

Written evidence from North West Pro-Life (FOE0091)

The question I have chosen to answer is:

3. Is there a need to review the wording and application of Public Space Protection Order (PSPO) legislation?

1. Introduction

Yes, since the wording and application of Public Spaces Protection Orders (PSPO) legislation is being used to curtail ‘Freedom of expression’ such as pro-life vigils in a public space at abortion clinics which offer support to vulnerable women who may not receive this help anywhere else and so lose their unborn child, possibly with coercion from a partner,¹ when this loss could be averted through their own personal choice upon receiving advice (freedom of expression), with PSPO ‘exclusion zones’ making this much less likely.

If freedom of expression is curtailed then a hegemony can result, where only one group can express opinion at the expense of others, so that public consciousness on important issues is lost and the protected characteristics of the Equality Act 2010 held by many in the UK be circumvented. Allegations of wrongdoing are more likely to be automatically believed, for example those that have been made against vigil attendees.

A subjective assessment on the need to review PSPO legislation can be made based on the current human rights legislation summarised by the Equality and Human Rights Commission in its document ‘Freedom of expression’ (2015)² and PSPO guidance from the Local Government Association (2018)³ in section 4.

2. What are pro-life vigils?, consequences of abortion, and so why support is necessary

Attendees at vigils assembling peacefully are oftentimes observing a religious call consistent with their Equality Act 2010 rights involving prayer that abortion will end, for the women and unborn babies affected, and also abortion clinic staff and society in general to come to understand the tragic reality of abortion which resulted in the loss of 207,384 lives in England & Wales in 2019.⁴

All unborn babies are human beings as the United Nations International Covenant on Civil and Political Rights (UN ICCPR) Article 6.5 states, “Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women” as two lives would be lost for pregnant women.⁵ Even though induced abortion under certain conditions is lawful in States, UN ICCPR Article 6.1 also states, “Every human being has the inherent right to life. This right shall be protected by law.” so

¹ <https://www.spuc.org.uk/News/ID/384503/Explosive-Mumsnet-post-reveals-how-UK-men-are-trying-to-force-women-to-have-abortions>

² Equality and Human Rights Commission, 2015, Freedom of expression, Available at:

https://www.equalityhumanrights.com/sites/default/files/20150318_foe_legal_framework_guidance_revised_final.pdf

³ Local Government Association, 2018, Public Spaces Protection Orders: Guidance for councils, Available at:

https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf, p.3.

⁴ <https://www.gov.uk/government/statistics/abortion-statistics-for-england-and-wales-2019>

⁵ <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

there is a justifiable argument that fellow human beings should peacefully be able to bear witness to this loss of human life at abortion clinics and so uphold the inherent right to life as far as reasonably possible.

The vast majority of loss of unborn babies lives in Great Britain is from preventable “social abortion” with around 98% healthy,⁶ an estimated 40-50% of relationships end following abortion,⁷ and there is increased risk of mental health problems for women, including suicide.⁸ Multiple studies link abortion to intimate partner violence⁹ with a £47 billion cost of treating women for physical and emotional injury from domestic abuse in England & Wales each year.¹⁰ Black and minority ethnic women and their unborn babies disproportionately undergo abortion.¹¹

The NHS ‘Abortion risks’ webpages includes guidance from the National Institute of Health and Care Excellence (NICE)¹² that “Providers should provide support or refer women for support to help them make a decision if they request this” (section 1.1.8) and “providers should be able to provide emotional support after abortions. They should tell women this support is available if they need it” and “providers should provide or refer women for counselling if requested” (section 1.14.6) so support for women is clearly necessary.

