

British Pregnancy Advisory Service's response to the Abortion Clinic Protest Review

Background

The British Pregnancy Advisory Service (BPAS) is a reproductive healthcare charity that offers abortion care, contraception, STI testing, miscarriage management, and pregnancy counselling to nearly 80,000 women each year via our clinics in England, Wales, and Scotland.

As part of our advocacy work, we have been running the *Back Off* campaign to introduce buffer zones around abortion clinics and pregnancy advisory bureaux since 2014. This is based on the evidence we collect from our clients that protests outside clinics are distressing and intimidating.

Our work with Rupa Huq MP led to the establishment of a Home Office review into protests outside abortion clinics, and our full response to this consultation is included here.

Evidence of Protest Activity

Have you knowledge of, or have you been involved in protests or other related activity outside healthcare clinics offering abortion services in England and Wales in the last twelve months?

Yes.

BPAS is the largest abortion provider in England and Wales, and runs 70 clinics across Great Britain. In the last twelve months, 18 of these clinics have been affected by anti-abortion protests. These vary in size, tactics, frequency, and organisation. Some examples in the past year include:

- Small weekly-monthly prayer vigils outside the building where the clinic is based
- A daily presence during Lent of up to 12 people holding banners, chanting, praying, singing, distributing leaflets, and asking people why they were there
- A permanent presence of people (5 days a week, 6+ hours a day) who approach clients as they try to access services
- Marches that culminate immediately outside clinics, often with attendees praying in large groups immediately outside the clinics.

BPAS also run the national 'Back Off' campaign to introduce buffer zones outside abortion clinics to prevent the harassment and intimidation of clients and staff, and as part of this have collected extensive reports of protest activity.

Have you had any engagement with the following in respect of protests or other related activity outside healthcare clinics?

- **Healthcare providers.** The Back Off campaign is supported by Marie Stopes International, the British Medical Association, the Royal College of Obstetricians and Gynaecologists, the Royal College of Midwives, the Faculty of Sexual and Reproductive Health, and Doctors for Choice. These organisations support the campaign as a direct

result of the impact of abortion clinic protests on their members and on the people they treat. We also work with healthcare providers that house BPAS clinics – of the 18 of our

- clinics that have experienced protests in the last 12 months, 9 of these are based in NHS properties or co-located with other health facilities such as sexual health clinics.
- **Local authorities.** The Back Off campaign has worked with a number of local authorities to try and make use of existing anti-social behaviour powers to address the issue of abortion clinic protests in their local areas (not just outside BPAS clinics). It is important to note that so far, no Local Authority has introduced a Public Spaces Protection Order for these purposes so it is not yet possible to assess their efficacy. We are currently in contact with 10 Local Authorities that are examining their options with regards to abortion clinic protests – Ealing, Lambeth, Richmond, Portsmouth, Southwark, Birmingham, Manchester, Bournemouth, Leeds, and Doncaster.
- **Police.** We have been in contact with the police at a local level with regards to specific clinic protests over recent years. These contacts include incidents at our clinics in Bournemouth (2017/2018), Leicester (June 2017), Merseyside (March 2017), Stratford, London (January 2017), Cardiff (2017), Richmond, Oxford (November 2016), Southwark, London (multiple up to 2016), and Doncaster (multiple up to March 2016). We are also aware that Marie Stopes have contacted the police with regards to protests in Stevenage (clinic now closed), West London (Ealing), and Manchester. In some areas (notably Oxford), police inform the clinic when protesters are expected. In no area has there been a solution found by the police to the issues raised by clinic protests.
- **Protest Groups.** Our clinic staff sometimes engage with protesters and protest groups where they are impacting on clients entering and leaving the clinic. This can include requesting that they stop approaching clients, that they abide by previous agreements with the police, or that they do not trespass on clinic grounds. Our experience is that aside from making clear where clinic grounds extend to, interaction with these groups has a minimal effect.
- **Other (local residents, members of the public).** As part of the Back Off campaign, we have collected 650 responses from members of the public, including more than 270 direct accounts from clients accessing services, detailing their experiences of clinic protests. These are consistent with our internal reports of the location and type of protest activity, and in some cases have alerted us to protests about which we had not previously been aware (for example, at Cheltenham General Hospital, which we have confirmed with the hospital's communications team). We will be sharing these responses, in addition to our internal reports, with the Home Office as part of this consultation. We are also in touch with a number of local residents' associations and local pro-choice groups who are working in their areas to bring clinic protests to an end – notable examples include Reclaim Rosslyn Road for protests outside BPAS Richmond and Sister Supporter for protests outside Marie Stopes West London (Ealing).

What do you understand to be the purpose of the protests or other related activity outside healthcare clinics?

To prevent abortions from taking place.

Different groups use different tactics but all share the opinion that abortion is wrong and that either the provider should not be present and providing abortions, or that women should be deterred from accessing abortion services and instead choose to continue with their pregnancy.

For example, Abort67 has protested outside BPAS Southwark, located in Blackfriars Medical Practice, for more than three years. They use oversized explicit posters of dismembered fetuses and wear body cameras to film their protest. They have told the practice and made clear in press releases that this protest will not stop until the surgery discontinues the arrangement with BPAS. They also maintain the same form of protest outside Marie Stopes Lewisham, housed by St John's Medical Centre.

The Good Counsel Network and Helpers of God's Precious Infants, in contrast, use different tactics outside BPAS Richmond. They approach and follow women as they enter and leave the clinic, offer literature with dubious medical claims, display placards with religious imagery and fetuses, and hand out rosary beads. The Good Counsel Network's mission statement includes the claims that they educate women 'about abortion and the humanity of their child' as well as offering women the 'moral support which they may need to keep their child'. Their advertisement for the 12th January 'National Day of Prayer and Fasting for Life' called on people to "Please pray and fast for the end of abortion".

40 Days for Life, which are active across the country, and vary from gathering, praying, aggressively leaflets, and approaching women (BPAS Bournemouth) to following women to their cars (BPAS Doncaster) and accosting staff (BPAS Cardiff), say in their mission statement "[40 Days for Life] puts into action a desire to cooperate with God in the carrying out of His plan for the end of abortion."

