



THE APPG on  
**Sexual and  
Reproductive Health**

## ***A way forward: Commissioning abortion services in Northern Ireland meeting summary***

**Date: Monday 14<sup>th</sup> September, 15.00 – 16.30, via Zoom**

### **Panelists:**

- **Dame Diana Johnson DBE MP**, Co-Chair of APPG SRH (Meeting Chair)
- **Ruairi Rowan**, Director of Policy and Advocacy at Informing Choices Northern Ireland
- **Dr Goretti Horgan**, Lecturer in Social Policy at Ulster University and expert on women's experiences of accessing abortion
- **Les Allamby**, Chief Commissioner of the Northern Irish Human Rights Commission
- **Dr Carolyn Bailie**, Consultant Obstetrician, Belfast Trust

### **Welcome and initial statements**

**Dame Diana Johnson DBE MP** welcomed everyone to the event, and extended a special welcome to MPs joining the event, as well as MLAs joining from Northern Ireland. She said that the purpose of the event was to examine the current non-commissioning of abortion services in Northern Ireland, and to provide an update on the APPG's work.

Diana encouraged all attendees to Tweet the APPG at @APPGSRH. She introduced the panelists and handed over to **Ruairi Rowan** and **Dr Goretti Horgan**.

Ruairi introduced himself and briefly outlined the work of Informing Choices. He began by recognizing the progress that Northern Ireland has made in the decriminalization of abortion, and the benefits to women who had taken illegal online medication, which was previously criminalized and carried a potential life sentence. Ruairi outlined that at the beginning of the pandemic, ICNI had worked with abortion clinics to establish a referral pathway to abortion clinics, enabling women across NI to contact a single information point and choices counselling if they wished.

Ruairi noted that post-abortion telephone counselling was available to all patients. He said that telephone counselling, both prior to and after abortion care, was beneficial in that patients have less exposure to protestors outside clinics.

Ruairi said that due to the lack of commissioning and additional resources, services are beginning to struggle. On 5<sup>th</sup> October, the Northern Trust closed its EMA service due to a lack of resources, and other trusts do not have the funds to take on additional patients who fall within the Northern Trust. Ruairi said that in the 9 weeks since, 71 women contacted the ICNI Central Access Point from within the Northern Trust, most wishing to end a pregnancy – but these women no longer have a pathway to care.

Ruairi outlined the statements made by the Northern Ireland Health Minister, Robin Swann MLA, who stated that there is no legal duty on his department to commission abortion care and that he will not act without the agreement of the NI Executive. Ruairi stated that if we have to wait for the agreement of the Northern Ireland Executive, further services would likely collapse.



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**Dr Goretti Horgan** thanked Ruairi and began by discussing the level of panic in Northern Ireland in March, when many international providers of abortion medication were unable to post to Northern Ireland due to the partial breakdown of the postal system at the start of the pandemic. She said that two women had attempted suicide upon having their flights to England cancelled.

Goretti highlighted that there is no care pathway for women who present at over 10 weeks pregnant, although websites will provide pills up to 12 weeks in line with WHO guidance. Otherwise, women are again forced to travel. Goretti emphasized the struggle faced by doctors: in three trusts there is a single doctor providing these services, meaning that the services are vulnerable if these doctors are sick or even wish to go on holiday.

Goretti said that the position of women in the Northern Trust highlighted the importance of decriminalization as it meant that women could be informed by doctors that online pills were a legal option. However, Goretti said that anxieties remain around the legality of the service, as well as whether the pills will arrive, considering the disruption to postal services.

Goretti pointed out that the current situation in Northern Ireland would not reduce abortion, because of very poor contraception services. She said that there was high take-up of LARC among those who access abortion services. She closed by saying that public policy scholars could see no legal or policy reason why the Minister for Health should be dependent on the approval of the Executive.

Diana thanked Ruairi and Goretti and commented that the impact on women should always be at the forefront of our minds. She introduced **Dr Carolyn Bailie**.

**Dr Carolyn Bailie** outlined the quick set-up of EMA services at all 5 health Trusts (within 8 weeks of 31<sup>st</sup> March, when the regulations were passed) and highlighted that it was possible to set up these services in large part because of a downturn in contraceptive services due to the pandemic.

Carolyn said that as time has progressed and pre-Covid services have returned, trust CEOs and Medical Directors have become increasingly unwilling to continue to fund these services, and all agree that there should be commissioning and funding. Trusts are also unwilling to extend services beyond 10 weeks without additional funding.

Carolyn outlined the impact on healthcare services, saying that HCPs are under increasing pressure as regular services return, and have real concerns about the sustainability of the services. She stated that they feel they are failing in their duty of care to be unable to provide care to women over 10 weeks' gestation. There is confusion due to a lack of pathways for women who present later in pregnancy.

