



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Inquiry concerning the United Kingdom of Great Britain  
and Northern Ireland conducted under article 8 of the  
Optional Protocol to the Convention**

**Follow-up report submitted by the United Kingdom of Great  
Britain and Northern Ireland\***

[Date received: 16 January 2023]

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\* The present document is being issued without formal editing.



**Measures taken in response to the inquiry concerning the United Kingdom of Great Britain and Northern Ireland of the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women**

**CEDAW recommendations**

85. (a) Repeal sections 58 and 59 of the Offences against the Person Act, 1861, so that no criminal charges can be brought against women and girls who undergo abortion or against qualified health-care professionals and all others who provide and assist in the abortion;

(b) Adopt legislation to provide for expanded grounds to legalize abortion at least in the following cases:

(i) Threat to the pregnant woman's physical or mental health, without conditionality of "long-term or permanent" effects;

(ii) Rape and incest;

(iii) Severe fetal impairment, including fatal fetal abnormality, without perpetuating stereotypes towards persons with disabilities and ensuring appropriate and ongoing support, social and financial, for women who decide to carry such pregnancies to term;

(c) Introduce, as an interim measure, a moratorium on the application of criminal laws concerning abortion and cease all related arrests, investigations and criminal prosecutions, including of women seeking post-abortion care and health-care professionals;

(d) Adopt evidence-based protocols for health-care professionals on providing legal abortions particularly on the grounds of physical and mental health and ensure continuous training on the protocols;

(e) Establish a mechanism to advance women's rights, including through monitoring authorities' compliance with international standards concerning access to sexual and reproductive health, including access to safe abortions, and ensure enhanced coordination between the mechanism with the Department of Health, Social Services and Public Safety and the Northern Ireland Human Rights Commission;

(f) Strengthen existing data-collection systems and data sharing between the Department and the police to address the phenomenon of self-induced abortion.

86. (a) Provide non-biased, scientifically sound and rights-based counselling and information on sexual and reproductive health services, including on all methods of contraception and access to abortion;

(b) Ensure the accessibility and affordability of sexual and reproductive health services and products, including on safe and modern contraception, including oral, emergency, long-term and permanent forms of contraception, and adopt a protocol to facilitate access at pharmacies, clinics and hospitals;

(c) **Provide women with access to high-quality abortion and post-abortion care in all public health facilities and adopt guidance on doctor-patient confidentiality in that area;**

[...]

(e) **Intensify awareness-raising campaigns on sexual and reproductive health rights and services, including on access to modern contraception;**

[...]

1. Since the Committee's last report in 2018, the United Kingdom (UK) Government has taken a number of steps towards implementing the recommendations in the 2018 Report of United Nations Committee on the Elimination of Discrimination Against Women report, Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Report).

2019

2. Following the collapse of the Northern Ireland Executive in January 2017, Parliament passed the Northern Ireland (Executive Formation etc) Act 2019 ("the NIEF Act"), in July 2019. The NIEF Act placed a duty on the UK Government to reform Northern Ireland's abortion law, with the duty coming into force if the Northern Ireland devolved administration had not reformed by 21 October 2019. Section 9 of the NIEF Act<sup>1</sup> also placed a duty on the UK Government to make provision for the purposes of regulating abortions in Northern Ireland, including provision as to the circumstances in which an abortion may take place, to come into force by 31 March 2020.

3. The legislative changes resulted in the immediate decriminalisation of abortion through the repeal of sections 58 and 59 of the Offences Against the Person Act 1861 (OAPA), which came into effect on 22 October 2019.

4. At this time a moratorium on abortion-related criminal prosecutions also came into effect, meaning that no police investigations or prosecutions underway at that time, in respect of an offence under sections 58 and 59 of the OAPA (regardless of when an offence may have been committed), could be carried out, and no criminal proceedings may be brought or continued.

5. Between 4 November and 16 December 2019, the UK Government ran a public consultation: "*A new legal framework for abortion services in Northern Ireland – Implementation of the legal duty under section 9 of the Northern Ireland (Executive Formation etc) Act 2019*".

