

Position Statement: Protests

Background

There has been an increase in anti-abortion protest frequency in the UK over recent years, together with larger groups of protestors getting together.¹ Logs of incidents kept by abortion care providers in England and Wales demonstrate not only evidence of this increased frequency of protests but of the distress that they cause.

Most protestors are motivated by their religious belief.² Many protests are organised by loose local collectives, and the relationship to formal organisations is variable. This means that exactly what happens at a protest, from approaches to women to signs displayed, depends on the particular individuals who are at the location at the time. Healthcare staff cannot be sure what to expect and cannot let women know anything specific in advance. It also means that the organisations that call and/or organise protests can deny that any untoward behaviour has anything to do with them, meaning that there is no accountability for their actions.

Under existing laws, UK police are unable to do anything much to alleviate the situation. They have no powers to arrest protestors. Harassment laws are not applicable as they depend on persistent harassment of one individual. There have been no prosecutions of protestors, despite women seeking abortion and staff who provide abortion services feeling intimidated.

Human rights bodies emphasise that harassment by protestors violates the right to seek sexual and reproductive health (SRH) services and information.³

Extent of Protests

There were 29 providers that the British Society of Abortion Care Providers (BSACP) knew of that had been affected, when we made our submission to the Home Office in 2018, 28 in England and one in Wales.⁴ There were intense daily protests outside the Marie Stopes clinic in Belfast throughout the 5 years of its existence. In addition to independent sector clinics, those affected include providers working in National Health Service (NHS) hospitals and general practitioner (GP) premises. An increase in protests was reported in Edinburgh and Glasgow in 2019. One particularly intense protest is carried out each year by the group '40 Days for Life' from Lent to Good Friday.

Conduct of Protests and Harm Caused

British academics have analysed responses of women^a who have been harassed outside UK healthcare facilities and the degree of emotional distress protestors can cause.¹ Protests have also been seen in the Republic of Ireland since its law was liberalised on 1 January 2019.⁵ This distress is not proportional to the conduct of the protestors, but merely caused by their physical presence. For example, even a silent prayer vigil causes distress. Women often find the experience unpleasant and invasive; some react with negative emotions.^{6,7} The women are not in control of

^aWithin this Statement we use the term woman. However, it is important to acknowledge that it is not only people who identify as women for whom it is necessary to access women's health and reproductive services in order to maintain their health and wellbeing. Abortion services and delivery of care must therefore be appropriate, inclusive and sensitive to the needs of those individuals whose gender identity does not align with the sex they were assigned at birth.

the situation as they cannot avoid the protestors. Women invariably regard protests as unwelcome street harassment and intimidation which invades their privacy.¹

We are aware of anti-abortion protestors harassing patients in a variety of different ways, including filming individuals approaching clinics that provide abortion services and giving patients unsolicited ‘advice’, which is contrary to that provided by clinical staff, and grossly erroneous information about clinical risks, such as linking abortion with breast cancer. It is known that protesting can be passive, active or violent.^{8,9} The Court of Appeal has confirmed that protestors can cause “significant emotional and psychological damage” to some individuals.¹⁰

BSACP is aware of serious secondary effects of protests. In some cases, women are so put off that they end up deferring their treatment (the higher the gestation at which an abortion is carried out, the greater the morbidity and mortality). BSACP has also heard of cases of women opting for simultaneous administration of their drugs for a medical abortion to avoid a repeat consultation, which is known to have a somewhat lower efficacy than when an interval of 6–48 hours is left between administration of the two medicines. Finally, women have resorted to an abortion using drugs obtained from the internet rather than face the protestors so that they can access professional services.

Staff in the UK have had personal information made public, been harangued on entry to their place of work and been subject to unwelcome noise and disturbance while at work. Violence has been seen in other countries.^{8,11} BSACP believes that healthcare staff who provide abortion care should be able to enjoy the same zero-tolerance approach to violence and aggression (that has been part of UK health policy for around 20 years) as providers of other services.

Countermeasures to Protests

These can be in the form of privacy laws or by the creation of geographical areas that are ‘out of bounds’. In France, any attempt (whether by physical or electronic means) to mislead or dissuade a person from accessing abortion is a criminal offence.¹² Elsewhere, geographical zones are mainly used. Noise abatement legislation has been used in the USA but this merely reduces the volume but not the presence of the protestors.⁹

Safe Access Zones^b (SAZs) usually operate for a prescribed radius around a clinic and lay down what behaviour is prohibited. They enable women to freely access health facilities without harassment and allow clinic staff to do their job without running the gauntlet themselves and unimpeded by time spent cushioning adverse effects on their patients. In the event that protestors enter the SAZ, the police can be called and they will have the necessary powers to disperse the protestors or to charge them with the relevant offence.

