



Report of the  
**ABORTION  
SUPERVISORY  
COMMITTEE**

2009

*Presented to the House of Representatives pursuant to Section 39 of the Contraception, Sterilisation, and Abortion Act 1977*

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## MEMBERSHIP OF THE COMMITTEE

Prof Dame Linda Holloway (Chair)

Rev Patricia Allan

Dr Rosy Fenwicke

## INTRODUCTION

The Abortion Supervisory Committee (ASC) has had a busy and productive year focusing on standards, access and information related to the provision of abortion services in New Zealand.

The ASC has had the opportunity to meet with many people and organisations over the past year and we are grateful for the diverse conversations we've had with people who have many different views in this area.

Following is a summary of the ASC's activities over the last year in accordance with the functions and powers of the ASC as listed in the Contraception, Sterilisation and Abortion Act 1977 (refer Appendix Two):

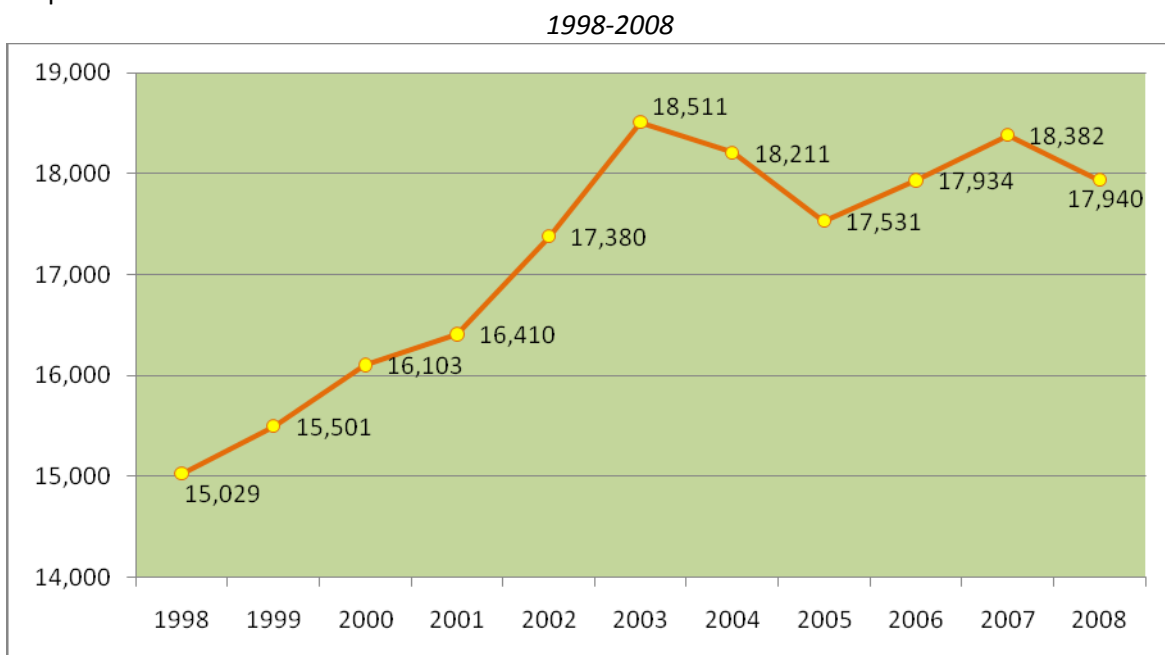
- ❖ Renewal and issuance of licences authorising the performance of abortions at 29 institutions in New Zealand.
- ❖ Development of standards for institutions licensed to perform abortions.
- ❖ Monthly visits to licensed institutions to view facilities and meet staff.
- ❖ Monthly visits by ASC Counselling Advisor to report on counselling services provided by licensed institutions.
- ❖ Collation and presentation of abortion statistics (as follows in this report).

## STATISTICS

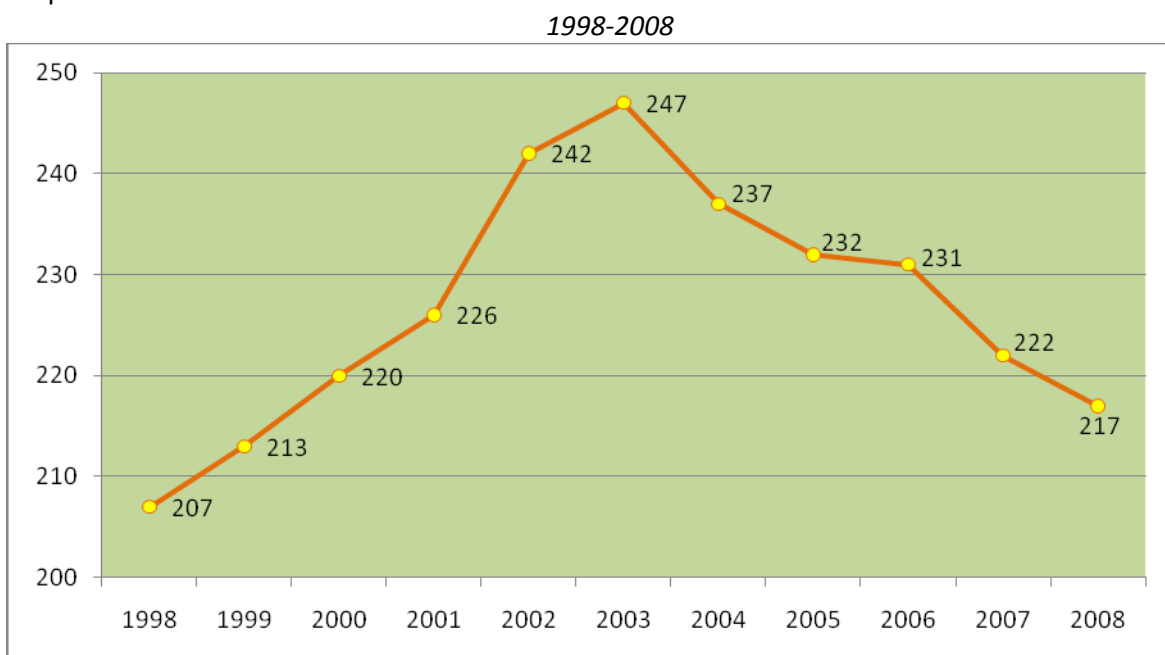
The ASC has changed the format of the presentation of the statistics this year and we would welcome feedback. Further statistics in tabular form are available to view online at Statistics New Zealand's website, <http://www.stats.govt.nz/>.

