

'I've been accused of hurting my child, what can I do?'

Helen Fitzsimons of Helen Fitzsimons Family Law provides some essential advice. 'Picture the scene your baby appears unwell, so you quite rightly take your precious 'little one' to the GP and you are then referred to your local hospital, or you may decide to go straight to A&E. You speak to medical staff, your baby has various tests and you sit with your baby whilst waiting for a doctor to tell you the results. You are then asked to accompany staff to a side room.....you expect to be given your baby's test results/diagnosis.....instead you are facing police officers and social workers who have been called by the hospital on the basis of suspected 'non-accidental injury'. This is without doubt any parent's worst nightmare, and parents and carers from every walk of life can find themselves in this situation. You are likely to be arrested and taken in a police car for questioning at a police station without being given an opportunity to go back to the ward and see your baby. The actions you take now will be the most important of your life and more importantly of your baby's life:-

1. **STAY CALM** and **CHILD-FOCUSED** and encourage any friends and/or family that are with you to do likewise. Emotions will understandably be very high but everything you say and do will be noted by any professionals present and referred to at a later date in any care proceedings and also in any criminal proceedings. You want professionals to have a positive impression of you and your parenting. Remain child-focused 'how is my baby?' and express that you are worried for their well-being especially if you have not been given full information by the medical staff. Remain calm and speak with professionals politely whilst asking for as much information as possible (which you should write down). Let all professionals know that you want to cooperate but you need the fullest amount of information, and you may need to obtain independent advice as your baby and their welfare is the most important issue for you. This is inevitably a highly distressing time, but if you allow your frustration and distress to affect your behaviour (eg arguing with your partner, family or the authorities, or worse if you are seen to be verbally or physically aggressive and possibly obstructive such as threatening to remove your baby), this is highly likely to be used as evidence against you at a later stage and possibly relied upon as an indication that you are capable of losing your patience/temper with your baby.
2. **CONTACT A SOLICITOR WHO SPECIALISES IN NON-ACCIDENTAL INJURY CASES AT THE EARLIEST OPPORTUNITY** – You should obtain advice from a specialist firm immediately any suspicion is raised. A general practitioner may not have the experience to advise you appropriately, or they may not be able to deal with both the family and criminal aspects of your case. I regularly represent parents accused in both the family court and can recommend excellent criminal solicitors to assist with any police investigation. I cover cases all across the country from Truro up to Newcastle and I am available 24 hours a day on 07720 888122. Helen Fitzsimons specialises in the family proceedings and can be contacted on her direct dial 07720 888122 or via email helen@helenfitzsimons.co.uk

3. **WRITE EVERYTHING DOWN** - Get some paper or a notebook and write down everything you remember happening leading up to your baby presenting as unwell, any relevant incidents (and who witnessed those), was anyone else caring for your baby during that time and if so 'who' and 'when', any discussions with family/friends about your baby's presentation, any discussions with medical professionals (remember their names where possible), any relevant medical history in your family (a family tree for both sides of the family can help). These notes are for your own use and for you to provide to your solicitor – you should not show them or give them to anyone else. What you write down should be what you personally remember – if someone else gives you information in respect of your child or their condition or gives suggestions for what may have caused their condition write down clearly that 'x said y' otherwise in time you can confuse what you remember happening compared to what someone else told you. Write down the name of any police officers, their collar number and a contact telephone number. Write down the names of any Social Workers, the department and office they work in and their contact telephone number and email address. You may think you will remember everything that happens but unless you write it clearly down in time your memory will fade or you will become confused when other evidence is provided.

4. If you are to leave the hospital with the Police ask if a member of your family/trusted friend can stay with your child - not only will this confirm a supportive family/friendship network but this will also make you feel more relaxed and assured that your baby is with a loved one whilst you deal with the authorities.

5. If you are arrested and facing a police interview or if you are asked to accompany the police to the station for a 'voluntary' interview you **MUST INSIST ON TELEPHONING A SPECIALIST CRIMINAL LAWYER**, again a general duty lawyer may not have any experience in dealing with cases involving an alleged non-accidental injury - **DO NOT AGREE TO ANY DISCUSSIONS OR INTERVIEW BEFORE YOU OBTAIN LEGAL ADVICE**. The Police may say that the quicker you answer questions the quicker you can get back to your baby and seek to persuade you not to wait for a lawyer; lawyers actually rarely cause delay in fact they are there to ensure that you are dealt with as promptly as possible, more importantly a lawyer will be able to ensure your rights are protected, for example, your right to see your child. Obtaining legal advice at an early stage may save your family life. You are entitled to legal aid whilst you are being questioned by police during an interview, but legal aid does not cover any follow up work, written representations, or advice. You may consider it worthwhile to pay for the best criminal lawyer available to represent you throughout the criminal investigation, recognising that by doing so will place you in the best position to prevent not only your baby being permanently removed from your care but also prevent a criminal conviction.

