

Parents face cap on costs recovered in blunder cases

Fixed limit on all clinical negligence claims up to £25,000 to prevent rising litigation costs in NHS

By Laura Donnelly HEALTH EDITOR

NHS blunders that leave babies still-born will be brushed under the carpet under government plans to limit legal fees, safety campaigners have warned.

Health officials have drawn up plans to cap legal costs for claims where damages are worth less than £25,000. This includes the deaths of newborns and stillbirths, with the UK's record among the worst in the developed world.

But patients' groups say the plans will worsen safety in the NHS, fuelling a rising bill for catastrophic maternity errors as lessons are not being learned.

The Action against Medical Accidents charity said the new rules would mean those affected by blunders would be unable to find a lawyer willing to take their case, as the fees would not cover the costs of an investigation.

Peter Walsh, its chief executive, said the changes would deepen a culture of "deny and defend" in the NHS, with trusts knowing that the bereaved could not afford to take them on.

"This would lead to massive lost opportunities to learn from mistakes," he warned. The safety campaigner said thousands of cases ended up in the hands of lawyers, simply because the NHS refused to admit fault until threats were issued. And he said the changes could see thousands denied justice, with eight in 10 negligence claims involving damages of less than £25,000.

Patients' groups are concerned that the NHS is failing to make improvements in maternity services.

Britain is ranked 33rd out of 35 in the developed world for its stillbirth rates, while the NHS is facing soaring numbers of cases of brain-damaged babies. Charities including the Patients' Asso-

ciation, Sands charity for stillbirths, the Birth Trauma Association, the Association for Improvements in Maternity Services and National Voices are among those opposing the plans. Steve Webber, chairman of the Society of Clinical Injury Lawyers, said the NHS already defended far too many cases for too long when they should admit early liability. "The NHS is not learning from its mistakes," he said. "We see this with the same claims coming from the same hospitals. These claims are then denied and dragged out unnecessarily for far too long."

Figures from NHS Resolution, the litigation authority, show rising numbers of cases that end up in a payout are being forced to go through the courts.

In 2016, the authority paid compen-

£25,000

If claims for damages are less than this figure, the NHS wants a cap introduced on the amount of legal costs

sation in 76 per cent of cases where the claimant issued court proceedings - up from 72 per cent in 2015.

Jeremy Hunt, the Health Secretary, has urged the NHS to improve its safety record and introduce a "duty of candour" with responsibilities on trusts to be open when things go wrong.

But patients' groups said the new plans would undermine such efforts.

On Monday, Lord Justice Jackson will publish recommendations about whether to introduce fixed costs across the wider system of civil litigation.

A Department of Health spokesman said: "We're taking action against a deeply unfair system where unscrupulous law firms cream off excessive legal costs that dwarf the actual damages recovered, which creates a damaging culture of litigation. However, it is vital that patients continue to get access to justice at a reasonable cost."