### 1. Induced abortions, rates and ratios

Graph 1.1: Number of induced abortions

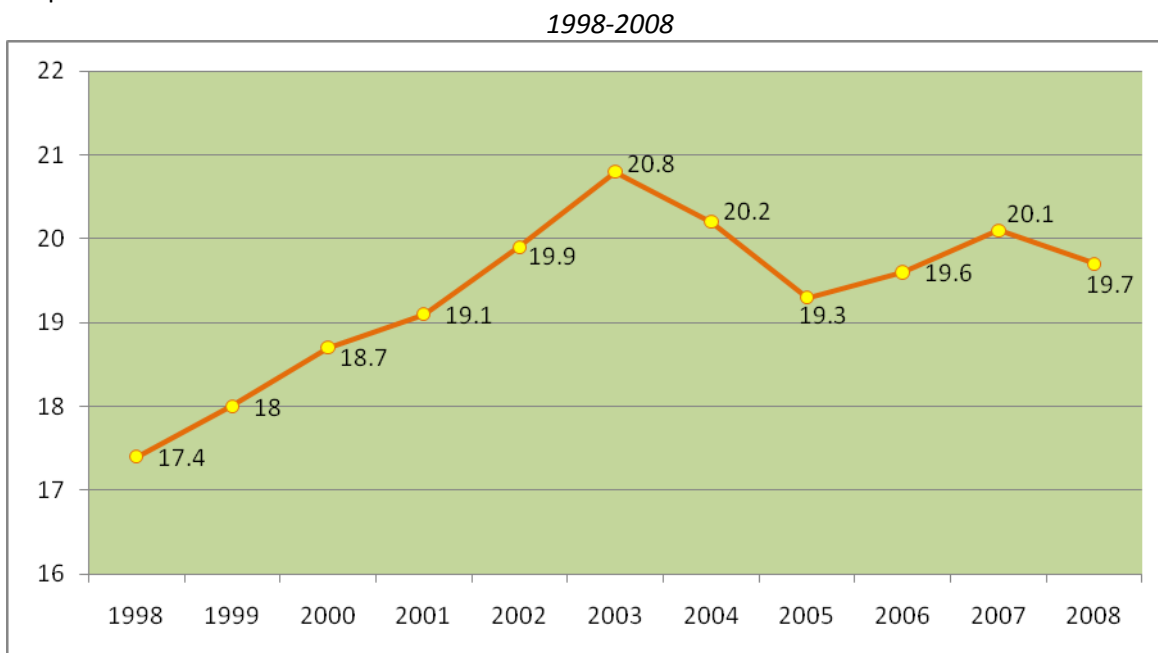


Graph 1.2: Abortion ratio



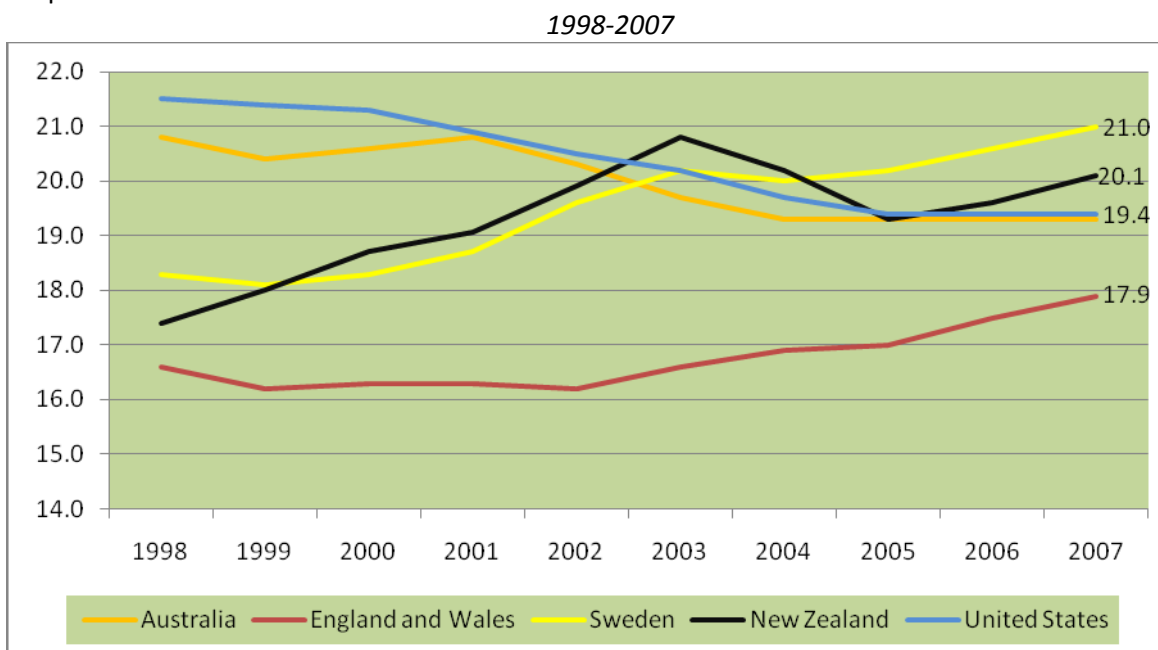
The abortion ratio is the number of abortions per 1,000 known pregnancies. Known pregnancies include live births, stillbirths and induced abortions combined, but do not include miscarriages.

Graph 1.3: General abortion rate



The general abortion rate is the number of abortions per 1,000 of the mean estimated population of women aged 15-44 years.

Graph 1.4: General abortion rates in selected countries



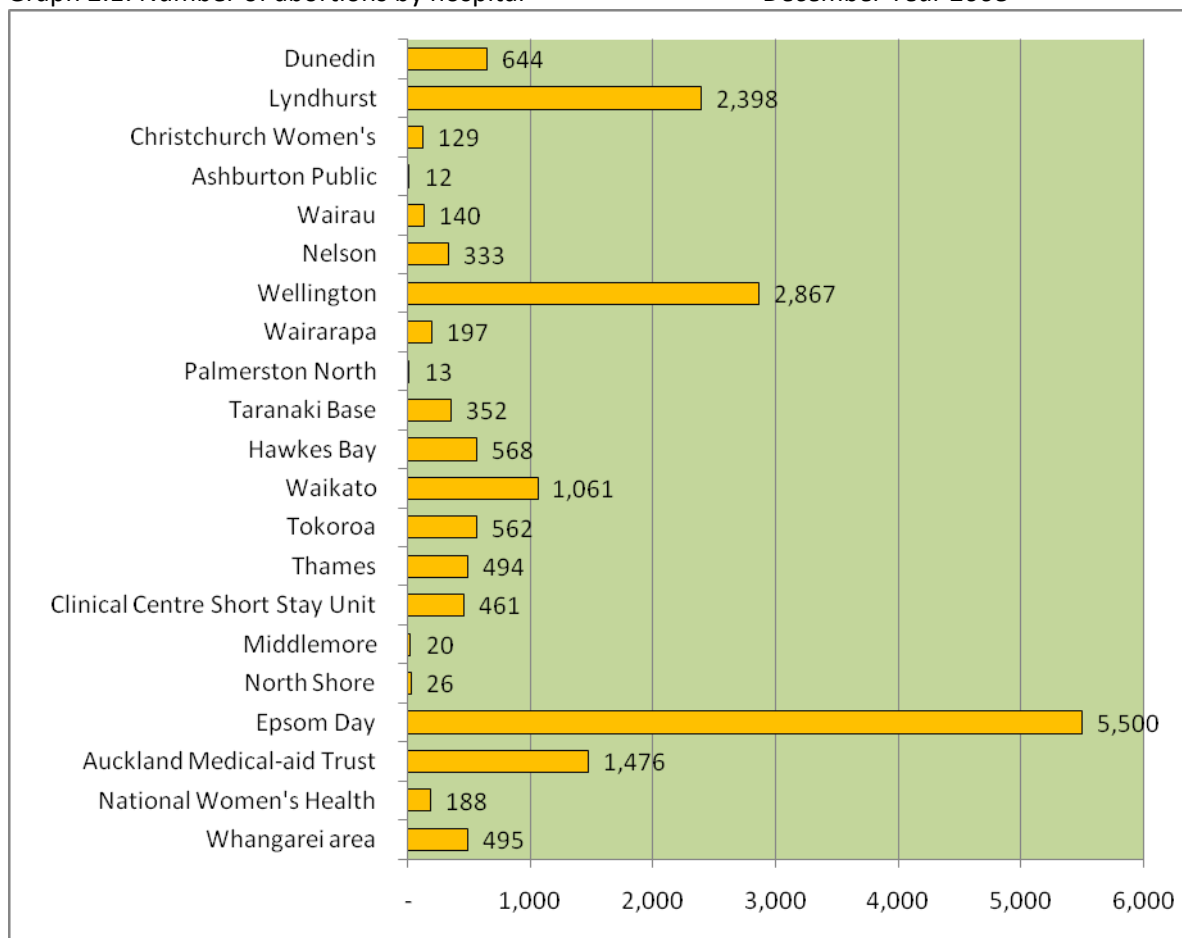
The most recent figure for Australia is from 2004. For charting purposes, the line representing Australia has been extended across to 2007.

