

21 June 2024

DS Danielle Stonier (re police interviews)

Witness statements: Dr Anand Kamalanathan, Dr Danielle Gardner,
Elizabeth Morgan

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Examination-in-chief by MR DRIVER

Witness statement of MS ELIZABETH MORGAN (continued)

Friday, 21 June 2024

(10.30 am)

(In the absence of the jury)

MR DRIVER: Your Lordship should have two pages of further agreed facts and a third page is just about to be brought by the usher. Thank you very much.

(Handed)

These three pages are already on the jurors' desks.

MR JUSTICE GOSS: So when the jury comes in, you'll invite them to put them at the back of section 3?

MR DRIVER: Quite so.

MR JUSTICE GOSS: Thank you. Good.

(In the presence of the jury)

MR DRIVER: My Lord, members of the jury, you should see on your desks, I can see some are already in hand, three sheets of paper that contain further agreed facts. As you will recall, the agreed facts are housed behind divider 3.

MR JUSTICE GOSS: In the white bundle.

MR DRIVER: White bundle, divider 3.

Currently, we have 11 pages behind divider 3 at the back of which I invite you to add these further three pages.

(Pause)

MR JUSTICE GOSS: As the pages up to that point are numbered at the bottom, I'm going to write numbers on these three pages, which will therefore be 12, 13 and 14.

MR DRIVER: Thank you.

(Pause)

When we've done that, could we go to page 3 of this bundle of documents? So divider 3, page 3.

Divider 3, page 3, agreed fact number 6. The next three agreed facts I'm going to read to you are all about the topic of passing through the doors and the swipe cards and the records and the like.

Agreed fact number 6:

"Entry to the NNU at the Countess of Chester Hospital was controlled by locked doors. One was accessed from the public entrance side of the hospital, the other from the labour/maternity ward. From the outside, the door could be opened by use of an electronic pass or swipe card. From the inside, the door could be unlocked by pressing a button. Authorised staff at the NNU of the Countess of Chester Hospital were issued with individual electronic swipe cards, each with a unique reference number.

"Upon presentation of these cards to a door swipe reader, the secure door was opened and a record of the location, time and date of that access was centrally recorded and stored on a database. Only the use of a card was recorded.

"The corresponding data for the period May 2015 to July 2016 has been retrieved, although no records between July 2015 and October 2015 were available."

Those records are exhibited as CER/147.

Agreed fact 7:

"There were situations in which someone could enter the secure area and there would be no record, examples of which are entries when (1) someone, person A, opened the door with their pass and person B entered.

"Example 2. Someone, person A, opened the door by pressing the button from the inside and allowed person B to enter in either of these examples, the entry of person B would not be recorded.

"Example 3. When people attended at the unit and pressed the entrance bell, the phone could operate the door and allow it to be opened and buzz the individual into the unit. Individuals entering in this manner would not be recorded."

If we could go to page 5 of this document, members of the jury. You'll see at agreed fact 15 there is some more information about the swipe data:

"On 22 April 2021, officers seized a computer base unit [that's exhibit TTL3] which recorded the use of swipe fob entry data for secure access at the Countess of Chester hospital. This data was extracted and analysed."

Agreed fact 16:

"Insofar as the dates with which this indictment is concerned, the data was limited to periods between 12 May 2015 and 16 July 2015, and 22 October 2015 and 31 January 2018. There was no data available for the intervening period."

Agreed fact 17:

"Officers also found individual dates within those periods when data was unavailable. However, where the data was available for the relevant dates it accurately appears within the sequence of events chart."

If we go now, please, to agreed fact number 41, which is part of the material you received this morning.

It's at page 13 if you've paginated it yourself. Sorry to leap about.

Page 13, agreed fact number 41. This establishes the fact that's been explained to several witnesses, the anomaly in the labelling, effectively, of the data. So agreed fact 41:

"In February 2016 staff were required to swipe an electronic pass to enter the NNU from the labour ward. However, the data collection for any such event was erroneously recorded as 'maternity neonatal to labour ward (in)', when it should have read 'labour ward to maternity neonatal (in)'.

"Exit from the NNU into the labour ward did not require the use of an electronic pass and did not generate any records."

So you've heard Mr Johnson explain that to several witnesses and that just seeks to establish that fact.

MR JUSTICE GOSS: Well, it does establish it.

MR DRIVER: It does establish it.

MR JUSTICE GOSS: It's an agreed fact.

MR DRIVER: Quite so.

MR JUSTICE GOSS: It's been proceeding on that basis and witnesses have been told that when they've been referred to that, it's the wrong way round. As you know, it's to get in that you need the swipe card. To get out -- you press a button to get out and there is no record of that, of the neonatal unit.

MR DRIVER: So members of the jury, could I invite you to go back to page 4 of this bundle. At the bottom of page 4 there's an agreed fact numbered 13 under the sub-heading "Classification". It reads:

"The neonatal unit at the Countess of Chester Hospital was reclassified as a level 1 unit on 7 July 2016. This decision was made by the trust itself."

Over the page, agreed fact number 14, "Videos":

"The animated and video-recorded demonstrations and illustrations depict the medical equipment and procedures used within the NNU of the Countess of Chester Hospital during 2015 and 2016."

We've already looked at the swipe data agreed facts this morning, so if we go to agreed fact number 18 further down that same page under the heading "Pathology". Agreed fact 18:

"No post-mortem examination was conducted of [Baby K]."

The next sub-heading is "Arrests". Over the page you'll see agreed fact number 19:

"Lucy Letby was arrested on three occasions during the course of the investigation: (a) at her home address of 41 Westbourne Road, Chester, at 06.00 hours on 3 July 2018; (b) at her parents' home address at 13 Arran Avenue, Hereford, at 06.55 on 10 June 2019; (c) at her parents' home address of 13 Arran Avenue, Hereford, at 07.25 hours on 10 November 2020."

Over the page, please, the sub-heading "Seizures".

2018. Agreed fact 20:

"Lucy Letby's home address at 41 Westbourne Road, Chester, was lawfully searched between the 3rd and 6 July 2018."

21:

"Lucy Letby's parents' home address of 13 Arran Avenue, Hereford, was lawfully searched between the 3rd and 6 July 2018."

