Brook has been at the forefront of providing clinical sexual and reproductive health services to young people for over 50 years. Brook clinics provide contraception and sexual health care for young people, pregnancy testing, support with pregnancy decision-making and signposting into ante-natal and abortion services.

We are pleased to have the opportunity to submit to this inquiry. The focus of our submission is our concern about the specific impact of Northern Ireland’s prohibitive abortion law on young people.

1. Access to information about abortion

1.1 The criminal law not only prevents health professionals from referring women for abortion or providing abortion care, but also has a ‘chilling effect’ on clinicians’ willingness to discuss pregnancy options in case they are seen to be aiding, abetting or counselling a woman to procure an illegal abortion.

1.2 Section 5 or the Criminal Law Act (Northern Ireland) 1967, further creates an obligation to report and an offence of withholding information if someone believes that the offence of illegal abortion has been committed.

1.3 This legal framework, which both stifles sharing of information about abortion and requires disclosure where abortion has taken place illegally thereby disincentivises help-seeking after abortion and seriously undermines the important relationship of trust between clinicians and service users.

1.4 The lack of opportunity to discuss abortion with health professionals leaves young people vulnerable to the myths of peers, the dangers of inaccurate and misleading websites, and the deliberate misinformation of organisations that oppose abortion.

1.5 Until 2017 Brook ran a clinic for young people in Belfast. Young people were sometimes deterred from attending the Brook clinic by the presence of anti-abortion protestors; or diverted by anti-abortion activists to rogue counselling centres which provide false information about emergency contraception and abortion with the aim of obstructing access to both.

1.6 Though protests outside abortion clinics and crisis pregnancy centres providing misinformation are a significant problem on the UK mainland too, the legality of abortion means that there are a wide range of services including most GPs where young people can get support with accurate information and abortion referral; and there are straightforward ways to self-refer into abortion services in many parts of the country.

2. The need to travel for abortion

2.1 Northern Ireland has never adopted the 1967 Abortion Act and abortion remains prohibited by the 1861 Offences Against the Person Act (OAPA). Exceptions to the total prohibition of abortion, exist as a result of case law (Bourne 1938), but recent guidance has resulted in highly restrictive interpretation of these exceptions, and a subsequent decrease in abortions carried out in Northern Ireland from 47 in 2007/8 to 13 in 2016/17^2.

2.2 This means that many vulnerable people, including young people, who may once have ‘qualified’ for a legal abortion in Northern Ireland, on the grounds of a serious risk to their mental health, are now left without the option of having an abortion close to home.

2.3 In 2017 the Government agreed to fund the abortions of women travelling from Northern Ireland to England for abortion. Funding has also been made available to pay for the cost of travel for those in financial need.

2.4 This development was widely welcomed as it provides some remedy to people from Northern Ireland facing the financial burden of travel to access a safe, common and legal procedure which is freely available to people in England, Scotland and Wales.

2.5 For those who are able to arrange a procedure and to travel, who have the support they need from partners or family, and who have the requisite travel documents, subsidising the cost of the abortion is helpful.

2.6 However, the need to travel to another legal jurisdiction represents a burden beyond financial cost. It may present logistical difficulties, especially for those with caring responsibilities and/or no partner or family support; it may deprive people of their ability to maintain privacy about their procedure from family members, employers or educational institutions; it exceptionalises abortion care and can thereby contribute to the stigma of abortion.

2.7 The earlier in pregnancy an abortion takes place the safer it is, but the need to travel with all the additional organisation it entails can delay access. The case studies below support the evidence from DH statistics that those travelling to England for abortion are accessing them, on average later than women based in the mainland. For example in 2016 77% of abortions for women resident in England and Wales took place in the first 9 weeks of pregnancy with 90% taking place in the first 12 weeks. For those travelling from Northern Ireland to the mainland a smaller proportion of abortions took place in the first 9 weeks (66.8%) and in the first 12 weeks (83%)⁴.

2.8 For those who need to end a wanted pregnancy for medical reasons, sometimes at later gestations and needing more complex or difficult and invasive procedures, it can be particularly distressing to have to leave friends and family, and familiar clinicians, for several days⁵.

2.9 Even given the new offer of funding from the UK Government, the existing legal framework creates clear inequity of access, and preventable distress.