The most recent figure for the United States is from 2005. For charting purposes, the line representing the United States has been extended across to 2007.

## 2. Hospital and residence

Graph 2.1: Number of abortions by hospital

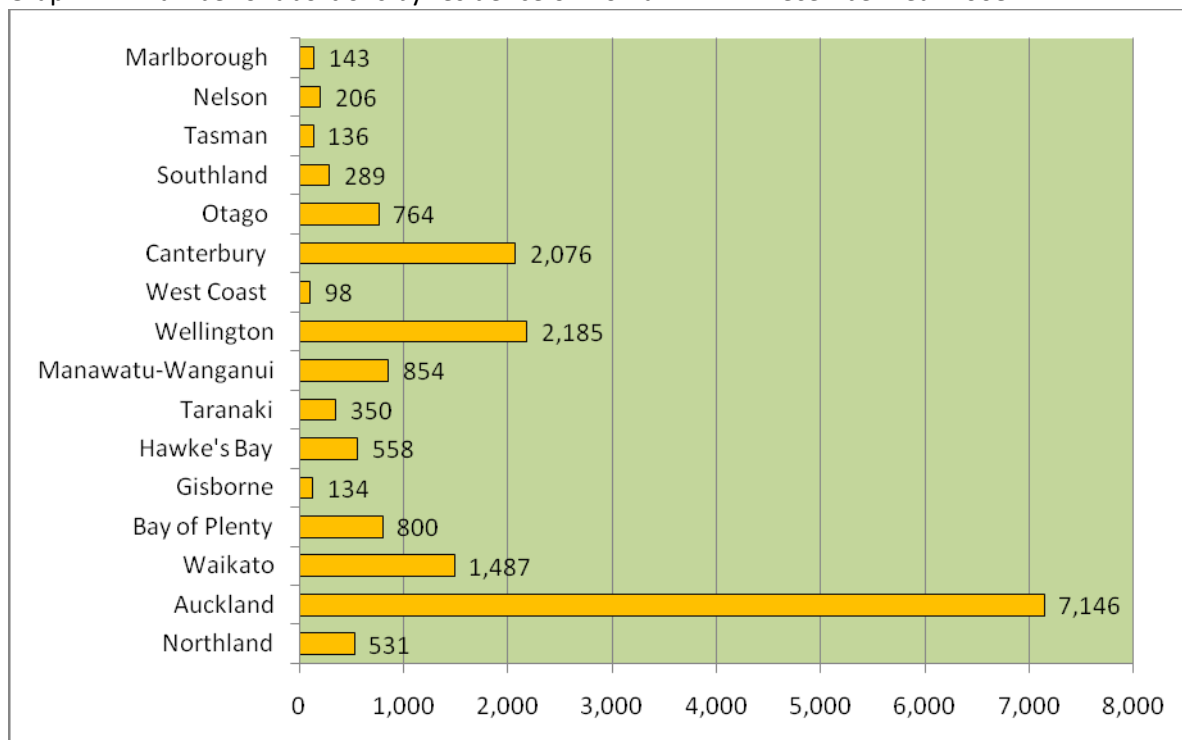
December Year 2008



Other hospitals not depicted performed a total of 4 abortions: Surgery on Shakespeare (3) and Hutt Hospital (1).

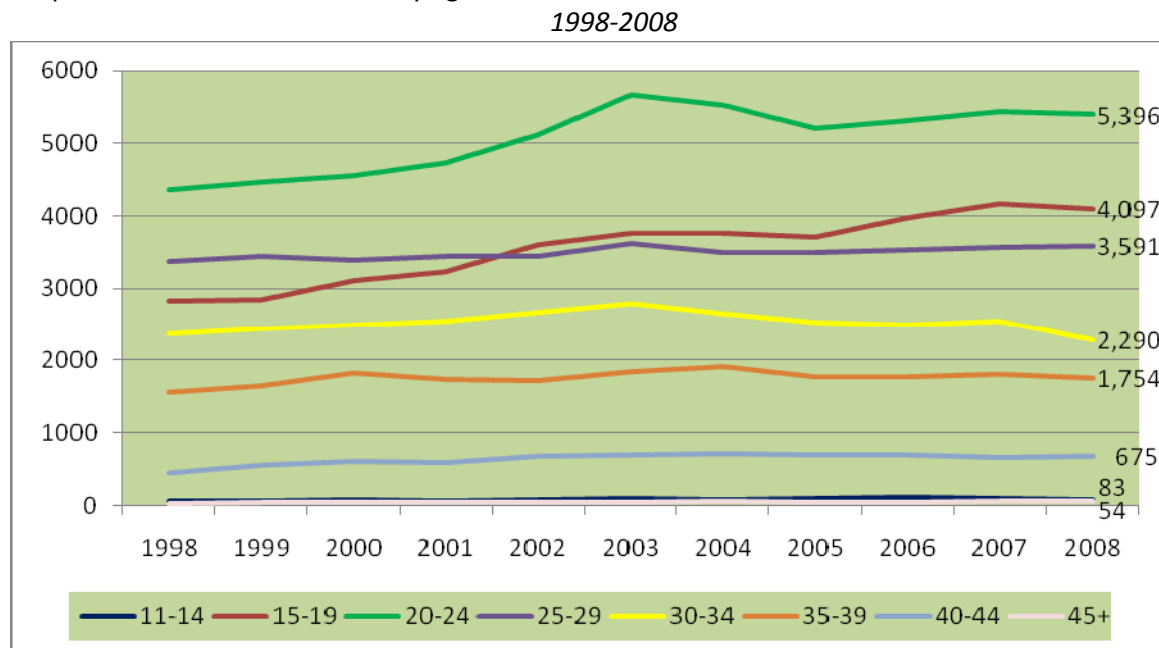
Graph 2.2: Number of abortions by residence of woman