22:

"Lucy Letby's place of work at the risk department Mostyn Lodge at the Countess of Chester Hospital was lawfully searched between 10.15 hours and 11.50 hours on 3 July 2018. In 2019, Lucy Letby's home address at 41 Westbourne Road Chester was lawfully searched between the 10th and 11 June 2019."

24:

"Lucy Letby's parents' home address at 13 Arran Avenue Hereford was lawfully searched between the 10th and 11 June 2019."

The next sub-heading, "Interviews under caution and charge".
Agreed fact 25:

"Lucy Letby was interviewed under caution at the Western Custody Suite, Chester, on the following dates between the following times."

Over the page you will see a table, over the next two pages, a table that records the times and dates of those interviews with exhibit references. You have just heard that Lucy Letby was arrested in July 2018 and you'll see entries 1 to 13 there relate to, in total, 13 interviews over the course of 3 days: two on 3 July, four on 4 July, and seven on 5 July 2018.

Unless anybody asks me to, I won't read --

MR JUSTICE GOSS: No, you've got it there, and you can see it. They're being very appropriately summarised, if I may say so, so that you know what it is. After her first arrest, then interviewed over 3 days.

MR DRIVER: After her second arrest in June 2019, she was interviewed 14 times over the course of 3 days, apologies. You'll see four on 10 June. Another five on 11 June. Further down, from 23 onwards, a further five interviews on 12 June 2019.

MR JUSTICE GOSS: Yes. So fourteen in total, the 14th being a welfare interview, so it wasn't in relation to the offences.

MR DRIVER: Quite so. I'm grateful, my Lord.

Finally, following Lucy Letby's arrest in November 2020, there were three interviews on the 10th and 11 November 2020.

Agreed fact number 26:

"At the commencement of each interview, save for after the breaks in the interviews marked with an asterisk or two, when it was not repeated, the defendant was cautioned in the following terms..."

This is the terms of the formal caution given to any suspect prior to an interview, police interview:

"'You do not have to say anything, but it may harm your defence if you fail to mention when questioned something that you later rely on in court. Anything you do say may be given in evidence.'

"Lucy Letby was legally represented with her solicitor present throughout. The interviews were visually recorded."

Agreed fact 27:

"Each and every interview was fully transcribed. The recordings and full transcripts are exhibited in this trial."

Agreed fact 28:

"Any summarised edited transcripts presented during the trial are accurate reflections of the relevant parts of the above interviews agreed for presentation between the prosecution and defence."

Moving topics, on the same page, "Telecommunications", sub-heading "Telephone handset".

Agreed fact 29:

"Items seized from 41 Westbourne Road Chester in July 2018..."

And in an earlier agreed fact I identified that as the home address of Lucy Letby at that point in time:

"... included the following communications device: (1) an HTC One Mini 2 internet-enabled smartphone."

With the corresponding exhibit reference number:

"The digital contents of that smartphone have been extracted and stored in a file [with that reference number]. This extraction is the source of the relevant WhatsApp, SMS [that's short message service, texts] and Facebook Messenger communications relied upon by the prosecution."

Over the page, agreed fact 31:

"A full copy of the original and complete extraction has been provided to the defence."

"Facebook and email", agreed fact 32:

"On the 26th and 27 June 2019, a digital forensic investigator accessed Lucy Letby's Facebook and email accounts (lucyletby@hotmail.co.uk)."

So the digital forensic investigator accessed those and downloaded the entire contents of the profile and messages. The times and dates of those Facebook searches placed before the jury are accurate.

Members of the jury, you'll see at 33 there is a further agreed fact. My Lord, I'm invited by the defence to invite the jury to rule out -- run lines through agreed fact 33, as it's no longer to be presented as an agreed fact in this case.

MR JUSTICE GOSS: All right. Do you understand? This was in anticipation of you getting a document, but you're not going to get the document.

MR MYERS: That's right, my Lord. In fact the relevant material about these searches is in the SOE and there's nothing to be added to that, so this is unnecessary.

MR JUSTICE GOSS: It's in the sequence of events, so you don't need another document in relation to that. So I've squiggled a line through that.

MR MYERS: The document itself is not in the sequence of events but all the relevant material --

MR JUSTICE GOSS: The material --

MR MYERS: The material relating to Facebook searches is and there's nothing to add to that.

MR JUSTICE GOSS: Do you understand? It's keeping it simple. Thank you very much.

MR DRIVER: Moving through the agreed facts, section 8, "other exhibits". Agreed fact 34:

"The video presentation of the neonatal unit at the Countess of Chester Hospital [there's a reference number] was recorded on 3 October 2021."

That's the walk-through video that the jury were shown earlier in the trial.

MR JUSTICE GOSS: You remember, obviously, and it's on the iPads.

MR DRIVER: It is.

Agreed fact 35:

"The videos of various medical procedures and equipment played for explanatory purposes have been prepared at the request of the prosecution by medical staff not involved in these proceedings."

MR JUSTICE GOSS: Quite often the faces were blurred out anyway. But anyway, each of the people who was taking part in those presentations had nothing to do with this case.

MR DRIVER: Over the page, please. Section 9, "Lucy Letby".

Agreed fact 36:

"Lucy Letby was born on 4 January 1990."

Agreed fact 37:

"In August 2023, Lucy Letby was convicted of the following offences:

"(1) The murder of [Baby A], born on 8 June 2015. Date of offence 8 June 2015. Date of conviction 16 August 2023.

"(2) The attempted murder of [Baby B], date of birth 8 June 2015. Offence date between the 8th and 11 June 2015. Date of conviction 16 August 2023.

"(3) The murder of [Baby C], date of birth 10 June 2015. Date of offence 14 June 2015. Date of conviction 11 August 2023.

"(4) The murder of [Baby D], date of birth 20 June 2015. Date of offence 22 June 2015. Date of conviction 16 August 2023.

"(5) The murder of [Baby E], date of birth 29 July 2015. Date of offence 4 August 2015. Date of conviction 16 August 2023.

"(6) The attempted murder of [Baby F], date of birth 29 July 2015. Date of offence 5 August 2015. Date of conviction 8 August 2023.

"(7) The attempted murder of [Baby G], date of birth 31 May 2015. Date of offence 7 September 2015. Date of conviction 16 August 2023.

"(8) The attempted murder of [Baby G] again, date of birth 31 May 2015. Date of offence 21 September 2015. Date of conviction 16 August 2023.

