

Joint Birth Registration

A briefing by the Fatherhood Institute
on the Welfare Reform Bill

January 2009



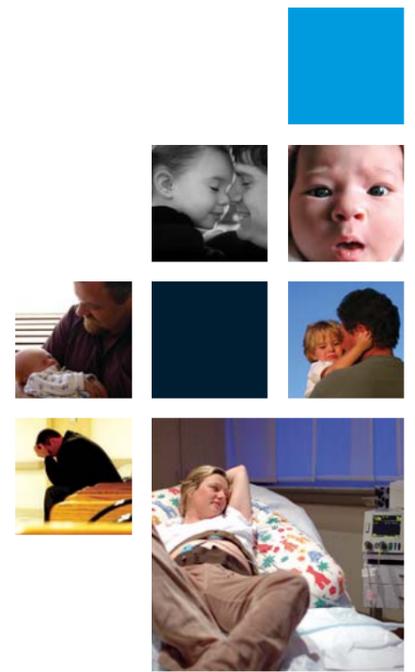


The Fatherhood Institute

works with both Government and Opposition parties. It develops family and children's policy in line with research on the influences that fathers have on their children. The Institute investigates the ways in which engaging with fathers bring about the best outcomes for children; and develops services on this basis.

The Institute has tended to focus on maternity and early years services. It is represented on six Government working groups at the Departments for Children and Health, and has contributed to the work of the Conservatives' Commission for Social Justice.

For details of the Institute's work on maternity and early years' policy, and also its work with local services to develop good practice, visit www.fatherhoodinstitute.org.



1. Both unmarried parents should register their child's birth, not just the mother

The draft legislation aims to ensure that more births of children whose parents are not married are jointly registered.

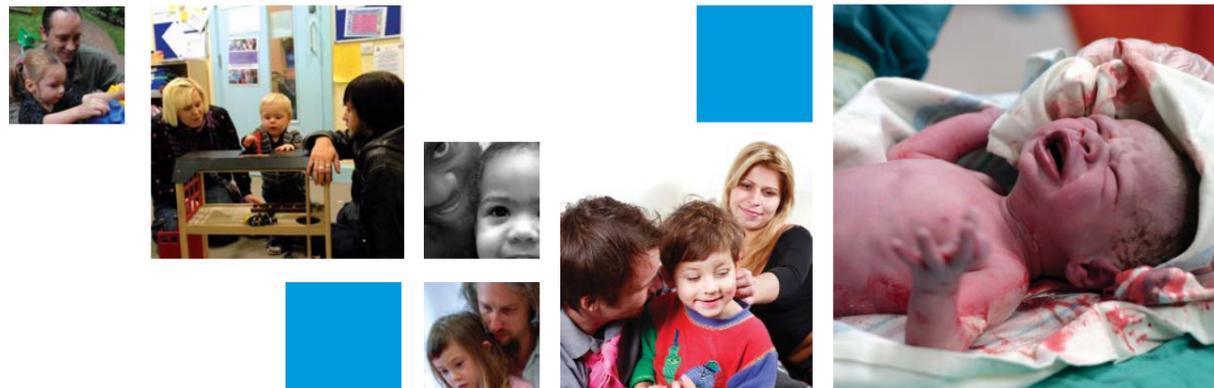
Where unmarried parents don't both register, they will be asked to cooperate and provide information so that the father's name can be entered in the birth register, unless an exemption applies.

Both mothers and fathers will have new rights to request that the father's name be recorded in the birth register.

17% of unmarried fathers in the UK do not sign their child's birth certificate: that amounts to **7%** per cent of all fathers or **45,000** children in total each year.¹ In Australia the non-registration rate is half that of the UK at **3.5%**. In Minnesota, USA, it is **4%**.²

"It is too easy for young fathers to walk away from their responsibilities."

A young black father from Hackney at a consultation with senior civil servants at the Department for Children



2. The new legislation will lead to fathers giving more support to their children

Non-registration by fathers indicates family disadvantage

Most fathers who do not register are vulnerable.³ For example, young fathers are less likely than other fathers to be registered as fathers.⁴ Around 20% of children eligible for child support have only their mother's name on their birth certificate.⁵

Failure by fathers to be registered is a predictor both of low and decreasing father-involvement and of low/non-payment of child maintenance.⁶ Low father involvement early on is correlated with low involvement right through childhood and adolescence.⁷ Failure by fathers to be registered is also strongly correlated with services' failure to engage with them.⁸

The change in the law was proposed in a report on reforming child support by Sir David Henshaw for the Department for Work and Pensions.⁹ It was a response to the social and financial consequences for children of the low expectations on fathers to stay engaged with them and the lack of practical measures to express a higher expectation.

