AIMS For a better birth...

IMUK and the NMC

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Emma Ashworth talks about why midwifery is in crisis (again)

On a Friday, four days before last Christmas, the nursing and midwifery regulator, the NMC, decreed that independent midwives who were relying on the indemnity policy provided through IMUK – the only indemnity policy for independent midwives – must not continue to practice. The NMC has claimed that this policy may not have sufficient cover for very badly birth-injured babies.

IMUK has stated that its indemnity does offer sufficient cover, and has asked the NMC to advise what would be adequate. The NMC has replied, '*The NMC does not approve indemnity schemes or hold a list of approved insurers.*' The NMC has still not said what is sufficient, and what is actually wrong with the policy.

Does the NMC understand independent midwifery?

The NMC has persistently shown its lack of understanding of what an independent midwife (IM) actually is. In an LBC interview with journalist Beverley Turner,[1] Jackie Smith, the NMC's chief executive, continued the erroneous claim seen in letters from the NMC that IMs can be employed via a private organisation or by an NHS Trust. While this employment may be possible, depending on the midwife's location, this is not independent midwifery. As the name clearly explains, an independent midwife is not employed by the NHS or a private company. They are employed only by the women and families they care for. While some may choose to join a private or public organisation, by doing so they are then controlled by that organisation's needs, not solely by the needs of the women and families in their care.

Indemnity doesn't protect the public

AIMS has written a number of letters to the NMC pointing out that it is not, as it claims, protecting the public as its decision has created huge anxiety and put women at risk. AIMS asked for details of the legal basis of the NMC's decision and what it sees as an 'appropriate' level of indemnity. Its responses, which have not answered AIMS' questions, have been along the lines of similar letters sent to others who are writing to the NMC, such as, '*The NMC supports a woman's right to choose how she gives birth and who supports her, but we also have a responsibility to make sure that all women and their babies are provided with a sufficient level of protection should something go wrong and they are faced with the costs of ongoing care needed for a life-changing injury.*'

Indemnity insurance does not protect families, it is an illusion. The major beneficiaries of indemnity insurance are insurance companies, lawyers, and those who give medical opinions in court. The only

families to have benefited from indemnity insurance are those who can prove that they or their baby have been damaged by negligent practice – not most of those for whom 'something goes wrong'. Those families who have babies who have been born with serious genetic disabilities or who had unavoidable complications during the pregnancy or the birth will not be 'protected' by indemnity insurance. An argument, perhaps, for no-fault compensation. Where there was no negligence on the part of the practitioner, or where negligence can't be proved, indemnity cover cannot be called upon to support the family.

The NMC's repeated claim that it is protecting the public is entirely at odds with the accounts that AIMS is collecting from women and families who are affected by this tragic decision. We are very grateful to those who have shared their stories, and have given us permission to share them in order to show how the NMC's position is actively causing public harm. We have nearly 100 messages from affected people and each one will be sent to the NMC.

NMC's decision affects ALL midwives

In the previously mentioned interview with Beverley Turner, Jackie Smith states that the NMC does not represent midwives, and she is absolutely correct. With only one midwife on the NMC Council (and she is not in practice), the NMC is unable to understand properly the role of a midwife. This has led to an unacceptable situation where the NMC has stated in its correspondence about the IMUK ruling that all midwives – including those employed by the NHS or private companies – may not attend the births of women who are close friends or family. This leaves midwives not being able to be with their children at the birth of their grandchildren, friends not being able to support friends, mothers not being able to choose to have a friend or relative with them as a birth supporter if they're also a midwife, and perhaps in the worst scenarios, male midwives, or any other midwives whose partners are birthing, not being able to be at the birth of their own child if they've previously offered any kind of midwifery support in pregnancy.

This ruling has been challenged by a number of midwives who were intending to provide midwifery care to their daughter, friends or other relatives. A number of these midwives received the following response:

'As you are aware, as a registered midwife, you can only attend a woman during a birth if you have appropriate indemnity cover. A registered midwife cannot choose to avoid this mandatory legal requirement by attending the birth in a "non-midwife" capacity. This is because your professional and legal obligations remain the same in these circumstances. Indeed, advocacy, advice and emotional support before, during and after hospital births is a common part of independent midwifery practice and the requirement for indemnity cover applies to all these parts of their practice.'

This created a confusion over what specific forms of antenatal care are acceptable as the NMC states that giving 'emotional support' is sufficient to prohibit it. It seems unlikely that there are many friends or family members of independent or employed midwives who won't receive 'emotional support' from them.

To confuse matters further, Independent Midwife Virginia Howes, who has been in discussions with the

NMC about the forthcoming birth of her daughter's baby, was told by the NMC, that she can be at her daughter's birth as long as another midwife with appropriate indemnity insurance provides any midwifery services. This appears to be despite the fact that Virginia has provided all of her daughter's care to date. Given that Virginia's daughter does not want to have another midwife at her birth – as is her legal right to decide – this leaves Virginia and her daughter in a position where Virginia cannot legally provide the standard in-labour monitoring of her daughter and grandchild that is offered to all women by their midwife. It is hard to understand how this is public protection.

Following protests by AIMS, the NMC responded to us with the following:

'A registered midwife cannot choose to avoid this mandatory legal requirement[of indemnity cover] *by attending the birth in a 'non-midwife' capacity ... The only exception to this requirement is when a midwife attends a birth in an entirely personal capacity to support a family member or close friend as long as they do not provide any midwifery services. This is important as it avoids any blurring of the professional boundaries required of all nurses and midwives in the Code.'* (NMC letter, 15 February, 2017)

While the NMC may feel that this avoids any blurring of boundaries, it is hard to actually understand why a midwife cannot attend a birth in a 'non-midwife' capacity unless she attends a birth in an 'entirely personal capacity'. What, precisely, is the difference?

There is no doubt that this has been a poorly thought out decision, with dramatic and serious consequences for all midwives, and for the families close to them.

Emma Ashworth

I want to help – what can I do?
Save Independent Midwifery Facebook group has up to date information on campaigns and responses from the NMC and MPs.
Tell the NMC how you feel – write to them here: www.nmc.org.uk/contact-us/
Tell your MP. Some MPs are being very supportive and others need educating. Can you help with that? www.theyworkforyou.com/
Tweet your meme to #savethemidwife #nmcnotfitforpurpose @jackiesmith_nmc @nmcnews

Join the demonstration outside the NMC on the 5 May 2017, see page 2.

References
1. clyp.it/qwtc3pb3


Association for
Improvements in the
Maternity
Services
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ALBANY
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MIDWIVES