To the best of your knowledge, how many healthcare clinics have experienced protests or other related activity in the last 12 months?

We currently understand that there have been 42 clinics and NHS sites affected by protests in the UK in the last 12 months – 35 of which are in England and Wales. We have put together a map of clinics and NHS sites with reported protests in the last 12 months, including detail of their council areas, the form of protest, and whether they form part of an NHS site. You can view our map here: <https://back-off.org/recorded-protests/>.

It is not only standalone abortion clinics, or independent provider clinics, which are affected by protests. A significant number of independent provider clinics are provided out of NHS sites such as doctor's surgeries and NHS hospitals also provide services. Out of the 35 clinics in England and Wales affected by protests in the last year, 17 of these were NHS sites.

What is the frequency of protests activity and what is the average number of people in attendance?

As an average across all 42 clinics experiencing protests, we would estimate that activity occurs 1-3 days a week and involves 1-5 people. It is important to note that there are protests, though, that involve a daily presence all year round – or which have a weekly presence of many more than 5 people. This is simply an estimate of average activity.

What is the nature of the activity undertaken outside the clinics?

- **Approaching clients** – present in almost all abortion clinic protests. Protesters approach clients as they are entering or leaving the clinic, attempting to waylay them and tell them their opinions on abortion to deter or dissuade women from accessing services.

- **Leaflets** – These vary by organisation. On the one hand are leaflets that purport to be grounded in the ‘science of abortion’ such as those produced by Abort67 with pictures of dismembered fetuses on the inside pages, and information about foetal development, also includes leaflets produced by groups such as SPUC. On the other hand are leaflets that focus on the purported ‘impact of abortion’, which often promote ‘services’ such as the Good Counsel Network or the Abortion Recovery and Care Helpline, and provide false information such as “Some psychological effects of abortion...damage to maternal instinct, feeling incapable of motherhood, hostility” and “9 out of 10 relationships break up after abortion”. Other leaflets say that abortion causes breast cancer, eating disorders, depression, and suicidal thoughts. BPAS have copies of these leaflets on file.
- **Posters** – Most groups have some form of placard or poster. These vary in content. At one end of the scale, Abort67 display 15ft banners of dismembered fetuses, at the other, 40 Days for Life have A1-sized ‘Pray to End Abortion’ signs. Most groups fall somewhere in between, and a lot of protesters bring their own regardless of the group they are officially there with, and these vary from pictures of the Virgin Mary to bible verses (“Before I formed you in the womb I knew you”) to posters of developing fetuses.
- **Distressing communication** – Some examples of the language used in protests include telling women that abortion is ‘murder’ or they are a ‘murderer’, telling women they are ‘doomed’, or that their ‘baby’ won’t get into heaven. Protesters are also reported to wait until women are isolated before they approach them, increasing their distress.
- **‘Prayer vigils’** – gatherings of groups in prayer – either silent or aloud, often with the use of rosaries and efforts to distribute pink and blue rosaries to clients. The mainstay of a number of groups but most noticeable as part of 40 Days For Life protests where they aim to be present from 7am – 7pm throughout the period.
- **Singing** – Some groups are known to sing hymns, often loud enough to be heard inside the clinic. This forms part of the daily vigil and can persist over a number of days. Outside Marie Stopes Central London this singing persisted for months, disrupting workers inside.
- **Filming** – Abort67 are the group most known for their use of body cameras to film their activity and their interaction. They claim these are used for their own protection, but OfCom concluded after a complaint made by Abort67 about undercover footage from BPAS Southwark used in the 2016 Channel 4 Dispatches programme *Britain’s Abortion Extremists* ‘by using the body cameras in the way that the Abort 67 representatives did (particularly where those cameras were, at least some of the time, pointed at the door of the clinic), Abort 67 knew, or ought to have known, that they would be capturing footage of women who were attending those premises.’ BPAS have also received reports of filming from other groups, including those outside BPAS Streatham, Marie Stopes, Manchester, BPAS Bournemouth, and one particularly nasty incident where protesters dressed as monks entered the BPAS Portsmouth clinic and were filming using equipment hidden under their cassocks.
- **Following clients and staff for a distance** – Some more established groups are reported to follow staff and clients as they enter and leave the clinic, in some extremes banging on car windows or attempting to record registration numbers. This usually happens in groups that have been in place for longer and who have not, thus far, been challenged by the local council or police.
- **Marches** – In conjunction with a local church, some groups organise marches that culminate outside a clinic. This has happened in the last year in a number of different

areas, and numbers are usually around 30-40. They tend to be organised on weekends after a church service so outside clinic hours, and they tend to notify police in advance, but can be disruptive for the local area.

- **Candlelight vigils** – 40 Days for Life groups also sometimes co-ordinate evening vigils that tend to be larger and involve standing directly outside clinics, usually after closing hours, with candles and holding something of a religious service.
- **Spreading holy water** – A number of areas report protesters spreading holy water around the clinic and on the pathway. Some clinics have liquid spread on their doors and doorsteps and protesters pray at the entrance. They see this as ‘purifying’ the premises.

Do you have any evidence that clients and staff of healthcare clinics are being harassed and / or intimidated?

Yes. The evidence we have collected shows a clear pattern of clients and staff feeling harassed and intimidated. It is important to note that under existing law, it is both difficult to prove harassment (as per the Protection from Harassment Act 1997) because of the one-off nature of most interactions with protesters, and difficult to prosecute under the law owing to the understandable unwillingness of women to disclose their own confidential medical records in order to achieve a conviction.

It is clear that the harassment of women outside clinics is a pattern by these individuals and groups of causing distress and alarm to people who possess a protected characteristic under the Equality Act 2010. Although there may not be a course of conduct against an individual client, it should be considered that – as with street harassment – there is a pattern of behaviour against a particular group of people.

Examples included here should be viewed as indicative of the responses we have received, and not an exhaustive account. Full records of our evidence from clients, members of the public, and clinics (1400 records, currently) can be found on our online database which we have shared with the Home Office.