Expecting fathers to sign the birth certificate increases their contribution to their family

Enhancing the expectation that all fathers should sign the birth certificate has been identified as a means of combating both low father involvement and low/non-payment of child support. The State of Minnesota's high paternity establishment rate has resulted in significantly more payment of child support and greater non-resident father-child contact, even taking into account social disadvantage.¹⁰

The birth of a baby is the best time to engage with fathers....

A father is highly likely to be present at his child's birth and to be in a close relationship with his baby's mother at this time: 86-98% of UK fathers attend the birth and over 80% at least one scan.¹¹ 95.6% of couples are married, living together or in a close relationship when their baby is born. Even among the 4.4% of parents who describe themselves as "not in a relationship" at this point, 10% of the fathers attend the birth and 25% are still in touch with mother and infant nine months later.¹²

Many highly disadvantaged couples are also still together, though not necessarily living together - for example at least 80% of young parents.¹³

...but engagement with fathers around the birth is poor

There is no requirement on maternity services to gather the father's details. Effective engagement with expectant and new fathers is poor, particularly when they are vulnerable and/or do not sign their baby's birth certificate. In general, the more the need to engage with the father for the sake of child, mother or father himself, the lower the level of engagement with him.¹⁴ One study of young parents in Bristol found that in 50% of cases the health professionals did not even know the father's name, although he was mostly rated important by the mother.¹⁵

Requiring all fathers to register the birth of a child is a tool to increase the engagement of family and health services with fathers

Legislative change requiring all fathers to sign the birth certificate requires all services working with expectant and new parents to think differently about fathers. This may come to involve "paternity intake interviews" when parents register for ante-natal care. These are common in the US, where they are seen as an important precursor to birth registration, and have also been found to boost the number of professionals who acknowledge the father. This, in turn, is linked with increasing numbers of fathers paying child support.¹⁶

Joint birth registration is an important tool in emphasising to fathers, mothers, professionals and society at large, that the responsibilities of fathers are as inescapable as those of mothers.

3. The new legislation will protect the rights of children and enhance their welfare

The new legislation satisfies the requirement of the UN Convention on the Rights of the Child to protect the child's right to know his or her parents

The UN Convention on the Rights of the Child states that each child has the right, as far as possible, to know his or her parents (Article 7). A key way that this right is delivered is by the child having a record of who his/her parents are on the birth certificate.

At present, the right of a child to know his/her mother is more strongly protected than the right of a child to know his/her father. A mother is always recorded on the original birth certificate, whilst a father is only recorded if the mother consents – either by marrying him or, if they remain unmarried, by her consenting to his signing the birth certificate. There is no such conditionality on gender of the parent in the UN Convention.

The UK is in breach of the UN Convention because we do not go “as far as possible” to ensure the child's parentage is recorded. We know, but do not implement, simple methods of increasing birth registrations that have been adopted in other jurisdictions.

The new legislation will enhance the welfare of children

Early paternity establishment is a highly effective means of encouraging fathers to pay child maintenance. The amount of child support fathers pay, and whether they pay, are both unequivocally associated with children's achievements, health and wellbeing.¹⁷

Paternity establishment is also associated with greater involvement by fathers with their children. Low levels of father involvement are associated with a range of negative outcomes for children¹⁸ and high levels of involvement are correlated with positive child outcomes. These include better cognitive/social development, higher IQs, better peer relationships, fewer behaviour problems, lower criminality and substance abuse, higher educational / occupational mobility relative to parents', capacity for empathy, non-traditional attitudes to earning and childcare, more satisfying adult sexual partnerships and higher self-esteem and life-satisfaction.¹⁹

As with mothers, studies show a range of negative developmental outcomes associated with fathers' poor parenting or psychopathology.²⁰ Without challenge, such fathers' behaviour is unlikely to change. Without identification of the father, no-one is likely to challenge him.

Since joint birth registration will make engagement with the father a statutory duty, all health and family services including those working with young and vulnerable families MUST communicate with the father himself; and must communicate with the mother about his role. This will identify many men who are a resource to children (potentially enhancing their contribution) and will identify some fathers who pose a risk to those children and/or their mothers (potentially facilitating challenge and change).



4. Joint birth registration poses new complications that MPs must address

More unsuitable fathers will have “rights”

Signing a birth certificate does not only meet the child's right to know their mother or father, but also confers legal rights on the parent – Parental Responsibility.

It is not always in the best interests of a child for a mother or a father to have Parental Responsibility. Family courts can issue Section 8 orders that specify restrictions to the exercise of Parental Responsibility in order to safeguard the child from a mother or father.

If more unmarried fathers sign birth certificates - and therefore obtain Parental Responsibility - it follows that a few more fathers will need their exercise of PR restricted by family courts through the existing procedures.

