

Disability-selective abortion time limit amendment to the Health and Care Bill (NC52)

Key points

- Carla Lockhart MP, alongside a number of cross-party MPs, has **tabled an amendment (NC52) to the Health and Care Bill¹ to introduce an upper gestational limit on abortion on the grounds of disability equal to the upper gestational limit on most other abortions:**
 - (1) *The Abortion Act 1967 is amended as follows.*
 - (2) *In section 1 (Medical termination of pregnancy) at the beginning of sub-paragraph (d) to paragraph (1), insert –*

“that the pregnancy has not exceeded the gestational limit identified in sub-paragraph (a) and”
- Currently **abortion on the grounds that a fetus would be ‘seriously handicapped’ when born, is permitted at any stage prior to birth** under section 1(1)(d) of the Abortion Act 1967. This contrasts with section 1(1)(a), which has in place a limit of 24 weeks.²
 - In practice, ‘seriously handicapped’ is interpreted to include disabilities such as Down’s syndrome and easily surgically rectifiable conditions such as cleft lip/palate and club foot.³
- **In contrast, in most other cases abortion is only available until 24 weeks’ gestation for babies not diagnosed with prenatal disabilities. Therefore, the law is inconsistent with disability discrimination legislation for after birth by allowing for abortion on the grounds of disability more widely than most abortions.**
 - It is inconsistent for Parliament to pass laws (such as the Disability Discrimination Act 1995 and the Equality Act 2010) that expressly prohibit discrimination on grounds of disability after birth yet allow another law to remain that expressly provides for lethal discrimination through termination on grounds of disability up to birth.⁴
 - **The law is out of date. Abortion legislation should now reflect the UK’s disability positive culture.** Current abortion provision is a throwback to a time when we had different attitudes to the societal inclusion and contribution of people with disabilities.
- **The current law reinforces negative stereotypes:**
 - The **UN CRPD Committee** has recommended the UK update its law on abortion, specifically suggesting they amend abortion legislation to clarify abortion should not be singling out babies with disabilities.⁵
 - The **Disability Rights Commission** (successor to the Equality and Human Rights Commission) have said this aspect of the Abortion Act: *“is offensive to many people; it reinforces negative stereotypes of disability... [and] is incompatible with valuing disability and non-disability equally.”*⁶
- There is substantial public support for change to our laws in this area; polling from Savanta ComRes shows that **only one in three people think it is acceptable to ban abortion for gender or race but allow it for disability.**⁷

¹ See: [Health and Care Bill, As Amended](#), p. 38.

² See: [Abortion Act 1967](#), section 1.

³ See: [Cleft lip abortions ‘10 times as common as reported’](#)

⁴ See: [Disability Discrimination Act 1995 \(legislation.gov.uk\)](#) and [Equality Act 2010](#)

⁵ See: [CRPD Concluding Observations on the initial report of the United Kingdom of Great Britain and Northern Ireland](#), “The Committee recommends that the State party amend its abortion law accordingly. Women’s rights to reproductive and sexual autonomy should be respected without legalizing selective abortion on the ground of fetal deficiency.”

⁶ See: [BBC News | HEALTH | Abortion Act ‘discriminatory’](#)

⁷ See: [Evening Standard - Lords Abortion disability Bill \(13/3/17\)](#).

Why is this amendment necessary?

- In England and Wales,⁸ abortion is allowed up to birth if “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.”⁹ This has been interpreted to include - for example - Down’s syndrome, cleft lip, cleft palate and clubfoot, meaning abortion is legal up to birth based solely on a primary diagnosis of one of these conditions.
 - A recent court case was brought against the Government for allowing disability discrimination in abortion, by Heidi Crowter, 26, who has Down’s syndrome and Máire Lea-Wilson, whose son has Down’s syndrome.¹⁰ Ms Crowter has consistently described how the current law “*makes me feel that my life is not as valuable as anyone else’s*”, whilst Ms Lea-Wilson was “*placed under intense pressure*” to have an abortion after a 34-week scan revealed her son had Down’s syndrome.¹¹ Ms Crowter and Ms Lea-Wilson are seeking permission for their case to be taken to the Court of Appeal.¹²
- In 2020, there were 229 abortions on the grounds of disability (Ground E abortions) at 24+ weeks’ gestation.¹³ This represents around 55% increase in the ten years since 2010 and **an over 140% increase over the past twenty years** since 2000 in the number of abortions on the grounds of disability at or after 24 weeks’ gestation.¹⁴
- **Parliament should ensure that the provision of abortion in the United Kingdom does not discriminate on the basis of disability, including through the absence of an upper gestational limit on disability-selective abortions. There is substantial public support for change to our laws in this area:**
 - Polling from Savanta ComRes shows that only one in three people think it is acceptable to ban abortion for gender or race but allow it for disability.¹⁵
 - Furthermore, **polling of over 2,000 British adults from Savanta ComRes in 2017** showed that, excluding those who responded ‘Don’t know’, **58% support “a change in law that would introduce an equal time limit for disability abortions of 24 weeks”**.¹⁶

UK’s changing attitudes on disabilities should be reflected in abortion law

- **Upper gestational limits on abortion should be driven by the latest science on fetal viability.** The latest guidance from the British Association of Perinatal Medicine establishes **22 weeks’ gestation** to be the point of viability and enables doctors to intervene to save premature babies from 22 weeks.¹⁷
- **Our gestational limits on abortion are more extreme than most of Europe, without justification**, being double the median time limit for abortion in Europe is 12 weeks.¹⁸
- The passing of both the Disability Discrimination Act 1995, the Equality Act 2010, and the ratification of the UN Convention on the Rights of Persons with Disabilities, clearly demonstrates that the UK’s attitudes to those with disabilities has changed since the passing of the Human Fertilisation and Embryology Act 1990. **Abortion legislation should reflect this positive change in attitudes.**

⁸ And, most recently Northern Ireland, following the laying of the [Abortion \(Northern Ireland\) Regulations 2020](#).

⁹ See [Changes over time for: Abortion Act 1967](#). Other reasons to allow abortion up to birth include “that the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman; or ... that the continuance of the pregnancy would involve risk to the life of the pregnant woman, greater than if the pregnancy were terminated ...”

¹⁰ See: [Crowter-v- SSHSC judgment](#)

¹¹ See: [Woman with Down’s Syndrome calls for end to abortion ‘discrimination’](#), [Woman with Down’s syndrome’s case against UK Govt over discriminatory abortion law heard by High Court](#) and [Discrimination in the womb | Heidi Crowter](#)

¹² See: [Woman with Down’s syndrome’s landmark case against UK Govt over discriminatory abortion law to go onto Court of Appeal](#)

¹³ See: [DHSC Abortion Statistics Data Tables 2020](#), Table 9a, note 2.

¹⁴ See: [Abortion Statistics, England and Wales: 2010](#), Table 9.

¹⁵ See: [Evening Standard - Lords Abortion disability Bill \(13/3/17\)](#).

¹⁶ See: [Savanta ComRes: ABORTION POLLING For WHERE DO THEY STAND?](#), Table 29.

¹⁷ See: [British Association of Perinatal Medicine](#)

¹⁸ See: [What are the abortion time limits in EU countries? – Right To Life UK](#).