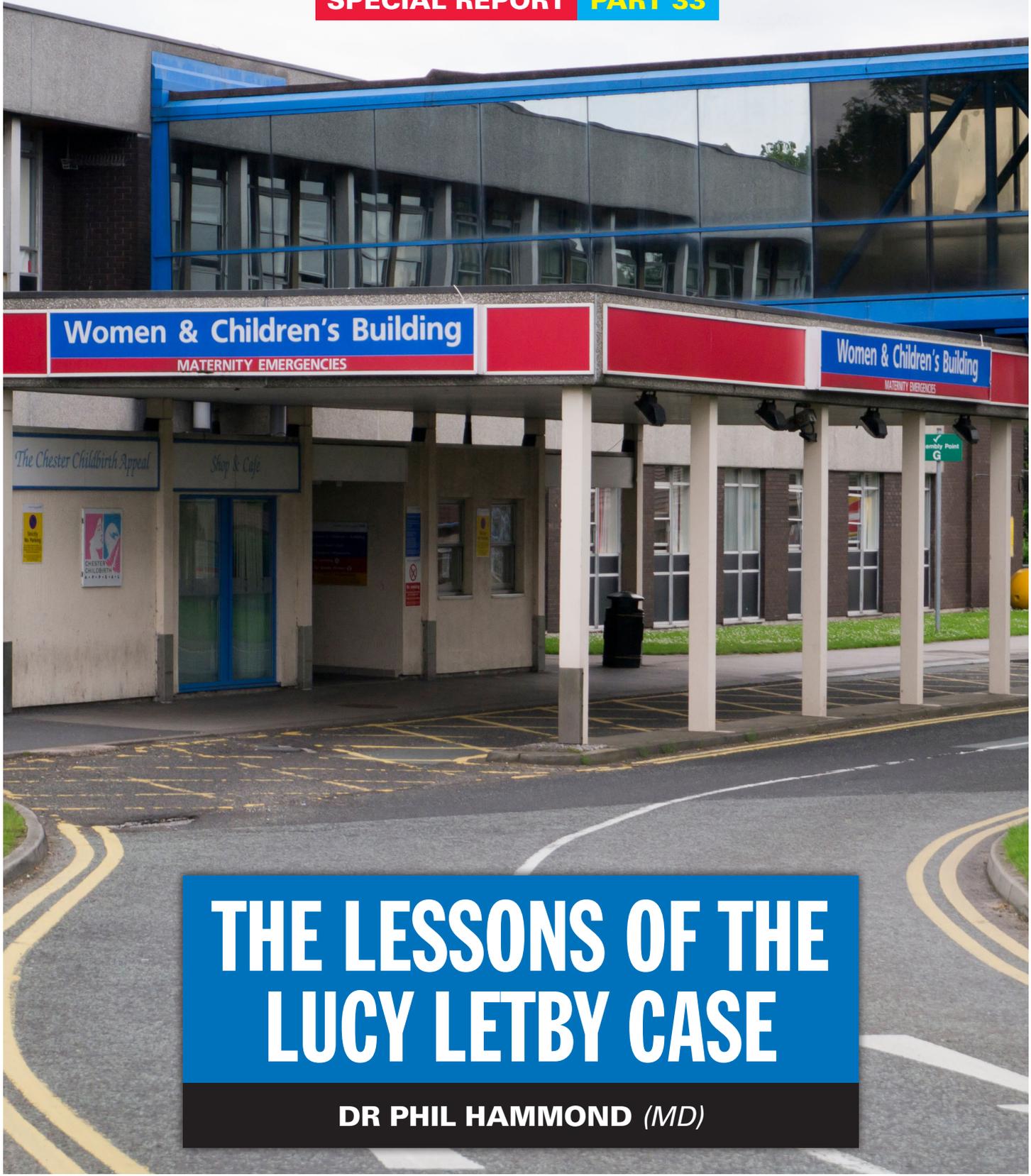


PRIVATE EYE

SPECIAL REPORT PART 33



THE LESSONS OF THE LUCY LETBY CASE

DR PHIL HAMMOND (MD)

THE LUCY LETBY CASE: PART 33



No more charges

ON 20 JANUARY, the Crown Prosecution Service (CPS) announced that nurse Lucy Letby would face no further charges because not one of the nine cases put forward by Cheshire Constabulary in July 2025 (two murders and seven attempted murders) “met the evidential test”. In the CPS’s view, the evidence was not credible enough to withstand scrutiny in court, so there was not a realistic chance of conviction. “As always, this decision was made independently, based on the evidence and in line with our legal test.”

