

## Birthrights Submission to the 10 Year Health Plan for England

### About Birthrights

Birthrights is the leading authority on the human rights of women and birthing people during pregnancy and birth in the UK. We believe that all women and birthing people should be able to exercise their right to make informed decisions about their bodies and care, and to do so free from discrimination, coercion and violence. We champion rights by:

- **empowering women and birthing people and their supporters with advice and information about their rights**
- **training healthcare professionals and others in the system to understand human rights law and its application in maternity care**
- **by holding systems and institutions to account**
- **and by working in community to share information on the law and make visible diverse experiences of maternity care.**

In this submission we draw from:

- Enquiries to our **information and advice service**
- Intelligence from our **training service**
- Our **policy, research and campaigns activity**, including the *Systemic Racism, Not Broken Bodies* report setting out the findings of our Race Inquiry, as well as information gathered from networks of community and grassroots organisations, surveys and more

### Submission

- 1) The 10-Year Health Plan must commit systems, institutions and individuals to delivering human rights-compliant, legally-upholding, anti-oppressive and accountable maternity care, which is proactive in protecting those most at risk.**

Women and birthing people's rights must be at the centre of how maternity services are funded, delivered, designed, managed and regulated. This requires all regulatory bodies, NHS leadership and senior managers and frontline practitioners involved in maternity to have a robust understanding of how human rights law applies to maternity care and why it is critical to the delivery of safe care.

#### What are these rights?

International human rights law and UK domestic law protects the rights of women and birthing people during maternity care, including:

- the right to life;
- the right to be treated with dignity and respect;
- the right to make informed decisions about their body and care;
- the right to choose the place and circumstances of their birth;
- the right not to be discriminated against.

## Current breaches of rights in maternity care

We see the prevalence of routine breaches of rights, through our work supporting women and birthing people and training healthcare professionals including through:

- death rates;
- psychological and physical trauma;
- coercive or non-consensual vaginal examinations and medical interventions;
- failures to facilitate informed consent;
- a lack of respect for bodily autonomy and self-agency;
- midwife-led units and home birth service closures, or restricted access with blanket policies that do not consider individual needs;
- ongoing partner restrictions; and
- poor care in postnatal wards.

## Disproportionate impacts on marginalised communities

Whilst the fundamental rights of all women and birthing people during pregnancy and birth are currently under threat, the most marginalised, including women and birthing people from racially minoritised communities, those who are LGBTQ+, Deaf and disabled, have English as an additional language, have unsettled migration status, who are in prison or detention, face the worst breaches of rights.

Our report “Systemic Racism, not Broken Bodies”<sup>9</sup> shows that systemic racism leads to failure to identify serious medical conditions due to lack of awareness about how to identify them in Black and Brown bodies, alongside racial microaggressions, stereotyping and discrimination; meaning that concerns are dismissed, pain ignored, relief denied, and consent breached. and ultimately, the dismissal of the voices of women and birthing people.

This is why we are calling on Government to establish **a new SAFE Maternity Care Act** – an act that ensures **Safety, Accountability, Freedom of Choice and Equity** that makes it crystal clear to all those who manage, deliver and regulate maternity care that the rights of women and birthing people must always come first.

### **2) A maternity system that seeks to do no harm and commits to protecting our psychological and physical safety and preventing trauma and death.**

To avoid harm and achieve safety in maternity care, the starting point for NHS Trusts and hospitals must always be to uphold the rights of women and birthing people. This means listening to women and birthing people’s voices and providing appropriate information to ensure they can make informed decisions that are respected. It requires maternity staff to be adequately trained, supported and resourced to be able to provide relevant information, genuinely listen to women and birthing people without discrimination and coercion and offer person-centred care.

### **3) A maternity system that is held accountable to the law and the women and birthing people it serves.**

Safety in maternity care can only be achieved if the system is accountable to the law and the women and birthing people it serves. It requires transparent and consistent collection of a wider set of data than is currently held so that the experiences and outcomes of all women and birthing people are understood. It requires transparent decision-making, clear escalation procedures, proper investigations that recognise systemic and institutional failings, regulation, and meaningful improvement plans. We need accountability mechanisms that enable the experiences of women and birthing people facing multiple forms of oppression to be heard and accounted for; not to be ignored or blamed.

#### **4) A maternity system that respects the rights of all of us to choose how, where and with whom we birth and make decisions about our bodies and care without any coercion or violence**

A long history of patriarchal medical practice in maternity care, years of austerity and dangerous precedents set during the Covid-19 pandemic, have resulted in restrictions on choice, degraded and dangerous services and an arbitrary postcode lottery that determines who is able to access those services and how people are treated by the healthcare professionals they encounter. There should be no doubt over women and birthing people's right to make informed decisions about their care and to receive clear, unbiased information appropriate to their personal circumstances that enables them to do so. All women and birthing people should be able to access these rights whatever their background and wherever they live – this includes being able to access the full breadth of maternity services, choose how, where and with whom they birth, and to be treated with dignity and respect.

#### **5) Care that does not discriminate directly or indirectly against anyone.**

The UK's maternity systems are rooted in patriarchy, white supremacy and oppression which harm all women and birthing people, but disproportionately impacts the most marginalised. The statistics on racial disparities in maternal outcomes have changed little over the more than two decades they have been published. A lack of national action to address these systemic issues, combined with a continued centring of whiteness in medical education and practice means that not only do Black and Brown women and birthing people face racial microaggressions and stereotyping and a lack of respect for culture and religion by the healthcare system, but their serious medical conditions are not identified or appropriately treated, and their voices, decisions and concerns are not heard or respected leading to harm, trauma and death.

Too often hospitals and trusts adopt policies, guidelines and practices that restrict or violate the rights of racially minoritised communities. Discriminatory policies, guidelines and practices also restrict and violate the rights of marginalised communities including those facing oppression or multiple oppressions based on disability, neurodivergence, sexuality, gender identity, nationality and race.

The result is a maternity service that is failing the communities it is supposed to serve. This is a national crisis that cannot go on. Trusts must take account of the disproportionate impact of decisions, guidelines and policies on some women and birthing people. Harmful

NHS charging rules that deter people from accessing care and force healthcare professionals to act as pseudo-border control officials should be removed. The voices of the most marginalised women and birthing people need to be centred throughout training, guidelines, policy, practice and legislation. The detention of pregnant women in both the criminal justice and immigration systems should be ended. Effective interpretation services must be invested in to ensure women and birthing people can access rights-respecting care and can properly consent to treatment. The NHS fails to consistently record trans or non-binary status in perinatal services. There is currently no national data on LGBTQ+ experiences and outcomes of maternity care, and therefore the experiences and outcomes for LGBTQ+ people of colour. It is critical that data is collated on sexuality and gender.