SoR 100 YEARS
THE SOCIETY OF RADIOGRAPHERS

NHS Obstetric Ultrasound Examinations. Guidance on Sale of Images, Fetal Sexing, Commercial Considerations and Requests to Record.

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Contents

1. Introduction 3
2. Sale of Images 4
3. Providing an Opinion of the Fetal Sex 6
4. Commercial Considerations 7
5. Requests to Record the Examination 7

Case Studies & Sonographer Survey Findings 9
References 10

Imaging Services Accreditation Scheme (ISAS) mapping: https://www.isas-uk.org/default.shtml

FR5; section e) 'The views of patients and their carers, staff and professionals should be sought and taken into account in planning service development. Patient involvement might be achieved through lay representation in department management structure, use of suggestion boxes and 'mystery patients', focus groups or formal public consultation'. https://bit.ly/37D3SAI

PE1 commentary (c) - All patient information material should be patient-friendly, current, and have a review date. It should be updated frequently to take into account changes in: technique; staff; facilities; location; and public expectations. Involvement of lay people and patients in the preparation of materials is strongly encouraged. Processes should be in place to ensure that patient information conforms to local styles and templates and is approved before release. https://bit.ly/2VFXBI8

1. Introduction

1.1 Obstetric ultrasound examinations are a unique opportunity for a pregnant woman or pregnant person to see their baby before it is born. It is also an important time to check the physical structures, growth and development of the baby, assessing the amount of fluid around the baby, the placental position and /or blood flow to the womb and baby.

1.2 The Society of Radiographers (SoR) is very much aware that expectant parents welcome the opportunity to obtain images of their developing baby and to be able to share these with their family and friends. Parents will also often ask the sonographer to reveal what the fetal sex is. The SoR is also conscious that the time allowed to perform an ultrasound scan for diagnostic or screening purposes under NHS provision is limited. Adding non-essential services to the ultrasound scan increases the time required which can in turn have an impact on other patients with pressing clinical needs. It can also conflict with the purpose of the examination which, under NHS funded provision, will be performed for a specific clinical reason, or as part of a national screening programme for fetal anomaly. There can also be major distractions caused to the sonographer in a highly litigious area of practice at a time when very high levels of concentration are required.

1.3 This guidance relates solely to NHS commissioned ultrasound examinations performed for screening or diagnostic purposes as part of a national screening programme for fetal anomaly; or other scans performed for diagnostic or monitoring purposes that are funded as part of overall NHS maternity provision and are thus free to the woman or pregnant person. It does not extend to ultrasound examinations performed where a scan has been requested by the woman or pregnant person and is outside normal NHS provision.

1.4 There are many private providers advertising scans to obtain 3D/4D images and baby souvenirs and/or provide an opinion about the sex of the baby, which has led to some NHS Trusts and Health Boards also looking for ways to generate income from ultrasound scans performed for clinical reasons during pregnancy.

1.5 Reference should be made to the British Medical Ultrasound Society (BMUS) safety guidelines. BMUS have published guidelines on general ultrasound safety and specific advice on 'souvenir' scanning.[1]

1.6 The experience expectant parents have at private ultrasound clinics can influence their perception of the NHS scans. It is important to distinguish between the NHS funded scans for specific clinical purposes and the private scans for additional reasons (see 1.4).

Valid, informed consent should be given for the scan by the woman or pregnant person prior to commencing the ultrasound examination. It is recommended that clear guidance, which is grounded in principles of person and parent-centred care, is provided to support sonographers in facilitating a discussion about the examination prior to the scan. The clinical importance of the NHS examination must be highlighted in this discussion, with reference to the health benefits, risks and possible outcomes of the scan. Initial information about the scan is likely to have been provided by the midwife and sonographers should be aware of this and other discussions that have taken place. Expectant parents must be offered the opportunity to ask questions about their care. Suggested wording for a screening examination might be:

"**Can you tell me what you know about the scan you are having today?"**

In response, agree with the parent's understanding if this covers the relevant aspects. If further clarity is required:

"The scan is a clinical examination that is part of the NHS screening service. It is to assess how things are going physically for you and your baby. We cannot detect everything on the scan, but we will have a good look at your baby and take some measurements to check that the pregnancy is progressing as we would expect at this stage. Do you give your consent to proceed with the examination?

If there is an opportunity to get pictures of your baby during the scan, we would be able to print one off for you [for a donation].

Looking for the sex of the baby is not part of the NHS scan and is not 100% accurate, but if we are able to see during the scan, would you like to know my opinion?"

1.7 Within this guidance, the term "service user" refers to all those accessing antenatal ultrasound services, including expectant parents and/or their support person.

