



# Abortion

## General Election 2017 Policy Paper

### Background

Women in England, Wales and Scotland can have an abortion up to 24 weeks, providing the abortion has been authorised by two medical practitioners who believe in good faith that the woman fulfils one of the 7 grounds that exist for having an abortion (Grounds A-G).<sup>i</sup> However, this 24 week upper limit is fairly high when compared with European averages which limit abortions to roughly 12 weeks.<sup>ii</sup> Northern Ireland operates under a different legislative framework with regard to abortion.<sup>iii</sup>



2017 marks the 50<sup>th</sup> anniversary of the passage of the Abortion Act 1967. Since the passage of the Act there have been approximately 8 million abortions in England and Wales alone<sup>iv</sup> and an additional 459,767 in Scotland.<sup>v</sup> In 2015, 181,231 (98%) abortions were authorised under Ground C of the Abortion Act 1967 in England and Wales.<sup>vi</sup> Ground C allows an abortion to be carried out where *“The pregnancy has not exceeded twenty four weeks and the continuance of the pregnancy would involve risk greater to the physical or mental health of the pregnant woman.”*<sup>vii</sup> Though the letter of the law would seem to indicate that continuation with pregnancy poses greater harm, in reality, this Ground is interpreted very loosely despite compelling evidence that abortion itself is more harmful than normal childbirth.<sup>viii</sup>

### Abortion in the 2010-2015 Parliament

#### Gendercide and sex-selective abortions

In 2012 it was revealed that doctors were carrying out abortions in the UK on the basis of sex.<sup>ix</sup> In a written piece for Spiked, Anne Furedi the Chief Executive of the abortion provider the



British Pregnancy Advisory Service (BPAS) suggested *“the law is silent on the matter of gender selection, just as it is silent on rape.”*<sup>x</sup> This infers that abortion laws can in practice be used for a wide of range of different scenarios and raises important points about interpretation of the law. Provisions in the Abortion Act are often referred to as ambiguous and can be interpreted in a variety of different ways. It is this ambiguity that caused Fiona Bruce MP to seek to amend the law

and call for clarification in the law making it explicit that sex-selective abortion is illegal.

Mrs Bruce presented a ten minute rule bill to the House of Commons in November 2014. Her Bill raised the issue of sex-selective abortion in the UK and suggested that the law must be clarified to make it absolutely clear that sex-selective abortion is illegal. Almost all MPs voted in favour of clarifying the law; in fact 181 voted in favour with only one voting against. However, when Mrs Bruce tabled an amendment to the Serious Crime Bill it was defeated by 292 votes to 201. Despite the fact that MPs did not vote in favour of this amendment the debate opened up discussions regarding the practice of sex-selective abortion in the UK.

### Pre-signing of abortion forms

Also in 2012 a Telegraph campaign uncovered that doctors were pre-signing abortion forms without familiarising themselves with the woman's circumstances. Before a doctor authorises an abortion they must determine in good faith that the woman meets the criteria of any one of the grounds listed in the Abortion Act 1967.<sup>xi</sup> However, the investigation revealed that more than sixty doctors were authorising abortions by pre-signing abortion forms without assessing the woman's circumstances including her physical or mental health; what's more, this practice was widespread<sup>xii</sup>.

The pre-signing of abortion forms is illegal; however, no doctors were prosecuted and the names of the doctors were not released. Rather, the Department of Health published guidance which again loosely interpreted abortion laws.<sup>xiii</sup> It stated that the law does not require doctors to *see* the woman seeking an abortion before signing abortion forms. Rather, all they are required to do is assess her information. Departmental guidance is unclear as to how doctors will be able to decide whether a woman should receive abortion services if they have not had a face to face consultation with the woman and considered all the information pertaining to her pregnancy and mental health or safety.

### The Right to Know Campaign

The Woman's Right to Know Campaign led by Nadine Dorries MP called for the woman's right to be informed of the risks associated with abortion and the need to be offered pre-abortion counselling from an independent provider. In 2011 Ms Dorries introduced an amendment to the Health and Social Care Bill so that women who are contemplating having an abortion are given the *"offer of receiving information, counselling and advice from an independent organisation or public body before undergoing the procedure."*<sup>xiv</sup>



Conflicts of interest exist for abortion providers who on the one hand would seek to give the woman as much information as possible to make an informed decision and on the other hand are paid per abortion. The requirement for an independent provider would have targeted vested interests that exist between the abortion provider and counsellors.