- BPAS Richmond, 2018 – *“One [protester] was standing at the front entrance gate to the clinic and there were one or two more across the road opposite. They seemed to be holding something, perhaps some leaflets. [It made me feel] scared, upset and ashamed. My husband and I were there for termination due to foetal anomaly and so were already very distressed by the situation. The sight of them standing there at the entrance gate at the front of the building meant we felt we had to walk around the side of the building to gain access to the property, with our heads down as we walked past them already inside the gate to get to the main front entrance. They did not make contact with us in the end. It added additional unwanted and unnecessary stress and upset on an already devastating day.”*
- BPAS Bournemouth, 2018 – *“[The protesters were] approaching with leaflets, trying to engage in conversation. Holding signs where words such as ‘moral’ are emphasised. Watched them approach women crying. [They made me feel] victimised, vulnerable, angry, and bullied.”*
- Marie Stopes Central London, 2017 – *“[The protesters were] harassing me, calling me a murderer, approached my boyfriend and told him to not go into clinic as we’d both be condemned to hell. Externally heart-breaking experience as I’m a Catholic / studying human rights law – could not see how this was legal. Wouldn’t use the word protest,*

simply harassment. Visited clinic twice and this happened both times. Old lady also holding Baby scans. [It made me feel] guilty, depressed, and still suffering from PTSD.”

- BPAS Richmond, 2017 (internal report) – *“Client attended yesterday with her partner who did not want her to have an abortion. Client has advised us that he is violent towards her. Today client attended alone for the EMA 1st part, whilst here in the unit she received a call from her partner saying he knows that she is here. Also she received a text message from one of the protesters telling her not to go ahead with the abortion. It has transpired that her partner gave one of the protesters his and her mobile numbers.”*
- BPAS Doncaster, 2017 – *“[The protesters] followed me and my partner up the road. Tried to take our reg number. Pushed my partner. Harassed me up the street, wouldn't stop following me. I didn't want to return today. Suffered anxiety attack on approaching the clinic.”*
- Marie Stopes West London (Ealing), 2017 – *“On my first visit early in the morning there was a woman clutching a cross standing right by the entrance and shouting things at me – I couldn't understand what she was saying and carried on walking. On my second visit on leaving I was chased by a man with leaflets and shouting. There were lots of people standing/sitting on the grassy bit outside the clinic on both occasions. I was unprepared on my first visit for what I encountered. I nearly turned round and went home. It was so intimidating and I felt very tearful and to a certain extent a bit threatened and judged. It made a terrible situation even worse.”*
- BPAS Bournemouth, 2017 – *“She waited until my daughter was on her own then called it murder if she had an abortion, shoved her an unborn embryo, and tried to cuddle her. She made my daughter feel very upset and unsure if she was making the right decision.”*
- BPAS Richmond, 2017 – *“They handed me a leaflet as I entered, nauseous and terrified, and told me they could save me. One of them held a huge placard with bible quotes. They changed throughout the day with more graphic images as the day progressed- aborted fetuses accompanying bible quotes seemed like an oxymoron to me. The protester as I left said a prayer for me and followed me down the road until I got in my car.”*
- Marie Stopes Leeds, 2017 – *“[The protesters were] shouting, holding placards with graphic doctored images, handing out leaflets and trying to talk to my friend even though she told them to stop. [They made me feel] upset, uncomfortable, angry, worried about my friend. After the incident I felt very shaken up and anxious. My friend was crying and deeply traumatised and frightened.”*
- BPAS Bournemouth, 2017 – *“[The protester was] walking up and down outside of the building, handing out leaflets. [It made me feel] violated. She watched what car I came out of, waited for me to walk away and then approached my family. Everyone has their own rights. As if this isn't hard enough as it is.”*
- BPAS Portsmouth, 2017 – *“[The protesters were] protesting outside the main entrance, waving placards saying 'Pray to Stop Abortion'. [They made me feel] uncomfortable, stigmatised, felt it was aimed at me. Made me feel like a bad person.”*
- BPAS Doncaster, 2016 – *“Stopped me before I got out the gate. Lady asked me how many months pregnant I was. Told her none of her business. She said to me the baby had a right to life, offered to help me out with money. She was holding a plastic foetus and saying this is what it looks like in my belly. She gave me leaflets - forced them in my*

hand and tried to give me her phone number to talk. I walked away - she followed me to my car and was banging on the window - I just drove off. It was extremely distressing and upsetting - this was my decision, no one has the right to do what she did."

- BPAS London East, 2016 – *"As I was standing outside with my partner one protester approached and started asking personal questions. As my partner tried walking away she started saying we are killing our baby and shoved pictures in our face saying "this is what you're doing to your baby, you should be good parents, don't do this". Later as we went outside she approached my partner again to carry on the same message as before."*
- Report to the police, BPAS Doncaster, 2016 – *"I have a member of staff who was followed to her car on Monday night by the blonde protester. She asked the member of staff if she needed any advice. When the staff members told her she worked here, she said 'you're sick'."*
- Marie Stopes Maidstone, 2015 – *"Shouting towards my partner who had to wait outside the clinic whilst I had surgery. He said it was just two people who had kept walking up and down the street, they shouted at him... 'You wouldn't be with a pervert so why are you with a murderer?'"*
- Marie Stopes West London (Ealing), 2015 – *"I went with my husband to the clinic on both occasions. We drove down the road past the clinic and saw the protesters and it made me feel sick and anxious. I made him park a few streets away so I had time to prepare to walk past them. I kept my head down and dashed past so they wouldn't have time to try and talk to me. I felt ashamed and very tearful. Afterwards on our second visit (I made my husband take the day off work so I did not have to encounter the protesters alone)."*
- Marie Stopes West London (Ealing), 2013 – *"On my visit to the clinic the pavement outside was lined with images of dead fetuses and signs making clear that what I was about to do was murder of a child. One man put a leaflet on the windscreen of my car as I sat inside it, sobbing. While I left the clinic later in the afternoon, miscarrying a baby that I couldn't keep, my partner helped me into a taxi as a woman stood a few feet away blaring nursery rhymes from a boom box. You can turn your head from images and hateful words - you can't escape noise. To this day the sound of nursery rhymes make me feel physically sick."*
- Internal report, Marie Stopes Lewisham, 2017 – *"We have paid particular attention to how the team works when they set up outside the clinic. They ensure that they have a camera set up on a tripod recording at all times as well as one protester wearing a body cam. On this particular day there were five ladies protesting. They arrive just before lunchtime to set up their poster that states that terminations are carried out in this particular medical centre - I am assuming that they know the local college students walk past the medical centre to the local restaurants for their lunch and they are able to stop them and hand out leaflets. They also have a petition that they ask people to fill in when they stop - this petition is being signed for terminations to stop being carried out at St Johns Medial Centre. Although we have found the protesters to be peaceful in their actions we find that our clients still find this very upsetting as they stand very close to the entrance of the medical centre. There has also been problems in the past with the children's nursery next door to the medical centre – Parents collecting their children are not very happy that the graphic images that are shown."*

