

June 2008

Joint birth registration: recording responsibility



Joint birth registration: recording responsibility

Presented to Parliament by
the Secretary of State for Work and Pensions
by Command of Her Majesty
June 2008

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Ministerial foreword

Becoming a parent is one of the most important and significant experiences in a person's life. We believe that it is vital that both parents play a role in their children's lives from day one. Every year up to 45,000 birth registrations in England and Wales do not include the name of the father. Our ambition is to promote child welfare and parental responsibility by significantly increasing the number of birth registrations which hold the details of both mother and father, while continuing to protect vulnerable women and children.

This White Paper sets out changes to the law in England and Wales to make joint birth registration a legal requirement for all unmarried parents unless this is decided by the registrar to be impossible, impracticable or unreasonable. Alongside this the White Paper sets out a series of non-legislative measures to promote and support joint birth registration and changes to give mothers a right to insist that the father acknowledges his responsibilities to his child by registering on the birth certificate. Equally, it gives a father a new right to insist that he is registered.

The role of both father and mother is important to a child's development. By jointly registering a birth an unmarried father gets parental responsibility and can have a say in such important matters as the child's name, medical decisions, schooling and religion. Currently, unmarried fathers do not automatically have these rights, which places unnecessary obstacles in the way of those fathers who want to take responsibility for their children.

Fathers' involvement in their child's life can lead to positive educational achievement, a good, open and trusting parent-child relationship during the teenage years and reduce the risk of mental health issues for children in separated families. Engaging fathers around the time of their child's birth, including through being registered as father, is important in establishing that close involvement.

We hope our proposals will make joint registration the natural first choice of parents. However, registrars will be given discretion to permit sole registration. In developing legislation the protection of vulnerable mothers and children will be a key consideration, and we will work with family and parenting organisations and registrars to ensure this.

A handwritten signature in black ink, appearing to read 'JPurnell'.

The Rt Hon James Purnell
Secretary of State for Work and Pensions
May 2008

A handwritten signature in black ink, appearing to read 'Ed Balls'.

The Rt Hon Ed Balls
Secretary of State for Children,
Schools and Families

Chapter 1 – Introduction

1. In June 2007 we published a Green Paper outlining initial proposals for new legislation to make unmarried mothers and fathers jointly responsible for registering the births of their children. The paper expressed our ambition to promote child welfare and parental responsibility in England and Wales and significantly increase the number of births which are registered jointly by both parents. This White Paper sets out our plans for the future in England and Wales.
2. The point at which a birth is registered is one of the first milestones in the life of a child and can shape its future identity. It is also a key moment for parents, when a mother and father publicly acknowledge that they have responsibility for their child – not only as its legal representative, but also in the expectation that they will safeguard and promote their child’s health, development and welfare.
3. Birth registration can also be the time at which fathers, in particular, realise that they have a real influence in their child’s life, and that they are playing an extremely privileged and important role. In England and Wales around 7 per cent of births each year are solely registered by mothers. This means that every year up to 45,000 children do not have their father named on their birth certificate.
4. The Green Paper set out differences in the way the birth registration system currently operates depending on whether parents are married or unmarried. Married mothers and married fathers are automatically recorded in the birth register when either of them registers their child’s birth; they do not have to register jointly.¹ When parents are not married the situation is more complex. An unmarried father’s name is only recorded at the outset if both parents agree. For a joint registration to take place, both mother and father need to be present at the register office to sign the register. If this is not possible, one parent may register and provide either a statutory declaration of parentage signed by both parents and witnessed by a legal representative, a jointly made parental responsibility agreement witnessed by a magistrate or officer of the court and registered in court, or a court order.

¹ Married men are automatically presumed to be the father of their wife’s child unless the contrary is shown.

5. This White Paper focuses on the way the birth registration system applies to unmarried parents and their children, particularly from the child's perspective. It does not cover the birth registration process for married couples, which works well and where we do not propose to make any changes. Nor does it cover changes to birth certificates arising from adoption,² or from the changes proposed in the Human Fertilisation and Embryology Bill to allow a same-sex couple to be recorded as parents at birth. Further consideration of the latter will be needed once that Bill has passed through Parliament.
6. At the heart of our reforms is a desire to promote child welfare and the right of every child to know who his or her parents are. In most cases, a child's right to be acknowledged and cared for by his or her father should not be dependent on the relationship between the parents. To support this right we will ensure that fathers who want to take responsibility for their children do not have to overcome unnecessary obstacles. We intend that joint birth registration should play a key part in developing the Government's determination to develop a culture in which the welfare of children is paramount and people are clear that fatherhood as well as motherhood always comes with rights as well as responsibilities.
7. In 45 per cent of cases where there is sole registration, the father is still in regular contact with his child. By making it easier for fathers to register jointly with mothers, a significant proportion, if not all, of these children will have joint birth registration, which will help to crystallise the parent-child relationship.
8. Joint birth registration is an important first step for parents and children and real benefits can flow from it. Children have the right to know that their parents take responsibility for them, and a father's name on a birth certificate symbolises his commitment to his child. We want to see more fathers recorded on their child's birth certificate and more fathers with parental responsibility.³

² When a child is adopted the Registrar General is notified of the adoption and creates a record in the Adopted Children Register, which supersedes the entry relating to that child in the birth register. A full certificate from the Adopted Children Register is used as a birth certificate - it is clear from the full certificate that the child has been adopted by the couple named. Since 31 December 2005 it has been possible for a same-sex couple to adopt a child.

³ Parental responsibility is a legal concept that equates to all the rights, duties, powers, responsibilities and authority which, by law, a parent of a child has in relation to the child and their property.