The Government committed to offering counselling and the Minister at the time, Anne Milton MP, advised that the Government would meet the "spirit of the amendments." She committed to creating Regulations that would require local authorities to commission independent counselling and also stated that the government would consult on the implications of any definition of independent counselling.<sup>xv</sup> When the

Minister was replaced by Anna Soubry MP the Government stated that it would not continue the work on independent counselling.<sup>xvi</sup>

### Disability as ground for abortion

In July 2013, a Parliamentary Inquiry led by Fiona Bruce MP was conducted to examine the implications of Ground E terminations. Ground E terminations are performed where there is a substantial risk that the child will be born with a physical or mental abnormality. The Inquiry considered this ground for abortion particularly in regard to whether it contravenes or corresponds with current laws on equality. They examined responses which suggested that ground E contravenes principles established in the 1959 UN Declaration of the Rights of the Child, which called for the protection of children both inside and outside the womb.<sup>xvii</sup> Evidence was also put to the Inquiry both from organisations and from individuals who had difficult experiences when they decided they would like to keep their disabled child.

One parent suggested that her doctor had become: *“Short-tempered and abrupt with me because he clearly did not agree with my decision”*<sup>xviii</sup> Another respondent stated that: *“Mothers who choose NOT to undergo screening for fetal disability and those who choose NOT to abort their babies, on account of disability, face pressure or a feeling of disapproval (whether openly expressed or tacitly held by obstetricians or midwives) as if they are doing wrong by bringing into the world a child who will require extra NHS resources.”*<sup>xix</sup>

Respondents also noted that there is an upper time limit of twenty four weeks for terminating a pregnancy where the child is not disabled, providing the woman’s life, physical or mental health is not severely at risk. However, by comparison there is no limit for terminations of disabled children. This means that a woman can terminate the pregnancy of a disabled child up until birth. Respondents were concerned that this may send out the message that children with disabilities have less value than those without disabilities.<sup>xx</sup>

Recommendations were made by the Inquiry, most notably that disabled children in the womb should not be unduly discriminated against compared with children in the womb who are not disabled. They suggested that this could be achieved by lowering the abortion limit for disabled children from right up until birth to 24 weeks, in line with the upper limit for non-disabled children.

## Abortion in the 2015-2017 Parliament

### Abortion policy devolved to the Scottish Parliament

In May 2016, the Scottish Parliament gained law-making powers with regard to abortion law in Scotland following the passage of the Scotland Act 2016. Prior to this, abortion law in Scotland had been governed by Westminster. At the current time, there are no proposals to change the law on abortion in Scotland but this may change in the coming years.

### Abortion (Disability Equality) Bill

In May 2016, Lord Shinkwin introduced the Abortion (Disability Equality) Bill to Parliament.<sup>xxi</sup> In line with the recommendations of the Parliamentary Inquiry led by Fiona Bruce MP in 2013, this Bill sought to remove disability as a grounds for allowing an abortion. As mentioned above,

in Great Britain, abortion is illegal beyond 24 weeks' gestation; however, an unborn child with a disability (which can include club foot or cleft palate) can be aborted up to term.

The Abortion (Disability Equality) Bill passed its Second Reading on 21 October 2016 with very strong backing from Peers in the House of Lords. Subsequently, the Bill was debated at Committee Stage on 27 January 2017 and at Report Stage on 24 February 2017. Whilst the Bill ran out of time with the end of the 2015-2017 Parliament, and despite some attempts to disrupt the passage of the Bill, the Bill succeeded in highlighting the current discrimination in the law against unborn disabled children and this debate is expected to resurface during the next Parliament.