Benefits of SAZs

BSACP believes that SAZs are the only feasible way that women attending for abortion care can have their confidentiality and personal space protected. The benefits will be to women who will not have the intrusion into their lives when they are accessing healthcare at a particularly distressing time. The benefits will also be to all staff, whether they be nurses, doctors, counsellors, ultrasonographers, receptionists, administrators, managers and others. Staff have to put up with protests all the time and this significantly impairs job satisfaction. Lack of protests would improve working conditions, which in affected localities at present vary from tiresome to frightening. Being relieved of protests would mean that staff can once again be comfortable going to work and be

^b Also known as buffer, bubble or exclusion zones.

able to assure the women they serve that they will be treated throughout with dignity, respect and without judgement.

Legislative Framework for SAZs to date

Public Spaces Protection Orders (PSPOs) can be instigated under the Antisocial Behaviour, Crime and Policing Act 2014 in England and Wales. The disadvantage of this mechanism is the protracted delay while a Local Council goes through the motions of public consultation and then a vote by the Councillors. After this, justification for the PSPO has to be drafted and, when approved, it has a finite life of 3 years. All along the way, this mechanism is susceptible to obstruction.

Two PSPOs have been established so far in London, one in Ealing and one in Richmond. Others are at various stages of consultation. The consultation period for each and every one of these PSPOs is prolonged and labour intensive. The maximum duration of a PSPO is 3 years. We are also aware of difficulties in Portsmouth, Southwark, Lambeth, Manchester and Birmingham, which the respective Councils have been grappling with.

BSACP is not in favour of setting up a system similar to PSPOs in England and Wales with multiple local SAZs; BSACP favours a national, overarching law (see below). A national plan to create SAZs is underway in Scotland.¹³

Experience of Implementation of SAZs

Experience in Australia has shown SAZs to be effective. Legislation providing for SAZs has now been introduced in six Australian jurisdictions: Tasmania, Australian Capital Territory, Victoria, Northern Territory, Queensland and New South Wales.¹⁴ Clinic staff working in the State of Victoria report that before the SAZs were established, protestors would intrude into the personal space of patients and staff, block patients from exiting cars and bar entry to clinics or access to footpaths outside clinics.¹⁵ They would display graphic images of dismembered fetuses, thrust leaflets and fetal dolls into people's hands, and provide frightening misinformation about purported sequelae of abortion. Protesting in the past has made women delay or put off treatment, and some doctors had ceased offering abortion care as a result of persistent, intrusive protesting. Interviews with providers in all six jurisdictions that have introduced SAZs (before and after the introduction) confirm that SAZs have achieved their objective of protecting women's dignity, privacy, safety and wellbeing.¹⁴ A protestor who breached a SAZ in Tasmania and another who did the same in Victoria were both successfully convicted in magistrate's courts, being fined AUD3000 and AUD5000, respectively. Their appeals were both heard in the High Court; the SAZ provisions in both jurisdictions were upheld as constitutionally valid.¹⁴

Experiences of SAZs in the USA recounted by clinic staff universally describe the benefits of the zones.⁹ They also describe how the situation deteriorates again when these are relinquished (due to a Supreme Court ruling).

A National Law

BSACP is aligned with the Royal College of Obstetricians and Gynaecologists in proposing a national law on SAZs.¹⁶ We would also draw attention specifically to the robust argument for 150 metre SAZs in the South Australia law reform report: recommendations 49–56.¹⁷ BSACP supports the creation of buffer zones of about a 150 metre radius around health facilities such as those established in the six Australian states mentioned above and the Canadian provinces of British Columbia, Ontario, Quebec and Newfoundland & Labrador.¹⁸ BSACP favours a blanket SAZ regulation such as that specified in Sections 18–27 of the Isle of Man Abortion Reform Act 2019

and similar legislation in other jurisdictions. Prohibited behaviour is banned inside the SAZ.

Prohibited behaviour should include:

- Besetting, intimidating, harassing, interfering with, threatening, hindering, obstructing or impeding a person
- Any protest or pavement interference in relation to abortion, including erection of signs, use of sound amplification and projection of images onto nearby buildings
- Filming a person who is accessing premises (with a camera or smartphone or any other type of optical or digital device).

Implications to the Right to Protest and Right to Freedom of Speech if SAZs were to be Created

BSACP appreciates that there is a range of views on abortion and that there must be opportunities for these diverse and strongly held views to be heard. However, intimidating staff who are providing a necessary, lawful and Government-approved service, and approaching patients accessing these services who may already feel vulnerable, are unacceptable ways to communicate anti-abortion views.

Inevitably, the right to peaceful assembly and the right of freedom of speech will be denied, but only in a small area of terrain. However, as with most decisions and judgements, there is a balance to be struck, and long experience suggests that the protection of vulnerable women outweighs any rights of others to intrude upon their access to legitimate health care. Protestors would still be able to take their arguments to the media, to their Member of Parliament (MP) or to any professional body.¹⁹ Protest and free speech can continue to exist but in a different location. Legislation should clarify that SAZs would relate specifically to abortion/SRH clinics and could not be extended to other kinds of protest or locations.

BSACP Position

In summary, we believe that protests are a significant interference with access to abortion services in the UK. There is evidence that protests have significant detrimental effects on both patients and healthcare staff. We believe that the best countermeasure is national legislation for Safe Access Zones and that this needs to be introduced as a priority.

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