Joint birth registration: recording responsibility

9. Fathers should have an opportunity to show their intention to play a meaningful part in the lives of their children by registering the births of their children jointly with mothers. By jointly registering a birth an unmarried father acquires parental responsibility. This means that both parents can have a say in such important matters as the child's name, medical decisions, schooling and religion. On a practical level, there is also some evidence from research in the United States that establishing paternity at an early stage is significantly and positively associated with paternal visits and formal and informal child support payments.⁴ These responsibilities and rights in relation to children are important components of parenthood, and for unmarried fathers joint birth registration is the easiest way to obtain them.
10. We recognise that joint birth registration will not change the attitude of those fathers who are determined not to play a part in their child's life. However, we hope that encouraging joint birth registration will support a wider cultural shift so that more fathers see their child as their responsibility.
11. We invited people to respond to questions in the Green Paper. Throughout the summer of 2007 we received a good level of response from both individuals and groups. Those responding included mothers, fathers, parenting groups, registrars, lawyers, and health and social workers. We have read every response we received and have summarised them in Annex A.
12. Almost all respondents believe that in the majority of cases joint birth registration is beneficial for both children and parents. However, a wide range of views was expressed about how we should achieve this. Those who favoured legislation to require fathers as well as mothers to register a birth did so mainly because there was a feeling that children's and fathers' rights were being put second to those of mothers. Those against legislation highlighted that the numbers of sole registrations are relatively small and are decreasing. They argued that many of the mothers currently registering alone may have good reason to do so and they had some concerns that it might have risks for vulnerable women and children. Some registrars were concerned that our proposals might change their role, but others welcomed the initiative.

⁴ Mincy, R., Garfinkel, I., Nepomnyaschy, L., (2005), *In-Hospital Paternity Establishment and Father Involvement*, Columbia University, page 3: "Even after controlling for previously unavailable characteristics, establishing paternity (in and outside the hospital) is significantly and positively associated with formal and informal child support payments and father-child visitation".

13. In addition to seeking your views we commissioned quantitative and qualitative research⁵, specifically designed to support and inform the consultation process. This research has now been published and the results are set out in detail in Annex B. It highlighted the fact that some parents have little understanding about how the birth registration system works and are unsure about where to find out more. It also suggested that the characteristics of mothers who register alone are significantly different from those who register jointly. Compared with those who register jointly they are generally likely to be younger, have lower incomes, have lower levels of educational attainment and have health issues. This indicates that as a group they may need more support and information to enable them to register jointly.
14. Following the consultation exercise, this White Paper sets out our plans for promoting child welfare and parental responsibility by requiring unmarried parents to jointly register the births of their children. We propose a range of legislative and non-legislative measures designed to give both mothers and fathers the right to declare their parenthood by jointly registering their child's birth, and to provide all parents with more consistent and comprehensive information about the birth registration system, to make the system more accessible, and to simplify the birth registration process for unmarried parents. Our detailed proposals are set out in Chapter 3.

⁵ Graham, J., Creegan, C., Barnard, M., Mowlam, A., (National Centre for Social Research), McKay, S., (University of Birmingham) (2007), *Sole and joint birth registration: Exploring the circumstances, choices and motivations of unmarried parents*, Department for Work and Pensions Research Report No 463, Corporate Document Services <http://www.dwp.gov.uk/asd5/rports2007-2008/rrep463.pdf>

Chapter 2 – Why we need change

15. The Green Paper, *Joint birth registration: promoting parental responsibility*, (Cm 7160, June 2007) set out the Government's intention to legislate to promote child welfare and shared parental responsibility by making it clear that both mothers and fathers are jointly responsible for registering the births of their children. We were encouraged by the interest generated by the Green Paper. In addition, officials met a number of stakeholders during the consultation period and others were invited to a seminar setting out the conclusions of research sponsored by the Department for Work and Pensions (DWP), which was designed to support and inform the consultation process.

What you said

16. The overwhelming majority of the stakeholders who responded to our consultation supported the principle of joint registration as the ideal outcome for the children of unmarried parents. Along with the Government, they recognised that sharing parental responsibility is usually beneficial for both parents and children and that in most cases it is right that children should know that both parents take responsibility for them. However, whilst stakeholders gave their support for the principle of joint registration, they held a range of views on the best way to achieve our objective of increasing the number of joint registrations.
17. A number of stakeholders approached the issue from the viewpoint of the rights and welfare of the child, "the first principle of joint birth registration must centre on the long-term welfare of the child. Embodying the vision behind these proposals that with parenthood comes shared rights and responsibilities towards the welfare of the child" (CAFCASS). Others felt that joint registration should be the default position because the right of a child to know his or her parentage should prevail over any objections by adults or difficulties in adult relationships.
18. Some groups and individuals, such as One Parent Families/Gingerbread and Relate, expressed concerns about the possibility that giving unmarried fathers new rights might put some women and children at risk, and had doubts about whether a system of exemptions would be effective.

19. Other respondents, including groups representing fathers, felt that, for the sake of children, both fathers and mothers should have equal parental status. They acknowledged that some parents could be difficult or unsuitable parents and that this could raise issues in relation to adult and child welfare. However, this group of stakeholders pointed out that there are bad mothers as well as bad fathers and felt that any problems should be addressed irrespective of a parent's gender. "Mothers and fathers should be treated identically, not as now" (The Fatherhood Institute).

Reasons for change

20. Our ambition to increase significantly the number of joint birth registrations is a key part of our aim to develop a culture in which the welfare of children is paramount and which recognises the responsibilities and rights of fatherhood, as well as motherhood.
21. The roles of both father and mother are important to a child's development. We want parents to realise that, even when they do not have a close relationship with each other, they should both play an active, supportive role in their children's lives. Joint birth registration alone cannot achieve this, but it gives parents the opportunity to demonstrate their commitment to their children.
22. For an unmarried father, acknowledging paternity at the outset is a clear message to his child that he is their father and will be responsible for them. The current registration system places unnecessary obstacles in the way of fathers who want to take responsibility for their children. This position can no longer be justified, particularly as it has an effect on the rights and welfare of children.
23. We intend to promote child welfare, parental responsibility and the right of every child to know who his or her parents are by requiring unmarried parents to jointly register the births of their children. In reaching our decision we took account of responses to the Green Paper consultation and the outcome of the research project specifically designed to support the consultation process. In addition, we looked at approaches taken to this issue in other countries. In Australia⁶, for example, the law provides that both parents have parental responsibility, whether they are married to each other or not. This was followed by changes to the birth registration process to require both parents to register a birth.

⁶ Family Law Act 1975, Section 61C(1).

