Meadow should never have been brought before the GMC

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Doctors and other expert witnesses who give their evidence honestly and in good faith are immune from disciplinary proceedings over anything they say in court, a senior judge at the High Court in London ruled in a ground breaking judgment last week.

Mr Justice Collins held that Roy Meadow, the retired paediatrician who was found guilty of serious professional misconduct and was ordered to be struck off the medical register last year for his role in the Sally Clark murder trial, should never even have been brought before the General Medical Council (*BMJ* 2005; 331:177).

The ruling makes new law by extending to action by regulators the longstanding immunity from civil actions over their evidence that witnesses in court cases enjoy.

The judge said that regulators such as the GMC could take action only if a complaint about an expert witness was referred by a judge to such bodies. That would bar complainants such as Frank Lockyer, Mrs Clark's father, who initiated the GMC case by complaining about misleading statistical evidence on the risk of two cot deaths in one family that was given by Professor Meadow at Mrs Clark's trial for murder.

Professor Meadow, 73, had cited a statistic from the then unpublished report of the confidential inquiry into stillbirths and deaths in infancy, a large scale survey of sudden unexpected deaths in infancy, which put the risk of two cot deaths occurring by chance in a family like the Clarks with none of three risk factors at one in 73 million. He failed to explain that two deaths could not be assumed to be independent of each other, because of genetic, environmental, or other factors, but his evidence went unchal-

lenged by the defence.

Mr Justice Collins said the decision by the GMC's fitness to practise panel had had a damaging effect on the administration of justice, because of paediatricians' reluctance to be involved in court proceedings, particularly before the family courts.

He said, "There can be no doubt that the administration of justice has been seriously damaged by the decision of the FPP [fitness to practise panel] in this case, and the damage will continue unless it is made clear that such proceedings need not be feared by the expert witness."

Professor Meadow had given his evidence in good faith, with no intention to mislead, the judge said. It was of fundamental importance "that a witness can be assured that if he gives his evidence honestly and in good faith, he will not be involved in any proceedings brought against him seeking to penalise him."

"The risk of a judge deciding that there should be a referral in such circumstances is so remote as to be virtually non-existent," he added.

The GMC is expected to appeal the judgment, which will also have a bearing on the appeal of Alan Williams, the pathologist who failed to disclose the results of microbiological tests on samples from the body of one of Mrs Clark's babies. The GMC also accepted that Dr Williams acted in good faith, although his failings—the main reason for the Court of Appeal's quashing of Mrs Clark's convictions in 2003—go beyond the evidence he gave. His appeal against a finding of serious professional misconduct is due in July.

The judge said he had "no doubt" that the finding of serious professional misconduct against Professor Meadow was not justified by the evidence put before the fitness to practise panel.

Roy Meadow's relief will also be felt by other expert witnesses

Even if it had been, erasure from the medical register was "quite unnecessary." He added: "He made one mistake, which was to misunderstand and misinterpret the statistics. It was a mistake, as the panel accepted, that was easily and widely made."

The panel was unjustified in saying that Professor Meadow had undermined public confidence in doctors acting as expert witnesses, said the judge. "And to say, as the FPP did, that his conduct was 'fundamentally incompatible with what is expected by the public from a registered medical practitioner' approaches the irrational."

Mr Lockyer said that his aim of ensuring that the expert witnesses in his daughter's case were held accountable had been achieved and that the judgment was "academic."

Professor Meadow said he was "relieved." He said, "Children can only be protected from abuse if those who suspect abuse are able to give their honest opinion without fear of retribution."

"This is an important deci-

sion for paediatricians and all doctors, nurses, teachers, and other professionals who may have to express difficult and sometimes unpopular opinions in the course of giving evidence in court."

The president of the Royal College of Paediatrics and Child Health, Alan Craft, said: "This is a welcome result for Professor Meadow, the Royal College of Paediatrics and Child Health, every paediatrician, and doctors in general."

"If the original decision had stood there is a real danger that doctors across all specialties would have become reluctant to undertake vital expert witness work."

The GMC said the judgment had important implications for it and all professional regulators. "Such immunity would place doctors and other professionals beyond the reach of their regulator when writing reports for the courts or giving evidence. The only exceptions would be if the judge complained to the regulator." □