6. The consultation attracted a wide range of views, 21,244 in total. As the CEDAW Report and recommendations required that evidence based protocols be adopted and developed in terms of provision of access to services in Northern Ireland, it was necessary to distinguish between the views and evidence provided by experts and medical professionals and the views of other respondents in making decisions on the final proposals. The Government carefully considered the views and evidence presented through the consultation, including the views of those who took the time to share individual, and often deeply personal experiences, to help shape the final framework for Northern Ireland.

<sup>1</sup> Section 9 of the NIEF Act.

2020

7. In January 2020 the devolved institutions were restored and a Minister of Health took up office on the 11th January 2020. This occurred prior to the Abortion (Northern Ireland) 2020 Regulations being made. The UK Government was clear that abortion services in Northern Ireland should be delivered through the devolved health authorities in Northern Ireland.

8. On 9 March 2020, the Secretary of State for Northern Ireland wrote to Northern Ireland Ministers in the Department of Health, Department of Education, and Department of Communities, requesting they ensure that the CEDAW recommendations are implemented.

9. The Government made the Abortion (Northern Ireland) Regulations 2020 on 25 March 2020, which came into effect on 31 March 2020 as the new legal framework for abortion services in Northern Ireland. The Regulations were required to be approved by both Houses of Parliament by 17 May 2020 to remain in force. However, the unprecedented situation created by the Covid-19 pandemic impacted on parliamentary processes and virtual voting systems were not yet fully implemented by 17 May. The most appropriate step was to make new Regulations and give Parliament an additional 28 days to consider and scrutinise the Regulations properly given the nature of the policy.

10. On 12 May 2020 material identical Regulations, the Abortion (Northern Ireland) (No. 2) Regulations 2020<sup>2</sup> were made. These Regulations came into force on 14 May and revoked the earlier regulations. In practice the Regulations remained in force as the law on access to abortion services in Northern Ireland from 31 March 2020.

11. The Regulations provide that abortions may be carried out in the circumstances set out in the 2018 Report of United Nations Committee on the Elimination of Discrimination Against Women report, Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Report), as required by section 9 of the NIEF Act.

12. On 15 April 2020, the five Health and Social Care (HSC) Trusts in Northern Ireland started providing early medical abortion (EMA) services up to 10 weeks gestation. HSC Trusts delivered this service using funding carved out from their existing budgets. HSC Trusts worked with Informing Choices NI (ICNI), a sexual and reproductive health charity (formerly Family Planning Association) to launch an interim Central Access Point (CAP) (a central phone line which directs women and girls to the correct Trust for an appointment, as well as providing pre and post counselling services), which is now run by the British Pregnancy Advisory Service.

13. From November 2019, the Northern Ireland Office engaged with the Department of Health to establish a commissioning project board, with the expectation that abortion services would be commissioned by the devolved health authorities in Northern Ireland.

14. In March 2020, the Northern Ireland Minister of Health took to the decision to pause work on the commissioning of abortion services and redeploy Department of Health staff to other work areas, as a result of the impact of the pandemic on the health service in Northern Ireland.

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<sup>2</sup> Abortion (Northern Ireland) (No.2) Regulations 2020 – <https://www.legislation.gov.uk/uksi/2020/503/contents/made>.

2021

15. Despite the Abortion (Northern Ireland) (No.2) Regulations 2020, little progress was made by the Northern Ireland Department of Health in the months that followed. As a result, the Government made the Abortion (Northern Ireland) Regulations 2021,<sup>3</sup> which came into effect on 31 March 2021. The Regulations gave the Secretary of State for Northern Ireland powers to direct Northern Ireland Ministers, departments and agencies to take action the Secretary of State considers necessary for the purpose of implementing the recommendations in the CEDAW report. That power would allow the Secretary of State to direct the Department of Health to commission services.