1.8 Whilst it is important to engage with all service users, it should be noted that the woman or pregnant person has the right to make decisions about their pregnancy and opt-in or out of aspects of their care.

2. Sale of Images

2.1 The sale of photographs of the fetus to women or pregnant people and their partners taken in the course of an NHS obstetric ultrasound examination is a long established and popular practice; many departments now offer these in a digital format.

2.2 In departments where the decision has been taken to provide these images there should be agreement to this amongst all members of the obstetric healthcare team as well as the employing authority, and there must be a

written procedure with which all staff are familiar.

2.3 In all circumstances, clear notices should be displayed prominently to advise service users about whether this service is provided and the local policy relating to it.

2.4 If it is necessary to recover the costs of providing images from the service user, then the SoR considers a system based on donations is preferable to a fixed fee system.

2.5 If thermal images are provided, service users should be warned that these should not be subjected to heat (e.g. laminating). The long term stability of thermal images is also not known.

2.6 The SoR does not consider that handling money, dealing with credit/debit card transactions or issuing receipts are part of a sonographer's duties. Arrangements should be made for these to be dealt with by support staff or by a payment machine. When exceptional circumstances require that money is to be handled by the sonographer there must be clearly agreed local procedures that can be audited. The security and safety of the sonographer must also be considered if money is kept in the scanning room or has to be transferred at the end of a session. A risk assessment must be undertaken.

2.7 Since the second edition of this guidance document (2015) commercial online systems have become available that allow service users to select and pay for images taken during the examination. These can then be downloaded onto a range of digital devices including smartphones and tablets. Before introducing such a system there should be a full evaluation with service users and sonographers' views being taken into account. There may be a local Public and Patient Liaison Group or Maternity Voices Partnership who can assist with this evaluation.

2.8 Also since the second edition of this guidance document the new General Data Protection Regulation (GDPR) came into effect in May 2018. Consequently, the SoR has been contacted by members seeking advice on how this new regulation may affect the sale of images. GDPR has not essentially changed previous legislation but it has again brought the issues into focus. If a patient requests a copy of an image and videos/screen shots/images of the investigation, clinical discussion or treatment are then kept as part of the medical record; under Subject Access Request procedures the patient can request a copy of their medical record for free and the images would have to be included, unless they involve a disproportionate effort to retrieve. This request must be answered within 30 calendar days. However, if only notes are saved and videos/screen shots/images are not part of the medical record, then there is no image available for a Subject Access Request. If departments do store images on a patient's medical record they will need to release these for free; printing at high cost is not necessary and a digital copy will suffice. Stored images on Picture Archive and Communications Systems (PACS) qualify as part of a patient's medical record.

2.9 It is recommended that policies relating to the sale of images should be developed in consultation with the Trust/Board data protection officer to ensure that they are compliant with the requirements of GDPR. There is an exemption from the regulation where personal data is processed by individuals for their own personal purposes. If a recording is made by or on behalf of a patient, or with their consent, then the ownership is with them and they may do with it as they wish.[2]

3. Providing an Opinion of the Fetal Sex

3.1 Sonographers are often asked to provide an opinion of the fetal sex. Local policy with regards to providing this should be clearly displayed in the ultrasound department and service users advised of the policy in advance of the scan, for example, within the appointment letter.

3.2 There have been worldwide concerns that in some countries sexing of the fetus, either by ultrasound or other available tests such as noninvasive prenatal testing (NIPT), has led to selective termination for reasons of 'wrong sex', resulting in skewed male: female birth ratios. It is more common in some countries for a female fetus to be terminated than a male. There has been recent research published by the Department of Health concluding that there are no substantiated concerns of 'wrong sex' terminations occurring in England, Wales or Scotland, but that the situation will continue to be monitored.[3] This guidance document does not explore the wider ethical or legal issues involved with this subject, and in the context of this document sonographers are simply providing information.

3.3 Where local policy is to determine fetal sex, procedures should be organised so that women and pregnant people are able to state clearly whether or not they want to receive this information. This should ideally be prior to the commencement of the scan. As it is the woman or pregnant person who consents to the ultrasound examination, the sonographer needs to be particularly sensitive to their wishes in this regard.

3.4 There have been instances where complaints and litigation have resulted from an incorrect opinion of the fetal sex being given. Information should be provided to the woman or pregnant person at the time of the scan about the accuracy of fetal sex determination by ultrasound. This will also be influenced by the gestational age at which the assessment is undertaken and departments may wish to consider the minimum gestational age at which they will provide an opinion of the fetal sex. It is not always possible to give an opinion owing to the fetus lying in a technically difficult position or due to poor overall visualisation. Sonographers also need to be aware of the various complex factors affecting development of the fetal sex and the possibility of indeterminate sex on ultrasound.