"(9) The murder of [Baby I], date of birth 7 August 2015. Date of offence 23 October 2015. Date of conviction 11 August 2023.

(10) The attempted murder of [Baby L], date of birth 8 April 2016. Date of offence 9 April 2016. Date of conviction 8 August 2023.

"(11) The attempted murder of [Baby M], date of birth 8 April 2016. Date of offence 9 April 2016. Date of conviction 11 August 2023.

"(12) The attempted murder of [Baby N], date of birth 2 June 2016. Date of offence 3 June 2016. Date of conviction 11 August 2023.

"(13) The murder of [Baby O], date of birth 21 August 2016. Date of offence [that should read] 23 August 2016. Date of conviction..."

I'll read this again, apologies.

"(13) The murder of [Baby O], date of birth 21 July 2016. Date of offence..."

MR JUSTICE GOSS: Hang on. Let's just get this clear and then we'll correct our records accordingly. So:

"[Baby O], date of birth 21 June 2016."

MR DRIVER: Correct.

MR JUSTICE GOSS: Whilst we're looking at that one, next entry below, [Baby P], 21 June 2016.

MR DRIVER: Yes.

MR JUSTICE GOSS: Because they were actually triplets, two of them were triplets.

MR DRIVER: "The murder of [Baby O], date of birth 21 June 2016. Date of offence 23 June 2016. Date of conviction 11 August 2023.

"(14) The murder of [Baby O], date of birth 21 June 2016. Date of offence 24 June 2016. Date of conviction 11 August 2023."

My apologies for that.

MR JUSTICE GOSS: That's all right.

MR DRIVER: Over the page at agreed fact number 38:

"The above offences were committed within the neonatal unit of the Countess of Chester Hospital at a time when all of the named babies were inpatients and Lucy Letby was employed as a band 5 nurse therein."

Agreed fact number 39:

"In addition to the events set out above and in the same trial that dealt with them, Lucy Letby was tried for the attempted murder of [Baby K], which was alleged to have taken place on 17 September 2016. The jury were unable to reach a verdict on this allegation and in light of that they were discharged from delivering a verdict on 18 August 2023."

MR JUSTICE GOSS: Yes. To make it correct English, "discharged from delivering a verdict". It's another typing mistake.

MR DRIVER: Agreed fact number 40:

"On 13 June 2024 the police checked all the physical and digital exhibits seized from Lucy Letby's home address, her parents' home address and her workplace for any material which contained the written words '[Baby K]', '[Mother of Baby K]', '[Father of Baby K]' or '[Surname of Baby K]'. No such material was found."

Finally for this exercise, members of the jury, over the page. Agreed fact number 42 reads:

"The interview of Ravi Jayaram played in evidence [ie when Dr Jayaram gave his evidence] was broadcast by ITN on 18 August 2023."

I'm directed to page 3 and agreed facts numbers 8 to 11. As I recall, but I'll be corrected if I'm wrong, these agreed facts were established with Dr Gibbs when he gave evidence at the beginning of the trial.

MR JUSTICE GOSS: Yes. My recollection -- and there is a transcript which can be checked if necessary -- is that these

were -- you read them out whilst he was giving evidence and he confirmed and it's agreed anyway.

MR DRIVER: It is. Thank you.

Next, my Lord, we'd like to play some more visual demonstrations of medical equipment for the jury with Mr Murphy's assistance. If you could please, Mr Murphy, play the two Neopuff-related videos, which in total run to about 8.5 minutes.

(Video played to the court)

My Lord, could I return to the agreed facts and take the jury, please, to page 3, agreed fact number 8, because there's some doubt as to whether these particular facts were read to Dr Gibbs, so I'll read them now just in case.

This is a section of agreed facts that prove the staffing levels and the like of the medics, of the doctors at the Countess of Chester Hospital.

Agreed fact 8:

"The medical staff, the doctors, attached to the neonatal unit fell into three broad categories of descending seniority and experience: consultants, registrars and senior house officers."

Agreed fact 9:

"Registrars and senior house officers are sometimes referred to as 'junior doctors'. In this context junior doctors means doctors who are not consultants. The registrars and senior house officers were often further categorised by the use of 'ST plus' followed by a number. In this context ST plus means specialty training. The number following the plus is a reference to the number of years that the registrar or senior house officer has been doing paediatric training, having qualified as a doctor. Therefore a registrar who was ST plus 5 would have carried out 5 years of post-qualification paediatric training."

Agreed fact 10:

"During the period June 2015 to June 2016 the paediatric medical staff attached to the neonatal unit, children's ward and post-natal ward of the Countess of Chester Hospital consisted of seven consultants and a team of junior doctors, including nine middle grade doctors, registrars or ST3 plus, eleven senior house officers, which included foundation doctors, ST1 to 3 level paediatric and GP trainees."

Agreed fact number 11:

"Around the clock there would be a doctor covering the paediatric and neonatal departments who would carry a bleep so they could be contacted without delay. The doctor would not necessarily be in the neonatal ward. There were two types of bleep: (1) non-urgent, whereby an audible bleep will sound and a telephone number will be displayed in order to contact the necessary ward or department; and (2), urgent, known as a crash bleep. The audible sound is more of an alarm. It is followed by an instruction to attend a specific location as a matter of urgency."

One more visual presentation to play, my Lord. If Mr Murphy could play the NeoWrap video, which is 7 minutes long.

(Video played to the court)

Thank you. Next, my Lord, if I may, I'm going to read two further statements to the jury. They deal with the topic of the transfer of [Baby K] to Arrowe Park and her (inaudible) while she was at Arrowe Park. The first is at page 41 of the bundle.

MR JUSTICE GOSS: That's my bundle --

MR DRIVER: It is.

MR JUSTICE GOSS: -- because you don't have any of the statements, I remind you. That's just for my reference.

Witness statement of DR ANAND KAMALANATHAN (read)

MR DRIVER: It is a statement of a doctor called Anand Kamalanathan. It's dated 18 June 2020. It reads:

"I joined Arrowe Park Hospital as a consultant neonatal paediatrician in March 2011. My current role at Arrowe Park Hospital is my first consultant placement. As a part of the consultant role at Arrowe Park Hospital, I cover the regional neonatal transport team, providing medical cover for three days a week.

