

Gateway reference: 17305

23 February 2012

To: All Independent Sector Abortion Clinics
Medical Directors – NHS Trusts
Medical Directors – NHS Foundation Trusts
Medical Directors – Primary Care Trusts
Copy: Chief Executive of Monitor

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Dear Colleague

ABORTION ACT 1967 (AS AMENDED): TERMINATION OF PREGNANCY

In light of recent media coverage, I am writing to remind all those involved in providing and commissioning treatment for termination of pregnancy of the need to fully comply with all the requirements of the Abortion Act 1967 (the Act). This is extremely important because, unless performed under the conditions set out in the 1967 Act, abortion remains a criminal offence under the Offences Against the Persons Act 1861.

In particular, unless an emergency abortion is required under s 1(4) of the Act, a pregnancy may only be terminated if two registered medical practitioners have certified that they are of the opinion, formed in good faith, that at least one and the same ground for abortion in section 1(1) of the Act exists. The certification takes place in the light of their clinical judgement of all the particular circumstances of the individual case.

If there is evidence that either certifying doctor has not formed the opinion in good faith, then the doctor performing the termination is not protected by section 1(1) of the Act and has potentially committed a criminal offence by terminating the pregnancy. It is also possible that the doctor could be acting contrary to their professional duties.

Sex selection is not one of the lawful grounds for termination. It is illegal for a practitioner to carry out an abortion for that reason alone, unless the certifying practitioners consider that an abortion was justified in relation to at least one of the section 1(1) grounds. A sex-linked inherited medical condition may be relevant to the practitioner's consideration of whether any of the section 1(1) grounds are met in a specific case.

The section 1(1) grounds for an abortion are:

- (a) that the pregnancy has not exceeded its twenty-fourth week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the pregnant woman or any existing children of her family; or

- (b)* that the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman; or
- (c)* that the continuance of the pregnancy would involve risk to the life of the pregnant woman, greater than if the pregnancy were terminated; or
- (d)* that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped."

** There is no time limit on the term of the pregnancies to which grounds (b) – (d) may apply.*

Any treatment for the termination of pregnancy must be carried out in a hospital vested in the Secretary of State, NHS Trust, Primary Care Trust or NHS Foundation Trust; or, for the private and independent sector, in a place approved by the Secretary of State.

In addition the termination of pregnancies is prescribed as a regulated activity under the Health and Social Care (Regulated Activities) Regulations 2010. Anyone (in England) who carries on a regulated activity without being registered by the CQC in respect of it is guilty of an offence under the 2008 Act. Regulation 20 of the Health and Social Care (Registration) Regulations 2009 specifies various requirements relating to termination of pregnancies that apply to a registered person who carries on or manages the regulated activity consisting of the termination of pregnancies; and is not an English NHS body.

Places approved by the Secretary of State must also continue to comply with Departmental guidance in the form of Required Standard Operating Principles (known as the Yellow Book). Failure to comply with or maintain the standards required by the Secretary of State will lead to a withdrawal of approval at any time during the approval period, and individual doctors may be referred to the GMC.

Registered medical practitioners in England are legally required to notify me as Chief Medical Officer through Form HSA4, of every completed abortion they have performed within 14 days of the procedure.

All those who commission and provide treatment for termination of pregnancy are accountable for ensuring all staff involved with this area of provision are fully aware of, and comply with, the requirements of the Abortion Act. Organisations should be monitoring compliance in this area. I would be grateful for your support in ensuring there is full compliance with these requirements.



**PROFESSOR DAME SALLY C DAVIES
CHIEF MEDICAL OFFICER
CHIEF SCIENTIFIC ADVISER**