Parents convicted of killing to have their cases reviewed

Clare Dyer *legal correspondent, BMJ*

Major changes in England and Wales relating to the handling of cases in which mothers are suspected of killing their babies were announced this week by the Court of Appeal and the attorney general.

Hundreds of parents convicted of killing their babies are to have their cases urgently reviewed, said the attorney general after the appeal court called for an end to the prosecution of parents when experts' opinions on the cause of death differ.

In addition, thousands of parents whose children were taken away from them are to have their cases reopened as part of the review, Solicitor General Harriet Harman told parliament on Tuesday.

Medical science was "still at the frontiers of knowledge" about unexplained infant deaths, said Lord Justice Judge, the deputy chief justice, giving the appeal court's reasons for its decision last

month to quash Angela Cannings' conviction for murdering her two baby sons.

In those cases in which a full investigation into two or more sudden unexplained infant deaths in the same family was followed by a serious disagreement between reputable experts about the cause of death, and natural causes could not be excluded as a reasonable possibility, "the prosecution of a parent or parents for murder should not be started or continued unless there is additional cogent evidence," said the deputy chief justice.

The rethink, prompted by Mrs Cannings' case and the cases of two other mothers, Sally Clark and Trupti Patel, means that in future prosecutions will be brought only if the evidence is much more clear cut than it was in their cases.

A national protocol is to be drafted by a working party chaired by the Labour peer and

criminal QC Helena Kennedy. This will ensure that cases are investigated as expertly as possible from the start. The working party will be set up by the Royal College of Paediatrics and Child Health and the Royal College of Pathologists.

Before Mrs Cannings' appeal, the cases of the solicitor Sally Clark (*BMJ* 2003;326:304), whose conviction for murdering her two baby sons was quashed on the second appeal, and pharmacist Trupti Patel, acquitted of murdering her three babies, had already highlighted the uncertainties in cases when babies die suddenly.

Evidence from one prosecution expert Professor Sir Roy Meadow, was an important factor in each case. But this week Lord Justice Judge said that although the court recognised that three sudden infant deaths in one family was "very rare or very rare indeed," the fact that they occurred did "not identify, let

alone prescribe, the deliberate infliction of harm as the cause of death."

The 258 cases to be reviewed are all those in which a parent has been convicted, in the past 10 years, of murder, manslaughter, or infanticide of a child aged under 2. □

Angela Cannings, whose conviction for murdering her two sons was quashed

Researchers accuse WHO and Global Fund of malpractice

Gavin Yamey *BMJ*

An international group of 13 malaria researchers has accused WHO and the Global Fund of medical malpractice for supporting the use of ineffective malaria treatments. This practice, says the group, at the very least "wastes international aid money, and at most, kills patients who have malaria."

Writing in the *Lancet* (2004; 363:237-40), the group says that in many African countries the agencies support the use of chloroquine and sulfadoxine-pyrimethamine, which fail in up to 80% of cases, instead of highly effective artemisinin based combination treatments.

The group calculates that the Global Fund's purchase of ineffective drugs causes tens of thousands of children to die each year. This situation, it says, is ethically and legally tantamount to medical malpractice, analogous to a doctor who "knowingly furnished treatments that failed perhaps 80% of the time, while withholding the alternatives as 'too expensive.'"

The group says the fund's technical review panel is doing poorly at reviewing countries' malaria proposals (*BMJ* 2003; 327:1188) and that WHO must urgently define global guidelines for malaria treatment.

WHO denies that new guidelines are needed. Dr Allan Schapira, who leads the Roll Back Malaria initiative, said: "We gave clear recommendations [to use artemisinin based combination treatments] in 2001, which we sent to all four corners of the globe, in many languages."

It is not up to WHO or the Global Fund, he said, to dictate which treatments countries should use. Instead, national malaria control programmes must set their own policy. Six countries in Africa are already using artemisinin based combination treatments as first line treatment, he said, and it will take time and a "change in mindset" for other countries to move towards using these drugs.

On the charge of medical malpractice, he said that this accusation was "disgusting when

you consider the efforts that our staff are putting in."

Dr Vinand Nantulya of the Global Fund explained that the fund's financing mechanism is flexible, which means that a country can switch to using artemisinin based combination treatments even if it originally requested support for purchasing less effective drugs.

But Professor Paul Garner, lead author of a meta-analysis showing that adding artemisinin to standard treatments substantially reduces treatment failure (*Lancet* 2004;363:9-17), believes the fund is not spending enough on combination treatments. "The [*Lancet*] authors are spot-on with their criticism of the Global Fund. As a UK taxpayer, I am horrified that a UN organisation can waste money on interventions known to be ineffective." □