3. Prior Parliamentary and judicial rulings

The Human Rights Joint Committee should primarily consider the September 2018 decision of the then Home Secretary, Sajid Javid MP, who rejected a nationwide ban on vigils at abortion clinics stating that ‘buffer zones’ “would not be a proportionate response” to claims of harassment. Whilst the review received allegations of behaviour that could constitute harassment, he said “what is clear from the evidence we gathered is that these activities are not the norm, and predominantly, anti-abortion activities are more passive in nature” and, “The main activities reported to us that take place during protests include praying, displaying banners and handing out leaflets. There were relatively few reports of the more aggressive activities described.”¹³

⁶ <http://www.un.org/en/development/desa/population/publications/policy/world-abortion-policies-2013.shtml> & https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/808556/Abortion_Statistics_England_and_Wales_2018_1_.pdf, p.3. – In my view, all unborn babies are of equal value irrespective of their physical and/or mental capabilities

⁷ deVeber Institute for Bioethics and Social Research, 2019, Women’s Health after Abortion: The Medical and Psychological Evidence, Available at: <https://www.deveber.org/wp-content/uploads/2017/09/Chap15.pdf>, p.218.

⁸ Academy of Medical Royal Colleges, 2011, Induced Abortion and Mental Health, Available at: https://www.aomrc.org.uk/wp-content/uploads/2016/05/Induced_Abortion_Mental_Health_1211.pdf, p.8. & <https://www.ncbi.nlm.nih.gov/pubmed/25420710> [Abstract]

⁹ <http://onlinelibrary.wiley.com/doi/10.1111/1471-0528.12609/abstract>; & Hedin LW & Janson PO (2000) Domestic violence during pregnancy: the prevalence of physical injuries, substance use, abortions and miscarriages. *Acta Obstetrica et Gynecologica Scandinavica* 79:625-630; & Taft AJ & Watson LF (2007) Termination of pregnancy: associations with partner violence and other factors in a national cohort of young Australian women. *Australian and New Zealand Journal of Public Health* 31(2):135-142

¹⁰ <https://www.gov.uk/government/publications/the-economic-and-social-costs-of-domestic-abuse>

¹¹ GOV.UK, 2019, Population of England and Wales: Ethnicity, Available at: <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/national-and-regional-populations/population-of-england-and-wales/latest#by-ethnicity> & https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/808556/Abortion_Statistics_England_and_Wales_2018_1_.pdf, p.8.

¹² NICE, 2019, Abortion care, Available at: <https://www.nice.org.uk/guidance/ng140>, Accessed 22 December 2020

On the 23rd March 2018, a judge ruled that a pro-life vigil outside Nottingham Queen’s Medical Centre Hospital was lawful and it was “not likely to cause alarm, distress, or harassment” to attendees at the hospital.¹⁴

Arguments used for imposing PSPO exclusion zones are that staff feel harassed/intimidated yet chief executive, Anne Furedi, of abortion provider the British Pregnancy Advisory Service said in 2019 that she had “the best job in the world” so it is unlikely staff should feel intimidated or harassed by peaceful gatherings.¹⁵ It cannot be more detrimental to residents close to abortion clinics to see peaceful gatherers than the sight of thousands (typically) of potentially distressed women attending clinics annually.¹⁶ There is often media bias against vigils where rare transgressions are portrayed as the norm.¹⁷

4. A subjective assessment on current PSPO legislation

PSPO guidance states “what may be regarded as ‘anti-social’ is a subjective concept”¹⁸ where the table below indicates an ‘Outcome’ of my own (hopefully fair) subjective judgement based on Yes, No, Likely, or Unlikely for each criterion (EHRC) and guidance (PSPO):

Current human rights criteria/PSPO guidance with respect to pro-life vigils	Outcome	Comments
Is the vigil “shocking”? EHRC p.3.	No	No one could argue to be shocked by peaceful assembly of a group of people standing/gathering in a public place, praying, displaying banners, and offering leaflets if requested
Is the vigil “disturbing”? EHRC p.3.	Unlikely	Peaceful public gathering is not disturbing; any worry and upset is likely already in the mind of the attendee not excessively compounded by the presence of the vigil
Is the vigil “offending deeply-held beliefs of others”? EHRC p.3.	No	Not other than those who oppose vigils per se but being offended is protected under Article 10 legislation

