

Sex-selective abortion amendment to the Health and Care Bill (NC51)

Key points

- Carla Lockhart MP, alongside a number of cross-party MPs, has **tabled an amendment (NC51) to the Health and Care Bill to clarify that abortion on the grounds of the sex of the foetus is illegal**¹: *“Nothing in section 1 of the Abortion Act 1967 is to be interpreted as allowing a pregnancy to be terminated on the grounds of the sex of the foetus.”*
- Sex-selective abortion is the practice of **terminating a pregnancy based upon the predicted sex of the unborn child**. In the United Kingdom, there is evidence that **female unborn children are particularly at risk from sex-selective abortion**, especially given a preference for boys in some cultures.²
- While NIPT (Non-Invasive Prenatal Testing) is used by the NHS to test for genetic conditions, people can currently pay for it privately to discover a baby’s sex.³
 - NIPT can usually be performed at 9 to 10 weeks of pregnancy, with results normally being delivered within a week of the test.⁴
 - As noted in a 2019 *Obstetrics & Gynaecology* journal review, the introduction of NIPT *“has the potential to make the practice of sex-selective termination of pregnancy (TOP) an even more pressing issue. NIPT can determine the sex of the fetus very accurately and very early in the pregnancy. It is increasingly accurate from 7 weeks’ gestation.”*⁵
- While sex-selective abortion has been **described by Government as “abhorrent”**,⁶ and *“not one of the lawful grounds for termination of pregnancy”*,⁷ evidence that it occurs with alarming regularity led **Labour to call for a ban in 2018 on NIPT for screening the sex of the baby early in pregnancy**.⁸
- In 2014, the House of Commons voted by 181 votes to 1 to ban sex-selective abortions.⁹
- As there is evidence that the practice is occurring in the UK, there is an **urgent need to explicitly protect against sex-selective abortion in UK law for the sake of women and girls in this country**.
- The latest polling on the issue by ComRes showed that **91% of women and 89% of the general population agree**¹⁰ that gender-selective abortion should be explicitly banned by the law.¹¹

Where is the evidence that sex-selective abortion is occurring in the UK?

- A BBC investigation in September 2018 revealed evidence that new non-invasive prenatal tests were being used on a widespread basis to determine the sex of babies early in pregnancy **and that women were coming under intense pressure to undergo sex-selective abortions**.¹²

¹ See: [Health and Care Bill, As Amended](#), p. 37.

² See: [Telegraph: “Abortion investigation: doctors filmed agreeing illegal abortions ‘no questions asked’ \(22/2/12\)”](#); [Sky News: “Labour calls for ban on early baby gender test” \(17/9/18\)](#); and [Guardian: “Labour calls for ban on early foetus sex test” \(17/9/18\)](#).

³ See: [Nuffield Council on Bioethics: “Non-invasive prenatal testing: ethical issues” \(March 2017\)](#), p. 102.

⁴ See: *Ibid*, p. 4.

⁵ See: [Bowman-Smart, H., et al., ‘Sex selection and non-invasive prenatal testing: A review of current practices, evidence, and ethical issues’, *Prenatal Diagnosis* \(2020\) 40\(4\).](#)

⁶ See: [Hansard, House of Lords: Sex-selective Abortion - Monday 7 December 2015](#).

⁷ See: [Written question: Abortion: Gender Selection \(28/1/20\)](#).

⁸ See: [Sky News: “Labour calls for ban on early baby gender test” \(17/9/18\)](#).

⁹ See: [Hansard, House of Commons: Abortion \(Sex-Selection\): Division 67 - Tuesday 4 November 2014](#) and [BBC News: “MPs back ban on sex-selective abortion” \(4/11/14\)](#).

¹⁰ See: [ABORTION POLLING For WHERE DO THEY STAND?](#).

¹¹ See: [A new poll shows there is a good deal of unease with the current abortion law](#).

¹² See: [BBC News: “Labour calls for ban on early foetus sex test” \(17/9/18\)](#).

- A 2017 report concluded there was a “*real possibility that permitting NIPT for sex determination in the UK may be encouraging sex selection, both among UK residents and through sex selection tourism.*”¹³
- In 2014, the *Independent* published data suggesting between 1,400 and 4,700 girls are “missing” from the census records of England and Wales because of abortion of female babies within certain communities.¹⁴
- An undercover *Telegraph* investigation in 2012 revealed that doctors were agreeing to provide sex-selective abortions “no questions asked”, and uncovered that sex-selective abortions were being offered in the UK, including by a doctor who worked both privately and for the NHS.¹⁵
- A 2015 Department of Health report on sex-selective abortion detailed the personal testimonies of women who had been coerced into obtaining a sex-selective abortion in the UK by their partner or family.¹⁶

What is the current UK law regarding sex-selective abortion, in theory and in practice?

- **The Government has maintained that abortion for reasons of sex alone is illegal.**¹⁷
 - The Chief Medical Officer for England wrote two letters to all Registered Medical Practitioners in 2012 and 2013 which stated that sex-selective abortion was illegal.
- However, the British Medical Association (BMA) stated last year that, “*the only circumstances in which it would be lawful to terminate a pregnancy where gender is a factor is where there is a substantial risk of the fetus being born with a serious sex-linked condition*”, but also that “*in the BMA’s view it is possible that another of the legal grounds for abortion could be met as a consequence of fetal gender, or that women who have a gender preference may meet the legal grounds for abortion for reasons unconnected to their preference.*”¹⁸
- **It seems clear that the permissibility of abortion on the grounds of the sex of the fetus needs to be clarified, particularly as to whether the procuring of abortion following, and primarily influenced by, such a diagnosis on mental health grounds is a socially acceptable consequence of our current abortion law.**

Why is sex-selective abortion socially unacceptable?

- **Allowing abortion on the basis of sex violates international ethical standards.**
 - Turning a blind eye to sex-selective abortion in the UK disregards several declarations in international law that strongly condemn the practice including a 1996 resolution of the UN Commission on Human Rights which calls on states to “*enact and enforce legislation against...prenatal sex selection*”.¹⁹
 - The impact of sex-selective abortion is far-reaching: A 2021 British Medical Journal article notes that “*skewed levels of the sex ratio at birth (SRB) due to sex-selective abortions have been observed in several countries since the 1970s. They will lead to long-term sex imbalances in more than one-third of the world’s population with yet unknown social and economic impacts on affected countries.*”²⁰
 - Based on a database of 3.26 billion birth records, the study predicts there will be a **deficit of over 4.7 million female births between 2021 and 2030** under a conservative scenario.

¹³ See: [Nuffield Council on Bioethics: “Non-invasive prenatal testing: ethical issues” \(March 2017\)](#), p. 104.

¹⁴ See: [Independent: “The lost girls: Illegal abortion widely used by some UK ethnic groups” \(15/1/14\)](#).

¹⁵ See: [Telegraph: Abortion investigation: doctors filmed agreeing illegal abortions ‘no questions asked’ \(22/2/12\)](#).

¹⁶ See: [Department of Health: Assessment of termination on grounds of the sex of the foetus \(August 2015\)](#).

¹⁷ For example, see: [Department of Health: Guidance in Relation to Requirements of the Abortion Act 1967 \(May 2014\)](#), p. 10.

¹⁸ See: [BMA views: The law and ethics of abortion \(September 2020\)](#), p. 9.

¹⁹ See: [The elimination of violence against women](#), Point 7 (e).

²⁰ See: <https://gh.bmj.com/content/6/8/e005516>