

## Conscientious Objection

<b>Classification:</b>	Guideline		
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<b>Departments/Group this Document applies to:</b>	Maternity, Theatres and Gynaecology		
<b>Approval Group:</b> Guidelines review group Maternity CIG	<b>Date of Approval:</b>	04/2020	
	<b>Last Review:</b>	04/2020	
	<b>Review Date:</b>	04/2023	
<b>Unique Identifier:</b> MIDW/GL/61	<b>Status:</b> Approved	<b>Version No:</b> 6	
<b>Guideline to be followed by (target staff):</b> Obstetricians, Midwives, Maternity Care Assistants and Nursery Nurses			
<b>To be read in conjunction with the following documents:</b>			
<b>Are there any eCARE implications?</b> No			
<b>CQC Fundamental standards:</b> Regulation 9 – person centred care Regulation 10 – dignity and respect Regulation 11 – Need for consent Regulation 12 – Safe care and treatment Regulation 13 – Safeguarding service users from abuse and improper treatment Regulation 16 – Receiving and acting on complaints Regulation 17 – Good governance Regulation 18 – Staffing Regulation 19 – Fit and proper			

### Disclaimer

Since every patient's history is different, and even the most exhaustive sources of information cannot cover every possible eventuality, you should be aware that all information is provided in this document on the basis that the healthcare professionals responsible for patient care will retain full and sole responsibility for decisions relating to patient care; the document is intended to supplement, not substitute for, the expertise and judgment of physicians, pharmacists or other healthcare professionals and should not be taken as an indication of suitability of a particular treatment for a particular individual.

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<b>Index</b>	
Guideline Statement .....	3
Executive Summary .....	3
1.0 Roles and Responsibilities: .....	4
2.0 Implementation and dissemination of document .....	4
3.0 Processes and procedures .....	5
<b>3.1 Process</b> .....	5
4.0 Statement of evidence/references .....	6
Statement of evidence .....	6
References: .....	6
5.0 Governance .....	9
5.1 Document review history .....	9
5.2 Consultation History .....	10
5.3 Audit and monitoring.....	10
5.4 Equality Impact Assessment .....	10

## Guideline Statement

This Guideline aims to give guidance to nursing, maternity and obstetric staff on the latest advice from the Nursing and Midwifery Council (NMC), General Medical Council (GMC), Royal College of Nursing (RCN), Royal College of Obstetricians & Gynaecologists (RCOG), Faculty of Sexual & Reproductive Healthcare (FSRH) and British Medical Association (BMA) in relation to conscientious objection.

## Executive Summary

- Updated NMC and GMC guidance around conscientious objection for doctors, nurses and midwives
- Process and procedures to be adhered to by staff
- Roles and responsibilities of staff and employer

## 1.0 Roles and Responsibilities:

### Midwives, Nurses and Doctors

All have responsibility for ensuring they are aware of the right to conscientiously object to care for a patient and for deciding whether or not to accept employment in an area that carries out treatment or procedures they may object to.

Paragraph 4.4 of the NMC Code states that nurses, midwives and nursing associates who have a conscientious objection must tell colleagues, their manager and the person receiving care that they have a conscientious objection to a particular procedure. They must arrange for a suitably qualified colleague to take over responsibility for that person's care. This provision allows nurses, midwives and nursing associates the right to refuse to participate in technological procedures to achieve conception and pregnancy because they have a conscientious objection. This applies to healthcare professionals working in the UK.

Guidance from medical professional bodies on the issue of conscientious objection surrounding abortion indicates that the conscientious objection clause in the Abortion Act 1967 only applies to the termination procedure itself, not to caring for patients before or after a termination, or involvement in administration around terminations

RCOG have issued guidance and FAQs for medical trainees on this issue – see <https://www.rcog.org.uk/en/careers-training/resources--support-for-trainees/advice-and-support-for-trainees/advice-for-trainees-on-termination-of-pregnancy/>

The 2019 RCN guidance similarly advises that conscientious objection is “limited to the termination procedure only and not to care provided before and/or after the procedure is carried out” – see <https://www.rcn.org.uk/professional-development/publications/pub-007690>

### Line Managers

Have responsibility for ensuring that once notified of an intention to conscientiously object to provide care, that an appropriate alternative member of staff is found to provide that care.