### **Diana Johnson MP Ten Minute Rule Bill – Abortion Decriminalisation**

In March 2017, Diana Johnson MP introduced a radical proposal to decriminalise abortion across England and Wales.<sup>xxii</sup> The Reproductive Health (Access to Terminations) Bill – introduced via the 'Ten Minute Rule' mechanism and originally entitled the Abortion (Decriminalisation) Bill – was the subject of a twenty minute debate. Although the motion subsequently passed by 172 votes to 142, the law has not changed as a result and it is important to note that a majority of MPs did not participate in the vote. A Ten Minute Rule Bill is simply a means by which an MP can raise an issue of concern, rather than a viable means of changing the law, and many MPs will have decided not to participate on this basis.

Nevertheless, the Motion is indicative of a desire from proponents of abortion to further liberalise the law on abortion. It is, however, important to note that a 2014 ComRes poll found that 92% of women agreed that a woman requesting an abortion should always be seen by a qualified doctor. Furthermore, 78% of women agreed that the health of women considering an abortion would be put at risk unless the doctors who sign abortion request forms had also seen the patient.<sup>xxiii</sup> The proposals Ms Johnson advanced would have removed these safeguards and would potentially put the health of the woman at risk.

This issue is likely to be raised again in the next Parliament.

### **Abortion in the coming Parliament – pressures for change**

More needs to be done to:

- Reduce the abortion limit from 24 weeks to less than 12 weeks, which is more in line with European averages.
- Clarify the law so that there is no doubt that sex-selective abortion is illegal in the UK.
- Remove the financial incentives that exist for abortion providers by mandating that women who are presenting for an abortion receive independent counselling and advice before undergoing an abortion.
- Reduce abortion limits for disabled children so that they are in line with limits on abortion for non-disabled children.
- Strongly resist attempts to fully decriminalise abortion in England and Wales.



## Key questions for candidates

1. Will you commit to working for law reform to put beyond all doubt the question of whether abortion on the basis of gender is legal, making it absolutely clear that it is not legal?
2. Will you commit to working for law reform to end the discriminatory anomaly in our law that uniquely permits abortion on the basis of serious disability up to and during birth?
3. Will you commit to working for law reform to ensure that all women presenting for an abortion should be assessed in person by at least one doctor?
4. Will you commit to reducing the upper limit for abortions in England, Wales and Scotland so they align with European averages?
5. Will you oppose efforts to decriminalise abortion in England and Wales?



<sup>i</sup> The grounds for abortion are (s. 1 Abortion Act 1967)

- a. The continuation of the pregnancy would lead to risk of injury to the pregnant woman (section 1(1)(c)).
- b. The termination is needed in order to prevent permanent injury to the physical or mental health of the pregnant woman (section 1(1)(b)).
- c. The pregnancy has not exceeded twenty four weeks and the continuance of the pregnancy would involve risk greater to the physical or mental health of the pregnant woman (section 1(1)(a)).
- d. The pregnancy has not exceeded twenty four weeks and the continuance of the pregnancy would involve risk greater to the physical or mental health of any existing children of the pregnant woman's family (section 1(1)(a)).
- e. That there is a substantial risk that if the child were born it would suffer from physical or mental abnormalities as to be seriously handicapped (section 1(1)(d)).
- f. To save of the pregnant woman (section (1)(4))
- g. To prevent grave permanent injury to the physical or mental health of the pregnant woman (section (1)(4))

<http://www.legislation.gov.uk/ukpga/1967/87/section/1>

<sup>ii</sup> United Nations, Abortion Policies, A Global Review website

<http://www.un.org/esa/population/publications/abortion/profiles.htm>

<sup>iii</sup> This paper focuses on abortion legislation in England, Scotland and Wales. For those interested in the debate on abortion in Northern Ireland, please see our engage17 webpage on abortion for the 2017 Northern Ireland Assembly Election- <http://www.engage17.org.uk/life/abortion>.

