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Professional Indemnity Insurance for Independent Midwives

AIMS Journal, 2012, Vol 24 No 2

Helen Dresner Barnes explores the erosion of choice for women and midwives

Today, a woman wishing her maternity care to be provided by a midwife she herself has selected, is able to exercise that choice.

One of the main reasons women choose to book with an independent midwife, is that they want continuity of care from a known carer. Very often they have already had an experience within the NHS that has not met their needs, or have been told that their circumstances dictate a certain course of care, which may not be acceptable to them, for example an 'elective' caesarean section for a breech presentation. Women don't want care prescribed by a system governed by tariffs and limited by human resources, where staff are not replaced when they are absent through sickness or maternity leave or where the number of staff is dictated by how a budget is used. Bank staff might be used in a hospital, but this does not happen so often in community settings. Disenfranchised from the NHS monopoly or simply exercising the right to choose, women have been able to seek alternative care from an independent midwife. From October 2013 this will no longer be the case, unless a solution can be found to the insurance problem.

The compromise a woman has had to make when seeking an alternative approach to the NHS maternity services is to accept that there is no professional indemnity insurance (PII) attached to the independent midwifery model of care. This is not because care from an independent midwife has been shown to be less safe, but quite simply, with such few midwives practising this way, they are not a commercially attractive group to insurers.

The Royal College of Midwives ceased to provide professional indemnity insurance in 1993 and whilst for a few years independent midwives could obtain PII commercially at an affordable price, this rose exponentially, effectively pricing independent midwives out of the market. Insurance premiums became so very high, that only certain private Birth Centres could afford it – but eventually, even these could not sustain this. Independent provision was priced out by the insurers' unaffordable premiums. There followed a period of negotiation with a large US based insurer which would have supported midwives work within the rules and standards laid down by the NMC, but at the last moment the company withdrew all medical cover from the UK. Independent midwives who continued to practice were left with no option but to work with no professional indemnity insurance if they were providing full antenatal, intrapartum and postpartum care. Those offering solely antenatal and postnatal care can be indemnified through the Royal College of Nursing.

The European Parliament Directive 2011/24/EU[1] effectively made PII mandatory for all healthcare professionals, as a method of protection for the public and to provide a 'remedy' against harm done in the course of care. This requirement will come into place by October 2013.

In addition, the Independent Review of the Requirement to have Insurance or Indemnity as a Condition of Registration as a Healthcare Professional[2] by Finlay Scott concluded that it should be a statutory requirement for registrants to have insurance or indemnity. In Finlay Scott's opinion, a healthcare professional working as an employee can satisfy this requirement courtesy of the corporate cover arising from various liabilities, but for those who are self employed the route for indemnity must be through personal cover. The long and short of this is that in order to stay on the professional register and practice legally, from October 2013, professional indemnity insurance will be mandatory for all midwives. Currently NHS midwives are indemnified through the Clinical Negligence Schemes for Trusts.

Finlay Scott also noted the difficulties in obtaining PII for professionals such as independent midwives and made the following recommendation 'In relation to groups for whom the market does not provide affordable insurance or indemnity, the four health departments should consider whether it is necessary to enable the continued availability of the services provided by those groups; and, if so, the health departments should seek to facilitate a solution.'[2]

In 2011 The Flaxman report,[3] commissioned by the RCM and NMC to see what solution there might be, concluded that the insurance industry regards insuring lone independent midwives and those operating outside of the NHS as very risky; and that independent midwives should form a suitable organisation that might then be considered by the insurers to be insurable.

Whilst a suitable organisation has been largely interpreted as an employment model, this isn't what Flaxman categorically stated, but it appears that as employees PII becomes easier to obtain, as indemnity sits with the employer, not the individual midwife, as Finlay Scott noted in his review. A suitable organisation might also be a not for profit social enterprise scheme, but either way, there would need to be acceptable governance and supervision in place, as well as regulation from the Care Quality

Commission.

As it stands, in May 2012, no solution has been found that permits women to choose care from an independent midwife of her choice, in the way she now can, after October 2013. On the Wirral a private company 'One to One' has contracted into the NHS to provide care for women for the whole of their maternity care. The information as to how they have been able to indemnify themselves is not forthcoming.4

Some members of IM-UK are also developing a separate scheme, 'Neighbourhood Midwives5 which hopes initially to offer care to 'low risk' women. The selection of this initial target group of women is driven by the new NHS tariff system which produces a clawback of fees if women have to be transferred back to the NHS for care. This new tariff system is likely to be very disadvantageous to any group looking after a booked low risk woman, who then develops complications and becomes high risk. Nevertheless Neighbourhood Midwives hope to eventually be able to offer care to a broader group of women, but the economic viability is as yet untested. What is the potential effect of such changes? The knock on effect for the skilled and experienced midwives of only caring for 'low risk' women, is that midwifery skills such as those employed in vaginal breech birth, will, overtime, be lost to midwives. Diminishing midwifery knowledge is both soul destroying to those knowledgeable midwives practising complex midwifery skills, and is yet another resounding nail in the coffin of women's choice and the longevity of midwifery skills.

Ironically, as the mainstay of the client group traditionally booked by independent midwives is being changed by the demands of PII and a tariff system for maternity services, within the NHS itself, there is now evidence of care being targeted specifically at those women who previously would have turned to the independent sector for care.6 This is not, however, available to all women as local services organise their provision of care differently to one another. There is a very clear outcome of the PII issue. Despite endless rhetoric about choices in childbirth, women will soon have the choice of midwifery carer removed. The Government, largely composed of men, who will never understand what is to birth a child, continue to dictate to women how they should experience childbirth. Whilst childbirth rights are very much a global issue, this, today, is our national tragedy.

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