

To the Chairs of Local Safeguarding Children Boards

16<sup>th</sup> February 2008

Dear Chairperson,

We are writing to you about the crisis in child protection following the decision in December by a GMC Fitness to Practise panel to erase Professor David Southall from the medical register. We are appealing to you as we believe that the effect of this case will be to deter paediatricians from acting in child protection matters. This can only place the most vulnerable children at even greater risk.

We urge you to consider the consequences outlined below and, if you agree, ensure that your opinions are heard by those capable of influencing these matters.

We know that you are aware of the workings of safeguarding children but we do want to present our analysis of the problem, outlining what we see as the most critical issues. This is set out in labelled paragraphs to assist you through this letter. This letter is, by necessity, a very long letter giving all the facts available and therefore the writers are grateful for the readers (the Boards) patience.

#### **Effects of the actions of the GMC aided by the media**

Some paediatricians have stated that they are not now willing to undertake child protection work. Many are reluctant to take up the posts of designated and named doctors. In a recent survey of nurses and doctors in primary care in Northern Ireland, many admitted that they did not always report cases of suspected child abuse (ref 1). Senior trainees are more reluctant to accept a consultant post if that post includes child protection work.

Paediatricians get more complaints about their work in child protection than in their other duties. In 2004 the Royal College of Paediatrics and Child Health (RCPCH) conducted a survey about complaints against senior paediatricians who did at least some child protection work (ref 2). Of the 3853 practising or recently retired paediatricians who responded, 1032 had received complaints about their practice not concerning child protection and 533 had received complaints concerning child protection. These 533 doctors had a total of 765 complaints about their work in child protection and 86 of these complaints were referred to the GMC.

The Fitness to Practice Panel of the GMC ordered that the name of Professor Sir Roy Meadow be erased from the Medical Register because of his evidence in a case of alleged child abuse. He successfully appealed this decision. In two separate hearings concerning incidents in which he had raised child-protection concerns, Professor David Southall was in August 2004 ordered not to undertake child abuse work and his name has now been ordered to be removed from the medical register. He is appealing.

These two paediatricians are held in the highest regard by their colleagues. More paediatricians are being 'targeted'; the next is said to be Dr Paul Davis. See reference 3 for a recent account of the extent of the effect of this problem on manpower and references 4, 5 and 6 for a wider analysis.

## **General problems facing a practising paediatrician**

As you know, child abuse work is always difficult. We need not enlarge, but we do want to emphasise some problems that have become relevant in the recent cases.

Parents rarely admit to abusing their children. Paediatricians work on probabilities and so must get some cases wrong. This must not deter us from making referrals. We are only one part of the protection team and others will evaluate our evidence.

When child abuse is suspected, we must ask relevant and sometimes probing questions and if the answers are unsatisfactory, then we report these concerns to Social Services, even if we do not have all the information. Parents usually find the process harrowing. This will become especially relevant in April 2008, when we will be required to assist in the investigation of every child death.

Paediatricians have a clear duty, both professionally and as citizens, to report child abuse whenever there are reasonable grounds to suspect it, be it at work or not. We are right to do so, even if our suspicions subsequently prove unfounded.

While we do not 'accuse' parents, we do understand that a parent might equate our questions or referral as an accusation. This most often occurs when we initiate an enquiry.

Court work poses particular problems both for witnesses of fact and expert witnesses. The witness must try to answer the questions in an accurate, knowledgeable and fair-minded manner, not fashioning the responses to favour one side rather than the other but always trying to be truthful. We are not expected to know all the facts but must do our best and should make clear our source and our level of uncertainty.

## **Public distrust of paediatricians**

Public distrust of child-care workers is long standing. The distrust of paediatricians increased after 'Cleveland' and has escalated alarmingly following the disciplinary actions by the GMC against Professors Meadow and Southall. However, both the High Court and the Court of Appeal declared that the GMC was wrong in the case of Prof. Meadow and ordered that his name remain on the Medical Register. We believe that Prof. Southall will similarly win his appeal against his erasure and suspension of practice.

We believe that the GMC's harsh sentence and errors in process and enactment of the principles on which they are supposed to judge cases are largely responsible for fuelling the biased reporting in the media. Unfortunately, some Members of Parliament have similarly decided that some paediatricians are not to be trusted.

The media regularly reports child-protection issues in a biased fashion, rarely describing the good works performed by paediatricians and almost never the impressive contributions of Professors Meadow and Southall. The attacks on the two professors by the GMC and the media are outlined in references 4, 5 and 6.