3.5 Local policy should determine whether the opinion given by the sonographer with regards to the sex of the fetus should be recorded on the ultrasound report so as to form part of the formal medical record. Information provided to the woman or pregnant person as to the accuracy of the sex determination should be included.

3.6 There is no requirement to determine fetal sex within the Fetal Anomaly Screening Programme (FASP) in England. There is no FASP requirement to recall or re-book an appointment if the fetal sex cannot be identified simply owing to poor visualisation or difficult fetal position.[4]

3.7 NHS Scotland has the following advice:[5] "The local policy regarding fetal sexing should be made available before the ultrasound examination appointment is made and supported by information available at the time of the ultrasound examination. If offered it should include information about the success rates from published and local figures".

3.8 On occasion, sonographers may be requested to write the sex of the fetus on a piece of paper and place it in an envelope without telling the sex to anyone present. Whether or not this is facilitated must be determined locally

following full discussion and risk assessment of the likely issues surrounding this request. It is important to avoid any reduction in the time available to perform the diagnostic scan.

3.9 Where Trust or Health Board policy is not to determine the fetal sex that policy must also extend to consider the situation where a service user is aware that the sonographer has identified the sex of the fetus, but that policy prevents the information being relayed to the woman or pregnant person.

3.10 Information for patients and the public on ultrasound scans including advice on obtaining an opinion of the fetal sex can be found on the NHS website.[6]

3.11 Once policies on determining the fetal sex have been agreed they should be followed by all and supported by management.

4. Commercial Considerations

4.1 There have been instances brought to the attention of the SoR where there have been proposals to charge for determining the fetal sex and/or performing a 3D/4D extension to scans requested under NHS provision. These proposals are often linked to the 18^{+0} to 20^{+6} week fetal anomaly scan.

4.2 The SoR is of the view that to charge for determining fetal sex and to add other commercial considerations into the NHS obstetric screening scans (beyond the already long established provision or sale of images discussed above) is inappropriate. These scans have a serious clinical purpose which is to screen for and, if present, to diagnose fetal anomalies, with the woman or pregnant person's informed consent. Other scans requested during pregnancy within the NHS provision should only be for diagnostic or monitoring purposes related to specific maternal or fetal conditions.

4.3 Accordingly, the SoR does not support the commercialisation of scans that are being funded by the NHS for screening, diagnosis or monitoring.

5. Requests to Record the Examination, e.g. using a mobile phone or other digital device

Please also refer to the SoR guidance document 'The recording of images and clinical discussions by patients during diagnostic imaging, interventional procedures and radiotherapy treatment'[2].

5.1 There are specific issues encountered within obstetric ultrasound where the parental experience must be considered alongside the clinical reasons that scans are requested; this includes the two national screening programme scans for fetal anomaly at 11^{+2} to 14^{+1} and 18^{+0} to 20^{+6} weeks *. Sonographers undertaking these examinations are responsible for the scan and the accompanying report, they will also need to inform the service user during the scan of any health conditions or anomalies detected and make suitable arrangements for referral. Although valid, informed consent is sought and given for what is a clinical examination there is also a natural bonding element to these scans which are looked forward to with high expectations

by those attending. Service users will usually be accompanied by their partner or the intended parents and perhaps children and extended family or friends. The SoR is aware of examples where video recording, e.g. by mobile phone has been requested for personal rather than clinical reasons, and this has then been widely circulated via social media or forwarded directly to others. These recordings may include the sonographer and/or general conversations held within the scan room. Once shared on social media, these recordings can be very difficult to have removed. Most service users attending these scans are considerate and will make a reasonable request of the sonographer if they wish to record during the examination but some will assert that they have a right to do so. A sonographer may not wish to be included in any general audio or video recording and their views should be respected. Instances of covert recording have also been reported to the SoR.

* In England the two screening examinations are under the remit of the Fetal Anomaly Screening Programme (FASP). There are equivalent organisations to FASP in the devolved countries although the 11^{+2} to 14^{+1} week scan is not offered as a screening scan in Northern Ireland.

5.2 Very high levels of concentration on the part of the sonographer are required during obstetric ultrasound examinations. The examinations take at least twenty minutes and any pathology relating to the fetus or woman or pregnant person is identified as the scan proceeds, the stored images are only a record. It is also a highly litigious area of practice. Video recording by a third party during the examination can be very distracting as can tensions arising from mis-understandings over what might and might not be permissible. These distractions can lead to an error being made when it might not otherwise have been.

