

# Marie Stopes Manchester Safe Zone

British Pregnancy Advisory Service response to the consultation on the Wynnstay Grove proposed Public Space Protection Order in Manchester

The British Pregnancy Advisory Service (BPAS) is a reproductive healthcare charity that offers abortion care, contraception, STI testing, miscarriage management, and pregnancy counselling to more than 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 and members of the public that indicate protests outside clinics are distressing and intimidating.

We provided extensive evidence to Ealing Council's consultation on the first PSPO for the purposes of addressing behaviours outside an abortion clinic, and currently have a PSPO in place outside our clinic in Richmond upon Thames.

## Position on PSPO proposal

**BPAS fully supports the council's proposed Public Spaces Protection Order as an essential move to protect women's rights when accessing legal, essential healthcare.**

Further information is provided here as to the experience of the Marie Stopes Manchester clinic on Wynnstay Grove, and the impact of protests on our clients, people who attend with them, and the local area.

If any further information is required, please contact [rachael.clarke@bpas.org](mailto:rachael.clarke@bpas.org).

## Background

### Clinic Protests

Clinic protests are a form of activity used by anti-choice protesters to deter or prevent women accessing abortion care. They take many forms, including the display of graphic images of dismembered fetuses, marches that end outside the clinic, filming women and staff members, following women down the street and thrusting anti-abortion literature into their hands, sprinkling sites with holy water, and 'vigils' - large gatherings of people who sing hymns and recite dedicated anti-abortion prayers loudly enough to be heard inside clinics. These protests usually last several hours a day over a number of weeks or months. In several cases around the country, protests have continued for many years. Despite the distress, harassment, and intimidation women consistently report experiencing as a result of these activities, existing criminal legislation has been ineffective at addressing the harm caused.

### The *Back Off* campaign

As part of the *Back Off* campaign, we have gathered reports from clients, people accompanying clients, local residents, healthcare workers, and passers-by about their personal experience of clinic protests. We have also taken internal reports from our clinics and used Marie Stopes reports to gather a comprehensive picture of protest activity.

We currently have 2520 individual reports of activity in our *Back Off* database, and a further 120

statements from healthcare workers as to their experiences of protests. This evidence-gathering has shown 43 clinics affected by protests across the UK in the last 12 months, including 6 new protests. Last year's Home Office review of clinic protests found that around the country, 1 in 10 sites where abortions were provided had been subject to protests in the last year.

At no point have we specifically asked for evidence related to Marie Stopes Manchester, but there are **29 reports** in our database specifically about activity on Wynnstay Grove.

### Terminology

It is important to note that those engaged in these gatherings 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 and location they choose to employ.

### Regulation of services

We are aware that some of those who choose to gather outside clinics attempt to raise concerns about the information provided by abortion clinics and the safety of services. These claims are unwarranted.

All abortion clinics are registered with the Department of Health and abortion is a regulated activity under the Health and Social Care Act 2012 which means that it is governed by the statutory standards of care and procedures for regulation and governance. The Department of Health also issues standard operating procedures for the operation of independent abortion clinics with specific requirements including the provision of 24-hour aftercare (to enable women to contact BPAS if they are worried about symptoms or side-effects), pre- and post-abortion counselling, contraception counselling and provision, and STI screening.

In addition to legislation and common law provisions, there is also healthcare regulation, regulation of medical professionals, and guidelines for best medical practice. These provisions are common to all other areas of healthcare and ensure that clients are treated in line with best medical practice by qualified providers in appropriately licensed and maintained clinics. These provisions include regular inspections of abortion clinics by the Care Quality Commission with full reports published online.

### Similar PSPOs introduced by other councils

In April 2018, after a lengthy period of negotiation, discussion, and consultation, Ealing Council introduced a Public Spaces Protection Order (PSPO) outside the Marie Stopes abortion clinic on Mattock Lane. This 'safe zone' extended a significant distance along Mattock Lane, preventing protesters standing outside the clinic gates.