### Clinical Director and Head of Midwifery

Have responsibility to ensure the review of any maternity, theatres and Gynaecology service provision that staff may conscientiously object to work within.

## 2.0 Implementation and dissemination of document

This Guideline is available on the Intranet and has followed the Guideline review process prior to publication

## 3.0 Processes and procedures

**By law, individuals have the right to conscientiously object to take part in two areas of care only.**

1. Section 4(1) of the Abortion Act 1967 allows individuals the right to refuse to participate in any treatment authorised by the Abortion Act to which they have a conscientious objection – such as treatment which results in the termination of a pregnancy, including feticide.

The right to conscientious objection is qualified by section 4(2) of the act where it is made clear that *“nothing in subsection (1) shall affect any duty to participate in treatment which is necessary to save a life or prevent grave permanent injury to the physical or mental health of a pregnant woman”*.

In any legal proceedings the burden of proof of conscientious objection shall rest on the person claiming to rely on it (Abortion Act 1967, Section 4(1)).

2. The right to refuse to participate in technological procedures to achieve conception and pregnancy (Human Fertilisation and Embryology Act, 1990, Section 38).

Staff should give careful consideration when deciding whether or not to accept employment in an area that carries out treatment or procedures to which they have a conscientious objection.

### 3.1 Process

- It is important that nurses and midwives declare their objections in writing to the Head of Midwifery and Gynaecological Nursing at the earliest opportunity. Doctors should put their objections in writing to the Clinical Director of the Clinical Service Unit (CSU) and Line Manager if they have not already done so.
- Midwives should also discuss their objections with their professional midwifery advocate (PMA) who can support her/him if she/he feels their right to conscientiously object is not being upheld.
- Doctors, nurses and midwives who conscientiously object under the above two Acts are reminded that they are accountable for their decision and could be called upon to justify their objections within the law (Abortion Act 1967, Section 4(1); Human Fertilisation and Embryology Act 1990, Section 38(2)).
- The NMC and GMC expect all healthcare professionals to be non-judgemental when providing care and for nurses, midwives and doctors to continue to provide women with full, unbiased information related to their care (NMC, 2018, Section 5 and Section 20; GMC, 2019, Section 12).
- Staff are expected to facilitate patient access to relevant healthcare services, including where termination of pregnancy may result, regardless of whether they have a conscientious objection.

- All staff are required to provide emergency care in all circumstances. Refusal to acknowledge professional responsibility and duty of care is in breach of their codes of practice and ethics (NMC, 2018, Section 15; GMC, 2019, Section 13).
- If staff are asked to care for a patient to which they conscientiously object, then they must make the shift lead aware at the earliest opportunity so that other arrangements can be made to provide care for that patient.
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## 4.0 Statement of evidence/references

### Statement of evidence:

### References:

NMC (2015) *Conscientious Objection by Nurses and Midwives*. Available from: <https://www.nmc.org.uk/standards/code/conscientious-objection-by-nurses-and-midwives/> [accessed on 7.4.17]

GMC (2017) *Conscientious Objection*. Available from: [http://www.gmc-uk.org/guidance/ethical\\_guidance/21177.asp](http://www.gmc-uk.org/guidance/ethical_guidance/21177.asp) [accessed on 7.4.17]

This GMC guidance was updated in November 2019 following the change in law on abortion on Northern Ireland.

### External weblink references:

Please note that although Milton Keynes University Hospital NHS Foundation Trust may include links to external websites, the Trust is not responsible for the accuracy or content therein.