16. Following the making of the Abortion (Northern Ireland) Regulations 2021, the UK Government paused to give the Northern Ireland Department of Health an opportunity to commission services, but no further progress was achieved. On 22 July 2021, the UK Government issued the Abortion Services Directions 2021<sup>4</sup> to the Northern Ireland Department of Health, and the Health and Social Care Board to commission and make abortion services available by no later than 31 March 2022. The Secretary of State for Northern Ireland advised the Executive Committee that if it became clear before the March 2022 deadline that the Northern Ireland Department of Health were not making sufficient progress, the UK Government would take further steps to ensure that women and girls have access to abortion services to which they have a right.

17. The Directions also required that, were compliance with the direction to require the Minister of Health to take decisions that required the approval of the Executive Committee, the Minister must as soon as reasonably practicable refer the decision to the Executive Committee. The First and deputy First Minister were directed that the decision must be included on the agenda at the next meeting of the Executive Committee.

2022

18. On 8 February 2022, the First Minister, Paul Givan MLA resigned and as a result of the power-sharing arrangements, the deputy First Minister left office.

19. Other Northern Ireland Ministers, including the Minister of Health remained in post. But the absence of a First Minister and deputy First Minister curtailed the ability of Ministers to take decisions. The Executive Committee (chaired by the First Minister and deputy First Minister) could not meet to discuss and approve decisions. Accordingly, Ministers were not able to take cross-cutting, controversial or significant decisions, as they cannot be taken by Ministers absent Executive Committee approval.

20. The Minister for Health's position was that approval from the Executive Committee was required to commission abortion service, and without a functioning Executive, services could not be commissioned.

21. On 24 March 2022, the Secretary of State laid a Written Ministerial Statement in Parliament setting out that he was preparing work on further abortion regulations, and was committed to return to Parliament directly following the Northern Ireland Assembly election on 5 May, and if necessary make regulations and directions that will ensure abortion services are commissioned in Northern Ireland.

<sup>3</sup> Abortion (Northern Ireland) Regulations 2021 – <https://www.legislation.gov.uk/ukxi/2021/365/made>.

<sup>4</sup> Abortion Services Directions 2021 – [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1005075/The\\_Abortion\\_Services\\_Directions\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005075/The_Abortion_Services_Directions_2021.pdf).

22. On 19 May 2022, the Government made the Abortion (Northern Ireland) Regulations 2022.<sup>5</sup> The Regulations:

(1) Removed the need for Executive Committee approval before services could be commissioned and funded by the Department of Health. The Regulations did this by providing that directions under the Abortion (Northern Ireland) Regulations 2021, which require action to be taken to implement the recommendations of the CEDAW Report, must be complied with irrespective of whether the matter has been discussed or agreed by the Executive Committee; and

(2) Conferred on a Secretary of State the power to do anything that a Northern Ireland Minister or department could do for the purpose of ensuring that the recommendations in paragraphs 85 and 86 of the CEDAW report are implemented.

23. The Regulations also provided a Secretary of State with the power to provide financial assistance for the same purpose.

24. In addition to the Regulations, the UK Government issued the Abortion Services Directions 2022<sup>6</sup> to the Northern Ireland Department of Health. The new Directions are in substance the same as the 2021 Regulations which they replaced. While the 2021 Directions required the Department of Health to secure the commissioning of relevant health care by 31 March 2022, the Directions now require relevant health care to be provided as soon as reasonably practicable.

25. To ensure the Secretary of State had all the information required, a small team of experts with clinical and commissioning knowledge was established in the Northern Ireland Office to work alongside the Department of Health on a commissioning framework and service specification for the implementation of abortion services.

26. On 24 October 2022, the Secretary of State laid a Written Ministerial Statement in Parliament announcing that the UK Government would commission abortion services in Northern Ireland, subject to meeting with the Department of Health to ensure services could be provided.

27. The Secretary of State announced in a Written Ministerial Statement on 24 November, that funding for abortion services for the current financial year (22/23) will be ring fenced within the Department of Health's budget, and, whilst the UK Government will continue to ensure that funding for abortion services is made available, ultimately it remains the responsibility of the Northern Ireland Executive to fund abortion services in Northern Ireland.