There are well-established, orchestrated campaigns attacking paediatricians. The campaigners effectively lobby the media who then report these paediatricians in negative terms. There are 'target

lists' of vulnerable paediatricians. It is this pressure that deters paediatricians from taking up child-protection matters.

### **The case of Professor Sir Roy Meadow**

Prof. Meadow was an expert witness, called by the Prosecution, in the trial of Sally Clark, who was found guilty of the murder of her 2 infants. He had stated the circumstances, and findings of past and recent injuries at autopsy, indicated that neither death could be termed a cot death (sudden infant death syndrome, SIDS). At the trial no expert evidence on either side supported the contention that either death was SIDS. Nevertheless he was asked about the chance of two SIDS deaths occurring in such a family. He stated that the probability was 1 in 73 million. The figure is now accepted as being misleading. The figure was taken from a draft report on sudden infant deaths commissioned by the Government for which Professor Meadow had been asked to write a preface. The lead author of the paper was in contact with Mrs Clark's defence team but this statistic was not challenged in court (ref 7).

The figure came from an estimation of the probability of a single cot death being 1 in 8543 in such a family. Therefore, if the death did not have a medical explanation and had not been induced by someone then it had to be a random event. The probability of 2 such random events is thus 8543 squared.

While it is accepted that the use of this calculation was wrong if applied to a single specific family, the court knew Prof. Meadow to be a paediatrician, not a statistician. Both the High Court and the Court of Appeal described the effects of this statistical error to be 'of little or no relevance' in Mrs Clark's appeal against her conviction (ref 8). Mrs Clark appealed against her conviction on 5 grounds, one of which concerned Prof Meadow's use of statistics. The Court of Appeal unanimously dismissed the appeal, concluding that there was 'overwhelming evidence' of guilt. However at a second appeal, Mrs Clark's conviction was overturned because of the failure of the Home Office pathologist to disclose a growth of bacteria in cultures taken from the second child after his death. Mrs Clark's father complained to the GMC about Prof. Meadow's use of this statistics. Their committee found him guilty of serious professional misconduct and ordered his erasure from the Medical Register.

To be struck off for this was absurd and disproportionate. Prof. Meadow appealed to the High Court and Judge Collins said that his name should stay on the Medical Register and that the GMC panel's decision 'approached the irrational' The GMC appealed the Collins judgement, still seeking to find Prof Meadow guilty of serious professional misconduct. The Court of Appeal rejected that plea, awarding costs against the GMC. The GMC has never publicly admitted that it got it wrong. Nor has it countered the statements, oft repeated in the media, that Prof. Meadow is 'the disgraced paediatrician' whose 'theory of Munchhausen Syndrome by Proxy is discredited'. As you know it is now called Fabricated or Induced Illness (FI), and continues to be a real form of abuse, acknowledged and regularly reported by professionals throughout the world.

### **Professor David Southall's first GMC case**

Professor Southall watched a TV programme in which Sally Clark's husband explained in his own words how his baby had suffered a nose bleed and simultaneous breathing difficulty, and had then spontaneously recovered. The day after watching the programme, Prof Southall phoned the Staffordshire child protection team stating that he was concerned for the safety of the Clarks' third living child who had been placed in his father's sole care. He suggested that Mrs Clark's conviction was unsafe and that consideration should be given to Mr Clark's role.

At that time Prof. Southall was suspended by his hospital following unsubstantiated allegations made by Mrs Penny Mellor, a front-runner in one of the campaigns against paediatricians involved in child protection, from which he was subsequently fully exonerated. Prof Southall, as part of the suspension, agreed with his hospital not to engage in child-protection work.

When Prof Southall was asked if his concerns could be passed on to the social service department responsible for the Clarks' third child, he immediately let his Trust know of his involvement. He provided a preliminary report to the solicitor acting for the third child, stating that, in his opinion, Mr Clark was almost certainly responsible for suffocating his child and causing the nose bleed and breathing difficulty.

By this time he had acquired additional information on the case from discussions with the police and social services personnel. He was advised by Professor Tim David, a paediatrician who had stated that the third child was safe in the care of Mr Clark, to add caution to his report. The reason that Prof. Southall did not do so was because he had not been shown any evidence to suggest that he was mistaken, despite the fact that the court had specifically instructed Professor David to share any relevant evidence with him. This, Professor David did not do. However, it transpired there was nothing in the unseen papers that would have undermined Professor Southall's view of the case.

