



**A response to**  
**The Criminal Law on Abortion: Lethal**  
**Foetal Abnormality and Sexual Crime**

**Department of Justice**

**17 January 2015**

---

**Women's Aid Federation Northern Ireland**

129 University Street  
BELFAST BT7 1HP

Tel: 02890 249041

Fax: 02890 239296

General Email: [info@womensaidni.org](mailto:info@womensaidni.org)

Website: [www.womensaidni.org](http://www.womensaidni.org)

**24 Hour Domestic & Sexual Violence Helpline**

**Call: 0808 802 1414**

Email Support: [24hrsupport@dvhelpline.org](mailto:24hrsupport@dvhelpline.org)

Text **support** to 07797 805 839

Freephone from all landlines and mobiles. Translation service available.

Open to **all women and men** affected by domestic & sexual violence

## Contents

Section		Page
1	Women's Aid Information & Statistics	3
2.	General Comments	6
3.	Lethal Foetal Abnormality	7
4.	Sexual Crime	9
5.	Conscientious Objection	12
6.	Contact Details	13

## 1. Women's Aid Information & Statistics

### 1.0 Introduction

Women's Aid is the lead voluntary organisation in Northern Ireland addressing domestic and sexual violence and providing services for women and children. We recognise domestic violence and sexual violence as forms of violence against women. Women's Aid seeks to challenge attitudes and beliefs that perpetuate domestic and sexual violence and, through our work, promote healthy and non-abusive relationships.

### 2.0 Core work of Women's Aid

The core work of Women's Aid in Northern Ireland, including Women's Aid Federation Northern Ireland and local Women's Aid groups is:

- ) To provide refuge accommodation to women and their children suffering mental, physical or sexual abuse within the home.
- ) To run the 24 Hour Domestic & Sexual Violence Helpline.
- ) To provide a range of support services to enable women who are affected by domestic and/or sexual to rebuild their lives and the lives of their children.
- ) To provide a range of support services to children and young people who have experienced domestic violence.
- ) To run preventative education programmes in schools and other settings.
- ) To educate and inform the public, media, police, courts, social services and other agencies of the impact and effects of domestic violence.
- ) To advise and support all relevant agencies in the development of domestic violence policies, protocols and service delivery.
- ) To work in partnership with all relevant agencies to ensure a joined up response to domestic violence.

Throughout this consultation response, the term "Women's Aid" is used to reflect the overall Women's Aid movement in Northern Ireland, which is made up of our local Women's Aid groups and Women's Aid Federation. All local Women's Aid groups are members of Women's Aid Federation Northern Ireland. Each Women's Aid group offers a range of specialist services to women, children and young people who have experienced domestic violence.

### **3.0 Women's Aid statistics (2013-14)**

- ) 999 women and 747 children sought refuge.
- ) 59 women in refuge were supported during their pregnancies and 15 babies were born to women in refuge.
- ) 1,084 one to one support sessions were held with children and young people in refuge.
- ) 3,558 women with 4,869 children accessed the Floating Support service, and a further 1,662 women accessed other Women's Aid outreach services, enabling women to access support whilst remaining in their own homes and communities.
- ) 1,554 women participated in a range of group work and personal development programme including *Journey to Freedom* and *You and Me, Mum*.
- ) 375 women accessed support from a Women's Aid Women's Safety Worker while their partners or ex partners were undertaking the IDAP perpetrators programme provided by Probation Board Northern Ireland. An additional 128 children were referred to the Women's Safety Worker in 2013-14.
- ) The 24 Hour Domestic & Sexual Violence Helpline, open to all women and men affected by domestic & sexual violence, managed 55,029 calls.
- ) 150 teachers were trained to deliver the Helping Hands programme in primary schools.

### **4.0 Additional Women's Aid statistical data**

- ) Since 1999, Women's Aid across Northern Ireland gave refuge to 17,424 women and 16,235 children and young people.
- ) Between 1995 – 2014, 429,435 calls were managed by the 24 Hour Domestic & Sexual Violence Helpline.

### **5.0 Statistics: Domestic violence & violence against women**

- ) Domestic violence is a violation of Article 5 of the UN Universal Declaration of Human Rights – that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.
- ) The joint DOJ, DHSSPS Strategy “Tackling Violence at Home” estimates that the cost of domestic violence in Northern Ireland, including the potential loss of economic output, could amount to £180 million each year.
- ) UNICEF research released in 2006, showing per capita incidence, indicates that there are up to 32,000 children and young people living with domestic violence in Northern Ireland.

