

# Your right to a caesarean birth



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## What is a caesarean birth?

A caesarean birth, or c-section, is an operation. In a caesarean birth, (also called a c-section, or caesarean section), the surgeon will make an incision in your stomach and uterus (womb) and your baby will then be delivered through the incision.

The operation normally happens under an anaesthetic given in your spine so that you remain awake. Occasionally it is necessary to do the operation under general anaesthetic. General anaesthetic is usually only used when medically necessary.

## Why might I have a caesarean birth?

There are three reasons you might have a caesarean birth.

- You might need an unplanned caesarean birth if your or your baby's health is threatened during labour.
- You might be advised during your pregnancy to have a caesarean birth if your obstetrician thinks that giving birth vaginally would put you or your baby at risk. If you accept this advice, this would be an elective or planned caesarean birth, meaning that you have decided ahead of time that a caesarean is the best way for your baby to be born.
- You might ask for a caesarean birth yourself. This would be an elective or planned caesarean birth, or a 'maternal request caesarean'.

If you need a caesarean birth for medical reasons, it must be carried out at the right time for you and your baby. If the hospital does not carry out a caesarean birth when you and your baby need it, they could be taken to court for medical negligence.

If your hospital suggests other medical interventions to you, such as induction, they should also talk to you about your option to have a caesarean birth instead.

## Do I have a right to a caesarean birth?

You can ask for a caesarean birth even if your doctor or midwife doesn't think that you have a medical need for one.

This is called a maternal request caesarean birth.

Your hospital must listen to your reasons for wanting a caesarean birth and have good reasons for saying no. The doctor must also offer you information to about the risks and benefits of a c-section or any other recommended treatment they may recommend instead. This information should be personalised to focus on what is important to you, in your circumstances.

If you request a caesarean birth during labour, then your midwives and doctors should listen to you and take you seriously. You should be offered other support such as pain relief, if you feel this would help you to be able to have a better conversation about a caesarean birth or other alternative options. On occasion, you may have to wait to have a caesarean if there are other individuals in the unit who need a caesarean more urgently.

- *You can read more about consent in our [Consenting to treatment factsheet](#).*

## What does national guidance say about my right to a caesarean birth?

National guidance from the National Institute for Health and Care Excellence (NICE) recommends that if you ask for a caesarean birth, the hospital should support this if they are satisfied you are making an informed choice.

The guidance says that the hospital should discuss with you why you want a caesarean birth and the risks and benefits of caesarean and vaginal birth.

If your request is due to anxiety about childbirth, the hospital should refer you

to a healthcare professional who is an expert in perinatal mental health. You do not have to accept this offer of support.

The guidance says that if you still want a caesarean birth after you and the hospital have talked about it, and you have been offered support, the hospital should offer you a caesarean.

An individual obstetrician (doctor) can refuse to perform a caesarean. But they should refer you to another obstetrician who is willing to carry out the operation.

In March 2022, an important report was released about failings within English maternity care. It is called "The Ockenden Report" and it contains a list of essential actions that all English NHS Trusts should be carrying out. "Essential Action 7" of the Ockenden Report states:

"All Trusts must ensure women have ready access to accurate information to enable their informed choice of intended place of birth and mode of birth, **including maternal choice for caesarean delivery.**"

All NHS Trusts should be already taking this action now as well as following the NICE guidelines on caesarean birth.

## Who can support me if I am refused a caesarean birth?

If you choose a caesarean birth but your hospital refuses to carry it out, you can ask to speak to the Director/Head of Midwifery or the Clinical Director/Clinical Lead for Obstetrics.

If you don't know the details for the Director/Head of Midwifery or Clinical Director, you can ask your midwife and/or the Patient Advice and Liaison service (PALS) (if you are in England or Wales) to put you in touch. Health Boards in Scotland will have a patient support service. The Trust or Health Board website will have a page with PALS' or the patient support service's details on it.

- **If you feel you are not being listened to, or are being told no, you can also contact us for advice on our [advice form](#).**

## What if I don't want a caesarean birth or I change my mind?

You can ask for a caesarean birth even if your doctor or midwife doesn't think that you have a medical need for one.