5.3 It can be helpful if there are information leaflets made available prior to the obstetric ultrasound scan explaining local policy. A clear verbal explanation before commencing the scan can also be very helpful in avoiding these problems that can sometimes arise.

5.4 Under normal circumstances when a co-parent or support person can be in attendance at the ultrasound examination, the SoR do not advocate the use of telephone or videoconferencing of the examination.

5.5 In some instances, when a co-parent or support person is unable to attend the examination, there may be occasions when additional support is needed for the woman or pregnant person. This may be due to previous loss or prenatal diagnosis. Local policy should be in place to determine whether teleconferencing a co-parent or support person for the consent process and/or clinical discussion at the end of the examination is an appropriate way to provide additional support. Full risk assessment should take place in the development of local policy. See case studies for examples. See also, sonographer survey findings.

5.6 A sonographer must be able to feel comfortable within their own working environment and know that if they have concerns about distractions, that they are being considered and treated with respect. As healthcare professionals sonographers have a duty to ensure that ultrasound examinations are conducted competently and that service user safety is not compromised.[8] Local Trust/Board management must ensure that the working environment and published locally agreed policies allow for this.

Case Study 1

If a co-parent or support person is not present, when an anomaly is found, we do offer a telephone conversation at the end of the examination once we have told the woman or pregnant person about the unexpected finding(s).

Case Study 2

If we detect an unexpected finding, the woman or pregnant person is alone and speaks little English we are often asked to speak to a co-parent or support person over the telephone to explain the findings. We do not have set protocols of guidance for this, but we are always happy to speak to co-parents or support persons over the telephone if asked.

Case Study 3

In a fetal medicine unit (FMU), when a woman or pregnant person has been referred by a sonographer for additional support and further ultrasound examinations, one fetal medicine consultant has used different methods for a very small number of expectant parents during the Covid-19 pandemic. Women and pregnant people seen in the fetal medicine clinic are those who have had previous pregnancy loss and /or fetal anomalies, so were extremely anxious.

Strategies used by the FMU consultant, that departments may want to consider, include:

- Showing an image of the fetal heart for the woman or pregnant person to record from the screen
- Video call at the beginning of the scan, after having checked that the fetal heart is present, when attending the fetal medicine consultation. The woman or pregnant person calls the co-parent or support person and shares the secondary monitor image with them for a very quick look at their baby (1 or 2 minutes). They then have to switch off the phone to allow the consultant to concentrate on the clinical examination.
- Clear communication is required to explain the nature of the quick recording and the need to then switch off the phone.

Sonographer Survey Findings

Sonographers were surveyed in 2021 for their views on remote attendance at ultrasound examinations. Of 401 responses, 240 (60%) did not feel it appropriate to support remote attendance or offer a cine clip at the end of the scan. Those who did support any form of remote attendance supported telephone consultation for the discussion of findings at the end of the scan.

References

1. The British Medical Ultrasound Society Safety Statements. Available at: *https://www.bmus.org/policies-statements-guidelines/safety-statements/* [Accessed August 12, 2021].

2. Society of Radiographers (2019). The recording of images and clinical discussions by patients during diagnostic imaging, interventional procedures and radiotherapy treatments. *https://www.sor.org/getmedia/e90882bf-6e7b-4f6a-92f9-8d42164b1c94/the_recording_of_images_and_clinical_discussions.pdf_2* [Accessed August 12, 2021].

3. Department of Health Assessment of termination of pregnancy on grounds of the sex of the foetus Available at: *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/456642/sex_selection_doc.pdf* [Accessed August 12, 2021].

4. FASP (2021) Fetal Anomaly Screening Handbook, July 2021. Available at: *https://www.gov.uk/government/publications/fetal-anomaly-screening-programme-handbook* [Accessed August 12, 2021].

5. NHS Scotland (2015). Fetal Anomaly and Down's syndrome screening Available at: *https://www.pnsd.scot.nhs.uk/wp-content/2015-Fetal-Anomaly-and-Downs-Syndrome-Screening-Protocols-v-1.pdf* [Accessed August 12, 2021].

6. NHS (2020) Ultrasound scans in pregnancy. Available at: *https://www.nhs.uk/pregnancy/your-pregnancy-care/ultrasound-scans/* [Accessed August 12, 2021].

7. Health and Care Professions Council (2016) Standards of conduct, performance and ethics. Available at: *https://www.hcpc-uk.org/standards/standards-of-conduct-performance-and-ethics/* [Accessed August 12, 2021].

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