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Re: NICE promises on infertility and caesarean section are unmet

4 July 2013

We read with some alarm the letter published in the BMJ by Lawrence Mascarenhas, Zachary Nash and Bassem entitled, "NICE promises on infertility and caesarean section are unmet". We concur with the authors that current underfunding in the NHS is having grave consequences upon our national maternal health service provision and deserves careful scrutiny and critical comment. Moreover, we recognise that these authors are excellently placed to offer such scrutiny and comment. What is unhelpful is the misleading medico/legal description of elective caesarean section. These authors claim that current NICE guidelines 'state that all pregnant women should be able to choose an elective caesarean without obstetric or psychological indications.'

This is somewhat at variance with both the guideline and current legal/ethical precedent. NICE (1) suggest that where requests for caesareans are based on anxiety, mothers should be offered referral to a perinatal mental health professional. The recommendation is that a caesarean section should only be offered if this fails. The authors' reading of the 2011 NICE guideline by contrast, suggests that caesarean section is available on demand. We would like to take this opportunity to point out that this reading not only fails to pass the Bolam test but contravenes existing medico/legal precedent set in 2004 through the R (Leslie Burke) v General Medical Council (2) - where it was held that there is no right to treatment on demand (paras 30 – 31).

We would like to stress therefore that current legal precedent and clinical guidelines hold that surgical interventions, such as caesarean section, are NOT available on demand unless clinically indicated.

1. CG132 Caesarean section: NICE guideline. 08 February 2013. Accessed July 3 2013. <http://guidance.nice.org.uk/CG132/NICEGuidance/pdf/English>
2. R (Leslie Burke) v General Medical Council [2004] EWHC 1879 (Admin) Accessed July 3 2013 from: <http://www.hailshamchambers.com/downloads/rburke.pdf>

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