

# Planning for and managing separation at birth



# Removal of infants at birth

## Sources:

Dr Wendy Marsh (University of Surrey)

Dr Sheena Webb, Consultant Clinic

Psychologist, Manager FDAC London

Karen Broadhurst and Claire Mason

Denise Marshall: Birth Companions

(<http://birthcompanions.org.uk/>)

## Recurrent Care Change Project 2017-1

- > Collaborative project between the organisations above and 12 participating local authorities
- > Aims: to support participating organisations to use findings from research to inform the development of new provision or further develop existing provision
- > *I genuinely found these events to be some of the best learning I have ever been involved in and it has been critical to the developments in Leeds.*
- > Open access, multi-media project outputs late 2018
- > [www.rip.org.uk](http://www.rip.org.uk)

## National Context- Increasing rates of infant removal

- National statistics indicate an increase in the number of infants in public care aged less than one year
- However, the precise number of infants who were placed apart from their parents *at birth* is undocumented

# SCR Analysis: Infants at Risk

- Consistent message from national analyses show largest proportion of SCRs involve infants under one year old
- Latest analysis SCRs 41% were aged under one year at the time of their death, or incident of serious harm; and 43% of these babies were under 3 months old

*“The high number of serious case reviews conducted with regard to babies under one year of age reflects the intrinsic vulnerability of the youngest babies who are dependent on their parents for care and survival.”*

# Vulnerable birth mothers and recurrent care proceedings



## Case File

354 birth mothers,  
851 sets of care  
proceeding

## Interviews

72 birth mothers

- If a sibling has already been subject to proceedings – high proportion of infants in repeat proceedings are subject to care proceedings within 4 weeks of birth (60%)
- More likely to be placed for adoption, than children who appear in a first (index) set of proceedings
- Less likely to be placed with siblings

Broadhurst et al 2017

# The pre-birth conference

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## Broadhurst et al (2017)

- LA guidance is variable re timing of pre-birth conference:

18-20 weeks gestation (most frequent recommendation)

Not later than 32 weeks

- Findings from limited data in court files:

32% of pre-birth child protection conferences were held between 8 and 4 weeks of birth

24% between 4 weeks and the birth

and 6% after birth

# Infant health outcomes

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From limited data in court files:

- 15% born pre-term
- 16% of infants SCBU
- 18% affected by mothers' substance misuse
- No health concerns reported on file for the majority of babies
- Surprising how little information is included in court files regarding infants – focus on parental behaviour

# The law and removal at birth

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- Paragraphs 28 and 38 of Court Orders and Pre-Proceedings Statutory Guidance 2014
- Section 20 – accommodation with consent
- Sections 31 and 38 CA 1989 – ICO if court is satisfied that there are reasonable grounds for believing that child is suffering or is likely to suffer significant harm
- Section 1 – welfare of child and order being better than no order at all
- Articles 6 and 8: Human Rights Act 1998 Schedule 1, right to a fair trial, right to protection from interference in family life

# Section 20 – case law

- Parents must understand the legal position and not be put under pressure
- Williams and Another v London Borough of Hackney [2018] UKSC 37
- R(G) v Nottingham City Council [2008] EWHC 152
- Coventry City Council v C, B, CA and CH [2012]

# Considerable amount of case law on ICOs

- Separating a child from her parents at this stage is a very serious matter and must only be contemplated if the child's safety demands immediate separation
- Safety includes physical and emotional safety
- Safety issues must be clear so the evidence can be properly analysed
- Removal must be proportionate to the risk of harm – what are the other options and is another more proportionate option available?
- Decision in relation to ICO application must be limited to only those issues that cannot wait till final hearing

- K (Children) [2014] and Re GR and others [2010] have helpful summary of case law
- Nottingham City Council v LM [2016] contains some practice points re ICO at birth:
  - stick to birth plan
  - start assessment as soon as aware of pregnancy and complete 4 weeks before due date, update as necessary
  - disclose assessment to parents
  - LA issue proceedings on notice immediately or within 24 hours of birth, or notification of birth

