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Llywodraeth Cymru  
Welsh Government

Welsh Government  
Consultation – summary of response

## Termination of pregnancy provision for women from Northern Ireland

October 2018

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

## **Summary report: consultation on termination of pregnancy services for women normally resident in Northern Ireland**

The Welsh Government sought views on the proposal that Local Health Boards (LHBs) in Wales will provide access to termination of pregnancy (TOP) services to women from Northern Ireland (NI) on an equal footing with resident Welsh women.

The consultation ran from 12 January to 9 February 2018.

### **Background**

More than 50 cross-party MPs backed a Labour-led call for women from NI to have access to NHS TOP services in England in the Queen's Speech debate on 29 June 2017.

The Rt. Hon Justine Greening MP, Minister for Women and Equalities, issued a letter on 29 June to all MPs in relation to TOP performed in England for women from NI. Payment will be funded through the Government Equalities Office, allowing the Department of Health to commission TOP services in England for those from NI. The Scottish Government has already introduced provision for women from NI to be able to access TOP services in Scotland.

In First Minister's Questions on 4 July 2017, the First Minister made it clear that the Welsh Government would look into the provision of TOP in Wales to women from NI. The Welsh Government's view is that a woman from NI, in Wales, should be able to access TOP on the same basis as women normally resident in Wales.

The consultation asked for comments from all interested parties on the Welsh Government plans to deliver this provision in the following way:

Section 12 of the NHS (Wales) Act 2006 enables Welsh Ministers to direct a LHB to exercise any of the Welsh Ministers' functions under the 2006 Act. Those functions include medical services and other services for the care of pregnant women.

The Welsh Ministers can make a written Direction which changes the usual residence test in the Local Health Boards (Directed Functions) (Wales) Regulations 2009, to enable UK citizens ordinarily resident in NI who are for the time being in the area of a LHB are to be treated as usually resident in that LHB's area for the purpose of accessing TOP services.

### **Engagement**

In support of the consultation, officials met with the Society for the Protection of Unborn Children (SPUC) in order to explain the nature of the proposal. Officials also met with Public Health Wales and publicised the consultation at a variety of meetings with clinicians.

### **Overview of responses**

In total, 802 responses were received to the consultation. The majority of responses came from the pro-life group SPUC and their members, and a significant proportion of these responses came from individuals in NI.

A brief overview of the responses, both negative and positive, is provided below. A full summary of all responses received is attached at Annex 1.

## Negative

As noted above, the majority of the negative responses came from the pro-life group SPUC and their members. These responses all contained identical objections and they are therefore treated collectively. These objections are outlined below along with the Welsh Government's response to each.

### A moral objection to abortion in general

The consultation document stated that in Great Britain, TOP is governed by the Abortion Act 1967. It is a reserved matter under the devolution settlement and is consequently not devolved to Welsh Ministers. TOP provision remains a legal healthcare entitlement in Wales under the Abortion Act 1967. The consultation was not about TOP in general, but rather the extension of an existing legal healthcare provision to a specific cohort of women, i.e. those from NI. Therefore, the proposal is not one for moral discussion.

### Undermining of Northern Ireland's law and devolution settlement

Many of the responses suggest that the Welsh Government's proposals undermine the democratic decision of the Northern Ireland Assembly not to allow TOP in Northern Ireland. In NI, TOP is only funded and permissible in very limited circumstances; if a woman's life is at risk or there is a permanent or serious risk to her physical or mental health. Rape, incest and fatal foetal abnormalities are not circumstances in which they can be performed legally. Consequently, every year hundreds of women from NI travel to Great Britain in order to access TOP services. In previous years, the overwhelming majority of these women have travelled to England.

The Welsh Government's proposal is solely concerned with the law and healthcare provision in Wales. The Welsh Government's view is that a woman from NI, in Wales, should be able to access TOP services on the same basis as women normally resident in Wales.

### Use of public money to fund this provision

A number of respondents were unhappy with the idea of money allocated to the Welsh NHS apparently being diverted to provide TOP services to women ordinarily resident in NI. LHBs confirm that historically very few women from NI have accessed TOP services in their areas and they expect the impact of this proposal to be low. It is therefore anticipated that any TOP services provided could be absorbed within existing financial provision. The proposal also provides for a six month review of the proposal to enable the Welsh Government to analyse any impact.

### Legal process

Several responses expressed concern that the proposals involved making a written Direction instructing LHBs in Wales to make TOP services available to women from NI, rather than a more formal route which they saw as having more scrutiny.

This proposal does not require primary legislation - the Welsh Ministers already have the power to direct LHBs to exercise any of the Welsh Ministers' functions under the 2006 Act, including functions relating to medical services and other services for the care of pregnant women.

Using directions to change the usual residence test is not without precedent – in February 2017, written directions were issued to provide that prisoners be treated as usual residents of the relevant LHB.

## **Positive**

The Welsh Government received 14 responses supporting the proposal. These responses came largely from clinical bodies including the Royal College of Obstetricians and Gynaecologists, the Royal College of Midwives Wales, British Pregnancy Advisory Service, General Practitioners, Hywel Dda UHB, Aneurin Bevan UHB, Cardiff and Vale UHB, and the Welsh Nursing and Midwifery Committee. Positive responses were also received from Women's Aid and the London-Irish Abortion Rights Campaign.

The positive responses from clinical bodies generally emphasised the need to provide safe healthcare for women from NI. This was also picked up in the responses from women's groups, who also emphasised the right of free choice for women from NI to access TOP services.

The responses from clinical bodies raised a number of important issues around the pathway and care of women not ordinarily resident in Wales, which officials will take into account when establishing the appropriate care pathway.

## **Consultation Outcome**

Following this consultation, the Welsh Government plans to implement the provision as proposed. Officials will work with clinical bodies to arrange effective pathways for women resident in NI, in Wales to access TOP provision and ensure appropriate healthcare is provided.