- J Where the gender of the victim was known, 72% of adult victims of domestic crimes recorded by the PSNI in 2012/13 were female.<sup>1</sup>
- J Over 30% of all domestic violence starts during pregnancy.<sup>2</sup>

## 6.0 Domestic & Sexual Violence: Crime statistics (Source: PSNI Statistics 2013/14)

- J Domestic Violence is a crime. PSNI statistics for 2013/14 indicate that there were more recorded crimes with a domestic motivation (12,720) than the combined total of all the following crimes (12,079) – possession of drugs (3764), shoplifting (6,372) and theft of a motor vehicle (1,943).
- J PSNI Statistics for 13/14 indicate that they responded to a domestic incident every 19 minutes of every day of the year.
- J The total of 12,720 crimes with a domestic motivation in 13/14 represents an average of approximately 1 domestic crime every 41 minutes in Northern Ireland.
- J The number of all recorded offences of murder in Northern Ireland in 13/14 total 17. Those classed as having a domestic motivation total 7. Therefore, 41% of all murders in Northern Ireland in 13/14 had a domestic motivation.
- J There were 550 rapes (including attempted Rapes) in Northern Ireland in the period 2013/14.

(Source: PSNI Statistics 2013/14)

Official sources (NISOSMC) estimate that up to 80% of sex crimes are not reported.

---

<sup>1</sup>Findings from the PSNI Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2012/13 N.B. “Adult” defined as aged 18 and over

<sup>2</sup>Women’s Aid Federation Northern Ireland

## 2. General Comments

Women's Aid Federation Northern Ireland welcomes the publication of the consultation on abortion in respect of lethal foetal abnormality and sexual crime and the opportunity to comment on it on behalf of our local Women's Aid groups.

Women's Aid supports the view of the Committee on the Elimination of Discrimination Against Women (CEDAW Committee), which has ruled that *"the State party should also ensure that legal abortion not only covers cases of threats to the life of a pregnant woman, but also other circumstances such as threats to her health and in cases of rape, incest and serious malformation of the foetus."*

**Women's Aid supports the proposals to allow abortion in cases of lethal foetal abnormality and sexual crime. We are of the view that abortion should be available on the basis of the word of the victim, and that this legislation should be victim-centred in its approach. It is a routine element of the sexual violence victim's experience to not be believed. Therefore it is imperative that legislation to offer the option of abortion to victims of sexual crime does not further contribute to the victim's trauma by forcing her to endure a stressful interrogation before her victimhood is acknowledged.**

Victims of domestic and sexual violence face crisis pregnancies for a number of reasons, including those being discussed in this consultation. These women are even more vulnerable due to the abuse they have endured, which may include repeated rape and forced pregnancy. Such abuse is part of a continuum of violence against women relating to pregnancy, which can also include forced abortion and sexual or physical violence resulting in miscarriage. Research shows that 30% of domestic violence starts during a woman's pregnancy.<sup>3</sup>

Domestic violence is both a justice issue and a health issue for the women we support. This is recognised internationally by experts and also by our own Tackling Violence At Home strategy (soon to be Stopping Domestic and Sexual Violence and Abuse strategy). The health impacts of domestic violence on women are numerous, and are a result of the combination of physical, psychological, sexual and financial abuse present in a domestic violence situation.

---

<sup>3</sup> Confidential Enquiry into Maternal and Child Health, *Why Mothers Die*, Royal College of Obstetricians and Gynaecologists

Health issues connected with domestic violence include:

- ) Depression
- ) Anxiety
- ) Suicidal ideation and self-harm
- ) Eating disorders
- ) Physical disabilities, some as a result of physical abuse
- ) PTSD
- ) Addictions

Given these effects of domestic violence on the physical and mental wellbeing of a woman, and the potential for a crisis pregnancy to exacerbate those effects to the point that her life is placed in danger, it is imperative that our legal framework supports the right of women in these difficult situations to access abortion, and takes great care not to traumatise or re-victimise these women further. We fully support the right of women to access abortion in Northern Ireland both in cases of lethal foetal abnormality, rape and sexual exploitation.

### 3. Lethal Foetal Abnormality

***Should the law allow for abortion in cases of lethal foetal abnormality?***

- ) Women's Aid agrees that the law should allow for abortion in cases of lethal abnormality. In such circumstances, it is cruel and unnecessary to force a woman to carry a foetus to term when that foetus is not able to survive. Given the severe negative impact of carrying a foetus to term with no prospect of survival, both we as a society and the medical profession who serve us have a moral duty to prevent such a scenario, in the interests of the health and wellbeing of women who are faced with this terrible situation.
- ) We also believe that the law should not just allow abortion in these circumstances, but that there should be sufficient clarity in law and guidance to facilitate such decisions to be made by medical practitioners. It is vital that medical practitioners are able to make such decisions in an environment where they have no fear of criminal sanction in the event that they have to deliberate on a complex or borderline case.

***If so, how is this best achieved?***

- ) Women's Aid believes this can best be achieved through legislation which permits abortion in cases of lethal foetal abnormality if a woman so chooses, combined with a clear commitment from the Department of Health to support medical practitioners in

implementing this law in a manner that has the least negative impact on women faced with this situation.

