

Clinical Negligence: Claiming Compensation for Birth Injuries.

THOMPSONS FACTSHEET



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Types of birth injury cases where compensation may be possible

Thankfully, the vast majority of pregnancies and births happen without any problems at all; however, when something does go wrong it can be very serious.

When we say “birth injuries” we mean any injury suffered by mother or baby.

If your baby dies before being born and you are more than 24 weeks pregnant, this will be classed as a still birth. Visit our website for more information about still births.



About birth injury compensation

The birth of a new baby is a very special time for the whole family and especially the parents of the baby, so if things go wrong during the pregnancy or the birth, the effects can be devastating.

If mother or baby is harmed due to medical negligence, a claim for compensation may be possible.

Below you will find a list of the most common types of birth injuries we deal with, together with information about how to begin a compensation claim.

If you cannot find the information you require, telephone us on 08000 224 224 for assistance or visit our website to complete a form online.



Clinical negligence during pregnancy

Being pregnant, especially for the first time can be a very daunting experience where you often have to put all of your faith in your midwife or doctor.

If your midwife or doctor fails to treat you correctly or diagnose a condition they should have, which results in some kind of injury, you may be able to make a compensation claim for clinical negligence.

Maternal Diabetes or Gestational Diabetes

If you develop maternal diabetes (often known as gestational diabetes) and your healthcare professional fails to spot the signs of the condition developing or fails to carry out a screening test if you have a family history of gestational diabetes, it can lead to miscarriage or birth defects to the developing baby such as brain defects or heart defects.

It can also cause the baby to grow to a large size which can lead to difficulties with the birth. In these circumstances you should seek legal advice about making a claim.

Pre Eclampsia

Pre eclampsia can only be diagnosed by having regular blood pressure checks and urine samples taken. Therefore it is important that midwives see their patients for regular antenatal checks.

Pre eclampsia is a very serious condition and can lead to death of both mother and baby.

Pre eclampsia is caused by a defect with the placenta which carries all of the necessary oxygen and nutrients to the developing baby. It can only be cured by delivering the baby but can sometimes be managed if the baby has not developed sufficiently to be delivered safely.

If your healthcare professional negligently fails to diagnose your pre eclampsia and this causes an injury to you or your baby you may be able to make a birth injury claim for compensation.

Uterine Rupture and Placental Abruption

The cause of placental abruption is not known but the symptoms are very obvious. The pregnant lady may suffer from a heavy vaginal bleed or severe pains in her back or abdomen. Uterine rupture can be caused by some labours, especially if it has been artificially induced and not properly monitored.

The blood loss is caused due to the placenta separating from the wall of the uterus which can starve the baby of oxygen (sometimes resulting in brain damage or death) and uterine rupture can put the mother at risk of blood loss and damage to her organs, as well as leading to emergency hysterectomy.

If these emergencies are not treated correctly on time by your healthcare professional you may be able to make a claim for compensation.

Wrongful Birth Cases

There are many different birth defects a baby can have such as spina bifida, club feet, holes in the heart and Down's syndrome. Some of these defects are much easier to diagnose than others with the use of scans or blood tests.

If your healthcare professional fails to diagnose a birth defect which should have been easy to diagnose (perhaps due to a faulty scanning machine or lack of staff training) then you may be able to make a wrongful birth claim for compensation.

Wrongful birth means that had the mother known about the birth defect she would have terminated the pregnancy rather than giving birth to a child with a physical or mental disability. Birth injury compensation in situations like this often provide for the costs associated with the welfare and healthcare of the disabled child.

Clinical negligence during labour

The actual birth of the baby is often something which terrifies pregnant women, particularly if you are a first-time mother as you really don't have any idea what to expect. Books on the subject will never really prepare you for the real thing.

If something goes wrong during the birth of your baby due to the negligence of a healthcare professional such as a midwife or doctor then you may be able to make a birth injury compensation claim.

Cerebral Palsy

Cerebral palsy is a brain injury which can arise before, during or after birth. It is a complex condition and it is sometimes not possible to identify the cause. Recognised causes include a lack of oxygen to the brain, infection, prematurity, a bleed in the brain, a difficult birth, a multiple birth, abnormal brain development and genes.

