

## Court of Appeal issues guidance on shaken baby cases

Clare Dyer *BMJ*

The Court of Appeal of England and Wales has issued new guidance on how judges and juries should deal with expert evidence in shaken baby cases, to ensure that verdicts are reached on a “logically justifiable” basis.

If there is a realistic prospect of an unknown cause for the injuries, judges must remind the jury of this possibility in their summing up, the judges said. And juries must be told how to approach the issue of conflicting medical evidence—including being asked to decide, if the issue arises, whether the witness has assumed the role of an advocate or strayed outside his or her area of expertise.

Lord Justice Moses gave the guidance on behalf of himself and three other judges in a judgment on three appeals by parents or carers from convictions for shaking a baby in their care. They upheld the convictions of childminder Keran Henderson for the manslaughter of 11 month old Maeve Shepherd and of Oladapo Oyediran for the murder of his 10 week old son Femi.

But they allowed the appeal of Ben Butler against convictions for child cruelty and causing grievous bodily harm to his 7 week old daughter Ellie, who recovered. In that case, Lord Justice Moses said, the trial judge’s summing up had been flawed.

He said that judges presiding over shaken baby cases must have an understanding of the medical learning on the subject and be in a position to identify whether the expert evidence that either side wishes to adduce is admissible. They must identify the real issues in the case, and the evidence must be properly marshalled and controlled before being presented to the jury.

Courts should be familiar with the 2004 report on sudden unexpected death in infancy from a working group convened by the Royal College of Pathologists and the Royal College of Paediatrics and Child Health, the judge added. This cautioned against doctors using the courtroom to “fly their personal kites or push a theory from the far end of the medical spectrum.”

The judgment is at [www.bailii.org/ew/cases/EWCA/Crim/2010/1269.html](http://www.bailii.org/ew/cases/EWCA/Crim/2010/1269.html).

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**Keran Henderson was convicted of manslaughter**

## NHS clinicians’ pay is frozen as government strives to reduce deficit

Adrian O’Dowd *LONDON*

The pay of most NHS staff will be frozen for the next two years, it has been announced in the government’s emergency budget on Tuesday 22 June.

Chancellor George Osborne, in what he called a “progressive budget” that was “tough but fair,” said that public sector workers had to play their part in tackling the £155bn (€190bn; \$230bn) deficit in the United Kingdom.

Mr Osborne, who has pledged

to balance the nation’s books by 2015, said, “I know there are many dedicated public sector workers who work very hard and did not cause this recession, but they must share the burden as we pay to clean it up.

“The truth is the country was living beyond its means when the recession came, and if we don’t tackle pay and pensions more jobs will be lost. That is why the government is asking the public sector to accept a two year pay freeze.”

Mr Osborne said that he would protect the lowest paid and pledged that the 1.7 million public sector workers who earned less than £21 000—about 28% of the public sector workforce—would receive an annual flat pay rise of £250 for each of the next two years.

The budget also revealed that public service pensions would rise in line with consumer prices (prices of all consumer goods and services) rather than the higher retail price index, with

## Government cuts targets to focus on “quality patient care”

Zosia Kmiotowicz *LONDON*

The government has scrapped the target that guaranteed patients in England access to their GP within 48 hours.

Instead doctors are being given the authority to decide which patients need to be prioritised, although they will still be judged on patients’ overall experience of the NHS, the health secretary, Andrew Lansley, has announced.

In its revision to the 2010-11 NHS operating framework the government also announced that it was to discontinue supervising the 18 week target on time from referral to treatment and reducing the four hour target threshold in hospital accident and emergency departments from 98% of patients to 95%.

Mr Lansley said, “I want to free the NHS from bureaucracy and targets that have no clinical justification and move to an NHS which measures its performance on patient outcomes. Doctors will be free to focus on the outcomes that matter: providing quality patient care.

“But I want to be clear: while the NHS will no longer be accountable to ministers or the department for its performance in these areas, it will be very much accountable to the patients and public it serves. Patients will still be entitled to rights under the NHS Constitution, and the quality of their experiences and outcomes are what will drive improvements in the future.”

Laurence Buckman, chairman of the BMA’s General Practitioners Committee, welcomed the scrapping of the 48 hour target on access

to primary care, which he said was intended to improve access but had in fact resulted in “adverse consequences.”

He said, “At the moment practices need to have enough appointments available on the day or the following day to meet the target, so those who want to book in advance find there are fewer appointments available. We would therefore welcome the scrapping of this target, as it will give GPs greater flexibility to organise their appointment booking system in a way that best suits their local patient population.”

Keith Brent, deputy chairman of the BMA’s Central Consultants and Specialists Committee, said that while the accident and emergency target had improved the NHS, it had also forced staff to make “inappropriate decisions.”

John Black, president of the Royal College of Surgeons, also saw the changes to the targets as positive. He said, “The relaxation of the 18 week deadline should allow surgeons to treat patients depending on clinical need and not on whether they are about to breach a target.”

But others did not view the developments in the same light. Jennifer Dixon, director of the Nuffield Trust, said that without targets waiting times in England would not have fallen “so precipitously.” Relying on local commissioners and the public to report on waiting times is a problem, she said, not least because primary care trusts are facing 30% cuts in administration budgets and GP commissioners are significantly underdeveloped.

She added, “The worry is that these weaknesses will mean commissioners are not providing the robust pressure needed . . . to maintain the lower waiting times.

*The Operating Framework* is at [www.dh.gov.uk](http://www.dh.gov.uk).

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