British Pregnancy Advisory Service submission

to the APPG on Population, Development and Reproductive Health's hearing on Abortion in the Developing World and the UK

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. We also treat hundreds of Northern Irish, Irish, and European women seeking abortion.

At a policy level, we advocate for the decriminalisation of abortion, the provision of comprehensive reproductive healthcare services to all women, and support the introduction of 'buffer zones' around abortion clinics to prevent harassment and protect access to services.

Abortion Provision in the UK

- **Funding.** All women resident in the UK are in principle able to access funded abortion services. This provision was extended to women from Northern Ireland earlier this year. In England, where the majority of our clinics are based, BPAS competes with other providers, including the NHS, for tenders from Clinical Commissioning Groups (CCGs) to provide a local service to women. CCGs are often trying to balance competing priorities in a difficult funding climate. In an environment where a cheaper service may trump one of a higher quality, there can be implications for the standards and uniformity of women's care.
- **Availability.** After a number of unanticipated supply-side shocks in abortion provision, waiting times across providers remain longer than would be ideal. In addition, care for the increasing number of women needing an abortion who have complex medical needs can only be provided in NHS facilities, and only two of these across the UK, both in London, provide abortion up to the legal limit of 24 weeks. These can include women with poorly-controlled diabetes, epilepsy and unexplained seizures, asthma, high blood pressure, stroke, and high BMI. On a regular basis BPAS is unable to place women with these needs and they are therefore compelled to continue their pregnancy. This is an issue the Department of Health and NHS England are currently seeking to resolve.
- **Workforce.** The Royal College of Obstetricians and Gynaecologists are the professional body for doctors providing abortion care in the UK. Their 2017 Report *Abortion Care: Our Responsibility* raises a number of useful concerns related to the UK abortion care workforce. Or particular concern is the recruitment of junior doctors into a field that includes abortion – their report shows that only 33 junior doctors since 2007 have completed the Advanced Training Skills Module on abortion. Their explanation for this is notable: *"[There is a] feeling that abortion care has low prestige in the NHS and staff are not recognised as providing an essential service in women's health; a situation that is exacerbated by negative press coverage, ongoing parliamentary activity and the intimidating tactics of anti-abortion groups."* Ongoing issues with the recruitment of junior doctors is likely to provide further difficulties in the future as specialisation is key to

ensuring women are able to access and exercise their rights. For example, each of the two hospitals that provide abortions up to the 24-week limit has only one doctor who undertakes later procedures, and thus suffer from a lack of coverage when the doctor is on leave or unable to conduct a surgical list or find a bed on a war for a medical induction.

- **Provision in Scotland.** Control over abortion law in Scotland is now devolved to the Scottish Parliament. Although abortion is legal up to 24 weeks in Scotland, as in England and Wales, in practice, health boards have lower local limits for Ground C abortions (ie those where the life or health of the mother is not at serious risk or where there is not a severe foetal abnormality) and Scottish women seeking abortions after 18-20 weeks are generally required to travel to England for treatment. We would like to see provision for these women made available within Scotland. We recommend the conclusions of Engender's 2016 report *Our Bodies, Our Choice: The Case For A Scottish Approach To Abortion.*
- **Access.** Although abortion is available to women in mainland Britain, there are certain groups for whom availing themselves of their rights is more difficult – not just in terms of abortion but in terms of their wider sexual and reproductive rights. The largest of these groups is disabled women – who report being questioned over their ability to bear and raise a child, failures by doctors to take into consideration disabled women's individual circumstances when prescribing contraception, and an inappropriate limiting of disabled women's sexuality by carers and government agencies. Learning disabled women report facing additional difficulties in knowing who can provide advice, finding adequate information to make an informed choice, and where they can go for abortion care if that is what they choose. Disabled or vulnerable women may need additional support and specialised information to enable them to make their own decisions – and doctors, carers, and social services should ensure they can signpost to appropriate information and support services.
- **Women from other countries.** 284 women resident in the EU (not including the Republic of Ireland) had abortions in England and Wales in 2016. This often reflects a hostile climate in their home countries – such as Malta (58 women) where abortion is entirely illegal, and Italy (45 women) where around 70% of obstetricians conscientiously object to providing abortions. A reduction in freedom of movement with Brexit is therefore likely to mean a reduction in choice for women resident in the EU.

