Our Ref: OHT001-1337657 - CDS - Corinne Slingo
Your Ref: 268136.1/LHH
3rd January 2019

Laura Hobey-Hamsher
Bindmans LLP
239 Gray's Inn Road
London
WC1X 8HB

By email: l.hobey-hamsher@bindmans.com

Dear Sirs,

Re: Oxford University Hospitals NHS Foundation Trust's policy in respect of the provision of caesarean sections on maternal request

We write on behalf of our client, Oxford University Hospitals NHS Foundation Trust (the "Trust"), in response to your original letter of 27 July 2018 and the subsequent letter received from your client, Birthrights, dated 13 December 2018, requesting a response by close of play on 3 January 2019. We note that whilst you received correspondence from the Trust acknowledging the original letter, this represents the substantive response to your detailed letter and requests for information.

We apologise for the delay in providing you with a substantive response, which has arisen due to the Trust's very careful consideration of the extensive number of issues raised in your correspondence, particularly in relation to some of the data requested, which required further manual checks than initially thought, to ensure accuracy. The timing of this response however has enabled the inclusion within this response, of an up to date position in relation to obstetric services at the Trust, which our client hopes will assist your client with awareness of the wider picture of change within which the management of maternal request caesarean sections, sits.

You have requested confirmation of the Trust's understanding and implementation of the National Institute for Health and Care Excellence's guideline on caesarean section, "Caesarean section: Clinical guideline" (23 November 2011) ("the NICE Guideline"). We have set out below our client's response to the questions raised.

1. **Please confirm your understanding of the status of the NICE Guideline.**

The National Institute for Health and Care Excellence ("NICE") makes evidence based recommendations for health and care in England. NICE guidelines are recommended practice, but there is no mandatory requirement to implement these guidelines. NICE guidelines do not override clinicians' legal, contractual and ethical duty to use their clinical judgement and act in the best interests of the patient, and should instead be considered alongside these overarching legal duties. This

DAC Beachcroft LLP
Portwall Place Portwall Lane Bristol BS1 9HS UK (Sat Nav postcode: BS1 6NA)
dir tel: +44 (0) 117 918 2152 tel: +44 (0) 117 918 2000 fax: +44 (0) 117 918 2100 dir fax: +44 (0) 117 918 2301
email: cslingo@dacbeachcroft.com DX 7846 Bristol 1

position is echoed in the NICE Guideline itself, where it states in the introductory section:

> *"It is not mandatory to apply the recommendations, and the guideline does not override the responsibility to make decisions appropriate to the circumstances of the individual, in consultation with them and their families and carers or guardian".*

The NICE Guideline goes on to state:

> *"Local commissioners and providers of healthcare have a responsibility to enable the guideline to be applied when individual professionals and people using services wish to use it. They should do so in the context of local and national priorities for funding and developing services, and in light of their duties to have due regard to the need to eliminate unlawful discrimination, to advance equality of opportunity and to reduce health inequalities. Nothing in this guideline should be interpreted in a way that would be inconsistent with complying with those duties".*

There is therefore recognition within the NICE Guidelines that the implementation of recommendations should be considered in the context of national priorities for funding and the development of services. The NICE Guidelines do not seek to direct NHS Trusts or CCGs on how to allocate funding for services.

The Trust however recognises that NICE guidance evidences best practice and as a result, we can confirm that Trust clinicians have regard to NICE recommendations when delivering care.

2. Please set out your interpretation of the NICE Guideline

As set out in the NICE Guidelines itself, *"this guideline offers best practice advice on the care of pregnant women who may require a caesarean section"*. We have focused our client's comments on the aspects of this clinical guidance which relate specifically to maternal requests for caesarean section where there is no clinical indication, as this is the subject matter of your correspondence.

The NICE Guidelines set out a guide to ensure an appropriate care pathway is selected for any woman who requests a primary caesarean section when there is no obstetric or other medical indication, including both physical and mental health.

The Trust acknowledges that caesarean section rates are rising worldwide, with an increasing proportion being undertaken in response to maternal request, in contrast to those that are performed for obstetric indication. There are many reasons for such requests but these are not always revealed by the women or adequately explored and clearly documented by their health care team. The NICE Guideline addresses the issue of caesarean sections requested by women who have no apparent clinical reason for requesting a caesarean section, or who report fear of giving birth vaginally. The NICE Guideline helps to ensure that women get the support they require which may enable them to explore more options and a safer birth.

