated into existing sexual and reproductive healthcare services.

A large number of respondents also felt it essential that the legal framework should enable the Northern Ireland Department of Health to allow provision for the home use of abortion pills, allowing women and girls to take the second pill (in line with England and Wales and Scotland) at home at gestations up to 10 weeks. This flexibility would be particularly important in meeting the needs of vulnerable women and girls, such as those with disabilities, caring responsibilities, and in precarious working conditions.

Other respondents felt that adequate safeguarding measures, with robust oversight and certification processes, could only be provided in hospital settings. Respondents also cited concern that flexibility could lead to the expansion of private abortion providers, profiting from abortion services and not providing adequate safety measures.

Most respondents agreed that terminations after 22/24 weeks gestation should only be undertaken in acute sector hospitals, primarily in recognition that terminations at this stage carry a higher risk of health complications for the patient.

Government response

The framework will allow for terminations to be carried out in General Practitioners premises, clinics provided by a Health and Social Care (HSC) trust, and HSC hospitals, operating under the overall Northern Ireland HSC framework, and women's homes where the second stage of early medical terminations may be carried out. The Regulations will also provide a power for the Northern Ireland Health Minister to be able to approve further places where medical abortion can be performed, with the power being able to be exercised at any point in time.

This decision has been made on the basis that it allows for a healthcare service to be commissioned effectively in Northern Ireland that provides women and girls with the relevant patient and specialist care, facilities and appropriate support at different stages of gestation. It also provides the appropriate power for decisions to be taken by the Northern Ireland Health Minister to approve other premises where medical abortions can be performed, to respond to service needs and developments over time as the services are commissioned and embed into the health and social care setting in Northern Ireland.

We want to deliver a framework that can translate into an equitable and accessible service that responds to many of the operational challenges in providing new abortion services in Northern Ireland that have been highlighted. This includes, but is not limited to, rural inaccessibility, limited public transport outside of major cities, the centralisation of healthcare services across the region, high levels of women with caring responsibilities and long GP and hospital waiting lists. Therefore appropriate flexibility is being given to ensure the Department of Health can work with the Health and Social Care Board to commission appropriate services that meet the access needs of women and girls on the ground.

It is recognised that a significant majority of abortions are likely to be early medical abortions, performed pre-10 weeks gestation, and therefore to ensure accessibility across Northern Ireland, the settings will include those GP services that want to provide this new service and sexual and reproductive health clinics, provided by medical professionals who are professionally competent and willing to provide these

services. Abortions post-10 weeks gestation may be better suited to the HSC hospital setting, particularly at later gestations where specialist doctors are likely to be involved in the patient care.

3.8 Certificate of opinion

Consultation proposals

In England, Wales and Scotland, two doctors must certify that there are grounds for the termination as set out in the Abortion Act 1967. The certificate of opinion must be provided prior to the termination (unless in an emergency this is not reasonably practicable, in which case it should be completed no later than 24 hours after the procedure).

The consultation proposals considered placing a similar requirement on healthcare professionals in Northern Ireland to certify their opinion in good faith, as this may serve as a check that the grounds for abortion or gestation reached have been properly considered. However, in considering options for certificates required for terminations for both early and later stages of pregnancy, the consultation noted that a different approach may be required for Northern Ireland due to its specific circumstances.

With these considerations in mind, we sought views on whether certification is required in Northern Ireland. In relation to certifying early terminations (to confirm the pregnancy has not exceeded 12 or 14 weeks), we asked:

Question 2: Should a limited form of certification by a healthcare professional be required for early terminations of pregnancy?

In relation to later-stage terminations, we asked whether it would be appropriate to require a healthcare professional to certify that their opinion, formed in good faith, is that the grounds for termination have been met for their patient to have an abortion. We asked:

Question 9: Do you think that a process of certification by two healthcare professionals should be put in place for abortions after 12/14 weeks gestation in Northern Ireland?

Alternatively, do you think that a process of certification by only one healthcare professional is suitable in Northern Ireland for abortions after 12/14 weeks gestation?

Consultation responses

Many organisations, including some representing healthcare professionals, were opposed to any requirement for certification, on the basis that abortion services should be treated in the same manner as other healthcare, within the established system of healthcare regulation. There was concern that certification could potentially lead to stigmatisation for both those using and providing these services. Some respondents also expressed the view that there is no sound evidence to support that requiring certification would assist in improving the safety or quality of care provided. Of those opposed to certification requirements, it was suggested that, were the Government to implement the process, the preference was for one doctor due to the potential for refusal and conscientious objection, particularly in rural areas.

Others expressed views in support of certification, suggesting that it should always be undertaken by two doctors to ensure proper supervision and oversight of the legal grounds, and in order to ensure checks and balances of service provision.

