

**Abortion Services (Safe Access Zones) (Scotland) Bill:**
**Consultation Response from The Young Women’s Movement**

20 December 2023

The Young Women’s Movement is Scotland’s national organisation for young women’s feminist leadership and collective action against gender inequality. Our vision is a fairer Scotland for all self-identifying young women and girls: a Scotland where young women and girls are meaningfully heard, valued and supported to lead collective action and enact transformational change throughout society, systems and structures. We value the power, and recognise the necessity, of working both intersectionally and intergenerationally to achieve change. Young women, girls and non-binary people who recognise themselves within this movement are at the heart of everything we do by participating, co-designing and leading our research, campaigns, programmes and events.

**Summary of our position**

The Young Women’s Movement wholeheartedly supports this Bill because we believe that women and pregnant people should be able to access abortion and associated sexual and reproductive healthcare services, information and advice without fear of intimidation and harassment. As noted in our [Status of Young Women in Scotland 2022-23](https://static1.squarespace.com/static/6413232bf29ba901ed614415/t/644627b9a4c2fd7092a4df40/1682319303577/SYWS%2B22-23%2BExperiences%2Bof%2BAccessing%2BHealthcare.pdf) report, young women in particular face substantial obstacles when accessing healthcare, including contraception, abortion and post-abortion services across Scotland.[[1]](#footnote-1)

The ongoing intimidation and harassment of patients and staff outside facilities providing abortion services across Scotland is cause for serious and immediate concern. In the most recent Women’s Health Plan, the Scottish Government promised to work together with the NHS, local authorities and justice agencies “to find ways of preventing women feeling harassed when accessing abortion care due to protests or vigils.”[[2]](#footnote-23211) To work towards ensuring a more equal society for all, we believe that the Scottish Parliament should pass this legislation to ensure that women across Scotland are legally entitled to access abortion healthcare free of harassment and intimidation.

At The Young Women’s Movement our work is led by young women, for young women. To ensure young women’s voices are centred in discussions around the proposed introduction of ‘safe access zones’ outside hospitals and healthcare facilities in Scotland, we engaged with members of our (voluntary) advisory collective when formulating our consultation response; this group consists of 31 women under 30 who help shape our overall strategy and operations. To facilitate meaningful participation, we invited written responses to the consultation questions via email and hosted an online webinar to allow members of the advisory collective to virtually discuss their views on the proposed Bill with our Research and Policy team.

**Do you agree with the purpose of the Bill? If yes, why do you support this Bill?**

Yes. The Young Women’s Movement supports this Bill because we believe that people should be able to access healthcare without fear of intimidation and harassment, especially women and pregnant people seeking abortion and associated sexual and reproductive healthcare services. In the UK, 1 in 3 women will have an abortion by the time they are 45 years old.[[3]](#footnote-3) Physical and legal barriers to accessing abortion healthcare facilities therefore have a detrimental and disproportionate impact on young women and puts them at an even greater disadvantage in terms of unequal access to healthcare. We believe that compassion, care and concern should be embedded in all healthcare settings and strategies, and that this should start from the initial point of contact – when walking through the entrance of a hospital or healthcare clinic. Privacy must be protected as much as possible when people access abortion services, and staff should have the right to work without judgement, fear or intimidation. We believe that current legal protection in Scotland fails to do this, and that bespoke legislation is urgently needed to protect the rights of women accessing abortion healthcare.

Those affected by protestors outside hospitals and healthcare settings include people accessing abortion care, people accessing abortion information and advice, staff providing abortion care, staff working in the building, patients attending a clinic or hospital for other healthcare reasons, and the general public. The Bill would put a stop to all disruptive activity taking place directly outside clinics and hospitals, ensuring that pro and anti-choice groups are forbidden from pressuring or influencing women seeking access to abortion services, as well as intimidating or upsetting staff on their way to work.[[4]](#footnote-4) We believe that this is a fair way of policing this difficult and highly contentious issue. Even quiet protest can be intimidating, and the distribution of leaflets with erroneous information can be detrimental for patients’ health and safety.[[5]](#footnote-5) The Bill ensures that every person entering a healthcare clinic or hospital, for whatever reason, is protected from experiencing intimidation and harassment from protestors gathering outside the entrance or nearby.

Importantly, the Bill does not seek to stop or ban anti-choice protests or activity. Instead, it simply requires people to exercise their right to protest at a more suitable location, such as the Scottish Parliament, or outside other civic buildings. Many of the young women we spoke to about this Bill agreed that safe access zones should apply to both pro and anti-choice protests. One young woman even stated that it is “an equal bill which would prioritise the peaceful experience of the women seeking to access healthcare.”

We therefore believe that this Bill does not take a moral standpoint on arguments put forward by pro or anti-choice groups, nor does it seek to ban a person’s right to protest; it simply states that people should refrain from expressing such views outside hospitals or clinics where people are seeking healthcare for reasons that remain personal to them and their healthcare provider. The Young Women’s Movement believes that the Bill rightfully prioritises and protects the rights of women to access abortion healthcare without fear of intimidation or harassment, and that this is proportionate and fair.

