Government of **Western Australia**
Department of **Health**

Abortion Legislation Reform: Community Consultation Summary Report

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This paper was prepared by:

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1. Background

1.1 Western Australian abortion legislation and purpose of reform

In 1998, Western Australia (WA) became the first state in Australia to decriminalise abortion. Currently, abortion is lawful in WA, as long as it is performed by a medical practitioner in good faith and with reasonable care and skill, and the performance of the abortion is justified under the *Health (Miscellaneous Provisions) Act 1911*. However, medical care around abortion services has advanced since 1998 and the legislation is now outdated and, in some circumstances, poses unnecessary barriers to the access to and provision of this healthcare service.

The purpose of reform is to contemporise the legislative framework by:

- removing unnecessary barriers to accessing abortion care; and
- aligning with laws in other Australian jurisdictions when suitable for the WA context.

1.2 Community consultation process

A discussion paper was produced, which provided a background on abortion legislation in WA and an overview of key issues and differences between jurisdictions. The paper and an online version of the questionnaire was placed on the Department of Health Consultation Hub. Options for amending the current legislative framework were proposed for 6 key issues and respondents had the opportunity to choose one of 3 options for each key issue:

1. **no change** – description of status quo
2. **proposed change** – description of proposal
3. **other** – unsure or no preference.

Respondents were given an opportunity to provide written feedback outlining the reasoning for their choice. Submissions were accepted via the online survey, email and mail. Identified key stakeholders received a written invitation to participate in the consultation.

Consultation focussed on areas of proposed change, rather than collecting general views on abortion care.

2. Community consultation respondent summary[1]

Demographic information

A total of
17,514
responses were received

Gender

Female	Male	Other
14,188	**2,731**	**241**
81.0%	15.6%	1.4%

Place of residence

WA residents	Metropolitan Perth	Regional/remote WA
16,026	**13,133**	**2,257**
91.5% of respondents	75% of respondents	12.9% of respondents

Respondents by age

Age	Number	Percentage
17-years or younger	143	0.8%
18-24 years	2,355	13.4%
25-34 years	6,374	36.4%
35-44 years	3,878	22.1%
45-54 years	1,931	11.0%
55-64 years	1,346	7.7%
65-74 years	925	5.3%
75 years or more	339	1.9%
Prefer not to disclose	145	0.8%
Missing data	78	0.4%

Respondent experience of abortion services

Patient or support person
3,241
18.5%

Abortion service provider
276
1.6%

1 Percentages may not sum to 100 per cent because some respondents elected not to answer all questions, or all parts of each question; and/or due to rounding errors.

3. Findings

3.1 Informed consent and mandatory counselling

Under current legislation, abortion care can only be accessed if the pregnant person has been provided counselling about the medical risk of termination of pregnancy and of carrying the pregnancy to term, by a medical practitioner other than the one performing the procedure.

The survey asked respondents to choose one the following:

- **Option 1:** no change. Retain the existing provisions requiring mandatory counselling in order to obtain informed consent for abortion.
- **Option 2:** remove existing legislated provisions requiring mandatory counselling in order to obtain informed consent.
- **Option 3:** no preference or unsure.

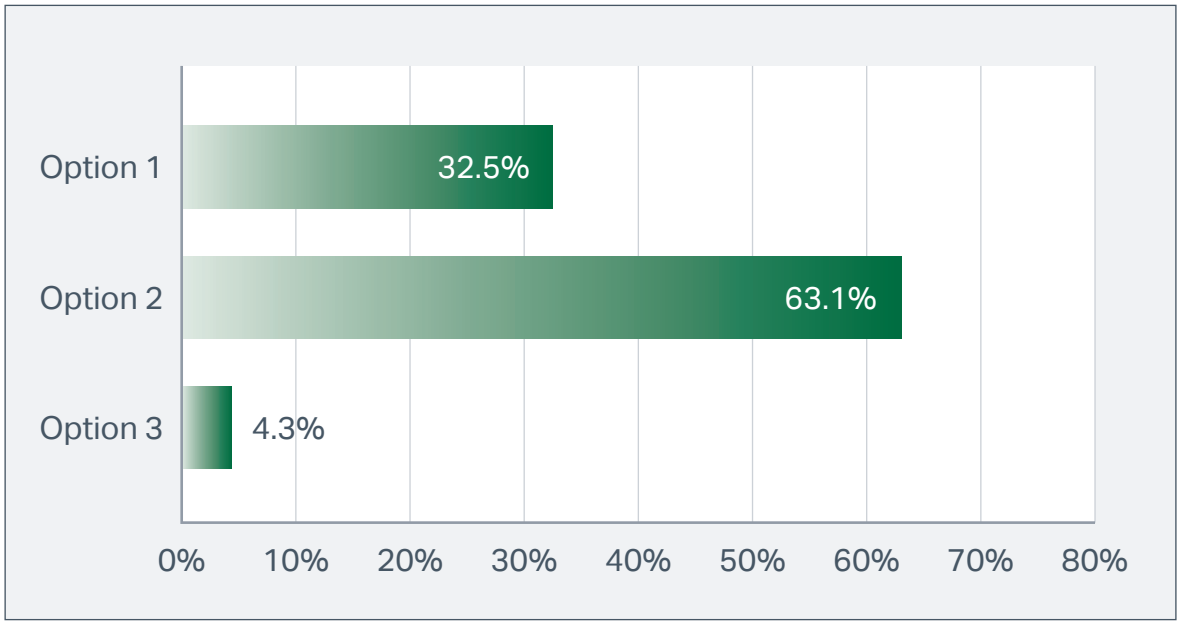

Figure 1: percentage of respondents supporting each option in relation to informed consent and mandatory counselling requirements.

Consolidated feedback

There was strong support from both professional health organisations and the community that existing legislated provisions requiring mandatory counselling to obtain informed consent should be removed. Medical practitioners should obtain informed consent in line with existing standards of care.

3.2 Requirement to consult 2 medical practitioners

Current legislation requires that informed consent be obtained from the patient by 2 medical practitioners prior to the abortion being performed.

The survey asked respondents to choose one the following:

- **Option 1:** no change. Retain the existing provisions requiring 2 medical practitioners to be involved before a person can have an abortion.
- **Option 2:** amend provisions to allow only one health practitioner to be involved (excludes late abortions).
- **Option 3:** no preference or unsure.

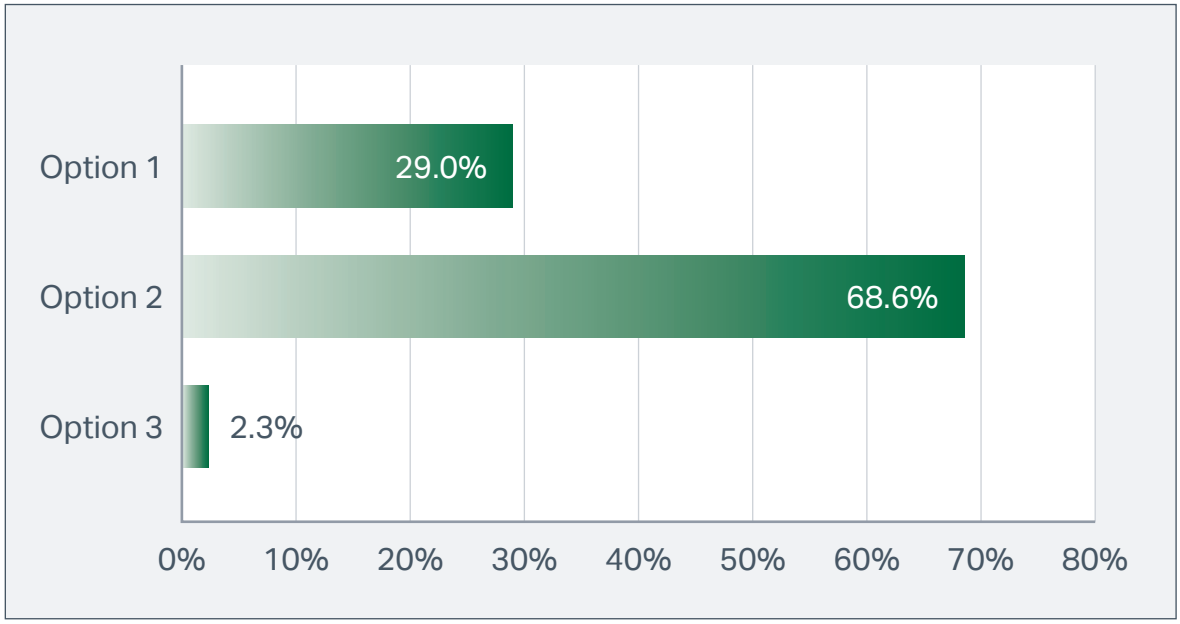

Figure 2: Percentage of respondents supporting each option in relation to the requirement to consult 2 medical practitioners prior to accessing abortion.

Consolidated feedback

The proposal to amend the legislation to allow one health practitioner to be involved in abortion (excluding late abortions) was strongly supported by both professional health organisations and the broader community.

3.3 Conscientious objection

Current legislation provides that no person, hospital, health institution, other institution or service is under a duty to participate in the performance of any abortion. There is no requirement on the person or service to disclose such objections.

The survey asked respondents to choose one the following:

- **Option 1:** retain current provisions allowing conscientious objection to providing abortion care, without any requirement to refer the patient to a practitioner who is willing and able to provide abortion care.
- **Option 2:** provide updated provisions to allow health practitioners to conscientiously object with clear and unambiguous directions to refer the patient to another health practitioner who is willing and able to provide abortion care.
- **Option 3:** no preference or unsure.

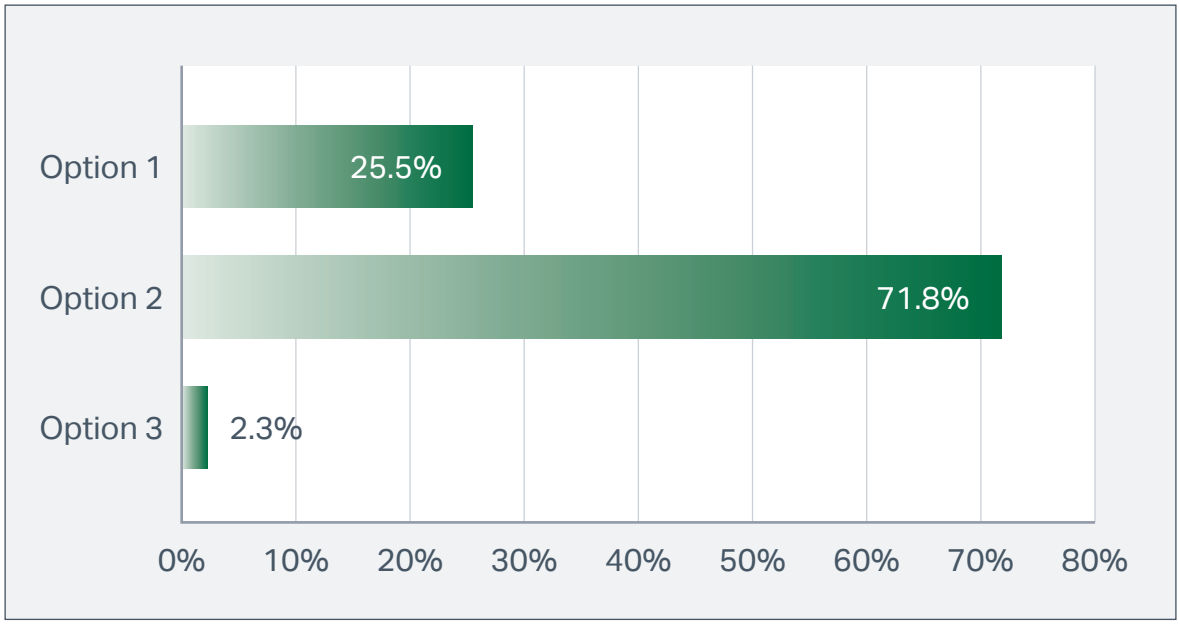

Figure 3: Percentage of respondents supporting each option in relation to conscientious objection.

Consolidated feedback

There was strong support that legislation should be updated to allow for conscientious objection with clear and unambiguous directions to refer the patient to another health practitioner who is willing and able to provide abortion care.

3.4 Gestational limit for abortion without additional requirements

Under current WA legislation, abortions after 20 weeks gestation require approval from 2 doctors who are members of a Ministerial Panel prior to the pregnant person accessing abortion care. Raising the gestational age at which additional requirements apply will more closely align WA with other Australian jurisdictions and reduce the need for residents to travel interstate to access abortion care.

The survey asked respondents to choose one the following:

- **Option 1:** no change. Retain additional requirements from 20 weeks gestation.
- **Option 2:** increase the gestational age at which additional requirements will apply from 20 weeks to 24 weeks gestation.
- **Option 3:** no preference or unsure.

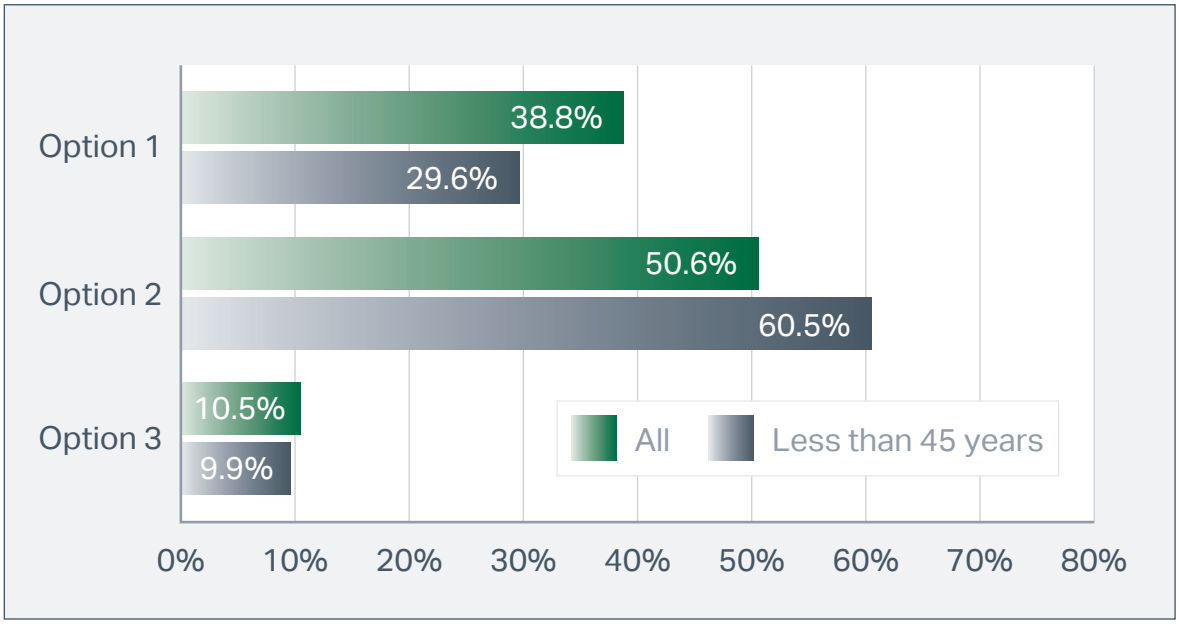

Figure 4: Percentage of respondents supporting each option in relation to gestational limits for abortion without additional requirements.