6. The police can obtain a **POLICE PROTECTION ORDER** which lasts for 72 hours during which time the social worker may ask the Court for an Order or your agreement to foster care. The Police should not do this if there is a Social Worker involved as the Social Worker should be speaking to their legal department to get advice on issuing court proceedings rather than relying on a police officer to separate a baby from their parents. If the Police say they are

taking your baby in to police protection **STAY CALM AND CHILD-FOCUSED** – read paragraph 1. The Police should only take a child in to police protection if your baby is at risk and that risk cannot be managed. You may need to say that you agree not to have unsupervised contact with your baby, you may need to offer for your baby to go to family/friends pending the Social Worker making a Court application. You can remind the Police that your human rights will be breached if either the Police or a Social Worker separates a child from their parents without putting the case before a Judge. **ASK THE POLICE FOR SOME TIME FOR YOU TO TAKE SPECIALIST LEGAL ADVICE.**

7. Social Services may ask you to agree for your baby to go into foster care with your voluntary consent – this is called Section 20 consent. We advise that you do not consent until you have obtained specialist legal advice - you don't have to say 'yes' and you don't need to make an immediate decision. **STAY CALM AND CHILD-FOCUSED** – see paragraph 1. Tell Social Services that you want to **OBTAIN LEGAL ADVICE AND CONTACT A SOLICITOR SPECIALISING IN NON-ACCIDENTAL INJURY CASES.** Again Social Services may say that you will be delaying your baby's discharge from hospital if you wait to get legal advice (especially if it is in the middle of the night or at a weekend) but you should not feel pressured by this – the Courts have said that any pressure by Social Services to agree Section 20 can constitute a breach of your human rights. Most hospitals will keep a baby overnight or for a couple of days whilst the Social Worker gets advice from the Local Authority legal department which they will need to do. The Social Worker may say that if you do not agree to voluntary foster care they will get a 'Court Order'. Again do not feel pressurised to agree as if the matter goes to Court you will get Legal Aid to have legal representation and the Court will want as much information as there is available before making a decision – just because Social Services ask the Court for an Order doesn't mean they will get it. You can tell the Social Worker that your baby is the paramount consideration and you are unable to make that decision without specialist legal advice. Give the Social Worker details of any solicitor you contact and instruct and say that any Court application must be made with you having sufficient notice and allow you the opportunity to attend Court with legal representation. If the Social Worker happens to have already obtained an emergency protection order or an interim care order without you having been given notice you will be able to contest that at a later date but any Order will be effective until that time.
8. Contact family/friends who you would be happy could care for your baby (and any other children you have) temporarily if there needs to be some investigations before your baby can come back home to you. Explain to them that your baby has an injury that is currently unexplained and you are finding out if family/friends could offer temporary care as opposed to your baby going into temporary foster care. Write down their full names, addresses, dates of birth, contact telephone number and email addresses along with details of any children they currently have in their household.

9. When you are back home, if there is a pending police investigation and/or if the Social Worker is planning on getting a Court order **GATHER INFORMATION/EVIDENCE** such as:-
- Your diary/calendar which may remind you what you have been doing and who your baby has been with over the preceding days/weeks
 - Your text messages/social media/phone call history may also assist in prompting your memory so do not delete any
 - Your baby's Red Book will have information in respect of inoculations/professional visits/weight/length/head circumference
 - Photographs of your baby which may be on your phone, camera and/or on someone else's phone/camera.

Keep this in a safe place and let your solicitor know you have it – make sure if when you give this to your solicitor and retain a complete copy to avoid any accidental destruction/misplacing of evidence

10. **REMAIN CHILD-FOCUSED.** Regardless of whether your baby is staying in hospital, going to family, going in to foster care pack a little bag with spare clothes/nappies/toiletries/favourite toy/teddy/blanket/prepared bottles etc so that professionals can see that despite your understandable anxiety in being separated from your child you are prioritising your baby's welfare and comfort.
11. **DO NOT POST ANY INFORMATION/PHOTOS ON SOCIAL MEDIA** about your baby/any police investigation/any social services involvement/photographs. Your Facebook page is not as private as you think – Social Workers/Police can and will access your page for evidence – any posts on your wall can and will be shared by your friends.
12. **BE OPEN AND HONEST WITH YOUR SOLICITOR** and ask if you are worried or unsure about anything – Your solicitor will want to help you and will strive to reunite you with your baby as soon as possible. The best way of achieving that aim is to give your solicitor as much accurate information as quickly as you are able. If you are aware that something happened to your baby then tell them, or if you suspect an incident may have caused or contributed to the injury then disclose this to your solicitor. It is much better to present any possible and plausible explanations at the earliest opportunity. There will also be a lot of paperwork sent to you at various times and if you do not understand anything then ask – you cannot prepare for your case if you do not understand the evidence and we are here to advise and help you.
13. **BE PATIENT AND PREPARE FOR A LONG AND DIFFICULT JOURNEY** - If Court proceedings are issued the Court will need as much information and evidence as possible and this takes time. The likely evidence required will include copies of GP and hospital records, police evidence, witness statements, independent expert reports as a minimum – the government has a time limit which states that care proceedings should be concluded within 26 weeks but in a case where there is an alleged non-accidental injury this is likely to be optimistic. An

experienced solicitor will assist in knowing what evidence is required and getting the necessary court directions to obtain this as quickly as is possible. However frustrating delay is it is better to go to court with all of the available evidence rather than the Court rush to make a potentially wrong decision on incomplete information. There will be a lot of information for you to read – this is your case and you know your baby and what has and hasn't happened more than anyone else – it is therefore important that you read all of the evidence received and flag up and make a note of any errors, omissions, inconsistencies and tell your solicitor – make sure you have post it notes, pens, lever arch files available so that you can keep the evidence well-organised and to hand.

- 14. REMAIN POSITIVE AND HEALTHY AND SEEK MEDICAL SUPPORT WHERE NECESSARY** – We know that care proceedings are the most stressful of experiences especially if your baby is not in your care. However this situation will not go on forever and we will work towards reuniting you with your baby at the earliest possible opportunity. To achieve that you need to remain in the best possible physical and mental health throughout. Eat regularly and healthily and get enough sleep. Get support from family and friends and if you are finding it difficult to cope emotionally you should seek advice from your GP.'