

Health (Termination of Pregnancy Services (Safe Access Zones)) Bill 2022

Opening statement to the Health Committee

19th October 2022

Chairman and Members of the Committee

I would like to thank you for inviting us here today. I welcome the opportunity to present the Health (Termination of Pregnancy Services (Safe Access Zones)) Bill 2022 to the Committee. My name is Muiris O'Connor, Assistant Secretary in the Department of Health. I am joined by my colleagues Caitriona Mason and Bronwyn Conway from the Bioethics Unit in the Department.

This morning I would like to outline the rationale behind the introduction of this bill, before briefly addressing some of its main provisions.

As you are aware, the purpose of this Bill is to introduce a new piece of legislation to ensure safe access to termination of pregnancy services.

Since 2019, when the Termination of Pregnancy service commenced within participating maternity units and General Practices across Ireland, there have been periodic reports of demonstrations and anti-abortion group gatherings outside facilities providing Termination of Pregnancy services.

We are mindful of the distress, anxiety and damage to the health and well-being of those subjected to such protests, which risk in some instances deterring women from accessing the medical care they need. This is particularly true considering such demonstrations often disproportionately affect the most marginalised and vulnerable sections of our society.

In light of these incidents and cognisant of their impact on service users and providers, the Minister of Health is committed to delivering on the Programme for Government which promises to “establish exclusion zones around medical facilities.”

In furtherance of this objective, the aim of this General Scheme and its underlying policy is to protect the right of a woman to access a healthcare service safely, with privacy and dignity, and without facing unsolicited attempts to influence her

decision. It will also protect service providers and their staff in the course of their duties and responsibilities.

I think we can all agree that it is in the public interest to ensure that healthcare services including termination of pregnancy services can be accessed safely and privately by those who need them, and this is what this General Scheme proposes to deliver.

Primarily, this is achieved through the creation of Safe Access Zones. The proposals aim to establish a 100m safe access zone around all healthcare facilities that can provide termination of pregnancy services, not just those that currently do, including for example all hospitals and GP practices. This is to ensure that the legislation will not highlight the specific service sites where Termination of Pregnancy services are currently provided and will allow them to continue in relative anonymity.

Within those zones, conduct which is intended to, or may reasonably have the effect of, influencing the decision of a person in relation to availing of, or providing, services related to termination of pregnancy will be prohibited. Head 4 sets out a comprehensive, though non-exhaustive list of such behaviours.

The goal here is to ensure that conduct aimed at impeding access or influencing the decisions of service users or providers within these zones is addressed to the greatest extent possible, in order to allow the legislation to deliver on its objectives.

In addition, to these provisions, further protection is afforded by Head 6. This Head aims to prevent, repeated behaviours amounting to intimidation or harassment, including campaigns aimed towards healthcare providers, irrespective of where they are committed. The purpose here is to mitigate against the impact, that could arise from such conduct, on a service provider's choice to offer termination of pregnancy services. It is also to ensure that the potential provision of termination of pregnancy services is maximised to the greatest extent, and to avoid disproportionate impacts on access to and provision of services geographically.

However, in advancing these proposals, it is recognised that protecting the rights of service users and service providers must be balanced against protecting the rights of those engaged in legitimate protest. In balancing the various rights involved, this General Scheme of a Bill restricts specified

conduct but also aims to limit the scope of such restrictions to that which is strictly necessary.

To this end, Head 5, sets out specific exemptions that may apply in the context of prohibited conduct within Safe Access Zones and the corresponding offences. In doing so this Head also further acknowledges and promotes, on a proportionate basis, the balancing of various human and constitutional rights. Critically, this Head further makes it clear that this Bill does not impede, impact on, prohibit or criminalise anything done by healthcare and other staff of the healthcare provider in the normal function of the healthcare service. In relation to the right to protest, the proposed legislation preserves the right to protest against abortion and speak out in favour or against it, apart from in the limited areas covered by Safe Access Zones.

Additionally, to ensure an appropriate balance with countervailing rights, the Department has engaged with the Office of the Director of Public Prosecutions, the Irish Human Rights and Equality Commission, the Data Protection Commission and the Irish Council for Civil Liberties, seeking any observations they may have on the proposals.

In relation to enforcement, it is essential to ensure that An Garda Síochána are provided with relevant the powers to effectively manage and respond appropriately to offences under this General Scheme, and these are mainly set out in Head 7. Overall, in keeping with the principle of proportionality the General Scheme provides for a graduated approach to enforcement, to ensure that any restriction on rights is minimised.

Finally, head 8 sets out the penalties arising for offences under the Scheme, which have been provided on an escalating basis where harsher penalties may apply, at the discretion of the court, for repeat offences.

In conclusion, the development of dedicated, standalone Safe Access Zones legislation will comprehensively address and mitigate, in so far as possible, the potential for a person's access to a termination of pregnancy to be impacted or influenced at the point of access. It will provide additional assurance to healthcare providers that they will be afforded protections should their services be the target of specified conduct that could interfere with their service provision and with their staff. In putting these protections in place, this legislation will deliver on a Programme for Government commitment.

The Minister is anxious to see the Bill drafted as quickly as possible so it can be introduced to the Oireachtas, and the Department will continue to work closely with the Office of the Attorney General, the Department of Justice, the HSE and An Garda Síochána in drafting the final Bill, recognising all of the complexities involved.

I wish to thank the Committee for their patience and attention this morning and I, and my colleagues, are happy to take questions and inputs from Committee members on the legislation.