

Harassment outside abortion clinics

BPAS response to the Birmingham City Council consultation on a Public Spaces Protection Order around the Robert Clinic

Our position

- 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.
- Across England and Wales, 49 clinics and hospitals have been targeted by anti-abortion groups in the last five years. Based on our knowledge of all of these protests ('vigils'), the Robert Clinic has experienced one of the worst anti-abortion presences.
- Existing PSPOs used for this type of activity have been highly effective in putting a halt to the issues outside clinics, with both the Ealing and Richmond PSPOs having recently been renewed for the next three years.
- The Ealing PSPO has been challenged in court and upheld in full by both the High Court and Court of Appeal, with the Supreme Court declining to hear the case. Both courts recognised the impact of the activity outside the local clinic on women seeking abortion care and local residents.

About us

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

BPAS has run the Robert Clinic in Kings Norton (BPAS Birmingham South) for many years, providing services for women in Birmingham and specialised treatment for women from around the Midlands.

As part of our advocacy work, we have been running the *Back Off* campaign to introduce buffer zones around abortion clinics 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.

BPAS services

Most women attend BPAS clinics to discuss their pregnancy options and to access abortion care. This care can take place all on one day, or over several days with a number of visits involved if that is what the woman prefers. Treatment includes a number of stages. The information included here should make clear that the healthcare provided by the Robert Clinic is thorough and fully-regulated, including the availability of pre- and post-abortion counselling, and the provision of options to all women we see. This stands in sharp contrast to the claims made by protesters to vulnerable clients.

Since 2020, women accessing abortion services have been able to receive a telemedical service which means they do not need to attend a physical clinic to receive care. While this has reduced the footfall to clinics somewhat, the average client attending now has more

additional needs and may be more vulnerable. This includes clients in need of additional safeguarding, clients who are later in pregnancy, who are unsure of the gestation of their pregnancy, or receiving follow-up care or counselling.

Consultation

The process begins with a pregnancy options discussion to explore a woman's feeling about her pregnancy and to discuss whether to continue with the pregnancy and become a parent, continue with the pregnancy and pursue adoption, or end the pregnancy. Although many women are certain of their choice when they book an appointment, other women are keen to discuss their options. Women are able to book more time and speak to a counsellor in depth if they are unsure of their options.

Women are always seen on their own during the consultation to ensure they are not under any pressure to make a particular decision. If any concerns are raised by the woman or about her situation at this point, trained safeguarding staff may become involved. Clinic activity can and does include, for instance, the clinic phoning police and related services about an abusive partner and the woman going directly from the clinic to a refuge; involving social services with concerns about Child Sexual Exploitation for the girl involved; and reporting concerns about existing children who are at risk of domestic violence.

Roughly 20% of women who book an initial appointment with BPAS do not proceed to treatment with us.

Medical assessment

If a woman decides, after her consultation, to end her pregnancy, then medical assessment takes place with a qualified nurse or midwife practitioner. Women are asked about their medical history and, if necessary, given an ultrasound scan to determine the gestation of the pregnancy and to ensure that the pregnancy is not ectopic. Women are also offered STI testing and contraception counselling.

The nurse or midwife then discusses the options for termination – medical or surgical, with different procedures depending on gestation.

Finally, known risks and complications are explained, any questions are answered, and women sign a consent form to say that they understand the potential risks of any treatment.

At this point, the completed forms are submitted for approval by 2 doctors. As a legal requirement, two doctors must review each woman's notes and authorise the abortion before any treatment takes place.

Treatment

Women may be treated on the same day if staff are satisfied they are certain of their decision or may return on another day (particularly in the case of surgical procedures).

If a woman opts for an early medical abortion (EMA) she is provided with her medication and may either take the first medication on the premises or take both home with her. Clinical guidance and best practice evidence shows that once the first medication has been taken, it is safest to continue with the full procedure – although it is up to women whether they proceed or not. If a woman is uncertain at any point, she is able to contact the clinic for support and guidance.

