

birthrights

Social services and maternity care

Your choices

You may find that you face criticism for the choices you make during your pregnancy and birth.

Healthcare professionals or others might suggest that the choices you have made could harm your unborn child or even that there is a 'child protection' or 'safeguarding' issue.

This factsheet explains child protection law and policies in England.

What is child protection?

Child protection describes the wide range of actions that can be taken by Local Authorities Children's Services departments, known as social services, to intervene in families when children are believed to be at risk of 'significant harm'.

It is the overall responsibility of the Department for Education, which provides guidance to social services who are responsible for planning and providing child protection services.

Child protection principles are enshrined in the [Children Act 1989](#). Government guidance '[Working Together to Safeguard Children](#)' is the core government guidance on child protection. It is intended to provide a national framework within which local agencies and professionals agree on their own practices.

The [Children Act 2004](#) established Local Safeguarding Children's Boards, which ensure that the key agencies involved

Does child protection apply to unborn children?

In the UK, unborn children are not given legal recognition. However, child protection procedures can apply to parents-to-be if there is a reasonable belief that the baby will be at risk of significant harm when it is born.

What does 'significant harm' mean?

The legal term 'significant harm' is defined in the Children Act 1989. It includes physical and non-physical ill-treatment and impairment of a child's health or development.

The guidance explains that there are no absolute criteria for determining what constitutes significant harm. The decision whether a child is at risk is a decision that will be made by local social services departments. If they decide to start child protection proceedings, that decision can be challenged in a court.

There is no national guidance on what constitutes a risk of harm to an unborn child. Local safeguarding children boards and social services departments have varied protocols on protecting unborn children. Common issues often identified in these protocols include:

- maternal drug and alcohol dependence
- domestic violence
- parent aged under 16
- parent who has previously harmed a child
- previous unexplained death of a child where abuse or neglect is suspected
- denial of pregnancy
- avoidance of antenatal care
- non-cooperation with healthcare services and/or non-compliance with medical treatment.



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How are child protection concerns reported?

Anyone, including members of the public, can refer concerns about the welfare of a child to social services.

Healthcare organisations have designated individuals who deal with child protection issues, and procedures for referring concerns to social services. Individual healthcare professionals may sometimes make a direct referral themselves.

Hospitals' child protection policies require healthcare professionals to discuss concerns with parents-to-be and obtain their consent before a referral to children's services, unless this action in itself may place the welfare of the unborn child at risk.

Can a referral be based on my birth choices?

Child protection policies sometimes suggest that healthcare professionals should make a referral to social services when they consider that a woman's choices about medical care during her birth put her unborn child at risk.

Referral to social services should never be made unless the mother's choices indicate that there is a threat of significant harm to the baby once it is born.

If you have made an informed decision to refuse care or to birth outside hospital, you cannot be compelled to accept care unless you lack mental capacity to make your own decisions about medical treatment. See our factsheet, [Consenting to Treatment](#).

The threat of referral to social services should never be used to intimidate, bully or coerce a

you into accepting a particular medical intervention for you or your child.

Consent that is given on the basis of such a threat is not given freely and the healthcare professional may be legally liable if they perform the intervention and they know, or should know, that consent has not been freely given.

What happens if child protection concerns are reported?

After a referral is made to a local authority the guidance states that an initial assessment must be carried out by a social worker within one working day. They must decide whether or not any action is required.

If a child is in need of immediate protection, action must be taken as soon as possible after the referral. Social services can seek an emergency protection order to remove the child from its parents' care. In very exceptional cases, where there is an immediate risk to the child's safety, the police can remove the child from its parents.

If immediate action is not required, but the social worker believes that the child should be assessed under the Children Act 1989, the social worker must complete an assessment within 45 working days.

If you are informed that social services are conducting an assessment, or taking action to protect your child, you should seek legal advice from a solicitor specialising in family law.

Can I make a complaint?

If you feel that a healthcare professional has acted inappropriately by threatening you or making an unjustified referral to social services, you can make a complaint to their employer. For advice about complaints, see our factsheet: [Making a Complaint](#).



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If your complaint is about a social worker you can complain to the local authority social services department. They will have a formal complaints procedure. If you are unhappy with the outcome, you can make a complaint to the [Local Government Ombudsman](#).

Complaints should be made as soon as possible. The NHS and social services departments ask for complaints to be made within 12 months unless there is a good reason why you could not have complained sooner.

You can find more information about challenging decisions and making a complaint on the [Family Rights Group](#) website.

Disclaimer: This factsheet provides information about the law in England. The information is correct at the time of writing (April 2017). The law in this area may be subject to change. Birthrights cannot be held responsible if changes to the law outdate this publication. Birthrights accepts no responsibility for loss which may arise from reliance on information contained in this factsheet.