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24. In the next chapter we set out our firm proposals for reform of the birth registration system to bring it up to date with the realities of modern family structures.

Chapter 3 – Requiring joint registration

25. We will introduce legislation to require unmarried parents to jointly register the births of their children. This means that unmarried fathers will be required to be recorded in the birth register unless it would be impossible, impracticable or unreasonable to do so. Evidence on the positive contribution that paternal influence can make to the well-being of children,⁷ and support from the vast majority of stakeholders for the principle of shared parental responsibility, persuaded us to pursue our aims. So, too, did the arguments for the right of children themselves to be acknowledged and know where they come from. The Government considers that it is now time to take steps towards bringing the responsibilities and rights of unmarried fathers more into line with those of unmarried mothers.
26. Our Green Paper recognised that there may be circumstances where a mother is unable to identify the father, or feels that she or her child would be put at risk if the father were to be identified in the birth register. In the Green Paper we proposed a list of specific exemptions which would enable mothers to register a birth on their own. Consultation responses from a range of stakeholders showed that, whilst the general thrust of our exemptions was felt to be right, a long list of specific exemptions would add complexity, could stigmatise children and, in short, would not work. “The system of exemptions is an overly bureaucratic way of attempting to deal with the problems posed by mandatory joint registration, and will be unworkable” (One Parent Families/Gingerbread).
27. We have decided to restrict exemptions to broad categories so that sole registration may take place where it is impossible, impracticable or unreasonable for the father to be identified in the birth register.
 1. Impossible – There will be some occasions when it will not be possible for both parents to jointly register a birth. In particular, where a permanent obstacle prevents joint registration, for example if the father’s identity is unknown. In these cases a sole registration will take place.
 2. Impracticable – There may be circumstances when joint registration is not a practical option because the whereabouts of a father is unknown or he is

⁷ Pleck, J.H., & Masciadrelli, B.P. (2004). Paternal Involvement by U.S. residential fathers: levels, sources and consequences. In M.E. Lamb (ed.), *The Role of the Father in Child Development (4th ed.)*. Hoboken, NJ: John Wiley & Sons.

McBride, B.A., Schoppe-Sullivan S.J., & Ho, M.H. (2005). The mediating role of fathers’ school involvement on students’ achievement. *Applied Developmental Psychology*, 26, 201-216

away and cannot attend the register office or is unable to sign a statutory declaration of paternity. In these cases a sole registration will take place. However, where the father's circumstances present a temporary impediment to joint registration and it is expected or even possible that the father's circumstances may change (for example, if he returns from working abroad, or the mother finds out where he is living), when accepting the sole registration the registrar should encourage the mother to have the child re-registered as soon as the father is available to do so, and should explain how this can be done.

3. Unreasonable – Unreasonable circumstances will cover a broad spectrum. At one end will be the rare and extreme cases of men who have received a conviction for rape or, in the case of a young or vulnerable mother, where a responsible person, such as a social worker or medical practitioner, advises it would not be in the mother's or the child's interest to register the father. At the other end of the spectrum will be cases where it would be unreasonable to expect registrars to take excessive steps to trace a father who has not come forward. In such cases a sole registration will be accepted.

28. Where a mother wants the identity of a father to be recorded but this is against the wishes of the father, or the wishes of the father are not known, mothers will be allowed to identify the father of their child independently. At this point the father will be contacted and required to sign the birth register. Where the issue of paternity is denied or challenged, a paternity test will be required and the man concerned will be recorded as the father if his paternity of the child is established by such a test.

29. Similarly, we will develop legislation to allow the father to declare his paternity and have his name recorded in the birth register where this might be against the wishes of the mother. This will be on the condition that the mother acknowledges that he is the father and that there is no significant evidence against his registering (for instance, he has been convicted of rape or violence against the mother or is on the sex offenders register). If there is a dispute about paternity he can volunteer to take a paternity test. The mother will have the right to refuse to cooperate in the paternity test, in which case a father could, as now, apply to the courts for a declaration of paternity.

30. In developing legislation the protection of vulnerable mothers will be a key consideration. We will work further with stakeholders to define what will constitute sufficient evidence to stop joint registration. However, the underlying principle is that shared parental responsibility is a matter of child welfare and should not depend on the relationship between the parents.

Chapter 4 – Further proposals

31. The hard work and dedication of registrars is essential to the smooth delivery of the registration service. It is largely due to their efforts that the birth registration system works well at impartially collecting and recording facts and has a valued reputation for integrity and confidentiality. This attracts high levels of compliance – 99.9 per cent of births are registered consistently each year. However, there is no doubt that in practice the birth registration system is currently more onerous for unmarried parents. The Government believes that with the help of registrars we could do more, not only to simplify the process but also to encourage and promote joint registration.

Information, support and re-registration

32. Legislation to require both parents to register a birth needs to be underpinned by a well-publicised, workable system that is as simple and straightforward as possible. One of our first aims will be to ensure that comprehensive, accessible information about changes to the birth registration system will be available as soon as the new legislation comes into effect. A targeted information campaign will give prospective and new parents information about registration, and will be developed in line with the new proposals. It will be targeted at places where fathers and mothers are likely to visit up to and shortly after the birth, such as doctors' surgeries, Jobcentre Plus offices, hospitals and Sure Start Children's Centres.
33. Many local authorities already produce information packs and literature about birth registration, which are of a very high standard. We want this to continue and will work with key staff, such as registrars, to ensure that information about the new system is incorporated into these products so that all parents, irrespective of the area they live in, can be made aware of their rights and responsibilities towards their children. This will include information about the new system, the responsibilities and privileges that are attached to registration, a description of how to register jointly or re-register, and the alternatives for registering or establishing paternity where the more usual route is not possible.
34. Midwives and registrars are also important sources of information for new parents and both professions have a key role in the birth registration system. When a new mother is discharged from hospital we propose to encourage midwives to remind parents of the time limit for registering the birth, and of the benefits of having both parents' names on the birth certificate.