December Year 2008

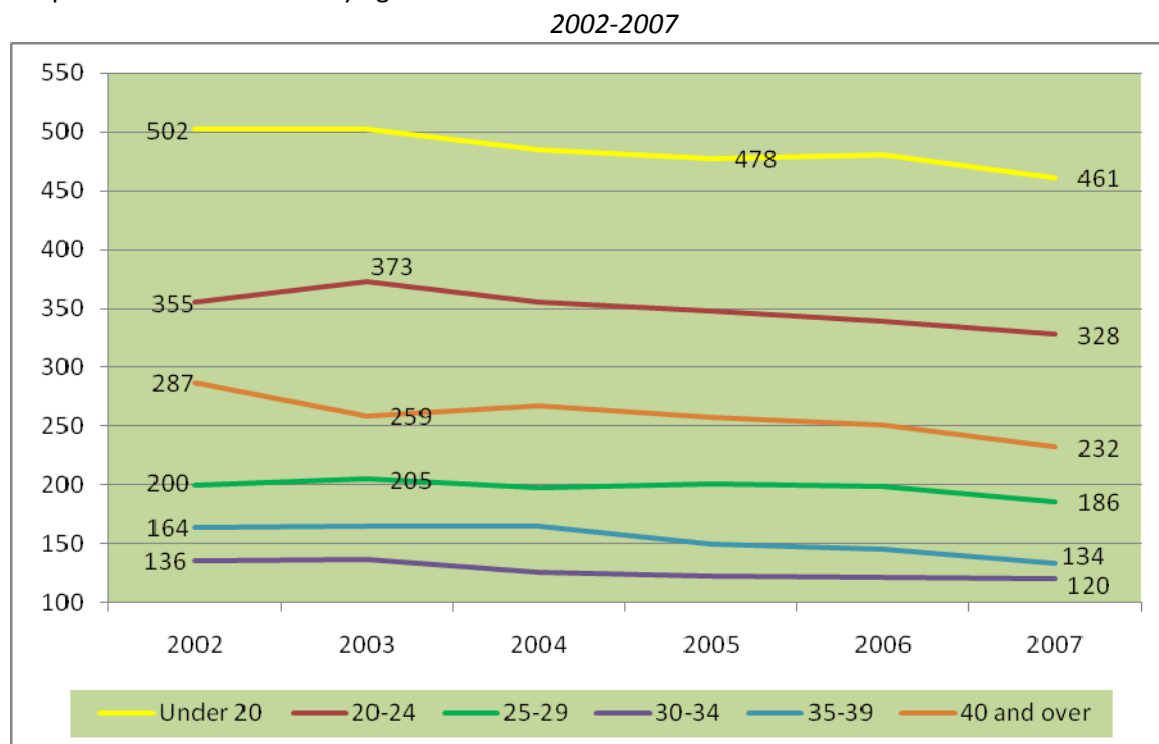


### 3. Age of woman

Graph 3.1: Number of abortions by age



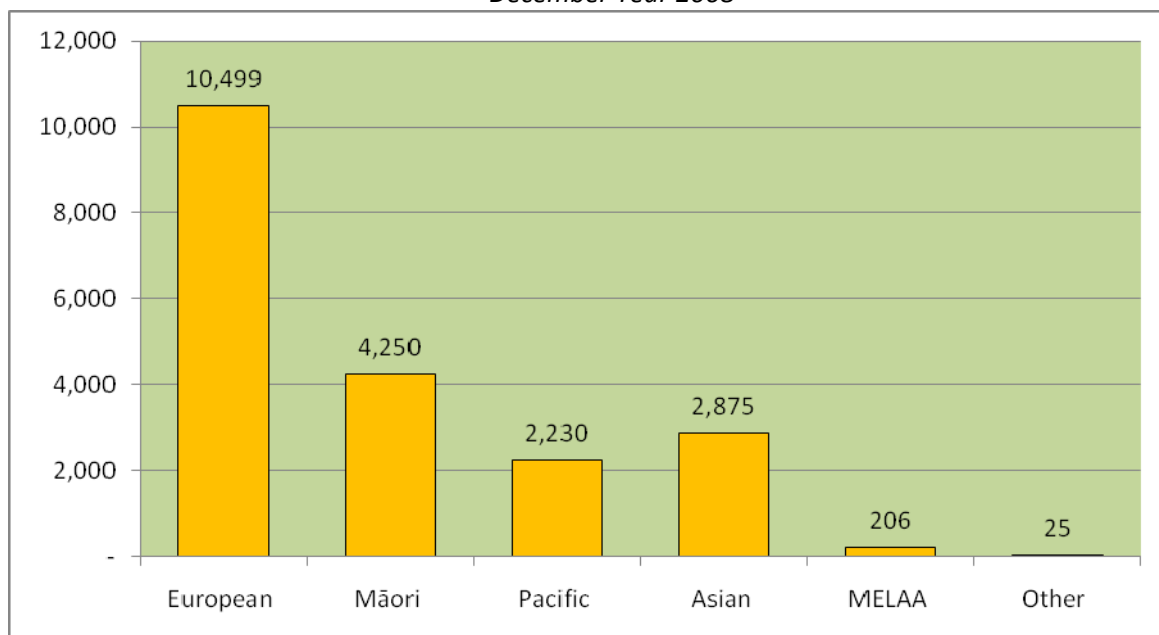
Graph 3.2: Abortion ratios by age



## 4. Ethnic group

Graph 4.1: Number of abortions by ethnic group

December Year 2008



Each abortion has been included in every ethnic group specified. For this reason, some abortions are counted more than once.

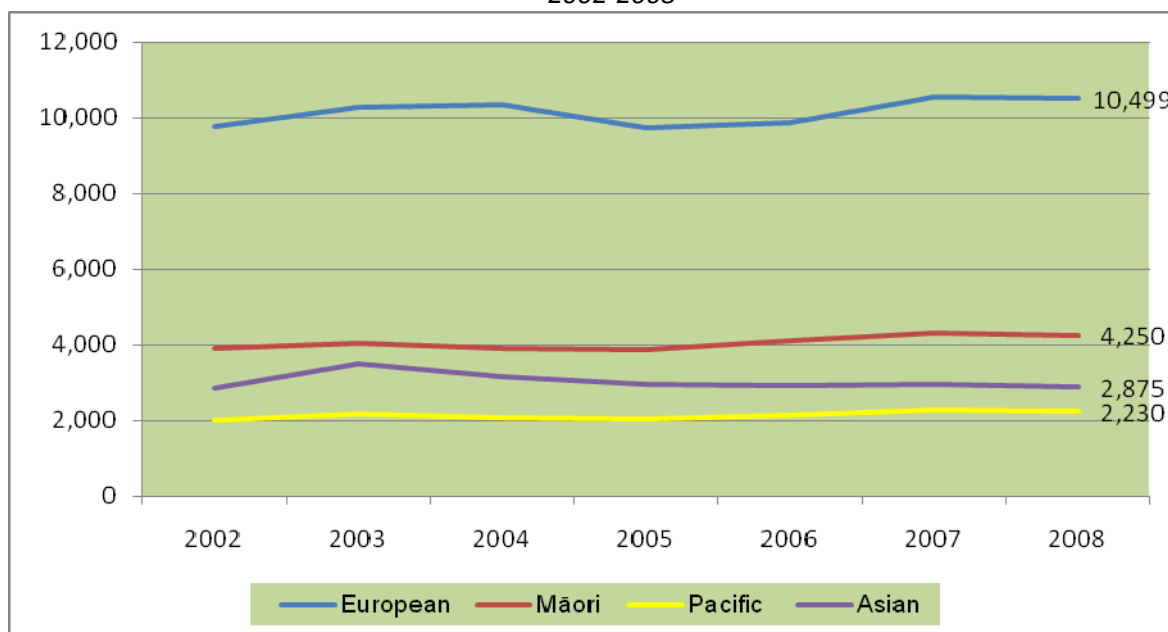
**Note:**

(a) MELAA = Middle Eastern, Latin American and African.

(b) Other includes New Zealanders.

