

Parental Healthcare Decisions

Pregnancy and Childbirth

YOUR RIGHTS TO SAY NO



PLEASE DO NOT CONSIDER ANYTHING IN THIS DOCUMENT TO BE LEGAL ADVICE. Everyone's circumstances are different and only an experienced lawyer working in the relevant field and who knows your case in detail can give you legal advice.

Consent in Pregnancy and Childbirth

In the UK it is unlawful to administer any medical treatment without first obtaining **valid consent**. This principle also applies to expectant mothers and their unborn babies. A mother-to-be cannot be forced to agree to any appointment, examination or treatment, nor to give birth in hospital.

An unborn fetus is not a child in law and therefore the Children Act 1989 does not apply. There is no "best interest of the child" test, nor can any decision by the mother-to-be constitute a safeguarding issue until the child is born.

"If you refuse a treatment, your decision must be respected, even if it is thought that refusing treatment would result in your death or the death of your unborn child."

NHS website

Is it legal to "free birth", refuse scans, refuse recommended c-section etc?

Yes. You do not have to accept any examination or treatment and you can give birth without any help (unassisted or "free" birth) if you really want to. However, any person helping you give birth may commit an offence if they are not a doctor or registered midwife.

Pressure to agree to interventions

It is becoming increasingly popular to have "natural" pregnancies and births with minimal medical intervention, including giving birth at home or other non-hospital setting.

There is no evidence that this poses an increased risk in most pregnancies. As with all medical interventions you should receive relevant information and be allowed to decide without undue pressure. Although you have the right to refuse all medical intervention, this doesn't necessarily mean it is a good idea, especially if your pregnancy does not count as low-risk. Your doctor or midwife will have a duty to inform you of the possible consequences of declining a procedure and you should listen to them. However, if you persist in your decision, they must not exert undue influence. If you agree to a treatment because you were told that otherwise you will not be seen again at the hospital or practice or that they will inform social services, your consent will not have been freely given and the medical intervention will be unlawful.

Mental Capacity

Medical treatment can be given in an emergency without consent if you do not have the mental capacity to make your own decisions at that time, for example if you are unconscious, drowsy, intoxicated or suffer from a mental health condition. Medical staff have to take into account (but not necessarily adhere to) any birth plan and opinions from your next of kin. Intervention without your consent should be exceptional. It is rare that a woman giving birth can be seen as lacking capacity. In particular a person does not lack capacity solely because their choice is seen as unwise.

State intervention

Once your child is born, the legal situation changes and state authorities can and do obtain court orders in advance of birth, if they believe your baby is at risk of suffering significant harm. However, this should very rarely affect your birth choices and is usually used in cases where parents are known to social services and are unable to offer their babies acceptable levels of care. Even if a pregnant woman was to decline any and all medical attention during pregnancy and childbirth, this could not necessarily be interpreted as posing a risk to the child after birth.

We have published separate guidance on parental healthcare decisions and state intervention.