

Doctors who kill will not be sacked for 'honest mistakes'

Lucy Bannerman, Kat Lay

Doctors and nurses who make "honest mistakes" while treating patients should not fear criminal prosecution, Jeremy Hunt, the health secretary, will say today, under rules that will make it more difficult for the regulator to strike off staff convicted of manslaughter.

Mr Hunt has accepted the main findings of a review into the use of gross negligence manslaughter in healthcare, which said that criminal proceedings should apply only in extreme cases of "very poor performance".

He ordered the inquiry by Professor Sir Norman Williams, former president of the Royal College of Surgeons, after the case of Hadiza Bawa-Garba, a trainee paediatrician found guilty of gross negligence manslaughter over the death of Jack Adcock, six, who developed sepsis at Leicester Royal Infirmary. The General Medical Council (GMC) and the boy's family wanted her struck off but doctors said that criminalising clinical errors would create a "chilling effect" that could lead to mistakes being repeated.

The Medical Practitioners Tribunal Service gave her a 12-month suspension. The GMC won an appeal at the High Court but Bawa-Garba is now in the process of a new appeal.

In his report Sir Norman recommends that the GMC be stripped of the power to pursue appeals. Such decisions should be appealed only by the Professional Standards Authority.

Nicky Adcock, Jack's mother, said that the move was a disgrace. She said: "I don't believe Bawa-Garba woke up that morning intending to kill Jack. But she didn't just make one or two errors — she made 21, all her own." The report

Behind the story

Hadiza Bawa-Garba was on duty at Leicester Royal Infirmary in 2011 when Jack Adcock, a boy with Down's syndrome and a heart condition, arrived with diarrhoea and vomiting (Lucy Bannerman writes).

The paediatric registrar, then 35, did not follow up on abnormal tests quickly, did not call in a consultant and missed what an expert described as a "barn-

door obvious" case of sepsis.

She then told a crash team to stop resuscitation without looking at Jack's notes because she had mistaken him for another patient. Although this did not contribute to Jack's death, the trial judge said that the "extraordinary" error illustrated how bad her care was. In 2015

she received a two-year suspended sentence. Bawa-Garba was one of two people found guilty of manslaughter by gross

negligence over Jack's death. The other was a nurse, Isabel Amaro. Both were given two-year terms, suspended for two years. Amaro was struck off in 2016.



also said that doctors' personal case notes should not be available to regulators investigating fitness to practice, to help staff to reflect openly and honestly on potential improvements and reassure them that their notes would not be used against them.

It also urged a "clearer understanding" of where the bar is set for gross negligence manslaughter prosecutions in healthcare, to reassure staff that it applies "to cases of very poor performance, rather than honest mistakes".

Sir Norman said that he hoped that greater clarity and consistency would "lead to fewer criminal investigations which are limited to just those rare cases where an individual's performance is so truly exceptionally bad that it requires a criminal sanction". Mr Hunt

said that he would be acting on the report's recommendation so that the NHS could move "from a blame culture to a learning culture". He also said that all patient deaths in the NHS would be looked at by a new system of medical examiners, who could refer cases to coroners if necessary, with the aim of providing families with more information about a death and sharing more data to prevent avoidable deaths.

The GMC said that it was "disappointed" by the findings. Sir Terence Stephenson, its chairman, said: "Our appeals have been upheld in 16 out of 18 cases heard by the courts. We believe our actions have provided greater public safety and maintained public confidence in the profession."

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