Graph 4.2: Number of abortions by ethnic group

2002-2008



## 5. Previous live births

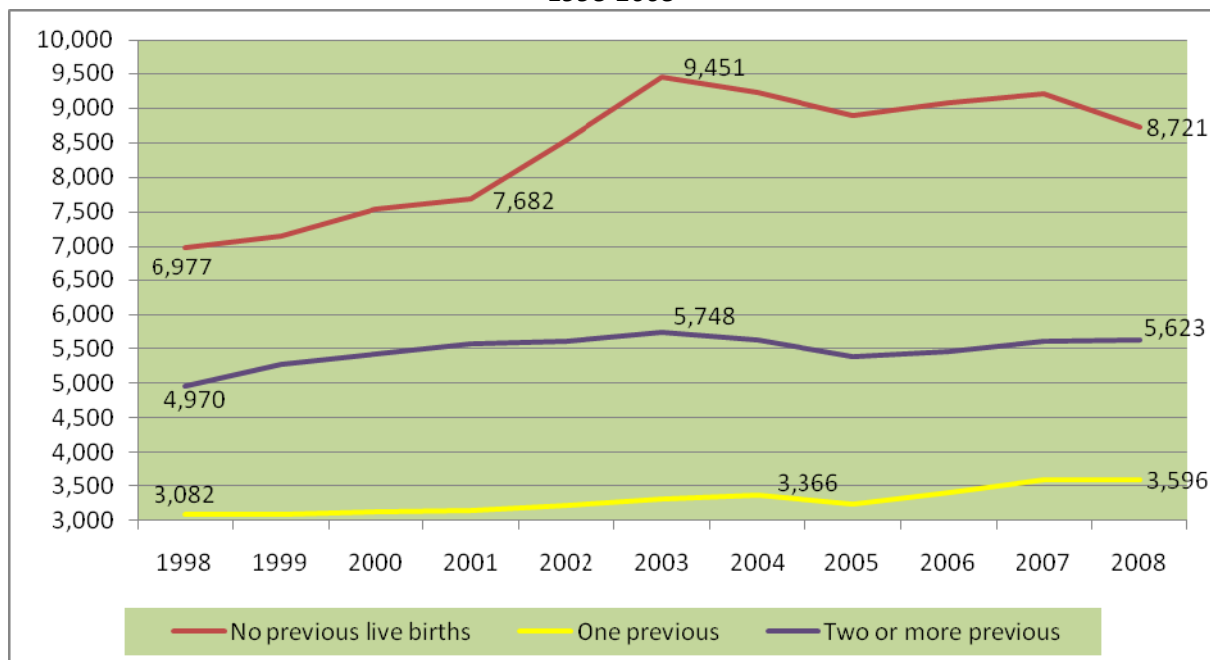
**Table 5.1**

**Induced Abortions by Age and Previous Live Births**  
*December Year 2008*

Age (years)	Previous Live Births									
	Total	0	1	2	3	4	5	6	7 or More	6 or More
<b>Number</b>										
<b>All Ages</b>	<b>17,940</b>	<b>8,721</b>	<b>3,596</b>	<b>3,189</b>	<b>1,398</b>	<b>629</b>	<b>247</b>	<b>92</b>	<b>68</b>	<b>160</b>
Under 15	83	83	-	-	-	-	-	-	-	-
15-19	4,097	3,469	545	75	7	1	-	-	-	-
20-24	5,396	3,061	1,387	689	198	51	7	2	1	3
25-29	3,591	1,378	813	755	369	190	67	16	3	19
30-34	2,290	470	421	737	362	175	78	28	19	47
35-39	1,754	206	306	643	332	144	63	31	29	60
40-44	675	50	120	265	119	61	29	15	16	31
45 and Over	54	4	4	25	11	7	3	-	-	-

**Graph 5.1: Number of abortions by previous live births**

*1998-2008*



## 6. Previous induced abortions

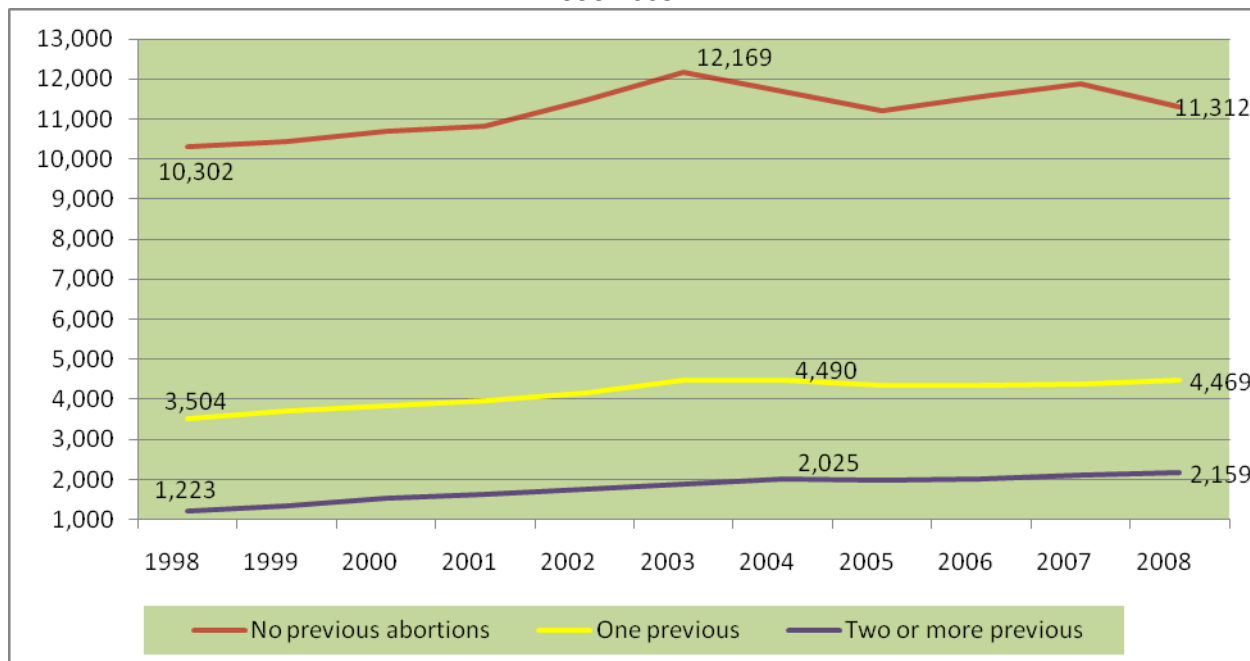
Table 6.1

**Induced Abortions by Age and Previous Induced Abortions**  
December Year 2008

Age (years)	Previous Abortions							
	Total	0	1	2	3	4	5	6 or More
<b>Number</b>								
<b>All Ages</b>	<b>17,940</b>	<b>11,312</b>	<b>4,469</b>	<b>1,490</b>	<b>461</b>	<b>143</b>	<b>40</b>	<b>25</b>
Under 15	83	83	-	-	-	-	-	-
15-19	4,097	3,404	612	75	5	1	-	-
20-24	5,396	3,470	1,422	403	81	17	2	1
25-29	3,591	1,952	1,018	409	155	42	11	4
30-34	2,290	1,152	679	292	109	34	12	12
35-39	1,754	877	526	211	82	39	13	6
40-44	675	341	196	97	28	10	2	1
45 and Over	54	33	16	3	1	-	-	1

Graph 6.1: Number of abortions by previous abortions

1998-2008



## 7. Duration of pregnancy

**Table 7.1**

**Induced Abortions by Age and Duration of Pregnancy**  
*December Year 2008*

Age group	Total	Under 8 weeks	8-12 weeks	13-16 weeks	17-20 weeks	Over 20 weeks
<b>Totals</b>	<b>17,940</b>	<b>1,687</b>	<b>14,834</b>	<b>1,028</b>	<b>316</b>	<b>75</b>
Under 20	4,180	298	3,540	262	76	4
20-24	5,396	514	4,468	319	80	15
25-29	3,591	390	2,950	180	48	23
30-34	2,290	213	1,887	118	53	19
35-39	1,754	190	1,411	104	39	10
40-44	675	75	534	42	20	4
45 +	54	7	44	3	-	-