Until this PSPO came into force, several protesters were present every day, increasing in number on Fridays and Saturdays. Reports received by the Back Off campaign highlighted the handing out of leaflets and rosaries, standing immediately by the entrances, approaching clients, displaying signs and posters, singing/chanting, shouting, obstructing, and following clients. More recent reports indicate that the PSPO has stopped this activity, and that local residents, clients, and clinic staff are no longer subject to distress, harassment, and intimidation as they either access services or walk through the area.

The Ealing PSPO was subject to a legislative challenge in the High Court and Court of Appeal, partly on the grounds that it unduly interfered with the protesters' Article 9 and 10 rights. **The Courts both dismissed this claim and the Ealing PSPO was upheld in full** – acknowledging that although the PSPO interfered with the rights of protesters, it was justified in order to uphold the rights of others in the vicinity, notably the Article 8 right to a private and family life.

The rulings also made clear that when considering behaviour that has 'had a detrimental effect on the quality of life of those in the locality', people attending the clinic or working at the clinic should also be considered, and that experience should not simply be limited to local residents.

Richmond Council have also introduced a PSPO in April 2019. Since the PSPO was introduced, there have been no reports of activity outside the clinic.

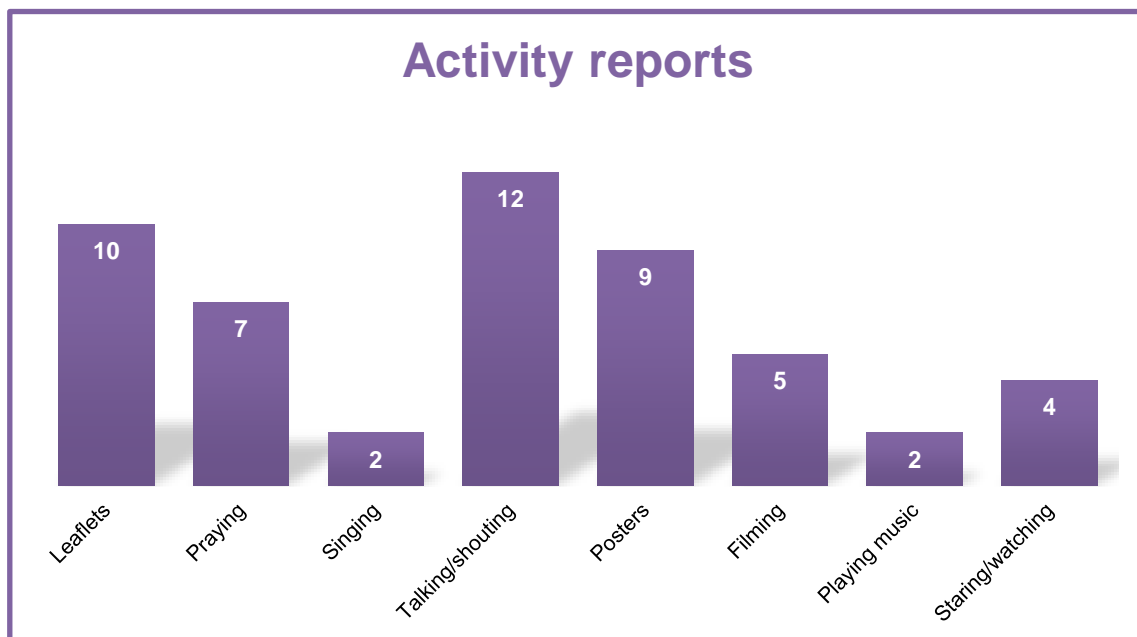
### Activities outside Marie Stopes Manchester

Alongside this submission, we have provided the full submissions received in relation to Marie Stopes Manchester. Once again, it is important to note that we have not specifically sought accounts from Wynnstay Grove, and thus this is a very small cross-section of experiences. That being said, separate reports submitted by different people over an extended period of time would indicate that the behaviours listed are reflective of a prolonged campaign.

#### Incidents reported

We have counted the frequency of direct references to specific activities taking place outside the clinic. This should be considered a snapshot of relative frequency and visibility of certain behaviours, and not an exhaustive account of the tactics employed.

Reports from individuals have only been collected from mid-2017, and therefore any which reference incidents prior to that point would also indicate a **prolonged impact** of the behaviour on the people reporting.



