



5 September 2018

Women's Health Victoria's Submission on Termination of Pregnancy Bill 2018 (Queensland)

Women's Health Victoria strongly supports the current Bill which seeks to decriminalise and regulate abortion provision in Queensland and provides for the establishment of safe access zones. Safe and legal access to abortion is good public health practice and plays an important role in supporting women's broader health and wellbeing.

About Women's Health Victoria

Women's Health Victoria (WHV) is a Victorian statewide women's health promotion, advocacy and support service. We work collaboratively with health professionals, policy makers and community organisations to influence and inform health policy and service delivery for women. WHV is proud to have played a key role in supporting abortion law reform and decriminalisation in Victoria in 2008. WHV also played a lead role in advocating for the introduction of Safe Access Zones in Victoria in 2016.

WHV has made previous submissions supporting the decriminalisation of abortion in Queensland over recent years including the *Abortion Law Reform (Woman's Right to Choose) Amendment Bill* and the subsequent *Health (Abortion Law Reform) Amendment Bill 2016*, as well as responding to the Queensland Law Reform Commission's Review of Pregnancy Termination Laws Consultation Paper of December 2017. Each of these more detailed submissions may provide valuable background and more detailed information for the Committee to consider. By contrast this submission seeks to briefly answer the seven specific questions posed by the Committee in relation to the current Bill.

WHV would welcome the opportunity to provide any further information you may require.

Gestational limits

Q1. Do you agree terminations should be lawful on request up to 22 weeks?

Q2. Do you agree that terminations should be lawful beyond 22 weeks with the agreement of two medical practitioners?

Q3. Do you agree that terminations beyond 22 weeks should be allowed in an emergency?

In relation to gestational limits, the current Victorian law (*Abortion Law Reform Act 2008*) allows a woman to choose to have an abortion up until 24 weeks. The service must be provided by a registered medical practitioner. The law allows for abortion after 24 weeks only if at least two doctors agree that the abortion is appropriate in the circumstances. In making their decision, the doctors must consider all relevant medical circumstances and the woman's current and future physical, psychological and social circumstances.

Abortions after 24 weeks are extremely rare, but there will always be a small but very real need for these services. A lack of accurate data makes it difficult to identify the exact numbers of terminations carried out after 20 or 24 weeks' gestation. Available data indicates that less than 1 per cent of all abortions performed in Australia occur after 20 weeks.

The circumstances surrounding abortion after 24 weeks are very complex and it is difficult to speculate on each woman's individual circumstances. Reasons for seeking abortions at this stage often involve factors like intimate partner violence, failure to recognise a pregnancy, and serious and complex health conditions. The decision to terminate a pregnancy after 24 weeks is often a very difficult one as the circumstances that surround the pregnancy are usually highly complex. It is important that women in these situations are able to access the health care and support they need.



However, it is also important to reiterate that the vast majority of abortions are carried out before 16 weeks.

We suggest that the current Victorian law reflects best practice and a tried and tested model in relation to gestational limits. However, it is important to note that an ongoing challenge in Victoria has been striving to ensure that what is available to women in law is realistically accessible to them in the community. For example, while women in Victoria are legally able to access abortion up to and beyond 24 weeks, the reality is that it is very difficult and expensive for women to access abortion beyond 16 weeks. However, this is not a reason to limit access to abortion beyond 16 weeks' gestation. Rather, this is a reminder that legislating gestational limits does not automatically translate into increased access for women. Legislative change should be accompanied by system-wide strategies to improve service access, including workforce development initiatives, to ensure that women's legal rights to abortion are matched by their ability to access services on the ground.

Conscientious objection

Q4. Do you agree with allowing a health practitioner to conscientiously object to the performance of a termination, except in emergencies?

Section 8 of the *Abortion Law Reform Act 2008* (Vic) requires that health professionals who hold a conscientious objection to abortion make a woman aware of their conscientious objection to abortion and make a referral to another doctor who does not have the same conscientious objection and will be able to provide the woman with the information she is seeking (except in an emergency).

In practice, it is difficult to know whether health professionals with a conscientious objection are complying with the law (by referring women to health professionals without an objection in a timely manner). Anecdotally Women's Health Victoria is aware that allowing conscientious objection can disproportionately impact women in rural and regional areas who have fewer choices in terms of doctors and services, contributing to other health inequality experienced by women in these areas. This has recently been confirmed through research undertaken in the Grampians region by Associate Professor Louise Keogh which found that 38 per cent of all GPs claimed they would conscientiously object to facilitating a medical or surgical abortion, more than twice the national average for conscientious objection.

In light of this, we suggest the Queensland Law Reform Commission consider additional mechanisms for ensuring women are able to access services from health professionals who do not object.