The Robert Clinic also provides surgical abortion care up to 17 weeks' gestation, using either Local Anaesthesia (at earlier gestations) or Conscious Sedation. Women must attend the clinic for these procedures, and usually will attend with an escort as they should not drive after Conscious Sedation.

Regulation of services

All abortion clinics are registered with the Department of Health and Social Care 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 and Social Care 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.

Care at the Robert Clinic

BPAS is the NHS provider in Birmingham, with Birmingham Women's Hospital only treating women who are unsuitable for care with BPAS or with other complex needs.

The Robert Clinic provides abortion services and related healthcare advice and services to around 1800 women a year. Around 2/3rds of these women attend from the local CCG, with the remainder attending from across the Midlands and further afield to access more specialised surgical care.

BPAS Birmingham South provides surgical treatment up to 16 weeks and 6 days. There are only 7 BPAS sites in the country able to provide surgical termination up to this gestation, so some women may travel significant distances to access this more specialised care.

BPAS Birmingham South treats women of all ages. Each year, the clinic sees about 50 young women under the age of 18. These young women, despite their statutory and regulatory safeguarding needs, are also subjected to protest activity and the advertising of unregulated 'alternatives' at the clinic gate.

Anti-abortion activity at the Robert Clinic

As part of our work to care for our clients and protect our staff, we gather evidence from those present at the clinic about activity that takes place outside. This broadly takes the form of 'client experience' forms in which we ask clients and those accompanying them if they experienced anything outside, what was involved, and how it made them feel. This is first hand eyewitness evidence.

History

Despite a decades-long presence at the Robert Clinic, BPAS only began to experience anti-abortion activity in 2019. In January 2020, BPAS took over the local contract from MSI Reproductive Choices, and with the closure of the long-standing MSI Calthorpe Clinic in Edgbaston, the Robert Clinic inherited the long-term protest presence from that site.

BPAS had previously worked with councillors in 2017/18 as part of our Back Off campaign as a result of the persistence and level of anti-abortion activity outside the Calthorpe clinic. Evidence relating to that protest (run by the same group and with the same attendees as that now-present outside the Robert Clinic) is included as part of this document to evidence the persistence with which this group targets abortion clinics.

An institutional concern of BPAS's is allowing this activity to 'bed in', as previous experience has shown us that once one group is present, other groups are likely to follow. At our clinic in Richmond which now has a PSPO in place, one existing group in 2013 had expanded to four by the time the PSPO was implemented in 2019. In Bournemouth, unchecked activity has resulted in 6-7 active groups.

Although the current anti-abortion groups may claim they would not associate with individuals who undertake the more extreme actions listed here, the bottom line is that they cannot stop them from doing so in a different name or under a different banner. The only intervention that has proven effective in pro-actively addressing the activity of these groups is a PSPO.

The protesters

The Robert Clinic has had two distinct groups of protesters present since 2019. This was a new problem at that point, and we have no longer-term history of protests, unlike other clinics in Birmingham.

The first group were two men who appeared to represent an online church from Nuneaton. They would attend most weeks on a Friday, with a microphone and loudspeaker, a platform, and boards/posters. They did not appear to be affiliated with any wider group, and undertook activities we generally associate with an evangelical Christian anti-abortion presence. This included calling abortion 'murder', telling women they would 'adopt their child', and suggesting abortion took place using outdated US methods of abortion that have never been used in the UK. Based on previous experience, this indicated to us that they had been radicalised on the internet rather than being part of any wider presence.

This group, as a standalone offshoot of an online church with only two active members outside the clinic were seen as a candidate for the use of Community Protection Warnings. These were successfully used, and the protesters returned only once, before desisting. This is group is the only group in the country where such action has been considered appropriate – as the vast majority of anti-abortion groups are larger, more diverse in terms of membership and relationships with other religious organisations, and have significantly more vested interests in challenging such police action. As a result, when the second group arrived – BPAS advised the police that they were likely to conclude that a CPW or CPN was unlikely to successfully address the problem in the same way.