28. On 2 December 2022, the Secretary of State wrote to the Department of Health formally instructing the commissioning of abortion services in Northern Ireland.

29. This is the first time that abortion services have been formally commissioned and funded in Northern Ireland, bringing necessary investment into the development of sustainable services. The formal commissioning of services and availability of funding will enable Health and Social Care Trusts to recruit and train staff to support the development of high quality and sustainable services. As of December 2022, early medical abortion services (EMA), and abortions where there is a risk to the woman or girl's life or risk of grave permanent injury, are available in all five Health and Social Care Trusts.

30. Until services are fully operational, where a woman needs abortion care that is not currently available in Northern Ireland, for example for late term complications

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<sup>5</sup> Abortion (Northern Ireland) Regulations 2022 – <https://www.legislation.gov.uk/uksi/2022/554/made>.

<sup>6</sup> Abortion Services Directions 2022 – [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1079095/Abortion\\_Services\\_Directions\\_2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1079095/Abortion_Services_Directions_2022.pdf).

with pregnancy, she will continue to be able to access NHS services in Great Britain free of charge, with travel funded by the UK Government.

31. We are continuing to work with the Department of Health in relation to public awareness to promote the development of Sexual and Reproductive Health Services and to raise awareness of early intervention and prevention services across Northern Ireland, and existing contraception services across all Health and Social Care Trusts and Family Practitioner Services in Northern Ireland.

## **CEDAW recommendation**

**86. (d) Make age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights a compulsory component of curriculum for adolescents, covering prevention of early pregnancy and access to abortion, and monitor its implementation;**

*2020*

32. On 9 March 2020, the Secretary of State for Northern Ireland wrote to the Northern Ireland Minister of the Department of Education requesting they ensure that the CEDAW recommendation relating to Relationship and Sexuality Education is implemented.

33. On receipt of the Secretary of State's letter, the Northern Ireland Department of Education provided assurances that they were implementing this recommendation and established a working group to take the recommendation forward.

34. In May 2020, Northern Ireland Office officials contacted Department of Education officials to request an update on the progress that had been made in the implementation of recommendation 86(d).

35. In July 2020, referencing the strain placed on education by Covid-19, Department of Education officials advised that work was not moving forward as quickly as they would like it to due to the pandemic, however the Department of Education has allocated £40,000 to develop additional resources to support Relationship and Sexuality Education teaching in schools.

36. In September 2020, Department of Education officials updated that work was continuing and further funding has been made available to the Council for Curriculum, Examinations and Assessment to further develop its Relationship and Sexual Education hub.

*2021*

37. The Northern Ireland Office maintained regular contact with the Department of Education and in May 2021, Department of Education officials advised that they were considering amending the Curriculum (Minimum Content) Order 2007 to include additional working around RSE including CEDAW issues.

38. In November 2021, the Permanent Under Secretary of the Northern Ireland Office met with the Department of Education Permanent Secretary. The Permanent Secretary of the Department of Education provided assurances that the vast majority of adolescents in NI could already access suitable RSE and committed to providing a briefing paper setting out the Department of Education's position on this issue and action taken to date.

2022

39. In February 2022, the Department of Education provided a Relationships and Sexuality Education in the Curriculum briefing paper setting out the current position of Relationships and Sexuality Education (RSE) within the Northern Ireland curriculum; the rationale for the current curricular approach and to highlight ongoing work in this area, including the RSE Programme to develop resources and guidance on a range of issues which the Department of Education has commissioned the CCEA to deliver.

40. In July 2022, the Secretary of State for Northern Ireland wrote to the Northern Ireland Education Minister to advise:

“If the Department of Education is not prepared to implement the CEDAW recommendation that RSE be made a compulsory component of the curriculum for adolescents, I will have no alternative but to use the powers that I have to intervene to ensure compliance with this legal obligation.”.

41. The UK Government is currently considering options to ensure CEDAW compliant RSE is made a compulsory component of the curriculum in Northern Ireland.