For example, international experience shows that conscientious objection of health professionals to provide abortion can be successfully managed in other ways. For example, regulations in Norway mandate that all conscientious objectors are identified, which ensures that local providers can employ sufficient non-objectors to safeguard service provision and ensure women are able to access services in a timely manner and without having to approach multiple providers. This model is worth considering in the context of law reform. The Victorian experience suggests that additional protections are required to ensure that provisions for conscientious objection do not inadvertently undermine women's access to accurate and timely information and services.

Safe access zones

Q5. Do you agree with the establishment of safe access zones within 150m of the entrance of termination service premises and associated penalties for prohibited conduct or restricted recording?

There is evidence at both the local and international level that encountering anti-abortion groups while attempting to access legal abortion services has significant impacts on the health and wellbeing of women.¹

¹ Dr Graham Hayes and Dr Pam Lowe, 'A Hard Enough Decision to Make': *Anti-Abortion Activism outside Clinics in the Eyes of Clinic Users*. Aston University, 2015, p. 4.



Safe access zones have been in place internationally since the 1990s and have been shown to be effective. Victoria, Tasmania and the A.C.T have now each successfully introduced safe access zones legislation. (In N.S.W, the legislation has been passed but not yet introduced.)

WHV strongly recommends that all services or premises that provide abortions should be protected by safe access zones of 150 metres. Safe access zones must effectively ensure that women accessing medical abortions (which may be provided in a GP clinic) as well as surgical abortions (more often provided in a hospital or specialist clinic setting) are equally protected.

Safe access zones in Victoria

Subsequent and separate to the *Abortion Law Reform Act 2008*, in 2015 Victoria successfully amended the *Public Health and Wellbeing Act 2008* to ensure that staff and patients can safely access reproductive health services. The Victorian legislation enables women, and those accompanying them, to access premises that provide abortion in a safe and confidential manner, and without the threat of harassment or intimidation. It also enables health professionals and staff to access their workplace without being verbally abused, obstructed or threatened.

The Act now prohibits certain conduct within a safe access zone of 150 metres around any and all premises where abortions are provided.²

WHV strongly believes 150 metres is the minimum distance necessary to enable women and their support people to access premises safely and in a manner that protects their dignity and privacy.

Depending on how a service is situated, a protected area of less than 150 metres may still leave women vulnerable to harassment, filming, etc. In Victoria, anti-abortion groups have been known to follow women and their support people to and from their cars, and on to public transport. Where health services have long driveways, a smaller 'protected area' may still allow women to be obstructed from entering. For these reasons the Victorian legislation took the approach of creating a 150 metre zone. WHV recommends that the Queensland takes these considerations into account in determining the appropriate distance for protective areas. WHV recommends that the zone should commence from the external perimeter of the premises, and not at the entrance.

WHV notes that the Queensland Bill allows for the distance of the safe access zone to be amended by regulation by the relevant Minister. WHV strongly recommends that the Bill enshrine a minimum distance of at least 150 metres for safe access zones. The distance should only be able to be increased by regulation, and not decreased. To provide certainty and consistency, the distance for safe access zones should be consistent for all service providers (and not amended in relation to individual services).

For more detailed information regarding the best practice in relation to safe access zones please see WHV's 2015 [submission](#) to the Victorian Scrutiny of Acts and Regulations Committee regarding the *Public Health and Wellbeing Amendment (Safe Access Zones) Bill 2015*.

Q6. Do you agree with the proposed offences for unqualified persons who perform or assist with a termination? Yes.

Reiterating the need to address sexual and reproductive health more broadly

Q7. Other issues

As highlighted in our previous submission in regard to abortion law reform in Queensland, in addition to ensuring safe and legal access to abortion, there is also a need to invest in universal strategies to

² Prior to the introduction of safe access zones in relation to abortion, similar zones were already in operation in Victoria in relation to voting booths, logging and duck hunting.



increase access to sex education, contraception and medical and surgical abortion, so that women's legal rights are in step with the services they are able to access across Queensland.

The development of a statewide sexual and reproductive health strategy, similar to Victoria's strategy, [Women's Sexual and Reproductive Health: Key Priorities 2017-2020](#), would support and coordinate a comprehensive approach to advancing sexual and reproductive health in Queensland. In Queensland, such a strategy could include additional resourcing for Children by Choice and/or the establishment of a statewide sexual and reproductive health information service to provide non-biased information about contraception, including emergency contraception, and abortion. Timely access to information and services will support women to access services as early as possible. WHV has recently been funded by the Victorian Government to establish such a service for the first time in Victoria under our state sexual and reproductive health strategy. For more information please visit the [1800 My Options website](#) or contact WHV.

Unplanned pregnancy and abortion will always be a reality in women's lives. Women, in consultation with their health professionals and provided with non-bias information are best able to make the decision that's right for them. Mandatory counselling, cooling off periods, being confronted by picketers or any other type of obstruction would be unacceptable in relation to any other health service. Asking women to accept anything less is outdated and inequitable.