3. Specific issues for travel and young people

3.1 Some people who are not able to benefit from the offer of funded abortion on the UK mainland include:

- those who don’t know how to find accurate information about abortion;
- those who seek support from a GP who is very opposed to abortion;
- those who are intimidated by protestors, and scared of being identified by them as they go into the FPA Northern Ireland clinic to get information;

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• those without the right to travel or the requisite travel documents;
• those who would struggle with the logistics of organising an abortion;
• those without partner or family support or are experiencing sexual abuse, intimate partner violence or are in controlling or coercive relationships;
• those with disabilities or conditions that make travel difficult;
• those in precarious employment or on low incomes and unable to miss work;
• and young people.

3.2 Young people may struggle to travel for abortion for several of the above reasons. In addition their age may be a specific obstacle to accessing an abortion on the mainland as clinics ask that young people are accompanied home from the clinic by someone over 18, which can be hard to organise for a young person without family support.

3.3 Brook is concerned that its stakeholders, young people, are the group most disadvantaged by the current legal framework and may be least helped by the UK Government’s attempt to mitigate the problem through funding of abortion in England, Scotland and Wales.

3.4 The following case studies, kindly provided by Abortion Support Network, were collected before the introduction of the new funding arrangement. However they illustrate the particular difficulties young people have getting the information and support they need; their fears about being criminalised, being exposed and even blackmailed; their desire to find ways to manage their abortion on their own – including considering self-induced abortion; their susceptibility to misinformation or threats; and their vulnerability to the obstructive behaviour of those in a position of authority including doctors, social workers and family members.

3.5 Case Study One

Abortion Support Network received an email from the mother of a pregnant [14-18] year old girl. Her daughter did not realise she was pregnant until she went to her doctor. After the consultation, as she was leaving the consultation room, she turned back to the doctor and said “I can’t have a baby.” The doctor’s response, according to her, was to say, “You’re having this baby whether you like it or not” loudly enough that people in the waiting room heard her. She kept the pregnancy to herself for another 2 weeks, googling ways to self terminate as she was too far along (19 weeks) to access safe but illegal early medical abortion pills from the internet. She finally told her mother, but she and her mother decided not to tell her father, as he would be opposed to abortion and potentially prevent them from travelling.

The young woman also decided not to tell the boy involved, as she was concerned that if they broke up, he could use the abortion against her and get her ostracised in their town. This meant the family was not able to ask his family for financial help. By the time they were able to concoct a story that would cover their trip for 2 days, the abortion cost £1350, plus the cost of last minute travel.

3.6 Case Study Two

Abortion Support Network received a call from a case worker. We will not name the case worker or her organisation as she believed she was risking her job to contact us on behalf of a pregnant [14-18] year old in foster care. When the young woman went to discuss the pregnancy with social services the only information they would give her was about continuing the pregnancy and antenatal care. She was told that they would call the PSNI and have her arrested if she went to England for an abortion which terrified her. ASN urged the client to go see the NIFPA or Brook NI, but she was afraid that the more...
people she went to for help, the more increased her risk of getting arrested for what she perceived to be breaking the law. In the end we were able to fund her to travel over to England. She had some funds from a part time job and a friend over 18 to come with her, so she was able to cover the cost of the flights and put £40 towards the procedure. ASN funded the rest.

3.7 Case Study Three

We were contacted by a woman who had recently started fostering a distant relative [redacted]. The 14-18 year old girl who was being fostered, “C”, had been living with her mother as her father had serious issues with substance abuse. The couple that took C in had small children of their own and while they were happy to help, she’d moved in so recently that the payments for fostering her hadn’t come through yet and they were very short on funds. To add to complications, they had been encouraged to travel to a town a fair distance from where they lived and to pay £100 for a dating scan, which took most of the funds they had managed to save. The foster carers also took C to a family planning clinic and to a social worker. The social worker strongly discouraged the abortion and also told them that if she continued the pregnancy, the baby would be removed from her and put into care. C had an illness and was on antibiotics, and when she came off them she had very few days in which to travel before she became 14 weeks pregnant and the price of a termination would double. During those few days, C’s foster carers were unable to travel – the woman didn’t have anyone to care for her kids, and the man, [redacted], was not financially able to miss work. We were able to find someone appropriate to travel over with this young woman, pay for their flights and for the procedure.

3.8 For those who cannot travel and must resort to purchasing abortion medication online, the evidence suggests that younger women are more vulnerable to being exposed and prosecuted. Of the recent criminal prosecutions of women for buying or using abortion medication, one led to the conviction of a young woman who was 19 at the time of her abortion, a further prosecution of a 21 year old and her 22 year old partner was dropped and they accepted cautions. Judgement is pending in the judicial review of a case in which a woman is facing prosecution for helping her 15 year old daughter to have an abortion by purchasing abortion medication on her behalf.