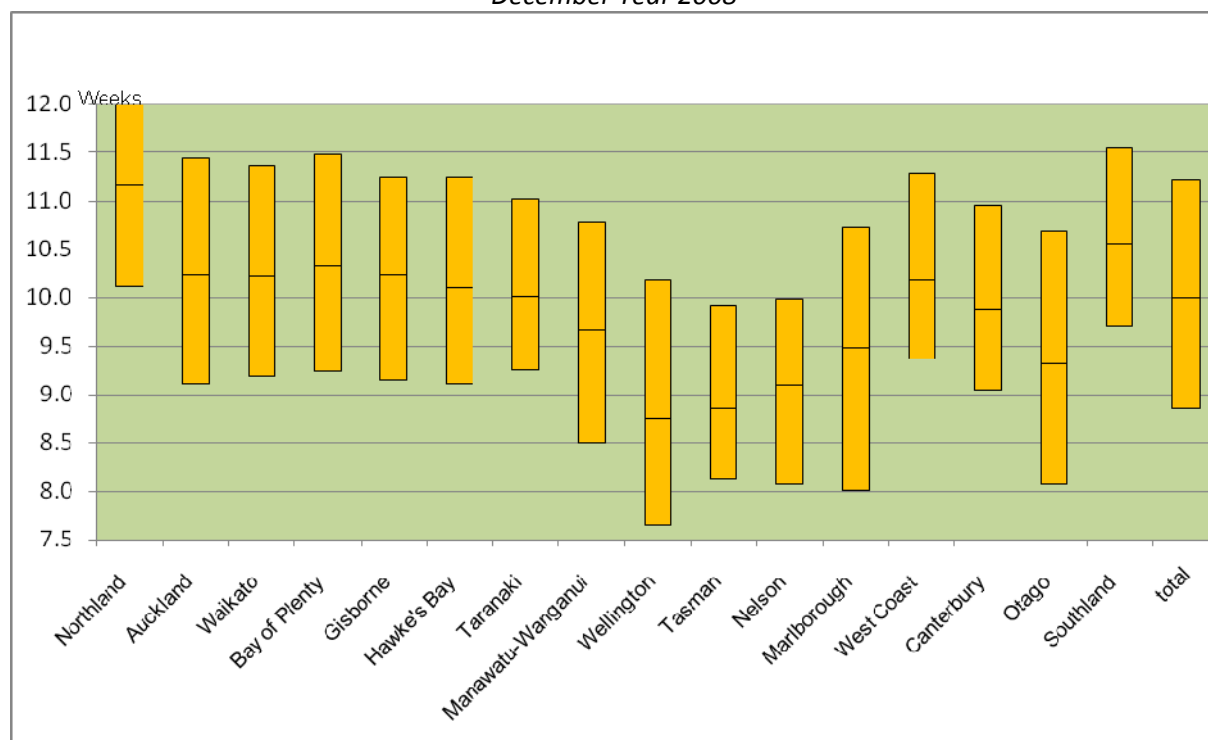
**Table 7.2**

**Induced Abortions by Duration of Pregnancy**  
*1998–2008*

December year	Duration of pregnancy in weeks (refers to the Xth week, ie 7 wks + 5 days is recorded under 8)								Total
	Under 8	8	9	10	11	12	13	14+	
<b>Number</b>									
1998	574	1,923	3,189	3,436	2,323	1,913	957	714	15,029
1999	775	1,948	3,047	3,502	2,496	1,935	1,030	768	15,501
2000	854	2,047	3,135	3,564	2,627	2,062	985	829	16,103
2001	925	1,790	2,969	3,622	2,721	2,270	1,227	886	16,410
2002	1,129	1,751	2,773	3,820	3,019	2,633	1,300	955	17,380
2003	1,281	1,824	2,710	3,882	3,456	2,903	1,494	961	18,511
2004	1,263	1,835	3,505	3,933	3,007	2,613	1,164	891	18,211
2005	1,271	1,782	2,928	3,620	3,011	2,640	1,350	929	17,531
2006	1,526	1,843	3,012	3,729	2,990	2,634	1,259	941	17,934
2007	1,478	2,413	3,558	3,671	3,131	2,631	478	1,022	18,382
2008	1,687	2,875	3,743	3,535	2,655	2,026	438	981	17,940
<b>Percent</b>									
1998	3.8	12.8	21.2	22.9	15.5	12.7	6.4	4.8	100.0
1999	5.0	12.6	19.7	22.6	16.1	12.5	6.6	5.0	100.0
2000	5.3	12.7	19.5	22.1	16.3	12.8	6.1	5.1	100.0
2001	5.6	10.9	18.1	22.1	16.6	13.8	7.5	5.4	100.0
2002	6.5	10.1	16.0	22.0	17.4	15.1	7.5	5.5	100.0
2003	6.9	9.9	14.6	21.0	18.7	15.7	8.1	5.2	100.0
2004	6.9	10.1	19.2	21.6	16.5	14.3	6.4	4.9	100.0
2005	7.3	10.2	16.7	20.6	17.2	15.1	7.7	5.3	100.0
2006	8.5	10.3	16.8	20.8	16.7	14.7	7.0	5.2	100.0
2007	8.0	13.1	19.4	20.0	17.0	14.3	2.6	5.6	100.0
2008	9.4	16.0	20.9	19.7	14.8	11.3	2.4	5.5	100.0

**Note:** Percentages may not sum to stated totals due to rounding.

Graph 7.1: First trimester abortions<sup>(1)</sup> by duration of pregnancy and residence of woman  
December Year 2008



(1) Induced abortions performed before the thirteenth week of pregnancy

This 'box-plot' shows the median duration of pregnancy (indicated by the line in the middle of each box) for first trimester abortions in each region (by regional council areas).

The top of the box is the 75<sup>th</sup> percentile (that is three-quarters of first trimester pregnancies were terminated within this number of weeks) and the bottom of the box is the 25<sup>th</sup> percentile (that is, one-quarter of first trimester pregnancies were terminated within this number of weeks).

The ASC is concerned that many women are not able to access abortion before 9 weeks gestation. It is considered best practice for abortions to be performed under 9 weeks gestation. The ASC will be exploring the reasons for delays in accessing low gestation abortions with license holders as part of the 2010 work programme.

## 8. Grounds for abortion

**Table 8.1**

### Induced Abortions by Grounds for Abortion

*December Year 2008*

Grounds for Abortion	Number	Percent
<b>Total</b>	<b>17,940</b>	<b>100.0</b>
Danger to Life	2	0.0
Danger to Physical Health	16	0.1
Danger to Mental Health	17,715	98.7
Danger to Life and Physical Health	2	0.0
Danger to Life and Mental Health	3	0.0
Mental and Physical Health Danger	56	0.3
Handicapped Child and Physical Danger	2	0.0
Handicapped Child and Mental Danger	107	0.6
Handicapped Child, Physical and Mental Danger	10	0.1
Handicapped Child and Other	1	0.0
Seriously Handicapped Child	22	0.1
Criminal Offence and Danger to Mental Health	4	0.0

## 9. Procedure

**Table 9.1**

**Induced Abortions by Procedure**  
*December Year 2008*

Procedure	Number	Percent
<b>Total</b>	17,940	100.0
Pre-operative prostaglandin and suction curettage	14,673	81.8
Pre-operative prostaglandin, dilation and curettage and evacuation	1,115	6.2
Mifegyne and prostaglandin	926	5.2
Pre-operative prostaglandin, suction curettage, dilation and curettage, and evacuation	355	2.0
Suction curettage	301	1.7
Pre-operative prostaglandin, suction curettage, dilation and evacuation	261	1.5
Pre-operative prostaglandin, suction curettage, dilation and curettage	225	1.3
Mifegyne	23	0.1
Prostaglandin	20	0.1
Pre-operative prostaglandin, mifegyne, suction curettage, dilation, curettage and evacuation	15	0.1
Pre-operative prostaglandin, dilation and evacuation	6	0.0
Pre-operative prostaglandin, suction curettage and mifegyne	6	0.0
Dilation and curettage	5	0.0
Pre-operative prostaglandin, mifegyne, suction curettage, dilation, and evacuation	2	0.0
Suction curettage and dilation and curettage	2	0.0
Mifegyne, prostaglandin and other medical	1	0.0
Other medical	1	0.0
Other surgical	1	0.0
Pre-operative prostaglandin, dilation and curettage, and evacuation	1	0.0
Suction curettage and dilation and evacuation	1	0.0

The ASC notes that less than six percent of abortions are induced by medical methods (Mifegyne).

In other countries where Mifegyne is readily available between 20 and 30 percent of women choose a medical rather than a surgical option.

Our visits to clinics around the country have identified that many clinics lack the physical facilities and staff experience to be able to offer this option to women. The ASC will be working with licence holders to try and develop up-to-date services and options for all women presenting for abortion services.

