

**Fetal distress during labour not monitored by midwife
on arrival at hospital
(01HDC09138, 11 June 2003)**

Independent midwife ~ Home birth ~ Monitoring fetal heart rate ~ Assessment of risks ~ Non-progression of labour ~ Response to fetal distress ~ Death from birth asphyxia ~ Right to be fully informed ~ Explanation of condition ~ Information about treatment options ~ Rights 4(1), 6(1)(a), 6(1)(b)

A woman and her husband complained that their midwife failed to:

- 1 transfer the woman in a timely manner for secondary care when there were indicators of non-progression of labour;
- 2 monitor the baby's heart rate appropriately, in particular during the period including the transfer to hospital; and
- 3 fully communicate the risks to the baby, given that the labour was not progressing normally.

The baby died as a result of birth asphyxia.

The Commissioner commented, in response to an opinion from the obstetrician, that the conduct of the midwife must be assessed by the standard of her peers. On the basis of independent expert advice from a midwife, the midwife's decision not to transfer the woman to the hospital earlier was reasonable given the external signs of progress in the labour, her apparently successful attempt to rupture the membranes, and the quick recovery of the fetal heart rate following the decelerations. It was also reasonable not to monitor the fetal heart rate during the trip to hospital.

The midwife did not breach Right 4(1) with regard to the decision to transfer the woman, as it was timely, and did not breach Right 6, because sufficient information about the woman's condition and the options for further treatment was provided to the woman at the time, when it became apparent that labour was not progressing.

However, given the failure of the labour to progress, the time spent in transferring to hospital, and the earlier decelerations and heart rate just prior to transfer, the midwife breached Right 4(1) in failing to assess the fetal heart rate as soon as possible after arriving at the hospital, even if that meant delaying administering an epidural.