AIMS For a better birth...

Safeguarding Compliance

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Beverley Beech reports on a situation of extreme retaliation against parents who disengage

In March 2006 Sarah Beverton gave birth to her first baby at home. She was not happy with the care she received from the midwives in York, as she felt pressurised during the labour; so when she became pregnant the second time, after moving to South Tees, she decided that, this time, she would give birth and not call the midwives as she felt similarly about the midwives at the two antenatal clinics she did attend.

Sarah's second baby, Rosa, was born on 16 March 2010 (7lbs 12oz) without any complications. On Friday 19 March Sarah and her husband, Kieron Beverton, phoned the midwives to tell them about the birth. The midwife arrived and made it quite clear that she did not approve of their decision, despite this being a decision that the mother has an absolute right to make. In the notes she recorded

'Sarah had a planned home birth on Tuesday without any medical attendance. This was Sarah's own decision and had not been pre discussed with staff...

discussion regarding concerns of not informing staff of delivery, aware Social Services and Child Protection have been informed. No concerns found today at visit, honest and open as to why didnt [sic] want anyone to be present.'

According to South Tees Local Safeguarding Children Board (LSCB), Midwife Jayne Graham followed the Safeguarding Children Procedures and *'correctly identified that failure to access appropriate medical care and treatment for Rosa, both antenatal, and for three days following her birth, constituted a potential child protection concern... Therefore, Midwife Graham sought advice from Mrs Helen Smithies, Named Nurse for Safeguarding Children, and it was agreed to submit a child protection referral to the Social Services Department.'*

In a subsequent letter to AIMS Mrs Tricia Hart (Director of Nursing and Patient Safety) wrote:

'It was established that, should the Trust become aware in future that appropriate medical care was not being sought for Rosa, a further child protection referral should be submitted.'

[Note: Safeguarding Teams have no Safeguarding Midwife: maternity is covered by the Safeguarding Nurse, and we have seen many cases where their ignorance of midwifery has led to errors.]

The assumption was made that the kind of parents who reject orthodox birth care, because of their past experience of it, had behaved unacceptably and they had therefore endangered the fetus, and,

furthermore, were the kind who might not seek medical care if their child needed it in future. We are in touch with many parents who have made similar choices, and the evidence we have is that they are particularly caring and thoughtful parents and have in the past always sought medical care for their children when necessary. The assumption is unjustified and not based on any evidence. What it does show, is that health care professionals are unhappy with parents they feel they cannot control, and that they must be taught a lesson. That is exactly what South Tees midwives involved with Sarah's 'care' then proceeded to do.

What gives Midwife Graham and the Safeguarding Children Team the right to say that Sarah had endangered her fetus? A fetus has no status in law and a mother has an absolute right to take the action Sarah did. This is yet another example of health professionals acting where they have no right to do so. Once the baby was born she was healthy and well cared for, so there was no neglect

She did not need medical attention, and if she had, doubtless it would have been sought. Since when did it become a crime not to seek assistance for a healthy child?

Over the next week Sarah and Kieron were repeatedly visited by the midwives (on three occasions with the excuse that they had forgotten their oxygen saturation equipment - if the baby really needed this equipment she would have required immediate transfer to hospital - clearly she had no need for it and this was just an excuse for repeated visits) and by 26 March the Bevertons had had enough and called the community midwife team to cancel all further appointments, but were told that the midwives had to come again to discharge them officially.

'*We weren't willing to let them come again, having had so many visits already and an appointment planned with the health visitor on Monday, but we were told that in that case they would refuse to do the notification so that we wouldn't be able to register Rosa or claim tax credits or child benefit.*

The woman that we spoke to was the team manager [Sue Smethurst] who also said they would have to '" *re-inform" social services.*'

When, some months later, Mrs Beverton asked for her records and the minutes of the meeting that decided to inform Social Services, she received a letter which stated:

'You assume that a strategy meeting was undertaken in relation to the birth of your daughter Rosa. Feedback from our Enquiry and Assessment Team indicates that there was no such meeting. Computer records are limited to two contact entries where no further action was taken and the information was recorded for information only.' (letter, 26 October 2010).

So, it would appear that although the Bevertons were constantly threatened with Social Services, no such action had been taken

Concerned that time was passing and their baby was still not registered, Sarah and Kieron went to register the birth but the Registrar informed them that he could not register the birth as he did not have

an NHS number, and the NHS number could only be obtained by making a 'notification' of the birth to the Primary Care Trust's Child Health Department,

The 1907 Notification of Birth Act states that: *'When a baby is born at home with a midwife in attendance the midwife will make the notification'*.

It also states:

'In the case of every child born it shall be the duty of the father of the child, if he is actually residing in the house where the birth takes place at the time of its occurrence, and of any person in attendance upon the mother at the time of, or within six hours after, the birth, to give notice in writing of the birth to the Chief Administrative Medical Officer of the Health Board [now the Child Health Department at your local Primary Care Trust] for the area in which the child is born, in manner provided by this section.'

