AIMS For a better birth...

'It is illegal to give birth at home without a midwife.' NO it is NOT

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AIMS Chair Beverley Lawrence Beech comments on two recent reports

Many people imagine that a campaigning pressure group spends a great deal of its time in the corridors of power putting pressure on ministers and getting the troops out on the streets for yet another protest (if only). The reality is somewhat different. A great deal of AIMS time is taken up with advising individual women on their rights and what they can do to get the kind of care they want and, in selected cases, taking up the issues with the Trusts.

Earlier this year an AIMS member drew our attention to the Royal Berkshire NHS Foundation Trust's web site and Patient Information Leaflet which stated that:

'Midwives are the only people in the UK who have a legally enforceable right to be present at a baby's birth ..... surprisingly, partners and doctors do not have these rights.'

We sent a letter asking them to provide a copy of the Act, regulation or statutory instrument that supported that statement.

They responded by stating that:

'The author of the leaflet wrote the sentence you refer to based on the 1902 Midwives Act, however the wording used in the leaflet does not accurately reflect the Act or any subsequent Act with regards to a midwives [sic] right to be present at a baby's birth. I think the author was referring to the fact that no one can act as a substitute for a midwife other than another practising midwife or registered medical practitioner'.

But they still had not got it right so we sent the following letter challenging their claims:

Thank you for your letter of the 10th September and the explanation of how the mis-information came about. I am however still concerned about the implications of what you have written. For example, you mention that the 'wording used in the leaflet does not accurately reflect the Act or any subsequent Act with regards to a midwives [sic] right to be present at a baby's birth'. A midwife has no right to be at a baby's birth, and if a woman chooses not to contact a midwife that is her right to do so.

You go on to say that 'no one can act as a substitute for a midwife other than another practising midwife or a registered practitioner'. That too is misleading. A husband, partner, or Auntie Nellie, who is present

when the woman gives birth and who may 'assist' her to birth is not acting as a 'substitute for a midwife', and I think the wording you have used is very misleading.

The Act states:

16. (1) A person other than a registered midwife or a registered medical practitioner shall not attend a woman in childbirth.

(2) Subsection (1) does not apply -

(a) where the attention is given in a case of sudden or urgent necessity; or

(b) in the case of a person who, while undergoing training with a view to becoming a medical practitioner or to becoming a midwife, attends a woman in childbirth as part of a course of practical instruction in midwifery recognised by the General Medical Council or one of the National Boards.

The Act is designed to prosecute people who claim to be midwives when they are not. It is not applicable to women, or their companions, who decide to give birth at home against medical advice and who choose not to call a midwife or doctor.

We received a copy of a letter from Jacqui Smith MP, Minister of State, Department of Health, written to Julia Drown MP on the 23rd September, 2002 stating:

'Attending a woman in childbirth, as opposed to general support given by par tners and relatives, has been an offence against the protected function of midwifery since the Midwives Act 1902 and the fines are set at a level to reflect the seriousness of the offence. By 'attend' we mean, 'assume responsibility for care' and this is not intended to outlaw husbands, partners and relatives whose presence and support during childbirth are extremely important'.

There is also a further confusion about midwifery provision for home birth. A Trust is required to provide 'a midwifery service' and some Trusts have been instructing midwives that when there is a shortage the woman should be told that she 'has' to come into hospital as there are no midwives available to attend.

In 2006 the Nursing and Midwifery Council clarified the midwife's professional responsibility (NMC Circular 8-2006).

'Whilst an employed midwife has a contractual duty to her employer, she also has a professional duty to provide midwifery care for women. A midwife would be professionally accountable for any decision to leave a woman in labour at home unattended, thus placing her at risk at a time when competent midwifery care is essential.' It goes on to state that 'should a conflict arise between service provision and a woman's choice for place of birth, a midwife has a duty of care to attend her. This is no different to a woman who has walked into a maternity unit to receive hospital care. Withdrawal of a home birth service is no less significant to women than withdrawal of services for a hospital birth.'

Furthermore, I wish to stress that should a Trust deliberately fail to provide a midwife to a woman in

labour at home and the woman died, was brain damaged or should a similar disaster occur with the baby the Trust would have left itself wide open to legal action, and a considerable amount of negative publicity, and I can assure you that AIMS would vigorously take up the case.

While we regularly receive reports from women who have been told that it is 'illegal to birth at home without a midwife and we will prosecute those who are present', and innumerable variations on that theme, it is rare for us to receive written confirmation of what has been said. The staff who persist in repeating this mis-information appear to be unaware of the potential consequences. Such statements back women into a corner and the determined simply turn around and state that in that case they will deliver on their own without anyone present, others simply ensure that they call the midwife just before the baby emerges thereby ensuring that she arrives too late.

AIMS has been campaigning for home birth since the 1970s and while we will support any woman wanting home birth we spend a considerable amount of time discussing the reasons, and for those women who are considered to be at high risk we talk through the issues and do all that we can to ensure that they have adequate midwifery care. Women do not put themselves or their babies at unnecessary risk but one of the problems is that health professionals have different perceptions of risk to women. Some women consider the highest risk in their pregnancy is being attended by a midwife who is determined to undermine them and find any excuse to get them into hospital, or bring questionable hospital practices into the home, and in those circumstances some women would have been better off had they not called a midwife.

The decision to birth at home rests entirely with the woman and AIMS will do everything it can to ensure that the woman has a competent midwife with her. While the government continues to claim that every woman has a choice of a home birth without insisting that the Trusts ensure adequate midwifery provision women will continue to be misinformed and unnecessarily stressed by having to fight for the unconditional presence of a midwife when they go into labour.