Carolyn covered the medical impact on women, highlighting the increased risk of Covid-19 infection for women forced to travel to England for care. Longer-term, Carolyn suggested that the fragmentation or disappearance of EMA services will lead to women again buying pills on the web. Though this is safe and now legal in Northern Ireland, it will mean a lack of counselling and support services for women, and missed opportunities to offer women reliable contraception which would prevent the need for future abortions. Carolyn also highlighted that women with significant co-morbidities should be looked after within NHS facilities.



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Carolyn stressed that the greatest harm of obstacles to care is felt by the most vulnerable women. There are significant barriers to travel for women with mental health issues, women who are not confident English speakers, and women with young families. Some women may also intend unregulated clinics (pregnancy crisis centres) which give women incorrect information about the length of their gestation and the care they can access.

Data from one Trust in Northern Ireland showed that 57% of abortions carried out were under 7 weeks' gestation, and that 89% of women accessing care chose to take up a reliable contraceptive method afterwards, with 50.9% opting for LARC. Carolyn said that this showed the real importance of integrating contraceptive services with abortion services.

Carolyn closed by saying that funding was urgently needed to maintain existing abortion services, and that abortion provision should be extended beyond 10 weeks.

Diana thanked Carolyn and handed over to **Les Allamby**. She also thanked Huw Merriman MP, who had to leave the event early, for his attendance and his support of the APPG.

**Les Allamby** said that one of the things that has characterized the last months was the lack of an audit trail relating to decisions made around the issue of commissioning. A letter from the CMO 10 days after 31<sup>st</sup>.

He added to Carolyn's point about the fragility of services by highlighting that one clinician had not taken any leave since the beginning of services because she knew that if she did, women would not get treated. He also highlighted that ICNI were not being paid for their provision of a Central Access Point.

Les stated that in April an options paper went from DH to exec proposing EMA service commissioning. There was an update in May. Les understands that there has been no update on this paper and no authorization to commission the service since. Trusts have been seeking clarification from the commissioning body, the Health and Social Care Board, as well as the Department of Health. In September a commissioning request was submitted but withdrawn effectively at the behest of the Health and Social Care Board, although there is no audit trail for this.

Les outlined the situation in the Northern Trust, where following the closure of the service women are faced with the options of travelling to the Republic of Ireland and paying for abortion care, travelling to England or accessing pills online. He said that the paradox is that the situation for women in the Northern Trust is probably worse than prior to the passage of the Northern Ireland (Executive Formation) Act.

Les also echoed Carolyn in outlining the infection risk associated with long-distance travel to access care. Trusts feed back that management of risk is something they are used to, but that no effort has been made by the Health and Social Care Board or the Department of Health to assess the risk to pregnant women travelling.

Les announced that the NIHRC has decided to bring a judicial review against the NI Executive, the Secretary of State and the Department of Health. The action against the Secretary of State is based on his failure to reach statutory requirements under Section 9 of the Executive Formation Act, which states that the Secretary of State must implement recommendations of paragraph 85 and 86 in the CEDAW report. Les stated that the NIHRC considers that these duties are "mandatory and outcome-oriented rather than process-



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oriented". Les also stated that the fact that health is a devolved matter does not prevent the Secretary of State and Minister of State from acting on this issue.

The second challenge, against the Department of Health, is based on a breach of Article 3 of the Human Rights Act preventing inhuman and degrading treatment and Article 8, right to privacy and bodily autonomy. However, this may be a difficult case to win without an applicant, who would ideally be a woman living within the Northern Trust whose care pathway was compromised by the lack of commissioning for services. Les said the NIHRC would be able to guarantee anonymity for any woman able to come forward.

In contradiction to Goretti's earlier comment, Les said that according to legal advice, it is arguable that the Department may be obliged to bring the commissioning decision to the Executive. However, the Executive is currently contradicting that advice by saying that it is a matter for the Department, creating a deadlock. Les added that even if the legal action is successful it may not guarantee a change in current circumstances.

### **Comments from Parliamentarians and MLAs**

Diana thanked Les and opened the floor to comments and questions from MPs, Peers and MLAs.

**Karin Smyth MP** gave a comment in her capacity as a Shadow Minister for Northern Ireland. Karin said that people listening would be horrified by the way in which women are continuing to have to travel during the pandemic, especially to high-tier areas in Liverpool and Manchester. She paid tribute to everyone in Northern Ireland working to support the women, and stated that the uncertainty for professionals was unacceptable. She thanked the APPG for shining a light on the current situation, and said that the Labour Party would continue to do what they can to support the development of services.