35. Appointments for birth registration are offered by most register offices, and the facilities for, and requirements around, joint birth registration need to be explained when a parent contacts them to ask about registering. Furthermore, whilst it has always been the case that a birth can be re-registered at any point after the first registration, more could be done to inform parents of this option. A child who has been registered solely by the mother because the father was not available, or for any other reason did not attend the registration, can be re-registered at a convenient time for both parents as there is no time limit for re-registration of a birth.
36. We propose to invite sole-registering mothers to re-register their child's birth with the father via a letter sent six months after the birth is registered. There would not be any obligation or pressure to re-register, but it would be drawn to the mother's attention that re-registration is an option at any time and that the process is not complicated or expensive.
37. These proposals require effective training of registrars in the new procedures. We will work with registrars to identify their training needs and develop programmes that will ensure they are equipped and ready to deliver the new system.

Investing in pathfinders to deliver best practice

38. The Green Paper set out a number of changes that could be made in the area of birth registration to encourage and inform new parents about birth registration and its benefits. The responses to the Green Paper were, in general, very supportive of a number of these. The outcome of our research and the input from stakeholders, particularly registrars, has prompted us to look again at the practicalities of joint registration.
39. As a result we have developed a number of legislative and non-legislative measures which we believe would promote parental responsibility by encouraging joint birth registration more effectively. Some of our proposals have already been trialled on a limited basis in some registration districts as an approach to best practice. We do not want to impose a single formula on the registration service, but we do want to broaden opportunity. We will offer pathfinder funding and support so that more registration districts have the chance to try out innovative schemes.

40. We will engage with professionals who are integral to the birth registration system – registrars, local authorities and health service workers – and work together to deliver a flexible system that reflects the needs of particular areas or communities. We will consult these key groups on the proposals set out below and invite them to put forward proposals for pathfinder projects aimed at creating local models of best practice.

Accessibility of registrars

41. We propose to encourage local authorities to make local registration services more accessible to both mothers and fathers, giving parents more opportunity to register jointly.

Outreach into the community

42. In some instances, registrars are available at hospitals and it is possible to register a birth before the mother is discharged. We propose to encourage registrars to be available not only at hospitals, but also where practical at other places which are likely to be visited by new parents, for example doctors' surgeries, Sure Start Children's Centres or local community venues. The option of being able to combine, for example, a health check-up for a new baby with the birth registration in one journey could help to break down perceptions of registration as an onerous duty which is carried out by the mother alone and has to be fitted in around all the other commitments of a new parent.
43. The occasional presence of a registrar at Sure Start Children's Centres, nurseries or playgroups could also encourage parents of slightly older children to re-register a child to include the name of the father.

Flexible opening hours

44. Fathers who work regular full-time hours or who work away from home for long periods may find it difficult to get time off work to attend the register office. One possible solution to this is to encourage register offices to review their opening hours, perhaps opening their office for birth registrations on particular weekends or evenings. A number of register offices already provide flexible or extended opening times, and we hope to encourage more to do so.

Home visits

45. Some parents, particularly some disabled parents, will find the journey to a register office a far more troublesome event than most other parents. We propose to encourage register offices to consider these parents by providing a home-visiting service for mothers and fathers whose level of mobility is significantly reduced.

Statutory declarations and parental responsibility agreements

46. We have worked on issues that might be developed further in partnership with the registration service and other key workers. One of our most important targets is to simplify the registration process for unmarried parents.
47. In Chapter 1 we explained how the registration system operates differently for married and unmarried parents. In the case of married couples, the mother or father may register the birth alone and the names of both parents are recorded in the register of births because of the legal assumption that the mother's husband is her child's father. If unmarried mothers and fathers want both of their names to be recorded as parents, either they must attend the register office together, or one of them must attend with a statutory declaration of parentage made by the other parent, or with a jointly made parental responsibility agreement or court order. A statutory declaration must be made and signed in the presence of a solicitor, Justice of the Peace or notary public for a nominal charge, and a parental responsibility agreement must be witnessed by a magistrate or officer of the court and registered in court.
48. Many parents may welcome the opportunity to be together at the formal registration of their child's birth, but there can be practical difficulties if parents of a new baby are required to attend a register office together. Moreover, DWP research has highlighted the fact that some parents have little understanding of how the birth registration system works and are unsure about where to find out more. Many parents, particularly the more vulnerable, may be intimidated by the process of approaching a lawyer or magistrate to make a statutory declaration or parental responsibility agreement.
49. We will consider how to simplify the process of making a parental responsibility agreement or statutory declaration of parentage, with legislation providing for a new, simplified and accessible system.

The health service

50. Under current legislation the health service has a statutory duty to provide the local registration service with information about births that take place in hospital or at home. Notifications include the name and address of the mother so that she can be contacted by the registrar if nobody goes to register the birth. There are existing electronic systems which permit notifications to be made quickly and effectively, and health service staff already provide a good liaison role with the registration service.
51. Research conducted for DWP shows that decisions about birth registration are often made during the progress of a pregnancy as well as in the period after the birth of a child. The care and support given by health service staff during pregnancy increasingly extends to both parents and covers a broad range of issues. We will explore the possibility of widening the scope of the relationship between parents, the health service and the registration service.
52. This could include an opportunity for fathers and mothers to record their parentage in health service records. This might be done in the same way that parents record birth plans or other voluntary information. Following a birth, such information could be used to enable hospital staff to witness an acknowledgement of paternity by a father who is present at the birth of his child or who is visiting the mother and child in hospital. A declaration of paternity made in this way might be used instead of a statutory declaration to allow either parent to register the birth of their child. However, if parents wish to attend the register office together, or to make a statutory declaration, these routes will remain open to them.

Chapter 5 – Conclusion

53. Registering the birth of a child is an opportunity for fathers in particular to publicly acknowledge they have responsibility for their child, not only as his or her legal representative but also in the expectation that they will safeguard and promote their child's health and development, and provide them with direction and guidance throughout childhood. We hope that reform of the birth registration system will be a starting point to extend the right to parental acknowledgement, nurture and care to as many children as possible. That is why we are determined to require both fathers and mothers to register the births of their children.
54. The measures in this White Paper reflect our ambition to promote child welfare and parental responsibility. By extending the rights of unmarried fathers to register the births of their children we are giving children the right to be acknowledged by both parents and fathers the right to take initiative and share responsibility for the welfare of their children. We want to work together with those who are responsible for the operation and delivery of the birth registration service to develop a culture where the rights of children are paramount, and where everyone is aware that the privilege of parenthood is accompanied by both rights and responsibilities.



