

ABERDEEN CITY COUNCIL

COMMITTEE	Council
DATE	14 Dec 2022
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Buffer Zones
REPORT NUMBER	COM/22/270
DIRECTOR	Gale Beattie – Director of Commissioning
CHIEF OFFICER	Jenni Lawson – Interim Chief Officer Governance
REPORT AUTHOR	Deirdre Nicolson
TERMS OF REFERENCE	21

1. PURPOSE OF REPORT

- 1.1 To provide an update on liaising with the Scottish Government and COSLA and latest developments on the establishment of buffer zones and the gathering of evidence to support either a buffer zone or a byelaw.

2. RECOMMENDATIONS

That Council:-

- 2.1 Note the ongoing initiatives and the evidence gathered to date; and
- 2.2 Instruct the Interim Chief Officer – Governance to continue to liaise with the Scottish Government and COSLA and provide a service update on the outcome of the Supreme Court Decision.

3. CURRENT SITUATION

- 3.1 At a specially requisitioned meeting on 13 July 2022, the Council resolved to instruct the Chief Officer - Governance to liaise with the Scottish Government and COSLA to explore options to establish protest-free buffer zones including but not limited to potentially implementing a local byelaw, and to report back to the next meeting of Full Council.
- 3.2 A report was considered on 24 August 2022 and Council resolved to
- (a) note the national activities underway in relation to the matter of establishing protest-free buffer zones, in particular:-
- the legal opinion referred to in the COSLA briefing note at Background Paper 10.1;
 - that there was a technical 'mini-summit' to discuss the potential use of byelaws being held on 29 August, referred to in detail at paragraph 3.6 of the report; and

- (b) instruct the Interim Chief Officer - Governance to continue to liaise with the Scottish Government and COSLA and report back to the meeting of Full Council on 14 December 2022 with an update on latest developments including:-
- evidence contained in the independent research commissioned by the Scottish Government relating to protests/vigils to gather more robust and objective evidence on the impact of protests/vigils on patients and others if available; and
 - evidence from NHS Grampian, Police Scotland and Back-off Scotland as to the number of protests taking place in Aberdeen

3.3 Scottish Government Ministerial Working Group

3.3.1 A Scottish Government Ministerial-led Working Group on Abortion Buffer Zones around healthcare facilities was formed in 2021 to consider short, medium and long-term actions that may help to address the issue of protests/vigils that take place outside of abortion clinics or other facilities providing healthcare.

3.3.2 The group brings together representatives of affected Councils and Health Boards, along with representatives from the Convention of Scottish Local Authorities (COSLA), the Society of Local Authority Lawyers and Administrators (SOLAR) and Police Scotland.

3.3.3 Meetings took place on 23 August 2022 and 26 October with representatives from Aberdeen City Council in attendance.

3.3.4 The Scottish Government have commissioned independent research relating to protests/vigils to gather more robust and objective evidence on the impact of protests/vigils on patients and others if available. This research is not yet available.

3.3.5 A mini summit was held on 29th August to discuss Buffer Zones. The Scottish Government was in attendance along with representatives from Edinburgh, Glasgow, Aberdeen City Councils, NHS (Glasgow), Police Scotland and COSLA. This was to discuss process, and it was agreed that the next steps were to continue with evidence gathering.

3.4 NHS Grampian

3.4.1 NHS Grampian have advised that there have been no specific dated examples of protests or harassment towards patients or staff experienced at Aberdeen health services sites.

3.4.2 Dialogue has been started with the Health and Social Care Partnership who have confirmed they will continue to provide any relevant information.

3.5 Police Scotland

3.5.1 Police Scotland confirmed that in recent years there have been various protests/rallies around both sides of the abortion/pro-life debate and related woman's rights issues in Aberdeen. However, these have passed off as peaceful events posing no significant issues. Police Scotland have provided further details of the following events held between March 2020 and July 2022:-

40 Days for Life Vigil, Aberdeen Maternity Hospital

This is an annual event where local anti-abortion campaigners stand in vigil outside Aberdeen Maternity Hospital with placards to raise awareness of their viewpoint. Numbers attending are generally in low single figures and this has passed without confrontation or significant incident. The vigils ran from 26 February – 5 April 2021 and from 2 March – 13 April 2022.