- Staff member, BPAS Portsmouth, 2017 – *“{The protesters} force leaflets upon people - they tried to push one through my open car window whilst at a traffic light.”*
- Staff member, BPAS Richmond – *“One of my clients disclosed at the end of the consultation that a lady stopped her outside, grabbed her arm saying to not kill her baby because they will help. The client told me that was very upsetting and made her nervous. She asked me if I considered her a killer because she knows that she cannot manage to support her child.”*
- Staff member, BPAS Richmond – *“I have had women years later disclose the trauma they felt when they encounter protestors, including one woman who was grabbed by a male protestor several years prior at a visit to another clinic. This time, when she came around the corner and saw the protestors again, she almost couldn't enter the clinic because she was so terrified of being grabbed again- she was shaken and crying when she came to see me”*
- Staff member, BPAS Cardiff – *“Years ago the protesters used to tell me they “were praying for me” and I could cope with this. Now Ben and his followers call me by name and I have been asked: “Vivienne, do you have children yourself?” “Vivienne, how do you sleep at night? What do your children think?”... I have to arrive early to work for the duration of the protest because some of my doctors will only work if I let them in via the fire escape onto Golate Lane at the side of the clinic. At lunchtime I have to take everyone’s lunch orders and go and get the lunches because staff don’t want to walk through the protesters more than they have to.”*
- Staff member, BPAS Richmond – *“[I feel] very intimidated. Every day now I enter and leave work via the back door to avoid the confrontation and then running towards me as I walk in the front gate. They can be persistent when I and other people have told them we do not want to engage with them. I don’t leave work to go for lunch anymore because I don’t want a conflict. I sit away from the staff room window so they cannot see me eating my lunch inside work. I have had to advise my sister and partner to come via the back door when collecting me from work to avoid them. I am cautious about driving my car to work so they don’t know the car I drive or my number plate.”*
- Report of harassment, BPAS Bournemouth (Nov 2016) – A staff member was approached as leaving the clinic by a man dressed as a monk and then followed up the road towards her car as she called the clinic to warn that protesters may approach other staff members. When she turned around, he was stood directly behind her. Her words – *“I was so polite and respectful to him in the hope he'd just back off a bit but he just went on and on at me. You just don't know what these people are capable of so being pleasant just felt like the safest option! Was only about 5 mins outside the clinic but getting away from him was very difficult. Then to get to my car (which was pretty far down the road) to have him appear right behind me nearly gave me heart failure! I'd freaked out by then but fortunately a member of staff was charging down the road as I'd been on the phone to reception on the way back to my car. The way he was standing meant that I couldn't head back to the clinic easily otherwise I'd have just gone back in.... The police officer said they were unable to do anything as it would need to happen twice for it to be harassment.”*
- Clinic manager, BPAS Doncaster – *“[The protesters] stand at the clinic entrance. Block entrance/gates. Hold up graphic images. Approach clients and staff. Call staff murderers. Offer to find them a new job.... I am angry that police are unable to support staff...some*

officers call the protests 'harmless'. Met with Doncaster Police Commissioners – they are unable to do anything in the law. Refused to support staff unless we can prove what has been said to us and identify the perpetrators.”

- Staff member, BPAS Richmond – “Several years ago a protester took my photograph and car registration number.”

Do you record incidents of alleged harassment and / or intimidation that occur to healthcare clinic clients and employees?

Yes. During 2017, we recorded 195 reports of protest activity outside BPAS clinics.

Our internal reporting system asks staff to report incidents of protest to us. Sadly, as clinic protests are a regular occurrence for many staff, reports are not always reflective of the level of harassment and intimidation that occurs.

If incidents are reported to clinic staff, clinic staff inform our Health and Safety Manager, who maintains an incident spreadsheet. This concerns specifics of incidents rather than their impact and is not limited to protest activity.

Since 2014 we have operated a system of client comment forms – allowing clients who encounter protests to share their experiences with us if they choose whilst still in the clinic.

We have shared examples elsewhere in this submission, and all incidents recorded are available via our online database – the ‘internal report’ source concerns contemporaneous reports from staff members, and the ‘client comment form’ source concerns contemporaneous reports from clients and those accompanying them. Our full record of incidents can be found on our online database, the link to which has been provided to the Home Office.

Are you aware of any protesters that may have suffered any harassment and / or intimidation whilst in the vicinity of a healthcare clinic?

No. We have records of some incidents that have taken place in response to the actions of protesters outside clinics, but we would not characterise any of these as harassment or intimidation. They are primarily concerned with property damage (eg the movement or disposal of posters), individual altercations (eg partners of clients upset by the activity outside the clinic), and theft (eg outside BPAS Richmond where the mother of a client removed posters from the protesters outside and agreed to give them back after her daughter’s treatment).

Quite unlike protesters’ behaviour towards staff and clients of BPAS and other providers, these incidents do not carry any of the hallmarks of harassment. There is no course of conduct against specific individuals, no persistent approach after being asked to be left alone, and no course of conduct against individuals who possess a protected characteristic under the Equality Act 2010.

In all instances of which we are aware, the situation has been resolved to the satisfaction of the protesters, or they have contacted the police who have then dealt with the matter.

Have any incidents you are aware of, or have been involved in, been reported to the police?