As these notifications are invariably done by the midwives, very few parents know of this Act's existence.

Although the couple repeatedly asked the midwives to do the notification this was not done. On a Child Protection Referral Form written by Claire Allen (Specialist Nurse Safeguarding Children) she noted:

As Rosa's birth cannot be registered she will not be allocated an NHS number. Our organisation has sought legal advice and this could be achieved by her being registered with 'parents unknown'.

Mr and Mrs Beverton will then have to apply to have their names put on the birth certificate. This could require DNA tests to ascertain they are the parents. Until this is achieved the parents do not legally have Parental Responsibility. Our organisations [sic] legal advisor believes it is Children's Social Care's responsibility to ensure this process is carried out. The concern remains that Rosa's health needs are not being met. The circumstances surrounding her birth and the patient's refusal to have any medical assessment need further investigating.'

Fortunately, the Bevertons were unaware of this at the time, although the midwives had informed the Bevertons that a DNA test might be required, and the Bevertons' attempts to find out precisely where this 'notification' was required to be made got nowhere. Furthermore, there was no evidence at all that Rosa's health needs were not being met. So, AIMS wrote a letter of complaint to the Trust about the way this couple had been treated and appealed for the registration to be expedited. Little happened, so AIMS tracked down the relevant department, rang the clerk concerned, and established that, to date, no one had registered the birth. AIMS advised the Bevertons to go to the department themselves and notify their baby's birth. This they did, and they then visited the Registrar (on 27 April aged exactly 42 days, the last day of the time limit for registering births) and registered their baby. Although many families have told us that the mother has given birth without professional attendance after unacceptable previous care, and some have been reported to Social Services, South Tees staff's reaction, in our experience, is extreme retaliation.

However, the saga did not end there. Kieron Beverton works as a care assistant at another Trust. A

month after the letter of complaint had been sent, and after the family believed that all had been resolved, Jane Sonnen (the Local Authority Designated Officer (LADO) for Middlesbrough's Review and Development Unit) committed a gross breach of Mrs Beverton's confidentiality. She wrote to Alison Woodhouse at York Primary Care Trust (Kieron's line manager) informing her that Mrs Beverton had given birth:

'with no medical intervention to a baby girl name [sic] Rosa. When challenged about the possible risks of such a pregnancy and birth Mr Beverton replied "we are not stupid and had done lots of research on the internet." The couple also indicated they would consider another child by using the same pregnancy/birth plan...

'Mr Beverton I understand is in a position of power and trust in his full time role at York. The individuals in his care are often the most vulnerable in society, therefore given the above information it was felt appropriate at this time to make you aware of the circumstances as highlighted above...

'From a LADO perspective, it remains the responsibility of York to consider if the issues raised constitute a referral and risk assessment. Middlesbrough Borough Council act in the role of ensuring all relevant information is shared...

'I am sure you will appreciate safeguarding is all person's [sic] responsibility and therefore communication regarding the protection of children and vulnerable adults should be clearly evidenced.'

(Mr Beverton works for the mental health service, as a care assistant for working-age adults.) Firstly, this was a gross breach of Sarah Beverton's confidentiality. Secondly, Jane Sonnen seems ignorant of the fact that the decision as to how and where to give birth was the mother's, and hers alone. The legal position is that Mr Beverton committed no offence by being present and supporting his wife. His offence in the eyes of Jane Sonnen, apparently, was that he supported his wife and did not disagree with her. Does the man who supports and cares for his wife become a less responsible person, and therefore less able to care for others at work? Or is their sole criterion for carers 'obedience to authority'?

As a result of this letter Mr Beverton was called to a meeting with Julia Lidster (Service Manager - Recovery) and after that meeting he wrote the following to her:

'I was more than slightly surprised to be called into your office following my return from paternity leave to discover that you had been contacted by Middlesbrough Child Protection Team who, I understand from you, has informed you that my wife gave birth at home illegally and that I too was breaking the law by being there. I also understand that the team informed you that the police have interviewed me and so too have social workers. This is untrue, neither the police nor social workers have approached me or my wife.

'As I said at the meeting it is not illegal to give birth at home without a midwife and I am surprised that Middlesbrough Child Protection Team has contacted you. I would be grateful if you would give me a copy of the letter that alerted you to this and I would also like to know who it was who contacted you.

'I note that you insisted that I should agree that there should be no repetition of this in the future because if it happens again you would have to arrange an investigation.'

On 16 May Julia Lidster replied:

'I hope from our meeting you have taken note of the seriousness of this issue as I said the PCT has a responsibility under the safeguarding children legislation and as an employee for the PCT you have a significant role in upholding this.'