The second group are significantly more organised, and operate in line with activities that occur outside other clinics around the country. They are part of the 40 Days for Life group – which is a Texas-founded franchise operation whose stated aim is to 'pray to end abortion'. The group keeps a running tally on their website of the number of 'babies saved', the number of staff they have convinced to quit their jobs, and the number of clinics that have been shut down – apparently as a result of their action. The organisation is non-denominational, but membership is predominantly Catholic – as a result they use different tactics such as 'pavement counselling' where protesters stop women and tell them to continue their pregnancy, use and hand out rosaries, 'patrol' up and down the road outside the clinic immediately by the gate so that no one can enter without seeing or speaking to them, and using non-graphic signs, often with the picture of the Virgin Mary (Our Lady of Guadeloupe) or slogans such as 'pray to end abortion'. This iteration of the group was previously present outside the MSI Reproductive Choices Calthorpe Clinic in Edgbaston and has previously boasted of having around 30 members.

Types of activity

The groups outside the Robert Clinic engage in a number of common activities, as reported by clients, escorts accompanying them, staff, and other observers like local residents:

- **Handing out false leaflets** – These leaflets contain medical falsehoods and dangerous content that goes against medical guidance and best practice produced by NICE and the Royal College of Obstetricians and Gynaecologists. One tells women that “One study found that women who had abortions have six times higher rates of suicide than women who continue their pregnancies”, despite RCOG evidence showing that there is no difference in mental health outcomes.
- **Advertising dangerous and unproven medical procedures** – The group handed out ‘abortion pill reversal’ literature claiming that it is possible to ‘reverse’ a medical abortion once the woman has taken the first medication. There is no clinical evidence that this is true, and the one rigorous study that sought to examine the effect was ended prematurely on safety grounds after 3/12 women who had been recruited by that stage were admitted to hospital with severe bleeding.
- **Display of pregnancy images and other posters** – This includes a poster of a (developing) foetus
- **Use of judgemental and emotional language** – Women have reported being told ‘do not kill your baby’ by the group that continues to be present outside the clinic, with previous protesters calling women ‘murderers’, ‘killers’, and telling women they can ‘adopt your child, support it financially’.
- **Approaching schoolchildren from nearby schools** – The group hand leaflets to passers-by including girls from nearby schools who are passing by without their parents or a responsible adult
- **Use of props** – These include diagrams of pregnancy and plastic foetus dolls purporting to show the stages of development of a foetus
- **Use of cameras** – The groups use camera phones and/or bodycams to film people who are remonstrating with them. There is no clarity provided as to what happens to this film, or whether unrelated client video is captured.
- **Approaching staff** – The previously present group routinely approached staff, offered to ‘show them pictures of aborted foetuses’ and told them that ‘they are killing innocent children’.

Impact of activity

BPAS has received 63 accounts from clients, people accompanying them, staff, and other observers. These are included as Appendix 1 to our submission.

Based on these accounts, the activity undertaken has had a detrimental impact both on local residents and on clients attending the clinic. Some of the examples from inside the clinic include:

Date	Clinic	Reported by	Account
2022	Birmingham South	Client	<i>They were giving leaflets and saying comments. It made me uncomfortable and I was taken aback. We are in the 21st century.</i>
2022	Birmingham South	Parent of client	<i>They were trying to give me leaflets,</i>