***How would you define 'lethal'?***

- J Common sense would indicate that 'lethal' would mean no reasonable prospect of survival. However we are keenly aware that neither our organisation nor legislators have the requisite medical expertise to make deliberations on what constitutes a 'lethal' abnormality. There is no such thing as absolute certainty in medicine, and so it is for those with the expertise in the field, ie. physicians providing medical care to a woman, to make the call on whether a case is 'lethal', using the most up to date medical knowledge and information at that time.
- J We strongly believe that the legislative framework should allow medical professionals to make these decisions free from fear of criminal sanction, and that their expertise and knowledge should be respected and recognised as the most informed and correct view possible in such a scenario.

***Do you agree that the best way is to allow clinical judgment to decide when a foetus is not compatible with life?***

- J Women's Aid agrees that a less prescriptive approach with less call for lengthy and stressful court deliberations on the meaning of 'lethal' are in the interests of both women and medical professionals.
- J For this reason as well as the reasons outlined in the previous questions, we are of the view that Option 4 would be the option that is most fit for purpose and sensible way of implementing this change of law.
- J While we appreciate the reasoning behind requiring two doctors to make a decision on lethal foetal abnormality, we would urge that any legislation makes provision for one doctor to be able to make such a decision without fear in emergency situations.

## 4. Sexual Crime

### ***Should the law also provide for abortion to be a choice in the event of rape?***

- J Women's Aid believes that the law should provide for abortion to be a choice in the event of rape. Rape is a devastating ordeal which has a profoundly negative impact on the mental and physical health and wellbeing of victims, and often their families. For many of those who become pregnant as a result of rape, this anguish and mental torture is exacerbated by the prospect of being forced to become the mother of a rapist's child.
- J While we are very encouraged by the development of support services for women in this situation (page 31), such as the SARC and the 24 Hour Domestic & Sexual Violence Helpline, these services are not an alternative to the option of abortion. The existence of the SARC does not negate the need for women who have become pregnant as a result of rape to have the option of abortion should they wish it.
- J We would also like to point out that there is substantial anecdotal information available about the number of women who become pregnant as a result of rape. Any expert organisation which supports victims of sexual violence in Northern Ireland could provide the Department with much more reliable information than the three cases in one SARC in England cited in the document (at page 42). Indeed the research and experience of Women's Aid, Rape Crisis and other support organisations across the UK indicates that women do become pregnant from rape and do ask for an abortion.
- J We note that the consultation on abortion in cases of sexual crime is intended *"primarily to seek and hear views on how these very difficult areas might be developed, rather than recommending a proposal for a specific change to the law at this stage."* This is completely unacceptable - women who have become pregnant as a result of rape and sexual assault in Northern Ireland have suffered much too long already while legislators drag their feet on this issue. The question of abortion in cases of rape and sexual assault is not an issue that can be shelved while more women suffer - it must be addressed as a matter of urgency.

***Should the law allow for abortion for victims of other sexual crime, such as sexual activity with a person under the age of 16, abuse of a position of trust, unlawful sexual activity with a vulnerable adult?***

***Should the law provide for abortion in cases of familial sexual activity with a person under 18, and sex between adult relatives?***

) Yes, these crimes are forms of sexual violation which have a devastating impact on victims. Although they are separate offences to rape, they share the same issue at the heart of this issue – lack of consent. In the examples outlined above, lack of consent manifests as inability to consent due to age, inability to give informed consent or extreme power imbalance in a relationship where abuse of a position of trust has occurred. In such cases, where there has been no informed consent, it is once again crucial that women and girls have the option of abortion so that they are not forced to bear the lifelong consequences of sexual crime. Again, many women and girls in these situations may not desire to terminate a pregnancy. However the ability to make that choice and have some control in a situation where a sexual crime has denied them control and autonomy is vital.

) Women’s Aid welcomes that this consultation document explores the wider issues of consent beyond the offence of rape. We are also very encouraged that the document acknowledges situations where rape can occur in otherwise consenting relationships, such as *“women in abusive relationships for whom genuine consent may be lacking in ostensibly consensual behaviour”* (page 40). This demonstrates a solid understanding of domestic violence and the context of sexual violence within such situations.

***Should it be necessary to have made a complaint to the police before accessing a termination?***

) Women’s Aid is extremely concerned that the necessity of having reported the sexual crime to the police, before being offered the option of abortion, is even being considered. If enacted it would, in effect, be a barrier to MOST victims of rape and sexual exploitation from accessing an abortion. It reveals a fundamental lack of understanding of the nature of sexual abuse, rape and sexual crime. Sexual crime is one of the most underreported crimes in Northern Ireland and across the UK. There is a huge amount of rape and sexual violence in domestic violence and the vast majority of these crimes are never reported.