Pro Life Protest Universities Catholic Chaplaincy, 7 High Street, Old Aberdeen

This was a pro-life/anti-abortion protest by the Centre for Bio-Ethical Reform UK (CBR UK) on 16 March 2020. This was a static protest using photographs to raise awareness, there were 11 attendees and it passed without incident.

Polish Women's Rights Demonstration – Castlegate, Aberdeen

This demonstration was organised by members of the local Polish Community following a ruling by the Polish Constitutional Court restricting a woman's right to abortion under certain circumstances. This event took place on 28 October 2020. At peak there were approximately 300 – 400 people in the Castlegate, many with placards and signs. The Police advised this was well organised and passed without incident.

Our Bodies Our Choice – Aberdeen Stands With America – Pro Abortion, Pro Choice Demonstration - Castlegate, Aberdeen

This static demonstration was held on 9 July 2022 to show solidarity with women in the United States of America following the overturning of Roe v Wade by the US Supreme Court. There were a number of speakers at this event, and at peak time a maximum of 70 people were in attendance. The event passed without incident.

Pro Buffer Zone Protest, Aberdeen City Council

On 13 July 2022 the police were advised of a potential proposed pro Buffer Zone protest outside ACC, when Councillors were due to be considering proposals for Buffer Zones in Aberdeen. The area was monitored but no protest appeared to have taken place.

3.6 Back-off Scotland

3.6.1 Back-off Scotland is a grass roots organisation which was established in 2020 to campaign for the Scottish Government to introduce 150 metre 'buffer zones' (protest-free areas) around clinics that provide abortion services across Scotland.

3.6.2 Back-off Scotland have provided 55 anonymous testimonies from patients, staff and local residents who are employed in, living near or attending an abortion clinic in Scotland. These testimonies have been gathered with the agreement that they would be shared with the Scottish Government and Local Authorities to inform next steps. The testimonies have been categorised per local authority area and Health Board; three of which relate to Aberdeen City.

3.7 COSLA Update

The Community Wellbeing Board considered Gillian Mackay MSP's proposed Abortion Services Safe Access Zones Scotland Bill at their meeting on 2 December 2022. Further reports will be brought to the Board once the Supreme Court judgement has been released and its impact on the Scottish legislative position and approach fully assessed.

3.8 Proposed Abortion Services Safe Access Zones Bill

3.8.1 As previously reported, Gillian Mackay MSP has proposed an Abortion Services Safe Access Zones Scotland Bill which would introduce safe access zones around healthcare settings that provide abortion services.

3.8.2 It is understood that there is Scottish Government support for the Bill. The Supreme Court decision is awaited to ensure that any Scottish legislation is robust.

3.9 Abortion Services (Safe Access Zones) (Northern Ireland) Bill

As previously reported, the Supreme Court is considering whether the Abortion Services (Safe Access Zones) (Northern Ireland) Bill is outside the legislative competence of the Northern Ireland Assembly. The judgement was

expected to be issued in the autumn and it was deemed sensible to await the outcome of this case, as it would be helpful in understanding any potential limitations that may be relevant to the Scottish Government and potentially the Council. The judgement is now expected to be issued in November and officers will provide a service update on this.

3.10 Public Order Bill

3.10.1 The Public Order Bill, applicable only to England and Wales, introduces new measures to bolster the police's powers to respond to protests, particularly those which obstruct major transport works or interfere with key national infrastructure.

3.10.2 On 18 October, following a free vote, the House of Commons voted to accept an opposition amendment that creates national buffer zones outside abortion clinics in England and Wales. This measure will introduce a boundary of 150 metres around abortion clinics where interference with people accessing or providing abortion services will be an offence.