Government response

This framework will put in place a certification process for all terminations in Northern Ireland. In relation to terminations carried out with no conditionality before 12 weeks gestation (or in a case of immediate necessity where there is a risk to the life of the woman or girl) the certificate will be signed by one medical professional certifying in good faith that the pregnancy has not exceeded 12 weeks gestation or that the termination is immediately necessary. For terminations on other grounds under the Regulations, the certificate will be signed by two medical professionals, certifying in good faith that one of the grounds has been met.

This decision has been made on the basis that while the recommendations of the CEDAW Report do not mandate specific action in this regard, we judge that this puts an additional operational and service delivery safeguard into the system.

In England and Wales, services have developed in such a way as to ensure that the certification process does not delay women in accessing treatment. In Northern Ireland, for gestations up to 12 weeks, certification by one medical professional will provide confidence that a clinical assessment of gestation, in line with the legal framework, has been undertaken. In cases of immediate necessity, one medical professional only will be required to certify.

For terminations carried out under one of the other grounds (up to 24 weeks where there is a risk to the physical or mental health of the woman or girl, or in cases of SFI or FFA), two medical professionals must certify in good faith that the grounds for an abortion have been met. In recognition of the increasing role of multi-disciplinary teams in abortion care the certification can also be provided by nurses and

midwives. This approach reflects that the framework includes specific grounds that have to be met for terminations, other than those before 12 weeks gestation. A certification process will provide confidence that proper consideration is being given by medical professionals to these grounds and provides additional support and safeguards for the medical professionals involved in the patient care.

Intentional failure to carry out the certification process will be a breach of the regulatory framework and, if convicted, the medical professional will be subject to a fine.

3.9 Notification requirements

Consultation proposals

We sought views on whether the new regulatory framework for abortion services in Northern Ireland should include a notification process to provide scrutiny of the services provided, as well as to ensure that data is available to provide transparency around access to services. This was on the basis that the CEDAW recommendations require the UK to ensure accessibility and affordability of sexual and reproductive health services, and to monitor compliance with international standards concerning access to these services, including access to safe abortion.

The consultation outlined that the statistical data collected through a notification system would:

- enable scrutiny of service development within Northern Ireland, including the numbers of abortions being performed, gestation weeks at which they are performed and characteristics of women and girls obtaining abortions; and
- need to be confidential and developed in a way that individual women and girls cannot be identified.

The Northern Ireland Department of Health already publishes a yearly report on the number of terminations of pregnancies at HSC trusts in Northern Ireland, detailed by HSC Trust of treatment, country of residence and age band. The Department's statisticians prepare the report by accessing patient activity data recorded by the HSC Trusts.

In considering the above factors, we asked:

Question 10: Do you consider a notification process should be put in place in Northern Ireland to provide scrutiny of the services provided, as well as ensuring data is available to provide transparency around access to services?

Consultation responses

There was general agreement from a large proportion of respondents that data should be collected on the provision of abortion services in order to monitor compliance with the legislation and to review how the framework and service provision is operating in Northern Ireland, to ensure that evidence-based policy decisions can be made over time.

Some respondents noted that as abortion is now decriminalised Northern Ireland, they considered notification would not be necessary, and that as with other healthcare services, any questions of data collection should be a matter for the relevant Health and Social Care Board. Some respondents argued that data collection should not be specified in the Regulations, and rather recommended that existing systems for collecting healthcare data in Northern Ireland should be utilised.

Government response

This framework for Northern Ireland will place a duty on the medical professional to give notice of the termination and submit this with relevant data, specified in the Regulations, to the Chief Medical Officer (CMO) at the Northern Ireland Department of Health. The Department of Health in Northern Ireland will then be responsible for annual publication of relevant data.

This decision was made on the basis that the notification process in England and Wales has been an essential tool in providing data to enable scrutiny of abortion services, and has been used to support service improvement, particularly in relation to providing abortions at earlier gestations. We want to ensure similar data is available to monitor and provide transparency as the services develop in Northern Ireland. Similar to England and Wales, in practice the CMO will delegate management and analysis of the data to named Department of Health officials. Once the new framework has been in force for a reasonable period, trend data will also be available to enable consideration of any operational issues, and so that this data can be used for surveillance and quality improvement purposes.

A notification system for abortion services will also implement the CEDAW Report's recommendations requiring the UK to monitor compliance with international standards concerning access to these services, including access to safe abortion.

We recognise the concerns raised that data must be collected and used in a way that ensures confidentiality for women accessing these services. The Regulations will contain provisions imposing restrictions on how the data can be used and disclosure otherwise than in accordance with the Regulations will be a criminal offence.