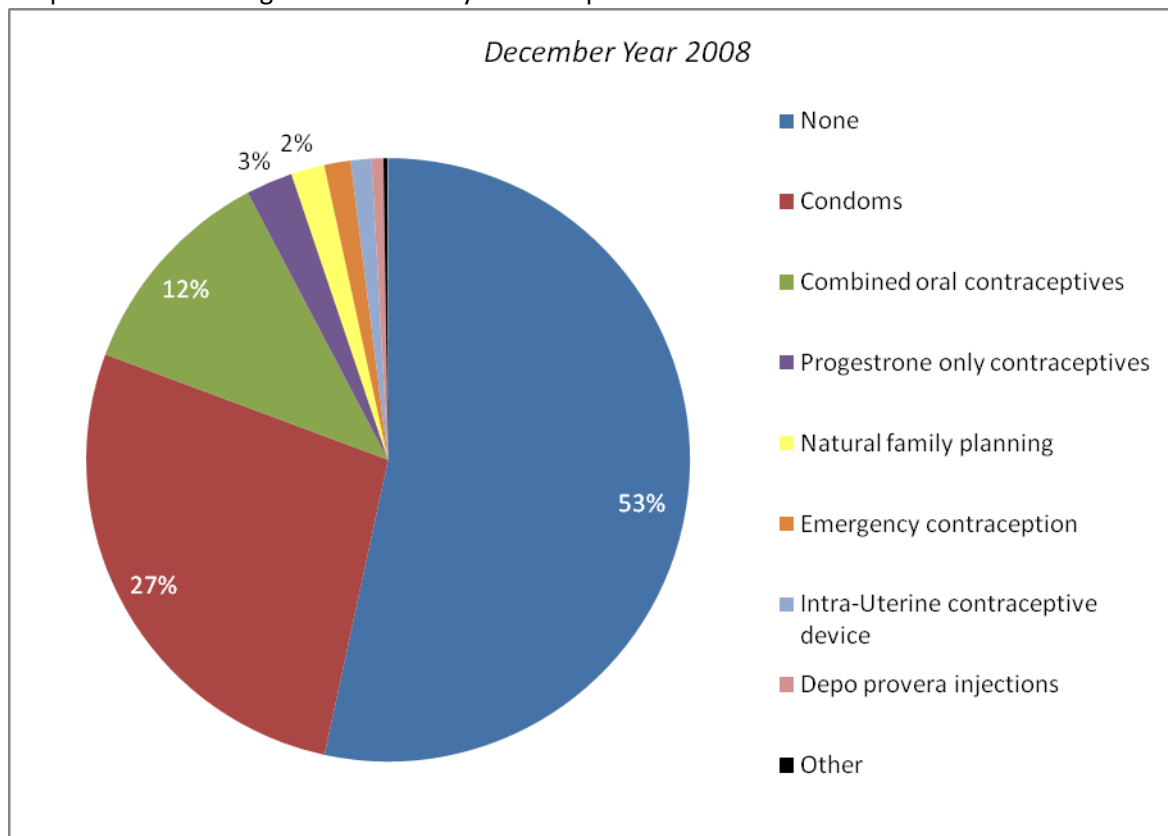
## 10. Contraception

**Table 10.1**

**Induced Abortions by Contraception Used**  
*December Year 2008*

Contraception Used	Number	Percent
<b>Total</b>	<b>17,940</b>	<b>100.0</b>
None	9,577	53.4
Condoms	4,898	27.3
Combined oral contraceptives	2,084	11.6
Progestrone only contraceptives	449	2.5
Natural family planning	322	1.8
Emergency contraception	253	1.4
Intra-Uterine contraceptive device	198	1.1
Depo provera injections	115	0.6
Other	36	0.2
Diaphragm	8	0.0

**Graph 10.1: Percentage of abortions by contraception used**



The ASC notes that 53 percent of women having abortions in 2008 were not using any contraception at the time of conception, and would like to encourage all district health boards to undertake research on why women are not accessing the means to prevent unwanted pregnancies.

The ASC is aware that long-acting contraceptives, which are highly effective methods of contraception and include Mirenas, and long-acting implants are not yet funded. We would suggest, in light of New Zealand's high abortion rate in comparison to other countries where these methods are freely available, and have been for some time, that consideration be given to reducing financial barriers to their use.

## WORK PROGRAMME

### Standardised referrals for termination of pregnancy

The ASC is beginning to roll out a new application it has developed to standardise the referral process for general practitioners and other doctors who refer women to termination of pregnancy services. The application will enable the ASC to access anonymous encrypted data that will give it more information on the abortion pathway and any post-termination complications.

An official launch for the application was held in July 2009 and attended by a number of general practitioners and O&G specialists from the lower North Island. The ASC is grateful to former ASC member and Chair of the Health Select Committee Dr Paul Hutchison MP for addressing the launch, and to MP Steve Chadwick for her attendance and support.

The success of this system will depend on uptake by referring doctors. The ASC continues to work with the Ministry of Health to ensure that those women who present to doctors that are not currently signed to a Section 88 agreement will not continue to be disadvantaged and will be able to access this pregnancy service free of charge.

### High Court and Court of Appeal proceedings

The ASC has been involved in ongoing legal proceedings initiated against it by Right to Life New Zealand Inc. Right to Life has sought judicial review of the exercise by the ASC of its powers and functions under the Contraception, Sterilisation and Abortion Act 1977.

Following is a timeline of recent key events in these proceedings.

- June 2008: The High Court judgment of Miller J was released. In his judgment, Justice Miller held that the abortion law neither confers nor recognises a legal right to life for the unborn child. Justice Miller also dismissed Right to Life's challenges to the way the ASC has interpreted its obligations in relation to counselling services provided to women under the CSA Act. The Court held, however, that the ASC has misinterpreted its functions and powers under the abortion law and that the CSA Act does empower the ASC to review or scrutinise the decisions of certifying consultants and form its own opinion about the lawfulness of their decisions. The Court also expressed the view that there is reason to doubt the lawfulness of many abortions authorised by certifying consultants. The Court deferred ruling on the question of whether relief should be granted and if so what form it should take.
- July 2008: The ASC brought an appeal against the High Court judgment of Miller J and Right to Life lodged a cross appeal.

- May 2009: The Court of Appeal considered that the High Court judgment of Miller J was not sufficiently final so as to give rise to appeal rights and referred the parties back to the High Court for a hearing on the issue of relief.
- July 2009: In his second judgment, following a further hearing, Justice Miller declined to grant relief to Right to Life, reasoning that the ASC is a responsible public body that would be guided by his initial judgment without the need for formal orders. However, Miller J reiterated his finding that “the Committee has failed over many years to exercise some of its statutory powers at all”.
- Aug 2009: Following the second High Court judgment, the ASC appealed to the Court of Appeal. The specific grounds of the ASC’s appeal are that the Court erred in law in assuming it had jurisdiction to consider whether certifying consultants were obeying the law and, even it did have jurisdiction, there was no evidential foundation for the judge’s findings. The Committee is also appealing those aspects of Justice Miller’s judgment relating to the Committee’s powers to review and scrutinise the decisions of individual certifying consultants. Right to Life has cross-appealed in relation to the High Court’s findings as to the rights of the unborn child and counselling, and has appealed against the judgment refusing to grant relief. The appeal will be heard on 4 and 5 May 2010.

To date, the Court proceedings have cost the Crown \$309,097.24 (GST inclusive).

### **Workforce issues**

Over the past year the ASC has become conscious that workforce issues will need to be addressed in coming years to ensure continuity of abortion services in future. The ASC is aware that there are very few operating doctors in New Zealand under the age of 50. Through some preliminary information-gathering it is apparent to the ASC that most of these operating doctors will be continuing in this role only for the next ten years. Therefore, this is the timeframe within which workforce issues need to be addressed.

The ASC will be signalling this issue to the Royal Australia New Zealand College of Obstetricians and Gynaecologists and the Royal College of General Practitioners and obtaining more detailed information over the next year to inform its report for 2010.

The ASC has been impressed with the development of the Diploma of Sexual and Reproductive Health, which will enable the workforce issues to be partially addressed.

