

LUCY LETBY - THE POWER OF THE INQUIRY

Just 12 days after announcing an independent but non-statutory inquiry into the events at the Countess of Chester Hospital, Steve Barclay reported last week that it would in fact be given statutory status, resulting in additional legal powers. This was *"after listening to the views of the families of the victims"*. It is not uncommon for inquiries set up as non-statutory to be converted to statutory (the *Post Office Horizon IT Inquiry* being a recent example), but this shift in the Letby case represents a dramatic turnaround for an inquiry that has not yet been formally set up.

What are these additional powers and will they actually make a positive difference in the inquiry's mission to investigate and provide answers to the multiple questions raised by Lucy Letby's horrific crimes?

The usual argument advanced in favour of non-statutory inquiries is that they can be convened more quickly, are nimbler, and report more promptly at lower cost when compared with their statutory counterparts.

Commenting in his paper about a different Inquiry, Robert Colville suggested that *"...as soon as ministers agree to a [statutory] public inquiry they are locked by the rules of the 2005 Inquiries Act into a monolithic, legalistic and desperately lethargic framework. One which delivers the answers too late to be of much use..."*. This is unfair. Some non-statutory inquiries have taken many years to complete, whilst other statutory inquiries have commenced quickly and reported relatively early - including on an interim basis.

Strong calls for a statutory inquiry were inevitable, given concerns over a failure of existing healthcare systems of accountability in the Letby case. The conversion to a statutory inquiry is not mere window-dressing. This kind of inquiry has important powers to compel witnesses to produce documents and give evidence, which a non-statutory inquiry lacks. Those who deliberately frustrate a statutory inquiry may face criminal prosecution. There is also greater opportunity for participants to secure legal representation, and for it to be funded by the inquiry itself. In addition to the presumption that a statutory inquiry will take place in public, there is a requirement that its report will be published.

The announcement last week of a further non-statutory inquiry into the miscarriage of justice case of Andrew Malkinson demonstrates the strength of, and political and public support for, the inquiry model of investigation. There are worrying links between the Malkinson and Letby cases, particularly alleged institutional failures to uncover matters of great significance. It is not surprising that the Malkinson announcement was also met immediately with calls that only a statutory inquiry will do. Watch this space.

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