Clearly, she had not taken the slightest notice of what he had said and appears not to understand the gross breach of confidentiality that had occurred. Nor did she understand that the decision of how and where to birth was his wife's and not his

So a complaint went to the South Tees Hospitals NHS Foundation Trust and the Trust's response to AIMS' complaint followed a standard many page account of the 'care' provided and an assurance that had the midwives known of Mrs Beverton's intentions 'the Midwifery Service at STHFT would have supported them and acted as their advocate in their wish for a home birth.' (This Trust has a 0.6% home birth rate, clearly not supportive of home birth.) It contained a number of apologies, some 'sincere', and claims that the staff were very sorry for any distress that may have been caused

A complaint was also made to the Information Commissioner on the grounds that Jane Sonnen breached confidentiality and went far beyond her social care responsibilities. Reporting Mr Beverton (who works with vulnerable adults) to his manager on the grounds of 'Safeguarding Children' was stretching the requirements to the limit. The Information Commissioner agreed:

'We wrote to the Council about this matter and have now received its response. On the basis of all the information provided by you and the organisation, we have decided that it is unlikely that the Council has complied with the requirements of the DPA [Data Protection Act]...

'The Council has explained that they have statutory social care obligations, and this disclosure was in support of their duty to safeguard children. The Council is therefore relying on section 35(1) of the DPA, which allows an organisation to disclose information where the disclosure is required by or under any enactment, by any rule of law or by order of a court...

'However, any disclosure made should still be relevant to the circumstances. In this case, it is not clear why this disclosure was considered necessary or what such a disclosure could aim to achieve. It is for this reason that we take the view that it is unfair.'

The Information Commissioner decided not to take action against Middlesbrough Council at this time and has asked it to 'take steps to prevent the situation happening again' ; and he will be keeping a record of this complaint and take it into account should he receive further complaints about Middlesbrough Council

There is no law that states that a woman must call a midwife or a doctor when she goes into labour, and any woman is free to decide whether or not to avail herself of antenatal care and to birth without a professional attendant. In this case, Mrs Beverton made her decision as a direct result of the treatment she had received before from midwives, in another Trust, and concluded that she was better off birthing alone

The experiences of this couple highlight the knee-jerk reactions we are increasingly seeing when women make decisions that are outside the standard care provided (or not, as in so many cases). This couple was threatened with being reported to Social Services and this was justified in the Trust's response on the grounds that

'the STHFT Safeguarding Children Policy requires that, where staff identify an actual or potential child protection concern during the course of their work, they should consult the Local Safeguarding Children's Board Procedures and, if considered appropriate, submit a referral to the Social Services Department.'

One has to ask 'what was the actual or potential child protection concern?' Mr and Mrs Beverton were already successfully raising their eldest child, who was a fit and healthy four year old, and Rosa too was fit and healthy. It was acknowledged in the case notes that there were 'no concerns expressed about care of the children' . One can only presume that this was either a case of the midwives covering their backs, and ticking the appropriate box, or a means of bullying the parents in the futile hope of preventing them taking similar action in the future

Indeed, when tracking down the paperwork Middlesbrough Council's Children's Complaints Manager acknowledged that,

'It appears that there was never a Strategy Meeting held by this Department in relation to concerns for Rosa's well being. This is because there has never been sufficient concern to warrant such action.'

This statement is supported by the Trust's record of the telephone discussion between Sue Smethurst and Helen Smithies (the Named Nurse Safeguarding Children) which states that,

'she [Sue Smethurst] does not intend to take any further action at this time'

but then the record goes on to threaten that,

'If we become aware that antenatal care is not being sought for future pregnancies a referral will be made to children's social care.'

Clearly, Sue Smethurst and Helen Smithies are unaware that antenatal care is not mandatory and if Mr and Mrs Beverton choose not to avail themselves of it that is their decision

It is a principle in AIMS that we support a client to take whatever action they consider to be necessary. Mr and Mrs Beverton wanted to make a formal complaint to the Information Commissioner about Jane Sonnen's breach of confidentiality, but they had been so traumatised and upset by the constant intrusion

into their lives, and the threats, they did not feel able to continue with a complaint, but asked AIMS to do so on their behalf. This was duly done

The experience of this couple highlights the current state of 'monitoring' and 'surveillance' that has developed in maternity care in recent years. The requirement for midwives to report any 'concerns' to Child Protection was brought in without any ethical discussion within the midwifery profession. Midwives have simply rolled over and agreed to these requirements

Gone are the days when a woman could trust her midwife, indeed midwives portrayed themselves as 'the woman's advocate', something, ironically, that was mentioned in the Trust's letter. What we now have is midwifery as another extension of the State's surveillance and monitoring of every aspect of our lives. If we do not comply, then Social Services will be involved. It is an outrage that not only was this couple threatened with being reported to Social Services but that they have been informed that their behaviour in the future will be monitored should they have the audacity to repeat their decision. These threats are hardly likely to encourage them to go anywhere near anyone in authority, particularly midwives

In 2001 the Nursing and Midwifery Council disbanded its Ethics Panel with barely a whimper. In the light of this case, and far too many other similar cases, it is time that an Ethics Committee was reinstated and midwives seriously consider their role as the mother's advocate and how that can be achieved in the face of the demands of the State monitoring and reporting system, and the temptation for individuals to use the system as a method of control when they do not approve of the parents' decisions.