

y C g

CLINICAL PROFESSIONAL RESOURCE



Acknowledgements

The Royal College of Nursing (RCN) would like to thank the project team for the development of this publication:

Introduction.....	4
Professional development, nurse-led services and support.....	4
Nurse-led services and advancing nursing practice.....	5
Legal considerations.....	9
Background to legislation	9
Conscientious objection.....	11
Consent.....	12
Confidentiality.....	13
Service provision and practice considerations.....	15
Access and referral	15
Pregnancy options	15
Whose decision is it?.....	15
Pre-abortion assessment	16
Pregnancy termination methods.....	17
Practice considerations.....	17
Congenital/fetal anomaly.....	18
Post-termination of pregnancy care.....	19
Special considerations and safety	22
Safeguarding adults.....	22
Safeguarding children.....	22
Language issues	23
LGBTQI+.....	23
Physical disabilities, learning disabilities and mental wellbeing.....	23
Difficulties with vaginal examinations	24

1. Introduction

The Royal College of Nursing (RCN) first published guidance in 2008, to support registered nurses and midwives fulfil their role in caring for those undergoing termination of pregnancy across the UK. Following changes in the law and the introduction of new

Nurse-led services and advancing nursing practice

Since the late 1960s, the authorisation and provision of termination of pregnancy has been the legal responsibility of a registered medical practitioner, and the requirements were set out in the Abortion Act 1967. Historically, the role of the nurse was to provide general nursing care. Recent advances in termination of pregnancy methods, particularly telemedicine and early medical abortion, have led to the development of new nursing roles allowing for a more holistic provision of nursing care.

Under the supervision of a registered medical practitioner, nurses now triage, assess, plan, lead and manage most of the care for women undergoing medical termination of pregnancy. The role of the nurse in abortion care has developed in response to a number of internal and external drivers. Re-organisation of the NHS and changes in commissioning, the changes in service delivery in response to the COVID-19 pandemic, as well as developments in the role of health professionals within the NHS, has provided a backdrop for professional and service development.

At present, the current legal requirements of the Abortion Act 1967 for England, Scotland and Wales do not allow nurses to authorise a termination of pregnancy, and the current need for two doctors' involvement can limit the extent of nursing activity in termination of pregnancy. The legislation in Northern Ireland is less restrictive and this role can be undertaken by registered nurses and midwives, as laid out in The Abortion (Northern Ireland) Regulations 2020.

In abortion care, the nursing profession endeavours to provide more responsive

Further information can be found in the RCN **Standards for Advanced Nurse Practitioners**

overall responsibility for the care of the woman throughout the care pathway. Further clarification is required in relation to the interpretation of the law.

To develop such roles nurses need to:

- be accountable for their own practice
- have a sound knowledge base and appropriate education and training
- be up-to-date with evidence-based practice in abortion care
- identify a champion who shares the vision and supervises and supports the nursing team, including management teams
- have robust competency assessment, ensuring confidence in performing practical skills (for example, ultrasound scanning)
- have an understanding and implementation of the principles of risk management
- have opportunities to develop and practise leadership, mentoring and supervisory skills
- engage in research opportunities to extend the evidence base in termination of pregnancy care
- undertake service development evaluations.

Nurses also need to have:

- access to restorative clinical supervision
- access to leadership and development programmes
- a complete understanding of the law on termination of pregnancy.

In England, Scotland and Wales nurses work within the provisions of the Abortion Act 1967 (as amended by the Human Fertilisation and Embryology Act 1990), providing they are carrying out treatment in accordance with delegated instructions from a registered medical practitioner. The medical practitioner remains responsible for care throughout any treatment (RCN v DHSS [1981] 1 All ER 545) (National Library of Medicine, 1981).

In Northern Ireland, abortion care is provided under a different framework allowing it to be medically managed within that legal framework. This has enabled 5 (l)12.8 (l)26.6 (y3h)1.3 (a)22.8 (

The RCN Women's Health Forum has a UK-wide network of members and webpage as well as an active Facebook page and Twitter community. It provides updates on a wide range of issues and evidence-based guidance.

rcn.org.uk/Get-Involved/Forums/Womens-Health-Forum

RCN members can seek individual advice by accessing RCN Direct online advice guides at: rcn.org.uk/contact

2. Legal considerations

Background to legislation

Nurses who are involved in a termination of pregnancy must be familiar with the legal requirements of the legislation and policies applicable locally. This guidance gives a brief overview of the main provisions and recommendations. Further reading can be found at

section 11.2.2 (c) 182 (W5) (K) (original copy) to 6.8 (1) St. 49 (re 50012 TD [(s)4.9 (e)2 (n)

at risk, then one signature is required. Every abortion must be legally certified by at least one health care professional and must be notified to the chief medical officer.