This is reflected in the Trust's policy Maternity Guideline 'Caesarean Section', a copy of which is appended to this response. The care pathway for this category of women is documented and shown at **Appendix 1.**

At the Trust, women who express a desire to have a caesarean section are referred to a consultant obstetrician and the reasons for the request are explored. If there are no apparent obstetric or medical

indications and the women still wish to have a caesarean section, a referral is made to the mode of birth clinic, run by a consultant midwife with expertise to explore in-depth the reasons for the request and to recommend birth plans and other potential sources of support. This pathway is, in the Trust's view, entirely consistent with the approach recommended by NICE. If maternal anxiety and /or fear of childbirth is a factor, the woman will be referred to the perinatal mental health support service, for further support and discussion. The woman is then referred back to the consultant obstetrician to recommend a mode of delivery based on the risk analysis determined in the previous multi-professional discussions and patient consultations.

At this point many women are happy to proceed with a vaginal birth because of the additional support they have been offered. This is, again, consistent with the NICE guidance on supporting such decisions. Some women will have had clinical indications identified during this pathway and are offered elective caesarean sections.

For a very small remaining number of women (the Trust estimates around 5 per year) there remain no clinical indicators for an elective caesarean section, but they still feel a vaginal birth is not an acceptable option. These women are currently referred, by way of direct referral to a specific obstetrician who will carry out a planned caesarean on the basis of maternal request alone. Historically, this may take place at a neighbouring trust based on the availability of a consultant obstetrician who is content to perform this mode of delivery within the NHS.

The above pathway ensures detailed assessments and support for all women who request elective caesarean sections as the mode of delivery, and includes careful risk assessments of each individual's situation, to ensure every woman receives appropriate advice and support around mode of delivery. In the small number of cases where a referral to another clinician has been necessary, this has been achieved with full communication and liaison between the Trust's obstetric team, the patient, and the obstetrician who has agreed to perform the maternal request caesarean section.

Please see further below, in relation to the current review of this pathway, which is underway as part of the Trust's wider development of obstetric services that will shape future provision.

3. **Please set out whether you consider that the NICE Guideline provides that an elective CS must be offered if requested**

The NICE Guidelines state:

> *"For women requesting a CS, if after discussion and offer of support (including perinatal mental health support for women with anxiety about childbirth), a vaginal birth is still not an acceptable option, offer a planned CS.*
>
> *An obstetrician unwilling to perform a CS should refer the woman to an obstetrician who will carry out the CS".*

The Guidelines do not indicate that an obstetrician must offer an elective caesarean section if they do not consider it appropriate to do so. Instead the NICE Guidelines state that an obstetrician should refer the woman to an obstetrician who will carry out the procedure. As stated above, if there are no clinical indicators but a woman still feels that a vaginal birth is not an acceptable option, they have historically been referred to an obstetrician who will carry out a caesarean section.

3. **In particular, please set out whether you consider that the NICE Guideline provides that an elective CS must be offered if requested, even when (i) not clinically indicated, and/ or (ii) a referral to perinatal health services is declined, and/ or (iii) that referral does not then lead to CS being offered on mental health grounds. If you do not agree that this is the effect of the Guideline, please explain what you understand it to provide.**

In response to feedback from women, the Trust is keen to have a transparent policy with regards to its approach to planned caesarean sections. It was our client's policy to inform women at the time of booking that it is not the Trust's usual practice to offer elective caesarean sections where there are no clinical indications to do so because of capacity issues and safety constraints.

Following further consideration in light of concerns raised, the Trust made a decision in 2018 to update this letter. This is to ensure that for the small number of women who wish to have a non clinically indicated caesarean section, it is clear that arrangements will be made for these women to have an elective caesarean section which may take place outside of the Trust. There is not a blanket ban in place at the Trust and women are invited to discuss their personal circumstances, and are then reviewed on an individual basis. The Trust adopts a women-centred approach to care delivery, taking into account all relevant factors and assessments. The updated letter has been approved by the Trust's ratification process and will be put into circulation shortly.

4. **Please confirm whether Birthrights is correct to have inferred from Ms Herve's statement that *"It is true that we are informing women at booking that we do not offer this option unless it is clinically indicated"* that there is a blanket policy in place which means that CS will never be offered unless either clinically indicated, or the referral to perinatal health services leads to CS being offered on mental health grounds.**

This is addressed in response to question 3.