"Cheshire Police have requested a statement concerning my involvement in the care of a baby by the name of [Baby K], whom I transferred from the Countess of Chester Hospital to Arrowe Park Hospital on 17 February 2016.

"Recall is difficult going back that many years, but I have had the opportunity to read the transport records. I am able to provide a summary of what happened and my role in transferring this baby.

"The date of [Baby K]'s transfer was a Wednesday. The consultants from Arrowe Park Hospital cover transfers on a Monday, Wednesday and Friday. They work between 08.00 hours and 20.00 hours [so 8 am to 8 pm]. I would have been on site at the transport team base at Liverpool Women's Hospital at around 8 am when I would have found out about this impending transfer.

"From the transport notes I gather that I was working with Sue Palette(?) as the nurse on the transport team that day. From the notes I can see that the consultant at the Countess of Chester Hospital made the referral to the night team who were covering transport just before 6 am on 17 February 2017. They have taken down some clinical details which would have been available to me at 8 am that morning. The records show that the information available to me at that time was that [Baby K] was extreme preterm, born at 25-plus weeks' gestation and birth weight was 692 grams.

"We probably reached the Countess of Chester Hospital just before 09.00 hours. This is the time from being at base 08.00, calling an ambulance, arrival of ambulance, and then the journey time in the ambulance. which would have probably been blue lights from Liverpool to Chester.

"The next entry in the case notes is at 09.00 hours and I have documented that I received handover from the consultant at the Countess of Chester Hospital, Dr Ravi Jayaram.

"I remember speaking with Dr Jayaram. My handover from Dr Jayaram was that [Baby K] was intubated around 18 minutes after birth and had received a dose of surfactant around 30 minutes after birth. There were some episodes where [Baby K]'s oxygen saturations had dropped so they had to reposition the endotracheal tube and re-intubate her later.

"I introduced myself to mum and dad, who were on the unit at the time, and we went to examine [Baby K]. From the records, I can see that I found the endotracheal tube to be at 6 centimetres at the lips. I noted that the UVC was low-lying based on the measure at the umbilical stump. I have also made an entry that I have looked at the X-ray, which would have corroborated the ET and UVC position.

"X-rays showed me the UVC to be low lying so it was not in an optimal position, but it was acceptable for use for the purpose of transfer. The ventilator setting had changed so the pressures were now 25/5, inspiratory time was at 0.4 seconds, the rate was 50 and [Baby K] was now in 70% oxygen. Clinically, the air entry was better on the right than the left and I have made a note that this was in keeping with the X-ray finding, so this fitted both clinically and radiologically.

"A UVC is a catheter which goes through the umbilical vein and provides a central access to administer fluids and medications. The UVC position was acceptable for the purpose of transfer. [Baby K] was on inotrope medication through the UVC. I did not think taking the UVC out appropriate as that would compromise her clinical condition. Inserting a peripheral long line would have taken anywhere from 30 to 60 minutes, [Baby K] would need handling for the procedure, and in the end would delay transfer. My thought process at the time was to use the central line UVC for the purpose of transfer. The team at Arrowe Park could identify an alternative, ie peripheral long line, access after transfer.

"We made further management strategies. I gave another dose of surfactant, 120 milligrams, which [Baby K] tolerated. I requested that [Baby K] be commenced on another inotropic medication called dobutamine. Fluids were increased from 60ml per kilogram to 100ml per kilogram per day.

"I then went on to attempt a peripheral arterial line. I have made a note that I attempted two different arteries. I was unsuccessful in the left radial. I punctured the artery but was unable to thread the cannula. An attempt at the posterior tibial artery was unsuccessful although I have made a note that I have not touched the artery, ie not punctured it. This is relevant because if somebody else wanted to have another attempt when [Baby K] got to Arrowe Park Hospital, they would know that the artery had not been punctured.

"There is a note in the records at 10.00 hours that one of the registrars who worked at the Countess of Chester Hospital, [Dr A], who was stabilizing [Baby K] along with me, was successful in getting a radial arterial line in the right-hand side. I remember [Dr A] being there but I don't recall any of the other staff present at the Countess of Chester.

"I have documented that [Baby K]'s oxygen requirement had gone up to 90%. At this time [Baby K] was ventilated with high ventilator settings, she had received two doses of surfactant, and was requiring high amounts of oxygen. I made a plan to start her on inhaled nitric oxide.

"At this point I took the opportunity to speak to mum and dad again to share my concerns about what [Baby K] was having. There were two problems. One was getting oxygen into [Baby K]'s blood (oxygenation) and the other was maintaining blood pressure. [Baby K] was now on two medications to support her blood pressure.

"The next step that I took was to increase the dobutamine. I gave another medication called hydrocortisone, which is a steroid used to support blood pressure. My interpretation looking at the documentation is that [Baby K]'s blood pressure was still low and I was escalating support to improve her blood pressure. At this point I requested another chest X-ray. [Baby K] was still requiring high oxygen and I had not seen a response to the second dose of surfactant.

"A chest X-ray would ensure that there wasn't anything untoward, such as an air leak, and that the ET tube was still in good position. The next documentation is at 11.15 hours and there is a note that the oxygen saturation is between 84 to 92% and it keeps swinging.

"I have documented that the blood pressure mean is 21. [Baby K] was on dobutamine at a mix of 20, and I prescribed hydrocortisone. I asked for a saline bolus of 10ml per kilogram. [Baby K] had already had a 30ml per kilogram bolus fluid up to now and that was when she was handed over to us. Administering extra fluid boluses may be detrimental to the baby and needs caution. The reason for her was her low blood pressure and the possibility that fluid would increase the pre-load on the heart and subsequently the blood pressure might improve.

"Subsequent management included the following: I gave a dose of pancuronium, which is a muscle relaxant. This works in improving oxygenation as lungs, tissues, become more compliant and baby is not fighting the ventilator. I asked for a sodium bicarbonate infusion to correct the acid load. The effects of inotropes on the heart muscle is better with a normal pH. A sodium bicarbonate infusion aims to correct acid-base imbalance.

"I can see that there are four blood gases on the gas chart. I have documented all four samples as arterial samples. I cautiously dropped the amount of oxygen we were giving her as the oxygen level in the arterial blood was high and her oxygen saturations were 97%.