Concerns were also raised regarding the potential burden a notification system could place on the Northern Ireland healthcare system, and therefore we will not introduce

a formal requirement for a separate system to notify each termination. Instead, data collection will be an operational issue for the Department and the Commissioners of the new services to agree with healthcare providers. Data collection will take place in line with requirements under GDPR/Data Protection Act 2018.

Intentionally breaching the requirements for notification will be a criminal offence subject to a fine.

3.10 Conscientious objection

Consultation proposals

It is a long-established practice that medical practitioners and other healthcare professionals may opt out of certain duties on grounds of conscience. The consultation therefore sought views on whether the proposed conscientious objection provision should reflect the law in the rest of the UK under section 4 of the Abortion Act 1967. Section 4 covers participation in the whole course of treatment for the abortion, but not the associated ancillary, administrative or managerial tasks, other than treatment which is necessary to save the life of the woman or girl, or to prevent grave permanent injury to her physical or mental health. We also sought views on whether any further protections would be required in Northern Ireland.

We asked:

Question 11: Do you agree that the proposed conscientious objection provision should reflect practice in the rest of the United Kingdom, covering participation in the whole course of treatment for the abortion, but not associated ancillary, administrative or managerial tasks?

Question 12: Do you think any further protections or clarification regarding conscientious objection is required in the regulations?

Consultation responses

Whilst respondents on both sides of the debate generally agreed with providing a statutory conscientious objection provision for Northern Ireland medical professionals, there were differing views as to how strong these provisions should be.

Many organisations, including professional medical bodies, supported proposals for conscientious objection provisions to be consistent with practice in the rest of the UK, which they felt is sufficient and the parameters of which have been clearly identified by the courts. Some of those respondents noted that these provisions would strike a reasonable balance between allowing health professionals who do not

wish to provide these services to opt out, whilst still enabling proper service provision and patient care. Many of these respondents also stressed that the provisions would need to be implemented in a way that is supported by professional guidance and does not affect or restrict service delivery or lead to delays in accessing services for women or girls. Some of these respondents expressed concern that additional provisions may be too restrictive, particularly in emergency situations, pointing to the fact that all organisations are clear that conscientious objection should not apply in an emergency situation where there is a risk to life or health.

Some respondents noted that they would like to see a wider form of protection to include administrative and managerial tasks and that this should apply to any staff working in the place where terminations are being carried out. They argued that this would be a proper recognition of the right to freedom of thought, conscience and religion under ECHR. A few respondents also voiced concern that healthcare workers with a conscientious objection could face being discriminated against in the workplace without stronger protections, with some respondents particularly concerned that this could potentially leave some employees leaving their job, and that adequate protections and support should also be in place for these employees.

Government response

This framework for Northern Ireland will mirror the same statutory protection as under the Abortion Act 1967, meaning no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by the Regulations to which the person has a conscientious objection. The only exception will be where the participation in treatment is necessary to save the life or to prevent grave permanent injury to the physical or mental health of a pregnant woman or girl.

This puts in place statutory protection for conscientious objection in Northern Ireland, consistent with the approach taken across the rest of the UK (in section 4 of the Abortion Act 1967), ensuring that anyone can opt out of participation in treatment of abortion services to which they have a conscientious objection, but that this protection does not extend to the ancillary, administrative and managerial tasks that might be associated with that treatment.

The parameters set by the Supreme Court mean that the extent of conscientious objection is restricted to actually performing the tasks involved in the whole course of treatment bringing about the termination of the pregnancy, beginning with the administration of the drugs designed to induce labour and normally ending with the ending of the pregnancy by delivery of the fetus, placenta and membrane. People carrying out the host of ancillary, administrative and managerial tasks that might be associated with those acts do not have the same right to conscientious objection.

The Government considered that broadening the scope 'beyond the participation in treatment' would have consequences on a practical level and would therefore undermine the effective provision of abortion services in Northern Ireland. For example, fewer people providing ancillary services in relation to abortion could result in fewer appointments and longer waiting times, creating de facto barriers to access, and almost certainly adversely impacting the quality of care and standard of services. The Government is satisfied that the current scope of the conscientious objection provision in the Abortion Act 1967 works satisfactorily in practice, is human rights compliant, and is therefore appropriate to apply in Northern Ireland to the provision of abortion services.

3.11 Exclusion zones

Consultation responses

The consultation sought views on whether provision should be made for powers which allow for exclusion or safe zones to be put in place in Northern Ireland; and whether there should also be a power to designate separate zones where protests can take place under certain conditions.

This was on the basis that the CEDAW Report requires that the state 'protects women from harassment by anti-abortion protestors by investigating complaints, prosecuting and punishing perpetrators'. The Report also notes that access to legal abortion services in Northern Ireland has been impeded by the presence and actions of anti-abortion protestors stationed at entrances to public and private health facilities.