Yes. Our clinics contact the police when protest activity either escalates to the point where it scares clients or staff, or whether there are exacerbating factors such as trespass.

For example, from an internal report, BPAS Portsmouth, 2015 – *“Domestics within the hospital noticed a man dressed in a light blue cassock and a woman in plain clothes walking into Sexual Health clinic where BPAS are based. The pair were hiding a camera and filming. The hospital security team was called and the pair were asked to return to the ground floor of the hospital where the police were called. I was told that the police deleted images and film from the camera.”*

Other recent incidents reported to the police include five protesters outside BPAS London East (Stratford) who twice gained access to the property, trespass and property damage at BPAS Bournemouth with an unknown indelible liquid being sprayed on the doorstep, presence of protesters at the request of local police in Oxford, at BPAS Southwark breaching previous agreements about location and terms of protest i.e. not filming, not approaching women.

As before, a fuller account of police presence can be found on our database. It should be noted that when asked, staff were very clear that calling the police usually had very little effect and that they would not call the police simply because of the presence of protesters – no matter the impact on clients or staff. Staff members’ reasoning for not calling police is outlined in individual comments in the staff experiences part of the database.

It should be noted that the police response to complaints by protesters versus complaints by clinic staff and clients is markedly different. Despite persistent complaints in a number of areas against protesters, action being taken against them is vanishingly rare. On the other hand, minor ‘retaliatory’ action such as hiding posters is investigated and pursued by the police over a number of months. Three specific examples of this:

- 2014, a local resident in Richmond was walking near BPAS Richmond with his two small children and saw graphic banners from The Good Counsel Network outside the clinic. Because he didn’t want his small children to see them, he placed the banners in the bin. He was arrested for theft and in January 2015 was still waiting to be charged.
- In December 2014, a local resident in Southwark engaged with the Abort67 protesters outside BPAS Southwark. She took objection to 8 protesters with body cameras and an explicit 15ft banner immediately outside the medical practice. Two months later the police contacted her and said she had been accused of criminal damage – the victim impact statement said that she had damaged the poster stand hinge. She reported on Facebook that the police originally threatened her with a night in a police cell if she did not accept a caution. In May (5 months after the original incident), she reported that the case had been dropped.
- In June 2012, a teacher at a local college in Brighton was cautioned for criminal damage because, after calling the police about offensive Abort67 posters, he took one down and sat on it while waiting for the police to arrive. The police informed him that he could either accept a caution or he would be charged with criminal damage. Abort67 then called the college to complain and he was placed under disciplinary investigation at work.

Are you aware of any arrests of protesters whilst in the vicinity of a healthcare clinic?

- Brighton – arrest and prosecution under the Public Order Act 1986. The accused was found not guilty – although the judge recognised the harassment, alarm, and distress caused by the Abort67 posters of dismembered foetuses, he did not conclude that the posters were threatening, abusive, or insulting.

- Richmond – protesters disbanded under Section 14 of the Public Order Act, which was rescinded after the Metropolitan Police reviewed their decision to use this legislation
- Cardiff – 40 Days for Life protesters were arrested outside the clinic in 2015 as a result of an altercation after a passer-by attempted to remove a banner from display.

We should be clear that we do not consider the small number of arrests in relation to abortion clinic protests a sign that protesters are not doing harm – rather that the current law is ill-equipped to deal with the harm that they are doing to women and healthcare workers alike.

If applicable, what measures, if any, have you taken to address the situation of alleged harassment and / or intimidation of healthcare clinics clients and / or employees?

We have tried every avenue available to us over the last four years to address issues around harassment and intimidation outside clinics.

We have worked with the police to attempt to put a stop to protests, without success, including reporting incidents, providing statements, and them attending clinics on a semi-regular basis for periods of time

We have worked with local councils and provided them with evidence in an effort to make use of existing anti-social behaviour legislation.

We advise staff to report incidents to our Health and Safety Manager and, where appropriate, report these to the police

Our clinic staff have spoken to protesters to ask them to stop doing specific things that are causing particular distress, for instance filming women.

We have collected evidence from individuals affected by clinic protests in an effort to build evidence to show that harassment is taking place.

At clinics with particularly bad issues, we have issued clients with a short letter from BPAS, reassuring them and saying that if they want to report an incident to the police they are able to

We have sought legal advice to see what options we and the police would have for tackling harassment and intimidation outside clinics

As a last resort, we established the Back Off campaign to bring in buffer zones as a national solution for the national problem of harassment and intimidation outside clinics, which has contributed to the establishment of this Home Office review.

If applicable, what advice and support, if any, do you offer clients and employees of healthcare clinics when encountering protesters?

Our booking staff inform clients in advance of protests they may face when attending their appointment, in an effort to ensure that they have time to prepare themselves for what they may encounter.

We have, for several years, provided client comment forms to allow clients to share their experiences and help us work towards stopping this happening to anyone else. Our online version of the comment form has received a number of comments about the usefulness of this provision – one woman who experienced protests in 2016 outside Marie Stopes Essex told us *“Thank you for all of your work. Hearing other stories of females experiencing similar situations is cathartic.”*

We also provide tailored, individualised care for our clients – including offering counselling, which can help clients to address any number of issues they face when considering whether to terminate or continue with their pregnancy.

Our unit managers perform an important pastoral care role for staff who are affected by protests, and our reporting procedures allow staff to report incidents that have an impact on either themselves or clients, even if they don't rise to the level of a police report. At an institutional level, our campaign for buffer zones has a positive impact – staff in Portsmouth, where the council was the second Local Authority to vote to look into the use of a PSPO, were greatly reassured that they and their clients would be protected in future. Unfortunately, 40 Days for Life are returning to Portsmouth and the local council have not progressed with instituting a PSPO.

Have you any examples of protesters being asked to relocate their demonstrations / gatherings?

