

POLICY NOTE

THE FUNCTIONS OF HEALTH BOARDS (SCOTLAND) AMENDMENT ORDER 2017

SSI 2017/304

The above instrument was made in exercise of the powers conferred by section 2(1)(a) and 105(7) of the National Health Service (Scotland) Act 1978 and all other powers enabling them to do so. The instrument is subject to negative procedure.

Policy Objectives

The purpose of this instrument is to empower NHS Boards to provide abortion services to women ordinarily resident in Northern Ireland without having to charge them.

The Scottish Government has stated that women from Northern Ireland, in Scotland, should be able to access abortion services for free on the same basis as women in Scotland. However, the Functions of Health Boards (Scotland) Order 1991 does not allow NHS Boards to provide abortion services at no cost to women from Northern Ireland, and therefore it needs to be amended.

Consultation

In the development of this Order, the following stakeholders have been consulted.

- NHS Abortion specialists
- NHS Fetal Medicine specialists
- NHS National Services Scotland Information Services Division
- Abortion Support Network
- Amnesty International Scotland
- Catholic Parliamentary Office, Scotland
- Engender
- Family Planning Association

As a result of that consultation the following general themes emerged; the need to ensure equity with Scottish women accessing abortion services, the importance of the provision of contraception to women accessing abortion services, the challenges in managing women to whom NHS Boards in Scotland are unable to provide treatment (e.g. those at later gestations), the need for clear information about abortion services in Scotland, and the challenges some women in Northern Ireland would face in meeting the costs of travel and accommodation if they wished to travel to Scotland for treatment.

As a result, the definition of “abortion services” within this Order includes the aspects of care which women resident in Scotland accessing abortion services are provided with, and we included provisions for NHS Boards’ responsibilities if they are unable to provide treatment to a woman presenting in their Board area. We also included specific mention of contraception so that this is part of the standard package of care provided to women from Northern Ireland accessing abortion services. We decided that it was not necessary to include

provisions within the Order about provision of information, but work to improve information for the public will be undertaken. Issues related to travel and accommodation are outwith the scope of this Order, and are being considered separately.

Impact Assessments

An Equalities impact assessment has been completed and is attached. Screening documents explaining why we have not undertaken a Childrens Rights and Wellbeing Impact Assessment, and a Strategic Environmental Assessment are also attached. No privacy impact assessment was required for this draft SSI because there will be no change in how personal data is managed as a result of it.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The impact of this policy on business is very limited because very few abortions in Scotland are carried out by private sector providers, and NHS Boards will be provided with additional funding recognising that they will incur additional costs in order to provide a free service to women from Northern Ireland.

Scottish Government
Population Health Directorate

19 September 2017