As set out in the consultation, in England and Wales the Anti-Social Behaviour Crime and Policing Act 2014 provides for Public Space Protection Orders (PSPOs). These have been used on a few occasions to prohibit protest and other activity outside clinics providing abortion services. However this Act does not extend to Northern Ireland, and there are no equivalent powers in Northern Ireland legislation.

The consultation also recognised that establishing any form of exclusion zone engages a number of ECHR rights, specifically under Article 8 (Right to respect for private and family life), Article 9 (Freedom of thought, conscience and religion), Article 10 (Freedom of expression) and Article 11 (Freedom of assembly and association). However, these are qualified rights which can be limited or restricted in accordance with the law and insofar as is necessary in a democratic society in pursuit of a legitimate aim.

In relation to access to abortion services, interference with Articles 9, 10 and 11 must be necessary and proportionate for the purpose of ensuring safe access to legal healthcare services and the protection and guarantee of women and girls' right to health, physical integrity, non-discrimination and privacy (Article 8) as they seek

healthcare information and services, free of harassment and intimidation amounting to obstruction of their access to that healthcare.

As such, the consultation sought views on whether a new power may be required in Northern Ireland to ensure that new services can be provided and accessed in a way that protects women and girls from facing protests and other activity by those opposed to abortion when accessing services. We asked:

Question 13: Do you agree that there should be provision for powers which allow for an exclusion or safe zone to be put in place?

Question 14: Do you consider there should also be a power to designate a separate zone where protest can take place under certain conditions?

Consultation responses

There was a strong feeling on both sides of the debate that no woman or girl should be subject to intimidation or harassment in these circumstances. There was also a general view amongst respondents that exclusion zones may not be the most effective response to protest, however a variety of reasons were put forward for this.

Respondents that expressed support for the proposed new powers cited a history of harassment outside of abortion clinics that reinforced stigma and distressed women and girls. Many of these respondents had first-hand experience of protests and intimidation. A number of organisations in support of exclusion zones noted that these would help to improve the healthcare experience for those requiring abortion services, with respondents including some professional healthcare bodies, noting these would be essential for the safety of patients and staff.

However, other organisations also raised concerns with proposed powers for exclusion zones, arguing that a separate zone would need constant enforcement, taking up police time and causing distress to women and girls that would need to pass through such zones.

Of those opposed to the proposal to include powers to establish exclusion zones, some respondents felt that the right to protest and freedom of expression would not be respected if such a power were included in legislation. A number of organisations felt that peaceful and responsible protest, within the bounds of the law, such as prayer, should not be curtailed.

Respondents also referenced the Home Office review in England that concluded that national buffer zones are a disproportionate response to abortion protest, and suggested that the same outlook is applied to Northern Ireland. However, some of these respondents stated that if an exclusion zone approach was adopted, then

separate zones for protest should be implemented to enable individuals to express their opinion.

Government response

This framework will not include any powers to establish exclusion zones in Northern Ireland. We will keep this matter under review once abortion services have been commissioned and operational in Northern Ireland for some time.

This decision has been made on the basis that services should be given time to embed so that service providers can assess any response required based on evidence and the Northern Ireland experience. The Government does not want to pre-empt situations that may arise, or ask that the relevant Northern Ireland departments exercise new powers.

The Government will keep the matter under review and continue, as appropriate, to liaise further with the relevant departments in Northern Ireland to consider the best approach to take following the introduction of service provision and respond to any challenges as needed at the time.

3.12 Other issues covered in the Regulations

The Regulations will impose sanctions for terminating a pregnancy other than in accordance with the Regulations, including failing to certify a termination.

An intentional failure to comply with the requirements in regulations 3-8 will be a criminal offence punishable with a level five fine (up to £5000 in Northern Ireland). An intentional failure to comply with the certification and notification requirements will be a criminal offence punishable with a level four fine (up to £2500 in Northern Ireland).

The offence will not apply to the pregnant woman or girl herself in respect of her own pregnancy, or to anyone acting in good faith to save the life of the woman or girl or preventing grave permanent injury to the woman or girl's health.

CEDAW required the "repeal of section 58 and 59 of the OAPA so that no criminal charges can be brought against women or girls who undergo abortion or against qualified healthcare professionals and all others who provide and assist in the abortion". These sections were repealed in Northern Ireland from 22 October 2019. This is interpreted to mean that no criminal charges can be brought in respect of a lawful abortion carried out in accordance with the framework implementing CEDAW, rather than abortions that may take place outside of those parameters.

The Regulations impose conditions which are required to be met in order for a lawful abortion to take place. It is unusual to put in place in legislation specific regulatory requirements that have to be complied with without any sanctions being applied for

breaches of those requirements. The CEDAW recommendations do not require unlimited access to abortion services. It is for the UK Government to set appropriate safeguards on the circumstances for provision of abortion services, and determine how these will be enforced. We therefore considered what type of sanction would be most proportionate and appropriate.

