



Royal College
of Midwives

The Royal College of Midwives 10-16 Union Street, London, SE1 1SZ

The Royal College of Midwives (RCM) is the trade union and professional organisation that represents the vast majority of practising midwives in the UK. It is the only such organisation run by midwives for midwives. The RCM is the voice of midwifery, providing excellence in representation, professional leadership, education and influence for and on behalf of midwives. We actively support and campaign for improvements to maternity services and provide professional leadership for one of the most established clinical disciplines.

The RCM welcomes the opportunity to respond to this call for evidence, our views are set out below.

The RCM wholly supports women's and healthcare professionals' rights to access legal healthcare services without fear of being intimidated or harassed. The RCM appreciates that there are a wide range of views about abortion but believes that the intimidation of women and staff who are providing a lawful and necessary service is unacceptable.

The impact of harassment not only causes great distress and confusion for women visiting the clinic, but has a direct impact on staff wellbeing, causing them to feel unable to properly support and protect patients. Midwives and other staff do not deserve to be faced with protests on a daily basis as they attend work to provide legal, safe care for women.

In addition, it should be noted that there is some evidence that protesting has made women delay or put off treatment.¹ Delayed access to abortion services can increase the likelihood of adverse experiences, limit women's ability to access safe, legal care, and increase costs to the health service.²

Currently, in England, Wales, and Scotland, the only solution available to manage harassment and intimidation of women and staff outside abortion clinics are individual criminal claims or a Public Spaces Protection Order (PSPO), which can be instigated under the Antisocial Behaviour, Crime and Policing Act 2014. This mechanism is wholly inadequate for a number of reasons:





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1. the establishment of a PSPO can lead to a protracted delay to protection while a Local Council goes through the motions of public consultation and then a vote by the Councillors;
2. justification for the PSPO has to be drafted and, when approved, they have a finite life of three years;
3. PSPO's are susceptible to obstruction;
4. the process is time consuming and creates a burden for resource-poor local Councils.

In addition, a PSPO is a singular solution which leads to a 'postcode lottery' whereby some women and staff will be protected while others are not.

The RCM believes the decision by the Home Office in 2018 which declined to establish buffer zones outside abortion clinics in England and Wales was flawed. This is because the information provided to the Minister (which was obtained via FOI) was not reflective of either the evidence provided. In particular, the evidence provided to the Minister underplayed the experiences of women and did not mention the experiences of healthcare staff. The RCM has previously written to the Home Office on this matter.³

The RCM further notes that in August 2019, the United Kingdom Court of Appeal considered the competing rights relevant to this issue when considering the legality of the establishment of an exclusion zone around an abortion clinic in Ealing.⁴ In that case, the Court balanced the extent to which the exclusion zone interfered with the Appellant's (an anti-abortion protester) Article 9, 10 and 11 rights to freedom of expression and association on the one hand, versus the extent to which this was necessary to protect the Article 8 rights to privacy of service users on the other. The Court upheld the decision that the exclusion zone was justified because the protesters' activities were not merely such as to 'shock, offend or annoy', rather, the activities were having a detrimental impact on, and causing lasting harm to service users. This assessment is consistent with similar decisions made by the European Court of Human Rights.⁵

The RCM supports the Court of Appeal's authoritative ruling on the balance of competing rights in these circumstances. For this reason, and the reasons discussed





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above, the RCM advocates strongly for a national solution whereby 'buffer zones' are established outside all premises which provide abortion services.

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Source

1 Royal College of Obstetricians and Gynaecologists and Faculty of Sexual and Reproductive Health (2018) Submission to the Home Office Abortion Clinic Protest Review <https://www.fsrh.org/documents/rcog-fsrh-submission-home-office-review-protests-abortionclinic/rcog-fsrh-submission-home-office-abortion-clinic-protest-review-2018.pdf>

2 NICE (2019) Abortion care. Available at: <https://www.nice.org.uk/guidance/ng140>

3 BPAS (2019) Charities call for urgent review of decision to reject buffer zones after evidence of women's experience outside abortion clinics suppressed in flawed consultation. <https://www.bpas.org/about-our-charity/press-office/press-releases/charities-call-for-urgent-review-of-decision-to-reject-buffer-zones-after-evidence-of-women-s-experience-outside-abortion-clinics-suppressed-in-flawed-consultation/>

4 *Dulgheriu v The London Borough of Ealing* [2019] EWCA Civ 1490

5 *P v Poland* [2012] ECHR 1853