## **Standards of Care for Women Requesting Induced Abortion in New Zealand**

The ASC has recently released a standards document for the provision of abortion services in New Zealand entitled *Standards of Care for Women Requesting Induced Abortion in New Zealand*. The ASC is very grateful to Dr Alison Knowles for her work in leading development of the document. The ASC consulted widely in drafting the document and received submissions from the following groups/individuals:

- ❖ Auckland District Health Board
- ❖ Abortion Law Reform Association of New Zealand
- ❖ Ann Simmons
- ❖ Aotearoa New Zealand Association of Social Workers
- ❖ Ashburton Hospital
- ❖ Canterbury District Health Board
- ❖ Epsom Day Unit social workers
- ❖ Felicity Goodyear-Smith
- ❖ Family Planning
- ❖ Federation of Women's Health Councils Aotearoa – New Zealand
- ❖ Hawke's Bay District Health Board
- ❖ Janet Campbell, ASC Counselling Advisor
- ❖ Lakes District Health Board
- ❖ Medical Council of New Zealand
- ❖ Ministry of Health
- ❖ Northland District Health Board
- ❖ New Zealand Association of Counsellors
- ❖ New Zealand Nursing Organisation
- ❖ Otago District Health Board
- ❖ Palmerston North Women's Health Collective
- ❖ Royal Australia New Zealand College of Obstetricians and Gynaecologists
- ❖ Taranaki District Health Board
- ❖ Tony Baird
- ❖ Wellington Hospital
- ❖ Waikato District Health Board

The ASC is grateful to all the above groups/individuals for their comments and assistance in development of the standards document.

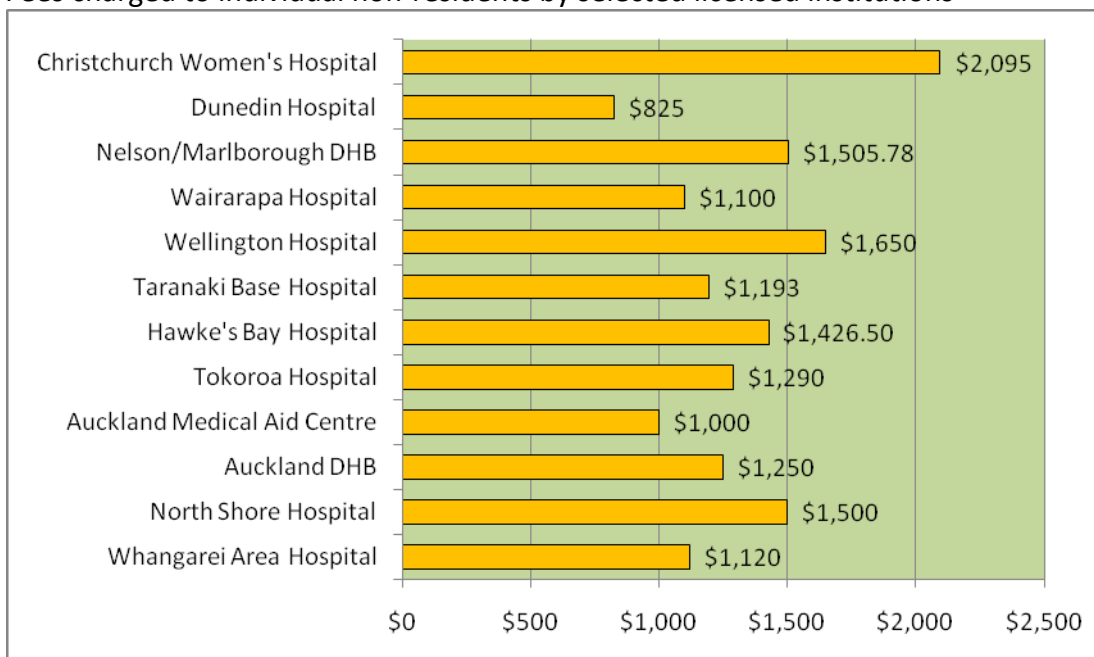
The ASC anticipates the *Standards of Care for Women Requesting Induced Abortion in New Zealand* will be used by abortion providers, licence holders and clinics to inform best practice. The document will be updated regularly and will be available online next year.

### Costs to non-residents

The ASC has been gathering information on the varying costs charged by licensed institutions to non-residents accessing abortion services, and presents its findings below.

The ASC is interested to note the variation in fees charged and will be investigating the reasons for the variations in the coming year.

Fees charged to individual non-residents by selected licensed institutions



Figures are based on costs provided by licensed institutions for first trimester surgical termination of pregnancy under general anaesthetic. Costs may differ for terminations under local anaesthetic, second trimester terminations and medical terminations.

## **SECOND TRIMESTER SERVICES**

The ASC has continuing concerns about the lack of secure provision of second trimester abortion services to women and their families. This has been of great concern to the ASC over the past year and we are disappointed to report that, as yet, no progress has been made in this contentious area.

The ASC would like to acknowledge that existing second trimester services rely heavily on the goodwill, humanity and commitment of both clinical and managerial staff in the larger hospitals.

Second trimester terminations require the specialised skills of highly trained medical and nursing staff, who are not always available in some areas. There is, therefore, an inevitable reliance on the tertiary centres to provide these services to women from outside their catchment areas, and we recognise the valuable contribution made by these tertiary centres to women and their families in times of need.

## APPENDIX ONE

In the year from 1 July 2008 to 30 June 2009 the Supervisory Committee held 10 meetings and visited 8 licensed institutions.

### Visits

Nelson Hospital  
 Tokoroa Hospital  
 Waikato Hospital  
 Rotorua Hospital  
 Epsom Day Unit  
 Whangarei Hospital  
 Tairāwhiti District Health  
 Taranaki Base Hospital

### Meetings

The Supervisory Committee met with:

- Hon Simon Power, Minister of Justice
- Hon Steve Chadwick, former Associate Minister of Health
- Officials from the Crown Law Office
- Officials from the Ministry of Justice
- Dr Nigel Dickson and associates at the University of Otago
- Representatives of the Best Practice Advocacy Centre (BPAC)
- Dr Alison Knowles
- Members of the Standards Committee
- Counselling Advisor, Janet Campbell

### Certifying consultants

As at 30 June 2009 there were 196 certifying consultants (of whom 128 met the Act's specialist category requirements) on the Supervisory Committee's list.

Fees payable to certifying consultants for consultations with women considering termination of pregnancy totalled **\$4,998,870** (GST exclusive) in the year ended 30 June 2009.

## APPENDIX TWO

### Functions and powers of the Supervisory Committee

The functions and powers of the ASC are set out in section 14 of the Contraception, Sterilisation, and Abortion Act 1977.

#### **s14(1)**

*(a) Keep under review all the provisions of the abortion law, and the operation and effect of those provisions in practice.*

*(b) Receive, consider, grant, and refuse applications for licences or for the renewal of licences under this Act, and to revoke any such licence*

*(c) Prescribe standards in respect of facilities to be provided in licensed institutions for the performance of abortions*

*(d) Take all reasonable and practicable steps to ensure that:*

- i. licensed institutions maintain adequate facilities for the performance of abortions; and*
- ii. all staff employed in licensed institutions in connection with the performance of abortions are competent*

*(e) Take all reasonable and practicable steps to ensure that sufficient and adequate facilities are available throughout New Zealand for counselling women who may seek advice in relation to abortion*

*(f) Recommend maximum fees that may be charged by any person in respect of the performance of an abortion in any licensed institution or class of licensed institutions, and maximum fees that may be charged by any licensed institution or class of licensed institutions for the performance of any services or the provision of any facilities in relation to any abortion*

*(g) Obtain, monitor, analyse, collate, and disseminate information relating to the performance of abortions in New Zealand*

*(h) Keep under review the procedure, prescribed by sections 32 and 33 of this Act, whereby it is determined in any case whether the performance of an abortion would be justified*

*(i) Take all reasonable and practicable steps to ensure that the administration of the abortion law is consistent throughout New Zealand, and to ensure the effective operation of this Act and the procedures thereunder*

*(j) From time to time report to and advise the Minister of Health and any district health board on the establishment of clinics and centres, and the provision of related facilities and services, in respect of contraception and sterilisation*

*(k) Report annually to Parliament on the operation of the abortion law*