Responses to the consultation from most professional bodies, who raised sanctions and offences as an additional issue, were clear in their view that abortion services should be provided as part of a full reproductive healthcare service, based on clinical rather than any specific legal assessments. It was stressed that it is inappropriate for medical professionals working in this field to face a higher bar than the civil and criminal sanctions which already apply to healthcare professionals. This includes, for example, negligence or acting without patient consent and other criminal and medical legislation.

We recognise the concerns raised but consider that provision for a level 5 fine is a proportionate and appropriate sanction for intentional breaches of the regulatory requirements. Further, in recognition of the particular circumstances in Northern Ireland, the Regulations will provide that no prosecution may be brought without the consent of the DPP for Northern Ireland.

Amendments to other legislation

Section 25 of the Criminal Justice Act (Northern Ireland) 1945 makes it a criminal offence for “any person who, with intent to destroy the life of a child then capable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother”, except where the termination is necessary to save the woman’s life.

The Regulations will amend section 25 of the Criminal Justice Act (Northern Ireland) 1945 to exclude a pregnant woman or girl from being able to be prosecuted for procuring a miscarriage or seeking an abortion in relation to her own pregnancy. The section will also be amended to enable medical professionals to carry out terminations lawfully under the Regulations. This is necessary to enable provision under the framework for later terminations, including in cases of SFI and FFA or where there is a risk to the life of the woman or girl or to prevent grave and permanent injury, where it may be able to be argued that the fetus is capable of being born alive.

CHAPTER 4 - ADDITIONAL MATTERS RAISED IN CONSULTATION RESPONSES

There are several recommendations in the CEDAW Report that, in the Government's view, do not require legislation to be given effect to in Northern Ireland. However, we recognise that the UK Government is under a duty to implement all of the recommendations in paragraphs 85 and 86 of the CEDAW Report, under section 9(1) of the NIEF Act. Many of these were referenced in consultation responses, and are set out below.

In developing the new policy and legislation that will follow, the Government completed a screening of the proposals, consistent with our equality duties under Section 75 of the Northern Ireland Act 1998. We recognise that any impacts of the framework on Section 75 categories of persons need to be considered.

Following feedback received on that screening, as well as further evidence gathered through the consultation process, we have considered what mitigating action could be taken forward to ensure that in terms of practical access to abortion services, the particular experiences and needs of section 75 categories of person are carefully considered. However, the Government is also mindful that the commissioning of abortion services will be a matter for the Northern Ireland Department of Health to take forward, with other relevant departments in Northern Ireland that have responsibility for ensuring implementation of other CEDAW recommendations that fall within their remit. Further equality screening will therefore likely be undertaken by relevant Northern Ireland departments as part of the implementation phase.

This Government response acknowledges the range of views expressed on the policy proposals. We have carefully analysed all of the consultation submissions and comments on our initial screening and outlined options for mitigation as regards any differential impact on any of the section 75 categories of person. On the basis of the additional evidence gathered and the options for mitigation, we do not consider an Equality Impact Assessment is necessary.

Consultation responses that raised concerns about equality impacts were taken into account in preparation of the legislation. Further mitigations, as appropriate, will be considered by the relevant Northern Ireland departments in commissioning abortion services in accordance with the framework to ensure implementation of all of the recommendations in paragraphs 85 and 86 of the CEDAW Report. More detail on the impacts identified during the consultation and mitigations are set out below.

The Secretary of State for Northern Ireland has written to the Northern Ireland Health Minister, Robin Swann MLA, the Education Minister, Peter Weir MLA, and the Minister for Communities, Deirdre Hargey MLA, in relation to the implementation of the relevant CEDAW recommendations.

Support services

There was a clear view amongst many respondents that women and girls seeking a termination should have access to adequate medical assessment and support, including non-directive counselling. Many of these respondents suggested that counselling and signposting to other services should take place before a decision is taken to proceed with a termination, as well as after, and that this was particularly important for vulnerable women and girls.

Some respondents also raised concerns around the need to further improve support services for alternative options to abortion, with many calling for better support services for those who choose to proceed with a pregnancy.

A few respondents also felt there was a need to improve healthcare professional training and awareness in mental health care and understanding of associated issues and risks.

Concerns were also raised regarding abortion service provision for under-18 year olds, particularly in relation to issues of parental consent and scenarios involving coercion. Respondents called for robust guidelines that place the safety of young girls first.

The Government recognises that some of the CEDAW recommendations reference the need for additional support provision to be put in place for those accessing abortion services as well as for those medical professionals providing them. While the Regulations are silent on the question of support services, these views and concerns have been communicated to the Northern Ireland Department of Health and we will be continuing to work closely with the Department to ensure that appropriate support services, training and service provision are put in place as abortion services are commissioned and integrated into the health system over time, and in a way which meets the relevant CEDAW recommendations regarding support.