The legislation in England, Scotland and Wales does not give any scope for nurses or midwives to be signatories on the HSA1, however nurses do have a legal authority to be involved in activity surrounding termination of pregnancy as long as a registered medical practitioner has overall responsibility for the care of the woman throughout the care pathway. This clarification of Section 1(1) of the Abortion Act 1967 was set out by the

What nurses cannot do within the current legislation

The current legislation clearly sets out what nurses and midwives cannot do:

- sign the regulatory forms in England, Scotland and Wales
- prescribe abortifacient drugs for use in medical termination of pregnancy in England, Scotland and Wales, including via the use of Patient Group Directions (PGDs)
- provide a termination of pregnancy service alone without a doctor remaining responsible for the woman in England, Scotland and Wales
- currently nurses can prescribe abortion medication and provide perform MVA for surgical termination of pregnancy in Northern Ireland
- at the time of publication, in England, Wales and Scotland it is yet to be confirmed whether nurses can lawfully perform MVA for induced abortions as the law is difficult to interpret with regards to this area of practice (Sheldon and Fletcher, 2017).

The penalties for any person failing to follow the provisions of the Abortion Act could be through both criminal and civil law.

Consent

As with any form of health care treatment or procedure, women undergoing a termination of pregnancy procedure should consent to the procedure, which should include a signed consent for surgical procedures to evidence the consent process.

To ensure informed decision making, the consent process should include details of:

- the process and the procedure to be undertaken
- alternative options
- the benefits and risks of the range of methods available
- the potential complications that may occur as a result of the procedure, as well as any other procedures that might need to be undertaken as a result of complications occurring (NICE, 2019).

The competence of a woman to consent to the procedure should also be assessed.

- Does the woman demonstrate a reasonable capacity to make a choice about her requested course of action?
- Does she know and understand the risks, benefits and alternatives discussed with her?
- Does she understand that her informed decision making must be voluntary?
- Does she understand that her consent can be withdrawn at any time?

In England and Wales women aged 16 and 17 years are presumed competent to give consent under the provisions of the Mental Capacity Act 2005.

In Scotland, a person of or over the age of 16 years has legal capacity (Age of Legal Capacity (Scotland) Act 1991) the effect is the same in that women aged 16 and above are presumed competent.

In Northern Ireland, The Age of Majority Act (Northern Ireland) 1969 provides that a person who is 16 or over may consent to treatment without acquiring consent by the parent(s) or guardian(s).

This Act does not remove the right of parents or guardians to consent on behalf of a 16- or 17-year-old. In each UK country young people under 16 years of age can give consent if they fully understand what is involved. Parental involvement is not a legal requirement, although nurses should encourage the involvement of a parent or guardian where applicable (DH, 2001; NICE, 2019).

The legal principle for consent to treatment by those under 16 years of age was given in the House of Lords ruling on *Gillick v West Norfolk and Wisbech HA* [1986] AC 112 (*Gillick v West Norfolk and Wisbech*, 1986). This legal principle, sometimes known as the Gillick Competence or Fraser Guidelines test of competence, has provided an objective test of competence for young people under 16 years of age. If the young person can demonstrate sufficient maturity and intelligence to understand and appraise the nature and implications of the proposed treatment, including the risks and alternative courses of action, then they will be deemed competent to consent to the medical treatment.

This ruling was applied on 23 January 2006 in the case of *Regina (Axon) v Secretary of State for Health* (*Regina (Axon) v Secretary of State for Health*, 2006), when the High Court rejected Axon's claim that the Department of Health's best practice guidance for doctors and other health professionals on the provision of advice and treatment to young people under sixteen on contraception, sexual and reproductive health was unlawful.

Confidentiality

Everyone (including those under 18 years of age) seeking a termination of pregnancy has a right to confidentiality from all health care professionals. Only in exceptional circumstances (for example, where the health, welfare or safety of the woman, a minor or other person is at risk) should a third party be informed where the woman refuses to give her consent to disclosure (NICE, 2019). If information is disclosed without consent, there should be clarity and transparency about how the decision to do so was reached, and the decision should be demonstrably in the best interests of those concerned.

These principles were also upheld in relation to protecting the confidentiality of advice given to those aged under 16 years of age in *Regina (Axon) v Secretary of State for Health* (2006).

Data on all women undergoing a termination of pregnancy is collected via the HSA4 form and notified to the Department of Health/Scottish Government and women must be informed of this.