# Cases

- Re H (a child)(interim care order) [2002] EWCA
- L-A (Children)[2009] EWCA Civ 822
- Re K and H [2006] EWCA
- Nottingham City Council v LM and others [2016] EWHC 11 (Fam)

# Application of case law in ICOs

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- Re H (A child: Breach of Convention Rights: Damages) [2014] EWFC 38
- Northamptonshire County Council v S [2015] EWHC 199
- Both involve misuse of s.20

# Articles 6 and 8

## HRA 1998

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- Re L [2013] - interesting example of applying the tests identified in case law: mother had baby in prison, where there was a mother and baby unit. Mother successfully appealed against the making of an ICO. Child returned to her care under ISO. There was no evidence of risk to baby's emotional safety in the interim.

# How is it for mothers?



## **Messages from women's interview accounts**

Removal at birth is a **distinct form of [pre-emptive] removal** which requires specific analysis (i.e. different from removal of older infants or children)

- Late planning adds to women's distress
- Timing of removal – why so close to birth?
- Privacy needs – insufficiently considered
- Legal advice – very difficult to access at this point
- After care: [in]justice and grief

# Removal at Birth: a Particular Type of Loss

## **Removal at birth as a distinctive experience**

- the immediacy of the physical and emotional impact of birth upon women
- this is the first opportunity a mother has to directly see, hold and experience her newborn
- Intense emotional and physiological experience



# Timing of removal and sensitivities of practice

*“ . . . went out, bought everything for her, and that was it, social services come in and took her. Didn't even have a chance to hold her, that's how sick they were. Come out of surgery, just like all knackered and pure white face, that was it. They just took her. Trying to literally push her into my arms, taking pictures off me when I'm lying there like. . . it's horrible...”*

Lydia

# What is helpful in pregnancy

- Knowing they would not be alone for the birth
- With so much out of their control, doing a birth plan and thinking about their wishes can be empowering
- To bond or not to bond? Helping women to think about giving their baby a good start
- Some women did not want to talk about the separation or were in denial and we need to respect this
- Knowing what would happen and how long they would have with their baby

# Some women choose to:

- Write a letter or poem to their baby
- Knit or make something for their baby to take with them
- Keep the baby blanket or clothes their baby first wore as a keepsake
- Write a letter to the foster carers about how their baby liked to be held and fed
- Read something to their baby before saying goodbye
- Keep photos, a lock of hair etc in a memory box

# What we have observed

## with women who are separating

- Sometimes women are “holding on” and have more difficult and longer labours
- Trauma from past violence and abuse, as well as from removal of previous babies, can surface
- Women need additional support
- Confusion amongst health professionals about what is happening after the birth can add to mum’s distress eg not knowing if mum is going home with her baby

# What women found

## helpful at birth

- Emotional and physical support
- Someone there just for her
- Help to interact with baby after the birth
- Support with breastfeeding or expressing if this is her choice
- Her wishes respected
- Photos
- Having someone to talk to later on (who was there) about her labour and her baby

# Psychological processes in repeat proceedings

- Parents who experience the loss of a child through removal are likely to suffer with psychological impacts of the loss.
- This loss may trigger deterioration in functioning and/or a drive to heal via replacing the child leading to quick repeat pregnancy.
- Pregnancy and proceedings themselves may reactivate the previous trauma of loss.
- During proceedings parents are repeatedly exposed to their past trauma through being assessed or reading this repeatedly in documents without any access to treatment.
- The process of repeated activation of traumatic past and the building of evidence of harm may deepen shame.
- The shame may prevent parents from accessing social support.
- The inherent threat of proceedings may trigger unhelpful responses to threat conditioned by complex trauma history.
- The unhelpful responses increase the likelihood of a negative assessment.

