



Nineteen years ago today [17th April 2009] Robert Darren Powell [Robbie] died as a consequence of a catalogue of negligent medical mistakes some of which were grossly negligent. Robbie died of Addison's disease a treatable disease that had been suspected four months before his death. The test to confirm this disease was ordered by a Paediatric Consultant but never performed.

The suspicion of Addison's disease and the need for the test was communicated to Robbie's general practitioners [GPs] but not to the parents.

Between the 2nd and 17th April 1990 Robbie was seen by five GPs on seven separate occasions with characteristic symptoms of Addison's disease. Only one GP actually read Robbie's GP notes and informed Robbie's parents that the child would be immediately referred back to the Paediatric Consultant. However, no referral was made.

Robbie became so weak that he was unable to walk and had to be carried into and out of the fourth consultation with a GP two days before his death.

On the day before Robbie's death he was seen by a GP at the family home because of vomiting, a symptom that prompted the GP consultation five days earlier and had resulted in Robbie being admitted to hospital four months earlier when Addison's disease had been suspected. Vomiting is a characteristic symptom of Addison's disease. This GP said that if Robbie continued to vomit or deteriorated he would be referred back to the hospital.

On the day of death Robbie collapsed and fainted as his mother assisted him to the toilet. The child's lips were blue and he had dilated pupils when he regained consciousness. A GP was telephoned immediately but when she arrived claimed that there was nothing seriously wrong with him and refused hospital admission completely ignoring the senior GP's comments the day before. Robbie's parents telephoned the hospital to be informed to trust the GP but to get her out again if they were worried.

GP attendance was requested for the second time. However, the same GP that had attended earlier again stated that there was nothing seriously wrong with him. However, following a heated argument she then agreed to admit Robbie to hospital but refused an ambulance. On arrival Robbie's father watched his son take his last conscious breath and the child was declared dead shortly afterwards.

Following refusal by the senior GP to investigate the events leading to Robbie's death a formal complaint was made under the NHS complaints procedure. However, rather than accept the consequences for Robbie's death there was a collective decision by the clinicians involved to cover up their failures. As a consequence only one GP was found in breach of her terms and conditions of contract – she was given the minimum reprimand.

In June 1996 the High Court ruled that the doctors did not owe Robbie's parents a duty of care, in civil law, to tell the truth about the negligent circumstances of Robbie's death or refrain from post death falsifying the child's medical records and the case was struck out. The Court of Appeal and the House of Lords subsequently upheld the High Court ruling. The European Court of Human Rights also found the case inadmissible in May 2000 and stated:

"Whilst it is arguable that doctors had a duty not to falsify medical records under the common law (Sir Donaldson MR's "duty of candour"), before Powell v Boladz there was no binding decision of the courts as to the existence of such a duty. As the law stands now, however, doctors have no duty to give parents of a child who died as a result of their negligence a truthful account of the circumstances of the death, nor even to refrain from deliberately falsifying records."

In response to the Court of Appeal ruling the British Medical Association stated [GP Magazine 11/7/97]:

"GPs could now put a gloss on the cause of death without fear of litigation."

Action *against* Medical Accidents [AvMA] is now calling on the government to introduce a 'Duty of Candour' for the medical profession, which will be known as 'Robbie's Law' in memory of Robbie Powell.

When introduced 'Robbie's Law' would mean that doctors had a legal duty to tell the truth following a medical mistake/negligent event or if a child or an adult dies as a consequence of a medical mistake or negligence.

As a consequence of Robbie's case the General Medical Council [GMC] changed its guidelines in 1998 to make it clear that doctors had an ethical and moral duty to tell the truth following the negligent death of a patient if not a legal duty. If doctors failed to be honest in these circumstances they would be severely dealt with by the GMC. However, when Robbie's case was referred to the GMC in 2003 the GMC informed the Powells in 2008 that the case would not be investigated because of the five-year-rule. AvMA is currently challenging the GMC's decision by way of a judicial review.

Until doctors have a legal duty to tell the truth following an adverse clinical incident the NHS complaint procedures and civil litigation will be compromised.