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THE LESSONS OF THE LUCY LETBY CASE

DR PHIL HAMMOND (MD)

THE LUCY LETBY CASE: PARTS 39



Pathological concern

PROF Dame Sue Black, one of the world's leading forensic scientists, is the latest expert to raise concerns about the fairness of Lucy Letby's trial. In an interview in the *Telegraph* published on 24 June, she stated: "I have no opinion on her guilt or innocence, but when you look at the fact that there was no expert witness put forward for the defence, what on earth is that about? How is a jury supposed to make an informed decision about which side of the argument they believe when they're so mismatched? To me, it seems as if something went wrong."

Norman invasion

JESSE Norman, shadow leader of the House and MP to Letby's parents, referenced Black in the Commons on 25 June when he too raised concerns about the fairness of the trial: "Like me, Dame Sue makes no claim as to whether Lucy Letby is innocent or guilty, but she has said in measured terms that she is 'troubled' by the conviction and by the apparent lack of forensic evidence."

"When someone of her public scientific standing speaks in these terms, I do not think the issue she raises can be properly avoided. I remind the House that there were no witnesses, no CCTV footage, no forensic evidence, and no confession in this case. Everything therefore depended on the testimony of experts. But when it came to the defence, there were no medical or statistical experts put forward at all."

Norman also referenced the recent Ockenden report. "Nottingham University Hospitals' report is a powerful reminder that in neonatal maternity settings grave harm can arise not only from individual malfeasance but also from systematic clinical failure." Norman was harshly interrupted by the speaker, Sir Lindsay Hoyle, even though he was not a minute over his allotted time and would have concluded: "The Criminal Cases Review Commission [CCRC] is now considering the Letby case. May I ask that, given the gravity of the issues, the anguish of the families and the growing public concern among serious experts, this matter be addressed with all deliberate speed."

Labour listening?

THE government has previously avoided questioning the fairness of the trial, but leader of the House Sir Alan Campbell responded favourably: "In terms of Lucy Letby, the right honourable gentleman does raise a serious matter and I know it is of concern not just on his side of the House but on our side of the House, too. It is important that that decision was sound and safe and therefore I will raise it with ministerial colleagues, and should he wish to express

his concern directly to ministerial colleagues I'll arrange that for him too."

Bottom lines

THE bottom lines for interested ministers, and the CCRC, are two-fold. In each case, credible experts who have examined all the evidence have publicly stated that there are more plausible and likely clinical, pathological and statistical explanations for the collapses and deaths than intended harm, which the jury never heard.

Secondly, the same experts are also stating that the prosecution experts made serious clinical, pathological and statistical errors in their analyses, and that new evidence further undermines their conclusions. Senior Canadian paediatrician

Dr Shoo Lee, who oversaw new defence reports from a panel of overseas experts, is on record as saying:

"Anyone who reads the reports and still thinks that Lucy Letby is guilty should have their head examined" (see *Reasonable Doubt: Examining the Case of Lucy Letby* by Christopher Morris). Lee also told MD that from the evidence he has seen: "If the

Countess of Chester neonatal unit had been in Canada, it would have been closed down." These bold assertions, and the reports they are based on, need to be tested in a proper legal setting, and soon.

Clark comparison

SALLY Clark was convicted in November 1999 of murder of her two baby sons and received a sentence of life imprisonment. Pathologist Dr Alan Williams changed his initial diagnosis from a respiratory infection to suffocation for the first baby, Christopher, after the second baby died, claiming there was evidence of trauma. He declared the second baby, Harry, had died from shaking or smothering.

On the CCRC website, it states: "During review, the CCRC obtained fresh expert evidence that at the time of his death one of the babies, Harry, was suffering from an overwhelming staphylococcal infection."

In addition, the statistical evidence fell apart under scrutiny. At Sally Clark's trial, Professor Sir Roy Meadow quoted "one in 73 million" as the chance of two children in the same family dying of sudden infant death syndrome (SIDS). The CCRC spotted that Meadows had reached the number by

assuming the chances of two SIDS in one family were independent of each other (ie $8,543 \times 8,543$). This was clearly wrong. There might be environmental or genetic factors at play, both of which would be shared by the two babies. The chance of two SIDS in the same family was still rare, but the chance of two murders in the same family was *even rarer*.

The CCRC concluded that "the medical and statistical evidence at trial had been misleading" and in addition that there had been "serious non-disclosure of important bacteriological evidence". The Court of Appeal agreed. Clark was released in 2003 but never recovered and died from alcohol dependence.

Letby differences

IN THE Letby case, a very rare explanation for the collapses and deaths (intended harm with no solid evidence for it) is competing with far more likely ones (premature babies dying from natural causes and substandard care). The likelihood ratio is far more heavily in favour of Letby's innocence than it ever was for Clark's. No wonder the prosecution ditched its expert statistician, who would also have shredded the dodgy spreadsheet (*Eyes passim*). For Clark, a single statistical miscalculation plus non-disclosure of a single pathology test result was enough to overturn the verdict. For Letby, the CCRC has been sent so many allegations of misleading medical and statistical evidence, and serious non-disclosure of important evidence, it is struggling to process them all. And they keep coming...

Insulin omissions

THE CCRC has now been sent a 100-page analysis prepared by Letby's legal team questioning the evidence given at her trial by paediatric endocrinologist Prof Peter Hindmarsh. The report – co-authored by Dr Neil Aiton, a consultant neonatologist at University Hospitals Sussex NHS Trust, and Dr Hilde Wilkinson-Herbots, associate professor at the Department of Statistical Science, University College London – alleges there were errors of fact and omissions in the evidence presented to the jury. It also alleges that an email from Hindmarsh suggests he was aware of other potential causes for the babies' insulin levels, which could have led the jury to come to a different conclusion, but these were never placed before the court.

Even though poisoning remained a possibility, how Letby was meant to have achieved this when she was not on duty, by predicting when a baby would need a nutrition bag change, predicting which bag would be selected from many, and then secretly spiking it with insulin even though it had a tamper proof wrapping, has never been explained.

Parental support

EVEN if Letby is eventually cleared, her life is likely to be ruined. There are those who still believe Clark to be guilty, long after her death. So it would be with Letby. On the



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PAGE 94

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plus side, two parents, Carl and Clare, were interviewed by Amanda Knox on her podcast *Doubt*, and were grateful to Letby for her excellent, life-saving care for their baby Jessica in a clearly struggling unit. In an article they state: "On the two occasions Jessica seriously deteriorated, Lucy had acted correctly and escalated her care... The police reviewed Jessica's file. They did this three times: in 2018, again in 2019 when the second arrest was in the news and we worried something might have been missed,

and again in 2024. On each occasion they found nothing to suggest Jessica had been harmed, and confirmed she was not part of the investigation."

Letby may have been so fiendishly evil she was able to turn her murderous intent on and off to avoid detection. Or she could be the nurse who tried her best in difficult circumstances, called for help when things went wrong, reported episodes of poor care and suffered so much doubt and shame when she was accused that she took handover

sheets home and scribbled out the counselling notes used to incriminate her. She certainly deserves an appeal.



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