# Late Planning

*I'm absolutely terrified now I 'm pregnant with my fourth kid to be honest with you. I am absolutely terrified. Because so far they've been saying if you do your therapy you get to keep your kid, and now they're telling me it depends what your therapist says. If the report's bad then you ain't going to get to keep your kid. It's like you're putting me through it again? Why keep telling me? Why do you let me get to a point half way through my pregnancy when I'm five months' pregnant when it's too late to do anything about it to say you might lose the kid anyway. . . It was my boyfriend that talked me into it. I still don't want a baby because I'm scared. I'm absolutely terrified. I'm emotionally exhausted*

Laura

# Privacy

## I wanted a room to myself

*“I was on a main ward with three other people. . . It was hard, because I got to see all the others take their kids home with them. And I knew that I wouldn’t be able to take my baby home with me. So I just cherished every moment I had with her. . . Because really I wanted a room to myself, just me and my baby, because we were told there was a possibility that. . .we were told my partner could stay with us overnight, but he wasn’t allowed on the ward, because I was in a room with three other people, because they had no side wards available at the time.”*



Sacha

# Impact of pre-emptive action

- Predicated on women's past actions or circumstances.
- For mothers, a frequent complaint was that removal at birth robbed them of the opportunity to demonstrate adequate care,
- They frequently felt action was very unfair.
- This sense of unfairness had a particular and long-lasting impact on women's mental health and attitude towards services long after the event.

*“It broke. . . it killed me, it literally. . . still, to this day I sleep with her baby grow sometimes, I’ve still got all of her clothes; it did kill me. What killed me, it wouldn’t have hurt me that much if they’d come in and took her straight away, you know, and if I wasn’t that interested and not fighting or anything like that, it was the matter of fact that. . . that I thought I was going to take her home and have a good chance; I had everything at the property, I bought everything, so I told my social worker, I told my solicitor to come round to the property, that I’ve got everything for (child); and, no, they just took her. They granted foster parents to come in the hospital the day after to have a meeting with me and then to take (child) from me.”*

Michelle

“I got to walk  
out with her..”

*“So it wasn’t, like, the police come to hospital and they took her or the Social Services come and took her, (partner’s) mum took her and I got to walk out with her, which I didn’t with [child 3], like, but I got to take her to the car and I got to strap her in and then (partner’s) mum brought her every day to see me, because she was allowed to supervise the contact.”*

Chloe

# Subsequent Pregnancy

- The experience of losing infants and children to the state brings particular emotional challenges.
- Subsequent pregnancy is haunted by a previous removal
- Where pregnancies fall in short succession, women must orient themselves to a new pregnancy whilst still grieving for a child recently removed.
- Thus, a mix of very difficult and conflicting emotions often manifest in very high levels of anxiety.



# Tentative attachment

*“The court proceedings went on for about a year from then and like at the court proceedings I found out I was three months’ pregnant with my second daughter. . . You know the day I lost (child 1) the day it was official that she was getting adopted that was the day I found out (about the pregnancy). . . So I couldn’t bond. I love her to pieces but there’s nothing there, **there’s no bond. Because I was scared. I put up a wall.** I still didn’t have a clue what to do with her, you know, and it was. . . I was still 17, you know I was still young. I didn’t have a proper home, didn’t have a family, didn’t have any partner at that point, yeah, so, and there was no. . . the Social Services didn’t get involved again until after she was born. . . They Knew but there there’s lack of funding so they don’t do pre-birth assessments there.”*

