

Birthrights Statement on stillbirth documentary filming at the Rosie Hospital

(For immediate release)

Birthrights, the human rights in childbirth charity, has received an enquiry from a concerned member of the public regarding the consent process for filming women and families as part of the production of a documentary on stillbirth (being produced by True Vision for Channel 4).

We believe that all women are entitled to respectful maternity care that protects their fundamental rights to dignity, autonomy, privacy and equality. Therefore we are keen to gain a greater understanding of whether all aspects of the filming taking place at the Rosie Hospital are compatible with the Trust's duty to protect potentially vulnerable women at a very difficult time in their lives.

On 28/11/17 we wrote to Mr Roland Sinker (Chief Executive Officer of the Cambridge University Hospitals NHS Foundation Trust) to ask for more information about the project, to clarify the consent process and to outline possible concerns about whether this process is being lawfully undertaken.

We are awaiting a response from the Trust and have already received (and are in the process of looking at) a detailed response from the production company.

A copy of Birthrights letter to the Trust is included below.

By Email

28th November 2017

Dear Mr Sinker,

I write to you from Birthrights, the charity devoted to protecting women's rights in pregnancy and childbirth. We advise and support women and health professionals to ensure that women receive respectful maternity care.

We understand that permission has been given to a film production company to film a documentary about stillbirth at the Rosie Hospital. Whilst we understand the potential benefits of a sensitively made documentary on this subject, we do have some serious concerns about this project, and in particular whether consent is being lawfully obtained and whether women are being treated in a respectful way.

We understand that continual filming has been permitted in quite an extensive area, with notices asking service users to raise any concerns with staff. We understand staff have been asked only to talk about why the cameras are there if asked and then to provide a sheet of written information or refer to the film crew. Our understanding is that footage will be deleted within a given timescale unless the documentary makers go in to save it, but that women and their partners will not be explicitly asked for consent to film in advance – instead this will be done retrospectively.



Please can you confirm that the Board are aware of, and have approved this project? Please can you confirm that this has been discussed with the Maternity Voices Partnership for the Trust?

In coming to their decision, please can you confirm that the Board (or alternative decision makers) have considered the Trust's duties under the European Convention of Human Rights/ Human Rights Act 1998?

As you will be aware such a filming project would engage individuals right to privacy, which is a reasonable expectation for medical procedures, consultations and examinations. Any interference with this right needs to be "in accordance with the law, and necessary in a democratic society in the interests of national security, public safety, or the economic wellbeing of the country, for prevention of disorder or crime, for protection of health or morals, or for the protection of the rights and freedoms of others". Any such legitimate and necessary interference still needs to be proportionate.

Please could you confirm what your legal basis is for filming this documentary?

Furthermore please can you confirm that you have assured yourselves that all service users, including the most vulnerable such as those with low literacy levels and those service users for whom English isn't their first language are able to access any notification of the filming?

Please confirm what is happening with the films and images of those individuals who don't give consent during the period that they are still held on the camera/computer? Is this in accordance with data protection laws? Has any consideration been given to what would happen if during the period before the material is deleted the camera/computer were to be hacked and those images/audio recordings removed and distributed to others?

How is consent being sought after the filming has taken place? What safeguards have been put in place to ensure that, just after being told their baby has died, and also having just being told that they have been filmed without their express permission, women and their partners are giving fully informed consent to use this footage and to be filmed going forwards at an extremely distressing and vulnerable moment in their lives? How are you ensuring no emotional persuasion is being used?

Assuming for the moment there is a legal basis for the filming, on what basis (under Article 8) do you judge the filming to be necessary ?

And on what grounds are you arguing that the restriction of individual's privacy to the extent of not seeking prior permission for filming and restricting the right of your staff to discuss this with women and their partners is proportionate to the aim?

I look forward to your swift response. Please be aware that we regard this as a public letter to you and will assume you are happy for us to share your response unless you explicitly state otherwise.

With regards

*Rebecca Schiller
Chief Executive Officer, Birthrights*

ENDS



Notes to Editors:

Birthrights is the UK's only organisation dedicated to improving women's experience of pregnancy and childbirth by promoting respect for human rights. We believe that all women are entitled to respectful maternity care that protects their fundamental rights to dignity, autonomy, privacy and equality. We aspire to advance the human rights and lawful treatment of all child-bearing women.

What we do:

- Provide free, accurate and accessible legal information and advice on human rights and the law relating to childbearing women.
- Campaign on respect for women's rights in childbirth as fundamental human rights that maternity-service providers are legally obliged to respect and fulfil.
- Offer advice, assistance and training to caregivers, professional or otherwise.

Birthrights promotes women's right to receive evidence-based care that conforms to the best medical and midwifery standards. We do not hold views on clinical issues arising in maternity care.

Birthrights is a charitable incorporated organisation. Our registered charity number is 1151152. You can read more about our work on our [website](#) and read our press coverage [here](#).