Annex A

Summary of responses to the Green Paper

ANNEX A – Summary of responses to the Green Paper

Principles for joint birth registration

What the Green Paper proposed

1. The principles that currently underpin birth registration policy should remain the same if new proposals for joint registration are made.

What you said

2. In general, there was agreement with the principles which we have developed for birth registration. However, opinions were divided on whether these principles are sufficient for a system which proposes to require joint registration in law. Concerns which emerged included the following:
 - The principles provide for official donation where the sperm donor is the biological father and not the official father, but do not provide for unofficial donation and what the legal position of the biological father or the non-biological mother would be in this case.
 - Where non-biological parents are named on the birth certificate, the child's true identity and medical history is compromised.
 - In practice the principles would still rely on the mother being responsible for registration rather than both parents having equal responsibility.
 - It is unknown how the changes proposed by the Human Fertilisation and Embryology Bill would affect the principles of joint birth registration.

Quotations

"We would suggest that the principles should be amended to reflect that the first principle of joint birth registration must centre on the long-term welfare of the child. Embodying the vision behind these proposals that with parenthood comes shared rights and responsibilities towards the welfare of the child."

Children and Family Court Advisory Support Service

"We see no need to alter the principles that currently underpin birth registration."

One Parent Families/Gingerbread

“The guiding principles that are applied in this area are correct...”

Ramadhan Foundation

“...registering the paternity of the child should be dependent only on biology...”

Fathers Direct

Equal responsibility

What the Green Paper proposed

3. It is usually best for children if both parents acknowledge them and are involved in their upbringing from an early stage. We proposed in the Green Paper to place equal responsibility on both parents to register rather than only the mother.

What you said

4. There was a mixed response to the Government’s view that the registration of a birth should be an equal responsibility for both mothers and fathers.
5. Questions were raised over whether joint responsibility for registration would necessarily lead to a more equal responsibility for the child’s upbringing.
6. There were some calls for clarification over whether joint responsibility would mean that both parents would need to attend a registration or whether one parent – mother or father – could register both names alone.
7. Some stakeholders were concerned that equal responsibility for registration would lead to an increased likelihood that a mother would be pressured into having contact with a man whom she does not want to continue a relationship with and that this would be undesirable for mother and child.

Quotations

“Fathers Direct proposes that mothers and fathers be treated identically, not as now.”

Fathers Direct

“...the FPI does not believe it is appropriate to make parents jointly responsible for registration without more research to establish the consequences of such a step.”

Family and Parenting Institute

Exemptions from a requirement to register jointly

What the Green Paper proposed

8. It is essential that women should be protected from the requirement to name the father if there is good cause for them not to do so.
9. A mother should have the exemptions made clear to her to avoid a situation where a mother understands the concept of compulsion but not the exemptions put in place for her protection.
10. In order to provide adequate safeguards, the Green Paper listed a series of exemptions.

What you said

11. There was a mixed response to these proposals. All respondents were in agreement that the protection of vulnerable children was paramount. However, some believed that the rights of the child to know his or her history and identity should outweigh the rights of the mother in relation to some of the proposed exemptions in the Green Paper. There was also some objection to the perceived focus on the protection of women at the expense of the protection of vulnerable fathers.
12. Some stakeholders raised concerns that a woman could falsely claim she fell into one or other of these exemption categories in order to deliberately exclude the father from the life of the child. The opposite side to this argument came from those respondents who believed that if a woman had to prove her claim in any way, whether this be to a court or just to the registrar, the resulting stress she would have to endure would be unacceptable.
13. Several respondents also highlighted the possibility that if sole registration only occurred for the reasons set out, the children of mothers registering alone would be recognisable as having a father who is described in the exemption categories and could experience a stigma attached to this.
14. There were concerns that women who would have previously simply registered solely would claim that they did not know the identity of the father and so lie to the registrar in order to avoid intrusive questioning. If an exemption claim was made and contested by the father, going through the courts would slow the process down so much that the deadline for registering a birth might be missed.

15. Some stakeholders felt that the fact that the father is deceased should not automatically lead to a sole registration. Some stakeholders also felt that a paternity dispute should be automatically settled with a paternity test rather than needing to wait for either parent to insist that the matter should go to court.
16. There was some disagreement with a sole registration taking place if a mother alleges that the father is or could become violent or abusive. Some felt that the potential of violence was not grounds enough to exclude a father from being registered and that an allegation alone should not lead to an automatic exemption. On the other hand, there were suggestions that the exemption should be widened to include the risk of emotional pressure or intimidation, and that in some cultures a risk of violence, including "honour killing", was a very real possibility, and so this exemption should be extended to include a potential risk of violence from extended families.
17. The main concern from registrars was that it is not in the role of the registrar to challenge a woman's claim of exemption or to need to "second guess" that a woman might fall into an exemption category and draw her attention to this. Some registrars highlighted a need for training so that they could take on this different role. However, some registrars were concerned that extending their role to that of interrogator, investigator or counsellor would have a negative affect on the traditional relationship between registrar and client based on trust and impartiality.
18. Questions were raised over whether a sole registration would take place:
 - if the father is in prison; working or living abroad; not allowed into the country for any reason; or in hospital either permanently or indefinitely;
 - if either or both parents are severely mentally disabled; or are under the age of consent; or
 - If the biological father was an official or non-official sperm donor.

Quotations

"Refuge welcomes Government's recognition that there are particular cases where joint registration is not suitable and believes that it has identified the appropriate exemptions."

Refuge

“We think it is important, as already said, for the birth certificate to contain the names of both parents. This would apply even if one of the parents were a rapist, or abusive. They are still part of the child’s story, even if a distressing and sometimes horrific one.”

Families Need Fathers

“The system of exemptions is an overly bureaucratic way of attempting to deal with the problems posed by mandatory joint registration, and will be unworkable.”

