



Pressing for change

[AIMS Journal, 2016, Vol 28 No 3](#)

Beverley Beech highlights some positive outcomes of AIMS campaigning

This journal issue highlights the crucial, central importance of continuity within maternity care with contributions from some of the people most associated with the campaign for excellent maternity services that include continuity of care and carer.

AIMS has argued for this concept for its entire 50 plus years. As well as arguing the philosophy, we also become involved in specific cases where the rights of women to make decisions about their own bodies and babies, and parents to make decisions about their children are called into question. In two recent cases the courts have ruled in favour of the rights of individuals.

The last journal highlighted the battle Jane Reeve had with Queen Elizabeth Hospital (QEH), King's Lynn and the Ombudsman's award of £1,000 in recognition of the hospital's failure to provide a home birth service ([AIMS Journal, Vol 28, No2, 2016, p27](#)).

The Ombudsman's final report made four recommendations to:

- make arrangement with neighbouring Trusts to provide the home birth service to those mothers specifically requesting it
- update the Ombudsman and Jane Reeve when the Trust have [sic] the home birth service re-instated or a suitable contingency in place
- apologise for the lack of choice available for the birth of her child
- pay a consolatory payment of £1000 in recognition of the failings

Mrs Reeve was overjoyed with this result: she felt this meant an end to the battle she had been fighting and freedom for other women to have the choice that should be available to them, however, she has yet to receive anything in writing from the NHS Trust QEH, and believes that women in the early stages of pregnancy are still being denied their choice of a home birth.

We have also been seriously concerned about events in Scotland, where under the provisions of the Children and Young People (Scotland) Act 2014 the Scottish government proposed a scheme whereby every child under 18 will have a responsible 'named person', such as a health visitor or teacher, who would be able to share information about the child and the family with a wide range of other people.

Earlier this month our President, Jean Robinson, wrote to the Scottish Government about this provision asking, 'Where is the evidence for benefit, and lack of harm, from such a widespread and expensive

intervention?' AIMS also issued a statement (see www.aims.org.uk/pressReleases/namedPersonScotland.pdf for more information).

A group of charities and individuals launched a campaign, Say No to Named Person (No2NP – no2np.org), on the grounds that it would undermine parents' responsibility for their own children and allow state officials unprecedented powers to interfere with family life. No2NP appealed to the Supreme Court and on 28 July 2016 the Court unanimously overturned the provisions of the Act. Five judges, two from Scotland, determined that the Act was in breach of Article 8 of the European Convention of Human Rights, which guarantees the 'right to a private and family life'. They announced that the Act had exceeded its powers by allowing public bodies to share personal and private information about children and parents without consent.

'The sharing of personal data between relevant public authorities is central to the role of the named person ... the operation of the information sharing provisions will result in interferences with the rights protected by article 8 of the ECHR.' (Para. 78). *Because of the lack of safeguards the overriding of confidentiality is likely often to be disproportionate.'* (Para. 100).

They concluded that, *'...the information sharing provisions of Part 4 of the Act are not within the legislative competence of the Scottish Parliament,'* (Para. 106) and, furthermore, that *'...since the defective provisions are not within the legislative competence of the Parliament, they cannot be brought into force.'* (Para.109).

The court said the aim of the Act, which is intended to promote and safeguard the rights and wellbeing of children and young people, was *'unquestionably legitimate and benign'*. However, *'The first thing that a totalitarian regime tries to do is to get to the children, to distance them from the subversive, varied influences of their families, and indoctrinate them in their rulers' view of the world. Within limits, families must be left to bring up their children in their own way.'* (Para.73)

They also quoted a US Supreme Court judgment that states that, *'the child is not the mere creature of the state'*. (para 73).

The Supreme Court has invited the Scottish government to respond with proposals on how the legislation might be amended to make it compatible with article 8 – within 42 days. Worryingly, the Deputy First Minister and Education Secretary, John Swinney, insisted that an amended version would be *'implemented nationally at the earliest possible date'* and that the Scottish Government was *'absolutely committed'* to the policy and in the meantime, NHS England is forging ahead with their proposals for a national database. There is still a great need for vigilance despite the very welcome stance taken by the courts. We feel strongly that while children and all vulnerable people deserve protection that the best way to ensure this, for almost everyone, is not through authoritarian surveillance but by allowing and encouraging long-term, respectful and trusting relationships to develop between people and their professional support.

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