

## Foetal Sentience Committee Bill

### Background

Lord Moylan's private members' bill is set for second reading in the House of Lords on Friday 22 March 2024. The [Foetal Sentience Committee Bill](#) proposes that the government set up a Foetal Sentience Committee to review current understanding of the sentience of the human foetus, to publish reports on the subject and to advise the government on the formulation of relevant policy and legislation.

### NHS administration of foetal painkiller for abortion is inconsistent

Last year a [Freedom of Information \(FOI\) investigation](#) found that 76% of the NHS Trusts which perform feticides administer or are willing to administer foetal painkiller or sedative. 49% of Trusts offer this as part of the procedure, and 26% only offer foetal painkiller if requested by the mother. A further 20% of NHS Trusts responded 'other' which may indicate that the policy is under review or comes down to a consultant's discretion.

This was the first time that it became known that the NHS widely uses foetal painkillers during abortions. This constitutes widespread recognition within the NHS of foetal pain during late term abortion. Nevertheless, the practice of administering foetal painkiller is not consistent across the NHS which means there is a strong case for setting up a committee to advise and propose a consistent policy for NHS Trusts.

NHS England, meanwhile, [recommends](#) that foetal pain relief is provided to babies undergoing surgery for spina bifida from 19 weeks gestation. This occurs even while not all babies aborted at this gestation will have pain relief administered.

### Evidence is changing

There has been a huge shift in evidence and recognition of foetal pain over the last 30 years. The existence of foetal pain has been a matter of much debate which is linked to the debate on the morality of abortion. The existence of foetal pain provides an argument against the morality of abortion.

In a [Journal of Medical Ethics](#) article in 2020, Derbyshire, and Brockmann reconsidered the most recent evidence and concluded that "*the neuroscience cannot definitively rule out fetal pain before 24 weeks.*" It stated: "*Overall, the evidence, and a balanced reading of that evidence, points towards an immediate and unreflective pain experience mediated by the developing function of the nervous system from as early as 12 weeks.*" This contradicted previous evidence that was thought to rule out foetal pain before 24 weeks. In fact, a [previous article published in 2006](#) by the same lead author, Derbyshire, had denied the possibility of foetal pain.

In 2020, the All Party Parliamentary Pro Life Group published an evidence review of [Foetal Sentience and Pain](#). It concluded: *“What is very clear, however, is that the foetus does manifest stress responses from around 18 weeks gestation of a kind that can be seen in children and adults in relation to whom the stress responses would certainly be associated with pain.”*

Some experts argue that there is evidence of foetal pain perception earlier than 12 weeks gestation, but this is disputed.

It is widely recognised that extremely premature babies born at 20 weeks gestation are clearly able to experience pain.

Four-dimensional [ultrasound evidence](#) published in 2021 showed facial expressions of acute pain in 23-week foetuses undergoing cardiac surgery.

### **The case for a Foetal Sentience Committee**

Who could possibly object to a committee being set up to assess the changing scientific evidence in what is a hotly contested area, and to provide advice and recommendations to the government?

The current administration of foetal painkillers for late term abortions is inconsistent. A committee could recommend a consistent approach to be adopted across the NHS.

Government policy should be guided by the latest scientific evidence which is constantly being revised and updated. A committee can help the government ensure that its policies are updated in line with the latest scientific evidence.

Parliamentarians from across the political spectrum should be able to get behind this bill.