*Abortion Act 1967 (c.87)*. [Online]. Available from: <http://www.legislation.gov.uk/ukpga/1967/87> [Accessed 13 February 2020]

British Medical Association (2018) Expression of doctors' beliefs. *British Medical Association* [Online]. <https://www.bma.org.uk/advice/employment/ethics/expressions-of-doctors-beliefs> [Accessed 13 February 2020]

Faculty of Sexual & Reproductive Healthcare (2017) *Guidance for those undertaking or recertifying FSRH qualifications whose personal beliefs conflict with the provision of abortion or any method of contraception*. [Online]. Available from: <https://www.fsrh.org/documents/guidance-for-those-undertaking-or-recertifying-fsrh/> [Accessed 13 February 2020]

General Medical Council (2019) *Ethical guidance for doctors: personal beliefs and medical practice*. [Online]. Available from: <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/personal-beliefs-and-medical-practice> [Accessed 13 February 2020]

*Human Fertilisation and Embryology Act 1990 (c.37)*. [Online]. Available from: <http://www.legislation.gov.uk/ukpga/1990/37> [Accessed 13 February 2020]

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Human Fertilisation & Embryology Authority (2019) *Code of Practice*. 9<sup>th</sup> ed. [Online]. Available from: <https://portal.hfea.gov.uk/media/1527/2019-12-16-code-of-practice-9th-edition-december-2019.pdf> [Accessed 13 February 2020]

National Institute for Health and Care Excellence (2019) *Abortion care*. NICE guideline [NG140]. [Online]. Available from: <https://www.nice.org.uk/guidance/NG140> [Accessed 13 February 2020]

Nursing and Midwifery Council (2019) Conscientious objection by nurses, midwives and nursing associates. *Nursing and Midwifery Council* [Online].  
<https://www.nmc.org.uk/standards/code/conscientious-objection-by-nurses-and-midwives/>  
[Accessed 13 February 2020]

Nursing and Midwifery Council (2018) *The Code: professional standards of practice and behaviour for nurses, midwives and nursing associates*. [Online]. Available from:  
<https://www.nmc.org.uk/standards/code/> [Accessed 13 February 2020]

Royal College of Midwives (2016) *Position statement: abortion*. [Online]. Available from:  
<https://www.rcm.org.uk/media/2296/abortion-statement.pdf> [Accessed 13 February 2020]

Royal College of Nursing (2019) *RCN guidance conscientious objection (termination of pregnancy) (2019) position statement*. [Online]. Available from: <https://www.rcn.org.uk/professional-development/publications/pub-007690> [Accessed 13 February 2020]

Royal College of Nursing (2017) *Termination of pregnancy: an RCN nursing framework*. [Online]. Available from: <https://www.rcn.org.uk/professional-development/publications/pub-005957> [Accessed 13 February 2020]

Royal College of Obstetricians & Gynaecologists (2020) Advice for trainees on termination of pregnancy. *Royal College of Obstetricians & Gynaecologists* [Online].  
<https://www.rcog.org.uk/en/careers-training/resources--support-for-trainees/advice-and-support-for-trainees/advice-for-trainees-on-termination-of-pregnancy/> [Accessed 13 February 2020]

Royal College of Obstetricians & Gynaecologists (2011) *The care of women requesting induced abortion. Evidence-based Clinical Guideline No. 7*. [Online]. Available from:  
<https://www.rcog.org.uk/en/guidelines-research-services/guidelines/the-care-of-women-requesting-induced-abortion/> [Accessed 13 February 2020]

## Suggested references:

Greater Glasgow Health Board (Appellant) v Doogan and another (Respondents) (Scotland) [2014] UKSC 68. [Online]. Available from: <https://www.supremecourt.uk/cases/uksc-2013-0124.html> [Accessed 13 February 2020]

*This case concerned the scope of the definition of participation in treatment under Section 4 of the Abortion Act 1967.*

*The following article discusses the case:*

Fleming, V., et al. (2019) Tensions Between Ethics and the Law: Examination of a Legal Case by Two Midwives Invoking a Conscientious Objection to Abortion in Scotland. *HEC Forum*. Published online 4 July 2019. Available from: <https://link.springer.com/article/10.1007%2Fs10730-019-09378-4> [Accessed 13 February 2020]