"[Baby K] was in 100% oxygen so I took the opportunity to drop it down to 80%. At that time we made the distinction that this was the best we could get at the Countess of Chester Hospital. We made a plan to transfer at around 13.00 hours. We had been at Chester for nearly 4 hours by that time.

"When we first arrived, [Baby K] was unwell. It is not common for a 25-week gestation preterm baby to require this high an amount of oxygen and blood pressure support.

"[Baby K] was an extreme premature baby and had surfactant deficiency. We had given two or three doses of surfactant and

that could explain the problem with oxygenation. The other possibility we had was infection. We were treating for an infection but you also have to support blood pressure and provide ventilator support.

"The pre-transfer gas at Chester was at 12.40 hours. We would have started off some time after reviewing that gas. We would have used a blue light ambulance from the Countess of Chester Hospital to Arrowe Park Hospital. I would say the transfer would take 25 to 30 minutes at a minimum.

"The transport team, including myself and a nurse, would have transported [Baby K] in an ambulance from the Countess of Chester Hospital to Arrowe Park Hospital. I have documented that I had a discussion with Arrowe Park Hospital, which means I have spoken to the team at Arrowe Park to tell them of the situation of the baby. This enables the other team to be prepared with the appropriate equipment, medications and gives them an estimated time of arrival.

"I can see from the medical records that the nurse documented that we arrived at Arrowe Park Hospital at 13.15 hours, following an uneventful transfer, that ET and lines remained in place during transfer. We informed the parents that we had arrived. Then I gave a handover to the medical and nursing team and that nursing staff were preparing all infusions. Once we arrived at Arrowe Park Hospital I would have handed over to the medical and nursing team. I don't recall any of the medical team that I handed over to, but it would have been the registrar and consultant on call.

"We would have taken time to transfer all infusions and transfer [Baby K] from the transport incubator to the incubator at Arrowe Park. I cannot recall any problems during transfer. I haven't documented anything suggesting a problem during transfer. [Baby K] was still unwell when we arrived at Arrowe Park Hospital, nothing had changed during the transfer.

"The transfer was uneventful but [Baby K] was sick. After handing over to the team at Arrowe Park Hospital, I don't think I had any further involvement in [Baby K]'s care. There are no entries by me in the records at Arrowe Park."

Second witness statement of DR ANAND KAMALANATHAN (read)

MR DRIVER: Dr Kamalanathan made a second statement, this one dated 1 March 2022. It's very short, it reads as follows:

"I have previously stated that I could not recollect any problems with [Baby K]'s care during transfer and I have not

documented anything in the notes to suggest there were any issues.

"I have had the opportunity to read the transfer notes again and can confirm that I did not have to re-intubate [Baby K] at any point during my involvement with her care."

Witness statement of DR DANIELLE GARDNER (read)

MR DRIVER: The next and final witness statement to read, my Lord, is that made by Dr Danielle Claire Gardener at page 51 of your Lordship's bundle and it is dated 24 April 2018.

Dr Gardener states:

"I am a paediatric cardiologist working within the cardiology department at Alder Hey's children's hospital."

She then -- that's where she was working at the time she made the statement, but you'll learn now, members of the jury, that in February 2016 she was working at Arrowe Park Hospital.

She states:

"The neonatal unit at Arrowe Park Hospital provides full level 3 neonatal intensive care for extreme premature babies born from 23 weeks onwards. The unit provides high frequency oscillation and ventilation and total-body hypothermia using nitric oxide. Babies born at other hospitals who require level 3 care would initially be stabilised at that hospital and then transferred to Arrowe Park Hospital for more specialist treatment.

"I have been asked to comment on [Baby K] and my care of her while she was at Arrowe Park Hospital. On Friday, 19 February 2016, at approximately 9 pm, I started a night shift at Arrowe Park Hospital. At the start of my shift I will have had a handover with the day's registrar. On this occasion Dr Babarao was still present due to the current condition of [Baby K].

"Dr Babarao and I discussed everything he had done for [Baby K] during that day and the discussions he'd had with her parents, that her condition was clinically deteriorating gradually and she was not responding to the care he had instituted. There was the possibility that she was going to die. There was the possibility that we would stop intensive care. Dr Babarao and I discussed whether I was comfortable to complete this unsupervised and advised I could call him if I had any issues.

"My first entry on the clinical notes of [Baby K] was at 23.20 hours on this day. I documented the fact that [Baby K]'s care was continuing from the update by Dr Babarao. There had been no

significant changes. [Baby K]'s oxygen saturations were low. A review of her chest X-ray showed the ET tube had come slightly higher than what was documented but was still working. Her blood pressure was low and every time she was handled, her blood pressure dropped. Dobutamine was added to try and raise her blood pressure but it was felt that her blood pressure drop was due to her being handled and her blood pressure was naturally rising.

"Due to [Baby K]'s metabolic acidosis, she was given a sodium bicarbonate infusion to run continuous. She was given a half correction over 30 minutes to try and correct her gas and then the infusion was run from that point on. [Baby K]'s parents were updated and she had been baptised.

"I continued to care for [Baby K] and next updated her clinical notes at 03.15 hours on Saturday, 20 February 2016. This update was me completing a full daily review of [Baby K], documenting her diagnosis, background and prognosis.

"[Baby K]'s respiratory saturations had dropped slightly. She was on a reasonable amount of ventilation with 100% oxygen and 20 parts per million nitrate and her oscillator was wobbling, that is working appropriately.

"Her blood pressure had become worse and her dobutamine intake had been increased to maximum. She was given a bolus of fluid to try and increase her volumes and blood pressure, which had raised slightly. I noticed that [Baby K] was very oedematous."

That's in the glossary. It means swollen:

"I noted that [Baby K] was very oedematous. Her sugars were running high, which is not unusual as a stress response, and her sodium levels were high. [Baby K] was neurologically sedated. Her haemoglobin had dropped, so a transfusion was ordered. Infection markers were normal. I then revisited and reviewed her current medication.

"The plan for [Baby K] moving forward was to continue with her current care. The adrenaline syringe had expired but I made the decision not to change the syringe as I felt this could cause [Baby K]'s blood pressure to drop to such levels that it could be catastrophic.

"[Baby K]'s mean blood pressure was now at 16 to 18, her sats were between 50 and 70% for over 2 hours. I updated [Baby K]'s parents with the current situation and advised them that it was unlikely that [Baby K] was going to recover and they were aware that [Baby K] was likely to die soon and we were heading towards a point where intensive care would be withdrawn if she

deteriorated any further. I discussed this plan with Dr Babarao, who agreed it was an appropriate course of action.