Persons with disabilities

A number of concerns were raised in response to the consultation in relation to persons with disabilities, in respect of both disabled women and girls accessing the services and abortions in cases of a SFI affecting the fetus. These concerns included:

- Additional barriers persons with disabilities face in accessing reproductive healthcare and the need to remove these barriers to care.
- Wider societal cultural shifts needed around attitudes towards disability; with many pointing to what they felt was discrimination whereby persons with disabilities are made to feel they are a burden on society, and argued for the need to improve respect for the autonomy of disabled people. Respondents

also raised concerns around what they felt was inadequate disability support for parents of disabled children.

- Views that further improvement was needed in furthering the understanding by healthcare professionals of different disabilities, which some argued would improve the availability of more balanced and evidence-based information to be provided to families regarding the implications of a disability on quality of life.
- Reference was made to other jurisdictions' evidenced-based support services for fetal diagnosis, where family peer support programs are provided for parents with disabled children. Many of these respondents felt these programs reduced the stigma associated with disability and disabled children, and supported families in making informed decisions.

The Regulations provide for equal access to abortion for all people in Northern Ireland who wish to access the services. However, we appreciate that there may be particular requirements around the provision of service and accessibility, that need to be carefully considered when delivering and commissioning to ensure that this meets the needs of and provides appropriate support for persons with disabilities, and ensures that access to abortion in cases of SFI and FFA does not perpetuate stereotypes towards persons with disabilities. We will continue to work with the Department of Health, and other relevant NI departments, to ensure all of the recommendations of the CEDAW Report are implemented in Northern Ireland.

LGBT people

Some consultation respondents raised concerns around barriers faced by lesbian and bisexual women and girls and transgender and non-binary people in accessing both abortion and wider healthcare services in Northern Ireland.

These matters have been considered as part of the consultation process and there will be ongoing engagement with the Northern Ireland Department of Health who will decide what further consideration should be given with regard to the operational delivery of service provision for bisexual women and girls and transgender and non-binary people.

Young people

Concerns were also raised regarding abortion service provision for those under the age of 18, particularly around issues of parental consent and coercion. Respondents called for robust guidelines that place the safety of young girls first.

In commissioning abortion services, care will be taken to ensure that the appropriate guidelines and processes, which already apply in England and Wales, are put in

place to ensure adequate protections for young people accessing the services in Northern Ireland.

Service delivery

Wider concerns were also raised around the need to ensure adequate resourcing and funding are made available to facilitate training and establish services around the provision of abortion services. Some respondents also highlighted the need to ensure accessibility for these new services, in particular in more rural parts of Northern Ireland.

Some respondents also felt that, in developing post-consultation service delivery planning, it was essential that further input is sought from the wider public, including unions, abortion sector care providers, women's organisations, LGBT organisations and those who have been directly affected by these issues.

A number of respondents from organisations, including professional healthcare bodies, noted the current pre-natal screening tests in Northern Ireland did not mirror provision in the rest of the UK and the need for further funding for these tests to become more widely available in order to ensure equal access to these services across the UK.

Some respondents also raised the need to continue to raise awareness around the new abortion law in Northern Ireland. Ensuring that women and girls are aware of their rights, as well as informing healthcare staff and the public in Northern Ireland more widely of the changes to the law and to the provision of reproductive healthcare services is an important aspect of service delivery.

These matters have been considered as part of the consultation process and will be taken forward as part of continued work with the Northern Ireland Department of Health in preparing for operational delivery.

The Regulations do not touch on these service delivery matters. However, they are matters that will be carefully considered by relevant Northern Ireland departments when abortion services are commissioned to ensure that the recommendations in paragraphs 85 and 86 of the CEDAW Report are fully implemented in Northern Ireland.

Education and advice

Many respondents felt it was important that new provision of abortion services within Northern Ireland should be accompanied by appropriate sex and relationship education and advice services, with some respondents pointing to the specific CEDAW recommendations in this area (recommendation 86(d)).

Some respondents also argued that an important aspect of this advance in sexual and reproductive rights in Northern Ireland includes improvement in the quality and availability of contraceptive advice and the provision of contraceptives to ensure that this becomes more widely accessible (consistent with recommendation 86(b)).

There were wider calls for a sexual and reproductive healthcare strategy to be developed in order to further expand sexual and reproductive health service hubs and the number of health professionals working within this area. Some respondents also felt it important that consideration be given to further developing anonymity in accessing emergency contraception, particularly in rural areas.

Many respondents suggested there was a need to further improve sex and relationship education provision in Northern Ireland, and in particular around contraception and abortion.