This is called a maternal request caesarean birth.

Your hospital must listen to your reasons for wanting a caesarean birth and have good reasons for saying no. The doctor must also offer you information about the risks and benefits of a c-section or any other recommended treatment they may recommend instead. This information should be personalised to focus on what is important to you, in your circumstances.

If you request a caesarean birth during labour, then your midwives and doctors should listen to you and take you seriously. You should be offered other support such as pain relief, if you feel this would help you to be able to have a better conversation about a caesarean birth or other alternative options. On occasion, you may have to wait to have a caesarean if there are other individuals in the unit who need a caesarean more urgently.

- **You can read more about this in our [Consenting to treatment](#) factsheet.**

# Law and guidance

## The law on offering you a caesarean birth

In the *Montgomery v Lanarkshire Health Board (2015)* case, the Supreme Court stated that if there is any increased risk in a vaginal birth, a woman should be offered a caesarean birth.

You should be given the opportunity to discuss the benefits and potential risks of caesarean birth compared to giving birth vaginally. However, once you have made your decision it should be respected.

An individual obstetrician can say no to your request on the basis that they do not want to carry

out an intervention that they believe to be harmful. However, they should then refer you to a doctor who is happy to carry out a caesarean section.

If all obstetricians in a unit take the same view, you should be referred to an obstetrician in a different hospital who is willing to carry out the surgery. Birthrights would also like to know if this has happened to you.

## Is a maternal request caesarean birth a legal right?

There has never been a legal case on the entitlement to maternal request caesarean births. But you have a right to make decisions about the circumstances of your birth under Article 8 of the European Convention on Human Rights. This includes the manner in which you give birth.

## What about if I want a caesarean earlier than 39 weeks?

You have a right to decline any aspect of medical care you don't want to have, but when it comes to asking for an early caesarean the situation is different. NICE guidelines recommend not carrying out a caesarean section until 39 weeks to give the baby's lungs the best chance to develop. Sometimes a caesarean will be offered earlier if doctors are concerned about a significant risk to you or your baby's condition.

Other times, the doctors may take a medical view that there is no guarantee that your baby will also come before 39 weeks, so they want to take a cautious approach to offering surgery. The Trust is able to decline a request for a caesarean before 39 weeks if they have a good evidence-based reason to do so, but you can also request a second opinion.

You can email the Health Board or Trust's Head of Midwifery or Clinical Lead for Obstetrics and request a second opinion on an earlier date for a caesarean, because of your individual pregnancy history, including your mental and physical health. You should be offered a conversation about the risks and benefits to your physical and mental

health of an earlier caesarean, as well as any risks and benefits to your unborn baby.

If a second doctor is also reluctant to move the timing of your caesarean, you should also ask your doctor to come up with a very clear, written plan with you about what will happen if you do go into labour before 39 weeks. This is to ensure that you are given a caesarean section as soon as possible once you phone up when you are in labour. Having a detailed, written plan in place in that way, might bring you some more reassurance that your care is being personalised and that you would still be given a caesarean section once labour started.

## What is NICE?

NICE is the National Institute for Health and Care Excellence. It makes guidelines for health and social care across the UK. NICE guidance is not law so does not give you a legal right to a treatment. But a hospital has to give good, clear reasons if it does not follow NICE guidance.

## About Birthrights

Birthrights factsheets give you information about your human rights when you are pregnant and giving birth.

- **Contact Birthrights for help on our [advice form](#).**

Birthrights champions respectful care during pregnancy and childbirth by protecting human rights. We provide advice and information to women and birthing people, train doctors and midwives, and campaign to change maternity policy and systems.

We are a charity, independent of the government and the NHS.



*Disclaimer: Our factsheets provide information about the law in the UK. The information is correct at the time of writing (May 2021). The law in this area may be subject to change. Birthrights cannot be held responsible if changes to the law outdate this publication. Birthrights accepts no responsibility for loss which may arise from reliance on information contained in this factsheet. Birthrights has provided links to third party websites where these may help provide relevant further information. Birthrights takes no responsibility for the contents of linked websites and links should not be taken as an endorsement.*