Professor Southall's own research (ref 9), as well as other more recently published work in the field (ref 10), fully supported his concerns by showing that the contemporaneous association of nose bleeds with episodes of difficulty in breathing, termed apparent life threatening events (ALTE), strongly suggests suffocation. These papers are so important that I have attached them so that you may judge the matter for yourself (ref.9 and 10).

The GMC found that Professor Southall's statement, made in camera for the Family Court, was a 'false allegation', even though the evidence base he used was presented in good faith and has subsequently been confirmed to be entirely reasonable by subsequent medical publications. In addition, the verdict stated that Professor Southall:

- was 'precipitate' in reporting his concerns to the police.
- did not state in his report that he had not seen the medical records.
- did not interview the parents before making the referral.
- acted when barred by his Trust from doing child abuse work.
- had put forward concerns that were 'a mere hypothesis' supported by only his own research, of which they were very critical.

Prof. Southall was barred from undertaking child abuse work.

The use of the term 'precipitate' to describe the reporting of a suspicion of potentially life threatening abuse to the child-protection division of the police is meaningless and contrary to child-protection guidelines. Paediatricians regularly do not have all the facts at the time of referral. Experts for the local authority, as opposed to those for the plaintiff, frequently do not interview the parents. Agreeing with ones Trust not to undertake child-protection work does NOT remove one's right and duty as a citizen to report a suspected crime to the police. No alternative explanation for this child's nose bleed and ALTE has ever been established. Since his published paper on intentional suffocation has received worldwide acclaim and all subsequent studies have backed up its conclusions, it should be said that his concerns were based on properly accredited evidence rather than describing them as 'a mere hypothesis'.

### **Prof. Southall's second GMC case**

More recently, Professor Southall was again referred to the GMC, for events that took place before his involvement in the Clark case. The most serious charges against him were firstly that during an interview with a mother he had directly accused her of murdering her child and, secondly that he had kept case notes in an inappropriate fashion.

As for the first charge Professor Southall had been appointed as an expert by the social services on behalf of the Family Court to assess the risk of harm to a child, whose brother had died by hanging. The surviving child had been threatening to kill himself and was on the child-protection register. He had earlier been in the care of the social services department pending investigations about his safety. Professor Southall was instructed to explore whether it was safe for this child to remain at home and to try to exclude a possible diagnosis of FII. To do so it was agreed that it would be necessary to explore the circumstances of his brother's death. There were 3 possible explanations for the hanging: an accident, suicide or murder. The possibility that the child had been murdered needed to be explored in order to ensure the safety of the remaining child.

The mother found the questioning offensive and later stated graphically that Professor Southall accused her of murdering her child. Prof Southall is alleged to have said the following to the mother and this was the principle charge against him at the GMC hearing: 'I put it to you that you killed your son by injecting him, hanging him up, leaving him there to die and then ringing the ambulance'.

Both Professor Southall and an independent senior social worker, who was present throughout the interview and who also took contemporaneous notes, told the GMC that the mother was not so accused. The GMC was aware that this mother had misled the hearing about her relationship with Mrs Mellor of the campaigning group but chose to disbelieve both Professor Southall and the independent senior social worker and to put their complete faith in the integrity and uncorroborated evidence of this aggrieved parent.

The other reason for referring Professor Southall to the GMC on this occasion was because he had allegedly kept over 4500 'secret' files.

For these offences David Southall was struck off the Medical Register and can no longer practise as a doctor.

The implications of not believing an independent professional who witnessed and recorded the entire interview are immense. Not only is this absurd, it is also a dangerous precedent.

The 'secret files' did not belong to, nor were kept by Professor Southall, but were departmental files, the whereabouts of which were known to, and available to, authorised paediatric medical and nursing staff and to administrative staff. Many other paediatricians in tertiary referral hospitals have stated that they keep notes apart from medical records for a variety of reasons.

### **The campaign against paediatricians**

There are several websites and organisations (eg Justice for Families and the Angela Cannings Foundation) highly critical of paediatricians practising in child protection. One is led by a Member of Parliament. One typical web address is-- <http://www.msbp.com/>. Threats, offensive and derogatory remarks against paediatricians, particularly Professors Meadow and Southall, are made on these websites. The media is saturated with reports describing Prof. Meadow as 'disgraced' and 'discredited' and about the many cases that he is supposed to have got wrong. Yet despite the Attorney General ordering a review of all the cases in which he was involved, not one has been overturned.