			<i>telling me to think before I enter the building. I attended the clinic with my daughter, it was a tough decision... and to have these people outside trying to make people feel bad when they don't know the circumstances – it's not acceptable!</i>
2021	Birmingham South	Client	<i>Saying 'do not kill your baby' and something about god. They watched me driving around and looking for a space, then approached me. It made me feel emotional and scared. I was already worried and unprepared to be approached. I was crying and it affected my mental health. I was scared to go in.</i>
2021	Birmingham South	Client	<i>There were two males stood near the entrance. They were staring upon my approach so I continued on, to hear them say 'I thought she was going to come in here then'. I then rang the clinic. It made me feel very nervous and anxious.</i>
2021	Birmingham South	Client	<i>She stopped me before I went in. I thought she was a member of staff. She told me to take a leaflet. I kindly rejected. She proceeded to tell me this isn't the only option – that what I'm doing is an 'ungodly' thing. I wasn't there for what she thought I was – it was very embarrassing and basically harassment.</i>
2021	Birmingham South	Client	<i>They were just standing in front with a picture of a fetus. It was intimidating, off-putting. I was scared to come through the door and happy to see a side path - but then I had a panic attack when I got inside.</i>
2020	Birmingham South	Client	<i>Two men were waiting outside the clinic and approaching any women who entered and trying to give them anti-abortion leaflets. I cried in the car. It was already a horrible day and the thought of being harassed for my decisions was too much for me. I felt threatened and intimidated as I didn't know what these men were going to do. While in the waiting room, another woman who had been given a leaflet was crying on her own. I have reported them to police.</i>
2020	Birmingham South	Staff	<i>Client has called to cancel her 9am appointment today due to protesters outside. The client advised there was</i>

			<i>lots of protesters and she did not want to come inside the clinic.</i>
2020	Birmingham South	Staff	<i>We have had a head of year of a local secondary school call into the clinic. He has raised concerns as some of his students have spoken to him about their concerns regarding the protesters. He understands that the young students felt that a client attending the clinic was caused distress by the protesters and then they stated that they were spoken to by 4 men.</i>
2019	Birmingham South	Staff	<i>The usual 2 gentlemen are outside the clinic today and approached me as I came in this morning. They asked me if I work here – I did not respond. As I walked away he started shouting ‘Shame on you, madam, killing little babies, you should be ashamed of yourself, you are part of this process of killing innocent children.’ I’m usually a bit tougher than this but it really got to me this morning...</i>
2019	Birmingham South	Client	<i>They were harassing me, calling me a murderer and a killer. It made me scared, crying, upset, confused.</i>
2019	Birmingham South	Client	<i>They were asking me not to go ahead with the abortion, I said I already have. They said it’s murder of an unborn child.</i>
2019	Birmingham South	Parent of a client	<i>They were handing out leaflets, shouting at myself and my daughter about there are other options and that they would adopt the baby and give it life. Walked with us as we entered the premises, shouting at us.</i>
2019	Birmingham South	Accompanying a client	<i>They shouted from across the road if I’m here to terminate a life... they told me to repent my sins and think about the life I’m about to end. It made me feel physically sick and angry.</i>

Staff experience

We understand that a large number of staff who work at the clinic have provided their own responses directly to this consultation. As noted above, several incidents stand out to them – but this is in the context of a broader backdrop where clients are routinely upset by what happens to them outside, and where particularly male partners accompanying clients are infuriated and angry by the distress being caused. Nurses and midwives are then required to calm the situation before care can be provided.

Our Clinic Manager has provided a full statement to the police regarding the activity outside and its impact on the clinic, which is included as Appendix 2 to this response.

MSI Birmingham Centre (Edgbaston)

Until January 2020, MSI Reproductive Choices held the abortion contract in Birmingham. They operated one of the largest clinics in the country from the Calthorpe Clinic in Edgbaston, which was subject to regular protest activity by the group now present outside the Robert Clinic.

In addition to the 63 accounts of activity outside the Robert Clinic, BPAS also holds 28 accounts of activity outside the Calthorpe Clinic between 2004 and 2019.

Although this is a different site, we believe that as it is the same group it provides significant evidence regarding persistence, and useful supporting evidence regarding the types of activity engaged in by the group.

Further, in a communication with councillors in 2017, the group themselves said they have been 'Peacefully praying and helping women for 30 years'.

Accounts

MSI told the Home Office in 2020 "The Birmingham Centre was targeted daily, with 1 – 5 individuals gathering at the entrance to the Centre driveway 6 days a week for a duration of 3 – 4 hours a day. Larger protests were held as part of 40 Days for Life, where our Birmingham Centre was targeted twice a year throughout 2018 and 2019. Since the Centre closure, the 40 Days for Life activity has moved to target the BPAS clinics in Birmingham."