The Government will continue to engage with the relevant Northern Ireland departments as this work develops to implement the CEDAW recommendations in Northern Ireland.

While the Regulations do not make reference to the provision of education, and wider sexual and reproductive healthcare access and issues, as set out in Chapter 5, the Government has been working with the relevant Northern Ireland departments to ensure the relevant CEDAW recommendations are appropriately implemented in Northern Ireland and will continue to do so.

CHAPTER 5 - IMPLEMENTATION OF ALL OF THE RECOMMENDATIONS IN PARAGRAPHS 85 AND 86 OF THE CEDAW REPORT

The duty under section 9(1) of the NI EF Act requires that the recommendations in paragraphs 85 and 86 of the CEDAW Report are implemented in respect of Northern Ireland. The following sets out each of the recommendations and details of how these are being taken forward.

Recommendation 85(a) - repeal sections 58 and 59 of the Offences against the Person Act, 1861, so that no criminal charges can be brought against women and girls who undergo abortion or against qualified health-care professionals and all others who provide and assist in the abortion.

This recommendation has been implemented. Sections 58 and 59 of the OAPA were repealed in Northern Ireland on 22 October 2019 by section 9(2) of the NI EF Act.

Recommendation 85(b) - Adopt legislation to provide for expanded grounds to legalize abortion at least in the following cases:

(i) Threat to the pregnant woman's physical or mental health, without conditionality of "long-term or permanent" effects;

(ii) Rape and incest;

(iii) Severe fetal impairment, including fatal fetal abnormality, without perpetuating stereotypes towards persons with disabilities and ensuring appropriate and ongoing support, social and financial, for women who decide to carry such pregnancies to term;

This recommendation has been implemented. The framework for Northern Ireland set out in Chapter 2 will be delivered through the Regulations which are required to come into force by 31 March 2020 and will provide access to abortion services in Northern Ireland in compliance with the above grounds.

Recommendation 85(c) - Introduce, as an interim measure, a moratorium on the application of criminal laws concerning abortion and cease all related arrests, investigations and criminal prosecutions, including of women seeking post-abortion care and health-care professionals.

This recommendation has been implemented. A moratorium on all future and ongoing criminal proceedings and investigations in relation to offences under sections 58 and 59 of the OAPA came into effect on 22 October 2019 by virtue of section 9(3) of the NI EF Act.

Recommendation 85(d) - Adopt evidence-based protocols for health-care professionals on providing legal abortions particularly on the grounds of physical and mental health and ensure continuous training on the protocols.

The implementation of this recommendation will be a matter for the Northern Ireland Department of Health, working with healthcare professional bodies, to take forward as a part of the commissioning of abortion services in Northern Ireland. The Secretary of State for Northern Ireland, the Rt Hon Brandon Lewis CBE MP, has written to the Health Minister, Robin Swann MLA, on this matter and we will continue to work with the Department of Health in Northern Ireland to ensure implementation.

Recommendation 85(e) - Establish a mechanism to advance women's rights, including through monitoring authorities' compliance with international standards concerning access to sexual and reproductive health, including access to safe abortions, and ensure enhanced coordination between the mechanism with the Department of Health, Social Services and Public Safety and the Northern Ireland Human Rights Commission.

This recommendation has been implemented. The relevant Northern Ireland departments will continue to engage with the Northern Ireland Human Rights Commission on this recommendation. The Northern Ireland Human Rights Commission Business Plan for 2020/2021 will include the following business target:

'Monitor the provision of reproductive healthcare services and education in Northern Ireland, following the introduction of a new legal framework for abortion, and engage with the Department of Health and Department of Education in accordance with the Northern Ireland (Executive Formation etc) Act 2019'.

Recommendation 85(f) - Strengthen existing data-collection systems and data sharing between the Department and the police to address the phenomenon of self-induced abortion.

Following the repeal of sections 58 and 59 of the OAPA, and the introduction of these Regulations, women and girls will not be criminalised in relation to their own pregnancy under any circumstances and medical professionals will not be criminalised for providing abortion services within the Regulations. This means that they no longer face any risk of criminal prosecution in this regard and therefore data sharing on these issues is no longer relevant.

Recommendation 86(a) - Provide non-biased, scientifically sound and rights-based counselling and information on sexual and reproductive health services, including on all methods of contraception and access to abortion.

This recommendation will be implemented by the Northern Ireland Department of Health as part of the commissioning of abortion services in Northern Ireland. The

Secretary of State for Northern Ireland, the Rt Hon Brandon Lewis CBE MP, has written to the Health Minister, Robin Swann MLA, on this matter and we will continue to work with the Department of Health in Northern Ireland to ensure implementation.

