



Royal Dutch  
Shell Group

## RCN position

In 2013, the RCN published its original position statement on the termination of pregnancy (induced abortion). As part of that statement, and updated versions since 2013, consideration was given to recognising and respecting those nurses, midwives, registered nursing associates and health care assistants who have a conscientious objection to abortion.

This position statement elaborates on that statement to clarify our guidance for nurses, midwives and registered nursing associates on the issue of conscientious objection.

Legislation recognises that health care workers may have religious, moral or personal objections to termination of pregnancy. Section four of the original Abortion Act (1967) (Scotland, England and Wales, not Northern Ireland) states that individuals were under no obligation to “participate in any treatment authorised by [the Act] to which [they have] a conscientious objection”.

In 1990, the Human Fertilisation and Embryology Act (HFE Act) section 38 stated that “No person who has a conscientious objection to participating in any activity governed by this Act shall be under any duty, however arising, to do so”. However, this is limited to the termination procedure only and not to care provided before and/or after the procedure is carried out (Human Fertilisation and Embryology Authority (HFEA) Code of Practice, 2023).

A nurse and/or a midwife who conscientiously objects under this legislation is accountable for whatever decisions made and could be called upon to justify that objection; therefore it is vital that any concerns or objections are discussed at the earliest convenience with the manager. The HFEA Act 1990 (as amended) clearly states that “No person who has a conscientious objection to participating in any activity governed by this Act shall be under any duty, however arising, to do so.” Section 38 of the 1990 Act also states that “In any legal proceedings the burden of proof of conscientious objection shall rest on the person claiming to rely on it” (HFEA Code of Practice, 2003).

It also states that: “In any proceedings before a court in Scotland, a statement on oath by any person to the effect that he (she) has a conscientious objection to participating in a particular activity governed by this Act shall be sufficient evidence of that fact for the purpose of discharging the burden of proof” (HFEA Code of Practice, 2023).

The Human Fertilisation and Embryology Authority has further useful information on the subject included in the Code of Practice (2023) which can be found at: [hfea.gov.uk](https://www.hfea.gov.uk)

### Northern Ireland

In Northern Ireland, conscientious objection is covered in Section 12 of The Abortion (Northern Ireland) Regulations 2020 where it states that a person is not under a duty to participate in any treatment authorised by those regulations to which the person has a conscientious objection. It goes on to state that this does not affect any duty to participate in treatment which is necessary to save the life, or to prevent grave permanent injury, to the physical or mental health of a pregnant woman. Further information is available at: [legislation.gov.uk/uksi/2020/345/made](https://legislation.gov.uk/uksi/2020/345/made)

## Voicing conscientious objection

If you have a conscientious objection to termination of pregnancy, you should discuss the issue with your manager and confirm your objection in writing. The issue should be dealt with sensitively, so that nurses, midwives and patients/clients can establish a successful therapeutic relationship.

Article 4(2) of the Abortion Act 1967 and Article 38(2) of the HFE Act 1990 state that: *"In any legal proceedings the burden of proof of conscientious objection shall rest on the person claiming to rely on it."* However, in Scotland the burden of proof does not rest with the health care professional who is objecting, if they swear an oath before a court of law explaining that they have an objection.

## Can I refuse to care for a woman who is about to undergo or has already undergone a termination of pregnancy?

No, for the reasons stated above. Nor could you refuse to take part in an emergency during the procedure itself if you are present and the woman's safety and wellbeing is at risk. At all times the safety of the woman is paramount.

This was clarified in the case of *Greater Glasgow Health Board v Doogan and another* (2014) UKSC 68 (Supreme Court 2014). The Supreme Court held that the meaning of 'to participate in' a termination of pregnancy should be given a narrow meaning 'taking part in a 'hands-on' capacity'.

## Emergency contraception

Emergency contraception is not considered to be an abortifacient by the World Health Organization (WHO) and conscientious objection does not apply.

## References

*Abortion Act (1967)*. Available at: [www.legislation.gov.uk/ukpga/1967/87/contents](http://www.legislation.gov.uk/ukpga/1967/87/contents)

*Abortion statistics for England and Wales: (2022)*. Available at: [www.gov.uk/government/statistics/abortion-statistics-for-england-and-wales-2021/abortion-statistics-england-and-wales-2021](http://www.gov.uk/government/statistics/abortion-statistics-for-england-and-wales-2021/abortion-statistics-england-and-wales-2021)

*Abortion Statistics Scotland (2022)*. Available at: <https://publichealthscotland.scot/publications/termination-of-pregnancy-statistics/termination-of-pregnancy-statistics-year-ending-december-2022>

British Medical Association (2023) *The law and ethics of abortion*. Available at: [www.bma.org](http://www.bma.org).

**h h3 h**

(accessed 5 January 2024)

Department of Health, Social Services and Public Safety (2020) A legal framework for abortion services in Northern Ireland after 31 March 2020. Available at:

