

SHOULD ABORTION BE DECRIMINALISED?

A briefing on the case of Carla Foster, who was sentenced to 28 months imprisonment for taking abortion pills which ended the life of her daughter Lily at 32 weeks gestation.

On 12 June 2023, the Crown Court at Stoke on Trent sentenced Carla Foster, a 44 year old mother of three, to 28 months imprisonment for the “offence of administering poison with intent to procure a miscarriage.”

Abortion providers and MPs are already using this sad case to call for the complete decriminalisation of abortion. Abortion provider BPAS launched a campaign website, with a mechanism to contact MPs calling for decriminalisation, within minutes of the sentence being announced.

This is a tragic situation for all involved, but it is important that the full facts are known, and that this case is not used to push an extreme abortion agenda. Key facts include:

- Baby Lily (as she is named in the court documents) was found to be 32-34 weeks' gestation when she was born dead. This is ten weeks past the legal limit of 24 weeks for abortion, and over twenty weeks past the limit of ten weeks for ordering abortion pills under the pills-by-post scheme. We are talking here about the tragic death of a fully viable baby of eight months.
- Contrary to some media reports, the judge found that Ms Foster was fully aware of how advanced the pregnancy was. In his sentencing remarks, The Hon. Mr Justice Pepperall said: “You were in fact 32-34 weeks pregnant and well beyond the point at which you could lawfully obtain an abortion. Messages found on your phone indicate that you had known of your pregnancy for about three months on 1 February 2020. By mid February, you were conducting internet searches on ways to induce a miscarriage. By the end of February, you were searching for abortion services. Your search on 25 February indicated that you then believed that you were 23 weeks pregnant... On 24 April, you searched “I need to have an abortion but I'm past 24 weeks.”¹
- Mr Pepperall also concluded that Ms Foster “deliberately lied in order to bring yourself within the telemedical service for early medical abortions”. “On 6 May, you consulted the telemedical service provided by the British Pregnancy Advisory Service. You gave false answers that would have indicated that your pregnancy was 7 weeks and 4 days in length. Abortifacient drugs were then posted out to you.” He concluded that her culpability was high.

It is clear that Ms Foster is filled with remorse, and is now relying on mental health services. The judge said “I accept that you had a very deep emotional attachment to your unborn child, and that you are plagued by nightmares and flashbacks to seeing your dead child's face”. It is not clear that Ms Foster backs the campaign being made in her name to decriminalise abortion.

PILLS BY POST POLICY

The tragedy of this death should shame abortion providers like BPAS who campaigned for women to be sent abortion pills in the post without being seen by a medical professional. They enthusiastically back the “DIY Abortion” policy which recklessly permits the distribution of deadly abortion drugs to be sent in the post. The death of a baby of 8 months exposes the complete inadequacy of the safeguards for this regime of abortion. BPAS did not require an ultrasound or any physical examination to take place to ensure the woman's wellbeing and stage of pregnancy, and left her to self-administer these drugs alone, with no medical supervision or support.

INAPPROPRIATE LOBBYING BY CAMPAIGN GROUPS

Several organisations, including the Royal College of Obstetricians and Gynaecologists, and the Royal College of Midwives, were found to have lobbied the judge not to impose a custodial sentence. The judge slammed the letter as “inappropriate”, saying “it would be better if it had not been written at all”. He said it also “has the capacity to be seen as special pleading by those who favour wider access to abortions and is, in my judgment, just as inappropriate as it would be for a judge to receive a letter from one of the groups campaigning for more restrictive laws”.

DECRIMINALISATION IS NOT THE ANSWER

This case should not be used to remove abortion from the criminal law. The reasons for this include:

- Decriminalisation will not help vulnerable women. The vast majority of those sentenced under abortion laws are men who have caused an abortion, either by brute force or by secretly administering abortion drugs.
- Vulnerable and potentially coerced women are more likely to have such particularly distressing late abortions. Research shows that many women have abortions they do not want under pressure from people or circumstances. ‘Pills by post’ only makes this more likely, since coercive partners or family members may be in the room when the pills are requested and when they are taken.
- Laws against these dangerous and shocking abortions, where the baby is old enough to survive with a normal hospital delivery, help stop them taking place.

POSSIBLE PARLIAMENTARY QUESTIONS

Here are some questions you might want to ask ministers:

- To ask the Secretary of State, considering the tragic case of a woman sentenced after taking abortion drugs at 34 weeks, if he will review safeguards in the pills by post scheme, to ensure that such a case doesn’t occur again, and if he will make a statement.
- To ask the Secretary of State, considering the tragic case of a woman sentenced after taking abortion drugs at 34 weeks which she was sent in the post, if he will conduct an urgent inquiry into the operation of the pills by post abortion policy.
- To ask the Secretary of the State if there are any plans to remove rights from unborn children aged 24 weeks or more, by decriminalising abortion.

Baby Lily’s death, and the agony it has caused her mother, happened in large part because of an unsafe home abortion policy, which was enthusiastically promoted by abortion providers. These same campaigners must not be allowed to cover up this tragedy by calling for abortion to be entirely removed from the oversight of the law.

If you need any more information, or help responding to this case, please contact Alithea Williams, SPUC’s Public Policy Manager, on alitheawilliams@spuc.org.uk, or 0207 820 3121.

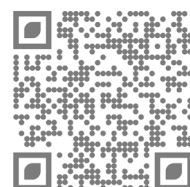
1. <https://www.judiciary.uk/wp-content/uploads/2023/06/R-v.-Foster-sentencing-remarks-12.6.23.pdf>



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