**Do you agree that the Safe Access Zone radius around protected premises should be set at 200 metres?**

Yes. We note that scoping work undertaken by the British Pregnancy Advisory Service (BPAS) and Back Off Scotland showed that the original proposal of 150 metres was not sufficient to protect patients and staff at the Queen Elizabeth Hospital in Glasgow.[[6]](#footnote-6) Therefore, in the interest of the Bill, the standard safe access zone should be extended to 200 metres to make sure that the aims of protecting all patients and staff nationwide are fulfilled.

**What is your view on the proposed processes within the Bill to extend or reduce Safe Access Zone distances around protected premises in the event that 200 metres is not appropriate?**

The Young Women’s Movement are concerned about the extent of Section 8 of the Bill. We note that Section 8 of the Bill features a clause which would allow the Scottish Ministers to reduce the size of buffer zones without consulting healthcare providers. We believe that this undermines the provisions of the Bill. We therefore support amendment of Section 8 to reflect the provisions of Section 7, including involvement of the abortion provider and consideration about whether a reduced zone would adequately protect patients and staff. We also believe that safe access zones should never be less than 200 metres to ensure legislative coherency and national uniformity.

**Do you agree with the definition of “protected premises” outlined in the Bill and its accompanying documents?**

Yes. In this context, “protected premises” means a building that is, or that forms part of, a hospital at which abortion services are provided or place approved under the Abortion Act 1967. The Young Women’s Movement believes that this is the correct definition and supports Section 10 of the Bill which would give Scottish Ministers the power to modify the definition should any changes be made to where an abortion can be carried out.

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

Yes. The Young Women’s Movement believes that the criminal offences created by the Bill are proportionate in terms of the activities they cover. It is important to note that it will not be made a criminal offence to express one’s view of abortion as a legal/moral right or wrong; instead, it will be a criminal offence to do so outside a hospital or healthcare facility to ensure the privacy and dignity of women accessing healthcare for reasons that remain personal to them and their healthcare provider.

At The Young Women’s Movement, we believe that attempts to infringe upon women’s right to safely access abortion healthcare fundamentally attacks women’s equality and devalues women’s place in society. We believe that it is not the same for a person or persons to stand outside the Scottish Parliament and express anti-choice views as it is for a person or persons to stand outside the entrance to a hospital or clinic and express the same views, and that a clear distinction should be made in law. Accessing abortion services is a personal healthcare decision that a woman should make based on her wellbeing, and after discussing her options with trained abortion providers. It is entirely inappropriate for any protestor to offer these services in an attempt to influence a woman’s decision outside a hospital or healthcare facility.

We therefore believe that it is essential that the criminal offences as outlined in the Bill remain, as reducing the offence to a Fixed Penalty Notice would place breaching a Safe Access Zone to harass woman accessing healthcare as akin to a speeding fine.

**Do you feel that the penalty for offences related to the Bill is appropriate?**

Yes. The Young Women’s Movement believes that a fine is the appropriate punishment for breaching a safe access zone to protest outside a hospital or healthcare facility. Some of the young women we engaged with expressed concerns that fines could be paid by lobbying groups or high-profile figures with specific agendas, and that the Bill should ensure that individual fines, where appropriate, are to be paid by the individual and not an organisation or interested party. Most of the young women we engaged with agreed with the penalty for offences related to the Bill, though some expressed concerns that a fine did not go far enough to deter protestors from gathering in large groups. One young woman noted that the use of fines appears to have worked well in Northern Ireland, and that “anything less than a fine would not be severe enough”. The Young Women’s Movement notes that this is the same punishment as legislation across the rest of the UK, so would be least likely to cause issues for any eventual legal challenge.

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

The Young Women’s Movement believes that existing law in Scotland does not adequately cover clinic-based harassment, or the negative impact it has on women. The targets of this harassment – primarily women seeking abortion care – should be entitled to legal, confidential healthcare services under Article 8 of the European Convention of Human Rights (ECHR).

The Bill does not seek to limit or change the views of any individuals or groups partaking in anti-choice protests or vigils outside hospitals and healthcare facilities. As previously mentioned, we fully support the right of people to protest and express pro or anti-choice views but believe that the place to protest should be done in a more appropriate location, such as outside the Scottish Parliament, and not outside a hospital or healthcare facility.We therefore do not believe that the Bill impacts upon the rights enshrined under Articles 9, 10 and 11 of the ECHR.

We also note that Articles 9, 10 and 11 of the ECHR are all qualified rights that can be limited to protect the rights of others. This clause balances the rights of people who oppose abortion with the rights of women to access abortion healthcare without fear of intimidation or harassment. This was tested and confirmed in 2022 when the UK Supreme Court found that the Abortion Services (Safe Access Zones) (Northern Ireland) Bill only prevents anti-abortion protestors from exercising their rights under Articles 9, 10 and 11 of the Convention within the designated safe zones and that they are free to protest anywhere else they please.[[7]](#footnote-7)

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

The Young Women’s Movement does not believe that the Bill’s intended policy outcomes could be adequately achieved through another means. We believe that bespoke legislation is the only way to ensure that women across Scotland are legally entitled to access abortion and associated sexual and reproductive healthcare services without fear of intimidation or harassment. Introducing national legislation would guarantee that the approach to counteracting these protests is consistent and effective.

