

Dear Max Hill QC,

We are writing to ask that, as Director of Public Prosecutions, you issue urgent guidance to stop the prosecution of women who end their own pregnancies with immediate effect.

### **The need for urgent action**

We are aware that at the current time, there are two women facing prosecution England - one under s58 of the Offences Against the Person Act 1861 and one under s1 of the Infant Life (Preservation) Act 1929 – for ending their own pregnancies.

Both of these crimes carry a maximum life sentence, and both of these women are listed for plea hearings in the next 10 days.

It is our strong belief that in the 21<sup>st</sup> century, in the shadow of the overturning of Roe v Wade, it is never in the public interest to prosecute women in these circumstances.

### **The law**

While abortion in England and Wales is accessible, it remains a crime at any gestation under a law passed a generation before women even had the vote.

Under the Abortion Act 1967, abortions in England and Wales must be certified by two registered medical practitioners, they must take place at a hospital or premises approved by the Secretary of State for Health and Social Care (or at a woman's home prior to 10 weeks' gestation), and women must meet one of the grounds under which abortion is deemed permissible.

Despite the broad accessibility of care, there are a very small number of women who end a pregnancy outside of these parameters. They are often vulnerable women, in desperate situations, many with a complicated obstetric history or a history of mental health problems. However, due to the approach of the Crown Prosecution Service, rather than being provided with support in this moment, some of these women face a terrifying journey of criminalisation.

### **The women**

Over the past 8 years, at least 17 women have been investigated by police for ending their own pregnancies<sup>i</sup>, though the actual number is likely to be higher.

One of the women currently awaiting a hearing self-administered the abortifacient misoprostol in 2021 in an effort to end her own pregnancy<sup>ii</sup>. The other, in the first weeks of the pandemic, sought a legal abortion and subsequently passed a pregnancy at a later than expected gestation<sup>iii</sup> before being subjected to a more than two-year investigation by the police.

Elsewhere, there are reports of a woman arrested in hospital in 2021 and kept in a police cell for 36 hours after a stillbirth at 24 weeks, in a case in which we understand the CPS has recently reopened the investigation<sup>iv</sup>. In another case a 15-year-old girl was investigated by police after a stillbirth at 28 weeks, accused of illegal abortion, her phone and laptop confiscated during her GCSE exams, and driven to self-harm by the year-long investigation – which concluded only when the coroner found that the pregnancy had ended as a result of natural causes<sup>v</sup>.

In 2019, a woman was prosecuted for attempted child destruction after being pressured by the man who got her pregnant to take abortion pills after the 24-week time limit which he had obtained from a friend, claiming that he had cancer and turning up at her house telling her 'we need to do this'. This was a case in which the CPS proceeded to trial despite the child being safely delivered, and in

which the woman was only saved when the judge dismissed the charges mid-trial, saying that she had been in a controlling relationship<sup>vi</sup>.

## The CPS

Whilst the number of women investigated and prosecuted for ending a pregnancy is seemingly small, we believe that, compared to the number of women actually ending pregnancies in contravention to the Abortion Act, the CPS is investing an undue amount of resource to criminalise some of the most vulnerable people in society. In 2021, 89% of abortions were performed under 10 weeks, the percentage performed at 20 weeks was just 1%, those ending pregnancies at gestations beyond 24 weeks or outside of clinical settings represent a tiny minority of women who are doing so out of sheer desperation. The approach of police and prosecutors in the handling of these cases paints a disturbing picture of a service that is looking to “catch out” women, lacks understanding of and sensitivity to the situations of these women and fails to respond proportionately.

For many women the decision to end a pregnancy is a simple and easy one taken in the first few weeks of pregnancy, for some, the decision of whether or not to continue a pregnancy is a hard one complicated by social factors, personal health struggles and difficult interpersonal relationships. One in three pregnancies will end in miscarriage and it is common to miscarry a pregnancy whilst weighing up the decision of whether to continue a pregnancy, the risk of criminalisation in this instance - as demonstrated in the examples included in this letter - is incredibly worrying.

We believe that, in 2022, it is never in the public interest to charge women who end their own pregnancy, and that no woman should face investigation or prosecution for ending a pregnancy or experiencing unexpected or unexplained pregnancy loss.

We ask that you issue urgent guidance to the Crown Prosecution Service with a clear signal to cease all current proceedings and to not bringing any future charges against women or girls who end a pregnancy or experience pregnancy loss.

Yours,

---

<sup>i</sup> <https://www.nationalworld.com/news/crime/abortion-uk-police-investigate-women-illegal-abortions-england-wales-us-states-bans-3749526>

<sup>ii</sup> <https://www.oxfordmail.co.uk/news/20083264.woman-24-court-accused-procuring-abortion/>

<sup>iii</sup> <https://www.thesun.co.uk/news/11690506/police-probe-death-of-unborn-baby-after-woman-has-illegal-abortion-by-post-at-28-weeks-four-weeks-past-limit/>

<sup>iv</sup> <https://www.independent.co.uk/news/uk/home-news/woman-police-custody-stillborn-birth-b2111991.html>

<sup>v</sup> <https://www.theguardian.com/world/2022/jul/02/women-accused-of-abortions-in-england-and-wales-after-miscarriages-and-stillbirths>

<sup>vi</sup> <https://www.dailymail.co.uk/news/article-7798101/Father-27-jailed-seven-years-manipulating-mother-abortion.html>