

Doctor whose error caused boy's death wins reprieve

Paediatrician banned after six-year-old died in her care is allowed by court to return to medical practice

By Henry Bodkin

A JUNIOR paediatrician struck off after a six-year-old boy died of undiagnosed sepsis has won her court battle to practise again.

The Court of Appeal yesterday overturned a previous High Court ruling to bar Dr Hadiza Bawa-Garba, concluding that despite making mistakes, she had not acted recklessly and could provide "considerable useful future service to society".

The unanimous judgment upheld the decision by the Medical Practitioners Tribunal (MPT) last year to suspend her for a year, describing it as "humane and balanced".

It followed the highly unusual move by the General Medical Council (GMC), which sets the profession's rules, of taking its own tribunal to court to try and get the registrar banned.

Jack Adcock, who had Down's syndrome and a known heart condition, died at Leicester Royal Infirmary in 2011 less than 12 hours after being admitted with sickness and diarrhoea.

Dr Bawa-Garba misdiagnosed his condition as gastroenteritis and was given a 24-month suspended prison sentence for manslaughter on the grounds of gross negligence in December 2015. But on the day Jack died, an IT failure had caused all the hospital's blood test results to be delayed.

There were also staff shortages meaning a consultant was unavailable all morning and two out of three nurses on the unit were from an agency.

Yesterday's Court of Appeal decision effectively justifies the MPT's conclusion that Dr Bawa-Garba should receive a lighter sanction in recognition that the failures were not all hers.

It has been welcomed by the medical community, which had warned that the case risked entrenching a blame culture in the NHS, preventing clinicians learning from their mistakes.

Earlier this year Jeremy Hunt, then

health secretary, said the case had caused "huge concern" of a chilling effect on learning in the health service.

He later said doctors should not face prosecution where "honest mistakes" kill or seriously harm patients.

However, Nicola and Vic Adcock, Jack's parents, have called for Dr Bawa-Garba, who was working her first acute shift since returning from maternity leave when the tragedy happened, to be banned.

Mrs Adcock said: "I'm absolutely disgusted and devastated. I think this sets a precedent for all the doctors to basically go out and do whatever they wish do to. What she did that day, I will never, ever, ever forgive her for."

Announcing the ruling, Master of the Rolls Sir Terence Etherton said: "The members of the court express



Dr Hadiza Bawa-Garba made mistakes that led to the death of Jack Adcock, six

their deep sympathy with Jack's parents, who attended the hearing in person, as well as respect for the dignified and resolute way in which they have coped with a terrible loss. No concerns have ever been raised about the clinical competence of Dr Bawa-Garba, other than in relation to Jack's death."

The tribunal was satisfied her actions in relation to Jack were neither deliberate nor reckless, that she had remedied the deficiencies in her clinical skills and did not present a continuing risk to patients, and that the risk of her clinical practice suddenly and without explanation falling below the standards expected was no higher than for any other reasonably competent doctor.

Prof Jane Dacre, chairman of the Royal College of Physicians, said: "We hope the judgment will provide some reassurance to doctors, particularly our trainees, that they will be protected if they make a mistake."