- In England and Wales, the forms are held securely and only individuals authorised by

3. Service provision and practice

Access and referral

All women in England, Wales and Scotland can access a termination of pregnancy if two doctors determine in good faith that their circumstances meet the terms of the Abortion Act 1967 (as amended by the Human Fertilisation and Embryology Act 1990). Termination services should therefore be ea

- clearly setting out women's rights relating to their own sexual and reproductive health, as well as their general health
- undertaking a referral to a specialist placements service for pre-existing medical conditions that contraindicate certain treatments or the need for inpatient services.

Pregnancy termination methods

The RCOG best practice guidelines (2022) provide an extensive review of methods and procedures.

- Telemedicine can be used for consultations and allows the woman the choice of being in their own environment and may be more convenient overall. Following a thorough assessment, they may not need to be seen in person.
- A medical termination of pregnancy involves the woman taking an anti-progestogeni

that all women should be offered information on the available methods for disposing of pregnancy remains in a sensitive and appropriate manner, including the options available should they have specific wishes. Information leaflets regarding termination of pregnancy should include information regarding disposal.

Health care professionals should ensure that the woman knows, before the termination of pregnancy, what her options are with regard to disposal of the pregnancy remains, as the type of procedure can have a bearing on how the remains are collected.

4. Special considerations and safety

Safeguarding adults

Special consideration should be given to individuals and groups of women who may be considered as vulnerable, either physically, psychologically, socially or economically. These could include women who are under 18, survivors and/or victims of abuse, those who misuse drugs or alcohol, those with learning difficulties and sex workers.

All women should be treated as individuals with respect and dignity, regardless of their vulnerabilities. This should include being sensitive to social and ethnic, or religious consideration, whilst respecting individual needs, including sexuality and gender.

Women should be offered the option of being examined by a female practitioner and the decision should be respected. If an appropriate practitioner is unavailable, alternative arrangements may have to be made. In emergency situations, where no one is available to perform the termination of pregnancy, health professionals should work in partnership with the woman to identify the best course of action including referrals/liaison with other agencies such as the NHS.

Safeguarding children

A safeguarding risk assessment should always be completed for anyone accessing



in any part of the UK. Nurses and midwives have a responsibility to recognise and safeguard patients at risk, and further information can be found at: [gov.uk/government/publications/virginity-testing-and-hymenoplasty-multi-agency-guidance](https://www.gov.uk/government/publications/virginity-testing-and-hymenoplasty-multi-agency-guidance)

Domestic abuse

Routine enquiry into domestic abuse should be carried out in all health settings, including women requesting an abortion. Women should routinely be asked a question relating to their experience of domestic abuse, such as Do you feel safe at home?

If a woman discloses that she has been subject to domestic abuse, it is important to ensure that information is provided to enable her to contact a local or national helpline. It is al

.

- report any concerns to regulatory authorities
- engage in continuous professional development
- seek support from colleagues and professional organisations
-

Conclusion

The care of women who are considering or undergoing a termination of pregnancy is a



Gov.uk (2022) Health and Care Act 2022. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1115453/health-and-care-act-2022-summary-and-additional-measures-impact-assessment.pdf (accessed 6 December 2023)

Gov.uk (2023)

Northern Ireland Office (2020) A new legal framework for abortion services in Northern Ireland. Available at: www.gov.uk/government/consultations/a-new-legal-framework-for-abortion-services-in-northern-ireland (accessed 2 November 2023)

Northern Ireland Abortion and Contraception Task Group (NIACT) (2022) **Press release: New report from multidisciplinary group highlights fragile abortion service in Northern Ireland**. Available at: www.fsrh.org/news/press-release-niact-report-srh-northern-ireland-2022 (accessed 2 November 2023)

NICE (2019) **Abortion Care guideline** . Available at: www.nice.org.uk/guidance/ng140 (accessed 2 November 2023)

NICE (2021) **Abortion care Quality Standard** . Available at: www.nice.org.uk/guidance/qs199 (accessed 2 November 2023)

Office of Health Improvement and Disparities (2023) **Women's Health: A New Standard** (2023) 26 (nc0 gs /TT3 1 Tf -0.004 Tc 0.004 Tw 6.3t0.4

Welsh Government (2022) **Arrangements for early medical abortion at home** . Available at: www.gov.wales/written-statement-arrangements-early-medical-abortion-home (accessed 3 November 2023)

World Health Organization (2018) **Medical management of abortion** . Available at: <https://apps.who.int/iris/handle/10665/278968> (accessed 3 November 2023)

World Health Organization (2022) **Abortion care guidelines** . Available at: www.who.int/publications/i/item/9789240039483 (accessed 3 November 2023)

Useful organisations/support

Abortion Talk abortiontalk.com

Antenatal Results and Choices (ARC) charity arc-uk.org

British Association for Sexual Health and HIV bashh.org

British Society Abortion Care Providers bsacp.org.uk

British Pregnancy Advisory Services

RCN quality assurance

Publication

oy C | ege
s