<sup>iv</sup> [The Department of Health, Abortion Statistics, England and Wales: 2015, Table 1, p23](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319460/Abortion_Statistics_England_and_Wales_2013.pdf)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/319460/Abortion Statistics England and Wales 2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319460/Abortion_Statistics_England_and_Wales_2013.pdf)

<sup>v</sup> [ISD Scotland, Termination of Pregnancy Statistics 2015, Table 7](#)

<sup>vi</sup> [The Department of Health, Abortion Statistics, England and Wales: Table 3A, p25.](#)

<sup>vii</sup> S.1 Abortion Act 1967 <http://www.legislation.gov.uk/ukpga/1967/87/section/1>

<sup>viii</sup> Chris Richards, Christian Medical Fellowship, Are the majority of UK abortions illegal, Spring 2006

[http://admin.cmf.org.uk/pdf/helix/spr06/35abortions\\_illegal.pdf](http://admin.cmf.org.uk/pdf/helix/spr06/35abortions_illegal.pdf)

<sup>ix</sup> Claire Newell and Holly Watt, Abortion investigation: doctors filmed agreeing illegal abortions 'no questions asked', 22 February 2012 <http://www.telegraph.co.uk/news/health/news/9099511/Abortion-investigation-doctors-filmed-agreeing-illegal-abortions-no-questions-asked.html>

The Telegraph conducted an investigation whereby two doctors were filmed offering abortion services to women because they had conceived girls.

<sup>x</sup> Chris Pleasance, The Mail Online, You CAN abort a baby because of its sex: outrage at comments by boss of Britain's biggest terminations clinic, 18 September 2013

<http://www.dailymail.co.uk/news/article-2424111/You-CAN-abort-baby-sex-Outrage-comments-boss-Britains-biggest-terminations-clinic.html>

<sup>xi</sup> S. 1 Abortion Act 1967 <http://www.legislation.gov.uk/ukpga/1967/87/section/1>

<sup>xii</sup> Miranda Prynne, The Telegraph, Pre-signing abortion forms is illegal General Medical Council admits, 5 May 2014

<http://www.telegraph.co.uk/news/uknews/law-and-order/10807990/Pre-signing-abortion-forms-is-illegal-General-Medical-Council-admits.html>

<sup>xiii</sup> The Department for Health, Guidance in Relation to Requirements of the Abortion Act 1967, May 2014

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/313459/20140509 - Abortion Guidance Document.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/313459/20140509_-_Abortion_Guidance_Document.pdf)

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- xiv Parliamentary debate, 7 Sep 2011, column 354  
<http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110907/debtext/110907-0001.htm>, column
- xv Parliamentary debate, 7 Sep 2011, column 383  
<http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110907/debtext/110907-0001.htm>
- xvi Daniel Martin, Daily Mail, U-Turn on compulsory abortion counselling: Pro-life campaigners fury as Health minister reveals there are no plans to change law, 1 November 2012  
<http://www.dailymail.co.uk/news/article-2226008/U-turn-compulsory-abortion-counselling-Pro-life-campaigners-fury-Health-Minister-reveals-plans-change-law.html>
- xvii All Party Commission, Parliamentary Inquiry into Abortion on the Grounds of disability, July 2013, p.10  
<http://www.abortionanddisability.org/resources/Abortion-and-Disability-Report-17-7-13.pdf>
- xviii Ibid, p. 32
- xix All Party Commission, Parliamentary Inquiry into Abortion on the Grounds of disability, July 2013, p.34  
<http://www.abortionanddisability.org/resources/Abortion-and-Disability-Report-17-7-13.pdf>
- xx There was originally a blanket ban on performing abortions after 28 weeks because it was believed that after 28 weeks the child will be able to survive outside the womb. After 1990 the upper limit for performing abortions was reduced to 24 weeks for Grounds C and D and the upper limit was removed entirely for the Grounds A,B,E, F and G.  
<http://www.publications.parliament.uk/pa/cm200607/cmselect/cmsctech/1045/104505.htm>
- xxi [Abortion \(Disability Equality\) Bill \[HL\] 2016-2017](#)
- xxii [Reproductive Health \(Access to Terminations\) Bill 2016-17](#)
- xxiii [http://comresglobal.com/wp-content/themes/comres/poll/Christian\\_Institute\\_Abortion\\_Survey\\_3rd\\_March\\_2014.pdf](http://comresglobal.com/wp-content/themes/comres/poll/Christian_Institute_Abortion_Survey_3rd_March_2014.pdf)