

From the Chief Executive and Registrar



By email: Rebecca@birthrights.org.uk

Your ref: NMC/RS/0117

2 February 2017

Dear Ms Schiller

Thank you for your letter dated 13 January 2017, regarding independent midwives.

I am sorry to hear of the distress and uncertainty being experienced by the pregnant women who have contacted you about our recent decision.

As Registrar, I hope you will appreciate that my decision that the indemnity scheme provided by IMUK to its members was inappropriate was not taken lightly, as we fully understand the impact that this could have for both the individual midwives and the women they care for. However, our overall concern has to be that the public are protected. We fully support a woman's right to choose how she gives birth and who supports her, but we also have a responsibility to make sure that all women and their babies are provided with a sufficient level of protection should anything go wrong.

Since July 2014 we have had a statutory remit, brought in by European Directive 2011/24 EU, to ensure that nurses and midwives on our register have in force a professional indemnity arrangement that provides appropriate cover for their practice. All nurses and midwives are aware of their obligation to hold such an arrangement, as this is included in our Code, and in guidance published on our website. The requirement also fits with and reflects the overarching objective of the NMC; namely to protect, promote and maintain the health and well-being of persons using or needing the services of registered nurses and midwives, and to promote and maintain public confidence in the nursing and midwifery professions.

We have not prevented IMUK midwives from telling their clients about our provisional decision on the appropriateness of their indemnity cover. In fact, we would have expected midwives to have notified their clients of our concerns with their indemnity provider after receiving my provisional decision of 4 August 2016. This would have enabled those individuals affected to make alternative or contingency arrangements.

We have been in dialogue with IMUK since 2014 on this issue and we have given all midwives affected a significant period of time in which to secure access to an alternative indemnity scheme so that care to their clients was not affected.

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The nursing and midwifery regulator for England,
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Our final decision was sent to all IMUK midwives on 20 December 2016. It was made clear at that point that they should not continue to provide midwifery services to women in childbirth, unless they had arranged alternative cover. We are therefore very concerned to hear that some IMUK midwives have only just informed their clients about this issue and what this means for their care. We have written to IMUK to raise our concerns with them directly.

Regarding your specific questions about insurance, we do not approve indemnity schemes or hold a list of approved insurers. The responsibility to hold appropriate cover lies with each individual NMC midwife and it is for the individual midwife to satisfy the Registrar that appropriate cover is in place. Where the Registrar has decided that the cover relied upon by a midwife is inappropriate and has informed the midwife of this, the midwife must not rely on that cover.

A number of midwives have informed us that they have found alternative cover for attending women in childbirth. Alternatively, they should advise their clients how they can make contact and book for maternity care with their local NHS provider. NHS England has provided all independent midwives affected with information about the options available.

In relation to your comments about midwives attending births in the capacity of a doula or friend, I am afraid that this is not possible whilst they choose to remain on our register as a registered midwife. This is because the client will have engaged the midwife under a contract to undertake the supporting role during the birth in her capacity as a registered midwife and she can only attend a woman during a birth if she has appropriate indemnity cover.

A registered midwife cannot choose to avoid the mandatory legal requirement for indemnity cover by attending the birth in a 'non-midwife' capacity. This is because their professional and legal obligations remain the same in these circumstances. Indeed, advocacy, advice and emotional support before, during and after hospital births is a common part of independent midwifery practice and the requirement for indemnity cover applies to all these parts of their practice. The only exception to this requirement is when a midwife attends a birth in an entirely personal capacity to support a family member or close friend for whom they have not previously provided midwifery services.

I hope that the information provided above is useful in clarifying the reasons for this decision, and reassuring you that we remain fully committed to protecting those using or needing the services of registered nurses and midwives. I would be very happy to meet to discuss the issue further if you would find that helpful.

Thank you again for your letter.

Yours sincerely



Jackie Smith
Chief Executive and Registrar