"I continued to care for [Baby K] and next updated her clinical notes at 05.10. Prior to this, I had been discussing with the nursing staff about phoning [Baby K]'s parents to come to the ward. They had gone to a parents' lounge off the ward for a rest. Just as we ended our conversation, [Baby K]'s parents came on to the ward. [Baby K]'s parents asked me if now was the right time to withdraw intensive care for [Baby K]. I advised them that this was the right time.

"Her blood pressure was 15 with saturations of 46. I discussed with the parent what options of withdrawing treatment were available. They decided they wanted to hold [Baby K] while her treatment was withdrawn and went into a family room for [Baby K] to be brought to them. [Baby K]'s infusions and ventilation were disconnected and she was wrapped in blankets. [Baby K] was manually bagged via her ET tube and taken to her parents, who had cuddles with her, before asking for her ET tube to be removed. I then left [Baby K] with her parents to allow them further cuddles with her.

"I went back into the bedroom to examine [Baby K]. I noted she had no heart rate, no pulse, no respiratory effort and no movement. I certified the time of death for [Baby K] at 05.28 hours. I noted on the records that the cause of death was extreme prematurity, leading to severe respiratory distress syndrome. I discussed a post-mortem with the parents and they decided that they did not want to have [Baby K] to have a post-mortem.

"At 08.15 hours I completed the death certificate for [Baby K], noting the cause of death was, 1A, severe respiratory distress and, 1B, extreme prematurity.

"On 22 February 2016 Dr Babarao endorsed the clinical notes, reissuing the death certificate but switching the cause of death to, 1A, extreme prematurity and, 2, severe respiratory distress syndrome. The cause of death remained unchanged but was just presented differently."

That concludes Dr Gardener's evidence.

MR JUSTICE GOSS: Thank you very much.

Witness statement of MS ELIZABETH MORGAN (read)

MR DRIVER: I overlooked to read a statement -- I'm grateful to my learned friends for reminding me of that -- and it's at page

24 of your Lordship's bundle. It's a statement of Elizabeth Morgan, a nursing advisory consultant, dated 22 October 2021:

"I, Elizabeth Morgan..."

And she states her qualifications:

"... have been asked to provide my professional opinion on the following statement by Lucy Letby."

In fact, my Lord, I'm going to pause there because it's a statement made in the course of an interview and so it will make better sense for the jury to hear Nurse Morgan's comments on Lucy Letby's response after they've heard her response in the interview.

MR JUSTICE GOSS: Oh I see. It's the context. So it will be read but it's being put into context. Is the next stage for the interviews to be put before the jury?

MR DRIVER: It is.

MR JUSTICE GOSS: We will have a short break then for 10 minutes before we do that. How long, Mr Driver, will the parts of the interviews be?

MR DRIVER: We're going to present it visually by playing the visual recording of the interviews and it is in the region of 40 minutes.

MR JUSTICE GOSS: Right. So if we have a ten-minute break now then, members of the jury, and then we'll reassemble and continue with that. Thank you very much.

(11.44 am)

(A short break)

(11.57 am)

MR DRIVER: My Lord, may I call Detective Sergeant Danielle Stonier, please.

DS DANIELLE STONIER (sworn)

Examination-in-chief by MR DRIVER

MR DRIVER: Could you state your full name, please?

STONIER: Yes, I'm Detective Sergeant Danielle Stonier from Cheshire Constabulary.

DRIVER: In short, Detective Sergeant Stonier, did you, amongst other things, participate in the recorded interviews under caution, some of the recorded interviews under caution, conducted with Lucy Letby during the course of the investigation?

STONIER: Yes, I did.

DRIVER: If you could open that white file behind divider 3 at page 8, please, and I'd invite the jury to do the same, I'm very grateful.

At page 8 of that document you'll see there a table, which fills that page and most of the following page, which sets out the dates of the interviews that were conducted with Lucy Letby.

They fall into three groups: the 2018 interviews, the 2019 and the 2020 interviews. Did you participate in the 2018 interviews?

STONIER: No, I didn't.

DRIVER: Did you participate in the 2019 interviews?

STONIER: Yes, I did.

DRIVER: Did you participate in the 2020 interviews?

STONIER: Yes, I did.

DRIVER: Members of the jury, you'll see on your desk a transcript of some of those interviews. Those transcripts are going to be housed behind divider 7, please.

In advance of this trial, DS Stonier, have you, with the assistance of colleagues, returned to the visual and audio recordings of all those interviews undertaken in 2018, 2019 and 2020?

STONIER: Yes.

DRIVER: Have you extracted from those very many interviews all questions and answers that related to [Baby K]?

STONIER: Yes.

DRIVER: Because, as I'm sure is obvious, throughout those very many interviews, is this right, Lucy Letby was asked questions about other babies that were the subject of investigation?

STONIER: Yes, that's correct.

DRIVER: Here the questions and answers relate solely to the baby [Baby K].

STONIER: They do.

DRIVER: We'll see. By the end of this morning, members of the jury, you'll have three sets of transcripts. You can read whilst you listen to and watch the visual audio recording that corresponds to this transcript.

So this transcript, which is a pro forma, states the person interviewed, Lucy Letby, the location, the date, the time it was commenced and concluded, the people present. So colleagues of yours, DC Holt and a DC Lee, and Mr Richard Thomas, who was and is Lucy Letby's solicitor; is that correct?

STONIER: Yes, it is.

DRIVER: So we will play the recording of the relevant parts of the 5 July interview, please, Mr Murphy.

(Video played to the court)

Pause there, please, Mr Murphy. Officer, could you go to the first page of the transcript, please?

You will see towards the bottom of the page there's a reference to notes and indeed a little later in the interview, Mr Thomas, Lucy Letby's solicitor, refers to a pack. He says:

"I think they are in our pack."

What are those notes and what's the pack?

STONIER: As part of the disclosure process at the start of the interview, Ms Letby and Mr Thomas were provided with a folder of notes containing medical documentation to help Ms Letby recall the event and to assist with her answering questions during the interview.

DRIVER: When you say "at the beginning of the interview", do you mean the beginning of the interviewing process or literally at the beginning of the interview?