¹³ Catholic Herald, 2019, Government rejects nationwide ban on pro-life vigils, Available at: <https://catholicherald.co.uk/government-rejects-nationwide-ban-on-pro-life-vigils/>

¹⁴ <http://www.bbc.co.uk/news/uk-england-nottinghamshire-43543737>

¹⁵ <https://righttolife.org.uk/news/chief-executive-of-uks-largest-abortion-provider-to-step-down-in-2021>

¹⁶ LGA, p.6.

¹⁷ Maya Oppenheim, 2020, Anti-abortion protesters deter women from going 'into clinics as well as entering services to find staff', The Independent, 30 September, Available at: <https://www.independent.co.uk/news/uk/home-news/antiabortion-protesters-clinics-40-days-life-b721336.html>

¹⁸ LGA, p.6.

Is an exclusion zone preventing vigil attendance for peaceful assembly and freedom of expression “proportionate”? EHRC p.3., PSPO p.4.	No	As per the former Home Secretary’s evidence-based judgement of September 2018 and prior judicial ruling
Do vigil attendees “harass, incite violence or hatred against other persons”? EHRC p.3.	No	Harassment would not be true for attending a clinic on one occasion nor should staff be troubled/upset by people gathering peacefully even though they might disagree with vigils
Is problem behaviour at vigils “personally encountered by individuals” commonplace? PSPO p.13.	No	The evidence from Parliamentary review found not
Is “offensive communication” used at vigils? EHRC p.4.	No	Graphic images and offensive communication are anomalous at vigils and not tolerated by the vast majority of peaceful gatherers
Are vigils causing “persistent issues that damage communities”? PSPO Foreword	No	For the reasons above, they offer help and support and preventable loss of unborn babies is arguably more damaging to communities
Are vigils an “issue that cause anti-social behaviour...necessary to protect the public” requiring a PSPO exclusion zone? PSPO p.5.	No	It is most unlikely necessary to protect the public from ASB
Do vigils have “positive benefits”? PSPO p.4.	Yes	Many hundreds of women have been helped by vigils at abortion clinics
Does vigil attendance adhere to any additional test that “the behaviour needs to be severe enough to cause alarm, harassment or distress”? PSPO p.6.	Unlikely	As previously
Do people attending or residents close to clinics “feel safe”? PSPO p.12.	Likely	Peaceful gatherings are not a danger or likely to cause harm
Is the behaviour “so unreasonable that it should be banned” by a PSPO exclusion zone? PSPO p.13.	No	Obviously not given the above
Do vigils broadly ascribe to “groups	Yes	Explicitly permitted under

hanging around” and are a “broad spectrum of the public” that are “free to gather and talk”? PSPO p.7.		human rights and PSPO guidance
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Extra note

- The abortion lobby may be aware and disapprove of an “abortion reversal” treatment for medical abortion (pills), of which information could be offered at vigils, if requested, whereby after ingestion of the first of two pills, and under free choice, a woman can attempt to prevent the loss and keep her unborn child, and so it is possible they lobby for current PSPO legislation ‘exclusion zones’ seeking to prevent this information being shared.¹⁹

Conclusion

- The evidence is clear and overwhelming subjectively that the wording and application of Public Space Protection Order (PSPO) legislation needs to be reviewed and changed to prohibit the imposition of ‘exclusion zones’ at abortion clinics as they are not proportionate and the freedom of expression be upheld, and to protect the right to other pro-life activities. Witness to UN ICCPR Articles 6.1 and 6.5 can be upheld by vigils at abortion clinics reasonably.

11/01/2021

¹⁹

<https://www.spuc.org.uk/Portals/0/ThemePluginPro/uploads/2020/10/2/Medical%20Abortion%20Reversal%20Booklet.pdf>