



Improved training and more investment is best way to protect medical staff and reduce cost to NHS from avoidable birth injuries says leading medical negligence lawyer, **Denise Stephens**

Last year the NHS Litigation Authority paid almost half a billion pounds for obstetric claims, mainly to brain-damaged children. The total liability is said to be £28.6 billion. Whatever the true cost, these are still staggering sums, reinforcing the view in some quarters that money spent on compensation and lawyer's fees is an unwelcome drain on NHS resources.

Rather than reducing the cost of avoidable negligence by better training and more robust processes and procedures, the Department of Health instead proposes to limit fees for expert witnesses whose evidence is often so crucial in cases of this kind and cap claimant solicitor's costs. This thought process is fundamentally flawed, it's like putting the cart before the horse.

This means that you have a public body injuring people through avoidable negligent care and the government drafting laws to limit the means by which the injured can recover the sums they need. I firmly believe that investing in measures to improve care at source would be a better and certainly significantly less expensive way to tackle the problem. Almost half of that alleged £28.6 billion cost arises from brain-damaged baby claims, so you would think that every action would be taken to stop damaging babies' brains? The biggest single cause of injuries at birth is a failure to correctly use or interpret the traces from cardiotocography [CTG] equipment.

That was certainly true in a recent high profile case of James Robshaw.

The main allegations in the NHS Litigation Authority's 'Ten Years of Maternity Claims' report published in 2012 also centred on incidents involving a failure to recognise an abnormal CTG (46%) and/or act on it (40%). The NHS remains one of the safest places in the world to have a baby, however in a number of albeit rare but still entirely unacceptable cases the same basic errors seem to be made again and again. Funding should be provided to maternity units to enable them to put in place improved training programmes which would cost a fraction of the amount needed over a lifetime by seriously injured children and their carers.

Modest sums spent on improved training, particularly in the use of CTG equipment, would mean hard-pressed midwives and other hospital staff would be better able to do their job to the standard they would prefer. The NHS would have had £3 billion more to spend on patient care over the past 10 years and more than 5,000 families would have been spared heartache, grief and devastating loss.

Denise Stephens is a partner in Access Legal's clinical negligence team who specialises in cerebral palsy and birth injury cases and handles wide range of other clinical negligence claims.

IN A HEART BEAT

The importance of CTG Interpretation in intrapartum assessment in reducing the risk of hypoxic injury and avoiding suffering, grief and costly litigation



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JAMES'S STORY

The case of James Robshaw is a tragic example of an avoidable accident at birth which caused devastating injuries.

James is a bright 12 year old lad with a wicked sense of humour and a potentially bright future had he not been injured. A major contributory factor in his case, and other cerebral palsy claims, was confusion about CTG interpretation and a subsequent failure to carry out a timely interventions or seek additional help and advice from more senior colleagues

In James's case, the confusion over the CTG trace and subsequent delay in performing a caesarean section meant there was a delay in delivering James. He was transferred to the

neonatal unit where resuscitation procedures were carried out and he suffered a number of fits and seizures.

If the caesarean section had been carried out or the baby's heart rate properly monitored and the CTG results correctly assessed and acted upon, the midwife could have identified that James was in distress. In either event, he would have been delivered much sooner and so would not have suffered any injuries.

His mother, Suzanne Adams, admits the family has been through a very

difficult time. The 13 years it has taken to reach a conclusion has also taken its toll on family relationships which have broken down and her own mental health.

At an approval hearing held in the Royal Courts of Justice on December 17 2015 the judge, Mr Justice Foskett, confirmed the award of £14.5m in damages to James Robshaw.

The award reflects James's complex and high level of need which will continue for the rest of his life.



"I'd give all the money back in a heartbeat if I could turn back the clock. No amount of money can ever make up for the mistakes that have condemned my lovely boy to a lifetime of dependency on others."

**Suzanne Adams,
mother of James Robshaw**