Police surprise

THE decision surprised many – not least Cheshire Constabulary, which took the unusual step of contesting the CPS decision in a press release: “This is not the outcome that we had anticipated throughout our investigation; we were confident that we held enough evidence to take to the CPS... We believed the evidence submitted met the CPS charging standard. The CPS did not agree and despite our representations we must respect the decision that has been made.”

The surprise doubtless stems from the fact that these cases were very similar in nature to the ones for which Letby was convicted. There was no observed or forensic evidence to prove deliberate harm, but Letby was there or thereabouts and theoretically might have harmed babies unseen; and having already been convicted of murdering seven babies and attempting to murder seven others unseen at the Countess of Chester hospital, a jury might well have been persuaded of her guilt. Indeed, when she was retried over the attempted murder of Baby K, Judge Goss instructed the jury that they could take her previous murders and attempted murders into account when deciding if she was guilty. On that basis, further charges seemed highly likely to succeed.

No surprise

AS part of the evidence test, the CPS considers what Letby’s defence might be. It is highly unlikely she would again choose not to call any expert witnesses, given the calibre of the experts who have come forward since her conviction, considered all the clinical records pro bono and publicly stated that they can find no evidence of deliberate harm. Far less risky for the CPS, therefore, to bank the convictions it’s got and leave the Criminal Cases Review Commission to ponder whether Letby warrants a referral back to the Court of Appeal in a decade or so.

The decision at least makes it more likely Letby will waive legal privilege to shed more insight into why she and her initial barrister, Ben Myers, decided not to call the experts they had to the stand. (The answer seems obvious from the minutes of the pre-trial expert meeting – see “Silent witnesses”, *Eye* 1657).

No Evans

ANOTHER reason for no more charges is that Cheshire Constabulary no longer has the services of Dr Dewi Evans (retired), the prosecution expert who argued so forcefully for deliberate harm. Whichever experts the police used for these new cases, it’s highly unlikely they argued with the same dogmatic certainty as Evans that only deliberate harm could explain the babies’ collapses and deaths. Without their star witness, the police couldn’t pass the evidential test.

Then there’s the question of probability. The police trawled through thousands of cases throughout Letby’s career and have yet to find a single example of her being observed deliberately harming a baby on any crowded ward or neonatal unit. This makes it even less likely that she did.



Evans’ statement

IN EMAIL exchanges with MD after Letby’s conviction, Dr Evans was confident she would face further charges and indeed had submitted 25 more suspicious cases to the police. He now seems to have changed his tune.

In a statement after the recent CPS decision, he argued: “I had anticipated that there would be no further charges some time ago... It’s probable that the infants involved were very unwell, very unstable. I believe the evidence of death or injury due to deliberate harm threshold would not meet the threshold of being ‘beyond reasonable doubt’.”

This is precisely what defence experts believe about the cases for which she was convicted. So how did Evans get those cases over the threshold? As he told MD on 23 September 2024: “I have been doing this for an awfully long time! And as Chris Tarrant (I think) said re *Millionaire* questions, ‘It’s only difficult if you don’t know the answer.’ Once the Chester medics thought of air embolism the diagnosis was obvious. And the skin changes, air on autopsy X-ray, failure to respond to resuscitation, all added to the characteristic features.”

This appears to contradict his statements that it was he who came up with the idea of air embolism, without knowledge of what the Chester medics thought. However, it might explain why they all made the same mistake in misinterpreting the pivotal research of Dr Shoo Lee, wrongly attributing skin changes to venous air embolism.

Independent analysis?

MUCH of Evans’ evidence has been aggressively challenged by the experts instructed by Letby’s defence team, but Evans does not believe they are independent. So MD asked Evans whom he *would* recommend for an independent review of his work.