STONIER: No, at the beginning of the interview process when she had time to consult with her solicitor in private prior to the start of the interview.

DRIVER: Thank you. So those questions and answers that we've just heard, do they represent the totality of the interviewing of Lucy Letby in relation to [Baby K] in 2018?

STONIER: Yes, they do.

DRIVER: Can we then move on to the following year, please, and could I ask the court usher to kindly distribute to the jury -- these, members of the jury, are to go behind divider 8.

So behind divider 8, transcripts of part of an interview that took place on 12 June 2019. As you confirmed earlier, we can see that you were one of the interviewing officers on this occasion.

STONIER: Yes, that's correct.

DRIVER: So the jury will see when we get there that there are some features of transcripts that have been blanked out and that is where there are irrelevant parts and they have been edited correspondingly on the visual presentation.

STONIER: Yes.

DRIVER: Thank you.

(Video played to the court)

My Lord, you will note on the page there's a redacted piece and I wasn't expecting to hear the start of that question. I wonder if I can ask the jury to withdraw for a minute or two while we investigate.

MR JUSTICE GOSS: Yes.

Sorry about this. If you just leave the room, it should only take a minute or two. I imagine what's going to happen is there's going to be a check of the recording to see what's happened here.

(In the absence of the jury)

Is this the blanked-out part?

MR DRIVER: It is.

MR JUSTICE GOSS: Can we advance the...?

MR MYERS: We can, but the only concern is -- I know here there's another blanked-out part. Maybe we should just check that otherwise we might be in the same situation because I know there was a question that was asked that really isn't relevant and

would be prejudicial if it went in with regard to the original allegation.

MR DRIVER: There's no mystery, my Lord. Within this interview expert opinion was put to Lucy Letby.

MR JUSTICE GOSS: I recognise the name.

MR DRIVER: It is not relied upon in this trial, therefore not relevant, and the audio portion that I thought was to be played has that.

MR JUSTICE GOSS: I think the second part to which Mr Myers is referring is at the very end of this passage.

MR DRIVER: It is.

MR JUSTICE GOSS: I don't know whether Mr Murphy can either go there and see if it's been deleted or whether it can be stopped -- as soon as the response "On what Dr Jayaram has said, yes", switch off.

MR MYERS: As long as Mr Murphy is ready to go there, that would deal with the issue, I'm sure.

MR JUSTICE GOSS: Can you do that, Mr Murphy, or would you rather check?

MR MYERS: It will only take a moment.

MR JUSTICE GOSS: We'll check it then.

(Pause)

MR MYERS: My Lord, there's a block in the middle of the third interview as well. The interviews, I should say, have been edited, I know that counsel have checked them and were satisfied, so somewhere along the line it looks like the unedited version has ended up possibly on the system. There was another block that was to be edited from the third interview and I wonder whether, so there can be no error, we just take a couple of minutes for Mr Murphy to follow this through and make sure he has the right copies (overspeaking) this again.

MR DRIVER: It looks like the wrong version has been uploaded on to Mr Murphy's system so we just need to upload the correct version. Apologies.

MR JUSTICE GOSS: That's all right. He's looking... Do you know -- where does it come from, the redacted version, the correct version?

MR DRIVER: We have it on a USB stick in the building, so if we ask your Lordship to rise we'll ensure that's put on to Mr Murphy's system.

MR JUSTICE GOSS: How long is this going to take? I want a realistic estimate to make sure nothing untoward is going to take place hereafter.

MR DRIVER: Well, if your Lordship were to give us 15 minutes, we can check and double-check and triple check.

MR JUSTICE GOSS: Is it worth taking an early lunch?

MR DRIVER: We're in your Lordship's hands.

MR JUSTICE GOSS: Well, I'm in your hands to an extent because I don't know how long this is going to take.

MR DRIVER: Could we take an early and short lunch break?

Because when we return, I don't anticipate we will be much longer.

MR JUSTICE GOSS: About how much once we do resume -- how long are we likely to be?

MR DRIVER: The presentation of this material, 10 to 15 minutes.

MR JUSTICE GOSS: And have you got questions of the witness?

MR MYERS: Not that we anticipate, my Lord.

MR JUSTICE GOSS: No, all right. I'll tell you what, I'll rise for 10 minutes and just see if this can be resolved simply. If it can't be and it's going to take half an hour or so, I'll tell the jury to go and have lunch.

MR DRIVER: Thank you.

(12.31 pm)

(A short break)

(12.45 pm)

(The short adjournment)

(2.15 pm)

MR MYERS: We're ready to continue, my Lord. The matter has been dealt with and we can proceed.

MR JUSTICE GOSS: Thank you very much.

MR MYERS: We're grateful for the time to deal with that.

Thank you.

(In the presence of the jury)

MR JUSTICE GOSS: I'm sorry that wasn't quite as I anticipated it would be, but we're now in a position to proceed, everything is sorted out. I'm sorry about the rather longer lunch break that you had.

MR DRIVER: We are going to rewind, as it were, just a few seconds, so when we press the play button we will be dealing with the question that's posed on the page immediately before the one we were looking at when we broke off. It's a question at the bottom of the page that reads:

"Is there a reason why Dr Jayaram might be mistaken?"

(Video playing continued)

DS Stonier, did you participate in interviews that took place at 20.43 on 10 November 2020?

STONIER: Yes, I did.

DRIVER: I wonder whether the court usher would be kind enough to distribute these transcripts to the jury.

(Handed)

Members of the jury, these transcripts ought to be placed behind divider 9. Thank you.

With that, can I ask Mr Murphy to play this recording, please.

(Video played to the court)

MR JUSTICE GOSS: I don't have the last two sheets, sorry.

MR DRIVER: My profound apologies.

MR JUSTICE GOSS: I think it's two sheets. My last page ends "In what way?" at the bottom and I think there are two more sheets after that. I was watching you turning the pages.

MR DRIVER: I can hand up the complete transcript.

(Handed)

MR JUSTICE GOSS: Thank you very much.

One page, is it, after that? It was very difficult to hear anyway if you didn't have the transcript, you couldn't really follow it. So I think it's the fifth page at the bottom. It says, "In what way", and there's just one more sheet after that?

MR DRIVER: Yes.

MR JUSTICE GOSS: Thank you, that's it.