Northern Ireland

- **Criminalisation.** In England, Wales, and Scotland abortion remains criminalised but is available to women under specific circumstances. However, it remains criminalised in Northern Ireland, and a number of people have recently faced legal action for procuring medication to end a pregnancy, usually over the internet. Recent cases have resulted in cautions, suspended prison sentences, and an appeal against the decision to prosecute which is currently awaiting a date for Judicial Review. We believe this situation to be untenable.

- **Provision elsewhere.** In June 2017, England, Scotland, and Wales all committed to providing abortion services to women from Northern Ireland free of charge on their own NHS. 724 women from Northern Ireland had an abortion in England and Wales in 2016, during which time the NHS's policy required them to pay for treatment privately. Under the BPAS price list, the cost of an abortion can vary from £470 to £1530 dependent upon gestation. BPAS is continuing to work with the Government Equalities Office to ensure that provision in England is adequate – and that it includes not only the cost of treatment but the high costs of travel from Northern Ireland at short notice.
- **Northern Ireland Human Rights Commission (NIHRC).** BPAS is currently intervening in the Supreme Court case *NIHRC vs Northern Ireland Department of Justice and the Attorney General* where the NIHRC are seeking to extend the circumstances under which abortion can be obtained in Northern Ireland to include serious and fatal foetal abnormality, rape, or incest. BPAS supports this extension, which the NIHRC judge necessary to bring Northern Ireland into line with international human rights law.
- **Threat of Brexit.** We remain concerned that the eventual border settlement in the UK's Brexit agreement could result in additional barriers to those travelling from Northern Ireland to access abortions in mainland Britain. Northern Irish women already require photographic ID to access travel, but if Brexit results in passport checks this could prevent women who don't already have passports from travelling at short notice. BPAS would like to see a commitment from the UK Government that Northern Irish women will not be prevented from accessing essential healthcare by increased border restrictions.

Push for decriminalisation

- **The campaign.** Under the 1861 Offences Against the Person Act (OAPA), procuring or performing an abortion remains a criminal act in England and Wales with a potential sentence of life imprisonment. In Scotland, abortion remains illegal under common law. The Abortion Act 1967 provides for specific exceptions, but does not remove the underlying criminality. Under existing law, it remains illegal to purchase abortion medication over the internet, for a nurse practitioner or midwife to perform a medical abortion, and for an abortion to be performed without the sign-off of two doctors. We believe that women should not be criminalised for exercising choice over their pregnancy, and that the only solution for improving the current situation is to pass new legislation to decriminalise abortion across the UK.
- **Support for decriminalisation.** The British Medical Association voted at their 2016 conference to support the decriminalisation of abortion. They join the Royal College of Midwives, Women's Aid, the Fawcett Society, Maternity Action, the British Society of Abortion Care Providers, Birthrights, Lawyers for Choice, End Violence Against Women, Equality Now, IPPF European Network, Voice for Choice, Southall Black Sister, Alliance for Choice NI, and Doctors for a Woman's Choice on Abortion in supporting decriminalisation.
- **Parliamentary progress.** In 2017, Diana Johnson MP introduced a Private Member's Bill to the House of Commons to regulate the termination of pregnancies by medical

practitioners and to repeal criminal offences relating to abortion. The bill passed its first reading 172 – 142. Unfortunately, further passage was curtailed by the 2017 General Election.