The majority of responses were in favour of option 2. Further subgroup analysis, by age, was undertaken to provide greater understanding of the community's preferences. Responses were divided into 2 groups: less than 45 years (reproductive age) and 45 years or older. Figure 4 illustrates the results for all respondents, and respondents aged less than 45 years.

Consolidated Feedback

There was both community and health professional support for increasing the gestational age at which additional requirements for abortion would apply, with community support to move from 20 weeks to 24 weeks gestation. Health professionals provided a range of preferred gestational limits. It should be noted, all practitioners will continue to be guided by professional standards, guidelines and their clinical decision making, in addition to legislation and regulation.

3.5 Ministerial panel approval for late abortion

Under the current legislation, abortions after 20 weeks gestational age are only authorised when 2 medical practitioners, who are members of a statutory panel of at least 6 medical practitioners appointed by the Minister for Health, agree that either the pregnant person or the unborn baby has a severe medical condition that, in their clinical opinion, warrants the procedure.

The survey asked respondents to choose one the following:

- **Option 1:** no change. Retain the requirement for members of a Ministerial Panel to approve abortions beyond the gestational age limit (i.e. late abortions).
- **Option 2:** remove the requirement for members of a Ministerial Panel to approve abortions beyond the gestational age limit (i.e. late abortions) but require an additional medical practitioner to be consulted.
- **Option 3:** no preference or unsure.

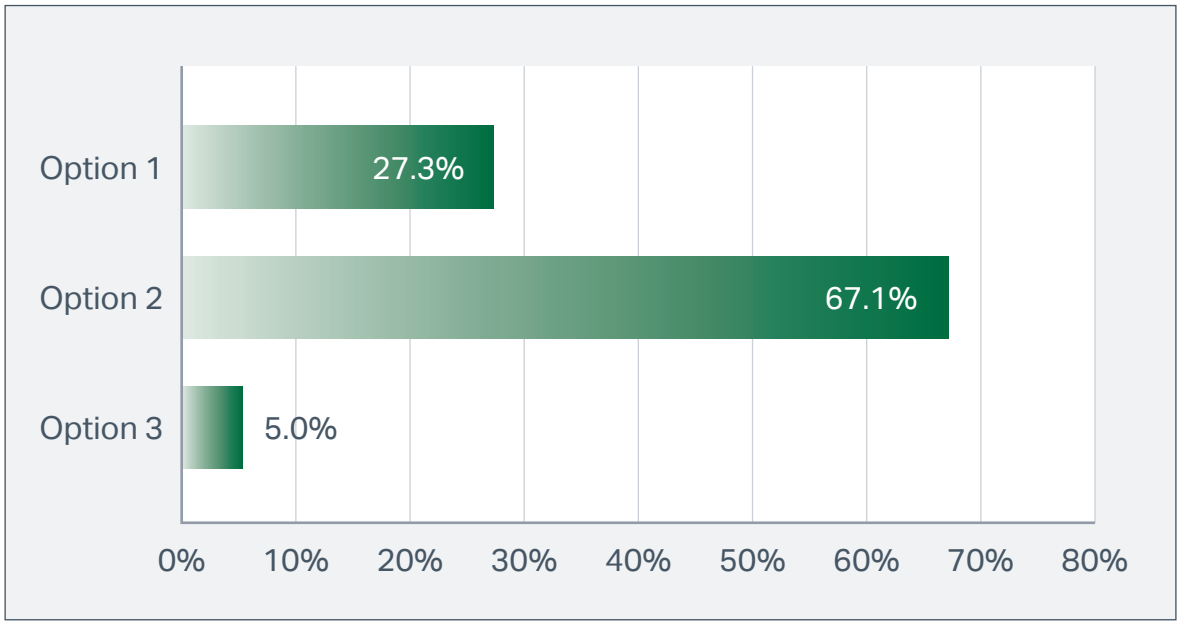

Figure 5: Percentage of respondents supporting each option in relation to Ministerial Panel approval for late abortion.