You should seek expert legal advice if your baby has been diagnosed with cerebral palsy.

Episiotomy and Second or Third Degree Tears

An episiotomy is a surgical incision which is made to make the delivery of the baby easier.

It is normally only made if the baby is in distress or if it is thought that the mother's skin would tear without it.

If your healthcare provider such as your midwife or doctor performs the episiotomy incorrectly or does not perform it at all when it is obvious that it is required, it could lead to second degree or third degree tearing of the skin or other complications such as incontinence.

In these circumstances you may be able to make a

clinical negligence claim for birth injury compensation.

Erb's Palsy or Brachial Plexus Injuries

The size of the unborn baby should be monitored throughout the pregnancy to ensure that the healthcare professionals can make adequate plans for the birth. If the baby is much larger than normal and they suspect it will cause problems to a normal vaginal delivery they should prepare to carry out an episiotomy or a caesarean section.

In cases where no action is taken and the baby is large, his or her shoulders can become stuck which is very dangerous and can lead to death.

Even if the baby's shoulders are eventually freed and he or she is delivered vaginally, the trauma to the shoulders may have caused an injury to the nerves meaning that the arm or hand could be paralysed.

In cases like this you may be able to make a birth injury claim.

Forceps Delivery or Ventouse Delivery

If the baby becomes distressed during birth, assistance is sometimes needed to pull the baby out and a choice needs to be made between a forceps delivery or a ventouse delivery. Each method should only be used in specific circumstances and a trained medical professional should know when to use each tool.

Unfortunately if the wrong choice is made, scarring can occur to the baby's face or head and sometimes nerves can be damaged causing the face to droop on one side.

If your baby has been injured as a result of a forceps delivery or a ventouse delivery, you should contact a solicitor for advice about making a claim.



Clinical negligence after birth

Once your baby has been safely delivered you will feel relieved that the pregnancy and labour went well; however, if you discover a few months later that your baby was born with a condition which was not immediately diagnosed you will feel very let down by the medical professionals caring for you.

Congenital Hip Dysplasia

Congenital Hip Dysplasia is a condition of the hip joint and is thought to be a genetic condition. All newborn babies are supposed to be screened for congenital hip dysplasia, and checks should also be made at 6 months and when other development checks are carried out. Providing the condition is found early the prognosis is good.

If the condition is missed by your healthcare professionals and it is not diagnosed before your baby starts to walk, the prognosis is not as good. More complicated surgery may be required and there are risks of later complications in early adolescence and later middle age.

How to start a birth injury claim

If you or anyone you know has suffered from any form of birth injury or clinical negligence, telephone us now for accurate claim advice.

There are strict time limits in place to make any compensation claim. Further details can be found in our booklet *Clinical Negligence: An introduction to claiming compensation*.

Thompsons Solicitors are experts in all matters relating to clinical negligence and will be able to advise you as to whether or not you have a valid claim for compensation. Our specialist clinical negligence lawyers will be happy to talk you through the process of making a claim in plain English and will be happy to answer any questions or queries you may have.



Call: 08000 224 224



Text: "CLAIM" and your name to 82010
(standard network rates apply)



Visit: www.thompsons.law.co.uk



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Useful contacts

Sands - Still birth and
neonatal death charity
Helpline: 020 7436 5881
www.uk-sands.org

Scope
Freephone 0808 800 3333
www.scope.org.uk

NICE - National Institute for
Health and Clinical Excellence
www.nice.org.uk

Care Quality Commission
www.cqc.org.uk
03000 616161

SIA - Spinal Injuries Association
Freephone Enquiry Line
0800 980 0501
www.spinal.co.uk

Headway
www.headway.org.uk
Freephone 0808 800 2244

AvMA - Action against Medical
Accidents
www.avma.org.uk
0845 123 23 52

ICAS - Independent Complaints
Advocacy Service
[www.carersfederation.co.uk/
what-we-do/icas](http://www.carersfederation.co.uk/what-we-do/icas)

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May 2011

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