Supplementary Evidence to Inquiry into Abortion Law in Northern Ireland,  
Women & Equalities Committee  
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The Reproductive Health Law and Policy Advisory Group ¹  
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In this supplementary evidence we focus on four themes which featured in preliminary oral  
evidence sessions to the Inquiry into Abortion Law in Northern Ireland and offer evidence-  
based recommendations pertaining to them: public opinion on legal reform; guidelines on  
Termination of Pregnancy in Northern Ireland; health professionals and abortion law reform,  
ante-natal testing.

1. Public Opinion on Legal Reform

**Recommendation:** education settings should provide safe spaces to discuss abortion and  
more broadly should provide evidenced based sex and relationship education; media outlets  
should be provided with guidelines when discussing abortion.

The assumption that public opinion on abortion is polarised in Northern Ireland is oft  
repeated by those opposed to reform, and amongst mainstream media broadcasters such as  
the BBC. However, under scrutiny such assertions fail to stand up. Public opinion polls dating  
back to 1992 indicate that support for legal reform has consistently exceeded 60% in a range  
of circumstances including: in relation to cases of sexual offences; if a woman’s life was at  
risk; if a woman’s physical and mental health were at risk; and on grounds of foetal  
abnormality.

As detailed in chart 1 below, in the largest ever survey on the issue², 11% of respondents were  
hostile to abortion in any circumstance, with the remainder favouring access in certain  
circumstances.

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¹ [https://reproductivehealthlawpolicy.wordpress.com](https://reproductivehealthlawpolicy.wordpress.com); contact details Dr Fiona Bloomer (UU)  
fk.bloomer@ulster.ac.uk, k.mcneilly@qub.ac.uk, c.pierson@liverpool.ac.uk  
Abortion as a Workplace Issue: Trade Union Survey - North And South Of Ireland. Dublin: UNITE the Union, Unison,  
Mandate Trade Union, the CWU Ireland, the GMB, Alliance for Choice, Trade Union Campaign to Repeal the 8th.
On the specific issue of criminalization of those who seek abortion, an overwhelming 84% of respondents stated that ‘a women should not be arrested and prosecuted for having an abortion’.

Views on 'should a woman be arrested and prosecuted for having an abortion'
(Abortion As A Workplace Issue, Northern Ireland data, respondents=2031)


\[\text{None of these: 11%} \]
\[\text{When a woman asks for an abortion: 47%} \]
\[\text{When a woman’s health is at risk: 60%} \]
\[\text{In cases of serious malformation of the foetus: 63%} \]
\[\text{When the pregnancy is a result of incest: 63%} \]
\[\text{When the pregnancy is a result of rape: 65%} \]
\[\text{When a woman’s life is at risk: 77%} \]

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3 Ibid.
A number of academic studies\(^4\) have identified that a significant chill factor exists amongst the public in speaking out about abortion from a liberal perspective. This can be attributed to non-existent or biased sex education in schools; a political discourse heavily imbued with anti-abortion myths; and a prevailing societal moral conservativism. A common media approach of pitting an anti-abortion perspective against those who seek reform also leads to a false inflation of the anti-abortion perspective.\(^5\)

In sum, whilst a cursory glance of the situation might lead on to assume abortion is a polarised issue, survey evidence and academic analysis leads one to conclude otherwise.

### 2. Guidelines on Termination of Pregnancy in Northern Ireland

**Recommendation:** the current situation cannot be improved for healthcare professionals or those seeking abortion services by reissuing or supplementing the current guidelines document. A change to the legal framework regulating abortion is required.

**History of Guidelines on Termination of Pregnancy**

In 2001 the Family Planning Association for Northern Ireland instigated judicial review proceedings against the Department for Health, Public Safety and Social Services (DHSSPS). This judicial review application asserted that DHSSPS had breached its statutory duty by not providing guidelines on when abortion services can be performed within the law in Northern Ireland. The Family Planning Association argued that this was particularly necessary given the widespread lack of certainty regarding the legal framework for abortion in Northern Ireland.

In 2004 the Northern Ireland Court of Appeal found in the Family Planning Association’s favour. Draft guidelines were issued by the Department in January 2007. These guidelines were, however, rejected by the Northern Ireland Assembly in October 2007. In July 2008 new guidelines were issued, which were published in March 2009. These guidelines were subsequently challenged in judicial review proceedings by the Society for the Protection of the Unborn Child. This led to amended guidelines being published in February 2010, which were subsequently withdrawn in June 2010.

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\(^5\) Exemplified by a recent BBC1 tv debate show The Top Table which considered “Should A 12 year old rape victim be forced to travel to England to get an abortion”\(^6\) https://twitter.com/StephenNolan/status/1093283820890136576,
The Family Planning Association brought further legal action in 2013 given the lack of progress on implementation of satisfactory guidelines. This triggered new guidelines being issued for consultation in April 2013. A revised guidelines document was drafted in February 2016, published in March 2016.

Health Professional Views on Guidelines

In 2016 the Reproductive Health Law and Policy Advisory Group undertook qualitative research with healthcare professionals working in Northern Ireland. This included representatives from the Royal College of Nurses; the Royal College of Midwives; and the Royal College of Obstetrics and Gynaecology.