**Baroness Barker** asked what Parliamentarians in Westminster can do to help the situation. **Dr Stephen Farry MP** thanked the APPG for hosting the event and stated that the dynamics of Northern Irish representation in Westminster had changed, with more MPs from NI supportive of the change in the law. Dr Farry said that he would be happy to support efforts in Parliament to ensure the fulfillment of Northern Irish abortion law. He further stated that the decision to send the commissioning issue to the Northern Irish Executive was a deliberate political decision, taken to 'park' the issue.

In response to Baroness Barker's question, Les stated that the powers that the Secretary of State has are extensive and that he is within his rights legally to intervene to ensure services are provided. There is therefore nothing to prevent the Secretary of State from dealing with the matter unilaterally if cross-party consensus is there. Les also highlighted that there is little prospect of the Northern Ireland Department of Health changing its position, so any change would likely have to come from Westminster.

The possibility of central funding was also alluded to. Carolyn reaffirmed that there is a willingness in some Trusts to extend abortion provision beyond 10 weeks, but this will not be done without funding. Ruairi mentioned that the Central Access Point provided by ICNI is not publicly funded and cannot continue indefinitely.



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Diana read out a comment from **Clare Bailey MLA** which stated that she is working on a private bill to give local councils the powers to establish safe access zones, and hopes it can progress through the Assembly during this mandate.

Diana outlined the measures that the APPG is taking to lobby around this issue. The APPG has, with the assistance of its members and other sympathetic MPs, been tabling Written Parliamentary Questions on the issue. In addition, the APPG is currently drafting a cross-party letter to Brandon Lewis requesting action on this issue. The letter will request a meeting with him (all concerned MPs and Peers welcome to attend) and for him to review his options, including direct intervention.

### **Audience questions**

Diana handed over to **Harry Walker** to summarise questions from the audience. Harry summarized politicians' questions first. Clare Bailey asked whether the Government Equalities Office funding for women to travel to England could be transferred to enable funding of services within Northern Ireland. Carolyn said that this idea had been raised and there was little political appetite for this.

**Lord Dubs** asked how many women were travelling to the Republic of Ireland to access abortions. Goretti said that few women were accessing abortion in the Republic, as it costs 350 euros and requires two trips due to the compulsory 3-day waiting time between consultation and care. Goretti also emphasized that abortion is only available in the Republic up to 10 weeks.

Harry asked on behalf of audience members what people in the Republic can do to help pressure in the North. Ruairi noted that the Republic is approaching its own three-year review of abortion regulations and said that evidence for what is not working in the Republic can help in opinion and policy formation in the North. Carolyn mentioned that clinicians in the Republic had been very supportive of clinicians in Northern Ireland.

Harry asked why the Department of Health had not put the commissioning question in front of the Executive for approval. What interventions can ensure we will even see it put in front of the Executive? Les said Robin Swann has not advocated for its discussion. However, having met the First Minister he feels that the situation is slightly more energised, as there is a real threat that this will go to court if it is not dealt with. Les said that Parliamentarians should continue to work behind the scenes.

Harry asked what practical solutions could be offered to the staffing constraints in abortion care settings. Carolyn said that this was difficult since, as pre-Covid services resume, staff are obligated to carry out contracted services as well as non-commissioned abortion services, and many staff who could perform abortion care are unable to for this reason.

Another question covered what data there is to monitor who is most disadvantaged by lack of accessibility, and what is being done to inform young people and encourage early access to services. Goretti outlined that the services were being provided without admin support and often without nursing support, so it is difficult to see how doctors could be expected to monitor inequalities in access. She further highlighted that most young people get their information via Google, which exposes them to the risk of anti-choice 'crisis pregnancy centres'.



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Les added that Trusts are concerned that the demand for other SRH services will mean that diverting resources to provide abortion will become harder.

Harry asked on behalf of an audience member what will happen to women past 10 weeks' gestation during future pandemic peaks. Goretti said that currently any woman over 10 weeks has to travel to Britain and this will not change in the short-term. She also highlighted that surgical abortion was not available anywhere in Northern Ireland, and said that the provision of post-10 week care and surgical abortion care would rely on the provision of funding. Carolyn agreed and said that post-10 week care was more expensive for trusts, who are under-resourced as it is.

Finally, Harry asked why there was no Department of Health information signposting services, leaving women vulnerable to exploitation by anti-choice 'crisis pregnancy centres'. Ruairi reiterated that the main issue was women Googling abortion services, and that one of the things that needs to happen is to search-optimize bona fide abortion services. Again, this comes down to funding.

Diana closed by thanking the panelists and the audience for their attendance.