- **BPAS Southwark.** Police came to an agreement with Abort67 that they would not stand on the same side of the road as the medical centre and that they would not approach or film women entering the centre. This agreement held for a number of months but Abort67 soon reverted to their previous tactics, with protesters now continuing to wear body cameras, display banners outside the centre, and approach people entering the centre. When this was raised with local police, they stated, according to our report, that “these were just an agreement, and A67 would be allowed to stand outside the doors as long as they were not on clinic premises... He also asked if we were renewing our contract with Blackfriars as he was ‘thinking about long term solutions.’”. The result of police involvement and agreement was no long-term change to protest behaviour.
- **BPAS Cardiff.** Police spoke with 40 Days for Life protesters and asked them to move from immediately outside the clinic to a wider stretch of pavement roughly 20m from the entrance to the clinic. This still allows protesters a direct sight line to the clinic. As far as we are aware, this agreement is still in place, although the 40 Days for Life protest during Lent 2018 is advertised as being immediately outside the clinic, and based on correspondence with our external affairs team in relation to this review, South Wales Police do not seem to be aware of this agreement.
- **Marie Stopes West London (Ealing).** Council staff met with protesters as part of their investigation into options for addressing the protests outside the clinic. They discussed with protest group representatives the possibility of moving away from the clinic entrance (a voluntary buffer zone) and the minutes of the meeting published on the website relate their response – “CM [Clare McCullough, Director of the Good Counsel Network] said [a buffer zone] is not something they would be prepared to consider, as a key part of their process is to directly approach and attempt to engage with women as they go into the clinic and as they come out.”

Do you have any evidence in respect of allegations that protesters being present at healthcare clinics can lead to clients at the clinic feeling harassed and / or intimidated, and deterring women from accessing healthcare services?

Yes - we have a number of reports from women who have said that they were distressed to the point they considered not attending their appointment, information from staff that indicates some women factor protesters into their treatment decisions, and at least one account of women being turned away by protesters only to return later in their pregnancy seeking a termination.

- Internal Report, Marie Stopes West London (Ealing), 2017 – *“client called in to [the booking system] to tell then that she wanted to cancel her appointment because of the protestors standing outside of the clinic. She will call in again for another appointment at a different date.”*
- Staff member, BPAS Richmond – *“Clients are incredibly stressed. They often factor the protestors into their decisions regarding treatment. An early medical abortion over 2 days is the most effective form of a safe procedure, but clients will often say to me that they have made the choice to have a simultaneous early medical abortion (where both pills are taken on one day) because they don’t want to face the protestors again when they return to the clinic.”*
- Marie Stopes West London (Ealing), 2017 – *“was really shocked on arrival and stopped and almost turned round and headed back to my car. I was on my own and had to build up the courage to walk in. I felt ashamed and guilty and judged. I was worried they would film me. One lady was right by the entrance clutching rosary beads and shouting at me. I mentioned this inside to the clinic but they were obviously used to it. I was worried about leaving the building and then having to return the next week. When I left a young man was shouting at me and following me to me car trying to give me leaflets.”*
- BPAS Bournemouth, 2016 – *“[The protestors made me feel] anxious. So much so I didn’t feel I could walk in. I had to call the number and the manager came out to find me. It was intimidating.”*
- Staff member, BPAS Richmond – *“I remember one woman who turned away, intimidated by the protests, she felt like she was being judged - only to return 4 weeks later when she was 20 weeks. It seems that they only succeed in delaying things for some women.”*
- Marie Stopes West London (Ealing), 2017 – *“I was unprepared on my first visit for what I encountered. I nearly turned round and went home. It was so intimidating and I felt very tearful and to a certain extent a bit threatened and judged. It made a terrible situation even worse.”*
- Staff member, BPAS Richmond – *“I have been called a murderer when I walked a woman from her car as she felt unable to walk by the protestors. She rang us from her car sobbing – as I walked in with her they shouted that I was going to murder her baby.”*
- BPAS Brighton, May 2012 – *“I was very nervous about coming to my appointment and felt very intimidated by the 5 or 6 women standing on the corner of the street, holding their banners and their posters. Not knowing the area I did not know another route to avoid them and due to feeling extremely distressed by their presence, I turned around and went home.”*

Existing Powers and Tools

A range of civil and criminal powers exist to ensure the rights of protest can be balanced with the rights of individuals to go about their business without fear of intimidation or serious disruption to the community.

What is your experience of the use of these powers?

BPAS have worked with the police in a number of areas to attempt to stop the harassment and intimidation of clients and staff, as well as taking legal advice on how existing laws could be used to combat protests. From 2014 onwards, a number of organisations have sought to find

ways to use existing powers to address these protests – including at least two different police forces and a number of councils. However, none of these powers have been successful in preventing abortion clinic protests.

We want to be clear, once again, that this does not mean that harm is not being caused, merely that current legislation is ill-equipped to deal with the unique mix of tactics, targets, and location that combine to cause those that experience them harassment, alarm, and distress.

If you have taken action, please describe the powers considered and used?

- **S5 Public Order Act 1986 (used).** Two Abort67 activists were prosecuted under this section in relation to one of their signs of dismembered foetuses which they were displaying outside the BPAS Brighton clinic. They were acquitted as the judge ruled that although he believed harassment, alarm, or distress had been caused, the signs had not been threatening, abusive, or insulting. We understand that following on from this acquittal, the activists brought a civil case against Sussex Police for wrongful arrest and interfering with Art. 10 and 11 of the Human Rights Act, as a result of which Sussex Police paid compensation. This can quite clearly have the impact of dissuading other police forces from using this power.
- **S14 Public Order Act 1986 (used).** In 2014, police officers in Richmond issued Good Counsel Network employees and volunteers with a Section 14 notice indicating that they considered the group posed a ‘serious risk of disruption to the life of the community’. The Metropolitan Police reviewed the issuing of these notices and concluded that they had been issued incorrectly. This is likely to mean that other police forces would not choose to make use of this section.
- **S1, Protection from Harassment Act 1997 (considered).** The Protection from Harassment Act includes offences that protect individuals from harassment or attempts to persuade them not to do something that they are legally entitled to do. This is generally inappropriate for use outside abortion clinics as it requires a course of conduct against an individual rather than a location or organisation, which is not usually the case given the number of times clients attend clinics; and it also requires victims to report harassment to the police and if they wish to pursue a prosecution, to be willing to give evidence in court which would require disclosing their confidential medical records. In any event, the outcome would only affect an individual perpetrator and not the wider group to which they belonged. It is also important to note that harassment requires the person involved to know (or that they ought to know) that their conduct amounts to harassment – and despite repeated evidence being presented to them, those engaged in abortion clinic protests refuse to recognise this, which could undermine prosecution under S1 of this Act.
- **Part 3, Anti-social Behaviour, Crime and Policing Act 2014 (considered).** Part 3 of this Act provides police with dispersal powers in public places to disperse individuals or groups who are causing harassment, alarm or distress. The issues with this are two-fold – firstly that the powers only last a maximum of 48 hours and these groups are often present for more prolonged periods so will simply return once the order has expired; and secondly that it requires an Inspector-level police officer to confidently judge the balance the freedoms from harassment and of expression and assembly. Given our experience of different police forces, we are not confident that police would accurately balance these freedoms. We also anticipate that it would result in different applications in different areas, and not provide the necessary reassurance to clients or staff.

