

Safe Access Zones Around Abortion Clinics

Information for stakeholders

April 2016

The Andrews Labor Government has initiated legislation – the *Public Health and Wellbeing Amendment (Safe Access Zones) Act 2015* - to ensure that women and staff entering or leaving premises performing abortions, can do so safely and privately, without fear or harassment.

This information sheet has been developed to provide you with information about the new laws, that take effect from 2 May 2016.

If you have any queries about this information, please contact Ms Jennifer Hughes, Senior Policy Advisor from the Department of Health and Human Services, on (03) 9096 5073 or at: Jennifer.Hughes@dhhs.vic.gov.au

If you have any queries about the enforcement of the new laws, please contact Inspector Gerry Cartwright from Victoria Police on (03) 9247 6985 or at: gerard.cartwright@police.vic.gov.au

1. Why are safe access zone laws being introduced?

The *Public Health and Wellbeing Amendment (Safe Access Zones) Act 2015* addresses a gap in existing laws that means currently, staff and patients are not necessarily able to access legal health services in a safe and confidential manner, and free from the threat of harassment or intimidation.

2. What are the key changes provided for in the legislation?

The legislation provides for a safe access zone of 150 metres around premises providing abortions. The following types of behaviour are prohibited within a safe access zone:

- a) harassing and intimidating behaviour;
- b) communicating about abortion, in a manner that could be seen or heard by a person accessing or leaving premises providing abortions, where the communication is reasonably likely to cause distress or anxiety;
- c) impeding a footpath, road or vehicle without reasonable excuse; and
- d) intentionally recording a person accessing or leaving premises providing abortions, without consent or reasonable excuse.

Engaging in these behaviours in a safe access zone is an offence.

Publishing or distributing a recording of a person accessing or leaving premises providing abortions, without that person's consent or without a reasonable excuse, is also an offence if the recording:

- a) identifies the person; and
- b) identifies them as a person accessing a premises providing abortions.

This offence will prevent individuals or groups from seeking to shame, stigmatise, humiliate or cause distress to women, by publishing images of them accessing premises providing abortions, online.

3. Who will enforce the laws?

The safe access zone laws will be enforced by Victoria Police.

4. What service types does the legislation apply to?

The legislation provides for safe access zones at premises providing medical or surgical abortions. Pharmacies are not covered by the legislation.

5. What types of behaviour could be permitted in safe access zones in some circumstances?

The legislation has been developed around the principle that people accessing or leaving premises providing abortions should be able to do so freely, and in a manner which protects their safety and wellbeing, and respects their privacy and dignity. This context is important in considering what behaviours may be permitted within a safe access zone in certain circumstances, as outlined below:

Communicating about abortions

The legislation has been framed to prohibit communication about abortions within a safe access zone, only if that communication is:

- a) able to be seen or heard by someone entering or leaving premises providing abortions; and
- b) is reasonably likely to cause distress or anxiety. This is an objective test that would ultimately be determined by a court.

There is an exception for staff members, so it is not an offence for staff to speak to patients or each other in a safe access zone about an abortion.

Scenarios such as whether a church sermon about abortions, or a university lecture about abortions, would be prohibited within a safe access zone, have been raised with the Government in the context of the new legislation. These scenarios are unlikely to constitute prohibited behaviour, as they would not generally be targeting staff or patients accessing or leaving premises providing abortions.

Impeding a footpath, road or vehicle

Activities such as:

- a) obstructing a street to undertake road maintenance work; or
 - b) emergency services workers who obstruct a footpath or road in the course of their duties
- would constitute 'reasonable excuses' for the purposes of the legislation.

Lawful industrial action by staff outside a hospital would also constitute a 'reasonable excuse' for impeding a footpath.

Recording a person accessing a premise performing abortions

Activities such as:

- a) news organisations filming legitimate news stories outside a health service; or
 - b) a clinic undertaking a recording of its premises for security purposes
- would constitute 'reasonable excuses' for the purposes of the legislation.

Recordings made of a person accessing or leaving premises providing abortions with that person's consent are also permitted.

6. Could publication of a recording be permitted in certain circumstances?

The offence of publishing or distributing a recording of a person accessing or leaving premises providing abortions would generally not capture media publishing a legitimate news story – as they would generally have a ‘reasonable excuse’ for publishing recordings. Publication is also permitted with the consent of a person shown accessing or leaving the premises.

7. Where is the 150 metre safe access zone perimeter measured from?

The 150 metre safe access zone will be measured from the perimeter of the land where the premises providing abortions is situated. This is the case even if the health service has more than one building on the land where it is situated. For a clinic in a shopping centre or similar multi-use complex, the 150 metre safe access zone is measured from the boundary of the clinic land – rather than being measured from the perimeter of the entire complex.