### **CEDAW recommendation**

**86. (g) Protect women from harassment by anti-abortion protesters by investigating complaints and prosecuting and punishing perpetrators.**

42. Upon making the Abortion (Northern Ireland) (No.2) Regulations 2020, the Secretary of State committed to keeping the issue of protests outside healthcare facilities providing abortion services under review whilst services remained to be fully commissioned.

43. In September 2021, Clare Bailey MLA introduced the Abortion Services (Safe Access Zones) Bill in the Northern Ireland Assembly. The Bill provides for the creation of safe access zones for premises providing abortion services. This covers premises where abortions are carried out and premises where information, advice or counselling about abortion is provided. The Bill sets out how a safe access zone is established and provides that it is an offence to do certain acts within such a zone.

44. On 24 March 2022, the Abortion Services (Safe Access Zones) Bill, passed in the Northern Ireland Assembly and is currently going through due process to receive Royal Assent.

### **CEDAW recommendation**

**86. (f) Adopt a strategy to combat gender-based stereotypes regarding women’s primary role as mothers;**

45. On 9 March 2020, the Secretary of State for Northern Ireland wrote to the Northern Ireland Minister of the Northern Ireland Department for Communities requesting they ensure that the CEDAW recommendation relating to a strategy to combat gender-based stereotypes regarding women’s primary role as mothers is implemented.

46. On 15 May 2020, the Northern Ireland Minister for Communities replied to the Secretary of State to advise that the Department was content to accept responsibility for CEDAW recommendation 86(f) and will ensure it is addressed in the context of the new Gender Strategy.



47. In October 2020, the Northern Ireland Department for Communities appointed a Gender Equality Strategy Expert Advisory Panel. The Expert Panel was tasked with preparing a report setting out key recommendations to the Minister for Communities, about the themes and key actions the Gender Equality Strategy should include and the gaps in provision that it should seek to address.

48. In March 2021, the Gender Equality Strategy Expert Advisory Panel published the Gender Equality Strategy Expert Advisory Panel Report.<sup>7</sup>

## Judicial Reviews

### *Northern Ireland Human Rights Commission*

49. In November 2020, the Northern Ireland Human Rights Commission (NIHRC) commenced legal proceedings against the Secretary of State for Northern Ireland to challenge “the failure of the Secretary of State to ensure comprehensive access to termination services in Northern Ireland”. NIHRC also challenged the Northern Ireland Executive, and the Northern Ireland Department of Health on Article 8 grounds.

50. In October 2021, the Court found that the Secretary of State for Northern Ireland failed in his duty to act “expeditiously” between April 2020 and March 2021 (at which point further action was taken in the form of a Regulations and Directions) to ensure implementation of the CEDAW recommendations as required by section 9 of the NIEF Act.

51. The Court recognised the extent of the Secretary of State’s discretion and the sensitivities of acting in a devolved space, but ultimately concluded that between April 2020 and March 2021 the Secretary of State for Northern Ireland did not act expeditiously.

52. The court dismissed the claim against the Northern Ireland Department of Health and the Northern Ireland Executive Committee. The court was satisfied that the failure to commission services was “justified in the very exceptional and particular circumstances surrounding the Covid-19 pandemic”. The implication was clear that the court considered that the Department of Health should commission services.

### *Society for the Protection of Unborn Children*

53. In May 2021, the Society for the Protection of Unborn Children (SPUC) commenced legal proceedings against the Secretary of State for Northern Ireland challenging the legality of Abortion (Northern Ireland) Regulations 2021 and a second challenge to the 2021 Directions made under those Regulations.

54. In February 2022, the Court dismissed all grounds brought by the SPUC.

55. In March 2022, the SPUC submitted a Notice of Appeal, appealing on all the grounds raised. A Court of Appeal hearing has been set for 23rd/24th January 2023.

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<sup>7</sup> Gender Equality Strategy Expert Advisory Panel Report – <https://www.communities-ni.gov.uk/system/files/publications/communities/dfc-social-inclusion-strategy-gender-expert-advisory-panel-report.pdf>.