# What can we do differently?

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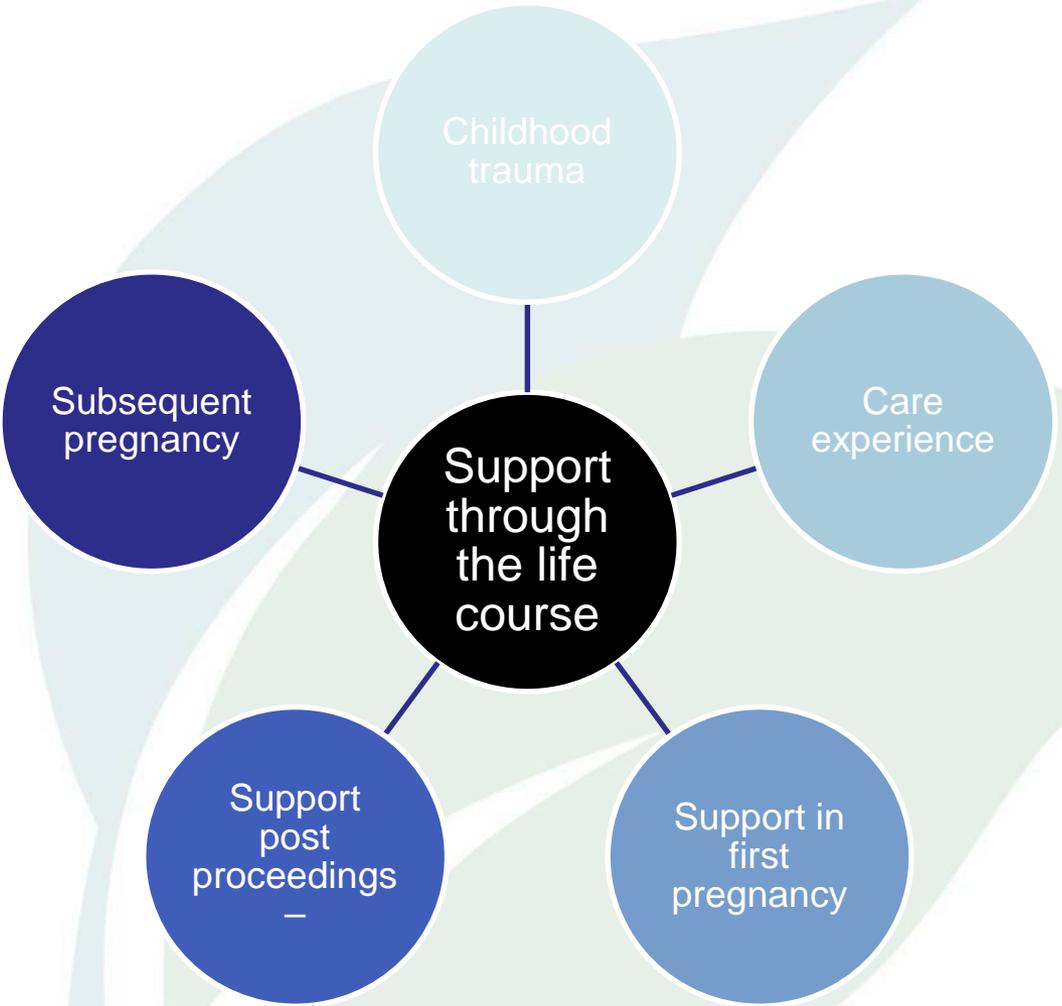
- Relationship-based social work is about creating relationships with families, which provide opportunities for them to change, and which are clear about the consequences if change cannot be achieved.
- Empathy
- Honesty
- Planning, planning planning

# The Skills of Engagement

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- Building trust
- Collaborative goal setting
- Practical support
- Power sharing
- Two-way engagement
- Empathic
- Respectful
- Straight talking with warmth

# Reconsidering Non-Engagement



# References

- Broadhurst, K., Mason, C. Bedston, S. et al (2017) Vulnerable Birth Mothers and Recurrent Care Proceedings.
- Brown & Ward (2014) Cumulative jeopardy: How professional responses to evidence of abuse and neglect further jeopardise children's life chances by being out of kilter with timeframes for early childhood development. Children and Youth Services Review, 47, pp. 260–267.
- Lushey, C.J.J. et al (2017) Assessing Parental Capacity when there are Concerns about an Unborn Child: Pre-Birth Assessment Guidance and Practice in England. Child Abuse Review.
- Marsh Wendy, University of Surrey:  
[http://www.maternityandmidwifery.co.uk/events/wp-downloads/northern-2018/presentations/MMF\\_Northern\\_2018\\_Presentation\\_Seminar\\_8\\_Wendy\\_Marsh.pdf](http://www.maternityandmidwifery.co.uk/events/wp-downloads/northern-2018/presentations/MMF_Northern_2018_Presentation_Seminar_8_Wendy_Marsh.pdf)
- Sidebotham, P., Brandon, M., Bailey, S., Belderson, P., Dodsworth, J., Garstang, J., Harrison, E., Retzer, A. and Sorensen, P. (2016) Pathways to harm, pathways to protection: a triennial analysis of serious case reviews 2011 to 2014: final report. London: Department for Education.
- <http://birthcompanions.org.uk/>