

12 September 2016

92. On 12 September 2016, I asked Maxine Wright, who was a member of the Trust's HR team at the time, to send me a copy of the Trust's grievance policy (**INQ0102212_0001**). I expect I asked her to do this because I was aware that the Trust's policy appended various template letters which should be used when managing grievances.
93. I responded to Sue later that day, providing her with a draft acknowledgment letter, which was based on the Trust's template letter in the grievance policy (**INQ0002971_0001**). I provided advice to Sue in relation to the steps that she should take in relation to continuing to manage the concerns that had been raised by Letby and her welfare officer regarding her ongoing redeployment, in the context of managing the risk of a constructive unfair dismissal claim which had been threatened and appeared to be increasingly likely.
94. On 12 September I emailed Sue to suggest that a separate file should be set up (**INQ0102247_0001**). It appears that most advice was being recorded to the general employment advice file because of the sporadic nature of instructions we were receiving, at that time. I expect that I would have decided to open a new file because it was apparent that this matter would require ongoing employment advice relating to the grievance investigation and any potential future employment tribunal proceedings.
95. It appears that a new file was set up, noting an attendance note at **INQ0102268_0001** is recorded to that file. As far as I recall, the new file was an extension of the ongoing advice provided, which had been recorded to the general advice file. Corinne continued to have responsibility for advising in relation to the regulatory aspects of the matter and I expect, but cannot confirm, that file continued to be used by DACB for recording advice, leading up to and following my departure from the firm. I did not give any further advice regarding matters arising in the external review, but I did give advice, as addressed below.

26 October 2016

96. I note from an attendance note at **INQ0102271_0001** that I received a call from Sue Hodgkinson on 26 October 2016. She explained that the second external (forensic) review had been completed, and this had criticised the Trust for "*not going down the full process based on the allegations that had been raised*" and for "*not telling Lucy [about] the comments and allegations that had been raised at the time*".
97. Although I cannot recall the conversation, and have not received a copy of the report to date, in the context of the second criticism regarding not telling Letby about the allegations that had been raised "*at the time*", my reading of the attendance note is that criticism relating to "*not going down the full process*" may relate to actions which were not taken by

the Trust when the concerns were raised. Sue explained that this had not happened “*because of a formal date and time*”. Unfortunately, it is not clear to me when preparing this statement what this means; my reading is that the report was critical of the Trust’s decision not to advise Letby of the allegations that had been raised by the consultant on the NNU at the outset, within the confines of an internal investigation process.

98. Based on what Sue told me, I understood that the report had identified systemic failings in the neonatal network, generally and had recommended increased levels of staffing on the NNU to address those issues.

99. Although I had not seen a copy of the report, based on what I was told it was my understanding that the report had been critical in relation to the management and staffing of the NNU but had not identified any evidence to implicate Letby.

100. Sue was clear that “*there was no suggestion in the external review that Lucy was involved*” and said that the report referred only to clinicians having a “*gut feel*” that she may. Sue explained that the Trust had decided to commission a further forensic review, to undertake a deep forensic analysis of 13 neonatal cases and that Letby would continue to be redeployed during this time. The attendance note refers to her being redeployed to a “*ward*” - this is an error I must have made when dictating the note because I was clear that she continued to be redeployed in a non-clinical, administrative role at this time.

101. I agreed with the Trust’s decision to keep Letby away from the NNU, pending the outcome of the further forensic review which was in line with the advice that Corinne and I had provided previously. Based on the information I had received, I understood that the two external reviews had not provided any evidence to suggest that Letby had been involved; instead, I was instructed that the reports advised a systemic failing of the NNU.

102. Whilst that was the case, it remained my view that Letby should not be allowed to return to the NNU until those investigations were completed. Letby continued to be redeployed to an administrative office-based role and I understood that she did not have access to medical records for the NNU, in line with advice that Corinne had provided previously (INQ0101942_0001). Based on my instructions as to what the Trust knew at the time - that the external reviews did not provide any evidence to link her involvement – the Trust’s decision to continue to redeploy Letby away from the NNU did not cause concern and it achieved the same objective as suspension would have achieved –to ensure that the integrity of the investigation and patient safety continued to be protected.

103. The attendance note refers to the possibility that Letby may be placed “*at risk*” even if there was no evidence found as part of the forensic review. I anticipated that even if the

forensic review did not reveal any evidence of her involvement, it may still be very difficult to reintegrate her back into the NNU, which was being suggested as a potential outcome at the time.

104. Corinne was aware of Letby's continued redeployment and was continuing to advise the Trust in relation to the ongoing investigations. I would have expected Corinne to advise the Trust if there was a requirement to refer Letby to the police or other external regulator, which fell within her specialist area rather than mine. From my perspective, I considered it prudent to keep her redeployed, while there remained any form of investigation. That made sense as a matter of patient safety because there remained a sufficient concern for the Trust to continue with its investigations. However, with each investigation coming up clear, this would seem to point against making an external referral, although that was an issue on for Corinne to advise the Trust in relation to.

18 November 2016

105. I note from the attendance note at **INQ0102269_0001** that I received a call from Sue Hodgkinson on 18 November 2016. The attendance note records that Letby was "*fully engaged*" and had not taken any sick days. She explained that the external and internal reviews had all been completed and there was "*nothing to implicate [Letby] in any of the events*".
106. Sue explained that based on the lack of evidence to implicate Letby in the reviews that had been undertaken at that point, the board had decided to return Letby to the NNU and the Trust had already started taking steps to reintegrate her. It would have been my understanding at the time that Corinne was continuing to advise the Trust in relation to those investigations and would have, therefore, also been made aware of the findings.
107. During my previous call with Sue on 28 October 2016, I expressed concerns about the possibility of Letby returning to the NNU because, at that time, the second forensic review was still pending. Based on the information provided by Sue during this telephone call, it was my understanding that the second forensic review had been completed, and an internal investigation, and neither had revealed any evidence of Letby's involvement and no further recommendations had been made for further reviews to be undertaken.
108. At the time, despite the several clinical reviews that had been undertaken, there was no evidence to implicate Letby and, objectively, no reason to support her continued redeployment. Based on the information that the Trust had in its possession at the time, from an employment law perspective, I expect that the Trust would have struggled to justify her continued redeployment away from the NNU without any evidence to implicate her.