Recommendation 86(b) - Ensure the accessibility and affordability of sexual and reproductive health services and products, including on safe and modern contraception, including oral, emergency, long-term and permanent forms of contraception, and adopt a protocol to facilitate access at pharmacies, clinics and hospitals.

This recommendation will be a matter for the Northern Ireland Department of Health to take forward as a part of the commissioning of abortion services in Northern Ireland. The Secretary of State for Northern Ireland, the Rt Hon Brandon Lewis CBE MP, has written to the Health Minister, Robin Swann MLA, on this matter and we will continue to work with the Department of Health in Northern Ireland to ensure implementation.

Recommendation 86(c) - Provide women with access to high-quality abortion and post-abortion care in all public health facilities and adopt guidance on doctor-patient confidentiality in that area.

This recommendation has been implemented by the UK Government with respect to delivering Regulations to provide appropriate access to abortion services in Northern Ireland, consistent with recommendation 85(b). The commissioning of appropriate services, including guidance, will be a matter for the Northern Ireland Department of Health to take forward. The Secretary of State for Northern Ireland, the Rt Hon Brandon Lewis CBE MP, has written to the Health Minister, Robin Swann MLA, on this matter and we will continue to work with the Department of Health in Northern Ireland to ensure implementation.

Recommendation 86(d) - Make age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights a compulsory component of curriculum for adolescents, covering prevention of early pregnancy and access to abortion, and monitor its implementation.

The Government has been working with the Department of Education in Northern Ireland on this recommendation. The Secretary of State for Northern Ireland, the Rt Hon Brandon Lewis CBE MP, has written to the Education Minister, Peter Weir MLA, on this matter and we will continue to work with the Department of Education to agree how this recommendation can be delivered within the Northern Ireland curriculum to ensure implementation.

Recommendation 86(e) - Intensify awareness-raising campaigns on sexual and reproductive health rights and services, including on access to modern contraception.

This recommendation will be a matter for the Northern Ireland Department of Health to take forward as a part of the commissioning of abortion services in Northern Ireland. The Secretary of State for Northern Ireland, the Rt Hon Brandon Lewis CBE MP, has written to the Health Minister, Robin Swann MLA, on this matter and we will continue to work with the Department of Health in Northern Ireland to ensure implementation.

Recommendation 86(f) - Adopt a strategy to combat gender-based stereotypes regarding women's primary role as mothers.

The Government has been working with the Northern Ireland Department of Communities on this recommendation. The Secretary of State for Northern Ireland, the Rt Hon Brandon Lewis CBE MP, has written to the Minister for Communities, Deirdre Hargey MLA, to ask that this recommendation is addressed in the context of a new gender strategy, consistent with the commitment under the New Decade, New Approach Deal on the restoration of devolved government in Northern Ireland. We will continue to work with the Department for Communities in Northern Ireland to ensure implementation.

Recommendation 86(g) - Protect women from harassment by anti-abortion protesters by investigating complaints and prosecuting and punishing perpetrators.

This recommendation is implemented through investigations by the police under the current law on harassment. Prosecutions are a matter for the independent Public Prosecution Service. The Government will keep the relevant law under review over the next 12 months as abortion services become operational in Northern Ireland.

CHAPTER 6 - SUPPLEMENTARY INFORMATION

Annex A - Northern Ireland (Executive Formation etc) Act 2019 - Section 9 provisions

Abortion etc: implementation of CEDAW recommendations

(1) The Secretary of State must ensure that the recommendations in paragraphs 85 and 86 of the CEDAW report are implemented in respect of Northern Ireland.

(2) Sections 58 and 59 of the Offences Against the Person Act 1861 (attempts to procure abortion) are repealed under the law of Northern Ireland.

(3) No investigation may be carried out, and no criminal proceedings may be brought or continued, in respect of an offence under those sections under the law of Northern Ireland (whenever committed).

(4) The Secretary of State must by regulations make whatever other changes to the law of Northern Ireland appear to the Secretary of State to be necessary or appropriate for the purpose of complying with subsection (1).

(5) Regulations under subsection (4) must, in particular, make provision for the purposes of regulating abortions in Northern Ireland, including provision as to the circumstances in which an abortion may take place.

(6) Regulations under subsection (4) must be made so as to come into force by 31 March 2020 (but this does not in any way limit the re-exercise of the power).

(7) The Secretary of State must carry out the duties imposed by this section expeditiously, recognising the importance of doing so for protecting the human rights of women in Northern Ireland.

(8) The Secretary of State may by regulations make any provision that appears to the Secretary of State to be appropriate in view of subsection (2) or (3).

(9) Regulations under this section may make any provision that could be made by an Act of the Northern Ireland Assembly.

(10) In this section “the CEDAW report” means the Report of the Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/OP.8/GBR/1) published on 6 March 2018.