MR DRIVER: DS Stonier, does that reflect the totality of the questions and answers in recorded interviews in relation to [Baby K]?

STONIER: Yes, it does.

MR DRIVER: Thank you. Could you remain there and answer any questions that are asked of you?

MR MYERS: We have no questions, my Lord.

MR DRIVER: Does the court have any questions?

MR JUSTICE GOSS: No, thank you. Thank you, DS Stonier, that completes your evidence.

(The witness withdrew)

Witness statement of MS ELIZABETH MORGAN (continued)

MR DRIVER: My Lord, I'll return to the statement of Elizabeth Morgan that I began to read earlier this morning. Before doing so, I remind the jury that in the second interview, shortly after the part that caused us to break before lunch, there are the following questions and answer which are relevant to the statement of Elizabeth Morgan.

Lucy Letby was asked the question:

"Do you remember why you wouldn't be reacting to the drop in oxygen levels?"

To which she replied:

"Possibly waiting to see if she self-corrected. You don't normally intervene straightaway if they weren't dangerously low."

So with that in mind, I return to the statement of Elizabeth Morgan, a nursing advisory consultant, who provided her professional qualifications in the statement of 22 October 2021 before going on to say:

"I have been asked to provide my professional opinion on the following statement by Lucy Letby and the appropriateness of the suggested approach in relation to the deterioration in [Baby K]'s oxygen saturation levels, taking into account all of the circumstances, including the infant's gestational age."

Then she quotes the answer I have just read out to you:

"Possibly waiting to see if she self-corrected. We don't normally intervene straightaway if they weren't dangerously low."

Back to Elizabeth Morgan:

"In preparing my statement I have read the medical and nursing notes for [Baby K] and the related interview transcript. In addition, I have read a number of external sources of literature."

And she lists three pieces of nursing literature and then goes on to say:

"In my professional experience it is possible for an endotracheal tube to become dislodged in an unsedated or active baby or where securing ties have become loose. Where a baby is sedated or is paralysed, this is less likely to occur accidentally. In my experience it is very unlikely that a nurse would leave the bedside of an intubated neonate unless they were very confident that the endotracheal tube was correctly positioned and secure, the baby was inactive and they would be away only briefly.

"I would expect the nurse to inform a colleague, who would remain in the vicinity they were leaving, to alert them the baby was unattended at that time and to ensure that they would attend the baby if an alarm should sound.

"In response to the specific question, given the gestational age of the baby, in my professional experience, when observing a falling oxygen saturation level in a baby of this age and gestation, it would be standard good nursing practice to immediately attend the bedside, to actively observe the baby,

ascertain any cause for the change in oxygen levels, and to take any corrective action, calling for help to alert other staff members of the situation if necessary.

"A series of checks would be carried out immediately to ascertain why the oxygen levels have dropped, for example, has the tube become blocked or dislodged, has the baby developed a pneumothorax or has there been an equipment failure? I do not believe that it would be normal nursing practice to wait and see if the baby self-corrected at this gestational age given the lungs are so immature and the risks associated with unplanned extubation. The incident should also be reported verbally to the designated nurse on her return and recorded in the nursing records/charts by Lucy Letby."

That concludes Nurse Elizabeth Morgan's statement.

MR JUSTICE GOSS: Thank you.

MR DRIVER: And I believe that concludes the evidence to be called by the Crown. I suppose I ought to formally state that we exhibit all documents that have been produced during the course of the trial and are embedded within Mr Murphy's presentational carousel.

MR JUSTICE GOSS: Thank you.

MR DRIVER: That having been done, that is the case for the prosecution.

MR JUSTICE GOSS: Thank you, Mr Driver.

MR MYERS: My Lord, having reached that stage, the next stage we anticipate is the defence case, the calling of evidence with regard to that, which we anticipate is what will happen. But I wonder in the circumstances whether we could commence on Monday morning. Now is not, with respect, the ideal time for the defendant to give evidence if, as we anticipate, that is what will happen, and so although it means finishing a little earlier today there are matters we need to deal with and we'd be grateful to have that time before we commence.

MR JUSTICE GOSS: Obviously, her evidence will take a little time --

MR MYERS: Yes.

MR JUSTICE GOSS: -- and inevitably run into next week.

MR MYERS: Yes, it would in any event.

MR JUSTICE GOSS: So I think we will break off for this week today now and we will resume on Monday because next week, as you know, is a very short working week so far as you are concerned, it's only Monday and Tuesday.

I know it's not always possible to predict these things, but it would be anticipated that we would be completing the evidence on Tuesday.

MR MYERS: Yes, looking at the matters all ways round, we anticipate it would be then. I don't wish to create any inconvenience, but it would be of great assistance to start on Monday and then deal with it all in one piece on Monday and Tuesday of next week.

MR JUSTICE GOSS: Well, I have to have regard to timetabling and using time and being fair to everyone in deciding this, and I think that the appropriate course, looking at the future, is to break off now so that the defence can -- Mr Myers can deal with matters with which he has to deal, start the defence evidence on Monday, anticipate finishing it next week. We would then have a break anyway because that will be the end of the evidence.

The stages after that, as you are probably well aware are that I will give you legal directions but they have to be discussed with counsel when we get to that stage in any event. I will give you written legal directions, you'll then hear counsels' addresses, and then I will summarise the evidence and complete my summing-up. That will be the week after next, early the week after next, I anticipate.

The likelihood, barring any unforeseen events occurring, is that it will be early the week after next that it will be reaching the stage when you will be considering your verdict in this case. All right?

That's just telling you what I anticipate, but things sometimes don't go as anticipated. That's as things stand. As far as today is concerned, that's it for you.

Please remember and adhere to your responsibilities as jurors: no communication by any means with anyone about anyone or anything to do with this case and no research about anyone or anything to do with this case at all.

10.30, Monday morning. Thank you very much.

(In the absence of the jury)

MR JUSTICE GOSS: Mr Driver, thank you for the extra copy.

Those sheets are surplus and I'll hand them back.

I just took the last page off. It's probably just dropped off somewhere along the way.

Obviously, you wish to go down.

MR MYERS: We do, my Lord, thank you.

MR JUSTICE GOSS: Mr Myers and Ms Clancy will be down shortly.

MR MYERS: Thank you, my Lord.

(2.38 pm)

(The court adjourned until 10.30 am on Monday, 24 June 2024)