Rather than being a problem, this can have a positive effect, in that more unmarried fathers who are considered by family professionals and others to be a risk to mother and/or child will be pulled into the family courts and their activities specifically regulated by law. Currently such men generally remain in the community in close proximity to the mother and child, but without any regulation, unless criminal proceedings are brought against them.

Joint registration may be challenging where one or both parents resist the father's signing

There are three possible scenarios:

Scenario	Mother wants father to sign	Father wants to sign
1	No	No
2	Yes	No
3	No	Yes

Scenario 1

Mother does not want father to sign. Father does not want to sign or remains hidden.

A mother does not have to give information and may register alone if she declares that she meets one of the conditions for an exemption. These conditions are:

- The father is a registered sperm donor (s.41 HFE Act 2008)
- The father is dead
- She does not know the father's whereabouts
- In her opinion he lacks mental capacity (Mental Capacity Act 2005)
- **She fears risk or harm to herself or the child if steps are taken to contact the father and require him to register***
- There is a power to prescribe other conditions in legislation (this is to cover any need for exemption that emerges from the registrars' focus group).

DWP research in preparation for this legislation found that most sole-registering mothers are not motivated by fear but are mostly lacking in knowledge of the process.²¹ Some experience pressure from family or peers or the father himself not to register him, or may fear the loss of benefits if the father is known.

Providing skilled and evidence-based support to both mothers and fathers in this category will be important to bring about better outcomes for the most vulnerable families.

* This provision is similar to that in child support legislation, where mothers fearing serious abuse have not been required to identify the father.

4. Joint birth registration poses new complications that MPs must address (Continued)

Scenario 2

Mother wants father to sign
Father does not want to sign

The registrar will have to take reasonable steps to contact the father, by letter. The father will have the opportunity to confirm or deny paternity and register if he is the father. If he denies or disputes paternity, or simply never replies, no further action will be taken by the registration service. However, mothers can, as now, establish parentage through the court system; and if a man is identified as a child's father by a court, the mother may have his name entered into the birth register.

Again, support to the family will play an important role in bringing about better outcomes in such situations.

Scenario 3

Mother does not want father to sign
Father wants to sign

Subject to the exemption conditions (previous page), the mother is required to state whether he is the father, and this declaration is subject to the Perjury Act. If he is the father he will be registered. There will also be voluntary administrative paternity tests but these require the consent of both parents.

A father can apply to the family court if the mother obstructs his registration. In court he will need only to prove his genetic paternity to be registered. The court may order a DNA test to establish this.

The court will simultaneously but separately consider whether the father should be given Parental Responsibility, restricting it in the interests of the child if necessary, in the same way that PR is restricted for mothers and married fathers

Ministry of Justice statistics for 2007 show that where a court made a decision on Parental Responsibility fewer than 2% of the orders were refusals.²² So when fathers who are currently prevented from the automatic right to care and be responsible for their children go through court procedure to apply for Parental Responsibility, most of them get it. **Parental Responsibility does not confer an automatic right to live with, or even be in contact with, the child: here the best interests of the child are paramount.**

5. Other 'soft' measures will enhance the effectiveness of the legislation

The new approach will work best if it is accompanied by non-legislative measures that have the same aim of strengthening the message that when a baby is born, the father becomes as inescapably responsible for the baby's wellbeing as does the mother.

- a. The possibility of fathers voluntarily registering their paternity in the hospital, as proposed in the White Paper on Birth Registration. This is being discussed with midwives and needs to be piloted.
- b. The enhanced status of birth registration as an opportunity to provide information to all mothers and fathers about the support services available to them.
- c. Easier identification of fathers by health and family services, leading to greater opportunities to engage with them: it is a *sine qua non* of engagement with fathers that professionals be able to identify them.
- d. Training and support for health and family professionals in engaging routinely with fathers in mainstream services.
- e. The draft legislation also contains provision for a simpler alternative to the statutory declaration of parentage. This is the subject of ongoing work but it is intended that the new declaration may be witnessed by a wider range of responsible persons.



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The Fatherhood Institute is the UK's fatherhood think tank.

The Institute (registered charity number 1075104):

- collates and publishes international research on fathers, fatherhood and different approaches to engaging with fathers
- helps shape national and local policies to ensure a father-inclusive approach to family policy
- injects research evidence on fathers and fatherhood into national debates about parenting and parental roles
- lobbies for changes in law, policy and practice to dismantle barriers to fathers' care of infants and children
- is the UK's leading provider of training, consultancy and publications on father-inclusive practice, for public and third sector agencies and employers

The Institute's vision is for a society that gives all children a strong and positive relationship with their father and any father-figures; supports both mothers and fathers as earners and carers; and prepares boys and girls for a future shared role in caring for children.

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