

birthrights

Right to a caesarean section

When are c-sections performed?

There are three circumstances in which you might have a c-section: first, you might need an emergency c-section if your or your baby's health is threatened and the baby needs to be born urgently.

Second, you might be advised to have an 'elective c-section' if there are higher risks to vaginal birth and an obstetrician considers that it would be safer for your baby to be born by c-section.

Third, you might request a c-section yourself, known as an 'elective caesarean' or, more accurately, a 'maternal request caesarean'.

If there is a clinical need to perform a c-section, it must be undertaken in an appropriate time-scale. Failure to perform a c-section in these circumstances could constitute medical negligence.

In the *Montgomery v Lanarkshire Health Board* (2015) case, the Supreme Court stated that if there is any increased risk in vaginal birth, woman should be offered a c-section. Hospitals should now counsel women about the option of a c-section when they advocate other medical intervention, for example, when induction is recommended.

Do I have a right to a c-section?

If you make a request for a c-section for any non-medical reason, such as anxiety about childbirth, your request will be treated as a request for an 'elective c-section' or a 'maternal request c-section'.

There has never been a legal case on women's entitlement to maternal request c-sections, 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.

This means that if the hospital does not offer elective c-sections, your request must still be given proper consideration by a consultant obstetrician and all your personal circumstances must be taken into account. The obstetrician should consider the risks of vaginal birth and the likelihood of an emergency c-section. The hospital can only refuse to offer you a c-section if it has balanced all the factors and can show that there are good reasons for refusing and the effect on you is not disproportionate.

What is the effect of NICE guidance?

The current [guidance](#) from the National Institute for Clinical Excellence (known as 'NICE') recommends that women who request a c-section are offered a referral to a health professional with perinatal mental health expertise to help address anxiety 'in a supportive manner'. You are not obliged to accept an offer of support.

The guidance states that if after discussion and an offer of support, you continue to request a c-section, it should be offered to you.

Individual obstetricians are entitled to refuse to perform a c-section under the guidance, but they should refer you to another obstetrician who is willing to carry out the operation.

NICE guidance applies throughout the UK. It is not law and does not give you a legal entitlement to a particular treatment, but any decision not to follow the guidance would have to be justified with good reasons.

Finding support

If you are told that the hospital will not support your choice of c-section, you can ask to speak to the Head of Midwifery. You can draw her attention to NHS England's [guidance](#) on midwifery supervision, which requires all midwives to advocate for women's rights in



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childbirth and to support women who make decisions outside the maternity provider's guidelines.

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