One Parent Families/Gingerbread

Balancing the right of both parents to register with the protection of children and vulnerable women

What the Green Paper proposed

19. The Green Paper set out a legislative approach that would strike a balance between the right of both parents to register the birth of their child and adequate protection for children and vulnerable mothers. This approach would involve a minimal amount of intrusion into the lives of potentially vulnerable women and would prevent undue stress in the lives of the family. This was to ensure that the level of intervention would not be so intrusive as to dissuade mothers from registering a birth.

What you said

20. Some stakeholders thought that a legislative approach such as this, in comparison with the rejected “heavy handed” approach, would be less likely to dissuade any mothers from registering at all as it would strive to minimise any stress and pressure put on a mother to name the father if she had good reason not to do so. However, stakeholders who were opposed to this approach felt that either it would be too “light touch”, or that it would still be too much to ask a potentially vulnerable woman who arrived to register a birth alone to name the father.
21. Concerns were again raised about the possibility that a false claim by a mother for an exemption could prevent a deserving father from registering. Or, on the other hand, that women might be tempted or intimidated into naming the most convenient man as the father, whether she knows who the father is or not.

22. Also, whether or not a claim of exemption was made, it would fall to the registrar to make a decision as to whether there was an exemption and to take appropriate steps. Registrars would need training for this as this responsibility is not within the current role of the registrar and registrars would be put in a difficult position.
23. Some respondents still feel that although it is the Government's wish to give both parents an equal responsibility for birth registration, in practice the responsibility would still lie with the mother as it would be her who is required to name the father if she arrives at the register office alone.
24. There were concerns for new mothers who had a dispute about registration; if they did, or did not, want the father to register and the father felt differently, they would have to cope with the stresses of a court case while also recovering from childbirth and caring for a newborn baby.

Quotations:

"The legislative approach set out in the consultation document does provide a good balance between rights and protection."

Law Centre (NI)

"...given the 'urban myths' that develop around law, particularly new laws, it will be necessary to make sure that the mothers understand that sole registration is still an option."

Centre for Separated Families

"Who will take responsibility for making the decision about individual circumstances of the mother where there are some causes for concern, but perhaps no evidence to support this?"

Teenage Pregnancy Team

Non-compliance

What the Green Paper proposed

25. The Green Paper suggested the possibility of a fine for fathers who accept paternity but still refuse to be registered on their child's birth certificate.

What you said

26. Some respondents believed that a fine or any kind of penalty was inappropriate, while others believed the Green Paper should go further with the suggested measures to deter non-compliance.
27. The experience of most registrars is that the legal penalty for failure to register a birth is rarely pursued by the registration service. They feel that a more successful approach to getting a birth legally registered is through cooperation rather than compulsion.
28. Those who opposed the fining of non-compliant fathers gave a range of reasons, which included the following:
 - The burden on cost and resources of enforcing and collecting the fine would be too great for the fine to be justified.
 - Fining fathers would not make any difference to their financial or emotional commitment to their child and would not promote parental responsibility.
 - The prospect of a fine would not be a deterrent to most non-compliant fathers.
 - Fining the father is not in the child's interests and could put a strain on the relationship between him and the mother, which could, in turn, affect the child.
 - Every man who refuses to be registered should undergo a paternity test and, if he is proved to be the father, his details should be entered on the certificate automatically.
29. There were some suggestions to increase the penalty for non-compliant fathers through means including:
 - withholding benefits until both parents are registered;
 - fining the non-compliant father and registering him on the certificate anyway, charging him for any extra administration costs;
 - extending fines to mothers who either obstruct willing fathers from registering or maliciously name a man as father;
 - setting fines at a percentage of the father's earnings.

Quotations

“Fines are not likely to be effective as fathers in this position are likely to be without means to pay the fine.”

Children and Family Court Advisory Support Service

“Such behaviour is shameful but there seem no grounds for treating a father who does not register a birth any differently from a mother.”

Families Need Fathers

“Further consideration needs to be given to options around penalties, but these need to be related to the chance that the penalty will achieve the required outcome.”

North Yorkshire County Council Registration Service

Non-legislative measures to promote joint birth registration:

Using the registration service to signpost potentially vulnerable mothers

What the Green Paper proposed

30. Research summarised in Annex B identifies sole-registering mothers as generally at a level of disadvantage significantly higher than their jointly registering counterparts. Although these characteristics are not causally linked to sole registration, the point at which a birth is registered would be an ideal time to identify these vulnerable or at risk young women who are likely to subsequently experience problems with parenting, and also fathers who risk becoming detached from the lives of their children. An appropriate intervention at this point could allow sole-registering mothers and their children to be signposted to services which they have not yet had full advantage of.

What you said

31. A large number of responses were from registrars, either as individuals or representing the views of the staff from a particular register office. Whilst most registrar groups gave positive feedback on the proposal that registrars should provide written material or factual advice at the registration appointment, the following concerns were raised consistently by many registrars:
- Registrars do not have the correct training and resources to identify “vulnerable women”, and feel it is beyond their role as a registrar to make a judgement about someone in the short time they spend with them at the registration.
 - The point at which a birth is registered is too late for potentially vulnerable women to be identified. Registrars suggested that midwives, health visitors, social workers or doctors are better placed to intervene earlier and that their intervention may prevent a sole registration in the first place.
 - Registrars see themselves as a trusted and impartial recorder of facts. Their role would change to that of interrogator, investigator and counsellor, all of which would require specialist training.
 - While most would be happy to provide leaflets and information, registrars in general felt that this should be the extent of their input.
 - Signposting already exists to a certain extent in a number of register offices.
32. Other respondents raised the following points:
- If the registration service was taken out into the community, for example to Sure Start Children’s Centres, the information and signposting provided by registrars might be able to reach vulnerable fathers as well as mothers.
 - Any information provided by registrars must be available in Welsh and alternative reading formats.
 - Mothers should be spoken to separately from their partners for registrars to ascertain whether the woman is experiencing domestic violence and therefore comes under an exemption category.
 - Local government strategies should be devised to target services specifically towards sole registrants.
 - There should be an earlier system of identifying potentially vulnerable mothers working alongside or instead of the registration service.

