

# Clause 208 and investigations of women for stillbirth and miscarriage

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There has been much debate surrounding the clause in the Crime and Policing Bill to decriminalise abortion (191 at Committee stage, now 208 at Report) and investigations following a stillbirth or miscarriage, where it is suspected that the pregnant woman may have taken abortion pills.

Clause 208 to the Crime and Policing Bill reads:

## **Removal of women from the criminal law related to abortion**

For the purposes of the law related to abortion, including sections 58 and 59 of the Offences Against the Person Act 1861 and the Infant Life (Preservation) Act 1929, no offence is committed by a woman acting in relation to her own pregnancy.

## **The Numbers**

During the debate in the House of Lords on 2 February 2026, many peers were concerned with the suggestion that under the current law, women are at risk of being cruelly and unmeritoriously investigated following a stillbirth or miscarriage, subjecting them to further trauma. It was also stated during the debate that, since 2020, the number of women being so investigated has seen a significant increase. Per Baroness Thornton:

*“Since 2020, around 100 women have faced police investigations. Six have gone to court; one has been sent to prison.”*

Do these numbers suggest a significant risk to women? According to Tommy's, the UK's leading baby loss charity:<sup>1</sup>

- More than 2,000 stillbirths take place each year in England and Wales.
- More than 100,000 miscarriages are estimated to take place in England and Wales each year.

That means that since 2020, an estimated 12,000 stillbirths and 600,000 miscarriages have taken place. Therefore:

- The 100 women who have been investigated represent .01% of women who have had stillbirths or miscarriages in England and Wales in the same time frame.
- The 6 women who have been to court represent less than .001% of women who have had stillbirths or miscarriages in England and Wales in the same time frame.
- The 1 woman who has been sent to prison represents .000002% of women who have stillbirths or miscarriages in England and Wales in the same time frame.



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And these numbers only include stillbirth and miscarriage – not those who have had abortions, which would number well over one million in that same time frame.

The risk to women who suffer baby loss of being subjected without merit to investigation because abortion remains in the criminal law is, per the statistics, vanishingly small.

While anyone being subjected to an investigation unnecessarily is a tragedy, it is an unfortunate risk of our criminal justice system that is impossible to mitigate entirely. Where cases are being investigated, it will be because something has alerted healthcare staff to potential wrongdoing or safety concerns. If there are criticisms about how the police are handling investigations, that is a matter for the police to address, rather than a matter for the criminal law itself. The criminal justice system is built in such a way that extenuating circumstances, such as the vulnerability of the woman involved, can and will be considered at the point of sentencing.

## What do the Police say?

Speaking to *The Times*, a spokesperson for the National Police Chiefs' Council (NPCC) said that "unexpected pregnancy loss" is not "routinely" investigated as "potential illegal abortion." They continued:

*An investigation would only be initiated where there is credible information to suggest criminal activity, and this would often be as a result of concerns raised from medical professionals. It would be at the discretion of the senior investigating officer leading the case to determine which reasonable lines of inquiry to follow, which may include toxicology or digital data."*<sup>2</sup>

The Lord Hogan-Howe is a former police officer and served as Commissioner of London's Metropolitan Police. He made the following contribution to the debate on 2 February 2026:

*"One of the things that we could have been confused about in hearing the debate today is that the police are investigating every stillbirth and every miscarriage, which is not the case. If the death takes place or the child's life is lost in a medical setting, usually the police are never involved. The time when the police become involved is either when there is a medical referral because there is a concern by medics or, alternatively, when there is an emergency at home or somewhere else.*

*... At the beginning, the officers do not know whether they are dealing with a baby, a late-term foetus or a child who might have taken a breath or not; they have a very confused situation, and they cannot just walk away from it."*

## Why the Increase?

Despite the low number of investigations overall, when compared to the number of abortions, stillbirths, and miscarriages, the number has increased since 2020. Why is this the case?

Pills-by-post, or telemedicine, abortion has been commonplace since being introduced as an emergency measure in 2020 and subsequently made permanent policy in 2022. More than half of abortions in the UK are now taking place in the pregnant woman's home, using abortion drugs that she self-administers. This causes significant problems with regulating medical abortion. Since there is no requirement to date the pregnancy with an ultrasound scan ahead of providing the abortion drugs, this policy has led to an increased number of women having medical abortions past the 10-week limit for this policy and even the 24-week legal limit for abortion.

This was evident in the case of Carla Foster who had an abortion between 32 and 34 weeks pregnant (that is, nearly full term) after misleading an abortion provider as to the gestational stage of her pregnancy.<sup>3</sup>

## Case Study

One case was raised a number of times in the course of the debate in the House of Lords on 2 February 2026. It involved a woman who went into pre-term labour at home and delivered a living child. She phoned the emergency services for help, but the police arrived and she was subject to a year-long investigation. At the end of the investigation, it was determined that she had not attempted an illegal abortion.