The English branch of one campaign which opposes the diagnosis of FII and those who espouse it is led by Penny Mellor. She supports aggrieved parents and assists them in complaining to the authorities. Both Professors Meadow and Southall have been central in developing recognition of this form of abuse and as such have been the targets of these orchestrated complaints, many of which are referred to the GMC. In reply to a Freedom of Information enquiry asking for all information relating to Professor Southall, a GMC officer reported; 'At the last count I also have 737 emails about Professor Southall, and there are no doubt many other members of staff at all grades who do too'.

Mrs Mellor has a criminal record, having been imprisoned for conspiring to abduct a child involved in care proceedings in which Professor Southall provided expert advice. It was he who alerted the police to her involvement in this conspiracy to abduction. However, despite this she is frequently contacted by the media and used as a respectable informant and spokesperson.

Having 'succeeded' against Prof. Southall, these groups now declare their intention of pursuing other 'targets'. Lists of paediatricians who have acted in child protection and who are considered appropriate for attack are listed on the website [www.msbbp.com](http://www.msbbp.com).

### **World support for Professors Southall and Meadow**

A group called PACA, Professionals against Child Abuse, is campaigning in order to bring these unjust and dangerous activities to the attention of those who are responsible for ensuring the protection of children who are being abused.

More than 180 paediatricians and child-protection workers wrote to the GMC supporting the integrity and expertise of Professor Southall and hundreds gave their support to Professor Meadow.

A large number of British paediatricians signed two papers, one in the British Medical Journal (ref. 11) and the other in Pediatrics (ref. 4) supporting Professor Southall. Senior paediatricians from the USA have also written supportive articles (refs. 5, 6). Paediatric professors from New Zealand and Canada have written in support of Prof. Southall as have several retired senior British paediatricians.

A number of lawyers, social workers, psychologists, members of the public and a magistrate have joined PACA to pledge their support.

On the other hand, the strength of professional opinion supporting the GMC's actions against Professors Meadow and Southall would appear to be minimal.

### **The unfairness in Prof. Southall's GMC hearings**

In the first hearing, Prof Southall heard Mr Clark explaining, on the television in his own words, about his baby's breathing difficulty and nose bleed. The GMC felt that he should not have reported the concerns that this raised in his mind to the police. They decided that it was a 'false allegation' and that he should not have reported it in 'a precipitate manner.'

As a citizen he had every right to raise his concerns. He explained the basis for his suspicion and supported this with published evidence. It is difficult to understand the meaning and implication of the word 'precipitate' here.

Prof. Tim David was the sole paediatric expert assisting the GMC in both of its prosecutions of Prof. Southall. However, Prof. David had already criticised Prof Southall's ground-breaking work on covert video surveillance (ref 12). In addition, Professor David was appointed by the Family Court to oversee the care of the remaining Clark child and had supported Mr Clark's position in this respect: that is, he considered that it was safe for Mr Clark to care for his son. He had also been retained to support the Clark family in their appeal against Mrs Clark's criminal conviction. Surprisingly the GMC allowed Prof. David to act as their sole, impartial, paediatric expert in their prosecution of Prof. Southall.

It is obvious that if Prof. David had supported Prof. Southall's position then he must, at the same time, have been undermining Mr Clark's credibility and therefore could not have been impartial. There appears to be a clear conflict of interests here.

There was no paediatrician, or indeed anyone with any experience of, or training in, child protection, on the GMC panel.

It is essential that the members of a GMC fitness to practice panel understand that the needs of the child are paramount and take precedence over those of the parent. The panel must be well versed in the principles, policy and practice of child protection law. Due to the nature of child protection work, complaints are inevitable and emotions run high. It is difficult work and unlike any other medical task.

The chairman in Prof Southall's first GMC hearing took a lead in cross-examination, in contravention of his role as a neutral arbiter. Much of Prof. Southall's defence was based on his own ground-breaking research which defined the relationship between nose bleeds and contemporaneous breathing difficulties or ALTEs. In attacking this peer reviewed, long published work and, at least in the chairman's own mind and in the minds of his panel, discrediting it, the GMC panel then felt justified in not accepting the logic of Professor Southall's argument.

The Chairman's job is to listen to the evidence and to make a judgement, not to interrogate a witness. By doing this, it appears that the Chairman had made his mind up well before all the evidence had been heard. His main criticism of Professor Southall's covert video surveillance paper was that the numbers were small and that the control group was biased. This argument again 'approaches the irrational'. Despite the views of the chairman and the panel, most child-protection workers consider this publication to be of the very highest merit and one of the truly groundbreaking pieces of research in child protection (ref 9).