## 5.0 Governance

### 5.1 Document review history

Version number:6		Date: 18/02/2020		
Section Number	Amendment	Deletion	Addition	Reason
Guideline statement	Added reference	None	Added reference of RCN, RCOG, SFRH and BMA	Guidance found
3.0 1.	Paragraph amended to better reflect the content of section 4(1)	The right to refuse to participate in the process of treatment where termination of the pregnancy is the object, including fetocide (Abortion Act Article 4(1) 1967.	Section 4(1) of the Abortion Act 1967 allows individuals the right to refuse to participate in any treatment authorised by the Abortion Act to which they have a conscientious objection – such as treatment which results in the termination of a pregnancy, including fetocide.	Better reflection of guidance
3.0 2.	Wrong citation	The right to refuse to participate in technological procedures to achieve conception and pregnancy (Human Fertilisation and Embryology Act 2008 Article 32(2))	The right to refuse to participate in technological procedures to achieve conception and pregnancy (Human Fertilisation and Embryology Act, 1990, Section 38).	Wrong citation
3.1	Missing citation	None	(Abortion Act 1967, Section 4(1); Human Fertilisation and Embryology Act 1990, Section 38(2)).	Missing citation
3.1	Missing citation	None	(NMC, 2018, Section 5 and Section 20; GMC, 2019, Section 12).	Missing citation
3.1	Amended citation	All staff are required to	All staff are required to provide	Amended citation

		provide emergency care in all circumstances. Refusal to acknowledge professional responsibility and duty of care is a breach of their codes or practice and ethics (NMC 2015 GMC 2014)	emergency care in all circumstances. Refusal to acknowledge professional responsibility and duty of care is in breach of their codes of practice and ethics (NMC, 2018, Section 15; GMC, 2019, Section 13).	
4.0	Updated statement of evidence and reference list			

## 5.2 Consultation History

Stakeholders Name/Board	Area of Expertise	Date Sent	Date Received	Comments	Endorsed Yes/No
Julie Cooper	Head of Midwifery	28/02/2020	29/02/2020	Incorporated	Yes
Mary Plummer	Matron	28/02/2020	13/03/2020	Incorporated	Yes

## 5.3 Audit and monitoring

This Guideline outlines the process for document development will be monitored on an ongoing basis. The centralisation of the process for development of documents will enable the Trust to audit more effectively. The centralisation in recording documents onto a Quality Management database will ensure the process is robust.

Audit/Monitoring Criteria	Tool	Audit Lead	Frequency of Audit	Responsible Committee/Board
Numbers of midwives and doctors declaring their conscientious objection.	Letters to Head of Midwifery Letters from doctors to CSU Leads	Head of Midwifery/ CSU Lead	Three yearly	CIG

## 5.4 Equality Impact Assessment

As part of its development, this Guideline and its impact on equality has been reviewed. The purpose of the assessment is to minimise and if possible remove any disproportionate impact on the grounds of race, gender, disability, age, sexual orientation, religion or belief, pregnancy and maternity, gender reassignment or marriage and civil partnership. No detriment was identified. Equality Impact assessments will show any future actions required to overcome any identified barriers or discriminatory practice.

Equality Impact Assessment			
Division	Women's and Children's	Department	Maternity
Person completing the EqIA		Contact No.	
Others involved:		Date of assessment:	04/2020
Existing policy/service	Yes	New policy/service	No
Will patients, carers, the public or staff be affected by the policy/service?			
		Yes	
If staff, how many/which groups will be affected?			
		All staff in maternity and Gynaecology	
Protected characteristic	Any impact?	Comments	
Age	NO	Positive impact as the policy aims to recognise diversity, promote inclusion and fair treatment for patients and staff	
Disability	NO		
Gender reassignment	NO		
Marriage and civil partnership	NO		
Pregnancy and maternity	NO		
Race	NO		
Religion or belief	NO		
Sex	NO		
Sexual orientation	NO		
What consultation method(s) have you carried out?			
<i>Via email and discussion at guideline review group</i>			
How are the changes/amendments to the policies/services communicated?			
<i>Via email and discussion at the guideline review group</i>			
What future actions need to be taken to overcome any barriers or discrimination?			
What?	Who will lead this?	Date of completion	Resources needed
Review date of EqIA			