- **S61 and S68 of the Criminal Justice and Public Order Act 1994 (considered).** These set out the offence of aggravated trespass, which is committed if a person trespasses on land and, in relation to any lawful activity which persons are engaging in (or are about to engage in) does anything which is intended to have the effect of intimidating those persons or any of them so as to deter them or any of them from engaging in that activity; of obstructing that activity; or of disrupting that activity, and allow police to direct people to leave the land in certain circumstances. It was concluded that trespass takes place only in very isolated circumstances and would not address the vast majority of protest activity.
- **Civil injunction**, covered below

If applicable, have you considered applying to the courts for a civil injunction to protect individuals?

Yes. In 2014 we took legal advice with regards to an application for a civil injunction against Abort67 outside BPAS Southwark at Blackfriars Medical Practice. A number of concerns were raised at this point about the applicability of a civil injunction to this particular situation:

- Whether to have an injunction against individuals (who may just then get new volunteers to take their place) or the organisation (which may then be abandoned but with the same protesters operating under a different name)
- BPAS did not own the land or operate the medical centre therefore it would require action by the medical centre, which is ill-equipped to deal with such legal challenges.
- Harassment had been experienced by passers-by and individuals (including mothers and children) who were completely unrelated to the work that BPAS do, and therefore an injunction could not be focused simply on harassing BPAS or medical centre patients.
- This would only address the issues at a single clinic, and that with nearly 150 independently operated clinics in Great Britain, it would likely result in simple displacement of protest activity.
- The burden of work and cost would initially be entirely on those suffering harassment (ie BPAS and the medical centre), and application elsewhere would require similar levels of work and costs. This struck us as both unfair and unsustainable for organisations with limited financial resources.
- That an injunction would require a cause of action, the evidence for which would likely need harm to occur before it would be issued – meaning that clients and/or staff would have to suffer harassment and intimidation for a period before the courts would consider there enough evidence to issue an injunction.

As such we concluded that a civil injunction would be neither an effective nor cost-effective means of obtaining relief from clinic protest harassment, and did not pursue this course of action.

It is our opinion that a civil remedy for this persistent and widespread issue is insufficient and incorrectly places the right of women to access healthcare unimpeded as the responsibility of a provider rather than the government. Articles 8 and 14 of the Human Rights Act, and s149 of the Equality Act 2010 all indicate that the state has the responsibility to ensure women are able to access healthcare without discrimination, harassment, or victimisation. A reliance on civil injunctions would be a reliance on independent providers to mitigate this responsibility.

Buffer Zones

There have been calls for the creation of buffer zones (an area where protests relating to abortion are prohibited) around health care clinics". At this stage of the review, we would welcome initial views on the practicality and effectiveness of such zones.

What is your view on the usefulness of such a tool?

Women want to be able to access legal, essential healthcare without fear of being watched, approached, beset, or harassed. It is not just about the tactics used by organisations – women are clear that even where protesters are just standing and praying, the fact that they are there, watching them, and drawing attention to the clinic is intimidating. The only way to ensure that women can access abortion services without this happening is to move protesters away from clinics.

Current legislation is insufficient to deliver this aim. The majority of distressing, alarming, and harassing abortion clinic activity is not covered under existing law, and even where it is, it concerns only tactics, whereas intimidation arises from a combination of tactics, location, and the people being targeted.

Buffer zones are already in place in a number of different jurisdictions. Two examples are Victoria, Australia and British Columbia, Canada:

Victoria, Australia

- Law passed in November 2015 to stop anti-abortion protesters harassing or filming women coming in or out of clinics
- 150m 'safe access zone' around places that carry out abortions, including GP surgeries
- Covers 'besetting, harassing, intimidating, interfering with, threatening, hindering, obstructing or impeding', communicating in a way that is 'reasonably likely to cause distress or anxiety', 'interfering with or impeding a footpath, road or vehicle', and 'intentionally recording' people accessing or leaving clinics without consent.
- A woman from Helpers of God's Precious Infants was convicted of breaching the safe access zone this autumn and fined AUS\$5000.

British Columbia, Canada

- Been in place since 1996
- Access Zones established 50m around clinics, 160m around residences of doctors and service providers, and up to 20m around doctors' offices
- Restricts activities like 'sidewalk interference', bans graphic recording, and bans harassment in an access zone
- Punishment on first conviction is up to CAD5000 and/or imprisonment up to 6 months. Subsequent convictions result in a fine between CAD1000 and CAD10,000 and imprisonment for not more than 1 year.

Who do you consider should determine whether and where such a zone is put in place?

Whether - Whether to put a zone in place should be a decision taken by central government, and they should be enacted with one action eg. legislation applying to all places where abortions are carried out (NHS and private clinics)

Having buffer zones by application relies on providers having the capacity and evidence-gathering capability to proceed through the courts – for potentially hundreds of clinics and NHS sites. This burden of work is extreme and prolonged, and unlikely to be taken up by organisations under financial or staffing pressures. This is likely to mean that NHS sites (where there are already bad protests eg at Queen’s Medical Centre, Nottingham) and smaller independent providers (such as NUPAS) are likely to be particularly hard hit. It also encourages the displacement of activity to areas and sites that do not have a buffer zone in place, where the same tactics will be used – it replicates the problem rather than halts it.

