

**6 October 2016**

To whom it may concern,

**RE: Health (Abortion Law Reform) Amendment Bill 2016**

I am writing in relation to the *Health (Abortion Law Reform) Amendment Bill 2016* (henceforward referred to as 'The Bill') referred to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee on August 17 2016.

Women's Health Victoria (WHV) is a Victorian statewide women's health promotion, information and advocacy 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 in Victoria in 2008.

WHV made a previous submission to the Committee relating to *Abortion Law Reform (Woman's Right to Choose) Amendment Bill*. As stated in the previous submission, WHV strongly supports the de-criminalisation of abortion in Queensland. Safe and legal access to abortion is good public health practice and plays an important role supporting women's broader health and wellbeing.

WHV strongly supports the policy objective of the Bill which is to improve clarity for health professionals and patients in the area of termination of pregnancy.

We are pleased to see that, as recommended in our letter, the new Bill includes provisions for conscientious objection and gestational limits that are consistent with Victorian legislation. Some additional points for the Committee to consider in relation to these matters are noted below.

WHV is also pleased to see that provisions for safe access zones or 'protected areas' have been integrated within the current Bill. However, we would recommend that instead of using the A.C.T model of 'protected areas', that Queensland instead adopts or adapts the Victorian model of 'safe access zones' which we believe to be a more effective, sustainable and straight forward approach. This is explored in greater detail below.

**Gestational limits**

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.

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 in Victoria women 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.



## Conscientious objection

Section 8 of the Victorian Abortion Law Reform Act requires that health professionals who hold a conscientious objection to abortion need to 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.

International examples show that conscientious objection of health professionals to provide abortion can also 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. This model is worth consideration in the context of law reform.

## The need for safe access

There is evidence on 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.<sup>1</sup>

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 access zones legislation and similar legislation is being considered in N.S.W.

WHV is pleased to see that provisions for safe access zones or 'protected areas' have been integrated within the current Bill. However, we would recommend that, **the aims of 'protective areas' in ensuring that women are able to access safe, legal and common health services without interference, intimidation or harassment, would be more effectively achieved using the Victorian model.**

## 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 2015 -2019 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.<sup>2</sup>**

<sup>1</sup> 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.

<sup>2</sup> 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.

WHV recommends that in considering safe access, Queensland incorporates the key principles below:

1. **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 50 metre protected area 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 50 metre '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.

Additionally, consideration should be given to where a 'protected area' around an abortion facility begins. Does the zone begin at a premises' entrance, or from its perimeter? WHV believes that the zone should commence from the external perimeter of the premises, and not at the entrance.

## 2. **No safe access on a case by case basis**

WHV supports the wording of the bill that specifies safe access zones "around premises where abortions are provided", regardless of the setting or abortion type.

The A.C.T model for protected areas, while a step in the right direction, falls short in two ways that undermine the purpose of the Bill, which is to address the lack of clarity and consistency for women and health professionals in Queensland.

Relying on Ministerial approval on a case by case basis undermines the principle that women, no matter where they live, should be able to access common, safe and legal health services without experiencing obstruction, harassment or intimidation. This type of model can result in access to essential health access "by postcode". Furthermore, by relying on Ministerial discretion, the issue of safe access will be drawn out and left ultimately unresolved, subject to a change of Ministers, etc. It will effectively be up to women and health professionals to continuously advocate for safe access on a case by case basis, creating inefficiencies and costs to business as well as government.

The issue of which health services are protected by safe access is particularly relevant in a context where the availability of medical abortion as an option for women is creating more opportunities for women to access abortion locally, via their own GPs, rather than being reliant on surgical abortion in tertiary health settings. Relying on Ministerial discretion to determine which abortion-providing GPs are covered by protective areas on a case by case basis provides a disincentive to GPs to provide these services.

For these reasons, WHV strongly recommends that all services or premises that provide abortions should be protected by safe access zones. **The definition of abortion 'facility' must 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 covered by safe access zones.**

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



### **Reiterating the need to address sexual and reproductive health more broadly**

Finally, as highlighted in our previous letter, in addition to ensuring safe and legal access to abortion, there is also a need to invest in universal strategies to increase access to sex education and contraception. The development of a statewide sexual and reproductive health framework would support and coordinate a comprehensive approach to advancing sexual and reproductive health in Queensland.

### **Further information**

For further information regarding the current law in Victoria and the Victorian law reform process in 2008, please see the Victorian Law Reform Commission's [Law of Abortion: overview of inquiry and full documentation](#).

Please do not hesitate to contact me for any further information you require.

Yours sincerely,



Rita Butera

EXECUTIVE DIRECTOR

Women's Health Victoria