



*Protecting human rights
in childbirth*

Registered address:
Birthrights
Union House
111 New Union Street
Coventry CV1 2NT
0300 400 30 400

23rd April 2020

Dear Dr Roberts,

I am writing to you from the human rights in childbirth charity Birthrights, regarding the decision of Cheshire and Merseyside Local Maternity System to temporarily suspend home birth services.

I want to assure you that we understand the unprecedented pressures on health systems created by COVID-19, and that difficult decisions need to be made. We are however somewhat surprised by the timing of this decision, given the improvement in the national picture.

From a legal perspective, Trusts can limit a woman's right under Article 8 of the European Convention on Human Rights to choose the circumstances of her birth if the restriction is lawful, has a legitimate aim (such as protecting the health of others) and if the action taken is proportionate. In order for a restriction to be proportionate, Trusts must show that that they have explored all reasonable options to address the hurdles faced, such as entering into contracts with Independent Midwives, bringing back retired staff, or negotiating a temporary standard operating procedure with the local ambulance service.

You will be aware that NHS England has recently issued guidance to Trusts in which it is clear that withdrawing services must be a last resort and only after a risk assessment has been undertaken to include amongst other things the impact on women's mental health, that escalation plans that include withdrawing services must be notified to NHS England, and that they must be taken in consultation with a Maternity Voices Partnership chair. In addition, at least one midwifery-led option should be maintained if at all possible.

birthrights.org.uk
info@birthrights.org.uk
@birthrightsorg
Registered charity number 1151152
Patron: Nadine Montgomery

birthrights



*Protecting human rights
in childbirth*

Registered address:
Birthrights
Union House
111 New Union Street
Coventry CV1 2NT
0300 400 30 400

The benefits of home birth were set out in guidance on provision of midwifery-settings from the RCM on the 9th April:

"The positive impact of midwife-led birth settings is well documented, including reductions in the need for a range of medical interventions. These positive impacts remain of significant importance to prevent avoidable harm, and availability of midwife-led care settings for birth should therefore be continued as far as is possible during the pandemic."

We have also been contacted by a significant number of women who do not feel safe giving birth in hospital at the current time and who are considering giving birth unassisted. Where a Trust has not thoroughly investigated how the issues of staffing and safe transfer challenges could be addressed, resulting in a risk to life, the Trust could be legally liable.

It is therefore a matter of safety that women are being denied a home birth in Cheshire and Merseyside. We are disappointed to see scant explanation given of why withdrawing the service is necessary at the current time, and how it aligns to national guidance. It is also hard to understand how a decision that does not take into account the differing resource situations between Trusts could be considered proportionate, if legally challenged. We ask that you urgently:

- share the risk assessment that was undertaken to reach the decision to withdraw home birth services (at what levels of staff shortages was this deemed to be unsafe, what other factors were considered, what was the impact on the rest of the community expected to be of continuing the homebirth service and how was this weighed against the rights of women wishing to give birth at home)
- describe how service user views were taken into account when these decisions were made
- describe the arrangements that have been put in place to regularly review these decisions as staffing levels change

birthrights.org.uk
info@birthrights.org.uk
@birthrightsorg
Registered charity number 1151152
Patron: Nadine Montgomery



*Protecting human rights
in childbirth*

Registered address:
Birthrights
Union House
111 New Union Street
Coventry CV1 2NT
0300 400 30 400

- describe what arrangements have been put in place to review requests for exceptions to be made to the current policy, where there are good reasons to do so
- share what arrangements have been put in place to deal with more women staying at home for longer and a consequent rise in born before arrivals (BBAs).

We look forward to your timely response.

Yours sincerely,

Maria Booker
Programmes Director - Birthrights

Cc Catherine McClennan
Claire Mathews