In Professor Southall's second hearing the panel was again advised by Professor David as the sole independent paediatric expert.

Having once helped in the successful prosecution of Professor Southall, Prof David cannot be said to start the second as an impartial adviser. He also played a part in choosing the GMC's charges.

The standard of proof required by the GMC was that in a criminal conviction, namely, beyond any reasonable doubt. That is, the panel had to be 'sure' of their findings. In Prof. Southall's second case the mother stated that Prof. Southall accused her of murdering her child, but both he and the social worker who was present throughout and who also took contemporaneous notes, said that he did not accuse her.

It is impossible to see how this could be said to be proved 'beyond reasonable doubt'.

## **Munchausen Syndrome by Proxy and Professor Southall's paper**

Munchausen Syndrome by Proxy is a term coined by Professor Meadow but is now usually called Fabricated or Induced Illness or FII. I need not enlarge.

Professor Southall published the most compelling account of this syndrome (ref. 9 and attached). He developed the technique of covert video surveillance. The paper describes a series of video recordings of parents harming their babies when they thought they were not being observed. Most were recordings of parents suffocating their babies, but there were others showing physical abuse or deliberate poisoning.

Seven of the 33 suffocated babies had siblings who had died suddenly and unexpectedly during infancy. Thirteen of the 33 suffocated babies had had nose bleeds associated with ALTE but none of the 46 control babies had. The control group comprised babies being investigated for ALTE in which a medical cause, such as fits, or a natural breathing disorder had been found.

All other subsequent observations in this field, including subsequently published and peer-reviewed studies of the association between nose bleeds and difficulties in breathing (ref 10) have confirmed Professor Southall's conclusion that abuse is the common factor. There is no publication in the world literature describing nasal bleeding plus an ALTE due to a natural medical cause.

### **What is PACA doing?**

PACA is an association of child care professionals who came together last summer with one common bond; namely a fear for the future of child protection in the UK, especially in the light of the recent GMC decisions. We intend to persuade the GMC to reconsider its practice.

The GMC must come to understand the principles, policy and practice of child protection if it is to judge those of us who may unintentionally upset parents while fulfilling our obligations. The most important means of changing the GMC is for Professor Southall to win his appeal to the High Court in the way that Professor Meadow did.

So far the only public reaction from the GMC to the protestations of paediatricians is to criticise us for 'overstating our case' and to suggest that we are making matters worse. It is as if it were better that we should accept these two sacrificed paediatricians and keep quiet, hoping that everything will turn out well in the end. However, it is this lack of any supportive statement by the GMC towards Professor Meadow which shows us that we must put pressure on them. It is these decisions by the GMC that sustain and nurture the adverse reporting by the media and thus the campaigns against paediatricians.

The Royal College of Paediatrics and Child Health is prohibited from providing support to individual paediatricians but has similar aims.

Until recently paediatricians have not spoken up for themselves. The outcome in Professor Meadow's case was shocking. The actions of the GMC against Professor Southall cannot be ignored. Failure to act now may well result in a dangerous reluctance of paediatricians to act in child-protection matters. This will put children's lives at risk. The annual homicide figures for 2006/07, released in February, offer a stark reminder of the seriousness of the situation: the number of children murdered by their parents rose during the year from 24 to 33 – largely hidden crimes

overshadowed in the media by widespread coverage of five children under 16 years shot dead and a further four stabbed to death.

Professor Southall is appealing the GMC's decision. This will put pressure on the GMC. In addition we are encouraging as many knowledgeable professionals as possible to add to this pressure and this is the reason we have written to you. Hopefully the GMC will listen to you and then act more responsibly.

### **What we would like you to do**

The views of the members of your Board are important and it is important that those views are disseminated both within your various networks and more widely. We urge you to write to the national associations of our three professions expressing your views. For paediatricians this will be The Royal College of Paediatrics and Child Health, for police the Association of Chief Police Officers, and for those in the social services the Association of Directors of Social Services.

In addition, and most important of all, we hope you will inform both the GMC and your local Members of Parliament of your opinions because it is only Parliament that has authority over the GMC.

The vulnerable children in your area need the support of paediatricians in the vital arena of child protection and the paediatricians need the support of the GMC. We hope you will write to the GMC urging them to understand the need for a child-centred approach in these matters and to take a responsible approach towards those of us who work in the difficult field of child protection.

Yours sincerely,

*John Bridson*

Chair PACA, on behalf of our members.

[www.paca.org.uk](http://www.paca.org.uk)

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