Quotations

“Limited signposting by way of leaflets or a helpline is to be encouraged but LACORS has serious concerns about fundamentally changing the role of Registrars into one of investigator.”

Local Authorities Coordinators of Regulatory Services

“Rights of Women recommends that the registration service does develop a signposting role for potentially vulnerable women. However, this should be done in consultation with organisations that have experience of working in the women’s sector and providing services to vulnerable women.”

Rights of Women

“If this is done in a sensitive way, avoiding intrusive questioning, it could be valuable.”

Family and Parenting Institute

Other Non-legislative Initiatives

What the Green Paper proposed

33. There is a range of other practical measures which could be developed to either stand alone or complement legislation on joint registration to achieve a situation where the default position is joint birth registration. We believe that these are critical to ensuring the success of our approach to joint registration of births.
34. To promote joint birth registration actively, we consider that there is an opportunity to develop initiatives in the following areas:
 - Widespread publicity campaign to promote joint registration.
 - Updating information literature on joint birth registration.
 - Work to reduce re-registration fraud.
 - Consultation with registrars.
 - Modernisation of the registration and statutory declaration of paternity processes.

What you said

35. There was general approval for these proposals. However, there were a few concerns, which are summarised below:
- This sort of promotion should begin well before the stage of registration – some respondents felt that education about joint registration should begin in schools.
 - Some concerns were raised about the cost and resources required for these proposals.
 - The electronic transfers of records to prevent re-registration fraud still has a long way to go in its development before it would be workable.
 - Rather than promoting joint registration on the assumption that joint responsibility would follow, there should be more emphasis on parental responsibility, which should result in an increase in joint birth registrations.
 - Any information that is given to new parents in the run-up to and shortly after birth in the form of literature is in danger of being lost in the amount of information and promotions they already receive.
 - A publicity campaign might succeed in informing fathers of their right to register but might not adequately inform vulnerable mothers of their right to claim an exemption.
 - There should also be information provided on the legal meaning and consequences of parental responsibility so that women can make a fully informed choice.
36. Other non-legislative measures which respondents proposed included:
- linking the registration service with schools and voluntary organisations through mock ceremonies and talks;
 - talks by a registration officer at antenatal classes, schools, charitable groups etc.;
 - a campaign to raise the profile of the registrar and their work and expertise;
 - naming ceremonies, in order to give the registration of a birth a sense of occasion;
 - allowing registration to take place in other venues than the registration office, for example Sure Start Children's Centres;

- allowing births to be registered electronically or online;
- writing to all sole registrants after a period of six months to inform them about re-registration;
- relationship support for new and expecting parents who are at risk of separating before or shortly after the birth which may result in the mother registering alone;
- using the medium of problem columns in newspapers and magazines to dispel myths and reach a wider audience;
- publicising the exemptions alongside the promotion of joint registration;
- extending the information on joint registration to fathers who would like to be registered against the wishes of the mother.

Quotations

“...the non legislative initiatives must be founded on bedrock of clear and new legislation.”

Families Need Fathers

“One Parent Families/Gingerbread supports the non-legislative initiatives proposed and believes every encouragement should be given to new parents – especially young new fathers – to understand the responsibilities which accompany joint registration of a child’s birth.”

One Parent Families/Gingerbread

“Information needs to be delivered in a timely and authoritative context and promoted in an accessible and acceptable format.”

One Plus One

The legislative framework

What the Green Paper proposed

37. The Green Paper put forward non-legislative measures which we propose to develop in order to promote joint birth registration. These measures could stand as part of the existing legislative framework or could be used to complement a change in legislation which would make joint birth registration a legal requirement in England and Wales.

Joint birth registration: recording responsibility

38. The Green Paper asked if joint registration should be promoted within the existing legislative framework, or if non-legislative measures should be used to complement the proposed changes to legislation.

What you said

39. We received a wide range of responses to this question. Views ranged from those who believed that everything possible should be done to name both parents on birth certificates through a change in the law and proactive input from registrars and other services, to those who believed that there should be no change in the current situation and that women should continue to have the right to register alone if they should choose to do so.
40. Those respondents who favoured a legislative approach gave the following reasons:
- There was a view that men were too easily allowed to walk away from their responsibilities as parents, and to be compelled to jointly register would make them more accountable both in their social responsibilities and their financial commitment to the child.
 - A change in culture could only be instigated by legislation as non-legislative measures would not give joint birth registration the right amount of publicity and staff would be less likely to highlight its importance to clients.
 - The existing legislative framework would not be sufficient to support the protection of vulnerable women and children.
 - There should be more equal rights and responsibilities for both parents, regardless of marital status.
 - The rights of the child should outweigh the rights of a mother who might not want herself or her child to have any further contact with or knowledge of the father.
 - The suitability of a man to have parental responsibility should not affect whether his name is on the birth certificate. He is still the biological father and therefore part of the child's identity.

41. Those who favoured a non-legislative approach raised the following points:

- The numbers of sole registrations are relatively small and are decreasing.
- Many of the current sole registrations are due to reasons which, under the legislation proposed in the Green Paper, would fall into the exemption categories. So, it is unlikely that sole registration would reduce much further.
- The time and money would be better spent on education and information to persuade parents to jointly register than on legislating to compel them to do so.
- Vulnerable women would be put at greater risk if they were legally required to name the father.
- There would be a change of relationship between registrar and client which would compromise a registrar's impartiality and could even increase the number of births which are not registered at all.
- Any legislation, however "light touch", would be too "heavy handed" as it would require mothers to either name the father or to explain their reasons for failing to do so.
- If legislation went ahead, the end would not justify the means; the aim of getting fathers to take a more active role in their child's life would be negatively outweighed by sole-registering mothers being subjected to intrusive and personal questions or needing to go through the courts in order to prove that she falls within one of the exemption categories.

Quotations

"The need is to use both legislative and non-legislative means to promote a virtuous cycle"

Families Need Fathers

"...Rights of Women is not convinced that compulsory joint registration is the right approach..."

Rights of Women

"LACORS' opinion is that you should work to promote joint registration within the existing legislative framework."