5. **Please explain what is meant by the phrase *"The processes detailed above make up the main recommendations found in the NICE guidance around the management of women who request an elective CS without a clinical indication".***

This is addressed in response to question 2.

6. **Please set out how *"severe anxieties around birth"* and *"poor outcomes associated with birth"* are both defined and assessed.**

As stated above, at the Trust, women who express a desire to have a caesarean section are referred to a consultant obstetrician and the reasons for the request are explored. An obstetric reason why a caesarean section may be indicated includes *"poor outcomes associated with birth".* This would be assessed by the consultant obstetrician on the basis of the woman's clinical presentation. This is a clinical assessment based on the woman's history and presentation, and therefore a single generic definition is not applied during clinical assessments.

If there are no apparent obstetric or medical indications and the women still wishes to have a caesarean section, a referral is made to the mode of birth of clinic, run by a consultant midwife with expertise to explore in-depth the reasons for the request and to recommend birth plans and other potential sources of support. If maternal anxiety and /or fear of childbirth (including "*severe anxieties around birth")* is a factor the woman will be referred to the perinatal mental health support service.

Again as this is a clinical assessment based on the individual circumstances of the woman concerned, no generic definition is applied.

7. **Please confirm whether there are obstetricians at the Trust who would be willing to carry out a CS which is not clinically indicated and/ or indicated on mental health grounds.**

Historically, the Trust's obstetricians have been concerned about performing elective caesarean sections within Trust pathways, where there is no clinical indication to do so. Therefore these patients have been referred to an obstetrician (as geographically convenient to the particular patient as possible), who had agreed to perform the caesarean section. The Trust reviews the situation regularly as the consultant body changes, and following recent appointments at consultant level, the Trust is currently conducting a consultation process to establish the current position for each consultant. This is a personal choice issue for each clinician of course, based on their professional view of the risks to each patient, and it is therefore important to ensure the Trust, as an employer, approaches the issue sensitively. The results of the current discussions internally should be available within a few weeks, and this will then inform the Trust's next steps in terms of the services provided on site.

The reasons cited historically by the consultants for their professional views on this issue are twofold. Firstly, the harm caused to mothers and their future pregnancies, by undergoing surgery that is not clinically indicated; and secondly concerns regarding capacity issues in obstetric theatres. The Each Baby Counts report has found that in 12% of babies who had avoidable harm, the root cause had been lack of theatre capacity. Whilst the Trust recognizes that is not an insurmountable risk, it is one factor in the analysis made by the clinicians around their personal position. In light of the numbers of women involved in recent years, the Trust is actively revisiting the issue, to update the awareness of personal views of obstetricians involved, as well as considering the wider issue of theatre capacity in the service generally, which may mitigate the risk identified going forwards (which in turn may then assist with individual clinical concerns).

8. **Please set out the criteria applied by the Perinatal Mental Health Team when assessing whether CS should be offered on mental health grounds**

If following an initial clinical appointment(s) additional mental health assessment and support is indicated, women are referred to healthcare professionals with expertise in providing perinatal mental health support. An individualised assessment plan is made aligning the risks and benefits of a surgical delivery versus a vaginal delivery and how this impacts on the psychological wellbeing of the woman. The decision as to whether a caesarean section should be offered on mental health grounds is complex and is a joint decision involving the patient, the Obstetricians, the Perinatal mental health team and the Consultant midwives.

9. **Please set out how many referrals for a perinatal psychiatric mental health assessment resulting from a request for a CS without a medical or obstetric indication have been made in the past two years (June 2016 to June 2018)**

The Trust does not hold data which separates out referrals to the perinatal psychiatric mental health assessment for this particular reason. Women are referred to this service for a number of reasons, and the necessary assessments are then conducted. The total number of patient referrals to the perinatal mental health clinic per year (for all reasons) is approximately 1000. Of this number 576 were referred to the Perinatal Consultant Psychiatrist for further assessment. .