Some accounts are included below, and the full set included as Appendix 4:

Date	Clinic	Reported by	Account
2018	MSI Birmingham	Passer-by	They were praying and handing out leaflets. The leaflet I was given contained misinformation about abortion. It makes me uncomfortable, distressed, angry, upset or all the vulnerable women who would have to walk past them into the clinic.
2017	MSI Birmingham	Client	They were standing on the pavement outside the clinic with religious signs and graphic posters. I was angry that they felt that they had a right to stop me accessing legal healthcare and interfering in a private matter.
2017	MSI Birmingham	Staff	Protesters upset a client, handed her a leaflet and grabbed her by the arm. She came into the clinic crying.
2016	MSI Birmingham	Staff	When a client left the centre a member of admin returning from lunch saw her being harassed by 2 male protesters at the bus stop. She approached them and told them to leave her alone and came in to inform a member of the management team.
2015	MSI Birmingham	Parent of a client	They were stopping car drivers and trying to talk to my daughter about her decision. They tried to give us a leaflet and tried to engage in a debate at a time of great personal distress.

Potential solutions

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. 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.

A summary of action tried and considered includes:

- **Part 4, Chapter 2, Anti-Social Behaviour, Crime and Policing Act 2014 (used).** Public Spaces Protection Orders are the only tool that has been successfully used at a local level to stop clinic activity and has been supported by the courts in dealing with clinic protests.
- **Part 4, Chapter 1, Anti-Social Behaviour, Crime and Policing Act 2014 (used).** A CPN was successfully used against two individuals who started protesting outside BPAS Birmingham South in early 2019. For several months afterwards, there were no protests outside the clinic. However, there is now a new protest group there with significantly more people, ill-suited to a CPN or CPW. The initial group were a standalone church group, and the new group is part of an international group, and we would expect them to challenge any action by the council.
- **S5 Public Order Act 1986 (used).** Has been used twice. Most recently in Manchester, where a member of a regular protest group pleaded guilty and was given a 12-month restraining order. The group she is a part of continued to protest the clinic, and her restraining order expired, at which point she was free to recommence her activities. Previously two Abort67 activists were prosecuted under this section in relation to one of their signs of dismembered fetuses 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. Police were sued for wrongful arrest and paid £40,000 compensation.
- **Part 1, Anti-Social Behaviour, Crime and Policing Act 2014 (used).** In a case with current reporting restrictions, one police force has obtained an interim injunction against an individual protester outside an abortion clinic in England. The protester sought to challenge this in a full court hearing in which everyone who provided evidence was informed they may be called to the witness stand, and the injunction solely requires that the protester does not use amplification equipment or use the word 'murderer' within 60 yards of the clinic. It does not prevent their attendance, any other aspects of their protest, or use of synonyms such as 'baby killer'. A previous attempt to use this provision was refused in Nottingham in 2018.
- **Civil injunction (considered).** 27 BPAS clinics have been impacted in the last five years alone, and BPAS has neither the means nor the desire to spend NHS money on pursuing a civil injunction for each and every clinic. 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 European Convention on Human Rights, 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.

- **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 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.
- **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.
- **S61 and S68 of the Criminal Justice and Public Order Act 1994 (considered)**. It was concluded that trespass takes place only in very isolated circumstances and would not address the vast majority of protest activity.

Appendices

Appendix 1: The full database of submissions from clients, escorts, local residents, and passers-by to BPAS and the Back Off campaign about protests outside BPAS Birmingham South. 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).

Appendix 2: Police witness statement provided by the BPAS Birmingham South clinic manager regarding the activity outside.

Appendices 3a and 3b: Leaflets handed out outside BPAS Birmingham South.

Appendix 4: Database of submissions relating to MSI Birmingham. Should be interpreted as per Appendix 1.

Contact

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