- **Designing decriminalisation.** BPAS is working with the Voice for Choice coalition and Diana Johnson MP to produce a full draft of a decriminalisation bill. Starting out, our expectations have been that this will include repeal of criminalisation for procurement and performing of abortions in the OAPA, enabling abortion on request throughout pregnancy, provision for conscientious objection, and ensuring that forced abortion or violence that results in the loss of a pregnancy remains criminalised.

Wider discussion

- **Buffer zones.** Over recent years there has been an escalation in anti-abortion activity outside clinics in the UK. Women attending pregnancy advice and abortion centres are now regularly exposed to groups of anti-abortion activists standing directly outside. Many of these activists bear large banners of dismembered foetuses, distribute leaflets containing misleading information about abortion, and follow and question women as they enter or leave the centres. Often, these people carry cameras strapped to their chests or positioned on a tripod. Women report feeling intimidated and distressed by this activity as they try to access a lawful healthcare service in confidence. Since 2014, BPAS has been campaigning for the introduction of 'buffer zones' to protect access to abortion services. Buffer zones are areas around registered pregnancy advisory bureaux and clinics in which anti-abortion activity cannot take place, and are already in law in areas across the world. Despite repeated efforts, existing law does not seem to provide a solution to this issue, so BPAS is working to bring in primary legislation to establish buffer zones.
- **Time limit.** There are occasional calls for a reduction in the time limit from 24 weeks: Abortions after 20 weeks are sought for many reasons – including being unaware of pregnancy, domestic violence, and crisis situations. Examples of these are set out in our report *Why women present for abortions after 20 weeks.*. BPAS supports the full decriminalisation of abortion, and does not believe a time limit should be laid out in criminal legislation but can be regulated by professional guidance, as in other countries. A small number of women will continue to need to access abortion after 24 weeks, including in cases of serious foetal abnormality and where her life is at risk.
- **Disability.** A Private Member's Bill in the House of Lords in 2016/17 raised the possibility of removing from the grounds for abortion 'that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped'. This bill fell at report stage at the end of the parliamentary session. As foetal anomalies are often only diagnosed at 18 to 21 weeks, amending current abortion law would have catastrophic implications for women who receive an antenatal diagnosis. Removing the ability to have such abortions post-24 weeks would force women to make a rapid decision at an incredibly difficult time and severely limit opportunities to engage with specialist healthcare professionals and third sector organisations. In addition, international human rights law and rulings have concluded that denying women abortion

in cases of fatal foetal abnormality violates their human rights. BPAS is therefore opposed to any restriction in the disability grounds of the Abortion Act 1967 and believes, as previously stated, that abortion should be decriminalised.

- **Sex selection.** Recent discussions in the media and parliament have been concerned with sex selective abortion. While there is no peer-reviewed evidence to suggest that abortion for this reason alone is taking place in the UK, it is clear that the issues of violence and abuse that affect women in some black and minority ethnic (BME) communities have been exploited by anti-choice campaigners in order to restrict women's ability to access abortion care. The criminalisation of sex selective abortion does nothing to address the perceived underlying issues of misogynistic social, religious, and cultural attitudes, and is in fact more likely to expose vulnerable women to the risk of further victimisation. BPAS believes that every woman should be empowered to make her own reproductive choices as she is the person who knows her own circumstances most intimately.
- **International provision.** While BPAS does not deliver services internationally, we are pleased to see the commitment by the Department for International Development (DfID) to extending women's rights and reproductive choice through their programmes. The commitment to providing contraception, abortion, and reducing maternal mortality and morbidity stands in stark, and positive, contrast to the position of the current US Government and those of its other Republican Presidents. BPAS does believe, however, that the UK is in a position to extend its commitment to providing abortion care, and publicly accept that abortion is an essential part of a comprehensive family planning system. It is essential that abortion is not separated from contraception, as all women needing to control their fertility will need access to abortion when their contraception fails. We also must ensure that there is adequate clinical, as well as donor and governance, oversight of overseas provision to ensure that we are supporting women around the world as well as possible.