10. **Please set out how many referrals have resulted in the perinatal mental health team at Oxford University Hospital recommending that the women concerned should be given an elective caesarean on mental health grounds.**

The assessment process overall results in a multidisciplinary team considering the information on a patient by patient basis, led by the obstetrician. The patient either has clinical indicators identified (whether physical or related to mental health), or there are no clinical indicators identified. As a result, the Trust does not hold data which then sub-divides the clinical indicators between physical or mental health reasons. The Trust can however advise that around 4 or 5 patients per year go through this assessment process and are found to have no clinical indicators to support a decision to proceed with elective caesarean section, but who choose to proceed with a caesarean section mode of birth by way of maternal request alone.

This would suggest, given the total numbers of women who deliver babies with the support of the Trust's obstetric services, that the process of risk assessment and support to help women make choices on mode of delivery, is effective in meeting the needs of the vast majority of patients accessing the service, applying the pathways recommended by NICE guidance on mode of delivery assessments. For the small, but important, group of individuals who make a different choice following these assessments, arrangements are made to ensure they have access to the elective caesarean section they seek.

11. **Please provide a list of which members of the psychiatric/ Psychology team(s) carry out these assessments, providing a breakdown as to (i) the number of referrals to each team member and (ii) the number of recommendations to have an elective caesarean per team member.**

The Perinatal Mental Health team is multidisciplinary team of professional including a Perinatal Consultant Psychiatrist, Public Health Midwife, Obstetricians interested in perinatal mental health, and representatives from the Infant Parent Psychiatric Support Service. The Trust does not hold data which breaks down recommendations made in relation to individual patients, based on the role of any member of the perinatal mental health team. Decision are multidisciplinary in nature.

12. **Please set out the guidance offered to women for whom CS is not clinically indicated, and/ or a referral to perinatal health services is declined, and/ or that referral does not then lead to CS being offered on mental health grounds, regarding accessing an elective CS elsewhere.**

Please see the response set out above regarding clinical pathways. Anecdotally the Trust advises that they are only aware of 1 or 2 patients declining a referral to perinatal health services and individual solutions were identified for those patients.

13. **Please set out how many complaints you have received in the last two years (June 2016 to June 2018) about your policy on maternal request for caesareans.**

The Trust has received 10 complaints between June 2016 and June 2018 regarding the Trust's elective caesarean section policy.

14. **Please then set out (i) whether these complaints have ever been reviewed as a group or theme by the Trust, and (ii) the result of any reviews, including who any findings were shared with.**

The Trust can confirm that it has drawn together the complaints to ensure that the issues identified, continue to form part of the Trust's thinking around its approach to maternal request elective caesarean sections, alongside concerns raised by your client. The Trust is aware of around 4 or 5 women per year who go through the clinical pathway described above and in the attached information leaflet, who ultimately choose to request a non clinically indicated caesarean section, and for whom a direct referral to an obstetrician is arranged. In light of the concerns raised, the wording of information letters sent to women at the point of booking, has been updated (see above), and a review of current obstetric views within the Trust has begun. The Trust has also sought to explore the approach of other peer groups, as well as factoring in the impact of this issue on wider business plans regarding increasing theatre capacity at the Trust.

These latter matters have resulted in the very recent (just before Christmas) confirmation of additional funding for the Trust to deliver a programme of change within obstetric services, to add increased capacity over the next 12 months or so. This, in conjunction with discussions with clinicians as to their professional position on this procedure, may result in an ability for the Trust to perform non clinically indicated caesarean sections in the future. The Trust would be happy to update you/your client further on this strategic development and timeframes as the service development evolves and timescales become more definable.

15. **Finally, please state how many of these complaints were responded to within 25 working days.**

Out of the 9 closed complaints, 8 were responded to within 25 working days or within a timescale agreed with the complainant.

16. **Please confirm whether you consider that the Trust has met all of its duties under the Equality Act 2010.**

The Trust is aware of its duties under the Equality Act 2010 and works to ensure that the policies and practices at the Trust comply with these obligations. The trust does not consider it has failed to do so on this specific issue.

17. **Finally, please provide copies of (a) all relevant policies concerning the delivery choices of pregnant women, and (b) any and all assessments undertaken prior to or since the implementation of those policies.**

Please find enclosed copies of relevant policies. We would be grateful if you could clarify what you mean regarding "assessments" – do you refer to examples of clinical assessment materials, or information which seeks to assess the effectiveness of the policies?

We trust that the above has been of assistance. In the event that you require further information or additional clarification, please do not hesitate to contact us.

Yours faithfully

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