What was not mentioned in relation to this case was that the woman in question had considered abortion and researched abortion pills online during her pregnancy but was informed that she was over the gestational time limit. Therefore, one can understand why in those circumstances, the situation was deemed worthy of investigation.<sup>4</sup>

## Further Cases

In the Commons debate on 28 November 2023, Stella Creasy MP stated, "Indeed, we are increasingly seeing... any woman who has had a miscarriage or stillbirth being at risk of being dragged into a criminal investigation."

We have already seen that this is not supported by the statistics. To back up these claims, Ms Creasy referred to the cases of two "young teenagers". The young woman referred to as 'Megan' in the debate was 15 years old at the time of her stillbirth, which occurred at 28-weeks' gestation. The hospital staff contacted the police because they had reason to believe she had obtained abortion drugs online. They were aware that she had previously contacted the abortion provider BPAS, but no abortion was performed because she was past the 24-week legal limit. This information meant there was sufficient concern to warrant an investigation. A post-mortem found that her baby had died of natural causes and the case was dropped.

In the other case, "another young teenager, unaware she was pregnant, delivered a stillborn child." Domestic violence and abuse are often screened for and identified at pre-natal appointments. The fact that this young woman only discovered she was pregnant while miscarrying would have raised concerns for healthcare staff regarding her safety and wellbeing, including by whom she became pregnant under the legal age of consent. It is appropriate for the police to investigate situations like these.

## Who is the Subject of the Investigation?

Just because there is an investigation following a miscarriage or stillbirth does not mean that the woman herself is the subject of that investigation. The police may be investigating wrongdoing against the woman, perhaps by a partner or family member. In cases like this, one could imagine it is important to obtain a woman's medical records to prove that she did not request the abortion drugs herself. If clause 208 were to become law, and no investigations were to ever take place, it is difficult to see how forced abortions could be identified.

This is not an abstract risk; people have already taken advantage of the pills-by-post scheme to obtain abortion drugs with the intent of giving them to a pregnant woman without her consent.

In 2020, Georgia Day was having an affair with a man who was expecting a child by another woman, his long-term partner. This man tried to pressure his partner into having an abortion and even offered money to his female friends to try and obtain abortion pills. Georgia agreed to do it for free, and lied to doctors over the phone, saying she was pregnant. She was sent the pills in the post.<sup>5</sup>

The plan was to drug the pregnant woman with the abortion pills without her knowledge or consent. Thankfully, the pregnant woman discovered the pills under her bed before the plan could be actioned. Day pleaded guilty to conspiring to procure the physical means to procure a miscarriage. The baby's father was acquitted after a trial.

In August 2022, Stuart Worby used abortion pills to poison his pregnant girlfriend, causing her to have a miscarriage at 15-weeks' gestation.

Worby conspired with his friend and his friend's partner to obtain the drugs. The friend's partner, who was not pregnant herself, received the abortion pills following a telemedicine consultation.

Worby then administered the drugs to his pregnant girlfriend – the first, mifepristone, he put in her orange juice; the second, misoprostol, he administered by means of a surreptitious assault. This caused her to miscarry.

Worby was sentenced to 12 years in prison.<sup>6</sup>

## Conclusion

It is good and right that legislators are concerned about the risk of women being unnecessarily subjected to investigation during an already traumatic experience of baby loss. However, the numbers show that the risk is negligible, and impossible to mitigate entirely within our justice system – as it would be for any other suspicious death. Where circumstances are suspicious, and healthcare professionals have raised concerns or an emergency has taken place, the police must do their due diligence. Concerns for the innocent in these circumstances, who would be proven so in the course of an investigation, cannot justify a change in the criminal law. Particularly, in relation to abortion, where a lack of investigation may mean that those responsible for coerced abortion are never identified. Keeping abortion within the criminal law ensures that investigations are carried out where necessary to protect women and their unborn babies, who could be viable out of the womb at 24 weeks gestation, and upholds justice.

1. <https://www.tommys.org/baby-loss-support/pregnancy-loss-statistics>
2. <https://www.thetimes.com/uk/healthcare/article/100-women-and-girls-investigated-over-illegal-abortion-h6njmgwnf?msocid=201912f-97970633037c30131788b62b9>
3. <https://www.bbc.co.uk/news/uk-england-65581850>
4. <https://www.independent.co.uk/news/health/abortion-bill-vote-decriminalise-bpas-law-uk-b2771407.html>
5. <https://www.mirror.co.uk/news/uk-news/woman-21-asked-doctors-abortion-26963161>
6. <https://www.bbc.co.uk/news/articles/cje0p1dlzleo>



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