3.11 Public Safety Protection Orders

3.11.1 As previously reported, English local authorities have the power to implement Public Safety Protection Orders but this is not a remedy which is available to Scottish local authorities.

3.11.2 BCP (Bournemouth, Christchurch and Poole) Council are the most recent local authority to implement, in October 2022, a Public Places Protection Order outside a clinic operated by BPAS (British Pregnancy Advisory Service) follow an extensive consultation and evidence gathering exercise.

3.12 Proposed Aberdeen City Council Byelaw

As previously reported, Councils have a general power under the Local Government (Scotland) Act 1973 to implement byelaws. In addition to the potential for various legal challenges, there is currently insufficient evidence for the Council to successfully promote a byelaw. Supporting proposed legislation would ensure a consistent approach across all parts of Scotland in relation to Buffer Zones.

4. FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications.

5. LEGAL IMPLICATIONS

5.1 There are no direct legal implications.

6. ENVIRONMENTAL IMPLICATIONS

6.1 No impact

7. RISK

7.1 The assessment of risk contained within the table below is considered to be consistent with the Risk Appetite Statement.

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) <small>*taking into account controls/control actions</small>	*Does Target Risk Level Match Appetite Set?
Compliance	Risk that the decision to create a byelaw is subject to legal challenge	<ol style="list-style-type: none"> 1. Only proceed with promotion of byelaw once sufficient evidence has been received, and the outcome of the Supreme Court decision is known 2. Do not proceed with implementing a byelaw 	L	Yes
Operational	Insufficient resources to promote and defend any court actions arising from the promotion of a byelaw	<ol style="list-style-type: none"> 1. Do not proceed with implementing a byelaw 	L	Yes
Financial	Costs incurred in defending a court action	<ol style="list-style-type: none"> 1. Investigate funding from Scottish Government and/or COSLA 	M	Yes
Reputational	Risk that the decision to create a byelaw is subject to legal challenge.	<ol style="list-style-type: none"> 1. Only proceed with promotion of byelaw once sufficient evidence has been received and once outcome of Supreme Court is known 2. Do not proceed with implementing a byelaw 	M	Yes

Environment / Climate	n/a			
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8. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
	Impact of Report
Aberdeen City Council Policy Statement	No impact
<u>Aberdeen City Local Outcome Improvement Plan</u>	
Prosperous Economy Stretch Outcomes	No impact
Prosperous People Stretch Outcomes	Having safe, secure access to abortion services 4.3 Improving health and reducing inequalities 5.1 Improving timely access to support
Prosperous Place Stretch Outcomes	No impact
Regional and City Strategies	No impact

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	<p>A full impact assessment will be required to assess the impact of implementing a potential Byelaw in Aberdeen on the following protected characteristics:</p> <ol style="list-style-type: none"> 1. Sex 2. Pregnancy and Maternity 3. Religion or Belief <p>Human Rights:</p> <ol style="list-style-type: none"> 1. Article 2 – Right to Life 2. Article 8 – Right to Respect for Family and Private Life 3. Article 9: Freedom of thought, conscience and religion 4. Article 10: Freedom of expression 5. Article 11: Freedom of assembly and association

Data Protection Impact Assessment	Not required
Other	Not applicable

10. BACKGROUND PAPERS

- 10.1 [Requisitioned Meeting of the Council on 13 July 2022](#)
- 10.2 [Ministerial Working Group – Abortion Buffer Zones - gov.scot \(www.gov.scot\)](#)
- 10.3 [Proposed Abortion Services Safe Access Zones Scotland Bill | Scottish Parliament Website](#)
- 10.4 [COSLA report on Buffer Zones](#)
- 10.5 [Public Order Bill: factsheet](#)
- 10.6 [Council Meeting on 24 August 2022](#)

11. APPENDICES

None

12. REPORT AUTHOR CONTACT DETAILS

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