AIMS For a better birth...

The filming of birth

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Gill Boden looks at the human rights issues around maintaining women's privacy and dignity

Giving birth is usually a private act attended only by invitation, and there are many good reasons why this should be the case. While the recent fashion for hospital birth in some parts of the world has modified the notion of privacy by extending it greatly, this nevertheless remains most people's belief and wish. Sometimes women allow photos or films to be taken for private use or sometimes to be shared with those they choose but the recording of birth for commercial gain is not something we are used to. This does not mean that it has never happened before: Jennifer Worth, for example, recalls her shock as a young and naïve midwife in her autobiography, Call the Midwife, when she realises that men were paying to watch birth taking place in a brothel in a particularly 'seamy' part of East London.

This changed with One Born every Minute, (OBEM), a television programme, which became a 'must-watch' for pregnant women in the UK: birth became regular primetime family entertainment. Our attention was drawn to it by midwives unhappy about the kind of midwifery portrayed as the norm, but also by women who were dismayed to find scenes showing unkind treatment by staff, disrespectful spouses acting up for the cameras and women clearly in distress. One scene in particular caused great concern: a very young woman refusing a vaginal examination but her wishes being ignored so that she was in effect assaulted in front of the camera for our entertainment. At this point I wrote to the Royal College of Midwives (RCM) and spoke to the Nursing and midwifery Council (NMC). Realising from my own experience of childbirth that many health professionals have perforce become accustomed to the lack of privacy almost inevitable in a hospital setting I carefully worded my question to the NMC. I asked what action a regulator would take against a Head of midwifery who was found to have put a one-way mirror into a birth room and charged people for watching women giving birth, which is in effect what was happening in Southampton and Leeds.

I can report that, worded in this way, my question caused some consternation and I was promised that the matter would be taken up with the Department of Health.

In AIMS we have been unhappy about this programme since 2012: not for the first time as Channel 4 once screened live births and we wrote to ask whether they would stop this if, as is possible, the first death occurred on screen; the series subsequently stopped, but OBEM has been without a doubt the most high profile programme.

There has been controversy, and many maternity units have not agreed to filming taking place in their

unit. Gwent, for example, was one of the first to be approached and refused, others did not, but up until now there has not been a series filmed in Wales of OBEM. I want to tell the story of what has been happening in Cardiff since talks took place between Channel 4 and the Cardiff and Vale Trust during early 2014. Many midwives and obstetricians privately expressed their unhappiness, but employees of the trust were unwilling to make their views public: possibly because of an unwillingness to confront senior management but also, I think, because of a difficulty in framing their objections. As some said, the women filmed have given their consent and made the choice, so, as health professionals, their job is to accommodate the women's wishes and overcome their own discomfort. I was asked to write on behalf of women using the service. I did so, invoking a midwife's duty of care to ensure privacy and dignity and the difficulties raised when commercial motives conflict with this; I also mentioned bad publicity for midwives and I pointed out that a woman, especially having her first baby, might not have been made aware that the presence of a film crew might be expected to have an impact on the progress of her labour and so her consent might not be properly informed. I received a reply noting my concerns. Talks however seemed to go on. I wrote again, this time invoking the law and this is an excerpt of my letter:

... I'm very glad that you are taking a cautious approach to filming OBEM and taking the views of service users and midwives into account. I won't repeat the views of the two main childbirth organisations as I am assured that you are aware of them, but I would like to bring in the dimension of equality.

The Public Sector Equality Duty obliges LHBs [Local Health Boards] to promote equality for people with protected characteristics both in employment and provision of services, and pregnancy and maternity is a protected characteristic. It is arguable that for a maternity service to ask a woman shortly before giving birth at its hospital to agree to being filmed could result in a negative impact at a vulnerable point in a woman's life. I understand that all women would give their individual consent but the fact that the LHB/NHS has invited the programme makers may suggest to the woman that there will not be negative impacts on her or her family: this of course cannot be guaranteed. A 'legitimate objective' could override any negative impact but I can't imagine what legitimate objective could be cited here. Do you have an equality impact assessment and does it suggest a possible legitimate objective?

OBEM has already been filmed in at least two maternity units in England and while there has been considerable disquiet there has not been a legal challenge, but in Wales the Public Sector Equality Duty is more demanding and complex than in England: the Welsh Government has decided to set the bar higher. I am aware that the EHRC [Equality and Human Rights Commission] is exercised about the negative impact that certain programmes are having on sections of the community and are in discussion with OFCOM [Office of Communications] about this at the moment.

If you are still considering going ahead with the filming of this programme would you send me a copy of your EIA [Environmental Impact Assessment]? You might also find it helpful to have a discussion with the EHRC about this matter.

My letter does not mean to suggest that women cannot make their own decisions about who is present for their birth or who watches it subsequently. I feel strongly, though, that cash strapped hospitals should not make arrangements with film companies or any other commercial enterprise that women, some of whom will be vulnerable, have to refuse. To date there has been no filming of OBEM in Cardiff.