“The chair of the neonatology part of the Royal College of Paediatrics is Dr Eleri Wyn Adams, so presumably Welsh but I’ve only just discovered her name. She’s based in Oxford... If the Oxford neonatologists were given, say, 4 cases as an academic exercise. More important that they get the case notes than transcripts of the trial. May appeal to their sense of curiosity. I think I would be on safe grounds in forwarding the case files, as long as I knew who they were and the usual rules re confidentiality were maintained. You are welcome to say the recommendation comes from me. I believe that my college needs to get more involved anyway although they may keep quiet until the inquiry is over.”

No thank you

MD wrote to Dr Adams with Dr Evans’ suggestion. Her response was swift. “Thank you for your email. I am sorry but neither myself nor my colleagues within Oxford University Hospitals would be willing to provide a review of the notes as an academic exercise. With kind regards, Eleri.”

It may be the CCRC is also struggling to find experts to independently review all the reports written by Letby’s new instructed defence experts. But given that so many reasonable experts from the UK and abroad have considered all the evidence and have multiple reasonable doubts about Letby’s original convictions, it can only improve justice if she is allowed an appeal.

Coroner’s inquests

CHESHIRE coroner’s court has announced a preliminary hearing for inquests into the deaths of six babies whom Letby was convicted of killing. Currently, the babies’ deaths are listed as natural or from unknown causes. Lawyers representing the parents want this changed to “unlawful killing” so the parents can gain closure and pursue compensation claims.

Letby’s new barrister Mark McDonald has successfully argued that she should be included as an interested party as she is appealing the convictions, and should have legal representation to intervene and present evidence. It would make more sense for the senior coroner, Jacqueline Devonish, to await the outcome of the CCRC application, but this could take years. The coroner can either rubberstamp the court verdicts or do a proper job of calling witnesses and examining just the clinical and pathological evidence to determine if it is sufficient to establish the true cause of death.

Netflix constabulary

AS THE *Eye* went to press, Netflix was due to screen *The Investigation of Lucy Letby* on 4 February, after Cheshire police took another unusual step in handing over

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previously unseen arrest and interview footage to the programme makers, with lots of handcuff shots at scary angles.

At her trial, prosecution barrister Nicholas Johnson KC accused Letby of lying to gain sympathy by claiming she was arrested early in the morning in her nightwear. The trailer clearly shows Letby being arrested early in the morning in bed in her nightwear and being led out in handcuffs wearing her dressing gown. She is also shown hugging her cat before she is taken away. Whether that makes her more or less likely to be a mass murderer is unclear.

Parental concerns

LETBY'S parents have stated the documentary is "an invasion of privacy". Her father, John, visited a police station half a mile from his daughter's Chester home in March 2017 to complain about hospital doctors making her a "scapegoat", two months before the police inquiry into the spike in deaths was launched.

Baby I

THE *Telegraph* reports that the coroner found Baby I was colonised with the bacterium *Stenotrophomonas maltophilia* in the right bronchus – the same bacteria that has been linked to deaths at the Queen Elizabeth University Hospital in Glasgow. Defence experts believe Baby I died not by murder, but from "respiratory complications caused by respiratory distress syndrome and chronic lung disease, that were complicated by the colonisation".

Exclusive interviews

NETFLIX boasts "exclusive interviews" with Cheshire police. They were clearly right to investigate, given the concerns of the Chester consultants and the counselling notes they found in Letby's bedroom. But by abandoning proper science and statistics, the convictions will likely, eventually, be deemed unsafe, irrespective of what Letby did and didn't do. MD has yet to see any definitive proof she deliberately harmed any baby. Maybe Netflix has it, but I doubt it. As does retired Detective Superintendent Stuart Clifton, who led the investigation resulting in the conviction of nurse Beverley Allitt in the early 1990s. He reviewed evidence used against Letby and told the *Sun*: "I am totally satisfied Lucy Letby is innocent of all charges [...] This is likely the greatest miscarriage of justice this century." Meanwhile, Cheshire Constabulary has (again) asked Dewi Evans to shut up and Judge Goss has decided to retire. Nothing now stands in the way of an appeal.



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