

# Consent in DNA Paternity Testing

## 1. The Legal Position

The issue of consent in DNA paternity testing is addressed in Section 45 of the Human Tissues Act (2006), Ref.[1]. According to this Act, if you are having a DNA test carried out and are not submitting the mother's DNA for testing then a person with parental responsibility for the child must sign the consent form. A man has parental responsibility if, (i) he is married to the child's mother, or, (ii) the child was born after 1st December 2003 and his name appears on the baby's birth certificate.

The Act makes it an offence to have human tissue with the intention of its DNA being analysed without proper consent. The maximum penalty for this offence is 3 years in prison.

My understanding is that the salient feature of the 2006 Act is that the man does *not* require the mother's permission to carry out a DNA test, providing that he meets the requirement as having parental responsibility.

But... the Act also contains this clause: "As the issue of paternity testing is a sensitive one, further guidance has been published by the Department of Health in this area."

## 2. The Reality: The DH Code of Practice

Prior to the 2006 Act, the custom and practice in paternity testing was generally in accord with the Department of Health's Code of Practice and Guidance on Genetic Paternity Testing in the UK (2001). This custom and practice is evident from the guidance on consent given by the testing laboratories. For example, Anglia DNA Services, Ref.[2], state that:

*If a paternity Test is to be carried out for a child under 16 years, but the mother is not herself being tested\*, then only the mother may consent for the child\*\**

*\*It should be noted that at present the Child Support Agency require all three parties to be tested – i.e. mother, father, and child. (Note that Dr Denise Syndercombe-Court confirms that they do not carry out DNA testing unless the mother consents, see the ManWomanMyth video linked at the bottom of <http://redpilluk.co.uk/PaternityFraud.html>)*

*\*\* Following the changes which came into force in 2006 it is anticipated that these requirements will be modified when the 'Code of Practice and Guidance for Genetic Paternity Testing Services' (2001) has been revised in line with the new Act (it is currently under review).*

From this one might have expected that the revision of the DH's Code of Practice and Guidance on Genetic Paternity Testing would remove the requirement for the mother's consent, thus bringing it into line with the 2006 Act. It does not (I expect you guessed). The relevant extract from Ref.[3] is,

*3.33 The best interests of the child should be a primary concern when commissioning genetic paternity tests. This Guide reflects the view of the Human Genetic Commission that, in the majority of circumstances, motherless testing could prove harmful to the child, as well as to the family unit as a whole.*

3.34 *The British Medical Association advises doctors who are consulted by putative fathers about paternity testing without the mother's knowledge and consent to encourage seeking testing to discuss their plans with the child's mother. Should the putative father reject this advice, the British Medical Association tells doctors not to become involved in the testing process.*

3.35 *We are aware too that, in cases where parentage is disputed, the Child Support Agency may offer genetic testing of all three parties - the child, the mother and the alleged father. It is unlikely that the Child Support Agency will accept motherless testing as a method of resolving a paternity dispute for the foreseeable future.*

3.36 *We are therefore of the view that motherless testing should not be undertaken by paternity testing companies, unless such a test has been directed by a court.*

### **3. In Summary**

- All the influential bodies have capitulated to the feminist lobby and conspired to prevent men obtaining DNA paternity tests without the mother's consent.
- The usual conflation of "the best interests of the child" with "the best interests of the mother" is used to spuriously justify this.
- The claim that knowing the truth would be harmful to the child is based on no evidence or argument, it is merely asserted without reason. The truth is that it may prove harmful to the woman, i.e. expose her as a liar.
- There is no recognition that the man has any rights in the matter.
- The Department of Health, the Child Support Agency (now the Child Maintenance Service), the British Medical Association and the Human Genetic Commission have taken it upon themselves to frustrate the legal entitlement of a man with parental responsibility to DNA paternity testing without the mother's consent. There is no barrier to such a man doing so in the Human Tissues Act (2006). These Agencies appear to be preventing men accessing a legal right.

### **References**

- [1] <https://www.dna-worldwide.com/resource/529/human-tissue-act-section-45-consent>
- [2] <http://www.angliadna.co.uk/Code-Of-Practice>
- [3] Department of Health, Good Practice Guide on Paternity Testing Services, issue for Consultation/Discussion, February 2008. (I failed to find a definitive final version - has it actually been formally issued?)  
[https://www.wales.nhs.uk/documents/DH\\_082624.pdf](https://www.wales.nhs.uk/documents/DH_082624.pdf)