This research revealed that:

- While the 2016 guidelines document was welcomed as an improvement on the previous 2013 version, it contains a number of gaps. These include a lack of sufficient attention to the situation of patients who have ingested abortion medication at home and present to healthcare professionals.

- Health care professionals found the tone of the 2016 document much more constructive. However, they also expressed the strong view that a ‘chill factor’ remained in the wake of the 2013 document. The punitive tone of this document stimulated a concern among health care professionals regarding the potential for them to face criminal investigation and potential prosecution should an abortion they provided subsequently be deemed to fall outside the law.

- Communication of the 2016 document is not consistent across the various departments and specialisms. This leads to scope for many health care professionals to be unaware of the guidelines document or to not have read its content.

Reissuing the existing guidelines document, or supplementing it with further documentation, will not fully address the above issues. The law remains uncertain, as recognised by the courts in the Family Planning Association line of case law, and continues to place abortion service provision within a criminal frame. Legislative reform, as recommended by the United Nations CEDAW Committee in their investigation of the issue, is a preferable and more comprehensive solution to the challenges facing both health care professionals and those seeking abortion services.

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3. Health Professionals and Abortion Law Reform

**Recommendation:** The views of healthcare professionals should be taken into account. The majority of the relevant professional bodies advocate for decriminalisation of abortion or bringing Northern Ireland into line with the rest of the UK.

The relevant professional bodies each have position papers on abortion, with many now supporting decriminalisation of abortion throughout the UK, including Northern Ireland. The position of each body is set out below.

**The British Medical Association** supports the decriminalisation of abortion throughout the UK including Northern Ireland, stating that the ‘BMA policy supports the decriminalisation of abortion in Northern Ireland, as elsewhere in the UK; and where it would remain applicable, the extension of the Abortion Act to Northern Ireland’ (BMA, 2018).

**The Royal College of GP’s** takes no position on the lawfulness of abortion, their position only applies to the role of the GP in providing abortion services within the law in each jurisdiction of the UK (RCGP, 2014).

**The Royal College of Obstetricians and Gynaecologists** supports the decriminalisation of abortion throughout the UK. They state that ‘the RCOG supports the removal of criminal sanctions associated with abortion in the UK. We believe that the procedure should be subject to regulatory and professional standards, in line with other medical procedures, rather than criminal sanctions. Abortion services should be regulated; however, abortion - for women, doctors and other healthcare professionals - should be treated as a medical, rather than a criminal issue (RCOG, 2017).

**The Royal College of Midwives** has a clear and coherent position on decriminalisation of abortion throughout the UK, advocating for safe abortion services and that ‘women who are citizens of the UK should have equitable access to all aspects of reproductive healthcare. Accordingly, the provision of abortion services in Northern Ireland should be brought into line with the rest of the UK’ (RCM, 2016). In addition, the previous RCM director for Northern Ireland, Breedagh Hughes, stated after the May 2018 referendum to change abortion law in the Republic of Ireland that ‘The recent result in the abortion referendum in the ROI makes

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changes to legislation in Northern Ireland all the more urgent and the RCM hopes this can be achieved quickly, despite the absence of a government in Northern Ireland' (RCM, 2018).

The Royal College of Nurses supports decriminalisation of abortion. A 2018 UK-wide membership survey of member’s views on decriminalization of abortion showed that 73.7% of respondents voted in favour (almost 3,000 members). The overall response rate was 1% of total membership of around 435,000 (RCN, 2018).

In addition to official positions there have been instances of healthcare professionals speaking out on the incredibly restrictive legal situation in Northern Ireland. For example, paediatric pathologist, Dr Caroline Gannon, resigned in 2016, citing the Attorney Generals (John Larkin QC) interventions into abortion laws surrounding fatal foetal abnormality as making her position untenable (BBC, 2016).  

4. Ante Natal Screening

**Recommendation:** UK wide NHS guidelines for ante natal screening should be implemented in Northern Ireland, this implementation should be subject to monitoring to ensure geographic consistency.

In Northern Ireland all pregnant women are offered a screening blood test to check for hepatitis B, HIV, and syphilis infection and for rubella virus (german measles) susceptibility. The blood test is part of the booking procedure offered at the women’s first antenatal appointment, typically between 10-14 weeks. However, it is significant to note that these tests do not routinely include the full range of tests recommended in the NHS UK wide guidelines. This includes for instance screening blood tests for Down’s syndrome and/or Edwards’ syndrome and Patau’s syndrome. This discrepancy has been identified by several academic/practitioner studies.

In addition, further studies have indicated that there has been a lack of standardisation of practice regarding fetal anomaly scans. This included wide differences between the five Health and Social Care Trusts in “the content of the anomaly scan anatomy checklist, the process of communicating

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difficult and unexpected news to parents, and the onward referral process to fetal medicine and fetal cardiology.” Recent changes have occurred, led by the Fetal Anomaly Scan Improvement Group (FASIG) (Public Health Agency) (PHA), though this has focused largely on congenital heart disease detection.

In sum pregnant women in Northern Ireland have not been offered all appropriate screening and thus are not provided with evidence regarding potential anomalies and are unable to make informed choices about continuation of their pregnancy.