) There are a number of clear reasons why this is the case, all of which have been backed up by extensive research:

- ⇒ the culture of victim-blaming within our society,
- ⇒ fear of not being believed,
- ⇒ feelings of shame and self-blame that victims often experience,
- ⇒ the immense difficulty involved in disclosing such an intimate violation of one's personal integrity
- ⇒ the significant trauma experienced by the victim rendering them unable to engage in a process of reporting the crime
- ⇒ The majority of sexual assaults are perpetrated by someone the victim knows – in many cases this is a family member or abusive partner. These cases are the least likely to be reported, due to the controlling and abusive nature of that relationship, the burden many victims feel to not report for fear of 'ruining the lives' of their attacker, or the uncertainty as to whether a rape complaint will be taken seriously if perpetrated by someone to which the victim has consented in the past (eg a husband).

) It is also incredibly difficult to secure a successful prosecution for rape and sexual assault, due to the fact that a sexual act is of itself not criminal and cases hinge on one person's word against another's as to whether a victim consented. This reality further discourages victims from reporting sexual crimes as they cannot bear to endure a traumatic and lengthy criminal justice process in addition to the trauma they have already experienced, only for justice not to be served.

) There are also many communities in Northern Ireland where suspicion of the police and justice agencies continue to exist as a legacy of our decades-long conflict. This is one crucial difference between the situation in Northern Ireland and the Isle of Man where reportage to police is a requirement.

) It is well-established that it takes victims of sexual violence much longer to come to terms with their ordeal than victims of other types of crime. Women's Aid has supports women who only feel able to speak about their rape years or even decades after it took place. In many situations, women may feel able to disclose to a support worker, but will not be able to take the issue any further due to the huge trauma involved in disclosure of this kind. Unfortunately, in a situation where a rape has resulted in pregnancy, these women only have a short window of time to procure an abortion if they feel they need to do so. However they are not able to simply and conveniently 'fast-track' their emotional handling of the heinous violation they have been subjected to in order to satisfy the requirements of Northern Ireland's justice agencies. We believe that any legislation to allow abortion for victims of rape should be fit for purpose and based on

the understanding of the nature and effects of sexual violence on victims, and should not re-victimise or re-traumatise victims who are very vulnerable.

- J Given these difficulties and barriers, it is the view of Women's Aid that women who have disclosed that they have been raped and have become pregnant should be allowed to have an abortion if they wish. **We believe that the basis of this policy should be that women who disclose rape should be believed, and that any form of scrutiny or cross-examination of these women would equate to re-victimisation of a traumatised victim.**
  
- J If it is decided to include a requirement to verify the truth of a victim's sexual assault, we believe that it should be more than sufficient to receive confirmation from a support worker, sexual violence support organisation, counsellor, doctor or supporting family member who can attest to the victim's psychological state as a result of rape. However, the choice as to whether a woman or girl should seek an abortion after being raped should always lie solely with the victim themselves.
  
- J Similarly, in cases of incest, posing the question as to who decides whether incest has occurred reveals a profound lack of understanding of the nature of incest, which is sexual abuse by a family member. If a person reports that they have been victim of incest, they must be believed, and all support options must be available to them accordingly.

## 5. Conscientious Objection

- J Women's Aid supports the development of clear rules and guidance on conscientious objection in Northern Ireland. We recognise that some medical practitioners in Northern Ireland may wish to refuse to perform an abortion if it conflicts with their personally-held beliefs, and we acknowledge that they should have the right to do so.
  
- J However, such a refusal should never result in a woman being refused an abortion that she is entitled to, nor should conscientious objection be able to be used to prevent others from dispensing their duty to perform a legal abortion in Northern Ireland.
  
- J We believe there is a responsibility on both DOJ and DHSSPS to develop law and guidance which ensures that conscientious objection is facilitated, that no woman is ever denied a legal abortion as a consequence of the conscientious objection of a medical practitioner, and that clear procedures are put in place in all relevant public

health facilities to ensure that both the rights of women and conscientious objectors are accommodated.

## 6. Contact Details

For further information about this response please contact:

Louise Kennedy  
Regional Policy and Information Co-ordinator  
Women's Aid Federation Northern Ireland  
129 University Street  
BELFAST  
BT7 1HP  
Tel: 028 9024 9041

Email: [louise.kennedy@womensaidni.org](mailto:louise.kennedy@womensaidni.org)

Website: [www.womensaidni.org](http://www.womensaidni.org)

**24 Hour Domestic & Sexual Violence Helpline – 0808 802 1414**

**Email Support:** [24hrsupport@dvhelpline.org](mailto:24hrsupport@dvhelpline.org)

**Text support** to 07797805839

*Open to **all women and men** affected by domestic & sexual violence*