

### **Consultation on proposals regarding joint birth registration**

The British Association for Adoption and Fostering (BAAF) is submitting this brief response in its capacity as the leading charity and membership organisation in fostering and adoption in the UK. Our members include all the local authorities and voluntary adoption agencies in the country, as well as many individual members.

We appreciate the benefits likely to accrue to children from the positive involvement in their lives of both their parents. In addition, our knowledge gained from the experience of our members in providing post adoption counselling over many years highlights the value in the long term of having both parents named on the birth certificate. We do however have some concerns about some of the proposals in this consultation paper.

#### **Speed of change**

It is only since the end of 2003 that joint birth registration by two unmarried parents has resulted in the automatic acquisition of parental responsibility by the birth father (although we believe that there was a common misapprehension among the public that before this change naming the father on the birth certificate gave him a stronger legal status than was in fact the case). We note that there is some research ongoing by the National Centre for Social Research concerning motivation for joint registration, and we would suggest that it would be preferable to delay reaching any decision on amending legislation until the outcome of this and, perhaps, other more detailed research is available. The Consultation paper rightly identifies the fact that some single mothers are very vulnerable; the duty to register a birth arises during the time shortly after the birth when they may be particularly so. It is relevant to observe that a mother cannot give a valid consent to adoption during the six weeks after giving birth, and yet she may make a decision about joint registration, committing her to sharing parental responsibility with the father, within a few days of the birth. Given the short period during which this has been so, we believe it would be valuable to allow time to assess whether the change brought about by the Adoption and Children Act 2002 has had any unintended negative consequences.

In addition, as the consultation paper acknowledges, potentially far-reaching changes in respect of legal parenthood following donor conception are likely if the proposals in the draft Human Tissues and Embryos Bill published earlier this year are enacted, and time is needed to consider the implications of these possible changes.

#### **Matters of detail**

There are a number of areas where the consultation paper gives only a very broad outline of the practical consequences of any change that imposed a duty on fathers to register births, subject to the exceptions proposed. It is questionable whether registrars are well placed to assess either the credibility of a mother alleging, say,

that the father poses a risk of violence or abuse, or the vulnerability of a mother. While the paper talks of 'adequate safeguards' it is not clear in practice how these could be built into the system. How in practice, for example, would a mother be made aware of her right to object to the father exercising his right to joint registration and assisted to exercise that right? In the case of very young teenage mothers, where the birth appears to be the result of unlawful sexual intercourse, would the father lay himself open to prosecution by acknowledging paternity, and who would have the responsibility of making him aware of such a risk? It would be helpful to consider these matters of detail, as well as the possible additional costs imposed on the registration system, the courts, and counselling and advice services, before making a decision to legislate.

### **Impact on adoption**

Although the numbers of single mothers who now decide that they wish to relinquish their babies for adoption is a minute fraction of the numbers involved in the nineteen fifties and sixties, there are still a number every year who do so. In some cases, the father's identity is known, even if he has not registered the birth, and adoption agencies in these circumstances have a responsibility to offer advice and counselling to these fathers, and to take their views into account in making plans for the adoption. If they have not acquired parental responsibility, however, their formal consent to the placement for adoption is not required. We would be concerned if an increase in joint registration of births in these circumstances were to lead to a delay in being able to achieve stability for the baby at the earliest possible opportunity, because, perhaps, the father had registered the birth but then disappeared. Our concerns may be groundless, but we would welcome the opportunity to ascertain from our members what impact if any they believe the proposals might have. Unfortunately we were not aware of this consultation in sufficient time to enable us to undertake this discussion.

### **Non legislative measures**

As we have said, we share the view that it is likely to be in the interests of most children to have the involvement in their lives of both their parents, and we would welcome measures that encouraged fathers to become involved, and mothers to consider the advantages for their children of joint registration. The measures proposed in chapter 4 of the consultation paper would all be useful steps; in terms of publicity we would highlight the valuable role that can be played in such campaigns by 'problem columns' in newspapers and magazines. We note the proposal to take steps to reduce re-registration fraud; we consider that there may be scope also for considering ways in which the integrity of the register may be protected. There is occasional anecdotal but disturbing evidence that some couples may circumvent the bar on private adoption arrangements by false registration, and the widening of the circumstances in which legal parents may have no biological link to a child born as a result of donor assisted conception could further open the door to abuse.

We would be happy to discuss any of the matters raised in this response with the team taking forward these proposals.

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