National Women's Council Statement to the Oireachtas Health Committee – 27 April 2022

Review of the Health (Regulation of Termination of Pregnancy) Act 2018.

Introduction

Founded in 1973, the National Women's Council (NWC) is the leading national women's membership organisation. Guided by our Strategic Plan, No Woman Left Behind, our mission is to advance women's rights, including achieving a positive transformation in reproductive health and rights.

To this end, we convene and Chair the Abortion Working Group, a collective of over 20 civil society organisations and healthcare providers which was established in 2019. As a group of experts working to improve both access to and experience of reproductive healthcare in Ireland, we collectively submitted to the Abortion Review as we believe that significant legal changes and practice improvements are required if the Health (Regulation of Termination of Pregnancy) Act is to guarantee equitable, accessible and legal abortion for all women and pregnant people in need.

NWC welcomes this opportunity to address the Oireachtas Health Committee and its commitment to provide robust, independent scrutiny of this Review.

We also want to take this opportunity to recognize and acknowledge the significant positive change the introduction of abortion in Ireland has brought to women's reproductive rights and to women's lives. We are at a critical moment now where we can fully realise the overwhelmingly vote of the Irish public to enable access for all women who need abortions.

As time is limited to five minutes, I will focus on just three key challenges which must be addressed, namely:

1. The restrictive legal framework

2. Poor national coverage
3. Absence of robust data collection

Our submission is far-reaching, and I am happy to take questions on other areas.

Restrictive legal framework

Instead of creating an enabling legal framework, the law acts as a gatekeeper creating a series of obstacles that prevent access to abortion, disproportionately affecting the most marginalised.

The WHO 2022 guidance recommends against laws that prohibit abortion based on gestational age limits and is clear that gestational age limits are not evidence-based.[1] Legal limits are contrary to the ideal model of patient-centred care whereby medical needs are met in line with clinical best practice and patient preferences. Our strict 12-week window, which is actually just 10 weeks from conception, is particularly challenging if you have irregular periods, need to undergo an ultrasound scan, and then have the mandatory 3 day wait. As with all rigid frameworks it is women who are the most vulnerable who are impacted the most: for example, adolescents, disabled women and pregnant people, women in situations of domestic violence who may not have freedom to leave the house.

The 28-day mortality clause for fatal foetal anomalies is also very problematic. This clause means doctors are unable to provide abortion care in cases where the foetus' life expectancy after birth is short but not as short as 28 days. This has caused significant challenges for doctors in determining eligibility, as well as huge heartbreak for women and families. We are particularly alarmed that the proportion of Irish residents travelling to the UK on these grounds

[1] WHO, 2022, Abortion Care Guideline https://apps.who.int/iris/bitstream/handle/10665/349316/9789240039483-eng.pdf?sequence=1&isAllowed=y

has significantly increased, accounting for a third of all those who had to travel in 2020.[2] Analysis of the data suggests that the 28-day clause has created a two-tier system whereby for every three women deemed eligible for care here, two are forced to travel to the UK.

We must be clear that rigid gestational limits, mandatory waiting period and narrow foetal mortality clauses, all serve to impede doctors' abilities to provide urgent care when required while also placing additional stress on women and pregnant people during a challenging time.

Furthermore, under the terms of the Act, a doctor who provides abortion outside the specific circumstances laid out in Irish law may face a prison sentence of up to 14 years. This means health professionals, under the threat of prosecution and criminalisation, are essentially forced to police themselves, determining when and whether the statutory criteria for access to care have been met.

Recommendation: To address these legal barriers to access, we recommend that abortion be available on request up to viability to ensure that no woman or pregnant person is forced to travel abroad for essential reproductive healthcare. We advocate for the removal of the 3 day wait period and the full decriminalization of abortion care in line with the WHO guidance.