#### Key themes

Protesters **approach and engage with clients, including by shouting at them**, and seeking to change their mind about seeking abortion services.

- Client, 2018 *"They shouted that I was cruel and called me a monster when I continued past them."*
- Client, 2016 *"Coming up to you and handing out leaflets saying 'open this when you have the scan'."*
- Accompanying a client, 2015 *"Protesters set up a stall, including images and handing out leaflets and attempted to stop all persons entering the clinic."*
- Client, 2012 *"The protesters were praying loudly and trying to engage me in conversation as I was on my way in to the clinic. There was about 6 of them and they had plastic fetuses and graphic posters. They shouted at me when I wouldn't stop to speak to them. They also shouted at my friend who had come with me as a support."*

Protesters **display placards and posters** relating to abortion, and also make use of visual aids such as plastic fetus dolls.

- Passer-by, February 2018 *"Middle aged white men were holding signs and posters with images of fetuses on them, some had writing on them also but I didn't look long enough to read them."*
- Client, 2018 *"Large group outside the clinic, which is down a quiet street. Lots of signs and banners."*
- Passer-by, 2016 *"Holding signs saying 'Murder'... and photos of fetuses."*

Protesters make **distressing and untrue claims**, specifically to try to dissuade women from obtaining abortion care

- Passer-by, February 2018 *"Handing out leaflets with false information on them (eg telling women that having an abortion will leave them more susceptible to having cancer.)"*
- Client, 2018 *"Shouting outside at women entering the clinic, asking us to think of our babies, that they would pray for us in the hope that god would not send us to hell, or that our babies would forgive us and feel no pain."*

Reports also highlight other issues, including **filming women, playing loud music, and following women**.

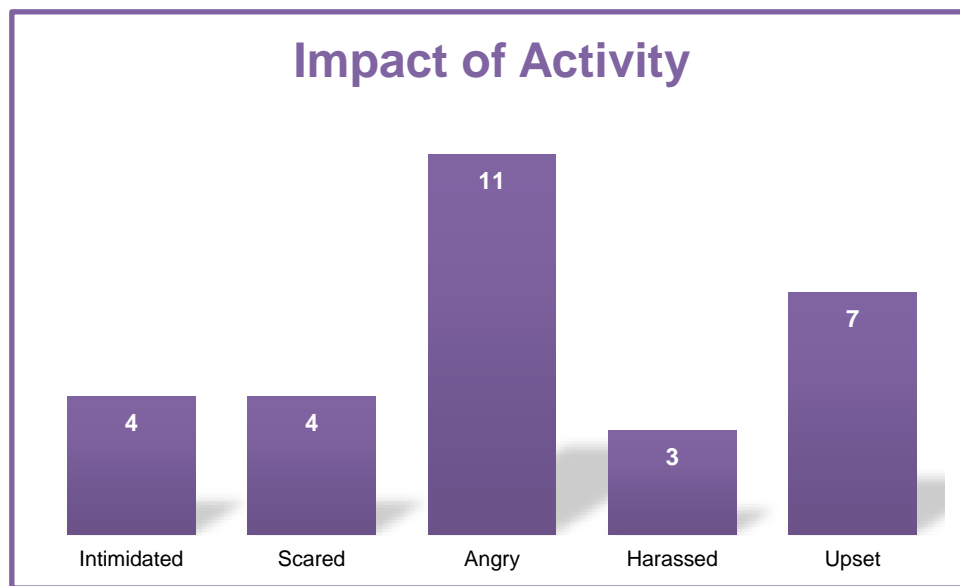
- Clinic report, September 2016 *"Male protester shouting offensive/threatening language at staff, clients and visitors entering the building. Two other male protesters accompanied him from Ireland. Protesters carrying video cameras and playing loud music."*
- Passer-by, June 2016 *"I walked between the woman and the [protester filming] and was then filmed myself."*
- Accompanying a client, October 2012 *"Following us from our car to the door talking to us about abortion being wrong."*

#### Feelings in relation to protest activity

Anybody who contacts BPAS through our online form to report clinic activity is asked to share not only the activity that takes place but how it makes them feel.