It is well known that anti-choice protests outside hospitals and healthcare facilities have been recorded in Scotland since the 1990s. Despite localised efforts from councils, healthcare providers, and even the police in recent times, no existing law has been successful in stopping this activity and protecting women from this targeted type of harassment.

The only other option would be the use of local council byelaws to create local safe access zones, but they would only apply to individual clinics and hospitals. We fear that this approach would make it difficult, if not impossible, to roll out safe access zones across all healthcare facilities in all local authority areas in a co-ordinated manner, meaning an unequal distribution of protections for women depending on where they reside. This would also place immeasurable strain on local councils in terms of availability of financial resources and staff to effectively manage the implementation of safe access zones throughout each local authority area.

We are therefore convinced that bespoke legislation is needed to move these groups away from hospital entrances and to protect the rights of women to access legal, essential healthcare without fear of intimidation or harassment. To work towards ensuring a more equal society, it is imperative that all hospitals, healthcare facilities and sites that provide abortion care in Scotland are treated equally and that all have safe access zones in place. Without a blanket legal rule, women in Scotland will be subject to patchwork protections and wholly reliant on pro-active health boards to protect their right to access abortion healthcare without fear of intimidation or harassment.

**Do you have any further comments about the Bill?**

We note that the Bill also makes it an offence in relation to acts done within a building, for example, a building situated inside the boundary of a safe access zone and the act is capable to being seen or heard by another person within the safe access zone. Some of the young women we engaged with noted that protestors should not be allowed to gather directly outside those 200 metres, as they could potentially find other ways to intimidate women accessing hospitals or healthcare facilities. Many of the young women we engaged with also asked how the safe access zone will be effectively monitored, either by police officers or hospital security staff, and how this will impact ongoing budgetary constraints in the justice and health sector. In a written submission, one young woman noted that audio or visual equipment could potentially be used to intimidate women from within or directly outside the safe access zone, and that the Bill should ensure a ban on the use of technology to further harass women accessing abortion healthcare facilities or hospitals. We therefore ask parliamentarians to carefully consider the various scenarios whereby women might continue to be subject to harassment and intimidation when accessing abortion healthcare services, both within and outwith the safe access zone.

**FOR FURTHER INFORMATION**

Contact: Dr Rebecca Mason, Research and Policy Lead, The Young Women’s Movement
Email: rebecca@youngwomenscot.org

**ABOUT US**
The Young Women’s Movement is Scotland’s national organisation for young women’s feminist leadership and collective action against gender inequality. We value the power, and recognise the necessity, of working both intersectionally and intergenerationally to achieve change. Young women, girls and non-binary people who recognise themselves within this movement are at the heart of everything we do by participating, co-designing and leading our research and programmes.

1. [The Status of Young Women in Scotland 2022-23: Accessing Healthcare](https://static1.squarespace.com/static/6413232bf29ba901ed614415/t/644627b9a4c2fd7092a4df40/1682319303577/SYWS%2B22-23%2BExperiences%2Bof%2BAccessing%2BHealthcare.pdf). The Young Women’s Movement. Accessed 11 December 2023. [↑](#footnote-ref-1)
2. Scottish Government, [Women’s Health Plan 2021-24](https://www.gov.scot/publications/womens-health-plan/documents/) (2021), p. 36. [↑](#footnote-ref-23211)
3. British Pregnancy Advisory Service (BPAS), [‘Considering Abortion?’](https://www.bpas.org/abortion-care/considering-abortion/) Accessed 12 December 2023. [↑](#footnote-ref-3)
4. BBC Scotland, ‘[Doctor challenges abortion protest at Glasgow hospital,](https://www.bbc.co.uk/news/uk-scotland-glasgow-west-64744044)’ 24 February 2023. Accessed 12 December 2023. [↑](#footnote-ref-4)
5. The Faculty of Sexual & Reproductive Healthcare, ‘[Safe access zones around abortion clinics,](https://www.rcog.org.uk/media/iouempf3/fsrh-rcog-safe-access-zones-around-abortion-clinics-report.pdf)’ (January 2023). Accessed 1 December 2023. [↑](#footnote-ref-5)
6. Back Off Scotland, ‘[The Facts’](https://www.backoffscotland.com/the-facts). Accessed 12 December. [↑](#footnote-ref-6)
7. [Judgment: Reference by the Attorney General for Northern Ireland – Abortion Services (Safe Access Zones) (Northern Ireland) Bill](https://www.supremecourt.uk/cases/docs/uksc-2022-0077-judgment.pdf) (7 December 2022). Accessed 1 December 2023. [↑](#footnote-ref-7)