



*Protecting human rights
in childbirth*

Registered address:
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Union House
111 New Union Street
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0300 400 30 400

28th January 2020

Dear Dr Cooper,

I am writing to you from the human rights in childbirth charity Birthrights, to share the external legal opinion we have sought on Trusts/Boards refusing to allow requests from pregnant women and their families to stream or record ultrasound appointments, and to ask you to withdraw and urgently review your guidance on this matter. The legal opinion concludes that “a blanket prohibition on the use of streaming or recording during antenatal appointments in circumstances where the support partner is unable to attend in-person with a pregnant woman is likely to be unlawful, discriminatory and violate both Articles 8 and 14” of the European Convention on Human Rights.

The advice, prepared by Shu Shin Luh of Doughty Street Chambers with support from Irwin Mitchell, makes clear that “there is a well-established body of clinical evidence showing that partner participation in antenatal appointments and through a woman’s pregnancy improves maternal and foetal health.” However the clinical nature of partner participation appears to have been ignored or disregarded in the Statement from the Society and College of Radiographers (SCoR), the British Medical Ultrasounds Society (BMUS), the Royal College of Obstetricians (RCOG) and the Royal College of Midwives (RCM) and none of the reasons listed in the Statement provide an adequate basis for outweighing this clinical benefit. Furthermore “providing a woman with a 10-30 second clip of the scan does not fully address the clinical importance of facilitating proper patient participation.”

The advice goes on to say that NHS organisations who have simply adopted the Society and College of Radiographer’s recommendation as a hard and fast rule, will have acted unlawfully in the barrister’s view by failing to take into account all “relevant and available evidence” that they are required to address when formulating a policy on this matter.

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Please could you tell us when the decision was made by Public Health Wales to recommend no remote participation at scan appointments?

As Public Health Wales's guidance only explicitly refers to the Statement from the four professional bodies, we kindly ask that your guidance is withdrawn immediately and reviewed as soon as possible, taking into account the factors laid out in the legal opinion.

We would be grateful if your actions could be communicated with all ultrasound departments in Wales who may currently be following your guidance.

We look forward to receiving your response by the 5th February please.

Yours sincerely,

Maria Booker
Programmes Director – Birthrights

Cc Karen Jewell – Senior Midwifery Officer for Wales