Consolidated feedback

There was both community and key health stakeholder support to remove the Ministerial Panel approval process for late abortions and to replace that process with a requirement for 2 medical practitioners to agree that a late abortion is warranted on medical grounds.

3.6 Ministerial approval for health services to perform late abortion

In WA, late abortions can only be performed at health services approved by the Minister for Health for that purpose. Currently, there are only 2 facilities approved for this purpose in WA.

The survey asked respondents to choose one the following:

- **Option 1:** no change. Retain the requirement for Ministerial approval for a health service to perform late abortions.
- **Option 2:** remove the requirement for Ministerial approval for a health service to perform late abortions.
- **Option 3:** no preference or unsure.

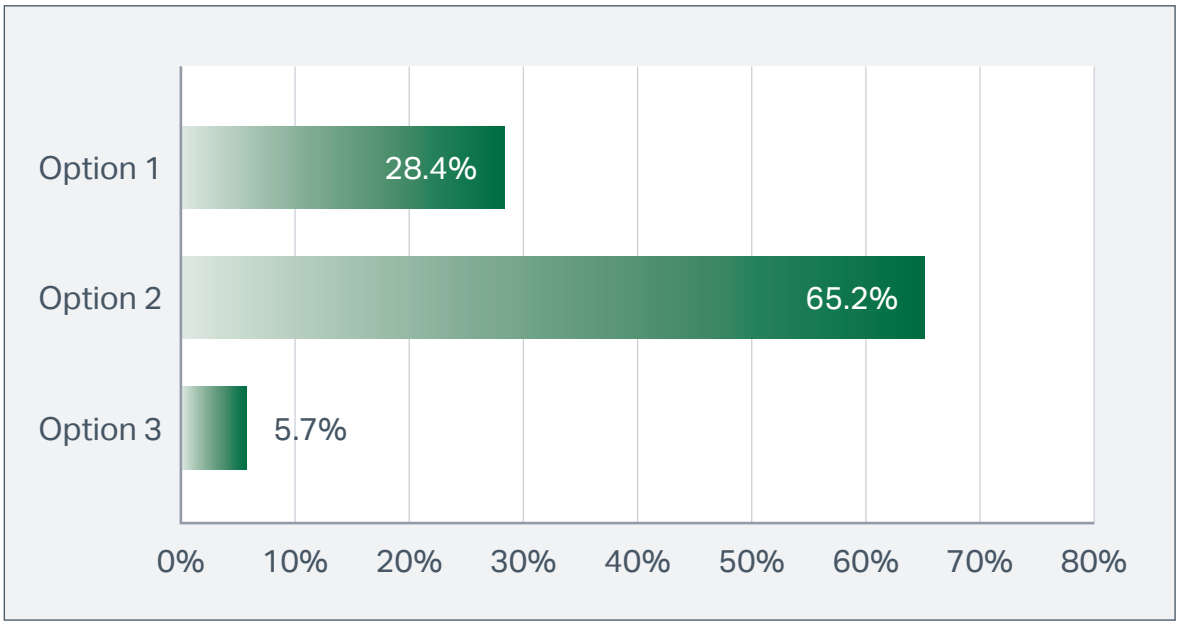

Figure 6: Percentage of respondents supporting each option in relation to Ministerial Panel approval for late abortion.

Consolidated feedback

There was strong support by all stakeholders to remove the requirement for Ministerial approval for a health service to perform late abortions.

4. Conclusion

Within the Discussion Paper and Consultation Questions, 6 key issues were raised, with proposals that would require changes to existing abortion legislation. Both the community respondents and key stakeholder respondents indicated the majority endorsed the proposed changes and reform of these areas of the abortion legislation.

This document can be made available in alternative formats.

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