Poor national coverage

At present, just 1 in 10 GPs are providing abortion services in Ireland. Concerningly, the pool of GPs registered with My Options who provide care to the general public is even less than this: just 7% of the overall GP population.[3]

[2] UK National Statistics, Abortion statistics, England and Wales: 2020, https://www.gov.uk/government/statistics/abortion-statistics-for-england-and-wales-2020/abortionstatistics-england-and-wales-2020

[3] 405 GPs in total, 246 are registered with My Option: HSE response to Freedom of information request C040, 28 February 2022

Data shared with NWC by the HSE in March 2022, shows that half of counties have less than 10 GPs offering the service currently – in some counties it could be as low as one GP per county as the data was provided in a 0-10 range rather than the total number. Indeed only four out of 26 counties have a well-developed community network of providers: Dublin, Cork, Galway and Wicklow.

Although abortion providers are very committed, limited coverage is therefore a significant barrier to access. The reality of poor nationwide coverage coupled with the two-appointment requirement is a heightened burden on women and pregnant people, particularly the disabled community.

GPs have highlighted the threat of anti-abortion activities is one of the biggest impediments to new providers coming on board. As such it is difficult to disentangle the urgent need for Safe Access Zones legislation from the issue of poor geographical coverage.

Similarly, we know that GPs want the support and back up of local maternity hospitals and so a failure to mandate service delivery in each maternity hospital has real consequences for developing a nationwide primary care service. At present, only 10 of our publicly funded maternity hospitals are providing full abortion care in line with the law. While individual consultants can object to providing abortion services under the Act, this should not lead to an absence of provision outright.

Recommendation: To address regional barriers to access we need focused efforts to improve community and hospital coverage. Adequate early abortion care should be understood as a core part of the primary care offer, with additional HSE resources deployed as required.

Maternity hospitals must be mandated to provide the service in line with the law. Where necessary, new medical appointments should be fast-tracked to address any gaps in service provision and the necessary resources should be made available to address infrastructural challenges.

Safe Access Zones legislation must be introduced to give healthcare staff assurance that in stepping up to provide a vital service they will be protected from harassment or intimidation.

Absence of robust data collection

We are concerned that the very low number of providers in community and hospital settings is reflective of silent refusal to provide abortion care which is not being monitored or recorded appropriately and which is impacting effective operation of the Act.

Ensuring that conscience-based refusal of care does not hinder access to essential reproductive health services requires a clear, legal and policy framework and this must be urgently developed.

Medical providers should be obliged to record refusals of care on the grounds of conscience and detail the service they referred the woman or pregnant person onto. We believe enhanced data collection is key for mitigating risks and barriers to service users.

As the Institute of Obstetricians and Gynaecologists in Ireland has stated, abortion is "a time-sensitive service for which a delay of several weeks, or in some cases days, may increase the risks or potentially make it completely inaccessible. The consequences of being unable to obtain an abortion profoundly impact a person's life, health, and well-being".[4]

Recommendation: Expand the current publicly available abortion dataset to include wait times, recording of refusal of care and referral onwards. Conscience-based refusals to provide should be monitored by the Irish Medical Council to ensure compliance and failures to adhere to guidelines around swift referrals should lead to sanctions.

Conclusion

The Repeal campaign that led to the landslide Yes victory for removal of the eighth amendment from the Irish Constitution was one of the most important political and social movements in Irish history. The message was clear; all women should be able to access healthcare at home, and with their doctors, make decisions regarding their care needs.

While we recognise that many women and pregnant people have been able to access care in Ireland since 2019 and this is to be celebrated, as I have outlined, significant challenges remain. This Review is the moment for changing that, for widening access to essential healthcare and for ensuring that no woman has to travel. It is a unique and essential opportunity to raise quality standards and bring Ireland in line with WHO guidance and international best practice.

[4] Institute of Obstetricians and Gynaecologists, COVID-19 infection Guidance for Maternity Services. May 2020. Retrieved from https://rcpi-live-cdn.s3.amazonaws.com/wp-content/uploads/2020/05/COVID19- pregnancy-Version-4-D2-final.pdf