3.9 These cases all took place before funding was put in place by the UK Government. However, we know that online sales of abortion medication have not ended as a result of funding for abortion in England and that the new funding has only gone some way to mitigating the impact of the criminalisation of abortion and only for some people.

3. Impact of criminalisation

3.1 At least two organisations provide medical abortion safely and at low cost via online consultations and this represents a realistic option for anyone who can’t travel. However carrying out an abortion in this way is illegal and a successful prosecution carries a maximum sentence of life imprisonment.

3.2 The threat of prosecution can have serious unintended consequences for those that can’t access legal abortion by travelling: both those that do and those that don’t take the risk of purchasing abortion medication online.

3.3 The following outcomes may apply to a range of abortion-seeking women of all ages, but Brook’s experience of working with young people suggests that the following are likely to particularly impact young people who have been unable to travel for abortion.

   1. continuing unwanted pregnancy even when they know they are not in a position to care for a child at this point in their life
2. the trauma of having a child removed by social services
3. concealed pregnancies and young people giving birth without having accessed ante-natal care
4. carrying a pregnancy to term and giving birth in secret without professional care with the attendant risks for mother and baby
5. resorting to dangerous methods of self-harm to end the pregnancy
6. suicidal ideation
7. people failing to seek medical advice, reassurance or treatment in the event that they experience unexpected symptoms following abortion, or failed abortion
8. people who have had an illegal abortion then delaying seeking contraceptive advice and treatment that they should have at the time of the abortion, given the rapid return of fertility following abortion
9. failing to get help with other issues that are endangering them, e.g. child sexual exploitation, sexual violence, sexual abuse, a coercive relationship etc in case it leads to disclosure of the illegal abortion
10. knowledge of illegal abortion being used as a tool to blackmail
11. a breakdown in the extremely important trust in confidentiality that young people need to develop with their health care professionals in order to become effective health care seekers as they transition into adulthood

3.4 Criminalisation adds to stigma. Stigma is not just an inconvenience. Stigma affects the wellbeing and future behaviour of those affected. It can lead to isolation, fatalism, and a lack of belief in entitlement to help and support – including with future needs re: accessing contraception and other health care.

4. Human Rights compliance

4.1 The current legal framework for abortion in Northern Ireland is one of the most restrictive in Europe. It presents unacceptable obstacles for people in need of abortion.

4.2 The UK Supreme Court said that Northern Ireland’s abortion law is incompatible with human rights and needs ‘radical reconsideration’.

4.3 In July 2016 the Committee on the Rights of the Child recommended that the State party: “Decriminalize abortion in Northern Ireland in all circumstances and review its legislation with a view to ensuring girls’ access to safe abortion and post-abortion care services.”

4.4 In 2016 the Committee on Economic, Social and Cultural Rights recognised that the current legal framework disproportionately affects women from low-income families and recommended amending the legislation to make it compatible with women’s rights to health, life and dignity.

4.5 Earlier this year the UN Committee on the Elimination of the Discrimination Against Women (CEDAW) said that the UK is responsible for ‘grave and systematic’ violations of women’s rights in Northern Ireland, and urged the UK Government to decriminalise abortion.

4.6 In October this year the UN Human Rights Committee stated that the application of ‘criminal sanctions against women and girls undergoing abortion or against medical service providers assisting them in doing so...(compels) women and girls to resort to unsafe abortion’.

[7 https://www.supremecourt.uk/cases/docs/uksc-2017-0131-judgment.pdf [last accessed 06/12/2018]
4.7 The criminalisation of abortion has direct impact on women’s health including the impact of delaying abortion care, lack of follow up care after illegal abortion and safe management of post-abortion complications.

4.8 Along with other vulnerable groups young people under 25 are the least likely to benefit from the NHS funded abortions and therefore have inequitable access to a safe and essential healthcare procedure.

4.9 Young people and other vulnerable groups are therefore more vulnerable to criminalisation and prosecution.

5. Access to safe, legal abortion for all in Northern Ireland

5.1 Northern Ireland urgently needs a legal framework for abortion that facilitates best clinical practice and respects the human rights of women and girls and other people in need of abortion.

5.2 The UK Government in Westminster cannot use devolution as an excuse to maintain the status quo which is harmful and inequitable. Human rights are not a devolved matter.

5.3 Brook supports the decriminalisation of abortion across the UK, which would remove obstacles to provision of safe, legal abortion for all in Northern Ireland.

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