Local Authorities Coordinators of Regulatory Services

Annex B

Summary of research

PHOTO REDACTED DUE TO THIRD PARTY RIGHTS OR OTHER LEGAL ISSUES

ANNEX B – Summary of research

1. In spring 2007 the DWP, with the approval of the cross-departmental working group on birth registration, commissioned research specifically designed to inform the Green Paper consultation process. On 20 September 2007 it published the report *Sole and joint birth registration: Exploring the circumstances, choices and motivations of unmarried parents*.⁸
2. The report comprised a quantitative analysis of sole-registering mothers in comparison with their jointly registering or married counterparts and qualitative research into the motivations of jointly and solely registering mothers. The research is summarised below.

Quantitative analysis

3. The quantitative study examined evidence from the first wave of the Millennium Cohort Study (MCS), a survey of around 18,500 births during 2001-02. It profiled the characteristics of mothers who register a birth on their own and contrasts them with those jointly registering a birth and with married mothers. The analysis showed that the characteristics of those who register births solely differ significantly from those where both parents appear on the birth certificate.

Age

4. Sole-registered births are much more common among younger mothers, and particularly common for those who gave birth under the age of 21; 39 per cent of sole registrants were aged 20 or younger, compared with just 2 per cent of married mothers and 20 per cent of jointly registering mothers.

Incomes and qualifications

5. Sole-registrant mothers are more likely to be poor and have low levels of educational achievement. In households with an income of less than £10,400 per annum, the sole registration rate was 20 per cent, and 16 per cent for recipients of income-related benefits. Housing tenure is a good indicator of affluence;

⁸ Graham, J., Creegan, C., Barnard, M., Mowlam, A., (National Centre for Social Research), McKay, S., (University of Birmingham) (2007), *Sole and joint birth registration: Exploring the circumstances, choices and motivations of unmarried parents*, Department for Work and Pensions Research Report No 463, Corporate Document Services <http://www.dwp.gov.uk/asd5/rports2007-2008/rrep463.pdf>

17 per cent of sole registrants were local authority tenants and 15 per cent housing authority tenants (although the youngest mothers will be living with their parents or in care). Mothers with a higher level of qualifications were least likely to be sole registrants, and among sole registrants 16 per cent had no qualifications.

Health

6. There were indicators of poor health related outcomes for sole registrants and their children. Among those mothers who had not received any antenatal care, some 18 per cent had registered the birth without the father. This was three times as high as for mothers who had received some antenatal care. In addition, among sole registrants, 63 per cent were smokers, compared with 45 per cent of unmarried jointly registering mothers and just 16 per cent of married mothers. Sole registrants were less likely to breastfeed than other mothers and more likely to have a baby with a low or very low birth weight.
7. The above quantitative research suggests that sole registration is linked to some of the indicators of social exclusion. It is not sole registration itself that is the cause of this, nor would joint registration alone offer a complete solution, but it is apparent that joint birth registration is less accessible to younger, poorer and less educated parents.

Qualitative research

8. The qualitative research consisted of a series of in-depth interviews with joint and sole registrants to gain a further understanding of their experiences of the registration process and their motivations behind their decision to either jointly or solely register.

Experiences of registration

9. In the interviews in the report, there was minimal discussion with hospital staff about birth registration, and where this did occur it focused on basic issues such as the time period within which infants should be registered.
10. There was a lack of clarity among the parents interviewed over the practicalities of registering and there was particular confusion around the issue of whether unmarried fathers have to be physically present at the registration in order to be included on the birth certificate.

11. Registration was seen as having multiple purposes, including practical ones such as registering the infant with a doctor and symbolic functions such as affirming parental rights. As a result registration was seen as a significant event, and in some cases it was seen as equivalent to a christening or baptism.
12. Experiences of registration were affected by the physical and emotional state of the mother post-birth and the nature of the relationship between the parents. Experiences were also affected by a number of other factors, the most significant of which was the attitude and behaviour of the registrar, particularly their ability to both personalise the experience and endow it with an appropriate level of formality.

Choices and decisions about registration

13. The extent to which choices and decisions are made can be mapped on a spectrum which includes four broad positions:
 - the choice and decision-making was negated due to the father's identity or whereabouts being unknown;
 - choice and decision-making was compromised for reasons which included not understanding the registration process or the father refusing to participate or not cooperating in the process;
 - a choice was exercised but not experienced as a decision-making process, for example the decision may be automatic (such as long-term cohabiting couples registering jointly) or lack of parental involvement was assumed, leading to sole registration;
 - a choice was exercised and informed by a decision-making process, for example a parent opting for sole registration having made a decision that it would be the best way to promote parental involvement.
14. Where the experiences of parents appear on the spectrum depended on a range of factors, including the relationship between the parents, the timing of one parent's non-cooperation with the other, understanding of the registration process, and the nature of paternal involvement.
15. The factors that motivated choices and decision-making fell into three categories: the child's rights in relation to their identity, parental rights and responsibilities, and the relationship between parents.

16. All three categories were evident in both types of registration. Where fewer factors informed the birth registration type, there was an association between this and more limited understanding about the process and purposes of birth registration.
17. The rights and identity of the child and paternal rights and responsibilities were seen as the most important factors by both types of registrants. For cohabiting joint registrants all three factors pointed strongly toward joint registration; there was no advantage to be had in sole registration.
18. Sole registrants and joint registrants not cohabiting with the other parent often experienced tension between factors. This was particularly evident where the rights and identity of the child spoke for a joint registration, yet considerations around the rights and responsibilities of the father suggested sole registration.

Legislative and non-legislative measures to promote joint registration

19. Where possible and appropriate, the in-depth interviews included discussion of participants' views about compulsory joint registration. Where the question was asked, it elicited a range of responses, which were not uniformly attached to either sole or joint registrants. Views expressed on compulsory joint registration included:
 - it may be desirable because it would facilitate greater parental involvement and enable clarity about the child's identity;
 - it could promote financial responsibility but not emotional involvement;
 - it was simply not a practical option in certain circumstances, for example where the father's identity or whereabouts were unknown;
 - registration type should be the choice of parents, and in particular mothers, rather than imposed by government.



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