Relying on local councils to introduce buffer zones contains the same issues. We fully expect that if Ealing implements a PSPO, BPAS Richmond will see an increase in protests until that council puts their own solution in place.

Where - In line with international examples, we recommend implementing buffer zones at 150m from the entrance to clinics. This means that if there is a single point of entry for a hospital, protesters would be moved 150m from that entrance.

We also believe that local authorities should then be able to use their PSPO powers to go further where they can show it is necessary to address certain local conditions, for instance Marie Stopes Birmingham (Edgbaston) where the clinic is on a cul de sac more than 150m long so women would still be forced to pass protesters and the protest would still pose confidentiality issue – but where a PSPO on top of the buffer zone could extend this to the main road.

How should buffer zones be enforced?

Buffer zones should be a legal provision enforced by the police.

Punishment for breaking the rules around/conditions of a buffer zone should be the same as for any other form of harassment – in the first instance on summary conviction, imprisonment of not more than 6 months or a fine not exceeding level 5 on the standard scale, or both; in further instances on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine not exceeding the statutory maximum, or both.

What benefits or challenges do you envisage?

Benefits

- An end to the harassment of clients as protesters are no longer allowed to approach, engage with, harass, or obstruct them.
- An end to the harassment of staff as protesters are not allowed to stand directly outside their place of work.
- A dramatic reduction in local public order issues, as being moved away from clinics is likely to mean protesters seeking out a forum with a larger audience – such as town centres.
- Women being confident in their ability to access healthcare without their confidentiality being breached by individuals standing outside the clinic and, in some cases, filming them.
- Reassurance for women who are so concerned about passing protesters that they attempt to purchase pills online rather than face them. Women on Web, a leading online provider of abortion pills, report a number of instances of women coming to them and citing fear of protests as a reason for seeking an abortion outside the usual (legal)

channels. Part of one of their reports from a woman seeking pills read – “*I have a very religious family, and the thought that protesters may take footage of me anywhere near or around an abortion clinic – if that was to be seen, I fear my family would never forgive me.*”

- Additional safety for women experiencing domestic violence who fear being observed or recorded accessing abortion services. Safeguarding procedures followed by abortion providers and in which our staff are trained also allow us to refer women into services and, where children are in danger or where a woman requests it, report to the police.

Challenges

- We do not believe there would be any significant challenges. Most protesters are clear that they would not break the law, and therefore we would not anticipate there being a large number of prosecutions or a significant enforcement problem.

Are there other considerations that you would like to raise regarding the introduction of buffer zones?

Based on our experience and the evidence we have received, our recommendation would be for buffer zone legislation to include not only a locational component, but also a tactical and targeting component. We would suggest the following:

- A person who is in a buffer zone must not, by any means, harass, intimidate, interfere with, impede, obstruct or threaten a person who is accessing, leaving, or attempting to access or leave, premises at which abortions are provided.
- A person who is in a buffer zone must not advise or persuade, or attempt to advise or persuade, a person to refrain from making use of abortion services, or inform or attempt to inform a person concerning issues related to abortion services by any means, including, without limitation, graphic, physical, verbal or written means.
- A person ('A') must not intentionally or knowingly sketch, photograph, record, store, broadcast, or transmit images, audio, the likeness or personal data of any person ('B') who is in a buffer zone and is accessing, leaving, or attempting to access or leave premises at which abortions are provided, or are inside premises at which abortions are provided, without express written consent of B.

We have attached a draft legislative amendment that we have drawn up as part of the Back Off campaign in our accompanying email.

Are there other powers or tools you consider would be appropriate?

No. We have spent years looking at our options to address this. New legislation is the most difficult route, and not one that we would have chosen if we had another option. To adequately protect women's access to healthcare across the country, buffer zones are the only option.

What do you think would be the implications to the right to protest and of freedom of speech if buffer zones were created?

The most important thing to note with regard to what we have all become comfortable calling 'abortion clinic protests' is that **the people engaged in them do not consider them protests**. They do not believe they are protesting a political or democratic decision, or trying to change the law. Their presence outside clinics is variously referred to as a 'vigil', 'bearing witness',

'education', or 'pavement counselling'. What these activities have in common is that they are methods of sharing speech rather than the content of the speech itself. BPAS do not believe that anti-abortion groups should be prevented from sharing their opinions. Their beliefs and their ability to share them is a fundamental part of democratic society. What we are opposed to is the methods they choose to employ. Perhaps the best summary of these methods in the groups' own words can be found in the minutes of Ealing Council's meeting with groups involved in activity outside the Marie Stopes West London (Ealing) clinic:

"PM [the council's Community Safety Manager] asked whether the group felt it was necessary for a person to be directly outside the premises and, in the event there was an option to negotiate a small 'buffer zone' as a compromise, would this be something the group would be prepared to consider. CM [Clare McCullough, Director of the Good Counsel Network] said they would not be prepared to consider this, as the central part of their approach is to have direct contact with women as they are entering and leaving. [Other representatives of groups involved in activity] agreed with CM's stated position."

This is not a protest. This is a conscious decision to continue to undertake actions that these groups have been repeatedly informed are distressing and being perceived as harassment in order to intimidate women into changing their minds about a personal healthcare decision.

There already exist in law restrictions on certain activities with certain aims, which groups involved long considered legitimate protest. Notably, S145 and S146 of Serious Organised Crime and Police Act 2005 which deal with specific actions undertaken by animal rights activists in an effort to undermine the business of animal research organisations. In this example, only the organisation is at risk of 'harm' (given that prosecutions had already been pursued on other grounds for campaigns against individuals) – when discussing abortion clinic protests, the harm is suffered by clients and staff at an individual level.

The Human Rights Act cuts both ways. Articles 8, 9, and 10 all specifically allow interference by a public authority where the 'rights and freedoms of others' are being protected. **In the case of abortion clinic protests, women's rights to make decisions about and access confidential healthcare are being undermined every day across the country. For this reason, if no other, the government had a responsibility to act.**