Our experience with BPAS-run clinics is that the feelings clients report when presenting, having just experienced protests, tend to be more focused on fear and distress – and then when they revisit these experiences, anger becomes more predominant. As we have collected these

experiences after (sometimes long after) the fact, we see that there is a preponderance of anger reported.



We can see from the impact reported that several women are distressed to the point that they were unable to continue with their treatment that day – and instead forced to return at a later date. Functionally, therefore, the presence of protesters has prevented the CCG from providing a legal and accessible healthcare service.

- Client, 2018 *"I felt **frightened and intimidated**. They were older men and I was a **relatively young woman on my own - due to previous experiences, just that simple fact was enough to make me nervous**, but when I was also aware that their sole purpose for being there was to bombard me with information I was already aware of and try to influence and harass me, I was very concerned."*
- Client, 2018 *"I'm a strong person but, being in unbearable situation already, **just seeing them upset me to the point I couldn't get out the car**. They took my decision away from me. Choosing abortion isn't easy, it's emotionally and mentally draining and is a private matter. **I just couldn't face walking through them.**"*
- Client, 2018 *"It was **soul destroying**... I was already devastated, I needed more than anything kindness and was dealt the most severe cruelty I could have experienced at that time. **On entering the clinic I was in tears**, and asked staff what could be done, but they said nothing as there were no laws preventing them from being there."*
- Client, 2016 *"Furious. I felt truly furious. Although I was not remotely ashamed of my decision (in fact I was proud of myself for taking control of my own life) I felt that these people were invading my privacy. **I felt frightened - I had no idea what these people were going to do or say and I couldn't enter the clinic without passing them.**"*
- Client, 2016 *"Scared. **It took me about 20 minutes to get out of my car because I felt terrified.**"*
- Client, 2012 *"It made me so upset. I was so tired because I had travelled from Ireland and had been awake all night...I was worried they were filming me. One had held his phone up and I don't know if he took my picture. My upset was because of those people not anything to do with my decision to travel. **During the procedure I didn't think about***

***what was happening at all, but worried about them taking my picture when I left the clinic. It was so intimidating.***

- Client, 2010 *"I was scared and stressed. I felt attacked and violated. I got so upset and angry that they were harassing me that I started to cry. I was so distressed that it caused me to abandon my procedure. I went back a week later and had the abortion. I hadn't changed my mind, I just felt bullied away."*

## Potential solutions

**A Public Spaces Protection Order is the only solution that is both effective and has been supported by the courts in dealing with clinic protests.**

BPAS have considered the use of, or are aware of police use of, a number of pieces of other legislation to address the issues presented by clinic protests. None of them were successful at stopping the entirety of the impact of protests. This does not mean that harm was not being caused, merely that law and order legislation is largely 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. Proposals have included:

- **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. A recent case in Manchester was the first instance in which an individual was found guilty of contravening the law under this section outside an abortion clinic. Although a step forward, we are aware that this section has a high bar for pursuing action and that it does not have the means to address all issues faced outside clinics.
- **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.
- **S1, Protection from Harassment Act 1997 (considered).** 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.
- **Part 3, Anti-social Behaviour, Crime and Policing Act 2014 (considered).** 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.
- **S61 and S68, Criminal Justice and Public Order Act 1994 (considered).** These set out the offence of aggravated trespass – where a person trespasses on land and, in



relation to any lawful activity which persons are engaging in, does anything which is intended to have the effect of intimidating those persons so as to deter them from engaging in that activity. It was concluded that trespass takes place only in very isolated circumstances and would not address the vast majority of protest activity.

- **S3A, Protection from Harassment Act 1997 (considered).** This allows for civil injunctions to be taken out in relation to harassment. It is our opinion that an individual civil remedy for this persistent 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.

## Appendices

Please find attached the full database of submissions from clients, escorts, local residents, and passers-by to BPAS and the Back Off campaign about protests outside Marie Stopes Manchester. These have had personally-identifiable information including postcodes and contact details removed but are otherwise unredacted.

Accounts timestamped '1 January 20xx at 00:00' should be read as occurring at some point in that year (without specific date information provided).

## Contact

Please direct any questions or requests for further information to:

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